UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	**FE DOCKET NO. 12-156-LNG**
Golden Pass Products LLC	)	
	)	

SIERRA CLUB'S RENEWED MOTION TO REPLY AND REPLY

I. Introduction

Pursuant to 10 C.F.R. § 590.302(a), Sierra Club hereby moves for leave to reply to Golden Pass Products LLC ("Golden Pass")'s Answer to its motion to intervene and protest. Sierra Club's proposed reply is incorporated into this document.

II. Sierra Club Should Be Granted Leave to Reply

Although a reply is not automatically provided for by DOE rules, those rules allow parties to request additional procedures, *see* 10 C.F.R. § 590.302 & 590.310, and Sierra Club requested a reply in its initial pleadings, *see* Protest at 3 n.2. Golden Pass did not oppose that request in its Answer, and Sierra Club renews it here. A brief reply is appropriate to assist DOE/FE in its public interest inquiry.

The public interest test of 15 U.S.C. § 717b requires DOE/FE to conduct a searching inquiry to determine whether Golden Pass's LNG export proposal is consistent with the public interest. As Deputy Assistant DOE Secretary Chris Smith has explained, LNG export authorization is "a tremendously important decision" with significant public impacts. *See* Nick Snow, Oil and Gas Journal, *US DOE to move carefully on LNG export requests, NARUC meeting told* (Feb. 5, 2013). Because the public interest necessarily embraces environmental concerns, *see Nat'l Ass'n for the Advancement of Colored People v. Federal Power Comm'n*, 425 U.S. 662, 670 n.4 & n.6 (1976), the environmental issues which Sierra Club primarily discusses are particularly important to fully examine in this proceeding. Accordingly, DOE/FE should take the opportunity to benefit from a full record and complete arguments in this case. In Sierra Club's view, Golden Pass's answer misstates important questions of fact and law which bear on the public interest. Sierra Club therefore seeks leave to reply to address these matters. DOE/FE should ensure that these important questions receive a fair hearing by considering this brief reply.

III. Sierra Club's Reply

Sierra Club and Golden Pass agree that LNG exports will raise domestic natural gas prices and that Golden Pass's project will drive increased shale gas production. The record demonstrates that this gas price increase will harm most Americans, is not justified by substantial public benefits, and may decrease total US GDP. It also demonstrates that the environmental impacts of this increased production, which must be fully assessed under NEPA, are substantial, especially in the absence of regulations recommended by DOE's own expert shale gas subcommittee. These harms are more than enough to rebut any initial presumption in favor of export. Although Golden Pass maintains that the damage is either irrelevant or counter-balanced by its purported economic benefits, it does not persuasively show that the net effect of its proposal is in the public interest. DOE/FE must not grant Golden Pass's application on this record.

A. Sierra Club Should Be Granted Leave to Intervene

As Sierra Club set out in its initial pleadings, it and its members have deep interests in the outcome of this proceeding. *See* Sierra Club Protest at 1-2 and Ex. 1. As Golden Pass must acknowledge, its project would raise gas prices for Sierra Club's members, increase their exposure to air and water pollution from gas production, and increase the use of fossil fuels which risk serious climate disruption. Sierra Club's members also live and work in and around Golden Pass's facility, and in gas fields in Texas and surrounding states which would be very likely to be affected by its activities. Sierra Club's members will benefit from full disclosure of these impacts, and an informed decision by DOE/FE. All of these interests support its intervention. Stating them is all that is required, as DOE/FE's intervention rules require only that intervenors file a motion "which sets out clearly and concisely the facts upon which the petitioner's claim is based." 10 C.F.R. § 590.303(b). Sierra Club has done so, and has further demonstrated that these interests are substantial and support intervention.

Golden Pass would require far more, including a demonstration of Article III standing. Although the harms to Sierra Club's members certainly support Article III standing, there is no such requirement. As Golden Pass admits, Answer at 9, "the criteria for establishing 'administrative standing' … may permissibly be less demanding than the criteria for 'judicial standing'." *Envirocare of Utah, Inc. v. Nuclear Regulatory Comm'n*, 195 F.3d 72, 74 (D.C. Cir. 1999); *see also Gettman v. Drug Enforcement Admin.*, 290 F.3d 430, 434 (D.C. Cir. 2002). They are far less demanding here because the Natural Gas Act seeks to ensure broad consideration of the public interest, and correspondingly broad participation in these proceedings, and DOE/FE's own regulations are therefore open to intervention by interested parties.

