UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

INDIGENOUS PEOPLES OF THE COASTAL BEND; KARANKAWA KADLA TRIBE OF THE TEXAS GULF COAST; and INGLESIDE ON THE BAY COASTAL WATCH ASSOCIATION,	§	
Plaintiffs,	§	
v.	§	**CIVIL ACTION NO. 2:21-cv-00161**
UNITED STATES ARMY CORPS OF ENGINEERS; Lieutenant General Scott A. Spellmon in his official capacity; Brigadier General Christopher G. Beck in his official capacity; and Colonel Timothy R. Vail in his official capacity,	§	
Defendants	§	
and	§	
ENBRIDGE INGLESIDE OIL TERMINAL, LLC,	§	
Intervenor-Defendant		

PLAINTIFFS' RESPONSE TO INTERVENOR-DEFENDANT ENBRIDGE INGLESIDE OIL TERMINAL, LLC'S CROSS-MOTION FOR SUMMARY JUDGMENT

Table of Contents

Table of Authorities

Cases

Statutes and Regulations

I. INTRODUCTION

By a separate pleading, Plaintiffs have responded to the Federal Defendants' Cross-Motion for Summary Judgment. To the extent Intervenor-Defendant Enbridge's arguments in its Cross-Motion for Summary Judgment duplicate those of the Federal Defendants', Plaintiffs will not repeat their responsive arguments here, but rather, will refer to their Response to the Federal Defendants' Cross-Motion for Summary Judgment. For efficiency and to avoid duplication, by this pleading, Plaintiffs will focus their response to address those arguments that have been raised only by Intervenor-Defendant Enbridge, but not by the Federal Defendants.

Throughout its Cross-Motion, Enbridge presents a number of arguments in support of having this Court avoid addressing the merits of Plaintiffs' claims. Unlike the Federal Defendants, Enbridge argues that Plaintiffs waived several of their claims because they did not first explain, with sufficient specificity, to the Corps the nature of their complaints. That the Federal Defendants did not raise this same argument is telling. Enbridge's various waiver arguments are without merit, and serve to distract this Court from the merits of Plaintiffs' claims.

Enbridge seeks to apply a hyper-technical standard by which to evaluate Plaintiffs' comments to the Corps, searching for certain "magical terms" that mirror the terms used in Plaintiffs' pleadings to this Court. But none of the cases cited by Enbridge support such a prohibitive standard. To the contrary, courts have held that it would be unreasonable to require plaintiffs to invoke precise legal or technical terms of art in their comments in order to keep the courthouse door open, particularly where, as here, the agency was put on notice of the plaintiffs' concerns. *See Idaho Sporting Cong. v. Rittenhouse*, 305 F.3d 957, 965-66 (9th Cir. 2002). In this case, the Federal Defendants seemingly understood the Plaintiffs' concerns as described in their comments; the Corps simply did not address them in any meaningful manner.

In short, the record reflects that Plaintiffs preserved their complaints, and this Court should reject Enbridge's invitation to avoid the merits of Plaintiffs' complaints by finding waiver, particularly when Federal Defendants have not raised this argument.

Enbridge joins the Federal Defendants in arguing that the Corps adequately analyzed all environmental impacts of the project, based on the limited scope of review of the project; that is, they argue that the Corps' analysis was limited to the direct impacts of dredging in the footprint of the expansion. And Plaintiffs' complaints contemplate impacts beyond that limited geographical scope, according to Enbridge. As with the waiver arguments, however, this argument is a post hoc attempt to justify the Corps' failure to take the requisite "hard look" of the impacts of this project, based on the project's purpose—which is to allow more and larger oil tankers to use the Moda terminal.

Enbridge strains to characterize its project as one intended to increase efficiency and safety in handling vessels at the site, without increasing vessel traffic. *See, e.g.*, Dkt. No. 54, pp. 26, 27, & 65. But this characterization of the purpose of the project strains credulity. The EA plainly states that the terminal expansion is "necessary to accommodate the increasing demand by existing and committed, future customers," AR106, and "to accommodate the new Suezmax vessels." AR139-40. In other words, the expansion is necessary to accommodate more and larger oil tankers, resulting in an increase in vessel traffic. Thus, the Corps was required to consider and inform the public of the direct, indirect, and cumulative impacts of the federal action—*i.e.*, the increase in size and number of vessels.

