



threaten and destroy fishing and hunting grounds. The Export Terminal would also mean construction of a new 3.04-mile, 30-inch diameter gas delivery pipeline (the “Pipeline,” and together with the Export Terminal, the “Project”) through sensitive wetlands. OCM’s supplemental decision did not assess or weigh the costs of the real and potential adverse environmental impacts that the Export Terminal would bring to Cameron Parish, the Louisiana Coastal Zone, and the people of Louisiana.

3.

Louisiana’s Coastal Resources Management Act and its regulations, the “Coastal Use Guidelines,”<sup>1</sup> mandate OCM to consider and avoid to the maximum extent practicable a proposed project’s adverse “cumulative impacts,”<sup>2</sup> “secondary impacts in undisturbed ... wetland[s],”<sup>3</sup> “destruction of unique or valuable habitats, critical habitat for endangered species, important wildlife or fishery breeding or nursery areas,”<sup>4</sup> and “increases in the potential for flood, hurricane and other storm damage, or increases in the likelihood that damage will occur from such hazards,”<sup>5</sup> among other things. OCM cannot meet that “maximum extent practicable” mandate without determining that the benefits resulting from the proposed use would “clearly outweigh” its adverse impacts.<sup>6</sup> This obviously cannot reasonably be accomplished if the totality of the impacts are not considered or are downplayed. OCM, however, failed to comply with these mandates.

## PARTIES

4.

Petitioner Sierra Club is a non-profit organization whose mission is to explore, enjoy and protect the wild and beautiful places of the Earth; to practice and promote the responsible use of the Earth’s ecosystems and resources; to educate and enlist people to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. Sierra Club has thousands of members in Louisiana, including citizens who live, work, or recreate in Cameron Parish and throughout Louisiana’s Gulf Coast. Members of Sierra

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<sup>1</sup> Chapter 7 on Natural Resources, Coastal Management. 43 La. Admin. Code Pt. I, §§ 701 – 719 (LAC §§ 43:I.701-719).

<sup>2</sup> See LAC § 43:I.701.F.15 (permitting authority “shall ...in evaluating whether the proposed use is in compliance with the guidelines,” use information including “likelihood of, and extent of impacts of, resulting secondary impacts and cumulative impacts”); id. at § 701.G.10 (all uses should avoid “adverse effects of cumulative impacts”).

<sup>3</sup> See id. § 701.G.15.

<sup>4</sup> See id. § 701.G.16.

<sup>5</sup> See id. § 701.G.20.

<sup>6</sup> See id. § 701.H.1; see also id. § 701.F.10 (requiring information on “public costs resulting from use”).

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Club live, work, or recreate in the area affected by OCM's decision on coastal use permit application P20190900 to construct and operate an LNG export terminal.

5.

Petitioner Louisiana Bucket Brigade is a non-profit organization that uses grassroots action to hold the petrochemical industry and government accountable for the true costs of pollution. It works to create an informed, healthy society where people are valued over profit. Louisiana Bucket Brigade's members include citizens who live, work, and recreate in Cameron Parish and throughout Louisiana's Gulf Coast, *i.e.* areas affected by OCM's decision on coastal use permit application P20190900 to construct and operate an LNG export terminal.

6.

Petitioner Turtle Island Restoration Network is a nonprofit organization that mobilizes people in local communities around the world to protect marine wildlife and the oceans and inland watersheds that we all depend on. Since 1989, the organization has worked to protect and restore endangered sea turtle populations and marine biodiversity in ways that incorporate the ecological needs of marine species and the economic needs of local communities. Turtle Island Restoration Network has over 75,000 members including members who live, work, and recreate in Louisiana who are affected by OCM's decision on coastal use permit application P20190900 to construct and operate an LNG export terminal.

7.

The Louisiana Department of Conservation and Energy is an agency of the state of Louisiana, and its subdivision, Office of Coastal Management, is delegated the power to issue Coastal Use Permits. The Administrator of OCM took the final action issuing a Revised Basis of Decision that purports to "reissue" Coastal Use Permit P20190900 authorizing the Project, subjecting the Department to suit pursuant to the provisions of La. R.S. § 36:351.

