BEFORE THE ADMINISTRATOR

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF

LAKE CHARLES LNG EXPORT TERMINAL

To construct and operate a new natural gas compression, refrigeration, and liquefaction facility in Calsacieu Parish, Louisiana; and

Part 70 Operating Permit No. 0520-00509-V0 and PSD-LA-838

LAKE CHARLES LNG RECEIVING TERMINAL

To operate an LNG import and export facility in Calsacieu Parish, Louisiana; and

Part 70 Operating Permit No. 0520-00098-V9

TRUNKLINE GAS COMPANY, LLC

To construct and operate the Iowa Compressor Station

Part 70 Operating Permit No. 0520-00486-Vl

Issued by the Louisiana Department of Environmental Quality.

PETITION TO OBJECT TO THE TITLE V OPERATING PERMIT FOR THE PROPOSED EXTENSION OF THE DEADLINE TO COMMENCE CONSTRUCTION AT LAKE CHARLES LNG EXPORT FACILITY, LAKE CHARLES LNG RECEIVING TERMINAL AND TRUNKLINE GAS COMPANY'S IOWA COMPRESSOR STATION IN CALSACIEU PARISH

Pursuant to Section 505(b) of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7661d(b)(2) and 40 C.F.R. § 70.8(d), Sierra Club ("Petitioner")[1] petitions the Administrator of the U.S. Environmental Protection Agency ("EPA") to object to the Part 70 Operating Permit No. 0520-00509-V0 ("Export Permit") initially issued on September 3, 2020 and commencement of construction deadline extended on March 4, 2022 by the Louisiana Department of Environmental Quality ("LDEQ") to Lake Charles Export Company, LLC, to construct and operate a new gas compression, refrigeration, and liquefaction facility at the proposed Lake Charles LNG facility in Calsacieu Parish, Louisiana; the Part 70 Operating Permit No. 0520-00098-V9 ("Receiving Permit") initially issued on September 25, 2013 and modification/renewal issued on October 5, 2021 by LDEQ to Lake Charles Receiving Company, LLC; and the interrelated and interdependent Part 70 Operating Permit No. 0520-00486-Vl ("Iowa Permit") initially issued on June 14, 2016 and renewal requested on December 4, 2020 by Trunkline Gas Company, LLC's Iowa Compressor Station (jointly referred to as the "Lake Charles LNG Project"). Energy Transfer (d/b/a Lake Charles LNG Receiving Terminal LLC, Lake Charles LNG Export Terminal LLC, and Trunkline LNG Company, collectively the "Company") owns and proposes to operate the Lake Charles LNG Terminal and the Iowa Compressor Station jointly as the Lake Charles LNG Project.[2]

[1] The Sierra Club is America's largest and most influential grassroots environmental organization, with millions of members and supporters. In addition to protecting every person's right to get outdoors and access the healing the healing power of nature, the Sierra Club works to promote clean energy, safeguard the health of our communities, protect wildlife, and preserve our remaining wild places through grassroots activism, public education, lobbying, and legal action. The Sierra Club has a longstanding interest and expertise in the development and use of natural resources along the Louisiana and Mississippi coasts and has nearly 3,700 members in Louisiana, some of whom live, work, and recreate in the area affected by the proposed facility.

[2] Lake Charles Liquefaction Project, *Final Environmental Impact Statement* at 1-1, Trunkline Gas Company, LLC, Lake Charles LNG Company, LLC, and Lake Charles LNG Export Company, LLC, FERC Docket Nos. CP14-119-000, CP14-120-000, and CP14-122-000, DOE Docket Nos. 11-59-LNG and 13-04-LNG, FERC/EIS-0258F, DOE/EIS-0491 [hereinafter, "Lake Charles EIS"].

Petitioner asks the Administrator to object to the Export Permit, Receiving Permit, and Iowa Permit because they fail to comply with the "applicable requirements" of the Act, including: Louisiana's State Implementation Plan (SIP) and Prevention of Significant Deterioration ("PSD") permitting requirements. *See* 40 C.F.R. § 70.2 (defining "applicable requirement" as used in the CAA). Specifically, the Administrator must object to the permits for the following reasons:

- The Export and Receiving permits already expired so LDEQ lacks authority to issue the extension/renewals, the Company failed to provide a satisfactory justification for the extensions, and neither the Company nor LDEQ performed a substantive re-evaluation of PSD criteria;
- LDEQ improperly segmented the PSD analysis of the Lake Charles Export facility, Lake Charles Receiving facility, and Iowa compressor station;
- LDEQ conducted an illegally opaque review process; and
- The Receiving and Iowa permits violate the Clean Air Act due to significant flaws and failure to comply with PSD permitting requirements.

LEGAL FRAMEWORK

"The Title V operating permits program is a vehicle for ensuring that existing air quality control requirements are appropriately applied to facility emission units in a single document. … Such applicable requirements include the requirement to obtain preconstruction permits that comply with applicable new source review requirements." *In re Monroe Elec. Generating Plant*, Petition No. VI-1999-02 at 2 (EPA Adm'r 1999). As part of its Title V review, therefore, the Administrator must determine whether an emission unit has gone through the proper NSR or PSD permitting process, complies with the Louisiana SIP, and whether the Title V operating

permit contains accurate "applicable requirements." 40 C.F.R. § 70.2; *In re Chevron Prod. Co., Richmond Cal.*, No. IX-2004-08 at 11-12 n. 13 (EPA Adm'r 2005). Notably, this review process also applies to permit modifications or renewals. 42 U.S.C. § 7661d(a)(1) (requiring the permitting agency to transmit "each permit application (and any application for a permit modification or renewal)" and any proposed and final permits). If the Administrator objects to a permit, "the Administrator shall modify, terminate, or revoke" the permit. 42 U.S.C. § 7661d(b)(3).

If the Administrator does not object during the review period, any person may petition the Administrator to do so. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d). Pursuant to 40 C.F.R. § 70.8(d), a petitioner must base its petition "only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in § 70.7(h) of this part, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period." In the instant matter, LDEQ failed to issue a public notice period regarding the Export Permit extension, and it was therefore impracticable (and impossible) to raise the objections presented here with respect to that extension. Sierra Club submitted comments regarding the Receiving Permit and Iowa Permit to LDEQ on May 27, 2021,[3] which included the claims raised in this petition with respect to the Receiving and Iowa Permits.

The Administrator must grant or deny this Petition within sixty days after it is filed. 42 U.S.C. § 7661d(b)(2). The Clean Air Act provides that EPA "shall issue an objection ... if the petitioner demonstrates to the Administrator that the permit is not in compliance with the requirements of the" Act. 42 U.S.C. § 7661d(b)(2). *See also* 40 C.F.R. § 70.8(c)(1); *New York*

[3] Sierra Club Comments to LDEQ re: Lake Charles LNG Receiving and Iowa Compressor Station Part 70 Permits (May 27, 2021) (Attached as Exhibit A) at § I [hereinafter "May 2021 Comments"].

Public Interest Research Group (NYPIRG) v. Whitman, 321 F.3d 316, 333 n. 11 (2d Cir. 2003). Likewise, EPA's implementing regulations provide that EPA will object to the Permit if it is not "in compliance with applicable requirements or requirements under this [40 C.F.R. Part 70]." 40 C.F.R. § 70.8(c). When specifically reviewing a petition to object to a Title V permit that raises concerns about a State's PSD permitting decision, EPA considers whether the petitioner has shown that the state agency failed to comply with its SIP-approved regulations governing PSD permitting or the state agency's exercise of discretion under such regulations was unreasonable or arbitrary. *In re American Electric Power Service Corp., Fulton, Ark.*, Petition No. VI-2008-01 at 3 (EPA Adm'r 2009). If the Administrator determines that the Permit does not comply with the requirements of the CAA, or fails to include any "applicable requirement," he must object to issuance of the permit. 42 U.S.C. § 7661d(b); 40 C.F.R. § 70.8(c)(1) ("The Administrator will object to the issuance of any permit determined by the Administrator not to be in compliance with applicable requirements or requirements of this part."). "Applicable requirements" include, among other things, any provision of the Louisiana SIP, including PSD requirements, any term or condition of any preconstruction permit, any standard requirement under CAA §§ 111, 112, 114(a)(3), or 504, acid rain program requirements. 40 C.F.R. § 70.2; *In re Monroe Electric Generating Plant*, Petition No. VI-1999-02 at 2 (EPA Adm'r 1999).

In addition, the Administrator has grounds to object to a proposed permit based on procedural flaws pursuant to 40 C.F.R. § 70.8(c)(3) even where the Administrator has not determined applicable requirements or requirements of Part 70 have been violated:

> Failure of the permitting authority to do any of the following also shall constitute grounds for objection: (i) Comply with paragraphs (a) [requiring the permitting authority to transmit to EPA the proposed permit, the permit application, and other information needed to effectively review the proposed permit] or (b) [requiring the permitting authority to give notice of the proposed permit to any affected state] of this section; (ii) Submit any information necessary to review adequately the

> proposed permit; or (iii) Process the permit under the procedures approved to meet § 70.7(h) of this part [governing public participation] except for minor permit modifications.

In other words, LDEQ's failure to transmit to EPA the proposed permit, permit application, and other information needed to effectively review the proposed permit—and LDEQ's failure to conduct the required public notice and comment process—are standalone grounds for the Administrator to object to the permit.

PROCEDURAL BACKGROUND

On March 25, 2014, the companies then known as Trunkline LNG Export, LLC and Trunkline LNG Company, LLC jointly filed an application with the Federal Energy Regulatory Commission ("FERC") to site, construct, and operate new liquefaction facilities ("Lake Charles LNG Export") adjacent to the existing liquefied natural gas ("LNG") import terminal located in Calcasieu Parish, Louisiana, and to construct and operate certain facility modifications at the existing LNG terminal to facilitate the storage and subsequent export of LNG ("Lake Charles LNG Receiving").[4] The existing terminal was permitted to import LNG and currently operates under Part 70 Permit Number O520-00098-VS, issued on September 25, 2013; Prevention of Significant Deterioration (PSD) Permit Number PSD-LA-97(M-2), issued on May 27, 1987; and PSD Permit Number PSD-LA-685, issued on October l, 2002.