II. APPLICABLE LAW

Plaintiffs incorporate by reference, as if fully set forth herein, the discussion of the applicable law included in Plaintiffs' Response to the Federal Defendants' Cross-Motion for

Summary Judgment.

III. ARGUMENT

A. Enbridge's claim that the Corps met its obligations in addressing risks from vessel traffic is contrary to the record and the law.

Enbridge claims this Court cannot reach the merits of Plaintiffs' NEPA claims, because Plaintiffs waived their claims by failing to raise them in their comments to the Corps. Alternatively, Enbridge argues that given the limited scope of the Corps' review of the expansion project, the Corps sufficiently analyzed and discussed the impacts of the project. Enbridge is mistaken on both counts.

B. Plaintiffs sufficiently raised the risks of oil spills in their comments, so as to alert the Corps of their concerns.

Enbridge argues that Plaintiffs did not preserve their current claims of oil spill risks, and therefore, this Court cannot reach the merits of those claims. *See* Dkt. No. 54, pp. 13-15. Enbridge is essentially attempting to persuade the Court to require the affected public to utter certain "magic words" in order to obtain judicial review of a plainly wrong decision. Notably, the Corps does not raise this same argument. *See Texas v. United States*, 524 F.Supp.3d 598, 653 (S.D. Tex. 2021) (agency action must be upheld on the basis articulated by the agency itself, citing *Motor Vehicles Mfrs. Ass'n v. State Farm Mutual Auto. Ins. Co*, 463 U.S. 29, 50 (1983)).

There is a good reason the Corps does not make this argument. The purpose of the administrative exhaustion requirement is two-fold: protecting administrative agency authority and promoting judicial efficiency. *McCarthy v Madigan*, 503 U.S. 140, 145 (1992). "Where Congress specifically mandates, exhaustion is required . . . [b]ut where Congress has not clearly required exhaustion, sound judicial discretion governs." *Id.* at 144 (citations omitted). Therefore, when lacking a clear congressional mandate, courts must begin an administrative exhaustion

analysis with a "strong presumption that Congress intends judicial review of administrative action." *Bowen v Michigan Academy of Family Physicians*, 476 US 667, 670 (1986).

The Courts have long held that the real issue for exhaustion purposes is whether the agency was on notice of the issue that is the subject of judicial review. *Idaho Sporting Cong.*, 305 F.3d at 965 (claimants bringing administrative appeals may alert decision-maker to problem "in general terms, rather than using precise legal formulations" and "there is no bright-line standard as to when this requirement has been met and we must consider exhaustion arguments on a case-by-case basis"). There is no waiver or exhaustion bar when the agency itself has considered the issue in a NEPA document. *Glacier Fish Co. LLC v. Pritzker*, 832 F.3d 1113, 1120 n.6 (9th Cir. 2016).

In fact, the Corps understood Plaintiffs' comments to raise the issue of oil spill risks, and so, the Corps acknowledged the issue in its EA, albeit in a cursory manner without data, analysis or discussion. *See, e.g.,* AR124 (summarizing Enbridge's response to comment regarding protection from oil spills), AR126 (acknowledging Karankawa Kadla's comment regarding oil spill risks but refusing to respond because the issue is not relevant to project review and because Karankawa Nation is not federally recognized tribe). In fact, the Corps explained in its EA that "[p]otential detrimental effects due to this project, such as oil spills, have been evaluated in our General Interest review and found to be of negligible, or less, concern (See Section 7.1)." Section 7.1, however, does not even contain the words "oil spill"; thus, the Corps understood the concern, but did not address it. *See* AR137-139, AR126.

Enbridge itself concedes that water quality concerns were raised, and this umbrella term includes oil spills. Dkt. No. 54, p. 29. Further, Enbridge acknowledges that one comment requested that Enbridge construct a breakwater to "help mitigate against possible increased storm

surge, and to limit harm from potential oil spills." Dkt. No. 54, p. 14 (citing AR335). Enbridge claims, however, that this comment is distinct from the issue of increased oil spill risks caused by vessel traffic. *Id.* But this narrow, literal reading of the comment defies logic. Implicit in the comments regarding use of breakwaters to limit harm caused by oil spills is the concern that the project will create increased risks of oil spills. Else, why propose a remedy—*i.e.*, breakwaters—to address the risk. Moda responded that breakwaters do not contain oil spills, but proposed no other remedy to address the risk of oil spills.[1] AR124.

