

SIERRA CLUB, LOUISIANA BUCKET : 38TH JUDICIAL DISTRICT COURT
BRIGADE, and TURTLE ISLAND
RESTORATION NETWORK

VS. NO. 10-21127 : PARISH OF CAMERON

LOUISIANA DEPARTMENT OF
ENERGY AND NATURAL RESOURCES : STATE OF LOUISIANA

FILED: _____ : _____
DEPUTY CLERK OF COURT

REASONS FOR JUDGMENT

RICHARD, JUDGE

This is a judicial review pursuant to La. R.S. § 49:214.30 (D) and (E). Petitioners, three non-profit organizations, bring this action against the Louisiana Department of Energy and Natural Resources (LDENR) Office of Coastal Management (OCM) for its issuance of Coastal Use Permit (CUP) number P20190900. The permit authorizes Commonwealth LNG, LLC, to construct and operate a natural gas liquefaction, storage and export facility on the Calcasieu River in Cameron Parish. Commonwealth LNG, LLC, filed an unopposed Petition for Intervention on September 30, 2024. A scheduling order was signed on February 5, 2025, setting the deadlines for briefing, and scheduling the hearing for June 18, 2025.

The petition alleges that LDENR violated its constitutional, statutory, and regulatory duties when it issued the permit:

- 1) Without adequately assessing and weighing the resulting environmental impacts and the costs of those impacts to Cameron Parish and Louisiana Coastal Zone;
- 2) Without adequately considering the cumulative impacts of the project with other facilities proposed for the area;
- 3) Without adequately considering alternative sites;
- 4) Without assuring consistency with Louisiana's Coastal Master Plan; and
- 5) Without meeting regulatory and constitutional requirements to consider and avoid, among other things, the export terminal's adverse impacts on public health, safety and welfare.

In briefs to the Court, petitioners summed up their arguments into three grounds:

- 1) OCM did not adequately assess and weigh the resulting cumulative and secondary environmental impacts due to climate change and the costs to Cameron Parish and Louisiana's Coastal Zone;
- 2) OCM did not adequately protect the health and safety of Cameron Parish residents from the risk of explosions, leaks and other accidents; and
- 3) OCM did not solicit information about or consider the impacts on the environmental justice communities around the project.

LAW:

La. R.S. § 49:214.35. Reconsideration, judicial review.

A. This Section shall govern the reconsideration and/or judicial review of actions of the secretary under this Subpart, including coastal use permit and local program approval decisions and determinations of state or local concern under R.S. 49:214.30(C)(1) and determinations of direct and significant impact under R.S. 49:214.34.

* * *

D. Any person authorized by this Subpart to appeal a coastal use permit decision or any local government aggrieved by a final decision on approval of a local program may seek judicial review of that decision whether or not a petition for reconsideration has been filed under this Section. A preliminary, procedural, or intermediate action by the secretary or a determination of local or state concern under R.S. 49:214.30(C)(1) or of direct and significant impact under R.S. 49:214.34 is immediately reviewable if review of the secretary's final permit decision or action would not provide an adequate remedy or would inflict irreparable injury.

E. 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 within thirty days after mailing of notice of the final decision by the secretary or, if a reconsideration is requested, within thirty days after the decision thereon.

F. Judicial review shall otherwise 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 upon request of any party. L. R.S. § 49:214.35.

The standard of judicial review is found in La. R.S. 49:978.1., which provides in pertinent part:

* * *

G. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions; (de novo review)
- (2) In excess of the statutory authority of the agency; (de novo review)
- (3) Made upon unlawful procedure; (de novo review)
- (4) Affected by other error of law; (de novo review)
- (5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
 - a) Arbitrary—a disregard of evidence or the proper weight thereof.
 - b) Capricious—A conclusion is made without substantial evidence or a conclusion is contrary to substantial evidence.
- (6) Not supported and sustainable by a preponderance of evidence as determined by the reviewing court.

The LDENR OCM issued its Basis of Decision on July 22, 2024. The Basis of Decision contains 66 pages, which references all documents reviewed, received and considered in issuing the

CUP¹, including, but not limited to, correspondence/objections received during and after the public comment periods, and the Final Environmental Impact Statement (FEIS) prepared by the Federal Energy Regulatory Commission (FERC). In evaluating the issuance of a CUP, the OCM must consider the Coastal Use Guidelines, the State and Local Coastal Resources Management Act of 1978 (SLCRMA), and the Louisiana Constitution. In addition, OCM's decision to grant a CUP must be consistent with Louisiana's Coastal Master Plan. La. R.S. § 49:214.30(A)(2).