On September 19, 2014, the Trunkline companies amended their names to Lake Charles LNG Export Company, LLC and Lake Charles LNG Company, LLC (collectively, "Lake Charles LNG" or "the Company"), and subsequently engaged with FERC in the development of an environmental impact statement ("EIS") to support the Company's proposal to convert and

[4] Lake Charles EIS at 1-1. For simplicity, these comments refer to the proposed expansion and conversion of the Lake Charles LNG terminal, and the construction of supporting compressor stations, as the Lake Charles LNG Project.

expand the existing Lake Charles LNG import terminal to facilitate the storage and subsequent export of LNG. As part of that project, the Companies also requested authorization to construct and operate a new greenfield Iowa Compressor Station, formerly called Compressor Station 203-A, with the "primary purpose" of supporting the operation of the Lake Charles LNG export project. Throughout the EIS, the Company refers to the expansion of the existing Lake Charles LNG import facility, its conversion to an export facility, and the related construction of the Iowa Compressor as a singular set of activities, the Lake Charles Liquefaction Project.[5]

To facilitate the conversion and expansion of the existing Lake Charles LNG import facility into an export facility, the Company applied for a modification and renewal of its Part 70 Permit Number O520-00098-VS, initially issued on September 25, 2013. The Company has not commenced construction on the expansion and conversion of the existing Lake Charles LNG terminal. On March 9, 2018, the Company applied to renew/modify its Part 70 permit; on October 5, 2021, LDEQ issued a renewed permit. [6]

Meanwhile, the same Company, d/b/a Trunkline Gas Company, proposed to construct and operate the new, greenfield Iowa Compressor Station, formerly referred to as Compressor Station 203-A. On June 14, 2016, LDEQ issued Trunkline Gas Company Permit No. 0520-00486-V0 for the construction and operation of the Compressor Station. Because the Iowa Compressor Station's "primary purpose is to support" the delayed Lake Charles LNG Project, construction on the Iowa Compressor Station has not commenced.[7] On December 4, 2020, the

[5] *Id*.
[6] Lake Charles LNG Receiving Terminal, Part 70 Operating Permit Renewal/Modification, https://edms.deq.louisiana.gov/app/doc/view?doc=12925533 (hereinafter "Receiving Renewal Approval").
[7] Statement of Basis at 2, Proposed Part 70 Air Operating Permit Renewal/Modification for Trunkline Gas Company, LLC/Iowa Compressor Station, AI Number 191783, Permit Number 0520-00486-Vl , and Activity Number PER20200002, available at https://edms.deq.louisiana.gov/app/doc/view?doc=12646141 ("Iowa Statement of Basis").

Company requested to renew its Part 70 permit for the Iowa Compressor Station[8]; LDEQ issued a proposed permit on April 23, 2021.[9] The natural gas compressor station (SIC code 4922) would be located in Calcasieu Parish, approximately 3 miles northwest of Iowa, Louisiana.

The new component, the Lake Charles LNG Export Terminal, was first permitted on May 1, 2015, but has yet to begin construction.[10] Pursuant to LAC 33:III:509.R.2, unless the Company commenced construction, the PSD permit would expire within 18 months of permit issuing; and pursuant to LAC 33:III:537.A.IV.A, the Part 70 Operating Permit (Title V permit) would expire within two years absent commencement of construction. On September 27, 2016, a request for an extension to commence construction was submitted to LDEQ.[11] On October 27, 2016, LDEQ approved extended the construction deadline to May 1, 2018.[12] On July 17, 2018, the company's name changed from Trunkline LNG Company, LLC to Lake Charles LNG Export Company, LLC.[13] On February 2, 2018, the Company submitted a second extension request,[14] which LDEQ granted on May 25, 2018, extending the construction deadline to November 1, 2019.[15] On October 30, 2019, the Company submitted a PSD permit modification application to reauthorize construction of the facility and to update the design of the Lake Charles LNG Export

[8] Trunkline Gas, Part 70 Renewal Application, https://edms.deq.louisiana.gov/app/doc/view?doc=12486030
[9] LDEQ, Part 70 Renewal/Modification Briefing Package, Iowa Compressor Station, AI Number 191783 (4/23/2021), https://edms.deq.louisiana.gov/app/doc/view?doc=12646141 [hereinafter "Iowa Proposed Renewal"].
[10] LDEQ, Construction Extension Authorization, at pdf 1, Lake Charles LNG Facility, Calsacieu Parish; AI Number 212290 (Mar. 4, 2022) Lake Charles LNG Export Facility, Calsacieu Parish; AI Number 201334 (Attached as Exhibit B) [hereinafter "Export Extension Approval"].
[11] *See* Lake Charles LNG Export, Part 70 Operating Permit Renewal/Modification, Lake Charles Export LNG Facility, Carlyss, Calsacieu, Parish; AI Number 201334, available at https://edms.deq.louisiana.gov/app/doc/view?doc=12333964 (Sep. 3, 2020) [hereinafter "2020 Export Renewal"].
[12] *Id.* at pdf 3 (Briefing Sheet at 1).
[13] *Id.*
[14] *Id.*
[15] *Id.*

Terminal.[16] LDEQ authorized the requested modifications on September 3, 2020 under permit nos. 0520-00509-V0 and PSD-LA-838.[17] On February 18, 2022, the Company again requested an extension of the construction deadline, [18] which LDEQ granted in a "letter" on March 4, 2022, without providing any public notice or a comment period.[19] The Company's deadline to commence construction of the proposed facility under its Title V and PSD permits is now September 3, 2023.[20]

The proposed Lake Charles LNG Project is located in Calcasieu Parish, Louisiana about 9 miles southwest of the city of Lake Charles, Louisiana on the east side of the Calcasieu Ship Channel. The new liquefaction facility, which would include three liquefaction trains with a design production capacity of 16.45 million metric tons per annum of LNG, would be located on an approximately 286-acre site immediately north of and directly adjacent to the existing terminal. Natural gas would be delivered to the project via the existing pipeline facilities or by the proposed compressor station and ancillary facilities that would interconnect with the new liquefication project.

The Company has indicated that, because the proposed expansion and construction of the proposed LNG import facility would be adjacent to the existing LNG terminal and both emission sources would be under "common operational control," Lake Charles LNG anticipates that the two facilities would be "addressed as a single source" for PSD applicability.[21] However, neither

[16] *Id.*
[17] *Id.*; PSD-LA-838 Lake Charles LNG Export Terminal, Lake Charles LNG Export Company, LLC, Lake Charles, Calcasieu Parish, Louisiana, AI No. 212290 (Sep. 3, 2020), available at https://edms.deq.louisiana.gov/app/doc/view?doc=12333966 [hereinafter "Export PSD Renewal"]
[18] Lake Charles Export LNG LLC, Construction Authorization Extension Request, Lake Charles LNG Facility, Calsacieu Parish; AI Number 212290 (Feb. 18, 2022) (Attached as Exhibit C) [hereinafter "Fourth Extension Request"].
[19] Export Extension Approval, supra note 10.
[20] *Id.*
[21] Lake Charles EIS at 4-116.

the existing Lake Charles LNG Receiving or Lake Charles LNG Export facility permits contemplate also treating the Iowa compressor station as part of the same single source.

The proposed facilities are located in Lake Charles and Iowa, Louisiana—communities that are historically and disproportionately exposed to significant air and water pollution from nearby facilities that operate pursuant to LDEQ permits. Indeed, EPA data indicates that the Air Toxics Cancer Risk and Respiratory Hazard Index for the Lake Charles residents who live within 4 miles of the proposed plant are already all above 90 percent relative to the rest of the state. Particulate matter impacts in the area are already above 70 percent of the state average.

As explained in detail in the attached comments,[22] the Receiving and Iowa permits are flawed in several respects, and based on flawed air quality and technology analyses that are more than six years old. As noted, the Iowa Compressor Station was first permitted in 2016, but has yet to commence construction because the Lake Charles LNG Project has been delayed. The permit file does not include any information indicating that the Company has concrete or imminent plans to commence construction. In fact, the Company has failed to secure financing or a final investment decision for the LNG Project itself. Similarly, there is no information in the record quantifying or even identifying adverse environmental impacts to the community from the expansion and conversion of the Lake Charles LNG Project. Indeed, the Lake Charles Application fails to even mention the direct or cumulative impact of the LNG facility's emissions on climate, storm, and flood risk.

THE PETITION IS TIMELY

Title V petitions, such as this one, must be filed within 60 days of the end of EPA's 45-day review period. 42 U.S.C. § 7661d(b)(2); 40 C.F.R. § 70.8(d). Pursuant to 40 C.F.R. §

[22] *See* May 2021 Comments at § I.

70.8(c)(3), LDEQ's failure to transmit to EPA the proposed permit, the permit application, and other information needed to effectively review the proposed permit, or to "[p]rocess the permit under the procedures approved to meet § 70.7(h) of this part [governing public participation] except for minor permit modifications" is a standalone ground for objection. The regulations do not provide a timeclock for objections based on the procedural flaws contemplated in 40 C.F.R. § 70.8(c)(3).

