


# The Debate Over LNG Exports: “Make or Break” Time for Efforts to Expand US Production

**Andrew Weissman**

*Senior Energy Advisor, Haynes and Boone, LLP*

*Publisher and Editor in Chief, Energy Business Watch*

**[andrew.weissman@haynesboone.com](mailto:andrew.weissman@haynesboone.com)**



United States Energy Association  
Washington DC – January 30, 2013

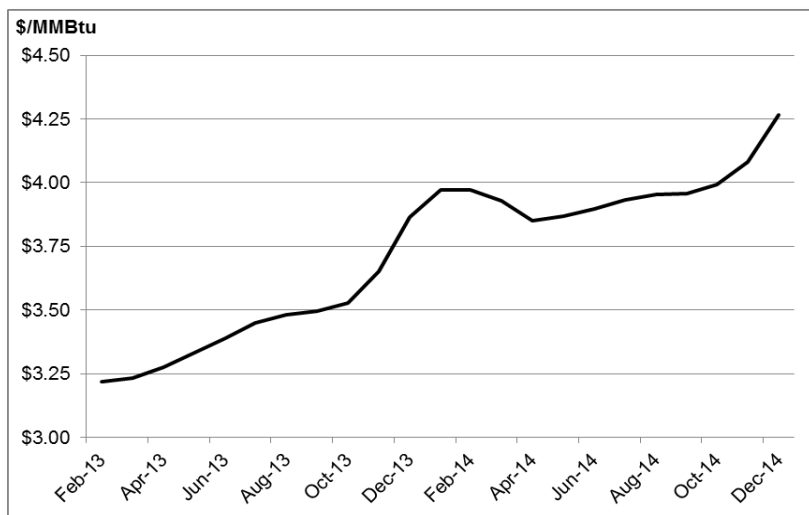
**haynesboone**  
Setting precedent.

*This presentation is for informational purposes only and is not intended to be legal advice.  
It is not intended to establish an attorney-client relationship. Legal advice of any nature should be sought from legal counsel.*

# Urgent Need for New Sources of Demand

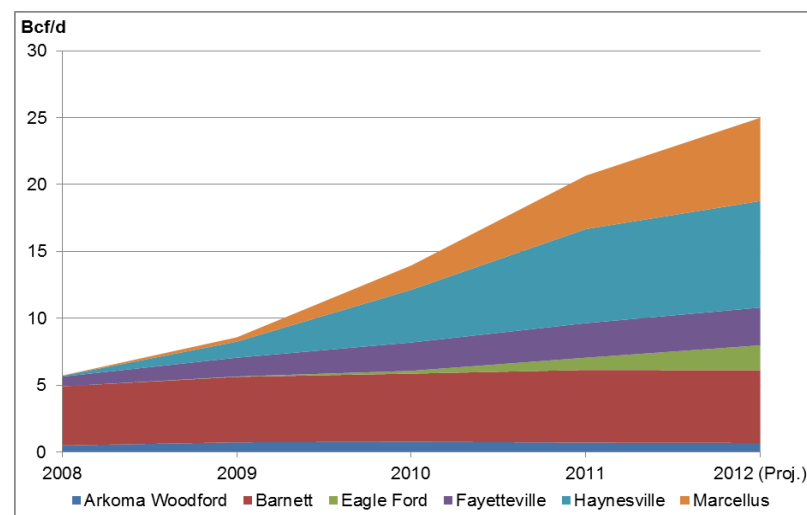
- **Prices remain extremely weak**
  - Downside risk continues
- **Even at sub-\$4.00/MMBtu prices, demand needle difficult to move**
- **Despite flight from dry gas-only plays, shale production continues to grow**
- **Natural gas liquids (NGL) prices under increasing pressure**

