

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

OIL & GAS WORKERS ASSOCIATION,

Plaintiff,

v.

JOSEPH R. BIDEN, JR., *et al.*,

Defendants.

Case No. 2:24-cv-00646

Hon. Judge James D. Cain, Jr.

Hon. Magistrate Judge Thomas P. LeBlanc

ANSWER

Defendants answer the allegations in Plaintiff's Complaint, Dkt. No 1. The responses are numbered to correspond to the paragraphs in the Complaint. Defendants deny any of the Complaint's allegations, express or implied, that are not otherwise expressly admitted, denied, or qualified. Some of the topic headings used below are duplicated from Plaintiff's Complaint and are inserted for ease of reference. Use of these topic headings below does not constitute an admission or acknowledgment by Defendants of their relevance or accuracy.

Throughout the complaint, Plaintiff refers to an "LNG Export Ban." Defendants admit that prior to the issuance of the preliminary injunction in this case, the Department of Energy ("DOE") temporarily deferred decisions on pending long-term liquified natural gas ("LNG") export applications to countries with whom the United States has not entered into a free trade agreement that requires national treatment for trade in natural gas ("non-FTA countries") until completion of necessary study updates. Defendants deny that an LNG export ban was ever in effect.

Throughout the Complaint, Plaintiffs use undefined terms that are vague and ambiguous. Defendants object to the use of vague and ambiguous terms and have constructively denied certain allegations based on the use of these vague and ambiguous terms. Alternatively, Defendants move for a

more definite statement as to all vague and ambiguous terms.

INTRODUCTION

1. The first sentence in Paragraph 1 characterizes Plaintiff's action, to which no response is required. Nevertheless, Defendants admit that President Biden and DOE announced a temporary pause on final authorizations on LNG-export applications to non-FTA countries on January 26, 2024. Defendants deny that there was, or is, an "LNG Export Ban," and deny the allegations in the second sentence in this paragraph.

2. Defendants deny the allegations in the first sentence in Paragraph 2. The remaining allegations in Paragraph 2 constitute Plaintiff's characterization of DOE's July 2023 Order Denying Petition for Rulemaking on Exports of Liquefied Natural Gas (hereinafter "2023 Petition Denial Order") cited in footnote 2 in Plaintiff's Complaint. The 2023 Petition Denial Order speaks for itself and is the best evidence of its contents. To the extent the allegations in Paragraph 2 are inconsistent with the 2023 Petition Denial Order, they are denied.

3. Defendants deny the allegations in Paragraph 3. Defendants aver that President Biden and DOE announced a temporary pause on final authorizations on LNG-export applications to non-FTA countries on January 26, 2024. The President's and DOE's announcements speak for themselves and are the best evidence of their contents.

4. Plaintiff's use of the term "political motivations" is vague and ambiguous, and therefore, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations.

5. To the extent they even constitute allegations, Defendants deny Paragraph 5.

6. This Court has already recognized in a related case that the President cannot be sued under the APA, so Defendants deny that Plaintiff is entitled to relief against the President. Defendants further deny that DOE's update and pause violated any provision of law, and therefore, deny that

Plaintiff is entitled to any relief.

7. Defendants deny Plaintiff is entitled to any relief. Defendants admit, however, that the United States has waived its sovereign immunity for APA claims.

8. Defendants deny the allegations in Paragraph 8.

9. Defendants deny the allegations in Paragraph 9.

10. Defendants deny the allegations in Paragraph 10.

PARTIES

11. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 11.

12. Defendants deny that there was, or is, an “LNG Export Ban” in effect. Defendants admit that DOE temporarily paused final authorizations of LNG export applications to non-FTA countries to update the economic and environmental studies underpinning DOE’s public interest analysis.

13. Defendants admit the allegations in Paragraph 13.

14. As to the allegations in Paragraph 14, Defendants admit that the United States Department of Energy is a federal agency headquartered in Washington, D.C. whose responsibilities include liquefied natural gas export authorizations under the NGA.

15. As to the allegations in Paragraph 15, Defendants admit that Jennifer Granholm is the Secretary of the Department of Energy, a federal agency whose responsibilities include administering the natural gas regulatory program, including the LNG export program, under the NGA.

16. Defendants admit the allegations in the first and third sentences of Paragraph 16. As to the second sentence, Defendants deny that an “LNG Export Ban” was in effect and therefore deny the allegations in the second sentence on that ground.

