

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

Golden Pass Products LLC

)

FE Docket No. 12 - 156 - LNG

**ANSWER OF GOLDEN PASS PRODUCTS LLC
TO MOTION TO REPLY AND REPLY**

Pursuant to the Department of Energy ("DOE") Regulations at 10 C.F.R. §§ 590.302(b) and 590.304(f) (2012), Golden Pass Products LLC ("GPP") hereby submits this Answer to the Sierra Club's "Renewed Motion to Reply and Reply" filed March 15, 2013,¹ in the captioned proceeding ("Sierra Club Reply"). GPP requests that DOE disregard the Sierra Club Reply as untimely and improper under the DOE's regulations, as well as the procedures adopted for consideration of GPP's application.

This proceeding concerns GPP's application to export annually up to 740 billion cubic feet ("Bcf") of domestically produced liquefied natural gas ("LNG") LNG to any country (1) that has or in the future develops the capacity to import LNG via ocean-going carrier; (2) with which the United States ("U.S.") does not prohibit trade; and (3) does not have a Free Trade Agreement ("FTA") requiring the national treatment for trade in natural gas ("NFTA country"). Following the filing of GPP's Application on October 16, 2012, the DOE issued a notice of

¹ The Sierra Club Reply is dated March 15, 2013, and the certificate of service states that it was served on March 15, 2013. The DOE website indicates, however, that the Reply was filed on March 14, 2013, notwithstanding the fact it was dated and served one day later. This Answer is submitted on April 1, 2013, which is within 15 days of the date of the Reply and Certificate of Service, as provided for in the DOE Regulations. 10 C.F.R. §§ 590.302(b) and 590.304(f). To the extent necessary, GPP requests that this Answer be accepted as timely filed, or that the DOE permit this filing to be accepted one business day out-of-time. In view of the date on the Sierra Club Reply and Certificate of Service, the filing and service of GPP's Answer on April 1, 2013, is timely.

GPP's Application published in the Federal Register on December 6, 2012.² On February 4, 2013, the deadline established in the Notice, Sierra Club filed a motion to intervene and protest ("Sierra Club Protest"). In accordance with 10 C.F.R. §§ 590.303(e) and 590.304(f) (2012), GPP filed an Answer to the Sierra Club Protest on February 28, 2013.³

Sierra Club contends that the DOE should consider its Reply in part because Sierra Club "requested a reply in its initial pleadings . . . [and] Golden Pass did not oppose that request in its Answer," and because its Reply "is appropriate to assist DOE/FE in its public interest inquiry."⁴ However, Sierra Club expressly requested leave to respond only to opposition to its motion to intervene.⁵ Sierra Club did not seek leave to respond on substantive issues. Notwithstanding its own limitation, the Sierra Club Reply addresses not only GPP's arguments that Sierra Club lacks a sufficient interest to establish party standing, but reargues positions taken in its Protest.

The DOE should reject Sierra Club's attempt to rehabilitate its motion to intervene. The DOE regulations provide that "[a]ny other person who seeks to become a party to a proceeding shall file a motion to intervene, which sets out clearly and concisely the facts upon which the petitioner's claim of interest is based."⁶ Accordingly, Sierra Club was obligated to set

² *Golden Pass Products LLC*, FE Docket No. 12-156-LNG, 77 Fed. Reg. 72,837 (December 6, 2012).

³ The American Public Gas Association ("APGA") also protested GPP's Application. GPP's Answer addressed APGA's protest as well.

⁴ Sierra Club Reply at 1.

⁵ "This ***motion to intervene*** must be granted."²

²"If any other party opposes ***this motion***, we respectfully request leave to reply. Cf. 10 C.F.R. §§ 590.302, 590.310 (allowing for ***procedural*** motions and briefing in these cases)."

Sierra Club Protest at 3, n. 2 (emphasis added).

⁶ 10 C.F.R. § 590.303(b).

forth in full the basis for its party standing in its motion to intervene. In order to maintain the integrity of the DOE's regulations and procedures, Sierra Club should not be permitted a second bite at the apple.

The DOE should disregard the remainder of Sierra Club's impermissible Reply as well. Contrary to Sierra Club's contention, consideration of its Reply will detract from the DOE's review of GPP's Application. Among other things, Sierra Club uses its Reply as an attempt to shoehorn a purported "study" prepared by Charles River Associates ("CRA") into the record on an untimely basis. The DOE should reject this transparent gambit. First, the CRA "study" does not address the specifics of GPP's Application. Second, the "study" was prepared for Dow Chemical Company ("Dow"), not the Sierra Club. Dow has not filed a motion to intervene in the GPP Application proceeding, and thus is not a party to this proceeding.

Third, Dow only filed the CRA "study" on February 25, 2013, as an attachment to its reply comments on the DOE LNG Study under the separate comment procedure established by DOE in December 2012.⁷ Because Dow did not file the CRA "study" until the reply comment deadline, its submission was improper. DOE should accordingly disregard the "study." Sierra Club's untimely attempt to submit Dow's untimely CRA "study" in this proceeding should be rejected as well.

