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May 22, 2023

VIA E-FILING TO FERGAS@HQ.DOE.GOV

Office of Fuels Programs
Fossil Energy
Office of Fossil Energy and Carbon Management
U.S. Department of Energy
Docket Room 3F-056, FE-50
Forrestal Building
1000 Independence Avenue SW
Washington, DC 20585
Attn: Mrs. Amy Sweeney

**Re: Lake Charles Exports, LLC – FE Docket Nos. 11-59-LNG and 16-110-LNG
Request for Rehearing**

Dear Mrs. Sweeney:

Enclosed for filing on behalf of Lake Charles Exports, LLC (“LCE”), please find attached LCE’s request for rehearing of the Department of Energy Office of Fossil Energy and Carbon Management’s (“DOE”) order issued on April 21, 2023 under section 3 of the Natural Gas Act, 15 U.S.C. § 717b(a), denying LCE’s application for an extension of its deadline to commence export operations of liquefied natural gas (“LNG”) from the Lake Charles Terminal (“Project”) to non-free trade agreement countries (“Request for Rehearing”). This filing package includes the following:

1. Transmittal Letter
2. Request for Rehearing
3. Attachment 1: Declaration of Thomas P. Mason
 - Exhibit A: Lake Charles LNG Export Project Construction-related Activities Reported in Department of Energy and Federal Energy Regulatory Commission Filings
 - Exhibit B: CONFIDENTIAL Letters From Actual or Prospective LNG Offtake Customers, Potential Equity Partners, and EPC firms (Submitted under separate cover)
4. Attachment 2: Form of Confidentiality and Protective Agreement

5. Certified Statements, Verifications and Certificate of Service

Exhibit B to Attachment 1, Declaration of Thomas P. Mason, of the Request for Rehearing (the “Confidential Attachment”) contains proprietary and confidential information that LCE would not ordinarily release to the public and the release of which would be harmful to LCE’s competitive position as a developer of an LNG export facility. Exhibit B contains letters from potential customers and potential financing partners with whom LCE is in active negotiation in connection with development and operation of the Project. Due of the status of these negotiations and the competitive nature of the natural gas and LNG markets, public release of any information about these negotiations, including but not limited to the identity of the parties involved, could materially harm LCE’s ability to finalize and execute commercial agreements on reasonable terms in advancement of the Project. Information of this nature is kept private by LCE and its subsidiaries and affiliates in the ordinary course, and also is customarily kept private by other participants in the natural gas and LNG markets such as the identified potential customers and financing partners.

For these reasons, LCE hereby requests privileged and confidential treatment of the Confidential Attachment and an exemption from disclosure under the Freedom of Information Act, 5 U.S.C. § 552, as amended (“FOIA”), and the applicable rules of the DOE, including 10 C.F.R. §§ 590.202(e) and 1004.11. These materials include sensitive commercial information that is exempt from disclosure under Exemption 4 of FOIA, 5 U.S.C. § 552(b)(4), which allows for confidential treatment of “trade secrets and commercial or financial information obtained from a person and privileged or confidential.” The information contained in the Confidential Attachment qualifies for exemption from public disclosure under the DOE’s criteria set out in 10 C.F.R. § 1004.11.

Pursuant to Section 1004.11(a), DOE will consider the “submitter’s views” (as defined in subsection (h) of that section) in determining whether information submitted to the DOE is exempt from public disclosure. Section 1004.11(h) defines the “submitter’s views” as “an item-by-item indication, with accompanying explanation, addressing whether the submitter considers the information contained in the document to be exempt from the mandatory public disclosure requirements of the [FOIA]” Furthermore, if the submitter states that the information qualifies for protection under FOIA Exemption 4, the submitter must “include a statement specifying why such information is privileged or confidential and, where appropriate, shall address the criteria in [Section 1004.11(f)] excluding paragraph (f)(5)”¹ as well as “address the question of whether or not discretionary disclosure would be in the public interest.”

¹ The criteria in Section 1004.11(f) is: (1) Whether the information has been held in confidence by the person to whom it pertains; (2) Whether the information is of a type customarily held in confidence by the person to whom it pertains and whether there is a reasonable basis therefore; (3) Whether the information was transmitted to and received by the Department in confidence; (4) Whether the information is available in public sources; (5) Whether disclosure of the information is likely to impair the Government's ability to obtain similar information in the future; and (6) Whether disclosure of the information is likely to cause substantial harm to the competitive position of the person from whom the information was obtained.

Here, criteria one through four of Section 1004.11(f), which pertain to the confidential nature of the information, are met: (1) each party identified in the Confidential Attachment has held the information contained therein in confidence; (2) the information in the Confidential Attachment is customarily held in confidence within the industry and there is a reasonable basis to do so because public disclosure of such information may risk industry participants' competitive position in the market by undermining negotiations with other proposed or active natural gas supply, financing and LNG offtake project counterparties; (3) this information is being transmitted to the DOE confidentially; and (4) this information is not otherwise publicly available. An analysis of criteria five is excluded per Section 1004.11(h).

With respect to criteria six, each of the parties identified in the Confidential Attachment agreed to submit such information in the Request for Rehearing with the understanding that such information would be provided to the DOE with a request for confidential treatment. Also, public disclosure would harm not only LCE's competitive position, but also the submitting parties' respective competitive positions by undermining similar ongoing commercial discussions with other counterparties.

Finally, with respect to whether discretionary disclosure would be in the public interest, LCE respectfully submits that it would not for the reasons stated above. The public interest favors protection of competitive interests and relies on the competitive forces in the natural gas and LNG markets to produce reasonable economic outcomes for the public.

If any person, including any government employee who is not an employee of the DOE, requests an opportunity to inspect or copy the Confidential Attachment or any part thereof, LCE respectfully requests that the DOE provide LCE, through the undersigned counsel, prompt notice of such request, any stated reasons for the request, and sufficient advance notice prior to any intended release of the enclosed confidential materials so that LCE may have an opportunity to pursue remedies available in opposition to the release. LCE, through the undersigned counsel, also requests to be advised as to any determination not to accord privileged/confidential treatment to the identified, confidential materials.

Consistent with the DOE's requirements in other proceedings, LCE is providing as Attachment 2 a form of Confidentiality and Protective Agreement that may be executed with parties to this proceeding who seek to obtain the confidential information enclosed. LCE commits to working in good faith with each party to execute an acceptable form of this agreement.

A certificate of service in accordance with 10 C.F.R. § 590.507 is attached hereto reflecting service on all parties on the Docket Nos. 11-59-LNG and 16-110-LNG service lists. **Please return a date-stamped copy of the filing at your earliest convenience.** Should you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Lake Charles Exports, LLC Request for Rehearing
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Sincerely,

/s/ Jennifer L. Brough

Jennifer L. Brough

Counsel for Lake Charles Exports, LLC

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

Lake Charles Exports, LLC) Docket Nos. 11-59-LNG
16-110-LNG

REQUEST FOR REHEARING OF LAKE CHARLES EXPORTS, LLC

Pursuant to Section 19(a) of the Natural Gas Act (“NGA”), 15 U.S.C. § 717r(a), and 10 C.F.R. § 590.501, Lake Charles Exports, LLC (“LCE”) submits this request for rehearing of the Department of Energy Office of Fossil Energy and Carbon Management’s (“DOE”) order issued on April 21, 2023, under Section 3 of the NGA, 15 U.S.C. § 717b, denying LCE’s application for a second extension of its deadline to commence exports of liquefied natural gas (“LNG”) from the Lake Charles Terminal liquefaction facility (“Project” or “Liquefaction Project”) to non-free trade agreement countries (the “Denial Order”).¹

I. INTRODUCTION

LCE has relentlessly pursued the development of the Liquefaction Project since 2012, when, as a result of the shale revolution in the United States, a newly abundant supply of natural gas precipitated a dramatic decrease in U.S. natural gas prices, making LNG imports uneconomic. As a result, LCE determined to convert its existing LNG import terminal and regasification facility

¹ *Lake Charles Exports, LLC*, DOE/FE Order No. 3324-C/4011-B, Docket No. 11-59-LNG; 16-110-LNG, Order Denying Application for Second Extension of Deadline to Commence Exports of Liquefied Natural Gas to Non-Free Trade Agreement Countries (Apr. 21, 2023) (“Denial Order”). As described further below, Lake Charles Exports, LLC is the holder of various authorizations from DOE to export LNG from the Lake Charles Terminal. In addition, Lake Charles LNG Export Company, LLC is the holder of various non-additive authorizations from DOE to export LNG from the Lake Charles Terminal. Lake Charles LNG Company, LLC is the owner of the Lake Charles Terminal and is the holder of various authorizations from FERC to own, operate and construct the Lake Charles Terminal. As set out herein, these entities, which are all wholly owned subsidiaries of Energy Transfer LP, and other affiliates of Energy Transfer LP are developing the Project to export LNG from the Lake Charles Terminal. Lastly, on the same date hereof in Docket Nos. 13-04-LNG and 16-109-LNG, Lake Charles LNG Export Company, LLC is filing a substantially similar request for rehearing of the DOE’s order issued on April 21, 2023 denying Lake Charles LNG Export Company, LLC’s application for a second extension of its deadline to commence exports of LNG from the Lake Charles Terminal.

into a liquefaction and export facility. On March 25, 2014, LCE's affiliates commenced the process of obtaining authorizations for the Project from the Federal Energy Regulatory Commission ("FERC"). Since then, the Project has incurred approximately \$350 million of development costs to undertake a wide range of activities as described in more detail below. The Project will also incorporate major existing LNG infrastructure that was constructed in connection with the import terminal and regasification facility, including four LNG storage tanks, two deep water docks capable of handling large LNG vessels, LNG sendout facilities, and other infrastructure on the 152-acre brownfield site.

In the spring of 2020, LCE received bids for the engineering, procurement, and construction ("EPC") of the Liquefaction Project components not already constructed. Those bids came just as the effects of COVID-19 began to cause a major worldwide economic downturn—a downturn that, among other things, almost entirely shut down the demand for long-term LNG contractual commitments by international customers who could not forecast future demand for LNG based on the unknown duration and extent of the impacts of the pandemic. In early to mid-2022, as the effects of COVID-19 began to lessen and worldwide demand for LNG began to increase following Russia's invasion of Ukraine, LCE ramped up its development activities. Among other things, those activities included the process of obtaining new EPC bids, a process that concluded in early May 2023 with final EPC bids from two EPC contractors.

Additionally, LCE has made substantial progress in the commercial development of the Liquefaction Project, as evidenced by fully-executed long-term LNG offtake contracts for 7.9 million tons of LNG per annum, approximately half of the FERC-approved LNG production capacity of the facility. LCE is currently in active discussions with customers related to the remaining capacity. LCE has also initiated the process of obtaining equity financing for the Liquefaction Project as described below. In this regard, LCE has engaged a financial advisor and

has substantially completed the process of obtaining independent consultants' reports necessary for equity and debt financing participants. LCE is also in active discussions with parties for a significant portion of the equity financing necessary for the Project.

LCE is a wholly owned subsidiary of Energy Transfer LP ("Energy Transfer"), a Fortune 100 company with an investment grade rating for its publicly traded debt securities. Energy Transfer also owns and operates one of the largest natural gas pipeline networks in the United States, including Trunkline Gas Company, LLC ("Trunkline"). Trunkline has a pipeline system connected to the Liquefaction Project to facilitate the transportation of natural gas from the Lake Charles LNG Company, LLC ("Lake Charles LNG") regasification and import terminal to various natural gas consumers throughout the United States. To facilitate the Liquefaction Project, Trunkline has secured FERC approval to make major modifications to its Trunkline pipeline system, including the addition of approximately 119,000 horsepower of new compression, the addition of approximately 17 miles of pipeline, modifications at certain compressor stations to enable bi-directional flow, and the addition of interconnects with third party pipelines. In December 2022, FERC issued Trunkline a notice to proceed with construction of the modifications to the four compressor stations to enable bi-directional flow. Trunkline has purchased the necessary equipment and expects delivery from the manufacturer at the end of the summer in order to commence construction by September 2023. This pipeline modification project is an integral component of the Liquefaction Project.

The foregoing examples illustrate just some of the significant progress that has unquestionably been made on the Liquefaction Project, all at a substantial investment of time and resources and despite the unprecedented consequences of the COVID-19 global pandemic. The Project is well advanced, has a strong financial sponsor, has signed up a significant portion of its LNG offtake capacity, is in advanced discussions for the remainder of the LNG production

capacity, and has access to an extensive natural gas pipeline system. LCE also expects that it will select an EPC contractor by mid-June 2023 and enter into an EPC contract by the end of July. And LCE has already commenced certain construction activities, in addition to the construction activities soon to be underway by Trunkline to facilitate the Liquefaction Project.

LCE has expended considerable effort and resources to improve the design of the Project to make it more efficient and to reduce greenhouse emissions, including the incorporation of a carbon capture and sequestration (“CCS”) component to the Project. This CCS component is part of a larger CCS project that Energy Transfer is developing in the Lake Charles, Louisiana area involving the construction by Energy Transfer of a CO₂ pipeline that would transport CO₂ captured at industrial facilities in this area to a sequestration site being developed by a third party. With the CCS component added to the Project, the Project has one of the lowest Scope 1 and Scope 2 emissions of all U.S. LNG projects, including those already constructed and those currently proposed. This Project therefore is completely aligned with the DOE’s objectives of supporting the export of natural gas as a clean energy source in a manner consistent with efforts to reduce greenhouse gas emissions related to LNG exports.

As described in more detail below, LCE has made substantial progress towards construction of the Project, and LCE would have been happy to explain all of this had DOE provided any indication that LCE’s application for a modest, three-year extension of its deadline to commence export operations—which followed FERC’s approval of a similar request and was consistent with LCE’s prior extension application—was in any way insufficient. Regardless, given the substantial demonstrated progress towards construction of the Liquefaction Project, notwithstanding the singular obstacles imposed by the COVID-19 pandemic and taking into account the Project’s alignment with DOE’s stated objectives of promoting the export of natural

gas from an environmentally friendly facility and promoting energy security for our allies around the world, LCE's requested extension is plainly warranted.

II. CONCISE STATEMENT OF ALLEGED ERRORS

Pursuant to 18 C.F.R. § 590.501(b), LCE submits the following statement of alleged errors:

1. Under the standard DOE previously has considered in evaluating extension requests, LCE demonstrated good cause for an extension: LCE showed that FERC had approved an extension of the construction deadline, that it had made substantial progress on the Liquefaction Project despite delays and setbacks caused by the COVID-19 global pandemic, and that an extension was necessary to reach FID and commence the Project. Based on the evidence, approval of the extension is required under NGA section 3. DOE's denial of the extension violates the Administrative Procedure Act and raises concerns regarding lack of due process and impermissible takings. DOE faulted LCE for a "lack of facts," but LCE provided the same level of specificity as in its prior extension application. Had DOE indicated it required greater specificity, LCE easily could have provided more detailed information demonstrating the adverse effects of the pandemic and the substantial progress LCE has nevertheless made, all of which plainly establishes good cause for an extension. LCE also could have resubmitted details contained in required semi-annual reports filed at DOE and FERC concerning the Project's development, of which DOE should have taken administrative notice regardless. DOE also failed to accord any consideration to FERC's approval of a second extension, despite specifically citing FERC's approval of a first extension in DOE's first extension order and in a concurrently issued extension order for another authorization holder. And DOE applied the heightened standard of its new extension policy without any prior notice to LCE.
2. DOE improperly subjected LCE to a heightened standard for its second extension request. DOE declined to grant the extension even though LCE provided information similar to that in its first request; furthermore, DOE concurrently granted a first extension to another authorization holder whose application contained statements similar to those in LCE's second request. DOE also explicitly required a showing of materially greater progress for a second extension request, and it claimed LCE should have filed an amended first request rather than a second request, even though the severe limitations on LCE's ability to make even more progress in the face of the COVID-19 pandemic cannot be denied given the federal government's actions and pronouncements in response to the pandemic. In any event, the relevant statute does not demand greater scrutiny for a second extension request, and if a heightened standard was to be applied, LCE was not provided notice of that heightened standard.
3. DOE failed to account for the fact that granting the extension is consistent with the purpose of the export commencement deadline and is required under the public interest standard of NGA section 3. The deadline is intended to accommodate "unplanned delays," which LCE unquestionably endured in light of the COVID-19 pandemic and other unprecedented global events. Granting the extension would not frustrate the efforts of other potential or actual authorization holders, and DOE did not disagree,

instead acknowledging the progress of many other holders. By contrast, denying the extension would undermine NGA’s statutory policy of promoting LNG exports and conflict with the public interest recognized in authorizing LCE’s exports in the first place.

4. DOE’s interpretation of “good cause” as independent of the public interest standard is inconsistent with its statutory authority under NGA section 3. NGA section 3 states that DOE shall approve an LNG export request unless it is inconsistent with the public interest. Relying solely on a “good cause” standard when evaluating an extension request, as DOE did, has no basis in the statutory text and cannot be a basis for an extension denial that will likely result in a project’s demise, contrary to the public interest.

5. DOE’s denial rested heavily on its policy of establishing an initial seven-year export commencement deadline for LNG export authorizations; however, there is no statutory basis for DOE’s policy of a seven-year export commencement deadline. NGA section 3(a) is silent on the subject of duration, and there is no room for agency gap-filling. The overriding statutory obligation is the NGA section 3 public interest standard, and DOE cannot manufacture an artificial deadline, much less refuse to extend that deadline, to circumvent that congressional command.

III. FACTUAL BACKGROUND

A. LCE’s Export Authorizations

LCE holds the following export authorizations from DOE/FE with respect to exports from the Lake Charles Terminal:

<u>Order No. and Date Issued</u>	<u>Amendment and Date Issued</u>	<u>FTA/Non-FTA</u>	<u>Export Volume Authorized</u>
2987 (July 22, 2011)	2987-A (October 6, 2020)	FTA	730 Bcf/year
3324 (August 7, 2013)	3324-A (July 29, 2016) 3324-B (October 6, 2020)	Non-FTA	730 Bcf/year
4011 (June 29, 2017)	4011-A (October 6, 2020)	FTA and Non-FTA	121 Bcf/year

On December 17, 2015, FERC granted authorization to construct and operate the Project.² FERC set a deadline of December 16, 2020 for completing construction.³

B. LCE’s First FERC Extension

On August 30, 2019, LCE requested that FERC extend the deadline for completing construction of the Project to December 16, 2025.⁴ LCE noted that the then-sponsors of the Project—subsidiaries of Energy Transfer and Shell Oil Company—had “encountered an unforeseen delay” in the original construction schedule due to a complex merger that required the negotiation of new project agreements.⁵ Nevertheless, LCE explained that the parties “have been actively progressing the Project and have incurred substantial costs since obtaining the authorization.”⁶ Among other things, the parties had secured all required authorizations and permits, taken tangible steps toward construction, executed contracts with EPC contractors for engineering design, engaged prospective EPC bidders in a competitive bid process for the construction of the LNG export terminal facilities, and spent approximately \$300 million in development costs as of such time.⁷ As a result, the parties expected to reach a financial investment decision (“FID”) “as early as the end of 2020,” with construction completed as early as the second

² See *Trunkline Gas Company, LLC, et al.*, 153 FERC ¶ 61,300 (2015), *order denying reh’g*, 155 FERC ¶ 61,328 (2016).

³ *Id.* at Ordering Paragraph (L).

⁴ *Trunkline Gas Company, LLC, et al.*, Docket Nos. CP14-119-000, CP14-120-000, and CP14-122-000, Request for Extension of Time, at 1 (Aug. 30, 2019) (“2019 FERC Extension Application”).

⁵ *Id.* at 2.

⁶ *Id.* at 1.

⁷ *Id.* at 2.

half of 2025.⁸ On December 5, 2019, FERC granted the request and extended the deadline for construction of the Project to December 16, 2025.⁹

C. LCE’s First DOE Extension

On March 4, 2020, LCE filed an application with DOE seeking to extend DOE’s original seven-year export commencement deadline to match FERC’s December 16, 2025 construction deadline.¹⁰ Specifically, LCE sought an extension of the export authorization “[i]n light of FERC’s extension,” explaining that an extension was “necessary to align the existing DOE/FE export authorizations with the FERC construction authorization.”¹¹ As in its FERC request, LCE noted that there had been an “unforeseen delay” in the original construction schedule due to the merger, but explained that the sponsors “have been actively progressing the Project and have incurred substantial costs” since obtaining export authorization, including securing all required permits, taking tangible steps toward construction, completing engineering and design, inviting EPC contractors for construction, and spending approximately \$300 million to date.¹² LCE observed that “a precondition of FID is that all authorizations remain in full force and effect,” and “[b]efore taking FID it is vital that the sponsors have assurances that all authorizations will remain valid” through the completion of construction.¹³ Additionally noting that the extension was not

⁸ *Id.*

⁹ *Trunkline Gas Company, LLC, et al.*, Docket Nos. CP14-119-000, CP14-120-000, and CP14-122-000, Letter Order Granting Extension of Time (issued Dec. 5, 2019).

¹⁰ *Lake Charles Exports, LLC*, Docket Nos. 11-59-LNG and 16-110-LNG, Application for Amendment to Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries (Mar. 4, 2020) (“2020 DOE Extension Application”).

¹¹ *Id.* at 4.

¹² *Id.* at 7-9.

