

**19th JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA**

REFINED COMMUNITY
EMPOWERMENT, INC.,
Petitioner,

v.

LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY,
Defendant.

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Case No.: _____

Section: _____

Judge: _____

PETITION FOR JUDICIAL REVIEW

1. Refined Community Empowerment, Inc. (“Petitioner”) appeals Louisiana Department of Environmental Quality’s (“LDEQ”) final decision made on August 18, 2026, granting Part 70 Operating Permit Renewal and Modification Permit No. 2520-00033-V16 (“Permit”) to International Matex Tank Terminal, LLC (“IMTT”) for the St. Rose Terminal in St. Charles Parish (“facility”).

SUMMARY

2. This appeal concerns LDEQ’s decision to issue the Permit and approve IMTT’s expansion of its massive bulk liquids storage facility, also known as a “tank farm,” that is sandwiched between the two residential communities of Elkinsville-Freetown and Oak Lawn Ridge. LDEQ approved this expansion without conducting and documenting the analyses required by Louisiana and federal air quality laws. The Permit authorizes the addition of a

number of bulk liquid storage tanks, fifteen (15) of which store methanol, crude oil, and petrochemical products that emit volatile organic compounds (“VOCs”). Many of the VOCs are regulated as toxic air pollutants—including benzene (a known human carcinogen) along with n-hexane, polycyclic aromatic hydrocarbons (PAHs), and other. The Permit also authorizes construction of four large ammonia storage tanks and related equipment that emit a major amount of ammonia, another regulated toxic air pollutant.

2. This case is centered on LDEQ’s failure to perform analyses that the Clean Air Act and Louisiana air laws require. LDEQ concluded that the project would not trigger PSD review, would not violate the NAAQS, and would comply with Louisiana toxic air pollutant standards, yet the administrative record lacks the emissions information and modeling necessary to support those conclusions.

3. Rather than requiring the fifteen (15) tanks described above to undergo New Source Review (“NSR”), IMTT asked LDEQ to “reauthorize” the tanks through the Title V permit renewal process. But prior construction authorizations for these tanks expired because the tanks were not constructed within two years of approval, which means there is nothing for LDEQ to “reauthorize.” The agency cannot simply roll its prior, but now expired, authorization of these tanks into the Permit. Additionally, LDEQ excluded the fifteen (15) tanks from the emissions analysis used to determine whether the project would exceed any of the significance thresholds under the Prevention of Significant Deterioration (“PSD”) program. Regardless of whether the tanks could lawfully be reauthorized, LDEQ was required to determine and account for

emissions associated with those tanks before concluding that the project did not trigger PSD review.

4. Because LDEQ failed to account for all emissions associated with the project, it never performed the analysis necessary to determine whether the modification was minor or major, whether PSD review was required, or whether the project's emissions would cause or contribute to a violation of the National Ambient Air Quality Standards ("NAAQS"). Nevertheless, in violation of federal and state air quality laws, LDEQ concluded that PSD review did not apply.

5. Furthermore, the emissions information for the fifteen (15) tanks that is necessary for LDEQ to conduct its required analyses does not exist in this permit record. Still, LDEQ concluded that the project does not exceed the PSD threshold or violate the NAAQS, making this decision arbitrary and capricious, an abuse of discretion, and not supportable by a preponderance of evidence in the record.

6. The administrative record likewise does not contain any analysis demonstrating that toxic air pollutant emissions from the fifteen tanks comply with Louisiana's Ambient Air Standards under Chapter 51.

7. Furthermore, in concluding that operation of the facility would not adversely affect surrounding communities, LDEQ relied upon air quality demonstrations performed many years before issuance of the Permit and before adoption of the current 1-hour NO₂ and 1-hour SO₂ NAAQS. The administrative record does not explain why those historical demonstrations remain adequate to evaluate current air quality impacts on nearby residents.

8. Similarly, based on a screening analysis, LDEQ concluded that ammonia emissions from the new ammonia tanks and related equipment would comply with Louisiana's ambient air standards ("AAS") for toxic air pollutants under LAC 33:III Chapter 51 requirements. Yet the administrative record does not contain any such screening analysis, any underlying calculations, or any explanation or demonstration of why no additional modeling was required. As a result, the record does not provide a rational basis for LDEQ's conclusions regarding ammonia impacts from the approved construction of the tanks and associated equipment.

