

8:00am, Dec. 19, 2014

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

**IN THE MATTERS OF**

<b>Freeport LNG Expansion, L.P.</b>	)	<b>FE DOCKET NO.</b>
<b>FLNG Liquefaction, LLC</b>	)	<b>11-161-LNG</b>
<b>FLNG Liquefaction 2, LLC</b>	)	
<b>FLNG Liquefaction 3, LLC</b>	)	

**Applicants' Motion for Leave to File Answer  
to  
Sierra Club's Request for Rehearing**

**I.  
INTRODUCTION**

On December 15, 2014, at 4:25 p.m., the Sierra Club filed a motion titled a Request for Rehearing, alleging that the Department of Energy Office of Fossil Energy ("DOE/FE") violated numerous federal laws when it issued its:

1) Final Opinion and Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations (the "Order"), DOE/FE Order No. 3357-B, issued November 14, 2014, in the above-captioned matter;

2) the Record of Decision for the Freeport LNG Expansion, L.P. Export Application published at 79 Fed. Reg. 69,101 (Nov. 20, 2014); and

3) to the extent it is relied upon or incorporated by reference within Order No. 3357-B, the Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel from The Freeport LNG Terminal on Quintana Island, Texas to Non-Free Trade Agreement Nations, DOE/FE Order No. 3357, issued November 15, 2013.

Furthermore, the Sierra Club demanded that the above DOE/FE actions be withdrawn and additional inquiry held, or alternatively, the DOE/FE Order be withdrawn, and Applicant's Application be denied. If such actions were taken by the DOE/FE, Applicants would be grievously and unfairly injured.

## II. LEGAL STANDARD

The December 15, 2014, filing by the Sierra Club is entitled “Request for Rehearing”.<sup>1</sup> Sierra Club presumably made a conscious choice to file a “Request for Rehearing,” rather than an “Application for Rehearing”. An application for rehearing under the regulations of the DOE is governed by 10 C.F.R. § 590.501. However, in its “Request for Rehearing,” the Sierra Club asserts that it is filing not only under this provision of the DOE regulations, but more broadly when it states the filing is being made “pursuant to Section 19(a) of the Natural Gas Act, 15 U.S.C. § 717(r)(a), and 10 C.F.R. § 590.501.”<sup>2</sup>

Furthermore, the action sought by the Sierra Club is beyond the proper scope of an Application for Rehearing:

“Sierra Club asks that these actions be withdrawn and pending further inquiry into the environmental impacts of the proposed exports, or in the alternative, that the order be withdrawn and the underlying application be denied.”<sup>3</sup>

Therefore, the breath of Sierra Club’s demand is not a result contemplated by 10 C.F.R. § 590.501, which addresses the mechanisms of rehearing; but does not contemplate on order denying the Application. Hence, the “Request for Rehearing” should be governed by the motion section of the DOE regulations, namely 10 C.F.R. § 590.302, which provides that answers to motions may be filed by any party within 15 days after the filing of the motion. The DOE regulations, particularly 10 C.F.R. § 590.302(b), specifically provide for the Assistant Secretary or the Presiding Official to establish another time period for filing a reply to a motion.

Alternatively, had Sierra Club simply filed an Application for Rehearing under 10 C.F.R. § 590.501, which it did not, or should it even be deemed that the Sierra Club had so filed, the Assistant Secretary and the Presiding Official have the discretion to grant Applicants leave to file an answer to the Request for Rehearing. In analogous circumstances, DOE has permitted answers to requests for rehearing,<sup>4</sup> as has FERC under its similar rule.<sup>5</sup>

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<sup>1</sup> Freeport LNG Expansion, LLC, FE Docket No. 11-161-LNG, Sierra Club “Request for Rehearing, December 15, 2014.

<sup>2</sup> Ibid, at p.1.

<sup>3</sup> Ibid, at p.1

<sup>4</sup> *Cameron LNG, LLC*, FE Docket No. 111-162-LNG, Order Granting Motion for Leave to Answer, November 25, 2014.

<sup>5</sup> *E.g., Columbia Gas Transmission, LLC*, 146 FERC ¶ 61,116 at P 3 (2014) (waiving Rule 213(a)(2) of FERC admitted answers to rehearing requests because the answers assisted in FERC’s decision-making process); and *ANR Pipeline Co., et al.*, 143 FERC ¶ 61,225 at P 19 (2013).

