

July 25, 2014
Alaska Department of Natural Resources
State Pipeline Coordinator's Office

Analysis of Transfer of Interest Request for
The Spectrum LNG Project Right-of-Way Lease, ADL 419409,
from Spectrum Alaska, LLC, to AIDEA

I. Nature of the Request

Spectrum Alaska, LLC (Spectrum) is the Lessee for the Right-of-Way Lease for Spectrum Alaska, LLC, Natural Gas Pipeline and LNG Facility (Project), ADL 419409. Pursuant to a Membership Purchase Agreement dated April 25, 2014, Spectrum has agreed to sell the Project to Alaska Industrial Development and Export Authority (AIDEA), which is a State of Alaska agency. On May 5, 2014, AIDEA and Spectrum submitted a transfer of interest request to the Department of Natural Resources (DNR) for the Project (ADL 419409).

AS 38.35.120 requires the DNR Commissioner (Commissioner) to include in each lease, among other conditions, the requirement that the lessee:

not transfer, assign, or dispose of in any manner, directly or indirectly, or by transfer of control of the Lessee, its interest in this Lease, or any rights under this Lease or any Pipeline subject to this Lease to any Person...except to the extent that the Commissioner, after consideration of the protection of the public interest (including whether the proposed transferee is fit, willing, and able to perform the transportation or other acts proposed in a manner that shall reasonably protect the lives, property, and general welfare of the people of Alaska), authorizes; the Commissioner shall not unreasonably withhold consent to the transfer, assignment, or disposal.

Pursuant to AS 38.35 (Right-of-Way Leasing Act) and the AIDEA application, the SPCO considered Spectrum's requests to transfer its interests in the Leasehold to AIDEA.

II. Administrative Record

The following documents constitute the administrative record for this analysis:

- The Spectrum Alaska, LLC Natural Gas Pipeline and LNG Facility Lease and associated case file;
- A Membership Purchase Agreement from AIDEA and Spectrum dated April 25, 2014, including materials submitted in support of the request.

III. Background

Spectrum LNG Project

The Spectrum LNG Project Lease was entered into on October 15, 2013 and made effective

between the State of Alaska and Spectrum on August 15, 2014. The State agreed to accept a liability and property damage insurance policy, as well as additional security payments as outlined in Section 11 of the lease, prior to issuance of any Written Authorization is issued pursuant to the Right-of-Way Lease, except that the Pipeline Coordinator may authorize the construction of the gravel pad prior to the initial deposit to the escrow account is due. Further financial guaranty requirements are outlined in the Financial Assurances Agreement, which is attached to the lease as Exhibit C. To date, construction on the pipeline and related facilities has not been initiated, and no Written Authorizations have been requested or issued.

On May 5, 2014, the State Pipeline Coordinator's Office received a transfer of interest request for the Lease (ADL 419409) from AIDEA, along with a Membership Purchase Agreement regarding the sale of Spectrum to AIDEA.¹ AIDEA submitted with their transfer application a Board of Director Resolution approving the purchase, assignments and the transfers of interest in the Spectrum Lease; and a copy of AIDEA's By-Laws.

AIDEA

AIDEA is a public corporation of the State of Alaska, created by the Alaska Legislature in 1967 to "promote, develop and advance the general prosperity and economic welfare of all the people of the state, and a public purpose, to increase job opportunities and otherwise to encourage the economic growth of the state, including the development of its natural resources, through the establishment and expansion of manufacturing, industrial, energy, export, small business, and business enterprises."

AIDEA has supported projects such as port expansions, rail expansions, energy interconnections, and industrial roads. AIDEA is the owner of the Snettisham hydroelectric facility, operated by Alaska Electric Light and Power Company in the City and Borough of Juneau, and the Delong Mountain Transportation System, operated by Teck Alaska, Inc in northwest Alaska.²

IV. Financial Review

The application included copies of the annual financial statements for the last three years (2011-2013). The financial statements were prepared in accordance with generally-accepted accounting and auditing principles and certified by a firm of reputable and independent certified public accountants.

AIDEA is a component of the State of Alaska and is discretely presented in the State's financial statements. AIDEA is the primary economic development financing agency of the State of Alaska, financing economic development projects using existing assets, general obligation bonds or debt secured by project revenues. AIDEA's mission is to promote, develop and advance economic growth and diversification in Alaska by providing various means of financing and investment. AIDEA has various powers that support its economic development

¹ The Membership Purchase Agreement forms were signed by Spectrum and AIDEA's corporate officers who are authorized by the respective companies to execute the assignments.

