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President Hochberg and Mr. Mahoney:

Friends of the Earth U.S., Justiçia Ambienta (Friends of the Earth Mozambique), and the Center for Biological Diversity write to provide comments on Ex-Im's potential support for the Liquefied Natural Gas (LNG) Project in Cabo Delgado, Mozambique. We submit these comments in light of Ex-Im's environmental and social policies, and based on review of the project Environmental Impact Statement, on information from local partners, and on past experience with Ex-Im Bank financed LNG projects. These comments expand upon and support the points raised in a meeting with Ex-Im on March 2, 2016. We raise the following concerns about the project:

This project will result in land grabs, forcing people to leave their homes and livelihoods:

In order for the project to be constructed, Anadarko will need to take lands from the local communities. This means that people will not only lose their homes, but lose access to the areas where they depend for the income and use for recreation. Thousands of people will be forced to relocate whether they want to or not. They will lose their houses and all that encompasses the communities that they have worked so hard to build.

As similar projects have shown us, these projects result in the destruction of communities with insufficient compensation. For instance, the Azura Edo natural gas power plant in Nigeria has resulted in local communities losing their land in order for the project to be built. Some communities received insufficient compensation, while others, as of the timing of a recent report, had not received any compensation. These kind of land grabs are unacceptable as they allow large multinational corporations to take away peoples' homes with little care about the impacts.

Climate impacts negate President Obama's climate pledge:

This project has the potential to result in a huge release of greenhouse gas emissions, especially methane, not just over the next few years, but for decades to come. The assessment predicts that

this project would allow Mozambique to "become one of the world's leading natural gas exporting countries."[1] The amount of money that will be invested in this project will mean that this infrastructure will stay in place for decades. Not only will this shift investment from renewables to natural gas, as happened in the United States, but it will also disincentive future renewable opportunities.[2] In a country that is largely rural and has significant solar resources, this is a major lost opportunity to increased electricity access to clean and sustainable forms of electricity.

The assessment underestimates the impact of the methane that will be released during the extraction, processing, and transportation of the natural gas off the coast of Mozambique. The assessment states that it uses the same global warming potential figures as used in the IPIECA Petroleum industry guidelines for reporting greenhouse gas emissions and the American Petroleum Institute's 2009 Compendium of Greenhouse Gas Emissions.[3] These two documents use a global warming potential of 25 for methane, based on the outdated 2007 Intergovernmental Panel on Climate Change (IPCC).[4] According to the most recent report from the Intergovernmental Panel on Climate Change, methane is a greenhouse gas that is 87 times as potent as carbon dioxide over a 20 year timeframe.[5] The assessment estimated direct emissions from the project at 12.9 million tons of CO2 equivalent emissions per year, starting in 2022, the first full year of operation.[6] Therefore, this project's direct emissions will be closer to 44.9 million metric tons when using the more accurate IPCC global warming potential.

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[1] Environmental Resources Management (ERM), *Environmental Impact Assessment (EIA) Report for the Liquefied Natural Gas Project in Cabo Delgado: Final EIA Report – Volume 1*, p. 1 (2014), http://www.mzlng.com/content/documents/MZLNG/EIA/Volume_I/English/Vol_I-_front_pages_NTS_LNG_Final_EIA_Sept_2014_Eng.pdf?noicon

[2] Haewon McJeon et al., *Limited Impact on Decadal-Scale Climate Change from Increased Use of Natural Gas*, 514 NATURE 482 (2014), http://www.nature.com/nature/journal/v514/n7523/full/nature13837.html; Steven J. Davis & Christine Shearer, *Climate change: A Crack in the Natural-Gas Bridge*, 514 NATURE 436 (2014), http://www.nature.com/nature/journal/v514/n7523/full/nature13927.html#close; Seth Borenstein, *Abundant Natural Gas Won't Slow Climate Change, Study Says*, ASSOCIATED PRESS, Oct. 15, 2014, http://www.huffingtonpost.com/2014/10/15/natural-gas-climate-change_n_5990888.html

[3] ERM, *Annex C: Baseline Methodologies*, sec. C3.2.1 (2014), http://www.mzlng.com/content/documents/MZLNG/EIA/Volume_III/English/Annex_C_-_LNG_Final_EIA_Sept_2014_Eng.pdf