17. Defendants admit the allegations in Paragraph 17

18. Defendants admit the allegations in Paragraph 18.

19. Defendants deny the first sentence in Paragraph 19, and aver that Amy Sweeney is the Director of the Office of Regulation, Analysis, and Engagement, within the Office of Fossil Energy and Carbon Management, a component of the Department of Energy. Defendants admit the remaining allegations in Paragraph 19.

BACKGROUND

20. Defendants admit that Congress enacted the Natural Gas Act in 1938. Defendants admit that the Supreme Court's decision in *Nat'l Ass'n for Advancement of Colored People v. Fed. Power Comm'n*, 425 U.S. 662, 669–70 (1976) states: “In the case of the [Federal] Power and [Natural] Gas Acts it is clear that the principal purpose of those Acts was to encourage the orderly development of plentiful supplies of electricity and natural gas at reasonable prices,” but also aver that the Supreme Court recognized “other subsidiary purposes contained in these Acts,” including “conservation, environmental, and antitrust.”

21. Defendants admit that Plaintiff has correctly quoted select portions of the Natural Gas Act.

22. Defendants admit that Plaintiff has correctly quoted select portions of the Natural Gas Act, that the Natural Gas Act, as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102- 486), provides that applications to export LNG to free trade countries are deemed to be consistent with the public interest and granted “without modification or delay,” and that the Natural Gas Act creates a rebuttable presumption that applications to export LNG to non-FTA countries are in the public interest.

23. As to the first sentence in Paragraph 23, Defendants admit that DOE has interpreted 15 U.S.C. § 717b as creating a rebuttable presumption that a proposed export of natural gas is in the public interest unless DOE finds that the export will not be consistent with the public interest. The second

sentence in Paragraph 23 offers Plaintiff's characterization of Congress's intent in enacting the NGA, to which no response is required. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations about Congress's intent. The third sentence offers a quote from the NGA and Plaintiff's characterization of how two NGA provisions compare. The NGA is the best evidence of its contents and speaks for itself. To the extent that Plaintiff's allegations are inconsistent with the NGA, they are denied.

24. As to the allegations in Paragraph 24, Defendants admit that LNG export applications to FTA countries must be granted "without modification or delay" under § 717b, and that DOE has interpreted § 717b as creating a rebuttable presumption that a proposed export of natural gas to a non-FTA country is in the public interest unless DOE finds that the export will not be consistent with the public interest. As to Footnote 5, DOE denies the allegations as phrased, but admits that there are currently 18 countries with which the United States has in place free trade agreements ("FTAs") that require national treatment for trade in natural gas for purposes of the NGA. These 18 countries are: Australia, Bahrain, Canada, Chile, Colombia, the Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. There are also two countries — Israel and Costa Rica — that have FTAs with the United States that do not require national treatment for trade in natural gas for purposes of the NGA. No response is required to the cited sources, which are the best evidence and speak for themselves.

25. Paragraph 25 is a legal conclusion to which no response is required. To the extent a response is required, Defendants deny Paragraph 25.

26. Defendants admit that, in its prior non-FTA decisions, DOE has looked to certain principles enunciated in the cited 1984 Policy Guidelines. The remaining allegations in Paragraph 36 and Footnote 6 are characterizations and quotes attributed to the 2023 Petition Denial Order, which speaks for itself and is the best evidence of its contents. To the extent the allegations in Paragraph 26

are inconsistent with the 2023 Petition Denial Order, they are denied.

27. Defendants admit the allegations in Paragraph 27 to the extent that the quotes in Paragraph 27 are factually accurate with respect to DOE's consideration of non-FTA LNG export applications. Additionally, Defendants aver that DOE supplements its case-by-case adjudication process with discrete rulemakings, policy statements, and technical analyses, where appropriate.

28. Defendants admit that the allegations in Paragraph 28 to the extent that the quote is factually accurate with respect to DOE's consideration of non-FTA LNG export applications.

29. Defendants admit that DOE's case-by-case adjudicatory process for considering LNG export applications to non-FTA countries allows multiple public interest factors to be taken into consideration, including energy security. The cited DOE Order is the best evidence of its content and speaks for itself. To the extent Plaintiff's parenthetical is inconsistent with DOE's Order, it is denied.

