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January 7, 2022

VIA EMAIL & U.S. MAIL:

Thomas Harris, Secretary
State of Louisiana
Dept. of Natural Resources
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Office of Coastal Management
Received

JAN 18 2022

RE: Petition for Reconsideration of Venture Global Plaquemines LNG, LLC's Coastal Use Authorization/Consistency Determination

Dear Mr. Harris:

Pursuant to Section 49:214.35(B) of Louisiana's State and Local Coastal Resources Management Act, the Sierra Club hereby petitions the Secretary of the Louisiana Department of Natural Resources ("LDNR") to reconsider the Coastal Use Authorization/Consistency Determination for Venture Global Plaquemines LNG, LLC's dock and export facility (hereinafter "the Plaquemines LNG project") (C.U.P. no. P20211983 dated December 30, 2021, and C.U.P. no. P20170545 dated August 26, 2019, amended December 14, 2020). LDNR should reconsider its decision to not require a Coastal Use Permit ("CUP") based on issues not previously considered; the decision is clearly contrary to the law and evidence; and there exist other good grounds for further consideration of the issues and the evidence in the public interest.¹

CUP no. P20211983 describes the proposed action as "installation/improvement of an existing dock (Dock B-1) to support construction of the Plaquemines LNG Project (CUP No. P20170545) Terminal Site." (Emphasis supplied.) Thus, installation or improvement of the dock and construction of the LNG export facility are one integrated project. Because the installation and improvement of the dock is an integral part of the overall project the CUPs should not be treated separately for purposes of the coastal use determinations. Put another way, the new consistency

¹ A coastal use permit decision or determination can be appealed by "any [] person adversely affected by [the decision]." (La. R.S. § 214.30(D)). Sierra Club is a non-profit environmental organization with a Louisiana chapter and members who would be adversely affected by the construction and operation of the Plaquemines LNG project, including but not limited to its impacts on air, water, wetlands, fish and wildlife, and vehicular and vessel traffic.

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Environmental Division

determination is not for a separate, independent project; rather it is an amendment to the prior application and consistency determination and should be analyzed as such.²

This case meets each of the grounds for reconsideration under Louisiana Revised Statutes § 49:214.35(B):³

1) The decision or determination is clearly contrary to the law or the evidence before the secretary.

CUPs are required for uses of concern (dredge, fill, construction, operation) in the coastal zone. La. R.S. § 49:214.30. However, based on the Determination for CUP no. P20211083 no coastal use permit is required because the activity is located at an elevation of 5' MSL or higher and the activity is located in a fastland. A similar determination was made for CUP no. P201705435.

According to the Federal Energy Regulatory Commission ("FERC") environmental impact statement, "elevations at the LNG terminal site range from -2 and - 4 feet" (FEIS 2.5.1.1.).⁴ In addition, under Louisiana Administrative Code Title 43 Part I, section 723(2), if a direct and significant impact ("DSI") is found, the applicant must get a CUP regardless of whether the project is above 5 feet. Similarly, according to LDNR's NSDI memorandum from October 4, 2012 (emphasis added): "[i]t is incorrect to state that an area, such as a fastland, is exempt. Rather, it is correct to state that a particular activity in a fastland is exempt from the coastal use permit requirement, *provided that it has no direct and significant impacts on coastal waters.*" In this case the dock will have a DSI and it enables operation of the overall project, which has an additional DSI on the coastal zone.⁵

² Because the new C.U.P. determination amends the earlier one this starts the clock running anew for agency reconsideration and judicial review of C.U.P. no. P20170545. See LSA-R.S. 49:214.35(B) and (H).

³ Because these elements are in the disjunctive, see § 214.35(B)(3), satisfying any one element is grounds for reconsideration.

⁴ The FERC EIS is available at https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20190503-3011&optimized=false.

⁵ The LDNR no DSI determination for the Plaquemines LNG project dock installation/improvement is in error because the installation/improvement of the dock will result in noise pollution from activities such as pile driving and dredging as well as noise and air pollution resulting from increased vehicular and ship traffic. The dock installation/improvement will also result in increased storm water runoff from the driveway and parking lot, and impacts from the heavy machinery which will be used to dump 1,000 plus cubic yards of sand, rock, and asphalt work. In addition, LDNR's reliance on Section VII of the LDNR October 4, 2012, memorandum is misplaced since the installation/improvement of the dock involves more than the activities listed in Section VII, including but not limited to the actions on the driveway and parking lot. Reliance on Section IX is also misplaced since the activities are not "wholly in areas designated as 'Uplands.'" In addition, the FERC final EIS describes numerous significant impacts from construction of the project to the site as well as impacts beyond the immediate project boundary, like noise, light, vehicular and ship traffic, and air pollution. See e.g., FEIS at 4.4.2, 4.13.2.3, 4.13.2.4, 4.13.2.5, 4.13.2.9, 4.13.2.11, 4.13.2.12, 4.13.2.14.

