

19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

RISE ST. JAMES LOUISIANA,	*	
SIERRA CLUB AND ITS DELTA	*	
CHAPTER, HEALTHY GULF,	*	NUMBER _____
LOUISIANA BUCKET BRIGADE,	*	
CENTER FOR BIOLOGICAL	*	DIVISION _____
DIVERSITY, and EARTHWORKS,	*	
	*	JUDGE _____
Petitioners,	*	
	*	
v.	*	
	*	
LOUISIANA DEPARTMENT OF	*	
ENVIRONMENTAL QUALITY,	*	
	*	
Defendant.	*	
	*	

PETITION FOR JUDICIAL REVIEW

INTRODUCTION

1. RISE St. James Louisiana, Sierra Club and its Delta Chapter, Healthy Gulf, Louisiana Bucket Brigade, Center for Biological Diversity, and Earthworks (collectively, “Petitioners”) appeal Louisiana Department of Environmental Quality’s (“LDEQ’s”) January 6, 2026 final decision granting a fourth extension to the commencement of construction deadline for Clean Air Act Prevention of Significant Deterioration (“PSD”) Permit PSD-LA-812 (“PSD Permit”) issued to FG LA LLC (“Formosa Plastics”) over six years ago to construct a new chemical manufacturing complex (“Chemical Complex”) in St. James Parish (AI 198351). We refer to this final permitting action as the “decision.”
2. LDEQ was required to deny Formosa Plastics’ application for a fourth extension of its PSD Permit’s construction-start deadline because the company failed to meet the one condition of its third extension: to show by July 6, 2024 that the Chemical Complex could comply with the new health-based National Ambient Air Quality Standards (“NAAQS”) for fine particulate matter, called “PM_{2.5}.” To this day, Formosa Plastics has not provided LDEQ that documentation. Meanwhile, through an expert report, Petitioners showed that the company in fact would cause or contribute to violations of the PM_{2.5} standard in St. James Parish. Indeed,

because Formosa Plastics did not satisfy this permit condition to its last extension, the PSD Permit is invalid and cannot be revived by a fourth extension. Even if LDEQ could somehow extend the PSD Permit again, it could only do so if the company provided a valid and supported justification. But, here, that did not happen and instead LDEQ rubberstamped Formosa Plastics' naked assertion that the U.S. Army Corps of Engineers' (the "Corps") 2020 decision to suspend a Clean Water Act Section 404 permit is the reason construction has not begun. Record evidence, however, shows that it is Formosa Plastics that has not taken the steps needed to get the Corps permit over the more than five years since the suspension. Lastly, LDEQ ignored—without explanation—U.S. Environmental Protection Agency ("EPA") policy on PSD extensions that would have at least required Formosa Plastics to do a substantive re-review to show present-day compliance with the Clean Air Act before LDEQ could issue an extension. Formosa Plastics submitted no such analysis here, but LDEQ granted the extension anyway.

3. LDEQ's decision to extend the PSD Permit for the fourth time is in violation of the law, arbitrary or capricious, an abuse of discretion, and not supported by a preponderance of the evidence. The decision also violates LDEQ's public trust duty under article IX, section 1 of the Louisiana Constitution.

4. For these reasons, and as further detailed below, we ask the Court to reverse LDEQ's decision and vacate the extension for the PSD Permit. If Formosa Plastics wishes to pursue its project, it must instead apply for a new PSD permit likely requiring it to reduce the Chemical Complex's emissions to meet the NAAQS.

JURISDICTION AND VENUE

5. Jurisdiction and venue are proper in this Court pursuant to La. R.S. 30:2050.21(A), as this is an appeal of an LDEQ final permit action. LDEQ's decision is a final permit action under La. R.S. 30:2024(A), because Formosa Plastics did not request a hearing on the decision within 30 days after notice of the action. Alternatively, jurisdiction and venue are proper in this Court pursuant to La. R.S. 49:978.1(A)(1) and 49:978.1(B), respectively, as LDEQ's decision is a final decision in an adjudication proceeding and LDEQ is located in East Baton Rouge Parish.

6. The petition is timely in accordance with La. R.S. 30:2050.21(A), since it was

filed within 30 days of LDEQ's notice of its final permit action made on January 6, 2026.