9. Because LDEQ approved the project without conducting and documenting the analyses required by Louisiana and federal law, the Permit violates Louisiana's PSD regulations, Louisiana's toxic air pollutant regulations, and the public trust duty imposed by Article IX, Section 1 of the Louisiana Constitution.

10. For these reasons, as explained in detail below, Petitioner asks this Court to reverse LDEQ's decision and vacate the Permit.

JURISDICTION AND VENUE

11. 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 IMTT did not request a hearing on the decision within 30 days following final notice of the action.

12. This Petition is filed in accordance with La. R.S. 30:2050.21(A), 2050.23(D) and thus timely, because it was filed within 30 days of LDEQ's notice of the final permit action postmarked September 1, 2026.

PARTIES

13. Petitioner is a person aggrieved by LDEQ's final decision to issue the Permit under the meaning of La. R.S. 30:2050.21(A); *see also* La. R.S. 30:2004(3), (11). Petitioner, by and through counsel, submitted timely and extensive comments during the public comment period detailing a wide array of serious deficiencies with IMTT's application and LDEQ's proposed permit. Petitioner's members participated in the public hearing to provide supporting testimony based on firsthand experience as residents of the impacted communities.

14. Refined Community Empowerment, Inc. ("RCE") is a membership organization whose stated mission and purpose is to "educate, uplift, and empower individuals and families through programs and resources that promote personal growth, collective engagement, community stability, and positive change in underserved communities." RCE has worked to promote positive change and advocate for better air quality in St. Rose, Louisiana and the surrounding communities. This work includes, but is not limited to, hosting health fairs, encouraging participation in public hearings on environmental permits, and providing information about environmental and health issues related to pollution from IMTT and other polluting facilities in the area. RCE has members who reside or own property adjacent to the IMTT facility including in St. Rose and the historic community of Elkinsville-Freetown. Elkinsville-Freetown was established some forty years before the facility was first constructed by

Cities Service (which became Citgo) and later purchased by IMTT. The facility has greatly expanded over time, constructing more tanks closer to the neighboring residential communities. RCE's members are extremely concerned about the impacts of harmful air pollutants from the products stored in IMTT's tanks. Some of these tanks are less than 400 ft from residences in Elkinsville-Freetown along the eastern fenceline, while other tanks are similarly close to residences in Oaklawn Ridge on the western fenceline. RCE members anticipate that the existing air quality problem will get worse from any increase in emissions from the tanks and other new emission sources.

15. LDEQ is the primary agency charged with environmental protection and regulation in the State of Louisiana. La. R.S. 30:2011(A)(1). It has the authority to issue air permits and has the affirmative obligation to consider the environmental impacts of its permitting decisions. LDEQ is the agency that made the final decision to issue the Permits in this matter. LDEQ has a duty as public trustee to protect the natural resources of the State insofar as possible and consistent with the health, safety, and welfare of the people of the State of Louisiana under Article IX, § 1 of the Louisiana Constitution.

LEGAL FRAMEWORK

Federal Clean Air Act and Louisiana State Implementation Plan

16. The Clean Air Act ("CAA") establishes a system of cooperative federalism under which the Environmental Protection Agency ("EPA") establishes National Ambient Air Quality Standards and states retain primary responsibility for implementing programs necessary to attain and maintain those standards. 42 U.S.C. §§ 7407(a), 7409, 7410.

17. The Clean Air Act's NSR program governs the construction and modification of stationary sources of air pollution. In attainment areas, NSR requirements are implemented through the PSD program. 42 U.S.C. §§ 7470-7492. Louisiana's EPA-approved PSD regulations are part of Louisiana's State Implementation Plan ("SIP") and are codified principally at LAC 33:III.509. LDEQ has delegated authority to administer these programs and to issue permits required under them. La. R.S. 30:2011(D)(12).

PSD Requirements

18. Congress created the PSD program to preserve air quality in areas that attain the NAAQS while ensuring that economic growth occurs in a manner consistent with the protection of public health and welfare. 42 U.S.C. §§ 7470-7492.

19. The PSD governs the construction and modification of stationary sources of air pollution.

20. Under both the Clean Air Act and Louisiana's approved SIP, no major stationary source (like the IMTT facility) may undertake a major modification without first demonstrating compliance with PSD requirements and obtaining any required PSD authorization. 42 U.S.C. § 7475(a); LAC 33:III.509.A.3.

