



November 8, 2024

Ms. Amy Sweeney
Director, Office of Regulation, Analysis, and Engagement
Office of Fossil Energy and Carbon Management
U.S. Department of Energy
FE-34
1000 Independence Ave S.W.
Washington, DC 20585

Re: Golden Pass LNG Terminal LLC,
Docket Nos. FE12-156-LNG and FE12-88-LNG
Reply to Center for Biological Diversity's Comments on Request for Extension of
Commencement Deadline

Dear Ms. Sweeney:

Please accept this reply to the Center for Biological Diversity's ("CBD") Comments on Golden Pass LNG Terminal LLC's ("GPLNG") Request for Extension of the Commencement Deadline¹ for its authorization of LNG exports.²

CBD's comments are fatally flawed on at least three grounds.

1. CBD's reliance on the Department of Energy's ("DOE" or "Department") pause on pending applications for authorization to export liquefied natural gas ("LNG") to non-FTA countries is misplaced. The Pause statement expressly excludes "a retroactive review of already authorized non-FTA Exports" and stated that applications for an extension of an export commencement date . . . will be reviewed during the pause."³

¹ FE Docket Nos. 12-156-LNG and FE12-88-LNG, Exhibit 12, (Aug. 28, 2024) ("Extension Request").

² Public Citizen, Inc. filed a Motion to Intervene but offered neither an objection to nor comments on the Extension Request. GPLNG therefore makes no reply to the Motion to Intervene.

³ DOE's [Statement](#) on "The Temporary Pause on Review of Pending Applications to Export Liquefied Natural Gas" ("Pause Statement"). Of course, as the Department knows, the pause itself, implemented to prepare new reports on economic and environmental factors related to LNG exports, and been enjoined, a detail CBD ignores. Thus, delaying a ruling on GPLNG's Extension Request only for new reports would violate the injunction. Memorandum Ruling of Judge James D. Cain, Jr., *State of Louisiana, et al. v. Joseph R. Biden, Jr., et al.*, in the United States District Court for the Western District of Louisiana, Lake Charles Division, Case No. 2:24-CV-00406 (July 1, 2024).

2. Even if the Department were to delve into new evidence relevant to the economic and environmental considerations, which it need not to grant the Extension Request⁴, recent studies continue to support (and certainly are not contrary to) the public interest being served by LNG exports.
3. Finally, by failing to mention (much less attempt to address) the overwhelming evidence submitted by GPLNG⁵ that *denying* the extension request would be *contrary* to the public interest, CBD ignores the legal standard controlling DOE’s determination—that it must *grant* the application unless it finds doing so is *inconsistent* with the public interest.⁶

As detailed in its Extension Request, the project owners have fully committed to completing GPLNG’s export facility.⁷ The event precipitating the Extension Request was the bankruptcy filing of the lead construction contractor, Zachry Industrial Inc. (“Zachry”)—an event out of GPLNG’s control⁸—which slowed progress but has not deterred the project owners. Since resolving the issues in the bankruptcy court, the construction workforce has been growing weekly and progress on the export facilities has continued even since filing the Extension Request. The LNG facility is now 81% complete

⁴ DOE regulations categorically exclude consideration of upstream and downstream effects of LNG exports from the agency’s NEPA analysis (National Environmental Policy Act Implementing Procedures, 85 Fed. Reg. 78,197 (Dec. 4, 2020)), a determination consistent with the Supreme Court’s holding in *Department of Transportation v. Public Citizen*, 541 U.S. 752 (2004) (the scope of a federal agency’s environmental assessment does not include the potential environmental effects of activities outside the agency’s regulatory mandate). *See also, Center for Biological Diversity v. U.S. Dep’t of Interior*, 563 F.3d 466, 485 (D.C. Cir. 2009) (the Department of the Interior “simply lacks the discretion to consider any global effects that oil and gas consumption may bring about” when its regulatory authority was only to approve plans for oil and gas leases on the Outer Continental Shelf). DOE cannot ignore its own NEPA regulations by conducting a separate environmental analysis under the guise of the “public interest.” *Gulf States Mfrs., Inc. v. NLRB*, 579 F.2d 1298, 1308 (5th Cir. 1978), *on reh’g*, 598 F.2d 896 (5th Cir. 1979) (“the failure of an agency to follow its regulations renders its decision invalid.”). Moreover, the NGA’s instruction to consider the “public interest” is not a call for open-ended assessments of the potential climate impacts of producing and consuming LNG. *See NAACP v. Fed. Power Comm’n*, 425 U.S. 662, 669 (1976) (“the use of the words ‘public interest’ in a regulatory statute is not a broad license to promote the general public welfare. Rather, the words take meaning from the purposes of the regulatory legislation.”). Thus, the term “public interest” in the NGA means “to promote the orderly production of plentiful supplies of . . . natural gas at just and reasonable rates.” *Id.* at 670.

