



have a Free Trade Agreement (“FTA”) requiring national treatment for trade in natural gas but with which trade is not prohibited by United States law or policy (“non-FTA” countries).

Calcasieu Pass also has a non-FTA export application pending in Docket No. 13-69-LNG related to the same Project. <sup>4/</sup> Calcasieu Pass submitted its second export application, in this proceeding, after determining that market demand for LNG exports from its Project is stronger than previously anticipated and that a larger project than originally proposed is warranted. Accordingly, Calcasieu Pass requested here authorization for exports of 243.6 Bcf of natural gas per year or approximately five million (5,000,000) metric tonnes per annum, in addition to those same quantities previously requested in Docket No. 13-69-LNG.

On June 26, 2014, the Sierra Club and APGA submitted motions to intervene and comments/protests of Calcasieu Pass’s first non-FTA export application in Docket No. 13-69-LNG. Calcasieu Pass filed an answer responding to the Sierra Club and APGA in that proceeding on July 10, 2014.

In its current protest in this proceeding, Sierra Club asserts that Calcasieu Pass’s second application duplicates its first application “[i]n most pertinent regards.” For that reason, Sierra Club states that its prior pleading “applies with equal force to the current application” and simply incorporates that pleading by reference into this docket. Sierra Club also attached a copy of its prior pleading to its intervention, protests and comments here.

The APGA took a very similar approach, even though it submitted a stand-alone pleading rather than incorporating by reference its prior protest. For the most part, APGA’s protest here is identical, word-for-word, with its June 26, 2014 protest in Docket No. 13-69-LNG. The only

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<sup>4/</sup> DOE has issued two FTA authorizations for the Calcasieu Pass Project in DOE/FE Order No. 3345 (Sept. 27, 2013), with respect to Docket No. 13-69-LNG, and DOE/FE Order No. 3520 (Oct. 10, 2014) in this proceeding.

differences in the new protest – apart from minor conforming references to dates, dockets and the number of export applications filed with DOE/FE – are: (1) APGA’s acknowledgement and discussion of the recent study by the U.S. Energy Information Administration (“EIA”) of the effects of exports of LNG from the Lower 48 states of 12 billion cubic feet per day (Bcf/d), 16 Bcf/d, and 20 Bcf/d <sup>5/</sup> and (2) APGA’s new procedural argument concerning the appropriate timing for public comments on non-FTA applications. Calcasieu Pass will address these two new issues below.

Other than these two new issues, however, Calcasieu Pass’s answer submitted on July 10, 2015 in Docket No. 13-69-LNG fully responds to the filings by the Sierra Club and APGA here, and demonstrates that the protests fail to overcome the presumption that Calcasieu Pass’s proposed exports of LNG are in the public interest. Calcasieu Pass’s applications in both dockets relate to a single Project that will be reviewed by the Federal Energy Regulatory Commission (“FERC”) in a single proceeding. <sup>6/</sup> Accordingly, Calcasieu Pass expects that DOE/FE will act on both of its non-FTA export applications in a single order following the completion of the National Environmental Policy Act (“NEPA”) review process for the Project led by FERC; indeed, Calcasieu Pass urges DOE/FE to take this approach. If that course is followed, there may be no need to incorporate Calcasieu Pass’s prior answer to the protestors in this proceeding. To be certain that Calcasieu Pass’s answer to the Sierra Club and APGA is included in this docket, however, Calcasieu Pass hereby incorporates it by reference in its entirety here and attaches a copy of it for ease of reference.

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<sup>5/</sup> “Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets,” U.S. Energy Information Administration (Oct. 29, 2014) (hereinafter the “2014 EIA Study”), available at: <http://www.eia.gov/analysis/requests/fe/pdf/lng.pdf>

<sup>6/</sup> The Calcasieu Pass Project is currently in the FERC Pre-Filing Process in FERC Docket No. PF15-2.

Turning to the first of AGPA's two new arguments, in its June protest APGA explained that DOE/FE had requested EIA to update its prior export study and urged the agency to "suspend" any consideration of Calcasieu Pass's application and any further non-FTA LNG export approvals until the new EIA study was complete. <sup>7/</sup> In addition to eliminating those sections in its current protest, APGA now includes two references to the since-issued 2014 EIA Study. First, APGA noted the issuance of the new EIA study and asserted that the result of the study "confirms that increased LNG exports will lead to increased domestic natural gas prices." <sup>8/</sup> Second, APGA states, more specifically, that the 2014 EIA Study "also concludes that domestic natural gas prices will rise, albeit at a slower rate [than projected in EIA's 2012 Study] (approximately 4% for the 12 Bcf/d scenario and 11% for the 20 Bcf/d scenario) relative to the 2014 base projections." <sup>9/</sup>

The projected increases cited by APGA relate to prices to be received by producers <sup>10/</sup> – not those paid by the residential consumers that APGA purports to champion. As EIA explained,

Although the increases in natural gas prices at the producer level translate to similar absolute increases in delivered prices to customers, the percentage change in prices that industrial and electric customers pay tends to be somewhat lower than the change in the producer price. And the percentage change in prices that residential and commercial customers pay is significantly lower. These lower values are because delivered prices include transportation charges (for most customers) and distribution charges (especially for residential and commercial customers) that do not vary significantly across export scenarios. For example, while the natural gas supply price increases across the three export

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<sup>7/</sup> See APGA Protest in FE Docket No. 13-69-LNG at pages 4-5 and 25-26: these portions of APGA's pleading have been eliminated from the version of its protest filed in this proceeding. In its current protest, APGA also eliminated two sentences criticizing DOE/FE's prior export studies for relying on "outdated projections" that were included on page 10 of the 13-69-LNG version of the protest.

<sup>8/</sup> APGA Protest at 6.

<sup>9/</sup> *Id.* at 10.

<sup>10/</sup> 2014 EIA Study at 12 (Summary of Results).

scenarios range from 4% to 11% in the Reference case, the corresponding percentage increases in residential prices range from 2% to 5%. 11/

EIA also explains that even slightly lower price impacts would be expected with a “slower, more realistic, ramp-up in LNG export capability” than that assumed in the chosen scenarios. 12/

Furthermore, the 2014 EIA Study also concludes that:

Added U.S. LNG exports result in higher levels of economic output, as measured by real gross domestic product as (GDP). Increased energy production spurs investment, which *more than offsets the adverse impact of somewhat higher energy prices* when the export scenarios are applied. 13/

Therefore, the 2014 EIA Study is fully consistent with the 2012 EIA and NERA studies that DOE has relied upon in the past in finding exports of LNG to be consistent with the public interest. That is, the projected price increases associated with LNG exports – including up to the 20 Bcf/d level – are marginal, and more than offset by the increased GDP benefits of the exports. Therefore, APGA’s attempt to utilize the 2014 EIA Study to bolster its protectionist arguments – which DOE has repeatedly rejected in its prior LNG export decisions 14/ – is wholly unavailing.

While APGA no longer argues that DOE/FE should suspend its proceeding of Calcasieu Pass’s application to await a new study, it nevertheless includes in its current pleading a section entitled “Motion To Suspend Consideration of Application.” 15/ The section, however, addresses a procedural issues apparently focused on other, future proceedings, and not really on

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11/ *Id.* at 14-15; *see also id.* at 12 (“projected average Lower 48 states residential natural gas prices in the export scenarios are 2% (12 Bcf/d scenario) to 5% (20 Bcf/d scenario) above their base projection over the 2014-40 period.”)

12/ *Id.* at 13. The Study assumes that exports ramp up by 2 Bcf/d per year beginning in 2015, reaching 12 Bcf/d in 2020, and 20 Bcf/d in 2024: a ramp-up in exports that EIA termed “extremely aggressive, indeed almost impossible.” *Id.* at 5.

13/ *Id.* at 12 (emphasis added).

14/ APGA has been a consistent opponent of virtually every LNG export project, and DOE/FE has rejected its arguments in every decision in which it has considered them.

15/ APGA Protest at 3.

this one. APGA complains that “DOE did not establish a comment date for interventions and protests of the Venture Global Application timed to coincide with the expected completion of the NEPA review process.” 16/ APGA asserts that “this process is inefficient and should be modified on a going-forward basis.” 17/ APGA urges DOE to “delay the establishment of a comment date until such applications are ready (or nearly ready) for final action....” 18/ and to modify its practice concerning the timing of its comment periods “on a going-forward basis.” 19/ ICEA includes this same argument, essentially verbatim, in its protest. 20/

Despite the heading of the section, this AGPA/ICEA argument has no possible application to Calcasieu Pass’s application here: the public comment process for it has now been completed. Still, Calcasieu Pass will explain its opposition to the APGA/ICEA proposal. To begin with, DOE’s regulations seem to contemplate issuance of Federal Register notice of an application immediately upon receipt of a complete application: 21/ while some delay in issuance is reasonable given the number of export applications, waiting a protracted period prior to issuance of the notice may be inconsistent with the regulation. More substantively, delaying DOE/FE’s comment period until the applications are nearly ready for final action would be a recipe for unnecessary and unreasonable delay. In its current procedures, DOE explained that it will act on non-FTA applications when the pertinent NEPA process has been completed – specified as 30 days after the final Environmental Impact Statement has been filed for projects

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16/ *Id.*

17/ *Id.* at 3-4.