The LDNR basis for finding no DSI for the Plaquemines LNG project is that it is located within fastlands, i.e. within levees, and therefore would have no effect on the coastal zone outside the levees. But this is contrary to the evidence before the agency, which demonstrates that those levees have been topped on numerous occasions. This is set forth for example in the comments submitted by Healthy Gulf to LDNR on the Plaquemines LNG project dated July 16, 2019, which is incorporated by reference.⁶

Because the site would be heavily industrialized and covered with impermeable surfaces, when it is flooded pollutants from the site would ebb and flow into the connected flood waters in the surrounding coastal zone area. This flooding poses environmental risks and operational safety problems, and once the surge starts to retreat there is a real risk that contaminants would be carried seawards into Louisiana's precious coastal wetlands and the Mississippi River in addition to local communities. When the site is flooded by the surge associated with a major hurricane there would be a high probability of runoff of landfill (during construction) and chemicals (during operation) being carried off the site and into homes, businesses, farmland, and fragile coastal wetlands. This constitutes a direct and significant impact.⁷

2) The petitioner has discovered, since the decision or determination, evidence important to the issues which he could not, with due diligence, have presented to the secretary prior to the decision.

Hurricane Ida hit the site on or about August 29, 2021. Hurricane Ida completely flooded the site, which indicates: 1) the levees did not protect the site; 2) the flood waters are connected to waters in the surrounding coastal zone; and 3) similar severe storm events in the future would provide for the runoff or transport of pollutants from the site into the surrounding coastal zone. See photos of Hurricane Ida flooding of the site attached as exhibits hereto. Because Hurricane Ida post-dates CUP no. P20170545 and its December 14, 2020, amendment it could not have been addressed in connection with the original CUP. And it does not appear to have been considered by LDNR in regards to the current amendment to the CUP for the dock installation/improvement.

In addition, Hurricane Ida data indicates that the Plaquemines LNG project's planned 26 ft. levees would not necessarily support a finding of no DSI. After the storm the Coastal Emergency

⁶ Healthy Gulf showed the site is not protected and is vulnerable to future storms and floods. Healthy Gulf used Tropical Storm Barry as an example, plus Hurricane Isaac and Katrina. The Plaquemines levee has been topped repeatedly in the past and it gets overtopped every storm season at least once. This means the second prong of LDNR's fastlands definition would not be satisfied, namely the "levees or natural formations would normally prevent activities . . . within the surrounded area from having direct and significant impacts on coastal waters."

⁷ The LDNR no DSI determination for the Plaquemines LNG project is in error because under LDNR's NDSI memorandum the "NSDI determination will not apply if . . . there are any impacts to vegetated wetlands (emergent or submergent)." (October 4, 2012 LDNR Memorandum). Here FERC's final EIS and the Corps' 404 permit indicate that there will be impacts to wetlands on site and to wetlands crossed by the pipeline that is part of the project.

Risk Assessment group at Louisiana State University ("LSU") produced hindcast surge data for Plaquemines Parish in the vicinity of the proposed LNG facility. The data reveal that the surge elevation was in the range of about 8.8 ft. to 12 ft. NAVD88, so in some places water depths would have been at least 15 ft. Winds at landfall were horrific (up to 150 mph) so a vicious and very destructive wave field would have covered its surface, waves would have been up to 12 ft. high. Based on an expert analysis Sierra Club obtained in January, 2022, the ring levee at the LNG facility would have to have been 27 ft. high NAVD88 for no overtopping, assuming it held. And on a different track with more surge, using shallow wave equations, gives a combined surge and wave height maximum water level of 37 ft. Accordingly, we ask you to reconsider the determination that no CUP is required, acquire and consider the LSU data, and take public comment and hold a public hearing on these issues.

3) There is a showing that issues not previously considered, through no fault of the petitioner, ought to be examined in order to properly dispose of the matter.

It appears that LDNR did not adequately consider the interrelation of the dock and the project as a whole. Rather it considered them as two separate permitted activities. It is not appropriate to piecemeal aspects of the project to avoid consideration of them together, and Petitioner respectfully requests reconsideration of the non-CUP finding for the Plaquemines LNG project accordingly. This would also enable LDNR to take into account the impacts of Hurricane Ida on the site and data in connection with it as to whether a CUP should be required. By evaluating the permits under separate permit numbers, LDNR also mistakenly found that no feasible and practicable alternative for the dock or its installation/improvement exists. There is such an alternative, namely building the project without it, as evidenced by its lack of inclusion in the original project application.

4) There exist other good grounds for further consideration of the issues and the evidence in the public interest.

The purpose of the CUP requirement is to protect the public. Without a permit, the applicant avoids all of the protective measures and mitigation that may be required by LDNR in the permit process. The Plaquemines LNG project is a major industrial facility sited in the coastal zone and we request that LDNR issue a CUP to protect the public in the area as well as to protect the coastal zone, water, wetlands, and fish and wildlife that will be impacted.

Respectfully submitted this 7th day of January, 2022.

/s/ Lisa Diaz
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