UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

Motion to Intervene and Protest of For a Better Bayou, Habitat Recovery Project, Healthy Gulf, Louisiana Bucket Brigade, Micah Six Eight Mission, The Vessel Project of Louisiana, Property Rights and Pipeline Center, and Sierra Club

Magnolia LNG, LLC ("Magnolia"), a subsidiary of Glenfarne Group, LLC ("Glenfarne"), is proposing to develop a liquified natural gas ("LNG") export facility ("Magnolia LNG Project") roughly 9 miles Southwest of central Lake Charles in Calcasieu Parish, Louisiana. For a Better Bayou, Habitat Recovery Project, Healthy Gulf, Louisiana Bucket Brigade, Micah Six Eight Mission, the Vessel Project of Louisiana, Property Rights and Pipeline Center and Sierra Club (collectively "Environmental Advocates") request to intervene in Docket No. 23-137-LNG related to Magnolia's 2023 application for authorization from the Department of Energy ("DOE") to export LNG from the Magnolia LNG Project to "non-free trade agreement" ("non-FTA") countries.[1] The Environmental Advocates herein also protest Magnolia's application in the above docket, pursuant to 10 C.F.R. §§ 590.303(b) and § 590.304.

Magnolia previously obtained DOE authorization to export LNG from the Magnolia LNG Project to "non-free trade agreement" ("non-FTA") countries.[2] Consistent with DOE's standard practice, that authorization required the company to commence exports within seven-years, i.e., by November 30, 2023.[3] In March 2023, Magnolia applied for a 28.5 month

[1] Although Sierra Club, Healthy Gulf, For A Better Bayou, The Vessel Project, and Micah 6:8 Mission intervened in the prior docket related to the Magnolia LNG Project (Docket No. 13-132-LNG), DOE has created a new docket in response to Magnolia's application for a new non-FTA export authorization. Therefore, in an abundance of caution, these entities additionally seek intervention in the newest docket related to exports from the project.

[2] DOE/FE Order 3909 (Nov. 30, 2016), *available at* https://www.energy.gov/sites/prod/files/2016/11/f34/ord3909.pdf(Initial Non-FTA Authorization); DOE/FE Order 3909-C (Apr. 27, 2022), *available at* https://www.energy.gov/sites/default/files/2022-04/ord3909c.pdf (Magnolia non-FTA increase).

[3] Order 3909 at 161; Order 3909-C at 68

extension.[4] Subsequently, on May 30, 2023, Magnolia amended its request to more than double the extension duration (to 60 months total),[5] and ultimately withdrew its extension request in November.[6] Meanwhile, in April 2023, DOE issued a Policy Statement reinforcing its standard seven-year deadline in part because the determinations underlying initial authorizations become stale.[7] Although DOE indicated that the Policy would not apply to Magnolia's initial 28.5 month extension request, DOE stated that it would apply to the 60-month amended request[8]. In issuing the Policy Statement, DOE also recognized that extending faltering projects creates a "authorization overhang" that unnecessarily clouds forecasting for new LNG exports and may deter newer project proposals utilizing newer technology and better environmental justice practices.[9] The same policy considerations that warrant letting failing projects' authorizations expire also warrant not authorizing improbable projects in the first place.

On November 30, 2023, Magnolia's non-FTA authorization expired.[10] The day before its authorization expired, November 29, Magnolia filed an application for an *entirely new*

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[4] Request of Magnolia LNG, LLC for Limited Extension to Start Date of Term of Authorization (Mar. 20, 2023), https://www.energy.gov/sites/default/files/2023-03/Magnolia%20LNG%20LLC%20Request%20for%20Extension%20of%20NFTA%20Commencement%20of%20Service%20Deadline.pdf.

[5] Letter from Magnolia LNG, LLC, Request to Redesignate May 30, 2023 Supplement as Amendment of March 20, 2023 Request to Extend Commencement Deadline (July 14, 2023), *available at* https://www.energy.gov/sites/default/files/2023-07/13-132-LNG_Letter%20Redesignating%20May%2030%202023%20Clarification%20as%20Amendment%2007.14.2023.pdf (requesting DOE treat its request to extend its commencement deadline to November 30, 2028 instead of April 15, 2026 as an amendment to its previous extension request).

[6] https://www.energy.gov/sites/default/files/2023-11/Magnolia%20LNG%20Notice%20of%20Withdrawal%20of%20Commencement%20Deadline%20Extension%20Request%20%28Nov.%2029%202023%29.pdf

[7] U.S. Dep't of Energy, Policy Statement on Export Commencement Deadlines in Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries, 88 Fed. Reg. 25,272 (Apr. 26, 2023) [hereinafter Policy Statement on Extensions].

[8] Magnolia LNG, LLC, Withdrawal of Request for Extension of Commencement of Service Deadline (Nov. 29, 2023), *available at* https://www.energy.gov/sites/default/files/2023-08/Magnolia%20LNG%20-%20Notice%20Re%20Amended%20Request%20Commencement%20Extension.pdf.

[9] Policy Statement on Extensions at 25,277.

[10] DOE, Administrative Notice of Expiration of Non-FTA Authorization (Dec. 8, 2023), *available at* https://www.energy.gov/sites/default/files/2023-12/Magnolia%20LNG%20-

authorization to export LNG to non-FTA countries.[11] This new application is the subject of this motion to intervene and protest.

On January 26, 2024, recognizing that "climate change is the existential threat of our time," the Biden administration and DOE initiated a temporary pause on all pending non-FTA LNG export applications, including the application at issue here.[12] This pause is critical to ensure that DOE has the space to conduct the thorough review needed; as the administration recognized,

> [t]he current economic and environmental analyses DOE uses to underpin its LNG export authorizations are roughly five years old and no longer adequately account for considerations like potential energy cost increases for American consumers and manufacturers beyond current authorizations or the latest assessment of the impact of greenhouse gas emissions.[13]

But a pause alone is not enough. The scientific consensus is already clear—increasing reliance on fossil fuels is not in the public interest. DOE must ensure that its updated analysis incorporates the latest science and addresses the significant flaws in prior studies. And DOE must conduct a project-specific review of *Magnolia's* potential impacts.

The Magnolia LNG Project illustrates the current problems with DOE's failure to scrutinize export proposals to date, and the need for DOE to update and expand its underlying analyses. The last seven years have demonstrated that the Magnolia LNG Project is failing—

%20Administrative%20Notice%20of%20expiration%20of%20NFTA%20authorization-%2013-132-LNG.pdf.

[11] Application of Magnolia LNG, LLC for Long-term Authorization to Export LNG to Non-Free Trade Agreement Countries and Request for Expedited Consideration (Nov. 29, 2023), *available at* https://www.energy.gov/sites/default/files/2023-12/Magnolia%20LNG%20DOE%20NFTA%20Export%20Authorization%20Application%20%28Nov.%2029%202023%29.pdf (hereinafter "Magnolia Application"). Magnolia has requested that the new authorization include a new deadline seven years from the issuance date per DOE's standard practice. *Id.* at 1.

[12] White House, Fact Sheet: Biden-Harris Administration Announces Temporary Pause on Pending Approvals of LNG Exports (Jan. 26, 2024), *available at* https://www.whitehouse.gov/briefing-room/statements-releases/2024/01/26/fact-sheet-biden-harris-administration-announces-temporary-pause-on-pending-approvals-of-liquefied-natural-gas-exports/ (hereinafter "Fact Sheet on Temporary Pause") (Attachment 1); DOE to Update Public Interest Analysis to Enhance National Security, Achieve Clean Energy Goals and Continue Support for Global Allies (Jan. 26, 2024), *available at* https://www.energy.gov/articles/doe-update-public-interest-analysis-enhance-national-security-achieve-clean-energy-goals.

[13] *Id.*

Magnolia itself admits that it has no offtake contracts and has been unable to reach a final investment decision despite being fully permitted for years.[14] Yet, Magnolia now asks DOE to throw that faltering project a lifeline. DOE should decline to do so: authorizing this failing project will only contribute to the authorization overhang, deter newer projects with newer technology, endanger domestic supply, hurt domestic consumers, jeopardize U.S. global strategic interests, and expose local communities to unnecessary pollution, damaging public health and the environment. The project's proposed location will also exacerbate disproportionate impacts on environmental justice communities in the Lake Charles area: the project will be surrounded by low-income communities and communities of color, in a region that already has extensive industrial pollution impacts. DOE must consider the cumulative harms these communities will suffer if this project moves forward.

The Environmental Advocates submit these comments at a time when the world's transition away from fossil fuels is accelerating rapidly. As the Biden administration has repeatedly affirmed, our global strategic interests—including helping Ukraine and other European allies avoid reliance on Russian fossil fuels—requires the U.S. and the world to transition off of fossil fuels entirely as quickly as possible.[15] The International Energy Agency ("IEA") recently concluded that, through the 2040s, there will be no need for LNG exports beyond those already under construction.[16] The transition away from fossil fuels is also essential to avoid catastrophic climate change: the IEA has explained that even LNG export projects that are already under construction cannot be part of the path to net-zero emissions.[17] The Magnolia

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[14] Magnolia Application at 6.

[15] *See, e.g.*, Remarks by President Biden Announcing U.S. Ban on Imports of Russian Oil, Liquefied Natural Gas, and Coal (Mar. 8, 2022), *available at* https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/03/08/remarks-by-president-biden-announcing-u-s-ban-on-imports-of-russian-oil-liquefied-natural-gas-and-coal/ (Attachment 2); *see also* Jen Psaki, https://twitter.com/PressSec/status/1500587980699971586?s=20, ("real energy security comes from reducing our dependence on fossil fuels.") (Attachment 3).

[16] International Energy Agency, World Energy Outlook 2023 at 139 (Oct. 2023), *available at* https://www.iea.org/reports/world-energy-outlook-2023 (hereinafter "World Energy Outlook 2023") (Attachment 4).

[17] *Id.*; *see also* International Energy Agency, Net Zero by 2050, at 102 (May 2021), *available at* https://iea.blob.core.windows.net/assets/deebef5d-0c34-4539-9d0c-10b13d840027/NetZeroby2050-ARoadmapfortheGlobalEnergySector_CORR.pdf (hereinafter "IEA, Net Zero by 2050") (Attachment 5) (expanded LNG exports cannot be part of a net-zero future).

LNG Project proposal, which would not export gas until late 2028 under the developer's optimistic schedule, is not a part of any solution to our short, middle, or long term problems.

Magnolia contends that this new authorization is warranted because DOE previously approved exports from this project. But that prior authorization is irrelevant—it expired, and the company cannot export any LNG to non-FTA countries. And while Magnolia is unlikely to proceed even if DOE grants this new application, the Magnolia LNG Project will never be built without it. No project of this size has ever been built without the non-FTA authorization at issue here.[18] Magnolia itself has acknowledged that it will not be able to proceed without this new authorization.[19] Therefore, DOE must treat this application as an additional source of LNG exports, not merely an extension of time or expansion of destination countries for exports that would occur otherwise.

DOE must review this new application based on current information and data in this docket[20] —along with any new data and information resulting from updates to its now-stale economic and lifecycle impact studies.[21] This must include Magnolia's failure to move this project forward in over a decade since it was first proposed—those circumstances alone demonstrate that this faltering project is not worth endorsing. Moreover, Magnolia's cursory application fails to address significant developments in technology, global LNG markets, domestic energy landscape, and scientific tools to assess and address climate change risks since it first applied in 2013. Magnolia's heavy reliance on DOE's stale prior findings, and its failure to address these recent developments, are fatal to its application.

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[18] *See, e.g.*, Callum O'Reilly, *Cameron LNG sponsors finalise FID*, LNG INDUSTRY, (Aug. 7, 2014), *available at* https://www.lngindustry.com/liquefaction/07082014/cameron-lng-sponsors-finalise-fid-1161/ (Attachment 6) (Cameron LNG facility developers waited until after they obtained Department authorization for exports to non-FTA countries before making final investment decision).

[19] Magnolia Application at 8.

[20] 88 Fed. Reg. 25,277 ("[N]ew DOE decisions regarding non-FTA exports, such as actions in response to the pending expiration of an authorization holder's export commencement deadline, should be made on the basis of the latest market information and analytical approaches available at the time of DOE's decision.").

[21] *See* Fact Sheet on Temporary Pause, *supra* note 12.

As explained below, current circumstances demonstrate that the Magnolia LNG Project is inconsistent with the public interest, and Magnolia's application should be denied. 15 U.S.C. § 717b(a).

I. Intervention

DOE's rules do not articulate any particular standard for timely intervention, and as such, intervention should be granted liberally. DOE merely requires would-be-intervenors to set out the "facts upon which [their] claim of interest is based" and "the position taken by the movant." 10 C.F.R. § 590.303(b)-(c). As explained in the following section, the Environmental Advocates' position is that the application should be denied or, in the alternative, cannot be approved without additional analysis far beyond that presented in Magnolia's cursory application. The organizations' interests are based on the impact the proposed Magnolia LNG Project will have on their members and missions.

1. Sierra Club

The requested extension will harm Sierra Club's members by increasing the prices they pay for energy, including both gas and electricity, over a longer term. The export authorization for the Magnolia LNG Project has lapsed, preventing the project from reaching a final investment decision or being constructed. Thus, granting this application would facilitate gas exports that would otherwise not occur. As DOE and the Energy Information Administration have previously explained, each marginal increase in export volumes is also expected to further increase domestic energy prices. Sierra Club's members will pay more for energy if DOE grants this application.

The requested extension will further harm Sierra Club members by increasing gas production and associated air pollution, including (but not limited to) emission of greenhouse gases and ozone precursors. As DOE has recognized, increasing LNG exports will increase gas production,[22] and increasing gas production increases ozone pollution, including risking creation

[22] *See, e.g.*, U.S. EIA, Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets (Oct. 2014) at 12, *available at* https://www.eia.gov/analysis/requests/fe/pdf/lng.pdf (explaining that "[n]atural gas markets in the United States balance in response to increased LNG exports mainly through increased natural gas production," and "[a]cross the different export scenarios and baselines, higher natural gas production satisfies about 61% to 84% of the increase in natural gas demand from LNG exports," with "about three-quarters of this increased production [coming] from shale sources.") ((Attachment 7).

of new or expanded ozone non-attainment areas or exacerbating existing non-attainment.[23] As noted, these impacts are unlikely to occur unless DOE grants Magnolia's application. Sierra Club has over 2,400 members in Louisiana, including many in the Barnett Shale region and other areas that will likely be impacted by increased gas production.

The proposed Magnolia LNG Project will also require significant shipping traffic. This vessel or tanker traffic will emit air pollutants such as carbon monoxide and ozone-forming nitrogen oxides. Increased ship traffic will also harm wildlife that Sierra Club's members enjoy viewing, etc., including the recently-listed threatened giant manta ray,[24] threatened oceanic whitetip shark,[25] and endangered Rice's whale (formerly designated as the Gulf of Mexico population of the Bryde's whale).[26]

The proposed exports will also require new infrastructure with significant direct environmental impacts, including air pollution emissions. These emissions will impact Sierra Club members and others who live, work, or recreate in the vicinity of the proposed project.

Finally, increasing LNG exports by granting this application will impact Sierra Club and its members because of the additional greenhouse gases emitted throughout the LNG lifecycle, from production, transportation, liquefaction, and end use. *See Section* II.B.3. The impacts from climate change are already harming Sierra Club members in numerous ways. Coastal property owners risk losing property to sea level rise. Extreme weather events, including flooding and heat waves, impact members' health, recreation, and livelihoods. Increased frequency and severity of wildfires emits smoke that impacts members' health, harms ecosystems members depend upon, and threatens members' homes. Proposals, such as this one, that encourage long-term use of carbon-intensive fossil fuels will increase and prolong greenhouse gas emissions, increasing the severity of climate change and thus of these harms.

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[23] U.S. DOE, Final Addendum to Environmental Review Documents Concerning Exports of Natural Gas from the United States at 27-32 (Aug. 2014), *available at* https://www.energy.gov/sites/prod/files/2014/08/f18/Addendum.pdf.

[24] Final Rule to List the Giant Manta Ray as Threatened Under the Endangered Species Act, 83 Fed. Reg. 2,916 (Jan. 22, 2018).

[25] Listing the Oceanic Whitetip Shark as Threatened Under the Endangered Species Act, 83 Fed. Reg. 4,153 (Jan. 30, 2018).

[26] Technical Corrections for the Bryde's Whale (Gulf of Mexico Subspecies), 86 Fed. Reg. 47,022 (Aug. 23, 2021).

In summary, the requested non-FTA export authorization will harm Sierra Club members in numerous ways. Sierra Club accordingly contends that the application should be denied or conditioned, as further described in the following protest.

Pursuant to 10 C.F.R. § 590.303(d), Sierra Club identifies the following persons for the official service list:

Lisa Diaz
Associate Attorney
910 Julia Street
New Orleans, LA 70113
lisa.diaz@sierraclub.org
305-336-2258

Louisa Eberle
Staff Attorney
1536 Wynkoop St. Suite 200
Denver, CO 80202
louisa.eberle@sierraclub.org
415-977-5753

2. For a Better Bayou

For a Better Bayou is a community-based organization in Southwest Louisiana which is raising awareness and building a community-based movement to ensure protections for a sustainable bayou. Its mission is to build a movement in Southwest Louisiana that holds the fossil fuel industry accountable for the harm it causes to people and the environment, and transforms the regional economy to one based in love, culture, and environmental stewardship. For a Better Bayou hosts events to educate community members on the global climate crisis and how that impacts Southwest Louisiana and the bayous in the region, which provide a myriad of benefits to the surrounding communities. For a Better Bayou also hosts outings such as bird walks to educate the community on the value of a robust and diverse ecosystem. The construction and operation of the Magnolia LNG Project will impact For a Better Bayou's work and mission by producing harmful air and water pollution that will deter members from engaging in outdoor activities in the region. For the same reasons articulated above by Sierra Club, For a Better Bayou will be impacted by the operation of the Magnolia LNG Project. For a Better Bayou states that the exact name of the movant is For a Better Bayou.

Pursuant to 10 C.F.R. § 590.303(d), For a Better Bayou identifies the following person for the official service list:

James Hiatt
Director, For a Better Bayou
PO Box 7262
Lake Charles, LA 70606
337-515-0655
James@betterbayou.net

3. Habitat Recovery Project

Habitat Recovery Project states that the exact name of the movant is Habitat Recovery Project, and the movant's principal place of business is 1636 Arledge Rd, Vinton, LA 70668. Habitat Recovery Project is a 501(c)(3) organization and represents a community-focused conservation movement dedicated to restoring, regenerating, and conserving wildlife habitats in contaminated communities, through supporting and benefiting the communities around them. This work will be directly affected by the construction and operation of the Magnolia LNG Project. For the same reasons articulated above by Sierra Club, Habitat Recovery Project will be impacted by the operation of the Magnolia LNG Project.

Pursuant to 10 C.F.R. § 590.303(d), Habitat Recovery Project identifies the following person for the official service list:

Alyssa Portaro
Habitat Recovery Project
1636 Arledge Rd
Vinton, LA 70668
alyssaportaro@gmail.com
973-632-1695

4. Healthy Gulf

Healthy Gulf is a 501(c)(3) organization with several hundred members in Louisiana. Healthy Gulf also employs staff members, primarily based in Louisiana, who work to protect the integrity of wetlands, waters, wildlife, and other ecological resources throughout Louisiana and the Gulf Region. This work will be directly affected by the construction and operation of the proposed Magnolia LNG Project. For the same reasons articulated above by Sierra Club, Healthy Gulf will be impacted by the operation of the Magnolia LNG Project. Healthy Gulf states that the exact name of the movant is Healthy Gulf, and the movant's principal place of business is 935 Gravier Street, Suite 700, New Orleans, LA 70112.

Pursuant to 10 C.F.R. § 590.303(d), Healthy Gulf identifies the following person for the official service list:

Andrew Whitehurst
Water Program Director
PO Box 2245
New Orleans, LA 70176
andrew@healthygulf.org

5. Louisiana Bucket Brigade

Louisiana Bucket Brigade states that the exact name of the movant is Louisiana Bucket Brigade, and the movant's principal place of business is 3416 B Canal Street, New Orleans, LA 70119. Louisiana Bucket Brigade is a 501(c)(3) organization with several hundred members in Louisiana, including members in the Lake Charles area who will be impacted by the Project. The Louisiana Bucket Brigade works with communities across the state that are disproportionately impacted by industrial pollution, with the goal of addressing environmental injustices and holding large polluters accountable. Magnolia LNG is yet another threat to Southwest Louisiana's communities which are already overburdened with toxic emissions from numerous fossil fuel and petrochemical facilities, and we request DOE to reject this export authorization application. It also employs staff members, primarily based in Louisiana, who work to inform Louisiana residents on the adverse environmental impacts of the petrochemical and oil and gas industry. For the same reasons articulated above by Sierra Club, Louisiana Bucket Brigade will be impacted by the operation of the Magnolia LNG Project.

Pursuant to 10 C.F.R. § 590.303(d), Louisiana Bucket Brigade identifies the following person for the official service list:

Shreyas Vasudevan
Campaign Researcher
3416B Canal St
New Orleans, LA 70130
(504) 484-3433
shreyas@labucketbrigade.org

6. Micah Six Eight Mission

Micah Six Eight Mission states that the exact name of the movant is Micah Six Eight Mission, and the movant's principal place of business is 624 W. Verdine, Sulphur, LA 70663. Micah Six Eight Mission is a 501(c)(3) organization serving the communities in Calcasieu and Cameron parishes. Micah Six Eight Mission, our staff, board and volunteers will be impacted by the Project. We work to inform Louisiana residents on the adverse environmental impacts of the petrochemical and oil and gas industry. Micah Six Eight Mission also supports communities in

Calcasieu and Cameron parishes whose health and homes are devastated by the petrochemical industry as well as the oil and gas industry. For the same reasons articulated above by Sierra Club, Micah Six Eight Mission will be impacted by the operation of the Magnolia LNG Project.

Pursuant to 10 C.F.R. § 590.303(d), Micah Six Eight Mission identifies the following person for the official service list:

Cynthia P. Robertson
Executive Director
Micah Six Eight Mission
624 W. Verdine
Sulphur, LA 70663
cindy@micah68mission.org
337-888-6652

7. The Vessel Project of Louisiana

The Vessel Project of Louisiana is a grassroots mutual aid and disaster relief organization founded in Southwest Louisiana. The Vessel Project of Louisiana's founder lives in Southwest Louisiana and works to provide emergency relief to the most vulnerable communities in this region, such as Black and Indigenous people of color as well as low income individuals. This work will be directly affected by the construction and operation of the proposed facility by the release of toxic pollutants into the air and water which decrease the health and wellness of the nearby communities. Moreover, the lifecycle greenhouse gas emissions from the operation of the Magnolia LNG facility will contribute to climate change which will increase storm intensity requiring additional aid and disaster relief. For the same reasons articulated above by Sierra Club, The Vessel Project of Louisiana will be impacted by the operation of the Magnolia LNG Project. The Vessel Project of Louisiana states that the exact name of the movant is The Vessel Project of Louisiana.