That the Corps acknowledged the issue of oil spill risks in its EA confirms that the Corps was on sufficient notice of this issue to afford it the opportunity to resolve the complaints alleged by Plaintiffs. *Native Ecosystems v. Dombeck*, 304 F.3d 886, 899 (9th Cir. 2002). Indeed, the Federal Defendants, in their Cross-Motion for Summary Judgment, continue to defend their response to the issue of oil spill risks, by arguing that such risks are negligible when considered within the limited scope of the Corps' project review. *See, e.g.*, Dkt. No. 53, p. 16. Enbridge's argument that Plaintiffs have waived this issue is not supported by the record or the relevant caselaw, and this Court should refuse Enbridge's invitation to avoid reaching the merits of Plaintiffs' claim regarding oil spill risks resulting from Enbridge's expansion project.

C. Plaintiffs sufficiently raised their concerns regarding air, light, and noise pollution in their comments, so as to alert the Corps of their concerns.

Enbridge also argues that Plaintiffs did not raise their arguments regarding the Corps' failure to consider air, light, and noise pollution with sufficient specificity. More precisely, Enbridge complains that the affected public failed to specify that their concerns regarding air, light, and noise pollution were tied to increased vessel traffic resulting from the expansion

[1] Enbridge also claims that the Corps explicitly addressed this comment. Dkt. No. 54, p. 14 (citing AR124). In fact, Enbridge responded to the comment, and the Corps summarized the response. AR124.

project, versus existing vessels. Dkt. No. 54, p. 16. This is contrary to the record. AR1463 (commenter raising concerns regarding lack of facility growth projections and lack of analysis regarding need for increased quantity of vessels); AR1464 (noting that project would allow two *additional* Suezmax tankers in close proximity to residential community). In any case, the Corps was obligated to consider impacts from existing vessel traffic as part of its consideration of cumulative impacts.

For the same reasons discussed above, Enbridge is mistaken in arguing that Plaintiffs failed to adequately raise their concerns regarding air, light, and noise pollution in their comments, resulting in waiver of these issues. Dkt. No. 54, p. 16. The Corps understood that commenters, including Plaintiffs, raised concerns regarding air, light, and noise pollution resulting from Enbridge's expansion project. *See, e.g.*, AR124 (summarizing Moda's response to comment regarding light and sound impacts on community), & AR139 ("Approximately 38 comments regarding different pollution concerns (air, water, light, noise) were received."). As with the issue of oil spill risks, the Federal Defendants, in their Cross-Motion for Summary Judgment, continue to defend their response to concerns regarding air, light, and noise pollution, by arguing that the EA adequately addressed these concerns within the limited scope of the Corps' project review. Dkt. No. 53, pp. 22-23. There is no legal basis for concluding that Plaintiffs waived this issue. *See Native Ecosystems*, 304 F.3d at 899.

Further, it is worth noting that, in contrast to *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc*., 435 U.S. 519 (1978), cited by Enbridge, in this case, no public hearing was held, despite numerous requests by various commenters. *See, e.g.*, AR106. Neither the Corps nor Enbridge invited further clarification regarding the concerns raised by Plaintiffs and others. In this case, unlike in the *Vermont Yankee* case, Plaintiffs actively

participated in the public engagement process and sought more opportunities to share additional information with the Corps, but their requests were denied. *Cf. Vermont Yankee*, 435 U.S. at 554.

Finally, it is worth noting that Enbridge misstates facts in arguing that some of the comments submitted to the Corps were untimely or were not sent to the Corps. For instance, Enbridge references a comment that was submitted to the Corps on March 23, and argues that this comment was untimely, "submitted two weeks after the comment period closed." Dkt. No. 54, p. 16 (citing AR1580). What Enbridge fails to mention to the Court, however, is that the comment period ended on March 24, 2020. AR 1432. Thus, the March 23 comment was *timely*.

Enbridge also states that two comments were sent to TCEQ, not directly to the Corps, and thus, should be disregarded. Dkt. No. 54, p. 17. But the Administrative Record does not clearly support Enbridge's claim. By letter dated March 26, 2020 (2 days after the comment deadline), the Corps notified Enbridge that it had received 80 comment letters from the general public. AR600. Yet, a review of the Administrative Record reveals that there is no single compilation of all 80 comment letters from the general public. Instead, there is an email from the Corps forwarding to TCEQ requests for a public hearing, with attachments. Dkt. No. 39, Exhibit 2 (corrected index to Administrative Record), p. 7 & AR1471. Among those attachments from the Corps are the comment letters that Enbridge references. This makes it apparent that the two comment letters referenced in Enbridge's Cross-Motion were in the possession of the Corp before the comment deadline.

