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June 3, 2005

VIA FAX (562) 436-1579 and OVERNIGHT MAIL
Robert Shannon, City Attorney
City of Long Beach
333 W. Ocean Blvd., #1100
Long Beach CA 90802-4664

Re: Sound Energy Solutions LNG Import Terminal, Pier 126, Port of Long Beach, CA

Dear Mr. Shannon:

This letter provides Sound Energy Solutions' ("SES") perspective on the June 7, 2005 City Council agenda item regarding SES' proposed liquefied natural gas receiving and vehicle fuel terminal (the project), the existing May 2003 Memorandum of Understanding between SES and Long Beach Energy (LBE MOU), and the status of federal legislation regarding the permitting process for LNG receiving terminals nationwide. We hope this letter clarifies the City's role in SES' permitting process.

1. THE LBE MOU

The LBE MOU is a non-binding agreement approved by the City Council, and signed by LBE and SES in May 2003. The agreement allows LBE and SES to negotiate the terms of: 1) natural gas supply from the proposed terminal to the City on preferential terms if the project is built after receiving all necessary permits and approvals, and 2) the development, financing, construction, operation, and maintenance of the interconnect pipeline.

The LBE MOU originated from the Port of Long Beach (POLB), LBE, and SES' agreement that the City should be protected from the sudden increase of utility bills as a consequence of another energy crisis and that Long Beach citizens should directly benefit from the project by, among other ways, obtaining a stable, preferential price for natural gas provided by the project. To this end, SES' May 2003 agreement with POLB states that:

> "finalization of the preferential assignment agreement [final Port-SES lease] will involve SES and the Energy Department of the City of Long Beach entering into an arrangement for the benefit of the citizens of Long Beach, the Energy Department, the Port of Long Beach, and SES."

This provision means that POLB requires a natural gas and interconnect pipeline arrangement that benefits the citizens of Long Beach, LBE, POLB, and SES before POLB and SES enter into a final lease. POLB must first certify the pending Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and grant other necessary approvals before even beginning lease negotiations with SES. Therefore, **there is no downside risk by continuing the non-binding agreement.**

In the unfortunate event that the City Council chooses to terminate the LBE MOU, SES will continue to work toward permitting, constructing, and operating the project.

2. SITING AUTHORITY AND PENDING FEDERAL LEGISLATION

The permitting and decision-making process for the project is primarily led by POLB and the Federal Energy Regulatory Commission (FERC), with substantial other authorizations or permits needed from a large group of additional federal, state, and local agencies. Locally, the project needs from POLB a Harbor Development Permit, an amendment to Port Master Plan (ratified by the California Coastal Commission), and an approved lease agreement. POLB can only issue these entitlements after it has certified the EIS/EIR for the project. POLB's certification of the EIS/EIR serves as the action that can be appealed to the Long Beach City Council. According to Public Resources Code § 21151(c) and other law, the City Council's review of any appeal would be limited to the adequacy of the EIS/EIR itself.

SES appreciates the City's concern over present federal legislative efforts to "clarify" existing law on LNG terminal jurisdictional issues. However, while both the Senate and House of Representatives' versions of LNG terminal legislation (summarized below) specify FERC as the primary jurisdictional agency, **neither version preempts required permitting by applicable state and local agencies, including the Clean Air Act, Clean Water Act, and the Coastal Zone Management Act. Also, no version of the pending legislation grants FERC eminent domain authority in connection with LNG receiving terminals or intrastate pipelines (such as the interconnect pipeline)**.

- **Senate Bill:**

  A) Clarifies FERC's jurisdiction under the Natural Gas Act for siting, construction, expansion and operation of LNG import facilities located onshore or in State waters.

B) States that the bill does not affect the rights of the States under the Coastal Zone Management Act, Clean Water Act, and the Clean Air Act.
C) Establishes FERC as the lead agency for National Environmental Policy Act purposes and provides FERC authority to set schedules for required federal authorizations. Agencies with jurisdiction over natural gas infrastructure are encouraged to coordinate their proceedings with the timeframe established by FERC.