With respect to non-procedural objections, EPA's revised 2020 Title V regulations make clear that the Administrator's 45-day review period—and by extension, the public's 60-day deadline to petition to object—"will not begin until" the state submits to EPA the permit, the statement of basis, any response to significant comments, and any other supporting documentation. 40 C.F.R. § 70.8(a)(1). In finalizing those regulations, EPA reasoned that any response to comments and the statement of basis are "two critical documents in the administrative record for a proposed permit," and without those documents "EPA usually cannot provide as effective a review under CAA section 505(b)(1) as when a full administrative record, including these documents, is available during that review." 85 Fed. Reg. 6431, 6440 (Feb. 5, 2020); *see also id*. at 6439 (noting that the statement of basis is a "necessary part of the permit record.").

For the Export Permit extension, LDEQ has not submitted the underlying, revised Title V or PSD permits or the other relevant documents for EPA review. Nor did LDEQ submit the requisite supporting documentation to EPA; in fact, the state agency's extremely limited administrative record, consisting of two sentences in a letter granting the extension for both permits, does not contain a statement of basis or any response to comments. Nor could it include a response to comments because the agency never provided public notice or solicited comment.

Because these procedural failures provide a standalone basis for objection, not subject to EPA's 45-day review and 60-day petition window, this petition's claims—and any objection by EPA—regarding LDEQ's procedural failures, are timely.

Even assuming the standard 45+60-day timeclock applied (it does not), EPA's limitations period has not commenced—and, thus, has not expired—unless and until LDEQ submits to EPA the underlying permit, the statement of basis, and the agency's response to comments. Accordingly, the public's 60-day deadline to petition EPA to object has likewise not commenced or expired. Even if the 45+60-day window applied and EPA's review period did commence when LDEQ issued its decision (it did not), at the earliest, the 45-day window would have started on March 4, 2022. EPA's review period would have expired on March 18, 2022, and any petitions would be due today: June 17, 2022. Therefore, this petition is timely filed.

Similarly, this petition is timely with respect to the Receiving and Iowa permits. As noted, EPA's 45-day review window (and thus our 60-day clock to petition EPA) does not start until EPA receives the proposed permit modification/renewal and all other requisite permitting materials. The 45-day clock is triggered when the proposed permit and necessary materials are submitted to EPA. 42 U.S.C.A. § 7661d(b)(1)(A) (establishing the permitting authority's obligation to respond if EPA *within 45 days after receiving a copy of the proposed permit* under subsection (a)(1) (emphasis added)); 42 U.S.C.A. § 7661d(a)(1) (requiring the permitting authority to "transmit to the Administrator a copy of each permit application (and any application for a permit modification or renewal) or such portion thereof, including any compliance plan, as the Administrator may require to effectively review the application and otherwise to carry out the Administrator's responsibilities under this chapter" along with the proposed and final permits). Implementing regulations clarify that this means that EPA's 45-day review period—and by

extension, the public's 60-day deadline to petition to object—"will not begin until" the state submits to EPA the permit, the statement of basis, any response to significant comments, and any other supporting documentation." 40 C.F.R. § 70.8(a)(1) (2020 Title V regulations); *see also* 85 Fed. Reg. 6431, 6439-40 (Feb. 5, 2020). Sierra Club provided extensive comments on the proposed Receiving and Iowa permits,[23] but LDEQ failed to submit our comments—or its written response to comments—to EPA, as required. As a result, the timeclock hasn't started (or expired) with respect to the Receiving or Iowa permits. Therefore, this petition is timely filed on the Receiving Terminal and Iowa Compressor Station as well.

I. EPA MUST OBJECT TO LDEQ'S ISSUANCE OF TITLE V AND PSD EXTENSIONS BECAUSE THE APPLICANT FAILED TO PROVIDE A SATISFACTORY JUSTIFICATION FOR THE EXTENSIONS.

A. The Extension Request and LDEQ's Decision to Extend the Lake Charles LNG Export Terminal Permits Lacked a Satisfactory Justification.

As an initial matter, the Lake Charles LNG Export PSD permit states that it "shall expire at midnight on March 3, 2022." LDEQ did not sign the extension until March 4. Therfore, the PSD permit, by its explicit terms, expired March 3, and LDEQ cannot extend a construction deadline in a permit that does not exist. *Cf.* LAC 33:III.535.A. ("Permit expiration terminates the owner's and operator's right to operate the source."); 40 C.F.R. § 70.7(c)(1)(ii) ("Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with paragraph (b) of this section and § 70.5(a)(1)(iii) of this part.").

[23] Because LDEQ did not provide the response to comments, petitioners attach the comments here as Exhibit A. As noted, the purpose of the requirement for LDEQ to submit the comments and a response to EPA before EPA's decision on whether to object is made is so that EPA can consider significant public comment. Without a copy of these comments and LDEQ's responses, EPA cannot make that decision.

Even if LDEQ had authority to issue a renewal/extension of the expired Export Permit (it cannot), the Company's fourth attempt to extend its PSD permit another 18 months, and to extend the expiration of its Title V permit, lacked a sufficient justification and, therefore, LDEQ did not have authority to extend the commencement of construction deadline for a fourth time. As an initial matter, Louisiana's general permit conditions make clear that a "permit issued in advance of commencement of construction shall become invalid, for the sources not constructed, if . . . construction is not commenced, or binding agreements or contractual obligations to undertake a program of construction of the project are not entered into, within two years." 33 L.A.C. § 537, Table 1.IV. LDEQ issued the Lake Charles LNG renewed preconstruction and Title V permits in 2020—two years ago—but the Company has not commenced construction. As a result, the preconstruction and Title V permits would become invalid on March 3, 2022 and September 3, 2022, respectively, absent an extension from LDEQ. LDEQ's decision to allow Lake Charles to commence construction as late as September 3, 2023 thus represents an extension of the PSD construction deadline as well as a renewal of the validity of the Title V permit.

Under Louisiana's SIP, extensions to commence construction of activities permitted under the PSD program are only allowed upon "a satisfactory showing that an extension is justified." LAC 33:III.509.R.2. EPA's PSD regulations contain a parallel provision. *See* 40 C.F.R. § 52.21(r)(2). EPA Guidance interpreting this provision requires two things to satisfy this standard on a second extension request. First, it requires applicants to provide a detailed justification for why it "cannot commence construction by the current deadline." EPA, *Guidance on Extension of Prevention of Significant Deterioration (PSD) Permits under 40 CFR 52.21(r)(2)* 5 [hereinafter "EPA Guidance"]. For second requests, a justification for a failure to

meet the construction deadline will only be sufficient in "rare circumstances". *Id.* Second, generally, second extension requests trigger an obligation to perform a substantive re-evaluation of the PSD permitting requirements to ensure that the data supporting the initial application has not gone stale in the intervening time between the initial application and the second extension request. *Id.* at 5-6. Moreover, under LDEQ's general conditions, if a facility has not timely commenced construction, the agency may only extend the PSD and Title V permit validity "upon a satisfactory showing that an extension is justified." *Id.* Therefore, the Company was required to provide a satisfactory showing that extensions of both the PSD and Title V permits were justified to comply with Louisiana's SIP.

The Company's fourth extension request and LDEQ's summary approval of the request fail to provide the detailed justification and substantive re-evaluation needed to ensure compliance with the CAA. The Company's justification for its failure to meet its construction deadline is a terse statement that "construction has not commenced at the Lake Charles LNG Export Terminal due to global market conditions impacting our ability to reach a final investment decision and secure long-term offtake contracts." Fourth Extension Request at 2. Plainly, this is insufficient and does not constitute a detailed justification for failing to begin construction despite having already failed to meet the construction deadline on three prior occasions. *See* 2020 Export Renewal, Briefing Summary at 1 (pdf 3).

EPA's 2017 decision to grant a five-month second extension for construction of a renewable energy project required much more to satisfy the detailed justification standard. *See* EPA, *Final PSD Extension Letter – Energy Answers Arecibo/Energy Answers Arecibo Puerto Rico Renewable Energy Project, PR* (Apr. 10, 2017), *available at* https://www.epa.gov/caa-permitting/final-psd-permit-extension-letter-energy-answers-arecibo-llcenergy-answers-arecibo.

There, to justify a second extension, the applicant provided specific milestones representing "continued steady progress toward commencing construction." *Id.* at 2. These milestones included completing contract execution, on-site work and test piles, loan commitment letter issuance, fill and foundation work, and obtaining government approvals. In other words, that applicant was very close to commencing construction and requested a short, tailored extension to finish the last necessary steps before beginning the project in earnest.

Here, by contrast, Lake Charles provides no record of any actual progress toward a construction start date. In fact, Lake Charles's request itself acknowledges that the company has failed to obtain the final investment decision or long-term offtake contracts necessary to facilitate construction. Fourth Extension Request. This explanation falls far short of the "satisfactory showing" required to justify extend the either the PSD construction deadline or the Title V permit validity. *See* EPA Guidance at 5 ("a permittee's first PSD permit extension request should include a *detailed justification* of why the source cannot commence construction within the initial 18-month deadline. For example, relevant factors for this justification could include ongoing litigation over the PSD permit, natural disasters that directly affect the facility, significant or unusual economic impediments . . . and/or delays in obtaining other required permits." (emphasis added)).

Rather than providing a detailed justification, the Company relied on a single vague statement to request an extension, for the fourth time, of an arbitrary duration. This is tantamount to requesting a blank check. And, rather than demanding more, LDEQ approved the extension/renewal in two weeks with almost no consideration. *See* Export Extension Approval. Simply put, the record is entirely bereft of any information that would constitute sufficient circumstances, let alone "rare circumstances," to justify granting a fourth request to extend the

date to commence construction for this permit. Accordingly, EPA would be required to object to the Permit on this basis alone.

