UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Lake Charles LNG Export LLC	)	FE Docket Nos. 13-04-LNG and 16-109-LNG
	)	
	)	
Lake Charles Exports, LLC	)	FE Docket Nos. 11-59-LNG and 16-110-LNG
	)	

Motion to Intervene and Protest of Sierra Club, Louisiana Bucket Brigade, and Healthy Gulf

Subsidiaries of Energy Transfer Partners—Lake Charles Export LLC ("LCE") and Lake Charles LNG Exports LLC ("LNG Exports") (collectively "Energy Transfer")—are proposing to develop the Lake Charles LNG export facility ("Lake Charles LNG Project"). In orders issued July 29, 2016,[1] and June 29, 2017,[2] DOE authorized LCE to export liquified natural gas to "non free trade agreement" (non-FTA) countries, with a requirement to commence commercial operations by July 29, 2023 and June 29, 2024 for each authorization, respectively.[3] Four years after these authorizations were issued, although Energy Transfer had not commenced construction on the Lake Charles LNG Project, DOE granted a request to extend the operations deadline to December 2025.[4] Similarly, in orders issued on the same days as the LCE authorizations—July 29, 2016[5] and June 29, 2017[6]—DOE authorized Lake Charles LNG Export to export liquefied natural gas to non-FTA countries, with a requirement to commence

[1] DOE/FE Order 3324-A, available at https://www.energy.gov/sites/prod/files/2016/07/f33/ord3324a.pdf.

[2] DOE/FE Order 4011, available at https://www.energy.gov/sites/prod/files/2017/06/f35/ord4011.pdf.

[3] Order 3324-A at 144; Order 4011 at 47.

[4] DOE/FE Order 2987-A, 3324-A, & 4011-A, available at https://www.energy.gov/sites/prod/files/2020/10/f79/ord2987a%2C%203324b%2C%204011a_0.pdf

[5] DOE/FE Order 3868, available at https://www.energy.gov/sites/prod/files/2016/07/f33/ord3868.pdf.

[6] DOE/FE Order 4010, available at https://www.energy.gov/sites/prod/files/2017/06/f35/ord4010.pdf

commercial operations by July 29, 2023 and June 29, 2024 for each authorization, respectively.[7] Four years after these first authorization were issued—again, although Energy Transfer had not commenced construction—DOE granted a request to extend the operations deadline for both export approvals to December 2025.[8] In short, nearly six years after each facility obtained initial export authorization, almost nothing has happened.

Now, Energy Transfer contends that it is still more than six years away from completing the Lake Charles LNG Project. Thus, Energy Transfer requests another extension of the construction completion deadlines, this time to December 2028.[9] Sierra Club has already moved to intervene in Docket Nos. 13-04-LNG and 16-109-LNG, and Sierra Club now moves to additionally intervene in Docket Nos. 11-59-LNG and 16-110-LNG. Louisiana Bucket Brigade and Healthy Gulf request to intervene in all four dockets (Docket Nos. 13-04-LNG, 16-109-LNG, 11-59-LNG, and 16-110-LNG). Sierra Club, Louisiana Bucket Brigade, and Health Gulf (collectively "Environmental Advocates") protest the applications filed by Energy Transfer in all of the above dockets, pursuant to 10 C.F.R. §§ 590.303(b) and § 590.304.

The Environmental Advocates submit these comments at a time when the world's attention is focused on Russia's unprovoked and horrific invasion of Ukraine. As the Biden administration has repeatedly affirmed, our global strategic interests—including helping Ukraine and other European allies avoid reliance on Russian fossil fuels—requires the U.S. and the world to transition off of fossil fuels entirely as quickly as possible.[10] This transition is also essential to avoid catastrophic climate change: the International Energy Administration has explained that

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[7] Order 3868 at 156; Order 4010 at 48.

[8] DOE/FE Order 3252b, 3868a, & 4010a, available at https://www.energy.gov/sites/prod/files/2020/10/f79/ord3252b%2C%203868a%2C%204010a.pdf

[9] Lake Charles LNG Export LLC, Application for Amendment to Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries, Docket Nos. 13-04-LNG and 16-109-LNG (June 21, 2022) [hereinafter "LNG Export Application"]; Lake Charles Exports LLC, Application for Amendment to Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries, Docket Nos. 11-59-LNG and 16-110-LNG (June 21, 2022) [hereinafter "LCE Application"].

[10] *See, e.g.*, Remarks by President Biden Announcing U.S. Ban on Imports of Russian Oil, Liquefied Natural Gas, and Coal (Mar. 8, 2022), available at https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/03/08/remarks-by-president-biden-announcing-u-s-ban-on-imports-of-russian-oil-liquefied-natural-gas-and-coal/, and Jen Psaki, https://twitter.com/PressSec/status/1500587980699971586?s=20, ("real energy security comes from reducing our dependence on fossil fuels.").

further expansion of global LNG exports cannot be part of the path to net-zero emissions.[11] Energy Transfer's proposal to extend its operational deadlines to 2028[12] is neither justified nor a part of any solution to our short, middle, or long term problems. This request is inconsistent with the public interest and should be denied. 15 U.S.C. § 717b(a).

I. Intervention

As noted, Sierra Club already sought intervention in Docket Nos. 13-04-LNG and 16-109-LNG, and Sierra Club additionally moves to intervene in Docket Nos. 11-59-LNG and 16-110-LNG. Louisiana Bucket Brigade and Healthy Gulf request to intervene in all four dockets (Docket Nos. 13-04-LNG, 16-109-LNG, 11-59-LNG, and 16-110-LNG).

DOE's rules do not articulate any particular standard for timely intervention, and as such, intervention should be granted liberally. DOE merely requires would-be-intervenors to set out the "facts upon which [their] claim of interest is based" and "the position taken by the movant." 10 C.F.R. § 590.303(b)-(c). As explained in the following section, the Environmental Advocates' position is that the application should be denied or, in the alternative, cannot be approved without additional analysis far beyond that presented in Energy Transfer's cursory applications. The organizations' interests are based on the impact the proposed extension of operation commencement will have on their members and missions.

A. Sierra Club

The requested extension will harm Sierra Club's members by increasing the prices they pay for energy, including both gas and electricity, over a longer term. Energy Transfer has noted that, absent the requested extension, the export authorization for the Lake Charles LNG Project would lapse, preventing the project from reaching a final investment decision or being constructed. Thus, the requested extension will essentially facilitate gas exports that would otherwise not occur. As DOE and the Energy Information Administration have previously

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[11] International Energy Agency, Net Zero by 2050, at 102 (May 2021), *available at* https://iea.blob.core.windows.net/assets/deebef5d-0c34-4539-9d0c-10b13d840027/NetZeroby2050-ARoadmapfortheGlobalEnergySector_CORR.pdf [hereinafter "IEA, Net Zero by 2050"] (attached).

[12] Although separate from this extension request, we note that Lake Charles additionally requests to extend its export term to end in 2050 rather than 2045. Application to Amend Export Term for Existing Long-Term Authorizations Through December 31, 2050, Docket Nos. 13-04-LNG and 16-109-LNG (May 24, 2022), https://www.energy.gov/sites/default/files/2022-06/Lake%20Charles%20LNG%20Export%20Company%20LLC%20DOE%20Application%20Re%202050.pdf [hereinafter "Application to 2050"]. Like the operational deadline extension, this term extension is irrelevant to any immediate need to supply gas to Europe.

explained, each marginal increase in export volumes is also expected to further increase domestic energy prices. . Sierra Club's members will pay more for energy as a result.

The requested extension will further harm Sierra Club members by increasing gas production and associated air pollution, including (but not limited to) emission of greenhouse gases and ozone precursors. As DOE has recognized, increasing LNG exports will increase gas production,[13] and increasing gas production increases ozone pollution, including risking creation of new or expanded ozone non-attainment areas or exacerbating existing non-attainment.[14] As noted, these impacts are unlikely to occur without the requested extension. Sierra Club has over 3,200 members in Louisiana, including many in the Barnett Shale region and other areas that will likely be impacted by increased gas production.

The proposed Lake Charles LNG Project will also require significant shipping traffic that would not occur if DOE denies the extension and the project does not move forward. This vessel or tanker traffic will emit air pollutants such as carbon monoxide and ozone-forming nitrogen oxides. Increased ship traffic will also harm wildlife that each organization's members enjoy viewing, etc., including the recently-listed threatened giant manta ray,[15] threatened oceanic whitetip shark,[16] and endangered Rice's whale (formerly designated as the Gulf of Mexico population of the Bryde's whale).[17]

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[13] *See, e.g.*, U.S. EIA, Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets (Oct. 2014) at 12, *available at* https://www.eia.gov/analysis/requests/fe/pdf/lng.pdf (explaining that "[n]atural gas markets in the United States balance in response to increased LNG exports mainly through increased natural gas production," and "[a]cross the different export scenarios and baselines, higher natural gas production satisfies about 61% to 84% of the increase in natural gas demand from LNG exports," with "about three-quarters of this increased production [coming] from shale sources.").

[14] U.S. DOE, Final Addendum to Environmental Review Documents Concerning Exports of Natural Gas from the United States (Aug. 2014) at 27-32, *available at* https://www.energy.gov/sites/prod/files/2014/08/f18/Addendum.pdf.

[15] Final Rule to List the Giant Manta Ray as Threatened Under the Endangered Species Act, 83 Fed. Reg. 2,916 (Jan. 22, 2018).

[16] Listing the Oceanic Whitetip Shark as Threatened Under the Endangered Species Act, 83 Fed. Reg. 4,153 (Jan. 30, 2018).

[17] Technical Corrections for the Bryde's Whale (Gulf of Mexico Subspecies), 86 Fed. Reg. 47,022 (Aug. 23, 2021).