[4] American Petroleum Institute (API), *Compendium of Greenhouse Gas Emissions Methodologies for the Oil and Natural Gas Industry*, tbl. 3-1 (2009), http://www.api.org/~/media/Files/EHS/climate-change/2009_GHG_COMPENDIUM.pdf; International Petroleum Industry Environmental Conservation Association (IPIECA) & API, *Petroleum Industry Guidelines for Reporting Greenhouse Gas Emissions*, tbl. 5-1 (2d ed. 2009), http://www.ipieca.org/publication/guidelines-greenhouse-gas-reporting-2011

[5] INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE , CLIMATE CHANGE 2014: MITIGATION OF CLIMATE CHANGE (2014), http://mitigation2014.org/report/publication/. Some calculations of methane's impact look at the longer timeframe of 100 years, but the shorter 20-year timeframe is more appropriate to properly reflect methane's stronger impact in the short-term due to its atmospheric lifespan of about 12 years. Considering that scientists have concluded that significant reductions must take place in the next decade in order to limit the worst impacts of climate change, it is imperative to take into account this warming impact of methane in the short-term.

[6] ERM, *Chapter 12: Onshore Environmental Impact Assessment and Mitigation*, tbl. 12.7 (2014), http://www.mzlng.com/content/documents/MZLNG/EIA/Volume_II/English/Chapter_12-_LNG_Final_EIA_Sept_2014_Eng.pdf

Unfortunately, this assessment is not alone in underestimating the methane from a project. Methane emissions are a major problem for the oil and gas sector; some estimates put methane leakage from oil and gas production at 17 percent.[7] Studies have found that regulators in the United States are not properly estimating these emissions for natural gas fields in parts of the country.[8] Part of the reason for this, is a device commonly used to measure the methane that leaks from industrial sources may greatly underestimate those emissions.[9] Natural gas's release of large amounts of methane lead to a Cornell University review of the scientific research that found conventional natural gas has a greater climate impact than coal.[10] Contrary to what one might think, the newer the gas well, the more likely the well is to leak methane.[11] These wells will continue to leak methane long after Anadarko and other energy companies have stopped using them to extract natural gas.[12]

This project does not just involve the extraction and burning of natural gas, it also involved liquefying it for export. The LNG project lifecycle processes of production, transport, liquification, shipping, regassification, and power plant combustion is incredibly energy intensive. The U.S. Department of Energy estimates that the liquefaction, transport, and regasification process increases the total lifecycle of greenhouse gas emissions from the natural gas industry by 15 percent.[13] Put another way, according to a study by the Center for American Progress, the liquefaction stage of a typical U.S. LNG project is a mere 10 percent of the project's total lifecycle emissions.[14] Yet, the assessment only considers the direct emissions of the Mozambique liquefaction plant, estimated at 12.9 million tons of CO2 equivalent emissions

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[7] Oliver Schneising et al., *Remote Sensing of Fugitive Methane Emissions from Oil and Gas Production in North American Tight Geologic Formations*, 2 EARTH'S FUTURE 548 (2014), http://onlinelibrary.wiley.com/doi/10.1002/2014EF000265/pdf

[8] Gabrielle Pétron et al., *A New Look at Methane and Nonmethane Hydrocarbon Emissions from Oil and Natural Gas Operations in the Colorado Denver-Julesburg Basin*, 119 J. GEOPHYSICAL RESEARCH: ATMOSPHERES 6836 (2014), http://onlinelibrary.wiley.com/wol1/doi/10.1002/2013JD021272/full

[9] Touché Howard, *University of Texas Study Underestimates National Methane Emissions at Natural Gas Production Sites Due to Instrument Sensor Failure*, 3 ENERGY SCI. & ENG'G 443 (2015), http://onlinelibrary.wiley.com/doi/10.1002/ese3.81/pdf

[10] Robert W. Howarth, *A Bridge to Nowhere: Methane Emissions and the Greenhouse Gas Footprint of Natural Gas*, ENERGY SCI. & ENG'G (2014), http://www.eeb.cornell.edu/howarth/publications/Howarth_2014_ESE_methane_emissions.pdf

[11] Anthony R. Ingraffea et al., *Assessment and Risk Analysis of Casing and Cement Impairment in Oil and Gas Wells in Pennsylvania, 2000–2012*, PROC. NATURAL ACAD. SCI. (2014), http://www.pnas.org/content/111/30/10955 (study of onshore conventional and unconventional gas wells in Pennsylvania).

