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Attention: Suchaet Bhardwaj

Dear Sirs and Mesdames:

**File Ad-GA-ActsLeg-Fed-NEBA-Amend 0101**  
**Changes to Natural Gas Export Licence Term under Part VI of the National Energy Board Act – Consultation on Proposed Regulatory Amendments**

In response to the June 29, 2015 letter of the National Energy Board (the “**Board**”), as counsel for Bear Head LNG Corporation (“**Bear Head**”) we provide the following comments on the Proposed Regulatory Amendments to the *National Energy Board Part VI (Oil and Gas) Regulations* (“**Part VI Regulations**”) to give effect to a recent amendment to s. 119.01 of the *National Energy Board Act* (the “**Act**”).

Bear Head has an application before the Board for a long term licence to export gas (File OF-EI-Gas-GL-B275-2014-01 01). Bear Head supports the proposed amendments to the Part VI Regulations, subject to the four comments below. It makes these comments based on its experience in connection with that application.

Our first comment is that it might add clarity to the definition of natural gas to expressly state that the definition includes natural gas in its gaseous or liquid state.

Our second comment stems from the belief that the filing requirements for all long term licences to export natural gas should be the same. Thus, the regulation should be clear that the new requirements apply to all applications for a term between two and 40 years that are made after the amendments come into effect.

Our third comment is that the amendments could usefully take the opportunity to streamline the process by which applicants may demonstrate the implications of the proposed exportation of natural gas on the ability of Canadians to meet their natural gas requirements. Currently each applicant must commission its own study to forecast the supply of and demand for Canadian natural gas for the requested term

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of the licence. The result is that each applicant is required to prepare and file an expensive forecast of future conditions that in almost all material respects are common to all applications before the Board. This time consuming and duplicative exercise could be avoided if the regulations made clear that applicants can rely on the most recent forecast prepared or relied upon by the Board.

Finally, our fourth comment is that the amendments could expressly provide for transition of existing long term licences to a 40 year term. In Bear Head's view, the intent of the amendment to section 119.01 of the Act is to permit the Board to authorize 40 year terms for projects that applied under the previous provisions of the Act as well as those bringing application after the amendment came into force. In the case of projects that the Board reviewed under the old provisions, the amendments to the regulations could promote regulatory efficiency by providing a mechanism for the Board to focus its review of proposals it has previously reviewed exclusively on the revised term being sought.

We attach a blackline as Appendix "A" to these submissions, showing proposed revisions to the amendments to the Part VI Regulations to reflect these four comments.

We thank the Board for the opportunity to comment on these important proposed amendments to the Part VI Regulations. If a distribution group is set up in respect of the consultations on the proposed amendments, we request to be added to that group.

If further information or clarification of our comments would be useful to you, please contact the undersigned.

Yours very truly,

LAWSON LUNDELL LLP



Chris W. Sanderson, Q.C.\*

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Enc. – Appendix A

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## Appendix "A"

### Blackline Showing Additions to the Proposed Amendments to the Part VI Regulations

#### *Definition of Natural Gas*

"natural gas" means a mixture of gas, in a gaseous or liquid state, that is composed of at least 85 % methane and that may contain any hydrocarbon or mixture of hydrocarbons in a gaseous state and minor amounts of non-hydrocarbon gasses and impurities. (*gaz naturel*)

#### *Licences for the Exportation of Natural Gas*

#### *Definition of licence holder*

(1) In this section "licence holder" means the holder of a licence issued under Part VI of the Act to export natural gas for a term in excess of two years.

#### *Application Requirements*

(2) An applicant for a licence for the exportation of natural gas shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

- a) the terms and conditions that the applicant is requesting for the licence, including
  - i. the duration of the licence,
  - ii. the maximum annual and total quantities proposed to be exported,
  - iii. if applicable, the tolerance levels that are necessary to accommodate temporary operating conditions, and
  - iv. the points of exportation from Canada;
- b) the source of the proposed exportation;
- c) a description of the implications of the proposed exportation on the ability of Canadians to meet their natural gas requirements;
- d) the period within which the exportation must begin for the licence to remain in effect; and
- e) the name and contact information of the applicant and of its authorized representative, if any.

#### *Application Requirements to Vary Duration of Licence*

(3) A licence holder who applies to vary the duration of an existing licence for the exportation of natural gas shall furnish to the Board all the information that is necessary for the Board to dispose of the application, including, unless otherwise authorized by the Board,

- a) the requested incremental duration of the licence, such that the sum of the existing duration of the licence and the requested incremental duration does not exceed the maximum allowed duration;



- b) the requested maximum annual and total quantities proposed to be exported during the incremental period of the licence;
- c) for the incremental period only, the source of the proposed incremental exportation;
- d) for the incremental period only, a description of the implications of the proposed incremental exportation on the ability of Canadians to meet their natural gas requirements; and
- e) the name and contact information of the applicant and of its authorized representative, if any.

Relevant studies

(4) In meeting the information requirements set out in paragraph (2)(c) or (3)(d) an applicant may refer to and the Board may consider any relevant study conducted by the Board or any relevant study that has been adopted by the Board in connection with any application for a licence for the exportation of natural gas.

*Terms and Conditions*

A licence for the exportation of natural gas may be made subject to terms and conditions concerning the following matters:

- a) the duration of the licence;
- b) the maximum monthly, annual and total quantities to be exported;
- c) if applicable, the tolerance levels that are necessary to accommodate temporary operating conditions;
- d) the period within which the exportation must begin for the licence to remain in effect; and
- e) the points of exportation from Canada.