18/ *Id.* at 4.

19/ *Id.* at 3-4.

20/ ICEA Protest at 3-5.

21/ 10 C.F.R. § 590.205(a) (2014)

like Calcasieu Pass's that require an EIS. 22/ For DOE/FE to be prepared to issue its final order at that time, the public comment process obviously must have been previously completed with sufficient subsequent time for DOE/FE to consider and evaluate the filed comments, as well as any answers.

Furthermore, completion of the public comment process earlier in the process will provide useful increased certainty for export applicants. Certain industry advocates opposed DOE/FE's change in its process of discontinuing its approach of conditional non-FTA authorizations on the ground that those orders provided a signal – important to parties like investors and potential customers – of progress in the regulatory process. 23/ Indeed, in moving forward with its proposed change in process, “DOE acknowledge[d] that conditional decisions may hold value for some applicants and may supply useful information to third parties.” 24/ Having advanced through the public comment stage, of course, is in no way remotely comparable to the issuance of a conditional decision. Nevertheless, it is at least some indication of progress through the regulatory process that may serve as a useful signal. For these reason, delaying the public comment process as advocated by APGA/ICEA – even if it were not deferred so long as to impede the final decision – would be misguided.

In addition to its arguments concerning the timing of the public comment process, ICEA also submits a general attack on the approach that DOE/FE has taken to consider, and authorize, LNG exports. Nothing in ICEA's arguments is specific to Calcasieu Pass's Project. And the

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22/ DOE, Procedures for Liquefied Natural Gas Export Decisions, Final Revised Procedures, 79 Fed. Reg. 48131 (Aug. 15, 2014), available at:

[http://energy.gov/sites/prod/files/2014/08/f18/FR%20Procedures%20LNG%20Exports%2008\\_15\\_14.pdf](http://energy.gov/sites/prod/files/2014/08/f18/FR%20Procedures%20LNG%20Exports%2008_15_14.pdf)

23/ See, e.g., the Comments on the Proposed Change in Procedures filed by the American Petroleum Institute and by the Center for LNG, available at: <https://app.fossil.energy.gov/app/GPC-Public/Forms/ViewForm.aspx> and <http://lnginitiative.org/wp-content/uploads/2014/07/CLNG-DOE-comments-on-Proposed-Procedures-final-July-18-2014.compressed.pdf>

24/ DOE, Final Revised Procedures, *supra*. note 18, at 48134.

arguments do nothing to undermine the reasonableness of the now well-established approach taken by DOE/FE

ICEA presents four generic arguments. First, ICEA claims that DOE/FE has not *defined* the “public interest” standard of Section 3 of the Natural Gas Act. 25/ Yet, in all its LNG export orders, DOE/FE has identified the range of factors relevant to the public interests and weighed those factors in making its determinations – a perfectly reasonable approach. Second, ICEA challenges DOE/FE’s use in acting on LNG export proposals of its policy guidelines that were originally developed for LNG imports. 26/ DOE/FE has considered this argument in virtually all of its LNG export orders and repeatedly held that the guidelines apply in both contexts. The thrust of the guidelines is to minimize federal control and involvement in energy markets -- a policy equally well-suited to exports as to imports. Third, ICEA alleges “bias” in the EIA studies of the impact of LNG exports. 27/ Again, DOE/FE has considered challenges to those studies in all of its export decisions and repeatedly explained the reasonableness of its use of the studies. Finally, ICEA argues, essentially, that DOE/FE should not hesitate to issue “supplemental orders” to modify previously-issued export authorizations if current production forecasts turn out to be wrong. 28/ DOE/FE does have the statutory authority to take such action, of course. Unlike ICEA, however, Calcasieu Pass applauds the agency for explaining that it would only modify or rescind its prior approvals in the event of “extraordinary circumstances”

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25/ ICEA Comments at 6-9.

26/ *Id.* at 9-11.

27/ *Id.* at 11-12.

28/ *See id.* at 12-15.

and will not use its authority as a price maintenance mechanism. <sup>29/</sup> DOE is right to take very seriously the investment-backed decisions of those who will act in reliance on its decisions.

In conclusion, in the event that DOE/FE grants the interventions of the protesting parties and considers their views, Calcasieu Pass requests that the agency consider this answer, as well as its answer submitted on July 10, 2015 in Docket No. 13-69-LNG that is incorporated by reference herein. As demonstrated in that answer, and Calcasieu Pass's application itself, Calcasieu Pass's request to export LNG to non-FTA countries with which trade is not prohibited by U.S. law will be consistent with, and indeed advance, the public interest. Accordingly, Calcasieu Pass requests that the DOE/FE grant the authorization requested in its application.

Respectfully submitted,

/s/ J. Patrick Nevins

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Dated: January 26, 2015

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<sup>29/</sup> See Letter from DOE Deputy Assistant Secretary Paula Gant to Senator Lisa Murkowski, dated October 17, 2013, cited in ICEA Comments at note 28.

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

**In the Matter of**

**VENTURE GLOBAL CALCASIEU PASS**

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**FE Docket No. 14-88-LNG**

**CERTIFICATED STATEMENT OF AUTHORIZED REPRESENTATIVE**

Pursuant to Section 590.103(b) of the Department of Energy's ("DOE") regulations, 10 C.F.R. 590.303 (2014), I, J. Patrick Nevins, hereby certify that I am authorized to sign and file with the Office of Fossil Energy of the Department of Energy, on behalf of Venture Global Calcasieu Pass, the foregoing document in the above-captioned proceeding.

Filed and dated in Washington, D.C., on this 26<sup>th</sup> day of January, 2015.

Respectfully submitted,

*/s/ J. Patrick Nevins*

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**ATTACHMENT**

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

**In the Matter of**

**VENTURE GLOBAL LNG, LLC**

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**FE Docket No. 13-69-LNG**

**ANSWER OF VENTURE GLOBAL LNG, LLC TO  
MOTIONS TO INTERVENE AND PROTESTS**

Pursuant to Sections 590.302(b), 590.303(e), and 590.304(f) of the Department of Energy’s (“DOE”) regulations, 1/ and the Notice of Application published in the Federal Register on May 27, 2014, Venture Global LNG, LLC (“Venture Global”) hereby submits this answer (“Answer”) to the motions to intervene, comments and protests submitted in this proceeding on June 26, 2014 by: (1) the Sierra Club and (2) the American Public Gas Association (“APGA”). The protests concern Venture Global’s proposal to export domestically produced natural gas as liquefied natural gas (“LNG”) from its planned liquefaction and LNG export project to be located along the Calcasieu Ship Channel in Cameron Parish, Louisiana (the “Project”).

The Sierra Club and APGA oppose Venture Global’s Project not based on anything specific to the Project, but rather based on their general opposition to LNG exports and, in the case of the Sierra Club, to increased natural gas production. Moreover, the protests focus largely on matters that are beyond the scope of the issues to be resolved by the Office of Fossil Energy of the Department of Energy (“DOE/FE”) in this proceeding. In particular, the Sierra Club devotes much of its protest to the familiar arguments advanced in its nationwide campaign

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1/ 10 C.F.R. §§ 590.302(b), 590.303(e), and 590.304(f) (2014).

against unconventional production involving hydraulic fracturing, without any demonstration that Venture Global's Project is necessarily related to such production techniques.

With respect to issues relevant in this proceeding, the protesting parties (1) challenge Venture Global's showing that the Project will create significant new jobs and other direct and indirect economic benefits and (2) claim that exports of LNG will increase domestic natural gas prices significantly. The protests fail to overcome the presumption that Venture Global's proposed exports of LNG are in the public interest for the reasons set forth below. APGA and the Sierra Club also raise certain procedural issues concerning the processing of Venture Global's application that are also addressed below.

## I. LEGAL FRAMEWORK

Section 3(a) of the Natural Gas Act ("NGA") establishes a rebuttable presumption that the proposed export of natural gas is in the public interest. Moreover, the DOE/FE has consistently held that opponents of an export application must make an affirmative showing of inconsistency with the public interest in order to overcome the rebuttable presumption favoring export applications. <sup>2/</sup> In implementing NGA Section 3, the DOE issued policy guidelines explaining the approach that it will employ in evaluating applications for natural gas imports, <sup>3/</sup> which are equally applicable to exports. <sup>4/</sup> The Policy Guidelines were "designed to establish

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<sup>2/</sup> *E.g., Philips Alaska Natural Gas Corp. and Marathon Oil Co.*, DOE/FE Order No. 1473 at 13 (April 2, 1999); *Sabine Pass Liquefaction, LLC*, DEO/FE Order No. 2961 at 28 (May 20, 2011); *Jordan Cove Energy Project, L.P.*, DOE/FE Order No. 3413 (March 24, 2014).

<sup>3/</sup> *Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas*, 49 Fed. Reg. 6,684 (Feb. 22, 1984) (the "Guidelines").

<sup>4/</sup> *E.g., Philips Alaska*, DOE/FE Order No. 1473 at 14; *Yukon Pacific Corp.*, DOE/FE Order No. 350, 1 FE ¶ 70,259 at 71,128 (1989).

natural gas trade on a market-competitive basis and to provide immediate as well as long-term benefits to the American economy from this trade.” <sup>5/</sup> Moreover, the Guidelines provide that:

The market, not government, should determine the price and other contract terms of imported [or exported] gas. U.S. buyers [sellers] should have full freedom – along with the responsibility – for negotiating the terms of trade arrangements with foreign sellers [buyers]....

