



April 5, 2021

The Honorable Pete Buttigieg, Secretary
Ms. Lucinda Lessley, Acting Administrator U.S. MARAD
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Alejandro Mayorkas, Secretary
Admiral Karl Schultz, Commandant U.S. Coast Guard
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave. SE
Washington, DC 20528

Re: National and Frontline Community Concerns Regarding Deepwater Port Fossil Fuel Export Applications that Undercut the National Interest and the Administration's Priorities to Tackle Climate Change and Ensure an Equitable Transition to a Clean and Sustainable Energy Future

Dear Secretary Buttigieg, Secretary Mayorkas, Acting Administrator Lessley, and Commandant Schultz:

The undersigned submit this letter to convey their grave concerns about several deepwater port terminals proposed throughout the Gulf of Mexico off the Texas and Louisiana coasts to accommodate the international export of massive quantities of crude oil on Very Large Crude Carriers (VLCCs).¹ Each of the proposals has the capacity to load and export as much as 2 million

¹ VLCCs are in the largest category of shipping vessels used to transport crude oil worldwide with dimensions up to 1,540 feet long and 200 feet wide and carrying capacities between 1.9 to 2.2 million barrels of oil. U.S. Energy Information Administration, "Oil Tanker Sizes Range from General Purpose to Ultra-Large Crude Carriers on AFRA Scale," (September 16, 2014), <https://www.eia.gov/todayinenergy/detail.php?id=17991>; S&P Global Market Intelligence, "Planned Oil Terminals in Deepwater Gulf Seen Facilitating U.S. Oil Exports," (August 17, 2018), <https://www.spglobal.com/marketintelligence/en/news-insights/trending/-cu3o4lqLQ0cMgnYcZ5eGQ2>.

barrels per day² of fracked crude largely produced in Texas' Permian Basin.³ With little domestic demand for the crude,⁴ the sole purpose of these projects – to grow oil and gas industry profits – is entirely at the expense of our climate, Gulf coast ecosystems, and frontline communities that have long-served as sacrifice zones for the fossil fuel industry. These projects would lock-in new and expanded fossil fuel production, and transport and processing infrastructure, thereby perpetuating fossil fuel dependence for decades to come. Individually and together, the projects' contributions to global climate change and environmental injustice undermine the national interest and the Biden-Harris Administration's commitment to tackling these crises through environmental and public health protections, and investment in a clean, sustainable, and just energy future.

The undersigned represent local, regional, tribal, and national environmental and community groups directly affected by these projects. We have submitted written comments on most of the pending projects, alongside tens of thousands of deeply concerned Gulf South community members and Americans nationwide, that raise fundamental legal and technical failures in the agencies' reviews. We are particularly concerned with the Maritime Administration's (MARAD) and U.S. Coast Guard's (USCG) recent reinstatement of regulatory timelines for the proposed Sea Port Oil Terminal (SPOT) on February 8, 2021, the Texas GulfLink Deepwater Port on November 10, 2020, and the Bluewater Texas Terminal on January 8, 2021. Reinstatement of these timelines, indicating an effort to quickly complete the federal licensing processes for these massive climate change-inducing fossil fuel projects within short, or expired deadlines, raises several concerns. In particular, we oppose a long-term national investment in infrastructure projects that prolong fossil fuel dependence, and that solely benefit multi-national

² Proposed deepwater fossil fuel export facilities along the Gulf Coast with pending applications include: Bluewater (1.92 million barrels per day (MMbbl/d) crude oil export capacity, sited approximately 15 miles off San Patricio County, Texas coast with Texas onshore components); GulfLink (1 MMbbl/d crude oil export capacity, sited approximately 30 miles off the Brazoria County, Texas coast with Texas onshore components); Sea Port Oil Terminal (SPOT) (2 MMbbl/d crude export capacity, sited approximately 30 miles off Freeport, Texas coast with Texas onshore components); Blue Marlin (1.92 MMbbl/d crude oil export capacity, sited 99 miles off Cameron Parish, Louisiana coast with onshore components in Texas); and West Delta LNG (the only proposed deepwater liquefied natural gas export facility, which has a capacity of 900 million standard cubic feet per day, and sited approximately 11 miles off Plaquemines Parish, Louisiana coast).

³ *Pending Applications*, U.S. Dep't of Transp. Mar. Admin., <https://www.maritime.dot.gov/ports/deepwater-ports-and-licensing/pending-applications> (last visited Mar. 13, 2021); Jordan Blum, *Energy Transfer applies for Blue Marlin Offshore Port for Gulf crude exports*, S&P Global Market Intelligence (Nov. 19, 2020), <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/energy-transfer-applies-for-blue-marlin-offshore-port-for-gulf-crude-exports-61361310>.

⁴ Eunice Bridges, *US crude export growth hangs in the balance*, Argus Media (Feb. 25, 2021), <https://www.argusmedia.com/en/news/2187036-us-crude-export-growth-hangs-in-the-balance>.

fossil fuel interests to the detriment of communities, climate, public health, environmental protection, and a just transition to a clean energy future.

For the following reasons, and described in detail herein, the undersigned request MARAD and USCG immediately deny the SPOT, Texas GulfLink and Bluewater Texas VLCC crude export projects, as well as all other pending deepwater port fossil fuel export licensing applications:

- 1) The proposed VLCC export fossil fuel terminals undercut the Administration's commitment to tackling climate change and protecting public health, justice and the environment, and are not in the national interest;
- 2) Existing Deepwater Port Act (DWPA), National Environmental Policy Act (NEPA), Clean Water Act (CWA), and Clean Air Act (CAA) reviews fail to adequately assess the extensive impacts of these projects, both individually and together, on climate, air and water quality, coastal and marine ecosystems and wildlife, frontline communities, public health, and environmental justice.

Additionally, the undersigned request a meeting with agency representatives directly charged with project review and permitting to address these issues and the agencies' plans for reinstating project licensing processes.

VLCC Deepwater Port Export Projects Must be Rejected because they Fail to Serve the National Interest and Conflict with Administration Policies

The DWPA requires MARAD to make several findings, including that deepwater port project construction and operation is in the "national interest" and "consistent with national security and other national policy goals and objectives, including energy sufficiency and environmental quality."⁵ Further, MARAD must ensure that projects use best available technology to prevent or minimize adverse impacts on the marine environment.⁶ By all accounts, the proposed VLCC deepwater port fossil fuel export facilities do not serve the national interest, are inconsistent with the Administration's policy goals, and would lead to significant environmental degradation and adverse public health impacts. These projects would cause expansion of oil drilling and fracking that further lock-in fossil fuel dependence, exacerbate the climate crisis, increase vessel traffic and the risk of harmful oil spills and other accidents, and increase toxic air and water pollution in a region already overburdened by fossil fuel industry ills.

