

NOT YET SCHEDULED FOR ORAL ARGUMENT

No. 20-1503

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SIERRA CLUB,
Petitioner,

v.

UNITED STATES DEPARTMENT OF ENERGY,
Respondent.

On Petition for Review of an Order
of the U.S. Department of Energy

**STATUS REPORT FOR RESPONDENT
UNITED STATES DEPARTMENT OF ENERGY**

Of Counsel:

BETTINA MUMME
Attorney
Office of the General Counsel
U.S. Department of Energy

TODD KIM
Assistant Attorney General
JUSTIN D. HEMINGER
JOHN L. SMELTZER
Attorneys
Environment and Natural Resources Division
U.S. Department of Justice
Post Office Box 7415
Washington, D.C. 20044
(202) 305-0343
john.smeltzer@usdoj.gov

On June 30, 2021, this Court issued an order granting a motion by Respondent U.S. Department of Energy (“DOE”) to hold this petition for review in abeyance in light of a rehearing proceeding pending before DOE. This Court directed DOE to file status reports in 60-day intervals. DOE’s first status report was filed on August 30, 2021. As previously reported:

Petitioner Sierra Club challenges an August 2020 order issued by DOE’s Office of Fossil Energy (now the Office of Fossil Energy and Carbon Management) that authorizes the Alaska LNG Project LLC to export liquefied natural gas (“LNG”) from a proposed project to be located in Alaska (“Alaska LNG Project”). In a Rehearing Order issued on April 15, 2021, DOE announced plans to conduct two environmental studies to evaluate potential impacts associated with the proposed LNG exports, to hold an associated public comment proceeding, and to issue an order at the conclusion of the proceeding. On June 28, 2021, DOE issued a Notice of Intent to Prepare a Supplemental Environmental Impact Statement for the Alaska LNG Project to conduct the studies consistent with the National Environmental Policy Act (“NEPA”). *See* 86 Fed. Reg. 35,280 (July 2, 2021). Depending on the findings from the supplemental environmental impact statement (“SEIS”) and input from the associated public process, DOE may decide to modify, set aside, or affirm the challenged authorization order. *See* 15 U.S.C. §§ 717b(a), 717r(a).

DOE's National Energy Technology Laboratory is preparing the SEIS and is continuing to work on the studies. On August 24, 2021, DOE published a Notice of Schedule for completing key milestones in the SEIS and rehearing process.

Under the projected schedule, DOE will:

- (1) publish a notice of availability of the draft SEIS by May 2, 2022;
- (2) publish a notice of availability of the final SEIS by September 15, 2022; and
- (3) publish a final order and NEPA record of decision by December 14, 2022.

If any changes to this projected schedule become necessary, DOE will publish a notice in its public docket for this case (DOE/FECM Docket No. 14-96-LNG), in addition to the status reports to be provided to this Court.

There are no changes to the above schedule to report at this time.

Respectfully submitted,

TODD KIM
Assistant Attorney General

Of Counsel:

BETTINA MUMME
Attorney
Office of the General Counsel
U.S. Department of Energy

October 29, 2021
DJ No. 90-13-5-16242

/s/ John L. Smeltzer
JUSTIN D. HEMINGER
JOHN L. SMELTZER
Attorneys
Environment and Natural Resources Division
U.S. Department of Justice
Post Office Box 7415
Washington, D.C. 20044
(202) 305-0343
john.smeltzer@usdoj.gov