Alternatively, the petition is timely in accordance with La. R.S. 49:978.1(B) since it was filed within 30 days after the transmittal of notice of the final decision by the agency.

PARTIES

7. Petitioners are persons who are aggrieved by LDEQ's final decision under La. R.S. 30:2050.21(A), 30:2004(3) & (11). The Petitioners submitted written comments into the record in this matter prior to the final decision detailing their objections to the extension to the commencement of construction deadline for the PSD Permit. Alternatively, Petitioners are parties aggrieved by LDEQ's final decision in an adjudication proceeding under La. R.S. 49:978.1(A).

8. RISE St. James Louisiana is a nonprofit, grassroots, faith-based organization based in Louisiana. RISE St. James Louisiana advocates for racial, social, and environmental justice and works to promote clean air that is free of harmful industrial pollution. RISE St. James Louisiana has members who live in St. James Parish close to Formosa Plastics' site and are concerned that emissions from the Chemical Complex would impair their health and their environment.

9. Healthy Gulf was founded in 1994 and has thousands of members and supporters in all five Gulf States, many of whom live in Louisiana. Healthy Gulf's purpose is to collaborate with and serve communities who love the Gulf of Mexico by providing the research, communications, and coalition-building tools needed to reverse the long pattern of over exploitation of the Gulf's natural resources. Healthy Gulf has members in St. James Parish and surrounding parishes who are concerned about the impacts that Formosa Plastics' emissions will have on their health and their environment.

10. Sierra Club is a national nonprofit environmental organization dedicated to exploring, enjoying, and protecting the wild places and resources of the Earth; practicing and promoting the responsible use of the Earth's ecosystems and resources; educating and enlisting humanity to protect and restore the quality of the natural and human environment; and using all lawful means to carry out these objectives. Sierra Club's Delta Chapter is active in Louisiana. One of Sierra Club and its Delta Chapter's priorities is promoting and improving air quality. In

particular, Sierra Club and its Delta Chapter seek to reduce the unnecessary and often harmful use of fossil fuels in facilities like Formosa Plastics' planned Chemical Complex. Sierra Club and its Delta Chapter's members and supporters who live in the area along the Mississippi River from Baton Rouge to New Orleans are very concerned that their health and the environment will be negatively impacted by the air emissions from the Chemical Complex.

11. Louisiana Bucket Brigade is an environmental health and justice organization whose mission is to bring about a Louisiana that is healthy, prosperous, and pollution-free. Louisiana Bucket Brigade uses grassroots organizing and action to hold the petrochemical industry and government accountable for the true costs of pollution from petrochemical operations and hasten the transition from fossil fuels to cleaner forms of energy. Louisiana Bucket Brigade works with partner organizations and has supporters and staff who live and work in the area and are concerned that emissions from Formosa Plastics' planned Chemical Complex would impair their health and their environment.

12. The Center for Biological Diversity is a non-profit organization with 93,927 active members nationwide, including members who live in Louisiana. The Center works through science, law, and policy to secure a future for all species, great or small, hovering on the brink of extinction. In furtherance of these goals, the Center seeks to reduce U.S. greenhouse gas emissions and other air pollution to protect biological diversity, the environment, and human health and welfare. In pursuit of its mission, the Center has been working to stem the environmental and public health harms from plastics production in the Gulf region and nationwide.

13. Earthworks is a nonprofit organization dedicated to protecting communities and the environment from the impacts of oil, gas, mining, and petrochemical development while seeking sustainable solutions. For more than 25 years, Earthworks has worked to advance policy reforms, safeguard land and public health, and improve corporate practices. Its team works with local communities, partner organizations, public agencies, and elected officials to advance these goals nationwide, including in Louisiana. Earthworks has supporters living in the area who are concerned about the harmful effects from the increase in pollutants from Formosa Plastics' planned Chemical Complex and other planned industrial facilities.

14. LDEQ is the primary agency of the State of Louisiana concerned with environmental protection and regulation. La. R.S. 30:2011(A)(1). It has an affirmative obligation to consider the environmental impacts of its decisions. It has the power to sue and be sued. It is the agency that made the final decision in this matter.