In this administrative context, the question turns not on Article III but "on familiar principles of administrative law regarding an agency's interpretation of the statutes it alone administers." *Id.* at 75-76. Agencies are free to define the required "interest" in

accordance with their relevant statutes, and need not adhere to the strictures of Article III. Such interests may, for instance, encompass "merely an academic or organizational interest in a problem or subject" (although the Sierra Club's interest here is far greater). *See id.* Consistent with this open approach to agency intervention, the Natural Gas Act embraces a very broad definition of interests for intervention, consistent with DOE's appropriately permissive regulations.

The Act seeks to "protect consumers against exploitation at the hands of natural gas companies," *see, e.g. Michigan Gas Co. v. FERC*, 115 F.3d 1266, 1272 (6th Cir. 1997) (citing *FPC v. Hope Natural Gas Co.*, 320 U.S. 591, 612 (1944)), and its export provisions explicitly seek to protect the "public interest." 15 U.S.C. § 717b. The Supreme Court has made clear that that interest includes environmental interests like those which chiefly concern the Sierra Club. *See NAACP v. Federal Power Comm'n*, 425 U.S. at 670 n.4 & n.6. Consistent with its broad public purpose, the Act anticipates a wide range of parties as intervenors. As Golden Pass acknowledges, the Act provides that:

> In any proceeding before it, the Commission [now DOE/FE] in accordance with such rules and regulations as it may prescribe, may admit as a party any interested State, State commission, municipality or any representative of interested consumers or security holders, or any competitor of a party to such proceeding, *or any other person whose participation in the proceeding may be in the public interest.*

15 U.S.C. § 717n(e). The Act, in other words, does not even require intervenors to themselves to have a particular interest in the proceeding – only that their participation "may be in the *public* interest." *Id.* (emphasis added). Thus, if a party can better inform DOE/FE, raise arguments on the public's behalf, or otherwise act to serve the broad public interest inquiry, that party is to be admitted as an intervenor.

The environmental and ratepayer protection issues which the Sierra Club raises here clearly serve the public and the purposes of the Natural Gas Act, as well as reflecting the substantial interests of the Sierra Club's own members. Sierra Club seeks to serve the Act's purpose by protecting the public and its members, "from exploitation at the hands of the gas companies." Accordingly, Sierra Club's interests plainly fall within the interests which the Natural Gas Act seeks to protect and which DOE/FE must recognize as sufficient for intervention. It is therefore in the public interest to allow the Sierra Club to participate as an intervenor. *See also Koniag, Inc. v. Andrus*, 580 F.2d 601, 615 (D.C. Cir. 1978) (administrative "standing" should be granted when it is consistent with purposes of underlying statute).

Indeed, it would be improper for DOE/FE to deny Sierra Club intervention as Golden Pass requests. Other agencies have been judicially corrected for limiting intervention on the basis of Article III standing when their statutes and regulations did not so require. *See, e.g.*, *Preservation of Los Olivos v. U.S. Dep't of the Interior*, 635 F. Supp. 2d 1076,

1090-91 (C.D. Ca. 2008). DOE/FE must not make that error here. It must grant Sierra Club's intervention motion and give full weight to the arguments in its protest and in this reply.

B. The Record Demonstrates that Golden Pass's Proposal Is Not In the Public Interest

The environmental and economic harm that would be caused by Golden Pass's proposal is not in the public interest, and is not outweighed by the direct economic benefits its proposal might create. The record in this case certainly provides no basis for granting Golden Pass's application.

i. DOE/FE Has An Independent Obligation to Evaluate Golden Pass's Application

DOE/FE has an independent obligation to assure that any authorized LNG exports are in the public interest, and so remain. *See Sabine Pass,* Order 2961 (May 20, 2011) at 32-33 (recognizing this "continuing duty"). This duty obliges DOE/FE carefully to review the record to determine whether the proposed exports are "consistent with the public interest." 15 U.S.C. § 717b(a).

Golden Pass correctly states that DOE/FE has interpreted the statutory directive as supporting a rebuttable presumption in favor of export. Answer at 11-13. But Golden Pass greatly overstates the force of this presumption, suggesting that it should rule the day in the absence of an "affirmative showing of inconsistency with the public interest" by intervenors. *See id*. Although Sierra Club has, in fact, made such a showing on the record, it is important to emphasize that this presumption is neither so firm, nor so dispositive as Golden Pass suggests.