Pursuant to 10 C.F.R. § 590.303(d), The Vessel Project of Louisiana identifies the following person for the official service list:

Roishetta Ozane
Director
vesselproject@gmail.com
(337)502-9322

8. Property Rights and Pipeline Center

The Property Rights and Pipeline Center educates and organizes landowners and other frontline community members across the United States against oil, gas, or CO_2 pipelines

utilization of eminent domain to take land from its owners. The Property Rights and Pipeline Center provides step by step guides to fighting eminent domain and connects landowners with attorneys. In Southwest Louisiana, Property Rights and Pipeline Centers organizers host community meetings and conduct outreach to ensure that the community is aware of the many pipeline projects proposed in the region. For the same reasons articulated above by Sierra Club, Property Rights and Pipeline Center will be impacted by the operation of the Magnolia LNG Project. Property Rights and Pipeline Center states that the exact name of the movant is Property Rights and Pipeline Center.

Pursuant to 10 C.F.R. § 590.303(d), Property Rights and Pipeline Center identifies the following person for the official service list:

Rebekah Sale
Executive Director
Property Rights and Pipeline Center
c/o SMF, 40 W 37 Street
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rebekahsale@pipelinecenter.com

II. Protest

The application should be denied because it is contrary to the public interest. 15 U.S.C. § 717b(a).

As DOE previously explained, "when reviewing an application for export authorization," DOE evaluates "economic impacts, international impacts, security of natural gas supply, and environmental impacts, among others."[27] Magnolia's application heavily relies on DOE's prior approval of exports from the Magnolia LNG Project.[28] But DOE's prior authorization is irrelevant; it expired, and DOE must evaluate whether this new application meets this standard based on current information in the docket at issue.[29] Here, the last seven years have shown that

[27] *See, e.g.*, Order No. 4010, at 14-15.

[28] *See, e.g.*, Magnolia Application at 2, 5, 8, 24, 26, 30, 33, 38, 45-47.

[29] 88 Fed. Reg. 25,277 (recognizing that "new DOE decisions regarding non-FTA exports" like the application here, "should be made on the basis of the latest market information and analytical approaches at the time of DOE's decision"); 10 C.F.R. § 590.404 ("The final opinion and order shall be based solely on the official record of the proceeding and include a statement of findings and conclusions, as well as the reasons or basis for them, and the appropriate order, condition, sanction, relief or denial."); 10 CFR §

Magnolia is a bad bet. As DOE has recognized, many of these LNG projects never amount to anything, and Magnolia has shown us that it is one of those projects. DOE shouldn't re-approve this failing project just to continue muddying the waters for other potentially viable LNG terminals. DOE must take a fresh, hard look at the Magnolia LNG Project. Based on current circumstances and the latest market information and analytical approaches available, each of the public interest factors weighs against granting Magnolia's application.

A. DOE Must Base Its Decision on the Latest Information and Analytical Approaches Available.

This new application asks for a new authorization to export LNG to non-FTA countries. The Magnolia LNG Project cannot proceed without this new authorization. Magnolia's application therefore represents a request to export additional LNG, not simply an extension of Magnolia's prior authorizations or an expansion of destination countries.

DOE has made clear that "new DOE decisions regarding non-FTA exports" like this "should be made on the basis of the latest market information and analytical approaches at the time of DOE's decision."[30] And here, DOE assigned a new docket number, indicating that DOE is treating this matter as a new proceeding with its own "relevant facts, policy and applicable law concerning the importation or exportation of natural gas."[31]

Magnolia's application nevertheless relies heavily on prior DOE determinations in other dockets, specifically DOE's prior findings that, *more than seven years ago*, (1) the US had an ample supply of gas for exports without impacting availability for domestic demand, (2) the exports would have a "nominal effect" on domestic gas prices, and (3) economic and public benefits stemmed from the US trade deficit and tax revenues.[32] Notably, DOE never found that there was demand for the Magnolia LNG Project or that it was likely to succeed.[33] And recent

590.106 ("The FE shall maintain a docket file of each proceeding under this part, which shall contain the official record upon which all orders provided for in subparts D and E shall be based.").

[30] 88 Fed. Reg. 25,277.

[31] 10 C.F.R. § 590.102(o).

[32] Magnolia Application at 39, 43.

[33] *See* Order 3909 at 156 ("[W]e note that it is far from certain that all or even most of the proposed LNG export projects will ever be realized because of the time, difficulty, and expense of commercializing,

history suggests that Magnolia is in fact unlikely to move forward. Regardless, Magnolia's prior authorization expired and is now void.[34] DOE's prior determinations are therefore irrelevant to the present application: DOE must make new determinations based on the information in Magnolia's application and this docket.

Even if DOE was inclined to rely on its prior determinations, they are undermined by substantial changes in technology, global markets, domestic energy landscape, and climate change risks since Magnolia's 2013 application.[35] For the reasons explained below, Magnolia's application is not in the public interest in light of current circumstances and recent evidence.

Refusing to blindly accept prior determinations *in response to a new application* is not a collateral or out-of-time attack on the initial authorization. That initial authorization expired after Magnolia withdrew its extension request. Where, as here, a developer asks DOE for a new authorization, that application must be subject to the same standard as any other application to export LNG, based on current information and data.[36] In light of the current circumstances, latest analytical tools, and significant new data contradicting DOE's prior conclusions, DOE cannot blindly rely on its prior determinations to approve Magnolia's application. DOE must examine whether the request complies with the public interest based on current circumstances and the facts in *this* record. It does not.

B. Magnolia's Application Is Contrary to the Public Interest.

We appreciate that DOE recently acknowledged that the current studies underlying its public interest reviews fail to properly account for LNG's impacts on domestic prices and

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financing, and constructing LNG export terminals, as well as the uncertainties inherent in the global market demand for LNG.").

[34] DOE, Administrative Notice of Expiration of Non-FTA Authorization (Dec. 8, 2023), *available at* https://www.energy.gov/sites/default/files/2023-12/Magnolia%20LNG%20-%20Administrative%20Notice%20of%20expiration%20of%20NFTA%20authorization-%2013-132-LNG.pdf.

[35] 88 Fed. Reg. 25,277 ("DOE notes that its public interest analysis supporting each non-FTA authorization under NGA section 3(a) may become stale after seven years, as the natural gas market and supporting analyses continue to evolve.").

[36] 10 C.F.R. § 590.404 ("The final opinion and order shall be based solely on the official record of the proceeding[.]"); 10 C.F.R. § 590.106 ("The FE shall maintain a docket file of each proceeding under this part, which shall contain the official record upon which all orders provided for in subparts D and E shall be based.").

supply, global strategic interests, and climate and environmental justice impacts.[37] We provide further detail on the prior studies' limitations to inform DOE's updated analysis. While we hope that the new studies address these gaps, conducting this analysis in a generic study will not offset DOE's obligation to conduct the project-specific analysis of Magnolia's project. That project-specific review will demonstrate that the project's economic, strategic, and environmental harms render the project contrary to the public interest, for the reasons discussed below.

1. Domestic Energy Prices and Supply

DOE has historically given particular emphasis to "the domestic need for the natural gas proposed to be exported" and "whether the proposed exports pose a threat to the security of domestic natural gas supplies."[38] Recent data undermines any conclusion that LNG exports have little impact on domestic natural gas prices or that Henry Hub gas prices are forecasted to remain low. To the contrary, domestic energy market responses to an explosion at the Freeport LNG facility, gas prices throughout recent winters, and the increase in LNG exports to Europe demonstrate that the Magnolia LNG Project will harm US consumers. Moreover, LNG exports pose a threat to domestic gas supplies, particularly Haynesville Shale.[39] LNG exports are increasing energy prices by the billions for American families—domestic consumers will pay "$14.3 billion in higher annual natural gas costs in 2050 as a result of LNG exports."[40] DOE's

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[37] *See* Fact Sheet on Temporary Pause, *supra* note 12 (recognizing that the existing studies are stale and need to be updated); *see also* DOE/FE Order No. 3643-D (Alaska LNG Project) at 51 (June 14, 2023), *available at* https://www.energy.gov/sites/default/files/2023-06/ord3643-D_unlocked.pdf (stating that a nine-year old report on global market demand for U.S. LNG is outdated).

[38] *See, e.g.*, DOE/FE Order No. 3357-B (Freeport LNG Expansion) at 10 (Nov. 14, 2014), *available at* https://www.energy.gov/sites/prod/files/2014/11/f19/ord%203357-B.pdf; 85 Fed. Reg. 52,243 (Aug. 25, 2020) ("In evaluating the public interest, DOE takes seriously the potential economic impacts of higher natural gas prices.").

[39] Art Berman, *Draining America First—The Beginning of the End for Shale Gas* (Jan. 23, 2024), *available at https://www.artberman.com/blog/draining-america-first-the-beginning-of-the-end-for-shale-gas/#:~:text=The%20United%20States%20is%20the,permitting%20and%20funding%20will%20allow* (Attachment 8).

[40] Tyson Slocum, *LNG Exports Cause Domestic Energy Insecurity*, Public Citizen (Sept. 2023), *available at* https://www.citizen.org/wp-content/uploads/LNG-Consumer-Cost-Fact-Sheet-09.11.23.pdf (Attachment 9); *see also* Jeremy Symons, *The Oil & Gas Lobby is Panicking*, Climate Insider (Jan. 25, 2024), *available at* https://jeremysymons.substack.com/p/the-oil-and-gas-lobby-is-panicking (hereinafter "Oil & Gas Lobby is Panicking") (Attachment 10).

prior studies and Magnolia's application fail to address these developments, which demonstrate that the proposed exports are not in the public interest.

a) Winter 2021-2022 and 2022-2023 gas prices demonstrate that LNG exports are harming US consumers.

The price impacts of LNG exports are harming Americans *now*. Wholesale gas prices for the winter of 2021-2022 were vastly higher than for the prior winter, and FERC concluded that the increase was driven largely by competition with demand for LNG exports.[41] The same dynamic played out in the winter of 2022-2023.[42] The Wall Street Journal,[43] S&P Global Platts Analytics,[44] the Institute for Energy Economics and Financial Analysis,[45] Industrial Energy Consumers of America,[46] and others have agreed that LNG exports are driving up domestic gas prices. Indeed, FERC identified LNG exports as the "primar[y]" source of the additional demand that drove gas price increases in 2021-2022.[47] And these price increases were severe. For the winter of 2021-2022, benchmark futures prices at the Henry Hub increased 103% relative to the

[41] FERC, Winter Energy Market and Reliability Assessment (Oct. 21, 2021) at 2, *available at* https://ferc.gov/sites/default/files/2021-10/Winter%20Assessment%202021-2022%20-%20Report.pdf (hereinafter "2021-2022 Winter Assessment") (Attachment 11); *accord id. at 11*.

[42] FERC, Winter Energy Market and Reliability Assessment (Oct. 20, 2022) at 1, 4, 5, *available at* https://www.ferc.gov/media/report-2022-2023-winter-assessment (hereinafter "2022-2023 Winter Assessment") (Attachment 12).

[43] Collin Eaton & Katherine Blunt, Natural-Gas Exports Lift Prices for U.S. Utilities Ahead of Winter, WALL ST. J. (Nov. 7, 2021), *available at* https://www.wsj.com/articles/natural-gas-exports-lift-prices-for-u-s-utilities-ahead-of-winter-11636281000 (Attachment 13).

[44] Kelsey Hallahan, Henry Hub could reach $12-$14 this winter as capital discipline limits supply growth: Platts Analytics, S&P GLOBAL PLATTS (Oct. 14, 2021), *available at* https://www.spglobal.com/platts/en/market-insights/latest-news/natural-gas/101421-henry-hub-could-reach-12-14-this-winter-as-capital-discipline-limits-supply-growth-platts-analytics (Attachment 14).

[45] *See also* Clark Williams-Derry, Booming U.S. natural gas exports fuel high prices, IEEFA U.S. (Nov. 4, 2021), *available at* https://ieefa.org/ieefa-u-s-declining-demand-lower-supply-dont-explain-rapidly-rising-gas-prices/ (Attachment 15); Shafiqul Alam et al., *Global LNG Outlook 2023-27*, IEEFA (Feb. 15, 2023), *available at* https://ieefa.org/resources/global-lng-outlook-2023-27 (Attachment 16).

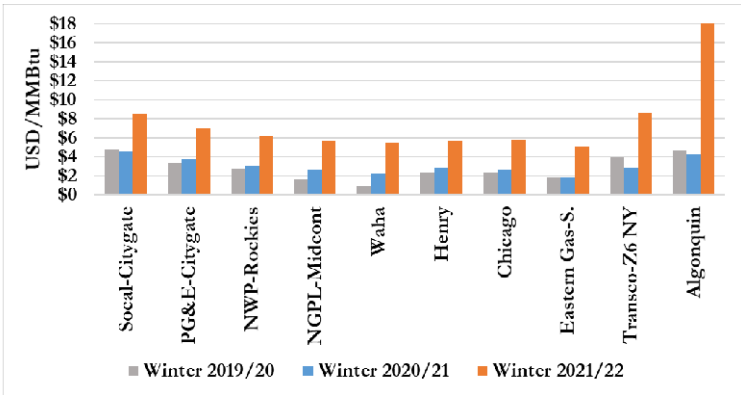
[46] Letter from Paul N. Cicio to Jennifer Granholm (Nov. 22, 2021), *available at* https://www.ieca-us.com/wp-content/uploads/11.22.21_LNG_-Why-a-Safety-Valve-is-Needed_FINAL.pdf (Attachment 17).

[47] 2021-2022 Winter Assessment, *supra* note 41 at 2.

prior winter,[48] with larger increases elsewhere, including more than quadrupling of the price at the Algonquin Citygate outside Boston,[49] as illustrated in this chart from FERC:[50]

Winter Futures Prices Increased at Nearly Every Major U.S. Trading Hub

Average U.S. Natural Gas Futures Prices Across Major Hubs for November - February



Source: InterContinental Exchange Inc

As IEEFA explained in a recent report, in response to Russia's unprovoked invasion of Ukraine, "U.S. LNG exporters bought all the gas they could handle, hoping to reap big profits by selling U.S. gas to overheated global markets. Surging exports, in turn, shortchanged U.S. supplies; domestic gas stockpiles fell to multi-year lows, and wholesale gas prices rocketed to their highest levels in more than a decade."[51] The latest report from the EIA reiterates that this connection between higher LNG exports and higher domestic gas prices will continue through 2050.[52] And the International Energy Agency's *World Energy Outlook 2023* report finds that,

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[48] *Id.* at 2, 11.

[49] *Id.* at 12.

[50] FERC, 2021-2022 Winter Energy Market and Reliability Assessment Presentation (Oct. 21, 2021) at 10, *available at* https://ferc.gov/sites/default/files/2021-10/Winter%20Assessment%202021-2022_Presentation.pdf (Attachment 18).

[51] Clark Williams-Derry, *Gas exports cost U.S. consumers more than $100 billion over 16-month period*, IEEFA (Jan. 29, 2024), *available at* https://ieefa.org/resources/gas-exports-cost-us-consumers-more-100-billion-over-16-month-period (hereinafter "Gas exports cost U.S. Consumers") (Attachment 19).

[52] U.S. EIA, AEO2023 Issues in Focus: Effects of Liquefied Natural Gas Exports on the U.S. Natural Gas Market (May 2023), *available at* https://www.eia.gov/outlooks/aeo/IIF_LNG/pdf/LNG_Issue_in_Focus.pdf (hereinafter "AEO2023 Issues in Focus") (Attachment 20) ("We project that through 2050 additional U.S. LNG exports would increase

under the current-policy scenario, which includes a 28% increase in global LNG between 2022 and 2030, U.S. natural gas prices are expected to be 67% higher ($4.00 per MMBtu) when compared to the net-zero scenario, which includes a 6% increase in global LNG between 2022 and 2030, ($2.40 per MMBtu) by 2030.[53] DOE has already acknowledged the need to address this new data before approving any further LNG exports.[54]

These price increases harm both households and industrial energy consumers. The EIA predicted that homes that use gas for heat would spend 30% more in the winter of 2021-2022 than they spent the prior winter.[55] The Industrial Energy Consumers of America, which represents manufacturers that use at least 1 trillion Btu of energy per year,[56] has repeatedly written to DOE about how export-driven gas prices increases are harming domestic industry.[57] And a recent report by IEEFA reiterated that price increases in 2022 raised heating prices and even electricity prices due to gas-dependent electric utilities,[58] resulting in homeowners and renters paying gas companies "an additional $14 billion."[59] The total U.S. spending on natural

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the natural gas spot price at the Henry Hub," which will "ultimately affect natural gas prices for consumers in all U.S. end-use sectors to some degree.").

[53] World Energy Outlook 2023, *supra* note 16 at 96, 135.

[54] DOE, *Unpacking the misconceptions surrounding the DOE's LNG update* (Feb. 8, 2024), *available at* https://www.energy.gov/articles/unpacking-misconceptions-surrounding-does-lng-update ("Updating our analysis using the latest data will help mitigate risks of future decisions that could cause domestic consumers and manufacturers to face higher energy prices.") (hereinafter "DOE LNG Update") (Attachment 21).

[55] U.S. EIA, Winter Fuels Outlook (Oct. 2021) at 1, *available at* https://www.eia.gov/outlooks/steo/special/winter/2021_Winter_Fuels.pdf (Attachment 22).

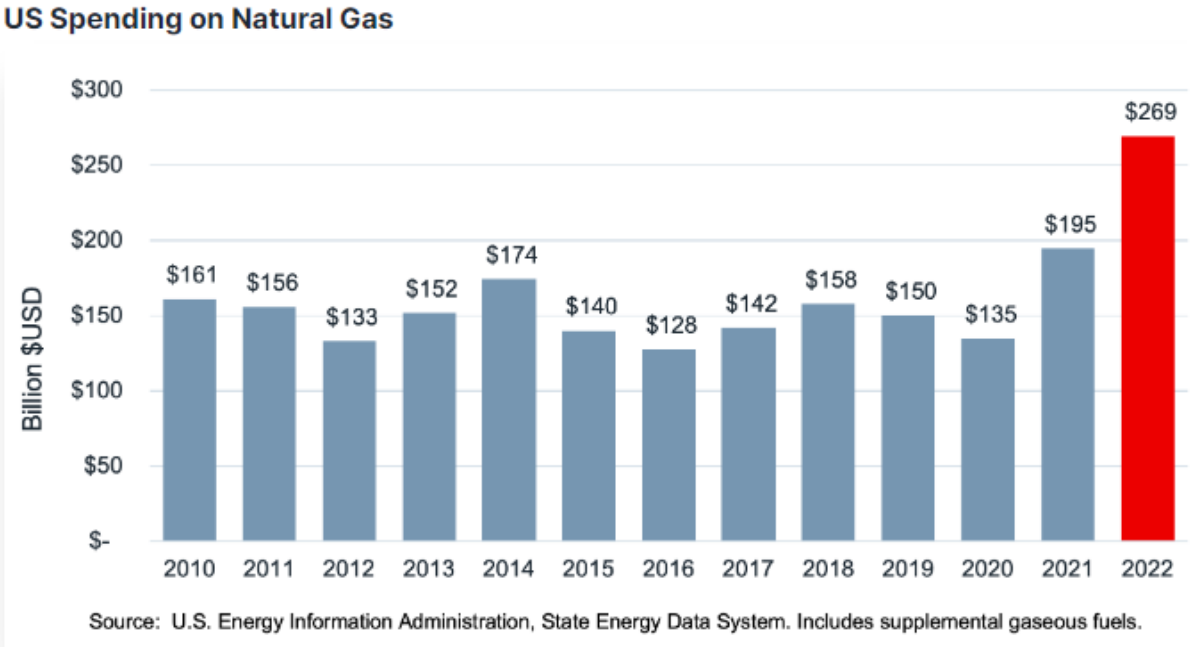
[56] "Membership Info," IECA, *available at* https://www.ieca-us.com/membership-info/ (last visited Nov. 6, 2023).

[57] *See*, *e.g.*, Letter from Paul N. Cicio to Jennifer Granholm, *supra* note 46.

[58] Gas exports cost U.S. Consumers, *supra* note 51("Gas-dependent electric utilities saw their costs rise, and many passed the increased costs to their customers. Some people saw the price increases directly in their utility bills, but much was hidden in the overall increase in prices for goods and services. . . electric utilities paid a whopping $50 billion more for their fuel."); *see also* Oil & Gas Lobby is Panicking, *supra* note 40 ("In some parts of the country, the price of natural gas for electric power generation is expected to increase by up to 42%[.]").

[59] Gas exports cost U.S. Consumers, *supra* note 51 ("Office buildings and other commercial users spent an additional $11 billion.").

gas increased by $73 billion—accounting for residential, commercial, industrial, transportation, and electric power.[60] The chart below demonstrates how much higher spending was in 2022 versus prior years.



From an economic perspective, LNG exports are simply making most Americans worse off: all Americans must pay energy bills, but few own shares (even indirectly, through pension plans and the like) in the gas companies that are benefiting from high gas prices and LNG sales.[61] DOE is charged with protecting the "public" interest, 15 US.C. § 717b(a); that is, the interest "of … all or most of the people" in the United States.[62] DOE has previously recognized that "the distributional consequences of an authorizing decision" may be so negative as to demonstrate inconsistency with the public interest despite "net positive benefits to the U.S.

[60] *Id.*; *see also* EIA, Table F19: Natural gas price and expenditure estimates, 2022, *available at* https://www.eia.gov/state/seds/sep_fuel/html/pdf/fuel_pr_ng.pdf (Attachment 23).

[61] Synapse Energy Economics, Inc., Will LNG Exports Benefit the United States Economy? (Jan. 23, 2013) at 9, *available at* https://www.energy.gov/sites/default/files/2022-03/Synapse%2C%20LNG%20Exports%20Economic%20Report.pdf (Attachment 24) (initially submitted as Exhibit 5 to Comments of Sierra Club *et al.* on the 2012 NERA macroeconomic report).

[62] *Public*, Merriam-Webster Unabridged Dictionary, http://www.merriam-webster.com/dictionary/public (last visited Nov. 6, 2023).

economy as a whole."[63] Accordingly, unless DOE addresses distributional concerns, DOE will have failed to consider an important part of the problem.

To date, DOE has never grappled with the distributional impacts of LNG exports: DOE has acknowledged that LNG exports have some positive and some negative economic impacts,[64] but DOE has not addressed the fact that those who suffer the harms are not the same as those who enjoy the benefits, or that the former are more numerous and generally less advantaged than the latter. In particular, research shows that low-income, Black, Hispanic, and Native American households all face dramatically higher energy burdens—spending a greater portion of their income on energy bills—than the average household.[65] Increased gas prices will exacerbate the existing energy burden disparities, placing these households at even further risk.[66] Especially in light of this administration's emphasis on environmental justice, the distributional and equity impacts of export-driven gas price increases require careful consideration.