21. Determining whether a modification is subject to PSD requires an evaluation of the emissions associated with the project. A modification is subject to PSD if it results in a significant emissions increase and a significant net emissions increase of a regulated NSR pollutant. LAC 33:III.509.B.

22. Louisiana regulations establish significance thresholds that determine whether emissions increases associated with a project are sufficiently large to trigger PSD review. LAC 33:III.509.B. For regulated pollutants relevant to this proceeding, the significance thresholds include:

Pollutant	PSD Significance Threshold (tons per year)
PM10	15
PM2.5	10
SO2	40
NOx	40
CO	100
VOC	40

23. Because PSD applicability depends upon the magnitude of the emissions increase associated with the project, the permitting authority must first calculate the emissions attributable to the project before it can determine whether the modification is major or minor for PSD purposes. See LAC 33:III.509.B.24.

24. Louisiana regulations define “potential to emit” (“PTE”) as the maximum capacity of a stationary source to emit a pollutant under its physical and operational design, taking into account only those limitations that are legally enforceable. LAC 33:III.502.A; LAC 33:III.509.B. The determination of project emissions is therefore a prerequisite to determining whether PSD review is required.

Demonstrations Required Under the PSD Program

25. The PSD program establishes substantive requirements that apply once a project is determined to be subject to PSD review.

26. Among other requirements, the owner or operator must demonstrate that allowable emissions increase from the project, together with other applicable emissions increases and reductions, will not cause or contribute to a violation of any NAAQS or any applicable PSD increment. LAC 33:III.509.K.1.

27. Louisiana's approved SIP provides:

"The owner or operator of the proposed source or modification shall demonstrate 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.

28. PSD review therefore serves as the principal regulatory mechanism through which LDEQ evaluates whether emissions associated with a proposed project are compatible with continued attainment and maintenance of the NAAQS and PSD increments.

29. Where PSD review applies, the source must also implement Best Available Control Technology ("BACT") for each regulated NSR pollutant emitted in significant amounts.

42 U.S.C. § 7475(a)(4); LAC 33:III.509.J.2.

30. Louisiana regulations define BACT as an emissions limitation based upon the maximum degree of reduction achievable for the pollutant at issue, taking into account energy, environmental, and economic impacts and other costs. LAC 33:III.509.B.

Air Quality Modeling Requirements

31. Louisiana's PSD regulations require that ambient air quality demonstrations be supported by appropriate air quality modeling. Specifically, "[a]ll estimates of ambient concentrations required under this Subsection shall be based on applicable air quality models, databases, and other requirements specified in Appendix W of 40 CFR Part 51." LAC 33:III.509.L.1.

32. Appendix W to 40 C.F.R. Part 51 establishes EPA's Guideline on Air Quality Models and provides the procedures governing air quality analyses performed in support of PSD permitting decisions.

33. LDEQ adopted air quality modeling procedures implementing these requirements and uses such modeling to evaluate whether emissions associated with a proposed project would cause or contribute to violations of applicable air quality standards.

Duration and Expiration of Construction Authorizations

34. Louisiana's air permitting regulations impose temporal limits on construction authorizations issued for new or modified emission sources.

35. For sources authorized through the PSD program, approval to construct expires if construction is not commenced within eighteen (18) months after receipt of the permit, if construction is discontinued for a period of eighteen (18) months or more, or if construction is

not completed within a reasonable time. LAC 33:III.509.R.5. The administrative authority may grant an extension upon a satisfactory showing that such extension is justified.

36. Similarly, for construction authorizations issued in connection with a Part 70 operating permit, including minor permit modifications, Louisiana regulations provide that construction approval expires if construction is not commenced within two years of issuance or if construction is discontinued for a period of two years, unless an extension is timely requested and approved by the permitting authority. LAC 33:III.537, Table 1, Section IV.

37. These expiration provisions ensure that construction authorizations reflect contemporaneous air quality analyses and current regulatory requirements. Once a construction authorization has expired, the source may not rely upon the lapsed authorization pursuant to LAC 33:III.509.R.5 and LAC 33:III.537, Table 1, Section IV as a basis for future construction or operation absent further approval from LDEQ in accordance with applicable permitting requirements.

Louisiana Toxic Air Pollutant Requirements

38. In addition to federal criteria pollutant requirements, Louisiana regulates toxic air pollutants through LAC Title 33, Part III, Chapter 51. Chapter 51 establishes AAS designed to protect public health from exposure to toxic air pollutants. LAC 33:III.Chapter 51, Tables 51.1 and 51.2.