² KPMG LLP Independent Auditors' Financial Reports for 2011, 2012, and 2013

mission, including but not limited to, the ability to adopt regulations, to acquire ownership interests in projects, to lease projects, to issue bonds, and to acquire and manage projects. AIDEA conducts the majority of its business through its Revolving Fund, established pursuant to legislation, and considers this its major fund. AIDEA's Revolving Fund has two main programs under which it transacts business; the Enterprise Development Account and the Economic Development Account. AIDEA also has two smaller programs (Loan Funds), the Small Business Economic Development Revolving Loan Fund Program and the Rural Development Initiative Fund Loan Program, that are not part of the Revolving Fund.

Legislation enacted in 2010 gives AIDEA the power to consider the interests of local governments impacted by AIDEA's activities to share in the benefits of those activities, with appropriate consideration of AIDEA's ability to meet debt obligations, issue new debt, and fulfill AIDEA's purposes.³

V. Analysis:

A. Transfer of Interest Requirements

The powers and obligations of the Commissioner relating to the assignment and transfer of AIDEA interest in the Spectrum Lease arise under AS 38.35.100, 38.35.120 and the following provisions of the Spectrum Lease, ADL 419409:

8. Covenants by Lessee

(i) As more fully set out in Section 24 of this Lease, Lessee shall not transfer, assign, or dispose of in any manner, directly or indirectly, or by transfer of control of the Lessee, its interest in this Lease, or any rights under this Lease or any Pipeline subject to this Lease to any Person other than another owner of the Pipeline (including subsidiaries, parents and affiliates of the owners), except to the extent that the Commissioner, after consideration of the protection of the public interest (including whether the proposed transferee is fit, willing and able to perform the transportation or other acts proposed in a manner that shall reasonably protect the lives, property and general welfare of the people of Alaska), authorizes; the Commissioner shall not unreasonably withhold consent to the transfer, assignment, or disposal;

24. Transfer, Assignment, or Other Disposition

(a) The State may convey all or a portion of its ownership of the Leasehold at any time to any entity allowed by law. Any conveyance, transfer or other disposition, subsequent to the execution of this Lease, of any right, title, or interest in any of the Leasehold shall be subject to this Lease and the Lessee's rights hereunder, including the Lessee's right to renew the Lease under Section 2(b) herein.

(b) Except as set forth in Section 8(i) herein, the Lessee may assign, sublease, or

³ KPMG LLP Independent Auditors' Financial Reports for 2011, 2012, and 2013

transfer this Lease, or any interest in or rights under this Lease only upon a written finding by the Commissioner that the transferee meets the requirements of AS 38.35.100.

(c) In making the determination whether the proposed transferee is fit, willing, and able under this paragraph, the Commissioner shall not consider the existence of the guaranty by the guarantor, unless specifically requested by the Lessee in the Lessee's request for transfer or assignment. If the Commissioner determines that a guaranty or other security is required to guarantee the performance of all of the duties, obligations, and potential liabilities under and by virtue of this Lease by the proposed assignee, transferee, or other receiving party, the proposed assignee, transferee, or other receiving party shall secure a guaranty or other security satisfactory to the Commissioner, in substantially such form as the Commissioner required from the Lessee under Section 11 of this Lease, as a condition to the Commissioner's approval of the transfer, assignment, or other disposal.

Thus, per the Spectrum Lease and AS 38.35, this analysis must consider whether this transfer is in the public interest, including whether the transferee, AIDEA, is "fit, willing and able" to perform under the lease in a manner that will reasonably protect the lives, property, and general welfare of the people of Alaska.

A. Fit, Willing and Able Determination

AS 38.35.100 requires the Commissioner determine whether the transferee, AIDEA, is "fit, willing, and able to perform the transportation or other acts proposed in a manner that will be required by the present or future public interest." In making this determination, the Commissioner must address the following questions:

1. Does the proposed use of the right-of-way unreasonably conflict with existing uses of the land involving a superior public interest?
2. Does the applicant have the technical and financial capability to protect State and private property interests?
3. Does the applicant have the technical and financial capability to take action to the extent reasonably practical to prevent any significant adverse environmental impact, including but not limited to, erosion of the surface of the land and damage to fish, wildlife and their habitat?
4. Does the applicant have the technical and financial capability to take action to the extent reasonably practical to undertake any necessary restoration or re-vegetation?
5. Does the applicant have the technical and financial capability to protect the interests of individuals living in the general area of the ROW who rely on fish, wildlife and biotic resources of the area for subsistence purposes?
6. Does the applicant have the financial capabilities to pay reasonably foreseeable damages for which they may become liable or claims arising from the construction, operation, maintenance or termination of the pipeline?