¹³ *Id.* at 9.

inconsistent with the public interest, LCE thus requested an extension to December 16, 2025 “to align with the FERC Extension Order.”¹⁴

On October 6, 2020, DOE granted LCE’s request, issuing an order stating that LCE had shown “good cause” for extending the commencement deadline for each of LCE’s non-FTA export authorizations to December 16, 2025.¹⁵ DOE noted at the outset that “FERC already has extended the in-service deadline for the Liquefaction Project through December 16, 2025.”¹⁶ Next, DOE determined that extending the commencement deadline does not alter DOE’s prior public interest determination in granting the authorizations, because “[n]o facts associated with LCE’s original applications ... are affected by this extension beyond the additional time period for LCE to commence export operations.”¹⁷ DOE also concluded that “LCE is working to complete the export facilities necessary to commence its approved exports, which promotes the public interest.”¹⁸ Finally, DOE observed that “[w]ithout the requested extension of the commencement deadlines, the non-FTA authorizations would lapse before construction of the Liquefaction Project is completed,” and thus “absent the requested amendments,” the Project “likely would fail.”¹⁹ “On the basis of” these reasons, DOE concluded that granting the extension “has not been shown to be inconsistent with the public interest,” and it granted the extension.²⁰

¹⁴ *Id.* at 2, 6-7.

¹⁵ *Lake Charles Exports, LLC*, DOE/FE Order Nos. 2987-A, 3324-B, 4011-A, Docket Nos. 11-59-LNG and 16-110-LNG, Order Granting Application to Amend Long-Term Authorizations, at 5-8 (issued Oct. 6, 2020) (“2020 DOE Extension Order”).

¹⁶ *Id.* at 6.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 6-7; *see also id.* at 7 n.24 (“explaining [the] importance of maintaining authorizations to reach FID”).

²⁰ *Id.* at 7.

D. LCE’s Second FERC Extension

On January 31, 2022, LCE requested from FERC a second extension of its construction deadline, this time to December 16, 2028.²¹ LCE explained that, since its first extension request in August 2019, the COVID-19 global pandemic had created “difficulties in securing long-term offtake contracts,” given the “uncertainty of future LNG demand resulting from declines in economic activity around the world.”²² Indeed, on March 30, 2020—several weeks into the pandemic—Shell withdrew as a Project sponsor due to the uncertainties related to COVID-19.²³ Additionally, “increased trade tensions” in the preceding years had produced “increased tariffs between countries and other changes to international trade policies.”²⁴ In short, LCE explained, “global events over the past three years” had created an “extremely challenging environment for construction of large-scale infrastructure projects and execution of international commercial agreements,” affecting the Project.²⁵ As the effects of COVID-19 started to recede in the spring of 2022 and the war in Ukraine commenced in February 2022, LCE actively pushed the commercial development of the Project and was successful in securing long-term offtake contracts with several international customers. In this regard, LCE noted that it had “made significant progress towards execution of commercial agreements” with offtake customers, and it was “in active negotiations with several international customers for significant volumes of LNG under long-term offtake contracts,” in addition to all of the progress it had previously made.²⁶ It noted,

²¹ See *Lake Charles LNG Company, LLC, et al.*, Docket Nos. CP14-119-002 and CP14-120-002, Request for Extension of Time (Jan. 3, 2022) (the “2022 FERC Extension Application”).

²² *Id.* at 2.

²³ *Id.* at 1 n.2.

²⁴ *Id.* at 2.

²⁵ *Id.*

²⁶ *Id.* at 1, 2.

however, that “such agreements and the resulting FID are contingent on a deadline that enables the Project to be in service within such timeframe”; one of FID’s preconditions is that all authorizations remain in effect during construction, so without an extension, “the Project would not likely be able to get to FID.”²⁷

On May 6, 2022, over objections by third parties, FERC granted the second extension, setting a new deadline of December 16, 2028.²⁸ FERC determined that “good cause” warranted an extension because “the companies are actively pursuing securing long-term offtake contracts with prospective customers,” are “completing front-end engineering design with engineering, procurement, and contracting companies,” and “state that they remain committed to completing the project,” with “several hundreds of millions of dollars spent on the development of the project as evidence of their good faith efforts.”²⁹ In FERC’s view, the “unforeseeable impacts of the COVID-19 pandemic combined with [LCE’s] continued interest in the project satisfy” the “good cause” standard, warranting a three-year extension to complete construction.³⁰ FERC added that “[e]xtending the deadline to construct the project and place it into service by 2028 will not undermine the Commission’s findings in the Authorization Order that the project is required by the public convenience and necessity and is not inconsistent with the public interest.”³¹

²⁷ *Id.*

²⁸ *Lake Charles LNG Company, LLC, et al.*, 179 FERC ¶ 61,086 (issued May 6, 2022) (“2022 FERC Extension Order”).

²⁹ *Id.* at 10.

³⁰ *Id.* at 10-11.

³¹ *Id.* at 5.

E. LCE’s Request for a Second DOE Extension

On June 21, 2022, LCE sought from DOE a similar three-year extension of its commencement deadline to December 16, 2028.³² As in its first request for a DOE extension, LCE noted that FERC had just granted an extension and that a DOE extension was “necessary to align the existing DOE/FE export authorizations with the FERC construction authorization.”³³ And as in its recent request for a second FERC extension, LCE specified how “global events over the past few years” had created an “extremely challenging environment for construction of large-scale infrastructure projects and execution of international commercial agreements.”³⁴ For example, the COVID-19 global pandemic had produced “difficulties in securing long-term offtake contracts” given the “uncertainty of future LNG demand resulting from declines in economic activity around the world,” and “increased trade tensions” had resulted in “increased tariffs between countries and other changes to international trade policies.”³⁵ Yet LCE noted that the Project’s sponsor nevertheless “has made significant progress towards reaching a Final Investment Decision,” including “executing several long-term agreements,” in addition to all prior progress.³⁶ As in its request for a second FERC extension, LCE also explained that “such agreements and the resulting FID are contingent on a commencement deadline” that enables the Project to be in service “within the timeframe reflected in the FERC authorization, which is December 16, 2028”; that one of FID’s preconditions is that all authorizations remain in effect during construction; and that

³² *Lake Charles Exports, LLC*, Docket Nos. 11-59-LNG and 16-110-LNG, Application for Amendment to Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries (Jun. 21, 2022) (“2022 DOE Extension Application”).

³³ *Id.* at 5.

³⁴ *Id.* at 6.

³⁵ *Id.*

³⁶ *Id.*; see also *id.* at 13, 20 (attaching 2022 FERC Extension Order).

“[c]omplex FID financing arrangements require an extension of the deadline now, which recognizes the full schedule to reach in-service, prior to advancing to a FID and starting full-scale construction.”³⁷

LCE also noted that, in granting the first extension, DOE had found “good cause” because (1) FERC had already granted a similar request, (2) extending the deadline would not alter DOE’s public interest determination, and (3) none of the facts supporting LCE’s original applications would be impacted by the extension.³⁸ LCE explained that “none of these findings” had changed.³⁹ Nor would any entity “be prevented from obtaining export authorization if DOE/FE were to grant the requested extension”; accordingly, granting the extension would not be “inconsistent with the public interest.”⁴⁰

On July 27, 2022, DOE published a notice of LCE’s Application in the *Federal Register*,⁴¹ and two groups filed motions to intervene and protests in August 2022: (i) the Industrial Energy Consumers of America⁴² and (ii) a consortium including Sierra Club, Louisiana Bucket Brigade, and Healthy Gulf.⁴³ LCE responded to both filings.⁴⁴

³⁷ *Id.* at 7 & n.11 (citing 2022 FERC Extension Order at 10).

³⁸ *Id.* at 7.

³⁹ *Id.*

⁴⁰ *Id.* at 7, 8, 10.

⁴¹ U.S. Dep’t of Energy, Lake Charles Exports, LLC, Application to Amend Existing Long-Term Authorizations to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries, 87 Fed. Reg. 45,091 (July 27, 2022).

⁴² *Industrial Energy Consumers of America*, Docket Nos. 11-59-LNG and 16-110-LNG, Notice of Intervention, Protest, and Comment (Aug. 11, 2022).

⁴³ *Sierra Club, et al.*, Docket Nos. 11-59-LNG and 16-110-LNG, Motion to Intervene and Protest of Sierra Club, Louisiana Bucket Brigade, and Healthy Gulf (Aug. 11, 2022).

⁴⁴ *Lake Charles Exports, LLC, et al.*, Docket Nos. 11-59 LNG, *et al.*, Answer of Lake Charles Exports, LLC and Lake Charles LNG Export Co., LLC to the Protests of the Industrial Energy Consumers of America and Sierra Club (Aug. 23, 2022).

F. DOE’s New Extension Policy and Its Denial of LCE’s Request for a Second Extension

On April 21, 2023, DOE issued a policy statement in which it announced for the first time a new standard for requests for extension of export commencement deadlines in non-FTA orders.⁴⁵ DOE stated that it will no longer consider an application for an extension of an authorization holder’s commencement deadline unless the holder is able to demonstrate both that “the authorization holder (or its affiliate) has physically commenced construction on the associated export facility before the request for additional time to commence exports is made,” and that “[t]he authorization holder’s inability to comply with its export commencement deadline is the result of extenuating circumstances outside the authorization holder’s control, including but not limited to acts of God.”⁴⁶

The Policy Statement also outlined new evidentiary standards for extension requests. DOE stated that authorization holders would have to submit certain documents to support the two-part demonstration, including, but not limited to: “(i) a copy of its most recent status report or other update submitted to FERC ... describing the current construction status of the export facility; (ii) a verified statement of the construction costs incurred to date, as compared to the total projected costs for construction; and/or (iii) documentation showing that the contractor has met one or more completion targets under the relevant engineering, procurement, and construction agreement.”⁴⁷ DOE explained that the Policy Statement would not apply to extension applications filed before

⁴⁵ Policy Statement on Export Commencement Deadlines in Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries, 88 Fed. Reg. 25,272 (signed on Apr. 21, 2023) (the “Policy Statement”).

⁴⁶ *Id.* at 25,277.

⁴⁷ *Id.*

April 21, 2023.⁴⁸ Instead, DOE promised to “review and act on those applications” using its prior policy.⁴⁹

That very same day, April 21, 2023, DOE denied LCE’s request for a second extension. DOE determined that LCE had not shown “good cause” under NGA section 3(a) for its “unprecedented” second extension application.⁵⁰ Concluding that there was a “lack of facts to justify [a] second extension,” DOE stated that (i) LCE’s “generalized statements” regarding the impact of COVID-19 and international trade difficulties did not “demonstrate with specificity how, in fact, the development and construction of the Liquefaction Project has been delayed by global events since LCE’s first extension application”; and (ii) LCE failed to “provide evidence” of actions taken to advance the Liquefaction Project since its first extension in 2020, “other than LCE entering into several long-term offtake contracts,” which did not constitute “significant progress toward the physical completion of” the Project.⁵¹ DOE also noted that other authorization holders had commenced exports or reached FID and commenced construction within seven years of receiving DOE authorization, some “during the COVID-19 pandemic.”⁵² DOE disregarded FERC’s recent approval of an extension, stating “there can be no expectation of one-for-one deadline extensions between FERC and DOE.”⁵³ Finally, DOE stated that while it was not “taking

⁴⁸ *Id.* at 25,278.

⁴⁹ *Id.*

⁵⁰ Denial Order at 13-14.

⁵¹ *Id.* at 14-15.

⁵² *Id.* at 16-17.

⁵³ *Id.* at 18.

action” under its new Policy Statement, “some of the reasoning from the Policy Statement informs DOE’s reasoning in” its Denial Order.⁵⁴

IV. REHEARING ARGUMENT

A. LCE Demonstrated Good Cause for an Extension, and DOE’s Order Denying the Extension is Arbitrary and Capricious and Raises Grave Constitutional Concerns.

LCE’s 2022 Extension Application established “good cause” under the standards applicable to all extension requests predating the Policy Statement. As the Policy Statement explains, prior to the agency’s April 21, 2023 change in policy, DOE considered the same general factors in evaluating whether a request for an extension established “good cause”: (1) whether FERC had approved an extension of its own construction and in-service deadline for the proposed facility; (2) whether project-specific facts warranted an extension, including progress towards completion of the proposed facility, the amount of time requested, and any unique delays and challenges faced by the authorization holder; and (3) consideration of any responses received during the application’s comment period.⁵⁵ DOE also considered whether extending the export commencement deadline would alter DOE’s original “public interest” determination in granting the underlying non-FTA authorization.⁵⁶ Unlike the policy articulated on April 21, 2023, DOE’s prior standards did not include an explicit evidentiary requirement; instead, DOE relied on the representations in the application itself as well as on FERC’s order evaluating and approving the extension request.

⁵⁴ *Id.* at 5 n.26.

⁵⁵ Policy Statement at 25,275-76 n.39. DOE has previously treated the following as demonstrating progress on the proposed facility: (1) obtaining all required federal, state, and local authorizations; (2) conducting or completing front-end engineering and design; (3) awarding EPC contracts for the facility; and (4) receiving authorization from FERC to proceed with site clearance.

⁵⁶ *Id.* at 25,276.

Here, LCE’s 2022 Extension Application plainly satisfied the standards DOE applied for applications predating the Policy Statement. In its application, LCE noted that FERC had recently evaluated and approved LCE’s construction deadline extension to December 16, 2028 (over opposition, no less).⁵⁷ LCE explained that, in addition to the substantial progress made on the Project as described in its 2020 Extension Application, it had executed “several long-term offtake contracts” critical to reaching FID, despite the unprecedented adverse impact of COVID-19 and corresponding uncertainty in the global LNG market. LCE also attached the FERC 2022 Extension Order, which provided further detail regarding the company’s progress and significant expenditures on the project.⁵⁸ And it underscored the importance of an extension to the Project and thus to the public interest, explaining that its offtake contracts and the resulting FID are contingent on an extended deadline.⁵⁹ In addition, LCE is required to file with DOE on a semi-annual basis a report detailing the actions that have been taken to progress the Project.⁶⁰ LCE filed one such report on April 1, 2022, shortly before it filed its Second Extension Application, and it filed two additional reports on October 4, 2022, and April 3, 2023, while its application was pending. These reports detailed the extensive construction-related progress and other actions that have recently taken place in furtherance of the Project.⁶¹ This information is more than enough to satisfy the “good cause” standard for an extension that DOE had previously applied.

⁵⁷ See 2022 DOE Extension Application at 2-3, 5-6.

⁵⁸ See *id.* at 11-25.

⁵⁹ *Id.* at 7.

⁶⁰ *Lake Charles Exports, LLC*, DOE/FE Order Nos. 3252 (issued Mar. 7, 2013), at 13 and 3868 (issued July 29, 2016), at 167, Docket No. 13-04-LNG.

⁶¹ See *Lake Charles Exports, LLC*, Docket No. 11-59-LNG, Semi-Annual Report (Apr. 3, 2023), at 2-5 (the “2023 Semi-Annual Report”); Semi-Annual Report (Oct. 4, 2022) (the “October 2022 Semi-Annual Report”), at 2-5; Semi-Annual Report (Apr. 1, 2022) (the “April 2022 Semi-Annual Report”), at 2-4.

In denying LCE's request, DOE ignored the evidence, departed from its prior practice and reasoning, and applied new standards without prior notice, all in violation of the Administrative Procedure Act, 5 U.S.C. § 700 *et seq.*, and raising serious constitutional concerns of lack of due process and of impermissible takings.

First, in denying LCE's extension, DOE reasoned that (i) LCE's "generalized statements" regarding the impact of COVID-19 did not "demonstrate with specificity how, in fact, the development and construction of the Liquefaction Project has been delayed by global events since LCE's first extension application"; and (ii) LCE failed to "provide evidence" of actions taken to advance the Project since its first extension in 2020, other than entering into several long-term offtake contracts.⁶² Prior to issuing the Policy Statement, however, DOE consistently relied on similarly general representations contained in an authorization holder's extension application regarding development progress, and it did not require an applicant to "provide evidence."

If, in a departure from its prior practice, DOE required a more detailed description of the adverse effects of the COVID-19 pandemic on the Project, or more specific information regarding the progress that LCE had made on the Project despite that singularly historic event, it merely needed to ask—or consult the very reports that LCE regularly files with it pursuant to DOE orders. And LCE would have been happy to provide DOE with this material or point DOE to it, particularly in light of LCE's significant ongoing activities to develop the Project (as described below). But DOE never requested any such additional information—let alone indicated that it was important or necessary for approval of the requested extension.

As for the impact of COVID-19, given that the global pandemic disrupted all aspects of daily life, it should come as no surprise that it wreaked particular havoc on large-scale

⁶² Denial Order at 15.

infrastructure projects like the Project. Among other deleterious effects of the COVID-19 pandemic on the Project:

- LCE had entered into a development agreement with Shell pursuant to which LCE and Shell were co-developers of the Project utilizing LCE's existing LNG import terminal. In April 2020, however, Shell announced that it was withdrawing from the Project, citing the COVID-19 pandemic. This withdrawal had an adverse impact on attracting customers to the Project due to the prominence of Shell as a leading LNG industry participant.⁶³
- To obtain financing for an undertaking of the magnitude of the Project (with expected construction costs in excess of \$10 billion), LCE needs to obtain long-term sales contracts with creditworthy customers that would provide the cash flow stream required to service debt or provide equity returns for investment on financing to be incurred to pay for construction costs. LNG customers enter into long-term LNG purchase contracts only if they are convinced there will be sufficient demand for the LNG over the course of 15-20 years, the typical duration of a long-term LNG sales and purchase contract. During the COVID-19 pandemic, however, LNG customers could not predict with any degree of confidence the long-term demand for natural gas in their markets or for their individual business needs. As a result, the LNG long-term contract market was frozen for nearly three years.⁶⁴
- The COVID-19 pandemic caused significant supply chain issues that resulted in severe shortages of LNG critical equipment, particularly electrical components, heat exchangers, turbines and compressors, as well as substantial increases in the cost of materials. These issues ultimately led to the determination by EPC contractors that they could not honor prior EPC bids but would need to commence a 9-month process to solicit updated bids from every supplier of materials and parts for the Project. This process for obtaining new bids was time-consuming and arduous and cost LCE millions of dollars.⁶⁵

With respect to more detailed evidence of progress towards completion of the Project, as a threshold matter, demonstrating the execution of additional offtake contracts should have itself been sufficient, particularly given the context in which those new contracts arose. In February 2022, Russia invaded Ukraine, triggering reactive European sanctions that, in turn, disrupted natural gas supplies previously transported by pipeline from Russia to Europe. Because Russia

⁶³ Declaration of Thomas P. Mason at ¶ 7 (“Declaration”), which is attached as Attachment 1.

⁶⁴ *Id.* at ¶ 8.

⁶⁵ *Id.* at ¶ 9.

was a major supplier of natural gas and LNG to Europe and Asia, the sanctions raised concerns by international markets dependent upon natural gas as a major source of energy for power generation, industrial usage, and home heating. This major market development had a significant positive impact on the willingness of LNG customers to overcome their concerns regarding global economic conditions caused by COVID-19, leading them to commit to long-term LNG offtake contracts and resulting in LCE executing the long-term agreements to which its 2022 Extension Application referred.⁶⁶ DOE is well aware that the successful completion of an LNG project requires a critical mass of long-term offtake contracts that will provide a revenue source sufficient to support the financing necessary to pay for the EPC costs (which, in the case of LCE, will exceed \$10 billion), an EPC contract with a capable and experienced EPC contractor, financing arrangements that provide funding during the construction period, and receipt of all regulatory approvals.

In this regard, securing long-term offtake contracts is the foundation for completing an LNG project. Under DOE's existing policy for evaluating extension requests, which DOE specifically stated in its Denial Order is the standard applicable to LCE's extension request, the extension applicant is required to show "progress towards completion of the project," which, in the case of LCE, was clearly demonstrated by the facts cited in its 2022 Extension Application, including the execution of several long-term offtake contracts, as well as the other facts described herein which include activities before and after the filing of the 2022 Extension Application. In spite of the specific recognition that LCE's 2022 Extension Application is not subject to DOE's new Policy Statement, DOE applied a new standard to the 2022 Extension Application which

⁶⁶ *Id.* at ¶ 10.

includes a requirement of “*significant* progress toward the *physical completion* of the” Project.⁶⁷ Even applying this new standard, the execution of these long-term agreements in and of itself demonstrated significant progress toward completion of the Project.

Regardless, had DOE indicated a departure from its prior standard and requested or required further information showing the Project’s progress, LCE would have further emphasized the following, including evidence of the physical construction of the Project:

- LCE has already constructed four LNG storage tanks—three with a capacity of 95,000 cubic meters and one with a capacity of 140,000 cubic meters—with a total combined storage capacity of 425,000 cubic meters, two deep water loading docks and other LNG related infrastructure at the Project site, all of which will be integral components of the Project.⁶⁸
- The Project has incurred an aggregate of approximately \$350 million in development costs and expenses, more than *\$50 million* of which was incurred *after* receiving the first extension.⁶⁹
- LCE has continued to expend significant manpower resources on improving the design of the liquefaction facility as well as developing detailed project execution plans covering all aspects of the construction of the liquefaction facility, resulting in more than 1,316 pages of documentation. These execution plans have been developed with input from the two EPC firms bidding to perform the EPC work for the Project, and they have been vetted with the Wood Group, a third-party engineering and construction firm acting as the owner’s engineer for the Project. The execution plans are an integral component of the construction plans for the Project, as they are incorporated into the EPC contract and govern LCE’s oversight of the Project’s construction.⁷⁰
- LCE has entered into contracts with one of the EPC contractors to provide engineering design work for the Project. Additionally, LCE has continued to work with one of the EPC contractors to update design plans to accommodate component sourcing changes, update the scope of the carbon dioxide treatment and capture plans, and conduct laser

⁶⁷ Denial Order at 15 (emphases added).

⁶⁸ Declaration at ¶ 11.

⁶⁹ *Id.* at ¶ 12.

