UNITED STATES DEPARTMENT OF ENERGY

BEFORE THE DEPARTMENT OF ENERGY
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of:	
Sabine Pass Liquefaction, LLC and Sabine Pass LNG, L.P	FERC Docket Nos. CP11-72-000, PF10-24

SIERRA CLUB'S NOTICE OF INTERVENTION, MOTION TO INTERVENE, and COMMENT on THE DECEMBER 28, 2011 SABINE PASS LIQUEFACTION PROJECT ENVIRONMENTAL ASSESSMENT

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I. Background and Motion to Intervene

Pursuant to Rule 214 of the U.S. Department of Energy's Rules of Practice and Procedure the Sierra Club hereby moves to intervene in the above-captioned docket. [1] Sierra Club's principal place of business is 85 Second St., Second Floor, San Francisco, CA 94105. Service in this proceeding may be made upon counsel for Sierra Club designated below.

Sierra Club is a national, non-profit environmental and conservation organization with more than 600,000 members nationwide. Through its Natural Gas Reform campaign, Sierra Club members work to ensure that the natural gas industry is subject to strong national and state safeguards that protect our air, water, and communities. The Sierra Club's work includes submitting comments in numerous state and federal agency energy-related proceedings and rulemakings,

[1] 18 C.F.R. § 385.214(a)(3), (b)(1), (b)(2)(iii).

pursuing energy-related litigation, attending and speaking at public hearings, speaking to students and civic and other organizations, and holding seminars and symposia – all in support of policies to limit fossil fuels' impacts to human health, climate change and the environment and to promote clean energy alternatives and energy efficiency.

On January 31, 2011, Sabine Pass LNG, L.P. and Sabine Pass Liquefaction, LLC (collectively "Sabine Pass") filed an application with the Federal Energy Regulatory Commission ("FERC") under Section 3(a) of the Natural Gas Act[2] to construct and operate liquefaction and export facilities at the existing LNG import facility in Cameron Parish, Louisiana.[3] This application is docketed as FERC Docket No. CP11-72-000.

The construction/operation application follows earlier applications before the Department of Energy's Office of Fossil Energy ("DOE FE") requesting authority to export LNG to free-trade-agreement[4] and non-free-trade-agreement[5] countries. DOE has granted both applications, although the application for export to non-free-trade-agreement countries is conditioned on completion of FERC's National Environmental Policy Act[6] ("NEPA") review of the construction/operation application.

As a result of the separate construction/operation and export applications, there are effectively two dockets in this case. The construction/operation docket is

[2] 15 U.S.C. § 717b.
[3] FERC Docket No. CP11-72
[4] Application filed August 11, 2010, FE Docket No. 10-85-LNG. Application granted Sept. 7, 2010.
[5] Application filed Sept. 7, 2010, FE Docket No. 10-111-LNG. Application conditionally granted May 20, 2011, pending completion of National Environmental Policy Act analysis.
[6] 42 U.S.C. § 4321.

FERC Docket No. CP11-72-000, while FERC previously opened a "pre-filing" docket in connection with the DOE FE export applications, FERC Docket No. PF10-24. The environmental assessment was filed in CP11-72-000, with notice of the filing lodged in PF10-24. No separate environmental assessment will be filed in PF10-24.

Sierra Club has a direct interest in these dockets because the environmental, climate and human health effects of exports and the siting, construction, and operation of this export facility are potentially significant. Accordingly, an environmental impact statement must be prepared under NEPA and DOE's NEPA regulations at 10 CFR Part 1021. These effects are articulated below, together with other concerns regarding the application. The Sierra Club's interests in this proceeding are not represented by any current party to the proceeding. Sierra Club's participation will advance the public interest in full disclosure and assessment of environmental effects associated with the Sabine Pass application.[7]

II. Comments on The EA

a. The EA Unlawfully Looks Only at The Impacts of Construction and Operation of the Export Facilities, Ignoring The Effects of Export Itself and Failing to Take A Hard Look at Whether LNG Export Is in The Public Interest

Section 3(a) of the Natural Gas Act requires the Secretary of Energy to deny an export application if he finds that the proposed exportation "will not be consistent with the public interest." The public interest includes environmental effects in addition to effects on natural gas markets. Here, in DOE FE's order

[7] 18 C.F.R. § 385.214 (a)(3), (b)(2)(iii).