8.

Sierra Club, Louisiana Bucket Brigade, and Turtle Island Restoration Network (the "Petitioners") are adversely affected parties with a real and actual interest in OCM's Coastal Use Permit decision to authorize construction and operation of the Export Terminal and the Project. Sierra Club, Louisiana Bucket Brigade, and Turtle Island Restoration Network may appeal OCM's decision pursuant to La. R.S. §§ 49:214.30(D) and 49:214.35(D).

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## JURISDICTION AND VENUE

9.

Jurisdiction is proper in this Court and Petitioners have a right to bring this judicial review action pursuant to La. R.S. § 49:214.35(D) and (E).

10.

Venue is proper in this Court pursuant to La. R.S. § 49:214.35(E), which provides: “Proceedings for review may be instituted by filing a petition in the district court of the parish in which the proposed use is to be situated ....” OCM authorized construction and operation of the Export Terminal in Cameron Parish.

11.

This petition is timely filed pursuant to La. R.S. § 49:214.35(E), which requires filing a petition “within thirty days after mailing of notice of the final decision by the secretary.” OCM’s Revised Basis of Decision “reissuing” the permit is dated November 18, 2025. No notice was ever mailed or otherwise provided to Petitioners, who found out about this final action from a news reporter.

## PROCEDURAL POSTURE

12.

Because the Commonwealth LNG facility is proposed for construction within the Louisiana “coastal zone,” a coastal use permit from the Louisiana Department of Energy and Natural Resources (so-named at the time) was required under state law. La. R.S. § 49:214.30; LAC § 43:I.723(A)(2). The Petitioners submitted extensive comments identifying flaws in Commonwealth’s permit application during the initial permitting process, but the Department mostly ignored those comments and approved the first permit for the project.

13.

Petitioners successfully sued to challenge Federal Energy Regulatory Commission’s (FERC) certificate approving of the project in 2023, and the D.C. Circuit issued a ruling in July 2024, concluding that FERC had failed to fully and adequately assess the cumulative and direct environmental and health impacts that would be caused by air pollution from Commonwealth LNG, and ordering FERC to conduct additional environmental analysis. *Healthy Gulf v. FERC*, 107 F.4th 1033, 1042 (D.C. Cir. 2024).

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14.

On July 22, 2024, Petitioners challenged the OCM's Coastal Use Permit for violations of the Louisiana's public trust doctrine. On October 10, 2025, this Court vacated the coastal use permit for the proposed Commonwealth LNG export facility, finding that the agency violated the agency's own rules, the Louisiana Constitution, and the our coastal zone management plan by failing to consider the environmental impacts on the surrounding communities of color and low-income communities, as well as failing to consider the project's climate change impacts and cumulative impacts with other export facilities already in the area.

15.

The D.C. Circuit's July, 2024, ruling remanded FERC's Certificate without vacatur, and subsequently FERC prepared a supplemental environmental impact statement that it issued in the spring of 2025. During this approximate one-year period, FERC did not allow Commonwealth to initiate construction. Once the supplemental environmental impact statement issued, however, in September 2025 Commonwealth sought, and FERC granted, a notice to proceed with site preparation for construction. This Court's October 2025 order halted those plans.

16.

On November 18, 2025, the Department published a revised basis of decision that purported to address the deficiencies found by the court, which also summarily "reissued" the coastal use permit for the Commonwealth LNG project.

## APPLICABLE LAWS

### *Review Standard*

17.

"[J]udicial review of actions of the secretary under [the Louisiana Coastal Zone Management Program], including coastal use permit ... approval ... and determinations of direct and significant impact" shall be "pursuant to the Louisiana Administrative Procedure Act, provided that all such cases shall be tried with preference and priority. Trial de novo shall be held on request of any party." La. R.S. § 49:214.35(A) & (F).