⁷⁰ *Id.* at ¶ 13.

scans of, and construct a 3D software model plan for, the existing facility to support design integration.⁷¹

- LCE has engaged the two EPC contractors to provide updated EPC bids. As noted, this nine-month process was necessary given severe supply-chain disruptions and increased costs stemming from the COVID-19 pandemic; it commenced in August 2022, required the contractors to solicit updated bids from every supplier, and culminated in the receipt of final bids in early May 2023. Concurrently, LCE has been negotiating EPC contracts with the two contractors, with the expectation that an EPC contractor will be selected by mid-June 2023 and the EPC contract will likely be signed by the end of July.⁷²
- LCE added a carbon capture and sequestration component to the Project, which is supported by the plans of LCE's parent company, Energy Transfer, to develop a regional carbon capture and sequestration project that involves the capture of carbon dioxide from a number of industrial facilities in the vicinity of Lake Charles, Louisiana, transporting that captured carbon dioxide by pipeline, and sequestering it in a sequestration well. In addition, LCE has done extensive engineering and design work to reduce Scope 1 and Scope 2 greenhouse gas emissions (making the Project one of the most environmentally friendly LNG projects in the United States). And Energy Transfer has been pursuing a hydrogen/ammonia project that would be co-located on LCE-controlled land adjacent to the proposed Project. Several of LCE's prospective LNG offtake customers have engaged in discussions with Energy Transfer regarding this hydrogen/ammonia project, including the potential integration of long-term offtake commitments for both LNG and hydrogen/ammonia.⁷³
- Energy Transfer has more than 40 employees actively working on the Project in the areas of engineering and construction, finance, commercial development, legal, public relations, and government affairs, as well as a number of third-party consulting firms providing services related to engineering and construction, commercial development, and finance.⁷⁴
- LCE has received authorizations from FERC and has performed ground disturbance construction at the Project site, including tree clearing of 150 acres, construction of test piles, and installation of erosion control devices.⁷⁵ After completion of such

⁷¹ *Id.* at ¶ 14.

⁷² *Id.* at ¶ 15.

⁷³ *Id.* at ¶ 16.

⁷⁴ *Id.* at ¶ 17.

⁷⁵ *Id.* at ¶ 18; *see also* *Trunkline Gas Company, LLC, et al.*, Letter Order Approving Notice to Proceed with Tree Clearing of the Liquefaction Facility Site, Docket Nos. CP14-119-000, CP14-120-000, and CP14-122-000 (issued Feb. 23, 2016); *Trunkline Gas Company, LLC, et al.*, Letter Order Approving Notice to Proceed with Test Piles, Docket Nos. CP14-119-000, CP14-120-000, and CP14-122-000 (issued Feb. 26, 2016).

construction, FERC conducted inspections of the construction and filed Construction Inspection Reports.⁷⁶

- LCE has received authorization from FERC for site preparation work, including geotechnical investigations, site clearing, relocation of an existing road and an existing pipeline and the plugging of an oil and gas well on the site. In early 2023, LCE completed initial geotechnical and certain aspects of additional site clearing work. LCE has also executed contracts with third-party construction contractors to implement the remaining FERC-approved site preparation work.⁷⁷
- To facilitate the Project, Trunkline has secured FERC approval to make major modifications to the Trunkline pipeline system, including the addition of approximately 119,000 horsepower of new compression, the addition of approximately 17 miles of pipeline, modifications at certain compressor stations to enable bi-directional flow and the addition of interconnects with third party pipelines.⁷⁸ FERC issued Trunkline a notice to proceed with construction and expects delivery from the equipment manufacturer at the end of the summer in order to commence construction by September 2023. This pipeline modification project is an integral component of the Liquefaction Project.⁷⁹
- LCE has continued to maintain and improve existing LNG infrastructure at the Project site. From July to December 2022, LCE repaired damage to its East Dock stemming from Hurricanes Laura and Delta; fixed damaged utility water fittings and valves at 41 locations throughout the site; performed maintenance clearing of the site; and completed the first phases of projects to repair perimeter piles and ameliorate corrosion at certain LNG tanks.⁸⁰
- In addition to the offtake contracts mentioned in its extension application, LCE has entered into a 20-year offtake contract to supply Shell with 2.1 million tons of LNG per annum.⁸¹
- In all, LCE has fully-executed long-term LNG offtake contracts for 7.9 million tons of LNG per annum—approximately half of the FERC-approved LNG production capacity of the facility—and is in advanced discussions with several other LNG customers that

⁷⁶ Declaration at ¶ 18; *see also Trunkline Gas Company, LLC, et al.*, Construction Inspection Report, Docket Nos. CP14-119-000, CP14-120-000, and CP14-122-000 (Mar. 29, 2016); *Trunkline Gas Company, LLC, et al.*, Construction Inspection Report, Docket Nos. CP14-119-000, CP14-120-000, and CP14-122-000 (Jun. 22, 2016).

⁷⁷ Declaration at ¶ 19.

⁷⁸ *Id.* at ¶ 20; *see also Trunkline Gas Company, LLC, et al.*, Letter Order Authorizing Construction of Certain Pipeline Modifications to Enable Bi-Directional Flow etc., Docket Nos. CP14-119-000, CP14-120-000, and CP14-122-000 (issued Dec. 9, 2022).

⁷⁹ Declaration at ¶ 20.

⁸⁰ *Id.* at ¶ 21.

⁸¹ *Id.* at ¶ 22.

it expects will result in long-term offtake contracts for substantially all of the remaining uncommitted LNG production capacity.⁸²

- LCE has engaged a financial advisor related to arranging financing for the project. LCE has also engaged several consultants to prepare detailed subject matter reports essential for prospective lenders and equity participants; these consultants include an independent engineering consultant, an independent marketing consultant, and an independent environmental consultant. These reports have required months of extensive work by the respective consultants, and their reports are in nearly final form, with final reports expected to be delivered to LCE by the end of May 2023.⁸³
- LCE is in active discussions with partners for a significant portion of the equity financing necessary for the Project.⁸⁴

A full review of all of the construction-related activities regarding the Project reported to DOE and FERC is provided in an attached chart.⁸⁵

The foregoing activity unquestionably establishes sufficient “progress toward completion” of the Project to warrant a second extension of the commencement deadline. To be sure, some of this progress was made after LCE’s submission of its extension application in June 2022. But LCE could easily have provided that information—or any additional information—at any point during the ten months that its application was pending had it known that DOE intended to take the unprecedented step of denying an extension request because of a purported “lack of facts.” Indeed, shortly before filing its 2022 Extension Application, and twice while that request was pending, LCE filed required reports with DOE describing in detail the progress on the Project.⁸⁶ Lake Charles LNG also files monthly and semi-annual reports with FERC detailing all actions taken to maintain, repair, and upgrade the existing import facilities that LCE will use for its export

⁸² *Id.*

⁸³ *Id.* at ¶ 23.

⁸⁴ *Id.* at ¶ 24.

⁸⁵ *See* Declaration, Exhibit A.

⁸⁶ *See supra* at n.61.

operations.⁸⁷ DOE could have easily taken administrative notice of these reports and their contents detailing progress on the Project, just as it has done when evaluating other extension requests.⁸⁸ For DOE instead to say nothing, disregard publicly filed reports (including those in its own possession), and request no further information—leaving LCE with the impression that DOE found no issues with its extension request—and then turn around and deny the extension based on a “lack of facts” constitutes arbitrary and capricious agency action.

DOE’s denial based on “lack of facts” is all the more unreasonable given that without the requested extension, “the non-FTA authorizations would lapse before construction of the Liquefaction Project is completed,” and thus “absent” the extension, the Project “likely would fail,” as DOE itself acknowledged in granting LCE’s first extension request.⁸⁹ The Project is on a strong path to reach FID by the end of 2023.⁹⁰ That result, however, depends on obtaining the extension of the export authorization commencement deadline; otherwise, like a classic bank run, would-be customers and investors will become spooked, pull out of the Project, and the Project will fail. Indeed, LCE has already lost a potential customer as a result of DOE’s recent denial.⁹¹ And opponents of the Project have cheered DOE’s denial as “effectively shut[ting] down” the Project.⁹² Just as DOE concluded in late 2020, therefore, “absent” the extension, the Project will

⁸⁷ See e.g., *Trunkline Gas Company, LLC, et al.*, monthly status reports at FERC Accession Numbers 20221018-5138 and 20230310-5210, Docket Nos. CP14-119-000, CP14-120-000, and CP14-122-000; see also semi-annual reports at FERC Accession Numbers 20220822-5154 and 20230210-5157.

⁸⁸ See *Port Arthur LNG, LLC*, Docket No. 15-53-LNG, et al., Order Granting Application to Extend Term to Begin Exports of Liquefied Natural Gas to Free Trade Agreement Countries and to Extend Deadline to Commence Exports to Non-Free Trade Agreement Countries, at 8, 12-13 (Apr. 21, 2023) (“PALNG Extension Order”) (taking administrative notice of PALNG’s announcement of phase one FID and then-current capital expenditure amount).

⁸⁹ 2020 DOE Extension Order at 6-7.

⁹⁰ Declaration at ¶ 25.

⁹¹ *Id.*

⁹² *Id.*

“likely fail.” And because denial of the extension will likely result in the demise of the Project, the hundreds of millions of dollars that have already been spent will be a total loss, raising serious constitutional questions concerning a lack of due process and impermissible takings.⁹³

Second, DOE’s refusal to accord any consideration to the second extension granted by FERC—as well as FERC’s expertise and the findings in its determination—is a clear departure from prior DOE policy and precedent. DOE simply declared in the Denial Order that “there can be no expectation of one-for-one deadline extensions between FERC and DOE.”⁹⁴ DOE went on to state that while “an authorization holder obtaining an extension of its FERC deadline is a prerequisite to DOE considering an extension of the export commencement deadline,” that “does not mean ... that DOE has an obligation to match every FERC extension.”⁹⁵

But there is a substantial difference between, on the one hand, refusing to treat FERC’s determination as dispositive for DOE’s statutory decisionmaking and, on the other hand, disregarding FERC’s determination, findings, and analysis altogether. DOE’s “good cause” inquiry has always taken into account, at least in part, FERC’s judgments as the agency responsible for evaluating, among other things, market conditions related to LNG facility construction and operation. In granting LCE’s first extension request, for example, DOE reasoned that “FERC already has extended the in-service deadline for the Liquefaction Project through December 16,

⁹³ See, e.g., *Hersh v. U.S. ex rel. Mukasey*, 553 F.3d 743, 753-54 (5th Cir. 2008) (explaining that, “[u]nder the doctrine of constitutional avoidance, ‘where an otherwise acceptable construction of a statute would raise serious constitutional problems, the Court will construe the statute to avoid such problems’” (quoting *Edward J. DeBartolo Corp. v. Fla. Gulf Coast Bldg. & Constr. Trades Council*, 485 U.S. 568, 575 (1988))); *Peltier v. Assumption Par. Police Jury*, 638 F.2d 21, 22 (5th Cir. 1981) (recognizing the “obligation” to “avoid constitutional confrontation whenever possible”).

⁹⁴ Denial Order at 18.

⁹⁵ *Id.* at 18 & n.93 (citing *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961, Docket No. 10-111-LNG, Opinion and Order Conditionally granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations, at 33 (Term and Condition E) (May 20, 2011)) (noting that DOE’s seven-year period ... is longer than FERC’s standard five-year ... deadline, precisely ... to allow for unanticipated delays in the approval and construction process for the export facility.”).

2025.”⁹⁶ And in its Port Arthur LNG, LLC (“PALNG”) extension approval order, issued the same day that DOE denied LCE’s second extension request, DOE noted its “responsibility to independently evaluate any application to extend the deadline by which exports must commence from the Project,” but “nonetheless t[ook] into account the reasoning set forth by FERC in its Extension Order.”⁹⁷ DOE did not do so here.

Given that DOE and FERC authorization are both necessary to develop and construct LNG facilities, principles of reasoned decisionmaking demand that DOE articulate its reasons for disagreeing with FERC’s findings supporting an extension. At a minimum, ignoring FERC’s determination and reasoning altogether, as DOE did in the Denial Order, disregards important record evidence and reflects arbitrary decisionmaking. DOE’s conclusory dismissal of FERC’s approval underscores DOE’s failure to engage in reasoned analysis contrary to the requirements of the Administrative Procedure Act.⁹⁸

Third, a plain reading of the text of the Denial Order indicates DOE applied a version of the Policy Statement’s new, more rigorous standard to LCE’s extension request, despite no prior notice to LCE that it would have to satisfy that new standard. DOE admitted that the Policy Statement “inform[ed]” the agency’s reasoning in the Denial Order⁹⁹ and devoted an entire section of the Denial Order—titled “Consistency With DOE Policy Statement”—to describing why it must now enforce commencement periods without delay, all while observing that the Policy Statement

⁹⁶ 2020 DOE Extension Order at 6.

⁹⁷ PALNG Extension Order at 12.

⁹⁸ *See Jupiter Energy Corp. v. FERC*, 407 F.3d 346, 349 (5th Cir. 2005) (finding agency action arbitrary and capricious for failing to “supply a reasoned analysis for any departure from other agency decisions”).

⁹⁹ Denial Order at 5 n.26.

is “consistent with” and “supports” the agency’s decision in the Denial Order.¹⁰⁰ Given the undisputed lack of notice to LCE of the new policy, DOE’s reasoning is plainly improper. Notably, moreover, DOE omitted any similar analysis from its simultaneous PALNG Extension Order.¹⁰¹ Applicable prior judicial decisions dictate that DOE “cannot hide behind the fact-intensive nature of” its approval process “to ignore irrational decisions between like cases.”¹⁰² DOE’s impermissible consideration of the Policy Statement in the LCE decision, while wholly disregarding it in the PALNG decision, represents arbitrary and capricious decisionmaking prohibited by the Administrative Procedure Act.

Even proceeding under the new Policy Statement, DOE should have granted LCE’s extension request. The Policy Statement requires applicants to submit evidence that: (i) the applicant “has physically commenced construction on the associated export facility before the request for additional time to commence exports is made;” and (ii) its “inability to comply with its export commencement deadline is the result of extenuating circumstances outside of [its] control.”¹⁰³ LCE provided DOE with ample evidence of both. First, because the Project builds on a preexisting FTA import facility, LCE’s construction, maintenance, and upgrading of preexisting LNG infrastructure at the site—including LNG storage tanks, terminals, pipelines, and docks—comprise physical construction at the non-FTA export facility. LCE’s semi-annual reports to DOE—detailing the ongoing work at the Project site—provided substantial evidence of that

¹⁰⁰ *Id.* at 18-19.

¹⁰¹ *Compare id. with* PALNG Extension Order at 5 n.24 (“Because PALNG submitted its Application before issuance of the Policy Statement, DOE is not reviewing PALNG’s Application under the Policy Statement.”).

¹⁰² *Univ. of Tex. M.D. Anderson Cancer Ctr. v. United States Dep’t. of Health & Human Servs.*, 985 F.3d 472, 480 (5th Cir. 2021).

¹⁰³ Policy Statement at 25,277.

physical construction.¹⁰⁴ Second, as discussed, LCE provided DOE with sufficient evidence of the ongoing delays caused by COVID-19, including its semi-annual reports addressing LCE’s need to restart the EPC bidding process.¹⁰⁵

B. DOE Subjected LCE to a Heightened Standard for Its “Unprecedented” Second Extension Application Without Notice.

Throughout the Denial Order, DOE emphasized the “unprecedented” nature of LCE’s second commencement deadline request and repeatedly indicated that LCE must satisfy a higher standard for its extension application, despite a lack of prior notice to LCE or other industry participants of any such heightened scrutiny for a second extension. On three separate occasions, DOE referred to LCE’s request as an “unprecedented second extension.”¹⁰⁶ It also invoked the need to show “the level of commercial progress that other authorization holders have reached” as “all the more important when requesting an unprecedented second extension.”¹⁰⁷ And DOE refused to grant the extension even though, as with LCE’s first extension request to DOE, (i) FERC had granted a corresponding extension, (ii) no facts affecting the public interest or original authorization had changed, and (iii) the Project would likely fail without the extension.

A comparison of PALNG’s successful initial extension application with LCE’s unsuccessful second extension application demonstrates the higher standard that DOE impermissibly applied to LCE’s application.¹⁰⁸ For example, LCE’s application stated:

¹⁰⁴ See 2023 Semi-Annual Report at 3-5; October 2022 Semi-Annual Report at 2-5; April 2022 Semi-Annual Report at 2-4.

¹⁰⁵ See 2023 Semi-Annual Report at 3; October 2022 Semi-Annual Report at 2; April 2022 Semi-Annual Report at 3, 4.

¹⁰⁶ Denial Order at 5, 14, 16.

¹⁰⁷ *Id.* at 15-16.

¹⁰⁸ *Port Arthur LNG, LLC*, Docket Nos. 15-53-LNG, et al., Request for Extensions for Long-Term Authorizations to Export Liquefied Natural Gas (Nov. 18, 2022) (“PALNG Extension Application”).

Since LCE’s request for a DOE/FE extension in 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. In addition, the world has experienced increased trade tensions that have resulted in increased tariffs between countries and other changes to international trade policies. Put simply, global events over the past few years have created an extremely challenging environment for construction of large-scale infrastructure projects and execution of international commercial agreements. The Liquefaction Project has not been spared from the effects of these difficult circumstances.¹⁰⁹

DOE found that these “generalized statements” did not demonstrate with sufficient specificity how the COVID-19 pandemic impacted the Project, despite LCE’s reference to “difficulties in securing long-term offtake contracts[,]” “increased tariffs[,]” and “changes to international trade policies.”¹¹⁰ Yet DOE approved PALNG’s application, which invoked similar generalized statements regarding “adverse market conditions and logistical issues associated with the COVID-19 pandemic,” and “unanticipated contracting and logistical delays due to the COVID-19 pandemic and its effects on the global LNG market,” which “resulted in delays in both finalizing long-term LNG offtake agreements and ... reaching a final investment decision.”¹¹¹ In granting PALNG’s extension, DOE also acknowledged FERC’s extension and took “into account the reasoning set forth by FERC” in its extension decision, and it noted that “[n]o facts associated with” PALNG’s original application were affected by the extension.¹¹² Yet DOE declined to take into account these same considerations when deciding LCE’s second extension request. Furthermore, while DOE took “administrative notice” of facts in the public domain when evaluating PALNG’s

¹⁰⁹ 2022 DOE Extension Application at 6.

¹¹⁰ Denial Order at 15; 2022 DOE Extension Application at 6.

¹¹¹ PALNG Extension Application at 4-5; PALNG Extension Order at 6, 12.

¹¹² PALNG Extension Order at 12.

request—specifically, PALNG’s announcement that it had reached FID¹¹³—it did not take administrative notice of facts in reports that LCE had filed *with DOE itself* describing progress on the Project (nor, for that matter, did it take notice of reports filed with FERC). This sort of “unexplained inconsistency” in DOE’s treatment of substantially similar applications itself violates the Administrative Procedure Act and reinforces the conclusion that DOE improperly applied a heightened standard to LCE’s second extension request.¹¹⁴

When LCE submitted its 2022 Extension Application, DOE gave it no reason to expect that an “unprecedented” second extension would require increased specificity, “***significant progress toward the physical completion***” of the Project (a higher standard than the existing standard of “progress toward completion”), or any other aspect of a heightened standard as compared to a first extension request. NGA section 3(a) merely states “good cause,” not “good cause” on a first request and “better cause” on the second. Likewise, nothing in NGA section 3(a) suggests that the public-interest standard changes depending on a first or second extension request. LCE thus had every reasonable expectation that the same standard would apply to first and second extension requests. DOE’s application of a higher standard—without notice, no less—violated the requirements of fair and reasoned decisionmaking set forth in the Administrative Procedure Act.

DOE stated that LCE ought to have amended its March 2020 application rather than submit an “unprecedented” second extension request in June 2022, “after the primary, acute effects of the COVID-19 pandemic had largely subsided.”¹¹⁵ This assertion is flawed in several respects. First,

¹¹³ PALNG Extension Order at 8.

¹¹⁴ See *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 222 (2016) (citing *Nat’l Cable & Telecomms. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967, 981 (2005)); see also *Jupiter Energy Corp. v. FERC*, 407 F.3d 346, 349 (5th Cir. 2005) (concluding that agency action is arbitrary and capricious when the agency fails to “supply a reasoned analysis for any departure from other agency decisions”).

¹¹⁵ Denial Order at 14-15 (footnote omitted).

it is a tacit admission that DOE *would* have granted “more time beyond 2025” but for the fact that LCE sought that addition time via two extension requests, rather than a single, longer request at the beginning.¹¹⁶ There is no basis in law or logic, however, for DOE to insist on such form over substance, and DOE’s reasoning essentially concedes that DOE improperly applied a heightened standard to LCE’s second extension request.

Second, DOE’s reasoning simply does not follow. If LCE had understood the full extent of the COVID-19 pandemic and subsequent global events following March 2020, it may well have amended its initial application for an extension, rather than file a separate, additional request. But LCE—like many of the federal agencies responsible for public health measures, and indeed most of the worldwide public—could not have foreseen the COVID-19 surges that would disrupt manufacturing and shipping capabilities and create numerous supply chain issues throughout 2020 and the years thereafter; that the Delta variant first detected in India on October 5, 2020—a day before the DOE issued its order granting the first extension—would shutter many of the world’s shipping and manufacturing hubs in 2021; that vaccines would not appear on the market until early 2021; or that the Omicron variant would be less constrained by them, forcing the world back into multiple waves of lockdowns throughout 2021 and 2022. Instead, based on experience, industry knowledge, and the limited information available to the public, LCE and its partners were hopeful that an extension through 2025 would be sufficient, and they only sought a second extension once it became apparent that the Project’s viability depended on it after the unprecedented upheaval occasioned by the continuing COVID-19 pandemic and related worldwide events.