- **House Bill**

A) Clarifies that FERC jurisdiction under the Natural Gas Act over the siting, construction, and operation of LNG import terminals, and defines those facilities. Clarifies that this jurisdiction does not include waterborne tankers, or any pipeline or storage facility subject to FERC jurisdiction under Section 7 of the NGA. Specifies procedures for FERC review of applications, including hearings, and notice to all interested persons, including the state and local commissions/ agencies of the state and city in which the LNG terminal is to be located.
B) Designates FERC as the lead agency for National Environmental Policy Act purposes, and requires each federal agency considering an aspect of the terminal to cooperate with FERC and comply with the deadlines established by FERC.
C) Requires FERC to consult with the state and local commissions/agencies of the state and the city in which the terminal is located regarding state and local safety considerations prior to issuing any order.

- **Ongoing jurisdictional dispute between FERC and CPUC:**

Currently, FERC has legal authority over the siting of onshore LNG receiving terminals in the United States based on Section 3 of the Natural Gas Act. The California Public Utilities Commission (CPUC) challenges this Natural Gas Act authority and claims jurisdiction over the siting of the SES Project. This FERC-CPUC dispute is the subject of litigation pending before the federal Ninth Circuit Court of Appeals, Californians for Renewable Energy, Inc. and California Public Utilities Commission v. Federal Energy Regulatory Commission, Nos. 04-73650 and 04-75240.

SES believes all the parties will benefit from a clear resolution of the correct regulatory path – applicants, reviewing agencies, environmental groups, and, most of all, the nation's natural gas consumers. SES seeks the prompt resolution of the dispute.

SES agrees to obtain the permits specified in its POLB and FERC applications (table attached for your convenience) for the project, including the interconnect pipeline. SES has followed, and will follow, the established rules and regulatory paths to move the project forward. California and Long Beach authorities will ultimately determine if the project gets

built. At least 23 state, local, and regional agencies are now reviewing, and must permit the project-- including the California Coastal Commission, the State Lands Commission, the South Coast Air Quality Management District, United States Coast Guard, and multiple departments of the City of Long Beach.

We look forward to participating in the June 7, 2005 Council meeting and offering our position on the LBE MOU, and any other aspect of the project if requested by the City Council. We appreciate your attention to this matter.

Very truly yours,

KENNETH A. EHRLICH,
a Professional Corporation of
Jeffer, Mangels, Butler & Marmaro LLP

KAE:pf
Enclosures

cc: Mayor Beverly O'Neill
City Council Members
City Manager Jerry Miller
Deputy City Manager Christine Shippey

Table 11-1 – Summary List of Permits/Approval and Codes Applicable to the Project

PART A: PERMITS/APPROVALS

Permit/Consultation	Agency/Action
FEDERAL	
Section 3 of the Natural Gas Act	FERC: Approval of Place of Import, and Authorization of Siting, Construction, and Operation of LNG Terminal Facilities
Section 3 of the Natural Gas Act	DOE: Authorization to import natural gas.
Section 10 (Rivers and Harbors Act) and Section 404 (Clean Water Act)	COE: Permit for placement of structures in, or affecting, navigable waters (e.g., LNG unloading facility) and dredging of the LNG ship berth.
Letter of Intent (33 CFR Part 127)	USCG: Captain of the Port issues Letter of Recommendation to operator and develops OPLAN at sea ports.
Permission to establish Aids to Navigation required under 33 CFR Part 66	USCG: USCG must be notified and give permission to establish any navigational aids (buoys) associated with the LNG unloading facility.
Spill Prevention and Spill Response Plan (CWA, 33 U.S.C.§1321(j))	USCG: Plan for responding to spills from ships.
Petition for Approval (49 CFR Part 193) Federal Safety Standards	DOT: Must demonstrate that new LNG facility meets standards governing siting, design, installation, personnel qualifications and training.
Section 7 of Endangered Species Act	FWS: Provide biological concurrence on marine species of wildlife that are federally listed as threatened or endangered, and on managed fisheries. Oversight of dredging activities associated with marine facilities construction and EFH.
Essential Fish Habitat (EFH), Magnuson-Stevens Fishery Management and Conservation Act	
STATE AGENCIES	
Federal Coastal Zone Management (CZM) Consistency Determination	CCC: Determine consistency with federal CZM Act.
Encroachment and Crossing Permits	CalTrans: Encroachment along and across state highways.
National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit, Hydrostatic Testing, Water Quality Certification, Dredging Spoils (disposal)	LAWQCB: Storm water discharge associated with construction and operation activities and waste discharge (dredge) requirements.
Consultation	SHPO: Cultural resources management (through NEPA/CEQA review process).
Consultation	NAHC: Review of Sacred Lands file/ consultation.
LOCAL AGENCIES	
Permit to Construct/Permit to Operate	SCAQMD: Air emission reduction and monitoring.
Harbor Development Permit	POLB: All development within Long Beach Harbor District.
Building Permit	POLB: Construction of structures and buildings.
Encroachment Permit	POLB: Encroachment/crossing on city streets
Encroachment Permit	POLA: Encroachment/crossing on Port streets
Encroachment Permit	COLA: Encroachment/crossing on city streets
Risk Management Plan (RMP)	COLA: Approval of RMP
Hazardous Materials Business Plan	COLA: Plan for storage and management of hazardous wastes.