The primary issue presented in this review is whether LDENR complied with the SLCRMA, its guidelines, and its constitutional duty of Public Trust when issuing the CUP to Commonwealth LNG.

The Court in this case is not sitting as a court of original jurisdiction, but as a court of review. As an appellate court can only consider a case in the situation presented by the record for, to do otherwise, would be assuming original jurisdiction on appeal. The Court took no live testimony in the matter nor any evidence outside of the written record. In this way, this Court has confined itself to the record as would a court of appeal. *Bd. Of Comm'rs v. St. Landry Par. Sch. Bd.*, (La. 12/11/61) 136 So.2d 44, *citing*, *Begnaud v. Grubb and Hawkins*, 209 La. 826, 25 So.2d 606 and *Wilson v. Wilson*, 219 La. 205, 52 So.2d 716.

The CUP issued in this case consists of 10 pages. The three specific issues that have been raised in this review will be addressed separately.

1. **OCM did not adequately assess and weigh the resulting cumulative and secondary environmental impacts due to climate change and the costs to Cameron Parish and Louisiana's Coastal Zone;**

Petitioners argue that OCM violated its constitutional, statutory and regulatory duties when it issued the CUP to Commonwealth without considering "the project's cumulative and secondary impacts, including exacerbation of climate change and the increased storm severity, sea level rise, and the loss of wetlands and their protections resulting therefrom."

LDENR relied on the FERC's Final Environmental Impact Statement (FEIS) which found, there would be no cumulative impacts to cultural resources and soils and a negligible contribution to cumulative impacts on groundwater or geological resources such as subsidence, erosion, flooding, and mineral resources. Cumulative impacts to surface water quality and aquatic species from dredging, pile driving, ballast water, marine traffic would be minimal and temporary. Commonwealth is required to obtain a

¹The entire OCM record which contains all documents in the administrative record was submitted to the Court as an exhibit on a jump drive due the large volume of documents.

Water Quality Certification and any necessary general LPDES water quality permits from LDEQ as LDEQ has jurisdictional authority over water quality discharges.²

It continued in the next paragraph,

that air quality impacts from construction of the proposed project would not be significant, while air quality impacts from operation of the facility would be minor. Air emissions from the facility are regulated by LDEQ's air permits program and permits for the regulation of the air emissions, including any related to global warming/climate change are addressed as part of Commonwealth's Part 70 Permit No. 0560-00997-VO and Prevention of Significant Deterioration Permit No. PSD-LA-841 that were issued by the LDEQ on March 28, 2023. With regard to public comments requesting an analysis of the proposed projects potential effect on global warming/climate change, such considerations are beyond the legislative directives establishing the LCRP. OCM is without authority to assess global warming impacts as this is outside of the limited jurisdictional grant of authority to OCM by the Louisiana Legislature.³

Based on the above paragraph, OCM admits that it did not consider potential effects on global warming/climate change because it was without authority to do so. Further, OCM readily admits that it relied on the FEIS prepared by FERC, and did not duplicate the efforts to determine adverse effects of cumulative and secondary impacts. However, the Plaintiffs argue that the Louisiana Constitution and the Public Trust Doctrine augments the agency's responsibilities to include considerations of climate change. Contrary to what defendants argue, petitioners are not seeking that the OCM consider the global impacts of climate change that the Commonwealth facility will have, but, rather, how this facility's impact on climate change, if any, will exacerbate local impacts within the Coastal Zone of Louisiana.

Currently on the Calcasieu Ship Channel in Cameron Parish there is the Venture Global Calcasieu Pass LNG facility, and there is an expansion to that facility with Venture Global CP2 LNG. Commonwealth LNG, LLC, will be the third LNG facility within the same vicinity.⁴ The Basis of Decision overemphasizes the three (3) LNG projects permanent impacts on wetlands, beneficial use of dredged material (BUDM) and compensatory mitigation, but neglects a comprehensive analysis of storm severity and/or sea level rise.