Requiring a greater showing to obtain a second extension simply because there was a possibility to amend the first request operates to punish LCE for either (a) lacking prescience or

¹¹⁶ DOE approved LCE’s requested extension of its FTA export facility’s 10-year export commencement deadline through October 6, 2030. *See* 2020 DOE Extension Order at 8.

(b) not requesting a longer extension than it reasonably believed it needed. If DOE is legitimately concerned that outstanding extensions will crowd out new LNG exporters,¹¹⁷ it fails to explain why it would demand that applicants err on the side of requesting *longer* extensions than needed.

DOE's expectations for LCE's forecasting abilities also are incompatible with the positions taken by multiple federal agencies throughout the course of the pandemic. For example, in June 2021, the Centers for Disease Control ("CDC") issued an order extending its ongoing eviction moratorium through July 31, 2021, stating that "[a]lthough [its] [o]rder [was] subject to revision based on the public health landscape, absent an unexpected change in the trajectory of the pandemic, [the] CDC d[id] not plan to extend the [o]rder further."¹¹⁸ But then, in August 2021, the CDC issued a new eviction moratorium order, observing that "the rise of the Delta variant and corresponding rise in cases ... in the United States ha[d] altered the trajectory of the pandemic."¹¹⁹ DOE can hardly expect from LCE a greater degree of certainty about the progression of the pandemic than from the CDC.

Moreover, DOE's approval of the PALNG request betrays its reasoning for denying LCE's request as pretextual. If, as DOE concluded, LCE failed to demonstrate "good cause" because "the primary, acute effects of the COVID-19 pandemic had largely subsided" by June 2022,¹²⁰ DOE should have also required PALNG to submit more reasoning for its requested extension, which was not submitted until November 18, 2022. After all, if the effects of COVID-19 did not militate in favor of an extension in June 2022, when LCE filed its request, then COVID-19 delays should

¹¹⁷ Denial Order at 17-18.

¹¹⁸ *Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19*, 86 Fed. Reg. 34010 (June 28, 2021).

¹¹⁹ *Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19*, 86 Fed. Reg. 43,247, 43,250 (Aug. 6, 2021).

¹²⁰ Denial Order at 15.

be even *less* compelling in later extension applications. Nevertheless, DOE found that COVID delays supported a finding of “good cause” for PALNG’s November 2022 extension request.¹²¹ Such a “disconnect between the decision made and the explanation given” supports a finding that DOE’s reasoning was pretextual, in violation of the Administrative Procedure Act.¹²²

As DOE recognized in granting PALNG’s extension request, by June 2022, when LCE submitted its 2022 Extension Application, the “primary, acute effects” of the COVID-19 pandemic had taken a significant and unforeseeable toll on the LNG market, and, as a result, LCE’s efforts to progress the Liquefaction Project.¹²³ Hence, even if DOE were correct that the pandemic largely subsided in June 2022, its reasoning would still miss the point: LCE sought an extension based on delays that occurred between March 2020 and June 2022.¹²⁴

But in fact, DOE’s prior position belies both the historical record and the consistent stance taken by the federal government in numerous policy decisions and federal court filings. For example, on May 31, 2022, a mere 22 days before LCE filed its 2022 Extension Application, the Department of Justice (“DOJ”) filed a brief in the Eleventh Circuit on behalf of President Biden, the CDC, and the Department of Health and Human Services, defending the CDC’s efforts to “stem the spread of [an] unprecedented disease.”¹²⁵ DOJ continued defending the CDC’s mask

¹²¹ PALNG Extension Order at 3.

¹²² *Dep’t of Commerce v. New York*, 139 S. Ct. 2551, 2575-76 (2019).

¹²³ Denial Order at 15.

¹²⁴ *See Sea Robin Pipeline Co. v. FERC*, 127 F.3d 365, 370 (5th Cir. 1997) (quoting *Tenneco Gas v. FERC*, 969 F.2d 1187, 1214 (D.C. Cir. 1992)) (holding that FERC failed to support its decision with substantial evidence by “disregard[ing] ... facts or issues that prove[d] difficult or inconvenient” in applying its own test in an unprecedented circumstance).

¹²⁵ *Health Freedom Defense Fund v. Biden*, Case No. 22-11287 (11th Cir. May 31, 2022) (Docket No. 8) (Appellants’ Brief), at 22 (citing *Wall v. Centers for Disease Control & Prevention*, 2022 WL 1619516, at *8 (M.D. Fla. Apr. 29, 2022) (slip op.)).

mandate well past the Eleventh Circuit’s April 11, 2023 order to submit briefing on whether the administration’s termination of the national emergency mooted the case.¹²⁶

On behalf of the Administration, DOJ continues to defend the position that the ongoing effects of the pandemic imposed significant burdens on the public not only in June 2022, but well into 2023. As recently as February 28, 2023—only two months before DOE denied LCE’s second extension request—the Solicitor General repeatedly argued to the Supreme Court that the acute effects of the pandemic authorized the Secretary of Education’s extraordinary use of emergency powers.¹²⁷ In short, the federal government’s position is clear: the pandemic continued to impose real burdens on individuals and businesses throughout 2022.

C. Granting The Extension is Consistent With The Purpose Of The Extension Deadline Required by the Public Interest Standard of NGA Section 3.

Granting LCE’s request for an extension would be consistent with the purpose of DOE’s export commencement deadline, including the recognized need to allow for “unplanned delays in the licensing and construction.”¹²⁸ There can be no serious dispute that LCE endured such “unplanned delays.” The effects of the COVID-19 global pandemic caused LCE’s development partner to withdraw; forced LCE and its potential EPC contractors to restart the EPC bidding process due to unprecedented supply-chain issues and significant increases in the costs of materials, equipment, and labor; and shut down demand for long-term LNG offtake contracts, grinding construction to an unforeseen halt. Additionally, even though FERC extended LCE’s completion-of-construction deadline to December 16, 2028, absent a corresponding extension from DOE, LCE will likely not be able to secure FID financing due to contingent requirements

¹²⁶ *Id.* at Docket No. 85 (Order).

¹²⁷ *See Biden v. Nebraska*, Case No. 22-506 (S. Ct. Feb. 28, 2023) (oral argument).

¹²⁸ Denial Order at 13-14.

that LCE also obtain coterminous DOE export authorization. Although LCE and its partners have advanced the Project to the greatest extent possible in the interim, further construction and project development cannot commence until LCE secures an extension from the DOE. LCE did not plan to experience any of these various delays. Rather, given the total investment of approximately \$350 million to date in the Liquefaction Project, LCE would like nothing more than to reach FID and further proceed with the Project.

Granting LCE’s Application also will not “frustrate[]” the efforts of any other current or prospective authorization holders.¹²⁹ DOE does not appear to disagree, providing no evidence in the Denial Order to suggest otherwise. If anything, DOE’s acknowledgment that numerous other authorization holders either are currently exporting or have reached a final investment decision,¹³⁰ and its recognition that the subsidence of the COVID-19 pandemic and Russia’s Ukraine invasion present “opportunities for participants in the U.S. LNG market,”¹³¹ suggests that LNG exportation to non-FTA nations remains an attractive business opportunity with which an extension for LCE and its Liquefaction Project would not interfere.¹³² Furthermore, denying LCE’s requested extension does nothing to reduce so-called authorization “overhang.” Although DOE approves a single export capacity figure for a given LNG project, developers must seek separate FTA and non-FTA authorizations. NGA section 3 requires DOE to approve FTA authorizations, including the project’s proposed export capacity, “without modification or delay.”¹³³ Accordingly, even if

¹²⁹ *Id.*

¹³⁰ *Id.* at 16-17.

¹³¹ *Id.* at 15.

¹³² DOE briefly cites the progress made by these other authorization holders in recent years, *id.* at 16-17, but it makes no effort to show that those holders’ projects are comparable to the Liquefaction Project.

¹³³ 15 U.S.C. § 717b(c).

a developer fails to satisfy DOE's export commencement deadline for the non-FTA project component (as originally instituted or with an extension), DOE cannot reduce the total amount of capacity authorized for export to FTA nations. Therefore, denying a non-FTA extension application, like LCE's here, does nothing to reduce authorization overhang.

At the same time, denying LCE's Extension Application would not further the commencement deadline's other purpose: cultivating a healthy market for LNG export authorizations. NGA section 3 requires DOE to authorize all otherwise-compliant non-FTA export applications that are not inconsistent with the public interest.¹³⁴ It also states that all FTA applications are deemed to further the public interest and requires DOE to grant them without modification or delay.¹³⁵ Accordingly, unless DOE has reason to conclude that a requested authorization or an extension thereof is inconsistent with the public interest, it cannot deny it. But denying an extension to the export commencement deadline to match FERC's construction permit extension effectively does just that by leading to the project's demise. In short, where, as here, there is no evidence suggesting that granting an extension would have any chilling effect on current or prospective authorization holders, denying LCE's extension does not further the purpose of the commencement deadline requirement or the public interest, and it does not comply with the NGA section 3 requirement that DOE authorize all otherwise-compliant non-FTA export applications that are not inconsistent with the public interest.

Nevertheless, DOE contends that if it "did not enforce ... commencement deadlines, an authorization holder might seek extension after extension without ever being ready to proceed with its project," purportedly conflicting with DOE's "statutory responsibilities, including ensuring that

¹³⁴ *Id.* § 717b.

¹³⁵ *Id.* § 717b(c).

non-FTA authorizations are utilized in a timely manner.”¹³⁶ But DOE does not identify the source of this “statutory” responsibility, which lacks any support in the text of NGA section 3. In any event, DOE does not appear to contend that LCE is sleeping on its rights—only that LCE’s evidence did not support a showing of “good cause.” And even taking DOE’s manufactured principle at face value, the facts here readily demonstrate that LCE already has “proceed[ed] with its project.” Accordingly, and especially on the record before DOE, there is no reason to believe that granting LCE’s Application would be inconsistent with the purpose of the commencement deadline.

D. DOE’s Interpretation Of “Good Cause” As Independent of The Public Interest Standard Is Inconsistent With Its Statutory Authority Under NGA Section 3.

DOE should not have even reviewed LCE’s extension application under merely a “good cause” standard. NGA section 3 states that DOE “shall” approve requests for LNG export authority unless it finds that the request “will not be consistent with the public interest.”¹³⁷ The plain text of Section 3 applies to DOE’s review of all proposed LNG exports, whether in an original request or an amendment to extend the time period to commence exports. But rather than review LCE’s extensions under the NGA section 3 public interest standard, DOE relies only on a myopic and cramped reading of the statute’s “good cause” standard for issuing supplemental orders “as it may find necessary or appropriate.”¹³⁸

No reasonable reading of NGA section 3’s unambiguous text can divorce the statute’s “good cause” language from its command to approve LNG export applications, including applications for extension of time, unless they “will not be consistent with the public interest.”

¹³⁶ Denial Order at 17.

¹³⁷ 15 U.S.C. § 717b(a).

¹³⁸ Denial Order at 12 (footnote omitted); *Lake Charles LNG*, Docket No. 16-109-LNG, Export Order (Mar. 7, 2013), at 12 (footnote omitted).

Quite the opposite: NGA section 3’s reference to “good cause” is governed by and subject to the statutory standard pursuant to which DOE must approve a LNG export application unless it “will not be consistent with the public interest.” Hence, DOE has no discretion to exceed its statutory authority by denying an extension where, as here, that denial will result in the demise of an approved project found to be in the public interest by FERC, as recently as May 2022 when it approved LCE’s second extension request.

E. DOE’s Denial of the Requested Extension Unlawfully Relies on its Policy for a Seven-Year Export Commencement Deadline (with Only One Possible Extension) that is Itself Improper.

Finally, in denying LCE’s extension request, DOE relied heavily on its policy of establishing an initial seven-year export commencement deadline for LNG export authorizations.¹³⁹ But as DOE recognizes, that arbitrary standard is “based upon an explicit recognition that an authorization holder would need time to construct its proposed facility before commencing exports of LNG—and that this time period must be sufficiently long to allow for ‘unplanned delays in the licensing and construction’ of the facility.”¹⁴⁰ DOE also contends that its seven-year deadline “is necessary ‘to ensure that other entities that may seek similar authorizations are not frustrated in their efforts to obtain those authorizations by authorization holders that are not engaged in actual export operations.’”¹⁴¹

Put another way, in DOE’s view, “good cause” does not exist for anything more than a seven-year period plus a single extension.¹⁴² But while NGA section 3 allows DOE to grant LNG export applications “upon such terms and conditions as the Commission may find necessary or

¹³⁹ Denial Order at 13.

¹⁴⁰ *Id.*

¹⁴¹ *Id.* at 13-14

¹⁴² *Id.* at 13.

appropriate,”¹⁴³ there is no basis, statutory or otherwise, for DOE’s policy of seven-year export commencement deadlines. A review of DOE’s arguments involving timely utilization of authorizations, market conditions, comparisons to other projects, and the alleged “frustration” of other entities seeking export authorization confirms that its imposition of such an initial deadline is contrary to NGA section 3 and is arbitrary and capricious.¹⁴⁴

Nothing in NGA section 3 imposes “an obligation to ensure . . . that non-FTA authorizations are utilized in a timely manner” or requires an export commencement deadline of seven years—or any deadline at all.¹⁴⁵ The statute is completely silent on these subjects and does not provide any room for agency gap-filling or deference to such efforts. If anything, Congress’s mandatory treatment of FTA authorizations as consistent with the public interest militates against DOE’s commencement deadline for non-FTA authorizations that are found to satisfy NGA section 3’s public interest standard. Pursuant to the statutory prohibition on “modification” of FTA applications, DOE generally does not impose a commencement deadline on FTA authorizations—which address the same underlying project and non-additive export capacity as any concurrent non-FTA authorizations. But DOE’s export commencement deadline for non-FTA authorizations permits the agency to perpetrate an end run around NGA section 3’s restrictions by imposing arbitrary deadlines on the non-FTA portion of a project, which, without reasonable accommodation, can undermine a project sponsor’s incentive to invest in the FTA export operation as well.

In short, DOE’s attempt to create a deadline through a policy pronouncement exceeds its statutory authority and has no basis in the statutory public interest standard by which DOE is

¹⁴³ 15 U.S.C. § 717b(a).

¹⁴⁴ *See Univ. of Tex. M.D. Anderson Cancer Ctr.*, 985 F.3d at 480.

¹⁴⁵ Denial Order at 18.

bound. DOE has a statutory obligation to approve LNG exports unless they “will not be consistent with the public interest.” DOE cannot tack on an arbitrary deadline—much less deny extensions of that deadline—to circumvent that congressional command.

V. **CONCLUSION**

WHEREFORE, for the reasons stated herein, LCE respectfully requests that DOE grant rehearing and issue orders as soon as possible amending the existing non-FTA export authorization deadlines to December 16, 2028.

Respectfully submitted,

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Dated May 22, 2023

ATTACHMENTS

Attachment 1: Declaration of Thomas P. Mason

Exhibit A: Lake Charles LNG Export Project Construction-Related Activities Reported in Department of Energy and Federal Energy Regulatory Commission Filings

Exhibit B: CONFIDENTIAL Letters From Actual or Prospective LNG Offtake Customers, Potential Equity Partners, and EPC firms

Attachment 2: Form of Confidentiality and Protective Agreement

ATTACHMENT 1
DECLARATION OF THOMAS P. MASON

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

Lake Charles Exports, LLC) Docket Nos. 11-59-LNG
16-110-LNG

DECLARATION OF THOMAS P. MASON

1. My name is Thomas P. Mason. I currently serve as Executive Vice President of Alternative Energy and President of LNG for Energy Transfer LP (“Energy Transfer”). In my current roles, I lead Energy Transfer’s development of alternative energy projects aimed at continuing to reduce Energy Transfer’s environmental footprint throughout its operations, including the development of carbon capture and sequestration projects and hydrogen/ammonia projects. In addition, since April 2018, I have been President of Lake Charles LNG Company, LLC, which holds permits from the Federal Energy Regulatory Commission (“FERC”) for construction of liquid natural gas (“LNG”) importing and exporting facilities in Lake Charles, Louisiana.

2. I have worked at Energy Transfer for over 16 years. From October 2018 to December 2022, I served as Executive Vice President and General Counsel of Energy Transfer. I have previously held roles as Senior Vice President General Counsel and Secretary of Energy Transfer from April 2012 to December 2015, Vice President General Counsel and Secretary of Energy Transfer from June 2008 to April 2012, and General Counsel and Secretary of Energy Transfer from February 2007 to June 2008. Prior to joining Energy Transfer, I was a partner in the Houston office of Vinson and Elkins. I have a bachelor’s degree in finance from the University of Nebraska, and a juris doctorate from the University of Texas at Austin.

3. The purpose of this Declaration is to support certain factual assertions set forth in the Request for Rehearing of Lake Charles Exports, LLC, seeking the Department of Energy, Office of Fossil Energy and Carbon Management’s (“DOE”) reconsideration of its previous denial of Lake Charles Exports, LLC’s (“LCE”)¹ request for an extension of its deadline to commence

¹ Lake Charles Exports, LLC is the holder of various authorizations from DOE to export LNG from the Lake Charles Terminal. In addition, Lake Charles LNG Export Company, LLC is the holder of various non-additive authorizations from DOE to export LNG from the Lake Charles Terminal. Lake Charles LNG Company, LLC is the owner of the Lake Charles Terminal and is the holder of various authorizations from FERC to own, operate and construct the Lake Charles Terminal. These entities, which are all wholly owned subsidiaries of Energy Transfer LP, and other affiliates of Energy Transfer LP are developing the Project to export LNG from the Lake Charles Terminal. Lastly, on the same date hereof in Docket Nos. 13-04-LNG and 16-109-LNG, Lake Charles LNG Export Company, LLC is filing a substantially similar request for rehearing of the DOE’s order issued on April 21, 2023 denying Lake Charles LNG Export Company, LLC’s application for a second extension of its deadline to commence exports of LNG from the Lake Charles Terminal.

export operations of LNG from the Lake Charles terminal liquefaction facility (the “Project”) to non-free trade agreement countries.

4. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, my review of internal Energy Transfer and LCE documents, or my opinions based upon my experience and knowledge. I am authorized to submit this Declaration on behalf of LCE.

5. In 2012, as a result of the shale revolution in the United States, a newly abundant supply of natural gas precipitated a dramatic decrease in U.S. natural gas prices, making LNG exports uneconomic. Consequently, LCE determined to convert its existing LNG import terminal and regasification facility into a liquefaction and export facility.

6. In the spring of 2020, LCE received bids for the engineering, procurement, and construction (“EPC”) of the Project components not already constructed. Those bids came just as the effects of COVID-19 began to cause a major worldwide economic downturn—a downturn that, among other things, almost entirely shut down the demand for long-term LNG contractual commitments by international customers who could not forecast future demand for LNG based on the unknown duration and extent of the impacts of the pandemic.

7. Before the pandemic, LCE had entered into a development agreement with Shell NA LNG LLC (“Shell”), pursuant to which LCE and Shell would co-develop the Project utilizing LCE’s existing LNG import terminal. In April 2020, however, Shell announced that it was withdrawing from the Project, citing the COVID-19 pandemic. This withdrawal had an adverse impact on attracting customers to the Project due to the prominence of Shell as a leading LNG industry participant.

8. To obtain financing for an undertaking of the magnitude of the Project (with expected construction costs in excess of \$10 billion), LCE needs to obtain long-term sales contracts with creditworthy customers that would provide the cash flow stream required to service debt or provide equity returns for investment on financing to be incurred to pay for construction costs. LNG customers enter into long-term LNG purchase contracts only if they are convinced there will be sufficient demand for the LNG over the course of 15-20 years, the typical duration of a long-term LNG sales and purchase contract. During the COVID-19 pandemic, however, LNG customers could not predict with any degree of confidence the long-term demand for natural gas in their markets or for their individual business needs. As a result, the LNG long-term contract market was frozen for nearly three years.

9. The COVID-19 pandemic caused significant supply chain issues that resulted in severe shortages of LNG critical equipment, particularly electrical components, heat exchangers, turbines and compressors, as well as substantial increases in the cost of materials. These issues ultimately led to the determination by EPC contractors that they could not honor prior EPC bids but would need to commence a 9-month process to solicit updated bids from every supplier of materials and parts for the Project. This process for obtaining new bids was time-consuming and arduous and cost LCE millions of dollars.

10. In February 2022, Russia invaded Ukraine, triggering reactive European sanctions that, in turn, disrupted natural gas supplies previously transported by pipeline from Russia to Europe. Because Russia was a major supplier of natural gas and LNG to Europe and Asia, the sanctions raised concerns by international markets dependent upon natural gas as a major source of energy for power generation, industrial usage, and home heating. This major market development had a significant positive impact on the willingness of LNG customers to overcome their concerns regarding global economic conditions caused by COVID-19, leading them to commit to long-term LNG offtake contracts and resulting in LCE executing several long-term agreements.

11. Despite the turbulent macroeconomic and geopolitical environment, the Project's sponsors have actively pursued its commercial development. LCE has already constructed four LNG storage tanks—three with a capacity of 95,000 cubic meters and one with a capacity of 140,000 cubic meters—with a total combined storage capacity of 425,000 cubic meters, two deep water loading docks and other LNG related infrastructure at the Project site, all of which will be integral components of the Project.

12. The Project has incurred an aggregate of approximately \$350 million in development costs and expenses, more than \$50 million of which has been spent since October 2020, when LCE received a first extension of its commencement deadline from DOE.