The rebuttable presumption approach arises from 1984 guidelines designed to encourage a relatively free market for natural gas *imports*. *See Panhandle Producers & Royalty Owners Ass'n v. Economic Regulatory Admin.*, 822 F.3d 1105 (D.C. Cir. 1987) (discussing this history). Considering those guidelines, the D.C. Circuit made clear that they could not "create a norm binding the promulgating agency" and that their principles and policy remain subject to "complete attack before it is finally applied in future cases." *Id.* at 1110-11. Sierra Club has mounted such an attack here, asserting that many other factors relevant to export, but not to import, weigh against granting this application. Accordingly, DOE/FE need not follow the guidelines or the rebuttable presumption approach.

But even if DOE/FE adheres to the import-based rebuttable presumption approach, that presumption will not carry the day for Golden Pass. It is "highly flexible," leaving parties "free to assert other factors" of relevance to the inquiry at hand. *Id.* at 1113.Indeed, DOE "may change its substantive policy in the course of deciding an individual case."

Panhandle Producers & Royalty Owners Ass'n v. Economic Regulatory Admin., 847 F.2d 1168, 1175 (5th Cir. 1988). An undue reliance on the presumption, or on the import guidelines, is particularly unwarranted here. Large-scale gas exports are entirely novel. Exporting domestic gas has implications for domestic production and the environment and economy which import does not, and exporting the very large quantities of gas which DOE/FE is now considering could well make for truly sweeping changes.

In these circumstances, it is neither prudent nor in the public interest to simply rely on presumptions and a nearly thirty-year-old set of inapposite guidelines to settle the case. Instead, DOE/FE has a pressing "continuing duty" to carefully evaluate the record before it to determine whether Golden Pass's proposal is in the public interest.

ii. The Record Does Not Support Golden Pass's Claimed Economic Benefits

To support its claim that it will not harm the U.S. economy, Golden Pass must assert that essentially none of the LNG projects which precede it in DOE's permitting queue will be built because if all those exports went forward, U.S. gas and energy prices would rise substantially. Golden Pass insists that DOE/FE need not consider the cumulative impacts of all these terminals because the global market will not support them. Answer at 13-14. The problem is that every other applicant before DOE/FE has made the same assertion that none of the *other* terminals will be built, even though their particular terminal surely will move forward. This is no way to run a regulatory process. Although Golden Pass, on its own, would impose unjustifiable burdens on the larger economy, its cumulative impacts are even worse. DOE/FE must take these effects into consideration, and the record shows that they are substantial.

Golden Pass's own expert report predicts that *just* Golden Pass and the already-approved Sabine Pass export project will raise Henry Hub prices by an average of 2.3%, DMP Report at 4, and that prices would rise by 4.2% with 6 bcf/d of export, and up to 8.1% with 12 bcf/d. These are smaller price increases than many other analysts predict. As the report acknowledges, the EIA, Navigant, and ICF International predict price increases of between 6-11% at the Henry Hub at 6 bcf/d, so Golden Pass's report is below mainstream estimates. DMP Report at 22. But whether Golden Pass is low-balling its figures or not, these increases are not trivial, and they are not unlikely.

This is particularly so because Golden Pass is 15th in DOE/FE's processing queue. As Sierra Club explained in its protest, at least 21.1 bcf/d of non-FTA exports may have been approved before DOE/FE even considers this application. Protest at 18. DOE/FE cannot simply assume that all, or most, of these projects will not materialize. Golden Pass's application must be weighed against the likelihood that at least some of these projects will move forward if approved, meaning that projects like this one at the end of the queue will push domestic energy prices significantly higher.

What will the nation secure in exchange for these higher energy prices? Golden Pass maintains that the net outcome will be positive because its project will generate jobs necessary to construct and operate export facilities and pipelines and because it will "encourage and stabilize further U.S. natural gas development." Answer at 18. Sierra Club concedes that Golden Pass will, of course, employ people in this process, and will stimulate natural gas production. The question, however, is whether these local impacts outweigh the significant national economic costs of LNG export. The record shows that they do not.