LEGAL FRAMEWORK

National Ambient Air Quality Standards & Prevention of Significant Deterioration

15. The Clean Air Act establishes a rigorous program for regulating new and existing sources of air pollution. EPA is responsible for setting National Ambient Air Quality Standards (“NAAQS”) for six common, harmful pollutants, which include: particulate matter (PM_{2.5} and PM₁₀), ozone (O₃), carbon monoxide (CO), sulfur dioxide (SO₂), nitrogen dioxide (NO₂) and lead (Pb). *See* 42 U.S.C. § 7409; 40 C.F.R. pt. 50. The NAAQS protect people’s health by limiting the concentration of each such pollutant in the ambient air people breathe. *Id.* § 7409(b).

16. The Clean Air Act requires EPA to review and, if necessary, update the NAAQS every five years to ensure they provide adequate public health protection.

17. On February 7, 2024, EPA finalized a yearslong review to issue a more stringent NAAQS for PM_{2.5} (fine particulate matter, also known as soot), reducing the primary annual limit from 12.0 µg/m³ to 9.0 µg/m³. In other words, the limit nationally is no more than 9.0 micrograms of fine particulate matter per cubic meter of air. EPA’s decision was due to considerable scientific evidence linking human health harms, especially for respiratory and cardiovascular illness, to concentrations at or below this new threshold. This update, which became effective on May 6, 2024, aims to enhance public health protection against premature death and increased sickness.

18. EPA designates areas as “attainment,” “unclassifiable,” or “nonattainment” based on whether they meet that NAAQS. *Id.* § 7407(d). In areas designated unclassifiable or attainment, such as St. James Parish, the Clean Air Act requires the *prevention of significant deterioration* of air quality to guard against the development of unhealthy air. *See* 42 U.S.C. §§ 7470–79. The Clean Air Act aims to prevent “significant deterioration” in two ways. First, new construction or modification of large stationary sources of air pollution (like Formosa Plastics’ planned Chemical Complex) must not cause or contribute to a violation of any NAAQS. *Ala.*

Power Co. v. Costle, 636 F.2d 323, 362 (D.C. Cir. 1979); *see* 42 U.S.C. § 7475(a)(3)

(establishing preconstruction review requirements). Second, such source must also show its air pollution will not cause or contribute to a violation of any maximum allowable increases in air pollution, called “increments,” set by EPA. 42 U.S.C. §§ 7475–76; *see also id.* § 7473.

19. Every state must develop a state implementation plan (“SIP”) for EPA approval to ensure that the NAAQS are achieved and maintained. 42 U.S.C. § 7410(a)(1)-(2), (l). All SIPs must provide mechanisms “to prevent significant deterioration of air quality in each region.” 42 U.S.C. § 7471. Upon receiving EPA approval, “the state implementation plan becomes federally enforceable.” *St. Bernard Citizens for Env’tl. Quality v. Chalmette Refining, LLC*, 399 F. Supp. 2d 726, 730 (E.D. La. 2005). Louisiana’s EPA-approved SIP provisions that incorporate the Clean Air Act’s PSD requirements are in the Louisiana Administrative Code at 33:III.509. *See* 40 C.F.R. § 52.970(c) (identifying EPA approved regulations in the Louisiana SIP); *see also* 40 C.F.R. §§ 52.999(c), 52.986.

20. Closely adhering to their federal equivalents, Louisiana’s PSD permitting requirements provide: “No new major stationary source or major modification to which the requirements of Subsection J-Paragraph R.5 of this Section apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements.” LAC 33:III.509(A)(3). Such requirements include, among other things, the following:

- a. Application of “best available control technology [“BACT”] for each regulated NSR pollutant [i.e., PSD pollutant] that [the source] would have the potential to emit in significant amounts.” LAC 33:III.509(J)(2).
- b. Demonstration by the “owner or operator of the proposed source . . . that allowable emission increases from the proposed source . . . in conjunction with all other applicable emissions increases or reductions, including secondary emissions, would not cause or contribute to air pollution in violation of: a. any national ambient air quality standard in any air quality control region; or b. any applicable maximum allowable increase over the baseline concentration in any area.” LAC 33:III.509(K)(1).

21. The PSD program balances the protection of human health with economic growth by allowing new sources of industrial air pollution to build generally, but not where the additional new pollution could “cause or contribute to” NAAQS or increment violations. *See Ala. Power*, 636 F.2d at 361–62. The PSD program is designed to prevent specific locations within the United States from having significantly worse air than others. If the permitting agency (here, LDEQ) fails to enforce PSD requirements, localities, even regions, can end up with pollution from industrial sources that violate NAAQS. This failure also could lead EPA to designate the area “nonattainment” for the NAAQS, triggering stricter regulations on both existing and planned facilities.