13. LCE has continued to expend significant manpower resources on improving the design of the liquefaction facility as well as developing detailed project execution plans covering all aspects of the construction of the liquefaction facility, resulting in more than 1,316 pages of documentation. These execution plans have been developed with input from the two EPC firms bidding to perform the EPC work for the Project, and they have been vetted with the Wood Group, a third-party engineering and construction firm acting as the owner's engineer for the Project. The execution plans are an integral component of the construction plans for the Project, as they are incorporated into the EPC contract and govern LCE's oversight of the Project's construction.

14. LCE has entered into contracts with one of the EPC contractors to provide engineering design work for the Project. Additionally, LCE has continued to work with one of the EPC contractors to update design plans to accommodate component sourcing changes, update the scope of the carbon dioxide treatment and capture plans, and conduct laser scans of, and construct a 3D software model plan for, the existing facility to support design integration.

15. LCE has engaged the two EPC contractors to provide updated EPC bids. As noted, this nine-month process was necessary given severe supply-chain disruptions and increased costs stemming from the COVID-19 pandemic; it commenced in August 2022, required the contractors to solicit updated bids from every supplier, and culminated in the receipt of final bids in early May 2023. Concurrently, LCE has been negotiating EPC contracts with the two contractors, with the expectation that an EPC contractor will be selected by mid-June 2023 and the EPC contract will likely be signed by the end of July.

16. LCE added a carbon capture and sequestration component to the Project, which is supported by the plans of LCE's parent company, Energy Transfer, to develop a regional carbon capture and sequestration project that involves the capture of carbon dioxide from a number of

industrial facilities in the vicinity of Lake Charles, Louisiana, transporting that captured carbon dioxide by pipeline, and sequestering it in a sequestration well. In addition, LCE has done extensive engineering and design work to reduce Scope 1 and Scope 2 greenhouse gas emissions (making the Project one of the most environmentally friendly LNG projects in the United States). And Energy Transfer has been pursuing a hydrogen/ammonia project that would be co-located on LCE-controlled land adjacent to the proposed Project. Several of LCE's prospective LNG offtake customers have engaged in discussions with Energy Transfer regarding this hydrogen/ammonia project, including the potential integration of long-term offtake commitments for both LNG and hydrogen/ammonia.

17. Energy Transfer has more than 40 employees actively working on the Project in the areas of engineering and construction, finance, commercial development, legal, public relations, and government affairs, as well as a number of third-party consulting firms providing services related to engineering and construction, commercial development, and finance.

18. LCE has received authorizations from FERC and has performed ground disturbance construction at the Project site, including tree clearing of 150 acres, construction of test piles, and installation of erosion control devices. After completion of such construction, FERC conducted inspections of the construction and filed Construction Inspection Reports.

19. LCE has received authorizations from FERC for site preparation work, including geotechnical investigations, site clearing, relocation of an existing road and an existing pipeline and the plugging of an oil and gas well on the site. In early 2023, LCE completed initial geotechnical and certain aspects of additional site clearing work. LCE has also executed contracts with third-party construction contractors to implement the remaining FERC-approved site preparation work.

20. To facilitate the Project, Trunkline Gas Company, LLC ("Trunkline")—a wholly owned subsidiary of Energy Transfer that has a pipeline system connected to the Project—has secured FERC approval to make major modifications to its pipeline system, including the addition of approximately 119,000 horsepower of new compression, the addition of approximately 17 miles of pipeline, modifications at certain compressor stations to enable bi-directional flow and the addition of interconnects with third party pipelines. FERC issued Trunkline a notice to proceed with construction of certain pipeline modification projects. Trunkline expects delivery from the relevant equipment manufacturer at the end of the summer, and to commence construction by September 2023. This pipeline modification project is an integral component of the Project.

21. LCE has continued to maintain and improve existing LNG infrastructure at the Project site. From July to December 2022, LCE repaired damage to its East Dock stemming from Hurricanes Laura and Delta; fixed damaged utility water fittings and valves at 41 locations throughout the site; performed maintenance clearing of the site; and completed the first phases of projects to repair perimeter piles and ameliorate corrosion at certain LNG tanks.

22. In addition to the offtake contracts mentioned in its second DOE extension application, LCE has entered into a 20-year offtake contract to supply Shell with 2.1 million tons of LNG per annum. In all, LCE has fully-executed long-term LNG offtake contracts for 7.9 million tons of LNG per annum—approximately half of the FERC-approved LNG production capacity of

the facility—and is in advanced discussions with several other LNG customers that it expects will result in long-term offtake contracts for substantially all of the remaining uncommitted LNG production capacity.

23. LCE has engaged a financial advisor related to arranging financing for the Project. LCE has also engaged several consultants to prepare detailed subject matter reports essential for prospective lenders and equity participants; these consultants include an independent engineering consultant, an independent marketing consultant, and an independent environmental consultant. These reports have required months of extensive work by the respective consultants, and their reports are in nearly final form, with final reports expected to be delivered to LCE by the end of May 2023.

24. LCE is in active discussions with partners for a significant portion of the equity financing necessary for the Project.

25. The Project is on a strong path to reach FID by the end of 2023. That result, however, depends on obtaining the extension of the export authorization commencement deadline. One potential customer advised LCE that it was suspending negotiations related to a long-term offtake contract after it learned about DOE's denial of LCE's extension request.² And opponents of the Project have recognized that, by denying the extension, "the Department of Energy effectively shut down" the Project.³

26. Attached as Exhibit A to this Declaration is a chart listing all construction-related activities regarding the Project, as reported to DOE and FERC in periodic reports required to be filed with DOE and FERC.

27. Attached as confidential Exhibit B to this Declaration are letters from actual or prospective LNG offtake customers, potential equity partners, and the two EPC firms that have already done substantial work on the Project and are currently bidding to perform the EPC work for the Project. These letters attest to the importance of the Project, the substantial progress that has been made on the Project, and the critical need for an extension of the commencement deadline.

² See *Energy Transfer Says DOE Denial of Lake Charles LNG Extension Already Harmed Project*, Gas Daily, May 3, 2023.

³ See *Lake Charles LNG Loses Bid for Second Extension to Export Gas*, Sierra Club Press Release, Apr. 24, 2023.

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

Lake Charles Exports, LLC

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Docket Nos. 11-59-LNG
16-110-LNG

VERIFICATION OF THOMAS P. MASON

I, Thomas P. Mason, state that the foregoing Declaration is true and correct, to the best of my knowledge, information, and belief.



Thomas P. Mason

Submitted and sworn before me this 22nd day of May, 2023.



Notary Public

LAKE CHARLES EXPORTS, LLC
FE DOCKET NOS. 11-59-LNG AND 16-110-LNG

DECLARATION OF THOMAS P. MASON

EXHIBIT A

**LAKE CHARLES LNG EXPORT PROJECT CONSTRUCTION-
RELATED ACTIVITIES REPORTED IN DEPARTMENT OF
ENERGY AND FEDERAL ENERGY REGULATORY
COMMISSION FILINGS**

**LAKE CHARLES LNG EXPORT PROJECT CONSTRUCTION-RELATED ACTIVITIES REPORTED IN
DEPARTMENT OF ENERGY AND FEDERAL ENERGY REGULATORY COMMISSION FILINGS**

FERC Accession No. / DOE Filing Date	Document Title	Notes
FERC 20230418-5206	Lake Charles LNG Monthly Status Report No. 85	<ul style="list-style-type: none"> ○ Project Construction Activity: <ul style="list-style-type: none"> ● On 01/30/2023, Lake Charles LNG completed onsite activities for the supplementary geotechnical investigations and these activities are ongoing. ○ On 01/23/2023, FERC issued its Notice to Proceed with Certain Activities, and Lake Charles LNG anticipates commencing these activities in the 2nd Quarter 2023.
FERC 20230418-3038	FERC Variance Approval to Relocate Alcoa Pipeline	<ul style="list-style-type: none"> ○ Lake Charles LNG to relocate an existing 3-inch diameter pipeline currently providing natural gas service to the Alcoa facility west of the LNG Terminal. ○ Lake Charles LNG would abandon most of pipeline in place and install a new 1.1 mile, 3-inch diameter pipeline using 3 horizontal drills. ○ Purpose of variance is to avoid conflicts during construction of the Liquefaction Project.
DOE 04/03/2023 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ On 12/16/2022, Lake Charles LNG submitted its Request for Written Authorization for Enabling Projects to FERC under Docket No. CP14-120. ○ On 12/19/2022, Lake Charles LNG submitted its Request for Written Authorization for the Alcoa Pipeline Relocation to FERC under Docket No. CP14-120. ○ On 01/18/2023, Lake Charles LNG submitted its Response to Informal Environmental Information Request issued 01/05/2023 (Alcoa Pipeline Relocation) to FERC under Docket No. CP14-120. ○ On 01/20/2023, Lake Charles LNG submitted its Response to Informal Environmental Information Request issued 01/19/2023 (Alcoa Pipeline Relocation) to FERC under Docket No. CP14-120. ○ On 02/01/2023, Lake Charles LNG submitted its Response to Informal Data Request issued 01/23/2023 (Alcoa Pipeline Relocation) to FERC under Docket No. CP14-120. ○ On 02/02/2023, Lake Charles LNG submitted its Response to Informal Data Request issued 02/01/2023 (Alcoa Pipeline Relocation) to FERC under Docket No. CP14-120. ○ On 03/24/2023, Lake Charles LNG submitted its Response to Informal Data Request issued 02/28/2023 (regarding Lake Charles LNG/FERC Staff Project discussion on 11/30/2022) to FERC under Docket No. CP14-120. ○ Lake Charles has since reengaged EPC contractors to conduct additional engineering work in connection with identified design enhancement opportunities as well as to prepare an updated EPC contract bid. The bid refresh process is in progress and the updated EPC bids are expected to be received in the next several months followed by selection of the EPC contractor. ○ Maintenance clearing of the greenfield site to support the Enabling Projects was performed in February 2023. ○ The Project continues to evaluate pandemic driven schedule impacts including equipment availability, supply chain constraints, and labor availability.

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<ul style="list-style-type: none"> ○ On 02/03/2023, USCG issued its updated Letter of Recommendation (LOR) pursuant to 33 CFR 127.009, and recommends that the Calcasieu River Ship Channel be considered suitable for accommodating the type and frequency of LNG marine traffic associated with this project. ○ The Project remains an active, fully supported project. ○ Lake Charles LNG received its approval for the <i>Categorical Clearance Agreement for Routine Construction and Maintenance Activities</i> from the Louisiana SHPO, issued 01/10/2023, which remains in effect until 12/31/2025. ○ On 01/11/2023, USFWS concurred with self-certification, provided its 11/27/2012 MBTA recommendations are followed. No Effect determination confirmed by the USFWS for minor modification (relocation of ALCOA pipeline), on 01/11/2023. ○ On 02/02/2023, Lake Charles LNG received its Use and Occupancy Permit for ALCOA Pipeline Relocation, from the Consolidated Gravity Drainage District No. Two of East Calcasieu Parish. ○ Lake Charles LNG submitted a Notice of Intent (NOI) to the LDEQ on 02/10/2023, which went into effect 48 hours after submittal. ○ Lake Charles LNG submitted a minor modification application to the LDEQ on 02/24/2023, to address design updates from EPC Contractor. This application is pending at the LDEQ.
FERC 20230316-3019	U.S. Coast Guard Updated Letter of Recommendation	<ul style="list-style-type: none"> ○ USCG issued its Updated Letter of Recommendation on 02/03/2023 in response to a Letter of Intent submitted by Lake Charles LNG on 09/01/2022. ○ USCG recommends that the requested increase of annual vessel transits from 225 to 300 annually be approved.
FERC 20230310-5210	Lake Charles LNG Monthly Status Report No. 84	<ul style="list-style-type: none"> ○ On 01/11/2023, USFWS concurred with self-certification, provided its 11/27/2012 MBTA recommendations are followed. ○ No Effect determination for minor modification (relocation of ALCOA pipeline) confirmed on 01/11/2023. ○ On 02/03/2023, USCG issued its updated Letter of Recommendation (LOR) pursuant to 33 CFR 127.009, and recommends that the Calcasieu River Ship Channel be considered suitable for accommodating the type and frequency of LNG marine traffic associated with this project as requested by Lake Charles LNG. ○ On 02/24/2023, Lake Charles LNG submitted a minor modification application to the LDEQ to address design updates from EPC Contractor. ○ On 02/10/2023, Lake Charles LNG submitted a Notice of Intent (NOI) to the LDEQ, which will go into effect 48 hours after submittal. ○ On 11/21/2022, Lake Charles LNG received its clearance letter from the LA SHPO, for the relocation of the ALCOA pipeline. ○ On 01/10/2023, Lake Charles LNG received approval for the Categorical Clearance Agreement for Routine Construction and Maintenance Activities from the LA SHPO. ○ On 02/02/2023, Lake Charles LNG received its Use and Occupancy Permit for the ALCOA pipeline relocation, from the Consolidated Gravity Drainage District No. Two of East Calcasieu Parish.

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<ul style="list-style-type: none"> ○ Project Construction Activity: <ul style="list-style-type: none"> ● Maintenance clearing of the greenfield site to support the Enabling Projects was completed in February 2023.
FERC 20230210-5157	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (07/01/2022 – 12/31/2022)	<ul style="list-style-type: none"> ○ As previously reported, on 08/27/2020, Hurricane Laura passed directly over the facility resulting in moderate damage to the facility. Repairs to the East Dock crane/gangway were completed during this reporting period. This completes the damage repairs from Hurricanes Laura and Delta. ○ During the week of 12/22/2023, Lake Charles experienced temperatures below freezing for 2 consecutive days. Lake Charles LNG experienced damage to utility water fittings & valves at 41 locations within the plant. Repairs were substantially completed by the end of this reporting period. ○ Routine preventative maintenance activities were carried out during this reporting period. These activities include instrument, electrical, and equipment checks. Additionally, routine maintenance painting was completed during this reporting period. ○ As previously reported, a detailed inspection of the perimeter piles on 2101-FA/FB/FC/FD LNG Tanks identified some minor surface cracks and isolated spalling on some of the piles. The first phase of this project was completed on 2101-FA during this reporting period. ○ Corrosion on some of the LNG Tank structures was identified during this reporting period. As a result, a phased project has been budgeted to mitigate the issues. The first phase was completed as an unbudgeted project during this reporting period.
FERC 20230210-5149	Lake Charles LNG Monthly Status Report No. 83	<ul style="list-style-type: none"> ○ Project Construction Activity: <ul style="list-style-type: none"> ● On 01/23/2023, Lake Charles LNG commenced the supplementary geotechnical investigations, as previously discussed with FERC Staff, and these activities are anticipated to last approximately six weeks. ○ Lake Charles LNG will perform limited clearing to support the Enabling Projects.
FERC 20230123-3006	Letter Order Approving Notice to Proceed with Certain Activities	<ul style="list-style-type: none"> ○ FERC granted permission to conduct the following limited site preparation activities: <ul style="list-style-type: none"> ● Plug and abandon seven wells ● Remove the Boardwalk Louisiana Midstream, LLC meter station ● Remove the Boardwalk and Trunkline Gas Company pipeline segments within the terminal footprint and isolate the Boardwalk and Trunkline Gas pipeline segments outside the terminal footprint ● Abandon Granger Road and remove the existing utilities along Granger Road, within the terminal ○ FERC confirmed receipt of all required federal authorizations relevant to the approved activities.
FERC 20230111-5133	Lake Charles LNG Monthly Status Report No. 82	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20221216-5237	Lake Charles LNG Monthly Status Report No. 81	<ul style="list-style-type: none"> ○ On 11/10/2022, Lake Charles LNG received clearance from LDWF for review of minor modification for the relocation of the ALCOA pipeline.

FERC Accession No. / DOE Filing Date	Document Title	Notes
FERC 20221110-5155	Lake Charles LNG Monthly Status Report No. 80	<ul style="list-style-type: none"> ○ Project Construction Activity: None. ○ FERC Staff scheduled a virtual meeting with Lake Charles LNG for 11/30/2022, to discuss the Project and for a presentation of design changes from FEED to the final design. ○ On 10/18/2022, USFWS confirmed that its 11/27/2012 MBTA recommendations remain valid for the project. ○ Project Construction Activity: None.
FERC 20221018-5138	Lake Charles LNG Monthly Status Report No. 79	<ul style="list-style-type: none"> ○ On 08/24/2022, Energy Transfer and Shell announced that they entered into a 20-year LNG Sale and Purchase Agreement. ○ On 09/12/2022, Lake Charles LNG took part in a conference call with FERC LNG staff to discuss the proposed Geotechnical Investigation Plan for supplemental borings. ○ Lake Charles LNG is preparing a request for renewed MBTA consultation, for submittal to USFWS in October 2022. ○ On 05/05/2020 Lake Charles LNG received its LDEQ Water Quality Certification extension. ○ On 07/27/2022 Lake Charles LNG received the Exemption/NDSI Determination from Office of Coastal Management. ○ On 07/13/2022, Lake Charles LNG completed the facility Waterway Suitability Assessment (“WSA”) workshop in accordance with NVIC 01-2011. On 09/01/2022, Lake Charles LNG submitted the Letter of Intent (“LOI”) and the WSA to the USCG for review and approval to increase the number of authorized vessels from 225 to 300 in order to allow the project to operate at full capacity. ○ Project Construction Activity: None.
DOE 10/04/2022 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ In 2017, Lake Charles LNG completed a FEED study. In April 2019, Lake Charles LNG engaged various companies to conduct a FEED verification as well as submit bids for the engineering, procurement and construction ("EPC") related to the Project. In April 2020, Lake Charles LNG received bids for the EPC contract related to the Project. These EPC bids were evaluated; however, due to the onset of the COVID pandemic, the EPC contract was not finalized with any of the bidding parties. ○ Lake Charles LNG has engaged one of the EPC bidding parties to conduct additional engineering work in connection with identified design enhancement opportunities as well as to prepare an updated EPC contract bid, which bid refresh process is in progress and the updated EPC bid is expected to be received in the next several months. ○ Maintenance clearing of the Project site is tentatively being targeted for the winter of 2022/2023. ○ Lake Charles LNG filed the Section 7 consistency letters from the USFWS at FERC on 06/16/2020, for the LNG Terminal. Lake Charles LNG received the Section 7 consistency letter from the National Marine Fisheries Service Protected Resources Division on 01/19/2021 for the LNG Terminal, including in-water activities. Lake Charles LNG requested renewal of the Section 7 consistency determination from the USFWS on 05/23/2022, and received the renewed clearance on 06/20/2022, and renewal of clearance from LDWF on 03/02/2022.

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<ul style="list-style-type: none"> ○ Lake Charles LNG filed its USACE permit extension at FERC and Louisiana Department of Natural Resources Office of Coastal Management (“OCM”) Determination that no Coastal Use Permit is required, on 07/14/2020. Lake Charles LNG requested renewal of the Determination from the OCM on 06/03/2022, and will file the responses at FERC when received. ○ On 05/02/2022, Energy Transfer and Gunvor announced that Gunvor Singapore Pte Ltd and Energy Transfer LNG have entered into a 20-year LNG Sale and Purchase Agreement. ○ On 05/03/2022, Energy Transfer and SK Gas Trading LLC announced that Energy Transfer LNG and SK Gas Trading have entered into a 18-year LNG Sale and Purchase Agreement. ○ On 06/05/2022, Energy Transfer and China Gas Holdings Limited announced that China Gas Hongda Energy Trading Co., LTD and Energy Transfer LNG have entered into a 25-year LNG Sale and Purchase Agreement. ○ On 08/24/2022, Energy Transfer and Shell NA LNG LLC announced that Shell and Energy Transfer LNG have entered into a 20-year LNG Sale and Purchase Agreement.
FERC 20220908-5116	Lake Charles LNG Monthly Status Report No. 78	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20220810-5127	Lake Charles LNG Monthly Status Report No. 77	<ul style="list-style-type: none"> ○ On 06/20/2022 received the renewed clearance from USFWS. ○ On 03/02/2022 received renewed clearance from LA Dept. of Wildlife and Fisheries. ○ Project Construction Activity: None.
FERC 20220802-5154	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (01/01/2022 - 06/30/2022)	<ul style="list-style-type: none"> ○ As previously reported, on 08/27/2020, Hurricane Laura passed directly over the facility resulting in moderate damage to the facility. Repairs to buildings and roofs began in the 3rd quarter of 2021 and were completed during this reporting period. Repairs to the East Dock crane/gangway began during this reporting period and are expected to be completed by the end of the 3rd Quarter. ○ Routine preventative maintenance activities were carried out during this reporting period. These activities include instrument, electrical, and equipment checks. Additionally, routine maintenance painting was completed during this reporting period. ○ As previously reported, a detailed inspection of the perimeter piles on 2101-FA/FB/FC/FD LNG Tanks identified some minor surface cracks and isolated spalling on some of the piles. The first phase of this project, Priority 1 & 2 repairs to the pilings on tank 2101-FA, was completed during this reporting period.
FERC 20220715-5181	Lake Charles LNG Monthly Status Report No. 76	<ul style="list-style-type: none"> ○ On 06/05/2022, Energy Transfer and China Gas Holdings Limited announced that China Gas Hongda Energy Trading Co., LTD and Energy Transfer LNG have entered into a 25-year LNG Sale and Purchase Agreement. ○ Project Construction Activity: None.
FERC 20220613-5154	Lake Charles LNG Monthly Status Report No. 75	<ul style="list-style-type: none"> ○ On 05/02/2022, Energy Transfer and Gunvor Group Ltd announced that Gunvor Singapore Pte Ltd and Energy Transfer LNG have entered into a 20-year LNG Sale and Purchase Agreement. ○ On 05/03/2022, Energy Transfer and SK Gas Trading LLC announced that they entered into a 18-year LNG Sale and Purchase Agreement. ○ Project Construction Activity: None.