In short, Enbridge's recitation of facts is unreliable and does not support a finding that Plaintiffs waived their concerns regarding air, light, and noise impacts.

D. <u>The scope of Enbridge's project includes increased operations and increased vessel traffic, and Enbridge's arguments to the contrary are unsupportable</u>.

Like Federal Defendants, Enbridge argues that the scope of the Corps' review of the

project does not include increased vessel traffic; the scope is limited to the footprint of the proposed dredging activity. Enbridge actually goes further than the Corps, arguing that the Plaintiffs were required to challenge the alleged narrow scoping during the comment period for the Moda expansion permit. Dkt. 54 at 20. This would be impossible – the statements that Moda and the Corps rely upon were in the Moda Expansion EA, which came out *after* the comment period. Scoping is a specific process required by regulation for environmental impact statements, but not environmental assessments. 43 C.F.R. § 46.235. There was no scoping notice or process prior to the release of the Moda Expansion EA.

In any case, this argument is addressed in Plaintiffs' Response to Federal Defendants' Cross-Motion for Summary Judgment, which is incorporated herein by reference, and will not be replicated. In short, the purpose of the project and the claimed benefits of the project include to "accommodate increasing demand" and to ensure "the applicant meets the demands of current and future committed customers." *See, e.g.,* AR106, AR128, AR138. Increased vessel traffic is precisely why Enbridge seeks federal approval for this expansion project. As the EA explains:

> [Enbridge] is requesting the permit to conduct dredging operations and construct mooring facilities that will allow Suezmax vessels to utilize this commercial marine facility. The work will provide upgrades to the marine facility that will allow it to accommodate the new Suezmax vessels and so compete with other upgraded facilities. The improvements will also contribute in the marketing of petroleum products on the world energy market, and thus meet the commercial as well as the public's, increased demand for these products.

AR139-140. This is consistent with the language in the application: "This dredging would allow *additional* Suezmax vessels and *additional* barges at the facility." AR847.

Enbridge's argument that the appropriate scope of review should not include increases in vessel traffic is inconsistent with its own stated purpose and need for the project and with the expected benefits of the project.

At several points, Enbridge actually seems to disavow that there will be any more or larger tankers using the terminal expansion. This is contrary to Enbridge's statements in its application. Moreover, this highlights that the Corps' decision document lacks this key information. If the purpose of the expansion is not to bring in more and larger oil vessels, what is the point of the project? How can any benefit be ascribed to the project if the purpose of the project is essentially unknown? The Corps of Engineers argues in its Cross-Motion that its public benefit analysis shows that "more oil exported into the international market increases the supply of energy, which benefits the general public." Dkt. No. 53, pp. 37-38. But if more oil is to be exported, obviously there will be more tankers and barges. The Corps and Enbridge meet each other coming and going.

In short, the scoping argument is a post-hoc justification, and a challenge to the scope of the Corps' analysis is the basis of each of the issues in the Plaintiffs' motion.

E. Enbridge's arguments cannot disguise the fact that there was no discussion of oil spill risks.

Enbridge argues at considerable length that the Corps actually discussed oil spill risk from operations at the expanded Moda terminal. *See, e.g.,* Dkt. No. 54, pp. 29-31. The record does not support this argument. For example, Enbridge argues that the "discussion of oil spills and other water pollution concerns cross-referenced prior portions of the EA, including portions emphasizing Coast Guard safety requirements . . . ." Dkt. No. 54, p. 29 (citing AR119). This page of the AR does not say anything about oil spills, water pollution, or what those Coast Guard regulations might be. AR119 says nothing at all about best management practices for operating.

The fact is that all of Enbridge's attempts to find some reference to oil spill risk from operations just emphasize that there is no such discussion. The Corps itself disavows any discussion of oil spill risk from operations. Once again the Corps and Enbridge disagree about

what actually happened in the Moda Expansion decision document. Moda's self-serving arguments should be rejected.