⁵ 33 U.S.C. § 1503.

⁶ *Id.*

The impacts of these deepwater port fossil fuel export facilities and the agencies' renewed permitting efforts directly contradict the ambitious policies issued on day one of this Administration in Executive Orders that declare the following objectives:

- Tackle the climate crisis at home and abroad
- Protect environmental quality and natural resources
- Hold polluters accountable
- Transition our economy to a clean, sustainable energy future
- Lift up communities that have a long history of marginalization by the oil and gas sector and are at the frontlines of climate disaster

Specifically, Executive Order 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," promotes the protection of public health and the environment, advances environmental justice, and calls for reducing greenhouse gas emissions and bolstering resilience to the impacts of climate change. It demands that science guide federal agency decision-making, and that polluters are held accountable, specifically those disproportionately harming communities of color and low-income communities. It calls on agencies to suspend, rescind or halt actions that conflict with these goals and to "immediately commence work to confront the climate crisis." Under the order, agency action must account for the full cost of greenhouse gas emissions.⁷ As discussed below, agency review of the proposed deepwater port fossil fuel facilities lacks quantification and analysis of their cumulative upstream and downstream greenhouse gas emissions impacts. Those significant adverse impacts alone justify project denial.

Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad," also calls for urgent action to avoid catastrophic climate impacts. It sets the goal of economy-wide net-zero emissions by 2050, by compelling agencies to assess, disclose and mitigate climate pollution and risks in every sector to ensure an equitable, clean energy future. It calls for action to increase resilience to climate impacts, protect public health and natural resources and advance environmental justice through deployment of clean energy technologies and infrastructure.⁸ The dedicated White House Office of Domestic Climate Policy must coordinate with all federal agencies to ensure that domestic climate policy is effectively pursued and consistent with these goals.⁹ The Secretary of Homeland Security also plays a critical role in considering and incorporating climate change risks and implications into agency planning and processes.¹⁰ All federal permitting decisions must consider the effects of greenhouse gas emissions and climate change. And,

⁷ See Exec. Order 13990, 86 Fed. Reg. 7037, Secs. 1, 2, 5 (Jan. 25, 2021).

⁸ 86 Fed. Reg. 7619, Sec. 201 (Feb. 1, 2021).

⁹ *Id.* at Sec. 202.

¹⁰ *Id.* at Sec. 103(e).

agencies are expected to focus on deployment of infrastructure that accelerates clean and sustainable energy projects, and fosters investments that induce new job creation focused on natural resource conservation, toxic pollution clean-up, and stemming greenhouse gas emissions directly connected to the oil and gas sector. Jobs must prevent public health and safety risks.¹¹

Executive Order 14008 also emphasizes the critical role of coastal communities in mitigating climate change and strengthening resilience. To this end, new generation jobs must protect and restore coastal ecosystems and vulnerable coastlines, sequester carbon, and support biodiversity and fisheries.¹² Achieving environmental and economic justice must become part of agency missions especially for disadvantaged communities that have been historically marginalized and overburdened by pollution.^{13, 14}

Notably, the proposed Gulf coast fossil fuel export projects' unavoidable and significant adverse impacts to coastal ecosystems and habitat, which are disclosed in existing NEPA review,¹⁵ would severely undercut these policy goals. In particular, the Gulf of Mexico has endured catastrophic and ongoing spill events, such as the 2010 Deepwater Horizon disaster, that continue to cause injury to marine and coastal ecosystems and contribute to the expanding Gulf dead zone. VLCC fossil fuel export facilities and associated spill and pollution risks threaten to exacerbate these impacts.

Further, the deepwater port projects are not isolated proposals that can be evaluated in a vacuum. For example, in San Patricio County and Harbor Island, Texas, the location of the proposed Bluewater crude export facility, there is a mounting array of proposed and newly built oil-and-gas and petrochemical infrastructure, including three proposed desalination plants, the Exxon-SABIC petrochemical plant, new onshore LNG export capacity, and other oil export terminals proposed to serve VLCCs that would overlap significantly with Bluewater's onshore and inshore components. This build-out further threatens the region's environment and public health. It also poses risks to the region's longstanding tourism and fishing industries that depend on

¹¹ *Id.* at Secs. 213, 214, 217.

¹² *Id.*

¹³ *Id.* at Sec. 219.

¹⁴ Licensing Deepwater Port fossil fuel export terminals is also inconsistent with other agency action suspending proposed or final action for onshore and offshore fossil fuel project authorizations, associated NEPA review and any Federal Register notifications. *See* U.S. Dep't of Interior, SO-3395, Temporary Suspension of Delegated Authority (Jan. 20, 2021). MARAD and USCG's efforts to proceed with deepwater port fossil fuel project licensing are therefore misaligned with DOI's actions implementing this Administration's commitments under Executive Orders 13990 and 14008.

¹⁵ USCG and MARAD, Draft Environmental Impact Statement for Sea Port Oil Terminal Deepwater Port Application, 3-1 – 398, February 2020, <https://www.regulations.gov/document/MARAD-2019-0011-0036>; USCG and MARAD, Draft Environmental Impact Statement for GulfLink Deepwater Port Application, 3-1 – 427, November 2020, <https://www.regulations.gov/document/MARAD-2019-0093-0088>.

environmental quality, and to environmental justice communities that may be disproportionately impacted.

Approval of any VLCC deepwater port fossil fuel project will lead to increased domestic oil and gas production and the build-out of transport and export infrastructure in regions and communities that have a long history of marginalization by polluting oil and gas industry interests. These coastal communities also serve at the frontlines of climate disaster, and have long been hotspots for environmental racism in our country, the effects of which will only accelerate if sustainable economic and mitigation investments, to which this Administration has committed, do not quickly come to fruition.

Brazoria County, Texas, for example, suffered extensive damage in 2020 from storm surges and outer bands of hurricanes that hit the region and destroyed homes. Brazoria and Harris counties both continue to struggle to achieve acceptable ozone levels and to address growing cancer clusters resulting from industrial air emissions. The extreme freeze event that hit Texas in February 2021 also caused severe infrastructure damage. The proposed SPOT and Texas GulfLink VLCC export projects, with infrastructure sited on and off the Brazoria County coastline, will add acute burdens to the region, and exacerbate pollution and extreme weather effects by eroding natural protection from climate disasters.