The proposed exports will also require new infrastructure with significant direct environmental impacts, including air pollution emissions. These emissions will impact Sierra Club members and others who live, work, or recreate in the vicinity of the proposed project.

Finally, exports from the Lake Charles LNG Project that will be enabled via the requested extension will impact Sierra Club and its members because of the additional greenhouse gases emitted throughout the LNG lifecycle, from production, transportation, liquefaction, and end use. *See Section II.4 below*. The impacts from climate change are already harming Sierra Club members in numerous ways. Coastal property owners risk losing property to sea level rise. Extreme weather events, including flooding and heat waves, impact members' health, recreation, and livelihoods. Increased frequency and severity of wildfires emits smoke that impacts members' health, harms ecosystems members depend upon, and threatens members' homes. Proposals, such as this one, that encourage long-term use of carbon-intensive fossil fuels will increase and prolong greenhouse gas emissions, increasing the severity of climate change and thus of these harms.

In summary, the requested extension will harm Sierra Club members in numerous ways. Sierra Club accordingly contends that the application should be denied or conditioned, as further described in the following protest.

Pursuant to 10 C.F.R. § 590.303(d), Sierra Club identifies the following person for the official service list:

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B. Louisiana Bucket Brigade

Louisiana Bucket Brigade states that the exact name of the movant is Louisiana Bucket Brigade, and the movant's principal place of business is 3416 B Canal Street, New Orleans, LA

70119. Louisiana Bucket Brigade is a 501(c)(3) organization with several hundred members in Louisiana. Louisiana Bucket Brigade, including members in the Lake Charles area who will be impacted by the Project. It also employs staff members, primarily based in Louisiana, who work to inform Louisiana residents on the adverse environmental impacts of the petrochemical and oil and gas industry. Louisiana Bucket Brigade also supports communities in Louisiana whose health and homes are devastated by the petrochemical industry as well as the oil and gas industry. This work is directly affected by the construction and operation of the Project.

Pursuant to 10 C.F.R. § 590.303(d), Louisiana Bucket Brigade identifies the following person for the official service list:

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C. Healthy Gulf

Healthy Gulf is a 501(c)(3) organization with several hundred members in Louisiana. Healthy Gulf also employs staff members, primarily based in Louisiana, who work to protect the integrity of wetlands, waters, wildlife, and other ecological resources throughout Louisiana and the Gulf Region. This work will be directly affected by the construction and operation of the proposed facilities. Healthy Gulf states that the exact name of the movant is Healthy Gulf, and the movant's principal place of business is 935 Gravier Street, Suite 700, New Orleans, LA 70112.

Pursuant to 10 C.F.R. § 590.303(d), Healthy Gulf identifies the following people for the official service list:

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II. Protest

The requested extension[18] of in-operation deadlines should be denied because it is contrary to the public interest. 15 U.S.C. § 717b(a). Energy Transfer's cursory applications rely on FERC's approval of a similar extension request.[19] However, as DOE previously explained, "when reviewing an application for export authorization," DOE evaluates "economic impacts, international impacts, security of natural gas supply, and environmental impacts, among others."[20] This standard should also apply to amendments that alter the underlying public interest analysis, like the requested extension. Here, particularly in light of the elapsed time and changed circumstances since the initial authorizations were issued, those authorizations are not determinative, and each of the public interest factors weighs against granting Energy Transfer's request.

A. Energy Transfer Fails to Demonstrate Good Cause for the Requested Extensions Because it is Not Working to Complete the Lake Charles LNG Project.

In its previous orders extending the in-operation deadlines to 2025, DOE examined whether there was "good cause" for granting the extensions.[21] To do so, DOE considered whether, among other things, the company was "working to complete the export facilities necessary to commence its approved exports." [22] Energy Transfer's applications fail to demonstrate it is working to complete the Lake Charles LNG Project, and thus Energy Transfer fails to show good cause for the requested extension.

Energy Transfer argues that the delay is justified because, since 2020, the COVID-19 pandemic and recent changes to international trade policies "have created an extremely challenging

[18] Although Energy Transfer has submitted two separate applications for extensions, the content and substance are largely identical. Therefore, we refer to the applications as a single extension request.

[19] LCE Application at 5; LNG Export Application at 5-6.

[20] *See, e.g.*, Order No. 4010, at 14-15.

[21] DOE/FE ORDER NO. 2987-A, 3324-B, 4011-A at 6; Order 3252-B, 3868-A, 4010-A at 6-7.

[22] DOE/FE ORDER NO. 2987-A, 3324-B, 4011-A at 6; Order 3252-B, 3868-A, 4010-A at 6-7.

environment for construction of large-scale infrastructure projects and execution of international commercial agreements."[23] This change in market conditions may have impacted the wisdom of proceeding with the project, but nothing in the application or order demonstrates that it impacted Energy Transfer's ability to do so. Thus, where there are steps that an applicant could be taking to proceed with a project but where the applicant chooses not to do so, there is not good cause for an extension.

Even if DOE does not require a strict barrier to completion or something that truly "prevented" an applicant from meeting the deadline, DOE should still require more than what Energy Transfer did here. It would be one thing if, due to market uncertainty, Energy Transfer did everything up to putting shovels in the ground, pausing only at that final point of commitment. But that's not what Energy Transfer has done. Energy Transfer even asserts here that "the global LNG market has also experienced renewed appetite for securing long-term LNG supply."[24] Yet, despite this supposed resurgence in demand, the company states that it nevertheless requires six more years to complete the project. Even if market conditions could constitute good cause for holding off on breaking ground, they can't justify failing to even take reasonable steps toward being ready to break ground if and when market conditions improve.

Moreover, Energy Transfer has not demonstrated that the COVID-19 pandemic impacted its ability to proceed in any way other than by reducing global demand for LNG. Energy Transfer has not alleged, much less demonstrated, that it was ready to begin construction but was unable to do so because of public health concerns relating to workforce, supply chain issues, etc. Nor have other, similarly situated projects made or supported such claims. There are simply no particular facts in the application to support the conclusion that, even if Energy Transfer had wanted to, it would have been unable to proceed on the approved schedule and meet the current deadline.

Finally, Energy Transfer's current cursory applications fall short of even its last set of extension requests in 2020. In its order approving an extension to 2025, DOE highlighted the fact that the company "is working to complete the export facilities necessary to commence its

[23] Lake Charles LNG Exports Application at 5; LCE Application at 4.

[24] Lake Charles LNG Exports Application at 5; LCE Application at 4-5.

approved exports."[25] There, Energy Transfer provided nearly four pages of detail about specific steps the company had taken to progress towards completion of the project, including incurring or committing $450 million in expenditures before reaching a Final Investment Decision ("FID").[26] Here, by contrast, in a single paragraph, Energy Transfer merely highlights securing "several long-term offtake contracts" that necessitate the extension.[27] But Energy Transfer fails to identify any steps it has taken to construct the project since its last extension request. This falls far short of the demonstration of working to complete the project required to support good cause for granting an extension.

B. In the Alternative, Even If DOE Concludes that Energy Transfer Is Working Towards Project Completion, DOE Still Must Revisit Numerous Findings Underlying Its Initial Public Interest Determinations.

Even if DOE believes that Energy Transfer has shown that it is still working to complete the project (it has not), DOE must still determine whether the extension would alter the public interest determination underlying the export authorizations. For the reasons explained below, significant factual changes have undermined DOE's initial public interest analysis, and DOE should therefore deny the extension as contrary to the public interest.

1. DOE has the Authority and Obligation to Revisit Prior Determinations in Deciding Whether to Grant the Proposed Extension Request.

In deciding whether to grant the requested extension, nothing prohibits DOE from revisiting determinations made in the initial export authorizations, whether or not circumstances have changed or those determinations have otherwise gone stale. No one is *entitled* to an extension request. Under 10 C.F.R. § 590.404, DOE may "attach such conditions thereto as may be required by the public interest." Thus, DOE may extend the in-operation deadline, but DOE is

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[25] *See, e.g.*, DOE/FE ORDER NO. 2987-A, 3324-B, 4011-A at 5.

[26] *See, e.g.*, DOE/FE ORDER NO. 2987-A, 3324-B, 4011-A at 5; Lake Charles LNG Export LLC, Amendment to Authorizations for Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Countries, Docket Nos. 13-04-LNG and 16-109-LNG (Mar. 4, 2020), available at https://www.energy.gov/sites/prod/files/2020/03/f72/LCLNG%20Final%20Amendment%20Application.pdf at 5-8.

[27] Lake Charles LNG Export Application at 5; LCE Application at 5.

not required to do so. Accordingly, in deciding whether to grant an extension request, DOE therefore should and must consider whether such a request is in the public interest based on the particular facts at issue. This standard is consistent with DOE's process in reviewing Energy Transfer's last extension request: DOE explicitly evaluated whether "facts associated with [the] original applications" had changed and whether the public interest determinations were still valid.[28] If DOE agrees with its prior determinations and their bases remain valid, such consideration would be straightforward. But if DOE disagrees with those prior conclusions, or if changed circumstances undermine those conclusions, there is no justification for compounding the error by giving Energy Transfer additional time to complete a bad project.

Reconsidering prior determinations *in response to an extension request* is not a collateral or out-of-time attack on the initial authorization. The initial authorization is still there. Insofar as Energy Transfer or any developer wishes to claim the benefit of the original authorization, they may continue to do so, provided that they meet the current in-operation deadline in 2025. But where, as here, a developer asks that the initial authorization be reopened for purposes of changing the commencement of operations deadline, it is appropriate to reopen it for other purposes as well. DOE has broad authority to "amend … orders … as it may find necessary or appropriate." 15 U.S.C. § 717*o*. And if DOE were to *deny* an extension request after reconsidering one or more conclusions from a prior order, this would not inherently amend the prior order at all.

Here, subsequent events make it unreasonable to rely on its initial authorizations without further analysis. Although Energy Transfer's applications fail to address these recent developments, DOE must consider each of them in its public interest evaluation here.