The OCM defines cumulative impacts as "those that increase in significance due to the collective effects of a number of activities." While the Basis of Decision adopts the FEIS for several

²Basis of Decision, Page 31 of 66, dated July 22, 2024

³*Id.*

⁴Basis of Decision, Page 32 of 66, dated July 22, 2024.

cumulative impacts of this project, OCM acknowledges that it was without legislative authority to assess global warming/climate change. Thus, they did not consider nor assess global warming and/or climate change. The petitioners cite to La. R.S. § 49:214.27(B) & (C)(9) and to several guidelines, 701(F) and 701(G), that mandate consideration of secondary and cumulative impacts. LAC § 43:I.701. Petitioners succinctly argue in their brief to the Court, the following:

The Statute further mandates OCM, in conjunction with the state Department of Wildlife and Fisheries, to “develop a management program and guidelines” and required that the Guidelines “shall have the goal...[m]inimize detrimental effects of foreseeable cumulative impacts on coastal resources from proposed or authorized uses.”⁵

Nothing limits the “[i]mpacts” that may be cumulative to a particular kind of impact, like direct or secondary. Potential impacts, whether direct or secondary, must also be considered cumulatively. Moreover, the agency must consider those cumulative impacts in each of the economic, social, and environmental contexts.⁶

The broad language of the guidelines and statutes regarding assessing secondary impacts and cumulative impacts mandate that the OCM has a duty to consider the totality of this project’s secondary and cumulative impacts, including the potential impacts on storm severity or sea level rise in the coastal zone together with two (2) other LNG facilities. The guidelines and regulations are augmented by the Louisiana Constitution. 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. The legislature shall enact laws to implement this policy. La. Const. Art. IX, § 1. As public trustee of Louisiana’s natural resources under our Constitution, LDENR - OCM must determine whether adverse environmental impacts have been avoided as much as possible. As such, before issuing a CUP, the agency should consider potential secondary and cumulative impacts from the proposed authorized use, including those “*detrimental effects of foreseeable cumulative impacts*” which would include climate change in the coastal zone. La. R.S. § 49:214.27. (emphasis added)

Although we may uphold a decision of less than ideal clarity if the agency’s path may reasonably be discerned, . . . we will not supply a finding from the evidence or a reasoned basis for the commission’s action that the commission has not found or given.” *Sierra Club v. La. Dep’t of*

⁵La. R.S. § 49:214.27. (emphasis added). Petitioners’ Original Brief, Page 9.

⁶Petitioners’ Original Brief, Page 10.

Env't Quality, 100 F.4th 555, 563 (5th Cir. 2024). Based on the *Save Ourselves* decision, written findings of fact and reasons for a decision must address whether: (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 alternative projects or alternative sites or mitigating measures that would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits to the extent applicable. *Rise St. James v. La. Dep't of Env't Quality*, 2023-0578 (La. App. 1 Cir. 01/19/24); 383 So. 3d 956, 962.

In the Supreme Court decision of *Save Ourselves, Inc.*, it stated:

...the Constitutional standard requires environmental protection "insofar as possible and consistent with the health, safety, and welfare of the people." La. Const. art. IX § 1. This is a rule of reasonableness which requires an agency or official, before granting approval of proposed action affecting the environment, to determine that adverse environmental impacts have been minimized or avoided as much as possible consistently with the public welfare. Thus, the constitution does not establish environmental protection as an exclusive goal, but requires a balancing process in which environmental costs and benefits must be given full and careful consideration along with economic, social and other factors.⁷

In this case, OCM acknowledges that it did not consider the project's secondary and cumulative impacts on storm severity or sea level rise, and at a minimum, it must at least consider what, if any, those impacts may have on the coastal zone. These impacts require a more robust "balancing process in which environmental costs and benefits must be given full and careful consideration along with economic, social and other factors."⁸

The Court is aware of the decision rendered by the Louisiana Fourth Circuit Court of Appeal in *Healthy Gulf & Sierra Club v. Sec'y, La. Dep't of Nat. Res.*,⁹ which affirmed the agencies' failure to consider global impacts of climate change based on similar language in the Basis of Decision as we have here. However, in this case, there will be three (3) multi-billion dollar facilities within a few miles of each other and concentrated at the mouth of the Calcasieu River. Additionally, there is an LNG facility in the community of Johnson Bayou and one in the community of Hackberry. This

⁷*Save Ourselves, Inc. v. Louisiana Environmental Control Comm.*, 452 So.2d 1152, 1157 (La. 1984).