DOE has previously relied on modeling of how energy markets will balance in response to increased LNG exports, and on studies of the macroeconomic effects of such balancing. The current surge in gas prices calls those prior analyses into question, and DOE cannot approve additional exports—or reaffirm previous findings—without carefully examining the continuing

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[63] DOE/FE Order 3638-A (Corpus Christi), at 45 (May 26, 2016), *available at* https://fossil.energy.gov/ng_regulation/sites/default/files/programs/gasregulation/authorizations/2012/applications/12-97-LNG_CMI_Corpus_Rehearing__May_26.pdf

[64] *See*, *e.g.*, NERA Economic Consulting, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (June 7, 2018) at 19, 21, 64, 67, *available at* https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.

[65] American Council for an Energy-Efficient Economy, How High are Household Energy Burdens? (Sept. 2020), *available at* https://www.aceee.org/sites/default/files/pdfs/u2006.pdf (Attachment 25); *accord* Eva Lyubich, The Race Gap in Residential Energy Expenditures (June 2020), *available at* https://haas.berkeley.edu/wp-content/uploads/WP306.pdf (Attachment 26); *see also* Eric Scheier & Noah Kittner, *A measurement strategy to address disparities across household energy burdens*, 13:288 Nature Communications at 6 (2022), *available at* https://rdcu.be/dpQlK (hereinafter "Energy Burden Measurement Tools") ("Households in communities of color experience energy poverty at a rate 60% greater than those in white communities.") (Attachment 27).

[66] Energy Burden Measurement Tools, *supra* note 65 at 7 ("Changes in the unit price of energy or slight differences in consumption patterns matter more to those with low incomes than those with higher incomes.").

validity of those analyses. Even the latest EIA analysis[67] fails to account for the fact that winter 2021-2022 did not result in increased production offsetting, as DOE has anticipated, and there were massive price spikes as a result. At a minimum, DOE must ensure that its planned analysis updates address this issue.

DOE must be particularly cautious given DOE's refusal, to date, to exercise supervisory authority over already-approved exports. Although DOE retains authority to amend and/or rescind existing export authorizations,[68] DOE has stated its reluctance to exercise such authority.[69] But if export applications are, in effect, a one-way ratchet on export volumes, DOE cannot issue such authorizations carelessly.

The Natural Gas Act's "principle aim[s]" are "encouraging the orderly development of plentiful supplies of natural gas at reasonable prices and protecting consumers against exploitation at the hands of natural gas companies," with the "subsidiary purposes" of addressing "conservation, environmental, and antitrust issues."[70] At present, LNG exports are not achieving these purposes. DOE's uniform approval of all export applications to date has not protected consumers from exploitation at the hands of gas companies, and LNG exports are not leading to reasonable gas prices. Accordingly, even putting aside the numerous and severe environmental impacts of increased LNG exports, Magnolia's application is inconsistent with the public interest and should be denied.

b) The Freeport LNG explosion and unit outage further affirms the Magnolia LNG Project will increase domestic gas prices, harming consumers.

A 2022 explosion and fire at the Freeport LNG facility—and the resulting drop in domestic gas prices—provided stark confirmation that increasing LNG export volumes will cause real and significant increases in domestic gas prices.

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[67] AEO2023 Issues in Focus, *supra* note 52.

[68] 15 U.S.C. § 717o.

[69] *See* Policy Statement Regarding Long-Term Authorizations to Export Natural Gas to Non-Free Trade Agreement Countries, 83 Fed. Reg. 28,841 (June 21, 2018). Although DOE has not exercised this authority yet, DOE *should* carefully consider doing so, given the severe impact already-authorized exports are having on domestic gas prices.

[70] *Minisink Residents for Envtl. Pres. & Safety v. FERC*, 762 F.3d 97, 101 (D.C. Cir. 2014) (cleaned up).

On June 8, 2022, an explosion and fire at the Freeport LNG facility caused an immediate shut down of operations.[71] In November 2022, PHMSA released a heavily redacted consultant's report that blamed inadequate operating and testing procedures, human error, and fatigue for the explosion.[72] Ultimately, the Freeport facility remained shut down for about eight months, and it has yet to fully resume full operations[73]—at least one liquefaction train at Freeport LNG has been shut down since April 2023.[74]

The Freeport explosion demonstrates a clear and significant connection between U.S. LNG exports and domestic gas prices. The EIA has estimated that the Freeport shutdown took roughly 17% (or 2 billion cubic feet per day) of the total U.S. LNG export capacity offline.[75] Immediately after the explosion was reported, domestic gas prices fell by 16 percent,[76] highlighting the direct connection between gas exports and domestic prices and supply. Despite this initial drop, domestic gas prices quickly rebounded to exceptionally high levels as a result of LNG exports. And more recent data following a Freeport LNG unit outage in January 2024 reiterates this connection between LNG exports and domestic natural gas prices.[77]

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[71] U.S. Energy Information Administration, Fire Causes Shutdown of Freeport Liquefied Natural Gas Export Terminal (June 23, 2022), *available at* https://www.eia.gov/todayinenergy/detail.php?id=52859 (hereinafter "EIA, Freeport Fire") (Attachment 28).

[72] Reuters, U.S regulator releases report blaming Freeport LNG blast on inadequate processes, (Nov. 16, 2022), *available at* https://www.reuters.com/business/energy/freeport-lng-provides-no-timeline-texas-export-plant-restart-2022-11-15/ (Attachment 29); Mike Soraghan, Mike Lee, Carlos Anchondo, Fatigue contributed to Texas LNG explosion, probe says, E&E News, (Nov. 16, 2022), *available at* https://www.eenews.net/articles/fatigue-contributed-to-texas-lng-explosion-probe-says/ (Attachment 30)

[73] Reuters, Freeport LNG gets approval to restart more of export plant in Texas, (Oct. 27, 2023), *available at* https://www.reuters.com/markets/commodities/freeport-lng-gets-approval-restart-more-export-plant-texas-2023-10-27/ (Attachment 31).

[74] Deep Kaushik Vakil, Scott DiSavino, *Texas Freeport LNG unit faces month-long outage after winter storm*, Reuters (Jan. 26, 2024), *available at* https://www.reuters.com/business/energy/freeport-lng-faces-month-long-unit-outage-due-winter-storm-2024-01-26/ (Attachment 32).

[75] EIA, Freeport Fire, *supra* note 71.

[76] Pippa Stevens, Natural Gas Plummets as Freeport Delays Facility Restart Following Explosion, CNBC (June 14, 2022), *available at* https://www.cnbc.com/2022/06/14/natural-gas-plummets-as-freeport-delays-facility-restart-following-explosion.html (Attachment 33).

[77] Myra Saefong, *Natural-gas futures drop over 8% biggest fall in nearly 2 weeks*, Morningstar, *available at* https://www.morningstar.com/news/marketwatch/20240129159/natural-gas-futures-drop-over-8-biggest-fall-in-nearly-2-weeks (Jan. 29, 2024) (Attachment 34); *see also* Scott DiSavino, *US natgas prices drop 8% on contract expiry, Freeport LNG unit outage*, Nasdaq, *available at*

This event, which post-dates DOE's 2018 study entitled *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports*,[78] undermines DOE's prior conclusions on this issue. DOE must address the Freeport LNG explosion and subsequent outages and the demonstrated connection between LNG exports and domestic prices, in its public interest analysis.

c) Tax subsidies

In addition to domestic price impacts, extensive tax subsidies to LNG companies, including Magnolia LNG, undermine any argument that tax revenue from LNG terminal operations provides economic benefits.[79] There appear to be three different tax exemptions related to Magnolia LNG.[80] Based on publicly available information about tax abatements in Louisiana, the Magnolia LNG Project will receive approximately $50.2 million in *ad valorem* tax relief in its first year of operation.[81] These totals severely undermine the benefits Magnolia LNG boasts about providing to the region such as the "creation of new jobs,[82] increased economic activity, and tax revenues."[83] Moreover, Magnolia LNG is leasing land from the Lake

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https://www.nasdaq.com/articles/us-natgas-prices-drop-8-on-contract-expiry-freeport-lng-unit-outage (Jan. 29, 2024) (Attachment 35).

[78] NERA Economic Consulting, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (June 7, 2018), *available at* https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf.

[79] *Contra* Magnolia Application at 44.

[80] Fastlane, Business Incentives Search, *available at* *https://fastlaneng.louisianaeconomicdevelopment.com/public/search/bi* (Attachment 36).

[81] Louisiana Economic Development, Industrial Tax Exemption Projects Report, *available at* https://fastlaneng.louisianaeconomicdevelopment.com/public/reports (Attachment 37) (data available at cell 11839W).

[82] Magnolia LNG states that is will create jobs, but does not state whether these jobs will employ locally. *See* Magnolia Application at 44; *see also* FERC, Final Environmental Impact Statement for the Magnolia LNG and Lake Charles Expansion Projects under CP14-347 et al., at 4-267 (Accession No. 20151113-4001) (Nov. 13, 2015), *available at* https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20151113-4001&optimized=false (hereinafter "2015 FEIS").

[83] Magnolia Application at 44.

Charles Harbor and Terminal District allowing the company to avoid paying property taxes.[84] FERC's 2015 FEIS and 2020 SEIS do not appear to have considered the impact of these tax abatements when it identified benefits from collected tax revenue.[85]

Magnolia LNG is not alone in receiving staggering amounts of tax abatements for its LNG project. For example, Venture Global received over $187 million in tax abatements in 2023, despite netting over $10 billion in profits.[86] A September 2022 report found that Cheniere saved over $1.2 billion in tax abatements for its Corpus Christi LNG project.[87] And Louisiana has agreed not to collect any industrial property tax revenue from the proposed Driftwood LNG project, a tax break worth between $1.4 and $2.4 billion.[88] These tax abatements require analysis because they undermine the purported tax revenue benefits of these projects, potentially stretching local governments and emergency responders too thin to support the increased load on government services. [89]

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[84] Magnolia Application at 4, 13.

[85] 2015 FEIS, *supra* note 82; *see also* FERC, Final Environmental Impact Statement for the Magnolia Liquified Natural Gas Production Capacity Amendment Project CP19-19, Docket No. CP19-19 (Accession No. 20200124-3000) (Jan. 24, 2020), *available at* https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20200124-3000&optimized=false (hereinafter "2020 SEIS") (containing no discussion of potential tax abatements).

[86] Wesley Muller, *More than $187 million in Louisiana business tax breaks approved*, Louisiana Illuminator (July 15, 2023), *available at* https://lailluminator.com/2023/07/15/more-than-187-million-in-louisiana-business-tax-breaks-approved/ (Attachment 38).

[87] AutoCase Economic Advisory & Coastal Alliance to Protect Our Environment, Tax Abatement Economic Analysis Study: Corpus Christi, Nueces County, and San Patricio County at 7, Table 1 (Sept. 2022), *available at* https://www.wepaytheyprofit.com/_files/ugd/62ab5a_2898254d8d784e4a995256d8663d7e94.pdf (Attachment 39).

[88] Sharon Kelly, *Louisiana Offers Fossil Fuel Exporter 'Single Largest' Local Tax Giveaway in American History*, DESMOG (Dec. 20, 2018), *available at* https://www.desmog.com/2018/12/20/louisiana-calcasieu-driftwood-lng-export-tellurian-tax-break/ (Attachment 40).

[89] *See, e.g.*, Commonwealth LNG Project Implementation Plan Volume 2.1, Appendix V2.1-1, Excerpts from meeting notes between Commonwealth LNG and Cameron Parish Fire District #10 (Sept. 22, 2023) *available at* https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20230922-5047 (Attachment 41) (fire department chief "stated that his Department is not staffed to provide coverage for an LNG Terminal beyond the coverage they are already providing, i.e., dealing with a non-industrial fire or emergency on a plot of land" and "he is concerned that providing first-responder support for the Terminal would negatively impact their ability to respond to the needs of the surrounding community and put firefighters at greater risk than normal for a community fire department").

Increased LNG exports will also exacerbate harm from climate-driven extreme weather, requiring increased levels of government support that may overwhelm the nominal tax revenue available after accounting for subsidies.[90] For example, the Coastal Protection and Restoration Authority and the Army Corps are currently working on the Southwest Coastal Louisiana Project (estimated to cost upwards of $3 billion) to decrease the risk of storm damage by elevating 800-1000 structures—the project also includes "shoreline stabilization, marsh creation, salinity control, hurricane protection, and chenier restoration."[91]

Without examining these tax abatements, and how they may undermine Magnolia's contribution to basic government services or economic benefits, DOE cannot determine that there will be benefits from increased tax revenue.

2. Recent Global Strategic Interest Developments Demonstrate the Extension is Not in the Public Interest.

a) Short Term Global Interests Do Not Justify Authorizing New Exports Commencing in 2028 or later.

In its application, Magnolia erroneously invokes an "emerging conflict in the Middle East" and Russia's unprovoked invasion of Ukraine as excuses for increased LNG exports.[92] Insofar as either global situation is pertinent to the request here, authorizing new exports to come online at the very end of 2028—or more realistically sometime in the 2030s[93]—is irrelevant to

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[90] *See* National Oceanic and Atmospheric Administration, National Centers for Environmental Information, Billion-Dollar Weather and Climate Disasters: Time Series, *available at* https://www.ncei.noaa.gov/access/billions/time-series (last visited Oct. 30, 2023) (Attachment 42).

[91] Southwest Coastal Louisiana Project (LA-0020), Calcasieu Parish Coastal Projects, CPRA, *available at* https://cims.coastal.louisiana.gov/outreach/factsheets/Parishes/parish_factsheet?parish=Calcasieu (Attachment 43) (last visited Feb. 7, 2024); *see also* Southwest Coastal Louisiana Project Nonstructural Coastal Storm Damage Risk Reduction, CPRA, *available at* https://cims.coastal.louisiana.gov/outreach/Projects/SWCoastal (Attachment 44) (last visited Feb. 7, 2024).

[92] Magnolia Application at 42.

[93] While Magnolia asserts that it anticipates commencing exports by 2028, Magnolia insists on a new seven-year period to do so, i.e., until 2031. Magnolia Application at 4, 7-8. FERC's EIS for the terminal infrastructure indicates that construction would take at 45 months, or 3.75 years. 2015 FEIS, *supra* note 82 at 2-24. To come online by late 2028, then, Magnolia would need to commence construction in the next few months. Even if DOE grants the application later this year, there is no indication that Magnolia would immediately begin construction. Magnolia has no supply or offtake contracts, has not reached a final investment decision, and has done virtually nothing to move this project forward despite having the

addressing any near-term conflict in the Middle East or decreasing Europe's reliance on Russian gas. Moreover, the recent DOE announcement pausing LNG export approvals already acknowledged that there is no need for more LNG exports to serve short term global needs.[94]

With regard to the Middle East, Magnolia provides no details regarding the "emerging conflict" it is referencing and how or why it would increase global need for U.S. LNG. Even if the current situation in the Middle East may cause a temporary increase in reliance on U.S. LNG exports (and Magnolia has not provided any evidence that it will do so), there is no evidence whatsoever that the impact would carry on until Magnolia LNG comes online in at least four more years. At most, the situation in the Middle East emphasizes why U.S. allies should be transitioning off of reliance on any, likely volatile, imported fuel supplies—not doubling down on LNG imports. Broadly speaking, providing energy security for our allies would best be accomplished by getting them off of fossil fuels entirely, rather than by getting them to rely on U.S. LNG. Whether its low water levels in the Panama Canal preventing LNG tanker traffic,[95] piracy/terrorism in the Red Sea causing LNG tankers to re-route,[96] or something else, relying on LNG imports for fuel is going to be less reliable that not having to import fuel at all. As Secretary Granholm has stated, "Perhaps renewable energy is the greatest peace plan this world will ever know." [97]

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requisite approvals for over seven years. If DOE grants the application with the standard seven-year deadline, Magnolia would have until at least 2031—after European demand for US LNG is predicted to abate. Moreover, Magnolia's vague proposal to add CCS and possibly a hydrogen/ammonia plant to the facility could significantly delay the construction of this project.

[94] Fact Sheet on Temporary Pause, *supra* note 12 (acknowledging that the pause in LNG export authorizations will not impact supplying U.S. allies with LNG in the near term).

[95] Curtis Williams, *Cheniere shunning Panama Canal for longer LNG routes to Asia*, Reuters (July 10, 2023), *available at* https://www.reuters.com/business/energy/cheniere-shunning-panama-canal-longer-lng-routes-asia-2023-07-11/ (Attachment 45).

[96] Margaret Rogers and Corey Paul, *LNG carriers divert from Suez Canal for longer routes amid Red Sea attacks*, SPGlobal (Dec. 18, 2023), *available at* https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/lng/121823-lng-carriers-divert-from-suez-canal-for-longer-routes-amid-red-sea-attacks (Attachment 46); *see also* EIA, *Red Sea attacks increase shipping times and freight rates*, (Feb. 1, 2024), *available at* https://www.eia.gov/todayinenergy/detail.php?id=61363 (Attachment 47).

[97] *See, e.g.*, Ben Lefebvre, DOE Declares an Energy War, POLITICO (Apr. 28, 2022), *available at* https://www.politico.com/newsletters/morning-energy/2022/04/28/doe-declares-an-energy-war-00028380 (hereinafter "DOE declares an Energy War") (Attachment 48).

With respect to Europe—which Magnolia claims it is especially focused on exporting to[98]—Magnolia's application ignores a fundamental timing disconnect between its application and any European need for gas. Although Europe may need additional LNG *for a few years*, by the time Magnolia would be in a position to provide *any* exports (2028, based on the company's optimistic timeline), Europe will have other, better options. And Magnolia estimates the lifespan of this project to last at least 30 years, [99] and perhaps up to 70 years,[100] locking in dirty fossil-fuel infrastructure well beyond the Biden administration's commitment, and global consensus, to achieve net zero emissions by 2050.[101]

Magnolia's application also ignores that European allies do no need or want any more U.S. LNG. On January 25, 2024, 60 members of the European Parliament and national parliaments in Europe told President Biden that "Europe should not be used as an excuse to expand LNG exports that threaten our shared climate and have dire impacts on US communities."[102] Nor does Europe need more U.S. LNG:

> Europe's current consumption of fossil gas is already being met under current import levels and with existing infrastructure. Even with current demand, the European LNG import infrastructure has been used at only 60% in 2023, suggesting that there is likely no infrastructure bottleneck impeding more U.S. LNG from reaching EU markets, and that an LNG facility build-out in the US would be even less needed. Looking ahead, and enshrined in several EU policies, European fossil gas demand is set to structurally decline as the

[98] Magnolia Application at 13

[99] 2015 FEIS, *supra* note 82 at 1-1.

[100] Magnolia's lease for the LNG terminal site could last for 70 years, or into the late 2080s. Magnolia Application at 4.

[101] Executive Order 14,008, "Tackling the Climate Crisis at Home and Abroad," 86 Fed. Reg. 7619 (Jan. 27, 2021); FACT SHEET: Renewed U.S. Leadership in Glasgow Raises Ambition to Tackle Climate Crisis (Nov. 13, 2021), *available at* https://www.whitehouse.gov/briefingroom/statements-releases/2021/11/13/fact-sheet-renewed-u-s-leadership-in-glasgow-raisesambition-to-tackle-climate-crisis/ (hereinafter "Glasgow Fact Sheet") (Attachment 49).

[102] La letter de 60 parlementaires de toute l'Europe à Joe Biden, Marie Toussaint, *available at* https://www.marietoussaint.eu/actualites/lettre-joe-biden (hereinafter "Letter of Marie Toussaint") (Attachment 50); *see also* Letter from European Civil Societys to President Biden, Food and Water Europe, *available at* https://www.foodandwatereurope.org/wp-content/uploads/2024/01/Europe-CSOs-letter-on-LNG-25Jan2024-1.pdf (hereinafter "Letter from European Civil Societys") (Attachment 51).

> continent continues to invest in energy efficiency and renewable energy, and to electrify its power, buildings and industrial sectors.[103]

Instead, these leaders urge that "the European public's economic, social and environmental interests are best served by policies that accelerate renewable energy and transition away from oil and gas, not by fossil fuel infrastructure build-out that is increasingly out of touch with demand realities."[104] The European Union Institute for Security Studies has also pushed back on claims that DOE's recently-announced pause on new LNG export approvals—including Magnolia's new application—will jeopardize European security, calling those concerns "vastly overblown as it is highly unlikely that this decision will put Europe's energy security at risk."[105] Members of the U.S. Congress and the European Parliament have emphasized that, notwithstanding the need to assist Europe in transitioning off of Russian gas, no new gas infrastructure or exports should be approved.[106]

This is consistent with evidence showing Europe's ability to transition off of gas in the near term. The IEA has concluded that heat pumps, building efficiency, and similar measures can significantly reduce the European Union's gas use, and thus the impact of Russian energy, with increasing reductions each year.[107] In 2022, Europe offset nearly 60% of its reliance on Russian gas through means other than alternative gas supplies, including increased renewable energy and energy conservation measures.[108] Some analyses conclude that the EU can entirely eliminate reliance on Russian gas by 2025, with efficiency and renewable energy making up for two thirds

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[103] *Id.*

[104] *Id.*

[105] Lukas Trakimavicius, *The US Pause on LNG Terminals Will Not Put Europe at Risk*, EUISS, *available at* https://www.iss.europa.eu/content/us-pause-lng-terminals-will-not-put-europe-risk (Attachment 52).

[106] Jared Huffman et al., Letter to U.S. President Biden and E.C. President Von der Leyen (May 19, 2022), *available at* https://huffman.house.gov/imo/media/doc/Letter%20Regarding%20the%20EU-US%20Joint%20Energy%20Security%20Statement_5.19.22.pdf (Attachment 53).

[107] International Energy Agency, A 10-Point Plan to Reduce the European Union's Reliance on Russian Natural Gas (March 3, 2022), *available at* https://www.iea.org/reports/a-10-point-plan-to-reduce-the-european-unions-reliance-on-russian-natural-gas (Attachment 54).

[108] World Energy Outlook 2023, *supra* note 16 at 87.

of the former Russian supply.[109] Similarly, the United Kingdom's Energy & Climate Intelligence Unit has concluded that *all* of the UK's gas demand that was previously met by Russian gas could be eliminated through installation of heat pumps and better installation within five years.[110] European Energy Commissioner Kadri Simson has emphasized that Europe remains committed to renewable energy goals, and is looking to additional gas imports only for the short term.[111]

We recognize that the U.S and European Commission have nonetheless proposed for EU member states to "work … toward the goal of ensuring, until at least 2030, demand for approximately 50 bcm/year," equivalent to approximately 4.8 bcf/d, "of additional U.S. LNG that is consistent with our shared net-zero goals."[112] This goal is ill-advised and self-refuting, as increased production and use of LNG through 2030 cannot be made consistent with the shared net-zero goals. But even if this goal is pursued, it does not support DOE's authorization of the additional LNG exports here. Some of this additional demand can be satisfied by existing, already-operating facilities. Some existing facilities sell gas on spot markets, and even facilities with long-term contracts with Asian buyers may be interested in redirecting cargoes.[113]

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[109] Briefing: EU Can Stop Russian Gas Imports by 2025, *available at* https://www.e3g.org/wp-content/uploads/Briefing_EU-can-stop-Russian-gas-imports-by-2025.pdf (Attachment 55).

