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July 27, 2018

Ms. Amy R. Sweeney  
U.S. Department of Energy  
Office of Regulation and International Engagement  
Office of Fossil Energy  
Forrestal Building  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

**Re: Comments on the 2018 NERA LNG Export Study  
Rio Grande LNG, LLC, DOE/FE Docket No. 15-190-LNG  
Galveston Bay LNG, LLC, DOE/FE Docket No. 17-167-LNG**

Dear Ms. Sweeney:

NextDecade Corporation ("NextDecade") submits the following comments addressing NERA Economic Consulting's 2018 LNG Export Study on behalf of its subsidiaries Rio Grande LNG, LLC ("Rio Grande LNG") and Galveston Bay LNG, LLC ("Galveston Bay LNG"). NextDecade respectfully requests that these comments be considered in the pending proceedings for non-FTA export authority for Rio Grande LNG and Galveston Bay LNG in the above referenced dockets.

Thank you for your attention to this matter. If you have any questions, please contact me at (202) 778-9014 or at [david.wochner@klgates.com](mailto:david.wochner@klgates.com).

Best regards,



David Wochner  
*Counsel for Rio Grande LNG, LLC and Galveston Bay LNG, LLC*

cc: Ms. S. Diane Neal, *Associate General Counsel, NextDecade Corporation*

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 27th day of July 2018.

/s/ Jennifer L. Bruneau

Jennifer L. Bruneau  
*Counsel for Rio Grande LNG, LLC and  
Galveston Bay LNG, LLC*

**UNITED STATES OF AMERICA  
BEFORE THE  
DEPARTMENT OF ENERGY  
OFFICE OF FOSSIL ENERGY**

<b>Rio Grande LNG, LLC</b>	)	
	)	<b>DOE Docket 15-190-LNG</b>
<b>Galveston Bay LNG, LLC</b>	)	<b>DOE Docket 17-167-LNG</b>
	)	

**COMMENTS OF NEXTDECADE CORPORATION  
IN RESPONSE TO THE 2018 NERA LNG EXPORT STUDY**

**I. Introduction**

NextDecade Corporation (“NextDecade”) submits the following comments addressing NERA Economic Consulting’s (“NERA”) 2018 LNG Export Study (the “2018 Study”)<sup>1</sup> on behalf of its subsidiaries Rio Grande LNG, LLC (“Rio Grande LNG”) and Galveston Bay LNG, LLC (“Galveston Bay LNG”). NextDecade appreciates the opportunity to file comments on the 2018 Study with the Department of Energy’s Office of Fossil Energy (“DOE”). The 2018 Study supports NextDecade’s view that the United States has an opportunity to emerge as the world’s largest supplier of LNG in the coming years. DOE’s continued prompt review of export authorization applications for U.S. LNG projects is critical to securing this opportunity for the nation, as the window of opportunity for the United States to satisfy growing global LNG demand will close in the near future.

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<sup>1</sup> 83 Fed. Reg. 27314 (June 12, 2018) [hereinafter “2018 LNG Export Study”]. DOE requests comments by July 27, 2018. *Id.*

After providing a brief overview of the Rio Grande LNG and Galveston Bay LNG projects, NextDecade respectfully submits the following comments on the 2018 Study:

1. The 2018 Study demonstrates that the continued development of U.S. LNG projects will deliver significant benefits in three key areas:
  - a. Growing the U.S. economy;
  - b. Strengthening trade and international relations; and
  - c. Environmental advantages resulting from a reduction in global emissions.
2. The 2018 Study reaffirms that DOE's continued authorization of exports to countries with which the United States does not have a free trade agreement ("non-FTA nations") is in the public interest.

NextDecade asks that these comments be considered in the pending proceedings for non-FTA export authority for Rio Grande LNG and Galveston Bay LNG.