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PART B: INTERNATIONAL CODES, STANDARDS & REGULATIONS

US STANDARDS

ACI 301	Specification for Structural Concrete.
ACI 304R	Guide for Measuring, Mixing, Transportation and Placing of Concrete.
ACI 311.4R	Guide for Concrete Inspection.
ACI 318	Building Code Requirements for Reinforced Concrete.
ACI 318R	Building Code Requirements for Structural Concrete.
ACI 344R-W	Design and Construction of Circular Wire and Strand Wrapped Pre-stressed Concrete Structures.
ACI 372R	Design and Construction of Circular Wire- and Strand-Wrapped Pre-stressed Concrete Structures.
ACI 373R	Design and Construction of Circular Pre-stressed Concrete Structures with Circumferential Tendons.
ACI 506.2	Specifications for Materials, Proportioning, and Application of Shotcrete.
ANSI/HI 9.1-9.5	Centrifugal/Vertical Pump General Guidelines
ANSI/HI 9.8	Centrifugal/Vertical Pump Intake Design
API 5L Gr	Specification for Line Pipe.
API 6D	Specification for Pipeline Valves.
API 520	Sizing, Selection and Installation of Pressure-relieving Devices in Refineries.
API 521	Guide for Pressure-relieving and Depressuring Systems.
API 560	Fired Heaters for General Refinery Services.
API 610	Centrifugal Pumps for Petroleum, Heavy Duty Chemical and Gas Industry Services.
API 618	Reciprocating Compressors
API 619	Rotary-Type Positive Displacement Compressors for Petroleum, Chemical and Gas Industry Services.
API 620	Design and Construction of Large, Welded, Low Pressure Storage Tanks.
API 661	Air-cooled Heat Exchangers for General Refinery Service.
API 1104	Standard for welding pipelines and related facilities
API 2510	Design and Construction of Liquefied Petroleum Gas [LPG] Installations.
ASCE 7	Minimum Design Loads for Buildings and Other Structures.
ASME	Boiler and Pressure Vessel Codes, Section I, V, VIII and IX
ASME B16.5	Steel Pipe Flanges and Flanged Fittings.
ASME B16.11	Forged Steel Fittings, Socket Welding and Threaded.
ASME B31.3	Process Piping.
ASME B31.5	Refrigeration Piping.
ASME B31.8	Gas Transmission and Distribution Piping Systems.
ASTM A 106 Gr B	Specification for Seamless Carbon Steel Pipe for High Temperature Service.
ASTM A312	Standard Specification for Seamless and Welded Austenitic Stainless Steel Pipes.
ASTM A320	Alloy Steel Bolting Materials for Low Temperature Service.
ASTM A333-Gr6	Seamless and Welded Steel Pipe for Low Temperature Service.