Sierra Club has already discussed the NERA study in great detail in its opening and reply comments in this docket. Suffice to say that that study shows that LNG export depresses every other sector of the U.S. economy, and reduces real wages for most Americans by billions of dollars annually. Although NERA concludes that net GDP continues to grow, this is only because export firms and natural gas companies are able to secure such large profits by selling into the lucrative international gas market. Most Americans do not benefit. Golden Pass has put forward no record evidence showing that NERA got this wrong. Instead, it simply retreats to its claim that its project will have certain, discrete benefits – which, even if true, does not show that the project benefits the economy, or the public, as a whole.

Moreover, the NERA study is balanced in the record by two other extensive modeling analyses which DOE/FE must consider. First, the Purdue study by Dr. Wallace Tyner, discussed in Sierra Club's protest, must be given significant weight. Although Golden Pass insists that it is "no study" because the record only summarizes a larger paper, Answer at 22, the study is, in fact, a full macroeconomic analysis of LNG export, based upon the well-known, and publicly-available, MARKAL model, and is now moving through peer review. DOE/FE should certainly give it real weight. This is particularly so because Dr. Tyner's study is consistent with NERA's results: It, too, shows that the rest of the economy contracts under LNG export. The principle difference is only that the economy contracts somewhat more in Dr. Tyner's model than in NERA's, leading to GDP losses, rather than growth. But this directional difference is relatively small (in either direction), and is less important than the central pattern of general economic harm, except in the gas sector, which both studies show.

A third study, submitted by Dow Chemical in its reply comments on the NERA study, and authored by Charles River Associates, further underlines the importance of this general economic contraction. That study, which was also based on macroeconomic modeling, demonstrates that the relative benefits associated with industrial use of natural gas significantly outweigh those of LNG export, and are superior in terms of job creation. *See generally* Charles River Associates, *US Manufacturing and LNG Exports* (Feb. 25, 2013) (attached to Reply Comments of Dow Chemical). That study concludes that:

> · The direct value added by 5 bcf/d of LNG exports (the amount, approximately, of Golden Pass and Sabine Pass) to the U.S. economy is $2.3 billion while the

value added by the same amount of natural gas used in manufacturing is $ 4.9 billion – more than twice as much. *Id.* at 2.

· The total employment such a manufacturing investment would create would be more than 8 times greater than the direct and indirect employment from LNG export. *Id.*

· The improved trade balance of enhanced manufacturing exports (and reduced imports) outweighs the trade benefit of LNG export by more than $ 19 billion. *Id.* at 3.

That study thus finds that LNG exports are simply not in the public interest relative to superior choices.

Golden Pass attempts to downplay its relative unattractiveness relative to domestic economic growth by asserting that the natural gas supply can support both uses. But the CRA study casts doubt on this claim, too. It forecasts both increased domestic demand and greater international demand, meaning that the two uses will, indeed, compete. Domestically, CRA sees significantly enhanced potential gas demand from manufacturing, electricity, and natural gas vehicles, *see id.* at 5-6, along with a greatly expanded foreign market, *id.* at 8-9. As CRA explains, NERA relied on unrealistic market assumptions which, corrected, suggest that LNG exports could in fact reach levels of between 9-20 bcf/d by 2030. *Id.* at 32-36. At such levels, competition with domestic uses will intensify, and domestic prices will rise correspondingly.

The upshot is that the record before DOE/FE contains three macroeconomic studies – by NERA, by Purdue, and by CRA. All three studies agree that LNG exports will depress the manufacturing sector, raise domestic energy prices, and lower incomes for most Americans. Although the studies differ as to the magnitude of these effects, they agree that they worsen as export volumes increase. Golden Pass has submitted no evidence to the contrary. Golden Pass would raise prices and damage the U.S. economy without providing off-setting benefits, either economic or environmental. Its proposal is therefore not in the public interest.

iii. Environmental Harm Further Makes Clear that Golden Pass's Proposal is Not In the Public Interest

The economic harm Golden Pass will cause is accompanied by environmental harm. Sierra Club has submitted an extensive record showing that increased natural gas production raises serious, national, environmental concerns. Indeed, DOE's own shale gas advisory subcommittee recognizes that these impacts are substantial and poorly controlled. *See* Sierra Club Protest at 35. Golden Pass has contested *none* of these impacts on the merits. Instead, it asserts that these objections are "simply not relevant to the instant proceeding," apparently on the ground that they are not "reasonably

foreseeable" under NEPA. *See* Answer at 35. Golden Pass is wrong about NEPA, as we discuss below, but it also misses the point. DOE/FE *must* weigh environmental impacts under the Natural Gas Act as it makes its public interest determination. These impacts weigh against Golden Pass, and it has not contested them.

