

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

**Mexico Pacific Limited LLC**

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**Docket No. 22-167-LNG**

**RESPONSE OF MEXICO PACIFIC LIMITED LLC TO SIERRA CLUB COMMENTS  
ON DOE/FECM'S DRAFT ENVIRONMENTAL ASSESSMENT**

On November 21, 2023, the Department of Energy's ("DOE") Office of Fossil Energy and Carbon Management ("DOE/FECM") issued a draft Environmental Assessment ("Draft EA")<sup>1</sup> regarding Mexico Pacific Limited LLC's ("MPL") request for additional long-term, multi-contract authorization to export domestically produced natural gas to Mexico and to re-export quantities of that natural gas not consumed in Mexico in the form of liquefied natural gas ("LNG") from MPL's proposed LNG facility (the "MPL Facility") to non-free trade agreement ("non-FTA") nations.<sup>2</sup> This request, as DOE/FECM notes in the Draft EA,<sup>3</sup> is driven by MPL's determination that improvements in its liquefaction train design and resulting enhanced efficiency will permit it to produce larger quantities of LNG than it had assumed in its original request for export authorization, which DOE/FECM granted in 2018.<sup>4</sup>

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<sup>1</sup> Mexico Pacific Limited LLC, Draft Environmental Assessment (DOE/EA-2235) (Nov. 2023).

<sup>2</sup> See Application of Mexico Pacific Limited LLC for Additional Long-Term, Multi-Contract Authorization to Export Natural Gas to Mexico and to Re-Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations, Docket No. 22-267-LNG (Dec. 28, 2022) ("MPL Application").

<sup>3</sup> Draft EA at 5.

<sup>4</sup> *Mexico Pacific Limited LLC*, DOE/FE Order No. 4248, Docket No. 18-70-LNG (Sept. 19, 2018); *Mexico Pacific Limited LLC*, DOE/FE Order No. 4312, Docket No. 18-70-LNG (Dec. 14, 2018). On April 28, 2023, DOE/FECM granted MPL long-term authorization to export natural gas to Mexico and other free trade agreement nations. See *Mexico Pacific Limited LLC*, DOE/FECM Order No. 4995, Docket No. 22-167-LNG (Apr. 28, 2023).

On December 27, 2023, the Sierra Club filed comments on the Draft EA.<sup>5</sup> MPL hereby seeks leave to file this response to the Sierra Club Comments in order to point out the several ways in which those comments dwell on matters beyond the scope of the environmental review reflected in the Draft EA, rehash arguments DOE/FECM and the D.C. Circuit have repeatedly rejected, and to highlight factual misrepresentations Sierra Club has made.<sup>6</sup>

MPL urges DOE/FECM to finalize its environmental assessment of the MPL Application on the basis of the Draft EA and conclude that granting MPL the requested additional export authorization will not have a significant effect on the human environment. Further, MPL submits that on the basis of the information before DOE/FECM, including the information provided in the MPL Application, and all prior MPL submittals in this proceeding,<sup>7</sup> DOE/FECM can conclude that granting the additional export authorization to non-FTA nations MPL has requested would not be inconsistent with the public interest.

## **I. RESPONSE**

### **A. Many of the Sierra Club Comments Address Matters that are Beyond the Scope of the Draft EA or Rehash Arguments that have Previously been Rejected.**

Many of the comments and arguments Sierra Club has advanced address matters, such as the public interest analysis DOE/FECM is obligated to undertake, that are beyond the scope of the National Environmental Policy Act (“NEPA”)<sup>8</sup> review memorialized in the Draft EA. A number

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<sup>5</sup> Sierra Club Comments on the Draft Environmental Assessment for the Mexico Pacific Limited Facility, FE Docket No. 22-167-LNG (Dec. 27, 2023) (“Sierra Club Comments”).

<sup>6</sup> To the extent necessary, MPL hereby requests leave to submit this response pursuant to Section 590.302 of DOE’s regulations. 10 C.F.R. § 590.302(a).

<sup>7</sup> See Conditional Motion for Leave to Submit an Answer One Day Out of Time and Answer of Mexico Pacific Limited LLC to Protests, Docket No. 22-167-LNG (Apr. 19, 2023) (“MPL Answer”); Answer of Mexico Pacific Limited LLC to Supplemental Comments of Sierra Club, Docket No. 22-167-LNG (Aug. 2, 2023) (“MPL Answer to Supplemental Comments”).