[110] Harry Cockburn, Heat Pumps and Insulation 'Fastest Way to End Reliance on Russian Gas,' The Independent (March 9, 2022), *available at* https://www.independent.co.uk/climate-change/news/heat-pumps-russian-gas-north-sea-b2032017.html (Attachment 56); *see also* Energy & Climate Intelligence Unit, Ukraine Conflict and Impacts on UK Energy, *available at* https://eciu.net/analysis/briefings/uk-energy-policies-and-prices/briefing-ukraine-conflict-and-impacts-on-uk-energy (last updated Mar. 8, 2022 (Attachment 57).

[111] *See, e.g.*, DOE Declares an Energy War, *supra* note 97.

[112] White House, Fact Sheet: United States and European Union Commission Announce Task Force to Reduce Europe's Dependence on Russian Fossil Fuels (Mar. 25, 2022), *available at* https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/25/fact-sheet-united-states-and-european-commission-announce-task-force-to-reduce-europes-dependence-on-russian-fossil-fuels/ (Attachment 58).

[113] *See, e.g.,* Reuters, Europe draws more LNG from Asia as China imports slump (Apr. 28, 2022), *available at* https://www.reuters.com/markets/commodities/europe-draws-more-lng-asia-china-imports-slump-2022-04-28/#:~:text=LAUNCESTON%2C%20Australia%2C%20April%2028%20(,of%20pipeline%20supplies%20from%20Russia (Attachment 59); Bloomberg, China Looks to Sell Spare LNG as Virus Lockdowns Hit Demand (Apr. 24, 2022), *available at* https://www.bloomberg.com/news/articles/2022-04-25/china-looking-to-sell-spare-lng-as-virus-lockdowns-hit-demand (Attachment 60).

Moreover, previously-approved non-FTA exports from *facilities under construction* will already provide an additional 7.54 bcf/d of U.S. export supply.[114] Further LNG exports from Magnolia are completely unnecessary, as the U.S. exceeded its annual delivery targets to the E.U. in each of the past two years.[115] And even if this additional demand required additional LNG exports in the near term, this goal only calls for European demand for LNG through 2030, *i.e.*, optimistically two years into Magnolia's requested 20+ year authorization and planned 30-70 years of operation.

Finally, if DOE contends that the exports at issue here are in the public interest because Europe will need the gas, then DOE should ensure that the gas goes to Europe. DOE has broad authority to grant the requested additional authorization "in whole or in part, with such modification and upon such terms and conditions as [DOE] find[s] necessary or appropriate." 15 U.S.C. § 717b(a). If providing additional gas to Europe is the justification for these exports, DOE should explore whether to impose conditions that ensure that the authorization is actually used for that purpose. If DOE fails to impose such conditions, DOE must take a hard look at whether the exports are likely to actually assist Europe, and if not, whether this undermines any conclusion that the exports are consistent with the public interest.

b) Fundamental shifts in the global market, highlighted by Magnolia's delays, demonstrate that the application is not in the public interest.

The need for U.S. LNG exports to meet global market demands no longer exists at the rate anticipated when the Magnolia LNG Project was first proposed in 2013, making the completion of this project no longer commercially viable or in the public interest. The company explicitly acknowledged this change in the global market conditions in its now-withdrawn request for additional time to begin construction and operations of the Magnolia LNG Project.[116]

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[114] *See* U.S. Energy Info. Admin., U.S. Liquefaction Capacity (June 29, 2023), *available at* https://www.eia.gov/naturalgas/U.S.liquefactioncapacity.xlsx (Attachment 61).

[115] Fact Sheet on Temporary Pause, *supra* note 12.

[116] Request of Magnolia LNG, LLC for Limited Extension to Start Date of Term of Authorization, at 7 (Mar. 20, 2023), *available at* https://www.energy.gov/sites/default/files/2023-03/Magnolia%20LNG%20LLC%20Request%20for%20Extension%20of%20NFTA%20Commencement%20of%20Service%20Deadline.pdf ("[U]nforeseeable developments in the global LNG market have

Magnolia has no offtake contracts and has thus been unable to secure a final investment decision seven years after receiving its now-stale authorizations.[117] This lack of demand demonstrates that the project is not in the public interest. Approving this project despite the apparent lack of demand will unnecessary cloud the picture as DOE is examining other LNG export proposals.[118] And as DOE has acknowledged, many of these LNG projects will fail;[119] there is no reason for DOE to approve a project that has already faced such obvious challenges.

Rather than reverting to the pre-COVID *status quo*, global energy markets are now working to transition away from fossil fuels, including LNG, as quickly possible.[120] As discussed in Section II.B.3.c.iii and Section II.B.3.c.v, mounting scientific evidence overwhelmingly demonstrates that climate hazards are more urgent and severe than previously understood and that aggressive reductions in emissions within the next decade are essential to avoiding the most devastating climate change harms. President Biden has acknowledged that "climate change is the existential threat of our time"[121] and we have very little time to act to avoid the most catastrophic impacts of climate change.[122] As such, tackling the climate crisis must be a priority for the actions and decisions of all federal agencies. Specific to LNG, the

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affected Magnolia's ability to enter into long-term LNG offtake contracts with international customers, which are critical to securing project financing and achieving the final investment decision").

[117] Magnolia Application at 33.

[118] 88 Fed. Reg. at 25,276 ("Over time, as more authorization holders are authorized to export or re-export U.S.-sourced LNG to non-FTA countries—but are not engaged in actual export or re-export operations—this approval gap, or ''authorization overhang,'' has widened, with detrimental effects.").

[119] *See, e.g.*, Order 4011 at 41 ("[W]e note that it is far from certain that all or even most of the proposed LNG export projects will ever be realized because of the time, difficulty, and expense of commercializing, financing, and constructing LNG export terminals, as well as the uncertainties inherent in the global market demand for LNG.");

[120] Reuters, U.S. LNG projects face more reluctant buy side amid new concerns (Oct. 22, 2023), *available at* https://www.reutersevents.com/downstream/engineering-and-construction/us-lng-projects-face-more-reluctant-buy-side-amid-new-concerns?utm_campaign=PTC%2025OCT23%20Newsletter&utm_medium=email&utm_source=Eloqua (Attachment 62).

[121] Fact Sheet on Temporary Pause, *supra* note 12.

[122] Exec. Order 14008, Tackling the Climate Crisis at Home and Abroad (Jan. 27, 2021), 86 Fed. Reg. 7619 (Feb. 1, 2021).

White House has instituted a pause on new approvals because LNG exports' greenhouse gas emissions, among its other harms, require careful scrutiny.[123] President Biden also reinstated the United States' commitment to the Paris Agreement[124] and made additional commitments in Glasgow.[125]

Meeting those commitments, and more, is critical: a 2021 report by the International Energy Agency concluded that "hav[ing] a fighting chance of . . . limiting the rise in global temperatures to 1.5°C. . . requires nothing short of a total transformation of the energy systems that underpin our economies."[126] In order for the global energy sector to reach net zero emissions by 2050, many of the LNG facilities currently under construction or at the planning stage cannot be built.[127] The report also projects that from 2020 to 2050, natural gas traded as LNG will fall by 60 percent, and global demand will decrease by more than five percent on average in the 2030s alone.[128] Thus, European buyers recognize that LNG, long touted as a climate solution, is in fact a climate problem.[129]And as noted, European leaders have recognized that "European fossil gas demand is set to structurally decline as the continent continues to invest in energy efficiency and renewable energy, and to electrify its power, buildings and industrial

[123] White House, Statement from President Biden on Decision to Pause Pending Approvals of LNG Exports, https://www.whitehouse.gov/briefing-room/statements-releases/2024/01/26/statement-from-president-joe-biden-on-decision-to-pause-pending-approvals-of-liquefied-natural-gas-exports/ (Jan. 26, 2024) (hereinafter "Statement from President Biden on LNG Export Pause") (Attachment 63).

[124] Anthony Blinken, The United States Officially Rejoins the Paris Agreement, U.S. Department of State, *available at* https://www.state.gov/the-united-states-officially-rejoins-the-paris-agreement/ (Feb. 19, 2021) (Attachment 64).

[125] Glasgow Fact Sheet, *supra* note 101.

[126] IEA, Net Zero by 2050 at 3, *supra* note 17.

[127] *Id*. at 102–03.

[128] *Id.*

[129] Lydia Plante and Ted Nace, Nervous Money, Global Energy Monitor (June 2021) at 4, *available at* https://globalenergymonitor.org/report/nervous-money/ (Attachment 65).

sectors."[130] *See supra* Section II.B.2.a. As a result, there is no demand for Magnolia's LNG in Europe, despite Magnolia's focus on that market.[131]

Moreover, this market shift away from LNG is not limited to European buyers: Asian demand for LNG is forecasted to decline significantly in coming years as well. Japan, historically a big player in the LNG import market, plans to cut GHG emissions by 46% by 2030 by boosting renewable energy to double 2019 levels and cutting the share of LNG in the national electricity mix by 1% by 2030.[132] Similarly, South Korea plans to cut LNG back to just 9.3% of the country's power mix by 2036, down from almost 30% in 2021."[133] Even China, anticipated to be the largest LNG growth market for 20 years, is not projected to need any new LNG contracts, at least through 2035.[134] In 2022, demand from other emerging buyers in Asia fell 15%.[135] India, Pakistan, and Bangladesh experienced an overall 16% reduction in LNG imports in 2022.[136] IEEFA has downgraded prospects for medium-term LNG demand growth in that region, previously thought to be an emerging LNG market.[137] And Southeast Asia faces a similar decline in LNG demand forecasts and uptick in renewable energy development.[138] This lack of demand combined with the numerous other LNG export facilities planned to come online in 2025-2026 (*i.e.*, several years

[130] Letter of Marie Toussaint, *supra* note 102; *see also* Letter from European Civil Societys, *supra* note 102.

[131] Magnolia Application at 13.

[132] IEEFA, Global LNG Outlook 2023-2027, at 20 (Feb. 2023), *available at* https://ieefa.org/resources/global-lng-outlook-2023-27 (hereinafter "IEEFA 2023-2027 Outlook") (Attachment 66); Reuters, *Japanese utilities want G7 to allow countries to set their own paths to energy transition* (Mar. 19, 2023), *available at* https://www.reuters.com/business/energy/japanese-utilities-want-g7-allow-countries-set-their-own-paths-energy-transition-2023-03-17/ (Attachment 67).

[133] IEEFA 2023-2027 Outlook, *supra* note 132 at 20; Charles Lee, S&P Global Insights, *South Korea to cut LNG in power mix to 9.3% in 2036, sharply raises role of nuclear energy* (Jan. 12, 2023), *available at* https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/lng/011223-south-korea-to-cut-lng-in-power-mix-to-93-in-2036-sharply-raises-role-of-nuclear-energy (Attachment 68).

[134] IEEFA 2023-2027 Outlook, *supra* note 132 at 26, 30.

[135] *Id*.

[136] *Id.* at 31.

[137] *Id.* at 31.

[138] *Id.* at 38, 40-41.

before Magnolia's proposed 2028 operations), led IEEFA to forecast an impending LNG supply glut, meaning lower-than-anticipated prices and profits for LNG exporters.[139]

The 2023 World Energy Outlook by the International Energy Agency ("IEA") similarly downgraded its forecasts for gas demand in 2040 compared with its 2021 forecasts, due a faster move away from gas in advanced economies, an upward revision to the outlook for renewables, and slower projected growth in emerging market and developing economies.[140] The IEA also lowered its 2050 LNG demand projections by nearly 15% and overall natural gas demand by 20% in the latest report versus its outlook in 2021.[141] The report forecasts that, "[s]ince natural gas demand peaks in all [forecasted] scenarios by 2030, there is little headroom remaining for either pipeline or LNG trade to grow beyond then."[142] Based on the LNG capacity already *in operation or under construction*, the IEA concludes that "global LNG markets look amply supplied in the [business as usual scenario] until at least 2040."[143] Under a scenario wherein all countries meet their aspirational GHG reduction targets, "LNG demand peaks by 2030 and projects under construction today are sufficient to meet demand." [144] And in the scenario where countries achieve net zero energy by 2050, "a global supply glut forms in the mid-2020s and under construction projects are no longer necessary."[145] Because Magnolia LNG is far from starting construction, it fails to qualify under any of these scenarios.[146] And rather than serving

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[139] *Id.* at 5.

[140] World Energy Outlook 2023, *supra* note 16 at 77.

[141] *Id.* at 78.

[142] *Id.* at 139; Reuters, *IEA says "unprecedented" supply surge could lead to LNG glut from 2025* (Oct. 24, 2023), *available at* https://www.reuters.com/markets/commodities/iea-says-unprecedented-supply-surge-could-lead-lng-glut-2025-2023-10-24/ (Attachment 69).

[143] World Energy Outlook 2023, *supra* note 16 at 139.

[144] *Id.*

[145] *Id.*

[146] The IEA warns that even projects *already under construction* are at significant risk of not recovering their initial capital investments: "While the sponsors of all LNG projects currently under construction can expect to fully recover their initial capital investment in the [business as usual scenario], around two-thirds of these projects are at risk of not doing so in the [achieving aspirational targets scenario], and up to 75% could fail to do so in the [net zero by 2050 scenario]." *Id*. at 140.

direct end users abroad, IEEFA recently concluded that "[t]he largest buyers from new U.S. LNG facilities are not European and Asian consumers at all. Instead, they are large oil and gas traders speculating on their ability to re-sell LNG at a profit."[147] Thus, Magnolia's proposal to add incremental LNG exports in the late 2020s is neither needed nor wise to support American global strategic interests.

Given these significant changes in the economic, political, and scientific context since DOE first authorized Magnolia LNG to export LNG to non-FTA countries, DOE's 2016 public interest finding is irrelevant. These new circumstances demonstrate that Magnolia's application is not in the public interest. And as discussed in the next section, this new information also constitutes "significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts"[148] and therefore triggers DOE's obligation to conduct supplemental NEPA review.

3. The Magnolia LNG Project's Environmental Impacts Require New NEPA Analysis and Demonstrate More LNG Exports Are Not in the Public Interest.

In addition to the immediate harms caused by price increases and inconsistency with global strategic interests, LNG exports will cause environmental harm lasting for generations. Those harms include impacts occurring across the entire LNG lifecycle that both the Natural Gas Act and NEPA require DOE to consider. *See* Section II.B.3.a.

As DOE has acknowledged, it must "give appropriate consideration to the environmental effects" of the Magnolia LNG Project, and "[n]o final decision will be issued" on Magnolia's application "until DOE has met its NEPA responsibilities."[149] NEPA applies to all major federal actions with the potential to significantly affect the environment, including the decision to authorize LNG exports. *See Vecinos para el Bienestar de la Comunidad Costera v. FERC*, 6 F.4th 1321 (D.C. Cir. 2021). As a practical matter, if Magnolia's new application for exports is

[147] Sam Reynolds & Ana Maria Jaller-Makarewicz, *The U.S. pause on LNG export permits does not threaten energy security in Europe and Asia*, IEEFA (Feb. 8, 2024), *available at* https://ieefa.org/resources/us-pause-lng-export-permits-does-not-threaten-energy-security-europe-and-asia (Attachment 70).

[148] 40 C.F.R. § 1502.9(d)(1)(ii).

[149] 88 Fed. Reg. 88,602 (Dec. 22, 2023).

denied, the adverse impacts caused by the Magnolia LNG Project will not occur.[150] Thus, NEPA requires DOE to examine the environmental impacts of authorizing those exports. Because DOE is evaluating a new application, NEPA requires DOE to put its best foot forward by conducting a new NEPA analysis considering all current circumstances, information, and analytical tools.

Although agencies can sometimes meet their NEPA obligations, in whole or in part, by tiering off a valid prior analysis,[151] there is no such valid prior analysis here, for several reasons. First, DOE's general studies are not NEPA documents, ask the wrong questions, and fail to incorporate available science. *See* Section II.B.3.b. While we appreciate DOE's commitment to updating those general studies before granting any new LNG export approvals,[152] updating the studies is not enough alone. Instead, DOE must properly incorporate those non-NEPA general studies into a NEPA review, supplement the general studies with available project-specific information, conduct the requisite project-specific analysis including of alternatives and mitigation, and make that NEPA analysis available for public comment.

Second, DOE cannot rely on FERC's prior NEPA documents (the 2015 FEIS and 2020 SEIS) to satisfy its NEPA obligations. Most obviously, DOE must consider indirect and lifecycle effects of LNG exports in a NEPA document, but the FERC NEPA documents entirely fail to address upstream or downstream impacts, nor do they indicate where such an analysis can be found.[153] As a result, the FERC documents failed to satisfy DOE's NEPA obligations, even when they were issued. And even if the FERC NEPA documents included the required lifecycle impact analysis, they are stale and need to be updated. *See* Section II.B.a.v. Subsequent events, including Magnolia's own proposals for changes to the project, would require supplemental analysis before any federal action could occur here. Thus, even if DOE could rely on these old NEPA analyses (it cannot), DOE would still be required to determine whether new information

[150] Magnolia acknowledges that it cannot reach a final investment decision—or proceed with the project—without the requested new authorization. Magnolia Application at 8.

[151] 40 C.F.R. § 1501.11.

[152] Fact Sheet on Temporary Pause, *supra* note 12.

[153] 2015 FEIS, *supra* note 82 at 4-142 (discussing direct emissions from the terminal and pipeline infrastructure, but omitting discussion of Magnolia's upstream or downstream GHG impacts), 4-277 (explicitly refusing to address cumulative downstream impacts and providing no discussion of upstream GHG impacts); 2020 SEIS, *supra* note 85 at 8 (providing no discussion about upstream or downstream GHG impacts).

required supplementation here. 40 C.F.R. § 1502.9(d) (2022). DOE Must Consider GHG Impacts from the Entire LNG Lifecycle.

As DOE has repeatedly recognized, and as President Biden affirmed in the recent announcement regarding the need to update DOE's studies, DOE cannot approve LNG exports without taking a hard look at the entire LNG lifecycle, including effects on gas production and use. Such upstream and downstream changes are reasonably foreseeable, as are the environmental effects thereof. However, this recognition, while frequent, has not been uniform. In promulgating the 2020 categorical exclusion, DOE mistakenly contended that it was not required to consider these lifecycle issues.[154] And DOE has previously argued that although it was required to consider these issues under the Natural Gas Act, that these issues were somehow outside the scope of DOE's NEPA responsibilities.[155] In the face of such occasional equivocation, we emphasize that both the Natural Gas Act and NEPA require DOE to take a hard look at environmental impacts occurring throughout the entire LNG lifecycle, and to consider such impacts in the public interest determination.

Under the Natural Gas Act, DOE itself has recognized that a key consideration in its public interest determinations is the effect increased export volumes will have on gas production and use. DOE therefore must consider the environmental impacts of such effects. Similarly, NEPA requires DOE to take a hard look at reasonably foreseeable impacts across the LNG lifecycle, including upstream impacts relating to the production and supply of the gas that is exported, and downstream impacts relating to transportation and use of exported LNG. These reasonably foreseeable impacts include greenhouse gas emissions. Specifically, although non-climate impacts may be location-dependent and therefore difficult to foresee, location is in many ways irrelevant to the analysis of greenhouse gas emissions, as DOE has admitted.[156] In a closely related context regarding FERC's approval of interstate gas pipelines, the D.C. Circuit has

[154] 85 Fed. Reg. 78,197-01, 78,202 (Dec. 4, 2020).

[155] *See* Freeport LNG Expansion L.P., et al., DOE/FE Order No. 3282-C, FE Docket No. 10-161-LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations, at 73 (Nov. 14, 2014).

[156] *E.g.*, Final Environmental Addendum at 2 ("W*ith the exception of greenhouse gases (GHG) and climate change*, potential impacts of expanded natural gas production and transport would be on a local or regional level.") (emphasis added).

repeatedly affirmed that the Natural Gas Act and NEPA require analysis of reasonably foreseeable upstream and downstream effects. *Sierra Club v. FERC*, 867 F.3d 1357, 1373 (D.C. Cir. 2017) ("*Sabal Trail*"); *Food & Water Watch v. FERC*, 28 F.4th 277, 288-89 (D.C. Cir. 2022).

These holdings apply with equal force to DOE's approval of LNG exports. The D.C. Circuit did not hold otherwise in *Sierra Club v. Dep't of Energy*, 867 F.3d 189 (2017) ("*Freeport II"*), decided shortly before *Sabal Trail*. In recent orders, DOE has suggested that *Freeport II* categorically excused DOE from considering exports' effects caused by increased gas production; but DOE has mischaracterized that case.[157] *Freeport II* first noted that Sierra Club had not disputed that DOE could rely on materials other than the EIS to meet DOE's NEPA obligations, and the Court therefore assumed, without deciding, that such reliance was permissible.[158] 867 F.3d at 197. *Freeport II* then credited DOE for examining upstream impacts in the Addendum and LNG Lifecycle report. *Id.* at 198, 200, 202. The issue was not whether "effects pertaining to increased [natural] gas production were not reasonably foreseeable" *at all*;[159] the issue was whether DOE acted arbitrarily in concluding that these effects could not be foreseen *in additional detail*. Thus, DOE must examine the indirect and direct GHG impacts of the Magnolia LNG Project before approving this application.

More broadly, effects occurring upstream and downstream of the point of export are plainly the types of indirect effects that NEPA requires agencies to consider. In determining what effects can be attributed to the proposed action, and that therefore must be included in the scope of NEPA review, courts have analogized the concept of "proximate cause" in tort law. *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752, 754 (2004). Thus, at a minimum, NEPA requires analysis of the "normal consequence[s]" of the action under review, regardless of whether a link in the chain of events is a third party acting predictably. Restatement (Second) of Torts §§ 440-443 (1965). The NEPA regulations DOE must apply here reflect this principle by requiring analysis of "reasonably foreseeable" indirect effects, including "growth inducing" effects. 40 C.F.R.§

[157] *See, e.g.*, Order 3909-C at 20-21; Order 3878-e at 19-22.

[158] We challenge such reliance here, as explained *supra*.

[159] Order 3909-C at 21 (quoting *Freeport II*, 867 F.3d at 198).

1508.1(g)(2). Here, the prior analyses on which DOE intends to rely here,[160] all predict that exports will lead to increased gas production; an increase in production is a normal, and often intended, consequence of additional exports.

In summary, both the Natural Gas Act and NEPA require DOE to evaluate and weigh environmental impacts occurring through the LNG life cycle.

a) DOE's Life Cycle Greenhouse Gas Analyses Are Not a Substitute for NEPA Review, and Do Not Demonstrate that Greenhouse Gas Emissions Caused by the Proposal Are Consistent with the Public Interest.