Alternatively, even if the Company's extension request was supported by a sufficient justification, neither the Company nor LDEQ performed a substantive re-evaluation of PSD criteria. As the EPA Guidance explains, "it is more likely that technology and air quality considerations will become outdated when construction does not begin until 36 months or longer" after the permit is initially issued.[24] Thus, it is critical to ensure that PSD extensions do not allow the BACT analysis to become stale. The extension at issue will allow construction to commence 36 months after the 2022 Export Renewal conducted any PSD analysis, and seven years after the initial 2016 Title V and PSD permits. Air pollution is an increasingly significant concern in the Lake Charles region due to the high number of refineries, petrochemical plants, and oil and gas production facilities, as explained in detail in Sections III.F and IV of our May 2021 comments. Yet, neither Lake Charles nor LDEQ accounted for this substantial gap or subsequent air pollution developments.

Given the time that has elapsed, the Company's perfunctory extension request, and LDEQ's rote approval, is insufficient. Rather than systematically accounting for the more than three years of changes between the 2020 permit renewals and the proposed extension, the extension request simply ignores this stretch of time. *See* Fourth Extension Request. In fact, the extension request does not include or discuss any potential changes—in technology or air quality impacts—at all. This complete lack of analysis is neither a proper BACT analysis nor a proper

[24] U.S. EPA, Guidance on Extension of Prevention of Significant Deterioration (PSD) Permits under 40 CFR 52.21(r)(2) (Jan. 31, 2014), available at https://www.epa.gov/sites/default/files/2015-07/documents/extend14.pdf.

air quality analysis and is insufficient to ensure that the data justifying approval of this project is not stale.

For these reasons, the Company's request for PSD and Title V permit extensions failed to provide an adequate justification for the extension and failed to either provide a substantive re-evaluation of PSD criteria or explain why such a re-evaluation would be unnecessary. LDEQ has not responded to these concerns. EPA must object.

B. The Company failed to commence construction of the Iowa Compressor Station within two years, so the Iowa Permit expired; and the Company has failed to provide a satisfactory justification for an extension of the Iowa Permit.

As discussed in more detail in Section IV of our May 2021 comments, under the expiration timelines established in 33 L.A.C. § 537, Table 1.IV, the Iowa Permit is already expired. LDEQ issued the existing preconstruction and Title V permit in 2016—five years ago—but the Company has not commenced construction of the proposed compressor station. As a result, the preconstruction permit is invalid, and the Company was required to apply for a new permit (as opposed to a renewal). EPA should therefore object to the proposed Iowa Permit.

On this record, EPA should also object to this attempt to extend the Iowa Compressor Station's preconstruction permit for another 5 years because the Company has not provided justification sufficient to meet standards set by EPA and LDEQ. Under LDEQ's general permit conditions, the agency may extend a preconstruction permit extension upon "a satisfactory showing that an extension is justified." 33 L.A.C. § 537.[25] If granted, the Iowa permit would allow construction as late as June 2026—a decade after the original permit issuance. The

[25] *See also* 40 C.F.R. § 52.21(r)(2), 33 L.A.C. § 509.R.2. As discussed, Trunkline's and Lake Charles LNG's contention that the PSD provisions of the Louisiana SIP do not apply is without merit. The proposed permit extension should be subject to PSD review, and EPA's and LDEQ's provisions governing the extension of PSD construction permits should also apply.

Company has not justified such an extension, and LDEQ has not responded to these concerns; EPA should therefore object for the reasons articulated in Section IV of our May 2021 comments.

II. LDEQ IMPROPERLY SEGMENTED ITS PERMITTING ANALYSIS BY OMITTING CONSIDERATION OF THE IOWA COMPRESSOR STATION.

EPA also must object to the PSD and Title V extensions for Lake Charles Export, the Receiving Permit, and the Iowa Permit, because those permits failed to conduct a comprehensive consideration of the entire Lake Charles LNG project.

The requirements of the PSD program apply to "any new major stationary source,"[26] and the "permitting authority must take into account the emissions from all parts of a single source when determining the applicable requirements and conditions for operation of that source."[27] Federal and state regulations define a "stationary source" as "any building, structure, facility or installation that emits or may emit a regulated ... pollutant."[28] Both sets of regulations further define a "building structure, facility or installation" (and therefore a single "source") according to a three-part test. Under this test, a single source includes "all of the pollutant-emitting activities" that:

> (a) belong to the same industrial grouping according to the federal government's Standard Industrial Classification (SIC) system,
>
> (b) are located on one or more contiguous or adjacent properties, and
>
> (c) are under the control of the same person (or persons under common control).[29]

[26] 40 C.F.R. § 52.21(a)(2); 18 AAC 50.040(h)(3).
[27] *In the Matter of Seneca Energy, II, LLC*, Order on Petition No. II-2012-01, at (June 29, 2015) ("2015 Seneca Energy Order") available at https://www.epa.gov/sites/production/files/2016-08/documents/seneca_energy_ii_response_7-29-16_0.pdf.
[28] 40 C.F.R. § 52.2l(b)(5), (6); 33 L.A.C. § 502.
[29] 40 C.F.R. § 52.2l(b)(6)(emphasis added); 33 L.A.C. § 502.

As the D.C. District Court has explained:

> Section 165 of the Act, 42 U.S.C. § 7475, provides that the owner or operator of a facility seeking a permit must demonstrate "that emissions from construction or operation of such facility will not cause, or contribute to, air pollution . . . ." 42 U.S.C. § 7475(a)(3) (emphasis added). Thus, the fact that construction is not aimed at completing a unit does not obviate the need for preconstruction review as the EPA [here LDEQ] must consider the pollution resulting from the construction itself.[30]

Moreover, "pursuant to the plain language of the statute, and its obvious intent to regulate pollution attendant to the construction as well as the operation of the finished generating units," the permit application must include the emission units that comprise of the facility's structure.[31] The permitting authority "must prevent any construction not specifically presented and approved during the permit process. This is the only reading of the statute that will affect its manifest purpose."[32] In other words, if there are numerous emitting units and the permit applicant plans to build the emitting units for the purpose of facilitating the operation of all the units and to "accommodate the needs of full capacity operation," the overall structure of the facility must be presented in the PSD permit application.[33] "[I]f the EPA [here LDEQ] did not have the opportunity to consider the cumulative impact of the additional construction resulting" from the other unit(s), "then the pollution control aims of the statute have not been protected."[34] Finally, because determining the relevant source is a "fundamental" aspect of the PSD program, state permitting authorities are required to provide in the record a "reasoned explanation of their source determinations . . . consistent with the Act."[35]

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[30] *Save the Valley v. Ruckelshaus*, 565 F. Supp. 709, 710 (D.C. Cir. 1983) (Save the Valley).
[31] *Id*.
[32] *Id*.
[33] *Id*. at 710-711.
[34] *Id*. at 711 (further explaining in n.3 that "…if the operator plans to install both lines at the same time, there is little burden in requiring it to present such plan to the EPA.").
[35] 2015 Seneca Energy Order at 10.

There can be no serious question that the Lake Charles LNG export and import terminal is one contiguous stationary source, and that all of the emitting activities that make up operations of the proposed project together comprise a single source of air pollution for purposes of the PSD program. Indeed, as noted, in the Lake Charles LNG Project EIS, the Company made clear that, because the proposed expansion and construction of the proposed LNG import facility would be adjacent to the existing LNG terminal and both emission sources would be under "common operational control," the two facilities should be "addressed as a single source" for PSD applicability.[36] Neither Lake Charles's extension request nor LDEQ's extension authorization mention, let alone provide any explanation for, LDEQ's decision to permit the interrelated and interdependent LNG export and import sources separately. On this record, LDEQ has failed to provide a rational explanation for the separate permit, and cannot authorize the modification and renewal of the export terminal permit without conducting a comprehensive evaluation of emissions from the entire facility, proposing a new PSD and Title V permit that includes all emissions from this "single source," and providing the public with an opportunity to comment.

LDEQ has similarly failed to include and evaluate the proposed Iowa Compressor, which would not be constructed but for the proposed LNG project, as part of the Lake Charles LNG Project. In evaluating whether the Iowa Compressor should be permitted together with the Lake Charles LNG Project, the first part of the single source test is whether the pollutant-emitting activities are considered as part of the same industrial grouping. The pollutant-emitting activities are considered part of the same industrial grouping if they belong to the same Major Group (i.e., which have the same two-digit code) as described in the Standard Industrial Classification

[36] Lake Charles EIS at 4-116; *see also* 40 C.F.R. § 52.2l(b)(5), (6); 33 L.A.C. § 502.

Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).[37]

Here, the proposed Lake Charles LNG liquefaction project and the pipeline compressor stations all belong to the same industrial grouping – Major Group 49.[38] Specifically, the Iowa Compressor Station fall under the industrial code of natural gas transmission (SIC 4922) and the LNG terminal falls under the standard industrial code of 4925 (Petroleum Gas Production).[39] Therefore, the Compressor Station and the LNG terminal, together, meet the first part of the test—they belong to the same industrial grouping.

The Lake Charles LNG terminal and the Iowa Compressor Station similarly meet the third part of the single source test: they are under the control of the same Company. Louisiana defines "person" broadly as "any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity or their legal representatives, agents or assignees."[40] The Lake Charles liquefication project, the terminal, and the compressor stations will all be under the "common operational control" of the same person – i.e., the Lake Charles LNG Company also d/b/a Trunkline Gas Company.[41] Although the various permits have been issued to entities with different names, the

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[37] 40 C.F.R. § 52.2l(b)(6).

[38] Major Group 49 - Electric, Gas, and Sanitary Services. Major Group 49 also includes within it "Industry Group 494: Gas Production and Distribution." which are "[e]stablishments engaged in the transmission and/or storage of natural gas for sale"—most notably, "pipelines [for] natural gas"—as well as any establishments that combine aspects of electric generation and natural gas transmission. Though the Department of Labor has largely phased-out the Standard Industrial Classification (SIC) Manual in favor of the newer North American Industry Classification System, it maintains an online, hypertext edition of the Manual. See Department of Labor, SIC Division Structure, https://www.osha.gov/data/sic-manual

[39] *See* Receiving Renewal Approval, Statement of Basis at 1; Iowa Proposed Renewal, Statement of Basis at 1; *see also* NAICS Association, Standard Industrial Code Divisions, Major Group 49 – Electric, Gas, and Sanitary Service, available at https://www.naics.com/standard-industrial-code-divisions/?code=49.

