



March 25, 2024

Deputy Secretary David Turk
Department of Energy
Forrestal Building
1000 Independence Avenue, SW
Washington, DC 20585
david.turk@hq.doe.gov

Re: Opposition to American Petroleum Institute's Request for Rehearing

Deputy Secretary Turk:

On behalf of the Vessel Project of Louisiana,¹ Healthy Gulf,² For a Better Bayou,³ and Alliance for Affordable Energy,⁴ and with the additional undersigned groups, we write to oppose the February 26, 2024⁵ request for rehearing submitted by the American Petroleum Institute ("API") et al. seeking reconsideration and reversal of the Department of Energy's ("DOE") announced pause on review of pending applications to export liquefied natural gas ("LNG") to non-free trade countries. As Sierra Club and others articulated in their March 12, 2024 submission to DOE, API's submission is procedurally improper and a complete misconstruction of the nature of DOE's pause announcement.⁶ DOE's announcement that it is temporarily pausing review of pending LNG export applications while it updates its analysis of how these exports affect communities, the climate, and our economy is a necessary first step toward ensuring that DOE stops reviewing exports using incomplete and out-of-date information that severely underestimates the harms these exports cause. The announcement is not a final decision subject to rehearing or review. DOE, therefore, should dismiss API's rehearing request without any further proceeding.

We write separately to emphasize how very important DOE's pause is to the communities most impacted by existing and future LNG exports. As explained briefly below, for these frontline communities, it is imperative that DOE maintain its pause and take the time necessary to comprehensively and appropriately update its analyses, including conducting a comprehensive review of the environmental justice impacts of LNG exports. We also attach a precautionary

¹ The Vessel Project is a grassroots mutual aid and disaster relief organization founded in Southwest Louisiana that strives to help the most vulnerable communities, including black, indigenous, people of color, and low-income individuals.

² Healthy Gulf is a non-profit organization based in Louisiana whose mission is to collaborate with and serve communities who love the Gulf of Mexico by providing the research, communications, and coalition-building tools needed to reverse the long pattern of over exploitation of the Gulf's natural resources.

³ For a Better Bayou is a community-based organization in Southwest Louisiana that is raising awareness and building a community-based movement to ensure protections for a sustainable bayou and environment.

⁴ Alliance for Affordable Energy is a member-supported organization that promotes equitable, affordable, environmentally responsible energy based in Louisiana that is committed to promoting a new vision of Louisiana as a clean energy leader in the South.

⁵ <https://www.api.org/-/media/files/misc/2024/02/rehearing-petition-for-lng-pause-as-filed1860164261.pdf>.

⁶ Sierra Club Motion for Leave to Answer, Answer to Request for Rehearing, and Precautionary Motion to Intervene (Mar. 12, 2024). We also agree with Sierra Club that the merits of API's request for rehearing lack any legal basis.

motion to intervene on behalf of the Vessel Project of Louisiana, Healthy Gulf, For a Better Bayou, and Alliance for Affordable Energy in the event that DOE decides to open or initiate a proceeding to consider API's rehearing request.

Nowhere is DOE's pause and data update more important than in the communities that are on the frontline of the massive and dense build-out of existing and future LNG export terminals on the Louisiana and Texas Gulf Coast. As the Biden-Harris Administration recognized in announcing the pause, "frontline communities in the United States [...] disproportionately shoulder the burden of pollution from new export facilities."⁷ The buildout is ravaging the air, water, wetlands, health, and livelihoods of Gulf communities, many of which are majority-minority or low-income communities and already carrying an outsized burden of industrial pollution. The same Gulf Coast communities are some of the most at-risk to the effects of climate change, which approvals of more LNG exports will exacerbate. The fossil fuel industry in the Gulf has wreaked havoc on the protective wetland barriers that once shielded coastline communities from storms. And its increased greenhouse gas emissions produce the combined threat of higher sea levels and more intense hurricanes. Increasing LNG exports further harms members of these same communities by increasing domestic energy prices for those who are the least likely to share in the LNG export companies' revenues and the most likely to be unable to absorb yet another round of increased costs.

To date, however, DOE has been approving the LNG export buildout with little to no involvement by or consideration of those most affected. It has failed to recognize how ever-increasing exports are creating a sacrifice zone in the Gulf. DOE's "studies" are not merely outdated, they completely ignore one of the fundamental aspects of the problem. Now we can see the data and the harms unfolding in real time—decimated landscapes and fishing industries, the climate harms from entrenching reliance on fossil fuels, cumulative air pollution exceeding national public health standards, domestic gas prices rising, and environmental justice communities again suffering more of the burden.

