

**BEFORE THE UNITED STATES MARITIME ADMINISTRATION**

---

**PETITION TO HALT THE APPROVAL OF  
DEEPWATER PORT INFRASTRUCTURE LICENSES  
AS CONTRARY TO NATIONAL INTEREST**

**NOVEMBER 10, 2022**

*Submitted by*

**290 ENVIRONMENTAL JUSTICE, CLIMATE, CONSERVATION,  
PUBLIC HEALTH, INDIGENOUS, FAITH-BASED, AND  
COMMUNITY ORGANIZATIONS**

---

“There is little time left to avoid setting the world on a dangerous, potentially catastrophic, climate trajectory....we face a climate crisis that threatens our people and communities, public health and economy, and, starkly, our ability to live on planet Earth.... We must listen to science — and act....It is the policy of my Administration to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy...”

President Joe Biden, Tackling the Climate Crisis at Home and Abroad,  
Exec. Order No. 14,008, (Jan. 27, 2021)

**Table of Contents**

I. Executive Summary .....1

II. Notice of Petition .....3

III. Legal Framework .....4

IV. Basis for Action .....6

    A. Fossil fuels must be phased out to meet the Paris Agreement’s goal of limiting warming to 1.5°C .....6

    B. The approval of new deepwater ports is not in the national interest and is inconsistent with national security and other national policy goals and objectives set by the Biden administration.....8

V. Case Studies .....15

    A. Seaport Oil Terminal Deepwater Port Project .....15

    B. Bluewater Deepwater Port Terminal .....17

VI. Conclusion .....19

References

Appendix

## I. Executive Summary

The climate emergency is wreaking havoc on our nation and the world through devastating fires, worsening droughts, heat waves, superstorms, sea level rise, species extinction, and many other harms. President Biden pledged to follow the science and tackle the climate crisis with the urgency it demands, directing all federal agencies to take the actions necessary to avert the most catastrophic impacts, redress environmental racism, respect Tribal sovereignty and U.S. treaty obligations, and advance climate justice.

The science shows that warming must be kept below 1.5 degrees Celsius (°C) to avoid truly apocalyptic climate disruption, and that every additional increment of warming brings increasing devastation. The Intergovernmental Panel on Climate Change (“IPCC”) Assessment Reports established the maximum remaining amount of carbon dioxide that can be emitted to maintain a chance of meeting the 1.5°C Paris Agreement climate limit, known as the “carbon budget.” Because 85% of U.S. greenhouse gas (“GHG”) emissions stem from oil, gas, and coal, limiting warming and meeting the carbon budget means limiting fossil fuels.

Issuing permits to construct and operate new deepwater ports<sup>1</sup> to import or export oil and liquified gas does just the opposite. Indeed, upon the release of the IPCC’s most recent reports, the UN Secretary-General stated that the global climate emergency presents a “code red for humanity”<sup>2</sup> and “[i]nvesting in new fossil fuels infrastructure is moral and economic madness.”<sup>3</sup> In addition to fueling the climate crisis, new deepwater ports and their associated infrastructure harm sensitive ecosystems and coastlines, ocean waters, and frontline communities that have long-been treated as sacrifice zones for the fossil fuel industry. Deepwater ports induce more drilling and fracking, cause hazardous air and water pollution, destroy sensitive habitat for endangered wildlife, and cause yet more oil spills and other accidents. The Inflation Reduction Act (“IRA”) has been advertised as a ‘climate bill’ advancing the President’s objectives and pledge.<sup>4</sup> However, it failed to consider or calculate the emissions from numerous proposed oil and gas export projects currently in the licensing review process when determining whether climate mitigation goals can be met. Thus, MARAD must assess the resulting induced oil production, decades more of fossil fuel dependence and associated emissions when evaluating proposed deepwater ports. Otherwise, it will be impossible to meet the climate mitigation objectives of the IRA.

Accordingly, Petitioners request the Secretary of Transportation, through the Maritime Administration (“MARAD”), exercise its authority under the Deepwater Port Act (“DWPA”) in a manner consistent with existing law, science, and the President’s directive to respond to the climate emergency, stay within the carbon budget, and advance environmental justice. This

---

<sup>1</sup> A deepwater port is “any fixed or floating manmade structure other than a vessel, or any group of such structures, that [is] located beyond State seaward boundaries and that [is] used or intended for use as a port or terminal for the transportation, storage, or further handling of oil or natural gas for transportation to or from any State....” 33 U.S.C. § 1502(9)(a).

<sup>2</sup> United Nations Secretary-General, *Secretary-General’s statement on the IPCC Working Group I Report on the Physical Science Basis of the Sixth Assessment* (Aug. 9, 2021), <https://www.un.org/sg/en/content/secretary-generals-statement-the-ipcc-working-group-1-report-the-physical-science-basis-of-the-sixth-assessment>.

<sup>3</sup> United Nations Secretary-General, *Secretary-General Warns of Climate Emergency, Calling Intergovernmental Panel’s Report ‘a File of Shame’, While Saying Leaders ‘Are Lying’, Fuelling Flames* (Apr. 4, 2022), <https://press.un.org/en/2022/sgsm21228.doc.htm>.

<sup>4</sup> Pub. L. No.117-169 (2022).

petition requests that MARAD decline the issuance of deepwater port licenses including the Blue Marlin Offshore Port, Bluewater Texas Terminals, New Fortress Energy Louisiana FLNG, Texas GulfLink, Sea Port Oil Terminal (“SPOT”), and West Delta LNG and all other future proposed projects under the DWPA because they are contrary to national interest, national security and policy goals.<sup>5</sup> Additionally, we request that a programmatic environmental impact statement be prepared for all proposed deepwater port infrastructure in the Gulf of Mexico.

The DWPA sets forth a licensing system for ownership, construction, operation, and decommissioning of deepwater port structures for the import and export of oil and natural gas.<sup>6</sup> The DWPA requires that applications for deepwater port structures meet eight conditions for approval including that the project conform with national environmental laws<sup>7</sup> and be in the “national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency and environmental quality.”<sup>8</sup> Congress emphasized that the national interest, as far as energy policy is concerned, encourages imports and retaining domestically produced oil to bolster the nation’s “energy sufficiency.”<sup>9</sup> The six pending deepwater projects before MARAD purport to do just the opposite.

It is overwhelmingly clear that new fossil fuel infrastructure projects, including deepwater ports, are contrary to the national interest and inconsistent with the national policy goals of addressing the climate emergency.<sup>10</sup> The United States is the world’s largest oil and gas producer and a dominant driver of global fossil fuel expansion.<sup>11</sup> At current emission levels, the world will exceed the global carbon budget in just 10 years.<sup>12</sup> To meet the carbon budget to avoid exceeding 1.5°C, there can be no new fossil fuel infrastructure or production, and existing fossil fuel production and infrastructure must be rapidly phased out with more urgent action than currently underway.<sup>13</sup>

Fossil fuel production and infrastructure disproportionately harm Black, Brown, Indigenous and low-income communities in many ways and at every phase of the fossil fuel lifecycle. The onshore infrastructure that supports deepwater ports, such as terminals and pipelines, are very often concentrated in and directly harm communities that are already overburdened with air and water pollution, disproportionately high health risks and harms, destruction of natural resources, depression of property values, and other negative impacts.<sup>14</sup> The unequal siting of dirty fossil

---

<sup>5</sup> 33 U.S.C. § 1503(c).

<sup>6</sup> *Id.* § 1501(a).

<sup>7</sup> A deepwater port cannot be approved if the Environmental Protection Agency informs MARAD that the project is non-compliant with national environmental laws including but not limited to the Clean Water Act, Clean Air Act, and Marine Protection, Research, and Sanctuaries Act. *Id.* § 1503(c)(6).

<sup>8</sup> *Id.* § 1503(c).

<sup>9</sup> *Id.* §§ 1501(a)(5-6), 1503(c)(3), 1505.

<sup>10</sup> Exec. Order No. 14,008, 86 Fed Reg. 7619, 7622 (Feb 1, 2021) (Sec. 201).

<sup>11</sup> Oil Change Int’l, *Drilling Toward Disaster: Why U.S. Oil and Gas Expansion Is Incompatible with Climate Limits* (2019), <http://priceofoil.org/drilling-towards-disaster>.

<sup>12</sup> Dan Calverley & Kevin Anderson, *Phaseout Pathways for Fossil Fuel Production Within Paris-compliant Carbon Budgets* (2022),

[https://www.research.manchester.ac.uk/portal/files/213256008/Tyndall\\_Production\\_Phaseout\\_Report\\_final\\_text\\_3\\_.pdf](https://www.research.manchester.ac.uk/portal/files/213256008/Tyndall_Production_Phaseout_Report_final_text_3_.pdf) [hereinafter *Tyndall Report*].

<sup>13</sup> *Id.*

<sup>14</sup> See, e.g., Robert D. Bullard et al., *Toxic Wastes and Race at Twenty: 1987-2007* (2007),

<http://www.ejnet.org/ej/twart.pdf>; Adrian Wilson et al., NAACP, Indigenous Env’t Network & Little Village Env’t

fuel infrastructure and its resulting pollution has led to disproportionate and serious health harms particularly to communities of color.<sup>15</sup> Moreover, the harms of climate change—driven by these fossil fuel projects—most directly and severely harm these very same communities.<sup>16</sup>

The fossil fuel industry is exacerbating the climate crisis which has already led to more frequent and intense heat waves, floods, and droughts; more destructive hurricanes and wildfires; rising seas and coastal erosion; increased spread of disease; food and water insecurity; acidifying oceans; and increasing species extinction risk and the collapse of ecosystems. It is killing people across the nation and around the world, accelerating the extinction crisis, and costing the U.S. economy billions in damages every year. New fossil fuel infrastructure, such as deepwater ports, only increase these harms and exhaust the carbon budget. Every fraction of additional warming will worsen harms caused by climate change, threatening people's lives, health, safety, and livelihoods; as well as threaten the economy and national security for this generation and future generations.<sup>17</sup> Now is the time to shift to clean renewable energy sources and this cannot be done if our nation continues to invest in and expand fossil fuel production.

## II. Notice of Petition

Pursuant to the right to petition the government guaranteed by the Administrative Procedure Act, including Title 5 of the United States Code, Section 553(e) and 555(b), and the First Amendment to the Constitution of the United States, the undersigned organizations hereby petition the U.S. Department of Transportation, the U.S. Maritime Administration, and the Secretary of Transportation to institute an immediately stop the the issuance of deepwater port licenses for all currently and future proposed deepwater port structures and provide a programmatic EIS for all deepwater port infrastructure proposed in the Gulf of Mexico.

Due to the grave urgency of the climate crisis, Petitioners request an acknowledgement of receipt and initial response to this petition within 30 days. Should MARAD unlawfully withhold or unreasonably delay its response to this petition, Petitioners may resort to the judiciary to compel agency action. 5 U.S.C. § 706(1).

## III. Legal Framework

---

Just. Org., *Coal Blooded: Putting Profits Before People* (2012), <https://naacp.org/resources/coal-blooded-putting-profits-people>; Lesley Fleischman & Marcus Franklin, Clean Air Task Force & NAACP, *Fumes Across the Fence-Line: The Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities* (2017), <https://www.catf.us/wp-content/uploads/2017/11/catf-rpt-naacp-4.21.pdf>; Tim Donaghy & Charlie Jiang, Greenpeace, Gulf Coast Ctr. for Law & Pol'y, Red, Black & Green Movement & Movement for Black Lives, *Fossil Fuel Racism* (2021), <https://www.greenpeace.org/usa/wp-content/uploads/2021/04/Fossil-Fuel-Racism.pdf>.

<sup>15</sup> Donaghy & Jiang, *supra* note 14.

<sup>16</sup> U.S. EPA, *Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts* (2021), [https://www.epa.gov/system/files/documents/2021-09/climate-vulnerability\\_september-2021\\_508.pdf](https://www.epa.gov/system/files/documents/2021-09/climate-vulnerability_september-2021_508.pdf).