The Blue Marlin Offshore Port poses similar threats to coastal Louisiana and Texas. Cameron Parish, Louisiana remains vulnerable in the aftermath of the devastating impacts of Hurricanes Laura and Delta. And, Port Arthur, Texas, adjacent to the project's proposed onshore facilities in Nederland, took on more than 60 inches of rain in less than one week during Hurricane Harvey in 2017 and experienced the wrath of other devastating storms in 2020.

Indeed, it would be entirely misdirected to license the SPOT, Texas GulfLink, Bluewater, and other fossil fuel export facilities after a devastating hurricane season in the Gulf,¹⁶ and after a winter storm that produced Texas' worst climate disaster on record. Just over a month ago, millions of people were left without power and water from record-breaking freezes, resulting in a preventable death toll. This event illuminated the inexcusable failures of the fossil fuel industry to prepare for the demands of a changing climate and the complete absence of accountability by regulatory agencies and industry officials.¹⁷

¹⁶ *Record-Breaking Atlantic Hurricane Season Draws to an End*, NOAA (Nov. 24, 2020), <https://www.noaa.gov/media-release/record-breaking-atlantic-hurricane-season-draws-to-end>.

¹⁷ *Report on Outages and Curtailments During the Southwest Cold Weather Event of February 1-5, 2011*, FERC and North Amer. Elec. Reliability Corp. (Aug. 2011), <https://www.ferc.gov/sites/default/files/2020-05/ReportontheSouthwestColdWeatherEventfromFebruary2011Report.pdf>; James Osborne and Eric Dexheimer, *Texas grid fails to weatherize, repeats mistake feds cited 10 years ago*, Houston Chronicle (Feb.

In light of these risks, it is deeply alarming that many of the VLCC project applicants, their parent companies, and subsidiaries have long histories of well-documented spills and violations of state and federal laws in constructing and operating fossil fuel infrastructure projects. These companies include Energy Transfer,¹⁸ Phillips 66,¹⁹ and Enterprise Products Partners.²⁰ The accelerating climate disasters our country is facing, and oil and gas companies' failures to prepare for them or a low-carbon future, only underscores the urgency of a just transition away from fossil fuel reliance to a clean and sustainable energy and economic future.

There are no national interest or security concerns that demand the deployment of large-scale international crude exports facilities, locking in decades more of massive greenhouse gas pollution and the pervasive risks of toxic releases and spill disasters. Rather, quite the opposite

16, 2021), <https://www.houstonchronicle.com/business/energy/article/Texas-grid-again-faces-scrutiny-over-cold-15955392.php>.

¹⁸ See Scott DiSavino, Stephanie Kelly, *Two U.S. pipelines rack up violations, threaten industry growth*, Reuters, Nov. 28, 2018, <https://www.reuters.com/article/us-usa-pipelines-etp-violations-insight/two-u-s-pipelines-rack-up-violations-threaten-industry-growth-idUSKCN1NX1E3> (Energy Transfer and Sunoco pipeline subsidiary amassed more than 800 federal and state permit violations while building two of the nation's largest natural gas pipelines); see Greenpeace and Waterkeeper Alliance, *Oil and Water: ETP & Sunoco's History of Pipeline Spills*, Apr. 17, 2018 at 3, https://waterkeeper.org/wp-content/uploads/2018/04/Oil-and-Water_Waterkeeper-Report.pdf (finding Energy Transfer, its subsidiaries, and joint ventures reported 527 hazardous liquids pipeline incidents between 2002 and 2017 – approximately one incident every eleven days – resulting in the release of 3.6 million gallons of hazardous liquids, including 2.8 million gallons of crude oil, and causing an estimated \$115 million in property damage); see Blue Marlin Offshore Port's DWPA application, stating that several state and federal criminal investigations have been launched in Pennsylvania related to the construction of the Mariner East Pipeline System and a Revolution Pipeline incident.

¹⁹ Phillips 66, the parent company of Bluewater Texas Terminal, has been repeatedly fined for releasing wastewater from refineries into waterbodies, and has a history of releasing hazardous substances into communities. Ted Goldberg, *Water Quality Agency Fines Phillips 66 Refinery, Again, for Polluting Bay*, KQED (Jul. 20, 2020), <https://www.kqed.org/news/11829629/water-quality-agency-fines-phillips-66-refinery-again-for-polluting-bay>; Jeff Gottlieb, *Phillips 66 oil line in Wilmington blamed for 1,200-gallon spill*, Los Angeles Times (Mar. 18, 2014), <https://www.latimes.com/local/la-xpm-2014-mar-18-la-me-0319-crude-oil-20140319-story.html>; Tristan Baurick, *Oil leak reported at Belle Chasse refinery; more than 50,000 gallons spilled, contained*, NOLA.com (Oct. 8, 2019), https://www.nola.com/news/environment/article_5c6065f0-ea08-11e9-949c-c32e02393a4d.html.

²⁰ SPOT is a wholly owned subsidiary of Enterprise Products Operating LLC which is a subsidiary of Enterprise Products Partners, L.P. (hereinafter "Enterprise"). Between 2010 and 2016, Enterprise Product Operating LLC and another Enterprise subsidiary reported 360 pipeline incidents, the most reported incidents by any pipeline operator. Matt Kelso, BA, Updated Pipeline Incident Analysis, FRACTRACKER ALLIANCE (Nov. 23, 2016), <https://www.fractracker.org/2016/11/updated-pipeline-incidents/>. Since 2000, Enterprise has paid over \$16 million in penalties, over half of which were for federal environmental and pipeline safety violations. Violation Tracker Parent Company Summary for Enterprise Products Partners, GOOD JOBS FIRST, https://violationtracker.goodjobsfirst.org/prog.php?parent=enterprise-productspartners&order=pen_year&sort=asc&page=1.

scenario exists: “economy-wide,” “net-zero emissions” is in the national interest and demands the acceleration of clean energy sources with responsible infrastructure planning and investment, particularly on our nation’s shorelines and coastal communities. This Administration’s stated commitments have captured that vision, and it is poised to take real, ambitious steps to transform our energy future away from fossil fuels. The undersigned communities and groups support bold action to deny these proposals and lift up our communities for a brighter, cleaner and more just future that will prepare our nation for the impending and ongoing threats of climate disaster.