\* \* \*

The policy cornerstone of the public interest standard [of NGA Section 3] is competition. Competitive import [export] arrangements are an essential element of the public interest, and natural gas imported [exported] under arrangements that provide for the sale of gas in volumes and at prices responsive to market demands largely meets the public interest test....<sup>6/</sup>

The Sierra Club (at pages 7-8 of its protest) claims that the 1984 Policy Guidelines are “outdated” and should not apply to exports. The DOE/FE, however, has decidedly rejected this argument. In its series of recent orders conditionally authorizing non-FTA LNG exports, DOE/FE has repeatedly explained that it “continues to subscribe to the principle set forth in our 1984 Policy Guidelines that, under most circumstances, the market is the most efficient means of allocating natural gas supplies.” <sup>7/</sup>

Section 3(c) of the NGA requires that applications for export of natural gas, including LNG, to countries with which the United States has a free trade agreement (“FTA”) requiring the national treatment for trade in natural gas are deemed to be in the public interest and must be granted without modification or delay.

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<sup>5/</sup> Guidelines at 6,684.

<sup>6/</sup> *Id.* at 6685 and 6687. The parenthetical references to exports are added in the above quotation to reflect the applicability of the Policy Guidelines to exports. *See* note 4, *supra*.

<sup>7/</sup> *Freeport LNG Expansion, L.P.*, Order No. 3282 at 112 (Nov. 15, 2013); *Lake Charles Exports, LLC*, Order No. 3324 at 125 (Aug. 7, 2013); *Dominion Cove Point LNG, LP*, Order No. 3331 at 141 (Sept. 11, 2013); *Freeport LNG Expansion, L.P.*, Order No. 3357 at page 154 (Nov. 15, 2013); *Cameron LNG, LLC*, DOE/FE Order No. 3391 at 132 (Feb. 11, 2014); *Jordan Cove Energy Project, L.P.*, Order No. 3413 at 143 (March 24, 2014).

For applications seeking authority to export LNG to countries that do not have a FTA requiring national treatment for trade in natural gas (“non-FTA countries”), DOE conducts a full public interest review. DOE/FE has explained that its public interest review focuses on: (i) the domestic need for the natural gas proposed to be exported, (ii) whether the proposed exports pose a threat to the security of domestic natural gas supplies, (iii) whether the arrangement is consistent with DOE/FE’s policy of promoting market competition, and (iv) any other factors bearing on the public interest.<sup>8/</sup>

The DOE/FE has granted one final authorization to export domestic gas as LNG to non-FTA countries from the lower-48 United States. <sup>9/</sup> DOE/FE has also granted six non-final authorizations to export LNG to non-FTA countries, conditioned on completion of environmental review of the siting, construction, and operation of the related project facilities by FERC.<sup>10/</sup> In each of those orders, DOE/FE noted its intent to participate as a cooperating agency in the National Environmental Policy Act (“NEPA”) process led by the FERC.

## **II. PROCEDURAL BACKGROUND**

### **A. The Venture Global LNG Project**

Venture Global intends to be a long-term, low-cost producer of LNG by utilizing highly efficient and low cost, modular, mid-scale LNG liquefaction technology. Venture Global is developing its project using competitive bidding of all material components of the project, and is

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<sup>8/</sup> *Freeport LNG*, Order No. 3282 at 7; *Lake Charles Exports*, Order No. 3324 at 8; *Dominion Cove Point LNG*, Order No. 3331 at 8-9; *Freeport LNG*, Order No. 3357 at 9; *Cameron LNG*, Order No. 3391 at 8; *Jordan Cove*, Order No. 3413 at 8.

<sup>9/</sup> *Sabine Pass Liquefaction, LLC, Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Non-Free Trade Agreement Nations*, DOE/FE Order No. 2961-A, FE Docket No. 10-111-LNG (Aug. 7, 2012).

<sup>10/</sup> *See note 7 supra.*

configuring a highly efficient, clean, low cost, safe and reliable LNG liquefaction system, attractive to off-takers, regulators, investors and our community.

Venture Global proposes to export LNG from the Project's proposed liquefaction facilities and terminal, presently under development to be located at an approximately one hundred and nine (109) acre site at the entrance of the Calcasieu Ship Channel in Cameron Parish in Southwest Louisiana. Venture Global has entered into three Lease Option Agreements: one for fifty-nine (59) acres, the second for ten (10) acres, and the third for forty (40) acres. <sup>11/</sup> All of the acreage is contiguous and the options together provide Venture Global with the exclusive right to acquire its planned Project site of one-hundred and nine (109) acres. The site has over two thousand (2,000) feet of frontage on the Ship Channel, a shipping lane maintained by the U.S. Army Corps of Engineers. Venture Global is in the process of adding additional acreage to its Project site, and will provide related supplemental information regarding that development to DOE/FE in a separate, subsequent filing.

The Project site is located very near various major interstate and intrastate natural gas pipeline systems. For example, the systems of Tennessee Gas Pipeline Company, ANR Pipeline Company, Bridgeline Holdings, L.P., Columbia Gulf Transmission Company and Natural Gas Pipeline Company of America are all located in close proximity to the Project. Venture Global anticipates that the Project will be connected through newly constructed, relatively short lateral

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<sup>11/</sup> On page 13 of its protest, the Sierra Club refers to the sixty-nine acres identified as the project site in Venture Global's initial application in Docket 13-69-LNG, and contrasts that with the 109 acre site mentioned on Venture Global's website. In its initial application, Venture Global submitted a letter agreement providing it an exclusive right to lease approximately sixty-nine (69) acres for its project site. That letter agreement was superseded by the first two definitive Lease Option Agreements, which together encompass the same acreage covered by the letter agreement. Venture Global subsequently entered into the third Lease Option Agreement, for another forty (40) acres that are contiguous with the original acreage. Venture Global provided an update concerning its leases, and filed copies of the three option agreements, in this proceeding on December 12, 2013.

pipeline(s), to one or more of these or other available interstate or Louisiana intrastate pipeline systems.

The natural gas to be exported as LNG at Venture Global's Project will be sourced from liquid supply points upstream from the Project and transported to the Project site over the natural gas pipeline grid. This supply may be sourced in requisite volumes in the spot market or pursued under long-term arrangements. Access to the pipeline grid will enable Venture Global, or its customers, to purchase natural gas from multiple sources of conventional and non-conventional U.S. production. Such supplies could be produced across the Gulf Coast region, both onshore and offshore, including traditional production regions as well as the already robust and expanding supplies produced from onshore shale formations, including the Barnett, Haynesville, and Bossier shale gas formations. Supplies might also be sourced from the prolific Marcellus shale region in light of recent developments on the pipeline grid.

On May 13, 2013, Venture Global filed its application in this proceeding for authorization to export LNG to any country which has, or in the future develops, the capacity to import LNG via ocean-going carriers with which the United States either (1) has a Free Trade Agreement ("FTA") requiring national treatment for trade in natural gas or (2) does not have such a FTA but with which trade is not prohibited by United States law or policy ("non-FTA" countries). Venture Global requested export authorization for up to a total of five million (5,000,000) metric tons per annum ("mtpa"), which is equivalent to approximately 243.6 billion cubic feet ("Bcf") of natural gas per year. The DOE/FE issued Venture Global its requested FTA authorization in DEO/FE Order No. 3345 (Sept. 27, 2013).

Since filing its initial application with DOE/FE over a year ago, Venture Global has committed and continues to commit substantial resources to develop its Project. Venture Global

has now selected its proposed liquefaction technology and engineering, procurement and construction contractor for the Project and refined the Project configuration, utilizing a modular train, single mixed refrigerant system. In addition, Venture Global has significantly expanded its Project team, adding officers, staff, advisory board members, engineers, financial advisers, consultants, experts and attorneys. Venture Global also is engaging with local, state and federal officials, regulators and representatives with respect to coordination of and support for the Project.

Venture Global has also made significant progress in marketing its Project to potential customers. In mid-December of 2013, Venture Global, through an expert international LNG consultant, issued a global tender for LNG capacity from the project. Pursuing interest expressed in response to that tender, the principals of Venture Global have met this year with senior LNG procurement officers of over 14 international oil companies, national oil companies, and global LNG commodity marketers in over ten countries, spanning Asia, Europe, the Middle East, and South America. <sup>12/</sup> Venture Global is currently negotiating heads of agreements with potential off-takers.

Venture Global's potential customers have commenced extensive due diligence on the Project and have requested capacity in excess of the amount of LNG exports requested in Docket 13-69-LNG, and authorized by Order No. 3345. Given the significant market interest demonstrated through the negotiation process, Venture Global decided to double its initial planned liquefaction capacity. The additional capacity desired by the market-place led to a second application to DOE/FE for a second phase of the Venture Global Project.

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<sup>12/</sup> Consistent with the intentions explained in Venture Global's Application, the Government of Haiti was specifically contacted with respect to this LNG tender from the Project. As of the date of this response, however, neither the Government of Haiti nor any private entities seeking to serve Haiti on its behalf have responded to the tender.