[12] Mary Kang et al., *Direct Measurements of Methane Emissions from Abandoned Oil and Gas Wells in Pennsylvania*, PROC. NATURAL ACAD. SCI., http://www.pnas.org/content/111/51/18173.abstract (finding some abandoned oil and gas wells that were emitting significant amounts of methane).

[13] U.S. Department of Energy, National Energy Technology Laboratory. *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States*, DOE/NETL-2014/1649, (2014) http://www.energy.gov/sites/prod/files/2014/05/f16/Life%20Cycle%20GHG%20Perspective%20Report.pdf

[14] GWYNNE TARASKA & DARRYL BANKS, THE CLIMATE IMPLICATION OF U.S. LIQUID NATURAL GAS, OR LNG, EXPORTS (2014), https://cdn.americanprogress.org/wp-content/uploads/2014/08/TaraskaLNG_report.pdf

per year.[15] If this is 10 percent of total lifecycle emissions, then the Mozambique LNG project will be over 120 million tons of CO2 equivalent per year. This compares with 36.8 million tons of annual CO2 emissions from the enormous Ex-Im Bank financed Kusile coal power plant in South Africa.

Local communities worse off:

This project will require a huge investment beyond the project itself, which would be better spent on social programs and renewable energy development. The project itself will require an investment of up US$ 30 billion. As the assessment states, this large investment could make this project the single largest investment project in Mozambique. This investment is in a country where the overall literacy rate is 47 percent and a mere 28 percent for females.[16] This project will divert funds that should be going to education and other social necessities to build and maintain needed infrastructure for this project. When these projects occur, governments always have to spend huge amounts of money beyond what private investors provide.

Very few, if any, of the jobs that are created through this project will go to local communities. Locals do not have the education to benefit from jobs. As the assessment states, most of the people who live in the district surrounding the project have received no formal education and much of the population is illiterate. In addition, the local population has little to no experience with the private sector. Therefore, they will not have the skills or education level to perform the jobs that this project will create. Meanwhile their income from natural resources will be destroyed.

Not only will the LNG project not provide local jobs, but it will also remove the sources of income that local communities depend on. The assessment finds that the majority of the local communities are "highly dependent" on fishing, small scale agriculture, and other natural resources to make a living. Local communities will no longer be able to access these resources that they depend on, including forests and areas for fishing. In addition, local communities will lose any income they currently get from tourism. In 2005, Mozambique has boasted the country with the fastest rate of growth of the tourism industry in the world, 37% above the previous year. In 2013 alone, the sector generated about 277 million US dollars, which was 7.6 percent of GDP.[17] That same year, travel and tourism supported 273,000 jobs directly and 718,000 jobs indirectly, or 2.4 and 6.4 percent respectively of total employment.[18] With that in mind, the

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[15] ERM, *Chapter 12: Onshore Environmental Impact Assessment and Mitigation*, tbl. 12.7, http://www.mzlng.com/content/documents/MZLNG/EIA/Volume_II/English/Chapter_12-_LNG_Final_EIA_Sept_2014_Eng.pdf

[16] USAID, Mozambique: Education, https://www.usaid.gov/mozambique/education

[17] World Travel and Tourism Council. *Travel & Tourism: Economic Impact 2014 Mozambique*, p. 1 (2014), http://www.wttc.org/-/media/files/reports/economic%20impact%20research/country%20reports/mozambique2014.pdf

[18] *Id.*

Government opted to ensure that all future development projects in tourism have a strong component of social responsibility. The province of Cabo Delgado, as one of the country priority areas for the development of tourism sector, has been receiving considerable investment in tourism. The project will greatly hinder those economic impacts by driving tourists away through high levels of noise, vessel traffic, and pollution, as well as the destruction of the pristine local reef. Therefore, the tourism income created from snorkeling and diving, as well as beachgoers will be completely destroyed.

