UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

In the Matter of:	**)**	
	)	**Docket No. 11-128-LNG**
Dominion Cove Point LNG, LP	**)**	

MOTION OF DOMINION COVE POINT LNG, LP
FOR LEAVE TO FILE ANSWER AND ANSWER
TO THE MOTION FOR STAY AND REQUEST FOR REHEARING
FILED BY THE SIERRA CLUB

Pursuant to Rule 302 of the Department of Energy's ("DOE") regulations, 1/ Dominion Cove Point LNG, LP ("DCP") hereby requests leave to answer, and submits this answer to, the "Request for Rehearing" filed by the Sierra Club in this proceeding on June 5, 2015. The Sierra Club requests rehearing of the "Final Opinion and Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cove Point LNG Terminal in Calvert County, Maryland, to Non-Free Trade Agreement Nations," DOE/FE Order No. 3331-A issued on May 7, 2015 (hereinafter the "Final Order").

Sierra Club included within its Request for Rehearing a motion for a stay of the Final Order pending resolution of its request and (perhaps) any future judicial appeal of DOE's decision. 2/ DCP is entitled to answer the motion for stay under Rule 302, and it does so here. Rule 505 of DOE's regulations, however, does not allow for answers to requests for rehearing. DCP respectfully requests waiver of that general rule for leave to submit a brief answer to Sierra Club's Request for Rehearing itself as well. 3/ DCP believes that this answer may assist DOE, Office of Fossil Energy

1/ 10 C.F.R. § 590.302 (2014).
2/ Request for Rehearing at pages 1 and 29-30. At page 1, Sierra Club moved for a stay pending resolution of its rehearing request, but on page 30 it seemingly expands the proposed scope of the stay to encompass subsequent judicial review of DOE's order.
3/ DCP's answer to the arguments presented in the Rehearing Request could be formulated as part of a rejoinder to Sierra Club's claim, which as explained below is part of the showing required to obtain a stay, that it is likely to succeed on the merits. Therefore, even if DOE/FE determines that an answer to the Rehearing Request is not allowed, this entire Answer may be viewed as a response to the motion for a Stay.

("DOE/FE"), in fully considering all issues when acting on the Sierra Club's request. Accordingly, DCP submits that good cause exists to waive the general rule and accept this answer. In essentially these same circumstances, DOE/FE has recently agreed to consider, at least for purposes of further consideration, answers to Sierra Club rehearing requests submitted by two other LNG export project developers. 4/

The background of this proceeding, including an explanation of the orders issued by both DOE/FE and the Federal Energy Regulatory Commission ("FERC") regarding DCP's proposal to site, construct and operate facilities for the liquefaction and export of natural gas at its existing Terminal (the "Liquefaction Project"), is set forth in the Introduction section of the Final Order and need not be repeated here. After the Final Order, the Sierra Club, and two other aligned environmental organizations, petitioned the United States Court of Appeals for the D.C. Circuit for review of the FERC Orders in D.C. Circuit Case No. 15-1127. On June 12, 2015, the D.C. Circuit Court rejected the environmental petitioners' "Emergency Motion for Stay Pending Judicial Review and for Expedited Briefing," which had been filed on June 1, 2015. The Court held that the petitioners had "neither satisfied the stringent requirements for stay pending court review… nor articulated 'strongly compelling' reasons justifying expedition" of the briefing.

I. The Sierra Club Has Not Justified The Extraordinary Remedy of A Stay

Rule 502 of the DOE's regulations provide that an application for rehearing does not operate as a stay of an order unless otherwise ordered. Sierra Club requests "an immediate order specifically staying DOE's authorization," and argues that a stay is warranted by application of the "general four-factor test used for stays of agency or judicial orders." 5/ Sierra Club summarizes those four factors, correctly, as: (1) the movant's showing of a substantial likelihood of success on

4/ *Cameron LNG, LLC*, FE Docket No. 11-162-LNG, "Order Granting Motion for Leave to Answer for the Purpose of Further Consideration" (Nov. 25, 2014); *Freeport LNG Expansion, L.P., et al.*, FE Docket No. 11-161-LNG, "Order Granting Request for Rehearing and Motion for Leave to Answer for the Purpose of Further Consideration" (Dec. 22, 2014). In both of these other proceedings, Sierra Club filed requests for rehearing that were very similar to its request filed here. DOE has "tolled" its decision on those requests by granting rehearing solely for purposes of further consideration and, by the same token, accepted the answers filed by the applicants for those same purposes.