<sup>8</sup> 42 U.S.C. §§ 4321 *et seq.*

of Sierra Club’s arguments have previously been considered and rejected by DOE/FECM and reviewing courts. Several of them repeat arguments Sierra Club originally made in the protest it filed in this proceeding on April 3, 2023,<sup>9</sup> to which MPL has previously responded.<sup>10</sup> None of the arguments support Sierra Club’s assertions that the Draft EA is inadequate, that DOE/FECM is obligated to prepare an EIS rather than an EA, and that DOE has no basis on which to conclude that granting the additional export authorization MPL has sought would be inconsistent with the public interest.

**1. The public interest benefits of increased natural gas exports outweigh any small increases in domestic natural gas prices.**

Sierra Club argues that MPL’s proposed exports would increase domestic gas prices to the detriment of the public.<sup>11</sup> It does not explain how this argument relates to the assessment of environmental impacts that is the subject of the Draft EA. In fact, this argument has little to do with the environmental impacts that may be associated with the authorization of additional exports to non-FTA nations, the proper focus of DOE/FECM’s NEPA review. On this basis alone, DOE/FECM may safely disregard this aspect of the Sierra Club Comments.

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<sup>9</sup> See Motion to Intervene and Protest of Sierra Club, Docket No. 22-167-LNG (Apr. 3, 2023) (“Sierra Club Protest”). To the extent the Sierra Club Comments are beyond the scope of the Draft EA, DOE/FECM must also reject such comments as out-of-time comments on the MPL Application. The Federal Register notice issued in this proceeding stated, “Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed electronically as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, April 3, 2023.” See Application [of Mexico Pacific Limited LLC] for Additional Long-Term, Multi-Contract Authorization To Export U.S.-Sourced Natural Gas to Mexico and To Re-Export Liquefied Natural Gas From Mexico to Non-Free Trade Agreement Countries, 88 Fed. Reg. 6716 (Feb. 1, 2023). DOE/FECM has observed that late filings unnecessarily delay final agency action, stating that “late filings are both unfairly prejudicial to the applicant (and any other parties) and disruptive to DOE’s interests in administrative efficiency and fairness.” See *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B at 52, Docket No. 18-14-LNG (Dec. 20, 2022).

<sup>10</sup> See MPL Answer, *supra* note 7.

<sup>11</sup> See Sierra Club Comments at 59-64.

But if it feels the need to address Sierra Club’s misplaced arguments on the potential impacts of MPL’s exports on domestic gas prices, DOE/FECM can dispatch those arguments quickly. DOE/FECM has heard arguments on potential price impacts of LNG exports from Sierra Club and other opponents of LNG exports before, and it has consistently dismissed them. DOE/FECM has repeatedly found that increasing LNG exports “under any given set of assumptions about U.S. natural gas resources and their production leads to only small increases in U.S. natural gas prices.”<sup>12</sup> Furthermore, DOE/FECM has repeatedly held that public interest benefits associated with exports of LNG outweigh any small increases in U.S. natural gas prices that might occur.<sup>13</sup> If it elects to address this argument at all in the context of its environmental review of MPL’s request, DOE/FECM should reach the same conclusion here.

Sierra Club relies on stale articles, studies and citations to noted opponents of natural gas exports to support its argument.<sup>14</sup> It altogether ignores the recent U.S. Energy Information Administration (“EIA”) Winter Fuels Outlook 2023-24, which states:

*in general, we expect the prices U.S. residential consumers pay for fuels will be lower this winter than last winter.* The lower prices are most notable for natural gas. Retail natural gas prices have been falling on a year-over-year basis since May, the result of a steep drop in natural gas wholesale spot prices. The wholesale spot price for natural gas at Henry Hub in Louisiana averaged \$2.74 per thousand cubic feet (Mcf) in September, 66% less than September 2022 and among the lowest on an inflation-adjusted basis in the past 20 years. The average U.S. residential natural gas price in September was down 17% from a year ago.<sup>15</sup>

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<sup>12</sup> *Magnolia LNG LLC*, DOE/FE Order No. 3909-C at 16, Docket No. 13-132-LNG (Apr. 27, 2022); *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B at 60, Docket No. 18-14-LNG (Dec. 20, 2022).

<sup>13</sup> *See id.* at 50; *Vista Pacífico LNG S.A.P.I. de C.V.*, DOE/FECM Order No. 4929, Docket No. 20-153-LNG (Dec. 20, 2022).