<sup>17</sup> See, e.g., Intergovernmental Panel on Climate Change, *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 strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty* (V. Masson-Delmotte et al. eds., 2018), <https://www.ipcc.ch/sr15/> [hereinafter IPCC, *Global Warming of 1.5°C*].

In June 2003, the Secretary of Transportation authorized the Maritime Administration (“MARAD”) to carry out the role of licensing deepwater ports.<sup>18</sup> The DWPA establishes the licensing process for the ownership, construction, operation, and decommissioning of deepwater port structures for the import and export of oil and natural gas.<sup>19</sup> The licensing process is a five step 365-day process that begins when the applicant submits their application and ends when MARAD issues a record of decision (“ROD”).<sup>20</sup> The five-step process includes; (1) notice of application, (2) notice of intent to prepare an environmental impact statement, (3) NEPA review, (4) comment periods for the public, Governor(s) of adjacent coastal state(s), and federal agencies, and (5) issuance of a record of decision.

NEPA review requires agencies to fully disclose all potential environmental impacts of an action, including the “ecological . . . aesthetic, historic, cultural, economic, social, [and] health” effects.<sup>21</sup> An environmental impact statement (“EIS”) must include a “full and fair discussion” of direct and indirect environmental impacts.<sup>22</sup> This includes “considering all foreseeable direct and indirect impacts.”<sup>23</sup> These effects must be considered “whether direct, indirect, or cumulative.”<sup>24</sup> NEPA’s implementing regulations specifically call for a programmatic EIS in certain circumstances. As explained by the NEPA regulations, “[e]nvironmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations. Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking.”<sup>25</sup> The regulations advise that when preparing programmatic EISs, agencies can evaluate the action using a few different criteria, for example, “[g]eographically, including actions occurring in the same general location, such as a body of water, region, or metropolitan area,” as well as “[g]enerically, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.”<sup>26</sup>

According to the DWPA, MARAD may only issue a ROD approving the issuance of a license for a deepwater port if:

- (1) [the Administrator] determines that the applicant is financially responsible and will meet the requirements of section 1016 of the Oil Pollution Act of 1990 [33 U.S.C. § 2716];
- (2) [the Administrator] determines that the applicant can and will comply with applicable laws, regulations, and license conditions;
- (3) [the Administrator] determines that the construction and operation of the

---

<sup>18</sup> Organization and Delegation of Powers and Duties, Update of Secretarial Delegations, 68 Fed. Reg. 36496 (June 18, 2003), <https://www.govinfo.gov/app/details/FR-2003-06-18/03-15400>; Organization and Delegation of Powers and Duties, 81 Fed. Reg. 19817, 19840 (April 5, 2016), <https://www.federalregister.gov/documents/2016/04/05/2016-04230/organization-and-delegation-of-powers-and-duties>.

<sup>19</sup> 33 U.S.C. § 1501(a).

<sup>20</sup> *Licensing Process*, U.S. DOT Mar. Admin., <https://www.maritime.dot.gov/ports/deepwater-ports-and-licensing/licensing-process> (June 18, 2020).

<sup>21</sup> 40 C.F.R. § 1508.8.

<sup>22</sup> 40 C.F.R. § 1502.1.

<sup>23</sup> *N. Alaska Env’t. Ctr. v. Kempthorne*, 457 F.3d 969, 975 (9th Cir. 2006) (citation omitted).

<sup>24</sup> 40 C.F.R. § 1508.8; see *N. Plains Res. Council, Inc.*, 668 F.3d at 1072 (citing 40 C.F.R. § 1508.25(c)).

<sup>25</sup> 40 C.F.R. § 1502.4(b).

<sup>26</sup> *Id.* § 1502.4(c)(1), (2).

deepwater port will be in the *national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency and environmental quality*; (4) [the Administrator] determines that the deepwater port will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law; (5) [the Administrator] determines, in accordance with the environmental review criteria established pursuant to section 6 of this Act [33 U.S.C. § 1505], that the applicant has demonstrated that the deepwater port will be constructed and operated using best available technology, so as to prevent or minimize adverse impact on the marine environment; (6) [the Administrator] has not been informed, within 45 days of the last public hearing on a proposed license for a designated application area, by the Administrator of the Environmental Protection Agency that the deepwater port will not conform with all applicable provisions of the Clean Air Act, as amended [42 U.S.C. §§ 7401 *et seq.*], the Federal Water Pollution Control Act, as amended, or the Marine Protection, Research and Sanctuaries Act, as amended; (7) [the Administrator] has consulted with the Secretary of the Army, the Secretary of State, and the Secretary of Defense, to determine their views on the adequacy of the application, and its effect on programs within their respective jurisdictions; (8) the Governor of the adjacent coastal State or States, pursuant to section 9 of this Act [33 U.S.C. § 1508], approves, or is presumed to approve, issuance of the license; and (9) the adjacent coastal State to which the deepwater port is to be directly connected by pipeline has developed, or is making, at the time the application is submitted, reasonable progress, as determined in accordance with section 9(c) of this Act [33 U.S.C. § 1508(c)], toward developing, an approved coastal zone management program pursuant to the Coastal Zone Management Act of 1972.<sup>27</sup>

While there are many reasons why denial of any individual permit application might be required under these standards, this petition seeks an immediate moratorium on any new deepwater port licenses based on reasons for denial that are common to all of them: the construction and operation of deepwater ports are not in the national interest and are inconsistent with national security and other national policy goals and objectives, including energy sufficiency and environmental quality. Additionally, pursuant to NEPA, this petition requests MARAD to provide a programmatic EIS for all deepwater port infrastructure proposed in the Gulf of Mexico because they occur in the same general location/body of water.

#### **IV. Basis for Action**

##### **A. Fossil fuels must be phased out to meet the Paris Agreement's goal of limiting warming to 1.5°C**

---

<sup>27</sup> 33 U.S.C. § 1503(c) (emphasis added).

In recent years, even as the climate emergency has deepened, MARAD has continued to approve deepwater port projects, willfully ignoring the resulting damage to our climate, and focusing on a narrow subset of supposed benefits. The national interest test requires MARAD to consider fully and fairly a proposed project's effects on the environment. It must consider the contribution of all phases of each project to the already horrific and ongoing climate catastrophe. MARAD must consider that the construction and operation of new deepwater ports will make it impossible to stay below the 1.5°C warming climate limit established in the Paris Agreement and meet the emission reduction goals of the IRA.

The IPCC Assessment Reports identified the maximum remaining amount of carbon dioxide that can be emitted to maintain a chance of meeting the 1.5°C Paris Agreement climate limit, known as the “carbon budget.”<sup>28</sup> These assessments and tens of thousands of other studies make clear that fossil-fuel driven climate change is a “code red for humanity,”<sup>29</sup> and that every additional ton of CO<sub>2</sub> and fraction of a degree of temperature rise matters. Even half a degree of warming above 1.5°C would cause catastrophic damage<sup>30</sup>, harming every facet of national interest.

As UN Secretary-General António Guterres stated upon the release of the IPCC's latest 2022 report:

Climate scientists warn that we are already perilously close to tipping points that could lead to cascading and irreversible climate impacts. But, high emitting Governments and corporations are not just turning a blind eye, they are adding fuel to the flames. They are choking our planet, based on their vested interests and historic investments in fossil fuels, when cheaper, renewable solutions provide green jobs, energy security and greater price stability.... Climate activists are sometimes depicted as dangerous radicals. But, the truly dangerous radicals are the countries that are increasing the production of fossil fuels. Investing in new fossil fuels infrastructure is moral and economic madness....<sup>31</sup>

The vast majority of all CO<sub>2</sub> pollution—85 percent—in the U.S. and globally comes from oil, gas, and coal.<sup>32</sup> To have any chance of maintaining a safe and stable climate, there must be an immediate halt on the approval of new fossil fuel production and infrastructure and a rapid and complete phaseout of all fossil fuel production and infrastructure.<sup>33</sup> The wealthiest of producer

---

<sup>28</sup> Tyndall Report, *supra* note 12.

<sup>29</sup> United Nations Secretary-General, *supra* note 2.

<sup>30</sup> Tyndall Report, *supra* note 12.

<sup>31</sup> United Nations Secretary-General, *supra* note 3.

<sup>32</sup> U.S. Global Change Rsch. Program, *Impacts, Risks, and Adaptation in the United States, Fourth National Climate Assessment, Vol. II* at 60 (Reidmiller et al. eds., 2018), <https://nca2018.globalchange.gov/>; Intergovernmental Panel on Climate Change, Summary for Policymakers, in: *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (V. Masson-Delmotte et al. eds., 2021) at 5-19, <https://www.ipcc.ch/report/sixth-assessment-report-working-group-i>.

<sup>33</sup> Summary for Policymakers, in IPCC, *Global Warming of 1.5°C*, *supra* note 17; Oil Change Int'l, *supra* note 11; Dan Tong et al., *Committed emissions from existing energy infrastructure jeopardize 1.5°C climate target*, 572

nations, such as the United States, must end all oil and gas production by 2031 to preserve a 67% chance of limiting temperature rise to 1.5°C.<sup>34</sup> For a 50% chance of limiting temperature rise to 1.5°C, the U.S. must reduce oil and gas production 74% by 2030 and end production by 2034.<sup>35</sup> The construction of *any* new fossil fuel infrastructure projects, including import and export terminals, is also inconsistent with meeting a 1.5°C limit.<sup>36</sup> Research shows that the committed carbon emissions from *existing* fossil fuel infrastructure in the energy and industrial sectors exceed the carbon budget for limiting warming to 1.5°C, meaning that no new fossil infrastructure can be built, and much existing infrastructure must be *retired early* to avoid catastrophic climate harms.<sup>37</sup> In short, there is no emission space within the IPCC’s carbon budget of 1.5°C for any nation to develop new fossil fuel infrastructure and production facilities of any kind, including deepwater ports.

Critically, fossil fuel infrastructure approvals also lead to carbon lock-in, “whereby prior decisions relating to GHG-emitting technologies, infrastructure, practices, and their supporting networks constrain future paths, making it more challenging, even impossible, to subsequently pursue more optimal paths toward low-carbon objectives.”<sup>38</sup> Once approved and constructed, a variety of incentives exist to continue to operate a fossil fuel infrastructure project—and thus to continue to extract and burn fossil fuels—even when it is not beneficial from an overall investment or policy perspective to do so.<sup>39</sup>

Because of the urgency of climate mitigation, significant harm can come even from small lock-in risks.<sup>40</sup> At the very least, these projects increase the cost of achieving climate goals.<sup>41</sup> One study found a 10-year delay in mitigating emissions to keep warming to 1.5°C is estimated to cost an additional 3.7 trillion dollars per year.<sup>42</sup> The more fundamental harm of carbon lock-in is that if fossil fuel projects are not retired early, avoiding cataclysmic climate damage becomes

---

Nature 373 (2019), <https://www.nature.com/articles/s41586-019-1364-3>; SEI, IISD, ODI, E3G, and UNEP, *The Production Gap: The discrepancy between countries’ planned fossil fuel production and global production levels consistent with limiting warming to 1.5°C or 2°C* (2020), <https://productiongap.org/2020report/>; Sven Teske & Sarah Niklas, *Fossil Fuel Exit Strategy: An orderly wind down of coal, oil and gas to meet the Paris Agreement* (2021), <https://fossilfueltreaty.org/exit-strategy>; Dan Welsby et al., *Unextractable fossil fuels in a 1.5 °C world*, 597 Nature 230 (2021), <https://doi.org/10.1038/s41586-021-03821-8>; Kelly Trout et al., *Existing fossil fuel extraction would warm the world beyond 1.5°C*, 17 Env’t Rsch Letters 064010 (2022), <https://iopscience.iop.org/article/10.1088/1748-9326/ac6228#references>.

<sup>34</sup> Tyndall Report, *supra* note 12.

<sup>35</sup> *Id.* at 6.