Specifically, as Sierra Club discussed in its Protest, *see* Protest at 4-6, the Supreme Court and other courts have repeatedly held that the public interest determination encompasses environmental considerations. *See, e.g.*, *Udall v. Red. Power Comm'n*, 387 U.S. 428, 450 (1967); *N. Natural Gas Co. v. Fed. Power Comm'n*, 399 F.2d 953, 973 (D.C. Cir. 1968). Those environmental considerations, documented by Sierra Club, include pollution and disturbance at Golden Pass's plant site and pipeline facilities and significantly increased air and water pollution, ecological and community disruption, and enhanced climate change resulting from increased production and use of natural gas.

To be sure, as Golden Pass points out, some of these impacts would occur with domestic use of natural gas as well – and Sierra Club is very concerned about such impacts and advocates for action to limit them. But this does not change the fact that Golden Pass would, as it acknowledges, cause increased gas production that would not otherwise occur. These additional impacts would be avoided, at least in part, if DOE/FE denied the application, and so are appropriate for consideration here.

This is true under the Natural Gas Act regardless of DOE/FE's NEPA obligations (discussed below). NEPA may well be an essentially procedural statute, but the Natural Gas Act imposes a substantive duty to consider environmental matters, whatever NEPA's procedural obligations might be. DOE/FE may not complete its public interest determination without fully weighing environmental impacts. Although NEPA certainly will aid it in that process, the Natural Gas Act imposes a separate obligation to do so.

Moreover, it would be arbitrary and capricious for DOE/FE to do otherwise. Golden Pass has relied on the purported benefits of induced production to justify its application. It has maintained, throughout, that its product will enhance production and it bases both its job predictions and its price impact forecasts upon such enhanced production keeping up with its enhanced demand. Golden Pass cannot claim only the benefits of enhanced production. DOE/FE must weigh the corresponding costs.

Those costs, fairly weighed, show that Golden Pass's proposal will cause environmental harm along with economic damage. For this reason, too, it is not in the public interest.

iv. Induced Production Must Also Be Considered in the NEPA Context

Golden Pass nonetheless maintains that none of the impacts of increased production are reasonably foreseeable for NEPA purposes, Answer at 32-34, even though it relies on increased production to justify its project. Its legal position is apparently that increased production is foreseeable when its effects support Golden Pass – but not

forseeable when they do not. Needless to say, DOE/FE cannot embrace this arbitrary and one-sided argument.

As Sierra Club explained, at length in its protest, governing NEPA case law and authorities require DOE/FE to disclose and weigh the impacts of induced production from Golden Pass and other LNG export proposals. Sierra Club Protest at 31-34. The courts have made clear that an impact 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." *City of Shoreacres v. Waterworth*, 420 F.3d 440, 453 (5th Cir. 2005). Even a person of less than ordinary prudence would recognize that exporting large volumes of natural gas would increase gas production – and, in fact, the Energy Information Administration, every economic report in the record, and Golden Pass itself have all documented as much. There is no real question that these impacts will occur, are necessary for LNG export to go forward, and are subject to NEPA analysis.

Golden Pass offers no contrary judicial or regulatory authority. Instead, it relies upon DOE/FE's *Sabine Pass* reconsideration order, Order 2961-A, which declined to undertake such analysis. That order is not consistent with governing law, and DOE/FE should not follow it here. Although DOE/FE there determined that because it could not localize all production impacts they were not "foreseeable," this is not the law. In fact, "when the *nature* of the effect is reasonably foreseeable but its *extent* is not … the agency may not simply ignore the effect." *Mid States Coalition for Progress v. Surface Transp. Bd.*, 345 F.3d 520, 548-550 (8th Cir. 2003). Indeed, binding NEPA regulations require agencies to carefully document and discuss uncertainties, rather than use such uncertainties to avoid acknowledging impacts at all. *See, e.g.*, 40 C.F.R. § 1502.22 (requiring such consideration). DOE/FE was legally mistaken that uncertainties as to the geographic location of induced production which all sides concede will occur allow it to defer any consideration of production's environmental impacts.

