



PROTECT the PUBLIC'S TRUST

VIA ELECTRONIC MAIL

September 19, 2024

The Honorable Eric J. Soskin
Inspector General
U.S. Department of Transportation
1200 New Jersey Ave., S.E.
7th Floor
Washington, D.C. 20590

**Re: Request for investigation into potential ethical and scientific integrity violations
by the Department of Transportation**

Dear Inspector General Soskin:

We call your attention to what appear to be ethical and scientific integrity violations by the U.S. Department of Transportation. Specifically, it appears that Department of Transportation officials are allowing political considerations to trump scientific judgment in considering applications concerning liquid natural gas (“LNG”) projects.

The Department of Transportation’s Marine Division (“MARAD”) treatment of consideration of the Delfin LNG LLC’s application for a project to build an LNG port illustrates the issue. MARAD recently reversed a 2017 Record of Decision (“ROD”) approving Delfin LNG LLC’s application for a project to build a liquid natural gas (“LNG”) port, denying the project a license until it submitted a new application. There is no scientific basis for this decision. Rather, it appears to be a back-door method for implementing the Biden-Harris Administration’s political policy of refusing to approve applications to export LNG.

The American people deserve to know if senior Department leaders put a thumb on the scale of a supposedly scientific decision-making process.

I. Who We Are

Protect the Public’s Trust is a group of retired and former public servants dedicated to the idea that public service is a public trust. Too often, we have seen high level public servants play fast and loose with the rules that other government officials have to uphold, creating the perception of a two-tiered system and resulting in an unprecedented dip in trust in our elected officials. We believe that the American people deserve a government that is impartial, free from conflicts of

interest, and operates without political interference or favoritism. Our goal is to ensure our nation fulfills that promise.

II. Factual Background

The Biden-Harris Administration’s “Temporary Pause” on New Liquid Natural Gas Project Approvals

In January 2024, the Biden-Harris Administration announced a “temporary pause on pending decisions on exports of Liquefied Natural Gas (LNG)” to countries with which the United States does not have a free-trade agreement.¹ Though described as “temporary,” the pause has no scheduled end and will last indefinitely “until the Department of Energy can update the underlying analyses for authorizations.”² This decision has resulted in a de facto halt on the Department of Energy’s approval for new facilities that would export LNG to the majority of the United States’ trading partners, including the entirety of Europe.³

This ban was immediately challenged by a collection of states. On July 1, 2024, the United States District Court for the Western District of Louisiana found it likely to be unlawful and entered a preliminary injunction against the federal government.⁴

Its Application for Apparently Political Reasons

On its face the “temporary pause” only affects the Department of Energy’s approval of new or pending projects and should not interfere with already-approved projects. But recent actions by other agencies indicate that the “temporary pause” served as a “dog-whistle” instructing agencies not to allow *any* LNG projects move forward, even if they are otherwise outside the pause’s scope. This is most apparent in the Department of Transportation’s (DOT’s) decision to send Delfin LNG’s project back to the application stage after approving years earlier.

In 2015, Delfin completed its application to MARAD for a proposed deepwater port off the coast of Texas. This port would be used to produce and export more than 13 million metric tons of natural gas per year.⁵ In 2017, MARAD issued a ROD conditionally approving the project

¹ *FACT SHEET: Biden-Harris Administration Announces Temporary Pause on Pending Approvals of Liquefied Natural Gas Exports*, The White House (Jan. 26, 2024) (available here: <https://www.whitehouse.gov/briefing-room/statements-releases/2024/01/26/fact-sheet-biden-harris-administration-announces-temporary-pause-on-pending-approvals-of-liquefied-natural-gas-exports/>).

² *Id.*

³ The Washington Post Editorial Board, *Opinion: Biden’s LNG decision is a win for political symbolism, not the climate*, The Washington Post (Jan. 29, 2024), <https://www.washingtonpost.com/opinions/2024/01/29/biden-lng-natural-gas-exports-europe/>.

⁴ *State of Louisiana v. Biden*, Case No. 2:24-cv-00406-JDC-TPL (W.D.La. Jul. 1, 2024) (mem. op.).

⁵ *Sens. Cruz, Cassidy Question Lack of Movement on LNG Export Facility Permitting by Federal Agencies*, Senator Ted Cruz (Apr. 19, 2024), <https://www.cruz.senate.gov/newsroom/press-releases/sens-cruz-cassidy-question-lack-of-movement-on-lng-export-facility-permitting-by-federal-agencies>.

but not yet granting it a license.⁶ Though the congressionally mandated timeline for MARAD to grant or deny a license to the Delfin project was 356 days,⁷ MARAD delayed its licensing decision for seven years.