<sup>14</sup> *See* Sierra Club Comments at 60-62 (citing cherry-picked articles and studies from 2021, 2022, and early 2023); *see also id.* at fn. 183 (citing an article from the Institute for Energy Economics and Financial Analysis, which filed comments in opposition to the MPL Application).

<sup>15</sup> U.S. Energy Info. Admin., *Short Term Energy Outlook – October 2023*, Winter Fuels Outlook 2023-24 (Oct. 11, 2023), available at <https://www.eia.gov/outlooks/steo/report/perspectives/2023/10-winterfuels/article.php#expend>

There is no support for Sierra Club’s argument that increased LNG exports will increase domestic natural gas prices. Accordingly, DOE/FECM must reject Sierra Club’s specious argument regarding pricing impacts of increased LNG exports, as it has in numerous other cases.<sup>16</sup>

**2. DOE/FECM should reject attempts to relitigate Sierra Club’s Petition for Rulemaking.<sup>17</sup>**

On April 8, 2013, Sierra Club (and several other entities) filed a Petition for Rulemaking with DOE/FECM calling upon DOE/FECM “to promulgate new regulations or guidance defining the process by which it will consider applications to export liquefied natural gas (LNG)” under the Natural Gas Act.<sup>18</sup> On July 18, 2023, DOE/FECM issued a well-reasoned order denying that Petition for Rulemaking.<sup>19</sup> Having lost six months ago on the arguments it advanced in the Petition for Rulemaking, the Sierra Club now, in the context of the MPL Application, urges DOE/FECM to “reconsider [DOE’s] order denying the [Sierra Club’s 2013] rulemaking petition[.]”<sup>20</sup> This request is clearly beyond the scope of comments on the Draft EA, and can be rejected on this basis alone. But if it considers it appropriate to engage this request on the merits, DOE/FECM can reject

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(emphasis added). *See also* MPL Answer at 10-12; MPL Answer to Supplemental Comments at 3-6.

<sup>16</sup> *See, e.g.*, cases cited *supra* notes 12 and 13. Sierra Club’s argument that the Draft EA fails to consider the impacts of increased LNG exports on national security is also beyond the scope of comments on the Draft EA, and it can be rejected on this basis alone. *See* Sierra Club Comments at 70-73. However, if DOE/FECM considers it appropriate to engage in this request on the merits, DOE/FECM can reject Sierra Club’s argument for the reasons stated in the MPL Application. *See* MPL Application at 27-28.

<sup>17</sup> *Sierra Club, et al.*, Petition for Rulemaking Regarding Natural Gas Export Policy (Apr. 8, 2013) (“Petition for Rulemaking”).

<sup>18</sup> *Id.* at 1.

<sup>19</sup> *Sierra Club, et al.*, Order Denying Petition for Rulemaking on Exports of Liquefied Natural Gas (July 18, 2023) (“Order Denying Petition for Rulemaking”).

<sup>20</sup> Sierra Club Comments at 1.

it for the same reasons as it rejected Sierra Club’s arguments in its Order Denying Petition for Rulemaking.<sup>21</sup>

**3. Sierra Club’s claims regarding adverse distributional impacts of natural gas exports are unsupported.**

As it has in many other proceedings before DOE/FECM and in the Sierra Club Protest, Sierra Club advances the unsubstantiated claim that, “DOE again avoids addressing the distributional impacts of LNG exports insofar as it repeatedly fails to address the reality that those who suffer the harms from LNG exports are not the same as those who enjoy the benefits, and the former are both more numerous and disadvantaged than the latter.”<sup>22</sup> Again, Sierra Club fails to establish that this argument addresses any of the environmental impact assessments contained in the Draft EA. DOE/FECM would therefore be on solid ground if it chose to disregard this argument as being beyond the scope of the NEPA analysis set forth in the Draft EA.

But if it feels compelled to address Sierra Club’s distributional impacts argument, DOE/FECM can dispose of it easily, since it has considered and rejected arguments similar to those Sierra Club makes here.<sup>23</sup> So has the U.S. Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”), which has held that, in evaluating the public interest implications of natural gas exports, DOE/FECM has adequately addressed concerns of distributional impacts.<sup>24</sup> “[G]iven that ‘exports will benefit the economy as a whole’ and ‘absent stronger record evidence on the distributional consequences,’” the D.C. Circuit concluded, “[DOE] could not say that . . .