Under the Administrative Procedure Act, courts must set aside agency actions that are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."[29] The Supreme Court has explained that agency actions are arbitrary and capricious "if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in

[28] *See, e.g.*, DOE/FE ORDER NO. 2987-A, 3324-B, 4011-A at 5.

[29] 42 U.S.C. § 7607(d)(9)(A).

view or the product of agency expertise."[30] Thus, in light of this significant new data contradicting DOE's prior conclusions, DOE must critically evaluate the findings in its initial authorizations and decline to blindly approve Energy Transfer's extension request. DOE must examine whether the request complies with the public interest based on the facts in this record.

2. New Evidence Demonstrating Impacts to Domestic Energy Prices and Supply Demonstrates the Extension is Not in the Public Interest.

DOE has historically given particular emphasis to "the domestic need for the natural gas proposed to be exported" and "whether the proposed exports pose a threat to the security of domestic natural gas supplies."[31] Recent data undermines any conclusion that LNG exports have little impact on domestic natural gas prices and that Henry Hub gas prices are forecasted to remain low. To the contrary, domestic energy market responses to an explosion at the Freeport LNG facility and gas prices throughout 2021-2022 demonstrate that DOE's must revisit its prior conclusions regarding the impact of the Lake Charles LNG Project on domestic energy prices. Energy Transfer's applications fail to address this data, which demonstrate that an extension is not in the public interest.

a) The Freeport LNG explosion further affirms the Lake Charles LNG Project will increase domestic gas prices, harming consumers.

A recent explosion and fire at the Freeport LNG facility—and the resulting drop in domestic gas prices—provided stark confirmation that increasing LNG exports will cause real and significant increases in domestic gas prices. Thus, the Freeport LNG explosion demonstrates that the requested extension is not in the public interest and constitutes new information requiring DOE to revisit its prior public interest analysis.

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[30] *Motor Vehicle Mfrs. Ass'n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

[31] *See, e.g.*, DOE/FE Order No. 3357-B, available at https://www.energy.gov/sites/prod/files/2014/11/f19/ord%203357-B.pdf, at 10; 85 Fed. Reg. (Aug. 25, 2020) at 52,243 ("In evaluating the public interest, DOE takes seriously the potential economic impacts of higher natural gas prices.").

On June 8, 2022, an explosion and fire at the Freeport LNG facility caused an immediate shut down of operations.[32] Fortunately, no one was injured during the incident, but the initial report by the Pipeline and Hazardous Materials Safety Administration (PHMSA) concluded that "[c]ontinued operation of Freeport's LNG export facility without corrective measures may pose an integrity risk to public safety, property or the environment."[33] For these reasons, the Environmental Advocates and over 130 other organizations recently sent a letter asking President Biden, among other things, to "[d]irect DOE to find gas exports not in the public interest due to their climate and safety repercussions and to stop approving new applications."[34] Preliminary findings point to "excess pressure in an LNG transfer pipeline that moves LNG from the facility's storage tank to the terminal's dock facilities" as the source of the fire. [35] The facility cannot resume operations until an independent investigation of the extent of the damage to the facility and LNG storage tanks is conducted and PHMSA approves a plan to repair the damage. [36] Thus, Freeport will not return to full service until at least late 2022, though partial operations may begin sooner.[37]

Most relevant here, the Freeport explosion demonstrates a clear and significant connection between US LNG exports and domestic gas prices. The EIA has estimated that the Freeport shutdown took roughly 17% (or 2 billion cubic feet per day) of the total U.S. LNG export capacity offline.[38] Immediately after the explosion was reported, domestic gas prices fell

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[32] U.S. Energy Information Administration, Fire Causes Shutdown of Freeport Liquefied Natural Gas Export Terminal (June 23, 2022), available at https://www.eia.gov/todayinenergy/detail.php?id=52859 [hereinafter "EIA, Freeport Fire"] (attached).

[33] Gary McWilliams, U.S. Regulator Bars Freeport LNG Plant Restart Over Safety Concerns, REUTERS (July 1, 2022), available at https://www.reuters.com/business/energy/us-regulator-finds-unsafe-conditions-freeport-lng-export-facility-bars-restart-2022-06-30/#:~:text=HOUSTON%2C%20June%2030%20(Reuters),an%20outside%20analysis%20is%20complete [hereinafter "U.S. Regulator Bars Freeport LNG Plant Restart"] (attached).

[34] Coalition letter to Biden on Freeport explosion, June 23, 2022 (attached).

[35] EIA, Freeport Fire, *supra* note 32.

[36] U.S. Regulator Bars Freeport LNG Plant Restart, *supra* note 33.

[37] *Id.*

[38] EIA, Freeport Fire, *supra* note 32.

by 16 percent,[39] highlighting the direct connection between gas exports and domestic prices and supply. Despite this initial drop, domestic gas prices remain exceptionally high as a result of LNG exports, as discussed in the next section. DOE must address the Freeport LNG explosion, and the demonstrated connection between LNG exports and domestic prices, in its public interest analysis.

b) Winter 2021-2022 gas prices demonstrate that LNG exports are harming US consumers.

The price impacts of LNG exports are harming Americans *now*. Wholesale gas prices for the winter of 2021-2022 were vastly higher than for the prior winter, and FERC concluded that the increase was driven largely by competition with demand for LNG exports.[40] The Wall Street Journal,[41] S&P Global Platts Analytics,[42] the Institute for Energy Economics and Financial Analysis,[43] and others agreed that LNG exports were driving up domestic gas prices. Indeed, FERC identified LNG exports as the "primar[y]" source of the additional demand that drove recent gas price increases.[44] And these price increases were severe. For the winter of 2021-2022,

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[39] Pippa Stevens, Natural Gas Plummets as Freeport Delays Facility Restart Following Explosion, CNBC (June 14, 2022), available at https://www.cnbc.com/2022/06/14/natural-gas-plummets-as-freeport-delays-facility-restart-following-explosion.html (attached).

[40] FERC, Winter Energy Market and Reliability Assessment (Oct. 21, 2021) at 2, *available at* https://ferc.gov/sites/default/files/2021-10/Winter%20Assessment%202021-2022%20-%20Report.pdf (attached)*; accord id. at 11*. *See also* Clark Williams-Derry, Booming U.S. natural gas exports fuel high prices, IEEFA U.S. (Nov. 4, 2021), available at https://ieefa.org/ieefa-u-s-declining-demand-lower-supply-dont-explain-rapidly-rising-gas-prices/ (attached).

[41] Collin Eaton & Katherine Blunt, Natural-Gas Exports Lift Prices for U.S. Utilities Ahead of Winter, WALL ST. J. (Nov. 7, 2021), available at https://www.wsj.com/articles/natural-gas-exports-lift-prices-for-u-s-utilities-ahead-of-winter-11636281000 (attached).

[42] Kelsey Hallahan, Henry Hub could reach $12-$14 this winter as capital discipline limits supply growth: Platts Analytics, S&P GLOBAL PLATTS (Oct. 14, 2021), available at https://www.spglobal.com/platts/en/market-insights/latest-news/natural-gas/101421-henry-hub-could-reach-12-14-this-winter-as-capital-discipline-limits-supply-growth-platts-analytics (attached).

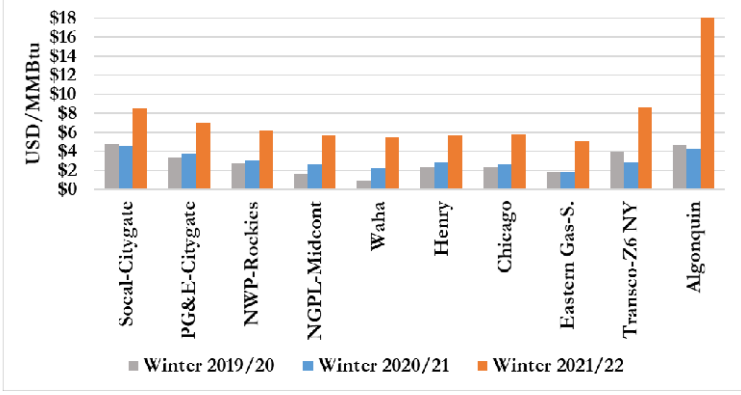
[43] Letter from Paul N. Cicio to Jennifer Granholm (Nov. 22, 2021), available at https://www.ieca-us.com/wp-content/uploads/11.22.21_LNG_-Why-a-Safety-Valve-is-Needed_FINAL.pdf (attached).

[44] FERC, Winter Energy Market and Reliability Report, *supra* note 40, at 2.

benchmark futures prices at the Henry Hub increased 103% relative to the prior winter,[45] with larger increases elsewhere, including more than quadrupling of the price at the Algonquin Citygate outside Boston,[46] as illustrated in this chart from FERC:[47]

Winter Futures Prices Increased at Nearly Every Major U.S. Trading Hub

Average U.S. Natural Gas Futures Prices Across Major Hubs for November - February



Source: InterContinental Exchange Inc

These price increases harm both households and industrial energy consumers. The EIA predicted that homes that use gas for heat would spend 30% more in the winter of 2021-2022 than they spent the prior winter.[48] The Industrial Energy Consumers of America, which represents manufacturers that use at least 1 million MMBtu of energy per year,[49] has repeatedly written to DOE about how export-driven gas prices increases are harming domestic industry.[50]

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[45] *Id.* at 2, 11.

[46] *Id.* at 12.

[47] FERC, 2021-2022 Winter Energy Market and Reliability Assessment Presentation (Oct. 21, 2021) at 10, *available at* https://ferc.gov/sites/default/files/2021-10/Winter%20Assessment%202021-2022_Presentation.pdf (attached).

[48] U.S. EIA, Winter Fuels Outlook (Oct. 2021) at 1, *available at* https://www.eia.gov/outlooks/steo/special/winter/2021_Winter_Fuels.pdf.

