

STATE OF MAINE
 BOARD OF ENVIRONMENTAL PROTECTION

DOWNEAST LNG, INC. AND)	
DOWNEAST PIPELINE, LLC)	Applications for: Air Emission,
Robbinston, Calais, Baring Plantation,)	Site Location of Development,
Baileyville, Princeton)	Natural Res. Protection Act
)	and Water Quality Certification
Washington County, Maine)	
)	
# A-000960-71-A-N)	
# L-23432-26-A-N)	
# L-23432-TG-B-N)	

AFFIDAVIT OF PROFESSOR DAVID A. WIRTH

I, David A. Wirth, state the following:

1. I am a tenured professor of law and Director of International Programs at Boston College Law School. I have extensive experience with the law of the sea and resolution of international disputes. I teach public international law and foreign relations law and am a Visiting Professor of International Law at the Fletcher School of Law and Diplomacy at Tufts University. I have also taught international legal subject matter at Harvard Law School, Oxford University, the Massachusetts Institute of Technology, the University of Virginia, Washington and Lee University, and Vermont Law School. I worked at the Office of the Legal Adviser, U.S. Department of State, Washington, D.C. as Attorney-Adviser for Oceans and International Environmental and Scientific Affairs, from October of 1984 until January of 1986, and Attorney-Adviser for European and Canadian Affairs from October of 1983 through October of 1984. I was also the reviewer of a book on internal organizations and international dispute settlement.

2. I am familiar with the Government of Canada's position regarding LNG tanker transit through Head Harbour Passage. I have reviewed Ambassador Wilson's

letter and the State Department response in the form of a letter to Senator Olympia Snowe. I have also reviewed the March 23, 2007 letter to Donald Smith from the Department of State. I have also reviewed maps of the area.

3. This affidavit's purpose is to explain the context created by Canada's action.

4. In my opinion, Canada has a plausible basis in law for its position as stated in Ambassador Wilson's letter. Canada's position as stated in the Wilson letter, when compared with that of the U.S. Department of State, potentially presents an unresolved international dispute.

5. There is no obvious mechanism at the international level for resolution of this dispute. The United States is not a party to the 1982 United Nations Convention on the Law of the Sea. Both Canada and the United States would have to consent to submission of this matter to the International Court of Justice or international arbitration.

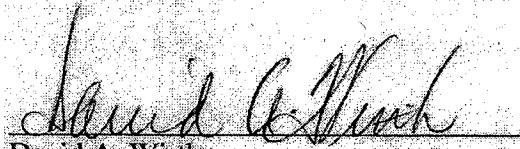
6. There is no reason to think that this issue could be resolved in time to allow construction or completion of the proposed Downeast LNG facility within two to five years (if not longer). Resolution may take several years, if it is resolved at all. The dispute could linger on the bilateral foreign policy agenda between Canada and the United States for an indefinite period of time. This dispute could also be resolved through diplomatic channels, but again, there is no reason to believe that such resolution could occur within two to five years.

7. Given the Government of Canada's objections, certainly DeLNG cannot presently claim that those objections will be removed or resolved such that DeLNG has

the right to have LNG tanker transit through Head Harbour Passage within that time frame.

8. In the event that an LNG tanker transits through Head Harbour passage, Canada could potentially arrest and detain the tanker, under some circumstances lodge a diplomatic protest, or take other action, depending on how far Canada wishes to press this issue. The United States Government, if it wishes to press this issue, could respond by escorting U.S.-flagged tankers through Head Harbour Passage.

9. In sum, DeLNG cannot presently claim any right to transit LNG tankers through Head Harbour Passage over Canada's objection, nor can it presently assert any particular resolution of this international dispute, or any particular time frame for its resolution.


David A. Wirth

Signed and sworn to before me in Newton, MA on April 9, 2007.



Notary Public

My commission expires on : March 12, 2010