MARAD and USCG Must Deny the Pending Applications for VLCC Deepwater Port Export Projects because the Agencies Have Failed to Complete a Comprehensive Environmental Review for the Projects or Correct Existing Flawed Project Impact Assessments

To date, the existing DWPA, NEPA, CWA, and CAA reviews for pending deepwater port fossil fuel export facilities fall short of statutory and regulatory requirements, and the factual bases in the record fail to support a national interest determination required under the DWPA. The undersigned have submitted legal and technical comments highlighting the need for more comprehensive impact analyses that accurately reflect the scope of the devastating direct and indirect impacts these projects would have individually and cumulatively on frontline communities, Gulf of Mexico ecosystems and global climate, as well as prolong fossil fuel dependence for decades to come.²¹ These comments are attached hereto as Exhibits A-I. The flawed analyses justify denying these applications. If MARAD and USCG intend to proceed with project review, despite expired statutory licensing timelines in some cases,²² such review must not be truncated or abbreviated and shall reinstate licensing suspensions accordingly. The agencies must provide adequate time to obtain and thoroughly analyze necessary information, provide for

²¹ DWPA requires agencies to evaluate the effects of any proposed deepwater port facility on the environment, including effects on wildlife, habitat, and socioeconomic conditions in order to decide whether to approve such projects. 33 U.S.C. § 1505(a); 33 C.F.R. § 148.707.

²² SPOT and Texas GulfLink applications are in violation of DWPA licensing timeline requirements to hold public hearings within 240 days of application notices and take final action within 90 days of public hearings. 33 U.S.C. § 1504(c)(1),(g),(i)(1); 33 CFR § 148.107(c)(3); Letter from U.S. Coast Guard to SPOT Terminal Services LLC, “Reinstatement of Deepwater Port Act Timeline” (Feb. 8, 2021), <https://www.regulations.gov/document/MARAD-2019-0011-1188> (February 8, 2021 licensing timeline reinstatement occurred 72 days after public hearing deadline, and 12 days after final action deadline); GulfLink, *Pending Applications*, U.S. Dep’t of Transp. Mar. Admin., <https://www.maritime.dot.gov/ports/deepwater-ports-and-licensing/pending-applications> (*last visited* Mar. 22, 2021) (More than 400 days have passed during which application remained active); Bluewater Texas Terminal’s licensing timeline reinstated January 8, 2021, the public hearing deadline has since expired. Letter from U.S. Coast Guard to Phillips 66, “Reinstatement of Deepwater Port Act Timeline” (Jan. 8, 2021), <https://www.regulations.gov/document/MARAD-2019-0094-0442>.

adequate public participation, and must correct the flaws in the existing NEPA and other statutory review and permitting documents as described in detail below.

MARAD and the Coast Guard Should Deny the Pending VLCC Applications because of the Projects' Devastating Impacts that the Agencies Have Failed to Fully Analyze

Climate Change Impacts

To date, NEPA review has failed to disclose and analyze the true climate impacts of proposed deepwater port fossil fuel export projects, failing even to calculate the foreseeable upstream, downstream and cumulative greenhouse gas emissions as required by NEPA and the Council on Environmental Quality's policy guidance.²³ Approving massive new fossil fuel export projects is not consistent with the national interest and this Administration's commitment to preventing climate catastrophe.

As the undersigned provided in an expert report attached to their comments on the SPOT project, lifecycle emissions estimates associated with that facility alone are approximately 367 to 396 million tons of CO₂e per year when exporting U.S. shale oils from the Permian and Eagle Ford Basins.²⁴ This is a climate-wrecking amount, about the same as all 796 major-source facilities in Texas reported emitting in 2018, combined.²⁵ Moreover, expanding crude oil export infrastructure will exacerbate the pervasive fugitive methane emission problem occurring throughout Permian production sites.²⁶

As extensive scientific research and reports demonstrate, greenhouse gas emissions are making the Earth's climate hotter and more extreme; climate change and ocean acidification are harming biodiversity, ecosystems services, and public lands; and climate change affects human health and morbidity, the U.S. economy, and national security.²⁷ Moreover, a recent assessment

²³ See *Sierra Club v. FERC*, 867 F.3d 1357, 1371–75 (D.C. Cir. 2017); CEQ, "National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions," 86 Fed. Reg. 10252 (Feb. 19, 2021); CEQ, Memorandum, "Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews" (Aug. 1, 2016), https://ceq.doe.gov/docs/ceq-regulations-and-guidance/nepa_final_ghg_guidance.pdf.

²⁴ See Supplemental Comments on SPOT Terminal, LLC, National Environmental Policy Act Draft Environmental Impact Statement, Docket No. MARAD-2019-0011, at 29-30, Petra Pless Expert Declaration attached thereto, attached as **Exhibit C** to this letter.

²⁵ *Id.*

²⁶ *Satellite Data Reveals Extreme Methane Emissions from Permian Oil & Gas Operations; Shows highest emissions ever measured from a major U.S. oil and gas basin*, EDF (Apr. 22, 2020), <https://www.edf.org/media/satellite-data-reveals-extreme-methane-emissions-permian-oil-gas-operations-shows-highest>.

²⁷ See IPCC, *Global Warming of 1.5°C, an IPCC special report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of*

by U.S. government scientists recognizes the dominant role of fossil fuels in driving climate change, global surface temperature increases and other unprecedented widespread climate extremes.²⁸ Recent analysis found that carbon emissions released from currently operating oil and gas reserves would likely lead to warming beyond 1.5°C, the point at which significant, irreparable risk to climate, health and human livelihoods is projected to occur.²⁹ Notably, the U.S. oil and gas industry alone is on track to account for 60 percent of the world’s projected growth in oil and gas production between now and 2030—the time period over which the Intergovernmental Panel on Climate Change (IPCC) concluded that global carbon dioxide emissions should be roughly halved to meet the 1.5°C Paris Agreement target.

Approving new fossil fuel infrastructure that induces extraction and provides financial incentives for companies to continue production will lock-in carbon dependence for decades to come.³⁰ Therefore, decisions to drastically reduce greenhouse gas emissions, particularly in the oil and gas sector, must occur in the near term to avoid the most severe effects of climate change.³¹

This Administration has declared it will rely on the established science in formulating policy and conducting agency decision making.³² Any analysis and licensing decisions for deepwater port fossil fuel export projects, thus, must be guided and supported by the widely recognized scientific evidence on climate change. Accordingly, MARAD and USCG must consider and disclose the total greenhouse emissions associated with the proposed projects individually, and collectively, and measure them against the remaining carbon budget for the U.S. in order to avoid the worst impacts of climate change. To that end, modeling and other tools, like the public data used by the undersigned’s technical expert, are widely available to conduct lifecycle greenhouse gas emissions

strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty (Oct. 6, 2018) (“IPCC 2018”) at 1-8, 1-15, 1-16, 3-82, <http://www.ipcc.ch/report/sr15/>.

²⁸ USGCRP [U.S. Global Change Research Program], *Climate Science Special Report: Fourth National Climate Assessment, Volume I* [Wuebbles, D.F. et al. (eds.)], U.S. Global Change Research Program, Washington, D.C. (2017) at 39, 60, <https://science2017.globalchange.gov/>.