Magnolia seeks authorization to export gas through 2050.[161] Because Magnolia's existing export authorization has expired, it cannot export any gas to non-FTA countries—which represent the vast majority of the LNG market[162]—without this new authorization.[163] DOE therefore must take a hard look at the environmental impact of expanded exports of LNG across that twenty plus-year time period, with the long-term gas production and use such exports necessarily entail. As noted, while DOE is free to explicitly incorporate the 2014 and 2019 lifecycle analyses—along with any newly updated versions of those studies issued—into its NEPA analysis of this issue, both of those analyses are procedurally insufficient to meet DOE's

[160] Notice of Application, 88 Fed. Reg. at 60,671 (indicating that DOE intends to consider the 2014 Addendum, 2014 Life Cycle Perspective, 2018 Macroeconomic Outcomes study, and 2019 Life Cycle Update when reviewing Magnolia's application).

[161] Magnolia Application at 1.

[162] Currently, the U.S. has free trade agreements with 20 countries: Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Singapore, and South Korea. *See* International Trade Administration, *available at* https://www.trade.gov/free-trade-agreements (last visited Jan. 26, 2024). From January through October 2023 (the latest data available from the EIA), exports to FTA countries (380.0 bcf/yr), represented roughly 10.7% of total U.S. LNG exports (3,534.2 bcf/yr). Those 2023 FTA exports by vessel included: 31.2 bcf to Chile, 23.0 bcf to Colombia, 61.9 bcf to the Dominican Republic, .001 bcf to El Salvador, 3.2 bcf to Jordan, 10.0 bcf to Mexico, 15.7 bcf to Panama, 20.0 bcf to Singapore, and 214.5 bcf to South Korea. *See* U.S. Energy Information Administration, *U.S. Natural Gas Exports and Re-Exports by Country, available at* https://www.eia.gov/dnav/ng/ng_move_expc_s1_a.htm (last visited January 26, 2024). In addition, the U.S. exported by truck 0.07 bcf to Canada and .56 bcf to Mexico. *Id.*

[163] Magnolia Application at 1-2.

NEPA and Natural Gas Act obligations here. More fundamentally, the lifecycle analyses both ask the wrong questions and do not reflect available science regarding LNG's impacts.

i. Generic Lifecycle Studies Do Not Excuse DOE's NEPA Obligations.

Procedurally, the generic lifecycle analyses are not a substitute for NEPA review, as DOE continues to recognize.[164] Although the lifecycle analyses can inform NEPA review, DOE must address the impacts of this and other LNG proposals within the NEPA framework. This includes addressing whether such impacts are consistent with the United States' climate goals. They are not. But the 2014 and 2019 lifecycle analyses do not address this issue. That is, the analyses do not provide any discussion of whether increasing or extending LNG exports will help or hinder achievement of the long-term drastic emission reductions that are essential to avoiding the most catastrophic levels of climate change. Nor do they provide *any* analysis of environmental or energy justice impacts resulting from the LNG buildout generally, or Magnolia LNG in particular. Because NEPA is a procedural statute, agencies are not free to ignore NEPA's required procedures or substitute their own. And one of NEPA's procedural requirements is that the analysis of environmental impacts actually be discussed in the EIS or a Supplemental EIS. DOE can incorporate other materials, but it must do so explicitly, and these materials must be summarized in the EIS or Supplemental EIS.[165] Put differently, a defective NEPA document cannot be cured by pointing to other material not properly incorporated therein.[166]

Moreover, the non-NEPA documents referenced in DOE's notice of application (or the updated general studies being prepared during DOE's pause on approvals) do not contain all of the information NEPA requires regarding the GHG impacts of the Magnolia LNG Project. Nor are these general analyses project specific. For example, although DOE previously concluded that it was difficult to predict where gas would come from or where it would go for exports in

[164] *E.g.,* 85 Fed. Reg. at 78,202 (The life cycle "reports are not part of DOE's NEPA review process").

[165] *See* 40 C.F.R. § 1502.21 (2019) (material incorporated by reference "shall be cited in the statement and its content briefly described").

[166] *Dubois v. U.S. Dep't of Agric.*, 102 F.3d 1273, 1289 (1st Cir. 1996); *Com. of Ky. ex rel. Beshear v. Alexander*, 655 F.2d 714, 718-19 (6th Cir. 1981); *I-291 Why? Ass'n v. Burns*, 517 F.2d 1077, 1081 (2d Cir. 1975).

general, here, DOE has the benefit of Magnolia's statements that it is focused heavily on securing supplies from the Haynesville basin.[167] Similarly, DOE has the benefit of Magnolia's statements about the specific needs for the gas deliveries: namely, serving European allies.[168] And DOE must examine opportunities for mitigation and a rigorous exploration of alternatives that might reduce environmental impacts of Magnolia's project in particular. DOE must address whether available project-specific information enables a more detailed or particularized analysis than DOE has conducted in its general studies.

We appreciate that DOE recently acknowledged that its existing lifecycle analyses fail to properly account for LNG's climate and environmental justice impacts.[169] We hope that DOE's forthcoming update of the lifecycle analyses addresses these gaps; we provide further detail on the prior lifecycle analyses' limitations to inform DOE's updated analysis. But even conducting this critical analysis in a generic study will not offset DOE's obligation to conduct the project-specific analysis of Magnolia's project that NEPA requires. In other words, updating the analysis to address the prior analyses' flaws is not a silver bullet, and DOE must still conduct the robust, project-specific analysis that NEPA requires. Doing so will demonstrate that the project's environmental harms render the project contrary to the public interest.

ii. The Impact of U.S. LNG Exports on Domestic GHG Emissions Is Foreseeable, and DOE Must Analyze It Here.

Even if DOE was incapable of reasonably forecasting how increased exports will influence overseas emissions (it is not, as discussed below), there would be no doubt that increasing exports will increase domestic emissions associated with gas production and liquefaction.[170] Studies DOE relies on in the lifecycle analyses indicate that if the 449 bcf/year of exports proposed here draw entirely on new gas production, this production will emit nearly 3.1

[167] Magnolia Application at 7.

[168] Magnolia Application at 13.

[169] Fact Sheet on Temporary Pause, *supra* note 12 (recognizing that the existing studies "no longer adequately account for considerations . . . the latest assessment of the impact of greenhouse gas emissions").

[170] *See, e.g.,* Final Environmental Addendum at 44; *see also* Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update at 23, *available at* https://www.energy.gov/sites/prod/files/2019/09/f66/2019%20NETL%20LCA-GHG%20Report.pdf (hereinafter "2019 Lifecycle GHG Update").

million metric tons per year of carbon dioxide equivalent.[171] To the extent that these 449 bcf/y of exports are supplied by displacement of other domestic gas demand (e.g., gas-to-coal shifting in the electric sector), rather than an increase in domestic production, the impact on domestic emissions will likely be even higher.[172] And the cumulative problem is immense: to date, the Department has authorized 17.8 trillion cubic feet per year of exports to non-free trade agreement countries (excluding Magnolia's expired authorization).[173] Producing the gas to supply these exports will collectively increase domestic emissions by roughly 121 million metric tons of carbon dioxide equivalent per year. In contrast to both Magnolia's proposed emissions and the cumulative emissions from already-approved exports, FERC recently proposed to treat projects with lifecycle CO2e emissions above 100,000 tpy as significant.[174] DOE must disclose and analyze the entirely foreseeable and presumptively-significant volume of upstream emissions; it cannot refuse to do so "just because the emissions in question might be partially offset by reductions elsewhere." *Sierra Club v. FERC*, 867 F.3d 1357, 1374-75 (D.C. Cir. 2017) ("Sabal Trail"); *accord WildEarth Guardians v. U.S. Bureau of Land Mgmt.*, 870 F.3d 1222, 1236 (10th Cir. 2017).

Even if it was certain that U.S. LNG would solely displace other fossil fuels (it will not), DOE would still need to discuss impacts on domestic emissions. The U.S.'s own emission reduction goals, and international climate agreements to which the U.S. is a party, specifically call on the U.S. to address territorial emissions, regardless of whether domestic emission increases might be offset by foreign emission reductions.[175] Compliance with commitments

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[171] Final Environmental Addendum at 44 (estimating 6.8 million metric tons of CO2e emissions per trillion cubic feet of gas produced); *but see* 2019 Lifecycle GHG Update, *supra* note 170 (acknowledging changes to estimates used in the 2014 Final Environmental Addendum).

[172] *See, e.g.*, EIA, Effects of Increased Natural Gas Exports on Domestic Energy Markets, at 18-19 (Jan. 2012), *available at* https://www.eia.gov/analysis/requests/fe/pdf/fe_lng.pdf (Attachment 71).

[173] 88 Fed. Reg. at 25,274.

[174] FERC, Interim Policy Statement on Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Reviews, Dkt. PL21-3, 187 FERC ¶ 61,108 P79 (Feb. 18, 2022).

[175] *See* Sierra Club Comments on 2019 Lifecycle Report at 8-9, *available at* https://fossil.energy.gov/app/DocketIndex/docket/DownloadFile/604 (hereinafter "Sierra Club 2019 Lifecycle Comments") (Attachment 72); Sierra Club Comments on 2014 Lifecycle Report at 12-14, *available at* https://fossil.energy.gov/app/DocketIndex/docket/DownloadFile/180 (Attachment 73).

made under the Paris Accord is evaluated based on "greenhouse gas emissions and removals taking place within national territory and offshore areas over which the country has jurisdiction."[176] There are sound policy reasons for these agreements' focus on domestic emissions. As DOE itself acknowledges, impacts on domestic emissions can be more reasonably verified than impacts in other countries; asking each country to demonstrate reductions in domestic emissions improves both accuracy and accountability. In addition, it would be unfair and thus nonstrategic for the U.S. to argue that although the world must transition away from fossil fuels as quickly as possible for climate reasons, the U.S. can enjoy the purported economic benefits of increased fossil fuel production, based on the argument that our increased emissions will be offset by other nations' reductions. And other countries are generally more likely to meet their GHG reduction commitments if the U.S. satisfies our own.

Executive Order 14,008, Tackling the Climate Crisis at Home and Abroad,[177] affirms that "[r]esponding to the climate crisis will require … net-zero global emissions by mid-century or before."[178] As an interim step, President Biden has announced a "commitment to reduce U.S. emissions by 50-52% from 2005 levels in 2030."[179] Increasing LNG exports is likely to interfere with achieving these goals, and that interference is both contrary to the public interest, as interpreted for purposes of the Natural Gas Act, and an effect that must be analyzed under NEPA. But DOE entirely failed to consider the impact of LNG exports, individually or cumulatively, on efforts to attain U.S. emission reduction targets. Although DOE previously concluded that it was difficult to predict where gas would come from in general, here, DOE has the benefit of Magnolia's statements that it anticipates obtaining supply gas from the Haynesville basin.[180]

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[176] Intergovernmental Panel on Climate Change, 2019 Refinement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories, Chapter 8: Reporting and Tables, at 8.2.1 *available at* https://www.ipcc-nggip.iges.or.jp/public/2019rf/pdf/1_Volume1/19R_V1_Ch08_Reporting_Guidance.pdf (Attachment 74).

[177] 86 Fed. Reg. 7619 (Jan. 27, 2021).

[178] *Id.* § 101, 86 Fed. Reg. at 7619.

[179] Glasgow Fact Sheet, *supra* note 101.

[180] Magnolia Application at 7.

iii. Globally, DOE Can Foresee That Increased LNG Exports Are Incompatible with Emission Reduction Targets.

As the White House recently noted when announcing its pause on LNG export approvals, "climate change is the existential threat of our time – and we must act with the urgency it demands to protect the future for generations to come."[181] Globally, avoiding catastrophic climate change by limiting global warming to 1.5° C—or even 2° C—will require drastic reductions in global emissions, which can only be achieved by phasing out fossil fuels as quickly as possible.[182] The world must transition to net-zero emissions by 2050, and reduce global carbon dioxide (CO2) emissions by 45 percent by 2030—we need "rapid, deep and sustained reductions in global greenhouse gas emissions."[183]

According to the United Nations Intergovernmental Panel on Climate Change (IPCC), to achieve these reductions, we must move to renewable energy as extensively and as quickly as possible.[184] The International Energy Agency (IEA) similarly concludes that, globally, "there is no need for investment in new fossil fuel supply in our net zero pathway."[185] And even under the business as usual scenario, the IEA's latest report concludes that LNG export facilities *in operation or under construction* provides "ample" global supply until at least 2040.[186] Accordingly, Executive Order 14,008 instructs federal agencies to discourage "high carbon investments" or "intensive fossil fuel-based energy."[187] Global LNG export volumes, specifically, must *decline* below present levels in just the next few years: as the International

[181] Fact Sheet on Temporary Pause, *supra* note 12.

[182] Sierra Club Comments on 2019 Lifecycle Report, *supra* note 175, at 4-5; Sierra Club Comments on 2014 Lifecycle Report, *supra* note 175 at 12-15.

[183] U.N. Framework Convention on Climate Change Secretariat, Glasgow Climate Pact at ¶17, *available at* https://unfccc.int/sites/default/files/resource/cop26_auv_2f_cover_decision.pdf (Attachment 74).

[184] *See, e.g.*, IPCC Physical Science Summary, *supra* note 282.

[185] IEA, Net Zero by 2050, *supra* note 17 at 21.

[186] World Energy Outlook 2023, *supra* note 16 at 139.

[187] Executive Order 14,008, 86 Fed. Reg. 7619, at § 102(f), (h) (Jan. 27, 2021).

Energy Agency recently affirmed, further expansion of LNG export facilities cannot be part of the path to net-zero emissions.[188]

Despite this broad consensus, and the fact that U.S. LNG exports are significantly reshaping the U.S. and global energy landscapes, DOE has never measured U.S. LNG exports against the world we need to achieve, instead solely comparing U.S. LNG exports to the energy landscape we have now. The only questions asked by DOE's lifecycle analyses are "How does exported LNG from the United States compare with" other fossil fuels (coal or other gas) currently used "in Europe and Asia, from a life cycle [greenhouse gas] perspective?"[189] Global warming in excess of 2° C, or even 1.5° C, will have tremendous foreseeable environmental impacts and be contrary to the public interest. But DOE has entirely failed to consider whether the exports authorized here, which are permitted through 2050, would make it less likely that other countries will achieve the emissions reductions necessary to limit global warming to these levels. We hope that DOE's forthcoming update to its studies begins to tackle this question; but in the meantime, DOE has failed to consider an important factor weighing on the public interest. And so long as DOE continues to refuse to address this issue in a NEPA document, it will continue to fail to take the hard look required by NEPA.

iv. Reasonable Forecasting Indicates that Additional U.S. LNG Exports Will Increase Global Emissions Even in the Intermediate Term.

While DOE has fundamentally failed to ask the right questions in its general studies, multiple sources of evidence enable DOE to reasonably forecast where additional LNG from the Magnolia LNG Project might go. As discussed above, any additional demand from Europe will likely be limited to the short or intermediate term, expiring far before the authorization's 2050 expiration. DOE must account for this information throughout the process of updating its general studies and in project-specific review of Magnolia's application.

Here, DOE has the benefit of Magnolia's statements about the specific needs for the gas deliveries: namely, delivery to U.S. allies in Europe.[190] But as noted, Europe plans to drastically reduce its gas consumption by 2030 through renewable energy, energy efficiency, and energy

[188] IEA, Net Zero by 2050, *supra* note 17 at 102.

[189] 84 Fed. Reg. 49,278, 49,279 (Sept. 19, 2019).

[190] Magnolia Application at 13.

conservation. *See supra* Section II.B.2.a. Therefore, project-specific information in this record contradicts DOE's prior assumptions that LNG exports will only displace other fossil fuels. More broadly, peer reviewed research concludes that U.S. LNG exports are likely to play only a limited role in displacing foreign use of coal.[191] Thus, while DOE may have thought that LNG would primarily compete against other fossil fuels in 2014, when the first life cycle analysis report was published, subsequently-developed evidence shows that this unlikely to be the case, and DOE has not provided any evidence suggesting that LNG exports will primarily compete with coal or other sources of gas.

Even if, after taking a hard look at this additional information, DOE reaffirms its assertion that it cannot reasonably forecast how, individually or cumulatively, additional U.S. LNG exports will displace coal, other gas, renewables, or conservation, DOE must provide additional analysis of the range of possible outcomes. Until now, DOE's general studies have juxtaposed U.S. LNG with other sources of fossil fuels, but have failed to provide similar juxtaposition for renewables and conservation. This is inconsistent with recent forecasts that increasingly anticipate global reliance on renewable energy.[192] Providing only one comparison but not the other presents a misleadingly incomplete picture, especially where DOE concedes that *some* displacement of renewables will occur. If DOE were to provide this analysis—as it should in the pending updates to these studies—it would show that while the difference between U.S. LNG and other fossil fuels may not be great, the difference between LNG and renewables or conservation is stark. This analysis would reveal what percentage of exported LNG must displace other fossil fuels to avoid increasing emissions, relative to the status quo. Simply identifying that threshold would provide meaningful information to the public and to decisionmakers. For example, if DOE were to determine that the breakeven point is 98% displacement of other fossil fuels, the public and decisionmakers could form judgments about

[191] Gilbert, A. Q. & Sovacool, B. K., *US liquefied natural gas (LNG) exports: Boom or bust for the global climate?* Energy (Dec. 15, 2017), *available at* https://www.sciencedirect.com/science/article/abs/pii/S0360544217319564 (Attachment 76). *See also* Jake Schmidt, *Liquified Natural Gas has Limited Impact in Displacing Coal Emissions*, NRDC (Jan. 24, 2024), *available at* https://www.nrdc.org/bio/jake-schmidt/us-liquified-natural-gas-has-limited-impact-coal (Attachment 77).

[192] *See supra* Section II.B.2.b; *see also e.g.*, IEEFA, Global LNG Outlook 2023-2027, *supra* note 45.

whether additional LNG exports could plausibly have that little of an impact on renewables and conservation, even absent specific forecasts.

v. The 2019 and 2014 Lifecycle Analyses Understate Emissions.

In addition to asking the wrong questions, DOE's prior lifecycle analyses are factually unsupported and understate emissions, as Sierra Club and NRDC have previously explained. For example, the 2019 analysis assumes that the "upstream emission rate" or "leak rate" of U.S. LNG exports—the amount of methane that is emitted to the atmosphere during production, processing, and transportation of gas to the export facility—is 0.7% of the gas delivered.[193] Studies measuring actual emissions find much higher leak rates: a 2020 study that found that oil and gas production in the Permian Basin had a leak rate of roughly 3.5% or 3.7%.[194] And aerial measurement surveys from a 2023 study showed leakage rates up to 66.2%.[195] As we have previously explained, there are many reasons to believe these atmospheric measurements are more reliable than the "bottom up" estimates used by DOE—notably, the fact that bottom up estimates poorly represent the rare but severe major leaks that constitute a large fraction of upstream emissions.[196] Every year, new research further affirms that gas production emits greater amounts of methane than what DOE's analyses have assumed, despite ongoing efforts to reduce

[193] 2019 Lifecycle GHG Update, *supra* note 170 at 27.

[194] *See* Yuzhong Zhang *et al.*, Quantifying methane emissions from the largest oil-producing basin in the United States from space, SCIENCE ADVANCES (Apr. 22, 2020), *available at* https://advances.sciencemag.org/content/6/17/eaaz5120/tab-pdf (Attachment 78); *see also* Environmental Defense Fund, New Data: Permian Oil & Gas Producers Releasing Methane at Three Times National Rate (Apr. 7, 2020), *available at* https://www.edf.org/media/new-data-permian-oil-gas-producers-releasing-methane-three-times-national-rate (Attachment 79); Mark Omara et al., Methane emissions from US low production oil and natural gas well sites, 13 NATURE COMMUNICATIONS (Apr. 19, 2022), https://www.nature.com/articles/s41467-022-29709-3#Abs1 (finding low-production wells have leakage rates >10%) (Attachment 80).

[195] Deboarh Gordon et al., Evaluating net life-cycle greenhouse gas emissions intensities from gas and coal at varying methane leakage rates, Environmental Research Letters (July 17, 2023), *available at* https://iopscience.iop.org/article/10.1088/1748-9326/ace3db (hereinafter "Evaluating net life-cycle GHG emissions") (Attachment 81).

[196] Sierra Club 2019 Lifecycle Comments, *supra* note 175 at 6-8.

methane emissions.[197] And several studies have indicated that LNG may have higher lifecycle emissions than coal, depending on the leakage rate.[198]

DOE must also consider the implication of a new report, published in September 2023, that estimates the lifecycle methane emissions from LNG exports and climate damages stemming from US fossil fuel exports.[199] The study concludes that, when fossil fuel exports are included, U.S. greenhouse gas emissions from energy are expected to remain above 2005 levels through 2050.[200] This creates a blatant conflict with the U.S.'s commitment to net zero energy by 2050. The report also concludes that climate damages in 2050 resulting from U.S. fossil fuel exports will be between $6.1 and $18.7 trillion under the "high oil and gas supply" scenario.[201] That's between $2 and $6 trillion more than under the "low oil and gas supply" scenario. DOE must evaluate whether this new information about the cost of LNG exports renders the purported benefits of those exports obsolete. At a minimum, DOE must review and to respond to this research while updating its lifecycle analysis, before approving any further LNG export applications.

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[197] *See* NRDC, Sailing to Nowhere: Liquefied Natural Gas Is Not an Effective Climate Strategy (Dec. 2020), *available at* https://www.nrdc.org/sites/default/files/sailing-nowhere-liquefied-natural-gas-report.pdf (Attachment 82); Kayrros, U.S. Methane Emissions from Fossil Fuels at Risk of Worsening In 2022, Extending 2021 Trend (June 2022), *available at* https://www.kayrros.com/u-s-methane-emissions-from-fossil-fuels-at-risk-of-worsening-in-2022-extending-2021-trend/ (Attachment 83); *see also* Bill McKibben, *A Smoking Gun for Biden's Big Climate Decision?*, THE NEW YORKER (Oct. 31, 2023), *available at* https://www.newyorker.com/news/daily-comment/a-smoking-gun-for-bidens-big-climate-decision (hereinafter "A Smoking Gun") (Attachment 84).

[198] Evaluating net life-cycle GHG emissions, *supra* note 195 ("Numerous scenarios run in this study indicate that the benefits of gas do not outweigh coal at certain methane leakage rates."); A Smoking Gun, *supra* note 197; Benjamin Storrow, Is LNG dirtier than coal? It's complicated., ClimateWire (Feb. 5, 2024), https://subscriber.politicopro.com/article/eenews/2024/02/05/is-lng-dirtier-than-coal-its-complicated-00139191 (Attachment 85).

[199] Jeremy Symons, Exporting Carbon, at 7-16, Politico (Sept. 2023), *available at https://subscriber.politicopro.com/eenews/f/eenews/?id=0000018a-954d-dd5e-abfe-9fcf6fd70000* (hereinafter "Exporting Carbon") (Attachment 86); *see also* A Smoking Gun, *supra* note 197.