The Biden-Harris Administration and DOE have acknowledged that the analyses DOE relies on when deciding whether to approve exports must take account of the harms that allowing the LNG export industry to further expand will impose on communities. DOE must take the time necessary to analyze and reckon with the reality of the LNG export industry it has approved to date. It cannot maintain its commitment to do so without pausing any further expansion of the industry that would bring further harm. DOE must maintain its pause to comprehensively and appropriately update its analyses.

Signed,

Moneen Nasmith
Elizabeth Livingston de Calderon
Ann Jaworski
Earthjustice

⁷ <https://www.whitehouse.gov/briefing-room/statements-releases/2024/01/26/fact-sheet-biden-harris-administration-announces-temporary-pause-on-pending-approvals-of-liquefied-natural-gas-exports/>.

*Counsel for the Vessel Project of Louisiana,
Healthy Gulf, For a Better Bayou, and
Alliance for Affordable Energy*

Roishetta Sibley Ozane
The Vessel Project of Louisiana

Andrew Whitehurst
Healthy Gulf

James Hiatt
For a Better Bayou

Logan Atkinson Burke
Alliance for Affordable Energy

Travis Dardar
FISH (Fishermen Interested in Saving our
Heritage)

Dannie E. Bolden
Florida Panhandle Minority's Communities
Climate Change Corporation (FPM4C)

Alyssa Portaro
Habitat Recovery Project

John Allaire
Landowner, Cameron Parish Louisiana

Cynthia P Robertson
Micah Six Eight Mission

John Beard
PACAN (Port Arthur Community Action
Network)

Robin Schneider
Texas Campaign for the Environment

Deyadira Arellano
TEJAS (Texas Environmental Justice
Advocacy Services)

Attachment

cc: Office of Fossil Energy and Carbon Management via email to fergas@hq.doe.gov

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY**

IN THE MATTER OF)
)
American Petroleum Institute, et al.) **No FE Docket Assigned**
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**The Vessel Project of Louisiana, Healthy Gulf,
For a Better Bayou, and Alliance for Affordable Energy’s
Precautionary Motion to Intervene**

For the reasons stated in Sierra Club’s March 12, 2024 Motion for Leave to Answer, Answer to Request for Rehearing, and Precautionary Motion to Intervene (“Sierra Club Motion”), the Department of Energy (“DOE”) should dismiss the rehearing request submitted by the American Petroleum Institute (“API”) et al. on February 26, 2024 as procedurally improper. However, if DOE does decide to open or initiate a proceeding to respond to API’s improper request, the Vessel Project of Louisiana, Healthy Gulf, For a Better Bayou, and Alliance for Affordable Energy hereby move to intervene therein.

Intervention should be granted liberally, as DOE’s rules do not articulate any particular standard for timely intervention. DOE merely requires would-be-intervenors to set out the “facts upon which [their] claim of interest is based” and “the position taken by the movant.” 10 C.F.R. § 590.303(b)–(c). As is explained more fully in the Sierra Club Motion and is summarized below, API’s rehearing request should be denied as procedurally improper or alternatively denied on the merits. The Vessel Project of Louisiana, Healthy Gulf, For a Better Bayou, and Alliance for Affordable Energy’s interests are based on the impact that granting API’s request would have on their communities and missions. API’s request to lift DOE’s pause, stop the process of updating DOE’s studies, and immediately grant pending applications to export LNG

will have a wide range of harms on the listed organizations, which are all based in Louisiana in the heart of some of the most concentrated build-out of the LNG industry.

The organizations seeking intervention are as follows:

- **The Vessel Project of Louisiana** is a grassroots mutual aid and disaster relief organization founded in Southwest Louisiana in response to several federally declared disasters, including hurricanes Laura and Delta, winter storm Uri, and the May flood of 2021. The Vessel Project aims to create horizontal pathways for people in communities to help one another without a hierarchical bureaucratic structure. LNG-related air pollution in Louisiana not only harms the health of children and families, but it also hinders the mission of the Vessel Project of Louisiana. As Vessel Project strives to help the most vulnerable communities, including black, indigenous, people of color, and low-income individuals, it is faced with the challenge of addressing the emergency needs of those affected by the harmful effects of air pollution and the industries that cause it. The harms caused by these industries create additional barriers for Vessel Project's efforts to be efficient and barrier-free, making it difficult for individuals to maintain their dignity and advocate for themselves. Vessel Project will continue to fight for environmental justice to ensure that these communities are protected from the harmful effects of pollution and have access to the resources they need to thrive.
- **For A Better Bayou** is a community-based organization in Southwest Louisiana that is raising awareness and building a community-based movement to ensure protections for a sustainable bayou and environment. For A Better Bayou educates community members on the world-wide climate crisis and how that impacts Southwest Louisiana and the bayous in the region which provide a myriad of benefits to the surrounding communities. With outings like bird walks and other events in the Lake Charles area, For A Better Bayou also educates the community on the value of a robust and diverse ecosystem. LNG, petrochemical, and other major industry construction and operation in the Lake Charles area produce harmful air and water pollution that impact For A Better Bayou's community, employees, and members, and also interfere with For a Better Bayou by deterring engagement in outdoor activities in the region.
- **Healthy Gulf** is a 501(c)(3) organization based in Louisiana whose mission is to collaborate with and serve communities who love the Gulf of Mexico by providing the research, communications, and coalition-building tools needed to reverse the long pattern of over exploitation of the Gulf's natural resources. Healthy Gulf has staff, as well as members, in Louisiana and Texas. Healthy Gulf fights for people of Gulf communities to live and work in Louisiana free from the sights, sounds, and dangers of industry. Healthy Gulf also fights for the ability for everyone to benefit from the use and enjoyment of the wetlands, waters, and coastal areas in the Gulf.
- **Alliance for Affordable Energy** has been working to ensure equitable, affordable, and environmentally responsible energy policy for ALL Louisiana energy consumers since 1985. It is member supported and Louisiana's only dedicated watchdog working to

protect consumer rights at the Louisiana Public Service Commission and the New Orleans City Council. Alliance for Affordable Energy is both a consumer advocate and a public health advocacy organization whose policy work meets at the crossroads of social justice, sustainable economic development, and environmental protection. The Alliance for Affordable Energy is committed to promoting a new vision for energy policy in Louisiana, from an “energy state” to a “clean energy” leader in the South.

Many of the projects pending before DOE, including the Calcasieu Pass 2 (“CP2”) project, would be constructed and operated in the area where these organizations are based. If constructed, CP2 would be the largest export terminal in the United States and would cause a variety of harms to the above organizations and their communities, including by increasing emissions of health-harming air pollutants, further eroding already damaged wetlands the area relies on for protection from storms, and emitting massive amounts of greenhouse gases. CP2 and the other export projects pending before DOE will cause significant adverse cumulative air quality impacts in the Louisiana region, an area where communities already are overburdened by the air pollution caused by the fossil fuel and other polluting industries. Allowing these exports also will cause increased shipping traffic in the Louisiana Gulf area, harming the interests of the listed organizations and their members and supporters in protecting local water quality and sustainable fisheries. The climate emissions caused by approving pending export applications will also harm the above organizations and their members and supporters. Export authorizations cause huge lifecycle emissions of greenhouse gases, from production, transmission, liquefaction, and end use. The communities served by the listed organizations already face severe climate change harms in the form of rising seas, severe storms, and extreme heat.

Allowing the pending projects to export also will harm the listed organizations and the communities they serve by increasing the prices they pay for energy, including both gas and electricity, over the longer term. DOE and the U.S. Energy Information Administration have explained that increasing the volume of exports is expected to further increase domestic energy

prices. The staff, members, and communities served by the above organizations will pay more for energy if DOE grants any non-free trade agreement LNG export application.

Pursuant to 10 C.F.R. § 590.303(d), the Vessel Project of Louisiana, Healthy Gulf, For a Better Bayou, and Alliance for Affordable Energy identify the following persons for the official service list:

Moneen Nasmith
Senior Attorney
Earthjustice
48 Wall Street, 15th Floor
New York, NY 10005
mnasmith@earthjustice.org
(212) 845-7384

Elizabeth Livingston de Calderon
Senior Attorney
Earthjustice
900 Camp Street, Suite 303
New Orleans, LA 70130
ecalderon@earthjustice.org
(504) 910-1712

Ann Jaworski
Associate Attorney
Earthjustice
311 S. Wacker Dr., Suite 1400
Chicago, IL 60606
ajaworski@earthjustice.org
(773) 245-0837

The above-listed organizations share the view expressed in the Sierra Club Motion that API's rehearing request should be denied as procedurally improper. However, if DOE reaches the merits of API's request, the organizations also agree that API's request should be rejected for the following reasons that are explained in more detail in the Sierra Club Motion:

- There is no legal or factual basis for the claim that DOE is unlawfully withholding or unreasonably delaying its evaluation of pending export applications.