²⁹ The CO₂ emissions from developed reserves of currently operating oil and gas fields alone are estimated at 517 Gt CO₂, which would likely exhaust the 1.5°C-compatible carbon budget estimated in the 2018 IPCC report on *Global Warming of 1.5°C* at 420 GtCO₂ to 570 GtCO₂.

³⁰ Davis, Steven J. and Robert H. Socolow, *Commitment accounting of CO₂ emissions*, 9 Environmental Research Letters 084018 (2014); Erickson, Peter et al., *Assessing carbon lock-in*, 10 Environmental Research Letters 084023 (2015); Erickson, Peter et al., *Carbon lock-in from fossil fuel supply infrastructure*, Stockholm Environment Institute, Discussion Brief (2015); Seto, Karen C. et al., *Carbon Lock-In: Types, Causes, and Policy Implications*, 41 Annual Review of Environmental Resources 425 (2016); Green, Fergus and Richard Denniss, *Cutting with both arms of the scissors: the economic and political case for restrictive supply-side climate policies*, 150 Climatic Change 73(2018).

³¹ See, e.g., *Summary for Policymakers*, IPCC Special Report, at 6, 11, 14, 15, https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf.

³² Exec. Order 13990, 86 Fed. Reg. 7037, Secs. 1, 5 (Jan. 25, 2021).

analyses as part of the foreseeable direct and indirect effects of the proposed projects.³³ Disclosure and analysis of the quantity and impacts of upstream emissions from induced production, and downstream emissions from reasonably foreseeable transportation, processing and combustion of the oil and gas proposed for export by these projects, will undoubtedly demonstrate that the proposed fossil fuel export facilities are not in the national interest and should be denied.

Spill Risks and Financial Assurances

The significant risks and impacts of oil spills necessitate denying these project applications. These projects will increase risks and impacts of an oil spill from increased tanker traffic and associated collisions, and from loading and pipeline infrastructure that are particularly vulnerable to the highly corrosive marine environment and the impacts of extreme weather events and massive wave action, which are becoming more severe due to climate change. The amount of oil each facility would handle in the open Gulf would be truly enormous. The SPOT project, alone, could process more oil than is currently produced in the entire Gulf of Mexico in a year.³⁴ Spills would have significant detrimental impacts on the Gulf region environment, and would exacerbate ongoing damages from numerous past and present oil spills occurring in the Gulf of Mexico each year, including the Deepwater Horizon disaster and Taylor Energy spill.³⁵

³³ See Supplemental Comments on SPOT Terminal, LLC, National Environmental Policy Act Draft Environmental Impact Statement, Docket No. MARAD-2019-0011, Exhibit A: Petra Pless Expert Declaration, Attachment 2 at 18-30, attached as **Exhibit C** to this letter.

³⁴ Earthjustice et al. Comments on SPOT Terminal, LLC Draft EIS and Deepwater Port Act license application, at p. 1, # MARAD-2019-0011 (Mar. 23, 2020), attached as **Exhibit A** to this letter.

³⁵ Five million barrels of oil spilled and approximately 47 thousand barrels of chemical dispersants were applied during *Deepwater Horizon*. The persistence of these pollutants in the marine environment for several months harmed flora and fauna. See, e.g., NOAA, *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement, *Deepwater Horizon* NRDA Trustees, at 4-227 (2016) (retrieved from <http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>) (“In general, [benthic] resource recovery is expected to be on the order of decades to hundreds of years, based on the uniformity of environmental conditions and slow progression of change in deep-sea environments, and the fact that some organisms killed by the spill were hundreds of years old (e.g., deep-sea coral).”); Leila J. Hamdan et al., *The Impact of the Deepwater Horizon Blowout on Historic Shipwreck-associated Sediment Microbiomes in the Northern Gulf of Mexico*, SCI. REPORTS, June 2018, at 1, <https://www.nature.com/articles/s41598-018-27350-z> (hereinafter, “Hamdan, *The Impact of the Deepwater Horizon Blowout*”). The cumulative satellite oil slick footprint covered an estimated area of 149,000 km² (57,529 mi²). Igal Berenshtein et al., *Invisible oil beyond the Deepwater Horizon satellite footprint*, SCI. ADVANCES, Feb. 12, 2020, at 1, <https://advances.sciencemag.org/content/6/7/eaaw8863>. Large areas of the Gulf were also exposed to invisible and toxic oil that extended far beyond the boundaries of the satellite footprint. In addition to the *Deepwater Horizon* spill, the 2004 Taylor Energy spill has leaked 249-697 bbl of oil/day for over a decade and is the longest recorded oil spill in U.S. history. Between 2006 and 2015, not including the Taylor Energy

Massive spill events from vessels and pipelines are not isolated. Consideration of the immediate, long-term, and cumulative effects of a spill event from one or more loaded VLCCs and from operating pipelines, together with evidence from the long history of U.S. spill events dating back decades, demonstrates that the projects should not be approved.³⁶ Characteristics of the particular crude supplying the proposed projects, such as volatility and clean-up difficulty, make the risks even greater. For example, Bakken crude, which comprises most of the crude that would supply the proposed Blue Marlin facility, is known to be highly corrosive and particularly volatile with a high risk of explosion in accidents.³⁷ Potential spill size, frequency, and other risks characteristic of the particular crude supply, in addition to worst case scenario events, will create enormous impacts on Gulf ecosystems and species that will be extremely difficult to mitigate and recover.

The Gulf of Mexico has long served as a sacrifice zone for the oil and gas industry. Therefore, the long-term cumulative effects of massive and frequent spill events must not be overlooked in determining future development in and around Gulf ecosystems. Specifically, the significant short- and long-term harmful impacts of spills, vessel strikes and noise pollution on marine mammals inhabiting the Gulf would be substantial. This includes impacts on critically endangered Rice's whales whose continued existence is already jeopardized by existing oil and gas activity. Other biodiversity and ecosystems will continue to endure extensive impacts. This includes impacts on turtles, corals, seagrasses and fish, including commercial fisheries, that have long suffered from the ongoing and persistent effects of relatively frequent, small to medium spills, and from the catastrophic Deepwater Horizon disaster and ongoing Taylor Energy spill. Likewise, the harmful water quality impacts, and coastal and wetland habitat destruction resulting from construction and operation of extensive pipeline and other onshore infrastructure project components could be devastating. In addition, the agencies have thus far failed to complete legally

spill, Dept. of Interior recorded 334 oil spills (>1 barrel) totaling 10,951 bbl of oil from offshore oil platforms, indicating an average of at least 33 oil spills annually releasing approximately 1,100 bbl into Gulf of Mexico waters, further impairing the coastal and marine environment. Numerous additional spills go unreported. Expert Report of Oscar Pineda-Garcia, Ph.D. at 87, *Taylor Energy Company LLC v. United States*, No. 16-12C (Fed. Cl. Sept. 14, 2018); ABS Consulting Inc., 2016 UPDATE OF OCCURRENCE RATES FOR OFFSHORE OIL SPILLS, Table 5, at 16 (2016), <https://www.bsee.gov/sites/bsee.gov/files/osrr-oil-spill-response-research//1086aa.pdf>.