⁸*Id.*

⁹T2024-0286 (La. App. 4 Cir. 12/23/24); 407 So. 3d 705, 708

case is easily distinguishable because the LNG industry continues to grow at a rapid rate in Southwest Louisiana, and in particular, Cameron Parish.

2. **OCM did not adequately protect the health and safety of Cameron Parish residents from the risk of explosions, leaks and other accidents**

The Petitioners argue that the OCM violated Guideline 719(K)¹⁰ by not requiring that an operating safety plan be developed nor by requiring that the project is required to comply with any future plans. By OCM not conditioning the permit on an effective safety plan, they are without authority to enforce the applicant to comply with same. The OCM argues that the CUP is conditioned on Commonwealth being subject to all applicable federal and state laws and regulations. The Basis of Decision states that Commonwealth is aware of its obligations regarding rules and regulations dealing with prevention and containment. The LNG facilities are heavily regulated by the federal government, specifically safety and security measures of the LNG terminal and LNG marine vessels. Commonwealth is required to comply with PHMSA regulations under 49 CFR 193 and USCG regulations under 33 CFR 127 and 33 CFR 105. Further, the LNG marine vessels are required to comply with the USCG regulations under 33 CFR 104 and 46 CFR 154. Finally, the facility's emergency response plan must be "developed in consultation with the USCG and State and local agencies and be approved by the commission prior to final approval to begin construction."¹¹ When reviewing the record as a whole, the Court finds that the OCM has adequately protected the health and safety of the residents of Cameron Parish from the risk of explosions, leaks and other accidents.

3) **OCM did not solicit information about or consider the impacts on the environmental justice communities around the project.**

"Environmental justice is defined by the EPA as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial operations. Meaningful involvement means that people have an opportunity to participate in decisions about activities that may affect their environment and/or health, the public's contribution can influence the permitting authority's decision, community concerns will be considered in the

¹⁰ 719 (K) provides: K. Effective environmental protection and emergency or contingency plans shall be developed and complied with for all mineral operations. LAC 43:I.719(K).

¹¹ Basis of Decision, Page 20 of 66, dated July 22, 2024.

decision-making process, and decision makers will seek out and facilitate the involvement of those potentially affected.” *Rise St. James v. La. Dep’t of Env’t Quality*, 2023-0578 (La. App. 1 Cir. 01/19/24); 383 So. 3d 956, 963.

The FEIS determined that project-related impacts on wetlands, surface water, visual resources, tourism, socioeconomic, traffic, noise, and air quality may adversely affect the identified environmental justice communities. The FEIS also noted that recreational and commercial fisheries in the ship channel may be impacted by the loss of available fishing areas and the operation of marine facilities and LNG carrier traffic. Now that the FEIS has identified these factors, the OCM must consider them in light of the IT factors.

The OCM acknowledges in its Basis for Decision that “[a]s environmental justice concerns are within the grant of authority to LDEQ, the concerns are properly addressed by them.”¹² The LDEQ’s analysis of the facility’s air and water pollution does not alleviate OCM’s duty under the Louisiana’s Public Trust Doctrine to consider environmental justice issues in its permitting decision. The Public Trust doctrine applies to all state agencies, including LDENR - OCM. The OCM *does* have the authority to consider and should consider environmental justice concerns. Will the environmental impacts of this facility have a disparate or exaggerated effect on surrounding minority and low-income communities, especially given the number of natural resources directly impacted locally, such as loss of marshes (storm surge protection), disruptive social patterns (forcing people to move), cumulative impacts (of other facilities already in the area), public use of resources (recreational and subsistence fishing), and water quality (water temperature, discharge of solids)? All of this must be considered in the CUP, but none of it was considered in terms of impacts on environmental justice communities, namely those living in poverty, and those who fish not only for recreation but for their livelihood, which has always been a defining characteristic of Cameron Parish. The LDEQ’s analysis focuses on environmental justice impacts caused by air pollution and wastewater discharge. Clearly, this is not the same as the coastal zone-specific issues that the OCM has been given authority to consider. The OCM has stated that it did not consider this because it relied on LDEQ.

¹²Basis of Decision, Page 25 of 66, dated July 22, 2024.

