Statement of
The Honorable Martin O'Malley
Governor of the State of Maryland
Before the Subcommittee on the Coast Guard and Maritime Transportation
Committee on Transportation and Infrastructure
United States House of Representatives
April 23, 2007

Introduction:

Mr. Chairman, Ranking Member LaTourette, and members of the Committee, I appreciate the opportunity to appear before you today on behalf of the citizens of Maryland and with my distinguished colleagues, Maryland's Senior Senator, Barbara A. Mikulski, and Baltimore County Executive James Smith – who have long served the people of our state.

Chairman Cummings has a long and successful record of public service to the citizens of Maryland as well. In each office he has held, constituent service and the pursuit of fair treatment of all citizens have characterized all of his actions. He continues to be known as a staunch fact finder who demands frank responses. We are proud that he represents our State in Congress.

We greatly appreciate the Committee taking its valuable time to visit Maryland and discuss this issue of great concern to our state and our citizens. The Chesapeake Bay is a state treasure and a resource valued by all citizens, and we are committed to protecting it. A decision by the Federal Energy Regulatory Commission – otherwise known as "FERC" to permit location of a new Liquefied Natural Gas Facility at Sparrows Point, Maryland would be of critical concern to our State. On February 5, 2007, the State of Maryland submitted formal documents to FERC that comprehensively enumerated its points of opposition to the facility siting as well as many issues that prompted it to take that position.

I understand that today's discussion is focused on particular matters of concern to this committee, so I will limit my comments to those concerns – Safety, Security and Impact on Port Operations. These topics mirror some of the most serious concerns of our citizens – the safety and security of working people who live and thrive in communities adjacent to this site.

Before I begin, I also want to comment on the importance of the Port of Baltimore to our State – not just to the City of Baltimore. The Port of Baltimore is a major source of personal and business revenues in the State of Maryland. In addition, the following facts relate to the Port:

- It was responsible for $2.4 billion in personal wage and salary income in

2005;

- It generated $1.9 billion in business revenues in 2005 ;
- It directly facilitated $1.1 billion in local purchases by dependent businesses;
- It generated $278 million in state, county and municipal taxes; and
- Through it, the U.S. Customs Service collected $507 million in 2005.

Combining direct, induced and indirect jobs with related jobs, there are approximately 128,000 jobs linked to the Port. Any change in our Port's character, effectiveness, and efficiency or of the adjacent communities will have impacts far and wide.

Safety and Security Concerns:

Remote Siting:

FERC regulations require "remote siting" of an LNG facility (i.e. not near a densely populated area). The Sparrow Point Project is not a case of "remote siting."

According to the Natural Gas Act, remote siting is a primary consideration in terms of safety. The State of Maryland's interpretation of "remote siting" is that LNG terminals should be preferentially placed in remotely populated areas and prohibited in densely populated areas. The size of the parcel where the Sparrows Point facility is proposed is small in comparison to other LNG facilities, meaning the potential for incident escalation is likely to be inherently higher than other facilities of similar capacity.

Emergency Evacuations:

The proposed Sparrows Point project is on a peninsula with very limited ingress and egress to evacuate the public or provide emergency responders in the event of an accident at the site.

The State of Maryland has significant concerns with respect to emergency response resources and capabilities in the event of a significant LNG release. A primary concern relates to the inability to evacuate the immediate surrounding area in the event of an emergency at the facility. Specifically, the existing roadway infrastructure has limited egress routes and is located on a peninsula, further limiting any potential expansions to the existing roadways. An additional concern is the fact that a significant portion of the immediately surrounding population communicates primarily in languages other than English, which could potentially lead to failed communication during an emergency. Furthermore, there are a substantial number of schools and religious establishments located in the immediate vicinity of the proposed facility, increasing the potential number of individuals present during an emergency evacuation.

In addition to concerns regarding ingress and egress during an emergency evacuation, the State of Maryland also has concerns regarding emergency response capability. Neither Baltimore County, the surrounding counties, nor the State of Maryland itself has sufficient equipment or adequately trained staff to respond to an emergency situation at

an LNG facility or ship. Currently, these emergency response capabilities do not exist, and the training and equipment necessary to respond in an emergency situation would require significant capital expenditures and resource allocation by federal, State, and local governments.

Ignition Sources:

The project will be located about one mile from the second largest blast furnace in the United States (Mittal Steel), and an ethanol productions facility (ECRON) is to be located even closer. Both facilities are ignition sources that increase the risk of an accidental explosion or flash fire at the proposed Sparrow Point LNG facility.