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<sup>21</sup> The Order Denying Petition for Rulemaking contains a lengthy discussion of the ways in which DOE/FECM has addressed the concerns raised in the Petition for Rulemaking, as well as the judicial decisions upholding the DOE/FECM’s approach. See Order Denying Petition for Rulemaking at 18-24.

<sup>22</sup> Sierra Club Comments at 60-61.

<sup>23</sup> See, e.g., *Cheniere Marketing LLC & Corpus Christi Liquefaction, LLC*, DOE/FECM Order No. 4799 at 50 (Mar. 16, 2022); *Sabine Pass Liquefaction, LLC*, DOE/FECM Order No. 4800 at 51 (Mar. 16, 2022).

<sup>24</sup> See *Sierra Club v. U.S. Dep’t of Energy*, 703 Fed. Appx. 1, at \*3 (D.C. Cir. Nov. 1, 2017).

exports were inconsistent with the public interest on these grounds.”<sup>25</sup> Consistent with its precedent, DOE/FECM should do likewise here.

**B. Preparation of an EA for the MPL Application is Appropriate under NEPA.**

Contrary to Sierra Club’s assertions,<sup>26</sup> DOE/FECM is not required to prepare an environmental impact statement (“EIS”) for the export authorization MPL seeks in the MPL Application. The MPL Facility is located in Mexico, and DOE/FECM correctly determined in the Draft EA that DOE/FECM is not required “to evaluate impacts outside the United States when the foreign nation is participating with the United States or is otherwise involved in the action.”<sup>27</sup>

As for the environmental impacts occurring within the United States resulting from DOE/FECM’s authorization for MPL to export to non-FTA nations, DOE/FECM has correctly concluded that these impacts will not be significant and, consequently, an EIS is not required. The MPL Application involves no major new facilities or operational changes in the United States; it merely requests additional export authorization to reflect the MPL Facility’s use of more advanced technology and MPL’s more refined understanding of the peak capability of the MPL Facility. For proposed actions that are “not likely to have significant effects or [for which] the significance of the effects is unknown,” an EA should be prepared rather than an EIS.<sup>28</sup> In this case, DOE/FECM’s authorization of additional exports to non-FTA nations as requested in the MPL Application will not result in significant environmental effects within the United States; thus, DOE/FECM is not

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<sup>25</sup> *Id.*

<sup>26</sup> Sierra Club Comments at 1, 11, 21.

<sup>27</sup> Draft EA at 7. Moreover, Mexican regulatory agencies have already subjected the MPL Facility to rigorous environmental and social impact review. Preparation of an EIS in this case would be duplicative, expensive, unnecessary, and counter to the goals and requirements of NEPA. *See Dep’t of Transp. v. Pub. Citizen*, 541 U.S. 752, 768–69 (2004) (“NEPA’s purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment”) (internal citations and quotation marks omitted).

<sup>28</sup> *Lowman v. Fed. Aviation Admin.*, 83 F.4th 1345, 1350 (11th Cir. 2023) (citing 40 C.F.R. § 1501.5).

required to prepare an EIS. Moreover, preparation of an EA is consistent with DOE/FECM precedent: DOE/FECM has prepared EAs for two similar applications for authorization to export natural gas to Mexico for production and re-export of LNG.<sup>29</sup> Sierra Club has offered no persuasive reason why preparation of an EA in this case is inconsistent with DOE/FECM's obligations under NEPA.

**C. The MPL Application is Not Connected with Any Other Pending Federal Applications.**

Sierra Club argues that NEPA requires DOE/FECM to evaluate in a single EIS the MPL Application and the pending application filed by Saguaro Connector Pipeline, L.L.C. ("Saguaro Connector") with the Federal Energy Regulatory Commission ("FERC"). Saguaro Connector's FERC application seeks authorization under Section 3(a) of the Natural Gas Act and a Presidential Permit to site, construct, connect, operate, and maintain new natural gas pipeline facilities at the border between the United States and Mexico (the "Border Facilities").<sup>30</sup> Sierra Club's argument is incorrect. The MPL Application and Saguaro Connector Application are not "independent parts of a larger action;" as explained below, the two applications do not depend on each other for their justification, as Sierra Club asserts.<sup>31</sup>

Sierra Club states that "MPL is seeking authorization to export a total of 1,046.57 Bcf/y from its LNG facility, or an average of just over 2.8 Bcf/d."<sup>32</sup> It argues that because the Saguaro

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<sup>29</sup> See *Vista Pacifico LNG S.A.P.I. de C.V.*, Notice of Environmental Assessment, Docket No. 20-153-LNG (Jul. 12, 2022); *Energía Costa Azul, S. de R.L. de C.V.*, Notice of Environmental Assessment, Docket No. 18-145-LNG (Jul. 12, 2022).