- DOE’s pause announcement does not reach any decision on any pending application and, therefore, is not a denial of any application.
- DOE’s pause announcement is not a rulemaking subject to the Administrative Procedure Act’s notice and comment requirements.
- The Natural Gas Act does not require DOE to grant export applications to non-free trade countries—indeed, the Natural Gas Act gives DOE the critically important responsibility of safeguarding the public interest by reviewing each such application and considering, among other factors, whether allowing additional volumes of exports will cause unacceptable levels of harms to communities, the climate, and domestic consumers.
- DOE has provided ample basis justifying the need to pause its review of pending applications while it updates the out-of-date and incomplete studies it has previously relied on to analyze the harms of LNG exports. Moving forward with its review of these applications using an analysis DOE admits is outdated and insufficient cannot satisfy DOE’s obligation to ensure the exports it approves are in the public interest.

For these reasons, DOE should reject API’s rehearing request as procedurally improper.

In the alternative, if DOE commences a proceeding to consider API’s request, DOE should grant the motion to intervene and deny API’s request on the merits.

Signed,

/s/ Moneen Nasmith

Moneen Nasmith
Senior Attorney
Earthjustice
48 Wall Street, 15th Floor
New York, NY 10005
mnasmith@earthjustice.org
(212) 845-7384

Elizabeth Livingston de Calderon
Senior Attorney
Earthjustice
900 Camp Street, Suite 303
New Orleans, LA 70130
ecalderon@earthjustice.org
(504) 910-1712

Ann Jaworski
Associate Attorney

Earthjustice
311 S. Wacker Dr., Suite 1400
Chicago, IL 60606
ajaworski@earthjustice.org
(773) 245-0837

Counsel for the Vessel Project of Louisiana, Healthy Gulf, For a Better Bayou, and Alliance for Affordable Energy

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY**

IN THE MATTER OF)
)
American Petroleum Institute, et al.) **No FE Docket Assigned**
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**THE VESSEL PROJECT OF LOUISIANA, HEALTHY GULF, FOR A BETTER
BAYOU, AND ALLIANCE FOR AFFORDABLE ENERGY CERTIFIED STATEMENT
OF AUTHORIZED REPRESENTATIVE**

Pursuant to 10 C.F.R. § 590.103(b), I, Moneen Nasmith, hereby certify that I am a duly authorized representative of the Vessel Project of Louisiana, Healthy Gulf, For a Better Bayou, and Alliance for Affordable Energy, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of the Vessel Project of Louisiana, Healthy Gulf, For a Better Bayou, and Alliance for Affordable Energy, the foregoing documents and in the above captioned proceeding.

Executed at New York, NY on March 25, 2024

/s/ Moneen Nasmith
Moneen Nasmith
Senior Attorney
Earthjustice
48 Wall Street, 15th Floor
New York, NY 10005
mnasmith@earthjustice.org
(212) 845-7384

Counsel for the Vessel Project of Louisiana, Healthy Gulf, For a Better Bayou, and Alliance for Affordable Energy

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American Petroleum Institute, et al.) **No FE Docket Assigned**
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**THE VESSEL PROJECT OF LOUISIANA, HEALTHY GULF, FOR A BETTER
BAYOU, AND ALLIANCE FOR AFFORDABLE ENERGY VERIFICATION**

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

Executed at New York, NY on March 25, 2024

/s/ Moneen Nasmith
Moneen Nasmith
Senior Attorney
Earthjustice
48 Wall Street, 15th Floor
New York, NY 10005
mnasmith@earthjustice.org
(212) 845-7384

Counsel for the Vessel Project of Louisiana, Healthy Gulf, For a Better Bayou, and Alliance for Affordable Energy

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American Petroleum Institute, et al.) **No FE Docket Assigned**
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CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 590.107, there being no known parties, no applicant, and no docket I hereby certify that service has been affected by serving all documents on the Office of Fossil Energy via email at fergas@hq.doe.gov.

Dated this 25th day of March, 2024.

/s/ Moneen Nasmith
Moneen Nasmith
Senior Attorney
Earthjustice
48 Wall Street, 15th Floor
New York, NY 10005
mnasmith@earthjustice.org
(212) 845-7384

Counsel for the Vessel Project of Louisiana, Healthy Gulf, For a Better Bayou, and Alliance for Affordable Energy