⁵ Extension Request, pp. 9-11 and Exhibit 13.

⁶ Natural Gas Act section 3(a), 15 U.S.C. § 717b(a) (DOE “shall issue” an order granting an export application unless “it finds that the proposed exportation . . . will not be consistent with the public interest”).

⁷ Extension Request, pp. 3-8.

⁸ The Extension Request detailed facts—totally un rebutted by CBD’s comments—supporting the Department’s standard for finding good cause to grant the extension. *Policy Statement on Export Commencement Deadlines in Authorizations To Export Natural Gas to Non-Free Trade Agreement Countries*, 88 Fed. Reg. 25272 (April 26, 2023) (“Policy Statement”).

and the pipeline expansion project is 85% complete. In addition, GPLNG has sold 100% of its LNG offtake capacity for 20 years of operations. This fact together with the advanced construction of the project highlight the common sense logic for the Department’s statement that:

[c]urrent non-FTA authorization holders who wish to seek an extension of their export commencement date may also submit such an application pursuant to the April 2023 Policy Statement on Export Commencement Deadlines in Natural Gas Export Authorizations and those applications will be reviewed during the pause.

DOE Pause Statement, fn. 1.

CBD’s comments conveniently overlook DOE’s Pause Statement, and only offer its long-refuted allegations that LNG exports will increase domestic natural gas prices and increase global greenhouse gas emissions. In fact, recent studies reflect the opposite. Increasing LNG exports has not increased domestic natural gas prices and is not projected to do so in the future.⁹ And U.S. LNG actually lowers greenhouse gas emissions compared to the alternative energy sources.¹⁰

CBD also fails to even acknowledge the incredible harm to the public interest if the extension is NOT granted. Up to nine thousand construction related jobs for multiple years will be lost in an economically disadvantaged region.¹¹ GPLNG’s current workforce, representing an investment of

⁹ See, e.g., [Impact Analysis of U.S. Natural Gas Exports on Domestic Natural Gas Pricing](#), Energy Ventures Analysis (March 2024), last accessed Nov. 6, 2024 (“Despite a record level of natural gas exports during the first six months of 2023, U.S. natural gas prices at Henry Hub averaged \$2.48 per MMBtu, the lowest six-month average in over 35 years (outside of the COVID-19 pandemic).” Footnote omitted); [An Examination of Whether U.S. LNG Exports Drive domestic Natural Gas Prices](#), R. Dean Forman, Ph.D., Texas Oil and Gas Association (February 15, 2024), last accessed Nov. 6, 2024 (“Amid tumultuous and uncertain times, U.S. natural gas exports have remained near record-high levels per the U.S. Energy Information Administration (EIA), but natural gas prices at Henry Hub, Louisiana, remained as low as \$1.70 per million Btu (mmbtu) in early February 2024, marking the lowest real prices for the month on record since 1994.”); [Analysis of U.S. Natural Gas Market Price Impacts from Increasing Natural Gas Supply Accessibility for Different Natural Gas Demand Outlooks](#), NERA Economic Consulting (April 2023), last accessed Nov. 6, 2024 (“An analysis of the U.S. EIA’s estimates of technically recoverable resources of dry natural gas and prices from U.S. supply regions shows that there are sufficient natural gas supply resources to support both domestic and export demand within a reasonably low-price range of \$3 to \$4/MMBtu (assuming no regional pipeline constraints).” Footnote omitted).

