

February 24, 2023

By Email: DOTExecSec@dot.gov
Ann.Phillips@dot.gov
Yvette.Fields@dot.gov

Secretary Pete Buttigieg
Administrator Ann Phillips
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Director Yvette Fields
Office of Deepwater Port Licensing and Port Conveyance
1200 New Jersey Avenue SE, W21-310 (MAR-530)
Washington, D.C. 20590

RE: West Delta LNG LLC Application (MARAD-2019-0095)

The 22 undersigned organizations are writing this letter requesting the Department of Transportation's Maritime Administration ("MARAD") deny the West Delta LNG LLC ("West Delta LNG") deepwater port application (MARAD-2019-0095) for failure to provide the amended application in a timely manner, as requested.

The Deepwater Port Act ("DWPA"), 33 U.S.C. § 1501 et. seq., provides a 330-day timeframe from the date the notice of application is published in the Federal Register for approval or denial of a deepwater port license.¹ West Delta LNG submitted their application for a license to own, construct, and operate a deepwater port for the export of LNG on August 28, 2019. The application was deemed complete by MARAD on September 18, 2019, and the notice of application was published in the Federal Register shortly after.² The public scoping period for the application's Draft Environmental Impact Statement (DEIS) concluded on November 6, 2019.³

On November 20, 2019, MARAD and the U.S. Coast Guard requested additional information for the preparation of the DEIS and no such information was received.⁴ On December 12, 2019, MARAD suspended the regulatory timeline to provide West Delta an opportunity to submit additional information and/or analyses determined necessary for the completion of the project's DEIS.⁵ From December 2019 until now, MARAD has granted multiple extensions for West Delta LNG to provide the information necessary to either move forward with their initial application or amend their application. The most recent extension required that West Delta submit an amended application by March 1, 2023.⁶

¹ 33 C.F.R. § 148.276.

² 84 Fed. Reg. 50, 880 (September 26, 2019).

³ 84 Fed. Reg. 53,218 (October 4, 2019).

⁴ West Delta Information Request Batch 1, <https://www.regulations.gov/document/MARAD-2019-0095-0014>.

⁵ *Id.*

⁶ Letter - update re: West Delta Deepwater Port License Application, <https://www.regulations.gov/document/MARAD-2019-0095-0030>.

While the undersigned organizations understand that the regulatory timeline can be suspended before the application is approved or denied when the applicant fails to provide requested information,⁷ the administrative suspension of the process cannot supplant statutory deadlines and has now far exceeded what may be considered reasonable. Based upon this application timeline, West Delta has already exceeded Congress' intended regulatory timeline by 912 days.

Timeline of Regulatory Review of the MARAD Application

Date	Event	Days Elapsed from NOA (330-day regulatory clock)
09/26/2019	Notice of Application Published ⁸	0
10/29/2019	Public Scoping Meeting ⁹	33
11/20/2019	Request for Information ¹⁰	55
12/05/2019	First Deadline for Information Requested ¹¹	70
12/12/2019	Stop Clock Suspension ¹²	77
02/07/2020	60 Day Extension Granted ¹³	134
05/19/2020	90 Day Extension Granted ¹⁴	236
09/17/2020	Deadline Set for Amended Application ¹⁵	357
09/06/2021	6 Month Extension Granted ¹⁶	711
06/30/2022	Deadlines Extended ¹⁷	1008
03/01/2023	Deadline for Amended Deepwater Port Application ¹⁸	1252
	STATUS	Exceeded Regulatory Clock by 912 Days

MARAD has provided multiple extensions and West Delta has had ample time to provide the information requested by the U.S. Coast Guard and MARAD. For these reasons, the undersigned organizations request that MARAD provide no further extensions and instead deny West Delta LNG's application for the deepwater port license.

Thank you for your consideration. If you have any questions, please contact Lauren Parker.

Lauren Parker, Staff Attorney, Climate Law Institute
The Center for Biological Diversity

⁷ 33 C.F.R. § 148.107; 33 C.F.R. § 148.283.

⁸ 84 Fed. Reg. 50, 880

⁹ 84 FR 53,218 (October 4, 2019).

¹⁰ West Delta Information Request Batch 1, supra note 4.

¹¹ *Id.*

¹² West Delta – Stop Clock Letter, <https://www.regulations.gov/document/MARAD-2019-0095-0011>.

¹³ West Delta Deepwater Port Project Status Letter, <https://www.regulations.gov/document/MARAD-2019-0095-0024>.

¹⁴ West Delta- Project Status Response Letter, <https://www.regulations.gov/document/MARAD-2019-0095-0025>.

¹⁵ West Delta LNG -Project Status Response Letter #2, <https://www.regulations.gov/document/MARAD-2019-0095-0026>.

¹⁶ West Delta Extension Request Response, <https://www.regulations.gov/document/MARAD-2019-0095-0028>

¹⁷ Letter - update re: West Delta Deepwater Port License Application, supra note 6

¹⁸ *Id.*

1411 K Street NW, Suite 1300
Washington, D.C. 20005
Phone: (202) 868-1008
Email: lparker@biologicaldiversity.org

Signed by:

1. Action for the Climate Emergency
2. Another Gulf Is Possible Collaborative
3. Atchafalaya Basinkeeper
4. Clean Air and Water Better Brazoria
5. Fisherman Interested in Saving our Heritage (FISH)
6. For a Better Bayou
7. Greenfaith
8. Healthy Gulf
9. Louisiana Bucket Brigade
10. Port Arthur Community Action Network
11. RISE St. James
12. Sierra Club Delta Chapter, Louisiana
13. Sierra Club Lone Star Chapter, Texas
14. St. Andrew's Presbyterian, Earth Care Committee, Austin, TX
15. Terra Advocati
16. Texas NAACP
17. Texas NAACP
18. The Vessel Project of Louisiana
19. Turtle Island Restoration Network
20. Unitarian Universalist Fellowship of Hidalgo County Texas
21. Wolfe Energy LLC
22. 198 Methods