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ASTM A350	Forgings, Carbon and Low Alloy Steel, Requiring Notch Toughness Testing for Piping Components.
ASTM A352	Steel Castings, Ferritic and Martensitic for Pressure containing Parts, Suitable for Low Temperature Service.
ASTM A 416	Standard Specification for Steel Strand, Uncoated Seven-Wire for Pre-stressed Concrete.
ASTM A420	Piping Fittings of Wrought Carbon Steel and Alloy Steel for Low Temperature Service.
ASTM A 421	Standard Specification for Uncoated Stress-Relieved Steel Wire for Pre-stressed Concrete.
ASTM A537-Class 1	Pressure Vessel Plates, Heat-treated Carbon-Manganese-Silicon Steel.
ASTM A553-Type 1	Pressure Vessel Plates, Alloy Steel, Quenched and Tempered 8 and 9 Percent Nickel.
ASTM A 722	Standard Specification for Uncoated High-Strength Steel Bar for Pre-stressing Concrete.
ASTM A 821	Standard Specification for Steel Wire, Hard Drawn for Pre-stressing Concrete Tanks.
ASTM C 33	Standard Specification for Concrete Aggregates.
ASTM E 380	Standard Practice for Use of the International System of Units [SI], 1993.
AWWA C205	Cement-Mortar Protective Lining and Coating for Steel Water Pipe - 4 in. (100 mm) and Larger - Shop Applied
AWWA C300	Reinforced Concrete Pressure Pipe, Steel-Cylinder Type
AWWA C950	Fiberglass Pressure Pipe
AWWA D100	Welded Steel Tanks for Water Storage
AWWA D130	Flexible-Membrane-Lining and Floating-Cover Materials for Potable Water Storage
49CFR, Part 193	Liquefied Natural Gas Facilities: Federal Safety Standards
CGA 341	Standard for Insulated Cargo Tank Specification for Cryogenic Liquids.
CGA S-1.3	Pressure Relief Device Standards — Part 3 Compressed Gas Storage Containers.
FEMA-302	NEHRP Recommended Provisions for Seismic Regulation for New Buildings and Other Structures.
ISA 5.1,	Instrumentation Symbols and Identification
ISA 5.2,	Binary Logic Diagrams for Process Operations
ISA 84.01,	Application of Safety Instrumented Systems for the Process Industry
NEC Article 725-15	Power and Grounding
NEMA ICS 4	Terminal Blocks for Industrial Use
NEMA ICS 6	Enclosures for Industrial Control Systems
IEEE –	Institute of Electrical and Electronics Engineers
NEC –	National Electric Code
NEMA –	National Electric Manufacturers Association
NFPA 59A	Standard for the Production, Storage, and Handling of Liquefied Natural Gas

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NFPA 10	Standard for Portable Fire Extinguishers.
NFPA 11	Standard for Low-Expansion Foam.
NFPA 11A	Standard for Medium- and High-Expansion Foam Systems.
NFPA 12	Standard for Carbon Dioxide Extinguishing Systems.
NFPA 12A	Standard for Halon 1301 Fire Extinguishing Systems.
NFPA 13	Standard for Installation of Sprinkler, Systems.
NFPA 14	Standard for the Installation of Standpipe, Private Hydrant, and Hose Systems.
NFPA 15	Standard for Water Spray Fixed Systems for Fire Protection.
NFPA 16	Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems.
NFPA 17	Standard for Dry Chemical Extinguishing Systems.
NFPA 20	Standard for the Installation of Stationary Pumps for Fire Protection.
NFPA 22	Standard for Water Tanks for Private Fire Protection.
NFPA 24	Standard for Installation of Private Fire Service Mains and Their Appurtenances.
NFPA 30	Flammable and Combustible Liquids Code.
NFPA 37	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines.
NFPA 54	National Fuel Gas Code.
NFPA 57	LNG Vehicular Fuel System Code
NFPA 58	Standard for the Storage and Handling of Liquefied Petroleum Gases.
NFPA 59	Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants.
NFPA 70	National Electrical Code.
NFPA 72	National Fire Alarm Code.
NFPA 78	National Fire Alarm Code
NFPA 101	Life Safety Code.
NFPA 255	Standard Method of Test of Surface Burning Characteristics of Building Materials.
NFPA 385	Standard for Tank Vehicles for Flammable and Combustible Liquids.
NFPA 600	Standard for Industrial Fire Brigades.