The Sierra Club Reply further attempts to bolster the "study" purportedly prepared by Dr. Wallace Tyner that Sierra Club relied on in its Protest (at pp. 15 and 21).⁸ In its Answer,

⁷ *Freeport LNG Expansion, L.P., and FLNG Liquefaction, LLC. et al.*, FE Docket Nos. 10-161-LNG, et al., 77 Fed. Reg. 73627 (December 11, 2012) ("Notice of Availability of 2012 LNG Export Study and Request for Comments").

⁸ Sierra Club Reply at 6. The "study" is cited by Sierra Club as "*Comparison of Analysis of Natural Gas Export Impacts from Studies Done by NERA Economic Consultants and Purdue University (2012)*."

GPP pointed out that this “study” was in fact not presented and is not final. In its Reply, Sierra Club acknowledges that the study is not final, stating that it “is now moving through peer review.”⁹ However, this explanation does not provide GPP or DOE with the ability to assess the validity of the “study.”¹⁰

The remainder of Sierra Club’s Reply is generally devoted to repetition of the same arguments it presented in its Protest and its comments on the DOE LNG Study.¹¹ The DOE should disregard this material as untimely and repetitive. Rejection of the Sierra Club’s impermissible Reply will ensure against abuse of the DOE’s regulations and procedures, and will help to ensure against undue delay and undue burdens upon the parties and DOE.

WHEREFORE, for the reasons set forth above, GPP requests that the DOE/FE deny the Sierra Club’s Motion to Reply, and disregard the Reply.

Respectfully submitted,

Golden Pass Products LLC



William D. Collins
President
Golden Pass Products LLC
Three Allen Center, Suite 802
333 Clay Street
Houston, TX 77002
(713) 860-6323

**Authorized Representative for
Golden Pass Products LLC**

⁹ Sierra Club Reply at 6.

¹⁰ Sierra Club Reply at 6.

¹¹ See, e.g., Sierra Club Reply at 6: “Sierra Club has already discussed the NERA study in great detail in its opening and reply comments in this docket.” This statement is followed by two paragraphs which repeat that discussion, followed by two additional paragraphs describing the untimely CRA “study” submitted with Dow’s Reply Comments, as discussed above.

CITY OF HOUSTON)
)
)
)
STATE OF TEXAS)

SS:

**CERTIFIED STATEMENT AND VERIFICATION OF
AUTHORIZED REPRESENTATIVE**

Pursuant to Section 590.103(b) of the Department of Energy's (DOE) regulations, 10 C.F.R. § 590.303(e) (2012), William D. Collins, being first duly sworn on his oath deposes and says: that he is President of Golden Pass Products LLC; that that he is duly authorized to sign and file the foregoing Answer in the captioned proceedings before the DOE; that he has read the Answer; and that all of the statements and matters contained therein are true and correct to the best of his information, knowledge and belief.



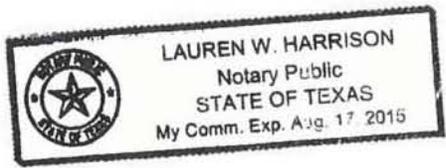
William D. Collins
President
Golden Pass Products LLC

Subscribed and sworn in Houston, Texas
this 1st day of April, 2013.



Lauren W. Harrison, Notary Public

My commission expires: 8/17/2015



CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document on all of the parties to this proceeding at the addresses provided in their initial pleadings:

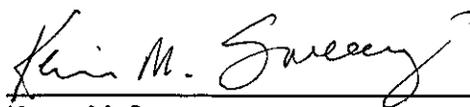
Craig Holt Segall
Staff Attorney
Sierra Club Environmental Law Program
50 F St, 8th Floor
Washington, DC
(202)-548-4597 (tel)
(202)-547-6009 (fax)
Craig.Segall@sierraclub.org

David Schryver
Executive Vice President
American Public Gas Association
Suite C-4
201 Massachusetts Avenue, N.E.
Washington, D.C. 20002
dschryyer@apga.org

Kathleen Krust
Paralegal
Sierra Club Environmental Law Program
85 2nd St., Second Floor
San Francisco, CA 94105
(415) 977-5696 (tel)
Kathleen.Krust@sierraclub.org

William T. Miller
Miller, Balis & O'Neil, P.C.
Twelfth Floor
1015 Fifteenth Street, N.W.
Washington, D.C. 20005
Telephone: (202) 296-2960
wmiller@mbolaw.com

Dated at Washington, DC, this 1st day of April, 2013.



Kevin M. Sweeney
John & Hengerer
1730 Rhode Island Ave., NW, Suite 600
Washington, DC 20036
202.429.8802
ksweeney@jhenergy.com