conditionally granting Sabine Pass's application for export authority, DOE FE acknowledged that the public interest assessment "the domestic need for the natural gas proposed to be exported; whether the proposed exports pose a threat to the security of domestic natural gas supplies; and *any other issue determined to be appropriate*."[8] These other issues include environmental impacts. The open-ended requirement to assess the public interest, interpreted in light of the policies and obligations imposed by NEPA, requires "DOE to give appropriate consideration to the environmental effects of its proposed decisions."[9]

Under the FERC and DOE FE's proposed framework, the instant environmental assessment provides the sole opportunity to examine environmental effects of exports themselves or of construction, operation, and siting of export facilities. DOE FE is relying on FERC: DOE FE's authorization of exports was "conditioned on the satisfactory completion of the environmental review process in FERC Docket No. PF10-24-000 and on issuance by DOE/FE of a finding of no significant impact or a record of decision pursuant to NEPA."[10] PF10-24 is FERC's "pre-filing" docket for this matter. The EA at issue here is docketed in CP11-72-000 and referred to in PF10-24.[11]

Although environmental review of export itself was deferred until this EA, the EA wrongly limits its scope to solely the siting, construction and operation of the

[8] NFTA Export Order at 29 (emphasis added)
[9] *Id.* The NFTA order further cited DOE FE Order No. 1473, *Phillips Alaska Natural Gas Corporation and Marathon Oil Company*, 2 FE ¶ 70,317 and DOE Delegation Order No. 0204-111 for the proposition that DOE must regulate exports "based on a consideration of the domestic need for the gas to be exported and such other matters as the Administrator finds in the circumstances of a particular case to be appropriate."
[10] NFTA order at 41 (citing 10 CFR § 590.402)
[11] *See* FERC filing of Oct. 29, 2010 in PF10-24 (explaining FERC's NEPA process), FERC filing of Dec. 16, 2011 in PF10-24 (notice of availability of EA in CP11-72-00)

liquefaction and loading facilities, ignoring the impacts of export itself. This cabined review violates NEPA. NEPA's implementing regulations require agencies to consider the effects of their actions, and do not allow consideration of a subset of the action. NEPA also requires that all environmental analyses be conducted at "the earliest possible time" and to the "the fullest extent possible."[12] NEPA requires that an "assessment of all 'reasonably foreseeable' impacts must occur at the earliest practicable point, and must take place before an 'irretrievable commitment of resources' is made."[13]

Export of LNG will induce additional shale gas extraction, increase domestic gas prices, induce additional coal consumption for electricity generation, and increase greenhouse gas emissions and global warming. Each of these effects should have been analyzed in the EA but were omitted from discussion. Furthermore, these effects bear on the question of whether export is in the public interest, and must be factored into the DOE FE's forthcoming final assessment of the public interest pursuant to the Natural Gas Act.

i. Export Will Induce Additional Shale Gas Extraction, but The EA Does Not Examine The Impacts of This Extraction

The stated purpose of the export and associated facilities is to "provide a market solution to allow further development of unconventional (particularly shale

[12] *See N.M. ex rel. Richardson v. BLM*, 565 F.3d 683, 718 (10th Cir. 2009)
[13] *Id.* (citing 42 U.S.C. § 4332(2)(C)(v); *Pennaco Energy, Inc. v. U.S. Dept. of Interior*, 377 F.3d 1147, 1160 (10th Cir. 2004); 40 C.F.R. §§ 1501.2, 1502.2240 C.F.R. § 1501.2)), *see also Kern v. U.S. Bureau of Land Mgmt.*, 284 F.3d 1062, 1072 (9th Cir. 2002) ("NEPA is not designed to postpone analysis of an environmental consequence to the last possible moment. Rather, it is designed to require such analysis as soon as it can reasonably be done.").

gas-bearing formation) sources in the United States."[14] Despite this explicit recognition that the project will encourage additional shale gas extraction, the EA contains no analysis of the impacts of such extraction. This violates NEPA's command to consider both direct and indirect impacts of the proposed action.[15]

As a threshold matter, the EA's prediction that exports will "facilitate" shale gas extraction appears well-founded. The Energy Information Administration ("EIA") recently concluded that "natural gas markets in the United States balance in response to increased natural gas exports largely through increased natural gas production," and that in most foreseeable scenarios, "about three-quarters of this increased production is from shale sources."[16]