## **II. Background**

### **A. Overview of the Rio Grande LNG Project**

Rio Grande LNG is developing a \$17 billion, 27 million tonnes per annum ("mtpa") liquefied natural gas ("LNG") export facility on the Brownsville Ship Channel in south Texas. On December 23, 2015, the company submitted its application to DOE seeking authorization to export U.S. domestic natural gas as LNG to countries with which the United States has a free trade agreement ("FTA nations") and to non-FTA nations.<sup>2</sup> On August 8, 2016, Rio Grande LNG received authorization from DOE to export LNG to FTA nations.<sup>3</sup> Its non-FTA export application remains pending, consistent with DOE's approach to wait until the completion of the Federal Energy Regulatory Commission ("FERC") environmental and safety review process

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<sup>2</sup> *Rio Grande LNG, LLC*, DOE Docket No. 15-190-LNG (Dec. 23, 2015).

<sup>3</sup> *Rio Grande LNG, LLC*, DOE/FE Order No. 3869 (2016).

pursuant to the National Environmental Policy Act (“NEPA”). In addition, Rio Grande LNG diligently has pursued its FERC authorization to site, construct, and operate its proposed natural gas liquefaction and export facility<sup>4</sup> and the related pipeline that will be developed by its affiliate, Rio Bravo Pipeline Company, LLC (“Rio Bravo Pipeline”).<sup>5</sup>

Rio Grande LNG continues to make significant progress toward receiving FERC authorization to construct and is among the most advanced of the second wave U.S. LNG export projects. NextDecade is continuing detailed discussions with prospective LNG customers in a variety of global markets. Earlier this year, NextDecade opened offices in Singapore and Beijing to serve customers throughout Asia, including some of the world’s largest and fastest growing markets.

### **B. Overview of the Galveston Bay LNG Project**

Galveston Bay LNG is proposing a 16.5 mtpa LNG export facility located in Texas City, Texas on the eastern side of the Texas City turning basin within the Texas City industrial complex cluster and adjacent to the Port of Texas City. On December 22, 2017, the company submitted its application to export U.S. domestic natural gas as LNG to FTA and non-FTA nations.<sup>6</sup> On June 13, 2018, Galveston Bay LNG received authorization from DOE to export LNG to FTA nations.<sup>7</sup> Galveston Bay LNG’s non-FTA application remains pending, as Galveston Bay LNG has not yet begun the FERC pre-filing process.

### **III. Comments on the 2018 Study**

The 2018 Study is distinct from previous studies assessing the impact of U.S. LNG exports on the U.S. economy and energy markets because it assesses the likelihood of different

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<sup>4</sup> *Rio Grande LNG, LLC*, Application of Rio Grande LNG, LLC for Authorization under Section 3(a) of the Natural Gas Act, FERC Docket No. CP16-454 (May 5, 2016).

<sup>5</sup> *Rio Bravo Pipeline Company, LLC*, Application of Rio Bravo Pipeline Company, LLC for Authorization under Section 7(c) of the Natural Gas Act, FERC Docket No. CP16-455 (May 5, 2016).

<sup>6</sup> *Galveston Bay LNG, LLC*, DOE Docket No. 17-167-LNG (Dec. 22, 2017).

<sup>7</sup> *Galveston Bay LNG, LLC*, DOE/FE Order No. 4200 (2018).

levels of unconstrained (i.e., market-determined) exports, while past studies have examined prescribed levels of exports. The 2018 Study then analyzes the impact of market-determined levels of U.S. LNG exports on U.S. natural gas markets and the domestic economy as a whole through 2040.<sup>8</sup> NERA analyzes more than 50 scenarios based on different levels of U.S. and international natural gas and LNG supply and demand, and then narrows these to a range of the “more likely” scenarios in 2040.<sup>9</sup> The 2018 Study concludes that “overall U.S. economic output is higher whenever global markets call for higher levels of LNG exports, assuming that exports are allowed to be determined by market demand.”<sup>10</sup> In so doing, the 2018 Study confirms that U.S. LNG exports are in the public interest and DOE should continue approving export applications so that regulatory barriers do not distort the proper functioning of the marketplace.