The requested transfer of interest does not include changes in the current use of the Spectrum Pipeline Right-of-Way and is consistent with the Commissioner's Analysis and Determination on the Spectrum Application in which it state that the project should not result in significant degradation of the environment, resources, or lands. The Spectrum Pipeline

Right-of-Way Lease was crafted to protect the State's interest and contains numerous provisions specific to protection of fish and wildlife, restoration of the rights-of-way, and prudent operation of the pipeline, among other things.

With regard to the applicant's technical capabilities, the following documents were reviewed:

- Spectrum Alaska, LLC project, Design Basis for Feed Gas Pipeline and LNG Facilities, November 2012.
- ADL 419409 Right-of-Way Lease for Spectrum Alaska, LLC, Natural Gas Pipeline and LNG Facility, October 15, 2013.
- Interior Energy Project, North Slope Liquefied Natural Gas Facility Project Description, Prepared for Alaska Industrial Development and Export Authority, May 2014, DRAFT.
- North Slope Liquefied Natural Gas Facility, Technical Design Standards, July 2014.

The quality of the pipeline and the facility can be assured by adherence to standards and regulations. Further, a written authorization from the SPCO is required to build the facility and pipeline. The authorization will review the changes in design and request improvements, if necessary. Per Stipulation 3.3 of the Spectrum Lease, modifications to the contents of the Design Basis after acceptance must be submitted to and accepted by the State Pipeline Coordinator.

3.3 Design Basis and Criteria

3.3.1 The Lessee shall develop a Design Basis and Criteria document for acceptance by the Pipeline Coordinator prior to initiating any Pipeline Activities, in accordance with Stipulations 1.2 and 1.5. The document shall follow the Pipeline Coordinator's standard format modified to encompass the specific characteristics of the project. After acceptance, any modifications to the contents of the Design Basis and Criteria must be accepted by the Pipeline Coordinator.

Codes, Regulations and Standards

Aspects of the life cycle of a pipeline and LNG facility, from design and construction to operation to dismantlement are regulated by a number of industry codes and standards and regulations enforced by government agencies and government departments. The intent of this oversight and adherence to rigorous standards is to ensure that pipelines and facilities are operated safely, responsibly, and in the public interest.

Effective standards are an important element of the LNG pipeline industries. The Design Basis establishes minimum engineering requirements for safe and environmentally sound design, construction and operations on the AS 38.35 lease. It references codes, regulations, and standards under which the pipeline will be designed and operated. The most important requirements are listed below. For a full list, refer to the Design Basis.

1. ANSI/ASME B31.3, Standard for Process Piping (for the plant).
2. ANSI/ASME B31.8, Standard for Gas Piping Systems (for the pipeline).
3. Code of Federal Regulations Title 49, "Transportation," Parts 191, 192, 193, 195.
4. API 5L, Specification for Line Pipe, 2004
5. API 1104, Welding Pipelines and Related Facilities, 2005

6. ASCE 7-05 Minimum Design Loads for Buildings and Other Structures 2005
7. International Building Code, as adopted by the State of Alaska
8. National Electrical Code (NEC), as adopted by the State of Alaska
9. NFPA 59A, Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG).

The feed gas pipeline and LNG facilities will be regulated by local, state, and federal authorities. The project will incorporate shut-off valves, emergency access to critical valves, and communications. The pipeline and major parts of the facility will be jurisdictional to the Code of Federal Regulations (CFR), Title 49, Parts 192 (which regulates gas pipelines and parts of gas plants), 193, and 195 (which regulates liquid hydrocarbon pipelines and parts of plants). These codes, combined with NFPA 1, the Uniform Fire Code, are the principal authorities for the regulation of natural gas pipelines and LNG facilities in the United States. They are implemented by the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) and the State of Alaska Fire Marshal.

The facilities must also conform to the International Building Code sections adopted by the State of Alaska. This code is primarily the jurisdiction of the Department of Public Safety. The Alaska Department of Labor and Workforce Development enforces safe workplace practices and the National Electrical Code (NEC/NFPA 70) and the inspection and certification of mechanical items, such as pressure relief valves, air receivers, and certain tanks.

In addition, AIDEA's builders will adhere to additional codes and standards voluntarily. AIDEA has cited 292 mandatory and voluntary regulations, codes and standards in their technical documents. These provide assurance of quality in the design and construction of the pipeline and facility.

Accordingly, AIDEA has the technical capability to protect State and private property interests, prevent significant adverse environmental impact, undertake necessary restoration, and protect individuals living in the general area of the right-of-way and their subsistence resources.