**NYMEX NATURAL GAS FORWARD STRIP,  
FEBRUARY 2013 TO DECEMBER 2014 (AS OF 01/08/13)**



Source: Energy Business Watch

**US SHALE GAS PRODUCTION, 2008 TO 2012**

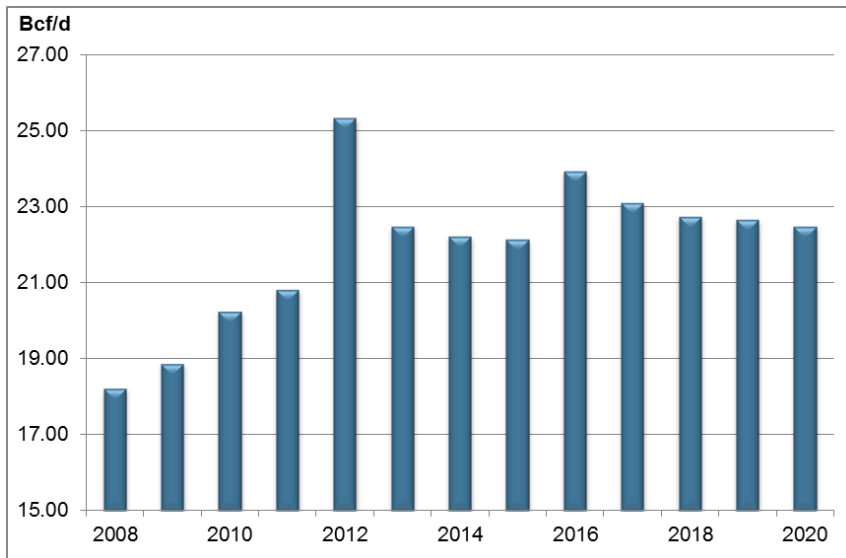


Source: EIA

# LNG Exports Best Opportunity for Growth This Decade

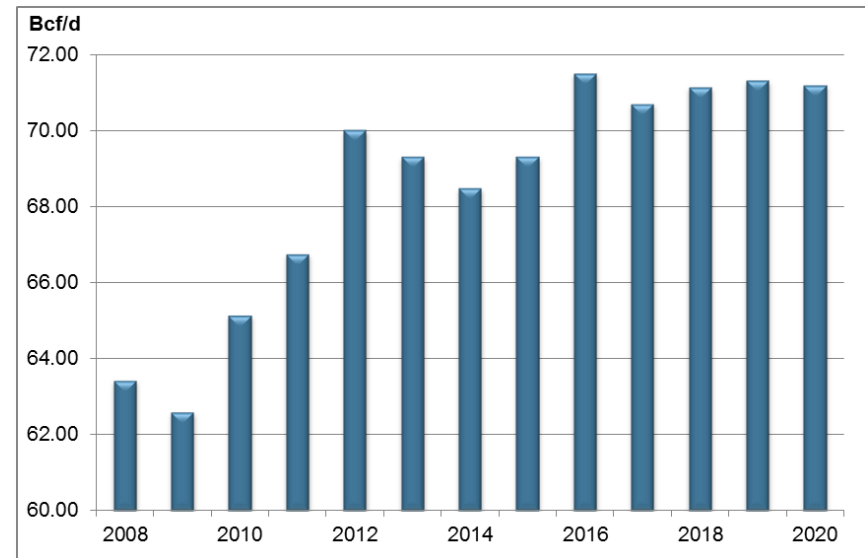
- At prices above \$3.50-\$4.00/MMBtu, power-sector demand not likely to return to 2012 levels for many years
- Near-to-medium term scale size of most other opportunities for growth significantly smaller

ANNUAL ENERGY OUTLOOK 2013,  
POWER SECTOR DEMAND FOR NATURAL GAS, 2008-2020



Source: EIA

TOTAL US DEMAND FOR NATURAL GAS  
(EXCLUDING LNG EXPORTS), 2008-2020



Source: EIA

# Industry's Health Depends Upon LNG Exports

- **Capturing market share not a slam dunk**
  - Global demand for natural gas expected to grow rapidly
  - *But* numerous other *potential* new sources of supply
    - Both LNG and pipeline imports will play a major role
- **By acting quickly, US and Canadian exporters can become major players**
  - Many studies underestimate potential
- **No other comparable opportunity to grow demand as rapidly in relatively short time period**
- **Fear that US prices could rise dramatically reflects lack of adequate understanding of:**
  - North American supply options
  - Likelihood of continued efficiency improvements and increases in yields

**So what's the catch?**



# Strong Opposition with Political Clout

- **Strange bedfellows**
  - Industrial manufacturers in energy-intensive industries
    - Fear of impact of exports on US prices
    - Desire to maintain competitive advantage
  - Major environmental groups
    - Anti-fracking crusade
- **Sophisticated and politically adept**
- **Three venues to oppose:**
  1. DOE
  2. Congress
  3. Courts
- **All three must be taken seriously**
  - Closely inter-related
  - DOE process likely to significantly influence Congress and drive judicial review
- **To maximize market penetration, US developers must clear all three hurdles without significant delay**

- **DOE approval required to export LNG from United States**
  - Standards differ sharply depending upon whether destination market has Free-Trade Agreement (FTA) with US
- **Bifurcated responsibility within DOE**
  - Office of Fossil Fuels
  - FERC (includes NEPA review)
- **More than twenty applications filed**
  - Potential exports of 27 Bcf/day
  - Approval to export to non-FTA countries essential for most projects
- **All major hurdles cleared for one project: first phase of Chenier**
  - Includes off-take agreements and financing
  - Tolling agreement structure
- **Status of remaining projects varies**
  - But none can go forward unless DOE approves