30. Defendants deny the allegations as phrased but admit that since the United States became a net exporter of natural gas in 2017, DOE has never denied an export application, finding that each authorized export was not inconsistent with the public interest. The cited orders speak for themselves and are the best evidence of their contents. To the extent the allegations are inconsistent with the cited orders, they are denied.

31. Paragraph 31 characterizes a DOE Order, which speaks for itself and is the best evidence of its contents. To the extent the allegations are inconsistent with the DOE Order, they are denied.

32. Paragraph 32 characterizes a DOE Order, which speaks for itself and is the best evidence of its contents. To the extent the allegations are inconsistent with the DOE Order, they are denied.

33. Paragraph 33 characterizes two DOE Orders, which speak for themselves and are the best evidence of their contents. To the extent the allegations are inconsistent with the DOE Orders, they are denied.

34. Paragraph 34 characterizes and quotes a DOE Order, which speaks for itself and is the

best evidence of its contents. To the extent the allegations are inconsistent with the DOE Order, they are denied.

35. Defendants admit that Paragraph 68 correctly quotes from a Letter from Majority Staff to Members of the [House] Subcommittee on Energy, Climate, and Grid Security, which speaks for itself and is the best evidence of its content.

36. Defendants admit that the Department of Energy released the Macroeconomic Study cited in Footnote 11. Otherwise, Paragraph 36 characterizes that Macroeconomic Study, which speaks for itself and is the best evidence of its content; however, to the extent the allegations are inconsistent with the study, they are denied.

37. Paragraph 37 characterizes a DOE study, which speaks for itself and is the best evidence of its contents. To the extent the allegations are inconsistent with the study, they are denied.

38. The allegations in Paragraph 38 characterize and offer quotes from various documents, which speak for themselves and are the best evidence of their contents. To the extent the allegations are inconsistent with these documents, they are denied.

39. The allegations in Paragraph 39 characterize EIA's *Annual Energy Outlook 2023*, which speaks for itself and is the best evidence of its content; however, to the extent the allegations are inconsistent with that report, they are denied.

40. Defendants admit that, on April 8, 2013, several environmental organizations—including Sierra Club, Center for Biological Diversity, Delaware Riverkeeper Network, Friends of the Earth, and Environment America—submitted to DOE a “Petition for Rulemaking Regarding Natural Gas Export Policy” to DOE under APA section 553(e) and asked DOE “to promulgate new regulations or guidance defining the process by which it will consider applications to export liquefied natural gas” under NGA section 3. These organizations sent a reminder letter on October 27, 2022, asking DOE to address the 2013 petition for rulemaking. Defendants further admit that DOE denied that petition.

41. The allegations in Paragraph 41 are Plaintiff's characterization of several environmental organizations' arguments in their "Petition for Rulemaking Regarding Natural Gas Export Policy" and DOE's 2023 Petition Denial Order. The Petition and the 2023 Petition Denial Order are the best evidence of their contents and speaks for themselves. To the extent the allegations conflict with the Petition and the 2023 Petition Denial Order, they are denied.

42. The allegations in Paragraph 42 are Plaintiff's characterization of several environmental organizations' arguments in their "Petition for Rulemaking Regarding Natural Gas Export Policy" and DOE's 2023 Petition Denial Order. The Petition and the 2023 Petition Denial Order are the best evidence of their contents and speak for themselves. To the extent the allegations conflict with the Petition and the 2023 Petition Denial Order, they are denied.

43. Defendants admit the allegations in Paragraph 43.

44. The allegations in Paragraph 44 characterize DOE's 2023 Petition Denial Order, which speaks for itself and is the best evidence of its content; however, to the extent the allegations are inconsistent with that report, they are denied.

45. Paragraph 45 characterizes statements from DOE's 2023 Petition Denial Order, which speaks for itself and is the best evidence of its content. To the extent any allegations are inconsistent with the 2023 Petition Denial order, they are denied.

46. Paragraph 46 characterizes statements from DOE's 2023 Petition Denial Order, which speaks for itself and is the best evidence of its content. To the extent any allegations are inconsistent with the 2023 Petition Denial order, they are denied. Defendants admit that DOE's 2023 Petition Denial Order rejected a petition to promulgate new regulations or guidance defining the process by which DOE will consider applications to export LNG under NGA section 3; however, Defendants cannot form a response to the vague and ambiguous use of the term "resoundingly" and therefore deny

that allegation.

