



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF LEGAL SERVICES
235 Promenade Street, 4th Floor, Providence, RI 02908-5767

401-222-6607

TDD 401-222-4462

FAX 401-222-3378

October 21, 2016

Robin L. Main, Esq.
Hinckley, Allen & Snyder LLP
100 Westminster Street, Suite 1500
Providence, RI 02903

RE: Liquefaction Project and Public Involvement Plan

Dear Robin,

The Department has reviewed your September 26, 2016 memorandum regarding the Liquefaction Project in Providence, specifically as it relates to the Federal Energy Regulatory Commission ("FERC") process for that project and the recently initiated RIDEM Public Involvement Plan ("PIP") process for the Site.

The Department is in agreement with your memorandum to the extent that the Liquefaction Project activities are governed by the FERC process, which preempts RIDEM's Site Remediation Regulations. Therefore, the Department agrees that those activities that are included in the FERC process may be omitted from the PIP.

That said, however, the Department is not in agreement with your memorandum as it relates to non-FERC projects at the Site. In various meetings between the Department and National Grid over the past nine months, discussion has focused around four major projects. These four projects have been continually discussed as construction projects, separate and apart from the general utility work that is sometimes necessary on the Site. Those four projects are as follows:

- 1) Holder 18/21 capping – Short Term Response Action Plan ("STRAP") submitted 4/27/16, approval issued 5/18/16, work ongoing.
- 2) Access Road into dike wall – STRAP submitted 6/29/16, approval issued 8/25/16, work ongoing.
- 3) Site prep work related to placement of liquefaction facility and equipment.
- 4) Bund wall for LNG tank secondary containment.

During previous meetings, it was the Department's understanding that all four of the above-listed construction projects would be performed pursuant to STRAPs that would be submitted to and approved by the Department, and the first two such projects did in fact proceed along that path, as described above. Your memorandum of September 26, 2016 argues that the third such project, the Liquefaction Project work, is covered by FERC jurisdiction, and therefore RIDEM oversight is preempted, and we concur in that regard as noted above.

While not referenced in your September 26, 2016 memorandum, the fourth project, the so-called bund wall, is not a part of the FERC Liquefaction Project, and not subject to FERC jurisdiction and oversight. Nonetheless, National Grid has recently proposed undertaking the bund wall project not pursuant to a STRAP as previously discussed, but under the terms of the Soil Management Plan that is in place for the site, and also omitting that project from the PIP. The Department disagrees with this proposal.

A Soil Management Plan, such as the one that is on file for this Site, is designed to set a blueprint for minor soil disturbances on post-remediation areas, such as installation or repair of utilities. The bund wall project involves the construction of an eighty foot containment wall and associated foundation excavation surrounding the existing LNG tank at the Site. It is the Department's position that the bund wall project should be submitted as a STRAP for Department review and approval, and should be included in the PIP. While the Department understands your arguments that the Soil Management Plan is designed to address, and the PIP process is not intended to apply to, projects involving limited subsurface disturbance or projects involving minor soil disturbances only, we vehemently disagree that the bund wall falls into these categories.

We look forward to National Grid's submission of its proposed Public Involvement Plan for this Site. Should you have any questions or concerns, please feel free to contact me at 401-222-6607 extension 2305.

Sincerely,



Susan Forcier

cc: Kelly Owens, RIDEM OWM
Joseph Martella, RIDEM OWM

cc: Michele Leone, National Grid
Amy Willoughby, National Grid