What's more, the construction of LNG plants rely on the influx of thousands of workers who are typically paid far more than others in the community, which typically causes hyper inflation of housing, food, and other basic necessities. Other than the relatively few local people lucky enough to get a job on the project, this hyper inflation will result in most local people being relatively worse off financially, even with (and indeed because of) the large influx of investment into the construction project.

The local communities will be further harmed by the increased strain on health care resources. This project will require a huge influx in population in order to build and maintain it. This will result in an increase crime, prostitution, and the spread of sexually transmitted diseases as thousands of mostly young single males come in mass into the area. Examples of this can be found in areas where energy extraction projects in the United States and abroad, as well in areas surrounding LNG projects previously financed by Ex-Im Bank.[19] This increase in population will also put pressure on the areas limited health care facilities and water resources. This strain will be local populations at greater risk of health problems from tainted water and sanitation issues.

The influx of thousands of mostly male workers, and government security forces that typically protect LNG construction sites can also lead to violent conflict with local villagers. This is the case with the Ex-Im Bank financed Papua New Guinea Liquid Natural Gas project. This violence against communities, as well as the construction-related deaths of at least 26 local villagers was the subject of an exposé in The Nation and accompanying video in The Guardian.[20]

No improvement to energy access for local communities:

The Mozambique LNG project does not even pretend to be able helping Mozambique and its people economically benefit from its resources. About 80 percent of the country lacks access to

[19] *E.g.,* John Eligon, *An Oil Town Where Men Are Many, and Women Are Hounded*, N.Y. TIMES (Jan. 13, 2013).
[20] Ian T. Shearn, *ExxonMobil's New Guinea Nightmare*, THE NATION , Apr. 20, 2014, http://www.thenation.com/article/exxonmobils-new-guinea-nightmare/

electricity.[21] This figure is high even in comparison to other Sub-Saharan African countries and low income countries.[22] Even for the 20 percent that is considered to have access, many of those people cannot actually afford the electricity, leading to millions more Mozambicans without electricity. Despite this incredibly low electricity rate, the project does not even attempt to improve that figure. The stated purpose of the project is to "gather, process, and export natural gas in liquid form known as LNG . . . [to] be used as a fuel source in other countries." While this project will destroy the natural resources that local communities depend on, they will receive none of the electricity benefit. The LNG will be immediately brought to other countries, more likely markets in Asia, which have already expressed interest in purchasing the LNG from Anadarko's Mozambique project.[23]

Natural gas does not even make sense to improve energy access in Mozambique. About two thirds of the population in Mozambique lives in rural areas far from the centralized grid. Therefore, an increase in the production of natural gas, which requires large centralized power stations, would not help to improve the country's access to electricity. Furthermore, Mozambique lacks the pipeline infrastructure that would be needed to transport natural gas from the very north of the country where the natural gas deposits are to Maputo in the south or any other part of the country. To build such a pipeline network, which is prohibitively expensive, and if it were accomplished would cement dependence on fossil fuels for decades to come. To increase access to electricity, the country would need to invest in small distributed systems. Small solar systems would make the most sense in a country like Mozambique, which is flush with solar resources.

Environmental impacts underestimated:

This project will have a huge impact on the local environment. The sheer area of the project is massive; the assessment calculates that the footprint of the project is "approximately 3,600 ha, within the allocated approximately 7,000 ha DUAT area." The assessment incorrectly finds that most of the impacts will be either minor or reduced to minor with mitigation measures. There is no way that such a massive energy extraction project will not result in many major negative environmental impacts (as other Ex-Im Bank financed LNG projects demonstrate). To state otherwise, is minimizing and trying to brush over the true impacts that this project will have that will never be able to be undone.

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[21] The World Bank, Access to Electricity (% of Population), http://data.worldbank.org/indicator/EG.ELC.ACCS.ZS/countries/MZ-ZF-XM?display=graph (latest data is from 2012).