#### **A. The 2018 Study Demonstrates the Significant Opportunity for U.S. LNG**

The 2018 Study’s conclusions support NextDecade’s view that the United States has a significant opportunity to emerge as the world’s largest supplier of LNG in the coming years. In so doing, the United States will benefit in three key areas: (1) the domestic economy, (2) trade and international relations, and (3) environmental protection.

##### **1. Benefits to the U.S. Economy**

The 2018 Study is unique in that it analyzes the effect of unconstrained U.S. LNG exports on the U.S. economy as a whole. Specifically, the 2018 Study considers the impact of market-determined U.S. LNG exports on U.S. natural gas prices, consumer well-being, gross domestic product (“GDP”), energy-intensive industries, household income, and aggregate consumption and investment.

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<sup>8</sup> 2018 LNG Export Study, at 12.

<sup>9</sup> NERA analyzed 54 scenarios and narrowed these to 27 “more likely” scenarios that are within one standard deviation of the mean for 54 scenarios. 2018 LNG Export Study, at 50.

<sup>10</sup> 2018 LNG Export Study, at 14 (emphasis added).

All of the more likely scenarios that NERA considers improve consumer welfare for the average U.S. household, which strengthens even when global demand for U.S. LNG exports increases.<sup>11</sup> Consumer welfare is highest when the United States has an abundant, low-cost U.S. natural gas supply.<sup>12</sup> The same is true for industries that rely on natural gas for fuel and as a raw material input; under the more likely scenarios, these industries maintain strong growth even if U.S. LNG exports increase.<sup>13</sup> Further, the transfer of wealth associated with LNG exports from the United States increases domestic household income and, therefore, consumer spending on goods and services.<sup>14</sup> Finally, capital investment in the industries that supply machinery, equipment, and related raw materials also grows in each scenario.<sup>15</sup>

The 2018 Study demonstrates that GDP grows as U.S. LNG exports increase because the U.S. economy benefits from investment in liquefaction facilities, export revenues, income from the upstream and midstream natural gas industry, and tolling charges generated by the LNG export facilities.<sup>16</sup> NERA acknowledges that growth in the natural gas industry will attract capital and labor away from other sectors, but the net impact is to the benefit of GDP because natural gas production and exports create higher returns and wages that are greater than or equal to the wages in alternative sectors.<sup>17</sup>

Finally, the 2018 Study counters claims by LNG opponents that an increase in U.S. LNG exports will increase natural gas prices to the detriment of the U.S. economy.<sup>18</sup> The 2018 Study rightly concludes that U.S. natural gas prices are far more dependent on available resources and

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<sup>11</sup> *Id.* at 66.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 70. Within the range of more likely scenarios, the variation in growth rates is only 1-7bps. *Id.*

<sup>14</sup> *Id.* at 75.

<sup>15</sup> *Id.* at 76.

<sup>16</sup> *Id.* at 67.

<sup>17</sup> *Id.* at 69.

<sup>18</sup> *See, e.g.,* Sierra Club, Motion to Intervene, Protest, and Comments, FE Docket No. 13-147-LNG (May 27, 2014) at 63-70.

extraction technologies than on U.S. LNG export policy.<sup>19</sup> As a result, higher U.S. LNG exports cause only very small increases in U.S. natural gas prices, if any (in the instance of associated gas, as described below).<sup>20</sup> In fact, even in New England, which experiences frequent natural gas price spikes, NERA explains that the average basis differential between New England and Henry Hub prices is unlikely to be affected by increases in U.S. LNG exports in the long run.<sup>21</sup> Specifically, these price spikes in New England are the result of the region's limited natural gas pipeline infrastructure and localized weather events. Therefore, they will occur regardless of the level of U.S. LNG exports.<sup>22</sup>