47. Defendants admit that the allegations in Paragraph 47 accurately quote the 2023 Petition Denial Order.

48. Paragraph 48 characterizes statements from DOE's 2023 Petition Denial Order, which speaks for itself and is the best evidence of its content. To the extent any allegations are inconsistent with the 2023 Petition Denial order, they are denied.

49. Paragraph 49 characterizes statements from DOE's 2023 Petition Denial Order, which speaks for itself and is the best evidence of its content. To the extent any allegations are inconsistent with the 2023 Petition Denial order, they are denied.

50. Paragraph 50 characterizes statements from DOE's 2023 Petition Denial Order, which speaks for itself and is the best evidence of its content. To the extent any allegations are inconsistent with the 2023 Petition Denial order, they are denied.

51. The first sentence in Paragraph 51 characterizes statements from DOE's 2023 Petition Denial Order, which speaks for itself and is the best evidence of its content. The second sentence in Paragraph 51 selectively quotes DOE's 2023 Petition Denial Order out of context. In particular, Paragraph 51 omits that the environmental petitioners had asked DOE to halt approval of pending non-FTA applications "until DOE 'complete[] a final revision of its [1984] policy guidelines.'" Because DOE declined to revise its 1984 policy guidelines, it denied the petition and had no reason (at that time) to pause case-by-case adjudications of DOE export applications (see 2023 Petition Denial at 5, 27-28). To the extent any allegations are inconsistent with the 2023 Petition Denial order, they are denied.

52. Defendants admit that Paragraph 52 accurately quotes from a portion of DOE's 2023 Petition Denial.

53. Defendants admit that President Biden released a statement on January 26, 2024, that

included the statement that “My Administration is announcing today a temporary pause on pending decisions of Liquefied Natural Gas exports – with the exception of unanticipated and immediate national security emergencies.” Defendants deny the remaining allegations in Paragraph 53.

54. Paragraph 54 characterizes DOE’s January 26, 2024 announcement, which is the best evidence of its contents and speaks for itself. To the extent the allegations are inconsistent with the announcement, they are denied. Defendants admit that DOE announced a temporary pause on final authorizations on LNG-export applications to non-FTA countries on January 26, 2024.

55. Plaintiff’s use of the phrase “a change in policy enacted by Congress” is vague and ambiguous, and Defendants therefore denies those allegations on that ground. Defendants aver that the January 26, 2024 announcement to defer decisions on pending non-FTA export applications until completion of necessary study updates is not a “rule” under the Administrative Procedure Act and, therefore, no rulemaking docket was required nor has been opened. Defendants further aver that the “declarations,” which refer back to the announcement discussed in Paragraph 54, were consistent with its practice for adjudicating non-FTA LNG export applications pursuant to the NGA.

56. Defendants deny the allegations in Paragraph 56.

57. Defendants admit the White House posted the January 26, 2024, Fact Sheet (“Fact Sheet”). The Fact Sheet speaks for itself and is the best evidence of its content. To the extent any allegations are inconsistent with the Fact Sheet, they are denied.

58. The first sentence in Paragraph 58 is denied. The second sentence in Paragraph 58 characterizes a January 27, 2024, White House web post, which speaks for itself and is the best evidence of its content. To the extent any allegations constitute the Plaintiff’s opinion of the web post or are otherwise inconsistent with the web post, they are denied. As to the third sentence, Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in that sentence. The fourth sentence is a quote from an article. To the extent the allegations are

inconsistent with that article, they are denied.

59. Defendants object to the allegations in the first sentence of Paragraph 59 as vague and ambiguous and deny them on those grounds. Defendants also deny that there is an “LNG Export Ban” and that the article referenced in the second sentence supports the conclusion that the January 26, 2024, announcement by DOE stems from in part from “international pressure.” Defendants admit the cited article contains the quoted language in the second sentence but aver that the next sentence in that interview, which stems from a National Public Radio interview with a White House official, further states that “This temporary pause gives us the time to do the economic and environmental analysis to measure twice, to make sure that we’re understanding the implications of the future potential buildout of this long-life infrastructure.” To the extent the allegations are inconsistent with the transcript of the interview, they are denied. Further, Defendants deny the allegation in the last sentence of Paragraph 59 as it misconstrues the interviewee’s response, which indicated that the studies will be completed and will then be used to inform case-by-case adjudications consistent with DOE’s practice.