FERC Accession No. / DOE Filing Date	Document Title	Notes
FERC 20220513-5004	Lake Charles LNG Monthly Status Report No. 74	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20220506-3073	Order Granting Extension of Time Request	<ul style="list-style-type: none"> ○ Extending the deadline will not undermine the Commission’s finding in the Authorization Order that the liquefaction project is not inconsistent with the public interest. ○ Lake Charles LNG continue to demonstrate commitment to the project and have made a good faith effort to meet the previous deadline. The unforeseeable impacts of the COVID-19 pandemic combined with Lake Charles LNG’s continued interest in the project satisfy the Commission’s good cause inquiry. ○ Extension granted to 12/16/2028
FERC 20220414-5091	Lake Charles LNG Monthly Status Report No. 73	<ul style="list-style-type: none"> ○ On 03/29/2022, Energy Transfer and ENN Natural Gas (“ENN NG”) and ENN Energy Holdings Limited (“ENN Energy”) announced that ENN NG and ENN Energy have signed 20-year LNG Sale and Purchase Agreements. ○ Definitive agreements to implement the Liquefaction Project, and pipeline transportation services to supply natural gas to the Liquefaction Project, remain under development, ○ Project Construction Activity: None.
DOE 04/01/2022 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ The Project is presently working through several detail design enhancement strategies with the selected EPC provider that will enable EPC pricing updates in the summer of 2022. Maintenance clearing of the greenfield site is tentatively being considered for the winter of 2022/2023. ○ On 03/29/2022, Energy Transfer and ENN Natural Gas (“ENN NG”) and ENN Energy Holdings Limited (“ENN Energy”) announced that ENN NG and ENN Energy have signed 20-year LNG Sale and Purchase Agreements related to the Liquefaction Project. ○ Lake Charles LNG confirms that the Project area has not experienced any significant changes and the environmental and other public interest findings underlying the FERC’s authorizations for the Project remain valid.
FERC 20220311-5278	Lake Charles LNG Monthly Status Report No. 72	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20220211-5093	Lake Charles LNG Monthly Status Report No. 71	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20220211-5052	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (07/01/2021 – 12/31/2021)	<ul style="list-style-type: none"> ○ An inspection of the oily water Corrugated Plate Interceptor (CPI) revealed that some of the internal media plates had collapsed, reducing efficiency, which collapse was caused by corrosion of the steel frames holding the media plates. A temporary rental unit was obtained and placed onto service until new stainless-steel frames were constructed and new media installed. Repairs were completed during this reporting period. ○ As previously reported, on 08/27/2020, Hurricane Laura passed directly over the facility resulting in moderate damage to the facility. Repairs to buildings and roofs began in the 3rd quarter of 2021 and are expected to be completed by the end of the first quarter of 2022. ○ As previously reported, based on inspection of the unloading arms at the East and West berths, a project to remove the arms was completed during this reporting period. This project was driven by needed

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<p>maintenance activities as well as minor damage to the arm auxiliary systems during Hurricane Laura. The arms are currently stored under a nitrogen pad for future repair and reinstallation. The arms are subject to replacement as part of the Lake Charles Liquefaction Project.</p> <ul style="list-style-type: none"> ○ Routine preventative maintenance, including instrument, electrical and equipment checks and routine maintenance painting.
FERC 20220111-5110	Lake Charles LNG Monthly Status Report No. 70	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20211210-5170	Lake Charles LNG Monthly Status Report No. 69	<ul style="list-style-type: none"> ○ The Project is presently working through several detail design enhancement strategies with the selected EPC provider that will enable EPC pricing updates in the summer of 2022. ○ Maintenance clearing of the greenfield site is tentatively being considered for the Spring of 2022. ○ Project Construction Activity: None.
FERC 20211115-5182	Lake Charles LNG Monthly Status Report No. 68	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20211014-5127	Lake Charles LNG Monthly Status Report No. 67	<ul style="list-style-type: none"> ○ The Project Team continues to evaluate pandemic driven schedule impacts including equipment availability, supply chain constraints, and labor availability. ○ Project Construction Activity: None.
DOE 10/01/2021 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ On 07/13/2021, FERC Staff informally requested Lake Charles LNG provide pictures representative of the revegetation status of the Liquefaction Project site in its next report to the Commission, and Lake Charles LNG filed the pictures with Monthly Status Report No. 65. ○ The Project continues to evaluate pandemic driven schedule impacts including equipment availability, supply chain constraints, and labor availability.
FERC 20210914-5064	Lake Charles LNG Monthly Status Report No. 66	<ul style="list-style-type: none"> ○ On 08/26/2021, FERC LNG Staff informally requested information on what special preparations Lake Charles LNG was undertaking prior to Hurricane Ida making landfall, and requested information on current maintenance activities planned at the facility. Lake Charles LNG responded directly to FERC LNG Staff on 08/26/2021. ○ Project Construction Activity: None.
FERC 20210810-5178	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (01/01/2021 - 06/30/2021)	<ul style="list-style-type: none"> ○ On 03/08/2021, an inspection of the oily water Corrugated Plate Interceptor (CPI) revealed that the some of the internal media plates had collapsed, reducing efficiency and that was corrosion of the steel frames holding the media plates. A temporary rental unit was acquired and placed into service until new stainless-steel frames are constructed and new media installed. Repairs are expected to be completed in the 3rd quarter of 2021. ○ During week of 02/14/2021, Lake Charles experienced temperatures below freezing for 3 consecutive days with only a short period of time above freezing. Caused minor damage to utility water piping and valves. All repairs have been completed. ○ As previously reported, on 08/27/2020, Hurricane Laura passed directly over the facility resulting in moderate damage to the facility as a result of hurricane force winds. Facility damage included buildings and roofs, lighting, instrument cable and trays, East Dock crane/gangway, and East & West Dock loading

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<p>arm auxiliary systems. Facility repairs were completed on lighting, instrument cable and trays during this reporting period. Repairs to buildings and roofs are scheduled to begin in the 3rd quarter of 2021.</p> <ul style="list-style-type: none"> ○ As previously reported, de-inventory of the IEP glycol system continued in 2021. The de-inventory was completed on 03/24/2021. Glycol system piping and equipment have been placed under a nitrogen pad. ○ As previously reported, a project was initiated to perform the 5-year scheduled testing of electrical protective equipment within the plant. The critical elements of this testing were completed in 2020 and remaining testing has been completed during this reporting period. ○ Routine preventative maintenance, including instrument, electrical and equipment checks and routine maintenance painting.
FERC 20210810-5175	Lake Charles LNG Monthly Status Report No. 65	<ul style="list-style-type: none"> ○ On 07/13/2021, FERC Staff informally requested pictures representative of the revegetation status of the Liquefaction Project. ○ On 12/17/2020, Lake Charles LNG and BG LNG executed an Amended and Restated Regasification Services Agreement. ○ Project Construction Activity: None.
FERC 20210712-5103	Lake Charles LNG Monthly Status Report No. 64	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20210609-5140	Lake Charles LNG Monthly Status Report No. 63	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20210511-5125	Lake Charles LNG Monthly Status Report No. 62	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20210413-5276	Lake Charles LNG Monthly Status Report No. 61	<ul style="list-style-type: none"> ○ On 03/17/2021, Lake Charles LNG provided a Hurricane Laura Damage Report to FERC Staff in response to a request for information, detailing the status of facility damage associated with the hurricane. ○ Project Construction Activity: None.
DOE 04/06/2021 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ Lake Charles LNG is working with FERC technical staff and providing updates on Hurricane Delta preparation. ○ Lake Charles LNG filed its permit renewal application with the LDEQ for Iowa compressor station (CS 203-A), and received approval on 05/14/2020. ○ Lake Charles LNG filed its USACE permit extension at FERC on 07/14/2020. ○ Lake Charles LNG submitted its renewal application for Air Permit to the LDEQ, and the Air Permit renewal for the Export facility was issued by the LDEQ on 09/03/2020.
FERC 20210309-5190	Lake Charles LNG Monthly Status Report No. 60	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20210210-5140	Lake Charles LNG Monthly Status Report No. 59	<ul style="list-style-type: none"> ○ On 10/01/2020, Lake Charles LNG abandoned an existing gas turbine generator and related appurtenances (“Unit 2204-JA”) in place, which provided a back-up power source for auxiliary facility operations power needs, and was last utilized in 2012. Existing emergency power generation facilities were not impacted by the abandonment of Unit 2204-JA.

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		<ul style="list-style-type: none"> ○ In addition, Lake Charles LNG abandoned a fuel oil storage tank and related appurtenances (“Bunker C Facilities”) in place, which were initially installed to support LNG tankers for storage and/or loading fuel oil into the LNG tankers, because the need for bunkering with the Bunker C Facilities ceased in 1997, and the responsibility for bunkering was moved to the LNG vessel operator. ○ Project Construction Activity: None.
FERC 20210209-5157	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (07/01/2020 – 12/31/2020)	<ul style="list-style-type: none"> ○ On 08/27/2020 Hurricane Laura passed directly over the facility and the terminal lost commercial power for 21 days. During the power outage emergency power generation was utilized to operate emergency equipment, security systems and safety systems. ○ During the hurricane, the Surf Challenger (offshore supply vessel) moored at the neighboring Gulf Island facility broke loose and struck Lake Charles LNG mooring dolphins and docks causing damage to pilings and structures. Repairs are in progress. ○ On 10/09/2020, Hurricane Delta passed just to the east of the facility resulting in minimal damage to the facility as a result of hurricane force winds. ○ During the 2019 Canal Firewater Pump testing, two pumps were discovered to be performing below their design capacity. These pumps were repaired, flow tested and reinstalled. Two additional pumps were repaired, flow tested and reinstalled during this reporting period. ○ Lake Charles LNG began the de-inventory of the KF and Glycol systems during the 4th quarter of 2020. On 11/07/2020, completed the de-inventory of the KF system including the 3101-CA/B/C/D LNG Vaporizers and all associated piping. The KF system piping and equipment has been placed under a N2 pad. De-inventory of the glycol system will continue in 2021. ○ Based on inspection of the unloading arms at the East and West berths, a project to remove the arms is planned for 2021. The project is driven by needed maintenance activities as well as minor damage Page 4 of 7 to the arm auxiliary systems during Hurricane Laura. The arms will be inspected and stored for future repair and reinstallation. ○ Routine preventative maintenance activities were carried out during this reporting period. These activities include instrument, electrical, and equipment checks. Additionally, routine maintenance painting was completed during this reporting period. ○ As previously reported, a project was initiated, to perform the 5-year scheduled testing of electrical protective equipment within the plant. The critical elements of this testing were completed in 2020 and remaining testing will continue in 2021. ○ On 10/01/2020, Lake Charles LNG abandoned an existing gas turbine generator and related appurtenances, which provided a back-up power source for auxiliary facility operations power needs and was last utilized in 2012. ○ Lake Charles also abandoned a fuel oil storage tank and related appurtenances (Bunker C Facilities) in place, which were initially installed to support LNG tankers for storage and/or loading fuel oil into the LNG tankers. Responsibility for bunkering was moved to the LNG vessel operator.

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FERC 20210112-5200	Lake Charles LNG Monthly Status Report No. 58	<ul style="list-style-type: none"> Project Construction Activity: None.
FERC 20201209-5155	Lake Charles LNG Monthly Status Report No. 57	<ul style="list-style-type: none"> Project Construction Activity: None.
FERC 20201112-5034	Lake Charles LNG Monthly Status Report No. 56	<ul style="list-style-type: none"> Lake Charles LNG provided updates on its Hurricane Delta preparations to FERC LNG Technical Staff. Project Construction Activity: None.
FERC 20201009-5128	Lake Charles LNG Monthly Status Report No. 55	<ul style="list-style-type: none"> On 09/03/2020, LDEQ issued the Air Permit renewal for the export facility. Project Construction Activity: None.
DOE 10/01/2020 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> In the second quarter of 2019, the parties executed contracts with LNG EPC companies to verify existing front-end engineering design. Lake Charles LNG has received commercial bids from EPC companies in response to the commercial tender package issued on 12/03/2019, for engineering, procurement and contracting, and these bids are being evaluated. Lake Charles LNG is working with the USCG to conduct an annual review and revalidation of the facility Waterway Suitability Assessment (“WSA”) in accordance with NVIC 01-2011. As part of this review, Lake Charles LNG is requesting an increase in the number of authorized vessels in order to allow the project to operate at full capacity. The current authorization of 225 vessels per year would require that vessels average about 174,000 m3 capacity, among the largest in the LNG fleet, to deliver the 16.45 MTPA certificated capacity. Increasing the number of authorized vessels will allow a wider range of vessel sizes from the LNG fleet to deliver the full capacity of the facility. This increase will not result in increasing the actual production of the terminal. Lake Charles LNG’s request to the USCG, for review and revalidation of the WSA to increase the number of LNG vessels, requires no change to the currently proposed facility modifications or the certificated capacity, all previously authorized in the FERC 2015 Authorization Order.
FERC 20200916-5114	Lake Charles LNG Notice of Abandonment	<ul style="list-style-type: none"> 2015 Authorization Order approved Lake Charles LNG’s request to abandon its NGA section 7 certificate and have all facilities under NGA section 3 authorizations. Abandonment completed 08/21/2020.
FERC 20200911-5310	Lake Charles LNG Monthly Status Report No. 54	<ul style="list-style-type: none"> Project Construction Activity: None.
FERC 20200818-3004	Letter Order approving cancelling of FERC Tariff	<ul style="list-style-type: none"> FERC approved the cancelling of Lake Charles LNG’s FERC Tariff, effective 08/21/2020.
FERC 20200810-5158	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (01/01/2020 - 06/30/2020)	<ul style="list-style-type: none"> During the 2019 Canal Firewater Pump testing, two pumps were discovered to be performing below their design capacity. These pumps were repaired, flow tested and reinstalled during this reporting period. Two additional pumps were removed and sent to the manufacturer for repair and flow testing during this reporting period. Routine preventative maintenance activities were carried out during this reporting period. These activities include instrument, electrical, and equipment checks. Additionally, routine maintenance painting was completed during this reporting period.

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<ul style="list-style-type: none"> ○ A project was initiated in 2020 to perform the 5-year scheduled testing of electrical protective equipment within the plant. This testing is on-going.
FERC 20200810-5149	Lake Charles LNG Monthly Status Report No. 53	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20200714-5054	Lake Charles LNG Monthly Status Report No. 52	<ul style="list-style-type: none"> ○ Lake Charles LNG cancelled its FERC Tariff effective 08/21/2020. Lake Charles LNG and BG LNG are negotiating an Amended and Restated Regasification Services Agreement. Lake Charles LNG avows that, until such new agreement is executed, it will continue to serve BG LNG under the terms of the existing service agreements, including terms of the Fourth Revised Volume No. 1-A Tariff as it existed prior to such cancellation. ○ On 06/29/2020, Lake Charles LNG received the USACE permit extension to 12/16/2025. ○ Lake Charles LNG has initiated plans with the U.S. Coast Guard (“USCG”) to conduct a review and revalidation of the facility Waterway Suitability Assessment (“WSA”). As part of this review, Lake Charles LNG is requesting an increase in the number of authorized vessels in order to allow the project to operate at full capacity. The USCG is currently reviewing this process with FERC staff, and Lake Charles LNG will proceed once this review is complete. ○ Project Construction Activity: None.
FERC 20200622-5166	Lake Charles LNG Submits Tariff Filing to Cancel its Tariff	<ul style="list-style-type: none"> ○ 2015 Authorization Order approved Lake Charles LNG’s request to cancel its FERC tariff. ○ Lake Charles LNG requested a 08/21/2020 effective date.
FERC 20200616-5052	Lake Charles LNG Monthly Status Report No. 51	<ul style="list-style-type: none"> ○ Lake Charles LNG has received commercial bids from EPC companies in response to the commercial tender package issued on 12/03/2019, for engineering, procurement and contracting, and these bids are being evaluated. ○ On 03/19/2020 Lake Charles LNG submitted the permit extension request to the U.S. Army Corps. of Engineers (“USACE”). ○ On 06/04/2020, Lake Charles LNG received Section 7 consistency letters from the U.S. Fish and Wildlife Service (“USFWS”). ○ Project Construction Activity: None.
FERC 20200512-5163	Lake Charles LNG Monthly Status Report No. 50	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20200413-5032	Lake Charles LNG Monthly Status Report No. 49	<ul style="list-style-type: none"> ○ On 03/30/2020, Shell announced it would withdraw from the liquefaction project. The Project remains an active project fully-supported by Energy Transfer. ○ Project Construction Activity: None.
DOE 04/01/2020 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ On 03/30/2020, Shell announced it would withdraw from the Liquefaction Project. The Project remains an active project fully-supported by Energy Transfer.
FERC 20200310-5166	Lake Charles LNG Monthly Status Report No. 48	<ul style="list-style-type: none"> ○ Project Construction Activity: None.

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FERC 20200212-5005	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (07/01/2019– 12/31/2019)	<ul style="list-style-type: none"> ○ As previously reported, a phased project to replace the deluge piping on each of the three original LNG Tanks was budgeted. The project to replace deluge piping on Tank C was completed during this reporting period. ○ As previously reported, a phased project to repair the tank structural steel supporting the piping risers on each of the three original LNG Tanks. Tank C repairs were completed during this reporting period. ○ As previously reported, a phased project to repair the foam generator housings replaced two more housings during this reporting period. ○ As previously reported, a phased project to repair the FMC Unloading arms was initiated with the delivery of replacement parts in 2019. During this reporting period, additional inspection of the arms was completed. Based on these inspection results, completion of the arm repairs have been reevaluated and will be postponed to a future budget cycle. ○ The next phase of the DCS project is being re-evaluated to determine if these elements are required to maintain the reliability of the DCS system. ○ Routine preventative maintenance activities were carried out during this reporting period. These activities include instrument, electrical, and equipment checks. Additionally, routine maintenance painting and insulation repairs were completed during this reporting period.
FERC 20200211-5176	Lake Charles LNG Monthly Status Report No. 47	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20200107-5092	Lake Charles LNG Monthly Status Report No. 46	<ul style="list-style-type: none"> ○ In the 2ndQ of 2019, Shell and Lake Charles LNG executed contracts with LNG EPC companies to verify existing front-end engineering design. ○ On 12/03/2019, Lake Charles LNG and Shell announced that a comprehensive commercial tender package has been issued for engineering, procurement and EPC companies to submit final commercial bids for the proposed Lake Charles LNG liquefaction project. ○ Project Construction Activity: None.
FERC 20191210-5171	Lake Charles LNG Monthly Status Report No. 45	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20191205-3025	Letter Order Granting Extension of Time	<ul style="list-style-type: none"> ○ Based on the facts presented in the request, FERC granted an extension of time until and including 12/16/2025 to complete construction of the Liquefaction Project and make it available for service.
FERC 20191112-5283	Lake Charles LNG Monthly Status Report No. 44	<ul style="list-style-type: none"> ○ On 10/30/2019, Lake Charles LNG submitted its renewal application for Air Permit to the LDEQ. ○ Project Construction Activity: None.
FERC 20191010-5186	Lake Charles LNG Monthly Status Report No. 43	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
DOE 10/01/2019 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ Lake Charles LNG continues to do further engineering and risk reduction work in preparation for a bid revalidation process. ○ On 04/30/2019, Lake Charles LNG and Shell issued an Invitation to Tender to LNG EPC. ○ Contracts to complete FEED verification by the EPCs were executed in April 2019.

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<ul style="list-style-type: none"> ○ In the 2ndQ 2019, the parties executed contracts with EPC companies to verify existing front-end engineering design. ○ The Project remains an active, fully-supported project with no changes proposed to the scope or design that the DOE/FE reviewed and approved in the above referenced Order(s). ○ On 04/01/2019, Energy Transfer announced it is expanding its presence in China to meet growing demand for ethane and liquid natural gas products by opening an office in Beijing, which will support the marketing and sales of energy products including liquefied natural gas.
FERC 20190910-5152	Lake Charles LNG Monthly Status Report No. 42	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20190809-5155	Lake Charles LNG Monthly Status Report No. 41	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20190809-5154	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (01/01/2019 – 06/30/2019)	<ul style="list-style-type: none"> ○ As previously reported, a phased project to replace the deluge piping on each of the three original LNG Tanks was budgeted. The project to replace deluge piping on Tank C began during this reporting period. ○ As previously reported, a phased project to repair the tank structural steel supporting the piping risers on each of the three original LNG Tanks began on Tank C during this reporting period. ○ The second phase of a project to repair structural columns at the West Dock, based on results from the annual support system inspection, was completed during this reporting period. ○ The final phase of the automatic valve actuator project replaced two more actuators in the tank trestle area in 2019. ○ Routine preventative maintenance activities were carried out during this reporting period. These activities include instrument, electrical, and equipment checks. Additionally, routine maintenance painting and insulation repairs were completed during this reporting period.
FERC 20190710-5053	Lake Charles LNG Monthly Status Report No. 40	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20190613-5169	Lake Charles LNG Monthly Status Report No. 39	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20190514-5148	Lake Charles LNG Monthly Status Report No. 38	<ul style="list-style-type: none"> ○ Lake Charles LNG and Shell issued an Invitation to Tender to EPC companies on 04/30/2019. ○ Contracts to complete FEED verification by the EPC's were executed in April 2019. ○ On 04/01/2019, Energy Transfer announced it is expanding its presence in China to meet growing demand for ethane and LNG products by opening an office in Beijing, which will support the marketing and sales of energy products including liquefied natural gas. ○ Project Construction Activity: None.
FERC 20190412-5232	Lake Charles LNG Monthly Status Report No. 37	<ul style="list-style-type: none"> ○ On 03/25/2019, Lake Charles LNG and Shell US LNG, LLC ("Shell") signed a Project Framework Agreement that provides the framework to further develop the LNG export facility toward a potential FID. Lake Charles LNG and Shell have started actively engaging with LNG Engineering, Procurement and Contracting ("EPC") companies with a plan to issue an Invitation to Tender in the weeks ahead. ○ Project Construction Activity: None.

