

CASE IN POINT (#4): Eagle Maxville, Jacksonville, Florida, September 15, 2017

Eagle Maxville cited Carib Energy (“Carib”), American LNG Marketing, and Flint Hills Resources, LP (“Flint Hills”) to the U. S. Department of Energy in order to skirt NEPA review.

These are false comparisons as noted in Case in Point #3 above. Carib Energy planned to export LNG from Floridian’s FERC-jurisdictional LNG production, storage and distribution facility that had undergone a NEPA review by FERC. There has never been a NEPA review for the LNG Holdings facility in Miami, Florida, that is producing, storing and distributing LNG and was “new construction” at the time the Department of Energy authorized its affiliate, American LNG Marketing, to export LNG. American LNG Marketing was therefore not eligible to claim the B5.7 Categorical Exclusion from NEPA review by the DOE. The DOE should not have accepted American LNG Marketing’s claim of the B5.7 Categorical Exclusion from NEPA review on its face, especially when the DOE was aware that the facility was “under construction” at the time it granted export authorization to American LNG. Flint Hills is also a false comparison for reasons discussed in the next section.

“E. Environmental Review for Non-FTA Authorization Citing DOE/FE’s actions in three proceedings (American LNG Marketing LLC, DOE/FE Order No. 3690; Flint Hills Resources, LP, DOE/FE Order No. 3829; and Carib Energy (USA) LLC, DOE/FE Order No. 3487), 57 Eagle Maxville asserts that DOE/FE does not need to conduct an environmental review of the Maxville Facility because it is subject to a categorical exclusion from the requirements of NEPA—specifically, categorical exclusion B5.7 (10 C.F.R. Part 1021, Subpart D, Appendix B5). Categorical exclusion B5.7 applies, in relevant part, to authorizations to import or export natural gas under NGA section 3 that involve minor operational changes but not new construction. Eagle Maxville asserts that—like the Flint Hills Resources proceeding— “approval of the