60. Defendants deny that there was a “LNG Export Ban” in effect. The article referenced in footnote 22 (to Paragraph 60) speaks for itself and is the best evidence of its own content. To the extent Plaintiff’s allegations are inconsistent with the contents of the article, they are denied. Defendants admit that Secretary Granholm has testified before the Committee on Oversight and Accountability, U.S. House of Representatives on May 23, 2024 that DOE estimates that the update will be completed by the end of the first quarter of 2025.

61. Defendants deny the allegations in Paragraph 61 because the allegations are conjecture and there is no “LNG Export Ban.” The cited articles speak for themselves and are the best evidence of its contents. To the extent the allegations are inconsistent with the article, they are denied.

62. Defendants deny the allegations in Paragraph 62 because the allegations are conjecture and supposition and because there was never a “LNG Export Ban.” Defendants also object to the use

of vague and ambiguous terms like “lobbyist,” “foreign interests,” and “Russian LNG oligarchs” and deny those allegations on that basis. Alternatively, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations about John Podesta’s brother.

63. Defendants admit the allegations in Paragraph 63, except that Defendants deny that there was ever an “LNG Export Ban” in effect. Defendants aver that their January 26, 2024 announcement to defer decisions on pending non-FTA export applications until completion of necessary study updates is not a “rule” under the APA and, therefore, no rulemaking docket was required nor has been opened.

64. Defendants admit that President Biden and DOE announced a temporary pause on final authorizations of LNG-export applications to non-FTA countries on January 26, 2024; however, Defendants deny there was an “LNG Export Ban” in effect and deny the remaining allegations in Paragraph 64.

65. Defendants deny the allegations in Paragraph 65.

66. Defendants deny that there was, or is, an “LNG Export Ban” in effect. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations and deny them on that basis.

67. Defendants deny the allegations in Paragraph 67.

CLAIMS FOR RELIEF

COUNT I

68. Defendants incorporate by reference the responses in the preceding Paragraphs of this Answer as though fully set forth herein.

69. Defendants deny the allegations in Paragraph 69.

70. Defendants deny the allegations in the first sentence in Paragraph 70. As to the second sentence, Defendants deny that an “LNG Export Ban” was, or is, in effect and therefore deny the allegations in the second sentence on that ground. Defendants admit, however, that applicants

requesting authorization to export to non-FTA countries continue to be entitled to have their applications considered (although the NGA does not entitle any applicant to a decision by a date certain) and that there is a presumption that applications are in the public interest unless DOE finds a particular application is inconsistent with the public's interest.

71. Defendants admit that the quoted language in Paragraph 71 is from 5 U.S.C. § 706(2)(A) & (C) of the APA; however, the quoted language does not reflect the entire language found in those sections.

72. Defendants deny the allegations in Paragraph 72.

73. Defendants deny the allegations in Paragraph 73.

74. Defendants deny the allegations in Paragraph 74, including that there was ever an “LNG Export Ban” in effect.

COUNT II

75. Defendants incorporate by reference the responses in the preceding Paragraphs of this Answer as though fully set forth herein.

76. The allegations in Paragraph 76 constitute Plaintiff's interpretation of the U.S. Constitution's Commerce Clause, which requires no response. The U.S. Constitution is the best evidence of its contents. To the extent the allegations conflict with the U.S. Constitution, they are denied.

77. Defendants deny the allegations in Paragraph 77.

78. The allegations in the first sentence of Paragraph 78 are vague and ambiguous, and therefore Defendants deny the allegations on that ground. As to the second sentence, Defendants admit that they lack the authority to create new law but deny that Defendants are “regulat[ing] foreign commerce without congressional authorization.” Defendants aver that Congress has granted DOE the authority to regulate LNG exports to non-FTA countries. The remaining allegations in Paragraph 78

are denied.

79. Paragraph 79 is Plaintiff's characterization of its claim, which requires no response. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations.

COUNT III

80. Defendants incorporate by reference the responses in the preceding Paragraphs of this Answer as though fully set forth herein.

81. Defendants admit that Paragraph 81 correctly quotes 5 U.S.C. § 706(2)(D) of the APA.

82. Defendants admit that the first sentence of 5 U.S.C. § 553(c) states "After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation."

83. Defendants admit that the APA's notice-and-comment procedures, where appropriate, are designed to allow public participation and ensure informed decision-making by the agency; however, Defendants aver that DOE's update and pause, which were not a rule, did not trigger the APA's notice-and-comment procedures.