<sup>30</sup> Sierra Club Comments at 12. See *Saguaro Connector Pipeline, L.L.C.*, Application for Authority under Section 3 of the Natural Gas Act and Presidential Permit to Site, Construct, Connect, Operate, and Maintain Facilities for the Exportation of Natural Gas, Docket No. CP23-29-000 (Dec. 20, 2022) ("Saguaro Connector Application").

<sup>31</sup> Sierra Club Comments at 12 (*citing Delaware Riverkeeper Network v. FERC*, 753 F.3d 1304, 1307 (D.C. Cir. 2014)).

<sup>32</sup> Sierra Club Comments at 13.



Connector pipeline will transport 2.8 Bcf/day and because MPL has been active in the FERC proceeding on the Saguaro Connector Application, MPL must be relying *only* on the Saguaro Connector pipeline as the cross-border route for providing natural gas to the MPL Facility; therefore, Sierra Club asserts, the two applications are connected actions and must be evaluated in a single EIS.

Sierra Club is wrong, and Sierra Club's description of the MPL Application is simply false. *All that is pending before DOE/FECM at this time is MPL's request for authorization to export an additional 291 Bcf/year to non-FTA nations.* That is, all that must be addressed in DOE/FECM's NEPA analysis is MPL's request for authorization to export this additional 291 Bcf/year.<sup>33</sup> DOE/FECM has previously granted MPL authorization to export 1046.57 Bcf/year of natural gas from the United States to Mexico and from Mexico as LNG to free trade agreement nations, and DOE/FECM has authorized MPL to export 621 Bcf/year from Mexico as LNG to non-FTA nations,<sup>34</sup> facts which Sierra Club conveniently ignores. Having received DOE/FECM authorization to export natural gas to, and to re-export LNG from, the MPL Facility, MPL is free, without the need for any further DOE/FECM analysis, environmental or otherwise, to use the Saguaro Connector Border Facilities *or* any other cross-border pipeline that is currently operational or may become operational to transport natural gas across the U.S.-Mexico border and on to the MPL Facility. In fact, without further action from DOE/FECM, MPL could receive up

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<sup>33</sup> Draft EA at 1, fn. 5 (“DOE is required by NGA section 3(c) to authorize LNG exports to FTA countries. Section 3(c) provides that all such exports are ‘deemed to be consistent with the public interest’ and that their authorization ‘shall be granted without modification or delay.’ *Therefore, because DOE lacks discretion with respect to such approvals, the approvals do not require environmental analysis under the National Environmental Policy Act*”) (emphasis added; internal citations omitted).

<sup>34</sup> See *Mexico Pacific Limited LLC*, DOE/FECM Order No. 4995, Docket No. 22-167-LNG (Apr. 28, 2023); *Mexico Pacific Limited LLC*, DOE/FE Order No. 4248, Docket No. 18-70-LNG (Sept. 19, 2018); *Mexico Pacific Limited LLC*, DOE/FE Order No. 4312, Docket No. 18-70-LNG (Dec. 14, 2018).

to 1046.57 Bcf/year in gas that has been transported on the Saguaro Connector, once completed, and re-export such gas to free trade agreement and/or non-FTA nations (up to 621 Bcf/year), or it could receive that gas through other facilities. It is true that Saguaro Connector will significantly expand the options available to MPL and its customers, but MPL and those customers have other options, discussed *infra* at Section II.D.

MPL’s pending request for authorization to export 291 Bcf/year to non-FTA nations, which is the only matter pending before DOE/FECM, is not dependent on the authorization and construction of the Saguaro Connector Border Facilities. Saguaro Connector could build the Border Facilities regardless of whether MPL receives authorization to export the additional 291 Bcf/year from DOE/FECM. And because MPL has authorization to export 1046.57 Bcf/year of natural gas from the United States to Mexico, and, some or even all of this 1046.57 Bcf/year could move on the Saguaro Connector Border Facilities (if MPL becomes a shipper on the Saguaro Connector pipeline), or the natural gas could move on any other border crossing systems. Likewise, MPL’s incremental 291 Bcf/year in exports may move on the Saguaro Connector Border Facilities or on any other cross-border pipeline that is currently operational or may become operational to transport natural gas across the border between the United States and Mexico.