PSD Permit Expiration and Extension

22. Under Louisiana’s EPA-approved SIP, a PSD permit’s “[a]pproval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time.” LAC 33:III.509(R)(2).

23. LDEQ “may extend the 18-month period upon a satisfactory showing that an extension is justified.” *Id.*

24. The text of Section 509(R) is nearly identical to EPA’s own regulation, 40 C.F.R. § 52.21(r), that EPA applies to those PSD permits EPA issues directly.

25. EPA Guidance outlines the policy that EPA applies, and encourages states to use, in determining on a case-by-case basis whether an applicant is entitled to an extension of a PSD permit or whether the company must apply for a new PSD permit. EPA, Guidance on Extensions of PSD Permits (Jan. 2014) (“EPA Guidance”), <https://www.epa.gov/sites/default/files/2015-07/documents/extend14.pdf>.

26. EPA’s policy only contemplates that an applicant would receive up to two extensions of the deadline. Except in “rare circumstances,” the request for a second extension must include a “substantive re-analysis and update of PSD requirements,” which would include a new air quality analysis demonstrating that the facility would not cause or contribute to a violation of the NAAQS and a new BACT analysis. And “[i]n some cases, the EPA may ask the

permittee to apply for a new PSD permit rather than conduct its review through a [second] permit extension proceeding.”

27. EPA limits PSD extensions because it “believes that it is more likely that technology and air quality considerations will become outdated when construction does not begin until 36 months or longer after . . . a PSD permit.”

Louisiana Public Trustee Duty

28. Under Article IX, § 1 of the Louisiana Constitution, LDEQ has a duty as a public trustee to protect the environment “insofar as possible and consistent with the health, safety, and welfare of the people.” La. Const. Art. 9, Sec. 1.

29. Article IX, § 1’s public trust duty requires LDEQ “to determine that adverse environmental impacts have been minimized or avoided as much as possible consistently with the public welfare,” and LDEQ must make this determination “before granting approval of proposed action affecting the environment.” *Save Ourselves v. La. Env’tl. Control Comm’n*, 452 So.2d 1152, 1157 (La. 1984).

30. As a public trustee, the LDEQ is duty-bound to demonstrate that it has properly exercised the discretion vested in it by making basic findings supported by evidence and ultimate findings that flow rationally from the basic findings; and it must articulate a rational connection between the facts found and the order, or in this case, the permit decision. *See Save Ourselves*, 452 So.2d at 1159–60.

31. LDEQ’s decision must recite facts presented by all sides and respond to all reasonable comments. *Matter of Rubicon, Inc.*, 95-0108, pp. 11–12 (La. App. 1 Cir. 2/14/96), 670 So.2d 475, 483.

32. Moreover, this Court also has its own public-trust duty to “review final decisions of the DEQ to ensure that they comport with applicable constitutional, statutory and regulatory requirements.” *Matter of CYTEC Indus., Inc.*, 94-1693, p. 3 (La. App. 1 Cir. 2/23/96), 672 So.2d 179, 181. This applies even in cases where “the adequacy of DEQ’s final decision was not raised as a specific assignment of error.” *Id.*

REVIEW STANDARD

33. The Louisiana Environmental Quality Act provides that the standard of review is

the same as provided in the Louisiana Administrative Procedures Act (“APA”). La. R.S.

30:2050.21(F). The APA provides:

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

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (6) Not supported and sustainable by a preponderance of evidence as determined by the reviewing court. In the application of this rule, the court shall make its own determination and conclusions of fact by a preponderance of evidence based upon its own evaluation of the record reviewed in its entirety upon judicial review.

La. R.S. 49:978.1(G).

34. “In interpreting a state statute or rule, a court, administrative judge, or hearing officer presiding over a contested case, hearing, or appeal shall not defer to the agency’s interpretation of the statute or rule. The court, administrative judge, or hearing officer shall interpret the meaning of the statute or rule de novo.” La. R.S. 49:978.1(H).

35. If the Court finds that LDEQ acted in violation of its constitutional public trustee duty, the decision is “null and void and must be vacated.” *Matter of Rubicon*, p. 9, 670 So.2d at 481.

