

Via Overnight Mail & Email

William S. Schoonover
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Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation, East Building PHH-30
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March 31, 2022

Re: Opposition to Renewal of Special Permit DOT-SP-20534 to Energy Transport Solutions, LLC Authorizing Transportation of LNG by Rail Car in Unit Trains to Gibbstown, New Jersey

Dear Associate Administrator Schoonover:

The Attorneys General of New York, Maryland, Delaware, Illinois, Massachusetts, Michigan, Minnesota, Oregon, Rhode Island, Vermont and Washington (“States”) write in support of the March 11, 2022 letter addressed to you from the New Jersey Attorney General’s Office urging the Pipeline and Hazardous Materials Safety Administration (“PHMSA” or the “agency”) to deny renewal of Special Permit DOT-SP-20534 (the “Special Permit”). Renewal of that Special Permit would allow Energy Transport Solutions, LLC (“ETS”) to transport liquefied natural gas (“LNG”) in rail tank cars from Wyalusing, Pennsylvania to Gibbstown, New Jersey, potentially along rail routes through heavily populated communities. For the reasons set forth in the New Jersey Attorney General’s letter, the States oppose renewal of the Special Permit.

Approximately three months ago, the States and others wrote to PHMSA in support of the agency’s proposal to suspend its 2020 rule authorizing the bulk transport of LNG nationwide by rail in new specification DOT–113C120W9 tank cars.¹ In that submission, the States highlighted three critical shortcomings of PHMSA’s 2020 LNG by Rail final rule: (1) it was based on a flawed and incomplete safety assessment; (2) the agency’s final environmental assessment did not adequately consider upstream and downstream effects on greenhouse gas emissions; and (3) PHMSA did not consider the impacts of the rule on environmental justice communities. The States emphasized that PHMSA should

¹ *Hazardous Materials: Suspension of HMR Amendments Authorizing Transportation of Liquefied Natural Gas by Rail*, 86 Fed. Reg. 61,731 (Nov. 8, 2021) (Notice of Proposed Rulemaking); See Letter to William S. Schoonover dated December 23, 2021, <https://www.regulations.gov/comment/PHMSA-2021-0058-7044>

seriously consider and address these concerns in conducting any further rulemaking with respect to LNG transport by rail.

As discussed in the March 11, 2022 letter from the New Jersey Attorney General's office, these same concerns bear heavily on PHMSA's evaluation of ETS's attempt to renew the Special Permit, which was originally issued in December 2019 and expired at the end of November 2021. Specifically, rail transport of LNG pursuant to the Special Permit would implicate significant unaddressed safety concerns; would have as-yet-unexamined upstream and downstream effects on greenhouse gas emissions; and would affect environmental justice communities in a manner that PHMSA has not fully considered.

Accordingly, PHMSA should refuse to renew the Special Permit. To grant renewal of the Special Permit now would undercut PHMSA's ongoing reassessment—in coordination with the Federal Railroad Administration, and with the benefit of forthcoming recommendations from the Transportation Research Board's independent review—of its overall approach to LNG by rail, including, as the States have emphasized, with respect to public safety risks, environmental and climate effects, and environmental justice considerations.

Finally, since the New Jersey Attorney General's Office submitted its March 11 letter to PHMSA, the developer of the proposed natural gas liquefaction facility in Wyalusing, Pennsylvania—the construction of which underpinned ETS' original application to PHMSA for a Special Permit—has agreed to stop that project and allow its current air pollution permit to expire on July 22, 2022.² This strongly reinforces New Jersey's point that ETS has no current operational need for the Special Permit.

Respectfully submitted,

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² Michael Rubinkam, Associated Press, *East Coast Natural Gas Plant on Hold After Legal Challenge*, Mar. 21, 2022, <https://www.usnews.com/news/us/articles/2022-03-21/east-coast-natural-gas-plant-on-hold-after-legal-challenge> (last accessed Mar. 31, 2022); <https://cleanair.org/wyalusing-lng-2/> (same).

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