The terminal is located approximately one mile from the second largest blast furnace in the United States. In the event of a large LNG release, the adjacent steel foundry, Mittal Steel, would give rise to sources of congestion and confinement for dispersion of flammable gas (and the accompanying possibility of a vapor cloud explosion) in addition to multiple direct and indirect ignition sources.

Furthermore, another potential concern is the neighboring proposed ethanol production plant north of the terminal. This facility represents yet another ignition source and heightened risk of explosion or fire at the Sparrows Point LNG Facility. These collective ignition sources and the attendant risks to workers, property and the surrounding community require serious and exhaustive evaluation.

Inadequate Opportunity for Review:

The fast-track FERC process requires very quick review and response as to an extremely complex and technically involved project, limiting Maryland's abilities to adequately and fully review and reply. Additionally, the U.S. Coast Guard is required to evaluate the waterway for safety and security impacts and to provide those findings ("Waterways Suitability Report" or WSR") to FERC and others for review and comment. To our knowledge, the Coast Guard has not yet submitted its WSR for review.

Impact on the Operations at the Port of Baltimore:

The Maryland Port Administration (MPA) works to maintain the safe and efficient passage of cargo vessels through the Chesapeake Bay and Baltimore Harbor. This is done in coordination with the U.S. Army Corp of Engineers (USACE), as part of the State's Dredged Material Management Program that oversees dredged material placement. MPA also coordinates waterside navigation and security matters with the U.S. Coast Guard and other state and/or federal agencies.

Regarding future terminal space for the Port of Baltimore, it is important to understand that it is in short supply, and the future of terminal development, like the trend in shipbuilding, is for speculation of larger tracts. The Sparrows Point peninsula represents the last underutilized property of its kind and size in the Baltimore Harbor and therefore needs to be preserved for this future use. Over the course of this year, the MPA should be finalizing its plans for a dredged material containment facility (DMCF) and an active terminal at Sparrows Point, and at this time, it will communicate how these plans would likely be impacted by the AES proposal.

Dredged Material Placement

While other State and federal agencies play a major part in reviewing and permitting dredging activities, the MPA's role for the Harbor is largely focused on material placement. None of the LNG project's dredged material has been proposed for placement at MPA facilities. AES has a correct understanding that MPA containment facilities will not be made available for the proposed LNG facility. Dredging for the LNG project is scheduled to occur from mid-2008 to mid-2010. The Hart-Miller Island Dredged Material Containment Facility (DMCF) is scheduled to cease dredged material placement operations on December 31, 2009 and would not have sufficient remaining capacity to accommodate the LNG project in any case. The proposed Masonville DMCF is expected to commence operation within this same time frame, but in combination with the MPA's existing Cox Creek facility, it will only accommodate two thirds of Baltimore Harbor's existing average annual dredging requirements.

It is, moreover, expected that up to four million cubic yards of material will need to be dredged for the LNG project. AES proposes that the most cost effective way to dispose of this material is to process it on-site and to sell it as a beneficial re-use of the material. Given our understanding of the higher costs normally associated with beneficial re-use and the limited on-site area available for this process, this plan as contemplated does not appear viable. A market study needs to be performed to demonstrate the material recycling case, and the viability of upland and ocean dumping needs to be explored in much greater detail than has been glossed over in the reports.

Future MPA-Dredged Material and Containment and Terminal Facilities

As stated above, with the closing of HMI and the limited annual capacity that the Cox Creek and the proposed Masonville containment facilities will provide, the completion of another DMCF project by no later than 2013 is paramount to meeting the Harbor's dredging needs in the immediate future. The MPA is studying the feasibility of, and making plans for, that next site to be at Sparrows Point. To this end, MPA is currently developing an environmental impact statement (EIS) for plans to construct a DMCF at Sparrows Point. This is the only site available that can meet the 2013 deadline and provide the additional capacity to meet the annual need to dredge in Baltimore Harbor. In response to input by federal environmental agencies and citizens, the MPA is working to configure and design a placement site at Sparrows Point which is primarily an upland

site with limited, minimal intrusion into the water, and with sufficient capacity to be economical while also allowing for future terminal development.

Ultimately, it is anticipated that this facility will be paved over and converted to a marine terminal once it reaches its ultimate capacity for dredged material. For this reason, there are dike height limitations which serve to decrease the ultimate DMCF capacity. Therefore, nearly 500 acres would be required to provide the same capacity as the previously proposed in-water site. While the MPA has primarily focused on the Southwest corner of the Sparrows Point peninsula, it is exploring ways to meet the need for capacity and to construct the dredged material placement site and eventual marine terminal by also looking at the current shipyard site up to the Northwest corner.