With regard to the applicant's financial capabilities, the Commissioner reviewed the 2011 - 2013 annual financial statements and balance sheets of AIDEA. The financial statements were prepared in accordance with generally-accepted accounting and auditing principles and certified by a firm of reputable and independent certified public accountants. AIDEA is a component unit of the State of Alaska and is the primary economic development financing agency of the State. The Commissioner looked specifically at total current assets, total assets, total current liabilities, total liabilities and partners' capital, total operating revenues, total operating expenses, operating income, and other income (expenses). Additionally, the AIDEA Financial Assurances Agreement contain undertakings to guaranty to the State of Alaska the full performance, fulfillment, and satisfaction of the duties, obligations, and liabilities of Spectrum under or pursuant to the Spectrum Lease, ADL 419409.

Accordingly, AIDEA is financially capable of protecting State and private property interests, preventing significant adverse environmental impact, undertaking necessary restoration, protecting individuals living in the general area of the Right-of-Way and their subsistence resources, and paying reasonably foreseeable damages for which AIDEA becomes liable or claims arising from the construction, operation, maintenance or termination of the pipeline.

B. Review of Insurance and Security Payment

The Spectrum Lease requires:

11. Liability Insurance and Security Payments

(a) Liability Insurance

(1) On or before the issuance of Written Authorization pursuant to Stipulation 1.4 and before entry onto the Leasehold, the Lessee shall procure and furnish a liability and property damage insurance policy (“Insurance Policy”) acceptable to the Commissioner from a company licensed to do business in the State and with a liability limit of not less than \$5 million. The State shall be named as an additional insured.

(2) The Insurance Policy shall be kept current and any changes to the Insurance Policy shall be submitted to the Commissioner for approval in advance.

(3) The requirement to furnish and maintain the Insurance Policy does not and shall not be construed to limit any liability of the Lessee under this lease.

(b) Additional Security Payment

(1) The Lessee shall make the additional payments required and meet the other security commitments as set out in Exhibit C, which is attached to and made part of this Lease. These additional payments shall be held in an Escrow Account for the benefit of the State. The Escrow account must at all times meet or exceed the Current Required Balance as that phrase is used in Exhibit C.

(2) The Commissioner shall have the right, without further legal proceedings, to draw upon the funds in escrow to cover the costs of performance any time the State has the right to perform under this Lease. Use of funds pursuant to this subsection does not limit and shall not be construed to limit any liability of the Lessee under this Lease. Use, by the Commissioner, of funds pursuant to this subsection does not reduce or limit the obligation of the Lessee to maintain in the Escrow Account the Current Required Balance.

(c) The Lessee acknowledges that the insurance commitments and additional security payments required in this section were material to the Commissioner's decision to approve this lease and that any failure to fully comply with the terms of this section of the Lease or with the terms of Exhibit C constitute failure of the Lessee to substantially comply with the terms of this lease as that phrase is used in Section 26 of this Lease. If the Commissioner determines at any time that The Standard Oil Company's guaranty is insufficient, the Commissioner may require the substitution and delivery of a new form of guaranty with any provisions the Commissioner finds necessary.

(d) The Commissioner reserves the right to require additional or approve alternate security in the event an interest in this Lease is transferred pursuant to Section 24 or pursuant to Section 8(i) of this Lease.

Further, in Exhibit C of the lease:


1.1 AIDEA shall make an initial deposit to the Escrow Account of \$26,500 before any Written Authorization is issued pursuant to the Right-of-Way Lease, except that the Pipeline Coordinator may authorize the construction of the gravel pad prior to the initial deposit to the escrow account is due. The balance of the estimated DR&R expenses shall be paid to the Escrow Account in ten equal annual deposits beginning one year from the date operation of the Pipeline begins. The annual payments will be \$17,300.

Additionally, AS 38.35.120(a)(14) states that a lessee:

will procure and furnish liability and property damage insurance from a company licensed to do business in the state or furnish other security or undertaking upon the terms and conditions the commissioner considers necessary if the commissioner finds that the net assets of the lessee are insufficient to protect the public from damage for which the lessee may be liable arising out of the construction or operation of the pipeline.

VII. Conclusion.

The requirements for the transfer of interest have been met and the applicable statutes have been satisfied. Therefore, the transfer of Spectrum Alaska LLC's interest in the Right-of-Way Lease for Spectrum Alaska, LLC, Natural Gas Pipeline and LNG Facility (ADL 419409) to AIDEA is approved.



Joseph R. Balash
Commissioner, Department of Natural Resources

7/28/14

Date