Pipeline Safety TRUST

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May 21, 2025

Linda Daugherty
Acting Associate Administrator for Pipeline Safety
Pipeline and Hazardous Material Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Pipeline Safety Trust Comment on Special Permit Application of Natural Gas Pipeline Company of America (Docket No. PHMSA-2025-0011)

Dear Ms. Daugherty:

Please consider this letter in your deliberations on the special permit request of Natural Gas Pipeline Company of America, LLC (NGPL), a subsidiary of Kinder Morgan, Inc., for exemption from certain pipeline safety regulations relating to class locations. The Pipeline Safety Trust (PST) is the only national non-profit organization that focuses on pipeline safety. We do this through education and advocacy, increasing access to information, and building partnerships with residents, safety advocates, government, and industry to promote safe communities and a healthy environment.

As PHMSA knows, special permits should only be granted if the Associate Administrator determines that the application requirements have been met, and that waiver of the relevant regulation is not inconsistent with pipeline safety. 49 C.F.R. § 190.341(d)(2). It is PST's position that this special permit application does not meet its burden on either prong and that it should therefore be denied.

1. Background

In 2022, Kinder Morgan submitted a request for a special permit for the same segments at issue in this application.[1] At the time, Pipeline Safety Trust commented that Kinder Morgan's integrity management program was insufficient, that its incident history was concerning, and that its avoidance of strength testing based upon climate rationale was misplaced and unlawful.[2] PST also noted that Kinder Morgan had not provided the necessary information for the application to be granted. Kinder Morgan later withdrew its application.

Now, NGPL submits this application for the same pipeline segments. PHMSA has prepared a draft special permit that walks back many of the protective conditionsproposed in 2022. From PST's

[1] Pipeline Safety: Request for Special Permit, Kinder Morgan Texas Pipeline, LLC, 87 Fed Reg. 33,876 (June 3, 2022).
[2] Pipeline Safety Trust, *Comments on Special Permit Application of Kinder Morgan*, Docket No. PHMSA-2022-0036, available at https://www.regulations.gov/document/PHMSA-2022-0036-0006.

perspective, the proposal appears to only require that NGPL incorporate these segments into its integrity management plan as if this is class 1 pipe without incorporating the tougher repair standards necessary for class 3 locations. PST is aware that PHMSA has proposed to amend its framework for managing transmission pipeline segments that experience a change in class location,[3] but it is our perspective that this special permit is inconsistent both with that rulemaking and existing safety regulations and is therefore incompatible with pipeline safety.

2. PST's Concerns and Recommendations for this Special Permit Application

Hydrostatic Pressure Testing. According to NGPL's application, NGPL conducted two hydrostatic pressure tests in June of 2024 which failed at just 100 percent of specified minimum yield strength (SMYS).[4] While the failures did not occur in the special permit segments, NGPL admits the failure was the result of manufacturing defects. PST is extremely concerned about a pipe with known weld seam failures being granted a special permit, especially given the fact that this is a class 3 location. To address the issue of cracking, PHMSA should require in-line inspection of the special permit segments. PHMSA should also request that manufacturing inspection reports with the rejection rate be provided by NGPL. Doing so would allow for analysis of manufacturing defects and indicate whether there are segments within the special permit inspection area with the same flaw that caused the hydrostatic failures.

Documentation of Girth Welds/Welding Procedures. PST noticed in the application documentation that NGPL states that it has no records available relating to radiographic inspection of girth welds either during or after construction. These are required to be on-hand according to 49 C.F.R. § 192.243(f). If NGPL has no documentation, it may be out of compliance, and a poor choice for receiving a special permit. Pipes with girth-weld cracking are ineligible from participating in the integrity management option under the proposed class location rule.[5] To ensure that this is not a problem on the special permit pipeline segments, PHMSA should request information about whether NGPL has performed non-destructive examination of any existing girth welds and the percentage of the welds that have been examined.

Steel Toughness. PHMSA should note in reviewing the special permit application that the steel toughness at the time of manufacture of this pipe (prior to 1980) would not be the same as it is today. As such, PHMSA should verify the material records to verify the steel toughness of the pipe and weld seam, including the heat-affected zones. If NGPL cannot provide such records, PHMSA must determine how and whether the pipe seam weld failures and non-failed crack areas were evaluated for integrity.

Remote Control for Ruptures. PST has observed that in the proposed special permit, PHMSA has proposed no standards for valve automation technology. In other permits, such as that of Florida Gas Transmission granted in 2023,[6] PHMSA established standards around shut-in times and distance between valves. PST believes this is necessary for ensuring pipeline safety, as

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[3] Pipeline Safety: Class Location Change Requirements, 85 Fed. Reg. 65,142 (Oct. 14, 2020).
[4] *Attachment B: NGPL Responses to PHMSA Safety Criteria* at 2 https://www.regulations.gov/document/PHMSA-2025-0011-0001.
[5] Pipeline Safety: Class Location Change Requirements, 85 Fed. Reg. at 65,144.
[6] U.S. Dep't of Transp., Pipeline and Hazardous Materials Safety Admin., *Special Permit of Florida Gas Transmission Company, LLC*, PHMSA-2023-0022 (July 28, 2023).

demonstrated by the PG&E tragedy in San Bruno, CA, and is consistent with the recommendations of the National Transportation Safety Board.[7] The special permit condition should include requirements for remote-control valve maintenance and closure as soon as possible, not to exceed 30 minutes given the fact that these segments are in class 3 locations.