DOE/FECM does not impose conditions or restrictions on the export points and transportation paths that may be used to accomplish authorized natural gas exports to Mexico.<sup>35</sup> Accordingly, MPL did not propose an export point or transportation path in its pending request to export 291 Bcf/year to non-FTA nations. The Saguaro Connector pipeline, if authorized and built, will be one of the pipelines MPL expects that it or its suppliers will utilize to export natural gas,

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<sup>35</sup> See, e.g., *Vista Pacífico LNG S.A.P.I. de C.V.*, DOE/FECM Order No. 4929 at 57-58, Docket No. 20-153-LNG (Dec. 20, 2022) (reaffirmed that export authorizations to Mexico “do not impose any physical limits on the southbound border-crossing facilities to be used and are not conditioned on the need for a supplemental authorization in the future”).

but MPL could make use of the authorization sought in the MPL Application pending in this proceeding to move gas from the U.S. into Mexico through any of several pipelines, as discussed *infra* at Section II.D. In other words, MPL is in no way *required* to use, nor is it dependent on, the Saguaro Connector pipeline to export the additional 291 Bcf/year for which it has sought DOE/FECM authorization.

Therefore, MPL's receipt of DOE/FECM authorization to export an additional 291 Bcf/year does not depend on the Saguaro Application, and the Saguaro Application does not depend on MPL's receipt of authorization to export the additional 291 Bcf/year. The MPL Application and the Saguaro Application are not connected actions, and DOE/FECM was right to limit its Draft EA to the MPL Application, and not to reach beyond that application to include the Saguaro Application.

**D. There is Evidence that Pipelines Other Than the Saguaro Connector Pipeline Will Supply the MPL Facility.**

Contrary to Sierra Club's assertions,<sup>36</sup> there is evidence before DOE/FECM that MPL, or gas suppliers contracted with MPL, may utilize existing cross-border pipelines to supply the MPL Facility. On October 2, 2023, MPL submitted to DOE/FECM in Docket Nos. 18-70-LNG and 22-167-LNG two contracts for the sale and purchase of natural gas: (i) one between MPL affiliate Mexico Pacific LNG Exports S. de R. L. de C. V. ("MPL Exports") and CFEnnergía S.A. de C.V. ("CFE Mexico"); and (ii) one between MPL Exports and CFE International, LLC ("CFEi").<sup>37</sup> MPL served a copy of the October 2 Filing on the Sierra Club. As stated in the October 2 Filing, MPL intends to utilize the CFE Gas Supply Contracts to supply natural gas to the MPL Facility.

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<sup>36</sup> Sierra Club Comments at 16-20.

<sup>37</sup> *Mexico Pacific Limited LLC*, Submission of Long-Term Gas Supply Contracts, FE Docket Nos. 18-70-LNG and 22-167-LNG (Oct. 2, 2023) ("October 2 Filing"). The contracts submitted in the October 2 Filing are referred to as the CFE Gas Supply Contracts.

CFEi has a firm contract for transportation service on Sierrita Gas Pipeline LLC through October 31, 2039,<sup>38</sup> and CFEi has capacity on other, existing cross-border pipelines as well. CFEi will utilize its capacity on these existing cross-border pipelines to supply natural gas to the MPL Facility. Therefore, it is inaccurate for Sierra Club to say that “there is no evidence in the record to support MPL’s claim that it has ‘plans’ to ship gas,”<sup>39</sup> via pipelines other than the Saguaro Connector pipeline; MPL has access to capacity on several existing cross-border pipelines, and at least one of MPL’s prospective gas suppliers (CFEi) has contractual rights to use existing border crossing pipeline capacity to transport U.S.-sourced natural gas across the border and on to the MPL facility. Sierra Club’s arguments to the contrary are incorrect.