39. Before approving construction of a new source or a modification that increases emissions of a toxic air pollutant, LDEQ must evaluate the toxic air pollutant emissions associated with the proposed action pursuant to LAC 33:III.5111 and determine compliance with

the applicable Chapter 51 standards, including the MERs and AAS set forth in LAC 33:III.5112, Tables 51.1 and 51.2

40. Chapter 51 and LDEQ's Air Quality Modeling Procedures establish procedures for evaluating off-site concentrations of toxic air pollutants and determining compliance with applicable ambient standards.

41. Where modeling is required, compliance must be demonstrated through methods consistent with Chapter 51, EPA-approved modeling procedures, and LDEQ guidance governing toxic air pollutant analyses.

Title V / Part 70 Operating Permit Requirements

42. Louisiana's Title V operating permit program requires major sources to obtain permits incorporating all federally applicable requirements. LAC 33:III.507.A.

43. Louisiana regulations further provide that Title V permits shall incorporate all federally applicable requirements for each emissions unit at the source. LAC 33:III.507.A.3.

44. Federally applicable requirements include, among other things, requirements imposed through Louisiana's EPA-approved SIP and PSD program. LAC 33:III.502.

45. Accordingly, a Title V permit modification cannot lawfully authorize emissions in a manner that is inconsistent with PSD requirements, Chapter 51 requirements, or other applicable state and federal air quality standards.

LDEQ's Duty to Deny Noncompliant Permit Applications

46. Louisiana regulations require permit applicants to demonstrate compliance with applicable air quality requirements before a permit may be issued.

47. LDEQ is expressly authorized and required to deny a permit where a proposed source or modification would prevent attainment or maintenance of federal or state ambient air quality standards, violate Louisiana's SIP, or otherwise fail to comply with applicable air quality requirements. LAC 33:III.519.C.5 provides:

48. Under LAC 33:III.519(C)(5), LDEQ must deny a permit if the proposed source would prevent attainment or maintenance of ambient air quality standards, violate the Louisiana State Implementation Plan, or fail to comply with applicable federal requirements or the requirements of LAC 33:III.

49. Thus, before issuing or modifying an operating permit, LDEQ must possess an adequate factual and legal basis for concluding that the proposed project complies with the PSD requirements contained in Louisiana's SIP, applicable NAAQS and PSD increment protections, the toxic air pollutant requirements of Chapter 51, and any requirements governing the validity and duration of prior construction authorizations.

Louisiana Public Trustee Duty

50. Under Article IX, § 1 of the Louisiana Constitution, LDEQ has an affirmative 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. IX, § 1.

51. The Supreme Court of Louisiana has interpreted Article IX, § 1 as requiring LDEQ to “determine that adverse environmental impacts have been minimized or avoided such as possible consistently with the public welfare... 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).

52. The First Circuit has further clarified that *Save Ourselves* articulates five factors, commonly referred to as the “IT factors,” that must be affirmatively addressed by LDEQ to show that it has satisfied its public trustee duty when issuing permits. Specifically, LDEQ must satisfy the following issues:

- i. Have the potential and real adverse environmental effects of the proposed facility been avoided to the maximum extent possible?
- ii. Does a cost benefit analysis of the environmental impact costs balanced against the social and economic benefits of the proposed facility demonstrate that the latter outweighs the former?
- iii. Are there alternative projects which would offer more protection to the environment than the proposed facility without unduly curtailing non-environmental benefits?
- iv. Are there alternative sites which would offer more protection to the environment than the proposed facility site without unduly curtailing non-environmental benefits?
- v. Are there mitigating measures which would offer more protection to the environment than the facility as proposed without unduly curtailing non-environmental benefits?

In re: Matter of Am. Waste & Pollution Control Co., 633 So. 2d 188, 194 (La. Ct. App. 1993).

53. As a public trustee, LDEQ is required to affirmatively demonstrate that it has properly exercised its discretion by making basic findings supported by evidence, and ultimate findings that flow rationally from its basic findings. It must also articulate a rational connection between the facts found and the permit issued. *See Save Ourselves, Inc.*, 452 So. 2d at 1159–60.