5/ Request for Rehearing at page 29.

the merits, (2) irreparable harm to the movant, (3) a lack of substantial harm to other parties, and (4) the public interest.

Sierra Club argued that it satisfied this four-part test in its recent motion for a stay that was just denied by the D.C. Circuit. Previously, it had presented similar arguments when just as unsuccessfully asking FERC to stay its order pending rehearing. 6/ Consideration of the arguments for a stay presented by Sierra Club in its Request for Rehearing here make clear why its requests for stay of order authorizing DCP's Liquefaction Project have been consistently rejected.

Sierra Club's argument that it is likely to succeed on the merits is supported only by its bald assertion that "induced production" of natural gas is "no less foreseeable than numerous other indirect effects that circuit courts have required agencies to consider under NEPA." 7/ DCP responds to this claim in greater detail below, but the notion that Sierra Club is likely to succeed on the merits on this claim *on rehearing before DOE/FE* (the relevant question for purposes of the requested stay pending rehearing) strains credulity. The Sierra Club has presented this same argument, about the need under the National Environmental Policy Act ("NEPA") to examine the environmental effects of natural gas production, with respect to every LNG export project, and both DOE/FE and FERC have rejected the argument in every case. To the extent that Sierra Club means that it is likely to succeed on the merits in the Court of Appeals, that claim must be rejected as well – just as it was by the D.C. Circuit in denying a stay of the FERC authorization of DCP's Liquefaction Project.

The FERC, pursuant to Section 15(b)(1) of the Natural Gas Act ("NGA"), acted as the lead agency for purposes of complying with NEPA. In its Conditional Authorization of Non-FTA Exports for DCP, DOE explained that it would complete its NEPA review as a cooperating agency in FERC's process so as to avoid duplication of efforts by the agencies. 8/ DOE described FERC's proceeding,

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6/ The FERC acted on the Sierra Club's motion for stay of its order only when it denied rehearing, finding that the request for stay was moot at that point. *Dominion Cove Point LNG, LP*, 151 FERC ¶ 61,095 at P 86 (2015) (hereinafter the "FERC Rehearing Order").

7/ Request for Rehearing at page 30.

8/ *Dominion Cove Point LNG, LP*, "Opinion Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Coe Point LNG Terminal in Calvert

and its thorough consideration of environmental issues, in the Final Order at pages 21-29. In sum, after a proceeding that lasted more than two years, the FERC concluded that if the Liquefaction Project is constructed and operated in accordance with DCP's proposal and in compliance with the conditions imposed by FERC (of which there are 79, many with multiple subparts), FERC's approval of the proposal would not constitute a major federal action significantly affecting the quality of the human environment. 9/ In reaching this conclusion, FERC fully considered and rejected the Sierra Club's arguments. 10/

DOE/FE participated as a cooperating agency in the preparation, led by FERC, of the Environmental Assessment ("EA") of DCP's Liquefaction Project. DOE adopted the EA and issued its own Finding of No Significant Impact ("FONSI"), based on the EA and the FERC Authorization Order. 11/ Although not required by NEPA, DOE also developed two additional studies to consider the environmental issues advanced by Sierra Club in opposition to all LNG export projects: (1) a report on the potential environmental issues associated with unconventional gas development known as the *Addendum to Environmental Review Documents Concerning Exports of Natural Gas from the United States* (the "Addendum") and (2) a report by the National Energy Technology Laboratory on the *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States* (the "LCA GHG Report"). Draft versions of both the Addendum and the LCA GHG Report were subjected to a public comment process before being finalized, and then were considered by DOE/FE in the Final Order. 12/

In short, DOE/FE (as well as FERC) has already thoroughly considered and rejected the arguments presented by Sierra Club in this proceeding, as well as other LNG export proceedings.

County, Maryland, to Non-Free Trade Agreement Nations," DOE/FE Order No. 3331 at p. 150, issued on Sept. 11, 2013 (hereinafter the "Conditional Order").

9/ *Dominion Cove Point LNG, LP,* Order Granting Section 3 and Section 7 Authorizations, 148 FERC ¶ 61,244 at P 281 (2014)(hereinafter the "FERC Authorization Order").