[22] The average rate of access to electricity in developing Sub-Saharan African countries is about 35 percent and 25 percent in low income countries. *Id.*

[23] Oleg Vukmanovic & Jacob Gronholt-Pedersen, *Exclusive: Asian Buyers Line up for Mozambican LNG with New Deals*, REUTERS, Oct. 30, 2014, http://www.reuters.com/article/us-mozambique-lng-anadarko-petrol-exclus-idUSKBN0IJ1V320141031

The zone where the three parts of the projects are located encompasses an area that provides a home to a large number of flora and fauna species, as well as special ecosystems. The coastline of eastern Africa, including particularly the northern coast of Mozambique, is home to incredible biodiversity. Roughly 60% of eastern Africa's remaining mangrove forests are in Mozambique, providing excellent habitat and tremendous ecosystem services.[24] Northern Mozambique's coral reefs are also largely intact and are some of the most species-diverse coral reefs in the region, particularly in the Quirimbas Archipelago of Cabo Delgado Province where the Project will occur.[25] The area's particularly productive sea grass beds also provide nursery grounds and foraging habitat for fish and turtles.[26] Recognizing these ecological attributes, as well as the area's cultural history, the Quirimbas Archipelago is currently on the Tentative List of World Heritage sites, which means it is under consideration for nomination as World Heritage site.[27]

The Project area particularly has a wide diversity of animals including whales, dolphins, turtles, sea birds, and fish.[28] What's more, the environmental impact statement indicates that the nearshore and offshore areas include a number of species that are considered imperiled by the IUCN, including sei whales, Indian yellow nosed albatross, loggerhead, green turtles, leatherback, and hawksbill turtles. The EIS also notes that "a number of fish and benthic species [that] have been observed appear to be new to science and have not previously been taxonomically described."[29] The project will destroy areas of pristine coral reefs, mangroves, and sea grass beds. Fewer and fewer places in the world contain these ecosystems, so protecting them is more important than ever. This project will require dredging, disposal of waste materials, and the construction of subsea, near shore, and on shore structures and infrastructure that will devastate these ecosystems. This will also harm the species through habitat degradation, noise and ship strikes and force species to leave the area. Moreover, if there is a spill or gas accident, which have become prevalent at energy extraction sites, the impacts will be even more catastrophic.[30]

Funding of the Mozambique LNG Project Requires Consultation Regarding Impacts on Endangered and Threatened Species, pursuant to the Endangered Species Act.

As ExIm Bank is well-aware, Section 7 of the Endangered Species Act ("ESA") requires all federal agencies to "consult" with the Fish & Wildlife Service ("FWS") or the National Marine Fisheries Service ("NMFS," or collectively, "the Services") to "insure that *any action* authorized, *funded*, or carried out" by an agency "is not likely to jeopardize the continued existence" of any

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[24] M. Samoilys at al., *Resilience of Coastal Systems and Their Human Partners in the Western Indian Ocean*. Nairobi, Kenya: IUCN ESARO, WIOMSA, CORDIO and UNEP Nairobi Convention (2015).
[25] *Id.*
[26] *Id.*
[27] UNESCO, The Quirimbas Archipelago, http://whc.unesco.org/en/tentativelists/5380/
[28] Mozambique LNG EIA, Chap. 7 at 7-95, 7-32.
[29] ERM, *Chapter 7: Environmental Baseline* (2014), http://www.erm.com/contentassets/9f1c634c714f419384baea6dcdb492bd/volume-1/chapter-7--lng-final-eia_sept-2014_eng.pdf
[30] For an example of the types of harm caused by oil and gas drilling, see the Center and its partners' NEPA comments on a recently proposed oil and gas facility off Alaska. On file with the authors. While the Alaskan and Mozambique ecosystems are very different, the types of harm (GHG emissions, noise disturbance, risk of oil spill, etc.) are similar.

listed species. 16 U.S.C. § 1536(a)(2) (emphasis added); 50 C.F.R. § 402.02 (defining "agency action" to mean "all activities or programs of any kind authorized, funded . . . in whole or in part").