54. Because LDEQ has an affirmative obligation to demonstrate through the administrative record that it has fulfilled its public trustee duty, a reviewing court will examine whether LDEQ has adequately demonstrated that it has satisfied each IT factor irrespective of

whether the factor has been challenged. *Rise St. James v. Louisiana Dep't of Env't Quality*, 2023-0578 (La. App. 1 Cir. 1/19/24), 383 So. 3d 956, 982, *reh'g denied* (Feb. 15, 2024).

55. The reviewing court must reverse LDEQ's permit decision "if the decision was reached without individualized consideration and balancing of environmental factors conducted fairly and in good faith." *Save Ourselves, Inc.*, 452 So. 2d at 1159 (internal quotations omitted).

56. The Louisiana Environmental Quality Act expressly incorporates LDEQ's public trustee duty, and mandates that "as the primary public trustee of the environment, [LDEQ] shall consider and follow the will and intent of the Constitution of Louisiana and Louisiana statutory law in making any determination relative to the granting or denying of permits." La. R.S. 30:2014(A)(4).

STANDARD OF REVIEW

57. The judicial review provisions in the Louisiana Environmental Quality Act provide that the standard of review in the Louisiana Administrative Procedure Act ("APA") applies to an appeal of a final permit action. La. R.S. 30:2050.21.F.

58. The APA provides that:

The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of the administrative findings, inferences, conclusions, or decision 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.

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

59. “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).

60. If the Court finds that LDEQ acted in violation of its constitutional public trustee duty, the permits are “null and void and must be vacated.” *In re Rubicon, Inc.*, 95-0108, p. 9 (La. App. 1 Cir. 2/14/1996), 670 So. 2d 475, 489.

61. “[I]f [LDEQ’s] decision was reached procedurally, without individualized consideration and balancing of environmental factors conducted fairly and in good faith, it is the court’s responsibility to reverse.” *Save Ourselves*, 452 So. 2d at 1158.

FACILITY DESCRIPTION

62. IMTT owns and operates a liquid bulk storage facility located at 11842 River Road, St. Rose, Louisiana, 70087.

63. IMTT’s St. Rose facility includes approximately 200 bulk storage tanks with a total storage capacity of almost 15,000,000 barrels, equivalent to approximately 500 million gallons.

64. IMTT’s St. Rose facility primarily stores petrochemical products, such as molten asphalt (also called bitumen), heavy fuel oil, crude oil, and naphtha, as well as lesser volumes of methanol, vegetable oil, and other liquid products.

65. Most of the products that IMTT stores, by volume, emit toxic air pollutants and have noxious odors.

66. Certain operations at IMTT, such as loading hazardous materials from tanks into ships or barges, cause increased emissions of air pollutants and any associated odors during discrete time periods.

67. IMTT's St. Rose facility is a major source of VOCs, many of which are also toxic air pollutants. The facility is authorized by the Permit to emit 1,292.75 tons per year of VOCs.

68. IMTT's St. Rose facility is a major source of nitrogen oxides (NO_x) and is permitted to emit 655.28 tons per year of NO_x in the Permit.

69. IMTT's St. Rose facility is a major source of carbon monoxide (CO) and is permitted to emit 443.65 tons per year of CO in the Permit.

70. IMTT's St. Rose facility is a major source of sulfur dioxide (SO₂) and is permitted to emit 125.24 tons per year of SO₂ in the Permit.

71. IMTT's St. Rose facility is permitted to emit forty (40) different chemicals or compounds that are acutely toxic when inhaled. IMTT's St. Rose facility emits major amounts of some of these toxic air pollutants, including benzene, ethylbenzene, methanol, n-hexane, toluene, and xylene.

72. Many of the pollutants that IMTT is permitted to emit have pungent odors, including sulfur dioxide, toluene, and xylene.

73. Elkinsville-Freetown is a residential neighborhood that was founded in 1880 and predates the IMTT facility.

74. The eastern edge of IMTT's St. Rose property immediately adjoins residential properties in Elkinsville-Freetown, and IMTT stores hazardous petrochemicals, including hot liquid asphalt, in bulk within 400 feet of peoples' homes in this neighborhood.

75. On its western edge, IMTT's St. Rose facility stores methanol, crude oil, petrochemical products, among other materials in bulk similarly close to peoples' homes in the Oak Lawn Ridge neighborhood.

76. IMTT has already expanded operations at its St. Rose facility numerous times and constructed dozens of new tanks for the bulk storage of methanol, crude oil, and/or petrochemical products along the eastern and western edges of its property.

