

***PHMSA does not perform Environmental Impact Assessments:***

The preparation of Environmental Impact Statements and EAs can be arduous and time-consuming, but the inability of an LNG facility to demonstrate compliance with regulations found in CFR Title 49, Subpart B, Part 193, has proven to be a deal-breaker for many proposed FERC-jurisdictional LNG projects, e.g. **Weaver's Cove Energy, LLC; Floridian Natural Gas Storage Company, LLC; and Keyspan LNG, L.P.**<sup>5</sup>

Without an EA, we do not know if PHMSA has “taken a hard look” at potential environmental consequences from the siting, construction and/or operation of an inland LNG export facility [*Kleppe v. Sierra Club*, 427 US 390, 410 (1976)], and since FERC disclaimed jurisdiction without a Rulemaking, there is no mandate for developers to include PHMSA in any approval process.

***FERC failed to consider Memorandums of Understanding with Other Federal Agencies:***

In addition, in disclaiming jurisdiction, the Commissioners did not consider the *MOU* between FERC and the U. S. Department of Defense (DOD) that requires FERC to consult with the DoD to determine potential impacts to the test, training or operational activities of any active military installation resulting from the siting, construction, expansion, or operation of any LNG terminal and to evaluate environmental impacts under the National Environmental Policy Act (NEPA).<sup>6</sup>

A non-FERC-jurisdictional inland LNG “facility,” that is producing and storing 1,000,000 gallons of LNG per day, can pose the same potential threats to military interests as a FERC-jurisdictional LNG “terminal.”<sup>7</sup> In disclaiming jurisdiction over inland LNG export facilities that do not meet the Commission’s narrow definition of “terminal,” the Commission has clearly frustrated the intent of this MOU.

In Florida, strategic partnerships are forming to revitalize underutilized railroad right-of-way (ROW) corridors for siting small-scale inland LNG export projects.<sup>8</sup> Without a Rulemaking, there is no system in place that offers the DOD and Homeland Security, as well as other cooperating agencies, such as the U. S. Army Corps of Engineers, the U. S. Environmental Protection Agency, and the U. S. Fish and Wildlife Service, an opportunity to participate in the approval process.

***FERC is allowing developers to “self-determine” federal jurisdiction:***

The rules were written when the U. S. was importing LNG, and regulations have not kept up with new technologies, e.g. the use of MLNG units (similar to the “LNG in a Box” system), or ISO containers used to transport LNG by truck, and rail has become a virtual rolling natural gas pipeline on wheels.<sup>9</sup> FERC reviews proposed LNG export projects on a case-by-case basis,<sup>10</sup> but without a Rulemaking, there is no mandate requiring that developers file *Petitions for Declaratory Order* with the Commission. By “self-determining” federal jurisdiction, developers are skirting NEPA review and are precluding FERC from exercising their Congressional authority under the Natural Gas Act over the siting, construction and operation of proposed LNG export facilities.

Citizens must continuously file FOIA requests to obtain technical information from PHMSA and other federal agencies. There are no Dockets or public repositories where documents are stored for non-FERC-jurisdictional LNG export facilities. Proposed LNG export projects come to light when the U. S. DOE grants authorization to a facility to export LNG, or after an article appears in a local publication. There are no public meetings where residents of a community have an opportunity to obtain important