10/ FERC detailed its extensive environmental analysis of the Project in Paragraphs 98 to 281 of the FERC Authorization Order. When Sierra Club and others requested rehearing, FERC again addressed the environmental arguments in Paragraphs 18-85 of the FERC Rehearing Order.

11/ FONSI, DOE/EA-1942, available at: http://energy.gov/sites/prod/files/2014/11/f19/EA-1942-FONSI-2014.pdf

12/ The Addendum is discussed in the Final Order at pages 46-55 and 85-86 while the LCA GHG Report is discussed at pages 55-81 and 87-90.

Accordingly, there is no basis whatsoever to believe that the Sierra Club is likely to succeed on the merits of its rehearing request or (to the extent relevant here) any subsequent appeal.

Sierra Club also has presented no basis to satisfy the second prong of the test for a stay – irreparable harm. To obtain a stay, a movant must show "certain and great" harm and "proof indicating that the harm is certain to occur in the near future," as well as that the harm will "directly result" from the action that the movant seeks to enjoin. 13/ Yet, both DOE/FE and FERC have held that the Liquefaction Project, when constructed and operated in accordance with the required conditions, will have *no significant impact* on the environment. So, Sierra Club's claim that DCP's continued construction of the Liquefaction Project and its authorization to export LNG once the Project is completed will irreparably harm the environment is directly contrary to both agencies' conclusions.

In its unsuccessful request for stay of DCP's authorization submitted to FERC, Sierra Club focused on immediate (albeit limited) environmental effects of tree-clearing and the construction of a temporary pier. 14/ In its more recent unsuccessful motion for stay submitted to the D.C. Circuit, it focused on construction activities' alleged "interference with [its] members' use and enjoyment of their homes and communities." 15/ In its request for a stay from DOE, however, Sierra Club bases its claim of irreparable harm entirely on its assertion that "natural gas producers are likely begin [sic] to increase their production in anticipation of export," citing in support only a general statement from an application submitted by another LNG project developer, Freeport LNG. 16/ Yet, DOE/FE and FERC have ruled that the Liquefaction Project will *not cause*, within the meaning of that term for NEPA purposes, natural gas production. Sierra Club's undeveloped theory that some unidentified gas producer, somewhere, is beginning to increase production (as producers are doing routinely

13/ *See Wisconsin Gas Co. v. FERC*, 758 F.2d 669 (D.C. Cir. 1985); *Cuomo v. NRC*, 772 F.2d 972, 978 (D.C. Cir. 1985); *Millennium Pipeline Co., LLC*, 141 FERC ¶ 61,022 at 14 (2012); *Ruby Pipeline, LLC*, 134 FERC ¶ 61,020 at P 17 (2011).

14/ *See* Motion for Stay Pending Rehearing filed by the Sierra Club, together with the Chesapeake Climate Action Network and EarthReports, Inc., filed in FERC Docket No. CP13-113 on Oct. 15, 2014.

15/ *See* Petitioners' Emergency Motion for Stay pending Judicial Review and For Expedited Briefing, filed in D.C. Circuit Case No. 15-1127 on June 1, 2015.

16/ Rehearing Request at page 30.

around the country) solely in anticipation of exports from the Liquefaction Project more than two years in the future – and would stop that production if DOE/FE issued a stay of its authorization to export LNG – falls patently short of the showing of irreparable harm required to justify a stay.

Sierra Club also fails with its purported showing of the next required element for its requested stay: the lack of substantial harm to other parties to the proceeding. Sierra Club asserts that "resolution of the Sierra Club's challenge will impose only a few additional months of delay" and that "this delay will impose a minimal hardship." 17/ Sierra Club has dramatically understated the length of potential delay, especially if it contemplates the requested stay encompassing subsequent judicial review – which it seems to do. A decision by the D.C. Circuit on the Sierra Club's appeal of the FERC orders, which is already underway, will not issue until sometime next year (following the Court's rejection of the petitioners' request for expedited briefing). That appeal, of course, is far in advance of any potential judicial review here, given that DOE/FE's action on rehearing itself likely will take many months. For comparison, Sierra Club's very similar request for rehearing in the Cameron LNG, LLC proceeding in FE Docket No. 11-162-LNG has been pending since October 28, 2014. Any judicial appeal following DOE/FE action on rehearing would take still many more months.