CONCLUSION:

The Court finds that the LDENR - OCM failed to consider the secondary and cumulative impacts, specifically this facility's impact on climate-related change in the coastal zone, if any, in conjunction with the other LNG facilities in the area. The LDENR - OCM also failed to consider environmental justice issues in its Basis of Decision. Its failure to consider these impacts are violations of the coastal use guidelines and of the public trust duties in the Louisiana Constitution, as required by La. R.S. § 49:978.1(G)(1). Based on the OCM's failure to consider these two issues, the Court hereby remands this case to the OCM, for further proceedings, as may be appropriate. The coastal use permit will be vacated until such time that the OCM has considered these issues in issuing the CUP to Commonwealth and makes a finding that the benefits of this project outweigh the costs to the community. Counsel for plaintiffs is directed to prepare a judgment consistent with this opinion and circulate it to opposing counsel for approval and then submit same to the Court. Costs are assessed to the defendants equally.

Cameron, Louisiana, October 10, 2025.

PENELOPE Q. RICHARD
DISTRICT JUDGE

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In briefs to the Court, petitioners summed up their arguments into three grounds:

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G. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

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The Statute further mandates OCM, in conjunction with the state Department of Wildlife and Fisheries, to “develop a management program and guidelines” and required that the Guidelines “shall have the goal...[m]inimize detrimental effects of foreseeable cumulative impacts on coastal resources from proposed or authorized uses.”⁵

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Env't Quality, 100 F.4th 555, 563 (5th Cir. 2024). Based on the *Save Ourselves* decision, written findings of fact and reasons for a decision must address whether: (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 alternative projects or alternative sites or mitigating measures that would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits to the extent applicable. *Rise St. James v. La. Dep't of Env't Quality*, 2023-0578 (La. App. 1 Cir. 01/19/24); 383 So. 3d 956, 962.

In the Supreme Court decision of *Save Ourselves, Inc.*, it stated:

...the Constitutional standard requires environmental protection "insofar as possible and consistent with the health, safety, and welfare of the people." La. Const. art. IX § 1. This is a rule of reasonableness which requires an agency or official, before granting approval of proposed action affecting the environment, to determine that adverse environmental impacts have been minimized or avoided as much as possible consistently with the public welfare. Thus, the constitution does not establish environmental protection as an exclusive goal, but requires a balancing process in which environmental costs and benefits must be given full and careful consideration along with economic, social and other factors.⁷

In this case, OCM acknowledges that it did not consider the project's secondary and cumulative impacts on storm severity or sea level rise, and at a minimum, it must at least consider what, if any, those impacts may have on the coastal zone. These impacts require a more robust "balancing process in which environmental costs and benefits must be given full and careful consideration along with economic, social and other factors."⁸

The Court is aware of the decision rendered by the Louisiana Fourth Circuit Court of Appeal in *Healthy Gulf & Sierra Club v. Sec'y, La. Dep't of Nat. Res.*,⁹ which affirmed the agencies' failure to consider global impacts of climate change based on similar language in the Basis of Decision as we have here. However, in this case, there will be three (3) multi-billion dollar facilities within a few miles of each other and concentrated at the mouth of the Calcasieu River. Additionally, there is an LNG facility in the community of Johnson Bayou and one in the community of Hackberry. This

⁷*Save Ourselves, Inc. v. Louisiana Environmental Control Comm.*, 452 So.2d 1152, 1157 (La. 1984).

⁸*Id.*

⁹T2024-0286 (La. App. 4 Cir. 12/23/24); 407 So. 3d 705, 708

case is easily distinguishable because the LNG industry continues to grow at a rapid rate in Southwest Louisiana, and in particular, Cameron Parish.

2. OCM did not adequately protect the health and safety of Cameron Parish residents from the risk of explosions, leaks and other accidents

The Petitioners argue that the OCM violated Guideline 719(K)¹⁰ by not requiring that an operating safety plan be developed nor by requiring that the project is required to comply with any future plans. By OCM not conditioning the permit on an effective safety plan, they are without authority to enforce the applicant to comply with same. The OCM argues that the CUP is conditioned on Commonwealth being subject to all applicable federal and state laws and regulations. The Basis of Decision states that Commonwealth is aware of its obligations regarding rules and regulations dealing with prevention and containment. The LNG facilities are heavily regulated by the federal government, specifically safety and security measures of the LNG terminal and LNG marine vessels. Commonwealth is required to comply with PHMSA regulations under 49 CFR 193 and USCG regulations under 33 CFR 127 and 33 CFR 105. Further, the LNG marine vessels are required to comply with the USCG regulations under 33 CFR 104 and 46 CFR 154. Finally, the facility's emergency response plan must be "developed in consultation with the USCG and State and local agencies and be approved by the commission prior to final approval to begin construction."¹¹ When reviewing the record as a whole, the Court finds that the OCM has adequately protected the health and safety of the residents of Cameron Parish from the risk of explosions, leaks and other accidents.