¹⁰ See, e.g., [Lifecycle GHG Emissions of US LNG Exports](#), ICF Incorporated, LLC, (July 30, 2024), last accessed Nov. 6, 2024 (growing U.S. LNG exports through 2030 consistent with EIA estimates would result in reduced greenhouse gas emissions between 56 and 381 million tons of CO₂e per year); [Comparative GHG Footprint Analysis for European and Asian Supplies of USLNG, Pipeline Gas, and Coal](#), BRG Energy & Climate (April 2024), last accessed Nov. 6, 2024 (GHG emissions intensity of U.S. LNG in 2022 was less than 50% of coal in both Europe and Asia and lower than pipeline gas imported from Algeria, Russia, and Turkmenistan).

¹¹ “26.7% of Port Arthur, TX residents had an income below the poverty level in 2022, which was 47.6% greater than the poverty level of 14.0% across the entire state of Texas.” <https://www.city-data.com/poverty/poverty->

already over \$100 million will be wasted and over 500 employees, contractors, and secondees will lose their jobs. Over 1200 active contracts with suppliers, vendors and service providers just for commercial operations, totaling hundreds of millions of dollars in value, will be lost. 125 NAESB contracts and eleven (an increase of two since the Extension Request) long-term gas supply contracts will need to be unwound or sold. And the buyers of GPLNG's LNG production, which is 100% sold, will be forced to replace those volumes from other sources. Finally, the loss to the owners of over \$8 billion GPLNG and GPPL have already invested into the LNG export facility and pipeline expansion will cause a huge uncertainty and disincentive for future investment in energy projects.

The economic disaster does not stop with only GPLNG's business.¹² Third party estimates are that \$612.9 million in gross product and 5,177 jobs will be lost *each year* for the 25-year estimated life of the LNG export terminal. Jefferson County alone will lose most of an estimated \$18.7 billion in gross product and 197,763 job years of employment during the construction and first 25 years of operations of Golden Pass LNG. Texas will lose an estimated \$23.3 million per year of sales taxes during full operations, while Jefferson County taxing entities will lose an estimated \$8.3 million per year during full operations.

In short, CBD's comments fail on all counts to present any justification for a finding that granting the extension request is contrary to the public interest. DOE has already, three times, found that GPLNG's LNG export project is in the public interest.¹³ There are no facts to suggest that a contrary finding is appropriate now. The extension request does not include any change to the previously approved plant design. FERC has already granted an extension until November 30, 2029, to complete construction of the project.¹⁴ And given the advanced construction of the Project, the sale and purchase agreements for 100% the facility's LNG production, and obvious commitment of the owners to complete the project, denying the request would be without any rational basis.

[Port-Arthur-Texas.html](#), last accessed Nov. 8, 2024.

¹² *Supra* at fn. 4.

¹³ *Golden Pass Products LLC*, FE Docket No. 12-156-LNG, DOE/FE Order No. 3978 (April 25, 2017) p. 172 (finding there was no basis to conclude "that a grant of requests authorization will be inconsistent with the public interest."); *Golden Pass LNG Terminal LLC*, FE Docket Nos. 12-88-LNG and 12-156-LNG, Order Granting Request for Extension of Export Commencement Deadlines (March 24, 2020) p. 9 ("find[ing] that granting the Request [for extension] promotes the public interest under NGA section 3(a)."); and *Golden Pass LNG Terminal LLC*, Docket No. 12-156-LNG, DOE/FECM Order No. 3978-E (April 27, 2022) p. 46 (concluding after review of the record evidence and relevant precedent there is not "an adequate basis to conclude that Golden Pass LNG's proposed increase in exports of LNG to non-FTA countries will be inconsistent with the public interest"), *reh'g denied*, Order No. 3978-F (June 24, 2022), *petition for review dismissed*, *Sierra Club v. Department of Energy*, No. 22-1218 (D.C. Cir. July 16, 2024).

¹⁴ See attached October 24, 2024, letter from Daniel Green, Branch Chief, Division of Pipeline Certificates, Office of Energy Projects, FERC Docket No. CP14-517-002. CBD did not intervene in the FERC proceeding.