On May 13, 2014, Venture Global filed a second application with DOE/FE in Docket No. 14-88-LNG, requesting a similar, second authorization of both FTA and non-FTA exports for an additional volume of another five million (5,000,000) mtpa, or another approximately 243.6 Bcf of natural gas per year over a twenty-five year period, commencing on the earlier of the date of first export or seven years from the date the requested authorization is granted.

Venture Global currently anticipates finishing its pre-FEED technical design for its entire Project (both phases) by the third quarter of 2014 and initiating the pre-filing process with the Federal Energy Regulatory Commission (“FERC”) in that same time frame. As noted in its second application, Venture Global expects to propose to the FERC facilities for the entire ten (10) mtpa of liquefaction encompassed by its two applications, and recognizes that DOE/FE will not authorize export volumes in excess of the capabilities of the facilities that will be proposed for FERC authorization. Venture Global hopes to conclude the FERC construction authorization process by mid-2016, allowing the Project to close its construction financing, construct the Project, and enter commercial operations by mid-2019.

The Sierra Club, at pages 13-14 of its protest, states that the planned expansion of the Project (*i.e.*, Phase 2) must be considered in the environmental analysis of the first stage. The FERC process, indeed, will consider both phases of the project. Thus, the consolidated review of the environmental impact of the two phases sought by the Sierra Club will occur.

#### **B. The Prior DOE/FE Comment Period on LNG Exports Generally**

Venture Global submitted its Application after the completion of the extensive process undertaken by DOE/FE to consider issues of generally applicability to all LNG export projects. Faced with multiple LNG export proposals, DEO/FE undertook an in-depth two party study of the cumulative economic impact of LNG exports (the “2012 LNG Export Study”). The first part

of that study was conducted by the Energy Information Agency (“EIA”) and evaluated the potential impact of additional LNG exports on domestic energy consumption, production and prices under several export scenarios. The second part of the study, performed by NERA Economic Consulting (“NERA”), assessed the potential macroeconomic impact of LNG exports using its energy-economy model. The 2012 LNG Export Study, as well as the results of the extensive notice and comment process undertaken by DOE/FE seeking public comments on it, are summarized in detail in each of the recent DOE/FE orders conditionally authorizing LNG exports to non-FTA countries. 13/

As DOE/FE has summarized, two of the key findings of the NERA study are the following:

- Across all the scenarios studied, NERA projected that the United States would gain net economic benefits from allowing LNG exports. For every market scenario examined, net economic benefits increased as the level of LNG exports increased. Scenarios with unlimited exports had higher net economic benefits than corresponding cases with limited exports. In all cases, the benefits that come from export expansion outweigh the losses from reduced capital and wage income to U.S. consumers, and hence LNG exports have net economic benefits in spite of higher domestic natural gas prices.
- U.S. natural gas prices would increase if the United States exports LNG. However, the global market limits how high U.S. natural gas prices can rise under pressure of LNG exports because importers will not purchase U.S. exports if U.S. wellhead price rises above the cost of competing supplies. Natural gas price changes attributable to LNG exports remain in a relatively narrow range across the entire range of scenarios. 14/

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13/ *Freeport LNG*, Order No. 3282 at 30-109; *Lake Charles Exports*, Order No. 3324 at 42-121; *Dominion Cove Point LNG*, Order No. 3331 at 56-134; *Freeport LNG*, Order No. 3357 at 31-50 and 91-143; *Cameron LNG*, Order No. 3391 at 23-42 and 71-125; *Jordan Cove*, Order No. 3413 at 26-51 and 82-136.

14/ *Freeport LNG*, Order No. 3282 at 40-41; *Lake Charles Exports*, Order No. 3324 at 52-53; *Dominion Cove Point LNG*, Order No. 3331 at 66-67; *Freeport LNG*, Order No. 3357 at 41-42; *Cameron LNG*, Order No. 3391 at 33-34; *Jordan Cove*, Order No. 3413 at 37-38. These findings are also set forth in the Executive Summary of NERA Study itself at pages 1-2.

DOE/FE has held repeatedly that the NERA study is fundamentally sound and supports the proposition that the United States will experience net economic benefits from LNG exports and that proposed exports of LNG are not inconsistent with the public interest. <sup>15/</sup>

### **C. DOE/FE's Recent Proposal To Change Its Process**

On May 29, 2014, DOE/FE proposed to change its procedures to reflect changing market dynamics, announcing that it plans to suspend its practice of issuing conditional orders authorizing the export of LNG to non-FTA countries (the "May 29 Notice"). <sup>16/</sup> DOE/FE explained that, going forward, it intends to make its non-FTA public interest determinations only after a project has completed the NEPA process. DOE/FE explained that this change will prioritize resources on the more commercially advanced projects, as well as promote an efficient process that will enable DOE/FE to have more complete information when it makes public interest determinations. DOE/FE has issued a notice of its proposed change in procedures, seeking public comments that are due by July 21, 2014.

Venture Global does not oppose the proposed change in procedures. Venture Global recognizes that, assuming that the proposed new procedures are implemented following the public comment period, DOE/FE will act on Venture Global's non-FTA Application only after completion of the environmental review process led by the FERC, in which DOE/FE and other agencies may participate. Because that NEPA process will address all the facilities proposed by

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<sup>15/</sup> *Freeport LNG*, Order No. 3282 at 110; *Lake Charles Exports*, Order No. 3324 at 123; *Dominton Cove Point LNG*, Order No. 3331 at 140; *Freeport LNG*, Order No. 3357 at 153; *Cameron LNG*, Order No. 3391 at 130-31; *Jordan Cove*, Order No. 3413 at 141.

<sup>16/</sup> See DOE LNG Exports Announcements – May 29, 2014, Notice of Proposed Procedures for Liquefied Natural Gas Export Decisions, available at <http://energy.gov/fe/doe-lng-exports-announcements-may-29-2014>. When announcing its proposed change in approach, DOE/FE noted that Section 590.402 its regulations expressly contemplate conditional decisions prior to the completion of the review process, and explained its history of issuing conditional orders like the one requested by Venture Global in its application in this proceeding.

Venture Global (phases 1 and 2), DOE/FE presumably will also act on Venture Global's second export application at that time as well.

In the May 29 Notice, DOE/FE also initiated an updated macroeconomic study to gain a better understanding of how potential LNG exports between 12 and 20 Bcf per day could affect the public interest, and released two environmental reports that relate to the environmental impacts of unconventional natural gas production and lifecycle greenhouse gas impact of U.S. LNG exports. <sup>17/</sup> In doing so, DOE/FE recognized that these additional environmental studies are *not* required under NEPA. Venture Global reserves its right to comment on these aspects of DOE/FE's May 29 Notice in the future. <sup>18/</sup>

APGA claims, at page 4 of its protest, that the decision by DOE/FE to conduct an updated macroeconomic study focusing on higher levels of LNG exports constitutes an "admission" that the prior studies are not a reliable basis for determining whether exports are in the public interest. Venture Global disagrees: ample evidence exists to authorize additional LNG exports without the new study. This disagreement is likely immaterial, however. DOE/FE is conducting the new study and certainly it will be considered in the agency's future public interest determinations.

APGA further argues (at pages 4-5 and 24-25 of its protest) that DOE/FE should "suspend" consideration of any additional export applications pending the completion of that new study. Venture Global would urge the DOE/FE not to create a long delay in authorizing exports, like that associated with the preparation and finalization of the 2012 Export Study. The need for American LNG export projects – with their attendant public benefits -- to proceed, in

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<sup>17/</sup> *Id.*

<sup>18/</sup> Venture Global fully reserves the right to comment on these studies in accordance with the established public comment period as well as to address how the studies may be used in Venture Global's own proceeding, particularly given the irrelevance of fracing and upstream production to its Project.

competition with other potential projects around the world, is too important to be delayed by additional extended procedures. Assuming that the new macro-economic study proceeds at a reasonable pace, however, the idea of “suspending” authorizations during its preparation likely would not make any difference to Venture Global’s project, assuming that the new procedures proposed on May 29 are adopted. Completion of the FERC process, which is required before DOE/FE will proceed with the export authorization, is expected to take longer than any reasonable process for the development of the new macroeconomic study.

### III. RESPONSE TO PROTESTS

#### A. The Protestor’s Interests are Insufficient to Justify Interventions

DOE regulations state that any person who seeks to become a party to a proceeding must file a motion to intervene which “sets out clearly and concisely the facts upon which the petitioner’s claim of interest is based.” <sup>19/</sup> And the definition of “interested person” is limited to persons “whose interest in a proceeding goes beyond the general interest of the public as a whole.” <sup>20/</sup> Yet, the Sierra Club and APGA motions contain only generalized statements of interest that fail to justify their interventions in this proceeding.

The Sierra Club states that it has an interest in the economic and environmental impact of LNG exports generally, including the “spiritual” interests of its members, a portion of which Sierra Club claims live and work in the State of Louisiana. <sup>21/</sup> APGA explains that its members are publicly owned natural gas distribution systems that have a general interest in securing U.S.

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<sup>19/</sup> 10 C.F.R. 590.303 (2014).