[49] "Membership Info," IECA, https://www.ieca-us.com/membership-info/ (last accessed Dec. 7, 2021).

[50] *See*, *e.g.*, Letter from Paul N. Cicio to Jennifer Granholm.

From an economic perspective, LNG exports are simply making most Americans worse off: all Americans must pay energy bills, but few own shares (even indirectly, through pension plans and the like) in the gas companies that are benefiting from high gas prices and LNG sales.[51] DOE is charged with protecting the "public" interest, 15 US.C. § 717b(a); that is, the interest "of … all or most of the people" in the United States.[52] DOE has previously recognized that "the distributional consequences of an authorizing decision" may be so negative as to demonstrate inconsistency with the public interest despite "net positive benefits to the U.S. economy as a whole."[53] Accordingly, unless DOE addresses distributional concerns, DOE will have failed to consider an important part of the problem. But to date, DOE has never grappled with the distributional impacts of LNG exports: DOE has acknowledged that LNG exports have some positive and some negative economic impacts,[54] but DOE has not addressed the fact that those who suffer the harms are not the same as those who enjoy the benefits, or that the former are more numerous and generally less advantaged than the latter. In particular, research shows that low-income, Black, Hispanic, and Native American households all face dramatically higher energy burdens—spending a greater portion of their income on energy bills—than the average household.[55] Increased gas prices will exacerbate the existing energy burden disparities, placing these households at even further risk. Especially in light of this administration's emphasis on

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[51] Synapse Energy Economics, Inc., Will LNG Exports Benefit the United States Economy? (Jan. 23, 2013) at 9, available at https://www.energy.gov/sites/default/files/2022-03/Synapse%2C%20LNG%20Exports%20Economic%20Report.pdf (attached) (initially submitted as Exhibit 5 to Comments of Sierra Club *et al.* on the 2012 NERA macroeconomic report).

[52] *Public*, Merriam-Webster Unabridged Dictionary, http://www.merriam-webster.com/dictionary/public (last visited Dec. 7, 2021).

[53] DOE/FE Order 3638-A (Corpus Christi) (May 26, 2016) at 45, available at https://fossil.energy.gov/ng_regulation/sites/default/files/programs/gasregulation/authorizations/2012/applications/12-97-LNG_CMI_Corpus_Rehearing__May_26.pdf

[54] *See*, *e.g.*, NERA Economic Consulting, Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018) at 19, 21, 64, 67, available at https://cms.doe.gov/sites/prod/files/2018/12/f58/2018%20Study.pdf.

[55] American Council for an Energy-Efficient Economy, How High are Household Energy Burdens? (Sept. 2020), available at https://www.aceee.org/sites/default/files/pdfs/u2006.pdf (attached). *Accord* Eva Lyubich, The Race Gap in Residential Energy Expenditures (June 2020), available at https://haas.berkeley.edu/wp-content/uploads/WP306.pdf (attached).

environmental justice, the distributional and equity impacts of export-driven gas price increases require careful consideration.

DOE has previously relied on modeling of how energy markets will balance in response to increased LNG exports, and on studies of the macroeconomic effects of such balancing. The current surge in gas prices calls those prior analyses into question, and DOE cannot approve additional exports—or reaffirm previous findings—without carefully examining the continuing validity of those analyses. We understand that DOE and the EIA are currently revisiting the 2012 and 2014 LNG export studies; an updated analysis was expected in the spring of 2022, but appears not to have been released yet.[56] At a minimum, DOE should not approve further export applications or extensions until this study is complete.

DOE must be particularly cautious given DOE's refusal, to date, to exercise supervisory authority over already-approved exports. Although DOE retains authority to amend and/or rescind existing export authorizations,[57] DOE has stated its reluctance to exercise such authority.[58] But if export applications are, in effect, a one-way ratchet on export volumes, DOE cannot issue such authorizations—or extensions of such authorizations like that at issue here—carelessly.

The Natural Gas Act's "principle aim[s]" are "encouraging the orderly development of plentiful supplies of natural gas at reasonable prices and protecting consumers against exploitation at the hands of natural companies," with the "subsidiary purposes" of addressing "conservation, environmental, and antitrust issues."[59] At present, LNG exports are not achieving these purposes. DOE's uniform approval of all export applications has not protected consumers from exploitation at the hands of gas companies, and LNG exports are not leading to reasonable

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[56] Full Committee Hearing on Domestic and International Energy Price Trends, Senate Committee on Energy and Natural Resources (Nov. 16, 2021), available at https://www.energy.senate.gov/hearings/2021/11/full-committee-hearing-on-domestic-and-international-energy-price-trends (testimony of Stephen Nalley at 47:50 to 48:15)

[57] 15 U.S.C. § 717o

[58] *See* Policy Statement Regarding Long-Term Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries, 83 Fed. Reg. 28,841 (June 21, 2018). Although DOE has not exercised this authority yet, DOE *should* carefully consider doing so, given the severe impact already-authorized exports are having on domestic gas prices.

[59] *Minisink Residents for Envtl. Pres. & Safety v. FERC*, 762 F.3d 97, 101 (D.C. Cir. 2014) (cleaned up).

gas prices. Accordingly, even putting aside the numerous and severe environmental impacts of increased LNG exports, Energy Transfer's applications are inconsistent with the public interest and should be denied.

3. Recent Global Strategic Interest Developments Demonstrate the Extension is Not in the Public Interest.

a) Short Term Global Interests Do Not Justify Extending Commencement of Operation Deadlines to 2028.

In its applications, Energy Transfer alludes to Russia's unprovoked invasion of Ukraine, stating that "the global LNG market has also experienced renewed appetite for securing long-term LNG supply."[60] Insofar as this global situation is pertinent to the request here, the proposed extension is not needed, or even helpful, for decreasing Europe's reliance on Russian gas. There is undoubtedly a public interest in assisting Europe to transition away from Russian gas. But the best way to get Europe off Russian gas is to get Europe off gas altogether, as Secretary Granholm has recognized.[61] Although Europe may need additional LNG *this year*, by the time Energy Transfer would be in a position to provide *any* exports from the Lake Charles LNG Project (2028 if DOE approves these applications), Europe will have other, better options. Delaying the project again—for another six years—would only further undermine any public interest determination on the basis of supporting European gas supplies.

The European Union ("EU") plans to cut Russian gas use by two thirds *this year*.[62] The International Energy Agency has concluded that heat pumps, building efficiency, and similar measures can significantly reduce the European Union's gas use, and thus the impact of Russian

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[60] LNG Export Application at 5; LCE Application at 4-5.

[61] *See, e.g.*, Ben Lefebvre, DOE Declares an Energy War, POLITICO (Apr. 28, 2022), available at https://www.politico.com/newsletters/morning-energy/2022/04/28/doe-declares-an-energy-war-00028380 [hereinafter DOE declares an Energy War"] (attached) (quoting Sec. Granholm's statement that "Perhaps renewable energy is the greatest peace plan this world will ever know.").

[62] REPowerEU: Joint European action for more affordable, secure and sustainable energy (March 8, 2022), available at https://ec.europa.eu/commission/presscorner/api/files/document/print/[europa_tokens:europa_interface_language]/ip_22_1511/IP_22_1511_EN.pdf (attached).

energy, within a year, with greater reductions each following year.[63] Some analyses conclude that the EU can entirely eliminate reliance on Russian gas by 2025, with efficiency and renewable energy making up for two thirds of the former Russian supply.[64] Similarly, the United Kingdom's Energy & Climate Intelligence Unit has concluded that *all* of the UK's gas demand that was recently met by Russian gas could be eliminated through installation of heat pumps and better installation within five years.[65] European Energy Commissioner Kadri Simson has emphasized that Europe remains committed to renewable energy goals, and is looking to additional gas imports only for the short term.[66] Members of the U.S. Congress and the European Parliament have emphasized that, notwithstanding the need to assist Europe in transitioning off of Russian gas, no new gas infrastructure or exports should be approved.[67]

We recognize that the U.S and European Commission have nonetheless proposed for EU member states to "work … toward the goal of ensuring, until at least 2030, demand for approximately 50 bcm/year," equivalent to approximately 4.8 bcf/d, "of additional U.S. LNG that is consistent with our shared net-zero goals."[68] This goal is ill-advised and self-refuting, as increased production and use of LNG through 2030 cannot be made consistent with the shared

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[63] International Energy Agency, A 10-Point Plan to Reduce the European Union's Reliance on Russian Natural Gas (March 3, 2022), available at https://www.iea.org/reports/a-10-point-plan-to-reduce-the-european-unions-reliance-on-russian-natural-gas (attached).

[64] Briefing: EU Can Stop Russian Gas Imports by 2025, available at https://9tj4025ol53byww26jdkao0x-wpengine.netdna-ssl.com/wp-content/uploads/Briefing_EU-can-stop-Russian-gas-imports-by-2025.pdf (attached).

[65] Harry Cockburn, Heat Pumps and Insulation 'Fastest Way to End Reliance on Russian Gas,' THE INDEPENDENT (March 9, 2022), available at https://www.independent.co.uk/climate-change/news/heat-pumps-russian-gas-north-sea-b2032017.html (attached); *see also* Energy & Climate Intelligence Unit, Ukraine Conflict and Impacts on UK Energy, https://eciu.net/analysis/briefings/uk-energy-policies-and-prices/briefing-ukraine-conflict-and-impacts-on-uk-energy (last accessed Mar. 10, 2022 and attached).

[66] *See, e.g.*, DOE Declares an Energy War, *supra* note 61.

[67] Jared Huffman et al., Letter to U.S. President Biden and E.C. President Von der Leyen (May 19, 2022), available at https://huffman.house.gov/imo/media/doc/Letter%20Regarding%20the%20EU-US%20Joint%20Energy%20Security%20Statement_5.19.22.pdf (attached).