To facilitate compliance with Section 7, an "agency shall . . . request" from the Services information regarding whether any listed species "may be present" in a proposed action area, and if so, the "agency shall conduct a biological assessment" to identify species likely to be affected. 16 U.S.C. § 1536(c); *see also* 50 C.F.R. § 402.12(b) (requiring preparation of a BA for "major construction activities"). An agency must then initiate formal consultation with the Services if a proposed action "may affect" a listed species. 50 C.F.R. § 402.14(a). The "may affect" threshold is extremely low; consultation is triggered by "[a]ny possible effect, whether beneficial, benign, adverse or of an undetermined character." 51 Fed. Reg. 19,926 (June 3, 1986). After formal consultation, the Services issue a biological opinion to determine whether the agency action is likely to "jeopardize" any species' existence. If so, the opinion may specify reasonable and prudent alternatives to avoid jeopardy. 16 U.S.C. § 1536(b). Even if jeopardy will not occur, the Services may "suggest modifications" to the action to "avoid the likelihood of adverse effects." 50 C.F.R. § 402.13.

Before committing to funding the Mozambique LNG requirement, Ex-Im Bank must consult with the Services regarding the Project's impacts on any ESA-listed species that "may" be affected by this enormous industrial development taking place inside a pristine and ecologically significant area. Ex-Im's funding of the Project will clearly constitute an "agency action" triggering consultation. 16 U.S.C. § 1536(a)(2); 50 C.F.R. § 402.02. Further, the Project, which includes major construction, clearly "may affect" ESA-listed species. *Id.* § 402.14(a). Several ESA-listed species inhabit the area, including endangered sperm, humpback, and sei whales; endangered green, hawksbill, and leatherback sea turtles; as well as threatened loggerhead and olive ridley sea turtles,[31] and possibly endangered dugong. In fact, green and hawksbill sea turtles have been documented nesting on Vamizi, Rongui and Macaloe islands, within and immediately south of Project area.[32] Endangered humpback whales calve in the area and have been sighted within Palma Bay, where the LNG facility will be located.[33]

Proponents of the Project frankly acknowledge substantial short- and long-term impacts, including noise disturbance, habitat destruction, vessel strikes, and lighting impacts from the various aspects of the project, including offshore drilling, cutting trenches for pipelines and shipping channels, construction of the LNG facility and associated shipping terminal, and

[31] *Id.* ch. 7.
[32] *Id.* ch. 7, at 7-96.
[33] *Id.*

operation of the facility.[34] Accordingly, Ex-Im is required to consult with both FWS and NMFS regarding the Projects' impacts on listed species.[35]

Ex-Im Bank is required to consult, despite the Project's location. While the Services' consultation regulations purport to limit Section 7's applicability to agency actions "in the United States or upon the high seas," the regulation clearly conflicts with the ESA's plain language and is therefore unlawful. 50 C.F.R. §§ 402.01(a); 402.02; *see Defenders of Wildlife v. Lujan*, 911 F.2d 117, 125 (8th Cir. 1990) (rejecting the regulation because "Congress intended for the consultation obligation to extend to all agency actions affecting endangered species, whether within the United States or abroad"), *rev'd on other grounds by Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992). Accordingly, Ex-Im Bank cannot rely on the Services' regulation to avoid consultation, as Section 7 clearly applies to federal agency actions in foreign countries.

Additionally, even if the Service's regulatory limitation were valid, Ex-Im Bank is still required to consult regarding the Project's impacts. Specifically, Ex-Im Bank's deliberation and ultimate decision to fund the two Projects has occurred or will occur within the United States, and thus the ESA applies. *See Envt'l Def. Fund v. Massey*, 986 F.2d 528, 532 (D.C. Cir. 1993) (finding NEPA applies to agency project in Antarctica because "the decisionmaking processes of federal agencies take place almost exclusively in this country").

Further, portions of the Project occur on the "high seas," triggering the Service's consultation regulation. The drilling and pipeline construction associated with the Project appear to occur outside of Mozambique's 12nm territorial sea, in addition to increased international shipping and seismic activities.[36] 50 C.F.R. § 402.01(a). Accordingly, the ESA requires Ex-Im to consult regarding the Project's impacts.

