



October 5, 2017

The Honorable Elaine L. Chao
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue, SE, 9th Floor
Washington, DC 20590

Dear Secretary Chao:

On July 26, 2017, Indian River and Martin Counties (the "Counties") and Citizens Against Rail Expansion in Florida ("CARE FL") sent you a joint letter renewing each of our individual or collective requests that a supplemental environmental impact statement ("SEIS") be prepared with respect to the All Aboard Florida ("AAF") project (the "Project") prior to the issuance of a Record of Decision ("ROD") under the National Environmental Policy Act ("NEPA"). Our letter pointed out some of the more glaring deficiencies in the final EIS ("FEIS") issued by the Federal Railroad Administration ("FRA") in August 2015, and explained why an SEIS is required to address those deficiencies, as well as to assess new circumstances and significant new information bearing on the Project. Among other things, we requested that an SEIS consider the environmental and safety concerns of Florida East Coast Railway ("FECR") trains carrying Liquefied Natural Gas ("LNG") as a fuel and as a commodity within the same railroad corridor as a proposed higher speed passenger rail line. We further explained how the analysis of alternative routes in both the Draft Environmental Impact Statement ("DEIS") and FEIS was flawed. We recently received information that reinforces our concerns and further bolsters the need for an SEIS to address these two issues.

FRA's Acknowledgement of Safety Concerns of LNG and the Project

Recently, we obtained from the FRA under the Freedom of Information Act a letter dated March 3, 2016, in which Karl Alexy, the staff director for the Hazardous Materials Division of the agency, responded to a request made by FECR for approval to transport LNG along the FECR corridor. Attachment A. In his letter, Mr. Alexy noted that "[n]o railroad in the United States currently transports LNG". He also noted that carrying LNG by rail poses "unique safety risks," particularly along the FECR corridor, which "traverse[s] congested, highly populated areas, with frequent highway-rail grade crossings" and which he expects to eventually be shared by "high-performance passenger trains operating at speeds of up to 110 mph." For these reasons, Mr. Alexy indicated that FRA intended to conduct a "thorough evaluation of FEC's proposal to ensure public safety", and called for "a detailed risk analysis of the proposed operation and appropriate mitigating measures."

The Counties and CARE FL share Mr. Alexy's concerns, and appreciate that FRA is requiring FECR to address thoroughly the safety implications of the proposal to transport LNG through our

communities. However, that analysis is critical not only to the FECR request for federal approval to transport LNG. It is also critical to the environmental review under NEPA of the other major initiative under consideration for the FECR corridor – the AAF passenger trains operating at speeds of up to 110 mph.

Under the NEPA regulations, an EIS must consider “[c]umulative actions, which when viewed with other proposed actions have cumulatively significant impacts.” 40 C.F.R. § 1508.25(a)(2). A “cumulative impact” to be addressed in an EIS is “the incremental impact of the action when added to other past, present, and reasonable foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.” 40 C.F.R. § 1508.7. The NEPA regulations state explicitly that a proposed action’s potential effect on public safety is within the scope of the environmental analysis the statute requires. 40 C.F.R. § 1508.27(b).

We note that Mr. Alexy indicated in his letter that the request to transport LNG along the FECR corridor has been under discussion with the FRA since September, 2014. In light of this fact we are surprised that no mention of this proposal – a related action with particular relevance to the cumulative safety impacts of the AAF project – appeared in either the December, 2014 DEIS or the August, 2015 FEIS. Thus, no assessment was presented in either of those documents of the potential cumulative impacts of “trains transporting LNG [passing] through highly populated areas, with more frequent crossings, while sharing tracks with passenger trains traveling at 110 mph.”

As we pointed out in our previous correspondence, local authorities have a particular interest in matters relating to the safe operation of the railroads that run through their jurisdictions, because it is their police, fire and EMS personnel who must respond in the first instance to accidents occurring as a result of those operations. Given these fundamental interests, the Counties – and the public at large – should be given the opportunity to participate meaningfully in an environmental review that accounts for all the risks posed to public safety by the AAF Project, including those that may arise from potential conflicts with trains transporting LNG. We have been denied that opportunity thus far, and for that reason alone an SEIS must be prepared and subject to the public review procedures under NEPA.

Alternatives Analysis Needs to Consider Hyperloop One Project

As we noted in our previous letter to you, dated July 26, 2017, an SEIS should reconsider the alternative routes for the Project. Not only did the DEIS define the purpose of the Project so narrowly that it failed to adequately compare reasonable alternatives, such as the inland CSX route, recent reports indicate that a route between Miami and Orlando is now one of ten finalists for the Hyperloop One project, a vacuum tube that would allow travel between the two cities in about 26 minutes. This is significant because the company responsible for developing Hyperloop One will now prepare ridership forecasts, preliminary analysis and other feasibility studies. Please note that the reports indicate that the Miami to Orlando connection has the backing of both the Miami Dade Department of Transportation and Public Works and Miami- Dade Metropolitan Planning Organization.

As we noted in our comments on the DEIS for the Project, the alternatives analysis is “the heart of the environmental impact statement.” 40 C.F.R. § 1502.14. Accordingly, agencies are directed by the CEQ Regulations to “[r]igorously explore and objectively evaluate all reasonable alternatives” that might avoid or minimize the impacts disclosed in an EIS. *Id.* The recent news of an alternative

route and method of transportation between Miami and Orlando, funded by a private party, Elon Musk, highlights the need for a more robust analysis of the reasonable alternatives. A faster, privately financed alternative must be considered in an SEIS.

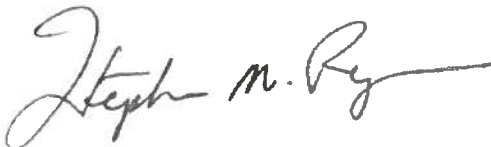
Sincerely,



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