[68] Fact Sheet: United States and European Union Commission Announce Task Force to Reduce Europe's Dependence on Russian Fossil Fuels, March 25, 2022, available at https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/25/fact-sheet-united-states-and-european-commission-announce-task-force-to-reduce-europes-dependence-on-russian-fossil-fuels/ (attached).

net-zero goals. Regardless, this goal only calls for European demand for LNG through 2030, *i.e.*, for the first *two years* of the Lake Charles LNG Project's planned 20+ years of operation (if the requested extension is granted).

More broadly, in response to Russia's invasion of Ukraine, rather than reverting to the pre-COVID status quo, global energy markets are now working to transition away from fossil fuels, including LNG, as quickly possible. Moreover, President Biden has acknowledged that we are facing a "profound climate crisis" and have very little time to act to avoid the most catastrophic impacts of climate change.[69] As such, tackling the climate crisis must be a priority for the actions and decisions of all federal agencies.[70] President Biden also reinstated the United States' commitment to the Paris Agreement[71] and made additional commitments in Glasgow.[72] Meeting those commitments, and more, is critical: a 2021 report by the International Energy Agency concluded that "hav[ing] a fighting chance of . . . limiting the rise in global temperatures to 1.5°C. . . requires nothing short of a total transformation of the energy systems that underpin our economies."[73] In order for the global energy sector to reach net zero emissions by 2050, many of the LNG facilities currently under construction or at the planning stage cannot be built.[74] The report also projects that from 2020 to 2050, natural gas traded as LNG will fall by 60 percent, and global demand will decrease by more than five percent on average in the 2030s

[69] Exec. Order 14008, Tackling the Climate Crisis at Home and Abroad (Jan. 27, 2021), 86 Fed. Reg. 7619 (Feb. 1, 2021).

[70] See *id*.; Exec. Order 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, 86 Fed. Reg. 7037 (Jan. 25, 2021).

[71] Anthony Blinken, The United States Officially Rejoins the Paris Agreement, U.S. Department of State, available at https://www.state.gov/the-united-states-officially-rejoins-the-paris-agreement/ (Feb. 19, 2021).

[72] Jeff Mason and Valerie Volcovici, Biden tells leaders U.S. will meet climate goals, while his agenda falters at home, REUTERS (Nov. 2, 2021), available at https://www.reuters.com/business/sustainable-business/biden-tout-largest-investment-climate-glasgow-2021-11-01/.

[73] IEA, Net Zero by 2050, *supra* note 11.

[74] *Id*. at 102–03.

alone.[75] Thus, DOE must reject Energy Transfer's attempt to invoke any near-term European need to justify its requested extension.

b) Fundamental shifts in the global market, highlighted by Energy Transfer's repeated delays, demonstrate that the extension is not in the public interest.

The LNG market has substantially changed since DOE issued the initial export authorizations for Energy Transfer, making the completion of this project no longer commercially viable or in the public interest. The company has explicitly acknowledged this change in the global market conditions in its request for additional time to begin construction and operations of the Lake Charles LNG Project.[76] This request follows prior requests to extend the construction/in-operation deadlines for its facilities that pre-date the COVID-19 pandemic.[77] Energy Transfer has thus been unable to secure a final investment decision, over five years after receiving the initial authorizations for the Lake Charles LNG Project.[78] Thus, it is clear that the need for LNG proposed for export to meet global market demands no longer exists at the rate anticipated over five years ago, and DOE must re-examine its conclusion that the project is in the public interest before doubling down by authorizing the requested extension.

There is also growing international recognition that avoiding the worst impacts of climate change requires abandoning large fossil fuel development or expansion. As discussed in Section II.B.4, the IPCC's 6th Assessment Report provides overwhelming evidence that climate hazards are more urgent and severe than previously thought and that aggressive reductions in emissions within the next decade are essential to avoiding the most devastating climate change harms. Similarly, the Biden administration has prioritized tackling the climate crisis, including by reinstating and expanding the U.S.'s international commitments to reduce GHG emissions. A 2021

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[75] *Id.*

[76] LNG Export Application at 1-2, 4 (arguing that, since 2020, "the world has experienced significant changes in the global LNG market caused by the ongoing COVID-19 pandemic, including difficulties in securing long-term offtake contracts in light of the uncertainty of future LNG demand resulting from declines in economic activity around the world"); LCE Application (same).

[77] Lake Charles Exports, LLC, DOE/FE Order Nos. 2987-A, 3324-B-A, 4011-A (Oct. 6, 2020) (extending the commencement date for each non-FTA export authorization to December 16, 2025); DOE/FE Order 2987-A, 3324-A, & 4011-A (same).

[78] LNG Export Application at 5; LCE Application at 5.

International Energy Agency report also reiterates that LNG exports cannot be part of a net-zero by 2050 future, projecting that natural gas traded as LNG will drop by 60 percent from 2030 to 2050 and global demand will decrease by over five percent in the 2030s alone.[79] Thus, European buyers recognize that LNG, long touted as a climate solution, is in fact a climate problem.[80]

Nor is Energy Transfer the only LNG facility experiencing delays due to reduced demand. A recent study by Global Energy Monitor notes that 21 export terminals totaling 265 million tonnes per annum ("MTPA") of capacity continue to report Final Investment Decision ("FID") delays or other serious setbacks amid an uncertain market.[81] Those terminals represent 38 percent of the 700 MTPA export capacity under development worldwide. With increased delays in FIDs[82] and project construction, the probability increases that these projects, including the proposed Lake Charles LNG Project, will become obsolete long before the end of their intended lifespans.[83] These market changes underscore the absence of and/or rapidly declining demand for construction of U.S. LNG export terminals.

Given the significant changed economic, political, and scientific circumstances that have developed since DOE first issued an export authorization for the Lake Charles LNG Project in 2016, DOE must reevaluate its original public interest finding. This new information also constitutes "significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts"[84] and therefore triggers DOE's obligation to conduct supplemental NEPA review. At a minimum, DOE must address these changed circumstances in considering Energy Transfer's extension request.

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[79] IEA, Net Zero by 2050, *supra* note 11.

[80] Lydia Plante and Ted Nace, Nervous Money, Global Energy Monitor (June 2021) at 4, available at https://globalenergymonitor.org/report/nervous-money/ (attached).

[81] *Id*. at 3.

[82] Multiple LNG projects, including Port Arthur LNG and Cameron LNG have delayed making final investment decisions due to changes in the global LNG market, including decreased demand from LNG market oversaturation. Sempra likely to delay Texas Port Arthur LNG decision to 2022, REUTERS (May 5, 2021), available at https://www.reuters.com/business/energy/sempra-likely-delay-texas-port-arthur-lng-decision-2022-2021-05-05/ (attached).

[83] *Id*.

[84] 40 C.F.R. § 1502.9(c)(1).

4. New Information Regarding the Lake Charles LNG Project's Environmental Impacts Demonstrate an Extension is Not in the Public Interest.

In addition to the immediate harms caused by price increases, LNG exports will cause environmental harm lasting for generations. These include impacts occurring across the entire LNG lifecycle that both the Natural Gas Act and NEPA require DOE to consider. As noted in the public notice, DOE must comply with its environmental review obligations, and "[n]o final decision [on the term extension] will be issued in this proceeding until DOE has met its environmental responsibilities."[85] To do so, DOE must reject the prior administration's conclusion that LNG export extension approvals could be categorically excluded from NEPA review, and DOE must revisit its deeply flawed analysis of the climate impacts of LNG exports.

a) Review of an Extension Request Requires Compliance with NEPA.

NEPA applies to all major federal actions with the potential to significantly affect the environment. The decision to grant an extension request is such an action. *See Pit River Tribe v. U.S. Forest Serv.,* 469 F.3d 768, 784 (9th Cir. 2006) (extension of leases that would have otherwise expired was major federal action requiring NEPA analysis). As a practical matter, if the extension request is denied, the adverse impacts caused by the Lake Charles LNG Project will not occur. Energy Transfer acknowledges that it cannot reach a final investment decision—or proceed with the project—without the requested three-year extension.[86]

This does not mean that DOE must start with an entirely blank slate when reviewing the extension request. DOE can "tier" off the prior environmental assessment. 40 C.F.R. 1501.11(a). However, when tiering off a prior document, agencies must affirm the validity of that document—an agency cannot uncritically or unquestioningly adopt it, and that affirmation is not limited to issues where circumstances may have changed.[87] For the reasons discussed below,

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[85] 87 Fed. Reg. at 45,093-94.

[86] Lake Charles LNG Export Application at 4-5 ("[S]uch agreements and the resulting FID are contingent on a commencement deadline under the DOE authorizations that enables the Liquefaction Project to be in service within the timeframe reflected in the FERC authorization, which is December 16, 2028."); LCE Application at 5 (same).

[87] *See N. Alaska Env't Ctr. v. U.S. Dep't of the Interior,* 983 F.3d 1077, 1091 (9th Cir. 2020) ("*Pit River Tribe* illustrates that the adequacy of analysis in previous NEPA documents for the present action may

adoption of this categorical exclusion was arbitrary and unlawful, and DOE cannot rely on this categorical exclusion here. Alternatively, this proposal lacks the integral elements of an exempt project, precluding reliance on a categorical exclusion here. Thus, DOE must complete a full NEPA review prior to approving Energy Transfer's requested extension.

i. The 2020 Categorical Exclusion Is Invalid.