[40] 33 L.A.C. § 111.

[41] Lake Charles at 4-116.

Company's EIS for the export terminal makes clear that the projects are all interrelated and under common control.

The second part of the single source test is whether the emitting units are on one or more contiguous or adjacent properties. Here, the Lake Charles LNG terminal and Iowa Compressor Station are part of the same contiguous project, for several reasons. First, the EIS for the Lake Charles LNG Project describes all of the emitting units and sources that are part and parcel of the project, and which are all connected to one another by the existing Trunkline Gas Company Mainline Connector Pipeline, which is itself another emission source.[42] Indeed, as the Company itself describes the project:

> The Lake Charles Liquefaction Project consists of two main components: (1) the development of natural gas liquefaction and LNG export capabilities through construction of a new liquefaction facility and modifications to the existing Trunkline LNG Terminal in Calcasieu Parish, Louisiana; and (2) the construction of facilities necessary to provide natural gas supplies to the proposed liquefaction facility, including two new pipelines (Mainline Connector and Mainline 200-3 Loop), a new compressor station (Compressor Station 203-A), five new meter stations, and modifications to existing pipeline facilities.

The Lake Charles Project EIS indicates that the project includes the following interdependent facilities among other facilities:

> **Trunkline LNG Terminal:** The existing Trunkline LNG Terminal is located about 9 miles southwest of Lake Charles, Louisiana on the north side of the Industrial Canal, which is accessed via the Calcasieu Ship Channel. The terminal was authorized on April 29, 1977 to regasify and transport natural gas imported to the United States from foreign markets (Trunkline LNG Company, LLC, 2014). The terminal received the first LNG deliveries in 1982; however, deliveries were suspended in 1983 due to market conditions. LNG deliveries resumed in 1989. On December 18, 2002, the Commission authorized expansions of the Trunkline LNG Terminal to include a fourth storage tank, a second unloading dock, appurtenances, and support facilities to increase vaporization services and a peak sendout capacity of 2.1 Bcf/d.[43]

[42] *See, e.g.*, Lake Charles EIS at 2-2, Figure 2-1 (diagram of interconnected Lake Charles LNG Project); *id.* at ES 2 ("The project would be able to produce 16.45 million metric tons per annum of LNG for export. Capacity for the proposed project is contracted by BG LNG.").
[43] Id. at 2-1.

Liquefaction Facility: The new liquefaction facility would be constructed immediately south of W. Tank Farm Road, west of Big Lake Road, and north of the existing LNG terminal in Calcasieu Parish, Louisiana. The new facility would include the following key components:

- gas treatment units and heavy hydrocarbon removal units, one for each liquefaction train, each consisting of a fractionation unit, acid gas removal unit, gas dehydration unit, and a mercury removal unit;
- three liquefaction trains, each with a production capacity sufficient to produce 5.48 MTPA of LNG for export; refrigerant storage and makeup system for all three liquefaction trains consisting of horizontal storage bullets holding refrigerants (ethane and propane);
- nitrogen generation and distribution system;
- boil-off gas system consisting of compressors to handle boil-off gas in the facility;
- fuel gas system to provide high-pressure gas to the refrigerant gas turbine drivers and low-pressure gas to the flare systems, heaters, and thermal oxidizers;
- hot oil system providing high-temperature oil for the regeneration gas heater and low temperature oil for all other services;
- flare system, including include seven flares on three derrick structures; and
- emergency power systems consisting of diesel-fueled standby generators.[44]

Iowa Compressor Station (formerly Compressor 203-A): Trunkline also proposes to construct and operate a new compressor station near MLV 203-A on Trunkline's Mainline 200 system in Calcasieu Parish, Louisiana (see figure 2-3.b and appendix C). Compressor Station 203-A would include 10 natural gas-driven compressor units, including Mars 100 units, and 5 Caterpillar G3616 units, for a total site-specific rating of 98,685 hp (manufacturer's rating of 103,175 hp). The compressor station facility would include two compressor buildings, gas coolers, above- and belowground piping, auxiliary and control buildings, a backup power system (generator), and an office building and utilities.[45] LDEQ's Statement of Basis makes clear that "primary purpose" of the Iowa Compressor Station is to support Lake Charles LNG Project.[46]

Mainline Pipeline Connector: As described in section 2.2.2.1, the 11.4-mile-long Mainline Connector would connect Trunkline's existing 300 Mainline and 200 Mainline system pipelines between MLVs 303-A and 203-A, ***allowing gas*** to be delivered to the liquefaction facility via the existing LNG lateral, which connects with the 200 Mainline system pipelines at MLV 203-A.

[44] *Id*. at 2-6 to 2-7.
[45] *Id*. at 2-12.
[46] Iowa Statement of Basis at 2.

Moreover, as the EIS makes clear, Lake Charles LNG Company seeks approval of all of the interrelated and interdependent Lake Charles LNG activities, including the Lake Charles terminal expansion and conversion, the liquefaction plant, the Iowa Compressor Station, and the Mainline Pipeline Connector, as part of the same project. Thus, the Lake Charles terminal, the Mainline Pipeline compressor stations, and the LNG liquefaction plant itself should all be considered as one major stationary source under the PSD permitting program. All of these sources have common ownership and control, in that Energy Transfer (d/b/a Lake Charles LNG Receiving, Lake Charles LNG Export, and Trunkline) is the current owner and planned operator of all of these facilities. In addition, all of the facilities are classified under the same major Standard Industrial Classification code of 49 – Electric, Gas and Sanitary Services. And, all the emitting units are ***physically connected*** to each other by the Mainline Pipeline, and are therefore contiguous and adjacent to one another.

Aggregating the interrelated components of the Lake Charles LNG project is also consistent with EPA's historical analysis of the functional relationship or the functional interrelatedness between facilities to determine whether they should be considered "contiguous and adjacent" and thus one stationary source. For example, in a 1996 determination, the EPA found that the Anheuser-Busch brewery and the Nutri-Turf landfarm that were about six miles apart were nonetheless considered to be a single stationary source.[47] In that case, the facilities were under common ownership and the brewery wastewater stream was piped to the landfarm where it was disposed. EPA found that the volatile organic compound emissions at the landfarm

[47] *See* EPA Memorandum with Subject: "Analysis of the Applicability of Prevention of Significant Deterioration (PSD) to the Anheuser-Busch, Incorporated Brewery and Nutri-Turf, Incorporated Landfarm at Fort Collins, Colorado," available at https://www.epa.gov/nsr/analysis-applicability-psd-anheuser-busch-incorporated-breweryand-nutri-turf-incorporated (Aug. 27, 1996).

were a "direct result of brewery operations."[48] EPA relied heavily on the fact that the landfarm was a "support facility" to the brewery to make this determination even though the landfarm had a different two digit major SIC code than the brewery.[49] EPA defined "support facilities" as "those that convey, store, or otherwise assist in the production of the principal produce or group of products produced or distributed . . . ."[50] With respect to whether the facilities were considered "contiguous or adjacent," EPA stated that it considered the two facilities to meet this criteria because "the landfarm operation is an integral part of the brewery operations" and stated that "[t]he additional fact that a pipeline physically connects the brewery and landfarm strengthens the conclusion that the brewery operation is dependent on the landfarm operations."[51] EPA relied on the functional interrelatedness of the two facilities in determining that such facilities should be considered "contiguous or adjacent."

There have been other examples of EPA single source determinations involving facilities that were located some distance apart, including the following:

(1) American Soda Commercial Mine and Processing Plant in Colorado. This mine and processing plant were to be 35-40 miles apart, connected by a 44-mile pipeline. EPA found that the two facilities "clearly will be functionally interdependent, as evidenced by the dedicated slurry pipeline and the spent brine return pipeline which will connect the two facilities." EPA also stated that "[a]dditional evidence is that one facility (the mine) is to produce an intermediate product for processing at the other facility (the processing plant)" and that due to "the integral connectedness of these facilities," the distance between the facilities should not preclude the facilities from being considered adjacent.[52]

(2) Great Salt Lake Minerals plant and a pump station in Utah. This was a minerals plant located on one side of the Great Salt Lake and a pumping station on the other size of the Great Salt Lake, 21.5 miles apart. EPA found that the pumping station, which

[48] *Id*. at 2.
[49] *Id*. at 3.
[50] *Id*.
[51] *Id*. at 4 (emphasis added).
[52] *See* EPA Letter from Richard R. Long, Air and Radiation Program, EPA Region VIII, to Mr. Dennis Myers, Air Pollution Control Division, Colorado Department of Public Health and Environment, at 1, available at https://www.epa.gov/nsr/american-soda-multi-facility-source-determination (April 20, 1999).

transported raw materials to a processing plant, was a support operation to the minerals plant.[53]

(3) District Energy St. Paul Combined Heat and Power Plant and Environmental Wood Supply in Minnesota. The District Energy St. Paul power plant was a biomass-fueled power plant, and it obtained its biomass from Environmental Wood Supply, which was located 3 miles from the power plant.154 EPA states that "[e]ach day, seven days per week, [Environmental Wood Supply] transports by public roadway up to 40 truck-loads of fuel-grade product" for use in the biomass-fueled power plant.155 EPA found that despite these two plants not having the same major group standard industrial classification code, Environmental Wood Supply and District Energy St. Paul had a "support or dependency relationship" because Environmental Wood Supply provided the necessary fuel to the power plant which it needed to produce electricity. EPA also found that the two facilities had common ownership and thus were under common control.[54]