18.

The Louisiana Administrative Procedure Act provides: "The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative

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findings, inferences, conclusions, or decisions are: (1) In violation of constitutional or statutory provisions; (2) In excess of the statutory authority of the agency; (3) Made upon unlawful procedure; (4) Affected by other error of law; (5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or (6) Not supported and sustainable by a preponderance of evidence as determined by the reviewing court.” La. R.S. § 49:978.1(G). The last ground, subpart (G)(6), empowers the reviewing court to “make its own determination and conclusions of fact . . . based upon its own evaluation of the record reviewed in its entirety.” *Id.*

*Environmental Statutes and Regulations*

19.

“The coastal use permit decision must be consistent with the state program and approved local programs for affected parishes and must represent an appropriate balancing of social, environmental and economic factors.” La. R.S. § 49:214.30(C)(3).

20.

Coastal use permit decisions are subject to the Coastal Use Guidelines and other provisions contained in Louisiana Administrative Code Title 43, Part I, Chapter 7.

21.

“The guidelines must be read in their entirety. Any proposed use may be subject to the requirements of more than one guideline or section of guidelines and all applicable guidelines must be complied with.” LAC § 43:I.701(A).

*Public Trustee Duty*

22.

Under the Louisiana Constitution, Article IX, Section 1: “The natural resources of the state, including air and water, and the healthful, scenic, historic, and esthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people.” La. Const. Art. 9 § 1.

23.

Before “granting approval of proposed action affecting the environment,” OCM must meet its mandate as “public trustee” under Article IX, Section 1 of the Louisiana Constitution, including to determine “that adverse environmental impacts have been minimized or avoided as

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much as possible consistently with the public welfare.” *See Save Ourselves v. La. Env’t Control Comm’n*, 452 So.2d 1152, 1157 (La. 1984).

24.

As public trustee, OCM must, at a minimum, demonstrate on the record that: “1) the potential and real adverse environmental effects of the proposed project [have] been avoided to the maximum extent possible; 2) a cost benefit analysis of the environmental impact costs balanced against the social and economic benefits of the project demonstrate that the latter outweighs the former; and 3) there are [no] alternative projects [n]or alternative sites [n]or mitigating measures which would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits to the extent applicable.” *In re Rubicon, Inc.*, 95-0108, p. 12 (La. App. 1 Cir. 2/14/96), 670 So.2d 475, 483.

25.

To be “in conformity” with the public trustee duty, a decision must “at least contain[ ]: 1) a general recitation of the facts as presented by all sides; 2) a basic finding of facts as supported by the record; 3) a response to all reasonable public comments; 4) a conclusion or conclusions on all issues raised which rationally support the order issued; and 5) any and all other matters which rationally support the [agency’s] decision. This is not an exclusive listing, but merely illustrative.” *Id.* at 483.

26.

The reviewing court must reverse the agency’s decision, “if the decision was reached ‘without individualized consideration and balancing of environmental factors conducted fairly and in good faith.’” *Id.* at 481 (*quoting Save Ourselves*, 452 So.2d at 1159).

27.

A public trustee “‘is required to make basic findings supported by evidence and ultimate findings which flow rationally from the basic findings; and it must also articulate a rational connection between the facts found and the order issued.’... Only by detailing its reasoning does the [agency] uphold its position as public trustee and justify the discretion with which it is entrusted by constitutional and statutory authority in a contested environmental matter.” *In re Am. Waste & Pollution Control Co.*, 93-3163 (La. 9/15/94), 642 So.2d 1258, 1266 (*quoting Save Ourselves*, 452 So.2d at 1159-60).

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## CLAIMS

28.