<sup>20/</sup> *Id.* § 590.102(h).

<sup>21/</sup> Sierra Club Protest at p. 3.

natural gas on U.S. pipelines at the lowest possible prices, although no specific pipelines or any particular connection to the Venture Global Project are identified. 22/

None of the interests expressed by the protestors are sufficiently particularized to Venture Global's Project to create a legally cognizable right that warrants granting intervention. The protestors appear to have only general opposition to all liquefaction and export of U.S. natural gas, no matter the geography, design, or other facts in any one proceeding. Neither of the protestors identifies a single member who will be impacted by Venture Global's Project, much less explains how they will be impacted.

General claims of interest do not allow Venture Global or DOE/FE to determine the nature and basis of the claims. For these reasons, the motions to intervene should be rejected. Moreover, with regard to the Sierra Club's protest, the May 29 Notice clarifies that the proper process for participating in NEPA review of a proposed LNG export project is before FERC, not DOE/FE. Nevertheless, Venture Global will respond to the protests in this proceeding to recognize the possibility that DOE/FE may grant the interventions or otherwise consider the protestors' claims in the interest of facilitating a complete record in this proceeding.

**B. The Protestors Fail to Demonstrate that Venture Global's Project Is Not Consistent with the Public Interest**

Pursuant to Section 3(a) of the NGA, DOE/FE "shall issue" an order authorizing natural gas exports unless it finds that the proposed exportation "will not be consistent with the public interest." To overcome this rebuttable presumption an opponent must affirmatively demonstrate that the proposal is inconsistent with the public interest. DOE/FE looks to the evidence developed in the record of each application proceeding to make its determination. The protestors'

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22/ APGA Protest at pp. 2-3.

claims fail to provide any basis to conclude that Venture Global's proposed exports would be inconsistent with the public interest.

The protests focus on issues that are common to all LNG export projects. The Sierra Club and the APGA, of course, have been consistent opponents of LNG exports, in the role of both commentators on the 2012 LNG Export Study and filings in virtually every other DOE/FE proceeding considering non-FTA export authorizations. Sierra Club and APGA have not advanced any new or Venture Global-specific arguments, here; rather, they have simply regurgitated their familiar arguments against LNG exports in general that have been repeatedly rejected by DOE/FE.

### **1. The Protests Do Not Undermine Venture Global's Showing of Economic Benefits**

The protestors challenge Venture Global's showing that its planned Project will convey economic benefits to the U.S., and instead suggest that DOE/FE's mandate under the NGA is to reject any application, including Venture Global's, that would lead to increased demand for U.S. natural gas or cause an increase in gas prices. Both arguments should be rejected.

Venture Global's Project will benefit the economy by creating jobs, increasing tax revenues and reducing the nation's trade deficit. Most specifically, Venture Global anticipates a construction period for the facility of approximately forty months, with a full construction employment of approximately 1000 construction jobs and 175 indirect jobs during this period. Venture Global also anticipates that it will purchase the bulk of the major equipment for the Project from American manufacturers, creating additional jobs and economic benefits. <sup>23/</sup> During operations, Venture Global anticipates approximately ninety three full time

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<sup>23/</sup> An individual (and former Chief Counsel of MARAD) filed a short email comment in this proceeding on May 27, 2014, calling for DOE to link its support for Venture Global's use of U.S. vessels and U.S. crews to export the LNG. No such linkage has been required for any other LNG export project, and it would not be

employment jobs, with an annual payroll and benefit expense of approximately \$10 million. Other applicants for LNG export authorizations have detailed projected benefits of their projects in jobs created, tax revenues, and improvements in the U.S. balance of trade. Such benefits will also result from Venture Global's Project.

DOE/FE's own 2012 LNG Export Study demonstrates that exports of U.S. LNG will provide net economic benefits to the U.S. The NERA Study found that the United States would experience net economic benefits from increased LNG exports in all cases studied. NERA also projected that the U.S. economic welfare would consistently increase as the volume of natural gas exports increases, including in scenarios with unlimited exports. Even though domestic natural gas prices may increase with LNG exports, the value of the exports also rises and there is a net gain for the U.S. economy as measured by a broad metric of economic welfare or by more common measures like real GDP or real household income. DOE/FE has repeatedly embraced and adopted these conclusions in its prior orders conditionally authorizing non-FTA exports for other projects.

NERA's fundamental findings that the country will benefit from the export of domestically produced LNG are confirmed by numerous other persuasive studies, including but not limited to:

- Charles Ebinger *et. al.*, "Liquid Markets: Assessing the case for U.S. Exports of Liquefied Natural Gas," Brookings Institution (May 2012)(hereinafter, "Ebinger/Brookings");

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appropriate here. Venture Global does not know the nationality of the vessels that will be used to export LNG from its Project, but certainly could not impose a U.S.-only requirement on potential customers. The Project will maximize benefits in this country, however, through the purchase of U.S.-manufactured equipment, including in particular LNG liquefaction blocks, or trains, to be manufactured in Louisiana.

- Michael Levi, “A Strategy for U.S. Natural Gas Exports,” The Hamilton Project, Brookings Institution (June 2012) (hereinafter, “Levi/Brookings”);
- Kenneth B. Medlock II, Ph.D., “U.S. LNG Exports: Truth and Consequences,” Energy Forum at the James A. Baker Institute for Public Policy, Rice University (August 2012)(hereinafter, “Medlock/Baker”);
- Deloitte, “Exploring the American Renaissance: Global Impacts of LNG Exports from the United States” (October 2012) (hereinafter “Deloitte”);
- ICF International, “U.S. LNG Exports: Impacts on Energy Markets and the Economy” (May 2013) (hereinafter “ICF”).

These studies are all publicly available, <sup>24/</sup> and Venture Global hereby incorporates each of them into the record here as supportive of the public interest in its proposed LNG exports.

Importantly, NERA has already updated its study that was commissioned by DOE/FE.<sup>25/</sup> The updated NERA study utilized more recent data than its 2012 study and provided a more complete analysis of scenarios in which no limitations were put on the level of U.S. LNG exports and the exports exceed 12 Bcf per day. The key results of the updated NERA study include the following:

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<sup>24/</sup> See Edinger/Brookings at [http://www.brookings.edu/~media/Research/Files/Reports/2012/5/02%20lng%20exports%20ebinger/0502\\_In\\_g\\_exports\\_ebinger.pdf](http://www.brookings.edu/~media/Research/Files/Reports/2012/5/02%20lng%20exports%20ebinger/0502_In_g_exports_ebinger.pdf);  
 Levi/Brookings at <http://www.brookings.edu/research/papers/2012/06/13-exports-levi>;  
 Medlock/Baker at [http://bakerinstitute.org/publications/US%20LNG%20Exports%20-%20Truth%20and%20Consequence%20Final\\_Aug12-1.pdf](http://bakerinstitute.org/publications/US%20LNG%20Exports%20-%20Truth%20and%20Consequence%20Final_Aug12-1.pdf);  
 Deloitte at [http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/Energy\\_us\\_er/us\\_er\\_GlobalImpactUSLNGExports\\_AmericanRenaissance\\_Jan2013.pdf](http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/Energy_us_er/us_er_GlobalImpactUSLNGExports_AmericanRenaissance_Jan2013.pdf); and  
 ICF at <http://www.api.org/~media/Files/Policy/LNG-Exports/API-LNG-Export-Report-by-ICF.pdf>.

<sup>25/</sup> Sabine Pass submitted the updated NERA study on February 28, 2014 in Docket Nos. 13-30-LNG, 13-42-LNG and 13-121-LNG. Sabine Pass’ filing with the study is available at: [http://www.fossil.energy.gov/programs/gasregulation/authorizations/2013\\_applications/Supplement\\_to\\_application02\\_28\\_14.pdf](http://www.fossil.energy.gov/programs/gasregulation/authorizations/2013_applications/Supplement_to_application02_28_14.pdf)

- In all the scenarios studied, NERA found that the U.S. would experience net economic benefits from increased LNG exports.
- Across all the scenarios, U.S. economic welfare consistently increases as the volume of natural gas exported increases. Unlimited exports always create greater benefits than limited exports in comparable scenarios.
- A comparison of the updated NERA study with its 2012 study indicated greater LNG export potential at lower prices than previously estimated. Higher levels of exports are shown in nearly all scenarios at lower prices than in the previous study. That is, the results show an expectation of the U.S. exported greater amounts of LNG at lower gas prices than in the NERA study that DOE/FE has previously relied upon in authorizing exports.

Venture Global hereby requests that DOE/FE take notice of this new NERA study in this proceeding. Venture Global agrees and hereby incorporates the study by reference as supportive of own its Application. Of course, DOE/FE now is undertaking another study of expanded LNG exports which will be subject to public comment, as announced in the May 29 Notice.

Another important study sponsored by the American Petroleum Institute (“API”), and conducted by ICF International, quantified the likely benefits and found even stronger support for LNG exports than indicated in the NERA study. ICF projected an increase in gross domestic product (GDP, in 2010 dollars) ranging from \$15.6 to \$22.8 billion assuming just 4 Bcf per day of exports, and up to \$50.3 to \$73.6 billion with 16 Bcf per day of exports. <sup>26/</sup> Furthermore, ICF estimated net job gains of 73,100 to 145,100 in the low export case and up to 220,100 to 452,300

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<sup>26/</sup> ICF, *supra*. note 24, at p. 2.

in the high export case. 27/ In each case, both the GDP expansion and the job growth increase with more exports.