There are key similarities between these EPA single-source determinations and the Lake Charles LNG project. For example, it is clear that distance alone is insufficient to convert key components of a single project into separate sources under the Clean Air Act. Like the two facilities American Soda Commercial Mine and Processing Plant in Colorado, which were 35-40 miles apart and connected by a 44-mile pipeline, the Lake Charles LNG facilities and Iowa compressor station are functionally interdependent and should therefore be treated as a single source. The proposed Lake Charles LNG Project also shares substantial similarities with the minerals plant and pump station at the Great Salt Lake Minerals facility in Utah. There, the pump station, which transported raw materials to a processing plant, was a support operation to the minerals plant. Thus, despite being over 21 miles apart on opposite sides of the Great Salt Lake, EPA found that the pumping station and minerals plant were a single source. Similarly, although the Iowa compressor station is roughly 20 miles from the LNG facilities, the three components

[53] *See* EPA letter from Richard R. Long, Air Program, EPA Region VIII, to Lynn R. Menlove, New Source Review Section, Utah Department of Environmental Quality, at 1-2, available at https://www.epa.gov/nsr/great-salt-lakeminerals-source-determination (Aug. 8, 1997).
[54] *See* EPA letter from Pamela Blakely, Air Permits Section, EPA Region V, to Don Smith, Air Quality Permits Section, Minnesota Pollution Control Agency, at 1, available at https://www.epa.gov/nsr/single-source-applicabilitydetermination-environmental-wood-supply-llc-and-district-energy-st (March 23, 2010).

are physically connected by two existing pipelines. Moreover, the LNG facilities would not be able to function without the Iowa Compressor Station moving the gas through the pipelines and vice versa. For these reasons, the Lake Charles LNG Export, Lake Charles LNG Receiving, and Iowa compressor station share a "support or dependency relationship" and should be treated as a single source.

The relationship between the Lake Charles LNG Receiving terminal, the Iowa Compressor Station, the Mainline Pipeline Connector, and the liquefaction plant is clear. Indeed, as part of Trunkline's Environmental Assessment submitted in support of the permit, the Company explicitly cites the purported economic benefits associated with the entire Lake Charles LNG Project as support for the permit.[55] The Company cannot have it both ways. Either the Compressor Station is a standalone facility that should be evaluated independent of any other source, or it is part of the Lake Charles LNG Project and should be evaluated with the entire project.

That the Iowa Compressor Station and LNG terminal facilities are located approximately 20 miles apart appears to be a function of the proposal to connect the Lake Charles LNG Project to existing pipelines. In any case, the distance between the Compressor Station and the LNG terminal itself does not change the fact that the facilities are physically connected by the Mainline Pipeline Connector for the "primary purpose"[56] of facilitating the delivery of gas to the liquefaction plant and terminal so that it may be exported. Without both the compressor and the terminal, the proposed liquefaction plant would not be able to operate and would serve no purpose. In sum, the Iowa Compressor, the LNG terminal, the Mainline Connector, and the proposed liquefaction emission sources are parts of a single project and therefore must be

[55] EAS at Question 2, Iowa Compressor Station Permit Package at pdf p. 143.
[56] Iowa Statement of Basis at 2.

considered as a single major stationary source under the PSD permitting program. That the project components are separated should not result in a finding that commonly-owned facilities of the same major two-digit Standard Industrial Classification Code proposed for the same purpose (i.e., to operate an LNG plant) are not a single stationary source, because that would be inconsistent with the PSD permitting regulations.

LDEQ's decision not to treat the Lake Charles LNG Project as one source is also contrary to the purpose of the Clean Air Act. For example, without conducting the required PSD analysis, the EIS and Trunkline's Application for the Iowa Compressor Station incorrectly suggest that the Mainline Pipeline compressor stations should be considered minor sources under the PSD program. Moreover, LDEQ previously issued a separate major source PSD permit in September 2020, authorizing the construction of the Lake Charles liquefaction units. That authorization occurred without conducting the required analysis of what constitutes "the source," and without taking into account interrelated and interdependent air emissions from the Iowa Compressor Station or the conversion of the existing terminal. By splitting the Lake Charles LNG Project into a major and minor source construction permits, LDEQ is circumventing the purposes of the PSD program, including the requirement to assure that "any decision to permit increased air pollution…is made only after careful evaluation of all of the consequences of such a decision . . . ."[57] Moreover, by splitting the interrelated components of the Lake Charles LNG Project into smaller sources (which serve no independent utility), LDEQ and the Company evade the PSD BACT requirements that would otherwise apply to those emission points had the agency evaluated the Project as a single source. Specifically, if separate permits are issued for each individual emitting activity that is part of the overall Lake Charles LNG Project, some sources

[57] 42 U.S.C. §7470(5) (emphasis added).

would receive minor source permits (e.g., all the compressor stations and heater station) and would not be subject to the more rigorous analysis, more stringent BACT emission limitations and permits with more robust terms and conditions for such elements as monitoring recordkeeping and reporting.[58] LDEQ cannot ensure that the purposes of the PSD program would be met under such a scenario.

Finally, it is undisputed that the aboveground and underground Mainline Connector pipeline itself will emit air pollution in the form of greenhouses gases, including methane, and if it is not aggregated with the rest of the Lake Charles LNG Project, it would evade the substantive requirements of the PSD program-including, most notably, a review of technologies to control greenhouse gas emissions from its above-and belowground components. This is not, then, a case where the practical advantages of administering multiple permits at no real cost to environmental quality justifies a purely technical departure from the definition of a single "source."

LDEQ's response missed the crux of the concern by noting that, while the Export and Receiving terminals are treated as a single source for PSD applicability, separate permits for those components are acceptable.[59] While LDEQ cites to a general provision in the Louisiana Administrative Code, that provision cannot override the specific requirements and purpose of the PSD program, which is to ensure that interrelated components are treated as a single source. LDEQ also concluded that it omitted the Iowa Compressor Station because "the department does not consider that facility and the Lake Charles LNG Export Terminal to be located on one or

[58] Additional differences between PSD and minor source permits include: minor sources escape the requirement to obtain a Title V permit (which means no opportunity for the public to review and comment on the ongoing operations, gap-filing for monitoring, recordkeeping and reporting of emissions, and other requirements); there is no involvement for the FLMs in minor source permits; moreover, if a minor permit is issued under the "fast track" procedure, there is limited opportunity for public comment via a shortened initial public.

[59] Response to Comments at 7-8, available at https://edms.deq.louisiana.gov/app/doc/view?doc=12929543.

more contiguous or adjacent properties."[60] This response fails to address the extensive evidence—and EPA precedent—demonstrating that the project components are, in fact, on contiguous or adjacent properties, for the reasons articulated above. Moreover, nowhere in LDEQ's response does the agency address the Mainline Connector pipeline. Thus, LDEQ failed to address Sierra Club's comment regarding the need to treat the entire Lake Charles LNG facility as a single source. EPA must object and require LDEQ to follow the plain language of its own regulations and—consistent with the purposes of the Act—treat all interrelated and interdependent facilities associated with the Lake Charles LNG Project as one source for purposes of PSD permitting.

III. LDEQ CONDUCTED AN OPAQUE REVIEW PROCESS IN VIOLATION OF EPA'S TITLE V REGULATIONS.

A. LDEQ Failed to Provide EPA with a Copy of the Proposed Permits, Statements of Basis, Responses to Comments, and Any Other Materials Necessary for EPA's Review.

EPA's ability to meaningfully review and timely object to the issuance of any Title V permit is a fundamental requirement of the Clean Air Act. *See* 42 U.S.C. § 7661d(a)(1) ("Each permitting authority—(B) shall provide to transmit to the Administrator a copy of each permit proposed to be issued and issued as a final permit.); *see also id.* § 7661d(b)(1) (If any permit is "not in compliance with the applicable requirements" of the Clean Air Act, "the Administrator shall, . . . object to its issuance."). Notably, this review process also applies to permit modifications or renewals. 42 U.S.C. § 7661d(a)(1) (requiring the permitting agency to transmit "each permit application (and any application for a permit modification or renewal)" and any proposed and final permits).

[60] *Id.* at 9 (citing LAC 33:III: 501).

Under EPA's revised 2020 Title V regulations, the state "permitting authority must provide certain documents including the statement of basis and (when applicable) the written response to comment document along with the proposed permit for the EPA's 45-day review period" to begin. 85 Fed. Reg. at 6433; *see also* 40 C.F.R. § 70.8(a). EPA's preamble makes clear that the agency adopted that requirement because the response to comments and the statement of basis are "two critical documents in the administrative record for a proposed permit," and without those documents "EPA usually cannot provide as effective a review under CAA section 505(b)(1) as when a full administrative record." 85 Fed. Reg. 6431, 6440 (Feb. 5, 2020); *see also id*. at 6439 ("to stress the importance of the statement of basis document, the EPA proposed to revise 40 CFR 70.4(b), 70.7(h), and 70.8(a) to specifically identify the statement of basis document as a necessary part of the permit record throughout the permitting process."). Failure to provide a copy of these materials is a standalone ground for EPA objection.

Here, as noted, LDEQ failed to submit for EPA review the proposed Lake Charles LNG Export Title V permits, the statement of basis, and any response to comments, as required by the Clean Air Act and EPA's regulations. Moreover, LDEQ failed to provide a copy of the permit modification application—in the form of Lake Charles' extension request—to EPA. As such, LDEQ's extension of Lake Charles's PSD construction deadline and the extension of the Title V permit fails to comply with the applicable requirements of the Clean Air Act, and is arbitrary, capricious, and contrary to law. EPA should object to the Export Permit on this basis.