<sup>36</sup> Tong et al., *supra* note 33; Alexander Pfeiffer et al., *Committed emissions from existing and planned power plants and asset stranding required to meet the Paris Agreement*, 13 Environmental Research Letters 054019 (2018), <https://iopscience.iop.org/article/10.1088/1748-9326/aabc5f/meta>.

<sup>37</sup> Tong, *supra* note 33.

<sup>38</sup> Peter Erickson et al., *Assessing carbon lock-in*, 10 Environmental Research Letters 084023 (2015), <https://iopscience.iop.org/article/10.1088/1748-9326/10/8/084023/meta>.

<sup>39</sup> Karen Seto et al., *Carbon Lock-In: Types, Causes, and Policy Implications*, 41 Annual Review of Environment and Resources 425 (2016), <https://www.semanticscholar.org/paper/Carbon-Lock-In%3A-Types%2C-Causes%2C-and-Policy-Seto-Davis/4ff57e5d97b44f8ef06e71fc34cd945cb2f0629a>; Erickson et al., *supra* note 38; Intergovernmental Panel on Climate Change, *Climate Change 2014: Mitigation of Climate Change. Contribution of Working Group III to the Fifth Assessment Report* (Edenhofer et al. eds., 2014) at 18, [https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc\\_wg3\\_ar5\\_full.pdf](https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_full.pdf).

<sup>40</sup> Seto et al., *supra* note 39.

<sup>41</sup> *Id.*

<sup>42</sup> Marshall Burke et al., *Global Non-linear Effect of Temperature on Economic Production*, 527 Nature 235 (2015) at 5, <https://www.nature.com/articles/nature15725>.

impossible.<sup>43</sup> Issuing permits for new deepwater ports to import and export oil and liquified gas will contribute substantially to carbon lock-in.

The harms of climate change—which are primarily driven by fossil fuel projects—most directly and severely harm Black, Brown, Indigenous, and low-income communities.<sup>44</sup> A 2021 EPA analysis concluded that communities of color are particularly vulnerable to the greatest impacts of climate change including health harms, heatwaves, poor air quality, and flooding.<sup>45</sup> For example, with 2°C of global warming—exceeding the carbon budget and Paris Agreement—Black Americans are 34% more likely to live in areas with the highest projected increases in childhood asthma diagnosis and 40% more likely to live in areas with the highest projected increases in extreme temperature related deaths.<sup>46</sup> With 2°C of global warming, Hispanic and Latino Americans are 43% more likely to live in areas with the highest projected reductions in labor hours due to extreme temperatures.<sup>47</sup>

Congress emphasized that the national interest, as far as energy policy is concerned, encourages imports and retaining domestically produced oil to bolster the nation’s “energy sufficiency.” The six pending deepwater projects for the export of LNG and VLCCs before MARAD purport to do just the opposite. The licensing of a new generation of fossil fuel projects is inconsistent with maintaining a livable planet and the pursuit of environmental justice. With rising sea levels, unprecedented droughts, devastating wildfires, and catastrophic hurricane activity, all caused and worsened by climate change, there is no rational basis upon which MARAD can conclude that *any* new licenses for deepwater ports would be in the national interest.

**B. The approval of new deepwater ports is not in the national interest and is inconsistent with national security and other national policy goals and objectives set by the Biden administration**

According to the DWPA, MARAD must consider the degree to which a proposed deepwater port may affect the environment when deciding if issuance of a permit for a deepwater port best serves the national interest.<sup>48</sup> The environmental criteria that MARAD must consider includes evaluating applications for:

- (1) the effect on marine environment;
- (2) the effect on oceanographic currents and wave patterns,
- (3) the effect on alternate uses of the oceans and navigable waters, such as scientific study, fishing, and exploitation of other living and nonliving resources;
- (4) the potential dangers to a deepwater port from waves, winds, weather, and geological conditions, and the steps which can be taken to protect against or minimize such dangers;
- (5) effects of land-based developments related to deepwater port development;
- (6) the

---

<sup>43</sup> Tong et al. 2019, *supra* note 36; *See also* Exec. Off. of the President of the United States, *The Cost of Delaying Action to Stem Climate Change* (2014) at 9, [https://scholar.harvard.edu/files/stock/files/cost\\_of\\_delaying\\_action.pdf](https://scholar.harvard.edu/files/stock/files/cost_of_delaying_action.pdf).

<sup>44</sup> Donaghy & Jiang, *supra* note 14.

<sup>45</sup> U.S. EPA, *supra* note 16.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> 33 U.S.C. § 1504(i)(3).

effect on human health and welfare; and (7) such other considerations as the Secretary deems necessary or appropriate.<sup>49</sup>

Deepwater ports have many negative impacts on marine life and critical habitat of endangered species. Construction and operation of these facilities adversely impact protected species through noise pollution, discharge of toxic chemicals, and physical habitat disturbance/alteration.<sup>50</sup> Waste from ships and other port activities can result in loss or degradation of habitat areas and harm to marine life.<sup>51</sup> Additionally, marine animals can be taken into ships and then transported to new habitats where they may become invasive species and introduce new diseases.<sup>52</sup> Ships and other vessels also run over, injure, and kill a variety of marine animals.<sup>53</sup> For example, the Rice's whale, which is one of the most endangered marine mammals on Earth, faces a substantial risk of harm from ship strikes that could lead to death due to the significant amount of time it spends near the surface of the water.<sup>54</sup> One tagged whale, spent 70 percent of its time over an entire day within 15 meters of the surface; and 88 percent of nighttime hours—hours when it would not be easily visible to vessels—near the surface.<sup>55</sup> Proposed projects currently being reviewed by MARAD such as SPOT, a project further explained in Section IV of this petition, fails to consider the impacts on this endangered species stating that the whale does not exist in the project area. But, a scientific paper released this year based on long-term passive acoustic recordings of the Rice's whales demonstrates that “some whales persistently occur over a broader range in the [Gulf of Mexico] than previously understood”<sup>56</sup> indicating that whales are persistently found in the Western Gulf of Mexico with sightings that include waters off the coast of Texas.<sup>57</sup>

---

<sup>49</sup> 33 U.S.C. § 1505(a).

<sup>50</sup> *Ports Primer: 7.1 Environmental Impacts*, U.S. EPA, <https://www.epa.gov/community-port-collaboration/ports-primer-71-environmental-impacts> (Jan. 13, 2022); United Nations Econ. And Soc. Comm'n for Asia and the Pacific, *Assessment of the Environmental Impact of Port Development* (1992), [https://www.unescap.org/sites/default/files/pub\\_1234\\_fulltext.pdf](https://www.unescap.org/sites/default/files/pub_1234_fulltext.pdf).

<sup>51</sup> *Ports Primer*, *supra* note 50.

<sup>52</sup> *Id.*

<sup>53</sup> See, e.g., Julia Hazel & Emma Gyuris, *Vessel-related mortality of sea turtles in Queensland, Australia*, 33 *Wildl. Res.* 149 (2006), [https://www.researchgate.net/publication/248883553\\_Vessel-related\\_mortality\\_of\\_sea\\_turtles\\_in\\_Queensland\\_Australia](https://www.researchgate.net/publication/248883553_Vessel-related_mortality_of_sea_turtles_in_Queensland_Australia); Kristen M. Hart et al., *Marine threats overlap key foraging habitat for two imperiled sea turtle species in the Gulf of Mexico*, 5 *Front. Mar. Sci.* 336 (2018), <https://www.frontiersin.org/articles/10.3389/fmars.2018.00336/full>; R. Cotton Rockwood, John Calambokidis & Jaime Jahncke, *High mortality of blue, humpback and fin whales from modeling of vessel collisions on the U.S. West Coast suggests population impacts and insufficient protection*, 22(8) *PLOS ONE* e0183052 (2017), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0183052>.

<sup>54</sup> Melissa Soldevilla et al., *Spatial distribution and dive behavior of Gulf of Mexico Bryde's whales: potential risk of vessel strikes and fisheries interactions*, 32 *Endang. Species Rsch.* 533 (2017) (Prior to 2021, the Rice's whale was thought to be a distinct subspecies of Bryde's whales, known as the Gulf of Mexico Bryde's whale), <https://repository.library.noaa.gov/view/noaa/16050>.

<sup>55</sup> *Id.*

<sup>56</sup> Soldevilla et al., *Rice's whales in the northwestern Gulf of Mexico: call variation and occurrence beyond the known core habitat*, 48 *Endang. Species Res.* 155 (2022), <https://www.int-res.com/articles/esr2022/48/n048p155.pdf>, [hereinafter “Soldevilla et al. 2022”]; see also Rosel et al., *Status review of Bryde's whales (Balaenoptera edeni) in the Gulf of Mexico under the Endangered Species Act*, NOAA Tech. Memo NMFSEFSC- 692 (2016). [https://media.fisheries.noaa.gov/dam-migration/nmfs\\_sefsc\\_tm\\_692\\_\(1\).pdf](https://media.fisheries.noaa.gov/dam-migration/nmfs_sefsc_tm_692_(1).pdf).

<sup>57</sup> Soldevilla et al. 2022, *supra* note 56 (noting that this new information “[i]n combination with a 2017 sighting of a genetically identified Rice's whale at the shelf break off Corpus Christi, Texas . . . provide evidence for the persistent occurrence of some Rice's whales over a broader distribution in the GOM than previously understood[.]”).

Port activities and port construction associated with deepwater ports can cause changes to current patterns and littoral drifts due to alteration of wave refraction, diffraction and reflection.<sup>58</sup> Corrosion and leakage of pipelines poses the risk of exposing deep-sea fauna to potentially damaging pollution.<sup>59</sup> The onshore and offshore activities associated with the operation and construction of deepwater port infrastructure cause changes in river flow and waterfront drainage and accelerate sediment deposition in stagnant water causing contamination of the sea bottom affecting habitat.<sup>60</sup> Additionally, the placement of infrastructure on the seafloor, such as anchors and pipelines, directly disturbs the seabed and causes an increase in local sedimentation.<sup>61</sup> The impact of anchors in the deep sea is of greatest concern in biogenic habitats, such as those formed by corals and sponges, which are fragile and have low resilience to physical forces.<sup>62</sup> Furthermore, potential impacts on seabed communities can result from both the chemical toxicants and the physical disturbance.<sup>63</sup> Reduction in oxygen concentration, organic enrichment, increased hydrocarbon concentrations, and increased metal abundance can alter biogeochemical processes and generate hydrogen sulfide and ammonia.<sup>64</sup>

Furthermore, deepwater port structures risk hundreds of oil spills over their lifetime in offshore waters alone. Oil spills caused by the leakage of underwater pipelines are well-known to adversely affect marine life.<sup>65</sup> The most sensitive habitats that could be at great risk of oil contamination are coral reefs, mangroves, and saltmarshes.<sup>66</sup> These rich ecological habitats provide coastal protection and feeding/nursery grounds for many invertebrate and fish species.<sup>67</sup> When oil is spilled at sea, it is transported to the shoreline, and after its arrival, its behavior and physicochemical characteristics change because of natural weathering phenomena, often worsening the situation.<sup>68</sup> Exposure to spilled oil can affect organisms externally through the skin or internally via direct inhalation and ingestion.<sup>69</sup> Animals most affected by oil are seabirds, turtles, and marine mammals (*e.g.*, sea otters and seals).<sup>70</sup> Beyond the impacts to marine life and on-shore ecosystems, there are also many other challenges, such as local community resilience to spills and communication gaps, which can hinder the remediation of oil spills.<sup>71</sup>

Noise pollution from deepwater ports and infrastructure is also of particular concern. Because of the vast spatial extent of noise underwater, direct or indirect noise impacts to marine mammals are often the most pressing management concern for such projects.<sup>72</sup> Noise exposure can lead to

---

<sup>58</sup>United Nations Econ. And Soc. Comm'n for Asia and the Pacific, *supra* note 50 at 9.