77. Residents of Elkinsville-Freetown and residents of Oak Lawn Ridge have repeatedly experienced noxious odors that they attribute to operations at IMTT's St. Rose facility.

78. During the public hearing for the Permit, not a single resident from Elkinsville-Freetown nor Oak Lawn Ridge spoke in support of IMTT's proposed expansion of its St. Rose facility.

79. Residents from Elkinsville-Freetown and Oak Lawn Ridge express the belief that the expansion approved by the Permit will cause the existing odor problem to get worse.

PROCEDURAL HISTORY & FACTS

IMTT's Permit Applications

80. IMTT submitted an application to LDEQ on November 16, 2020 to renew its Title V permit. That application sought to "reauthorize" Tanks Nos. 113, 114, 115, 322, 324, 326, 327,

328, 329, 331, 333, 335, 337, 339, 605, 606, 607, 608, 609, 125 (B-125), 126 (B-126), 127 (B-127), 128, (B-128), B-7, N-26 and N-29, but did not include a PSD analysis or determination for these tanks.

81. The tanks that IMTT sought to “reauthorize” in its November 2020 permit application were never constructed.

82. Authorization to construct Tank Nos. 113, 114, 115, 605, 606, 607, 608, 609, 125 (B-125), 126 (B-126), 127 (B-127), 128 (B-128), B-7, N-26 and N-29 expired because the tanks were not constructed within two years of their approval for construction.

83. The application does not include emission calculations (i.e., “PTE”) of total VOCs or other criteria pollutants for any of the individual tanks for which IMTT sought “reauthorization,” or for the combination of “reauthorized” tanks.

84. On March 22, 2024, IMTT submitted a supplemental application. This application sought, among other things, authorization to construct and operate four (4) new ammonia storage tanks, flares, and other associated infrastructure (“ammonia sources”) to serve the proposed ammonia manufacturing facility that St. Charles Clean Fuels (“SCCF”) plans to co-locate at the IMTT facility site.

85. The ammonia sources at issue in this project increase the ammonia PTE at the facility from 2.89 tons per year (“tpy”) to 22.59 tpy, an increase of 19.70 tpy.

86. Under LDEQ’s toxic air pollutant modeling guidance, a major source emitting a TAP above the pollutant’s “minimum emissions rate” or “MER” triggers a Chapter 51 review.

Here, the MER for ammonia is 1,200 lbs./year (0.6 tpy). LAC 33:III. Table 51.1. The estimated 22.6 tpy equals roughly 45,200 lb./year, which is almost 38 times the MER.

87. Since IMTT's emissions exceed the MER, Chapter 51 review was required. Under LDEQ's modeling procedures, a screening analysis is used to determine whether ammonia concentrations exceed 7.5% of the applicable AAS ($48 \mu\text{g}/\text{m}^3$). Where that screening level is exceeded, LDEQ's procedures ordinarily call for additional refined analysis, including consideration of nearby sources within the area of impact and evaluation of compliance with the applicable AAS in LAC 33:III Table 51.2.

88. IMTT's application does not provide a screening analysis for the ammonia sources.

89. IMTT application does not contain any refined modeling, cumulative analysis, or other demonstration that the combined emissions comply with the applicable AAS.

90. SCCF received its air permit in November, 2025, several months before LDEQ issued the IMTT Permit.

91. IMTT did not consider the ammonia emissions from SCCF in combination with emissions from the ammonia sources in the IMTT permit application.

92. The application does not include emission calculations (i.e., PTE) of total VOCs or other criteria pollutants for any of the individual tanks for which IMTT sought "reauthorization," or for the combination of "reauthorized" tanks

93. The fifteen tanks are authorized to store methanol, crude oil, petrochemical products, and other materials that emit toxic air pollutants regulated under LAC 33:III Chapter

51, including benzene, n-hexane, polycyclic aromatic hydrocarbons, and other toxic air pollutants.

94. Although IMTT provided emissions information for certain individual toxic air pollutants, neither the permit application nor LDEQ's permit review contains an analysis evaluating whether emissions from the fifteen tanks, considered collectively as part of the proposed project, comply with the AAS established in LAC 33:III Table 51.2.

95. The administrative record does not contain a screening analysis, refined modeling analysis, or other demonstration evaluating the off-site concentrations of toxic air pollutants attributable to the fifteen tanks or demonstrating compliance with applicable Chapter 51 AAS.