[200] Exporting Carbon at 9.

[201] *Id.* at 10.

b) DOE Must Address Significant Changes to the Project and New Information Through a New or Supplemental EIS.

Magnolia has proposed several changes to the project that require NEPA review, either through a new or Supplemental EIS. In addition, significant new information regarding the potential climate impacts of the project and cumulative impacts require supplementation.

Supplementation is required whenever there is *any* new information or circumstances bearing on the project's impacts, or when there have been *any* pertinent changes to the project, provided that some "major Federal action remains to occur;" [202] the question is not simply whether the proposed federal action *itself* constitutes such a change or new circumstance.[203] In discussing the obligation to supplement environmental impact statements, the D.C. Circuit has explained that "When new information comes to light the agency must consider it, evaluate it, and make a reasoned determination whether it is of such significance as to require implementation of formal NEPA filing procedures."[204] Even when relying on a prior NEPA analysis, FERC retains an "obligation … to analyze new circumstances and new information under the supplementation rubric."[205] Here, DOE cannot simply adopt the prior NEPA analyses without supplementation. DOE must, at a minimum, prepare, circulate, and file a Supplemental EIS that addresses these new developments and make it available for public comment.[206]

i. Magnolia's Carbon Capture and Storage and Blue Hydrogen/Ammonia "Synergy" Proposals Require Significantly More Information and a Supplemental EIS.

Contrary to Magnolia's claims that nothing about the project has changed since it was first proposed in 2013 and modified in 2018,[207] at least two changes to the project mandate

[202] 40 C.F.R. § § 1502.9(d).

[203] 40 C.F.R. § 1502.9(d)(1)(ii) (requiring supplementation when there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts").

[204] *People Against Nuclear Energy v. U.S. Nuclear Regulatory Comm'n*, 678 F.2d 222, 234 (D.C. Cir. 1982), *rev'd on other grounds sub nom. Metro. Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766 (1983) (quotation omitted).

[205] *N. Alaska Env't Ctr. v. U.S. Dep't of the Interior*, 983 F.3d 1077, 1096 (9th Cir. 2020).

[206] 40 C.F.R. § 1502.9(c)(4).

[207] Magnolia Application at 5.

further NEPA review: Magnolia's plan to incorporate CCS and its plan to reach "synergy" with related blue hydrogen or ammonia projects.

With regard to the CCS proposal, Magnolia provides almost no information about its proposal. Magnolia instead encourages DOE leave the issue solely to FERC to address at some future point.[208] Yet, Magnolia nevertheless implies that DOE should consider the greenhouse gas reduction benefits of this entirely hypothetical proposal now. Because CCS wasn't included in FERC's 2015 EIS or 2020 SEIS, the potential benefits and risks must be examined. [209] For example, CCS can stress water resources[210] and often has a history of poor performance[211]— capturing a fraction of the total emissions from lifecycle gas production. Thus, DOE must conduct its own analysis of the environmental impacts of the CCS proposal here. And absent a requirement for Magnolia to implement CCS, DOE cannot accept Magnolia's claims that it will reduce emissions or provide any other environmental benefits.

Similarly, any potential "synergy" with related blue hydrogen or ammonia projects requires significantly more information and analysis than the FERC NEPA analyses or Magnolia's application have provided here. This "synergy" was not mentioned in FERC's prior NEPA analyses. Ammonia production can be extremely dangerous.[212] And blue hydrogen results

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[208] Magnolia Application at 13, 18-19.

[209] NEPA regulations impose overlapping obligations to ensure that agencies are looking at the big picture, including requirements to consider "connected actions," 40 C.F.R. § 1501.9(e)(1), and "cumulative effects," § 1508.1(g)(3), to avoid "segmenting" review into piecemeal components.

[210] Lorenzo Rosa, et al., *New research shows hydrological limits in carbon capture and storage*, UC Berkeley (May 4, 2020), *available at* https://chemistry.berkeley.edu/news/new-research-shows-hydrological-limits-carbon-capture-and-storage#:~:text=New%20research%20shows%20that%20CCS,CCS%20places%20on%20water%20consumption] (Attachment 87).

[211] Bruce Robertson, *Carbon capture has a long history. Of failure.*, IEEFA (Sept. 2, 2022), *available at* https://ieefa.org/resources/carbon-capture-has-long-history-failure?gclid=Cj0KCQiA5rGuBhCnARIsAN11vgRvAE34rUfb88ynZvzyDUQLxDSjtNno0U2bl_bp8IG_f8KlV9bPTUoaAmAIEALw_wcB (Attachment 88).

[212] Peter Schmitz et al., *Determining a realistic ranking of the most dangerous process equipment of the ammonia production process: A practical approach* § 2.1, 70 J. OF LOSS PREVENTION IN THE PROCESS INDUSTRIES (May 2021), *available at* https://www.sciencedirect.com/science/article/pii/S0950423021000073 (Attachment 89) (summarizing the fire and explosion risks and toxic pollutants involved in ammonia production).

in significant carbon emissions.[213] Moreover, it is not clear to what extent the blue hydrogen or ammonia projects are dependent upon the LNG exports at issue here. Again, because FERC's prior NEPA review did not evaluate a connected blue hydrogen/ammonia project, DOE must conduct rigorous analysis of potential risks from that project, as a connected and cumulative action, here.

DOE must similarly scrutinize Magnolia's other unsupported allegations about its purported environmentally beneficial project design. For example, Magnolia provides no support for its claim that it can "produce and load LNG on ships with up to 30 percent lower specific CO2 emissions (tons of CO2 per tons of LNG) than the most recent LNG trains commissioned and in service in the U.S. Gulf Coast."[214] Because the U.S. does not need additional export capacity, Magnolia's claims about efficiency are irrelevant unless a less efficient terminal gets retired in favor of the Magnolia LNG Project. To the extent that DOE approves further exports at all, DOE must rigorously explore the relative efficiency and cannot simply take Magnolia's word. Magnolia also touts its Optimized Single Mixed Refrigerant ("OSMR") technology,[215] but that technology poses significant additional safety concerns.[216] Moreover, the OSMR process precludes benefits gained by other facility designs with electric refrigeration turbines powered by an electric grid that will become increasingly clean over time.[217] Finally, the amount of money that Glenfarne (not Magnolia) has donated to various causes[218] is irrelevant here; those donations do not alleviate the real economic and environmental harms to communities that will result from the project. Similarly, the fact that Glenfarne's other companies have developed renewable

[213] David Schlissel and Anika Juhn, *Blue Hydrogen: Not Clean, Not Low Carbon, Not a Solution*, IEEFA (Sept. 2023), *available at* https://ieefa.org/sites/default/files/2024-01/Blue%20Hydrogen%20Not%20Clean%20Not%20Low%20Carbon_September%202023_0.pdf (Attachment 90).

[214] Magnolia Application at 16.

[215] Magnolia Application at 21-26.

[216] Magnolia Application at 6, 8, 14-17.

[217] 2015 FEIS, *supra* note 82 at 3-35. *See also, e.g.*, Cameron LNG, Amended Expansion Project, *available at* https://cameronlng.com/expansion/ (last visited Nov. 2, 2023) (describing project design modifications to utilize electric drive motors to replace gas turbine drives); Freeport LNG, Our Business, https://freeportlng.com/our-business/elng (last visited Nov. 2, 2023).

[218] Magnolia Application at 22-23.

energy abroad[219] is irrelevant; Magnolia's terminal will have real impacts on communities in Louisiana, and its LNG exports may compete with/displace renewable energy globally. *See supra* II.B.3.b.ii.

DOE cannot simply take these statements of Magnolia's "beliefs" or hypothetical new proposals about its project design at face value—if DOE wants to incorporate any purported benefits into its NEPA or public interest analysis, DOE must independently verify and review Magnolia's true impacts.[220]

ii. DOE Must Re-Evaluate Magnolia's Air Impacts and Cumulative Impacts Given Significant Changes in Industrial Development in Southwest Louisiana Since 2015.

DOE has rightfully acknowledged the importance of guarding "against risks to the health of our communities, especially frontline communities in the United States who disproportionately shoulder the burden of pollution from new export facilities."[221] A key aspect of protecting frontline communities is conducting the requisite analysis of environmental justice impacts. While FERC has typically analyzed environmental justice impacts of the terminal infrastructure in its role as lead agency for NEPA review, DOE can and must supervise how FERC is implementing its delegated authority.[222] With respect to environmental justice in particular, FERC has fallen well short of the mark. EPA has noted concerns with how FERC has conducted its environmental justice analysis.[223] And one of the most egregious shortcomings of FERC's prior NEPA analyses here—that DOE should address now—is FERC's refusal to address cumulative air quality violations that predominantly impact environmental justice

[219] Magnolia Application at 15

[220] 40 C.F.R. § 1506.5(b)(2); *Utahns for Better Transp. v. U.S. Dep't of Transp.*, 305 F.3d 1152, 1165 (10th Cir. 2002), as modified on reh'g, 319 F.3d 1207 (10th Cir. 2003) (finding EIS inadequate where agency failed to verify cost estimates provided by developer).

[221] Fact Sheet on Temporary Pause, *supra* note 12.

[222] *Contra Ctr. for Biological Diversity v. FERC*, 67 F.4th 1176, 1185 (D.C. Cir. 2023) (holding that FERC's NEPA obligations are limited by the narrow nature of its delegated authority). Unlike FERC, DOE has authority over the entire process of LNG exports and should exercise that authority—and conduct requisite NEPA reviews—accordingly.

[223] *See, e.g.*, FERC Dkt. CP19-502, Accession No. 20220523-5182 at 5-6 (May 23, 2022); FERC Dkt. CP22-21, Accession No. 20230314-5012 (Mar. 14, 2023).

communities in Southwest Louisiana. To make matters worse, multiple additional LNG terminals and other industrial infrastructure have been proposed, approved, or in some cases, come online in the region in the last several years. So even if FERC's prior NEPA reviews had properly addressed these concerns in the first place, the drastic expansion of infrastructure in the area presents at least three concerns regarding the sufficiency of FERC's prior NEPA reviews.

First, recent air dispersion modeling indicates that the Lake Charles area is violating the health-based National Ambient Air Quality Standards ("NAAQS") for at least nitrogen dioxide ("NO_2"). 42 U.S.C. § 7409. In fact, the latest modeling predicts violations at least eight times the NAAQS.[224] And many of the violations are predicted to occur in low-income and predominantly communities of color.[225] This contradicts the 2020 SEIS's conclusion that the Magnolia LNG Project "would not result in any exceedances of the NAAQS."[226] If built, the Magnolia LNG Project will emit at least 1,100 tons of nitrogen oxides per year during operations.[227] FERC's 2015 EIS essentially concluded that Magnolia's emissions would not violate the Clean Air Act, and that they were therefore insignificant for NEPA purposes.[228] But this was wrong for at least two reasons: FERC misunderstands the Clean Air Act standards FERC purports to borrow, and even if the project did fully comply with the Clean Air Act, NEPA would require additional analysis anyway.[229] Regardless, the magnitude of potential NAAQS violations has increased since the 2015 EIS as Louisiana has approved more projects that are purportedly small but cumulatively cause massive NAAQS exceedances. For example, FERC's 2015 FEIS omitted consideration of Driftwood LNG, Calcasieu Pass 2 ("CP2") LNG, Commonwealth LNG, and

[224] Steven Klafka, P.E., BCEE, Commonwealth LNG, Cameron Parish, Louisiana, *Evalutation of Compliance with the 1-hour NAAQS for NO_2*, at 6 (May 24, 2022) (hereinafter Klafka Modeling Report) (Attachment 91).

[225] *Id*. at 9-10.

[226] 2020 SEIS*, supra* note 85 at 52

[227] 2015 FEIS, *supra* note 82 at 4-138, Table 4.11.1-6.

[228] *Id.* at 4-139.

[229] *See, e.g.*, Sierra Club Title V Petition to Object to Lake Charles LNG (June 17, 2022) (Attachment 92).

other projects that have since been proposed to be constructed in Southwest Louisiana.[230] Each of these projects will emit significant amounts of NOx and other local, regional, and global air pollution, undermining Magnolia's stale, 2015 air quality analysis. And FERC declined to require updated air modeling in the 2020 SEIS,[231] so the only relevant analysis—from 2015—is both deeply flawed and stale. DOE must evaluate the cumulative health impacts resulting from the NO_2 NAAQS exceedance through a new or Supplemental EIS.

Second, because the 2015 EIS omitted numerous now-foreseeable sources from its cumulative impact analysis, DOE must conduct a new analysis considering all reasonably foreseeable cumulative sources in the area. FERC's EIS, for example, did not include potential cumulative impacts from Driftwood LNG, Commonwealth LNG, or CP2. Yet, the EISes for each of these projects acknowledged that Magnolia LNG is a cumulative source.[232] For example, each project will involve significant emissions of local and regional air pollutants throughout construction and operation, both onsite and from mobile sources like LNG tankers.[233] Each of these projects will be located within about 25 miles of Magnolia LNG, and Driftwood LNG is directly across the Calcasieu from the Magnolia LNG proposed site. The tanker traffic will also overlap, using similar routes through the Calcasieu River and northern Gulf of Mexico. Construction and operational mobile source traffic in and around Magnolia LNG will also overlap. And the newly proposed expansion at Sabine Pass may contribute to cumulative impacts

[230] 2015 FEIS, *supra* note 82 at 4-232 (listing reasonably foreseeable activities and projects considered in the cumulative impacts analysis for the Magnolia LNG Project); 2020 SEIS, *supra* note 85 at 52 (failing to account for any additional LNG terminals or other industrial projects with cumulative air impacts).

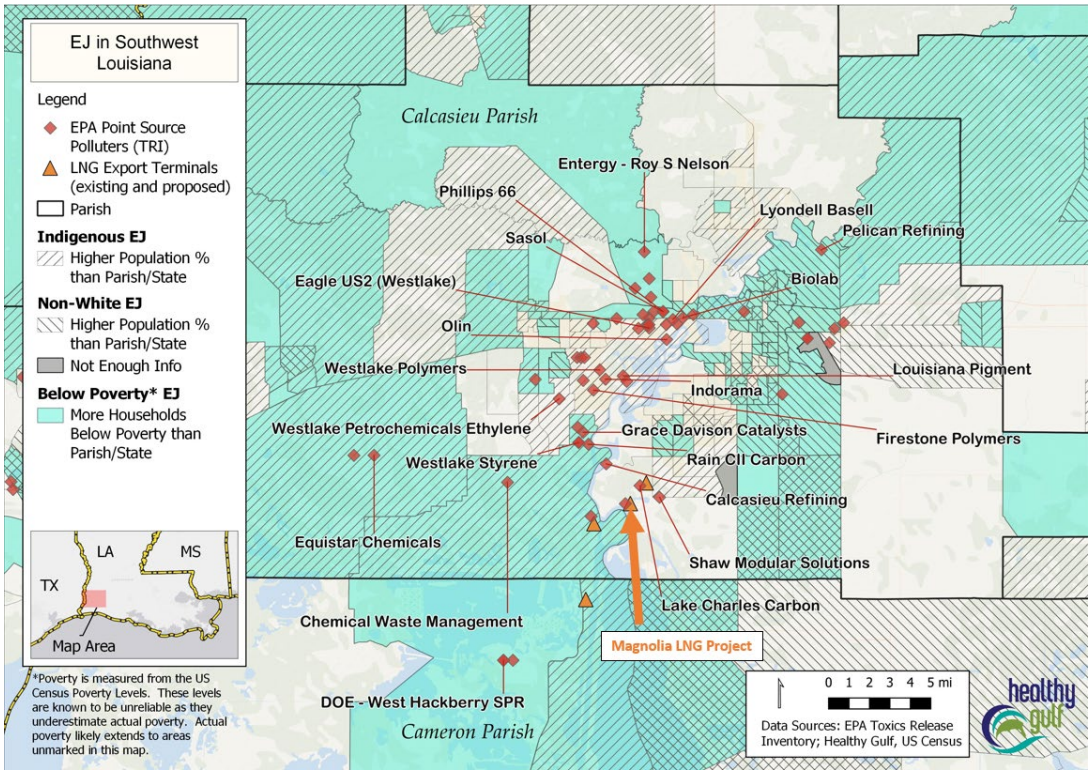
[231] 2020 SEIS, *supra* note 85 at 8.

[232] FERC, CP2 LNG and CP Express Project Final Environmental Impact Statement, Docket No. CP22-21-000, FERC/FEIS-0333 at 4-518 (July 2023), *available at* https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20230728-3008; FERC, Final Environmental Impact Statement for the Commonwealth LNG Project, Docket No. CP19-502-000, FERC/FEIS-0316 at 4-359 (Sept. 2022), *available* at https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20220909-3017; FERC, Driftwood LNG Final Environmental Impact Statement, Docket No. CP17-117-000, FERC/FEIS-0284F at 4-273 (Jan. 2019), *available at* https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20190118-3018&optimized=false.

[233] *See, e.g.*, Commonwealth LNG FEIS at 4-390 (discussing cumulative air quality impacts from various other sources, including LNG terminals).

in the Lake Charles area as well.[234] Despite these overlapping impacts, FERC has routinely and unlawfully dismissed cumulative air quality concerns as insignificant due to its misapplication of the same individualistic Clean Air Act tool it used for Magnolia.[235] Because FERC's errors have infected reviews for each of these facilities, there is no cumulative air impacts analysis that DOE could rely on to satisfy its NEPA obligations here. DOE must therefore conduct a new cumulative impacts analysis.

Finally, DOE must evaluate the environmental justice implications of Magnolia's proposal, combined with these cumulative impacts. The 2015 EIS only looked at parish-wide data to determine whether the project would impact environmental justice communities, concluding that there were no such impacts.[236] But as shown below, the Magnolia LNG Project is surrounded by low income communities and communities of color.



[234] FERC, Notice of Scoping Period Requesting Comments on Environmental Issues for the Planned Sabine Pass Liquefaction Stage 5 Expansion Project, Docket No. PF23-2-000 (Oct. 6, 2023) *available at* https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20231006-3032&optimized=false.

[235] *See, e.g.*, FERC Dkt. CP19-502, Accession No. 20220909-3017 at 4-198, 4-230, 4-391 (Sept. 9, 2022) (Commonwealth LNG FEIS); FERC Dkt. CP22-22, Accession No. 20230728-3008 at 4-372, 4-554 (July 28, 2023) (CP2 LNG FEIS).

[236] 2015 FEIS, *supra* note 82 at 4-117 to 4-118.

Particularly given the increase in LNG terminals proposed within this area and Magnolia's contribution to the NAAQS violations discussed above, DOE must examine whether Magnolia LNG will exacerbate disproportionate harms to these environmental justice communities.

In sum, DOE must require Magnolia to conduct a new cumulative air impacts modeling to understand potential impacts under today's more polluted baseline. More broadly, DOE must conduct new cumulative impact analyses that accounts for these new sources. Doing so is necessary to comply with DOE's legal obligations as well as the Biden administration's commitment to "adequately guard against risks to the health of our communities, especially frontline communities in the United States who disproportionately shoulder the burden of pollution from new export facilities."[237]

iii. DOE Must Consider Significant New Information About the Risks Climate Change and Sea Level Rise Pose to the Magnolia LNG Project.

DOE must evaluate the effects that increasingly severe extreme weather will have on (1) LNG tankers transporting exported gas and (2) the Magnolia LNG export terminal. Even if DOE dismisses concerns about risks to latter as within FERC's purview, DOE must still discuss the impacts to LNG tankers transporting exported gas.

Significant new information about climate-driven extreme weather like hurricanes has emerged since FERC's 2015 FEIS and 2020 SEIS. In 2023, NOAA's Global Climate Report concluded that June to December 2023 "were each their hottest on record[.]"[238] And that "[i]n July, August, and September, global temperatures were more than 1.0°C (1.8°F) above the long-term average—the first time in NOAA's record any month has breached that threshold."[239] The Global Climate Report warns that "if yearly emissions continue to increase rapidly . . . global

[237] Fact Sheet on Temporary Pause, *supra* note 12.

[238] Rebecca Lindsey and Luann Dahlman, *Climate Change: Global Temperature*, NOAA (Jan. 18, 2024), *available* at https://www.climate.gov/news-features/understanding-climate/climate-change-global-temperature#:~:text=According%20to%20NOAA's%202023%20Annual,0.20%C2%B0%20C)%20per%20decade. (Attachment 93).

[239] *Id*.

temperature will be at least 5 degrees Fahrenheit warmer than the 1901-1960 average, and possibly as much as 10.2 degrees warmer."[240]

This extreme increase in temperature will exacerbate the "climate crisis"[241] and sea level rise. NOAA discussed these concerns in its 2022 *Sea Level Rise Technical Report*, [242] which addresses the latest data regarding sea level rise risks in the U.S. This new data represents significant new information because Louisiana has the highest relative rise in sea level of anywhere in the U.S. and storms and hurricanes are common in Louisiana and could happen at any time. For example, in recent years, the Gulf of Mexico has had above-average hurricane seasons. In 2020, twenty tropical cyclones made landfall in the United States, breaking a record set in 1916. Twenty-one named storms, four of which were major hurricanes, occurred in 2021.[243] The 2022 hurricane season produced 14 named storms, eight of which became hurricanes, and two intensified to major hurricanes.[244] During the most recent 2023 hurricane season, there were 20 named storms, seven of these were hurricanes and three intensified into major hurricanes.[245]

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[240] *Id*.

[241] Roxana Bardan, *NASA Analysis Confirms 2023 as Warmest Year on Record*, NASA News Release (Jan. 12, 2024, *available at* https://www.nasa.gov/news-release/nasa-analysis-confirms-2023-as-warmest-year-on-record/ ("'NASA and NOAA's global temperature report confirms what billions of people around the world experienced last year; we are facing a climate crisis,' said NASA Administrator Bill Nelson. 'From extreme heat, to wildfires, to rising sea levels, we can see our Earth is changing.'") (Attachment 94).

[242] *U.S. coastline to see up to a foot of sea level rise by 2050*, NOAA, *available at* https://www.noaa.gov/news-release/us-coastline-to-see-up-to-foot-of-sea-level-rise-by-2050 (Feb. 15, 2022) (hereinafter "NOAA News Release") (Attachment 95); *see also Global and Regional Sea Level Rise Scenarios for the United States*, NOAA, *available at* https://aambpublicoceanservice.blob.core.windows.net/oceanserviceprod/hazards/sealevelrise/noaa-nos-techrpt01-global-regional-SLR-scenarios-US.pdf (Feb. 2022) (hereinafter "NOAA Report") (Attachment 96).

[243] *Active 2021 Atlantic hurricane season officially ends*, NOAA, *available at* https://www.noaa.gov/news-release/active-2021-atlantic-hurricane-season-officially-ends (Nov. 30, 2021) (Attachment 97).