<sup>59</sup> Erick E. Cordes, et. al, *Environmental Impacts of the Deepwater Oil and Gas Industry: A Review to Guide Management Strategies*, 4 *Frontiers in Env't Sci.* 58 (2016), <https://doi.org/10.3389/fenvs.2016.00058>.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Zunaira Asif et al., *Environmental Impacts and Challenges Associated with Oil Spills on Shorelines*, 10 *J. Mar. Sci. Eng.* 762 (2022) <https://doi.org/10.3390/jmse10060762>.

<sup>66</sup> *Id.* at 3.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.* at 1-2.

<sup>69</sup> *Id.* at 2.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> Robert J. Urick, *Principles of Underwater Sound* (1986); Arthur A. Myrberg, Jr., *The effects of man-made noise on the behavior of marine animals*, 16 *Environmental International* 575 (1990), <https://www.sciencedirect.com/science/article/pii/0160412090900285>; W. John Richardson et al., *Marine Mammals and Noise* (1995).

auditory injury and chronic sub-lethal stress responses in marine mammals.<sup>73</sup> The U.S. Marine Mammal Protection Act (“MMPA”) has specific provisions that regulate noise exposure to marine mammals, with thresholds for harassment for both impulsive sounds and continuous sounds.<sup>74</sup> However, the scientific community recognizes that the existing statutory thresholds for impulsive and continuous noise sources may oversimplify cetacean responses to and impacts from anthropogenic noise,<sup>75</sup> as animals do not react uniformly to different anthropogenic sound levels. Consequently, even these statutory threshold noise levels may be insufficient to protect marine mammals from risk or harm.

Deepwater ports rely on the construction and operation of onshore infrastructure such as terminals and pipelines, all of which are major sources of air pollutants that affect the health of people living in nearby communities and contribute to regional air pollution problems.<sup>76</sup> For example, deepwater ports depend on onshore terminals which include pumps, storage tanks, vapor combustion units, metering equipment, firewater system and ponds, electrical substation and utilities, warehouses, support buildings; onshore pipelines with their ancillary facilities; and trucks, vessels and other heavy machinery for construction and operation. Mobile and stationary emission sources associated with the onshore and offshore operation of deepwater ports include onshore terminals, pipelines, trucks, marine vessels, locomotives, cargo handling equipment, refineries, and storage facilities.<sup>77</sup> The major air pollutants emitted by port activities that can affect human health include diesel exhaust, particulate matter, nitrogen oxides, sulfur oxides, ozone, carbon monoxide, heavy metals, dioxins, and volatile organic compounds.<sup>78</sup> Pollution from ships burning dirty bunker fuel and trucks, trains and port equipment burning diesel significantly impacts local residents and harms air quality throughout the region.

Impacts to water and air quality present harms to nearby residents of the onshore infrastructure that accompanies deepwater ports, including premature mortality, heart and lung disease, increased cancer risk and respiratory symptoms.<sup>79</sup> This can be demonstrated by the Brazoria County/Houston area downgrade to serious nonattainment for ozone levels<sup>80</sup> which is also under-resourced to address growing cancer clusters resulting from industrial air emissions. Noise pollution caused by trucks and other vessels as well as large banks of light used at onshore port and transport facilities that shine on adjacent residential properties further impact human health and welfare of the people in neighboring communities.<sup>81</sup> These harms are not felt equally, with disproportionate burdens falling on as Black, Brown, Indigenous, and low-income communities.

---

<sup>73</sup> Urick, *supra* note 72; Myrberg, Jr, *supra* note 72; Richardson et al., *supra* note 72; Nat’l Rsch. Council, *Marine Mammal Populations and Ocean Noise: Determining when Ocean Noise Causes Biologically Significant Effects* (2005), <https://www.nrc.gov/docs/ML1434/ML14345A574.pdf>.

<sup>74</sup> Urick, *supra* note 72; Myrberg, Jr, *supra* note 72; Richardson et al., *supra* note 72; Nat’l Rsch. Council, *supra* note 73.

<sup>75</sup> Brandon L. Southall et al., *Marine mammal noise exposure criteria: Assessing the severity of marine mammal behavioral responses to human noise*, 47 *Aquatic Mammals* 421 (2021).

<sup>76</sup> *Texas Oil & Gas Threat Map*, Oil & Gas Threat Map, <https://oilandgasthreatmap.com/threat-map/texas/> (last visited Oct. 13, 2022).

<sup>77</sup> *Ports Primer: 7.1 Environmental Impacts*, *supra* note 50.

<sup>78</sup> *Id.*; Trade, Health and Environment Impact Project, *Importing Harm: U.S. Ports’ Impacts on Health and Communities*, *THE Impact Policy Brief Series* (2012), <https://envhealthcenters.usc.edu/wp-content/uploads/2016/11/Impact-Project-Ports-issue-brief-2012-1.pdf>.

<sup>79</sup> *Ports Primer*, *supra* note 50; Trade, Health and Environment Impact Project, *supra* note 78.

<sup>80</sup> *Houston-Galveston-Brazoria: Current Attainment Status*, Tex. Comm’n on Env’t Quality, <https://www.tceq.texas.gov/airquality/sip/hgb/hgb-status> (Sept. 22, 2022).

<sup>81</sup> Trade, Health and Environment Impact Project, *supra* note 78.

Deepwater port projects are very often concentrated in and directly harm communities of color and low-income communities that are already overburdened with air and water pollution, disproportionately high health risks and harms, destruction of natural resources, depression of property values, and other negative impacts.<sup>82</sup> The onshore infrastructure that supports deepwater ports, such as onshore terminals and pipelines, and the induced oil and gas production, have been shown to be disproportionately sited in communities of color and low-income communities.<sup>83</sup> The unequal siting of dirty fossil fuel infrastructure and its resulting pollution has led to disproportionate and serious health harms particularly to communities of color.<sup>84</sup> For example, Black people in the U.S. have 1.54 times the exposure to particulate matter<sup>85</sup> compared to the overall population, while populations of color have 1.28 times higher burden than the general population.<sup>86</sup> A programmatic environmental impact statement must be prepared for all projects in the Gulf of Mexico which is already overburdened by fossil fuel infrastructure because it is “occurring in the same general location, such as a body of water, region, or metropolitan area.”<sup>87</sup> These projects pose environmental harms and disproportionate health risks that should be evaluated as a collective. President Biden declared in Executive Order 14008, “[w]e must deliver environmental justice in communities all across America,” and he directed agencies to “make achieving environmental justice part of their missions.”<sup>88</sup> Part of that action requires that no new infrastructure be approved and all proposed infrastructure in the Gulf of Mexico be reviewed programmatically.

The authorization of new deepwater port structures directly contradict the ambitious environmental policy goals issued on day one of this Administration in Executive Orders. 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

---

<sup>82</sup> See Bullard, *supra* note 14; Wilson et. al., *supra* note 14; U.S. EPA, *EJ Screening Report for Clean Power Plan* (2015), <https://archive.epa.gov/epa/sites/production/files/2016-04/documents/ejscreencpp.pdf>.

<sup>83</sup> See, e.g., Glenn S. Johnson et al., *Air quality and health issues along Houston’s ship channel: an exploratory environmental justice analysis of a vulnerable community (Pleasantville)*, 21 *Race, Gender & Class* 273 (2014), <https://www.jstor.org/stable/43496996>; Tim Donaghy, *Research Brief: Environmental Justice Across Industrial Sectors*, Greenpeace USA (Apr. 12, 2021), <https://www.greenpeace.org/usa/research/environmental-justice-industrial-sectors/>; Yukyan Lam et al., NRDC and Texas Environmental Justice Advocacy Series, *Toxic air pollution in the Houston ship channel: disparities show urgent need for environmental justice* (2021), <https://www.nrdc.org/sites/default/files/air-pollution-houston-ship-channel-ib.pdf>; Donaghy & Jiang, *supra* note 14.

<sup>84</sup> Donaghy & Jiang, *supra* note 14.

<sup>85</sup> An air pollutant linked to a wide variety of health harms including respiratory conditions, heart attacks, and remature death. See *Health and Environmental Effects of Particulate Matter (PM)*, U.S. EPA, <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm> (Aug. 30, 2022); see also Karn Vohra et al., *Global mortality from outdoor fine particulate pollution generate by fossil fuel combustion: Results from GEOS-Chem*, 195 *Envtl. Research* 110754 (2021), <https://www.sciencedirect.com/science/article/abs/pii/S0013935121000487>.

<sup>86</sup> Ihab Mikati et al., *Disparities in distribution of particulate matter emission sources by race and poverty status*, 108 *American Journal of Public Health* 480 (2018), <https://ajph.aphapublications.org/doi/10.2105/AJPH.2017.304297>.

<sup>87</sup> 40 C.F.R. § 1502.4(c)(1).

<sup>88</sup> Exec. Order No. 14,008, 86 Fed. Reg. 7,619 (Jan 27, 2021), <https://www.federalregister.gov/documents/2021/02/01/2021-02177/tackling-the-climate-crisis-at-home-and-abroad>. Likewise, E.O. 12,898 issued by President Clinton requires agencies “[t]o the greatest extent practicable and permitted by law. . . [t]o make achieving environmental justice part of [their] mission by identifying and addressing . . . disproportionately high and adverse human health or environmental effects of [their] . . . activities on minority populations and low-income populations.” Exec. Order 12,898, 32 C.F.R. 651.17 (Feb 11, 1994).

resilience to the impacts of climate change.<sup>89</sup> Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad,” 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.<sup>90</sup> It also emphasizes the critical role of coastal communities in mitigating climate change and strengthening resilience.<sup>91</sup>

Deepwater port structures risk hundreds of oil spills over their lifetime, destroy coastal wetlands, threaten ecosystems, endanger communities and property rights, generate enormous greenhouse gas emissions and air pollution, and jeopardize tourism and fishing industries that depend on thriving coastal and ocean environments. These harms resulting from the construction and operation of deepwater ports and climate change present a huge threat to national security.

In U.S. coastal regions, rising sea levels, higher storm surge, and increased erosion could damage or destroy critical infrastructure.<sup>92</sup> Sea level rise and higher storm surge in coastal regions increases the risk of major coastal impacts on transportation infrastructure, including flooding of airports, ports and harbors, roads, rail lines, tunnels, and bridges.<sup>93</sup> In Western States, higher temperatures and more frequent or severe heat waves could buckle railways, damage roads, and strain power systems.<sup>94</sup> Furthermore, climate change also affects “key economic sectors” such as agriculture and water which has profound effects on food security and pose threats to overall economic stability.<sup>95</sup>

“Climate change is an urgent and growing threat to our national security, contributing to increased natural disasters, refugee flows, and conflicts over basic resources like food and water. The present day effects of climate change are being felt from the Arctic to the Midwest. Increased sea levels and storm surges threaten coastal regions, infrastructure, and property. In turn, the global economy suffers, compounding the growing costs of preparing and restoring infrastructure.”

- White House, National Security Strategy, February 2015<sup>96</sup>

In addition to the above outlined effects on marine environment, climate change, human health, environmental justice and national security, it is worth noting that included within these factors discussed MARAD must also consider “other considerations as the Secretary deems

---

<sup>89</sup> See Exec. Order 13990, 86 Fed. Reg. 7037, Secs. 1, 2, 5 (Jan. 25, 2021), <https://www.federalregister.gov/documents/2021/01/25/2021-01765/protecting-public-health-and-the-environment-and-restoring-science-to-tackle-the-climate-crisis>.

<sup>90</sup> 86 Fed. Reg. 7,619, *supra* note 88, at Sec. 201.

<sup>91</sup> *Id.* at Secs. 213, 214, 217.

<sup>92</sup> *DHS Actions: Climate Change*, U.S. Dep’t of Homeland Sec., <https://www.dhs.gov/dhs-actions-climate-change> (Oct 6, 2022).

<sup>93</sup> Obama Report Archives, *Findings from Select Federal Reports: The National Security Implications of Climate Change* (2015) at 3, [https://obamawhitehouse.archives.gov/sites/default/files/docs/National\\_Security\\_Implications\\_of\\_Changing\\_Climate\\_Final\\_051915.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/National_Security_Implications_of_Changing_Climate_Final_051915.pdf).