The potential economic uplift from LNG exports is particularly real in the Eagle Ford Shale in South Texas and the Permian Basin in West Texas, which are now some of the largest oil and gas resource basins in the world.<sup>23</sup> The proximity of the Permian Basin to the second wave LNG export projects in Texas naturally positions the Permian Basin as a primary natural gas supplier for these terminals—at 27 mtpa, the proposed Rio Grande LNG export project is an ideal demand center for Permian natural gas supplies. The Permian Basin offers the deepest inventory of economic oil and natural gas resources in the United States. Intensive studies of the area conclude that its stacked plays could be prolific for decades to come. The potential is significant because the Permian Basin's production economics are largely driven by oil production, and it is estimated to hold nearly 500 trillion cubic feet of associated natural gas.<sup>24</sup>

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<sup>19</sup> 2018 LNG Export Study, at 55.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 54, n. 47.

<sup>22</sup> *Id.*

<sup>23</sup> See, e.g., Jessica Summers and Sheela Tobben, *Permian Basin Is Growing Into the Largest Oil Patch in the World*, Bloomberg (updated on May 25, 2018), <https://www.bloomberg.com/news/articles/2018-04-24/permian-basin-seen-growing-to-largest-oil-patch-in-the-world>; David Blackmon, *The Eagle Ford Shale: America's Slumbering Energy Powerhouse*, Forbes (June 25, 2018), <https://www.forbes.com/sites/davidblackmon/2018/06/25/the-eagle-ford-shale-americas-slumbering-energy-powerhouse/#1cf683b63dc1>.

<sup>24</sup> Other research indicates that the Permian Basin holds upwards of 250 billion barrels of oil equivalent, including nearly 700 trillion cubic feet of natural gas. See e.g., RS Energy Group, *US Production Forecast and Dispatch Curves* (Mar. 14, 2018) (available by subscription).



The risk, however, that Permian Basin oil and natural gas will be shut-in continues to increase as regulatory hurdles delay the approval and construction of infrastructure needed to move the Permian-produced oil and natural gas into the market. This includes the DOE and FERC approvals needed to construct LNG export terminals. The market understands and is responding to this risk. In recent months, Midland, Texas oil prices have fallen below the U.S. benchmark. This trend combined with the limited pipeline capacity available to move the product to market will force producers to cut production.<sup>25</sup> Similarly, for example, market analysts believe that the price tag on BHP Billiton's recently announced asset sale reflects the downward pressure on Permian asset valuations caused by pipeline bottlenecks.<sup>26</sup>

The 2018 Study demonstrates the significant benefits that accrue to the United States across a broad range of economic indicators as a result of higher U.S. LNG exports. Without the infrastructure needed to bring natural gas to market, however, these benefits will remain mere predictions rather than becoming reality.

## **2. Trade and International Relations**

U.S. LNG exports also present a significant opportunity to decrease the U.S. trade deficit and strengthen and advance the nation's foreign policy interests throughout Europe and Asia, both of which are among the Trump Administration's highest priorities. The U.S. trade deficit increased from \$504.8 billion in 2016 to \$568.4 billion in 2017,<sup>27</sup> and this deficit is highly

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<sup>25</sup> See Collin Eaton and Liz Hampton, *Small U.S. Oil Producers Face Output Squeeze as Pipelines Fill*, Reuters (June 20, 2018), <https://www.reuters.com/article/usa-shale-permian/small-us-oil-producers-face-output-squeeze-as-pipelines-fill-idUSL1N1TM1VJ> (explaining that "Oil in Midland, Texas now sells for about \$6 a barrel less than the U.S. benchmark, compared with \$1.50 less in January. It was \$13 under the U.S. benchmark in May" and "Operators who lack guaranteed space on existing pipelines to the U.S. Gulf Coast would be forced to curtail production if the Midland price falls \$10 to \$47").