Adoption of the 2020 categorical exclusion was arbitrary, capricious, and contrary to law. Most egregiously, in promulgating the 2020 exclusion, DOE improperly excluded from NEPA review *all* impacts occurring upstream of the point of export, based on a basic and fundamental legal error. The Notice of Proposed Rulemaking argued that DOE need not consider "environmental impacts resulting from actions occurring [before] the point of export" because "the agency has no authority to prevent" these impacts, citing *Sierra Club v. FERC,* 827 F.3d 36 (D.C. Cir. 2016) ("*Freeport I*").[88] This is the exact opposite of *Freeport I*'s explicit and central holding. *Freeport I* held that **FERC** had no authority to prevent these impacts, specifically because **DOE** had retained "exclusive" authority to do so.[89] FERC had "no authority" to consider the impacts of export-induced gas production because "the Natural Gas Act places export decisions squarely and exclusively within the Department of Energy's wheelhouse."[90] Because DOE *has* such authority, the categorical exclusion was adopted unlawfully, cannot be relied upon here, and provides no evidence to suggest that all environmental effects occurring before the point of exports will be insignificant.

Nor can upstream impacts be dismissed as unforeseeable. DOE has in fact foreseen them, with EIA modeling, an environmental addendum, and a lifecycle report that extensively, although at times incorrectly, discuss these impacts. In these, DOE has broadly conceded that the climate impacts of upstream effects are foreseeable. And DOE's Environmental Addendum

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influence whether we construe those NEPA documents as covering the present action. Relatedly, *Pit River Tribe* shows that adequacy may remain relevant even after the statute of limitations has run.").

[88] 85 Fed. Reg. at 25,341; *accord* Final Rule, 85 Fed. Reg. 78,197, 78,198.

[89] 827 F.3d at 40-41, 46.

[90] *Id.* at 46. In finalizing the 2020 Categorical Exclusion, DOE also erred in asserting that its approval of exports is "not interdependent" with FERC's approval of export infrastructure. 85 Fed. Reg. 78,197, 78,199. DOE's export authorization cannot be effectuated without FERC approval of export infrastructure, and vice versa; even if FERC infrastructure could proceed solely on the basis of FTA export authorization, neither this project nor any other major project in fact seeks to do so.

acknowledged that increased gas production "may" increase ozone levels and "may" frustrate some areas' efforts to reduce pollution to safe levels.[91] But as DOE has acknowledged, it has not made any determination as to the likelihood or significance of such impacts—the Addendum made no "attempt to identify or characterize the incremental environmental impacts that would result from LNG exports" whatsoever.[92] Insofar as DOE contends that these impacts can be difficult to foresee, that affirms, rather than refutes, the need for case-by-case analysis.[93] Even if DOE determines that upstream impacts can only be discussed generally, in something like the Environmental Addendum, this does not dictate the conclusion that the impacts are insignificant. Similarly, a conclusion that an agency can meet its NEPA obligations by tiering off an existing document (which may need to be periodically revised as facts and scientific understanding change) is different than the conclusion that NEPA review simply is not required.

The 2020 Categorical Exclusion's treatment of downstream impacts was also arbitrary. As with upstream impacts, DOE mistakenly asserted that some downstream impacts (downstream impacts relating to regasification and use of exported gas) were entirely outside the scope of NEPA analysis.[94] This is again incorrect: DOE has authority to consider these impacts when making its public interest determination, and DOE has not shown that these impacts are so unforeseeable that they cannot be meaningfully discussed at all. Indeed, DOE has refuted this argument itself, discussing these impacts in the life cycle analysis.

For other impacts, relating to marine vessel traffic, the preamble to the 2020 final rule arbitrarily dismissed these impacts as *de minimus*, claiming that because LNG export has historically constituted only a small share of overall U.S. shipping traffic, the effects of future

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[91] U.S. DOE, Final Addendum to Environmental Review Documents Concerning Exports of Natural Gas from the United States (Aug. 2014) at 27-28, *available at* https://www.energy.gov/sites/prod/files/2014/08/f18/Addendum.pdf.

[92] DOE/FE Order No. 3638 (Corpus Christi LNG), at 193-194 (May 12, 2015), available at https://fossil.energy.gov/ng_regulation/sites/default/files/programs/gasregulation/authorizations/2012/applications/ord3638.pdf. (attached).

[93] *See also Cal. Wilderness Coal. v. DOE*, 631 F.3d 1072, 1097 (9th Cir. 2011) (rejecting DOE argument that environmental impacts of designation of electric transmission corridors were too speculative to require NEPA analysis).

[94] 85 Fed. Reg. at 78,202.

LNG export approvals could be ignored.[95] This is legally and factually incorrect. LNG exports are rapidly expanding, and this expansion depends upon and is caused by authorizations like the extension Energy Transfer has requested here. In addition, noting that LNG traffic is a small share of the total does not demonstrate that the impact of LNG traffic in particular is insignificant: a small portion of a large problem can itself constitute a significant impact. And even is such a fractional approach could be justified, it would require a different denominator: the number of ships in the habitat of the species at issue. LNG traffic—now and in the future—constitutes a larger and growing share of traffic *in the Gulf of Mexico*, where many of the species that will be impacted by Energy Transfer's proposed exports, including multiple listed species, live. Ship traffic to the West and East Coasts inflates the denominator but is irrelevant to many of these species.

ii. The Proposed Extension Does Not Satisfy the "Integral Elements" Necessary for a Categorical Exclusion.

Even if the 2020 Categorical Exclusion was valid, DOE would be unable to rely on it here. DOE cannot invoke a categorical exclusion without determining that the proposed action has the "integral elements" of excluded actions as defined in Appendix B to 10 C.F.R. Part 2021 Subpart D. Here, the proposal does not satisfy integral element 1, because it "threaten[s] a violation of applicable statutory [or] regulatory … requirements for environment, safety, and health, or similar requirements of … Executive Orders."[96] This integral element is missing whenever a proposal *threatens* a violation; if there a possibility of such a violation, a project-specific NEPA analysis is required to evaluate that risk.

Here, facilitating exports by extending authorizations that would otherwise expire threaten a violation of Executive Order 14,008, Tackling the Climate Crisis at Home and Abroad.[97] As noted, this order—like the Paris Accord, recent Glasgow Pact, and other commitments—affirms that "Responding to the climate crisis will require … net-zero global emissions by mid-century or before."[98] Increasing exports through mid-century (*i.e.*, 2050) is

[95] The proposed rule ignored wildlife impacts entirely.

[96] 10 C.F.R Part 1021 Subpart D Appendix B.

[97] 86 Fed. Reg. 7619.

[98] *Id.* § 101.

inconsistent with any plausible trajectory for achieving this goal, as recognized by the International Energy Agency.[99] Even if DOE somehow contends that giving a lifeline to gas exports can somehow be reconciled with the President's climate goals and policies, that surprising contention does not change the fact that expanded exports at least "threaten" a violation of those policies, such that integral element 1 is not satisfied.

The proposal also violates integral element 4, because it has "the potential to cause significant impacts to environmentally sensitive resources," which "include … Federally-listed threatened or endangered species or their habitat," "state-listed" species, "Federally-protected marine mammals and Essential Fish Habitat," and species proposed for listing.[100] Potentially impacted species include the black rail, giant manta ray,[101] oceanic whitetip shark,[102] and Rice's whale (formerly designated as the Gulf of Mexico population of the Bryde's whale).[103] These species are all at risk from ship strikes and noise from vessel traffic related to the Lake Charles LNG Project, impacts that will be avoided unless DOE extends the export authorizations.[104] As with integral element 1, integral element 4 is precautionary: a categorical exclusion cannot be used if the proposed action would "have the potential to cause significant impacts," even if it is unclear whether the action's impacts will in fact rise to the level of significance. Fulfilling NEPA's purpose requires investigating such potential impacts.

[99] IEA, Net Zero by 2050, *supra* note 11, at 102-03.

[100] 10 C.F.R Part 1021 Subpart D Appendix B.

[101] 83 Fed. Reg. 2916 (Jan. 22, 2018).

[102] 83 Fed. Reg. 4153 (Jan. 30, 2018).

[103] 86 Fed. Reg. 47,022 (Aug. 23, 2021).

[104] The potential for impacts to these species further violates integral element 1, because it threatens a violation of the Endangered Species Act and similar laws.

Ultimately, the potential to impact species and other protected resources is real. Ship strikes injure marine life, including listed whales,[105] sea turtles,[106] and giant manta rays.[107] Ship traffic also causes noise, which "can negatively impact ocean animals and ecosystems in complex ways."[108] Noise interferes with animals' ability to "communicate" and "to hear environmental cues that are vital for survival, including those key to avoiding predators, finding food, and navigation among preferred habitats."[109] Unsurprisingly, many animals display a suite of stress-related responses to increased noise. Because the proposed extension will cause these impacts that would otherwise not occur, the proposal does not satisfy integral element 4.

b) DOE's Prior Life Cycle Greenhouse Gas Analyses Are Not a Substitute for NEPA Review, and Do Not Demonstrate that Greenhouse Gas Emissions Caused by the Proposal Are Consistent with the Public Interest.

One way or another, DOE must revisit its prior analyses of the greenhouse gas impact of LNG exports. Procedurally, the 2014 and 2019 lifecycle analyses are not a substitute for NEPA review, as DOE continues to recognize.[110] Although the lifecycle analyses can inform NEPA review, DOE must address the impacts of this and other LNG proposals within the NEPA framework. More fundamentally, the lifecycle analyses both ask the wrong questions and do not reflect available science regarding LNG's impacts.

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[105] David W. Laist et al., Collisions Between Ships and Whales, 17 MARINE MAMMAL SCIENCE 1, 35 (Jan. 2001) (describing ship strikes with large vessels as the "principal source of severe injuries to whales), available at https://www.mmc.gov/wp-content/uploads/shipstrike.pdf (attached).

[106] National Oceanic and Atmospheric Administration Fisheries, Understanding Vessel Strikes (June 25, 2017), available at https://www.fisheries.noaa.gov/insight/understanding-vessel-strikes (attached).

[107] National Oceanic and Atmospheric Administration Fisheries, Giant Manta Ray, available at https://www.fisheries.noaa.gov/species/giant-manta-ray (attached).