36. If LDEQ’s “decision was reached procedurally, without individualized consideration and balancing of environmental factors conducted fairly and in good faith, it is the courts’ responsibility to reverse.” *Save Ourselves*, 452 So.2d at 1159.

FACTS

37. LDEQ first issued the PSD Permit to Formosa Plastics on January 6, 2020. The permit provides: “This permit and authorization to construct shall expire at midnight on July 6, 2021 unless physical on site construction has begun by such date, or binding agreements or contractual obligations to undertake a program of construction of the source are entered into by such date.”

38. On November 10, 2020, the U.S. Army Corps of Engineers (“Corps”) issued a notice of suspension of the Clean Water Act Section 404 permit that it had issued to Formosa Plastics for construction of the Chemical Complex, stating: “The Corps has determined it to be in the public interest to suspend DA Permit MVN-2018-00159-CM so that we may re-evaluate the alternatives analysis under the Clean Water Act and other aspects of the permit decision if appropriate. Accordingly, all activities authorized under Permit MVN-2018-00159-CM must cease.”

39. On July 4, 2021, Formosa Plastics applied for an 18-month extension of the PSD Permit construction deadline, citing the Corps’ suspension of the 404 permit and requirement to cease all construction activities as the justification for the extension.

40. On July 6, 2021, LDEQ extended the deadline to commence construction of the Chemical Complex authorized under the PSD Permit until January 6, 2023, citing the Corps’ suspension as justification.

41. In August 2021, the Corps announced that it would require an Environmental Impact Statement (“EIS”) under the National Environmental Policy Act for Formosa Plastics’ project.

42. In October 2021, the Corps stated that if Formosa Plastics decides to move forward with the application for a Clean Water Act Section 404 permit it would have to hire third-party contractors to conduct the EIS.

43. In September 2022, the Corps stated that its permit review is on hold because Formosa Plastics “has not yet initiated the review.”

44. On November 2, 2022, with supplemental information submitted December 1, 2022, Formosa Plastics applied for its second 18-month extension of the construction commencement deadline for its PSD Permit, stating that the Corps suspension remained in place and its PSD Permit along with the other air permits issued for the Chemical Complex were then subject to litigation. Formosa Plastics also cited the EPA Guidance on second extensions and purported to meet that guidance with a partial BACT analysis, but not the “substantive re-analysis and update of PSD requirements” the EPA Guidance actually specifies. Additionally, Formosa Plastics submitted an assessment of changes to reported air emissions from other

facilities in the surrounding area of the project, but not a new air quality analysis as would be required in a “substantive re-analysis” of a PSD permit.

45. On December 5, 2022, LDEQ granted Formosa Plastics’ application and extended the construction commencement deadline for the PSD Permit another 18 months until July 6, 2024. In making its decision, LDEQ invoked and purported to comply with the EPA Guidance for extending PSD permits noting that it is “LDEQ’s longstanding policy to consider EPA Guidance related to PSD permitting actions.”

46. In January 2024, the Corps stated that “Our regulatory evaluation is currently and will remain in a suspended status until the Formosa Group initiates the EIS process, which would include hiring a qualified 3rd-party contractor.” The Corps further explained that “the Regulatory process was suspended until the [Formosa Plastics] decides to move forward. So while we are in contact with the applicant, nothing is moving forward at this time.”

47. On February 9, 2024, Formosa Plastics applied for its third 18-month extension of the construction commencement deadline for the PSD Permit, again stating that the Corps suspension remains in place and the air permit litigation continues.

48. On March 22, 2024, LDEQ granted Formosa Plastics’ application and extended the construction commencement deadline for the PSD Permit another 18 months until January 6, 2026. But LDEQ conditioned this approval on a requirement that Formosa Plastics demonstrate that the Chemical Complex will not cause or contribute to a violation of the recently revised PM_{2.5} NAAQS annual standard of 9.0 µg/m³. LDEQ gave Formosa Plastics a deadline of July 6, 2024, “unless the standard has been suspended or revoked by a court of proper jurisdiction” by that date.