During that time, MARAD did not take any significant action on the Delfin project's licensure. It was only in April 2024, shortly after the "temporary pause" was announced, that MARAD declared it was reversing the 2017 ROD and refusing to license the Delfin project unless it submitted a new application.⁸ MARAD's stated reason for requiring a new application was that "widespread changes" had been made to the project's ownership, design, financing, and operation, and that "these changes resulted in a revised proposal that is not the same as that approved under the ROD, and . . . [thus] require a thorough, statutorily required, interagency and public review."⁹

This sudden reversal on the Delfin project shortly after the Biden-Harris Administration announced the "temporary pause" creates the inference that the Department of Transportation's decision was based on politics, not science.

III. The Department of Transportation's Ethics and Scientific Integrity Regulations

Scientific Integrity Rules

DOT and its subdivisions are bound by scientific integrity policies that regulate their conduct at multiple levels. The "Scientific Integrity Policy of the Department of Transportation" (the "SI Policy") is the primary source of DOT's scientific integrity commitments.¹⁰ The SI Policy applies to "all DOT employees, contractors, political appointees, trainees, interns, volunteers, and advisory committee members, when they propose, conduct, or review science or communicate about science and scientific activities, and to all levels of employees who manage or supervise scientific activities and use scientific information in decision making."

The SI Policy emphasizes the importance of DOT personnel avoiding inappropriate political influence in their use of science and in their science-based decision-making:

- DOT shall promote a culture of Scientific Integrity. "Science, and public trust in science, thrives in an environment that shields scientific data and analyses and their use in policymaking from political interference or Inappropriate Influence."

⁶ *Id.*

⁷ 33 U.S.C. § 1504; 33 C.F.R. § 148.276.

⁸ Jacob Dick, *MARAD Requests Updated Application for Delfin LNG Offshore Export Project*, Natural Gas Intelligence (Apr. 23, 2024), <https://naturalgasintel.com/news/marad-requests-updated-application-for-delfin-lng-offshore-export-project/>.

⁹ *Id.*

¹⁰ Scientific Integrity Policy of the United States Department of Transportation, U.S. Dep't of Transportation (Jan. 2024) (Available here: <https://www.transportation.gov/sites/dot.gov/files/2024-02/DOT%20Scientific%20Integrity%20Policy%20Final%20508.pdf>).

Scientific findings and products must not be suppressed or altered for political purposes and must not be subjected to Inappropriate Influence.¹¹

- It is the policy of DOT to . . . [p]rohibit political interference or Inappropriate Influence into the design, conduct, management, evaluation, and reporting of scientific data, research and activities.¹²

The SI Policy defines “Inappropriate Influence” capaciously as part of its effort to avoid improper interference in the Department’s science-based decision-making:¹³

Inappropriate Influence. Inappropriate influence refers to the attempt to shape or interfere in scientific activities or the communication about or use of scientific activities or findings against well-accepted scientific methods and theories or without scientific justification.

IV. The Department of Transportation Appears to Have Breached Its Ethical and Scientific Integrity Commitments

The timing of the Department of Transportation’s decision to reverse the 2017 ROD approving the Delfin project and its seemingly arbitrary reasons for doing so create an inference that the decision was influenced by political considerations, not scientific concerns.

The political motive for MARAD to deny Delfin a license is straightforward. The Biden-Harris Administration had just announced a policy for the Department of Energy to block approval of new LNG projects. Allowing the Delfin project to proceed would be contrary to the spirit, if not the technical letter, of the Administration’s LNG policy. Thus, there was a strong political incentive for the Department to find a way not to approve a new LNG project.

These suspicions are bolstered by the timing of the project cancellation and the pretextual nature of the given explanation. The changes in the Delfin project that MARAD cited for reversing the ROD occurred over the course of the seven years the project’s license was pending, and appear to largely be a response to market and business conditions that changed during this time period.¹⁴ Because it appears that MARAD essentially caused these changes by leaving the project in licensing limbo, MARAD using them to justify reversing the project’s approval suggests bad-faith.

Moreover, MARAD only decided to reverse the ROD—after seven years of relative inactivity—on the heels of the Administration announcing the “temporary pause:” this close timing is suspect in light of MARAD’s otherwise slow pace in handling the Delfin project.¹⁵

¹¹ *Id.* at 8 (internal citation omitted).

¹² *Id.* at 9.

¹³ *Id.* at 7.

¹⁴ LNG Prime Staff, *MARAD: Delfin needs to submit amended application for FLNG project*, LNG Prime (Apr. 22, 2024), <https://lngprime.com/americas/marad-delfin-needs-to-submit-amended-application-for-flng-project/110321/>.

¹⁵ *Id.*

V. Conclusion

It is imperative that an investigation be conducted into the Department of Transportation's decision to reverse its 2017 ROD and kick the Delfin project back to the application phase. The American people deserve to know why MARAD really reversed its approval of the Delfin project, who MARAD's decision makers were, and whether they were acting based on pressure from senior political appointees in the Department.

For the foregoing reasons, we ask the Inspector General to immediately investigate the Department's decision-making process surrounding LNG projects.

Sincerely,

Michael Chamberlain
Director
Protect the Public's Trust