<sup>94</sup> *Id.* at 2.

<sup>95</sup> *Id.* at 3.

<sup>96</sup> *Id.* at 2.

appropriate.”<sup>97</sup> In response to Europe’s invasion of Ukraine, the U.S. announced a plan to reduce Europe’s reliance on Russian oil and gas which included an increase in LNG exports to support Europe’s energy needs.<sup>98</sup> This increase may be cited as justification for new infrastructure, including deepwater ports. However, this reasoning fails to consider that deepwater ports take a year for the approval of the application—or longer with stop clocks—and additional years to construct and be ready for export. No VLCC or LNG infrastructure project approved now could possibly meet any purported unmet demand. Furthermore, “crude oil demand is expected to decline rapidly after 2030”<sup>99</sup> and the demand for LNG is expected to decline starting this year<sup>100</sup> which leaves no real purpose for new infrastructure and its increased capacity. New deepwater ports will not serve to meet Europe’s current energy demand but will instead worsen the climate crisis and make it increasingly more difficult to limit warming to 1.5°C.

The pressures caused by climate change are felt globally and will influence resource competition and aggravate stressors abroad such as poverty, environmental degradation, political instability, and social tensions which are conditions that can enable terrorist activity and violence.<sup>101</sup> By continuing to approve deepwater port projects that contribute to climate change and its resulting impacts, MARAD is acting in direct contrast with national security, national interest, and the national policy goals outlined in the beginning of the Biden administration.

## V. Case Studies

There is simply no room in the carbon budget for new fossil fuel infrastructure, including deepwater ports. Nonetheless, various deepwater port applications are currently pending approval by MARAD including the Blue Marlin Offshore Port, Bluewater Texas Terminals, New Fortress Energy Louisiana FLNG, Texas GulfLink, Sea Port Oil Terminal, and West Delta LNG.<sup>102</sup> The two projects discussed below are examples of those that would cause the various harms outlined above and further impact communities already overburdened by oil and gas. MARAD should reject these projects and all other future proposed projects because they are inconsistent with the national interest, national security, and the policy goals of the Biden Administration.

### A. Sea Port Oil Terminal Deepwater Port Project

MARAD and the U.S. Army Corps of Engineers is currently considering whether to approve permits for the Sea Port Oil Terminal (“SPOT”) Deepwater Port project (Project), a deepwater port that will include the modification or construction of two onshore terminals, construction of over 140 miles of onshore and offshore pipelines, and the installation of two buoys about 30 nautical miles off the coast of Brazoria County, Texas, capable of loading two Very Large Crude

---

<sup>97</sup> 33 U.S.C. § 1505(a)(7).

<sup>98</sup> Emily Rauhala et al., *Biden, E.U. Announce Plan to Reduce Europe’s Reliance on Russian Energy*, Wash. Post, Mar. 25, 2022, <https://www.washingtonpost.com/world/2022/03/25/biden-eu-energy/>.

<sup>99</sup> McKinsey & Co., *Global Energy Perspective 2022, Public Exec. Summ.* (2022), <https://www.mckinsey.com/~media/McKinsey/Industries/Oil%20and%20Gas/Our%20Insights/Global%20Energy%20Perspective%202022/Global-Energy-Perspective-2022-Executive-Summary.pdf>, at 13

<sup>100</sup> Int’l Energy Agency, *Gas Market Report, Q3-2022* (2022), <https://www.iea.org/reports/gas-market-report-q3-2022>.

<sup>101</sup> Obama Report Archives, *supra* note 93 at 8

<sup>102</sup> *Pending Applications*, U.S. DOT Mar. Admin., <https://www.maritime.dot.gov/ports/deepwater-ports-and-licensing/pending-applications> (last visited Oct. 13, 2022).

Carriers simultaneously.<sup>103</sup> SPOT intends to transport and export massive quantities of crude oil (as much as 2.04 million barrels per day)<sup>104</sup> that, when burned, will exacerbate climate change and further damage Texas communities and sensitive ecosystems that are already overburdened by industrial activities.

The Gulf of Mexico still suffers from the impacts of the devastating 2010 Deepwater Horizon oil spill disaster, which contributes to the expanding Gulf dead zone, while being further burdened by new oil spills occurring after Hurricane Ida.<sup>105</sup> The Gulf Coast of Texas is home to one of the largest concentrations of petrochemical facilities in the world. From the “Golden Triangle” area of Orange County to Jackson County and, going south, Chambers, Galveston, and Harris Counties, including the City of Houston, and into Brazoria County where the SPOT Project is proposed, there are hundreds of facilities, including oil refineries, plastic manufacturing plants, other chemical facilities, and liquid natural gas (“LNG”) facilities. Within one mile of the SPOT Project’s proposed onshore infrastructure sites, nearly 75 percent of the 88 block groups had minority populations comprising over 50 percent of the block group’s total population, thereby qualifying as environmental justice communities.<sup>106</sup>

Texas Gulf communities have suffered from repeated accidents and upset emissions at oil and gas and petrochemical facilities, exposing them to dangerous levels of chemicals, including carcinogens like benzene. Storm surges and tropical storms are already causing extensive damage in Brazoria County,<sup>107</sup> but climate change is expected to cause hurricanes in the Gulf of Mexico to increase in severity, with an increase in proportion of category 3, 4, and 5 storms, a ten percent increase in cyclone damage for the most intense hurricanes, and a 30–40 percent increase in precipitation, which would exacerbate flooding in the region.<sup>108</sup>

The final environmental impact statement “FEIS” which will also inform the U.S. Army Corps’ public interest review in deciding whether to issue Clean Water Action Section 404 and Rivers and Harbors Act (“RHA”) Section 10 permits,<sup>109</sup> does not properly analyze the full climate impacts of the proposed fossil fuel export project or its environmental justice harms. In contravention of the National Environmental Policy Act (“NEPA”) and the Council of Environmental Quality’s policy guidance requiring analysis of upstream, downstream, and

---

<sup>103</sup> U.S. Army Corps of Eng’rs, *Public Notice of Permit Application SWG-2018-00751* (Feb. 11, 2020), [https://www.swg.usace.army.mil/Portals/26/docs/regulatory/PN%20Feb/PN\\_201800751.pdf?ver=2020-02-11-105702-077](https://www.swg.usace.army.mil/Portals/26/docs/regulatory/PN%20Feb/PN_201800751.pdf?ver=2020-02-11-105702-077).

<sup>104</sup> U.S. DOT Mar. Admin., *Draft Environmental Impact Statement: Sea Port Oil Terminal Deepwater Port Project* (Feb. 2020), <https://www.regulations.gov/document/MARAD-2019-0011-0036>, at ES-3; *id.* at 2-1 (noting the mainline crude oil pumps would have “the capacity to push crude oil to the offshore pipelines at a rate of up to 85,000 bph); *id.* at 3-287 (“A maximum of 365 [Very Large Crude Carriers] could be loaded per year”); 85,000 bph × 24 hours/day / 1,000,000 = 2.04 million bpd.

<sup>105</sup> Hiroko Tabuchi & Blacki Migliozzi, *Oil Spill in the Gulf of Mexico: What We Know*, New York Times, Sept. 7, 2021, <https://www.nytimes.com/2021/09/06/climate/oil-spill-ida-gulf-of-mexico.html>.

<sup>106</sup> U.S. DOT Mar. Admin., DEIS, *supra* note 104, at 3-367, 3-371 to 3-372.

<sup>107</sup> Press Release, Texas General Land Office, Nearly \$15.6 million granted by Texas GLO for historic disaster mitigation projects in Brazoria County (May 21, 2021), <https://recovery.texas.gov/files/programs/mitigation/1-brazoria-county.pdf>; Melissa Correa, *Surfside Beach, Brazoria County hit hard by tropic storm Nicholas*, KHOU, Sept. 14, 2021, <https://www.khou.com/article/weather/surfside-beach-brazoria-county-hit-hard-tropical-storm-nicholas/285-d5056b28-5c9c-4ba3-90c9-c00eeb0a55c2>.

<sup>108</sup> Cindy L. Bruyère et al., *Impact of Climate Change on Gulf of Mexico Hurricanes*, NCAR Technical Note NCAR/TN-535+STR (2017), doi:10.5065/D6RN36J3 at 165, <https://opensky.ucar.edu/islandora/object/technotes:552>.

<sup>109</sup> U.S. Army Corps of Eng’rs, *supra* note 103.

cumulative greenhouse gas emissions,<sup>110</sup> the analysis asserts that the although upstream effects from induced production and downstream effects from the export of crude oil “represent a significant amount of GHG emissions” the emissions are dismissed as insignificant claiming “the majority of these emissions likely already occur as part of the U.S. crude oil supply chain”<sup>111</sup>

Yet despite government agencies turning a blind eye to the climate impacts of the SPOT Project, outside experts have calculated the lifecycle greenhouse gas emissions associated with the Project to be approximately 367 to 396 million tons of CO<sub>2</sub>e every year, about the same as the combined emissions from all major stationary sources of air pollution in Texas in 2018.<sup>112</sup> At full capacity, the SPOT Project would transport 745 million barrels of oil every year—more than oil companies produce offshore in the entire Gulf of Mexico in one year, increasing U.S. crude oil export capacity by over 60 percent. We cannot afford this massive expansion in oil export capacity at a point in time when the science is clear that we must be phasing out fossil fuels. Consequently, MARAD should reject the SPOT Project’s application for a deepwater port for the export of domestically produced crude oil.

## **B. Bluewater Deepwater Port Terminal**

MARAD is also considering an application from Phillips 66 to own, construct, and operate a deepwater port to export domestically produced crude oil. The proposed Bluewater deepwater port terminal would be located approximately 15 nautical miles off the coast of San Patricio County, Texas, in a water depth of 89 feet. The proposed project involves designing, engineering, and constructing an offshore deepwater port, approximately 56.48 miles of pipeline infrastructure, and a booster station.<sup>113</sup>

The Bluewater project would allow for up to two (2) very large crude carriers (“VLCCs”) or other crude oil carriers to moor at single point mooring (SPM) buoys and connect with the deepwater port via floating connecting crude oil hoses. During single vessel loading operations, the proposed project would be capable of loading rates of up to approximately 80,000 barrels per hour (bph), and during simultaneous vessel loading operations, capable of loading rates of 40,000 bph. In other words, the facility is capable of loading rates of up to 1,920,000 barrels per day. The facility is expected to service 16 VLCCs per month.<sup>114</sup>

---

<sup>110</sup> See *Sierra Club v. FERC*, 867 F.3d 1357, 1371–75 (D.C. Cir. 2017); National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions, 86 Fed. Reg. 10,252 (Feb. 19, 2021), <https://www.federalregister.gov/documents/2021/02/19/2021-03355/national-environmental-policy-act-guidance-on-consideration-of-greenhouse-gas-emissions>; Memorandum from Christina Goldfuss, Council on Environmental Quality, 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](https://ceq.doe.gov/docs/ceq-regulations-and-guidance/nepa_final_ghg_guidance.pdf).

<sup>111</sup> U.S. DOT Mar. Admin., *Final Environmental Impacts Statement: Sea Port Oil Terminal Deepwater Port Project*, Docket No. MARAD-2019-0011 (2022), <https://www.regulations.gov/document/MARAD-2019-0011-5032>.

<sup>112</sup> Letter from Sierra Club et al. to Yvette Fields, Maritime Administration & William Nabach, U.S. Coast Guard, Re: Comments on SPOT Terminal, LLC, National Environmental Policy Act Draft Environmental Impact Statement, Docket No. MARAD-2019-0011 (June 1, 2020) at 29-31, 42-86 (attached Expert Declaration of Petra Pless), <https://www.regulations.gov/comment/MARAD-2019-0011-1171>.

<sup>113</sup> *Pending Applications*, U.S. DOT Mar. Admin., *supra* note 102.