[108] National Oceanic and Atmospheric Administration, Cetacean & Sound Mapping: Underwater Noise and Marine Life, available at http://cetsound.noaa.gov/index (attached).

[109] *Id.*

[110] *E.g.,* 85 Fed. Reg. at 78,202 (The life cycle "reports are not part of DOE's NEPA review process").

i. The Life Cycle Analyses Ask the Wrong Questions.

Energy Transfer seeks to extend its authorization to export gas through at least 2048[111]—an authorization that would otherwise expire. DOE therefore must take a hard look at the environmental impact of expanded exports of LNG across that thirty-year time period, with the long-term gas production and use such exports necessarily entail. This includes addressing whether such impacts are consistent with the United States' climate goals. They are not. But the lifecycle analyses do not address this issue. That is, the analyses do not provide any discussion of whether increasing or extending LNG export will help or hinder achievement of the long-term drastic emission reductions that are essential to avoiding the most catastrophic levels of climate change.

Instead, the analyses look only to the short term. The only questions asked by the analyses are "How does exported LNG from the United States compare with" other fossil fuels (coal or other gas) used "in Europe and Asia, from a life cycle [greenhouse gas] perspective?"[112] DOE has attempted to justify this narrow focus by arguing that in the present moment, LNG primarily competes with other sources of fossil fuel. But DOE has not contended, nor can it, that this will be true throughout the 2040s, within the 20+ year lifespan of the Lake Charles LNG Project.

Limiting global temperature rise to 1.5 degrees Celsius will require dramatic emission reductions in the near and long term, reductions which are inconsistent with further development of long-lived fossil fuel infrastructure in the U.S. or abroad, as confirmed by the International Energy Agency,[113] Intergovernmental Panel on Climate Change,[114] and others. Executive Order

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[111] If DOE grants Energy Transfer's parallel request to extend the export term, the Lake Charles LNG Project could export through 2050. See LCE 2050 Application, available at https://www.energy.gov/sites/default/files/2022-06/Lake%20Charles%20Exports%20LLC%20DOE%20Application%20Re%202050.pdf; LCLNG 2050 Application, available at https://www.energy.gov/sites/default/files/2022-06/Lake%20Charles%20LNG%20Export%20Company%20LLC%20DOE%20Application%20Re%202050.pdf.

[112] 84 Fed. Reg. 49,278, 49,279 (Sept. 19, 2019).

[113] IEA, Net Zero by 2050, *supra* note 11, at 101-02.

[114] Intergovernmental Panel on Climate Change, Special Report: Global Warming of 1.5 C, Summary for Policymakers at 13-17 (May 2019), available at https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf (attached).

14008 appropriately instructs federal agencies to work to discourage other countries from "high carbon investments" or "intensive fossil fuel-based energy."[115] The lifecycle analyses argue that the infrastructure needed to receive and use U.S. LNG is not higher emitting than other sources of fossil fuel, but the analyses do not inform decisionmakers or the public whether facilities to use U.S. LNG are nonetheless such a "high-carbon," "intensive" source of emission that they must be discouraged. Moreover, as noted Russia's unprovoked invasion of Ukraine is likely to drive European reliance on fossil-free alternatives like renewable energy and energy conservation over the medium to long term. Therefore, contrary to the assumption made in the lifecycle GHG analyses, LNG exports would be competing with very low or zero emissions alternatives rather than displacing higher-emissions alternatives. DOE must reevaluate its lifecycle GHG emissions analyses to reflect this development.

Even for the short term, the lifecycle analyses ignore important parts of the question of how DOE's decision to authorize additional U.S. LNG exports will affect greenhouse gas emissions. The EIA has recognized, for example, that increasing LNG exports will both cause some gas-to-coal shifting in the U.S. electric sector.[116] Similarly, DOE has acknowledged that "U.S. LNG Exports may … compete with renewable energy … as well as efficiency and conservation measures" in overseas markets.[117] As discussed in Section II.B.3 above, Europe is already taking steps to increase renewable energy and conservation in order to reduce its reliance on gas from any source. Indeed, while DOE has refused to address the likely share of U.S. LNG exports that will displace fossil fuels, peer reviewed research concludes that such exports are likely to play only a limited role in displacing foreign use of coal, such that U.S. LNG exports are likely to increase net global GHG emissions.[118]

Finally, while it is important to address foreseeable overseas impacts of LNG exports, DOE also needs to examine the impact of increased exports specifically on domestic or territorial

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[115] Executive Order 14,008 at § 102(f), (h).

[116] U.S. Energy Information Agency, Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets (Oct. 2014) at 12, 19, available at https://www.eia.gov/analysis/requests/fe/pdf/lng.pdf (attached).

[117] DOE/FE Order 3638 at 202-03.

[118] Gilbert, A. Q. & Sovacool, B. K., US liquefied natural gas (LNG) exports: Boom or bust for the global climate?, ENERGY (Dec. 15, 2017), available at https://doi.org/10.1016/j.energy.2017.11.098 (attached).

emissions. The world must transition away from fossil fuel development as quickly as possible. It is inappropriate, unfair, and nonstrategic for the U.S. to argue that it can nonetheless increase fossil fuel production, and enjoy the purported economic benefits thereof, because the associated emissions will be offset by foregone production elsewhere. Instead, nations' commitments under the Paris Accord and similar agreements "should include greenhouse gas emissions and removals taking place within national territory and offshore areas over which the country has jurisdiction."[119] Requiring nations to measure and report territorial emissions also ensures the reliability of emission calculations, as nations can only directly regulate emissions within their borders. Estimates of emissions from activities within the U.S. are also likely to be more accurate than estimates that seek to trace the lifecycle of fuels combusted in an end use country. For all of these reasons, a hard look at the climate impact of increasing U.S. LNG exports, including via project-saving extensions like that requested here, must address the impact of such exports on domestic emissions specifically, in addition to including reasonable forecasting about global impacts.

ii. The 2019 and 2014 Lifecycle Analyses Understate Emissions.

In addition to asking the wrong questions, DOE's prior lifecycle analyses are factually unsupported and understate emissions, as Sierra Club and NRDC have previously explained. For example, the 2019 analysis assumes that the "upstream emission rate" or "leak rate" of U.S. LNG exports—the amount of methane that is emitted to the atmosphere during production, processing, and transportation of gas to the export facility—is 0.7% of the gas delivered.[120] Studies measuring actual emissions find much higher leak rates: a 2020 study that found that oil and gas production in the Permian Basin had a leak rate of roughly 3.5% or 3.7%.[121] As we have

[119] Witi, J. & Romano, D., 2019 Refinement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories, Chapter 8: Reporting and Tables at 8.4, § 8.2.1, available at https://www.ipcc-nggip.iges.or.jp/public/2019rf/pdf/1_Volume1/19R_V1_Ch08_Reporting_Guidance.pdf (attached).

[120] Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update at 27, available at https://fossil.energy.gov/app/docketindex/docket/index/21.

[121] *See* Yuzhong Zhang *et al.*, Quantifying methane emissions from the largest oil-producing basin in the United States from space, SCIENCE ADVANCES (Apr. 22, 2020), DOI: 10.1126/sciadv.aaz5120, available at https://advances.sciencemag.org/content/6/17/eaaz5120/tab-pdf (attached); *see also* Environmental Defense Fund, New Data: Permian Oil & Gas Producers Releasing Methane at Three Times National Rate (Apr. 7, 2020), available at https://www.edf.org/media/new-data-permian-oil-gas-producers-releasing-methane-three-times-national-rate (attached).

previously explained, there are many reasons to believe these atmospheric measurements are more reliable than the "bottom up" estimates used by DOE—notably, the fact that bottom up estimates poorly represent the rare but severe major leaks that constitute a large fraction of upstream emissions.[122] Every year, new research further affirms that gas production emits greater amounts of methane than what DOE's analyses have assumed, despite ongoing efforts to reduce methane emissions.[123] At a minimum, DOE must review and to respond to this research before approving any further LNG export applications.

c) The IPCC's 6th Assessment Report Constitutes Substantial New Information that DOE Must Consider.

Mounting scientific evidence—released since the export authorizations were issued—demonstrates that the consequences of and risk to LNG infrastructure from catastrophic climate change are even more severe than previously assumed. Continuing LNG exports through 2050 is inconsistent with reaching any of the Biden administration's climate targets and preventing the worst impacts from catastrophic climate change. Three recent documents from the International Panel on Climate Change's ("IPCC") 6th Assessment Report emphasize the inevitability of a climate-destabilized future absent urgent and aggressive carbon emission reductions, highlighting the need to curb GHG emissions *now*. Even if LNG exports were reasonable in the short term (they are not), extending deadlines so those projects won't even come online until nearly 2030 flies in the face of mounting scientific evidence about how to avoid the worst impacts of catastrophic climate change. The reports also emphasize the substantial risk that climate-driven extreme weather events will damage infrastructure like the Lake Charles LNG Project along the Gulf Coast.

First, the IPCC's August 2021 *The Physical Science Basis* report confirms that "[h]uman-induced climate change is already affecting many weather and climate extremes in every region

[122] Sierra Club, Comment on 2019 Update to Life Cycle Greenhouse Gas Perspective, at 6-8 (Oct. 21, 2019), available at https://fossil.energy.gov/app/DocketIndex/docket/DownloadFile/604 (attached).