Moreover, the record in Sabine Pass was notably less complete than the record before DOE/FE here. In this proceeding, Sierra Club has already demonstrated that effects of induced production can be calculated, and has provided illustrative calculations in its protest. It has also demonstrated that energy models, including DOE's own NEMS model and the model used by Golden Pass, can forecast likely areas in which production will occur. This demonstration makes clear that DOE/FE was mistaken in its *Sabine Pass* order when it determined that such predictions were not possible. DOE/FE, in short, has good grounds, on both the facts, and the law, for abandoning its incorrect *Sabine Pass* ruling.

Golden Pass, of course, maintains that DOE/FE itself need do none of this because FERC is generally the lead agency for NEPA compliance under the Natural Gas Act. *See* Answer at 25-26. It is true that FERC has primary responsibility for NEPA, but it is also ultimately irrelevant. Sierra Club certainly hopes that FERC will undertake its lead agency obligations properly, and include the consideration of induced production which

DOE/FE must have to support its decision, but FERC has failed to do so in the past. If FERC does so fail, DOE/FE may not rely upon any such flawed NEPA analysis. Instead, DOE/FE retains a separate NEPA obligation to ensure that the final NEPA analysis supports its own public interest determination. *See* 40 C.F.R. § 1501.6. Sierra Club's point in these proceedings is that DOE/FE may not reach a final public interest determination without supporting NEPA analysis that considers induced production, regardless of which agency prepares that analysis.

For this reason, Golden Pass's insistence that DOE/FE should conditionally approve its application in advance of any NEPA process is also ill-taken. *See* Answer at 29-32. It is true that DOE is generally able to issue conditional orders, but its binding NEPA regulations prevent it from doing so, or indeed from taking *any* action, where an EIS is required under NEPA, as is the case here. *See*10 C.F.R. § 1021.211. DOE/FE may not prejudge the NEPA process with an initial order. As a prudential matter, this course is also appropriate: DOE/FE will need a full NEPA analysis before deciding whether Golden Pass's proposal is in the public interest. It cannot rationally decide anything about the proposal without weighing its environmental implications, so any conditional approval is necessarily incomplete and immaterial. Both as a legal matter, and as a prudential one, DOE/FE must not prejudge the NEPA or Natural Gas Act processes until environmental considerations have been fully disclosed and weighed.

In short, DOE/FE retains significant NEPA obligations which are not yet fulfilled. Despite Golden Pass's arguments to the contrary, DOE/FE may not turn a blind eye to significant environmental impacts of its proposal, and it must weigh them fully under NEPA and the Natural Gas Act. If it does so, on this record, it must determine that Golden Pass's proposal is not in the public interest, either on its own merits or when considered in the context of the many other LNG export applications now before DOE/FE.

IV. Conclusion

For the foregoing reasons, DOE/FE should grant Sierra Club leave to intervene and determine that Golden Pass's proposal is not in the public interest.

Dated: March 15, 2013

Respectfully submitted,

Craig Holt Segall
Sierra Club Environmental Law Program
50 F St NW, Eighth Floor
Washington, DC, 20001

CERTIFICATE OF SERVICE

I hereby certify that I caused the above documents to be served on the applicant and all others parties in this docket, in accordance with 10 C.F.R. § 590.017, on March 15, 2013.

Craig Holt Segall
Sierra Club Environmental Law Program
50 F St NW, Eighth Floor
Washington, DC, 20001

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

IN THE MATTER OF	)	
	)	**FE DOCKET NO. 12-156-LNG**
Golden Pass Products, LLC	)	
	)	

VERIFICATION

WASHINGTON	§
	§
DISTRICT OF COLUMBIA	§

Pursuant to C.F.R. §590.103(b), Craig Segall, being duly sworn, affirms that he is authorized to execute this verification, that he has read the foregoing document, and that facts stated herein are true and correct to the best of his knowledge, information, and belief.

Craig Segall
Staff Attorney
Sierra Club Environmental Law Program
50 F St NW, Eighth Floor
Washington, DC 20001
Telephone: (202) 548-4597
Fax: (202) 547-6009
Email: craig.segall@sierraclub.org

Subscribed and sworn to before me this 4th day of February, 2013.

Mary F. Vincent
Notary Public

MARY F. VINCENT
Notary Public, District of Columbia
My Commission Expires March 31, 2013

My commission expires: March 31, 2013