There is no reason for DOE to delay granting GPLNG's request for an additional eighteen-month period beyond the current deadline, until March 31, 2027, for the commencement of commercial LNG exports. Doing so would remove unnecessary uncertainty to the viability of the project for GPLNG, its LNG buyers, gas suppliers, and the thousands of contractors and suppliers currently working on constructing the project, and the hundreds of contractors and suppliers that have already contracted for work once the plant starts operations. Therefore, for all the reasons stated in the Extension Request and herein, GPLNG respectfully requests that the extension of its commencement deadline be granted expeditiously.

Please contact the undersigned if you have any questions or require additional information. Thank you, in advance, for your attention to this request.

Respectfully submitted,

Diane Neal

S. Diane Neal

Assistant General Counsel, Golden Pass LNG Terminal LLC

cc: Parties, Docket Nos. FE12-156-LNG and FE12-88-LNG

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

VIA FERC Service

In Reply Refer To:

OEP/DPC/CB-2
Golden Pass LNG Terminal, LLC
Export Terminal Project
Docket No. CP14-517-002
§ 375.308(w)(4)

October 24, 2024

S. Diane Neal
Assistant General Counsel
Golden Pass LNG Terminal, LLC
811 Louisiana Street, Suite 1500
Houston, Texas 77002

RE: Extension of Time

Dear Ms. Neal:

On December 21, 2016, the Commission issued an Order Granting Authorizations under Sections 3 and 7 of the Natural Gas Act (December 21 Order)¹ granting Golden Pass Products LLC authorization to site, construct, and operate facilities for the export of liquefied natural gas (LNG) located at its existing LNG import terminal in the vicinity of Sabine Pass, Texas (Terminal). Ordering Paragraph (B) of the December 21 Order provided a deadline of December 21, 2021, to make the authorized facilities available for service. On December 20, 2018, the Commission issued an Order Authorizing Transfer of NGA Section 3 Authorization authorizing the transfer of Golden Pass Products LLC's authorization under the December 21 Order to Golden Pass LNG Terminal, LLC (GPLNG) as part of an anticipated merger.²

¹ *Golden Pass Products LLC and Golden Pass Pipeline LLC*, 157 FERC ¶ 61,222 (2016) (December 21 2016, Order), *amended*, 174 FERC ¶ 61,053 (2021). The December 21 Order also authorized Golden Pass Pipeline LLC to construct its Pipeline Expansion Project.

² *See Golden Pass LNG Terminal LLC and Golden Pass Products LLC*, 165 FERC ¶ 61,261 (2018).

On October 30, 2019, GPLNG filed a request for an extension of time, until November 30, 2026. GPLNG stated that, due to delays in obtaining the necessary authorizations both from the Commission as well as the Department of Energy's Office of Fossil Energy, and the resulting uncertainty, additional time was needed to enable GPLNG to enter into the necessary commercial arrangements to commence construction, and to construct the Terminal. On December 11, 2019, the Commission granted an extension of time, until and including November 30, 2026, to complete construction of the project and place it into service.³

In this latest filing, GPLNG states that, due to delays caused by the bankruptcy filing of the lead construction contractor, remaining schedule uncertainties related to the transition to a new lead contractor, and other possible delays outside of GPLNG's control that may occur, such as potential hurricane impacts, and for commissioning and start-up activities, that additional time is required for completing construction of the project and placing it into service. Therefore, GPLNG is requesting an additional three-year extension to address these issues.

On August 30, 2024, the Commission issued public notice of the GPLNG's request for an extension of time, with interventions, comments, and protests due September 16, 2024. No protests or adverse comments were filed.

Based on the facts presented in the request, GPLNG is granted an extension of time until and including November 30, 2029, to complete construction of the project and make it available for service.

This action is taken pursuant to authority delegated by the Commission in 18 C.F.R. § 375.308(w)(4).

Sincerely,

Daniel Green
Branch Chief
Division of Pipeline Certificates
Office of Energy Projects

³ See, Docket No. CP14-517-000, *et al.* (December 11, 2019) (delegated letter order).