³⁶ Earthjustice et al. Comments on Texas GulfLink, LLC, National Environmental Policy Act Draft Environmental Impact Statement, Docket No. MARAD-2019-0093, at 4-7 (Jan. 22, 2021), attached as **Exhibit F** to this letter.

³⁷ Transportation Safety Board of Canada, Rail Recommendations R14-01, R14-02, R14-03, at 1 (Jan. 24, 2014); Emergency Restriction/Prohibition Order DOT-OST-2014-0067 (May 7, 2014); Emergency Restriction/Prohibition Order DOT-OST-2014-0067 (May 7, 2014) at 10; Meagan Clark, *US Oil From Fracking More Volatile Than Previously Believed*, International Business Times (June 25, 2014), <http://www.investing.com/news/commoditiesnews/us-oil-from-fracking-morevolatile-than-previously-believed-291473>.

required Endangered Species Act Section 7 consultation with the U.S. Fish & Wildlife Service and the National Marine Fisheries Service for all federally protected species and their designated critical habitats that may be affected by these projects.³⁸

Notably, the project proponents have failed to demonstrate that they have the financial wherewithal to fully mitigate all potential harmful impacts from spills and other emissions events, including financial assurances that guarantee funds to cover liability to stop spills, restore injured natural resources, and compensate for property losses and personal injuries. Nor have project proponents guaranteed coverage of decommissioning costs.³⁹ This violates the DWPA, Oil Pollution Act, and this Administration's commitment to hold polluters accountable.⁴⁰

Air Pollution and Public Health

The proposed fossil fuel export facilities will emit harmful air pollutants including volatile organic compounds (VOCs), carbon monoxide, NO_x, SO_x, particulate matter (PM₁₀ and PM_{2.5}), and hydrogen sulfide. Nearly all of the applicants have asked EPA to exempt them from federal regulations that mandate a 95 percent reduction in VOCs and associated hazardous air pollutants from the pollution-intensive process of loading VLCCs. In violation of the Clean Air Act, in late-2020, EPA issued a draft set of air permits to the Bluewater project that would allow it to forego installing any pollution controls for marine loading and emit nearly 19,000 tons per year of VOCs. This is a truly stunning amount of air pollution, totaling more than *twice* the VOCs emitted by any existing facility anywhere in the United States in the most recent year for which data is available, and more VOCs than emitted by every major-source in Harris County, Texas *combined*.⁴¹

These pollutants contribute to ground level ozone (smog) formation, which is harmful to respiratory health. Smog exacerbates illnesses such as asthma and emphysema, and is linked to premature death, heart failure, chronic respiratory damage, and premature aging of the lungs. Ozone pollution is also damaging to plants and ecosystems, and contributes substantially to global climate change and ocean acidification. Additionally, these projects propose to emit significant quantities of hazardous air pollutants such as benzene, a known carcinogen.

The true impacts of these toxic emissions can no longer be overlooked. Nor can they be justified in agency decision-making and planning for a clean and just energy future that values long-underserved frontline communities and holds polluters accountable. These considerable air

³⁸ 16 U.S.C. § 1536.

³⁹ See 33 C.F.R. § 148.105(g)(2)(iii).

⁴⁰ 33 U.S.C. §§ 1503(c)(1), 2704(d), 2716(c)(2), 2701(32)(E); 33 C.F.R. §§ 148.105(g); Exec. Order 13990, 86 Fed. Reg. 7037 (Jan. 25, 2021).

⁴¹ See Earthjustice and EIP et al., Comments on EPA Proposed Permits for Bluewater Texas Terminals, LLC at p. 6 (Jan. 11, 2021), attached as **Exhibit D** to this letter.

impacts necessitate denial of permit applications. To date, the agencies have failed to provide any assurances of adequate review and permitting. The DWPA and CAA foreclose project authorization of any super-emitting offshore crude export terminal without air quality permits that mandate “best” or “maximum” available pollution controls that sharply reduce hazardous air pollutant and VOC emissions to sufficiently protect public health and the environment.⁴² Permits also must require sufficient monitoring to ensure robust enforcement of pollutant limits.⁴³ Indeed, any permit exemptions offered to these massive polluters are impermissible, and are simply inexcusable given the known impacts to frontline communities.

Environmental Justice

To date, MARAD, USCG and other coordinating agencies have failed to uphold their responsibilities to “make achieving environmental justice part of [their] mission[s] in identifying and addressing, . . . disproportionately high and adverse human health or environmental effects of [their] programs, policies, and activities on minority populations and low-income populations.”⁴⁴ To that end, agencies must evaluate the environmental, human health, economic and social effects of their actions on minority and low-income communities.⁴⁵ This administration has underscored the critical need to advance environmental justice and ensure a just transition to a clean and economically sustainable energy future.⁴⁶

The proposed fossil fuel export facilities, including onshore and offshore components, along with other existing and proposed petrochemical projects, pose mounting risks to environmental justice communities that have long-suffered disproportionate public health and environmental impacts of toxic pollution from oil refineries, petrochemical plants, and other fossil fuel industrial facilities. Compounding the impacts is the fact that these communities are situated on the frontlines of climate disaster.

For example, Freeport is an already overburdened environmental justice community in Brazoria County, Texas that would face additional threats from both the proposed SPOT and GulfLink crude export terminals. The residents are 64% Hispanic or Latino and 14% African

⁴² 42 U.S.C. § 7479(3); New Source Review Workshop Manual: Prevention of Significant Deterioration and Nonattainment Area Permitting, Draft, (“NSR Manual”), p. B-5, EPA’s Office of Air Quality Planning and Standards (Oct. 1990), <https://www.epa.gov/sites/production/files/2015-07/documents/1990wman.pdf>.

⁴³ See Bluewater CAA comments, attached as **Exhibit D** to this letter.

⁴⁴ *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, Exec. Order 12898, 59 Fed. Reg. 7629 (Feb. 16, 1994).

⁴⁵ Memorandum on Executive Order on Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 1994 PUB. PAPERS 251 (Feb. 11, 1994).