Shale gas is typically extracted through a combination of horizontal drilling and hydraulic fracturing techniques. These techniques, and their health and environmental consequences, were recently summarized by the Natural Gas Subcommittee of the Secretary of Energy Advisory Board,[17] other government agencies,[18] and in expert reports submitted by the Sierra Club and other groups in a variety of regulatory proceedings.[19] We summarize this process and these impacts

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[14] EA 1-10

[15] 40 CFR § 1508.8 (indirect effects defined as those "caused by an action and [that] are later in time or farther removed in distance, but are still reasonably foreseeable")

[16] Exhibit 1, Energy Information Administration, Effects of Increased Natural Gas Exports on Domestic Energy Markets, 6 (January 2012) available at http://www.eia.gov/analysis/requests/fe/pdf/fe_lng.pdf

[17] Exhibit 2, Natural Gas Subcommittee, *90-day interim report*, (August 18, 2011), *available at* http://www.shalegas.energy.gov/resources/081811_90_day_report_final.pdf, Exhibit 3, *180-day interim report* (Nov. 18, 2011) *available at* http://www.shalegas.energy.gov/resources/111811_final_report.pdf.

[18] While it would be infeasible to include every such assessment here, a recent and notable example is the New York Department of Environmental Conservation's *Revised Draft Supplemental General Environmental Impact Statement on the Oil, Gas and Solution Mining Regulatory Program* (September 2011), *available at* http://www.dec.ny.gov/data/dmn/rdsgeisfull0911.pdf and attached here as Exhibit 4.

[19] The Sierra Club and other organizations have also provided extensive expert analysis of the impacts of hydraulic fracturing. For analysis of water impacts, *see* Natural Resources Defense Council, Earthjustice, and Sierra Club,

here. Hydraulic fracturing involves injecting water, sand, and various fracturing chemicals into the gas-bearing formation at high pressures to fracture the rock and release additional gas. Thus, the first step in the process requires procurement of large quantities of water and sand, often in areas with limited water resources. These materials must then be transported to the well site, imposing significant transportation impacts. The fracturing process then poses a risk to groundwater resources, as fractures in the formation and failure of the well casing can lead to contamination of groundwater. Contaminants may include chemicals introduced into the well, such as fracturing fluid and drilling muds, as well as naturally occurring substances previously isolated from the ground water sources, such as methane, salts, and naturally occurring radioactive material. On the surface, the fracturing fluid, drilling mud, and produced water must be stored and disposed of. The storage facilities for these substances can fail, introducing environmental and erosion hazards into the surrounding environment. Disposal of produced water is a challenge because of, *inter alia*, its volume, salinity, and unusual contaminants. Thus, publicly owned water treatment works are often incapable of processing hydraulic fracturing produced water. After the initial fracturing, gas from the well is often vented or flared as the initial "flowback" is cleared from the well. Because of this flaring or venting process, fractured wells typically have air emissions much higher than those of traditional wells.

Comments [to EPA] on Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels (June 29, 2011), attached here as Exhibit 5. For a discussion of the air impacts of natural gas extraction, with a focus on hydraulic fracturing, *see* Sierra Club, et al., *Comments on New Source Performance Standards: Oil and Natural Gas Sector; Review and Proposed Rule for Subpart OOOO,* Docket No. EPA-HQ-OAR-2010-0505 (Nov. 30, 2011), attached here as Exhibit 6. We further submitted extensive technical reports on the NY RDSGEIS, attached here as Exhibits 7 and 8

In light of the stated purpose of the project and the Energy Information Administration's predictions, an increase in shale gas extraction (and concomitant environmental effects) is indisputably an effect likely to be "caused by" the project, 40 CFR § 1508.8. NEPA requires analysis of the effects of increased driling. The EA's failure to address these effects is unlawfully deficient.

ii. Export Will Increase Domestic Gas Prices

The EIA recently concluded that LNG export will increase domestic gas prices.[20] This rebuts conclusions reached by DOE FE in the order conditionally granting authority to export to non-free-trade-agreement countries.[21] Specifically, the DOE FE's public interest determination explicitly rested on the conclusion that export would minimally affect domestic gas prices. *Id.* Although some commenters had argued to the contrary, DOE FE rejected these comments as lacking scientific foundation. The EIA report provides the missing foundation. At a minimum, the EA must revisit this issue in light of the EIA report, and consider the effects that increased domestic gas prices would entail.

iii. The EA Fails to Examine the Effect LNG Export Will Have on Domestic Electricity Production and the Consequences Associated with These Effects