<sup>114</sup> See *Deepwater Port License Application for the Bluewater SPM Project, Vol. II – Environmental Evaluation* (2019) at 1-5, 3-14, <https://www.regulations.gov/document/MARAD-2019-0094-0004>. Bluewater’s application

The DEIS for the project is deficient in numerous respects,<sup>115</sup> and it completely ignores the most recent climate change reports and scientific analyses calling for urgent, aggressive steps to significantly reduce greenhouse gas emissions to avoid the most extreme climate change impacts associated with 1.5° and 2° Celsius warming. Bluewater intends to export massive quantities of crude oil—384 million barrels of oil per year. The production, transport, handling, and consumption of this oil corresponds to massive new greenhouse gas emissions. The DEIS also fails to make any attempt to quantify the reasonably foreseeable upstream and downstream emissions that will result from induced pollution and downstream uses of crude oil that the project will facilitate.<sup>116</sup> Instead, the DEIS limits its estimate of greenhouse gases and resulting climate damages to emissions released from the Project’s direct construction and operational components.<sup>117</sup> Absent such calculations, MARAD and USCG cannot account for the full scope of effects of the greenhouse gas emissions resulting from this major federal action.<sup>118</sup> Instead of examining the Project’s full lifecycle greenhouse emissions it simply concludes that its direct greenhouse gas emissions would “have a negligible impact on climate change on a global scale.”<sup>119</sup>

The DEIS also fails to meet the Biden Administration’s own directives in Executive Orders 13990 and 14008, calling for immediate action by all federal agencies to address climate change and protect low-income communities and communities of color that disproportionately bear public health, environmental and economic burdens of fossil fuel development.

The Bluewater project would allow for the transport and export of oil, induce oil production, and facilitate decades more fossil fuel dependence. Bluewater’s Project could be responsible for increased oil production and tens of millions of tons per year in greenhouse gas emissions, arriving at a time when the world must sharply reduce and eventually eliminate fossil-fuel emissions. This project is entirely incompatible with the public interest in addressing the climate crisis, ending the approval of new fossil fuel projects, and ensuring a just, equitable transition to clean energy. As many courts have recognized, an agency’s failure to analyze indirect climate impacts also violates NEPA.<sup>120</sup>

---

specifies that it would load approximately 16 VLCCs or equivalent volumes per month, *id.* at 3-14, and that each VLCC has a capacity of 2 million barrels of oil, *id.* at 1-5. 16 VLCCs per month \*12 months/yr \*2 million barrels = 384 million barrels per year.

<sup>115</sup> See Letter from Earthjustice, Sierra Club, Center for Biological Diversity et al. to Carloz Perez-Perez, Maritime Administration & Ken Smith, U.S. Coast Guard, Re: Comments on Draft Environmental Impact Statement, Bluewater Texas Terminal LLC, Docket No. MARAD-2019-0094 (Dec. 13, 2021), <https://www.regulations.gov/comment/MARAD-2019-0094-0919>.

<sup>116</sup> U.S. DOT Mar. Admin, *Draft Environmental Impact Statement: Bluewater Texas Terminal Deepwater Port Project* at 5-44 (2021), <https://www.regulations.gov/document/MARAD-2019-0094-0446> [hereinafter *Bluewater DEIS*].

<sup>117</sup> *Id.* at 3-309, 3-322-323, 3-330.

<sup>118</sup> 40 C.F.R. § 1508.8.

<sup>119</sup> *Bluewater DEIS*, *supra* note 116 at 3-330 (Direct GHG emissions from operation); *accord id.* at 3-323 (Direct GHG emissions from construction).

<sup>120</sup> See, e.g., *Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1216-17 (9th Cir. 2008) (agency must analyze downstream greenhouse gas emissions from automotive fuel efficiency rule); *Sierra Club v. Fed. Energy Reg. Comm’n*, 867 F.3d 1357, 1373-74 (D.C. Cir. 2017) (agency must analyze downstream emissions from burning natural gas transported in proposed pipeline); *Mid States Coal. for Progress v Surface Transp. Bd.*, 345 F.3d 520, 549-50 (8th Cir. 2003) (agency must analyze downstream emissions from burning coal transported on proposed rail line); *Mont. Env’t Info. Ctr. v. U.S. Off. of Surface Mining*, 274 F. Supp. 3d 1074 (D.

As with the SPOT project, the alleged benefits of this new fossil fuel infrastructure project do not outweigh the public interest in avoiding catastrophic climate change and environmental racism. MARAD must not issue permits for new fossil fuel infrastructure projects and should revoke any permits that it has issued unlawfully.

## CONCLUSION

In sum, it is increasingly clear that whatever benefits the fossil fuel industry claims deepwater ports will provide, they do not outweigh the public interest in avoiding catastrophic climate change and environmental racism. MARAD must not issue permits for fossil fuel infrastructure projects and should revoke any permits that it has issued unlawfully.

For all the reasons discussed in this Petition, the undersigned organizations ask the MARAD to immediately stop the issuance of deepwater port licenses including the Blue Marlin Offshore Port, Bluewater Texas Terminals, New Fortress Energy Louisiana FLNG, Texas Gulflink, Sea Port Oil Terminal, West Delta LNG and all other future proposed deepwater port projects and issue a programmatic EIS for all project proposed in the Gulf of Mexico. Continued approval of deepwater port projects is contrary to the national interest and inconsistent with national policy goals and objectives regarding the climate crisis, environmental justice, and environmental quality furthering fossil fuel dependence and hindering the shift to clean renewable energy. Decades more of fossil fuel dependence will make it impossible to meet the climate mitigation objectives of the IRA and the Paris Agreement.

Because of the urgent nature of the climate crisis and ongoing harm posed by all fossil fuel infrastructure projects including deepwater ports, we ask MARAD to respond to this petition as soon as possible. If we do not hear from you within a reasonable timeframe, we may seek federal court review.

Any responses and all correspondence related to this petition should be directed to Jason Rylander of the Center for Biological Diversity at the email and address provided below.

Respectfully submitted this 10<sup>th</sup> day of November 2022.

Authors:

Lauren Parker, Staff Attorney  
Shaye Wolf, Ph.D., Climate Science Director  
Kristen Monsell, Oceans Program Litigation Director and Senior Attorney  
Jason Rylander, Climate Law Institute Litigation Director and Senior Attorney

Center for Biological Diversity

---

Mont. 2017) (agency must analyze downstream emissions from burning coal produced as a result of coal mine expansion); *San Juan Citizens All. v. Bureau of Land Mgmt.*, 326 F. Supp. 3d 1227, 1244 (D.N.M. 2018) (agency must analyze downstream emissions from burning oil and gas produced as a result of leasing decision); *WildEarth Guardians v. Zinke*, 368 F. Supp. 3d 41, 73 (D.D.C. 2019) (same); *Wilderness Workshop v. U.S. Bureau of Land Mgmt.*, 342 F. Supp. 3d 1145, 1156 (D. Colo. 2018) (agency violated NEPA by not taking a hard look at the indirect effects resulting from the combustion of oil and gas in the planning area under a resource management plan).

1411 K Street NW, Suite 1300  
Washington, D.C. 20005  
Phone: (202) 744-2244  
Email: [jrylander@biologicaldiversity.org](mailto:jrylander@biologicaldiversity.org)

Petitioners:

1. Center for Biological Diversity
2. 10 Votes
3. 1000 Grandmothers for Future Generations
4. 198 Methods
5. 350 Bay Area
6. 350 Bay Area Action
7. 350 Brooklyn
8. 350 Bucks County
9. 350 Butte County
10. 350 Chicago
11. 350 Colorado
12. 350 Conejo / San Fernando Valley
13. 350 Corvallis
14. 350 Hawaii
15. 350 NYC
16. 350 Silicon Valley
17. 350 Triangle
18. 350 Wichita
19. About Face: Veterans Against War
20. Accelerate Neighborhood Climate Action
21. Action Center on Race and the Economy
22. Action for the Climate Emergency (ACE)
23. AFGE Local 704
24. Africa Climate Movement-of-Movements
25. Alabama Interfaith Power & Light
26. Alabama Rivers Alliance
27. Alianza Americas/Presente.org
28. Animals Are Sentient Beings Inc
29. Animas Valley Institute
30. Another Gulf Is Possible Collaborative
31. Association of Young Americans (AYA)
32. Athens County's Future Action Network, acfan.org
33. Atlantic Coast Conference Climate Justice Coalition
34. Bay Area - System Change not Climate Change
35. Bayou City Waterkeeper
36. Bergen County Green Party
37. Berkshire Environmental Action TEam
38. Beyond Extreme Energy
39. Black Warrior Riverkeeper
40. Bold Alliance
41. Broome Tioga Green Party
42. Businesses for a Livable Climate

43. California Faculty Association
44. Capitol Heights Presbyterian
45. Carrizo/Comecrudo Nation of Texas
46. Catholic Divestment Network
47. CatholicNetworkUS
48. Cedar Lane Unitarian Church
49. Chesapeake Climate Action Network
50. Chispa Texas
51. Christians For The Mountains
52. Church Women United in New York State
53. Citizens Action Coalition of IN
54. Citizens Alliance for a Sustainable Englewood
55. Citizens Awareness Network
56. Citizens for Clean Air/Water in Brazoria County
57. Clean Water Action Council
58. CLEO Institute
59. Climate Action California
60. Climate Crisis Policy
61. Climate Equity Policy Center
62. Climate Hawks Vote
63. Coalition to Protect New York
64. Colorado Coalition for a Livable Climate
65. Community Advocates for a Sustainable Environment
66. Community for Sustainable Energy
67. Concerned Health Professionals of Pennsylvania
68. Daily Kos
69. DC Environmental Network
70. Delaware Interfaith Power and Light
71. Delaware Riverkeeper Network
72. Democratic Socialists of America - Knoxville, TN
73. Destination Zero
74. Divest NJ
75. Don't Waste Arizona
76. Earth Ethics, Inc.
77. Earthjustice
78. Earthkeeper Health Resources
79. Earthworks
80. East Bay Community Solar Project
81. Eco-Eating
82. Eco-Justice Collaborative
83. Elders Climate Action
84. Elected Officials to Protect America
85. Elmirans and Friends Against Fracking
86. Endangered Species Coalition
87. Environmental Justice Ministry Cedar Lane Unitarian Universalist Church
88. Extinction Rebellion US
89. FCCPR Climate Crisis Task Force
90. First Wednesdays San Leandro

91. Flight Free USA
92. Floridians Against Fracking
93. Food & Water Watch
94. For the Many
95. Forest Keeper
96. Fox Valley Citizens for Peace & Justice
97. Frac Sand Sentinel: Project Outreach
98. Frack Free Illinois
99. FracTracker Alliance
100. Freedom Forward
101. FreshWater Accountability Project
102. Fridays For Future Fort Collins
103. Fridays for Future U.S.
104. Friends For Environmental Justice
105. Friends of Big Ivy
106. Friends of the Bitterroot
107. Friends of the Earth
108. George Mason University Center for Climate Change Communication
109. Great Egg Harbor Watershed Association
110. Greater New Orleans Housing Alliance
111. Green Wichita Coalition
112. GreenLatinos
113. Greenpeace
114. Greenvest
115. Healthy Gulf
116. Heartwood
117. Hilton Head for Peace
118. Honor the Earth
119. Human Nature
120. I Heart Pisgah
121. I-70 Citizens Advisory Group
122. Indian Point Safe Energy Coalition
123. Indigenous Peoples of the Coastal Bend
124. Indivisible 97415
125. Indivisible Ambassadors
126. Indivisible Colorado
127. Ingleside on the Bay Coastal Watch Association
128. Inspiration of Sedona
129. Institute for Policy Studies Climate Policy Program
130. Interfaith Oceans
131. International Marine Mammal Project of Earth Island Institute
132. Intheshadowofthewolf
133. Iowa Citizens for Community Improvement
134. Kentucky Student Environmental Coalition
135. Kickapoo Peace Circle
136. KyotoUSA
137. Live Oak UU Social Justice Ministry
138. Locust Point Community Garden