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DOE 04/01/2019 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ On 03/25/2019, Lake Charles LNG and signed a Project Framework Agreement that provides the framework to further develop a large-scale LNG export facility in Lake Charles, LA toward a potential final investment decision. In addition, Lake Charles LNG and Shell have started actively engaging with LNG Engineering, Procurement and Contracting companies with a plan to issue an Invitation to Tender in the weeks ahead.
FERC 20190311-5239	Lake Charles LNG Monthly Status Report No. 36	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20190211-5016	Lake Charles LNG Monthly Status Report No. 35	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20190206-5134	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (07/01/2018 – 12/31/2018)	<ul style="list-style-type: none"> ○ As previously reported, the Control Building UPS batteries were removed from service and a temporary battery bank was installed. The replacement battery bank was installed and placed into service on 08/18/2018. ○ As previously reported, a phased project to replace the deluge piping on each of the three original LNG Tanks was budgeted. The project to replace deluge piping on Tank B was completed during this reporting period. ○ The next phase of the DCS update project was completed during this reporting period. This phase of the project replaced the OPC (open platform communications) to DCS interface computer. ○ As previously reported, a phased project to repair the tank structural steel supporting the piping risers on each of the three original LNG Tanks was budgeted. The tank structural steel replacement project on Tank B was completed during this reporting period. ○ A project to update the engineering stations for the plant Emergency Shutdown System (ESS) was completed during this reporting period. ○ The first phase of a project to repair structural columns at the West Dock based on results from the annual support system inspection was completed during this reporting period. ○ A project to repair impoundment insulation systems at Tanks A/B/C and the West Dock was completed during this reporting period and included a new seal coat over the existing insulation. ○ As previously reported, a phased project to repair the FMC Unloading arms was initiated this reporting period with the purchase of replacement parts for two arms. These parts were delivered during this reporting period. The next phase of the project will begin in 2019 and will include the removal and repair of two arms. ○ Routine preventative maintenance activities were carried out during this reporting period. These activities include instrument, electrical, and equipment checks. Additionally, routine maintenance painting and insulation repairs were completed during this reporting period.
FERC 20190107-5014	Lake Charles LNG Monthly Status Report No. 34	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20181213-5206	Lake Charles LNG Monthly Status Report No. 33	<ul style="list-style-type: none"> ○ Project Construction Activity: None.

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FERC 20181113-5254	Lake Charles LNG Monthly Status Report No. 32	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20181011-5157	Lake Charles LNG Monthly Status Report No. 31	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
DOE 10/02/2018 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ Lake Charles LNG continues to do further engineering and risk reduction work in preparation for a bid revalidation process. ○ On 02/02/2018, Lake Charles LNG requested the LDEQ to consider an additional 18 month commence construction extension to extend the deadline until 11/01/2019, and Lake Charles LNG received its approval on 08/15/2018.
FERC 20180914-5088	Lake Charles LNG Monthly Status Report No. 30	<ul style="list-style-type: none"> ○ Received approval of the extension request from LDEQ on 08/15/2018. ○ Project Construction Activity: None.
FERC 20180813-5047	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (01/01/2018 – 06/30/2018)	<ul style="list-style-type: none"> ○ As previously reported, an internal inspection of the 3202-CB Glycol Heater was performed and minor cracked refractory around the tip of Burner #3 was identified. Repairs to the refractory were completed 01/21/2018. ○ On 02/20/2018, the Control Building UPS batteries were removed from service after a routine maintenance check determined they were no longer able to deliver the required power and were in danger of failure from elevated temperatures. To provide required service, a temporary battery bank was installed and remains in service pending receipt of replacement batteries which are on order. ○ During the week of 01/15/2018, Lake Charles experienced temperatures below freezing for 3 consecutive days with only a short period of time above freezing. Lake Charles LNG experienced widespread damage to utility water piping & valves throughout the plant. ○ On 01/12/2018, Lake Charles LNG experienced a voltage dip on the incoming 13.8kV power feed and the uninterrupted power supply (UPS) that provides power to our Corporate IT network in the Control Building failed. The failed UPS was replaced. ○ The next phase of the DCS update project was initiated during this reporting period and will be completed during the next reporting period. This phase of the project will replace the OPC (open platform communications) to DCS interface computer. ○ The next phase of the automatic valve actuator project replaced 3 actuators in the tank trestle area during this reporting period. ○ As previously reported, a phased project to repair the tank structural steel supporting the piping risers on each of the three original LNG Tanks was budgeted. The tank structural steel replacement project on Tank B began during this reporting period and will be completed during the next reporting period. ○ As previously reported, the next phase of the foam generator housing project replaced two more housings during this reporting period. ○ As previously reported, a project to replace the existing facility access control system was implemented during this reporting period.

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<ul style="list-style-type: none"> ○ As previously reported, a phased project to repair the FMC Unloading arms was initiated this reporting period with the purchase of replacement parts for two arms. These parts are expected to be delivered during the next reporting period. ○ Routine preventative maintenance activities were carried out during this reporting period. These activities include instrument, electrical, and equipment checks. Additionally, routine maintenance painting and insulation repairs were completed during this reporting period.
FERC 20180809-5099	Lake Charles LNG Monthly Status Report No. 29	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20180711-5219	Lake Charles LNG Monthly Status Report No. 28	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20180611-5041	Lake Charles LNG Monthly Status Report No. 27	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20180510-5201	Lake Charles LNG Monthly Status Report No. 26	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20180410-5193	Lake Charles LNG Monthly Status Report No. 25	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
DOE 04/03/2018 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ No construction related updates.
FERC 20180308-5186	Lake Charles LNG Monthly Status Report No. 24	<ul style="list-style-type: none"> ○ On 02/02/2018, Lake Charles LNG requested the Louisiana Department of Environmental Quality (“LDEQ”) consider an additional (18) eighteen month commence construction extension to extend the deadline until 11/01/2019. ○ Project Construction Activity: None.
FERC 20180215-5021	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (07/01/2017 – 12/31/2017)	<ul style="list-style-type: none"> ○ During annual load testing of the 2410-J Security Generator, it was determined that undersized fuel injectors previously were installed, which caused performance issues. On 12/13/2017, correct fuel injectors were installed and a successful load test was completed. ○ On 11/27/2017, an internal inspection of the 3202-CB Glycol Heater was performed and minor cracked refractory around the tip of Burner #3 was identified. Repairs to this refractory are planned for January 2018. ○ The next phase of the DCS update project was implemented during this reporting period. This phase of the project replaced the East and West Dock operator control stations and the IEP engineering workstation. ○ The next phase of the automatic valve actuator project replaced 4 actuators in the tank trestle area during this reporting period. ○ A project to replace two of the cathodic protection anode beds with one larger well was completed during this reporting period.

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<ul style="list-style-type: none"> ○ As previously reported, a phased project to repair the tank structural steel supporting the piping risers on each of the three original LNG Tanks was budgeted. The tank structural steel on Tank A was repaired during this reporting period. ○ Routine preventative maintenance activities were carried out during this reporting period. These activities include instrument, electrical and equipment checks. Additionally, routine maintenance painting and insulation repairs were completed during this reporting period.
FERC 20180208-5092	Lake Charles LNG Monthly Status Report No. 23	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20180109-5178	Lake Charles LNG Monthly Status Report No. 22	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20171206-5139	Lake Charles LNG Monthly Status Report No. 21	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20171108-5166	Lake Charles LNG Monthly Status Report No. 20	<ul style="list-style-type: none"> ○ Project Construction Activity: None.
FERC 20171010-5114	Lake Charles LNG Monthly Status Report No. 19	<ul style="list-style-type: none"> ○ All erosion controls will be monitored and maintained in accordance with the SWPPP.
DOE 09/27/2017 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ Work continues with two bidding consortia to do further engineering and risk reduction work and there have been further reviews of the EPC terms and conditions in preparation for a bid revalidation process. Engineering work for the relocation of the Communications Facilities has been completed. ○ Some preliminary site work was undertaken in order to facilitate the main construction. Road widening and other improvements were completed at three main junctions on adjacent public roads impacted by the project to improve traffic safety during construction. Approximately 150 acres of the liquefaction area was cleared of trees, temporary drainage following natural contours was incorporated as part of this.
FERC 20170908-5172	Lake Charles LNG Monthly Status Report No. 18	<ul style="list-style-type: none"> ○ All erosion controls will be monitored and maintained in accordance with the SWPPP.
FERC 20170809-5107	Lake Charles LNG Monthly Status Report No. 17	<ul style="list-style-type: none"> ○ All erosion controls will be monitored and maintained in accordance with the SWPPP.
FERC 20170809-5104	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (01/01/2017 – 06/30/2017)	<ul style="list-style-type: none"> ○ One of the phases of the foam generator housing replacement project was completed during this reporting period, with the new housings being constructed of stainless steel. ○ A phased project to replace the deluge piping on each of the three original LNG Tanks has been budgeted over the next three years. The deluge piping on Tank A is planned for replacement in the second half of 2017. ○ The next phase of the DCS project is planned for the second half of 2017 and will replace the East and West Dock operator control stations and the IEP engineering workstation. ○ The next phase of the foam generator housing project will replace two more housings in 2018. The new housings will be constructed of stainless steel to improve equipment life.

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<ul style="list-style-type: none"> ○ The next phase of the automatic valve actuator project to replace four more actuators in the tank trestle area is planned for the second half of 2017. ○ Project to replace two of the cathodic protection anode beds is expected to be completed in the third quarter of 2017. ○ Phased project to repair the tank structural steel supporting the piping risers on each of the three original LNG Tanks has been budgeted over the next three years. The tank structural steel on Tank A is planned for replacement in the second half of this year. ○ Phased project to repair the FMC Unloading arms has been budgeted over the next three years. The first phase is planned for the second half of 2017 and will include arm removal, inspection and identification of needed repairs to allow the ordering of long lead replacement parts. ○ Routine preventative maintenance activities were carried out during this reporting period. These activities include instrument, electrical and equipment checks. Additionally, routine maintenance painting and insulation repairs were completed during this reporting period. ○ Completed tree clearing of greenfield portion of the Liquefaction Facilities in April 2017.
FERC 20170710-5137	Lake Charles LNG Monthly Status Report No. 16	<ul style="list-style-type: none"> ○ All erosion controls will be monitored and maintained in accordance with the SWPPP.
FERC 20170606-5133	Lake Charles LNG Monthly Status Report No. 15	<ul style="list-style-type: none"> ○ All erosion controls will be monitored and maintained in accordance with the SWPPP.
FERC 20170504-5024	Lake Charles LNG Monthly Status Report No. 14	<ul style="list-style-type: none"> ○ Completed tree clearing of the Greenfield site. ○ All erosion controls will be monitored and maintained in accordance with the SWPPP.
FERC 20170407-5277	Lake Charles LNG Monthly Status Report No. 13	<ul style="list-style-type: none"> ○ Continued tree clearing of the Greenfield site. This activity should be completed by mid-April 2017. Additional erosion control measures will be implemented as warranted. ○ All erosion controls will be monitored and maintained in accordance with the SWPPP.
DOE 04/03/2017 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ On 01/23/2017, FERC Contractor issued a Field Inspection Report – No instances of noncompliance or problem areas were identified. ○ Some preliminary site work was undertaken in order to facilitate the main construction. Road widening and other improvements were completed at three main junctions on adjacent public roads impacted by the project to improve traffic safety during construction. Approximately 150 acres of the liquefaction area was cleared of trees, temporary drainage following natural contours was incorporated as part of this.
FERC 20170308-5014	Lake Charles LNG Monthly Status Report No. 12	<ul style="list-style-type: none"> ○ Continued tree clearing of the Greenfield site. This activity should be completed by mid-March 2017. Additional erosion control measures will be implemented as warranted. ○ All erosion controls will be monitored and maintained in accordance with the SWPPP.
FERC 20170215-5064	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (07/01/2016 – 12/31/2016)	<ul style="list-style-type: none"> ○ On 07/20/2016, the deluge valve for base facility firewater diesel building was removed from service to install a new valve due to corrosion found during routine maintenance. The thermostatic releases that control this valve were also replaced. Final installation and testing of the new valve was completed on 07/26/2016.

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<ul style="list-style-type: none"> ○ On 08/08/2016, the motor on the IEP instrument air compressor (3204-LA) failed due to winding contamination. The motor was replaced and the compressor returned to service on 10/06/2016. ○ Project to update servers and client computers used for security video and access control system was completed during this reporting period. ○ Project to refurbish two of the 4000 pound Dry Chemical Units was completed during this reporting period. ○ Project to replace the DCS Historian, DCS Engineering station and computers used for operator control was completed during this reporting period. ○ Project to replace automatic valve actuators was completed during this reporting period. ○ Project to replace corroded foam generator housings with stainless steel was completed during this reporting period. ○ Additional inspection of the deluge system piping determined that there is considerable internal corrosion on all three original tank deluge systems and, as a result, a phased project to replace the piping on one tank per year began this reporting period. ○ The next phase of the DCS project is scheduled for 2017 and will replace the East and West Dock operator control stations, the operator process simulator and the OPC computer for communication from field controllers to the DCS. ○ The next phase of the foam generator housing project will replace two more housings in 2017. The new housings will be constructed of stainless steel. ○ The next phase of the automatic valve actuator project will replace four more actuators in the tank trestle area in 2017. ○ A project to replace two of the cathodic protection anode beds is planned for 2017. Routine annual inspections of the cathodic protection systems have indicated a decay of these anode beds. ○ An inspection of the original tank structural steel supporting the piping risers on the tanks revealed internal corrosion of the tubing components of the structures. A project to repair these structures in phases over 3 years is being initiated in 2017. ○ Routine preventative maintenance activities were carried out during this reporting period. These activities include instrument, electrical and equipment checks. Additionally, routine maintenance painting and insulation repairs were completed during this reporting period. ○ Commenced tree clearing of greenfield portion of the Liquefaction Facilities in this reporting period and should be completed by the end of February 2017.
FERC 20170210-5007	Lake Charles LNG Monthly Status Report No. 11	<ul style="list-style-type: none"> ○ Continued tree clearing of the Greenfield site. This activity should be completed by the end of February 2017. Additional erosion control measures will be implemented as warranted. ○ All erosion controls will be monitored and maintained in accordance with the SWPPP.
FERC 20170123-4004	FERC Construction Inspection Report	<ul style="list-style-type: none"> ○ On 01/05/2017, Louis Herndon of Tetra Tech performed a construction inspection of the liquefaction project, under contract to FERC and per the request of the FERC Project Manager.

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<ul style="list-style-type: none"> ○ The purpose of the inspection was to determine Lake Charles LNG’s compliance with the environmental conditions of the Authorization Order and to inspect the construction conditions of the pipeline and facility right-of-way. ○ The inspection covered the entire construction site of the new LNG facility. The only construction activities accomplished since the 05/25/2016 inspection were tree clearing activities on approximately 140 acres of the proposed site. At the time of the inspection, trees had been cleared, roots were removed, and the resulting timber was being cut to length and staged for burning. Lake Charles LNG stated that all construction activities, except those required by the Project’s SWPPP, will be suspended following completion of tree clearing until further notice. ○ A follow-up letter is not required at this time, because no instances of noncompliance were identified. All observed construction activities were within approved workspace limits; all environmental controls were properly maintained; and no environmental concerns were noted. The next inspection will be scheduled when construction activities resume, or at the discretion of the FERC Project Manager.
FERC 20170105-5143	Lake Charles LNG Monthly Status Report No. 10	<ul style="list-style-type: none"> ○ Continued tree clearing of the Greenfield site. This activity should be completed by mid-January 2017. Additional erosion control measures will be implemented as warranted. ○ All erosion controls will be monitored and maintained in accordance with the SWPPP.
FERC 20161207-5027	Lake Charles LNG Monthly Status Report No. 9	<ul style="list-style-type: none"> ○ Tree clearing of approximately 150 acres on the Greenfield site was initiated. This activity should be completed by mid-January 2017. Additional erosion control measures will be implemented as warranted. ○ All erosion controls will be monitored and maintained in accordance with the SWPPP.
FERC 20161107-5070	Lake Charles LNG Monthly Status Report No. 8	<ul style="list-style-type: none"> ○ The construction for the relocation/replacement of the communications tower is currently on hold. ○ All erosion controls related to disturbed areas will continue to be monitored and maintained in accordance with the SWPPP.
FERC 20161004-5065	Lake Charles LNG Monthly Status Report No. 7	<ul style="list-style-type: none"> ○ Engineering work for the relocation of the Communications Facilities has been completed, however the construction for the relocation/replacement of the communications tower is currently on hold. ○ All erosion controls related to disturbed areas will continue to be monitored and maintained in accordance with the SWPPP.
DOE 10/03/2016 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ On 03/29/2016, FERC Contractor issued a Field Inspection Report - No instances of noncompliance or problem areas were identified. ○ On 05/25/2016, FERC Contractor issued a Field Inspection Report - No instances of noncompliance or problem areas were identified. ○ On 07/08/2016, Lake Charles LNG submitted a Supplement to the Implementation Plan / Request for Variance Authorization to Relocate/Replace Communication Facilities. ○ On 07/15/2016, FERC issued a Letter Order granting the 07/08/2016 request for variance approval. ○ Work continues with two bidding consortia to do further engineering and risk reduction work and there have been further reviews of the EPC terms and conditions in preparation for a bid revalidation process. Engineering work for the relocation of the Communications Facilities has been completed.

FERC Accession No. / DOE Filing Date	Document Title	Notes
FERC 20160909-5388	Lake Charles LNG Monthly Status Report No. 6	<ul style="list-style-type: none"> ○ Shell decided in July to delay the final investment decision on the Lake Charles LNG export project that was planned for 2016. ○ Lake Charles LNG completed the geotech survey of the ACW-C site for the relocation/replacement communication tower facilities, and no further work is scheduled at this time. ○ All erosion controls related to disturbed areas will continue to be monitored and maintained in accordance with the SWPPP.
FERC 20160809-5125	Lake Charles LNG Semi-Annual Report - FERC Docket Nos. CP74-138, et al. (01/01/2016 – 06/30/2016)	<ul style="list-style-type: none"> ○ On 04/04/2016, during routine testing of the fire detection system, six UV detectors were found to be malfunctioning. These detectors were replaced with modern UV/IR detectors. ○ On 05/09/2016, one of the base plant air compressors failed to load due to unloader valve issues. The unloader valve was repaired and the air compressor was returned to service. ○ During routine maintenance painting of the tank areas, some of the deluge system piping on Tanks A and B were found to have extensive corrosion. As a result, several sections of corroded piping were replaced during this reporting period. ○ As previously reported, the entire facility has been placed in standby mode. ○ As previously reported, Lake Charles LNG began purging the gas from the piping, tanks and equipment during 1Q 2016. The only area that remains in gas service is the fuel gas system which continues to be delivered by Trunkline Gas. All areas purged will be maintained under a nitrogen atmosphere. ○ Project to update servers and client computers used for security video and access control system as initiated in this reporting period and is to be completed in second half of 2016. ○ Project to refurbish two of the 4000 pound Dry Chemical Units was initiated during this reporting period and is scheduled to be complete during second half of 2016. ○ Project to replace the DCS Historian and computers used for operator control stations was initiated during this reporting period and is scheduled to be complete during the second half of 2016. ○ Project to replace automatic valve actuators was initiated during this reporting period and is scheduled to be complete during second half of 2016. ○ Project to replace corroded foam generator housings were initiated during this reporting period and is scheduled to be complete during the second half of 2016. ○ Routine preventative maintenance activities were carried out during this reporting period. These activities include instrument, electrical and equipment checks. Additionally, routine maintenance painting and insulation repairs were completed during this reporting period.
FERC 20160804-5144	Lake Charles LNG Monthly Status Report No. 5	<ul style="list-style-type: none"> ○ Lake Charles LNG is tentatively planning to commence construction of the access road and proceed with the Geotech survey of the ACW-C site, in preparation for the relocation/replacement communication tower facilities, during the next reporting period. ○ All erosion controls related to disturbed areas will continue to be monitored and maintained in accordance with the SWPPP.