⁴⁶ Exec. Order 13990, 86 Fed. Reg. 7037, Secs. 1, 5 (Jan. 25, 2021); Exec. Order. 14008, 86 Fed. Reg. 7619, Secs. 201, 203, 218, 219, 220, 221, 222, 223 (Feb. 1, 2021).

American, 57% are low-income, and 10% are linguistically isolated.⁴⁷ Freeport is already surrounded by large industrial sources of pollution, including four chemical processing plants, numerous petrochemical facilities, and fossil fuel import/export terminals. The community is situated near more high-risk facilities handling “ultra-hazardous” substances than 98% of communities in the country.⁴⁸ Freeport faced health and safety risks from the flooding of a nearby Superfund site during Hurricane Harvey. The proposed offshore fossil fuel export terminals and their onshore components pose significant risks to vulnerable coastal communities from fires, spills, and air pollution emissions during future storms that are increasing in severity and frequency.⁴⁹

Similarly, Port Arthur, which is located adjacent to proposed onshore components of the Blue Marlin crude export facility, is an EPA Region 6 “Environmental Justice Showcase Community.” Sixty-three percent of the total population are people of color, of which 41.7% are African American, nearly 30% Hispanic or Latino, and 6.3% are of Asian heritage.⁵⁰ Port Arthur is also home to a large industrial complex, including multiple refineries and 54% of the nation’s ethylene production capacity.⁵¹ On average, residents of Port Arthur’s West Side neighborhood live next to 4.3 facilities generating hazardous waste within a kilometer of their homes, a higher percentage than 86% of the national population.⁵² Proximity to these industrial-polluting facilities severely compromises residents’ health. EPA’s National Air Toxics Assessment (NATA) indicates a respiratory hazard index of 2.9 for this area, which is in the 80-90 percentile for the nation, and much higher than the state and national averages of 1.8.⁵³ Over a quarter of the city’s population also lives below the poverty level.⁵⁴ Port Arthur’s unemployment rate of 12% is disproportionately higher than the rest of Texas and the nation.⁵⁵ Typically, minority and low-income individuals are considered unqualified for specialized jobs that project applicants claim would be generated by the industrial development.⁵⁶ Thus, the proposed Blue Marlin fossil fuel export facility threatens to

⁴⁷ Citizens for Clean Air and Clean Water’s Comments on Texas GulfLink, LLC, National Environmental Policy Act Draft Environmental Impact Statement, Docket No. MARAD–2019–0093, at 3 (Jan. 22, 2021).

⁴⁸ *Id.* at 3-4, attached as **Exhibit E** to this letter.

⁴⁹ *Id.* at 5, 20-27; Earthjustice et al. Comments on Texas GulfLink, LLC, National Environmental Policy Act Draft Environmental Impact Statement, Docket No. MARAD–2019–0093, at 96 (Jan. 22, 2021), attached as **Exhibit F** to this letter.

⁵⁰ Lone Star Legal Aid Scoping Comments on Blue Marlin Offshore Port Deepwater Port Project, Docket No. MARAD 2020-0127, at 4, attached as **Exhibit I** to this letter.

⁵¹ *Id.* at 5.

⁵² *Id.*

⁵³ *Id.* at 6.

⁵⁴ *Id.* at 4.

⁵⁵ *Id.* at 5.

⁵⁶ *Id.* at 6.

further disenfranchise already vulnerable residents and exacerbate the area's depressed economic conditions.

EPA also has failed to evaluate the potential impacts to indigenous or tribal communities from the proposed Bluewater terminal's unprecedented levels of asthma-causing air pollution in and around San Patricio County, Texas. This is particularly concerning given that indigenous children are 60 percent more likely to have asthma than white children.⁵⁷

MARAD, USCG and other coordinating agencies have shown a disregard toward environmental justice by undercutting efforts to inform and engage these communities. Specifically, the agencies held simultaneous public comment periods for the numerous VLCC crude export facilities, including overlapping deadlines for scoping comments for Blue Marlin Offshore Port, draft environmental impact statement comments for Texas GulfLink, and Clean Air Act permit comments for Bluewater.⁵⁸ There have been other examples of wrong docket number postings directing community members to submit comments for the wrong project. The agencies have also failed to consider the needs of or meaningfully engage with limited English proficient populations in the public participation processes for these facilities.⁵⁹

Demonstrating true commitment to environmental justice involves comprehensive analysis of the health, environmental, economic and social impacts of these projects. This must include evaluation of the projects' cumulative impacts in light of existing health and safety hazards and the disproportionate vulnerabilities to livelihood that communities face as a direct result of neighboring industrial polluting complexes. It also involves thoughtful planning with multiple opportunities for community education and participation when reviewing projects individually and on a programmatic scale. True commitment to environmental justice necessitates denial of projects that fail our nation's frontline communities in protecting them against toxic pollution, climate disaster, and ensuring access to clean, sustainable energy resources and jobs.

⁵⁷ Earthjustice and EIP et al., Comments on EPA Proposed Permits for Bluewater Texas Terminals, LLC at pp. 34-35 (Jan. 11, 2021), attached as **Exhibit D** to this letter.

⁵⁸ Public hearings for Blue Marlin were held on December 2 and 3, 2020, with public scoping comments due December 5, 2020. 85 Fed. Reg. 70707 (Nov. 5, 2020). Public hearings on the Texas GulfLink draft EIS were held December 16 and 17, 2020, with public comments due January 22, 2021. 85 Fed. Reg. 83142 (Dec. 21, 2020). Comments for the GulfLink Clean Water Act 404 permit were due January 4, 2021. U.S. Army Corps of Engineers Public Notice, SWG-2019-00294 (Dec. 1, 2020). Bluewater public hearings for Clean Air Act permits were held January 5 and 6, 2021 with comments due January 11, 2021. Docket No. EPA-R06-OAR-2020-0510, Permit Nos.: R6PSD-DWP-GM8, R6T5-DWP-GM8, and R6NOMA-DWP-GM8.

⁵⁹ See, e.g. Citizens for Clean Air and Clean Water's Comments on Texas GulfLink, LLC, National Environmental Policy Act Draft Environmental Impact Statement, Docket No. MARAD-2019-0093, at 7-9 (Jan. 22, 2021), attached as **Exhibit E** to this letter; Earthjustice et al. Comments on Texas GulfLink, LLC, National Environmental Policy Act Draft Environmental Impact Statement, Docket No. MARAD-2019-0093, at 94 (Jan. 22, 2021), attached as **Exhibit F** to this letter.

