



Senator Feinstein Seeks to Require Governor's
Approval for Federal LNG Siting Decisions
June 22, 2005

Washington, DC – U.S. Senator Dianne Feinstein (D-Calif.) today offered an amendment to the Energy Bill that would ensure each state's Governor the same authority to veto, approve, or attach conditions to onshore Liquefied Natural Gas (LNG) terminals as they have for offshore LNG facilities. [Click here](#) to view the speech Senator Feinstein delivered on the Senate floor. Following is the text of the speech:

“Mr. President, I rise on behalf of Senators Snowe, Reed, Sessions, Kennedy, Collins, Dodd, Boxer, Clinton, Lieberman, Cantwell, Kerry, Schumer, and Murray, to offer this amendment to the Energy bill on the siting of liquefied natural gas import terminals. Let me clearly state that the problem is not whether to site these LNG terminals, but where. To give control to a remote Federal agency, when States are concerned about the safety of residents near a proposed site, we, the cosponsors of this amendment, believe is a mistake.

This Energy bill would give the Federal Energy Regulatory Commission, known as FERC, exclusive authority over siting onshore liquefied natural gas facilities. Our amendment would provide each State's Governor the same authority to veto, approve, or attach conditions to onshore liquefied natural gas facilities as they now have with respect to offshore liquefied natural gas facilities. This amendment is not concurrent siting. It does not require the applicant duplicate the application process, nor does it add additional time and money to the entire application process. It simply states Governors will have 45 days to approve, veto, or attach conditions to a project after FERC issues its final environmental impact statement.

This chart, I think, says it all. Increased demand for LNG means we need new natural gas supplies, and liquefied natural gas is one of the options available to us. Let me be clear. I do not oppose liquefied natural gas sites in California. Liquefied natural gas is clean energy and it is less costly than other forms.

What this chart shows is there are 34 potential sites for liquefied natural gas. Those are the blue circles, clustered around the gulf, off of Florida, off of the northeast coast, off of California, and one in the Pacific Northwest. It points out that eight sites in the United States have already been approved by FERC. It shows three are approved for Mexico, two are approved for Canada, and there are five existing sites at this time. Clearly this Nation is on its way to using liquefied natural gas.

The United States holds less than 4 percent of total world reserves, and California produces less than 15 percent of the natural gas it consumes, so if there is to be this form of clean energy, it must be imported. That is why Governor Schwarzenegger, the California Public Utilities Commission, the California Energy Commission, and the State Governors Association,

all agree the State needs new natural gas supplies and that LNG terminals may help put downward pressure on increasing natural gas prices.

The chairman and ranking member of the Energy Committee believe FERC should have the final say over siting LNG terminals. On the other hand, we agree with the Governors of California, Massachusetts, Louisiana, Rhode Island, New Jersey, and Delaware, who stated in a letter dated May 25, that:

Without State jurisdiction, there is no guarantee a project will be consistent with the homeland security or environmental requirements for a particular locality, or whether the project adequately addresses the energy demands of the respective State or region. We support legislation that would provide for concurrent State and Federal jurisdiction over LNG and other energy facilities. I ask unanimous consent to have the letter printed in the record.

States will be responsible for the safety of these facilities for a long time after they are sited. That is why it is so important to preserve the rights of the States to participate in the process to determine where these facilities should be located. For LNG facilities that are being sited offshore, the Governor has the right to approve or veto a project now, yet this bill gives the State less input for facilities that are located on shore, in our busy ports, and near closely packed communities. This is completely illogical to me. It simply does not make sense. To give the Governor the veto power over a deepwater port more than 3 miles from land, and yet refuse to give that Governor any veto power over a site that might be located in the heart of the densest metropolitan areas of our country is completely illogical.

In a conversation I had recently, last week, with Chairman Pat Wood of the Federal Energy Regulatory Commission, he said even if the Federal Government sited an LNG facility, it would not be built as long as a Governor opposed it. If that is in fact the case, then why not give the Governor of a State the necessary authority?

Let me explain how this works. Under the Deep Water Port Act, which was amended in 2002 to regulate the process for siting offshore LNG, an LNG terminal that is located in Federal waters beyond the 3 miles of the State's territorial waters must be approved by the Federal Government, the U.S. Coast Guard, the U.S. Maritime Administration, and the Governor of the adjacent coastal State.

Under the pending Energy bill, the Governor would have no veto authority for siting onshore LNG terminals. In other words, if the Governor of California or Massachusetts or anywhere else were to decide an LNG terminal posed too great a safety risk to the 400,000 people living close--let's say to the Port of Long Beach; that is the only proposed onshore project in California--then the Governor would have no authority, the State would have no authority to veto that project. But if that same project were located offshore, more than 3 miles away from the Port of Long Beach, the Governor would be able to veto it. That is nonsensical, in my view.

Some of my colleagues will argue that States already have a veto under the Coastal Zone Management Act. However, I have received a letter from Chairman Wood that says in fact the State does not have a veto authority under this law. In a letter to me dated June 15, Chairman Wood states that:

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[F]ollowing an adverse consistency determination by a State, the Secretary of Commerce can, on his own initiative or upon appeal by the applicant, find after providing a

reasonable opportunity for detailed comments by the Federal energy agency involved, and from the State, that the activity is consistent with the objectives of the Coastal Zone Management Act or is otherwise necessary in the interests of national security.

What does this mean? That means if the State were to find that the onshore LNG terminal would negatively impact the State's coastline, the Secretary of Commerce could take it upon himself to overturn that decision. Clearly, this removes any State authority. I ask unanimous consent to have a series of letters that I have exchanged with the Chairman of FERC printed in the record.

Mr. President, that is why my colleagues and I are offering this amendment today, to provide States with a real veto authority if a project were to violate the State's environmental protection, land and water use, public health and safety, and coastal zone management laws. In this post-9/11 world, I think we have to look a little differently at the siting of all facilities, and especially the specific risk that LNG terminals pose. A December 2004 report by Sandia National Laboratories concluded that LNG tankers could, in fact, be a potential terrorist target. If the worst case scenario were to occur, a tanker could in fact spill liquefied natural gas that, in about 30 seconds, could set off a fire that would cause second-degree burns on people nearly a mile away.

I admit this is a small probability. Nonetheless, it is such, and therefore it has to be considered. In siting these terminals, that factor is a factor of relevant consideration. That is why this amendment is so important. States must have a role in siting LNG facilities in order to protect the welfare of their citizens.

Out of the 40 proposed LNG terminals in this Nation, the FERC believes only a dozen will actually be built. Since Governors have the responsibility of ensuring the safety of their constituents, it makes sense to me to allow the States to have a significant role in the siting of these facilities. If there are other options besides putting these facilities in busy ports or near population centers, they should be sited where they pose the least danger to people, not just where they make the most economic sense. Therefore, we present this amendment to the bill.”

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