As noted above, the Energy Information Administration concluded that exports will increase domestic natural gas prices. These higher prices will cause "the electric power sector primarily [to] shift[] to coal-fired generation, and

[20] Exhibit 1, Energy Information Administration, *Effects of Increased Natural Gas Exports on Domestic Energy Markets*, 6 (January 2012) *available at* http://www.eia.gov/analysis/requests/fe/pdf/fe_lng.pdf
[21] DOE FE NFTA Order at 30.

secondarily of renewable resources."[22] The increase in domestic coal consumption for purposes to electricity generation is therefore an indirect effect caused by LNG export. Because coal burning power plants emit more hazardous pollutants than natural gas fired plants, this shift will negatively affect human health and the environment. The EA should have analyzed this impact.

iv. The EA Unlawfully Failed to Take A Hard Look at Impacts on Global Warming, Because It Improperly Concluded That The Export Facility's GHG Emissions Were Insignificant and Improperly Failed to Indirect Effects on Greenhouse Gas Emissions

The EA acknowledges that the liquefaction facility will emit greenhouse gasses ("GHGs")[23], and that direct emissions of the liquefaction project will amount to 3.9 million tons per year of carbon dioxide equivalent.[24] This will increase Louisiana's total GHG emissions by 2% on a CO2-equivalent basis.[25] Sabine Pass completed a GHG Best Available Control Technology analysis as part of its Clean Air Act Prevention of Significant Deterioration permit application with the Environmental Protection Agency. The EA summarizes this analysis, explaining that carbon capture and sequestration technology is infeasible because of the distance to carbon dioxide pipelines.[26] The EA then states:

[22] Exhibit 1, Energy Information Administration, *Effects of Increased Natural Gas Exports on Domestic Energy Markets*, 6 (January 2012) *available at* http://www.eia.gov/analysis/requests/fe/pdf/fe_lng.pdf
[23] EA 2-57
[24] *Id.*
[25] EA 2-99
[26] *Id.*

> Currently there is no standard methodology to determine how the Project's incremental contribution to GHGs would translate into physical effects on the global environment. However, the emissions would increase the atmospheric concentration of GHGs, in combination with past and future emissions from all other sources, and contribute incrementally to climate change that produces the impacts previously described. Because we cannot determine the Project's incremental physical impacts due to climate change on the environment, we cannot determine whether the Project would result in significant impacts related to climate change.[27]

This analysis is inadequate for several reasons. First, the claimed inability to identify incremental physical impacts is not sufficient to support a finding of insignificance. The Supreme Court has explained that global warming is a problem that will be addressed one piece at a time.[28] Here, GHG emissions are over an order of magnitude greater than the threshold EPA set for identifying major sources of GHG emissions. Accordingly, the claimed inability to quantify incremental impacts does not render the impacts insignificant.

Second, the EA fails to account for indirect GHG emissions. LNG has higher lifecycle greenhouse gas emissions than traditional natural gas.[29] Liquefying natural gas is an energy intensive process. The EA includes the emissions directy attributable to the liquefaction process, although as described in the previous paragraph, the EA fails to take a hard look at the effects of those emissions. Liquefaction, however, is only one part of the gas lifecycle. Once liquefied, LNG

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[27] EA 2-99 – 2-100

[28] *Massachusetts v. EPA*, 549 U.S. 497, 524 (2007) (describing GHG emissions from the US transportation sector as a "meaningful contribution" to global emissions)

[29] Exhibit 9, Jamarillo, et al., *Comparative Life Cycle Carbon Emissions of LNG Versus Coal and Gas for Electricity Generation* (Oct. 12, 2005) *available at* http://www.ce.cmu.edu/~gdrg/readings/2005/10/12/Jaramillo_LifeCycleCarbonEmissionsFromLNG.pdf.

must be transported by truck or tanker, with inherent transportation emissions.[30] It is then regassified, typically using equipment that runs of natural gas and entails further emissions.[31] When these additional steps are considered, LNG has lifecycle greenhouse gas emissions that rival or even exceed those of coal in terms of electricity generation on a per-kilowatt-hour basis.[32] Furthermore, as explained above, GHG emissions from shale gas are higher than those for traditional gas, in part because of the gasses released during the completion process. As noted, the export project is likely to induce further shale gas drilling. All of these additional GHG emissions are indirect effects of the project, yet none of these are included in the EA.