Coating. In the special permit application, PST observed that NGPL claims the affected segments have fusion bonded epoxy (FBE) coating. PHMSA should verify that this is true, as commercial use of FBE was not fully adopted at the time of installation of this pipeline, and no record of this fact has been provided in publicly available documents. In addition, the quality of FBE 50 years ago was lower than that of newer pipe, especially given the fact that it has had 50 years to degrade since installation. At minimum, PHMSA should require inspection of external coating and remediation to ensure the condition of the existing coating is consistent with pipeline safety.

Transparency and Adequacy of the Environmental Assessment. For the public to fairly review the adequacy of the special permit application, it is critical that a thorough environmental assessment (EA) be conducted. An important component of this assessment is that basic information is provided about the location of the pipeline segments at issue. PST believes the public and PHMSA are likely ill-informed about the special permit segments given the fact that no map of the segments has been provided. While PST acknowledges the location descriptions provided in the EA and permit documents, these do not replace a visualization that would also provide context about proximity of the pipeline to people, structures, and environmental resources. The EA's descriptions of the area as "undeveloped forested areas," or "predominantly forested habitat co-mingled with residential development" appears to be an attempt to minimize the fact that these are indeed class 3 location segments.[8] PST's cursory review of the area found that there are many dwellings that are within the potential impact radius (which we also believe to be an underinclusive calculation), and that there is ongoing development. Detailed maps would better represent to PHMSA and to the public the affected area and allow for more transparent and informed decision making. Population statistics of the area would also be important for consideration of the affected community.

The "no action alternative" also continues the false narrative that replacement necessitates releases of large volumes of gas into the environment (which is inconsistent with operators' responsibilities under section 114 of the PIPES Act of 2020, requiring updated procedures to minimize methane releases).[9] It also mentions that should NGPL choose to replace its pipe for thicker walled or higher strength pipe, it could "cause interruptions in customers' service"—this is a transmission pipeline, so disruptions can be planned for, and PHMSA's charge does not include reliability.

Public Awareness and Notification of Residents. PST has long held that the special permit process does not provide enough transparency for members of the public. While it appreciates the notice and opportunity for comment, more could be done to increase transparency and the

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[7] National Transportation Safety Board, Pacific Gas and Electric Company Natural Gas Transmission Pipeline Rupture and Fire San Bruno, California September 9, 2010, NTSB/PAR-11/01 https://www.ntsb.gov/investigations/accidentreports/reports/par1101.pdf.

[8] U.S. Dep't of Transp., PHMSA, *Draft Environmental Assessment Requested by Natural Gas Pipeline Company of America*, 4–6 https://www.regulations.gov/document/PHMSA-2025-0011-0005.

[9] *Id.* at 3.

effectiveness of PHMSA's duty to the public. In the GPAC proceedings for the proposed Class Location Rule, PST suggested that a contingency of allowing operators to operate under these waivers should be that they provide more notice to affected communities.[10] Since operators are receiving special treatment under the special permit program, increased public notice is essential for transparency. PST believes that individualized notice is not only consistent with operators' duties under 49 C.F.R. § 192.616, but also critical for ensuring transparency and pipeline safety. Notice should extend beyond the PIR, given the fact that the calculation's accuracy is questionable,[11] and should be inclusive of businesses and renters.

Failure to explain unique circumstances. According to PHMSA regulations, permit applicants must include an explanation of the unique circumstances that the applicant believes make the applicability of the regulation unnecessary or inappropriate for its facility. 49 C.F.R. § 190.341(4). NGPL's response explains no such "unique circumstances," and instead merely explains its preference to not follow these regulations and instead implement integrity management procedures.[12] This does not meet the burden necessary for granting a special permit.

Thank you for the opportunity to comment on this permit application. It is our opinion that PHMSA should deny NGPL's special permit application because it has not met the requirements for such a waiver to be granted, and because it is inconsistent with pipeline safety. If PHMSA proceeds, it should make substantial revisions to the proposed special permit to be consistent with existing regulations and/or the proposed Class Location Rule. If you have any questions or would like to discuss this comment, please contact me at erin@pstrust.org or (360) 543-5686 x107.

Sincerely,

Erin Sutherland

Erin Sutherland
Policy & Program Director/Counsel

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[10] To read about PST's specific recommendations, see our comment on the Gas Pipeline Advisory Committee proceedings for the proposed rule. https://pstrust.org/wp-content/uploads/2024/08/PST-Comment-re-GPAC-Meeting-Class-Location-PHMSA-2024-0005.pdf.

[11] NTSB has demonstrated that individuals have been injured and killed in areas outside of the PIR in Danville, KY (killing one, injuring six), Carlsbad, NM (killing 12), San Bruno, CA (killing eight, injuring 58), Sissonville, WV (destroying three homes and causing extensive environmental damage), and Coolidge, AZ (killing two). National Transportation Safety Board, *Enbridge Inc. Natural Gas Transmission Pipeline Rupture and Fire PIR-22/02* (Aug. 1, 2019); National Transportation Safety Board, *Kinder Morgan Natural Gas-Fueled Explosion PIR-23/01* (Apr. 27, 2023).

[12] Special Permit Application at 3–4: "In this age of enhanced pipeline safety tools, such as In-Line Inspection (ILI), and integrity management processes, it is wasteful and unnecessary to require wholesale replacement of pipe when population near the pipeline increases. The proposed special permit enhanced integrity management conditions are designed to identify and mitigate integrity issues that could threaten the pipeline segment and cause failure. The effect of the enhanced monitoring and maintenance requirements will ensure integrity of the pipe and protection of the population living near the pipeline segment to a similar degree as replacing with heavier walled or higher-grade pipe without the enhanced integrity management activities."