49. On March 25, 2024, Petitioners submitted comments to LDEQ objecting to Formosa Plastics’ third extension application on several grounds, including failure to show compliance with the newly issued NAAQS for PM_{2.5} before granting the extension, failure to conduct new ozone modeling—relying instead on modeling from 2018—and failure to conduct the required BACT analysis. Petitioners also noted that while the application was received (date-stamped) by LDEQ on February 14, 2024, the agency had not posted it to the Electronic Documents Management System (“EDMS”) that is available to the public until March 22, 2024

(two days after LDEQ had already granted the extension application). LDEQ's decision to grant the extension was not posted to the EDMS until at least March 26, 2024, as indicated on the Air Permit Routing/Approval Slip. Thus, the public effectively had no opportunity to comment on Formosa Plastics' application until after LDEQ's decision to grant the third extension was already final.

50. In June 2024, Petitioners submitted expert-witness air modeling in a report from Steven Klafka (the "Klafka report") to LDEQ. The Klafka report found that Formosa Plastics would be responsible for violations of the PM_{2.5} annual standard, in that Formosa Plastics would contribute to violations the model predicted would occur in areas of St. James Parish outside of the Chemical Complex's property. Indeed, some of those violations would occur in or near residential communities. Thus, Formosa Plastics could not meet the PM_{2.5} annual standard without substantially changing the Chemical Complex to reduce its emissions of PM_{2.5}.

51. Formosa Plastics failed to meet the one condition in LDEQ's decision to extend the construction deadline for the third time. Formosa Plastics did not demonstrate that the Chemical Complex will not cause or contribute to a violation of the recently revised PM_{2.5} NAAQS annual standard by July 6, 2024, despite the fact that the standard had not been suspended or revoked by a court of proper jurisdiction by that date.

52. LDEQ has provided no record evidence that it extended Formosa Plastics' July 6, 2024 deadline to show compliance with the NAAQS. Nor is there any record that LDEQ changed its conditional approval of the third permit-deadline extension. And now Formosa Plastics has used up all 18 months of the conditionally-extended construction period LDEQ granted, without complying.

53. Because Formosa Plastics failed to submit modeling showing it would not cause or contribute to a violation of the PM_{2.5} annual NAAQS of 9.0 µg/m³, not by the July 2024 deadline and not even before the PSD Permit expired on January 6, 2026, the PSD Permit had in fact expired because the company failed to meet the one condition for its third extension. LDEQ cannot extend a permit that already is invalid by operation of law, nor did the agency's decision even attempt to explain how it could do so despite the unfulfilled condition. Formosa Plastics has never made the required showing on which its PSD Permit's validity depended, even as the

PM_{2.5} annual NAAQS remains in place.

54. Nevertheless, on December 15, 2025, Formosa Plastics submitted a letter applying for a fourth extension of its construction commencement deadline. Formosa Plastics included no additional analysis to support its request beyond the four-corners of the letter; not any further BACT review or any air quality analysis. Formosa Plastics failed even to mention the PM_{2.5} annual NAAQS or the fact that it had never provided the modeling and analysis LDEQ required as a condition to the prior extension.

55. The entirety of Formosa Plastics' justification for the fourth extension was that: "As noted above, all activities authorized by the Corps Permit have been suspended and 'must cease.' All activities under the Corps Permit remain suspended. As a result, [Formosa Plastics] remains prohibited from engaging in the construction activities authorized by the PSD Permit." The company nowhere explained how, if at all, it planned to participate in the Corps' permitting process, or to actually start building the project within the next 18 months. To the contrary, it told LDEQ, "[t]here has been no change in the Corps' Notice of Suspension."

56. Indeed, further undermining the idea that Formosa Plastics intends to seriously seek permits or build in the near future, on December 22, 2025, LDEQ sent Formosa Plastics a letter tabulating that the company owed the agency past-due balances totaling \$185,982 in unpaid permitting fees for fiscal year 2026, including over \$4,500 in late fees.

57. On December 22, 2025, Petitioners submitted comments objecting to Formosa Plastics' fourth extension request. In those comments, Petitioners again submitted the Klafka report, pointing out that not only had Formosa Plastics failed to conduct any "substantive re-analysis" of its compliance with PSD permitting standards, but that the Klafka report showed that the planned Chemical Complex fails to meet the standard for PM_{2.5}. Moreover, Petitioners attached emails obtained from the Corps in a Freedom of Information Act request from the period of 2021 through 2024 as described above. As those emails clearly show, throughout most of the period that Formosa Plastics had been insisting to LDEQ that the Corps' suspension was the reason for the construction delay, the Corps confirmed that Formosa Plastics inaction was the reason for the delay.