Any delay associated with a stay would substantially harm DCP and the customers that have contracted for all of the capacity from the Liquefaction Project, and endanger the other benefits of the Project. DCP has invested significant resources in moving forward with its multi-billion dollar project, with commitments to personnel, equipment and materials. Similarly, DCP's customers have committed to significant costs ordering LNG carriers in anticipation of the Liquefaction Project. Many of the contracts throughout the supply chain associated with the Project have substantial penalties for delays. And the on-going construction of the Liquefaction Project is supporting thousands of jobs. While DCP could legally proceed with construction even if the DOE/FE stayed its export authorization, a stay would inject significant and harmful uncertainty into the process.

17/ Rehearing Request at page 30.

Finally, Sierra Club also fails to satisfy the last prong of the test for a stay: a showing that it is warranted by the public interest. Sierra Club asserts that LNG exports "would represent a major shift in the United States' energy policy and marketplace" and argues that "[i]t serves the public interest to ensure that the ramifications of this sea change are fully understood before the nation commits to LNG export." 18/ This argument fails to appreciate the extensive study of all the implications of LNG exports by DOE/FE since mid-2011, when it initiated its two-part study of the economic effects of LNG exports, as well as the extensive, related public comment process. 19/ The fact that Sierra Club continues to disagree with the outcome of the robust policy debate that has already occurred in no way justifies a stay of DOE/FE's well-reasoned, and well-supported, orders.

II. The Sierra Club's Rehearing Request Should Be Denied

The Rehearing Request largely repeats arguments that Sierra Club has consistently advanced in opposition to DCP's Liquefaction Project, as well as to other LNG export projects. On rehearing, DOE/FE should reject these arguments again, just as the FERC has done. A very brief response to Sierra Club's arguments demonstrates the reasonableness of DOE/FE's prior conclusions.

A. DOE/FE Satisfied Its Independent Obligation To Consider Environmental Effects

Sierra Club begins by asserting that DOE/FE has an independent obligation to assess environmental impacts under NEPA and the NGA and cannot "presume" that a project with adverse environmental impacts is in the public interest. 20/ Yet, DOE/FE *did* independently assess potential environmental impacts of the Liquefaction Project consistent with its obligations under both NEPA and NGA Section 3. 21/

Based on that analysis, DOE/FE issued its own FONSI. DOE/FE also specifically concluded that the environmental review – led, pursuant to statutory requirement, by FERC and participated in by DOE/FE – covered all reasonable foreseeable environmental impacts of the Liquefaction

18/ *Id.* at page 30.
19/ *See* Final Order at pages 18-20 and Conditional Order at pages 57-133.
20/ Rehearing Request at pages 1-2.
21/ Final Order at pages 81-100.

Project. 22/ And DOE did not *presume* that a project "with environmental impacts" is in the public interest, it *concluded* based on its own thorough analysis that the Liquefaction Project is not inconsistent with the public interest, just as required by the terms of NGA Section 3.

NEPA, of course, does not require any particular outcome on substantive issues; it imposes only procedural requirements on federal agencies to consider the environmental consequences of a proposed action by sufficiently discussing the relevant issues and opposing viewpoints to enable an informed decision. 23/ "If the adverse environmental effects of the proposed action are adequately identified and evaluated, the agency is not constrained by NEPA from deciding that other values outweigh the environmental costs." 24/ Sierra Club's continuing disagreement with DOE/FE's conclusions in no way indicates that DOE/FE did not comply with its obligations.

B. The Addendum and LCA GHG Report Went Beyond What NEPA Required

In trying to show a violation of NEPA, Sierra Club first argues that the Addendum and the LCA GHG Report are "not a substitute for NEPA review" and "cannot fulfill DOE's NEPA obligations." 25/ Yet, DOE/FE fully complied with NEPA with the EA and FONSI, as well as its consideration of environmental issues in the Final Order. DOE/FE has consistently explained that NEPA did *not* require preparation of either the Addendum 26/ or the LCA GHG Report. 27/ DOE/FE developed these additional materials to further its understanding, and that of the public, of potential impacts of LNG exports that have been emphasized by Sierra Club and like-minded groups. The Sierra Club now perversely criticizes DOE/FE for going *beyond* the requirements of NEPA and evaluating those potential implications of LNG exports.