139. Long Island Progressive Coalition
140. Louisiana Bucket Brigade
141. Lutherans Restoring Creation
142. Maryland Ornithological Society
143. Mattawoman Watershed Society
144. Media Alliance
145. Menlo Spark
146. Metro N.Y. Catholic Climate Movement
147. Michigan Interfaith Power & Light
148. Mission Blue
149. Mothers Out Front Tompkins
150. Movement Rights
151. MoveOn.org Hoboken
152. Nassau Hiking & Outdoor Club
153. National Catholic Education Association
154. Native Connections Action Group, QUUF
155. Natural Capitalism Solutions
156. Network for Oil and Gas Accountability and Protection
157. New Jersey State Industrial Union Council
158. New Mexico Climate Justice
159. New York Climate Advocacy Project
160. New York Progressive Action Network
161. Nicaragua Center for Community Action
162. No Fracked Gas in Mass
163. North American Climate, Conservation and Environment(NACCE)
164. North Carolina Climate Justice Collective
165. North East Los Angeles (NELA) Climate Collective
166. Northeast Oregon Ecosystems
167. Northern Michigan Environmental Action Council
168. Nuclear Information and Resource Service
169. Occidental Arts and Ecology Center
170. Occupy Bergen County
171. Ocean Conservation Research
172. Office of Peace, Justice and Integrity of Creation, Sisters of Charity of New York
173. Oil and Gas Action Network
174. Oil Change International
175. Orange RAPP
176. Our Place in the World: A Journal of Ecosocialism
177. Our Revolution Ocean county, NJ
178. Our Wisconsin Revolution
179. Pacific Environment
180. Palomar Unitarian Universalist Fellowship
181. Pass the Federal Green New Deal Coalition
182. Patagonia
183. Peace and Justice Action League of Spokane: PJALS
184. Pelican Media
185. Pennsylvania Council of Churches

186. Pennsylvania Interfaith Power & Light
187. People for a Healthy Environment
188. Peoples Climate Movement - NY
189. Physicians for Social Responsibility Pennsylvania
190. Pittsburghers Against Single Use Plastics
191. Plastic Pollution Coalition
192. Pollution Free Society
193. Port Arthur Community Action Network (PACAN)
194. Preserve Wild Santee
195. Prince George's County Peace & Justice Coalition
196. Progressive Democrats of America
197. Project Outreach: The Frac Sand Sentinel
198. Property Rights and Pipeline Center
199. Protecting Our Waters
200. Public Justice Center
201. Pueblo Action Alliance
202. Putnam Progressives
203. Putting Down Roots
204. Rachel Carson Council
205. Rainforest Action Network
206. RapidShift Network
207. RE Sources
208. Reconstructionist Rabbinical Association
209. Renewables Now Loveland
210. Resist the Pipeline
211. RESTORE
212. Revolving Door Project
213. Rio Grande International Study Center (RGISC)
214. Rivers & Mountains GreenFaith Circle
215. Rogue Climate
216. RootsAction.org
217. San Bernardino Valley Audubon Society
218. San Luis Valley Ecosystem Council
219. Santa Barbara Standing Rock Coalition
220. Santa Cruz Climate Action Network
221. Santa Cruz for Bernie
222. Save EPA
223. Save Our Illinois Land
224. Save RGV
225. SAVE THE FROGS!
226. Scientist Rebellion Turtle Island
227. Seneca Lake Guardian
228. Sequoia ForestKeeper®
229. SEVENTH GENERATION, INC.
230. Sheffield Saves
231. Sierra Club
232. Sisters of Charity Federation
233. Sisters of St. Dominic of Blauvelt, New York

234. SoCal 350 Climate Action
235. Social Eco Education (SEE-LA)
236. Social Justice Ministry, Live Oak UU Congregation
237. Society of Alternative Resources
238. Society of Native Nations
239. SolidarityINFOService
240. South Durban Community Environmental Alliance
241. South Seattle Climate Action Network
242. Southeast Alaska Conservation Council
243. St. Andrews Earth Care Team
244. Stand.earth
245. Stone Crab Alliance
246. Stop the Algonquin Pipeline Expansion (SAPE)
247. Sustainable Mill Valley
248. Sylvia Earle Alliance / Mission Blue
249. Synerjy
250. Syracuse Cultural Workers
251. System Change Not Climate Change
252. Taproot Earth
253. Tar Sands Action Southern California
254. Terra Advocati
255. Texas Campaign for the Environment
256. The Enchanted Biscuit
257. The Enviro Show
258. The Last Plastic Straw
259. The People's Justice Council
260. The Quantum Institute
261. The River Project
262. The Shame Free Zone
263. The Vessel Project of Louisiana
264. The Wei, LLC
265. The YEARS Project
266. Thomas Berry Forum for Ecological Dialogue at Iona University
267. Thrive At Life: Working Solutions
268. Tongass Forest Women's Earth & Climate Action Network
269. Transition Sebastopol
270. Turtle Island Restoration Network
271. Unitarian Universalist Fellowship of Hidalgo County
272. Unitarian Universalists for a Just Economic Community
273. Unitarian Universalists for Social Justice
274. Unite North Metro Denver
275. United For Clean Energy
276. UNM Leaders for Environmental Action and Foresight (LEAF)
277. Vegan Flag
278. Vermont Yankee Decommissioning Alliance
279. Veterans for Peace
280. Vote Climate
281. Wall of Women

282. Wasatch Clean Air Coalition
283. WATCH, INC
284. Waterspirit
285. Waterway Advocates
286. WESPAC Foundation, Inc.
287. West End Revitalization Association WERA
288. Western Slope Businesses for a Livable Climate
289. Wild Heritage Planners
290. Womxn from the Mountain

## REFERENCES

- Adrian Wilson et al., NAACP, Indigenous Env't Network & Little Village Env't Just. Org., *Coal Blooded: Putting Profits Before People* (2012), <https://naacp.org/resources/coal-blooded-putting-profits-people>
- Alexander Pfeiffer et al., *Committed emissions from existing and planned power plants and asset stranding required to meet the Paris Agreement*, 13 Environmental Research Letters 054019 (2018), <https://iopscience.iop.org/article/10.1088/1748-9326/aabc5f/meta>
- Arthur A. Myrberg, Jr., *The effects of man-made noise on the behavior of marine animals*, 16 Environmental International 575 (1990), <https://www.sciencedirect.com/science/article/pii/0160412090900285>
- Brandon L. Southall et al., *Marine mammal noise exposure criteria: Assessing the severity of marine mammal behavioral responses to human noise*, 47 Aquatic Mammals 421 (2021)
- Cindy L. Bruyère et al., *Impact of Climate Change on Gulf of Mexico Hurricanes*, NCAR Technical Note NCAR/TN-535+STR (2017), doi:10.5065/D6RN36J3, <https://opensky.ucar.edu/islandora/object/technotes:552>
- Dan Calverley & Kevin Anderson, *Phaseout Pathways for Fossil Fuel Production Within Paris-compliant Carbon Budgets* (2022), [https://www.research.manchester.ac.uk/portal/files/213256008/Tyndall\\_Production\\_Phaseout\\_Report\\_final\\_text\\_3\\_.pdf](https://www.research.manchester.ac.uk/portal/files/213256008/Tyndall_Production_Phaseout_Report_final_text_3_.pdf)
- Dan Tong et al., *Committed emissions from existing energy infrastructure jeopardize 1.5°C climate target*, 572 Nature 373 (2019), <https://www.nature.com/articles/s41586-019-1364-3>
- Dan Welsby, et al., *Unextractable fossil fuels in a 1.5 °C world*, 597 Nature 230 (2021), <https://doi.org/10.1038/s41586-021-03821-8>
- Deepwater Port License Application for the Bulewater SPM Project, Vol. II – Environmental Evaluation (2019), <https://www.regulations.gov/document/MARAD-2019-0094-0004>
- Emily Rauhala et al., *Biden, E.U. Announce Plan to Reduce Europe's Reliance on Russian Energy*, Wash. Post, Mar. 25, 2022, <https://www.washingtonpost.com/world/2022/03/25/biden-eu-energy/>
- Erick E. Cordes, et. al, *Environmental Impacts of the Deepwater Oil and Gas Industry: A Review to Guide Management Strategies*, 4 Frontiers in Env't Sci 58 (2016), <https://doi.org/10.3389/fenvs.2016.00058>
- Exec. Off. of the President of the United States, *The Cost of Delaying Action to Stem Climate Change* (2014), [https://scholar.harvard.edu/files/stock/files/cost\\_of\\_delaying\\_action.pdf](https://scholar.harvard.edu/files/stock/files/cost_of_delaying_action.pdf)
- Exec. Order 12,898, 32 C.F.R. 651.17 (1994)

- Exec. Order 13990, 86 Fed. Reg. 7037, (Jan. 25, 2021), <https://www.federalregister.gov/documents/2021/01/25/2021-01765/protecting-public-health-and-the-environment-and-restoring-science-to-tackle-the-climate-crisis>
- Exec. Order No. 14,008, 86 Fed Reg. 7619 (Feb 1, 2021)
- Exec. Order No. 14,008, 86 Fed. Reg. 7,619 (Jan 27, 2021), <https://www.federalregister.gov/documents/2021/02/01/2021-02177/tackling-the-climate-crisis-at-home-and-abroad>
- Glenn S. Johnson et al., *Air quality and health issues along Houston's ship channel: an exploratory environmental justice analysis of a vulnerable community (Pleasantville)*, 21 *Race, Gender & Class* 273 (2014), <https://www.jstor.org/stable/43496996>
- Hiroko Tabuchi & Blacki Migliozi, *Oil Spill in the Gulf of Mexico: What We Know*, *New York Times*, Sept. 7, 2021, <https://www.nytimes.com/2021/09/06/climate/oil-spill-ida-gulf-of-mexico.html>
- Houston-Galveston-Brazoria: Current Attainment Status*, Tex. Comm'n on Env't Quality, <https://www.tceq.texas.gov/airquality/sip/hgb/hgb-status> (Sept. 22, 2022)
- Ihab Mikati et al., *Disparities in distribution of particulate matter emission sources by race and poverty status*, 108 *American Journal of Public Health* 480 (2018), <https://ajph.aphapublications.org/doi/10.2105/AJPH.2017.304297>
- Int'l Energy Agency, *Gas Market Report, Q3-2022* (2022), <https://www.iea.org/reports/gas-market-report-q3-2022>
- Intergovernmental Panel on Climate Change, *Climate Change 2014: Mitigation of Climate Change. Contribution of Working Group III to the Fifth Assessment Report* (Edenhofer et al. eds., 2014), [https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc\\_wg3\\_ar5\\_full.pdf](https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_full.pdf)
- Intergovernmental Panel on Climate Change, *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 strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty* (V. Masson-Delmotte, et al. eds., 2018), <https://www.ipcc.ch/sr15/>
- Intergovernmental Panel on Climate Change, Summary for Policymakers. I, in: *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (V. Masson-Delmotte et al. eds., 2021), <https://www.ipcc.ch/report/sixth-assessment-report-working-group-i>
- Julia Hazel & Emma Gyuris, *Vessel-related mortality of sea turtles in Queensland, Australia*, 33 *Wildl. Res.* 149 (2006), [https://www.researchgate.net/publication/248883553\\_Vessel-related\\_mortality\\_of\\_sea\\_turtles\\_in\\_Queensland\\_Australia](https://www.researchgate.net/publication/248883553_Vessel-related_mortality_of_sea_turtles_in_Queensland_Australia)