<sup>26</sup> *BHP Permian Sale Hits Reset on Regional Boom*, Reuters (July 9, 2018), <https://www.nasdaq.com/article/bhp-permian-sale-hits-reset-on-regional-boom-20180709-01065> (also pointing out that "Companies focused in the Permian...ha[ve] seen their enterprise value-to-EBITDA multiples roughly halve over the previous year").

<sup>27</sup> United States Census Bureau, *2017 Trade Gap is \$568.4 Billion*, Wednesday, March 7, 2018, [https://www.bea.gov/newsreleases/international/trade/2018/pdf/trad0118annual\\_fax.pdf](https://www.bea.gov/newsreleases/international/trade/2018/pdf/trad0118annual_fax.pdf).

concentrated among countries that happen to be some of the world's largest consumers of LNG from the global market. With estimated export revenues of up to \$129 billion per year by 2040,<sup>28</sup> U.S. LNG presents a significant opportunity to close this gap. Most importantly, within the range of the more likely Henry Hub price scenarios, the 2018 Study demonstrates that the United States is always a net exporter of natural gas.<sup>29</sup> In addition, capital investment required for the construction of liquefaction facilities that is sourced from outside the United States will be another transfer of wealth into the United States, which will increase the value of the dollar and reduce the price of other imported goods.<sup>30</sup> The 2018 Study also demonstrates that even though natural gas supply/demand shocks both inside and outside the United States have different impacts on natural gas prices, they result in similar levels of net LNG exports.<sup>31</sup> Therefore, increased LNG exports benefit the trade balance regardless of the volume exported.

DOE itself recognizes that U.S. LNG exports importantly diversify the energy supply for many of the United States' key trading partners and allies in Europe and Asia thereby enhancing energy security globally.<sup>32</sup> European customers, in particular, present an opportunity to reduce Europe's dependence on natural gas produced in Russia—an increasing area of focus, particularly in light of the planned Nord Stream II pipeline project.<sup>33</sup>

Greater U.S. LNG exports can build upon the success of U.S. crude oil exports following the lifting of the export ban at the end of 2015. The U.S. now exports crude oil to more than 30

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<sup>28</sup> *Id.* at 61.

<sup>29</sup> *Id.* at 57.

<sup>30</sup> *Id.* at 64.

<sup>31</sup> *Id.* at 57-59.

<sup>32</sup> See, e.g., *Golden Pass Products, LLC*, DOE/FE Order No. 3978 (2017), at 145; *Delfin LNG LLC*, DOE/FE Order No. 4028 (2017), at 145.

<sup>33</sup> See Ellen R. Wald, *Trump is Right about Russian Energy, and Here's What He can do about It*, <https://www.forbes.com/sites/ellenwald/2018/07/11/trump-is-right-about-russian-energy-and-heres-what-he-can-do-about-it/#45926d3d834b>.

countries around the world, a statistic that would have been unimaginable a mere decade ago.<sup>34</sup> As of May 4, 2018, Cheniere's Sabine Pass LNG terminal alone has exported approximately 350 cumulative LNG cargoes with deliveries to 26 countries and regions worldwide since its first export on February 24, 2016.<sup>35</sup> In May 2018, Tokyo Gas received its first LNG cargo from the Dominion Cove Point facility, which began commercial service in April.<sup>36</sup> Japan is one of several countries with which President Trump has expressed a strong interest in reducing the United States' trade deficit.<sup>37</sup> Multiply the effect of these two projects by the more than a dozen other long-term LNG export terminals in-service, under construction, or pending regulatory approval, and the significant potential for the United States to assert energy dominance globally through LNG exports becomes clear.