If the MPA is successful in constructing a dredged material placement site and marine terminal at Sparrows Point, and if an LNG terminal is also successfully sited there, the MPA has other concerns regarding restrictions on adjacent land uses. For example, a situation in which cargo operations had to cease while an LNG ship is at berth would be intolerable.

The physical location and layout of the facility and its berthing configuration should not constrain or impede current land uses and waterside needs of neighboring and contiguous properties. Demand for terminal expansion continues to intensify, and it is the MPA's current plan for the entire land area immediately south of this property to become a future marine terminal. We would like the record to clearly reflect that there is a need for AES to fully explain how the proposed LNG facility might support our desire and plans to meet the growing demand for terminal services there.

LNG vessel characteristics need to be examined, particularly in light of water draft requirements. Based on a preliminary assessment of dredging needs for this project, it is expected that close to four million cubic yards of material will need to be dredged. This need alone will far outweigh our ability to contain dredged material, which will be limited to about one million cubic yards per year for the entire Baltimore Harbor after HMI closes in 2009. Reasonable, affordable and viable alternative disposal options must be identified for the disposition of this material.

MDOT desires to understand if and how AES can ensure the long-term feasibility of keeping the waterways open for the expected 130 ships per year that will visit its facility. The impact of vessel frequency on the safe and efficient flow of existing and projected future vessel transit through the channel must be addressed. Because of the very competitive business climate in which the State and private sector terminal operators work, any unreasonable shipping delay could cause loss of business and result in loss of income and jobs, not only now but in the future.

Ship Navigation

There are 16 nautical miles of 800-feet wide dredged channel from the Bay Bridge to the access channel to the proposed LNG terminal. Although the US Coast Guard has not yet

made a recommendation as to the suitability of the waterway, it is anticipated that if the waterway *is* considered suitable, then a moving security zone will be required around inbound LNG vessels. The security zone for such vessels going to Cove Point prevents other vessels from being within 500 yards of a loaded LNG ship. This same security zone, if applied, could then impede the free movement of vessel traffic transiting to/from the Port of Baltimore, causing delays and costing customers incrementally for doing business at the Port.

Currently, the MPA is in a competitive race to attract and retain cruise lines and shipping lines to come up the Chesapeake Bay to the Port of Baltimore. We offer excellent service and extremely quick turn around times for vessels. However, since the LNG terminal will be a private terminal, there is little the MPA can do to influence its potentially considerable impact on the marine community for many years to come. Because of the potential for vessel delay, the proposed LNG terminal will give our existing and prospective customers another "bargaining chip" while negotiating rates at our terminals, or worse, a reason to do business with other ports. This terminal, if permitted, could be a strong reason not to come to Baltimore. This socio-economic impact needs to be carefully and extensively assessed in the EIS and given due consideration.

MDOT-MPA notes that water and landside security and emergency management issues are not clear and must be addressed. In addition, MDOT-MPA staffs feel that it would be unwise to reduce the safety/security zone and alternatively, that it is prudent to extend it where reasonable. A security zone would be needed around any LNG tanker in transit to or moored at the proposed terminal. We would need to establish or enhance warning processes and citizen/State employee communications at locations within the State including: the Bay Bridge, Francis Scott Key Bridge and associated facilities, and Sandy Point State Park. Maryland believes that if this proposal moves forward, AES should provide the funding required to develop, implement, and operate such necessary infrastructure.

Additional Concerns:

Impacts on the Commercial and recreational use of the Bay:

LNG vessel traffic in the upper Bay and particularly in the project vicinity will affect historically available and projected commercial and recreational water uses. The vicinity has many marinas, private docks and a well-established and growing community of recreational boaters. The area also supports a viable community of commercial watermen - crabbers, clammers, and oyster and fin fishermen – who rely upon access to historically utilized fishing grounds. The marine exclusion zones that will certainly be imposed by the US Coast Guard to ensure the safety of the LNG-laden vessels will negatively impact these activities.

Environmental Justice:

The residents of the Sparrows Point and adjacent communities have historically been required to shoulder a disproportionate burden of environmental and health impacts from the heavy industries of the Sparrows Point. This proposal promises to exacerbate and propagate that pattern.

Closing:

In closing, again I want to thank the Committee for conducting this field hearing in our State and for allowing us to discuss these concerns and bring these issues to your attention. While Congress has given the Commission authority to make decisions on these matters, we are certain that it was never intended that such decisions be made without consideration of the impacts on communities, transportation systems, the environment, and commerce.