LDEQ similarly failed to provide EPA with a copy of its response to comments Regarding the Receiving Permit. As noted, Sierra Club provided extensive public comments, including an expert report, on May 27, 2021. While LDEQ prepared a written response to

comments, it apparently failed to transmit a copy of those responses to EPA.[61] Once again, LDEQ's failure to provide EPA with a copy of the public comments and its responses impaired EPA's ability to decide whether to object to the proposed permit renewal. Therefore, EPA should object to the Receiving Permit on this basis.

B. LDEQ Failed to Comply with Necessary Public Participation Processes for the Export Permit Extension.

EPA should also object to the Export Permit because LDEQ failed to provide an opportunity for public notice and comment on this permit modification. Pursuant to 40 C.F.R. § 70.8(c)(3), even where the Administrator has not determined applicable requirements or requirements of Part 70 have been violated, a permitting agency's failure to "[p]rocess the permit under the procedures approved to meet § 70.7(h) of this part [governing public participation] except for minor permit modifications" provides a separate ground for EPA objection. 40 C.F.R. § 70.7(h) requires that, "[e]xcept for modifications qualifying for minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall provide adequate procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit." Here, as noted, LDEQ did not provide any public notice, provide at least 30-days for public comment, or record and respond in writing to (non-existent) comments, as required under § 70.7(h)(1)-(2), § 70.7(h)(4), and § 70.7(h)(5)-(6), respectively.[62]

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[61] *Compare* Receiving Renewal Approval, *supra* note 6 (listing EPA Region VI as a CC) *with* LDEQ's Response to Comments, https://edms.deq.louisiana.gov/app/doc/view?doc=12929543 (omitting any reference to copying EPA Region VI, unlike the proposed permit).

[62] 40 C.F.R. § 70.12(2)(iv) ("If the petition claims that the permitting authority did not provide for a public participation procedure required under § 70.7(h), the petition must identify specifically the required public participation procedure that was not provided.").

LDEQ might argue that it was not obligated to conduct a notice period because its decision took the form of a "letter" rather than a significant permit modification, but LDEQ cannot evade the Clean Air Act's permit modification requirements simply though its choice of terminology. Rather, as a practical matter, the extension of Lake Charles' Title V permit will relax permit and reporting requirements, triggering significant modification review.[63] Under the CAA, every Title V permit must "include enforceable emission limitations and standards . . . and such other conditions as are necessary to assure compliance with applicable requirements of this chapter, including the requirements of the applicable implementation plan." 42 U.S.C. § 7661c(a). Louisiana's EPA-approved regulations likewise require each Title V permit to comply with all applicable requirements of the Act and the state's permitting regulations. *See* LAC 33:III.507.A.3 ("Any permit issued under the requirements of this Section shall incorporate all federally applicable requirements for each emissions unit at the source."). Under LAC 33:III.502, "federally applicable requirements" include, among other things, "any standard or other requirement provided for in the Louisiana State Implementation Plan," and "any term or condition of any preconstruction permits."

For phased construction projects, like the Lake Charles LNG facility, which is comprised of the construction and major modification of adjacent liquefaction and export facilities,

> the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time that occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source. LAC 33:III.509.J.4.

[63] Pursuant to LAC 33:III:527.A.2, significant modifications include, at a minimum, any change that "is a relaxation of reporting or recordkeeping permit terms and conditions." By approving an extension that fails to ensure Lake Charles will comply with BACT when (or if) it is eventually built, LDEQ approved a relaxation of Lake Charles' reporting and recordkeeping obligations with respect to demonstrating BACT compliance.

Here, LDEQ did not review the outdated BACT determination and modify as appropriate, and therefore relaxed the requirements of the permit. As noted, EPA Guidance makes clear that the 18-month construction deadline is intended to ensure that the underlying PSD (BACT) analysis does not become stale. By allowing such an extension with virtually no review, including review of whether the extension would cause the BACT analysis to become outdated, LDEQ effectively relaxed the BACT requirements, which undoubtedly qualifies as a significant modification.

Even if this extension could qualify as an administrative or minor permit modification (it cannot), LDEQ failed to state an intention to treat it as such, make any finding that the extension qualified as such, or articulate its reasoning. *See* 40 C.F.R. § 70.7(e)(4)(i) ("Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments."). Notably, Lake Charles's extension request also failed to comply with the requirements even for a minor modification. LAC 33:III:525.B.2 (providing application requirements for minor modifications). By approving such an insufficient modification application, LDEQ thus further violated the Clean Air Act and applicable requirements. 40 C.F.R. § 70.7(a)(1) ("A permit, permit modification, or renewal may be issued only if all of the following condition have been met: (i) The permitting authority has received a complete application for a permit, permit modification, or permit renewal . . . "). LDEQ even failed to acknowledge that the permit extension qualified as *any* type of modification to the underlying permits, and was thus arbitrary and contrary to the Clean Air Act.

Even if LDEQ was correct to apply minor modification processes (it was not), LDEQ violated Title V regulations by failing to provide a copy of the revised permit to EPA, as required. Even administrative revisions, for example, require LDEQ to submit a copy of the

revised permit to EPA. 40 C.F.R. § 70.7(3)(ii); *see also* 40 C.F.R. § 70.7(e)(2)(iii) (requiring the permitting agency to "notify the Administrator and affected States of the requested permit modification" within 5 days); *id.* § 70.7(e)(2)(iv) (prohibiting the permitting agency from finalizing a minor permit modification until after EPA's 45-day review period). EPA should object to LDEQ's decision to rubber stamp this permit extension without complying with the necessary Clean Air Act processes.

IV. EPA MUST OBJECT BECAUSE THE PSD AND TITLE V PERMITS FOR THE LAKE CHARLES RECEIVING TERMINAL AND IOWA COMPRESSOR STATION ARE SEVERLY FLAWED.

A. Lake Charles LNG Receiving must obtain a PSD permit for the modification of the terminal.

As detailed in Section II of Sierra Club's May 2021 comments, areas designated as in attainment (or unclassifiable) for the NAAQS (like Calcasieu Parish) are subject to the Clean Air Act's PSD program. See 42 U.S.C. §§ 7470-7479 (the "PSD provisions"). To maintain compliance with the national standards and ensure that a project will not cause or contribute to exceedances in air pollution standards that harm human health and the environment, the Clean Air Act's PSD program establishes a mandatory review and permitting process before any construction may begin. *See* 42 U.S.C. § 7475; *Alaska Dep't of Env't Conservation v. EPA*, 540 U.S. 461, 470 (2004); *Ala. Power Co. v. Costle*, 636 F.2d 323, 362 (D.C. Cir. 1979).

Louisiana PSD regulations require an applicant for the construction of any new major stationary source or the major modification of any existing major stationary source (such as the Lake Charles LNG facility)[64] to obtain a "PSD permit" and install "best available control

[64] A major stationary source is a facility with the potential to emit at least 100 tons per year of any PSD-regulated air pollutant in certain source categories such as a chemical processing plant. LAC 33:III.509.B; 42 U.S.C. § 7479(1).

technology" ("BACT") before it can begin construction. *See* LAC 33.III.509.A.1.[65] A "major modification is "any physical change in or change in the *method of operation* of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant, and a significant net emissions increase of that pollutant from the major stationary source." LAC 33.III.509.B. For existing sources, a significant emission increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions equals or exceeds the significant amount for that pollutant. LAC 33.III.509.A.4.c. Relevant here, the significance level for nitrogen oxides is a 40 tons per year net increase. *Id*.

The existing Lake Charles LNG Receiving Terminal receives imported liquefied natural gas and processes that gas for delivery. As discussed, Lake Charles LNG has requested authorization to construct and operate "new liquefaction facilities adjacent to the existing liquefied natural gas (LNG) terminal (Trunkline LNG Terminal) located in Calcasieu Parish, Louisiana, and to construct and operate certain facility modifications at the existing LNG terminal to facilitate the storage and subsequent export of LNG."[66] In other words, the Company proposes to convert the existing LNG import terminal into an export terminal. This is, on its face, a change in the *method of operation* for the purposes of the Clean Air Act's PSD provisions. LDEQ's response was that PSD does not apply because the modification to the facility will not result in a net emissions increase from the facility.[67] LDEQ also asserted that the Receiving Permit "does not address any equipment associated with the liquefaction of natural gas."[68]

[65] EPA has approved Louisiana's PSD program. 40 C.F.R. § 52.970(c) (identifying EPA approved regulations in the Louisiana SIP). Once "EPA approves a SIP, it becomes federal law." *Env't Tex. Citizen Lobby, Inc. v. ExxonMobil Corp*., 968 F.3d 357, 373 (5th Cir. 2020).
[66] Lake Charles EIS at ES-1.
[67] Response to Comments at 3-4, 7.
[68] *Id.* at 9.

LDEQ's response fails to address the underlying concern flagged in our May 2021 comments: that there is evidence in the record indicating there will be a net emissions increase resulting from the conversion of Lake Charles LNG from an import to an export facility, which represents a fundament change in the method of operating the facility. Because LDEQ has not conducted any such PSD or BACT analysis, EPA must object to the Receiving Permit as violating applicable requirements.

B. The Proposed Part 70 Permit and Modification for the Iowa Compressor Station Is Unlawful.

i. The Permit Does Not Adequately Limit Potential to Emit of the Emission Units of the Iowa Compressor Station Below Prevention of Significant Deterioration Major Source Thresholds, and Thus the Permit is Deficient Because it Fails to Meet PSD Permitting Requirements.

The Louisiana Department of Environmental Quality (LDEQ) issued a renewal and modification to a Part 70 air operating permit for the Trunkline Gas Company, LLC, Iowa Compressor Station to be located three miles northwest of Iowa, Louisiana. The original permit issued June 14, 2016 (Permit No. 0520-00486-V0) for the construction and operation of the compressor station, which was permitted as "Compressor Station 203-A," was for 5 natural gas-fired Caterpillar G3616 reciprocating internal combustion engines (RICE) rated at 4,735 horsepower (hp) each, 5 natural gas-fired Solar MARS 100-1600 turbines, each rates at 15,002 hp, and 2 natural gas-fired Caterpillar C3512 emergency RICE engines, each rated 603 hp.[69] The proposed compressor station also included an 8,820 gallon tank for pipeline liquids/condensate and fugitive emissions, as well as 2 8,820 gallon tanks for storing new lube oil and used lube oil.