**E. DOE/FECM is Not Required to Evaluate Environmental Effects of the MPL Application That are Not Reasonably Foreseeable.**

Consistent with well-established precedent, DOE/FECM is not required to evaluate impacts or quantify emissions that are not reasonably foreseeable indirect effects of its approval of the MPL Application. For example, contrary to Sierra Club’s assertions,<sup>40</sup> DOE/FECM is not required to quantify the greenhouse gas (“GHG”) emissions associated with alleged induced production of natural gas (upstream emissions) or the construction and operation of the MPL Facility and end-use combustion of natural gas exported from the MPL Facility (downstream emissions). In addition, contrary to Sierra Club’s assertions, DOE/FECM is not required to evaluate whether the GHG emissions associated with the MPL Application “are consistent with climate goals”<sup>41</sup> or “are consistent with the remaining carbon budget.”<sup>42</sup>

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<sup>38</sup> See *Sierrita Gas Pipeline LLC*, Index of Customers Quarterly Filing, FERC Accession Number 20240102-5238 (Jan. 2, 2024).

<sup>39</sup> Sierra Club Comments at 18.

<sup>40</sup> See Sierra Club Comments at 27-29,

<sup>41</sup> *Id.* at 46-47.

<sup>42</sup> *Id.* at 47-53.

The D.C. Circuit has held that the scope of DOE/FECM’s review of LNG export project proposals under NEPA is limited to the reasonably foreseeable direct and indirect effects of its authorization of the proposed exports.<sup>43</sup> With respect to upstream emissions, the D.C. Circuit has held that the indirect effects of export-induced natural gas production are not reasonably foreseeable.<sup>44</sup> It has concluded that “the [DOE’s] obligation to drill down into increasingly speculative projections about regional environmental impacts is also limited by the fact that [DOE] lacks any authority to control the locale or amount of export-induced gas production, much less any of its harmful effects.”<sup>45</sup> With respect to downstream emissions, the D.C. Circuit has rejected challenges to the manner in which DOE/FECM has addressed the potential downstream emissions resulting from the indirect effects of exports (i.e., those resulting from the transport and usage of U.S. LNG abroad).<sup>46</sup> DOE/FECM has held that such effects do not include impacts on global GHG emissions:

[T]o model the effect that U.S. LNG exports would have on net global GHG emissions would require projections of how each of these fuel sources would be affected in each LNG-importing nation. Such an analysis would not only have to consider market dynamics in each of these countries over the coming decades, but also the interventions of numerous foreign governments in those markets. Moreover, the uncertainty associated with estimating each of these factors would likely render such an analysis too speculative to inform the public interest determination in DOE’s non-FTA proceedings . . . Based on the evidence, [DOE] see[s] no reason to conclude that U.S. LNG exports will increase global GHG emissions in a material or predictable way.<sup>47</sup>

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<sup>43</sup> *Sierra Club v. DOE*, 867 F.3d 189, 198 (D.C. Cir. 2017) (“*Sierra Club*”) (explaining that an agency “need not foresee the unforeseeable”).

<sup>44</sup> *Id.* at 198.

<sup>45</sup> *Id.* at 198-199.

<sup>46</sup> *Id.* at 201.

<sup>47</sup> Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update-Response to Comments, 85 Fed. Reg. 72 (Jan. 2, 2020).

DOE/FECM must evaluate the reasonably foreseeable direct and indirect effects of its approval of the MPL Application. But, as the D.C. Circuit has held, DOE/FECM “need not foresee the unforeseeable.”<sup>48</sup>

As the Draft EA correctly states, MPL will source natural gas from multiple producing basins throughout the United States;<sup>49</sup> the particular sources of natural gas are not reasonably foreseeable. Furthermore, contrary to Sierra Club’s assertions,<sup>50</sup> the ultimate destinations of the LNG cargoes shipped from the MPL Facility are not known. As it has in other cases, with D.C. Circuit approval,<sup>51</sup> DOE/FECM should disregard Sierra Club’s insistence that it must evaluate upstream and downstream GHG emissions, as such emissions are not reasonably foreseeable.

DOE/FECM should also reject Sierra Club’s call to evaluate the MPL Application’s effect on United States climate goals and the carbon budget. The manner in which GHG emissions associated with the extraterritorial MPL Facility will impact national climate goals is not something that is reasonably foreseeable, and evaluation of these potential impacts is not required under NEPA. Such an evaluation would require DOE/FECM to consider a multitude of variables, many of which are beyond DOE/FECM’s control and/or are unknown, and to engage in an essentially speculative exercise. As the D.C. Circuit has previously concluded, NEPA does not require this.<sup>52</sup>

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<sup>48</sup> *Sierra Club*, 867 F.3d at 198.

<sup>49</sup> Draft EA at 3.

<sup>50</sup> Sierra Club Comments at 53-57.