F. Enbridge's arguments on whether impacts to seagrasses from operations were considered are not supported by the record, and contradict the Corps.

In their Cross-Motion, the Federal Defendants make it abundantly clear that the Corps did not consider impacts to adjacent special aquatic sites from present and future vessel operations of the Moda Terminal. Dkt. No. 53, pp. 12-15, 21. Enbridge, by contrast, apparently believes that the Corps did. Like the Federal Defendants, Enbridge does not seriously dispute that impacts to adjacent seagrass beds from vessel operations are occurring and are likely to occur from increased operations; unlike the Federal Defendants, however, Enbridge maintains that the Corps considered and addressed these impacts. As with its argument on oil spill risk, Enbridge mines the Moda Expansion EA for every mention that might conceivably be interpreted connected to operational impacts to seagrass beds.

All of Enbridge's argument winds up showing one thing. The Corps did not analyze or even try to quantify the impacts to adjacent seagrass beds from terminal operations. Instead, it repeated the assertion of the un-named Moda engineer that "[t]he existing seagrass beds have persisted for decades adjacent to the existing site which includes regular nearby vessel traffic, including that from within the adjacent Corpus Christi Ship Channel. It is the applicant's engineers' professional judgement *(sic)* that the slope stabilization measures provide adequate protection to avoided seagrass." AR114. In its motion for summary judgment the Corps states that this assertion was in response to concerns about vessel wakes, which the Corps did not consider. Doc. 53 at 21. Enbridge apparently believes that the Corps did endorse this statement. Doc. 54 at 34. This conflict simply points out the lack of any reasoned analysis in the Moda Expansion EA.

Enbridge asserts that this "expert" is someone at its engineering or consulting firm, perhaps Albert Favolora, a civil and structural engineer. Dkt. No. 54, p. 40. The record contains no indication that Mr. Favaloro has any seagrass expertise, or that he even made this statement. In any case the single conclusory sentence Enbridge and the Corps rely on is contrary to the opinion of the expert agencies, the evidence in the record, and an actual seagrass expert, Dr. Kirk Cammarata.

Enbridge did include a monitoring plan for adjacent seagrass beds, after the Environmental Protection Agency stated: "The following is being offered to assist with the development of a defensible permit decision. As it does not appear the applicant has evaluated potential indirect/secondary impacts to the seagrasses adjacent to the proposed facilities, it is recommended efforts incorporate monitoring of potential impacts to nearby seagrasses . . . ." AR363. Enbridge characterizes the monitoring as to confirm that the Corps' decision that there were no impacts to seagrasses from operations. Doc. 54 at 42-43. Again, there is no finding in the record that there will be no impacts to seagrasses from operations, and the Corps denies making such a finding. Doc. 53 at 18-19.

Enbridge does not dispute that an agency like the Corps cannot substitute monitoring for evaluating the impacts of an agency action before it is taken. Dkt. No. 54, p. 43. *See* Doc. 52 at 31; *LaFlamme v. FERC*, 852 F.2d 389, 400 (9th Cir. 1988) ("[T]he very purpose of NEPA's requirement that an EIS be prepared for all actions that may significantly affect the environment is to obviate the need for speculation by insuring that available data is gathered and analyzed prior to the implementation of the proposed action.") (internal citation and quotation marks omitted). "[O]nce a project begins, the 'pre-project environment' becomes a thing of the past" and evaluation of the project's effect becomes "simply impossible." *Id.* Given that the Corps did

not assess the impacts to special aquatic sites like seagrasses from operations, these cases directly apply. Moda's insistence that the Corps evaluated operations impacts to seagrasses from operations is contrary to the Corps own statements, and undercuts the credibility of its other assertions.

Like the Federal Defendants, Enbridge also mistakes the agency's obligation with respect to comments regarding seagrass impacts of expert agencies like the U.S. Fish and Wildlife Service and the U.S. Environmental Protection Agency. The Federal Defendants and Enbridge assert that these comments must merely be considered, and the Corps can rely on its own experts. This is incorrect for at least two reasons. First, the Corps has not identified anyone with expertise in seagrasses. Second, there must be some reasoned explanation, with the supporting data, for the agency's decision. *Idaho Sporting Cong. v. Thomas*, 137 F.3d 1146, 1150 (9th Cir. 1998).