# Legal Process More Important Than Many Recognize

- **“Public interest” standard**
  - Gives DOE broad discretion
  - Specific phrasing appears to be tilted towards applicant
- **Unless project fails technical review by FERC, three issues likely to be pivotal issues:**
  - Impact on US prices for natural gas and electricity
  - Competitive impact on US manufacturers and jobs
  - Other potentially offsetting risks and/or benefits
- **Extent of FERC’s discretion may not be as broad as phrasing of statutory standards suggests**
  - Long history of interpreting “public interest” under federal energy law
  - DOE must:
    - Engage in “reasoned decision-making”
    - Develop a proper administrative record
    - Provide sound reasons for its decisions based upon record evidence
- **Strength of industry’s case *will* matter – and in all likelihood ultimately be dispositive**



# Studies Conducted by DOE

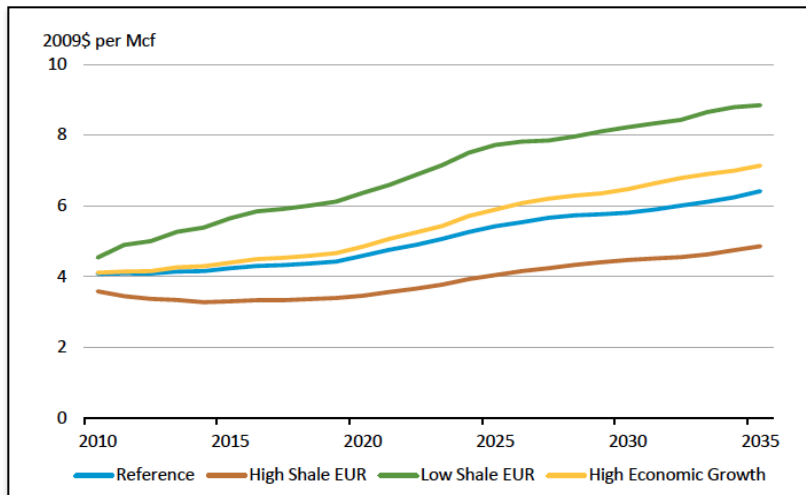
- **To assist it in assessing economic impacts of allowing exports, DOE has directed preparation of two studies applicable to *all* pending dockets:**
  - US Energy Information Administration (EIA) – published last January
  - NERA Economic Consulting (NERA) – released December 5th
- **EIA estimates potential increase in US prices in a range of different scenarios**
  - Based upon Annual Energy Outlook 2011
- **NERA uses EIA estimates as its starting point and assess macro-economic impacts of allowing exports**

- **DOE is seeking comments on *both* studies**
  - Any interested person allowed to participate
  - Incorporated into record of every pending application
  - February 25<sup>th</sup> deadline
- **Essential to review both studies carefully**
  - One-liners in Executive Summaries can be misleading
- **To greater degree than many recognize, strength of comments filed by opposing parties may ultimately determine:**
  - Number of projects approved
  - Extent to which efforts to expand US demand for natural gas are successful
- **From a legal standpoint, obtaining permit to export LNG to non-FTA countries is only first step**
  - Must also survive potential assault in the courts

# EIA Study Raises Major Issues

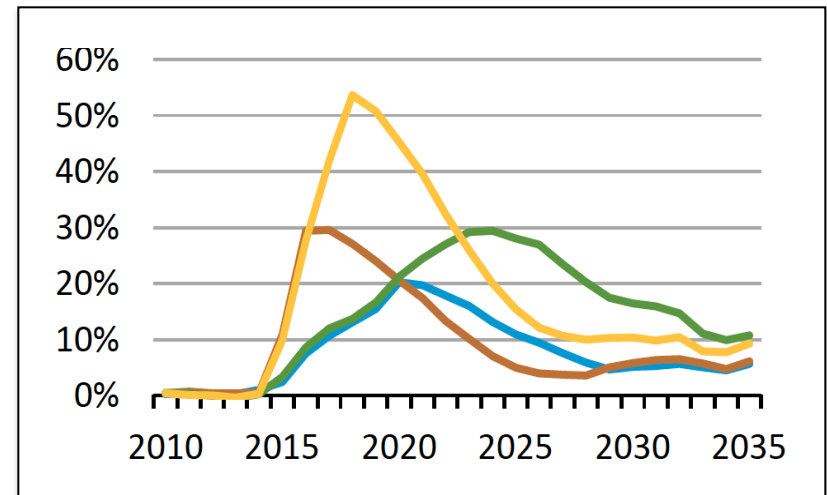
- Based upon thoroughly out-of-date assumptions and data
- In most instances, impact of LNG exports on US prices modest
- But very steep in others
  - Results partially from ramp-in assumptions