3) OCM did not solicit information about or consider the impacts on the environmental justice communities around the project.

"Environmental justice is defined by the EPA as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial operations. Meaningful involvement means that people have an opportunity to participate in decisions about activities that may affect their environment and/or health, the public's contribution can influence the permitting authority's decision, community concerns will be considered in the

¹⁰ 719 (K) provides: K. Effective environmental protection and emergency or contingency plans shall be developed and complied with for all mineral operations. LAC 43:I.719(K).

¹¹Basis of Decision, Page 20 of 66, dated July 22, 2024.

decision-making process, and decision makers will seek out and facilitate the involvement of those potentially affected.” *Rise St. James v. La. Dep’t of Env’t Quality*, 2023-0578 (La. App. 1 Cir. 01/19/24); 383 So. 3d 956, 963.

The FEIS determined that project-related impacts on wetlands, surface water, visual resources, tourism, socioeconomic, traffic, noise, and air quality may adversely affect the identified environmental justice communities. The FEIS also noted that recreational and commercial fisheries in the ship channel may be impacted by the loss of available fishing areas and the operation of marine facilities and LNG carrier traffic. Now that the FEIS has identified these factors, the OCM must consider them in light of the IT factors.

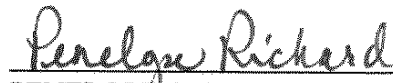
The OCM acknowledges in its Basis for Decision that “[a]s environmental justice concerns are within the grant of authority to LDEQ, the concerns are properly addressed by them.”¹² The LDEQ’s analysis of the facility’s air and water pollution does not alleviate OCM’s duty under the Louisiana’s Public Trust Doctrine to consider environmental justice issues in its permitting decision. The Public Trust doctrine applies to all state agencies, including LDENR - OCM. The OCM *does* have the authority to consider and should consider environmental justice concerns. Will the environmental impacts of this facility have a disparate or exaggerated effect on surrounding minority and low-income communities, especially given the number of natural resources directly impacted locally, such as loss of marshes (storm surge protection), disruptive social patterns (forcing people to move), cumulative impacts (of other facilities already in the area), public use of resources (recreational and subsistence fishing), and water quality (water temperature, discharge of solids)? All of this must be considered in the CUP, but none of it was considered in terms of impacts on environmental justice communities, namely those living in poverty, and those who fish not only for recreation but for their livelihood, which has always been a defining characteristic of Cameron Parish. The LDEQ’s analysis focuses on environmental justice impacts caused by air pollution and wastewater discharge. Clearly, this is not the same as the coastal zone-specific issues that the OCM has been given authority to consider. The OCM has stated that it did not consider this because it relied on LDEQ.

¹²Basis of Decision, Page 25 of 66, dated July 22, 2024.

CONCLUSION:

The Court finds that the LDENR - OCM failed to consider the secondary and cumulative impacts, specifically this facility's impact on climate-related change in the coastal zone, if any, in conjunction with the other LNG facilities in the area. The LDENR - OCM also failed to consider environmental justice issues in its Basis of Decision. Its failure to consider these impacts are violations of the coastal use guidelines and of the public trust duties in the Louisiana Constitution, as required by La. R.S. § 49:978.1(G)(1). Based on the OCM's failure to consider these two issues, the Court hereby remands this case to the OCM, for further proceedings, as may be appropriate. The coastal use permit will be vacated until such time that the OCM has considered these issues in issuing the CUP to Commonwealth and makes a finding that the benefits of this project outweigh the costs to the community. Counsel for plaintiffs is directed to prepare a judgment consistent with this opinion and circulate it to opposing counsel for approval and then submit same to the Court. Costs are assessed to the defendants equally.

Cameron, Louisiana, October 10, 2025.



PENELOPE Q. RICHARD
DISTRICT JUDGE