96. The application materials did not include a site plan, nor any disclosure of the proximity of these new or "reauthorized" tanks to residential properties.

Proposed Permit

97. On August 6, 2025, LDEQ issued public notice of IMTT's proposed Part 70 and Air Operating Permit Renewal and Modification ("the Permit"), and the public notice package included a draft of the application, proposed permit and LDEQ's Statement of Basis.

98. The Statement of Basis included a PSD analysis, including a table of emission increases, for "the project."

99. The PSD analysis table in the Statement of Basis included total project increases of VOCs in the amount of 29.27 tpy. This corresponds to the increase from the ammonia project described in the 2024 supplemental permit application (also 29.27 tpy); the 2024 supplemental

permit application tabulates all the sources contributing to this increase but makes no mention of the fifteen (15) tanks described above.

100. Therefore, neither the Statement of Basis nor any other document in the record includes increased VOC emissions for Tank Nos. 113, 114, 115, 605, 606, 607, 608, 609, 125 (B-125), 126 (B-126), 127 (B-127), 128, (B-128), B-7, N-26 and N-29.

101. In its Statement of Basis, LDEQ said “[e]missions associated with the proposed modification were reviewed by LDEQ to ensure compliance with the NAAQS and AAS. LDEQ did not require the applicant to model emissions.”

Public Participation Opportunities for the Permit

102. LDEQ granted an extension of the public comment period on IMTT’s draft permit no. 2520-00033-V16, which resulted in the comment period ending on October 23, 2025.

103. The Environmental Integrity Project (“EIP”) submitted comments on behalf of RCE.

104. These comments are part of the record, and they raised the impermissible “reauthorization” of construction for Tank Nos. 113, 114, 115, 605, 606, 607, 608, 609, 125 (B-125), 126 (B-126), 127 (B-127), 128, (B-128), B-7, N-26 and N-29 and noted that these tanks constitute new construction.

105. The Tulane Environmental Law Clinic (“Clinic”) also submitted comments on behalf of RCE and other groups.

106. The Clinic’s comments stated that IMTT’s projected ammonia emissions raise concerns for human health and the environment, IMTT has never conducted air modeling for its

ammonia emissions, and LDEQ must consider the cumulative impact of IMTT's ammonia emissions along with projected ammonia emissions from SCCF's proposed ammonia plant with plantwide ammonia emissions at 59.35 tpy, bringing the total projected ammonia emissions between the two facilities to 82.009 tpy.

107. The Clinic also confirmed that the increase in projected ammonia emissions at IMTT is because it is constructing these ammonia tanks to accommodate SCCF's ammonia storage needs. Accordingly, LDEQ cannot consider IMTT's ammonia emissions apart from SCCF's because the cumulative ammonia emissions from both facilities are so directly related LDEQ must consider the cumulative impact of IMTT and SCCF's ammonia emissions; as well as whether there may be fugitive ammonia emissions associated with the ammonia tanks that are unaccounted for in IMTT's projected emissions figures.

108. On October 21, 2025, LDEQ held a public hearing to receive comments on IMTT's draft permit.

109. The hearing was well attended, with over 100 individuals in attendance.

110. RCE's Executive Director, Kimbrelle Kyereh, spoke at the hearing, stating that "[m]y family and I have been suffering from the effects of IMTTs overbearing emissions in our community and homes for decades. Please help us. We need protection, not more pollution. IMTTs 216 tanks tower over my vulnerable community and are much too close. Therefore, more tanks will only add to our environmental trauma."

111. At the public hearing, RCE members spoke about how IMTT exposes them and others in their community to harmful emissions and shared their concerns about the addition of new tanks to IMTT.

112. At the public hearing, RCE submitted a petition with 238 signatures of local residents opposed to IMTT's proposed expansion.

113. Petitioner raised all reasonably ascertainable issues and submitted all reasonably available evidence supporting their position in the comments that they submitted to LDEQ prior to the issuance of LDEQ's final decision. La. R.S. 30:2014.3.B.

LDEQ's Final Decision and Response to Comments

114. On August 18, 2026, LDEQ issued a final decision granting the Permit.

115. LDEQ did not issue a separate Basis for Decision along with its final permit decision.

116. In responding to public comments concerning alternatives, community impacts, and the benefits of the proposed project, LDEQ relied upon analyses prepared in connection with the separate permit issued to St. Charles Clean Fuels rather than preparing an independent public trustee analysis for the Permit at issue here.