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NFPA 1221	Standard for the Installation, Maintenance, and Use of Public Fire Service Communication Systems.
NFPA 1901	Standard for Pumper Fire Apparatus.
TEMA	Tubular Exchanger Manufacturer's Association
UBC	Uniform Building Code.
NACE RP 0169	Control of External Corrosion on Underground or Submerged Metallic Piping Systems.
NACE 6A192	Dehumudification and Temperature Control During Surface Preparation, Application, and Curing for Coatings/Linings of Steel Tanks, Vessels, and Other Enclosed Areas SSPC TR-3:12.
NACE RP 0288	Inspection of Linings on Steel and Concrete
UL –	Underwriters Laboratories
USEPA 816-F-01-007	Primary Drinking Water Standards

CODES & STANDARDS APPLICABLE TO SPECIFIC FACILITIES

LNG STORAGE TANKS

- API 2000 Venting Atmospheric and Low-pressure Storage Tanks (1998)
- API MPMS 2.2B Manual of Petroleum Standard Chapter 2 "Calibration of upright cylindrical tanks by optical reference line method", (2002).
- API 620 and Appendix Q Design and Construction of Large, Welded, Low-pressure Storage Tanks
- BS 7777- Parts 1, 2 & 3: Flat bottom, vertical cylindrical storage tanks for low temperature service
- PI –201 Compacted Density (Perlite Institute)
- ASTM C549 Perlite Loose Fill Insulation

MARINE DESIGN CODES AND GUIDELINES

STRUCTURES DESIGN AND CONSTRUCTION

- Society of International Gas Tankers and Terminal Operators, Ltd (SIGTTO): Site Selection and Design for LNG Ports and Jetties, Information Paper No. 14.
- Oil Companies International Marine Forum (OCIMF): Mooring Equipment Guidelines.
- Oil Companies International Marine Forum (OCIMF) and SIGTTO: Prediction of Wind Loads on Large Liquefied Gas Carriers.

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- Oil Companies International Marine Forum (OCIMF): Prediction of Wind and Current Loads on VLCC's (current forces only).
- American Petroleum Institute (API): RP2A Recommended Practice for Planning, Design and Constructing Fixed Offshore Platforms.
- American Petroleum Institute (API): Spec 2B; Specification for the Fabrication of Structural Steel Pipe.
- Precast / Pre-stressed Concrete Institute (PCI): PCI Design Handbook.
- American Petroleum Institute (API): RP1124, Ship, Barge and Terminal Hydrocarbon Vapor Collection Manifolds
- BS8007: Minimum reinforcement and crack width control in thick concrete elements [dolphin decks]
- ASTM Designations D1143 and D3689 [pile load tests]

SIGTTO (Society Of International Gas Tankers And Terminal Operators), Standards & Publications For Lng Facilities:

- Liquefied Gas Handling Principles on Ships and Terminals
- Guidelines for Hazard Analysis as an Aid to Management of Safe Operations.
- Ship Information Questionnaire for Gas Carriers.
- Guidelines for Ship/ Shore Access for Gas Carriers.
- Recommendations for the Installation of Cargo Strainers on LNG Carriers.
- Recommendations for Manifolds for Refrigerated Liquefied Natural Gas Carriers.
- Accident Prevention – The Use of Hoses and Hard-Arms at Marine Terminals handling Liquefied Gas.
- Guidelines for the Alleviation of Excessive Surge Pressures on ESD.
- Recommendations and Guidelines for Linked Ship/ Shore Emergency Shut-down of Liquefied Gas Cargo Transfer.
- Vapour and Fire Detection Study.
- A Guide to Contingency Planning for the Gas Carrier Alongside and within Port Limits – 1987.

OTHER OCIMF (Oil Companies International Marine Forum) Standards & Publications

- Design and Construction specification for Marine Loading Arms
- Guide on Marine Terminal Fire Protection and Emergency Evacuation

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International Maritime Organization (IMO) Conventions and Protocols and Design

- IMO Convention on Load Lines 1966
- IMO Protocol of 1988 relating to the International Convention on Load Lines, 1966
- IMO International Convention for the Safety of Life at Sea, 1974 (SOLAS) as amended
- IMO Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974
- IMO Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974
- IMO International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 relating thereto
- IMO International Convention on Standards for Training, Certification and Watchkeeping for Seafarers, 1978, as amended
- IMO Convention on the International Regulations for Preventing Collisions at Sea, 1972
- IMO International Convention on Tonnage Measurement of Ships, 1969
- IMO Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147)
- IMO International Maritime Dangerous Goods (IMDG) Code
- IMO International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code)