Here, we have only an *ipse dixit* from an unidentified engineer. The Corps and Enbridge do not even agree on whether the Corps approved the *ipse dixit*. Dkt. No. 53, p. 21 (Corps stating that engineer's statement only dealt with vessel wakes, which the Corps did not consider). There is nothing more than the statement of the un-named engineer, who, the Federal Defendants now argue, was not even addressing the impacts the Corps was considering. This is an entire failure to make a rational decision, and make the information underpinning that decision available to the public.

Oddly, after stating that the Court must defer to an engineer with no apparent seagrass expertise, Enbridge then argues that the testimony of Dr. Cammarata, who clearly is a seagrass expert, should be ignored. Enbridge asserts there is a "battle of experts," but in fact there is only one expert – Dr. Cammarata. Enbridge then asserts that Dr. Cammarata's testimony should be

excluded because his conclusions, according to Enbridge, are not adequate to make causation conclusions to a reasonable degree of scientific certainty. Dkt. No. 54, pp. 47-48. This is obviously incorrect; his declaration includes his expertise, the source of his knowledge, his conclusions and the facts those conclusions are based upon. Enbridge provides nothing that undercuts his conclusions in any way, and as the Federal Defendants noted in their response to Plaintiffs' motion to permit extra-record evidence, Dr. Cammarata's conclusions as to vessel impacts on seagrasses are consistent with those of the U.S. Fish and Wildlife Service and other expert agencies. Dkt. No. 44, p. 9.

G. Enbridge's arguments on the adequacy of consideration of air pollution, noise pollution and light pollution impacts on the neighboring community do not square with the record.

Enbridge first argues that the expansion project will reduce air pollution, by reducing the time spent nearshore. There is no data to back up this statement, and because the expansion is intended to move more oil and bring more and larger tankers into the terminal, this statement lacks any basis.

Enbridge further argues that the Corps properly dismissed all of the neighboring community's concerns about air, noise, and light pollution by arguing that "the project will be confined to an existing commercial marine facility." Dkt. No. 54, p. 31. First, the project actually brings tankers 900 feet closer to the neighbors. Second, this statement does not consider operations, only construction activities. AR139.

Enbridge also claims that the preservation of an onshore area will prevent any additional air, noise or light pollution impacts. But this claim is unsupported by the record. First, the onshore area already exists and will do nothing new. Second, there is no data to back up this claim. Third, it bears noting that the increased tanker traffic will not be on shore, it will be on the

water where tankers actually work. Thus, the onshore preserve will do nothing to attenuate light, noise and air pollution from the increased tanker traffic, which itself will be 900 feet closer to the neighboring community.

H. The remainder of Enbridge's arguments simply duplicate those of the Federal Defendants.

Enbridge includes many additional pages of argument regarding cumulative impacts, the need for an environmental impact statement, and appropriate relief. The majority of this argument adds nothing new to the Federal Defendants' arguments in their Cross-Motion, and Plaintiffs refer the Court to their Response to the Federal Defendants' Cross-Motion.

IV. CONCLUSION

This Court should find that Plaintiffs are entitled to judgment as a matter of law. The proper course is for the Court to vacate the Corps' permit decision, and remand the matter to the Corps for preparation of an EIS with a full and accurate consideration of impacts and alternatives.

Respectfully submitted this 22nd day of August, 2022.

/s/ Robert B. Wiygul
Robert Wiygul (MS Bar No. 7348)
(admitted *pro hac vice*)
WALTZER WIYGUL & GARSIDE LLC
1011 Iberville Drive
Ocean Springs, MS 39564
P: (228) 872-1125
F: (228) 872-1128
robert@wwglaw.com

Lauren Ice (TX Bar No. 24092560)
Attorney-in-charge
S.D. Tex. Bar No. 3294105
Marisa Perales (TX Bar No. 24002750)
(admitted *pro hac vice*)
PERALES, ALLMON & ICE, P.C.

1206 San Antonio St.
Austin, Texas 78701
P: (512) 469-6000
F: (512) 482-9346
lauren@txenvirolaw.com
marisa@txenvirolaw.com

Attorney for Plaintiffs

CERTIFICATE OF COMPLIANCE

In the June 9, 2022 status conference in this matter the Court advised that word limits would be waived for this motion.

/s/ Robert B. Wiygul
ROBERT B. WIYGUL

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on August 22, 2022.

/s/ Robert B. Wiygul
ROBERT B. WIYGUL