A second API / ICF study (which Venture Global also incorporates by reference into the record here) provides a state-level economic impact study that further confirms the benefits in Louisiana of DOE/FE approval of LNG exports. 28/ This study, which includes the Venture Global Project in its analysis, demonstrates that the State of Louisiana will see net positive employment impacts from LNG exports. 29/ And contrary to protestors' claims that LNG exports will harm manufacturing jobs by increasing energy costs to those companies and transferring wealth from lower-income households, the ICF study finds that LNG exports contribute more comparatively to the U.S. economy, and that "job gains from a larger U.S. economy offset job losses stemming from higher energy costs." 30/ Notably, Venture Global anticipates that it will purchase the bulk of the major equipment for the Project from American manufacturers, including liquefaction blocks (or trains) that will be manufactured in Louisiana.

The increased jobs associated with LNG exports are an important part of the public interest consideration, and supportive of the Administration's National Export Initiative (NEI). 31/ The NEI is intended "to improve conditions that directly affect the private sector's ability to export. The NEI will help meet [the] Administration's goal of doubling exports over the next 5 years by working to remove trade barriers abroad, by helping firms -- especially small businesses -- overcome the hurdles to entering new export markets, by assisting with financing,

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27/ *Id.*

28/ The study is available at: <http://www.api.org/~media/Files/Policy/LNG-Exports/API-State-Level-LNG-Export-Report-by-ICF.pdf>

29/ API Study, at p. 55.

30/ *Id.*

31/ NEI, Executive Order No. 13534, 75 Fed. Reg. 12433 (March 11, 2010).

and in general by pursuing a Government-wide approach to export advocacy abroad, among other steps.” 32/

Furthermore, LNG exports also will help realign the U.S. balance of trade. The U.S. has experienced large balance of trade deficits for more than decade (although the rise in U.S. exports in recent years has somewhat realigned the trade balance). In 2013, the U.S. trade deficit was approximately \$471.5 billion:33/ an improvement compared to recent years, but still very large. Authorizing the export of LNG will help redress this balance, by allowing the U.S. to export some of its abundant and valuable natural gas.

These general conclusions about the benefits of LNG exports equally apply to Venture Global’s specific project. Therefore, the macroeconomic benefits associated with the project further demonstrate that it is consistent with, and indeed will promote, the public interest.

The Sierra Club notes the reference in Venture Global’s Application to its discussions to try to supply LNG to Haiti, observing that Venture Global has not legally bound itself to supply Haiti, suggesting that will not happen and opining that, therefore, there is nothing unique about the project in this regard. 34/ The Sierra Club is correct that Venture Global is not legally bound to provide LNG supplies to Haiti and it may not be possible, despite Venture Global’s significant efforts to do so. 35/ Venture Global does not consider its hope to provide service to Haiti a

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32/ *Id.*, Section 1.

33/ See <http://www.census.gov/foreign-trade/statistics/highlights/annual.html>

34/ Sierra Club Protest at pp. 1-2 and 72-73.

35/ The principals of Venture Global have a long-standing and meaningful interest in Haiti. One of the principals, and a signatory here, Bob Pender, has provided (and continues to provide while developing Venture Global) significant pro bono assistance to the Government of Haiti. That work began with legal support to the Interim Haiti Recovery Commission and continued with legal and transactional support (working with the U.S. State Department) to the Government of Haiti on the Caracol Industrial Park in Cap Haitian, which will employ 20,000 Haitians and is widely viewed as the most significant foreign investment in Haiti in over a generation. Mr. Pender has also served as an advisor to the Ministry of Energy of the Government of Haiti on other energy and power issues. Nevertheless, Venture Global’s efforts to supply LNG to Haiti have been unsuccessful to date. See note 12 *supra*.

necessary element of the needed finding that its proposed exports are not inconsistent with the public interest.

Thus, just as DOE/FE has found in prior proceedings, the protestors' claims that LNG exports will not result in economic benefits are contrary to the evidence. The protestors cannot overcome the legal presumption that Venture Global's Project is not inconsistent with the public interest.

## **2. LNG Exports Will Have Only a Modest Impact on Gas Prices**

Protestors claim that the 2012 LNG Export Study underestimates the impact of natural gas price increases associated with LNG exports, and as such cannot be relied on. These claims are false, and have been repeatedly rejected by DOE/FE. Of course, DOE/FE is undertaking a further study of this issue, as announced in the May 29 Notice. Prior studies of this issue, however, consistently show only a modest impact on gas prices.

Part I of the 2012 LNG Export Study (the January 2012 EIA Study) provided four scenarios of LNG-export increases in gas demand: 6 Bcf/d phased in over 6 or 2 years, and 12 Bcf/d phased in over 12 or 4 years. The scenarios range from "low/slow" LNG export growth (6 Bcf/d achieved in a twelve year timeframe) to "high-rapid" LNG export growth (12 Bcf/d achieved in a four year timeframe). Each of the four scenarios was considered with four different cases from the 2011 Annual Energy Outlook ("AEO"). The associated NERA macroeconomic study incorporated the same assumptions from the Part I study, and found as follows:

Natural gas price changes attributable to LNG exports remain in a relatively narrow range across the entire range of scenarios. Natural gas price increases at the time LNG exports could begin range from zero to \$0.33 (2010\$/Mcf). The largest price increases that would be observed after 5 more years of potentially growing exports could range from \$0.22 to \$1.11 (2010\$/Mcf). The higher end of the range is reached only under conditions of ample U.S. supplies and low

domestic natural gas prices, with smaller price increases when U.S. supplies are more costly and domestic prices higher. 36/

In only three cases did the difference from the baseline exceed \$1.00, and in seven of the cases, the price difference was never over \$0.50. 37/

DOE/FE has repeatedly verified the soundness of its LNG Export Study, which continues to support the proposition that exports of LNG are not inconsistent with the public interest. 38/ Other independent analyses of the impact of LNG exports on domestic gas prices have found very modest price effects. For instance, Deloitte Market Point estimates that the weighted-average price impact on US prices from 2016 to 2025 as a result of an increase of 6 Bcf/d in exports would be only be \$0.12/MMBtu. 39/

The arguments of APGA and the Sierra Club challenging the 2012 LNG Export Study have repeatedly been rejected by DOE/FE in orders conditionally authorizing LNG exports. 40/ DOE/FE's prior rejection of APGA's and Sierra Club's arguments should be controlling in this case. For this reason alone, DOE/FE should reject the protestors' claims.

The protestors claim, however, that certain information in the 2012 LNG Export Study is stale. In reaction to such claims of "staleness," DOE/FE has in each order authorizing LNG exports evaluated the most current data available at the time to confirm the validity of its LNG Export Study. Moreover, the May 29 Notice announces that DOE/FE will further verify its

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36/ See 2012 LNG Export Study, Part II, at p. 4 ("Major Conclusions").

37/ *Id.*

38/ See e.g., *Freeport LNG*, Order No. 3282 at 110; *Lake Charles Exports*, Order No. 3324 at 123, *Dominion Cove Point LNG*, Order No. 3331 at 140.

39/ Deloitte Center for Energy Solutions and Deloitte Market Point LLC, *Made in America – The Economic Impact of LNG Exports from the United States*, available at: [http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/Energy\\_us\\_er/us\\_er\\_MadeinAmerica\\_LNGPaper\\_122011.pdf](http://www.deloitte.com/assets/Dcom-UnitedStates/Local%20Assets/Documents/Energy_us_er/us_er_MadeinAmerica_LNGPaper_122011.pdf)

40/ *Freeport LNG*, Order No. 3282 at 110; *Lake Charles Exports*, Order No. 3324 at 123; *Dominion Cove Point LNG*, Order No. 3331 at 140; *Freeport LNG*, Order No. 3357 at 153; *Cameron LNG*, Order No. 3391 at 130-31; *Jordan Cove*, Order No. 3413 at 141.

analysis using current data found in the recent AEO 2014 in an updated macroeconomic study. Thus, any claimed issues protestors have with stale data will be addressed in short order, have already been addressed in past orders, or will be addressed in an ultimate order on Venture Global's Application. Even more importantly, the most current data available validates the continued pattern of increasing abundant production, and falling natural gas price projections in relation to the original LNG Export Study.

Still, APGA continues to claim, as it did in its initial comments to DOE on the LNG Export Study, that the study underestimates the impact of natural gas price increases, suggesting that higher prices are more realistic. APGA emphasizes here (at pages 9-11 of its protest) that projections of domestic natural gas demand have increased since the 2012 LNG Export Study. Yet, as should be obvious, addressing new demand projections without mentioning the corresponding new supply projections, not to mention the resulting new price projections, is nonsensical, if not disingenuous.

As DOE/FE explained in the recent Jordan Cove Non-FTA Order, the AEO 2013 "Reference Case projects domestic supply and demand conditions that are more, not less favorable to exports." <sup>41/</sup> Specifically, "although total natural gas consumption projected for 2035 was projected to increase by 6 Bcf/d between AEO 2011 and 2013 . . . total domestic dry gas production was projected to increase by more than twice that amount, increasing by 13.8 Bcf/d." <sup>42/</sup> The AEO 2014 supports a similar conclusion, as API explained in its comments. The 2014 study conducted by NERA, cited above, also confirms that LNG exports are more beneficial than originally anticipated.