b. The EA Uses The Wrong Baseline for Ship Traffic

The EA states that "The number of ships utilizing the [Sabine Pass Natural Gas] Terminal would not increase as a result of the project. Sabine Pass is currently permitted for a maximum of 400 ships that could call on the terminal per year. Because loading rates proposed for the Project are the same as the unloading rates for the [existing] Terminal, no increase in ship traffic is anticipated."[33]

Rather than comparing anticipated ship traffic with existing *permit*, the EA should have compared anticipated traffic with existing *practice*. The EA does not indicate how the current level of *actual* ship traffic. In light of existing natural gas market conditions, with US prices lower than international prices, it is unlikely

[30] *Id.* at 10.
[31] *Id.* at 10.
[32] *Id.* at 13.
[33] EA 1-9

that the terminal is being used to its full permitted import capacity. Indeed, it is likely that the terminal has *never* been used at this capacity, as the construction of the terminal coincided with the shale gas boom and accompanying change in the domestic gas market. Thus, it is likely that construction of export facilities and authorization of exports will increase the number of ships actually calling on the terminal.

At least one state supreme court has explicitly considered such a scenario in interpreting a state NEPA analogue, holding that when actual practice has lesser impacts than allowed by existing permits, meaningful environmental review requires measurement against the actual practice.[34] There, a refinery had licenses to operate four boilers, each specifying a maximum operating level.[35] Although these licenses in principle authorized all four boilers to simultaneously operate at maximum capacity, this never occurred in practice.[36] Instead, no boiler operated at the maximum level unless one or more other boilers had been shut down for maintenance.[37] The state Environmental Impact Report used the legally authorized but never realized limit, rather than actual practice, as the environmental baseline. The Court overturned this report. "An approach using hypothetical allowable conditions as the baseline results in 'illusory' comparisons that 'can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts,' a result at direct odds with [the state environmental

[34] *Cmtys. for a Better Env't v. S. Coast Air Quality Mgmt. Dist.*, 48 Cal.4th 310, 328, 106 Cal.Rptr.3d 502, 226 P.3d 985 (2010).
[35] *Id.*, 48 Cal.4th at 322, 106 Cal.Rptr.3d 502, 226 P.3d 985
[36] *Id.*
[37] *Id.*

review statute's] intent."[38] This reasoning is equally applicable to NEPA and to the facts here.

c. The EA Fails To Take A Hard Look at Water Requirements

The project will require 3,500 gallons per minute ("gpm") of water, but the EA only describes the provision of 2,300 to 2,400 gpm of supply. Failure to identify the remaining supply renders the EA deficient.

Sabine Pass proposes to construct four liquefaction trains. The EA states that "[o]peration of all four liquefaction trains would require a water supply of approximately 3,500 gpm."[39] This demand exceeds existing on-site supply, which provides only 100 to 200 gpm.[40] Sabine Pass (the company) proposes to augment this supply by constructing a pipe to Sabine Pass, Texas (the town).[41] This "12-inch diameter, 1.2-mile water supply line" is designed to supply "approximately 2,200" gpm.[42]

The EA provides no discussion of how the remaining 1,100 to 1,200 gpm of water will be supplied, or what consequences will arise if the water is unavailable. Instead, the EA merely states that if additional water supplies are needed, Sabine Pass will "consult with the appropriate state and federal resource agencies to obtain or update its existing permits or authorizations."[43] As explained above, NEPA requires that all environmental analyses be conducted at "the earliest possible time"

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[38] *Id.*
[39] EA 2-15
[40] *Id* EA 1-10
[41] *Id*
[42] *Id*
[43] *Id*

and to the "the fullest extent possible."[44] Postponing inquiry into to the satisfaction of known water needs violates this obligation.

d. The EA Relies on Methods to Remedy Identified Deficiencies in Particulate Management without Addressing Whether These Methods Will Be Effective

The EA determined that construction of the facilities will cause significant particulate emissions in the form of fugitive dust, included 658 tons per year (tpy) of PM10 and 99 tpy of PM2.5 across the multi-year construction period. EA 2-52. Sabine Pass proposes to limit these emissions by spraying water and/or applying calcium chloride or other dust suppressants. EA 2-54. The EA assumes that these techniques will have a "control factor" of 50%. The EA properly concludes that these measures are therefore insufficient to ensure adequate mitigation of fugitive dust emissions. The EA therefore recommends requiring Sabine Pass to file a "Fugitive Dust Control Plan" that identifies "precautions" and "additional mitigation measures" to control fugitive dust emissions. EA 2-54. These measures may include "measures to limit track-out onto the roads," a speed limit on unsurfaced roads, and "covering open-bodied haul trucks." EA 2-55. Absent from the EA is any assessment of the efficacy of these measures in this context. Without knowing how effective these measures can be, the EAs' conclusion that these measures will render fugitive dust emissions insignificant is arbitrary and capricious.