### **3. Environmental Benefits from LNG Exports**

U.S. LNG exports also can contribute to the decarbonization of the global economy. DOE recognizes that U.S. LNG exports will not increase global GHG emissions and that exports actually may reduce global GHG emissions as natural gas replaces fossil fuels that produce higher levels of GHG emissions.<sup>38</sup> Although an assessment of the impact of U.S. LNG exports on the environment is not one of the 2018 Study's objectives, the 2018 Study's underlying assumptions for natural gas demand include the impact of environmental policies aimed at

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<sup>34</sup> Catherine Ngai et al., *Texas Flood: U.S. Oil Exports Pour into Markets Worldwide*, Reuters (Feb. 8, 2018), <https://www.reuters.com/article/us-usa-oil-record-flows-analysis/texas-flood-u-s-oil-exports-pour-into-markets-worldwide-idUSKBN1FS0NP>.

<sup>35</sup> See *Cheniere Reports Record First Quarter 2018 Results and Raises Full Year 2018 Guidance* (May 4, 2018), <http://phx.corporate-ir.net/phoenix.zhtml?c=101667&p=irol-newsArticle&ID=2347074>; see also *U.S. Department of Energy Office of Oil and Natural Gas, LNG Monthly* (May 2018), <https://www.energy.gov/sites/prod/files/2018/07/f53/LNG%20Monthly%202018.pdf>.

<sup>36</sup> Aaron Sheldrick and Osamu Tsukimori, *Japan's Tokyo Gas Takes First LNG Cargo from Cove Point*, Reuters (May 21, 2018), <https://www.reuters.com/article/usa-trade-tokyo-gas/japans-tokyo-gas-takes-first-lng-cargo-from-cove-point-idUSL3N1SS240>.

<sup>37</sup> Reuters, *Trump Says Hopeful U.S. Will Trim Trade Deficit with Japan Soon*, Reuters (Apr. 19, 2018), <https://www.reuters.com/article/us-usa-japan-trade/trump-says-hopeful-u-s-will-trim-trade-deficit-with-japan-soon-idUSKBN1HP2UL>.

<sup>38</sup> See e.g., *Golden Pass Products, LLC*, DOE/FE Order No. 3978 (2017), at 160; *Delfin LNG LLC*, DOE/FE Order No. 4028 (2017), at 159.

reducing GHG emissions.<sup>39</sup> Acknowledging that non-U.S. demand is only one of four factors the 2018 Study sensitizes, among the seven more likely scenarios that assume the most aggressive decarbonization policies globally, U.S. LNG exports could still be as high as 23.6 Bcf/d in 2040.<sup>40</sup> Therefore, U.S. LNG has a critical role to play in the global energy mix as countries adopt or expand policies for reducing GHG emissions.

**B. The 2018 Study Demonstrates that DOE’s Continued Authorization of Non-FTA Exports is in the Public Interest**

The Natural Gas Act sets out a statutory presumption in favor of approving requests for authorization to export LNG to non-FTA countries.<sup>41</sup> DOE’s policy has been three-fold: (1) to consider, among other things, whether the proposed LNG exports negatively impact the security of domestic natural gas supply; (2) to promote free-market competition; and (3) to support the free negotiation of commercial export contracts amongst LNG exporters and offtakers.<sup>42</sup>

Unsurprisingly, the 2018 Study finds that LNG exports are highest when U.S. natural gas prices are the lowest.<sup>43</sup> U.S. natural gas prices are most dependent on the availability of resources and the technology to extract these resources thereby demonstrating the importance of policies that continue to support natural gas infrastructure,<sup>44</sup> including DOE authorizations to export LNG to both FTA and non-FTA nations. The 2018 Study’s conclusions outlined above provide further support for the public interest considerations set out in the Rio Grande LNG and

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<sup>39</sup> 2018 LNG Exports Study, at 30. The reference case for non-U.S. demand incorporates environmental policies that are already in place and goals and intentions that have been announced, but not yet implemented. *Id.* at 44. The low non-U.S. demand case assumes policies aimed at limiting the average global temperature increase in 2100 to two degrees Celsius above pre-industrial levels. *Id.* at 30, 44.

<sup>40</sup> *Id.* at 50-51 (Table 4 scenarios with Low ROW Demand).

<sup>41</sup> 15 U.S.C. § 717b(a).