[123] *See* NRDC, Sailing to Nowhere: Liquefied Natural Gas Is Not an Effective Climate Strategy (Dec. 2020), available at https://www.nrdc.org/sites/default/files/sailing-nowhere-liquefied-natural-gas-report.pdf (attached); Kayrros, U.S. Methane Emissions from Fossil Fuels at Risk of Worsening In 2022, Extending 2021 Trend (June 2022), available at https://www.kayrros.com/blog/u-s-methane-emissions-from-fossil-fuels-at-risk-of-worsening-in-2022-extending-2021-trend/ (attached).

across the globe."[124] Evidence demonstrating the link between human GHG emissions and extreme weather "has strengthened since" the prior IPCC report.[125] In addition, global warming "has caused global mean sea level rise."[126] Particularly relevant to projects along the Gulf Coast, the IPCC forecasts with *high confidence* that flooding will become more likely in coastal cities due to "the combination of more frequent extreme sea level events (due to sea level rise and storm surge)."[127]

Looking to the future, *The Physical Science Basis* also concludes that cutting GHG emissions now is critical because "there is a near-linear relationship" between human-caused GHG emissions and related global warming, meaning that each additional increment of global warming exacerbates changes in extreme weather events. For example, the IPCC forecasts that each additional 1°C of global warming will cause about a 7% increase in the intensity of extreme daily precipitation events (*high confidence*).[128] Based on this demonstrated relationship, the IPCC concludes that "reaching net zero anthropogenic CO2 emissions is a requirement to stabilize human-induced global temperature increase at any level." [129]

Second, the IPCC's February 2022 report—on *Impacts, Adaptation, and Vulnerability*—highlights the increasing climate-related risks to coastal infrastructure like the Lake Charles LNG Project. Because "[c]limate change impacts and risks are becoming increasingly complex and more difficult to manage," it is increasingly likely that "multiple climate hazards will occur simultaneously" and "compounding overall risk."[130] The IPCC also predicts, with high to very

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[124] *See* Climate Change 2021: The Physical Science Basis, Summary for Policymakers, IPCC, available at https://www.ipcc.ch/report/ar6/wg1/ (Oct. 2021) (attached) [hereinafter "IPCC Physical Science Summary"].

[125] *Id.* at 8, A.3.

[126] *Id*. at 11, A.4.3.

[127] *Id*. at 25, C2.6.

[128] *Id*. at 16, B.2.4. The IPCC reports that "every additional 0.5°C of global warming causes clearly discernible increases in the intensity and frequency of hot extremes, including heatwaves (*very likely*), and heavy precipitation (*high confidence*), as well as agricultural and ecological droughts in some regions (*high confidence*)." *Id*. at 15, B.2.2.

[129] *Id*. at 28, D.1.1.

[130] *See* IPCC, Climate Change 2022 Impacts, Adaptation and Vulnerability, Summary for Policy Makers at 8, A.3, available at https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_SummaryForPolicymakers.pdf (Feb. 2022) (attached) [hereinafter "IPCC Impacts Summary"].

high confidence, that climate change will cause increasing adverse impacts from flood/storm damages in coastal areas, damage to key infrastructure, and damage to key economic sectors in North America.[131] Moreover, "[u]navoidable sea level rise will bring cascading and compounding impacts resulting in losses of coastal ecosystems and ecosystem services, groundwater salinisation, flooding and damages to coastal infrastructure that cascade into risks to livelihoods, settlements, health, well-being, food and water security, and cultural values in the near to long term (high confidence)." [132]

The IPCC again concludes, with *very high confidence*, that the severity of climate change risks "depend[s] strongly on near-term mitigation and adaptation actions" and projected risks and losses "escalate with every increment of global warming." [133] Although "[n]ear-term actions that limit global warming to close to 1.5°C would substantially reduce projected losses and damages related to climate change in human systems and ecosystems," the IPCC confirmed that, at this point, those actions cannot eliminate all of the harms (very high confidence). [134]

Because climate change impacts cannot be eliminated entirely, the IPCC also highlights critical adaptation strategies, including restoring wetlands to "further reduce flood risk (medium confidence)."[135] The IPCC also highlights that "siting of infrastructure" has already "contributed to the exposure of more assets to extreme climate hazards increasing the magnitude of the losses (high confidence)." [136]

Third, the IPCC's April 2022 *Mitigation of Climate Change* report[137] further demonstrates that LNG exports will need to be significantly curtailed well before 2050. For example, the IPCC

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[131] *Id.* at Figure SPM.2. Risks from climate change to "key infrastructure will rise rapidly in the mid- and long-term with further global warming, especially in places . . . along coastlines, or with high vulnerabilities (high confidence)." *Id.* at SPM.B.4.5.

[132] *Id.* at SPM.B.5.2.

[133] *Id.* at SPM.B.4.

[134] *Id.* at SPM.C.2.

[135] *Id.* at SPM.C.2.1.

[136] *Id.* SPM.B.1.6.

[137] *See* IPCC, Climate Change 2022: Mitigation of Climate Change, Summary for Policy Makers, available at https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_SPM.pdf (Apr. 2022) (attached).

concludes that, to remain consistent with current internal climate pledges, global GHG emissions reductions must undergo "an unprecedented acceleration" between 2030 and 2050 (medium confidence).[138] Without additional abatement, projected GHG "emissions over the lifetime of existing and currently planned fossil fuel infrastructure" will result in global warming over 1.5°C.[139] Moreover, to reduce GHG emissions, the energy sector will "require[] major transitions, including a substantial reduction in overall fossil fuel use, the deployment of low-emission energy sources, switching to alternative energy carriers, and energy efficiency and conservation." [140] On the other hand, "[t]he continued installation of unabated fossil fuel infrastructure will 'lock-in' GHG emissions" (high confidence).[141] The required transition in the energy sector "is projected to reduce international trade in fossil fuels."[142] Because limiting warming to 2ºC "could strand considerable fossil fuel infrastructure," the IPCC estimates that gas assets "are projected to be more at risk of being stranded towards mid-century" (high confidence),[143] reiterating the risk that new LNG facilities like Lake Charles LNG must cease operations well before the end of their projected lifetimes.

In short, the IPCC's AR6 reports add to the mounting evidence demonstrating the dual climate risks associated with the Lake Charles LNG facility: (1) that the facility's staggering GHG emissions will fuel climate change, and (2) that the climate-driven hazards at the project site will increase the risk of significant contamination being released into the surrounding communities and ecosystems. DOE must consider this significant new information in its public interest analysis and NEPA review.

III. Conclusion

For the reasons stated above, Sierra Club, Healthy Gulf, and Louisiana Bucket Brigade's motion to intervene should be granted. The proposed extension is not consistent with the public

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[138] *Id.* at B.6.3.

[139] *Id.* at B.7.

[140] *Id.* at C.4.

[141] *Id.*

[142] *Id.* at C.4.4.

[143] *Id.*

interest and should be denied. Recent events in Ukraine have demonstrated yet another reason why the world needs to transition away from fossil energy as quickly as possible; Energy Transfer's proposal for a project that will not start exports until 2028 is not part of a solution to current geopolitical problems. And DOE must not approve the applications without reviewing whether current gas price spikes call into question DOE's prior analyses and assumptions about the effects of increased exports on domestic gas production and prices. Finally, DOE cannot approve the applications without taking a hard look at foreseeable environmental impacts occurring throughout the LNG lifecycle.

Ultimately, the United States and nations around the globe have set ambitious but necessary goals for reducing greenhouse gas emissions during the proposed authorization period. Extending gas exports and use cannot be reconciled with those goals, and this proposal should be denied.

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UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Lake Charles LNG Export LLC	)	FE Docket Nos. 13-04-LNG and 16-109-LNG
	)	
	)	
Lake Charles Exports, LLC	)	FE Docket Nos. 11-59-LNG and 16-110-LNG
	)	

SIERRA CLUB CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, Louisa Eberle, hereby certify that I am a duly authorized representative of the Sierra Club, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of the Sierra Club, the foregoing documents and in the above captioned proceeding.

Dated at Denver, CO this 6th day of July, 2022

/s/ Louisa Eberle
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UNITED STATES OF AMERICA
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OFFICE OF FOSSIL ENERGY

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	)	

SIERRA CLUB VERIFICATION

Pursuant to 10 C.F.R. § 590.103(b), I, Louisa Eberle, hereby verify under penalty of perjury that I am authorized to execute this verification, that I have read the foregoing document, and that the facts stated therein are true and correct to the best of my knowledge.

Executed at Denver, CO on July 6, 2022

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	)	

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 590.107, I, Louisa Eberle, hereby certify that I caused the above documents to be served on the persons included on the official service list for this docket, as provided by DOE/FE, on July 6, 2022.

/s/ Louisa Eberle
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HEALTHY GULF VERIFICATION

Pursuant to 10 C.F.R. § 590.103(b), I, Cynthia Sarthou, hereby verify under penalty of perjury that we are authorized to execute this verification, that we have read the foregoing document, and that the facts stated therein are true and correct to the best of our knowledge.

Dated at New Orleans, LA this 11th day of August, 2022

/s Cynthia Sarthou
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UNITED STATES OF
AMERICA DEPARTMENT OF
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ENERGY

IN THE MATTER OF

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	)	

HEALTHY GULF CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, Cynthia Sarthou, hereby certify that we are duly authorized representatives of Healthy Gulf, and that we are authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf Healthy Gulf, the foregoing documents and in the above captioned proceeding.

Dated at New Orleans, LA this 11th day of August, 2022

/s Cynthia Sarthou
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Executive Director for Healthy Gulf

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	)	

LOUISIANA BUCKET BRIGADE VERIFICATION

Pursuant to 10 C.F.R. § 590.103(b), I, James Hiatt, hereby verify under penalty of perjury that I am authorized to execute this verification, that I have read the foregoing document, and that the facts stated therein are true and correct to the best of my knowledge.

Executed at Lake Charles, LA on August 11, 2022.

/s/ James Hiatt
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LOUISIANA BUCKET BRIGADE CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, James Hiatt, hereby certify that I am a duly authorized representative of the Louisiana Bucket Brigade, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of the Louisiana Bucket Brigade, the foregoing documents and in the above captioned proceeding.

Dated at Lake Charles, LA this 11th day of August, 2022

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