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<sup>41/</sup> *Jordan Cove*, Order No. 3413 at 89.

<sup>42/</sup> *Id.*

As APGA members are certainly well aware, natural gas prices today are very low compared to natural gas prices from just a few years ago. The average city-gate price of natural gas in 2008 was \$9.18, nearly *double* what it is today both on a nation-wide basis and within the State of Louisiana. <sup>43/</sup> Modest price increases from current low price levels will still leave gas prices much lower than they were prior to the tremendous recent growth in production.

The gas price increases reflected in the 2012 LNG Export Study, and the lesser price increases projected based on more recent data, <sup>44/</sup> would still result in natural gas prices in the U.S. below 2008 levels. Any price “increase” associated with LNG exports would serve only to bring the U.S. natural gas markets back into equilibrium, as increased demand builds on the massive increases in supply. This natural working of the market is consistent with the DOE Policy Guidelines, which disfavor government interference in U.S. competitive natural gas markets.

APGA also aggregates the total volume of LNG requested in applications to DOE/FE to attempt to demonstrate that the U.S. cannot tolerate such a high volume of exports. In reality, of course, the number of applications filed has very little bearing on the economic impact of LNG exports. Just because a project has filed an application with DOE/FE does not mean that it will contract with customers, obtain financing, and be constructed. Moreover, facility siting, construction, engineering, environmental, and safety review by the relevant regulatory authorities is very expensive, and not all applicants will clear these regulatory hurdles. DOE/FE recognized this reality in the new procedures announced in the May 29 Notice, explaining that waiting for the completion of the NEPA process before processing applications will focus on the

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<sup>43/</sup> See U.S. EIA, at [http://www.eia.gov/dnav/ng/ng\\_pri\\_sum\\_dcunus\\_a.htm](http://www.eia.gov/dnav/ng/ng_pri_sum_dcunus_a.htm)

<sup>44/</sup> AEO2014 continues to project increased domestic supplies, and its projected 2035 Henry Hub price of \$6.92 per million British thermal units is lower than projected in the LNG Export Study.

more viable projects. Thus, APGA's analysis focused on the number of filed applications ignores market realities, and cannot be relied upon by DOE/FE.

Finally, the flaws in the protestors' economic arguments are evident when recognizing that they could be applied regardless of the source of new natural gas demand – foreign or domestic, LNG-related or not. Essentially, their argument is that LNG exports are contrary to the public interest because they will increase the demand for natural gas. This theory, if applied, would threaten any reasonable pace of developing needed U.S. infrastructure. The DOE/FE should reject, as it has consistently to date, this overly-simplistic zero-sum theory that increased natural gas demand is inherently contrary to the public interest.

### **C. Competitive Viability of the Project Will be Confirmed Prior to Any DOE Order**

The APGA (at page 5 of its comments) questions the competitive viability of Venture Global's Project, arguing that LNG exports will prove uneconomical because U.S. and international gas markets will ultimately converge, making export of U.S. LNG not viable in the long-run. This claim is couched in general terms, and fails to reflect any knowledge of the specifics of the Venture Global Project. Even as a general matter, however, the theory is not supported by sound economic analysis and runs counter to studies in the record. It also fails to recognize the change in DOE/FE process announced in the May 29 Notice.

APGA's statements fail to reflect the reality of the marketplace. The market for LNG exports clearly is strong, as evidenced by the numerous announcements of investment decisions made by sophisticated market participants signing long term firm contracts. Market participants are willing to invest literally billions of dollars in LNG export projects based on their analysis of the best information available at the time. As noted in the background section of this answer, Venture Global representatives have met this year with senior LNG procurement officers of over

14 international gas companies in over ten countries, spanning Asia, Europe, the Middle East, and South America. The interest in the Project expressed in those meetings is very strong and, indeed, led Venture Global to expand the size of its proposed Project. In contrast, APGA's bald claims of uneconomic projects are entirely speculative and baseless

Furthermore, DOE/FE has rejected APGA's underlying claim that LNG exports would cause domestic and international natural gas prices to converge. The NERA Study determined that U.S. prices will always be lower than international LNG prices even as U.S.-sourced LNG exports "exert downward pressure" on higher-priced LNG in foreign markets, and DOE/FE has adopted this conclusion in a series of orders.<sup>45/</sup> The costs of U.S. pipeline transportation, liquefaction, marine shipping, and regasification, at a minimum, prevent any convergence of prices driven by LNG exports, even assuming *arguendo* (almost certainly incorrectly) that U.S. exports will be in sufficient quantities to determine world prices.

Finally, DOE/FE's announced suspension of its practice of issuing conditional orders granting authority to export LNG to non-FTA countries further ensures that Venture Global's Project viability will be confirmed before DOE/FE acts on the Application. DOE/FE will not act until after FERC, together with cooperating agencies, has completed the environmental review of the Project. The completion of this process will require major investments by Venture Global, not only for the regulatory environmental and economic review but also for the engineering and design required for the process. Venture Global's successful completion of the FERC process will demonstrate the viability of the Project so that DOE/FE can move forward confidently with its non-FTA export authorization. Thus, the protestors' arguments are highly speculative (if not

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<sup>45/</sup> *Freeport LNG*, Order No. 3282 at 101; *Lake Charles Exports*, Order No. 3324 at 113; *Dominion Cove Point LNG*, Order No. 3331 at 126; *Freeport LNG*, Order No. 3357 at 136; *Cameron LNG*, Order No. 3391 at 117; *Jordan Cove*, Order No. 3413 at 128

factually wrong) and premature, as well as inconsistent with DOE's own studies and market realities, and should be rejected.

#### **D. The Sierra Club's NEPA Arguments Should be Rejected**

The Sierra Club devotes much of its 75-page, single-spaced protest to allegations about the environmental effects associated with shale well production and drilling techniques, and urges DOE/FE to conduct an extensive analysis of upstream production effects pursuant to NEPA. The comments are essentially identical with comments the Sierra Club has filed in virtually every LNG export proceeding, as well as in numerous other natural gas infrastructure cases. Not only is consideration of shale well drilling techniques not required by NEPA because it is not a reasonably foreseeable or causally related action that can be tied to Venture Global's Project, this issue is also not presently before DOE/FE here.

##### **1. NEPA Matters Are Not Presently Before DOE**

The FERC has exclusive jurisdiction over the siting, construction, and operation of Venture Global's proposed Project, and is the lead agency charged with conducting the environmental analysis required by NEPA, as the Sierra Club admits. <sup>46/</sup> As such, the scope of the environmental review of Venture Global's Project will not be determined by DOE/FE in this proceeding, but rather in Venture Global's FERC proceeding. Venture Global anticipates beginning the FERC pre-filing process later this year. Especially in light of the DOE/FE's announcement that it no longer intends to issue conditional orders to applicants seeking authority to export LNG to non-FTA countries, the vast majority of the arguments in the Sierra Club protest are, at a minimum, being made prematurely before the wrong agency, if not completely irrelevant.

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<sup>46/</sup> Sierra Club Protest at p. 9.

A full environmental review of the Venture Global Project will take place prior to any DOE/FE action on Venture Global's Application, assuming DOE/FE proceeds with the new procedures announced in the May 29 Notice. Venture Global anticipates that DOE/FE will participate in the FERC environmental review of the Project, including NEPA scoping discussions, as a cooperating agency, just as it has done with other LNG export projects. For this reason, the proper place for the Sierra Club's environmental arguments is in the FERC proceeding, not here before DOE/FE. Thus, principles of administrative efficiency counsel in favor of rejecting these aspects of Sierra Club's protest at this time. For the same reasons, Sierra Club's call for an environmental programmatic EIS across all proposed LNG export projects should be similarly rejected.

## **2. NEPA Does Not Require Consideration of Upstream Shale Gas Development**

The bulk of the Sierra Club's arguments reflects its opposition to increased domestic natural gas production from unconventional natural gas exploration and production activities in shale plays, particularly production that involves hydraulic fracturing. The DOE/FE has already held that shale well development effects are not required to be considered under NEPA for LNG export projects. <sup>47/</sup> DOE recently confirmed this conclusion in the May 29 Notice, even as it released a draft addendum to other environmental review documents to provide additional information to the public regarding the potential environmental impacts of unconventional gas exploration and production activities. Venture Global does not concede that such an inquiry has any relevance to its Project; but notes that nothing in the draft addendum appears to alter the conclusion that LNG exports are consistent with the public interest.