The Department failed to provide proper notice and opportunity for public comment, and opportunity to request a public hearing, before issuing the new permit. The Department's rules never mention or allow for a "reissued" permit. Because the original permit in this case was vacated, the "reissued" permit is in fact a new permit. This new permit was based on a new record, triggering the notice and comment and public hearing requirements of LAC § 43:I.723 (Coastal Use Permits). Once the court vacated the original permit for this case, it was null and void, and, for the project to proceed, a new permit was required. *See In re Rubicon, Inc.*, 95-0108, p. 5 (La. App. 1st Cir. 2/14/96); 670 So.2d 475, 488-89 (finding that where the agency has not complied with "its responsibilities and obligations" under the public trust doctrine the "permit [] is null and void and must be vacated" and rejecting the agency's request for a simple remand).

29.

Even if not considered a new permit, the agency should have given proper notice, opportunity to comment, and an opportunity for the public to request a hearing on the reissuance of the permit. Requiring notice and comment before this "reissued" permit is consistent with the Department's rules requiring notice and comment and requests for rehearing on "additional information" to applications, § 723(C)(7); requiring public hearings for "modifications" of permits, § 723(C)(6) (which is how the Department labels it in the SONRIS docket, because there is no such thing as a "reissued" permit); and, since it has a new issuance date, it is analogous to "extensions" in section 723(C)(D)(5)(c) (requiring public notice and a comment period of 10 days on extensions).

30.

Substantively, the Revised Basis of Decision does not correct the errors found by this Court in any respect. It cuts and pastes an invalidated FERC analysis, which the Department had already adopted in the first vacated permit approval, and then rubber stamps those quotes with the label of "independent analysis" that there will be no significant impact, at times in direct contradiction to FERC's own findings.

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31.

The Department ignored clear disparate impacts on environmental justice communities, and, therefore, failed to mitigate, or even consider mitigation of, those impacts at all.

32.

The Department failed to consider The Project's climate change impacts in cumulation with other LNG projects online and anticipated in Camereon Parish, in violation of the Court's judgment. The Department cuts and pastes an invalidated FERC analysis as its support for an "independent analysis" that there is no significant impact. Significant impact is not the measure of cumulative impact.

### ASSIGNMENT OF ERRORS

33.

OCM's decision to authorize the Export Terminal has prejudiced substantial rights of the Petitioners because OCM's decision is "[i]n violation of constitutional or statutory provisions." *See* La. R.S. § 49:978.1(G)(1).

34.

OCM's decision to authorize the Export Terminal has prejudiced substantial rights of the Petitioners because OCM's decision is "[i]n excess of the statutory authority of the agency." *See* La. R.S. § 49:978.1(G)(2).

35.

OCM's decision to authorize the Export Terminal has prejudiced substantial rights of the Petitioners because OCM's decision is "[m]ade upon unlawful procedure" or "[a]ffected by other error of law." *See* La. R.S. § 49:978.1(G)(3) & (4).

36.

OCM's decision to authorize the Export Terminal has prejudiced substantial rights of the Petitioners because OCM's decision is "[a]rbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion." *See* La. R.S. § 49:978.1(G)(5).

37.

OCM's decision to authorize the Export Terminal has prejudiced substantial rights of the Petitioners because OCM's decision is "not supported or sustainable by a preponderance of the evidence." *See* La. R.S. § 49:978.1(G)(6).

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## DESIGNATION OF RECORD FOR APPEAL

38.

Petitioners designate as the Administrative Record all information produced by, considered by, and submitted to OCM in connection with Commonwealth LNG's application for a Coastal Use Permit (P20190900). Petitioners note that the vast majority of the record is already of record in the previous appeal and anticipates working with the Attorney General's Office and the Court on avoiding unnecessary duplication.

### PRAYER FOR RELIEF

Upon consideration of the law and facts of this case, Petitioners respectfully request that this Court grant relief as follows:

1. Enter judgment on behalf of Petitioners against Louisiana Department of Conservation and Energy reversing the Office of Coastal Management decision and vacating the authorization for the Export Terminal and Coastal Use Permit application no. P20190900; and
2. Award all other relief as this Court finds equitable.

**WALTZER WIYGUL & GARSIDE, LLC**

*s/ Clay Garside*

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