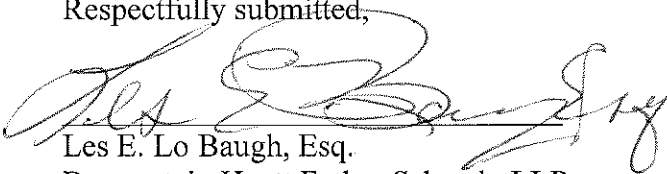
It should also be noted that the timing selected by Sierra Club to file its motion; i.e., Request for Rehearing, would place a due date for answers to the motion on or before the day before New Year's Eve, namely December 30, 2014, unless an extension of time is granted by the DOE/FE to file at a later date. The period between now and the end of the year is one of several traditional holidays, some secular and others religious. Because of that condition, many of the people that need to be accessed, before an adequate answer can be presented, are unavailable or have very limited availability. In addition, since the Sierra Club filing of the "Request for Rehearing" and until today, the DOE dockets have been inaccessible via the internet and thus prevented research into DOE precedents in other dockets.

Applicants' Answer will not unduly delay the proceeding. Neither will it prejudice any party. It will, however, inform and provide information to assist DOE. In essence, it will enhance and complete the record. Furthermore, justice and equity demand that Applicants be provided that opportunity. The Sierra Club's accusations that DOE/FE improperly conducted these proceedings and violated the law are of course challenges to both the integrity and competence of DOE/FE. But, they also represent a direct challenge to the interests and rights of the Applicants. The improper assertions, arguments, misstatements, misunderstandings of the law, and inaccuracies contained in Sierra Club's filing cannot go unanswered.

## II. CONCLUSION

Applicants respectfully request that DOE grant Applicants a waiver of § 590.505, exercise its authority under 10 C.F.R. § 590.302, and grant Applicants leave to file an Answer to the Sierra Club's "Request for Rehearing" no later than January 15, 2015.

Respectfully submitted,



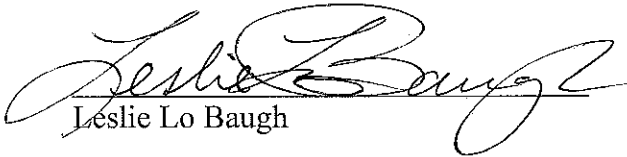
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**VERIFICATION**

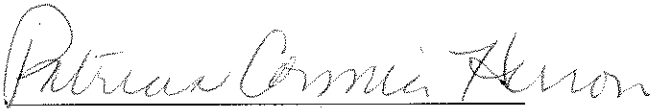
County of Los Angeles

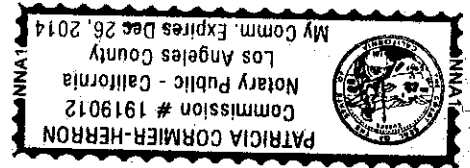
State of California

I, Leslie Lo Baugh, being duly sworn on his oath, do hereby affirm that I am familiar with the contents of this Notification, Amendment, and Statement of Change and that the matters set forth therein are true and correct to the best of my knowledge, information and belief.

  
Leslie Lo Baugh

Sworn to and subscribed before me, a Notary Public, in and for the State of California, this 18th day of December, 2014.

  
Patricia Cormier-Herron Notary Public  
Print Name



**CERTIFICATE OF SERVICE**

I hereby certify that I have this day, December 18, 2014, served the foregoing document entitled **Applicants' Motion for Leave to File Answer to Sierra Club's Request for Rehearing** upon the parties as listed below in Docket No. 10-161-LNG and DOE/FE for inclusion in the FE dockets in the above-referenced proceeding in accordance with 10 C.F.R. § 590.107(b)(2011).

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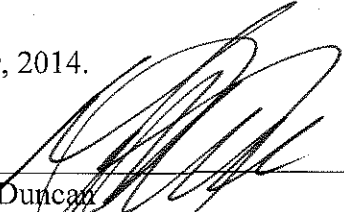
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Dated at Los Angeles, California, this 18<sup>th</sup> day of December, 2014.

By:   
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