58. Without even acknowledging Petitioners' comments, the Klafka report, the Army

Corps' emails, or Formosa Plastics' unpaid permitting fees, LDEQ issued the fourth extension decision on January 6, 2026, the same day the PSD Permit would have expired had Formosa Plastics actually met the condition for LDEQ's third extension. While LDEQ's decision notes that the agency had conditioned the third extension on Formosa Plastics submitting modeling showing compliance with the PM_{2.5} annual standard, it does not explain how Formosa Plastics could get a fourth extension while not having ever submitted that modeling as required by the third extension.

59. LDEQ simply concluded that “[b]ecause [Formosa Plastics’] Corps permit remains suspended, LDEQ hereby extends the deadline to commence construction” to July 6, 2027. Once again, LDEQ noted that Formosa Plastics “is still obligated to demonstrate that” its project “will not cause or contribute a violation” of the PM_{2.5} annual standard. But rather than require that modeling before deciding on an extension, LDEQ allowed Formosa Plastics to submit such modeling by July 6, 2026—i.e., 6 months into its 18-month extended period—“unless the standard is revised or revoked or an extension is provided by LDEQ.”

60. Given LDEQ's past practice, it is reasonable to expect the agency will not enforce the July 6, 2026, deadline and allow Formosa Plastics to avoid submitting modeling indefinitely.

61. Under LDEQ's fourth extension decision, Formosa Plastics could commence construction within the meaning of the PSD regulations as soon as it is ready to do so, even though it has failed to show how it could comply with the PM_{2.5} annual standard, and even though LDEQ has required Formosa Plastics to submit that modeling as a “condition” for almost two years, and even though the Klafka report shows that Formosa Plastics cannot meet this standard. Moreover, Formosa Plastics also failed to provide any review of BACT or compliance with any other NAAQS let alone the PM_{2.5} annual standard.

62. Lastly, in LDEQ's fourth extension decision, LDEQ ignored the record evidence making it clear that Formosa Plastics is the reason the Corps' suspension remains in place—that the company not indicated to the Corps a willingness to engage in the permit process. Nor did LDEQ require Formosa Plastics to provide any kind of construction timetable.

ASSIGNMENTS OF ERROR

63. Based on the facts alleged in all of the preceding paragraphs, which Petitioners

incorporate herein, Petitioners assert the following assignments of error.

64. LDEQ's final decision has prejudiced substantial rights of Petitioners because LDEQ's decision is in violation of constitutional, regulatory, or statutory provisions. La. R.S. 49:978.1(G)(1).

65. LDEQ's final decision has prejudiced substantial rights of the Petitioners because LDEQ's decision is in excess of the statutory authority of the agency. La. R.S. 49:978.1(G)(2).

66. LDEQ's final decision has prejudiced substantial rights of the Petitioners because its decision is made upon unlawful procedure or affected by other error of law. La. R.S. 49:978.1(G)(3) & (4).

67. LDEQ's final decision has prejudiced substantial rights of Petitioners because LDEQ's decision is arbitrary and capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. La. R.S. 49:978.1(G)(5).

68. LDEQ's final decision has prejudiced Petitioners' substantial rights, because the decision is not supported or sustainable by a preponderance of evidence. La. R.S. 49:978.1(G)(6).

DESIGNATION OF RECORD FOR APPEAL

Petitioners designate as the Administrative Record all information produced by, considered by, and submitted to LDEQ in connection with its decision to grant a fourth extension to the commencement of construction deadline for PSD Permit PSD-LA-812. Petitioners will endeavor reach agreement with LDEQ to shorten the record as appropriate, in the interests of judicial economy and reducing time and expense to all parties in compiling and filing the record. *See* La. R.S. 30:2050.21(D).

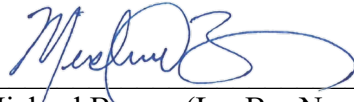
PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court:

- a. Vacate LDEQ's final decision to grant a fourth extension to the commencement of construction deadline for the PSD Permit, and
- b. Award all other relief the Court finds proper.

[Signature Block Follows on Next Page]

Respectfully submitted this 5th day of February, 2026 by,



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