84. Defendants admit that the APA's notice-and-comment procedures, where appropriate, are designed to allow public participation and ensure informed decision-making by the agency; however, Defendants aver that DOE's update and pause, which were not a rule, did not trigger the APA's notice-and-comment procedures.

85. Defendants deny the allegations in Paragraph 85.

86. Defendants deny the allegations in Paragraph 86.

87. Defendants deny the allegations in Paragraph 87.

88. Defendants deny the allegations in Paragraph 88.

89. Defendants deny the allegations in Paragraph 89.

90. Defendants deny the allegations in Paragraph 90.

91. Defendants deny the allegations in Paragraph 91.

92. Defendants deny the allegations in Paragraph 92.

COUNT IV

93. Defendants incorporate by reference the responses in the preceding Paragraphs of this Answer as though fully set forth herein.

94. Defendants admit that the quoted language in Paragraph 94 is from 5 U.S.C. §§ 706(2)(A) & (C) of the APA; however, the quoted language does not reflect the entire language found in those sections.

95. Defendants admit the allegations in Paragraph 95 with the caveat that agencies, for example, may also exercise, by delegation, authority vested in the President by Article II of the Constitution.

96. Paragraph 96 contains general legal conclusions with no cited or quoted sources, and Defendants deny Paragraph 96 on that ground. Alternatively, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations.

97. Paragraph 97 contains general legal conclusions with no cited or quoted sources, and Defendants deny Paragraph 97 on that ground. Alternatively, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations.

98. Paragraph 98 contains general legal conclusions with no cited or quoted sources, and Defendants deny Paragraph 98 on that ground. Alternatively, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations.

99. Defendants admit that LNG exports “account for billions of dollars to the economy and thousands of jobs; can significantly affect the geopolitical climate; present issues of national

security; and has been the subject of proposed legislation and public attention in and outside of Congress.” Defendants deny the remaining allegations in Paragraph 99.

100. Defendants deny the allegations in Paragraph 100, including that there is, or ever was, an “LNG Export Ban.”

COUNT V

101. Defendants incorporate by reference the responses in the preceding Paragraphs of this Answer as though fully set forth herein.

102. Defendants deny the allegations in Paragraph 102, including that there is, or ever was, an “LNG Export Ban.”

103. Defendants deny the allegations in Paragraph 103, including that there is, or ever was, an “LNG Export Ban.”

104. Paragraph 104 is Plaintiff’s characterization of its claim, which requires no response. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations.

COUNT VI

105. Defendants incorporate by reference the responses in the preceding Paragraphs of this Answer as though fully set forth herein.

106. The allegations in Paragraph 106 constitute Plaintiff’s interpretation of the U.S. Constitution, which requires no response. The U.S. Constitution is the best evidence of its contents. To the extent the allegations conflict with the U.S. Constitution, they are denied.

107. Defendants deny the allegations in Paragraph 107, including that there is, or ever was, an “LNG Export Ban.”

108. Defendants deny the allegations in Paragraph 108.

COUNT VII

109. Defendants incorporate by reference the responses in the preceding Paragraphs of this Answer as though fully set forth herein.

110. Defendants admit the allegations in Paragraph 110.

111. The first, second, and third sentences in Paragraph 111 contain general legal conclusions with no cited or quoted sources, and Defendants deny Paragraph 111 on that ground. Alternatively, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in these sentences. Defendants deny the allegations in the fourth and fifth sentences in Paragraph 111, including that there is, or ever was, an “LNG Export Ban.”

112. Paragraph contains general legal conclusions with no cited or quoted sources, and Defendants deny Paragraph 112 on that ground. Alternatively, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore deny them.

113. Defendants deny the allegations in Paragraph 113, including that there is, or ever was, an “LNG Export Ban.”

114. Defendants deny the allegations in Paragraph 114.

115. The first sentence in Paragraph 115 contains general legal conclusions with no cited or quoted sources, and Defendants deny Paragraph 115 on that ground. Alternatively, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in that sentence, and therefore deny them. Defendants deny the allegations in the second sentence in Paragraph 115, including that there is, or ever was, an “LNG Export Ban.”

116. Defendants deny the allegations in Paragraph 116, including that there is, or ever was, an “LNG Export Ban.”

117. The first sentence of Paragraph 117 contains general legal conclusions with no cited or quoted sources, and Defendants deny Paragraph 117 on that ground. Alternatively, Defendants are

without knowledge or information sufficient to form a belief as to the truth of the allegations in that sentence. Defendants deny the remaining allegations in Paragraph 117, including that there is, or ever was, an “LNG Export Ban.”