[244] *Damaging 2022 Atlantic hurricane season draws to a close*, NOAA, *available at* https://www.noaa.gov/news-release/damaging-2022-atlantic-hurricane-season-draws-to-close (Nov. 29, 2022) (Attachment 98).

[245] *2023 Atlantic Hurricane Season Wraps Up*, NOAA, *available at* https://www.nesdis.noaa.gov/news/2023-atlantic-hurricane-season-wraps (Nov. 28, 2023) (Attachment 99).

The increase in sea level rise and hurricanes will impact LNG tanker traffic. Sea level rise will increase the height of both storm surge and waves[246]— leading to more severe storms. And increased hurricanes will result a disruption of global gas supplies leading to price volatility[247] as well as higher emissions as LNG tankers are forced to wait for storms to pass to reach their destinations.[248] Thus, DOE must examine the extent of the risk posed to LNG tankers throughout the lifespan of Magnolia LNG's requested export authorization.

Climate change will also pose risk to the Magnolia LNG export terminal which will inherently impact frontline communities in Southwest Louisiana. As previously stated in Section II.B.3.b.ii, DOE has acknowledged the importance of prioritizing the health of frontline communities,[249] which cannot be achieved without addressing climate change and the impact of climate driven storms. NOAA's 2022 *Sea Level Rise Technical Report*, [250] discusses sea level rise as a factor in analyzing the intensity of storms and the extent of impacts (e.g. height of waves and storm surge) and the need for mitigation (i.e. height of docks, levees, etc.).[251] Sea level rise contributes to the increasing number and severity of storms, which in turn bears on the project design and the need to preserve wetlands as storm buffers and for flood control, which are critical wetlands functions.[252] NOAA projects that "sea levels along the coastline will rise an

[246] NOAA News Release, *supra* note 242 ("[T]he sea level rise expected by 2050 will create a profound increase in the frequency of coastal flooding, even in the absence of storms or heavy rainfall.").

[247] Kevin Crowley, *Hurricane Risk Adds to Global Gas Price Volatility*, Bloomberg (Aug. 29, 2023), *available at* https://www.bloomberg.com/news/newsletters/2023-08-29/atlantic-hurricane-season-adds-to-global-lng-price-volatility (Attachment 100).

[248] Scott DiSavino, *LNG vessels wait in Gulf of Mexico for Hurricane Delta to pass*, Reuters (Oct. 7, 2020), *available at* https://www.reuters.com/article/usa-lng-vessels-storm/lng-vessels-wait-in-gulf-of-mexico-for-hurricane-delta-to-pass-idUSL1N2GY0QE/ (Attachment 101).

[249] Fact Sheet on Temporary Pause, *supra* note 12.

[250] NOAA News Release, *supra* note 242; NOAA Report, *supra* note 242.

[251] *See* NOAA Report, *supra* note 242, at xiii, 2, 41, 60.

[252] *See* 2023 Coastal Master Plan, *supra* note 257; *see also Incorporating Wetland Restoration and Protection into Planning Documents,* EPA, *available at* https://www.epa.gov/wetlands/incorporating-wetland-restoration-and-protection-planning-documents (Attachment 102); *see also*, Shepard *et al.*, *The Protective role of Coastal Marshes: A Systemic Review and Meta-analysis*, PLOS ONE, *available at* https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0027374 (Nov. 23, 2011) (discussing

additional 10-12 inches by 2050[.]"[253] The report also predicts an "increase in the frequency of coastal flooding, even in the absence of storms of heavy rainfall."[254] This, combined with a subsidence rate of over 22 mm per year—the highest rates along the western Gulf states—makes sea level rise a climate and safety problem that DOE must address in determining whether the Magnolia LNG Project is in the public interest.[255]

Consideration of the effects of sea-level rise (relative sea-level rise) is well within the scope of DOE's environmental impacts analysis. New data and information, since FERC's 2015 FEIS and 2020 SEIS,[256] demonstrate that the myriad of problems for coastal infrastructure associated with sea-level rise will only get worse. For example, as outlined by the Coastal Protection and Restoration Authority ("CPRA") since 2016,[257] Louisiana's coastal wetlands are vulnerable to sea-level rise as a result of its low-lying shorelines and adjacent coastal environments. The CPRA has stated that 75 percent of Louisiana's land loss will be attributed to rising seas through 2067.[258] Coastal Louisiana faces some of the world's highest rates of relative sea-level rise, at 12±8 mm per year.[259] The sea-level is rising more rapidly along the Gulf Coast because coastal lands are

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three ecosystem services associated with coastal wetlands: wave attenuation, shoreline stabilization, and floodwater attenuation.) (Attachment 103).

[253] NOAA News Release, *supra* note 242, *see also* NOAA Report, *supra* note 242.

[254] NOAA News Release, *supra* note 242.

[255] Dokka, R., Shinkle K., *Rates of vertical displacement at benchmarks in the lower Mississippi Valley and the North Gulf Coast*, NOAA, *available at* http://geodesy.noaa.gov/heightmod/NOAANOSNGSTR50.pdf (July 2004) (Attachment 104).

[256] 2020 SEIS, *supra* note 85 at ES-1 (solely addressing impacts on air and noise emission and reliability and safety engineering analyses—ignoring climate change and the impact on coastal infrastructure).

[257] Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation May 25, 2023 - 2023 Louisiana's Comprehensive Master Plan for Sustainable Coast, *available at* https://coastal.la.gov/wp-content/uploads/2023/06/230531_CPRA_MP_Final-for-web_spreads.pdf (hereinafter "2023 Coastal Master Plan") (Attachment 105).

[258] "Haase said state land-loss modeling concluded that 75% of the marsh loss [modeled from 2017 to 2067] was attributed to rising water levels." *See* Mark Schleifstein, *'We're screwed': The only question is how quickly Louisiana wetlands will vanish, study says*, NOLA.com (May 22, 2020), *available at* https://www.nola.com/news/environment/article_577f61aa-9c26-11ea-8800-0707002d333a.html (Attachment 106).

[259] Jankowski, K., Tornqvist, T. & Fernandes, A., *Vulnerability of Louisiana's coastal wetlands to present-day rates of relative sea-level rise*, Nat. Commun. 8, 14792 (2017) *available at*

sinking, compounding the impacts of sea-level rise in these areas. Louisiana has been losing roughly 25 square miles of land per year in recent decades.[260]

More broadly, the IPCC's February 2022 report—on *Impacts, Adaptation, and Vulnerability*—highlights the increasing climate-related risks to coastal infrastructure like the Magnolia LNG Project. Because "[c]limate change impacts and risks are becoming increasingly complex and more difficult to manage," it is increasingly likely that "multiple climate hazards will occur simultaneously, . . . compounding overall risk[.]"[261] Noting that "[w]idespread, pervasive impacts to ecosystems, people, settlements, and infrastructure have resulted from observed increases in the frequency and intensity of climate and weather extremes," [262] the IPCC also predicts, with high to very high confidence, that climate change will cause increasing adverse impacts from flood/storm damages in coastal areas, damage to key infrastructure, and damage to key economic sectors in North America.[263] Moreover, "[u]navoidable sea level rise will bring cascading and compounding impacts resulting in losses of coastal ecosystems and ecosystem services, groundwater salinisation, flooding and damages to coastal infrastructure that cascade into risks to livelihoods, settlements, health, well-being, food and water security, and cultural values in the near to long-term (high confidence)." [264] Because climate change impacts cannot be eliminated

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https://www.nature.com/articles/ncomms14792 (Attachment 107); *see also* 2023 Coastal Master Plan, *supra* note 257 at 42 (predicting "sea level rise of up to 2.5 ft over the next 50 years.").

[260] EPA, *What Climate Change Means for Louisiana*, Aug. 2016, *available at* https://19january2017snapshot.epa.gov/sites/production/files/2016-09/documents/climate-change-la.pdf (Attachment 108).

[261] *See Climate Change 2022 Impacts, Adaptation and Vulnerability, Summary for Policy Makers*, IPCC, at 18, B.5, *available at* https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf (Feb. 2022) (hereinafter "IPCC Impacts Summary") (Attachment 109).

[262] *Id.* at SPM.B.1.1; *see also id.* at SPM.C.2.5 ("Natural river systems, wetlands and upstream forest ecosystems reduce flood risk by storing water and slowing water flow, in most circumstances (high confidence). Coastal wetlands protect against coastal erosion and flooding associated with storms and sea level rise where sufficient space and adequate habitats are available until rates of sea level rise exceeds natural adaptive capacity to build sediment (very high confidence).").

[263] *Id.* at Figure SPM.2. Risks from climate change to "key infrastructure will rise rapidly in the mid- and long-term with further global warming, especially in places . . . along coastlines, or with high vulnerabilities (high confidence)." *Id.* at SPM.B.4.5.

[264] *Id.* at SPM.B.5.2.

entirely, the IPCC also highlights critical adaptation strategies, including restoring wetlands to "further reduce flood risk (medium confidence)."[265] The IPCC also highlights that "siting of infrastructure" has already "contributed to the exposure of more assets to extreme climate hazards increasing the magnitude of the losses (high confidence)." [266]

DOE must address these increasingly severe risks in determining whether the Magnolia LNG Project is in the public interest. Even if DOE dismisses concerns about risks to the LNG terminal itself as within FERC's purview, the increasing frequency and intensity of severe storms will ultimately impact the safety of LNG tanker traffic needed to transport Magnolia LNG's exports to the global market and DOE at a minimum should address this.

iv. DOE Must Examine the Projects Impacts on the Newly-Listed Rice's Whale

In 2019, the Rice's whale was listed under the Endangered Species Act. However, FERC failed to engage Section 7 consultation on the species in its 2015 FEIS and 2020 SEIS, thus never considering the effects of the Magnolia LNG project on the species. Moreover, DOE's previous authorizations also failed to consider the effects of the Magnolia LNG Project on the species and most importantly its critical habitat. DOE must therefore engage in Section 7 consultation on the species and conduct a new EIS or SEIS.[267]

The Magnolia LNG Project has the potential to adversely affect the Rice's whale, which is one of the most endangered whales in the world.[268] It is the only resident baleen whale in the Gulf of Mexico and is closely related to the Bryde's whale.[269] The Rice's whale faces a myriad of threats, with the most significant threats being "energy exploration and development, oil spills and spill response, vessel strikes, ocean noise, ocean debris, aquaculture, and entanglement in fishing

[265] *Id.* at SPM.C.2.1.

[266] *Id.* SPM.B.1.6.

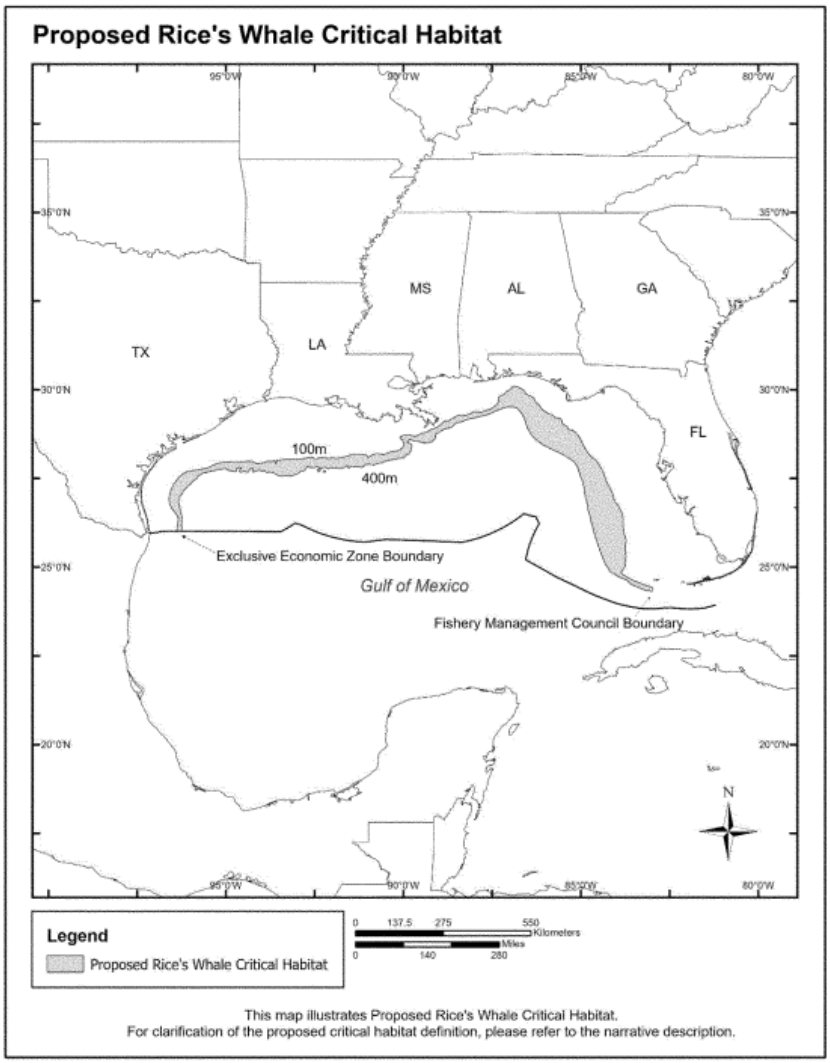
[267] As explained in Section II.B.3.c.ii, DOE must evaluate the Magnolia LNG Project because it has "the potential to cause significant impacts to environmentally sensitive resources" in this instance the federally-protected Rice's whale.

[268] Rice's Whale, NOAA, https://www.fisheries.noaa.gov/species/rices-whale (last visited June 2, 2022) (Attachment 110).

[269] *Id.*

gear."[270] Thus, DOE must take a hard look at the Rice's whale's vulnerability to these threats, including vessel strikes and noise pollution, which will increase if the Magnolia LNG Project is approved.

The Magnolia LNG Project will involve approximately 208 LNG tanker trips annually during operation,[271] including through proposed critical habitat for the Rice's whale. In July 2023, NOAA proposed to designate critical habitat for the Rice's whale throughout the Gulf of Mexico, as depicted in the map below.[272]



[270] *Id.*

[271] 2020 SEIS, *supra* note 85 at ES-4.

[272] Endangered and Threatened Species; Designation of Critical Habitat for the Rice's Whale, 88 Fed. Reg. 47,453, 47,472 (July 24, 2023).

This new critical habitat designation, if finalized, will include the vast majority of routes to carry LNG from Southwest Louisiana to the global market. The Rice's whale's habitat already experiences a high amount of vessel traffic.[273] Vessel traffic coupled with the "size and speed of transiting vessels, the overlap between key habitats and shipping lanes, and the animal's diving behavior and time spent near the surface" all contribute to the probability of ship strikes.[274] Rice's whales are particularly vulnerable to ship strikes given that results from a tagged Rice's whale individual shows that it spent 70% of its time within 15 m of the surface.[275] Moreover, there has been at least one documented ship strike fatality of a Rice's whale.[276] In addition to being at risk of vessel strikes, the Rice's whale is also negatively impacted by noise pollution. The increase in vessel traffic will create low frequency noise which overlaps with the hearing range of the Rice's whale and likely inhibits its performance of critical life functions such as "communication, navigation, finding a mate, locating prey, and predator avoidance."[277]

DOE therefore must consider the proximity of the vessel routes to the Rice's whales' habitat as well as the fact that the Rice's whale may venture closer to shore and outside of their core area.[278] DOE must also evaluate the implementation of adequate mitigation measures to avoid vessel strikes at night and increases in noise near the Rice's whale core habitat. Due to the recent listing of the Rice's whale, new information and data related to the species is regularly being released, DOE should consider this information in its analysis as it becomes available. In order for DOE to determine the effects of the Magnolia LNG Project on the species it must: (1) engage in Section 7 consultation and (2) conduct a new EIS or an additional SEIS taking into consideration the species critical habitat.

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[273] Rice's Whale, NOAA, *supra* note 110.

[274] Aaron N. Rice, *Possible Risks to Marine Protected Species from the Construction and Operation of the Delfin LNG Offshore Terminal*, at 23 (Feb. 2, 2022) (hereinafter "Possible Risks to Marine Protected Species") (Attachment 111).

[275] Possible Risks to Marine Protected Species, *supra* note 274, at 23.

[276] *Id*. (cetacean fatalities from vessel strikes are often difficult to document).

[277] Rice's Whale, NOAA, *supra* note 110 ("As ocean noise levels increase, the resulting habitat degradation and disruption to these life functions can result in adverse physical and behavioral effects to Rice's whales.").

[278] *Id*.

v. DOE Must Evaluate New Data and Information About the Project's Contribution to Climate Change.

Because DOE's prior studies have wrongly refused to acknowledge that LNG exports increase global GHG emissions, DOE has also failed to account for the harms caused by those increased GHG emissions. Mounting scientific evidence—released since FERC's 2015 FEIS and 2020 SEIS and DOE's general studies—demonstrates that the consequences of and risk to LNG infrastructure from catastrophic climate change are even more severe than previously assumed. Continuing LNG exports through 2050 is inconsistent with reaching any of the Biden administration's climate targets and preventing the worst impacts from catastrophic climate change. Moreover, since 2020, new information and analytical tools have emerged that better facilitate DOE to evaluate the Magnolia LNG Project's climate impacts. DOE must conduct the requisite NEPA analysis and make its public interest determination based on these current circumstances and latest analytical tools.

a. Social Cost of Greenhouse Gases

NEPA requires DOE to use, *inter alia*, "theoretical approaches or research methods generally accepted in the scientific community." 40 C.F.R. § 1502.21(c)(4). One such method is the social cost of greenhouse gas protocol. *See, e.g.*, *Vecinos para el Bienestar de la Comunidad Costera v. FERC*, 6 F.4th 1321 (D.C. Cir. Aug. 3, 2021) (holding that FERC's failure to evaluate the significance of greenhouse gas emissions was arbitrary when FERC failed to address whether social cost of carbon was such a method). Even if the social cost of greenhouse gases wasn't generally accepted or sufficiently developed at the time of FERC's 2015 FEIS or 2020 SEIS, significant new developments in the use of this tool require DOE to utilize it here.

For example, in January 2021, President Biden issued Executive Order 13,990, which established and directed an Interagency Working Group to evaluate and update the social cost of greenhouse gases based on the best available science, building on the recommendations of the National Academies from 2017. Consistent with this directive, the working group recently released interim social cost estimates in its "Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide" (Feb. 2021).[279] In September 2023, President Biden

[279] Interagency Working Group on Social Cost of Greenhouse Gases, United States Government, Technical Support Document: Social cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990, (February 2021), *available at* https://www.whitehouse.gov/wp-

instructed all federal agencies to use social costs in budgeting, procurement, and NEPA reviews.[280] And in December 2023, the EPA released its own social cost of greenhouse gas values, which incorporate recent scientific advances.[281] These developments demonstrate that using social cost to estimate the impact of greenhouse gas emissions is generally accepted. And consistent with President Biden's directive and the latest available science, DOE should utilize the social cost of greenhouse gases, or identify another tool, to evaluate the significance of the Magnolia LNG Project's greenhouse gas emissions here.

b. The IPCC's 6th Assessment Report

Three recent documents from the International Panel on Climate Change's ("IPCC") 6th Assessment Report emphasize the inevitability of a climate-destabilized future absent urgent and aggressive carbon emission reductions, highlighting the need to curb GHG emissions *now*. Even if LNG exports were reasonable in the short term (they are not), approving new exports that won't come online until nearly 2030 flies in the face of mounting scientific evidence about how to avoid the worst impacts of catastrophic climate change.

First, the IPCC's August 2021 *The Physical Science Basis* report confirms that "[h]uman-induced climate change is already affecting many weather and climate extremes in every region across the globe."[282] Evidence demonstrating the link between human GHG emissions and extreme weather "has strengthened since" the prior IPCC report.[283] In addition, global warming "has caused

content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf (Attachment 112)

[280] FACT SHEET: Biden-Harris Administration Announces New Actions to Reduce Greenhouse gas Emissions and Combat the Climate Crisis, (Sept. 21, 2023), *available at* https://www.whitehouse.gov/briefing-room/statements-releases/2023/09/21/fact-sheet-biden-harris-administration-announces-new-actions-to-reduce-greenhouse-gas-emissions-and-combat-the-climate-crisis/ (Attachment 113).

[281] Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances, EPA (Nov. 2023), *available at* https://www.epa.gov/system/files/documents/2023-12/epa_scghg_2023_report_final.pdf (Attachment 114).

[282] *See* Climate Change 2021: The Physical Science Basis, Summary for Policymakers, IPCC, at 8, A.3, *available at* https://www.ipcc.ch/report/ar6/wg1/ (Oct. 2021) (hereinafter "IPCC Physical Science Summary") (Attachment 115).

[283] *Id.* at 8, A.3.

global mean sea level rise."[284] Particularly relevant to projects along the Gulf Coast, the IPCC forecasts with *high confidence* that flooding will become more likely in coastal cities due to "the combination of more frequent extreme sea level events (due to sea level rise and storm surge)."[285]

Looking to the future, *The Physical Science Basis* also concludes that cutting GHG emissions now is critical because "there is a near-linear relationship" between human-caused GHG emissions and related global warming, meaning that each additional increment of global warming exacerbates changes in extreme weather events. For example, the IPCC forecasts that each additional 1°C of global warming will cause about a 7% increase in the intensity of extreme daily precipitation events (*high confidence*).[286] Based on this demonstrated relationship, the IPCC concludes that "reaching net zero anthropogenic CO2 emissions is a requirement to stabilize human-induced global temperature increase at any level." [287]

Second, the IPCC's February 2022 report[288]—on *Impacts, Adaptation, and Vulnerability*—again concludes, with *very high confidence*, that the severity of climate change risks "depend[s] strongly on near-term mitigation and adaptation actions" and projected risks and losses "escalate with every increment of global warming."[289] Although "[n]ear-term actions that limit global warming to close to 1.5°C would substantially reduce projected losses and damages related to climate change in human systems and ecosystems," the IPCC confirmed that, at this point, those actions cannot eliminate all of the harms (very high confidence).[290]

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[284] *Id*. at 11, A.4.3.

[285] *Id*. at 25, C2.6.

[286] *Id*. at 16, B.2.4. The IPCC reports that "every additional 0.5°C of global warming causes clearly discernible increases in the intensity and frequency of hot extremes, including heatwaves (*very likely*), and heavy precipitation (*high confidence*), as well as agricultural and ecological droughts in some regions (*high confidence*)." *Id*. at 15, B.2.2.

[287] *Id*. at 28, D.1.1.

[288] *See* Climate Change 2022: Impacts, Adaptation and Vulnerability, Summary for Policymakers, IPCC, *available at* https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf (Feb. 2022) (hereinafter "IPCC Impacts, Adaptation and Vulnerability") (Attachment 116).

[289] *Id.* at SPM.B.4.

[290] *Id.* at SPM.C.2.