- Karen Seto et al., *Carbon Lock-In: Types, Causes, and Policy Implications*, 41 Annual Review of Environment and Resources 425 (2016), <https://www.semanticscholar.org/paper/Carbon-Lock-In%3A-Types%2C-Causes%2C-And-Policy-Seto-Davis/4ff57e5d97b44f8ef06e71fc34cd945cb2f0629a>
- Karn Vohra et al., *Global mortality from outdoor fine particulate pollution generate by fossil fuel combustion: Results from GEOS-Chem*, 195 *Envtl. Research* 110754 (2021), <https://www.sciencedirect.com/science/article/abs/pii/S0013935121000487>
- Kelly Trout et al., *Existing fossil fuel extraction would warm the world beyond 1.5°C*, 17 *Env't Rsch Letters* 064010 (2022), <https://iopscience.iop.org/article/10.1088/1748-9326/ac6228#references>
- Kristen M. Hart et al., *Marine threats overlap key foraging habitat for two imperiled sea turtle species in the Gulf of Mexico*, 5 *Front. Mar. Sci.* 336 (2018), <https://www.frontiersin.org/articles/10.3389/fmars.2018.00336/full>
- Lesley Fleischman & Marcus Franklin, Clean Air Task Force & NAACP, *Fumes Across the Fence-Line: The Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities* (2017), <https://www.catf.us/wp-content/uploads/2017/11/catf-rpt-naacp-4.21.pdf>
- Letter from Earthjustice, Sierra Club, Center for Biological Diversity et al. to Carloz Perez-Perez, Maritime Administration & Ken Smith, U.S. Coast Guard, Re: Comments on Draft Environmental Impact Statement, Bluewater Texas Terminal LLC, Docket No. MARAD-2019-0094 (Dec. 13, 2021), <https://www.regulations.gov/comment/MARAD-2019-0094-0919>
- Letter from Sierra Club et al. to Yvette Fields, Maritime Administration & William Nabach, U.S. Coast Guard, Re: Comments on SPOT Terminal, LLC, National Environmental Policy Act Draft Environmental Impact Statement, Docket No. MARAD-2019-0011 (June 1, 2020), <https://www.regulations.gov/comment/MARAD-2019-0011-1171>
- Licensing Process*, U.S. DOT Mar. Admin., <https://www.maritime.dot.gov/ports/deepwater-ports-and-licensing/licensing-process> (June 18, 2020)
- Marshall Burke et al., *Global Non-linear Effect of Temperature on Economic Production*, 527 *Nature* 235 (2015), <https://www.nature.com/articles/nature15725>
- McKinsey & Co., *Global Energy Perspective 2022*, Public Exec. Summ. (2022), <https://www.mckinsey.com/~media/McKinsey/Industries/Oil%20and%20Gas/Our%20Insights/Global%20Energy%20Perspective%202022/Global-Energy-Perspective-2022-Executive-Summary.pdf>
- Melissa Correa, *Surfside Beach, Brazoria County hit hard by tropic storm Nicholas*, KHOU, Sept. 14, 2021, <https://www.khou.com/article/weather/surfside-beach-brazoria-county-hit-hard-tropical-storm-nicholas/285-d5056b28-5c9c-4ba3-90c9-c00eeb0a55c2>

- Melissa Soldevilla et al., *Spatial distribution and dive behavior of Gulf of Mexico Bryde's whales: potential risk of vessel strikes and fisheries interactions*, 32 *Endang. Species Rsch.* 533 (2017), <https://repository.library.noaa.gov/view/noaa/16050>
- Memorandum from Christina Goldfuss, Council on Environmental Quality, 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](https://ceq.doe.gov/docs/ceq-regulations-and-guidance/nepa_final_ghg_guidance.pdf)
- Nat'l Rsch. Council, *Marine Mammal Populations and Ocean Noise: Determining when Ocean Noise Causes Biologically Significant Effects* (2005), <https://www.nrc.gov/docs/ML1434/ML14345A574.pdf>
- National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions, 86 *Fed. Reg.* 10,252 (Feb. 19, 2021), <https://www.federalregister.gov/documents/2021/02/19/2021-03355/national-environmental-policy-act-guidance-on-consideration-of-greenhouse-gas-emissions>
- Oil Change Int'l, *Drilling Toward Disaster: Why U.S. Oil and Gas Expansion Is Incompatible with Climate Limits* (2019), <http://priceofoil.org/drilling-towards-disaster>
- Organization and Delegation of Powers and Duties, 81 *Fed. Reg.* 19817 (April 5, 2016), <https://www.federalregister.gov/documents/2016/04/05/2016-04230/organization-and-delegation-of-powers-and-duties>
- Organization and Delegation of Powers and Duties, Update of Secretarial Delegations, 68 *Fed. Reg.* 36496 (June 18, 2003), <https://www.govinfo.gov/app/details/FR-2003-06-18/03-15400>
- Pending Applications*, U.S. DOT Mar. Admin., <https://www.maritime.dot.gov/ports/deepwater-ports-and-licensing/pending-applications> (last visited Oct. 13, 2022)
- Peter Erickson et al., *Assessing carbon lock-in*, 10 *Environmental Research Letters* 084023 (2015), <https://iopscience.iop.org/article/10.1088/1748-9326/10/8/084023/meta>
- Ports Primer: 7.1 Environmental Impacts*, U.S. EPA, <https://www.epa.gov/community-port-collaboration/ports-primer-71-environmental-impacts> (Jan. 13, 2022).
- Press Release, Texas General Land Office, Nearly \$15.6 million granted by Texas GLO for historic disaster mitigation projects in Brazoria County (May 21, 2021), <https://recovery.texas.gov/files/programs/mitigation/1-brazoria-county.pdf>
- R.Cotton Rockwood, John Calambokidis & Jaime Jahncke, *High mortality of blue, humpback and fin whales from modeling of vessel collisions on the U.S. West Coast suggests population impacts and insufficient protection*. 22(8) *PLOS ONE* e0183052 (2017), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0183052>

- Robert D. Bullard et al., *Toxic Wastes and Race at Twenty: 1987-2007* (2007), <http://www.ejnet.org/ej/twart.pdf>
- Robert J. Urick, *Principles of Underwater Sound* (1986)
- Rosel et al., *Status review of Bryde's whales (Balaenoptera edeni) in the Gulf of Mexico under the Endangered Species Act*, NOAA Tech. Memo NMFSSEFSC- 692 (2016). [https://media.fisheries.noaa.gov/dam-migration/nmfs\\_sefsc\\_tm\\_692\\_\(1\).pdf](https://media.fisheries.noaa.gov/dam-migration/nmfs_sefsc_tm_692_(1).pdf)
- See *Health and Environmental Effects of Particulate Matter (PM)*, U.S. EPA, <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm> (Aug. 30, 2022)
- SEI, IISD, ODI, E3G, and UNEP, *The Production Gap: The discrepancy between countries' planned fossil fuel production and global production levels consistent with limiting warming to 1.5°C or 2°C* (2020), <https://productiongap.org/2020report/>
- Soldevilla et al., *Rice's whales in the northwestern Gulf of Mexico: call variation and occurrence beyond the known core habitat*, 48 *Endang. Species Res.* 155 (2022), <https://www.int-res.com/articles/esr2022/48/n048p155.pdf>
- Sven Teske & Sarah Niklas, *Fossil Fuel Exit Strategy: An orderly wind down of coal, oil and gas to meet the Paris Agreement* (2021), <https://fossilfuel treaty.org/exit-strategy>
- Texas Oil & Gas Threat Map*, Oil & Gas Threat Map, <https://oilandgasthreatmap.com/threat-map/texas/> (last visited Oct. 13, 2022)
- Tim Donaghy & Charlie Jiang, Greenpeace, Gulf Coast Ctr. for Law & Pol'y, Red, Black & Green Movement & Movement for Black Lives, *Fossil Fuel Racism* (2021), <https://www.greenpeace.org/usa/wp-content/uploads/2021/04/Fossil-Fuel-Racism.pdf>
- Tim Donaghy, *Research Brief: Environmental Justice Across Industrial Sectors*, Greenpeace USA (Apr. 12, 2021), <https://www.greenpeace.org/usa/research/environmental-justice-industrial-sectors/>
- Trade, Health and Environment Impact Project, *Importing Harm: U.S. Ports' Impacts on Health and Communities*, *THE Impact Policy Brief Series* (2012), <https://envhealthcenters.usc.edu/wp-content/uploads/2016/11/Impact-Project-Ports-issue-brief-2012-1.pdf>
- Trade, Health and Environment Impact Project, *Importing Harm: U.S. Ports' Impacts on Health and Communities*, *THE Impact Policy Brief Series* (2012), <https://envhealthcenters.usc.edu/wp-content/uploads/2016/11/Impact-Project-Ports-issue-brief-2012-1.pdf>
- U.S. Army Corps of Eng'rs, *Public Notice of Permit Application SWG-2018-00751* (Feb. 11, 2020), [https://www.swg.usace.army.mil/Portals/26/docs/regulatory/PN%20Feb/PN\\_201800751.pdf?ver=2020-02-11-105702-077](https://www.swg.usace.army.mil/Portals/26/docs/regulatory/PN%20Feb/PN_201800751.pdf?ver=2020-02-11-105702-077)

- U.S. DOT Mar. Admin., *Draft Environmental Impact Statement: Bluewater Texas Terminal Deepwater Port Project* (2021), <https://www.regulations.gov/document/MARAD-2019-0094-0446>
- U.S. DOT Mar. Admin., *Draft Environmental Impact Statement: Sea Port Oil Terminal Deepwater Port Project* (Feb. 2020), <https://www.regulations.gov/document/MARAD-2019-0011-0036>
- U.S. DOT Mar. Admin., *Final Environmental Impacts Statement: Sea Port Oil Terminal Deepwater Port Project*, Docket No. MARAD-2019-0011 (2022), <https://www.regulations.gov/document/MARAD-2019-0011-5032>
- U.S. EPA, *Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts* (2021), [https://www.epa.gov/system/files/documents/2021-09/climate-vulnerability\\_september-2021\\_508.pdf](https://www.epa.gov/system/files/documents/2021-09/climate-vulnerability_september-2021_508.pdf)
- U.S. EPA, *Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts* (2021), <https://www.epa.gov/system/files/documents/2021-09/climate-vulnerabilityseptember-2021508.pdf>
- U.S. EPA, *EJ Screening Report for Clean Power Plan* (2015), <https://archive.epa.gov/epa/sites/production/files/2016-04/documents/ejscreencpp.pdf>
- U.S. Global Change Rsch. Program, *Impacts, Risks, and Adaptation in the United States, Fourth National Climate Assessment, Vol. II* (Reidmiller et al. eds., 2018), <https://nca2018.globalchange.gov/>
- United Nations Econ. And Soc. Comm'n for Asia and the Pacific, *Assessment of the Environmental Impact of Port Development* (1992), [https://www.unescap.org/sites/default/files/pub\\_1234\\_fulltext.pdf](https://www.unescap.org/sites/default/files/pub_1234_fulltext.pdf)
- United Nations Secretary-General, *Secretary-General Warns of Climate Emergency, Calling Intergovernmental Panel's Report 'a File of Shame', While Saying Leaders 'Are Lying', Fuelling Flames* (Apr. 4, 2022), <https://press.un.org/en/2022/sgsm21228.doc.htm>
- United Nations Secretary-General, *Secretary-General's statement on the IPCC Working Group I Report on the Physical Science Basis of the Sixth Assessment* (Aug. 9, 2021), <https://www.un.org/sg/en/content/secretary-generals-statement-the-ipcc-working-group-1-report-the-physical-science-basis-of-the-sixth-assessment>
- W. John Richardson et al., *Marine Mammals and Noise* (1995)
- Yukyan Lam et al., NRDC and Texas Environmental Justice Advocacy Series, *Toxic air pollution in the Houston ship channel: disparities show urgent need for environmental justice* (2021), <https://www.nrdc.org/sites/default/files/air-pollution-houston-ship-channel-ib.pdf>
- Zunaira Asif et al., *Environmental Impacts and Challenges Associated with Oil Spills on Shorelines*, 10 J. Mar. Sci. Eng. 762 (2022), <https://doi.org/10.3390/jmse10060762>