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<sup>47/</sup> *Sabine Pass*, Order No. 2961-A at n. 1

The conclusion that NEPA does not require analysis here of the impact of upstream production activities is well-established. NEPA requires the consideration of “indirect effects,” which are those that “are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.” 48/ In addition to being “reasonably foreseeable,” the effects must be *caused* by the proposed action. And the Supreme Court has held that “a ‘but for’ causal relationship is insufficient to make an agency responsible for a particular effect under NEPA.” 49/ Instead, for an agency action to be considered responsible for an effect, NEPA requires a “reasonably close causal relationship” between the environmental effect and the alleged cause. 50/ The Supreme Court explained that this test is similar to “the familiar doctrine of proximate cause from tort law,” used to determine “legal responsibility.” 51/ In particular, one must consider “the underlying policies or legislative intent in order to draw a manageable line between those causal changes that make an actor responsible for an effect and those that do not.” 52/

Following these legal standard, DOE/FE (as well as the FERC) has consistently held that its authorization of LNG infrastructure is not the *cause* of upstream gas development. DOE/FE does not possess statutory authority over natural gas production or hydraulic fracturing, which is the focus of Sierra Club’s arguments.

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48/ 40 C.F.R. § 1508.8(b) (2014). “Cumulative impacts” of other LNG export projects inducing natural gas production must also be reasonably foreseeable to be cognizable under NEPA. “Cumulative impact” is defined as “the impact on the environment which results from the incremental impact of the proposed action when added to other past, present, or reasonably foreseeable future actions.” *Id.* § 1508.7. The terms, “impact” and “effect” are interchangeable. *See id.* § 1508.8.

49/ *U.S. Dep’t of Transp. v. Public Citizen*, 541 U.S. 752, 767 (2004).

50/ *Id.*, citing *Metropolitan Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 774 (1983). In this case, the Supreme Court held that the Federal Motor Carrier Safety Administration was not required to evaluate the environmental effects of cross-border operations of Mexican-domiciled motor carriers where the agency’s promulgation of certain regulations would allow such cross-border operations to occur.

51/ *Id.*

52/ *Id.*

Nor is U.S. shale well development a “reasonably foreseeable” effect of Venture Global’s Project as that term is defined by NEPA precedent. The location and extent of new shale wells attributable to Venture Global’s Project, if any, is dependent upon too many variables to be quantified in any meaningful way. <sup>53/</sup> And the climate change effects that could result from increased natural gas production are equally too speculative to warrant review under NEPA. <sup>54/</sup>

As explained in the Application, Venture Global or its customers may enter into long-term supply contracts or procure spot supplies almost anywhere in the very large and liquid U.S. gas market. As Venture Global explained, its Project will be ideally located to provide access to a wide range of domestic supply sources through the connected interstate pipeline grid, allowing gas to be sourced from a variety of geographic regions. Thus, the natural gas Venture Global intends to export could come from anywhere in the U.S. via the vast network of natural gas pipelines that comprise the U.S. interstate pipeline grid.

Moreover, the U.S. natural gas trading market is extremely robust and competitive. Natural gas exported through Venture Global’s Project could come from different places from day to day and month to month, with potentially hundreds of different sources. Nor can anyone foretell whether the natural gas that reaches its facilities has come from conventional or unconventional production. And, natural gas that does not flow to Venture Global’s facility will flow elsewhere – including to other existing and proposed LNG storage and terminaling facilities in the U.S. Gulf Coast Region and any other consumer of natural gas. Thus, Venture Global’s Project cannot be the legally proximate cause of any natural gas production for NEPA purposes and the induced effects that Sierra Club complains about are not reasonably foreseeable in Venture Global’s case.

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<sup>53/</sup> See *Wilderness Workshop v. U.S. Bureau of Land Mgmt.*, 531 F.3d 1220, 1229–1231 (10th Cir. 2008).

<sup>54/</sup> *Wildearth Guardians*, 738 F.3d at 303.

Sierra Club's consistently advanced arguments to the contrary have been repeatedly rejected by federal agencies and courts including by DOE/FE. DOE/FE rejected Sierra Club's same arguments in its prior final order approving LNG exports to non-FTA countries from Sabine Pass.<sup>55/</sup> Similarly, the FERC has consistently rejected these claims.<sup>56/</sup> The U.S. Court of Appeals for the Second Circuit upheld FERC's rejection of similar arguments made by the Sierra Club regarding a pipeline in Pennsylvania to be constructed in a shale production basin to transport shale gas – which is hardly the case for Venture Global.<sup>57/</sup>

The DOE/FE should give no credence to Sierra Club's suggestion that the agency's prior rejections of the Sierra Club's arguments are "not binding."<sup>58/</sup> Whether or not the DOE/FE is legally bound to follow its precedent, the Sierra Club provides no reason for it to change course. Instead, Sierra Club continues to file essentially the same protest systematically in every proceeding it can find that relates to development of U.S. natural gas infrastructure. Moreover, the Sierra Club regularly includes as part of its strategy of delaying infrastructure development the wholesale dumping of thousands of pages of exhibits into a proceeding without explanation,

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<sup>55/</sup> *Sabine Pass*, Order No. 2951 at n. 1.

<sup>56/</sup> *See, e.g., Sabine Pass Liquefaction, LLC*, 139 FERC ¶ 61,039 at P 94-99, *reh'g*, 140 FERC ¶ 61,076 at P 8-22 (2012); *Cheniere Creole Trail Pipeline*, 145 FERC ¶ 61,074 at P 51-60, *reh'g*, 145 FERC ¶ 61,074 at P 8-19 (2013); *Transcontinental Pipe Line Co.*, 141 FERC ¶ 61,091 at P 127-141 (2012), *reh'g*, 143 FERC ¶ 61,132 at P 49-60 (2013); *Tenn. Gas Pipeline Co., L.L.C.*, 139 FERC ¶ 61,161 at P 178-200, *reh'g*, 142 FERC ¶ 61,025 at P 72-87 (2012); *Tex. E. Transmission, LP*, 139 FERC ¶ 61,138 at P 70-73, *reh'g*, 141 FERC ¶ 61,043 at P 37-41 (2012).

<sup>57/</sup> *Cent. N.Y. Oil & Gas Co.*, 137 FERC ¶ 61,121, at PP 81-107 (2011), *reh'g denied*, 138 FERC ¶ 61,104, at PP 33-56 (2012), *aff'd sub nom. Coal. for Responsible Growth and Res. Conservation v. FERC*, 485 Fed. App. 472 (2d Cir. 2012).

<sup>58/</sup> Specifically, the Sierra Club cites 10 C.F.R. 590.404 for the proposition that past DOE/FE decisions are not precedent that DOE/FE must follow. Sierra Club Protest at p. 21. That provision of DOE/FE's regulations says nothing of the sort.

just as it has done in in this proceeding. 59/ DOE/FE should pay no attention to unexplained and irrelevant exhibits submitted by the Sierra Club.

Finally, the Sierra Club also argues that DOE/FE should consider the environmental impact of *all* proposed LNG export projects in a single programmatic EIS because, it claims, doing so would assist in the analysis of cumulative impacts. But an agency is not required to prepare a programmatic NEPA analysis in the absence of a discrete programmatic agency action, and a collection of entirely unrelated LNG export projects certainly is not a discrete agency action. 60/ The law is clear that an agency is not required to prepare a programmatic or regional EIS on a series of regional actions that do not collectively comprise a discrete agency action. 61/ The DOE/FE should not do so here, just as it has previously concluded.

#### IV. CONCLUSION

In the event that DOE/FE grants the interventions of the protesting parties and considers their views, Venture Global requests that the agency consider this Answer as well. Granting Venture Global's requested authorization will be consistent with, and indeed advance, the public interest. For all of the reasons set forth in its Application and in this Answer, Venture Global submits that its proposal to export LNG to non-FTA countries with which trade is not prohibited

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59/ Given the volume of data in the exhibits to the Sierra Club's protest, Venture Global is in the process of assessing whether the information filed in the exhibits has any relevance, and reserves all rights to respond to any information discovered in the course of its review.

60/ See *Lujan v. National Wildlife Fed.*, 497 U.S. 871 (1990) (rejecting argument in NEPA suit that BLM "land withdrawal review program" constituted a distinct "agency action" subject to Administrative Procedure Act review).

61/ See *Kleppe v. Sierra Club*, 427 U.S. 390, 415 (1976).

by U.S. law is consistent with the public interest. Accordingly, Venture Global requests that the DOE/FE grant the authorization requested in its Application.

Respectfully submitted,

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*Counsel to Venture Global LNG, LLC*

Dated: July 10, 2014

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

**In the Matter of**

**VENTURE GLOBAL LNG, LLC**

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**FE Docket No. 13-69-LNG**

**CERTIFICATED STATEMENT OF AUTHORIZED REPRESENTATIVE**

Pursuant to Section 590.103(b) of the Department of Energy's ("DOE") regulations, 10 C.F.R. 590.303 (2014), I, J. Patrick Nevins, hereby certify that I am authorized to sign and file with the Office of Fossil Energy of the Department of Energy, on behalf of Venture Global LNG, LLC, the foregoing document in the above-captioned proceeding.

Filed and dated in Washington, D.C., on this 10th day of July, 2014.

Respectfully submitted,

/s/ J. Patrick Nevins

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

**In the Matter of**

**VENTURE GLOBAL LNG, LLC**

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**FE Docket No. 13-69-LNG**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon all parties listed on the official service list for this proceeding, in accordance with Section 590.107 of the Department of Energy's ("DOE") regulations, 10 C.F.R. 590.107 (2014).

Dated in Washington, D.C., on this 10th day of July, 2014.

Respectfully submitted,

*/s/ J. Patrick Nevins*

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