<sup>51</sup> *Sierra Club*, 867 F.3d at 199.

<sup>52</sup> *Id.* at 198-199.

**F. DOE/FECM Can Rely on its Prior Lifecycle GHG Studies<sup>53</sup> to Evaluate the Environmental Impacts of the MPL Application.**

Consistent with well-established precedent, and contrary to the Sierra Club's assertions,<sup>54</sup> it is reasonable and appropriate for DOE/FECM to look to its GHG Studies in reviewing the life cycle emissions related to exports proposed in the MPL Application. DOE/FECM's practice of incorporating the GHG Studies into Environmental Assessments and orders has been upheld by the D.C. Circuit.<sup>55</sup> In addition, DOE/FECM has incorporated its GHG Studies into its consideration of other export projects in Mexico that intend to re-export U.S.-sourced natural gas in the form of LNG.<sup>56</sup> Thus, consistent with its precedent and the approach the D.C. Circuit has previously accepted, DOE/FECM may rely on the GHG Studies in evaluating the environmental effects of the MPL Application.<sup>57</sup>

**II. CONCLUSION**

For the foregoing reasons, MPL requests that DOE/FECM disregard the Sierra Club Comments that are beyond the scope of the Draft EA. With respect to the Sierra Club Comments that are relevant to the subjects reviewed in the Draft EA, for the reasons stated herein, DOE/FECM will be on solid ground and in full compliance with its obligations under NEPA in

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<sup>53</sup> U.S. Dep't of Energy, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States*, 79 Fed. Reg. 32,260 (June 4, 2014) ("2014 LCA GHG Report"); Nat'l Energy Tech. Lab., *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update*, DOE/NETL-2019/2041 (Sept. 12, 2019) ("2019 Update" and collectively with the 2014 LCA GHG Report, the "GHG Studies").

<sup>54</sup> Sierra Club Comments at 31-41.

<sup>55</sup> *Sierra Club*, 867 F.3d at 198-200.

<sup>56</sup> See, e.g., *Energía Costa Azul, S. de R.L. de C.V.*, Environmental Assessment (DOE/EA-2193), Docket No. 18-145-LNG (Oct. 28, 2022); *Vista Pacifico LNG, S.A.P.I. de C.V.*, Environmental Assessment (DOE/EA-2192), Docket No. 20-153-LNG (Oct. 28, 2022).

<sup>57</sup> With respect to DOE/FECM's evaluation of the potential impacts of marine transport of LNG, DOE/FECM also can rely on its technical support documents to conclude that "the transport of natural gas by marine vessels adhering to applicable maritime safety regulations and established shipping methods and safety standards normally does not pose the potential for significant environmental impacts." See Draft EA at 17 (*citing* U.S. Dept. of Energy, National Environmental Policy Act Implementing Procedures, Final Rule; 85 Fed. Reg. 78,197, at 78,200 (Dec. 4, 2020)).

completing its environmental review of the MPL Application on the basis of the Draft EA. DOE/FECM may rely on that document to conclude that granting MPL the requested export authorization will not have a significant effect on the human environment. Further, MPL submits that on the basis of the information before DOE/FECM, including the information provided in the MPL Application, and all prior MPL submittals in this proceeding, DOE/FECM can conclude that the export authorization to non-FTA nations requested by MPL is not inconsistent with the public interest.

Respectfully submitted,

**MEXICO PACIFIC LIMITED LLC**

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Dated: January 9, 2024



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

**Mexico Pacific Limited LLC**

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**Docket No. 22-167-LNG**

**CERTIFICATE OF SERVICE**

Pursuant to 10 C.F.R. § 590.107, I, Tyler R. Brown, hereby certify that I caused the above documents to be served on the persons included on the official service list for this docket, as provided by DOE/FECM, on January 9, 2024.

*/s/Tyler R. Brown*  
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**UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

**Mexico Pacific Limited LLC**

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**Docket No. 22-167-LNG**

**VERIFICATION**

Pursuant to 10 C.F.R. § 590.103(b), I, Tyler R. Brown, hereby verify under penalty of perjury that I am authorized to execute this verification, that I have read the Response of Mexico Pacific Limited LLC to Sierra Club Comments on DOE/FECM's Draft Environmental Assessment dated January 9, 2024, and that the facts stated therein are true and correct to the best of my knowledge.

Electronically signed at Atlanta, GA, on January 9, 2024.

*/s/Tyler R. Brown*  
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