FERC Accession No. / DOE Filing Date	Document Title	Notes
FERC 20160715-3009	Letter Order Issuing Variance Approval to Relocate Existing Communication Tower	<ul style="list-style-type: none"> ○ Relocate an existing communication tower from the liquefaction facility to additional construction workspace site and install an access road to the tower. ○ Tower is being relocated to improve security by reducing the amount of traffic and personnel accessing the terminal facilities. ○ FERC confirms the receipt of all required federal authorizations relevant to the approved activities. ○ FERC’s approval does not grant Lake Charles LNG the authority to commence construction of additional project facilities at the LNG terminal.
FERC 20160707-5187	Lake Charles LNG Monthly Status Report No. 4	<ul style="list-style-type: none"> ○ All erosion control related to disturbed areas will continue to be monitored and maintained in accordance with the SWPPP.
FERC 20160630-3073	Order Denying Rehearing	<ul style="list-style-type: none"> ○ FERC denied Sierra Club’s request for rehearing. ○ Sierra Club did not file a Petition for Review.
FERC 20160622-4005	FERC Construction Inspection Report	<ul style="list-style-type: none"> ○ On 05/25/2016, Louis Herndon of Tetra Tech performed a construction inspection of the liquefaction project, under contract to FERC and per the request of the FERC Project Manager. ○ Inspection covered the entire construction site of the new LNG facility. The only construction activities accomplished since the 03/29/2016 inspection were analysis of the four abandoned oil well sites and completion of activities at the test pile locations. ○ All four of the abandoned well sites were stable, with no environmental concerns observed. ○ Per Lake Charles LNG, following completion of the driving and testing of piles, all activities, except those required by the Project’s SWPPP, were suspended until further notice. ○ A follow-up letter is not required at this time, because no instances of non-compliance were identified. The next inspection will be scheduled once construction activities resume.
FERC 20160605-5185	Lake Charles LNG Monthly Status Report No. 3	<ul style="list-style-type: none"> ○ A FERC inspection was performed the week of 05/30/2016, no problem areas or non-compliance were observed. ○ All erosion controls related to disturbed areas will continue to be monitored and maintained in accordance with the SWPPP.
FERC 20160504-5041	Lake Charles LNG Monthly Status Report No. 2	<ul style="list-style-type: none"> ○ Test pile work has been completed. ○ All erosion control related to disturbed areas will continue to be monitored and maintained in accordance with the Storm water Pollution Prevention Plan (“SWPPP”).
FERC 20160405-5030	Lake Charles LNG Monthly Status Report No. 1	<ul style="list-style-type: none"> ○ Authorization order requires filing of a monthly status report beginning with the filing of the Implementation Plan and ending when all construction and restoration activities are complete. ○ Received all required federal authorizations related to the liquefaction facility and modifications to the existing LNG Terminal. ○ Silt fencing for tree clearing and test piles have been completed. ○ Tree clearing at the test pile sites has been completed. ○ The civil work required to build a pad for the test piles in underway. ○ Piling will be delivered to site on 04/05/2016. Test piles will be driven in early April 2016.

FERC Accession No. / DOE Filing Date	Document Title	Notes
DOE 04/01/2016 (FE Docket Nos. 11-59-LNG, 13-04-LNG)	Lake Charles Exports, LLC and Lake Charles LNG Export Company, LLC Semi-annual Reports to DOE	<ul style="list-style-type: none"> ○ On 12/21/2015, Lake Charles LNG submitted the Implementation Plan, including request to commence tree clearing and perform test piles. ○ On 02/23/2016, FERC issued a Letter Order granting Dec. 21 Request to begin pre-construction tree clearing. ○ On 02/26/2016, FERC issued a Letter Order granting Dec. 21 Request to proceed with test piles. ○ On 02/29/2015, Lake Charles LNG began tree clearing at the Liquefaction Facility Site. ○ An Invitation to Tender was issued to three EPC contractor consortia. Bids were received and evaluated. One of the three consortia was eliminated from consideration. The remaining two consortia are going through a terms review and bid revalidation process. ○ Lake Charles LNG currently has option agreements in place for the purchase/lease of all property comprising the Liquefaction Project and the agreements were finalized and executed during this reporting period. Lake Charles LNG exercised its option to purchase approximately 80 acres from Reynolds Metals Company and that purchase closed on 06/25/2015. ○ Lake Charles LNG and BG LNG/BG Energy Merchants, LLC entered into a Project Development Agreement to jointly develop the Liquefaction Project.
FERC 20160329-4018	FERC Construction Inspection Report	<ul style="list-style-type: none"> ○ On 03/29/2016, Louis Herndon of Tetra Tech performed a construction inspection of the liquefaction project, under contract to FERC and per the request of the FERC project manager. ○ The purpose of the inspection was to determine Lake Charles LNG’s compliance with the environmental conditions of the Authorization Order and to inspect the construction conditions of the LNG facility site. ○ The inspection covered the entire construction site of the new LNG facility. ○ Noted that minimal activity had been completed as of the day of the inspection. ○ Clearing was complete along with some site preparation work. ○ Per Lake Charles LNG, construction will be suspended until further notice, pending the disposition of four dormant oil wells. ○ With the suspension of construction, in conjunction with the completion of the above activities, another inspection to observe the conditions of the site as of the shut-down is planned for the week of 05/30/2016.
FERC 20160226-3041	Letter Order Approving Notice to Proceed with Test Piles	<ul style="list-style-type: none"> ○ FERC granted request to proceed with test piles at the liquefaction site. ○ FERC confirms the receipt of all required federal authorizations relevant to the approved activities. ○ FERC’s approval does not grant Lake Charles LNG the authority to commence construction of additional project facilities at the LNG terminal.
FERC 20160223-3028	Letter Order Approving Notice to Proceed with Tree Clearing of the Liquefaction Facility Site	<ul style="list-style-type: none"> ○ FERC granted request to begin pre-construction tree clearing of the liquefaction site. ○ The Implementation Plan included the information necessary to meet the conditions set out in the Authorization Order. ○ FERC confirms the receipt of all required federal authorizations relevant to the approved activities. ○ FERC’s approval does not grant Lake Charles LNG the authority to commence construction of additional project facilities at the LNG terminal.

FERC Accession No. / DOE Filing Date	Document Title	Notes
FERC 20160216-3038	Order Granting Rehearing for Further Consideration	<ul style="list-style-type: none"> ○ FERC issued “tolling” order. ○ FERC did not address the merits of Sierra Club’s request for rehearing.
FERC 20160119-5385	Sierra Club Request for Rehearing	<ul style="list-style-type: none"> ○ Sierra Club argued: <ul style="list-style-type: none"> ● FERC erred when it found that indirect effects relating to supply and consumption of natural gas were outside the scope of NGA and NEPA analysis. ● FERC erred in failing to adequately consider greenhouse gas emissions. ● FERC erred in failing to consider the cumulative impacts of the Project together with other approved and pending LNG export projects.
FERC 20151221-5265	Implementation Plan and Request for Notice to Proceed with Construction	<ul style="list-style-type: none"> ○ Lake Charles LNG filed its Implementation Plan and “request[s] authorization to commence construction at the site designated for the Lake Charles LNG Export Company, LLC liquefaction facilities on or about 01/01/2016 in order to initiate the following construction activities: <ul style="list-style-type: none"> ● Commence tree clearing of the liquefaction facility site in accordance with the attached Greenfield Deforestation Plan in order to avoid the migratory bird nesting period of March 1 – July 31; and ● Perform test piles in accordance with the attached Pile Testing Program.” ○ All requested construction activities would be limited to the liquefaction facility site with the exception of hauling any remaining tree debris to an approved landfill.
FERC 20151217-3026	Order Granting Section 3 and Section 7 Authorizations and Approving Abandonment	<ul style="list-style-type: none"> ○ FERC found that, subject to the conditions imposed in its order, the liquefaction proposal is not inconsistent with the public interest. ○ The Liquefaction Project consists of two parts: construction and operation of the Liquefaction Facilities proposed by Lake Charles LNG Export and construction and operation of the Modified Facilities [which includes modification of certain existing facilities at the existing import LNG terminal]. ○ Additionally, the Liquefaction Project includes construction and operation of Lake Charles LNG’s Modified Facilities at the terminal. Specifically, Lake Charles LNG proposes to: replace in-tank LNG pumps with larger pumps and associated piping; replace LNG loading arms at the west dock; modify its boil-off compression and handling system; expand and integrate the electrical and security systems; integrate the control and emergency shutdown systems; expand and integrate the telecommunications system; install a larger vapor return pipeline from the west dock to the LNG storage tanks; upgrade the marine relief system; replace the mooring dolphins and breasting dolphins at the west dock; and add new mooring and breasting dolphins and upgrade equipment on the existing breasting dolphins at the east dock.
FERC 20151208-5134	Draft Implementation Plan	<ul style="list-style-type: none"> ○ Lake Charles LNG filed its draft Implementation Plan, which sets out how Lake Charles LNG will comply with the expected conditions set out in the Authorization Order, and draft request for a notice to proceed to commence construction of the Project.
FERC 20150814-4001	Final Environmental Impact Statement	<ul style="list-style-type: none"> ○ The existing LNG Terminal includes the following major facilities (that will be incorporated into the Liquefaction Project):

FERC Accession No. / DOE Filing Date	Document Title	Notes
		<ul style="list-style-type: none"> • Two shipping berths (east dock and west dock), each equipped with mooring and breasting dolphins. Each dock contains four liquid loading arms and one vapor return arm; one arm on each dock serves as a hybrid arm that can be used for liquid loading or vapor return. • Four LNG storage tanks: three with a capacity of 95,000 m³ and one with a capacity of 140,000 m³, for a total combined capacity of 425,000 m³. • LNG sendout facilities, including 12 pumps, 14 vaporizers, and 2 boil-off gas compressors. • Hazard detection, control and prevention systems, cryogenic piping and insulation, and electrical and instrumentation systems. • A firewater system. • A natural gas liquids recovery system. • Ancillary utilities, buildings and service facilities. • Access roads and terminal road. • Existing dredge spoil management area.
FERC 20140325-5137	Lake Charles LNG NGA Section 3 Application, Resource Report No. 1 (General Project Description)	<ul style="list-style-type: none"> ○ LNG Terminal is an existing 152-acre LNG Import Terminal which will require modifications to existing facilities and systems to integrate with proposed export components. ○ Proposed Liquefaction Facility is an approximate 286-acre site for 3 liquefaction trains with LNG and vapor tie-ins to the LNG Terminal and feed gas line from Trunkline LNG meter station. ○ Certain modifications to the existing facilities and systems at the LNG Terminal will be required as part of the proposed Project, including the following: <ul style="list-style-type: none"> • Installation of larger in-tank LNG pumps • Replacement of LNG loading arms at the west dock • Modifications to boil-off compression and handling systems • Expansion and integration of electrical systems • Installation of LNG rundown lines from liquefaction area to LNG storage tanks • Expansion and integration of security system • Integration of control and emergency shutdown systems • Expansion and integration of telecommunication system • Installation of larger vapor return pipeline from each dock to the LNG tanks • Installation of a marine flare • Addition of mooring dolphins and breasting dolphins at west dock • Addition of breasting dolphins at east dock • Construction of temporary construction docks • Dredging of temporary construction docks with disposal onshore

LAKE CHARLES EXPORTS, LLC
FE DOCKET NOS. 11-59-LNG AND 16-110-LNG

DECLARATION OF THOMAS P. MASON
EXHIBIT B

**CONFIDENTIAL LETTERS FROM ACTUAL OR
PROSPECTIVE LNG OFFTAKE CUSTOMERS, POTENTIAL
EQUITY PARTNERS, AND EPC FIRMS**

***SUBMITTED UNDER SEPARATE COVER AS CONFIDENTIAL
INFORMATION***

ATTACHMENT 2
FORM OF CONFIDENTIALITY AND PROTECTIVE
AGREEMENT

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

Lake Charles Exports, LLC

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Docket Nos. 11-59-LNG
16-110-LNG

**CONFIDENTIALITY AND
PROTECTIVE AGREEMENT**

1. This Confidentiality and Protective Agreement (“Agreement”) is made and entered into effective as of the ____ day of _____, 2023 (“Effective Date”) by and between Lake Charles Exports, LLC (“Applicant”) and _____ (“Intervenor”), an intervenor in the above-referenced dockets (together, Applicant and Intervenor are referred to herein as the “Parties” and individually as a “Party”).

2. Applicant filed on May 22, 2023 a Request for Rehearing (“Request”) with the Department of Energy, Office of Fossil Energy and Carbon Management (“DOE”) and requested confidential treatment of an attachment containing information that is confidential and exempt from disclosure under FOIA Exemption 4 (trade secrets and commercial or financial information obtained from a person that is privileged or confidential).

3. Intervenor desires to obtain access to the information Applicant has designated as confidential. This Agreement shall govern the use of all Protected Materials produced by, or on behalf of, Applicant, in the above-captioned dockets. Notwithstanding any order terminating this proceeding, this Agreement shall remain in effect until the earlier of: (i) termination by mutual agreement of the Parties; (ii) the effective date of a Protective Order issued by DOE in a trial-type hearing or settlement procedures; or (iii) by a specific order of DOE terminating this Agreement. To the extent there is a conflict between the terms of this Agreement and a subsequent Protective Order as set forth in (ii) above, the terms of the subsequent Protective Order shall control.

4. For the purposes of this Protective Agreement, the listed terms are defined as follows:

- A. Intervenor: means one who has party status in the above-captioned dockets as defined in 10 C.F.R. § 590.102(l).
- B. Protected Materials: means (i) materials submitted to DOE by the Applicant in the above-captioned dockets for which confidential treatment was sought; (ii) material that is privileged under federal, state, or foreign law, such as

work-product privilege, attorney-client privilege, or governmental privilege, and that is designated as Protected Material by Applicant; (iii) any information contained in or obtained from such designated material; (iv) copies of Protected Material; and (v) any other material which is made subject to this Protective Agreement by order of DOE or by any court, or other body having appropriate authority, or by agreement of the Parties (subject to approval by the relevant authority).

- C. Notes of Protected Material: means memoranda, handwritten notes, or any other form of information (including electronic form) which copies or discloses Protected Material).
- D. Protected Material does not include:
 - i. Any information or document that has been filed with and accepted into the public files of DOE, or contained in the public files of any other federal or state agency, or any federal or state court, unless the information or document has been determined to be privileged by such agency or court; or
 - ii. Information that is public knowledge, or which becomes public knowledge, other than through disclosure in violation of this Protective Agreement.
- E. Non-Disclosure Certificate: The certificate attached to this Protective Agreement, by which Intervenors granted access to Protected Material must certify their understanding that such access to such material is provided pursuant to the terms and restrictions of this Protective Agreement, and that such Intervenors have read the Protective Agreement and agree to be bound by it.
- F. Reviewing Representative: A person who has signed a Non-Disclosure Certificate and who is:
 - i. An attorney who has made an appearance in this proceeding for an Intervenor;
 - ii. Attorneys, paralegals, and other employees associated for purposes of this case with an attorney who has made an appearance in this proceeding on behalf of an Intervenor;

- iii. An expert or an employee of an expert retained by an Intervenor for the purpose of advising, preparing for, submitting evidence or testifying in this proceeding;
- iv. A person designated as a Reviewing Representative by order of DOE; or
- v. Employees or other representatives of an Intervenor appearing in these proceedings with significant responsibility for these dockets.

5. Protected Material shall be made available under the terms of this Protective Agreement only to Intervenor and only to their Reviewing Representatives as provided in this Protective Agreement. The contents of Protected Material or any other form of information that copies or discloses such materials shall not be disclosed to anyone other than in accordance with this Protective Agreement and shall be used only in connection with this specific proceeding.

6. All Protected Material must be maintained in a secure place. Access to those materials must be limited to Reviewing Representatives specifically authorized pursuant to this Protective Agreement.

7. Protected Material must be handled by each Participant and by each Reviewing Representative in accordance with the Non-Disclosure Certificate executed pursuant to this Protective Agreement. Protected Material shall not be used except as necessary for the conduct of this proceeding, nor shall they (or the substance of their contents) be disclosed in any manner to any person except a Reviewing Representative who is engaged in this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. Reviewing Representatives may make copies of Protected Material, but such copies automatically become Protected Material. Reviewing Representatives may make notes of Protected Material, which shall be treated as Notes of Protected Material if they reflect the contents of Protected Material.

8. If a Reviewing Representative's scope of employment includes any of the activities listed under this Paragraph 8, such Reviewing Representative may not use information contained in any Protected Material obtained in this proceeding for a commercial purpose (e.g. to give an Intervenor or competitor of Applicant a commercial advantage):

- A. Energy marketing;
- B. Direct supervision of any employee or employees whose duties include energy marketing; or

- C. The provision of consulting services to any person whose duties include energy marketing.

9. If an Intervenor wishes to designate a person not described in Paragraph 4.F above as a Reviewing Representative, the Intervenor must seek agreement from the Applicant. If an agreement is reached, the designee shall be a Reviewing Representative pursuant to Paragraph 4.F of this Protective Agreement with respect to those materials. If no agreement is reached, the matter must be submitted to DOE for resolution.

10. A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Protected Material pursuant to this Protective Agreement until three business days after that Reviewing Representative first has executed and served a Non-Disclosure Certificate. However, if an attorney qualified as a Reviewing Representative has executed a Non-Disclosure Certificate, any participating paralegal, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. Attorneys designated Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Protective Agreement, and must take all reasonable precautions to ensure that Protected Material is not disclosed to unauthorized persons. All executed Non-Disclosure Certificates must be served on the Applicant.

11. Any Reviewing Representative may disclose Protected Material to any other Reviewing Representative as long as both Reviewing Representatives have executed a Non-Disclosure Certificate. In the event any Reviewing Representative to whom Protected Material is disclosed ceases to participate in this proceeding, or becomes employed or retained for a position that renders him or her ineligible to be a Reviewing Representative under Paragraph 4.F of this Protective Agreement, access to such materials by that person shall be terminated. Even if no longer engaged in this proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Protective Agreement and the Non-Disclosure Certificate for as long as the Protective Agreement is in effect.

12. Nothing in this Protective Agreement shall be construed as precluding any Party from objecting to the production or use of Protected Material on any appropriate ground.

13. The provisions of 10 C.F.R. §§ 590.202(e) and 1004.11 shall apply to any requests under the Freedom of Information Act (5 U.S.C. § 552) for Protected Material in the files of DOE.

14. Protected Material shall remain available to an Intervenor until the later of 1) the date an order terminating this proceeding no longer is subject to judicial review, or 2) the

date any other DOE proceeding relating to the Protected Material is concluded and no longer subject to judicial review. After this time, Applicant may request (in writing) that all Intervenor return or destroy the Protected Material. This request must be satisfied with within fifteen (15) days of the date the request is made. However, copies of filings, official transcripts and exhibits in this proceeding containing Protected Material, or Notes of Protected Material, may be retained if they are maintained in accordance with Paragraph 6 of this Protective Agreement. If requested, each Intervenor also must submit to the Applicant an affidavit stating that to the best of its knowledge it has satisfied the request to return or destroy the Protected Material. To the extent Protected Material is not returned or destroyed, it shall remain subject to this Protective Agreement.

15. Regardless of any order terminating this proceeding, this Protective Agreement shall remain in effect until specifically modified or terminated by DOE.

16. Any violation of this Protective Agreement and of any Non-Disclosure Certificate executed hereunder shall constitute a violation of an order of DOE.

IN WITNESS WHEREOF, the signatories below have executed this Protective Agreement as of the date first above written.

LAKE CHARLES EXPORTS, LLC

By: _____
Name: _____
Title: _____

INTERVENOR

By: _____
Name: _____
Title: _____

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

Lake Charles Exports, LLC

)

Docket Nos. 11-59-LNG
16-110-LNG

NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Protected Material is provided to me pursuant to the terms and restrictions of the Protective Agreement in this proceeding, that I have been given a copy of and have read the Protective Agreement, and that I agree to be bound by it. I understand that the contents of Protected Material, any notes or other memoranda, or any other form of information that copies or discloses such materials, shall not be disclosed to anyone other than in accordance with the Protective Agreement. I acknowledge that a violation of this certificate constitutes a violation of the Protective Agreement and an order of the DOE.

By: _____

Printed Name: _____

Title: _____

Representing: _____

Date: _____

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

Lake Charles Exports, LLC

)

Docket Nos. 11-59-LNG
16-110-LNG

CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, Brooksany Barrowes, hereby certify that I am a duly authorized representative of Lake Charles Exports, LLC, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of Lake Charles Exports, LLC, the foregoing request for rehearing in the above captioned proceedings.

Dated at Washington, D.C. this 22nd day of May, 2023.

/s/ Brooksany Barrowes

Brooksany Barrowes
Kirkland & Ellis LLP
1301 Pennsylvania Ave. NW
Washington, DC 20004
(202) 389-5000
brooksany.barrowes@kirkland.com

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

Lake Charles Exports, LLC

)

Docket Nos. 11-59-LNG
16-110-LNG

CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. §590.103(b), I, Thomas E. Knight, hereby certify that I am a duly authorized representative of Lake Charles Exports, LLC, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of Lake Charles Exports, LLC, the foregoing request for rehearing in the above captioned proceedings.

Dated at Washington, D.C. this 22nd day of May, 2023.

/s/ Thomas E. Knight
Thomas E. Knight
Locke Lord LLP
701 8th Street NW, Suite 500
Washington, DC 20001
(202) 220-6922
tknight@lockelord.com

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

Lake Charles Exports, LLC

)

Docket Nos. 11-59-LNG
16-110-LNG

VERIFICATION

Pursuant to 10 C.F.R. §590.103(b), I, Brooksany Barrowes, hereby verify under penalty of perjury that I am counsel for Lake Charles Exports, LLC, 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, information and belief.

Dated at Washington, D.C. this 22nd day of May, 2023.

/s/ Brooksany Barrowes

Brooksany Barrowes
Kirkland & Ellis LLP
1301 Pennsylvania Ave. NW
Washington, DC 20004
(202) 389-5000
brooksany.barrowes@kirkland.com

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

Lake Charles Exports, LLC

)

Docket Nos. 11-59-LNG
16-110-LNG

VERIFICATION

Pursuant to 10 C.F.R. §590.103(b), I, Thomas E. Knight, hereby verify under penalty of perjury that I am counsel for Lake Charles Exports, LLC, 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, information and belief.

Dated at Washington, D.C. this 22nd day of May, 2023.

/s/ Thomas E. Knight

Thomas E. Knight

Locke Lord LLP

701 8th Street NW, Suite 500

Washington, DC 20001

(202) 220-6922

tknight@lockelord.com

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

Lake Charles Exports, LLC

)

Docket Nos. 11-59-LNG
16-110-LNG

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. §590.107, I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Department of Energy in these proceedings.

Dated at Washington, D.C. this 22nd day of May, 2023.

/s/ Jennifer L. Brough

Jennifer L. Brough

Locke Lord LLP

701 8th Street NW, Suite 500

Washington, DC 20001

(202) 220-6965

jbrough@lockelord.com