Third, the IPCC's April 2022 *Mitigation of Climate Change* report[291] further demonstrates that LNG exports will need to be significantly curtailed well before 2050. For example, the IPCC concludes that, to remain consistent with current internal climate pledges, global GHG emissions reductions must undergo "an unprecedented acceleration" between 2030 and 2050 (medium confidence).[292] Without additional abatement, projected GHG "emissions over the lifetime of existing and currently planned fossil fuel infrastructure" will result in global warming over 1.5°C.[293] Moreover, to reduce GHG emissions, the energy sector will "require[] major transitions, including a substantial reduction in overall fossil fuel use, the deployment of low-emission energy sources, switching to alternative energy carriers, and energy efficiency and conservation." [294] On the other hand, "[t]he continued installation of unabated fossil fuel infrastructure will 'lock-in' GHG emissions" (high confidence).[295] The required transition in the energy sector "is projected to reduce international trade in fossil fuels" (high confidence).[296] Because limiting warming to 2ºC "could strand considerable fossil fuel infrastructure," the IPCC estimates that gas assets "are projected to be more at risk of being stranded towards mid-century" (high confidence),[297] reiterating the risk that new LNG facilities like Magnolia LNG must cease operations well before the end of their projected lifetimes.

In short, the IPCC's AR6 reports add to the mounting evidence demonstrating the dual climate risks associated with the Magnolia LNG facility: (1) that the facility's staggering GHG emissions will fuel climate change, and (2) that the climate-driven hazards at the project site will increase the risk of significant contamination being released into the surrounding communities

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[291] *See* IPCC, Climate Change 2022: Mitigation of Climate Change, Summary for Policy Makers, *available at* https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_SPM.pdf (Apr. 2022) (Attachment 117).

[292] *Id.* at B.6.3.

[293] *Id.* at B.7.

[294] *Id.* at C.4.

[295] *Id.*

[296] *Id.* at C.4.4.

[297] *Id.*

and ecosystems. DOE must consider this significant new information in its public interest analysis and NEPA review.

c) DOE Cannot Categorically Exclude the Application from NEPA Review.

When issuing the amendments to change the authorization period to 2050 and include short-term, as well as long-term, contracts for Magnolia's prior (now expired) export authorization, DOE applied a categorical exclusion for LNG exports not involving new construction, codified at 10 C.F.R. Part 1021 Part D Appendix B, B5.7.[298] Because the amendments at issue did not involve construction beyond that already approved by FERC, DOE concluded the categorical exclusion applied. The 2011 version of B5.7 involved authorizations to import or export LNG that involve minor operational changes, but not new construction.[299] In December 2020, DOE modified that categorical exclusion to cover LNG export approvals and any associated transportation by marine vessel, without reference to construction of infrastructure.[300]

Because the current application relates to LNG exports from the Magnolia LNG Project in the first instance, it requires the construction of extensive infrastructure that would otherwise not be built, including four liquefaction trains. Even the old version of the categorical exclusion does not apply. Regardless, DOE cannot invoke a version that no longer exists. Nor can DOE invoke the 2020 categorical exclusion because its adoption was arbitrary and unlawful. Alternatively, this proposal lacks the integral elements of an exempt project, precluding reliance on a categorical exclusion here.

[298] DOE, Categorical Exclusion Determination, Magnolia LNG, LLC (FE Docket No. 13-132-LNG) (Dec. 9, 2020), *available at* https://www.energy.gov/sites/prod/files/2020/12/f81/Magnolia%20LNG%2013-132-LNG-CX.pdf; DOE, Order Amending Long-Term Authorizations for the Export of Natural Gas to Include Short-Term Export Authority on a Non-Additive Basis, (FE Docket Nos. 10-85-LNG, et al.), *available at* https://www.energy.gov/sites/prod/files/2020/12/f81/Short-Term%20LNG%20Exports%20Blanket%20Order%20CX.pdf.

[299] 10 C.F.R. Part 1021 Part D Appendix B, B5.7 (2018).

[300] 10 C.F.R. Part 1021 Part D Appendix B, B5.7 (2021).

i. The 2020 Categorical Exclusion Is Invalid.

Adoption of the 2020 categorical exclusion was arbitrary, capricious, and contrary to law. Most egregiously, in promulgating the 2020 exclusion, DOE improperly excluded from NEPA review *all* impacts occurring upstream of the point of export, based on a basic and fundamental legal error. The Notice of Proposed Rulemaking argued that DOE need not consider "environmental impacts resulting from actions occurring [before] the point of export" because "the agency has no authority to prevent" these impacts, citing *Sierra Club v. FERC,* 827 F.3d 36 (D.C. Cir. 2016) ("*Freeport I*").[301] This is the exact opposite of *Freeport I*'s explicit and central holding. *Freeport I* held that **FERC** had no authority to prevent these impacts, specifically because **DOE** had retained "exclusive" authority to do so.[302] FERC had "no authority" to consider the impacts of export-induced gas production because "the Natural Gas Act places export decisions squarely and exclusively within the Department of Energy's wheelhouse."[303] Because DOE *has* such authority, the categorical exclusion was adopted unlawfully, cannot be relied upon here, and provides no evidence to suggest that all environmental effects occurring before the point of exports will be insignificant.

Nor can upstream impacts be dismissed as unforeseeable. DOE has in fact foreseen them, with EIA modeling, an environmental addendum, and a lifecycle report that extensively, although at times incorrectly, discuss these impacts. In these, DOE has broadly conceded that the climate impacts of upstream effects are foreseeable. And DOE's Environmental Addendum acknowledged that increased gas production "may" increase ozone levels and "may" frustrate some areas' efforts to reduce pollution to safe levels.[304] But as DOE has acknowledged, it has not made any determination as to the likelihood or significance of such impacts—the Addendum made no "attempt to identify or characterize the incremental environmental impacts that would

[301] 85 Fed. Reg. at 25,341; *accord* Final Rule, 85 Fed. Reg. 78,197, 78,198.

[302] 827 F.3d at 40-41, 46.

[303] *Id.* at 46. In finalizing the 2020 Categorical Exclusion, DOE also erred in asserting that its approval of exports is "not interdependent" with FERC's approval of export infrastructure. 85 Fed. Reg. 78,197, 78,199. DOE's export authorization cannot be effectuated without FERC approval of export infrastructure, and vice versa; even if FERC infrastructure could proceed solely on the basis of FTA export authorization, neither this project nor any other major project in fact seeks to do so.

[304] U.S. DOE, Final Addendum to Environmental Review Documents Concerning Exports of Natural Gas from the United States (Aug. 2014) at 27-28.

result from LNG exports" whatsoever.[305] Insofar as DOE contends that these impacts can be difficult to foresee, that affirms, rather than refutes, the need for case-by-case analysis.[306] Even if DOE determines that upstream impacts can only be discussed generally, in something like the Environmental Addendum, this does not dictate the conclusion that the impacts are insignificant. Similarly, a conclusion that an agency can meet its NEPA obligations by tiering off an existing document (which may need to be periodically revised as facts and scientific understanding change) is different than the conclusion that NEPA review simply is not required.

The 2020 Categorical Exclusion's treatment of downstream impacts was also arbitrary. As with upstream impacts, DOE mistakenly asserted that some downstream impacts (downstream impacts relating to regasification and use of exported gas) were entirely outside the scope of NEPA analysis.[307] This is again incorrect: DOE has authority to consider these impacts when making its public interest determination, and DOE has not shown that these impacts are so unforeseeable that they cannot be meaningfully discussed at all. Indeed, DOE has refuted this argument itself, discussing these impacts in the life cycle analysis.

For other impacts, relating to marine vessel traffic, the preamble to the 2020 final rule arbitrarily dismissed these impacts as *de minimus*, claiming that because LNG export has historically constituted only a small share of overall U.S. shipping traffic, the effects of future LNG export approvals could be ignored.[308] This is legally and factually incorrect. LNG exports are rapidly expanding, and this expansion depends upon and is caused by authorizations like the additional exports Magnolia has requested here. In addition, noting that LNG traffic is a small share of the total does not demonstrate that the impact of LNG traffic in particular is

[305] DOE/FE Order No. 3638 (Corpus Christi LNG), at 193-194 (May 12, 2015), *available at* https://fossil.energy.gov/ng_regulation/sites/default/files/programs/gasregulation/authorizations/2012/applications/ord3638.pdf.

[306] *See also Cal. Wilderness Coal. v. DOE*, 631 F.3d 1072, 1097 (9th Cir. 2011) (rejecting DOE argument that environmental impacts of designation of electric transmission corridors were too speculative to require NEPA analysis).

[307] 85 Fed. Reg. at 78,202.

[308] The proposed rule ignored wildlife impacts entirely.

insignificant: a small portion of a large problem can itself constitute a significant impact.[309] And even is such a fractional approach could be justified, it would require a different denominator: the number of ships in the habitat of the species at issue. LNG traffic—now and in the future—constitutes a larger and growing share of traffic *in the Gulf of Mexico*, where many of the species that will be impacted by Magnolia's proposed exports, including multiple listed species, live. Ship traffic to the West and East Coasts inflates the denominator but is irrelevant to many of these species.

ii. The Proposed Exports Do Not Satisfy the "Integral Elements" Necessary for a Categorical Exclusion.

Even if the 2020 categorical exclusion was valid, DOE would be unable to rely on it here. DOE cannot invoke a categorical exclusion without determining that the proposed action has the "integral elements" of excluded actions as defined in Appendix B to 10 C.F.R. Part 2021 Subpart D. Here, the proposal does not satisfy integral element 1, because it "threaten[s] a violation of applicable statutory [or] regulatory … requirements for environment, safety, and health, or similar requirements of … Executive Orders."[310] This integral element is missing whenever a proposal *threatens* a violation; if there a possibility of such a violation, a project-specific NEPA analysis is required to evaluate that risk.

Here, increased exports threaten a violation of Executive Order 14,008, Tackling the Climate Crisis at Home and Abroad.[311] As noted, this order—like the Paris Accord, recent Glasgow Pact, and other commitments—affirms that "Responding to the climate crisis will require … net-zero global emissions by mid-century or before."[312] Increasing exports through mid-century (*i.e.*, 2050) is inconsistent with any plausible trajectory for achieving this goal, as recognized by the International Energy Agency.[313] Even if DOE somehow contends that giving a

[309] *Sw. Elec. Power Co. v. EPA*, 920 F.3d 999, 1032 (5th Cir. 2019) (even a "very small portion" of a "gargantuan source of . . . pollution" may "constitute[] a gargantuan source of . . . pollution on its own terms.").

[310] 10 C.F.R Part 1021 Subpart D Appendix B.

[311] 86 Fed. Reg. 7619.

[312] *Id.* § 101.

[313] IEA, Net Zero by 2050, *supra* note 17, at 102-03.

lifeline to gas exports can somehow be reconciled with the President's climate goals and policies, that surprising contention does not change the fact that expanded exports at least "threaten" a violation of those policies, such that integral element 1 is not satisfied.

The proposal also violates integral element 4, because it has "the potential to cause significant impacts to environmentally sensitive resources," which "include … Federally-listed threatened or endangered species or their habitat," "state-listed" species, "Federally-protected marine mammals and Essential Fish Habitat," and species proposed for listing.[314] Potentially impacted species include the black rail, giant manta ray,[315] oceanic whitetip shark,[316] and Rice's whale (formerly designated as the Gulf of Mexico population of the Bryde's whale).[317] These species are all at risk from ship strikes and noise from vessel traffic related to the Magnolia LNG Project, impacts that will be avoided unless DOE approves this application.[318] As with integral element 1, integral element 4 is precautionary: a categorical exclusion cannot be used if the proposed action would "have the potential to cause significant impacts," even if it is unclear whether the action's impacts will in fact rise to the level of significance. Fulfilling NEPA's purpose requires investigating such potential impacts.

Ultimately, the potential to impact species and other protected resources is real. Ship strikes injure marine life, including listed whales,[319] sea turtles,[320] and giant manta rays.[321] Ship

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[314] 10 C.F.R Part 1021 Subpart D Appendix B.

[315] 83 Fed. Reg. 2916 (Jan. 22, 2018).

[316] 83 Fed. Reg. 4153 (Jan. 30, 2018).

[317] 86 Fed. Reg. 47,022 (Aug. 23, 2021).

[318] The potential for impacts to these species further violates integral element 1, because it threatens a violation of the Endangered Species Act and similar laws.

[319] David W. Laist et al., Collisions Between Ships and Whales, 17 MARINE MAMMAL SCIENCE 1, 35 (Jan. 2001) (describing ship strikes with large vessels as the "principal source of severe injuries to whales), *available at* https://www.mmc.gov/wp-content/uploads/shipstrike.pdf (Attachment 118).

[320] National Oceanic and Atmospheric Administration Fisheries, Understanding Vessel Strikes (June 25, 2017), *available at* https://www.fisheries.noaa.gov/insight/understanding-vessel-strikes (Attachment 119).

[321] National Oceanic and Atmospheric Administration Fisheries, Giant Manta Ray, *available at* https://www.fisheries.noaa.gov/species/giant-manta-ray (Attachment 120).

traffic also causes noise, which "can negatively impact ocean animals and ecosystems in complex ways."[322] Noise interferes with animals' ability to "communicate" and "to hear environmental cues that are vital for survival, including those key to avoiding predators, finding food, and navigation among preferred habitats."[323] Unsurprisingly, many animals display a suite of stress-related responses to increased noise. Because the proposed extension will cause these impacts that would otherwise not occur, the proposal does not satisfy integral element 4.

In sum, DOE cannot categorically exclude this application from NEPA review. Rather, DOE must conduct a new or Supplemental EIS to evaluate the impacts of Magnolia's proposed LNG exports.

C. Because Extensive Analysis Is Required, DOE Should Reject Magnolia's Requested Expedited Timeline.

Magnolia asks DOE to grant its application on an undefined, expedited basis, without justification. DOE has now put this application, and all other pending non-FTA export authorizations, on hold while it updates its analysis to reflect current circumstances and the latest science.[324] Magnolia has made no request for DOE to grant an exception to that pause, nor has it provided any national security justification for doing so. Therefore, DOE should reject or treat Magnolia's request to expedite review as moot in light of the pause.

Regardless, Magnolia states that the lifespan of the project is at least 30 years; a very small relative delay in DOE's approval is well justified given the potential upsides of DOE taking the time to conduct the robust analysis of impacts on domestic prices, global strategic interests, and the project's extensive environmental harms. Given Magnolia's lack of progress to date, Magnolia fails to demonstrate why customers with time-sensitive needs would choose Magnolia rather than other projects with more momentum, regardless of when DOE issues its decision on this application. Moreover, if the project need is as strong and durable as Magnolia claims, then that demand will exist when DOE issues its decision after thorough review.

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[322] National Oceanic and Atmospheric Administration, Cetacean & Sound Mapping: Underwater Noise and Marine Life (Attachment 121).

[323] *Id.*

[324] DOE LNG Update, *supra* note 54.

Therefore, DOE should take the time it needs to conduct the requisite NEPA and public interest review.

D. DOE Should Conduct a New Protest and Intervention Period After Completing Its Announced Review of the Public Interest Determination Process.

On January 26, 2024, DOE announced a pause on pending non-FTA applications while DOE "will take a hard look at the impacts of LNG exports on energy costs, America's energy security, and our environment."[325] The Environmental Advocates embrace DOE's decision to take a more rigorous review of these impacts. As noted, the current DOE studies lack the information necessary to inform a robust public interest analysis. While we appreciate DOE's commitment to accept public comment on its updated studies regarding LNG impacts, we urge DOE to re-open the protest/intervention period in all impacted non-FTA application dockets to enable public commenters the opportunity to raise project-specific concerns remaining after DOE's updated general studies. That applies to Magnolia's application along with all of the non-FTA applications currently pending with DOE.

III. Conclusion

For the reasons stated above, For a Better Bayou, Habitat Recovery Project, Healthy Gulf, Louisiana Bucket Brigade, Micah Six Eight Mission, The Vessel Project of Louisiana, Property Rights and Pipeline Center and Sierra Club's motion to intervene should be granted. The proposed application is not consistent with the public interest and should be denied. The Russian invasion of Ukraine demonstrated yet another reason why the world needs to transition away from fossil energy as quickly as possible; Magnolia's proposal for a project that will not start exports until 2028 is not part of a solution to current geopolitical problems. And DOE must not approve the application without reviewing whether current gas price spikes call into question DOE's prior analyses and assumptions about the effects of increased exports on domestic gas production and prices. Finally, DOE cannot approve the applications without taking a hard look at foreseeable environmental impacts occurring throughout the LNG lifecycle.

Ultimately, the United States and nations around the globe have set ambitious but necessary goals for reducing greenhouse gas emissions during the proposed authorization period.

[325] Statement from President Biden on LNG Export Pause, *supra* note 123.

Increasing gas exports and use cannot be reconciled with those goals, and this proposal should be denied.

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UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

SIERRA CLUB CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, Lisa Diaz, hereby certify that I am a duly authorized representative of the Sierra Club, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of the Sierra Club, the foregoing documents and in the above captioned proceeding.

Dated at New Orleans, LA this 20th day of February, 2024

/s/ Lisa Diaz
Lisa Diaz
Associate Attorney
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Attorney for Sierra Club

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

SIERRA CLUB VERIFICATION

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

Executed at New Orleans, LA on February 20, 2024

/s/ Lisa Diaz
Lisa Diaz
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Attorney for Sierra Club

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 590.107, I, Lisa Diaz, 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/FE, on February 20, 2024.

/s/ Lisa Diaz
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Attorney for Sierra Club

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

FOR A BETTER BAYOU CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, James Hiatt, hereby certify that I am a duly authorized representative of For a Better Bayou, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of For a Better Bayou, the foregoing documents and in the above captioned proceeding.

Dated at Lake Charles, LA this 20th day of February, 2024

/s/ James Hiatt
James Hiatt
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UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

FOR A BETTER BAYOU VERIFICATION

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

Executed at Lake Charles, LA this 20th day of February, 2024

/s/ James Hiatt
James Hiatt
Director, For a Better Bayou
PO Box 7262
Lake Charles, LA 70606
337-515-0655
James@betterbayou.net

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

HABITAT RECOVERY PROJECT CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, Alyssa Portaro, hereby certify that I am a duly authorized representative of Habitat Recovery Project, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of Habitat Recovery Project, the foregoing documents and in the above captioned proceeding.

Dated at Vinton, LA this 20th day of February, 2024

/s/ Alyssa Portaro
Alyssa Portaro
Founder/Director
Habitat Recovery Project
1636 Arledge Rd
Vinton, LA 70668
alyssaportaro@gmail.com
973-632-1695

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

HABITAT RECOVERY PROJECT VERIFICATION

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

Executed at Vinton, LA this 20th day of February, 2024

/s/ Alyssa Portaro
Alyssa Portaro
Founder/Director
Habitat Recovery Project
1636 Arledge Rd
Vinton, LA 70668
alyssaportaro@gmail.com
973-632-1695

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
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IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

HEALTHY GULF CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, Andrew Whitehurst, hereby certify that I am a duly authorized representative of Healthy Gulf, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of Healthy Gulf, the foregoing documents and in the above captioned proceeding.

Dated at Madison, Mississippi this 20th day of February, 2024

/s/ Andrew Whitehurst
Andrew Whitehurst
Water Program Director
3141 West Tidewater Ln.
Madison, MS 39110
andrew@healthygulf.org

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

HEALTHY GULF VERIFICATION

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

Executed at Madison, Mississippi this 20th day of February, 2024

/s/ Andrew Whitehurst
Andrew Whitehurst
Water Program Director
3141 West Tidewater Ln.
Madison, MS 39110
andrew@healthygulf.org

UNITED STATES OF AMERICA
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IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

LOUISIANA BUCKET BRIGADE CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, Shreyas Vasudevan, hereby certify that I am a duly authorized representative of Louisiana Bucket Brigade, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of Louisiana Bucket Brigade, the foregoing documents and in the above captioned proceeding.

Dated at New Orleans, LA this 20th day of February, 2024

/s/ Shreyas Vasudevan
Shreyas Vasudevan
Campaign Researcher
Louisiana Bucket Brigade
3416B Canal St
New Orleans, LA 70130
shreyas@labucketbrigade.org
(504) 484-3433

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

LOUISIANA BUCKET BRIGADE VERIFICATION

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

Executed at New Orleans, LA this 20th day of February, 2024

/s/ Shreyas Vasudevan

Shreyas Vasudevan
Campaign Researcher
Louisiana Bucket Brigade
3416B Canal St
New Orleans, LA 70130
shreyas@labucketbrigade.org
(504) 484-3433

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
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IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

MICAH SIX EIGHT MISSION CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, Cynthia Robertson, hereby certify that I am a duly authorized representative of Micah Six Eight Mission, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of Micah Six Eight Mission, the foregoing documents and in the above captioned proceeding.

Dated at Sulphur, LA this 20th day of February, 2024

/s/ Cynthia P. Robertson
Cynthia P. Robertson
Executive Director
Micah Six Eight Mission
624 W. Verdine
Sulphur, LA 70663
cindy@micah68mission.org
337-888-6652

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

MICAH SIX EIGHT MISSION VERIFICATION

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

Executed at Sulphur, LA this 20th day of February, 2024

/s/ Cynthia P. Robertson
Cynthia P. Robertson
Executive Director
Micah Six Eight Mission
624 W. Verdine
Sulphur, LA 70663
cindy@micah68mission.org
337-888-6652

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

THE VESSEL PROJECT OF LOUISIANA CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, Roishetta Ozane, hereby certify that I am a duly authorized representative of The Vessel Project of Louisiana, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of The Vessel Project of Louisiana, the foregoing documents and in the above captioned proceeding.

Dated at Lake Charles, LA this 20th day of February, 2024

/s/ *Roishetta Ozane*
Roishetta Ozane
Director
The Vessel Project of Louisiana
vesselproject@gmail.com
(337)502-9322

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

THE VESSEL PROJECT OF LOUISIANA VERIFICATION

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

Executed at Lake Charles, LA this 20th day of February, 2024

/s/ *Roishetta Ozane*
Roishetta Ozane
Director
The Vessel Project of Louisiana
vesselproject@gmail.com
(337)502-9322

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

PROPERTY RIGHTS AND PIPELINE CENTER CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, Rebekah Sale, hereby certify that I am a duly authorized representative of Property Rights and Pipeline Center, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of Property Rights and Pipeline Center, the foregoing documents and in the above captioned proceeding.

Dated at Stone Ridge, NY this 20th day of February, 2024

/s/ *Rebekah Sale*
Rebekah Sale
Executive Director
Property Rights and Pipeline Center
c/o SMF, 40 W. 37 Street
Ste. 1000
NYC, 10018
rebekahsale@pipelinecenter.org

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	
Magnolia LNG, LLC	)	FE Docket No. 23-137-LNG

PROPERTY RIGHTS AND PIPELINE CENTER VERIFICATION

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

Executed at Stone Ridge, LA this 20th day of February, 2024

/s/ *Rebekah Sale*
Rebekah Sale
Executive Director
Property Rights and Pipeline Center
c/o SMF, 40 W. 37 Street
Ste. 1000
NYC, 10018
rebekahsale@pipelinecenter.org