<sup>42</sup> *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961.

<sup>43</sup> 2018 LNG Export Study, at 57.

<sup>44</sup> *Id.* at 55.

Galveston Bay LNG applications.<sup>45</sup> In both applications, NextDecade explains that its proposed LNG exports will benefit the U.S. economy by contributing to increased investment in both the natural gas industry as well as the communities in which the facilities will operate. Further, NextDecade’s proposed LNG export projects will benefit the domestic economy by advancing U.S. foreign policy interests and reducing the country’s trade deficit and will have a limited impact on domestic natural gas prices.

NextDecade acknowledges the 2018 Study’s conclusion that “there is virtually no chance” that non-FTA LNG exports will reach the 55.04 Bcf/d in aggregate volumes for which DOE has received applications by 2040.<sup>46</sup> Nevertheless, the 2018 Study demonstrates that regardless of the volume exported, U.S. LNG exports are in the public interest; therefore, the market, not DOE, should decide which of the pending projects will meet global market demand. As the 2018 Study itself explains, “any restrictions on LNG exports would forgo the additional GDP to be gained by allowing exports to respond to market conditions.”<sup>47</sup>

While the 2018 Study can generally demonstrate the economic benefits of U.S. LNG exports, NextDecade is less convinced that models alone can accurately predict the actual level of LNG exports 20 years from now, particularly when considering the wide range of variables impacting global energy markets. For example, consider the changes that have emerged in the domestic and global LNG industries in the past 20 years. Ten years ago, the U.S. LNG industry was focused on LNG imports, not exports, based on anticipated shortfalls in North American natural gas production. Similarly, it would have been unthinkable for the United States to be exporting crude oil (outside of Canada). In 2007, the United States exported only 39 million

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<sup>45</sup> *Rio Grande LNG, LLC*, Application for Long-Term Multi Contract Authorization to Export Liquefied Natural Gas, DOE Docket No. 15-190-LNG (Dec. 23, 2015), at 47-58; *Galveston Bay LNG, LLC*, Application for Long-Term Multi Contract Authorization to Export Liquefied Natural Gas, DOE Docket No. 17-167-LNG (Dec. 22, 2017), at 28-41.

<sup>46</sup> 2018 LNG Export Study, at 49.

<sup>47</sup> *Id.* at 68.

barrels of crude oil.<sup>48</sup> In 2017, the United States exported 408 million barrels globally.<sup>49</sup> As noted previously, the 2018 Study demonstrates, the levels of U.S. LNG exports are most sensitive to the availability of natural gas supplies and related technology. New technology is already enhancing the flexibility of the LNG market. For example, the Zeebrugge LNG terminal in Belgium can accommodate both the loading and unloading of small and large LNG carriers and both store LNG or regasify it for distribution on pipelines that transport the gas throughout Europe.<sup>50</sup> Similar technological advancements throughout the global natural gas market will increase liquidity and make it more difficult to precisely model U.S. LNG export volumes. The U.S. Government should ensure that regulatory barriers do not exist that would minimize or neuter the ability of the U.S. natural gas industry to be flexible as the market shifts in order to capture and maximize for the United States the benefits of the increasingly liquid global natural gas markets.

The 2018 Study demonstrates that DOE should continue to authorize LNG exports to FTA and non-FTA nations because doing so is in the public interest.

#### **IV. Additional Comments on the DOE LNG Export Authorization Process**

While outside the scope of the NERA 2018 Study, NextDecade takes this opportunity to suggest that DOE consider modifying the approach that the agency adopted during the last administration regarding the timing of issuance of non-FTA orders. In recent years, DOE has waited until the entire FERC review process has been completed, including after the Commission issues its final certificate order and, in the event a request for rehearing was filed, a final order on

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<sup>48</sup> U.S. Energy Information Administration, *U.S. Exports of Crude Oil*, <https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=p&s=mcrexus1&f=a> (last visited July 9, 2018).