118. Defendants deny the allegations in Paragraph 118 including that there is, or ever was, an “LNG Export Ban.”

119. The first sentence in Paragraph 119 contains general legal conclusions with no cited or quoted sources, and Defendants deny Paragraph 119 on that ground. Alternatively, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in that sentence. Defendants deny the remaining allegations in Paragraph 119, including that there is, or ever was, an “LNG Export Ban.”

120. The first sentence in Paragraph 120 contains general legal conclusions with no cited or quoted sources, and Defendants deny Paragraph 120 on that ground. Alternatively, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in that sentence. As to the second and third sentences, Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and deny them on that basis. Defendants deny the remaining allegations in Paragraph 120, including that there is, or ever was, an “LNG Export Ban.”

121. The first sentence in Paragraph 121 contains general legal conclusions with no cited or quoted sources, and Defendants deny Paragraph 121 on that ground. Alternatively, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in that sentence. Defendants deny the remaining allegations in Paragraph 121, including that there is, or ever was, an “LNG Export Ban.”

122. The first sentence in Paragraph 122 contains general legal conclusions with no cited or quoted sources, and Defendants deny Paragraph 122 on that ground. Alternatively, Defendants are

without knowledge or information sufficient to form a belief as to the truth of the allegations in that sentence. Defendants deny the remaining allegations in Paragraph 122, including that there is, or ever was, an “LNG Export Ban.”

123. Defendants deny the allegations in Paragraph 123, including that there is, or ever was, an “LNG Export Ban.”

124. Defendants deny the allegations in Paragraph 124, including that there is, or ever was, an “LNG Export Ban.”

COUNT VIII

125. Defendants incorporate by reference the responses in the preceding Paragraphs of this Answer as though fully set forth herein.

126. Defendants admit that the quoted language in Paragraph 126 is from 5 U.S.C. § 706(1) of the APA but does not reflect the entire language found in that section.

127. Paragraph 127 contains general legal conclusions with no cited or quoted sources, and Defendants deny Paragraph 119 on that ground. Alternatively, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in that sentence.

128. As to the first sentence in Paragraph 128, Defendants admit that DOE has interpreted 15 U.S.C. § 717b as creating a rebuttable presumption that a proposed export of natural gas is in the public interest unless DOE finds that the export will not be consistent with the public interest. Defendants deny the remaining allegations in Paragraph 128, including that there is, or ever was, an “LNG Export Ban.”

PRAYER FOR RELIEF

Plaintiff's Complaint has a prayer for relief requesting various forms of relief. To the extent a response is required, Defendants deny that Plaintiff is entitled to the requested relief or to any other judgment or relief in their favor.

DEFENDANTS' AFFIRMATIVE DEFENSES

Defendants state the following affirmative defenses:

1. Plaintiff lacks standing as to some or all of its claims.
2. The Court lacks subject matter jurisdiction over Plaintiff's claims due to the exclusive jurisdiction of the courts of appeals under the Natural Gas Act.
3. The Court lacks subject matter jurisdiction over Plaintiff's claim under Section 706(2) of the APA (Counts I, III, IV, VII) for lack of final agency action.
4. Plaintiff's claims fail to state a claim upon which relief may be granted.

Respectfully submitted this 10th day of September, 2024.

TODD KIM
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

/s/ J. Scott Thomas

J. SCOTT THOMAS
KATHARINE LAUBACH
MAGGIE WOODWARD
Trial Attorneys
Natural Resources Section
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Telephone: (202) 514-3553 (Thomas)
Telephone: (202) 305-8568 (Laubach)
Telephone: (202) 305-4224 (Woodward)
jeffrey.thomas2@usdoj.gov
katharine.laubach@usdoj.gov
maggie.woodward@usdoj.gov

THOMAS SNODGRASS
JEFFREY CANDRIAN
Trial Attorneys
Natural Resources Section
999 18th St., South Terrace, Suite 370

Denver, Colorado 80202
Ph: 303-844-1382 (Candrian)
Email: Jeffrey.candrian@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2024, I electronically filed **Defendants' Answer** with the Clerk of Court using the ECF system, which will automatically send email notification to the attorneys of record.

/s/ J. Scott Thomas
JEFFREY SCOTT THOMAS