117. The administrative record for the Permit contains no analysis evaluating whether alternative locations, alternative configurations, alternative means of accomplishing the project objectives, or alternative permitting approaches would provide greater environmental protection while preserving the project's asserted benefits.

118. In its response to public comments, LDEQ did not respond to RCE's comments regarding the "reauthorization" of construction of Tank Nos. 113, 114, 115, 605, 606, 607, 608, 609, 125 (B-125), 126 (B-126), 127 (B-127), 128 (B-128), B-7, N-26, and N-29.

119. In response to comments, LDEQ stated that it relied on air quality modeling performed in support of permits issued in 2010, more than a decade before the Permit. The historical modeling evaluated compliance with earlier NO₂ and SO₂ standards and did not evaluate compliance with the current 1-hour NO₂ and 1-hour SO₂ NAAQS.

120. LDEQ acknowledged in its Response to Comments that EPA's 1-hour SO₂ standard utilizes specific modeling protocols that cannot be reliably derived from prior 3-hour modeling results. Nevertheless, LDEQ relied on the earlier modeling and did not include in the administrative record any demonstration showing how the facility complies with the current 1-hour SO₂ standard.

121. The administrative record contains no analysis demonstrating that the historical modeling relied upon by LDEQ remains representative of current facility operations, surrounding land uses, nearby emission sources, meteorological data, receptor locations, or current ambient air quality standards.

122. LDEQ's response to comments states that LDEQ conducted or relied upon a screening analysis that predicted a maximum ammonia concentration of 449.94 µg/m³, a value that is substantially above the 48 µg/m³ screening threshold that ordinarily triggers more detailed analysis under LDEQ's modeling procedures. However, neither the screening analysis nor any

refined modeling demonstrating compliance with applicable standards appears in the administrative record.

123. Compounding the issue that the administrative record does not contain the screening analysis, it also does not include documentation to explain how the 449.94 $\mu\text{g}/\text{m}^3$ ammonia concentration was derived, a record that contains that concentration, whether cumulative impacts were considered, whether background concentrations were included, or why LDEQ concluded that no additional analysis was required.

124. In its Response to Comments, LDEQ also relied on the undisclosed screening analysis and modeled concentration to support its conclusion that the project complied with Louisiana's AAS for toxic air pollutants.

125. LDEQ did not prepare a public trustee analysis for the Permit. Instead, LDEQ relied on public trustee findings prepared for SCCF's proposed ammonia manufacturing facility to address comments regarding alternatives and project benefits. The administrative record therefore does not demonstrate that LDEQ independently evaluated the environmental impacts, benefits, alternatives, and mitigation measures associated with IMTT's permit modification before issuing the Permit.

ASSIGNMENTS OF ERROR

126. Based on the facts alleged in the proceeding paragraphs, which Petitioner incorporates herein, Petitioner asserts the following assignments of error.

127. LDEQ's final decision prejudices substantial rights of Petitioners because LDEQ's decision is in violation of constitutional, statutory provisions, and regulatory provisions.

La. R.S. 49:978.1(G)(1).

128. 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).

129. 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).

130. 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).

131. 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).

132. The foregoing assignments of error include, without limitation, errors relating to PSD applicability, emissions calculations, air quality modeling, toxic air pollutant requirements, permit expiration and construction authorization requirements, NAAQS compliance, public participation requirements, public trustee obligations, and the sufficiency of the administrative record.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Reverse LDEQ's decision and vacate the Permit.
- b. Award all other relief the Court finds proper.

Respectfully submitted this the 28th day of September, 2026,



Corinne Van Dalen (La. Bar No. 21175)
Earthjustice
900 Camp Street
New Orleans, LA 70130
T: 504-910-1776
F: 415.217.2040
cvandalen@earthjustice.org
Counsel for Petitioners

Haley Lewis*
Courtney Dinyarian*
Environmental Integrity Project
650 Poydras Street,
Suite 1400-6800
New Orleans, LA 70130
T: 202.263.4441
hlewis@environmentalintegrity.org
Cdinyarian@environmentalintegrity.org

*pro hac vice applications forthcoming

PLEASE SERVE:

Courtney J. Burdette, Secretary
Louisiana Department of Environmental Quality
602 North Fifth Street
Baton Rouge, LA 70802