22/ *Id.* at page 83.
23/ *See Dep't of Transp. v. Public Citizen*, 541 U.S. 752, 756 (2004); *Wildearth Guardians, et al., v. Jewell*, 738 F.3d 298, 303 (D.C. Cir. 2013); *Natural Res. Defense Council, Inc. v. Hodel*, 865 F.2d 288, 294 (D.C. Cir. 1988).
24/ *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989).
25/ Rehearing Request at 3-4.
26/ DOE, Addendum at page 2, 79 Fed.Reg. 48,132 (Aug. 15, 2014), available at: http://energy.gov/sites/prod/files/2014/08/f18/Addendum.pdf. ; FONSI at 2; Final Order at 83.
27/ Final Order at 81.

C. The EA Fully Complied With NEPA And No EIS Was Required

Sierra Club next claims that FERC, and DOE/FE, violated NEPA by preparing an EA rather than an Environmental Impact Statement ("EIS"). To determine if an action has a "significant" impact, an agency may initially prepare an EA, which leads either to a finding of no significant impact or (if there will be a significant impact) preparation of a full EIS. 28/ "[T]o decline to prepare an EIS an agency must have concluded that there would be no significant impact or have planned measures to mitigate such impacts." 29/

Here, DCP proposed to construct liquefaction facilities within the established footprint of its existing LNG Terminal (which has previously been the subject of an EIS) and the relevant issues needed to be considered were relatively small in number and well-defined. 30/ The agencies – led by FERC with DOE/FE as a cooperating agency – prepared a thorough, 242-page EA that fully addressed all the Liquefaction Project's impacts and imposed detailed mitigation measures. Based on that EA and mitigation measures, both FERC and DOE/FE issued findings of no significant impact. In these circumstances, an EIS is not required.

D. NEPA Does Not Require Review of Effects of Upstream Gas Production

The center-piece of Sierra Club's arguments remains its opposition to the alleged environmental effects of upstream natural gas production, especially those related to hydraulic fracturing. Sierra Club continues to argue – as it has regarding DCP's Liquefaction Project before both DOE/FE and FERC, as well as in both agencies' proceedings regarding other LNG export projects – that NEPA requires a detailed review of the environmental effects of "induced" upstream production. 31/

DOE/FE and FERC have consistently rejected this Sierra Club argument both in DCP's proceedings and elsewhere. The basis for the agencies' rulings are well-established and will be only briefly summarized here.

28/ 42 U.S.C. § 4332(2)(C).
29/ *Myversville Citizens for a Rural Community v. FERC*, 783 F.3d 1301, 1322 (D.C. Cir. 2015).
30/ *See* FERC Authorization Order at P 272-280 and FERC Rehearing Order at P 81.
31/ *See* Rehearing Request at pages 5-13.

Under Council on Environmental Quality ("CEQ") regulations, a NEPA analysis must include a discussion of "indirect effects" that "are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable." 40 C.F.R. § 1508.7. FERC and DOE/FE have concluded that the effects of upstream production are neither *caused* by their approvals of LNG export projects nor "reasonably foreseeable." Importantly, before an action may be found to be the "cause" of an environmental impact, "NEPA requires 'a reasonably close causal relationship' between the environmental effect and the alleged cause," which is similar to the doctrine of proximate cause used to determine legal responsibility under tort law. 32/ An effect is "reasonably foreseeable" if it is sufficiently likely to occur that a person of ordinary prudence would take it into account in reaching a decision, 33/ a standard that requires a "substantial degree of certainty." 34/ Courts have consistently recognized the "rule of reason" inherent in these determinations. 35/ Agencies may use their discretion in limiting the scope of their environmental review to actions and effects that can be meaningfully analyzed and "need not address remote and highly speculative consequences" or engage in a "crystal ball inquiry." 36/ FERC and DOE/FE have reasonably considered this issue and fully explained and justified their conclusions in accordance with these legal guidelines.