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[44] *See N.M. ex rel. Richardson v. BLM*, 565 F.3d 683, 718 (10th Cir. 2009)

e. Hydrogen Sulfide

The proposed project includes facilities to remove carbon dioxide and hydrogen sulfide from natural gas prior to liquefaction. This removed hydrogen sulfide will periodically be vented to the atmosphere. EA 2-69. Such venting will emit concentrations of hydrogen sulfide as high as 0.1%. Id. The EA includes a cursory discussion of the placement of hydrogen sulfide detectors, but includes no discussion of whether these emissions will pose a threat to human health or the environment. Absent such a discussion, FERC cannot conclude that these effects are insignificant.

f. An Environmental Impact Statement Is Required

The authorization to export LNG and to construct and operate LNG export facilities merits an Environmental Impact Statement ("EIS") under NEPA because both aspects of the project will have significant effects on the human environment. Under NEPA, an agency must prepare an EIS when there is a major Federal action that significantly affects the quality of the human environment.[45]

FERC's own regulations identify export of natural gas as an activity that will ordinarily require an EIS.[46] Specifically, FERC's regulations provide that an EIS is "generally" required for "authorizations to . . . export natural gas under section 3 of the Natural Gas Act involving construction of . . . liquefied natural gas terminals and regasification or storage facilities[] or significant expansions and modifications

[45] 42 U.S.C. §4332(C)
[46] 10 C.F.R. § 1021 app. D ("Classes of Actions that Normally Require EISs")

of existing pipelines or related facilities."[47] An EIS is also generally required for "Approvals or disapprovals of authorizations to import or export natural gas under section 3 of the Natural Gas Act involving major operational changes (*such as a major increase in the quantity of liquefied natural gas imported or exported*)."[48] The export proposals before FERC and DOE FE appear to fall into both categories. Although the agencies may argue that the regulation only states that an EIS is "generally" required, before departing from this general rule, the EA must at the very least explain why a departure is warranted. Here, however, the EA includes no discussion of the regulation or regarding why these "general" rules are inapplicable here, nor does there appear to be any other such discussion in the docket.

Even absent FERC's own regulations, NEPA and the statute's general implementing regulations demonstrate that an EIS is required. Many of the project's impacts cross the threshold of "significance" and thereby trigger the EIS requirement. In determining whether or not the effects will be "significant," or whether substantial questions exist as to the significance of the effects, NEPA's implementing regulations require FERC to consider the "context" and "intensity" of the likely impacts. "Context" means "that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality."[49] Also, "[b]oth short- and

[47] *Id at D8*
[48] *Id*. at D9 (emphasis added)
[49] 40 C.F.R. § 1508.27(b)

long-term effects are relevant" for context.[50] "Intensity" means the "severity of impact" and is to be judged according to several criteria.[51]

Finally, the failure to consider many pertinent impacts in the EA warrants completion of an EIS. As explained above, the EA wholly fails to consider many of the impacts associated with the proposal. When an agency gives a "cursory and inconsistent treatment" of an issue, or no references or defense of a statement is given, an agency must prepare an EIS.[52]

III. Conclusion

As explained above, the EA violates NEPA by failing to take a hard look at the effects of the proposed action. The EA wholly ignores indirect effects resulting from export, considering only construction and operation of the facility itself. This exclusion of indirect effects violates NEPA and is incompatible with DOE FE's decision to rely on FERC to assess the impacts of export authorization. The EA further falls short in its evaluation with regard to several of the factors it did consider. In light of these reasons, as well as FERC's general guidelines, FERC must prepare an EIS for the action.

In order to continue to assert the above arguments, and to generally advocate the public interest in the environment in these proceedings, the Sierra Club respectfully requests to intervene.

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[50] *Id*
[51] *Id*
[52] *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1213-14 (9th Cir. 1998)

Dated: January 27, 2012

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