NATURAL GAS WELLHEAD PRICES IN BASELINE CASES  
(NO ADDITIONAL EXPORTS)



Source: EIA

NATURAL GAS WELLHEAD PRICE DIFFERENCE FROM  
BASELINE CASE – LOW SHALE EUR

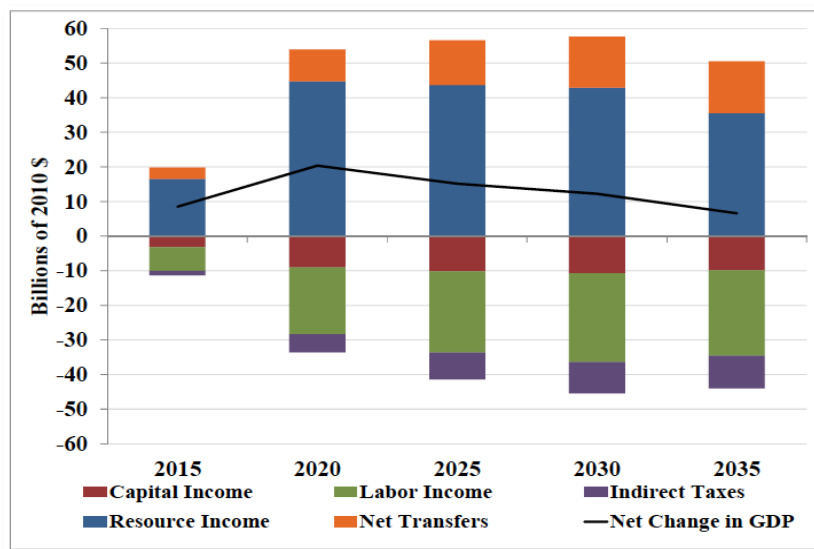


Source: EIA

# NERA Report Has Ammunition for Both Sides

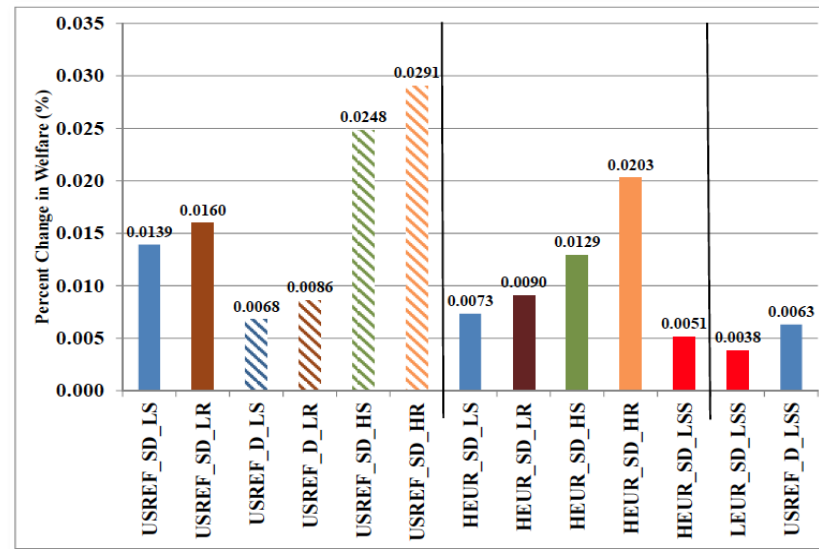
- NERA finds that “in every scenario it has examined, there is a net economic benefit”
- But report must be examined in detail
  - Relies on EIA cost estimates
  - Finds that in every scenario it examined, employment wages & investor income would be reduced
  - Does not assess macroeconomic impacts of EIA’s high cost scenarios
- Already being harshly criticized

CHANGE IN INCOME COMPONENTS AND TOTAL GDP IN USREF\_SD\_HR (BILLIONS OF 2010\$)



Source: NERA

PERCENTAGE CHANGE IN WELFARE FOR NERA CORE SCENARIOS



Source: NERA

- **Comments will be critical**
- **Key issues:**
  1. Potential impact of LNG exports on US/North American energy prices
  2. Impact on US economy (including employment, wages and global market share for US manufacturers)
  3. Broader environmental and geopolitical impacts
- **Work required is daunting**
- **But implications for the natural gas industry and the US economy are huge**
- **Importance of acting quickly to capture available market share increases complexity of challenge**

FOR MORE INFORMATION:

Andy Weissman

1.202.654.4515

[andrew.weissman@haynesboone.com](mailto:andrew.weissman@haynesboone.com)

*This presentation is for informational purposes only and is not intended to be legal advice.  
It is not intended to establish an attorney-client relationship.  
Legal advice of any nature should be sought from legal counsel.*