Finally, if the project continues, Anadarko, a U.S. company headquartered in Texas, is liable for "take" of ESA-listed species, which could result in substantial penalties. Specifically, Section 9 of the ESA prohibits "any person subject to the jurisdiction of the United States" from "tak[ing] any [ESA-listed] species upon the high seas." 16 U.S.C. § 1538(a)(1)(B). The term "person" includes any "corporation, partnership, trust, association, or any other private entity . . . or any other entity subject to the jurisdiction of the United States." *Id.* § 1532(13). "Take" is defined to mean "to harass, harm, pursue, . . . wound, kill, . . . or to attempt to engage in any such conduct," including through habitat destruction. *Id.* § 1532(19). Because portions of the Project will occur on the high seas (more than 12nm offshore) and because the Project will no doubt "harm,"

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[34] *Id.* ch. 11.

[35] We note further that, during consultation, Ex-Im is prohibited from "mak[ing] any irreversible or irretrievable commitment of resources" toward a project that would "foreclos[e] the formulation or implementation of any reasonable and prudent alternative measures." 16 U.S.C. § 1536(d).

[36] ERM, *Chapter 4: Project Description* (2014), http://www.erm.com/contentassets/9f1c634c714f419384baea6dcdb492bd/volume-1/chapter-4--lng-final-eia_sept-2014_eng.pdf

"harass," and even potentially "kill" ESA-listed species through noise, vessel strike, and habitat destruction, Anadarko will violate the ESA. Such violations are actionable pursuant to citizen suit. *Id.* § 1540(g).

Funding of the Mozambique LNG Project Requires Evaluation of Impacts pursuant to the National Environmental Policy Act.

The National Environmental Policy Act ("NEPA") requires each federal agency, including Ex-Im Bank, to produce an "environmental impact statement" to evaluate "every . . . major Federal action[ ] significantly affecting the quality of the human environment." 42 U.S.C. § 4332(2)(C). "Major federal actions" include "projects or programs entirely or *partly financed*, assisted, . . . or approved by federal agencies." 40 C.F.R. § 1508.18(a) (emphasis added). Further, NEPA applies to agency conduct, such as financing, that "occurs within the United States . . ., [e]ven where the significant effects of the regulated conduct are felt outside U.S. borders." *Massey*, 986 F.2d at 532. Additionally, because the Project's substantial greenhouse gases emissions will mix in the atmosphere, climate change impacts from the Projects will be felt not only in Eastern Africa, but also in the United States. *See Friends of the Earth v. Mosbacher*, 488 F. Supp. 2d 889 (N.D. Cal. 2007) (finding climate impacts of foreign project occur within the U.S., triggering NEPA).

Before financing the Project, Ex-Im Bank must fully evaluate the Project's impacts as required by NEPA.[37] Ex-Im's financing, which will likely represent a considerable portion of the overall investment for each Project, constitutes a "major Federal action," and the Projects "significantly [e]ffect[ ]" the environment, including rare habitats, ESA-listed species, water resources, and the global climate. 40 C.F.R. § 1508.18(a).

Additionally, we urge ExIm to evaluate and document how the Project will comply with the Bank's Environmental and Social Due Diligence Procedures and Guidelines and all IFC Environmental and Social Performance Standards, including particularly Performance Standard 6 regarding protection of endangered species and avoidance of critical habitat for those species.

Flawed alternatives assessment:

While the project considers a few different alternatives, there is no mention of the option to pursue cleaner forms of energy development.[38] Considering the amount of investment and infrastructure that will be required for this project, this assessment should have considered the

[37] While each proponent produced an "Environmental Impact Statement" for the Projects, these documents do not meet NEPA's environmental review requirements, as they are not issued by Ex-Im and fail to provide sufficient detail or opportunity for public input. *See, e.g.*, 40 C.F.R. §§ 1502.15; 1502.16; 1503.1.

[38] ERM, *Chapter 5: Consideration of Alternatives* (2014) http://www.mzlng.com/content/documents/MZLNG/EIA/Volume_I/English/Chapter_5-_LNG_Final_EIA_Sept_2014_Eng.pdf

potential impacts of investing in renewables instead and how that would better benefit the country. Investing in small renewable projects, such as small solar installations, would be able to bring real energy access to communities throughout Mozambique. Rather than investing in projects that will merely benefits other countries, investment in renewables would bring benefit to local communities in a way that they desperately need. Electricity will also improve health care access, as well as education opportunities.

In light of the concerns raised in this letter, we urge Ex-Im to reject financing for the Mozambique LNG project.

Sincerely,

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