[69] 2016 LDEQ Air Permits Briefing Sheet for Compressor Station 203-A, AI No. 19178, at 3.

The renewed and modified permit for the Iowa Compressor Station would allow construction of "newer model reciprocating engines and turbines" and would remove a cap on the compressor engines, turbines, and emergency engines that had been included to maintain NOx emissions below the prevention of significant deterioration (PSD) major source threshold of 250 tons per year.[70] However, the model numbers are identified as the same model RICE engines and turbines as the original permit. Instead, the horsepower of each unit is larger, and the emission rates are mostly lower. Specifically, LDEQ is proposing to approve the following emission units in the proposed permit for the Iowa Compressor Station:

> Five (5) natural gas-fired Caterpillar G3616 reciprocating internal combustion engines (RICE) rated at 5,000 horsepower (hp) each,
> five (5) natural gas-fired Solar MARS 100-1600 turbines, each rated at 15,748 hp, and two (2) natural gas-fired Caterpillar C3512 emergency RICE engines, each rated 1,114 hp. The proposed compressor station also included an 8,820 gallon tank for pipeline liquids/condensate and fugitive emissions, as well as two (2) 8,820 gallon tanks for storing new lube oil and used lube oil.[71]

LDEQ's Statement of Basis for its proposed permit indicates that emissions will increase under the proposed new permit for all pollutants (including volatile organic compounds (VOCs), particulate matter (PM10 and PM2.5), carbon monoxide (CO), sulfur dioxide (SO2), and hazardous air pollutants (HAPs) including, but not limited to, formaldehyde. LDEQ's Statement of Basis also indicates that nitrogen oxides (NOx) emissions will decrease by 22.15 tons per year (tpy) such that the compressor station would no longer require a cap to stay below the major source PSD threshold, and thus LDEQ has proposed to remove the cap.[72]

However, the terms of the Iowa Permit do not properly limit the potential to emit from the emission units at the compressor station to less than PSDD major source levels for several

[70] LDEQ, Air Permit Briefing Sheet, Iowa Compressor Station, AI No. 191783, at 1.
[71] *See* LDEQ Air Permits Briefing Sheet for Iowa Compressor Station , AI No. 191783, at 1.
[72] LDEQ Statement of Basis for Proposed Permit No. 0520-00486-V1, at 2.

reasons. "Potential to emit" is defines as follows in the prevention of significant deterioration (PSD) permitting regulations of the Louisiana air regulations:

> the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. *Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable*. Secondary emissions do not count in determining the potential to emit of a stationary source.[73]

For the reasons discussed in detail in Sections III.B and III.C of Sierra Club's May 2021 comments, the proposed permit for the Iowa Compressor Station fails to include adequate and necessary terms and conditions to reflect the assumed limitations of control equipment on the emissions from the planned natural gas-fired compressor turbines or the natural gas-fired RICE units. As a result, the Iowa Compressor Station has the potential to emit in excess of major source emission thresholds and, consequently, the facility should be considered a new major stationary source under the PSD program and subject to PSD permitting requirements. LDEQ has not responded to this concern. EPA must object to the Iowa Permit because LDEQ failed to ensure compliance with PSD permitting requirements.

ii. The Potential to Emit of the Natural Gas-fired Compressor Turbines and Natural Gas-fired RICE are Much Higher than Indicated by LDEQ; and LDEQ Violated the Act by Failing to Require a PSD Permit.

For the reasons articulated in detail in Sections III.B, III.C, and III.D of Sierra Club's May 2021 comments, EPA must object to the Iowa Permit because LDEQ failed to require a PSD permit, despite evidence that the compressor station's total potential to emit is much higher than indicated. The Iowa Compressor Station must be considered to be a new major stationary

[73] LAC 33:III §509.B. Definition of "Potential to Emit" (emphasis added).

source subject to the PSD permitting program because it would be a major stationary source for at least NOx and CO emissions. The Iowa Permit is deficient because it does not address all PSD permitting requirements for the proposed compressor station. Such requirements include application of best available control technology ("BACT"), ensuring that the proposed compressor station will not cause or contribute to a violation of the NAAQS and PSD increments, and ensuring that the compressor station will not adversely affect the air quality related values (including visibility) of Class I areas. LDEQ has not responded to this concern. Therefore, EPA must object to the Iowa Permit.

iii. Based on the Terms of the Proposed Permit for the Iowa Compressor Station, the Source is Not an Area Source of Hazardous Air Pollutants (HAPs) and the Permit is Deficient for Failing to Include the MACT Requirements of 40 C.F.R. Part 63, Subpart ZZZZ.

As discussed in more detail in Section III.D of Sierra Club's May 2021 comments, EPA must also object to the Iowa Permit because LDEQ violated the Act by failing to include the MACT requirements of 40 C.F.R. Part 63, Subpart ZZZZ. LDEQ claimed that the Iowa Compressor Station would be an area source of hazardous air pollutants (HAPs) with potential emissions of any single HAP being less than 10 tpy or of total HAPs being less than 25 tpy.[74] However, for the same reasons discussed above and as detailed in our May 2021 comments, LDEQ failed to account for the potential to emit of HAPs in making this claim, particularly for formaldehyde. LDEQ has not responded to this concern, and EPA must object on this basis.

[74] *See* LDEQ's Air Permit Briefing Sheet at 7 (at pdf page 10 of May 2021 Proposed Permit documents).

iv. The Iowa Permit Fails to Ensure that the Proposed New Compressor Station Will Not Cause or Contribute to a Violation of Any National Ambient Air Quality Standard (NAAQS).

Again, as detailed in Sierra Club's May 2021 comments, EPA must object to the Iowa Permit because LDEQ failed to ensure that the proposed new compressor station will not cause or contribute to a violation of any National Ambient Air Quality Standard (NAAQS). Louisiana's permitting rules require LDEQ to incorporate into the permit "sufficient terms and conditions to ensure compliance with all state and federally applicable air quality requirements and standards at the source and such other terms and conditions as determined by the permitting authority to be reasonable and necessary."[75] "Federally applicable requirement" is defined in Louisiana's rules as including "any standard or other requirement in provided for in the Louisiana State Implementation Plan approved or promulgated by EPA…."[76] The Louisiana SIP as approved by EPA includes ambient air quality standards for several pollutants including NOx, PM2.5, and ozone.[77] In addition, Louisiana's permitting rules also provide that before issuing any permit, the "administrative authority may conduct an evaluation of the applicant and may include such conditions in the permit as reasonably deemed necessary for the protection of human health and the environmental or may deny any application for the issuance, renewal, or transfer of the permit."[78]

Yet, it does not appear that LDEQ conducted any evaluation of the Iowa Compressor Station's emissions on ambient air quality, and LDEQ did not require Trunkline to submit any air

[75] LAC 33:III §501.C.6
[76] LAC 33:III §502.A.
[77] *See* LAC 33:III Chapter 7 as approved into the SIP by EPA, posted at EPA's SIP approval website at https://www.epa.gov/sips-la/louisiana-sip-lac-33iii-ch-7-section-701-711-ambient-air-quality-sip-effective-february-29.
[78] LAC 33:III §501.C.10.

modeling.[79] It also does not appear that LDEQ required any evaluation of the compressor station's potential impacts on ambient air quality in 2016 when LDEQ first issued a permit to construct the compressor station.[80] In its 2016 Air Permits Briefing Sheet, LDEQ stated that "[e]missions associated with the proposed facility were reviewed by LDEQ to ensure compliance with the NAAQS and AAS."[81] However, LDEQ did not provide any other information to indicate the amount of the proposed compressor station's contribution to concentrations of NAAQS pollutants in the ambient air.

As noted, the Iowa Compressor Station's potential to emit makes this a major source of air pollution that should be subject to PSD permitting. Under the PSD permitting program, LDEQ is not allowed to issue a permit unless the source owner demonstrates that allowable emission increases from the proposed source "in conjunction with all other applicable emissions increases or reductions, including secondary emissions, will not cause or contribute to air pollution" in violation of a NAAQS or the PSD increments.[82] Thus, a modeling analysis was required to meet PSD permitting requirements.

While the area around the proposed Iowa Compressor Station is not formally designated at nonattainment for any pollutant, air pollution is a significant concern in the region due to the high number of refineries, petrochemical plants, and oil and gas production facilities.[83] For the reasons detailed on pages 31-34 of our May 2021 comments, LDEQ was required to evaluate the impacts of the Iowa Compressor Station on the NAAQS for those pollutants (NO2 and CO) and

[79] LDEQ Air Permits Briefing Sheet at 3 (Section VII.).
[80] June 2016 LDEQ Air Permits Briefing Sheet at 4 (Section VII.).
[81] *Id.*
[82] LAC 33:III §509.K.
[83] *See*, e.g., Schleifstein, Mark, Louisiana moves two mobile air monitoring labs to Lake Charles, Sept. 3, 2020 available at https://www.nola.com/news/environment/article_14a3585c-ee31-11ea-be71-07cb46c0e2b2.html.

for which those pollutants can be precursors (PM2.5 and ozone NAAQS) before it authorized construction of this permit. LDEQ has not responded to this concern. EPA must object to LDEQ's failure to do so.

CONCLUSION

For these reasons Petitioner respectfully requests that EPA object to the above referenced permits because it is not in compliance with applicable requirements and the requirements of the Part 70 regulations.

Dated this 17th day of June, 2022.

Respectfully Submitted,

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