

**STATE OF LOUISIANA**

**LOUISIANA DEPARTMENT OF NATURAL RESOURCES**

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NATURAL RESOURCES**

**COASTAL USE PERMIT NO. P20120190**

**IN THE MATTER OF**

**RAM TERMINALS, LLC**

**DECISION**

On April 11, 2016, the Sierra Club Delta Chapter, the Gulf Restoration Network, and the Louisiana Environmental Action Network submitted a petition for reconsideration of Coastal Use Permit No. P20120190 issued to RAM Terminals. For the following reasons, the Petition for Reconsideration of Coastal Use Permit No. P20120190 (the “CUP”) is hereby granted:

1.

The CUP authorizes the proposed installation of a coal export facility, which includes: the installation of docking facilities along with a total of 34 dolphins for barge fleeting adjacent to the site; installation of a rail loop, retention ponds, and placement of fill behind the levee and on the batture. The placement of fill includes 128,000 cy of excavated native material, 700,000 cy of hauled-in soil, 14,000 cy of rock, and 15 cy of concrete, which the Office of Coastal Management determined to be exempt from the State and Local Coastal Resources Management Act.

2.

The final CUP was publically noticed on March 30, 2016. On April 11, 2016, the petition for reconsideration filed by the Sierra Club Delta Chapter, the Gulf Restoration Network, and the Louisiana Environmental Action Network (“Petitioners”) was filed.

3.

Reconsideration of a final coastal use permit is authorized under the provisions of La. R.S. 49:214.35(B) and (C). Pursuant to this statute, reconsideration of a final coastal use permit decision is limited to one of the following grounds: “(1) The decision or determination is clearly contrary to the law or the evidence before the secretary, (2) The petitioner has discovered, since the decision or determination, evidence important to the issues which he could not, with due diligence, have presented to the secretary prior to the decision; (3) There is a showing that issues not previously considered, through no fault of the petitioner, ought to be examined in order to properly dispose of the matter; or (4) There exist other good grounds for further consideration of the issues and the evidence in the public interest.”

4.

The Petition for Reconsideration provides recent reports from the U.S. Energy Information Agency, the international management consulting firm McKinsey & Company, and the global energy, metals, and mining research and consultancy group Wood Mackenzie purportedly demonstrating a significant downturn in the demand for U.S. coal exports. The Petitioners additionally raise concerns, among other things, that the justification for the need for rail, and the assessment of other bulk commodities are insufficient.

5.

Following review of the petition and the record, and in order to consider new issues raised by the petition for reconsideration it is hereby found that the following issues ought to be examined in order to properly dispose of the matter:

- a. As one of the primary reasons given for selecting the proposed site location as well as the 5 alternative sites considered, the need for rail access

requires that further clarification be provided. RAM Terminals, LLC identifies barging of coal down the Mississippi and Ohio Rivers as the primary mode of transport of coal in the U.S. RAM Terminals should specifically clarify whether rail access is expected to provide and/or supplement the normal supply of coal to the export facility or rather that the need for rail provides a safety net to allow for transport of alternative commodities in the event market demands necessitate the export of such commodities in order to either maintain a profit or mitigate potential financial losses.

b. In addition to clarifying the purpose of the rail line access for the proposed project, the volume of potential train movements associated with the proposed facility will provide a more realistic basis for reaching a decision. RAM Terminals, LLC identifies the potential need to export certain other commodities depending on market conditions and states that these commodities may be transported by rail. RAM Terminals, LLC states that it is unable to identify any specific commodity at this time that it will in fact transport, but rather such determinations will be made in the future depending on market conditions. While LDNR certainly recognizes market uncertainty, it notes that RAM Terminals, LLC has likely identified what market conditions would require export of alternative commodities and therefore should be able to make additional projections on the need for rail at different price points for coal or different levels of demand for coal export. In the event RAM Terminals, LLC is unable to provide further projections regarding the realistic need for rail transport, please report the

highest monthly volume of potential train movements associated with the proposed facility that RAM Terminals, LLC is able to foresee.

c. In order to ensure that the alternative sites analysis provides equal consideration of the proposed site as well as the alternative sites, please provide the potential impacts that could be expected if a coal export terminal similar in size to that proposed were to be constructed and operated at each of the alternative sites. Such impacts to be assessed include, but are not limited to, the potential impacts of a similar export facility on the wetlands at or near the alternative sites, the documented cultural resource sites at or near the alternative sites, and on CPRA/State integrated coastal protection projects near the alternative sites.

6.

Following review of the petition, the record before the Office of Coastal Management, and the applicable law, I find that the new issues raised by Petitioners require further consideration to properly dispose of this matter and therefore the Petition for Reconsideration is granted. The CUP shall be reconsidered by the Office of Coastal Management following receipt of the information set forth in paragraph 5 above from RAM Terminals, LLC.

#### **DECISION**

The Petition for Reconsideration of CUP No. P20120190 is hereby granted, consistent with the foregoing reasons and directives.

SO ORDERED this 26<sup>th</sup> day of April, 2016, Baton Rouge, Louisiana



Thomas F. Harris, Secretary  
Department of Natural Resources