While recognizing that particular production activities are neither caused by the Liquefaction Project, nor reasonably foreseeable effects of it, DOE/FE still went a step further in considering arguments about the effects of upstream production raised by Sierra Club and others with the preparation of its Addendum. The Addendum addressed the various, almost entirely localized, environmental effects of unconventional gas production. DOE/FE reasoned that those environmental effects "need to be carefully managed," but that they should be addressed directly –

32/ *U.S. Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752, 767 (2004).
33/ *Sierra Club v. Marsh*, 976 F.2d 763, 767 (1st Cir. 1992); *Gulf Restoration Network v. U.S. Dep't of Transp.*, 452 F.3d 362, 368 (5th Cir. 2006).
34/ *Medina Cnty. Envtl. Action Ass'n v. Surface Transp. Bd.*, 602 F.3d 687, 702 (5th Cir. 2010).
35/ *Pub. Citizen*, 541 U.S. at 767.
36/ E.g., Medina, 602 F.3d at 702; Kentuckians for the Commonwealth v. U.S. Army Corps of Eng'rs, 746 F.3d 698, 710 (6th Cir. 2014); Hammond v. Norton, 370 F. Supp. 2d 226, 245–46 (D.D.C. 2005).

through federal, state, or local regulation or self-imposed industry guidelines – rather than by prohibiting exports of natural gas. 37/ Accordingly, DOE/FE concluded that:

> A decision to prohibit exports of natural gas would cause the United States to forego entirely the economic and international benefits identified in the DCP Conditional Order and discussed below, but would have little more than a modest, incremental impact on the environmental issues identified by Sierra Club and others. For these reasons, we conclude that the environmental concerns associated with natural gas production do not establish that exports of natural gas to non-FTA nations are inconsistent with the public interest. 38/

This conclusion is entirely reasonably and well-justified, and should be affirmed on rehearing.

Sierra Club also presented two variations of its gas production argument. First, Sierra Club argues that DOE/FE failed to assess the cumulative impacts of natural gas production induced by all other LNG export projects. 39/ Second, Sierra Club maintains that DOE/FE and FERC violated the Endangered Species Act and the National Historic Preservation Act because, while all the impacts specific to the Liquefaction Project were covered, other impacts of upstream production were not. 40/ These related arguments should be rejected for the same reasons as the Sierra Club's basic arguments concerning the alleged effects of upstream natural gas production.

E. DOE Adequately Considered Climate Change Issues

Sierra Club argues that DOE/FE failed to consider to the extent required by NEPA the "climate impact" of the Liquefaction Project. 41/ Much of this argument focuses on alleged climate impacts of natural gas production 42/ and, thus, is just another aspect of the "induced production" argument. Because upstream gas production is not caused by the Liquefaction Project or a reasonably foreseeable effect of it (as explained briefly above and extensively in the DOE/FE and FERC orders), the same is true of any climate impacts of production.

Sierra Club also argues the GHG emitted when the exported LNG is burned in overseas countries are an indirect effect of the Liquefaction Project while opining that "any potentially

37/ Final Order at page 86.
38/ *Id.* at page 87.
39/ *See* Rehearing Request at pages 19-20.
40/ *Id.* at pages 28-29.
41/ *See id.* at pages 13-19.
42/ *Id.* at pages 13-17.

mitigating reductions in potentially mitigating reductions in foreign fossil fuel combustion are highly uncertain." 43/ The potential GHG impact associated with the ultimate disposition of LNG exports is highly uncertain and requires considerable speculation. As DOE/FE explained in the Final Order, the uncertainty associated with all the myriad factors that would need to be analyzed to try to model the GHG effects of LNG exports "would likely render such an analysis too speculative to inform the public interest determination in this proceeding." 44/ Yet, for some insight into this issue – beyond that required by NEPA – DOE/FE prepared the LCA GHG Study. Informed by the analysis, DOE/FE concluded:

> The conclusions of the LCA GHG Report, combined with the observation that many LNG-importing nations rely heavily on fossil fuels for electric generation, suggests that exports of U.S. LNG may decrease global GHG emissions, although there is substantial uncertainty on this point as indicated above. In any event, the record does not support the conclusion that U.S. LNG exports will increase global GHG emissions in a material or predictable way. Therefore, while we share the commenters' strong concern about GHG emissions as a general matter, based on the current record evidence, we do not see a reason to conclude that U.S. LNG exports will significantly exacerbate global GHG emissions. 45/

This conclusion is entirely reasonable and well-supported.