<sup>49</sup> *Id.*

<sup>50</sup> Fluxys, *Infrastructure in the Zeebrugge Zone*, <https://www.fluxys.com/belgium/en/About%20Fluxys/Infrastructure/ZeebruggeFacilities/Zeebrugge> (last visited July 9, 2018).

rehearing.<sup>51</sup> Waiting until FERC’s administrative review process is completed has the effect of adding many months of regulatory uncertainty for projects and fosters unnecessary concern amongst potential offtakers and financial backers. Given the scale of LNG export projects, financing is critical. Without all regulatory approvals in place, banks will not finalize financing which then precludes developers from making final investment decision (“FID”) for the project.

DOE has the authority to directly impact this process in a positive way by issuing non-FTA authorizations after FERC publishes the Final Environmental Impact Statement (“FEIS”), which will assist in the timely start of construction for new infrastructure. As DOE is aware, pursuant to NEPA, DOE only needs the FEIS to satisfy its obligations under NEPA.<sup>52</sup> DOE’s determination of the adequacy of the environmental review is based on FERC’s FEIS documents, FERC’s certificate order or order on rehearing.<sup>53</sup> Moreover, DOE acts as a coordinating agency in FERC’s process and receives a copy of the Draft Environmental Impact Statement (“DEIS”) for each project, thereby allowing the agency adequate time to review the DEIS and offer any additional comments to FERC, or in its own review conducted pursuant to the issuance of its Section 3 export authorization.

Consistent with President Trump’s directive to all federal agencies to find and address ways to streamline regulatory processes to facilitate the development of U.S. infrastructure,<sup>54</sup>

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<sup>51</sup> See, e.g., *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 3792 (2016) (FERC issued its certificate order on February 20, 2014 and denied hearing on September 18, 2014. DOE did not issue its non-FTA order until March 11, 2016); *Magnolia LNG, LLC*, DOE/FE Order No. 3909 (2016) (FERC issued its certificate order on April 15, 2016 and denied rehearing on November 23, 2016. DOE issued its non-FTA order on November 30, 2016); *Golden Pass Products, LLC*, DOE/FE Order No. 3978 (2017) (FERC issued its certificate order on December 21, 2016, and no rehearing requests were filed. DOE issued its non-FTA order on April 25, 2017).

<sup>52</sup> See 40 C.F.R. § 1506.3 (under which an agency may adopt the DEIS or FEIS prepared by a lead agency, and a cooperating agency may adopt an EIS after an “independent review” that concludes that “its comments and suggestions have been satisfied”). For LNG project applications pending before both FERC and DOE, FERC is the lead federal agency in preparing the EIS or EA, and DOE is a cooperating agency.

<sup>53</sup> *Supra* note 52. See also 79 Fed. Reg. 43,133 (Aug. 15, 2014) (DOE’s policy for approving non-FTA applications, which allows DOE to issue a final order after the NEPA process is complete).

<sup>54</sup> Exec. Order No. 13,807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects, 82 Fed. Reg. 40,463, 40,469 (Aug. 24, 2017).

NextDecade believes this represents a serious opportunity for the agency to make a substantive difference in the timing of the regulatory review and help accelerate multi-billion dollar infrastructure projects forward in a more timely and efficient manner.

## **V. Conclusion**

NextDecade appreciates the opportunity to comment on the 2018 Study and asks that these comments be considered in the pending applications for Rio Grande LNG and Galveston Bay LNG to export LNG to non-FTA nations. The United States is poised to become the world's largest supplier of LNG, a position that will benefit the U.S. economy, international relations and trade, and the global environment. Such an advancement of the United States' position clearly is consistent with the public interest. The 2018 Study also demonstrates that for U.S. LNG to realize its potential and become a significant supply source globally, the market must be able to function without overly burdensome regulatory barriers. It is essential, therefore, that the Department of Energy continues approving applications for LNG exports promptly allowing the market to decide which projects will meet growing global demand.