Should MARAD and USCG Choose to Proceed, the Agencies Must Conduct Programmatic Review of all Proposed Deepwater Port Fossil Fuel Export Facilities

Should MARAD and USCG proceed with considering the proposed deepwater port fossil fuel export applications, the undersigned request the agencies suspend individual project analyses and conduct a programmatic Environmental Impact Statement for the numerous proposed deepwater port fossil fuel export facilities to evaluate their comprehensive impacts. Programmatic review must determine whether these projects are in the national interest, in light of the present vulnerabilities of the oil and gas industry, and whether the projects would be consistent with the Administration’s policies to tackle climate change, hold polluters accountable and lift up historically marginalized communities in transitioning to a clean, sustainable economy and energy future.

Specifically, a programmatic evaluation must comprehensively analyze how approval of the projects would intensify climate change and harm to the ocean environment, and evaluate how the associated onshore infrastructure would impact communities already suffering from the pervasive harmful impacts of the fossil fuel industry, including toxic air pollution and increased storm intensity and coastal erosion. Programmatic review must carefully consider the purpose and need for these projects, particularly given the number of deepwater port export projects currently under consideration by MARAD and USCG; and the fundamental fact that transitioning away from fossil fuels and toward a just, sustainable energy future means our government must stop approving new fossil fuel projects.

Accurate Programmatic and Project Analyses of the Wide-Ranging Environmental and Public Health Effects Involve Consideration of Alternatives to Fossil Fuel Exports

Deepwater port fossil fuel export project review also involves ensuring that applicants properly define the purpose and need for the project. Importantly, that means the project’s purpose shall not be overly narrowed so as to avoid consideration of viable alternatives to which the impacts of the proposed project must be compared.⁶⁰ Given the depressed market conditions, and the urgent need to rapidly transition away from fossil fuels to avoid climate catastrophe, MARAD and USCG cannot justify approving any fossil fuel facility—let alone a VLCC export terminal as massive as each of the ones proposed—with the sole purpose of providing a “reliable” and “efficient” long-term crude oil supply to the global market.⁶¹ This is especially true given the

⁶⁰ 40 C.F.R. §§ 1502.13, 1502.14; *Citizens against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1990).

⁶¹ Deepwater Port License Application for Sea Port Oil Terminal Project, Vol. IIb, 7 (January 2019), <https://www.regulations.gov/document/MARAD-2019-0011-0001>; Deepwater Port License Application for the Bluewater SPM Project, Vol. II, Section 1, 1-1 (June 2019), <https://www.regulations.gov/document/MARAD-2019-0094-0004>; Texas GulfLink Deepwater Port License

polluting history of project applicants and the climate and public health crises facing the very communities in which these projects are sited.

In reviewing these projects, MARAD and USCG cannot continue to assume, as they have in the draft environmental impact statements for SPOT and GulfLink, that a proposed project or similar projects may occur at some future date. Such analysis would undermine this Administration's commitments to net-zero, economy-wide greenhouse gas emissions by 2050 and a just transition to a clean and sustainable energy economy. Rather, the agencies must evaluate real alternatives to exporting fossil fuels all together, including one that considers ending approval of all new fossil fuel projects under a plan to limit warming to 1.5°C to 2°C,⁶² and considers alternatives in which offshore platforms in the Gulf are used for renewable energy sources while promoting conservation efforts.⁶³

Conclusion

Unlike any Administration before it, the Biden-Harris Administration is poised to take ambitious and decisive action to combat the climate catastrophe, to lead in meaningfully cutting greenhouse gas pollution, and to transition to a clean, sustainable and equitable energy economy that involves protecting and lifting up the frontline communities that have long-suffered the devastating effects of fossil fuel industry injustices. Delivering meaningful action on these commitments stands to create a remarkable and unprecedented legacy that changes the future health, environment and livelihood of all Americans. As such, this Administration's goals of tackling

Application, Volume I, 183 (Sept. 2019), <https://www.regulations.gov/document/MARAD-2019-0093-0002>; Project Purpose and Need, Deepwater Port License Application Blue Marlin Offshore Port (BMOP) Project, Vol. IIb, Topic Report 1: Project Description Purpose and Need, 1-1 (Sept. 2020), <https://www.regulations.gov/document/MARAD-2020-0127-0010>.

⁶² Limiting global warming to a level that minimizes irreversible harm must consider reinstatement of the nation's long-standing crude export ban. Indeed, the climate crisis and security risks further threatened by the proliferation of fossil fuel dependence resulting from fossil fuel export projects constitute a national emergency justifying the President exercise his authority to impose restrictions on crude exports, and thereby prohibit the buildout and operation of these massive deepwater port facilities. See 42 U.S.C. §6212a(d)(1)(A), (2); see Center for Biological Diversity, Legal Authority for Presidential Executive Action on Climate: Legal Analysis Underpinning the #CLIMATEPRESIDENT Action Plan (Dec. 2019), <https://www.climatepresident.org/Legal-Authority-for-Presidential-Climate-Action.pdf>. Jim Teague, chief executive of Enterprise Products, the country's largest exporter of crude oil, stated: "Without the crude oil export ban repeal, the United States would not be producing half of the oil it is today because it could not be exported." Joe Barton, *Joe Barton: I knew my bill to lift the ban on U.S. oil exports was important. I hardly expected it to change the world.*, Dallas Morning News (Nov. 24, 2019), <https://www.dallasnews.com/opinion/commentary/2019/11/24/joe-barton-i-knew-my-bill-to-lift-the-ban-on-us-oil-exports-was-important-i-hardly-expected-it-to-change-the-world/>.

⁶³ Justin Gerdes, *Can the US's offshore oil and gas hub pivot to wind energy?*, Energy Monitor (Dec. 8, 2020), <https://energymonitor.ai/policy/just-transition/can-the-uss-offshore-oil-and-gas-hub-pivot-to-wind-energy>.

the climate, justice and environmental crises facing our nation and the globe necessitates denial of the pending deepwater port fossil fuel export facilities.

We thank you for your consideration and welcome the opportunity to meet with agency representatives to further discuss the pending deepwater port applications and licensing processes. We would be grateful for your response and to schedule a meeting with decision makers by April 30, 2021.

Respectfully,



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Cc:

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White House Science Advisor Nominee Eric Lander
Special Climate Envoy John Kerry
Lieutenant General Scott Spellmon, U.S. Army Corps of Engineers
Administrator Michael Regan, Environmental Protection Agency
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Secretary Deb Haaland, U.S. Department of Interior
Director Amanda Lefton, Bureau of Ocean Energy Management
Principal Deputy Director Martha Williams, U.S. Fish and Wildlife Service
Interim Administrator Benjamin Friedman, National Oceanic and Atmospheric Administration
Acting Assistant Administrator, Paul Doremus, National Marine Fisheries Service
Ambassador Katherine C. Tai, U.S. Trade Representative