Sierra Club further argues that DOE/FE should have analyzed the effects of increased emissions from increased coal-fired emissions which Sierra Club speculates will result from the increased prices for natural gas that it theorizes will result from LNG exports. 46/ Once again, Sierra Club is pushing for speculative analysis far beyond the bounds of the requirements of NEPA. Moreover, DOE/FE already considered and rejected this argument. DOE/FE first explained that new and proposed rules promulgated by the Environmental Protection Agency are likely to reduce the use of coal and then concluded that:

> If and when finalized, these proposed rules have the potential to mitigate significantly any increased emissions from the U.S. electric power sector that would otherwise result from increased use of coal, and perhaps to negate those increased emissions entirely. Therefore,

43/ *Id.* at page 17.
44/ Final Order at page 93.
45/ *Id.* at page 94.
46/ Rehearing Request at pages 18-19.

> on the record before us, we cannot conclude that exports of natural gas would be likely to cause a significant increase in U.S. GHG emissions through their effect on natural gas prices and the use of coal for electric generation. 47/

Once again, DOE/FE's conclusion has been amply supported and should be re-affirmed on rehearing.

F. DOE/FE Properly Weighed Economic and Environmental Impacts

Sierra Club's final argument is that DOE/FE violated the NGA by failing to adequately weigh economic and environmental impacts in its public interest analysis. 48/ In making its LNG export determinations under NGA Section 3, DOE/FE has identified a broad range of factors that it evaluates including economic impacts, international impacts, the security of natural gas supply, and environmental impacts, among others. 49/ Contrary to Sierra Club's suggestion, DOE/FE has properly weighed all relevant factors in making its public interest determination.

Much of Sierra Club's claim about a lack of proper weighing of factors turns on its opposition to DOE/FE's conclusion that the United States will experience net economic benefits from issuance of authorizations to export domestically produced natural gas. 50/ This conclusion has been well-developed and fully supported, particularly in DOE/FE's two part "LNG Export Study" that commenced in 2011 and was published in 2012. This study is extensively explained and supported in DOE/FE's orders authorizing DCP's non-FTA exports of LNG, 51/ and Sierra Club has presented no reason to question DOE/FE's established conclusions about the economic benefits of LNG exports.

Sierra Club also argues that DOE/FE failed to give sufficient consideration to environmental impacts in its public interest analysis. 52/ This argument turns on the Sierra Club's views of "harms" of natural gas production and the GHG effects that it speculates will result from LNG exports. The above discussion of these issues addresses the question of proper balancing as well.

47/ Final Order at pages 89-90.
48/ Rehearing Request at pages 20-28.
49/ *E.g.,* Conditional Order at page 7.
50/ Rehearing Request at pages 20-25.
51/ *See* Conditional Order at pages 56-133 and Final Order at pages 17-21 & 94-95.
52/ Rehearing Request at pages 26-28.

Sierra Club also claims that DOE/FE has been inconsistent by considering the economic benefits of induced natural gas production but "refus[ing] to consider the environmental harms which would occur as a result of induced natural gas production." 53/ Yet, as explained above, DOE/FE did consider the potential environmental impacts of increased production in its NGA Section 3 public interest analysis, even while recognizing that those impacts were outside the scope of the required NEPA analysis. DOE/FE did not refuse to consider the impacts, it found that they provide no reason to conclude that LNG exports would be inconsistent with the public interest.

In short, Sierra Club's arguments simply reflect its continuing disagreement with the policy choices made by DOE/FE, based on its long and detailed study of the public interest implications of LNG exports. Sierra Club's continued opposition to DOE/FE's authorizations of any LNG exports provides no basis for the agency to alter its established course when acting on rehearing here.

III. Conclusion

WHEREFORE, for all the foregoing reasons, DOE/FE should (1) deny the Sierra Club's requested stay of the Final Order and (2) deny the Sierra Club's request for rehearing and fully reaffirm its final authorization for DCP to export LNG to non-FTA nations.

Respectfully submitted,

/s/ J. Patrick Nevins

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Dated: June 22, 2015

53/ *Id.* at page 20.

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CERTIFICATE OF SERVICE

I hereby certify that, on this the 22nd day of June, 2015, I have caused the attached Answer of Dominion Cove Point LNG, LP to be served on all parties listed on the service list for this proceeding maintained by the Department of Energy, Office of Fossil Energy, in accordance with 10 C.F.R. § 590.107.

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