

Société Générale's gamble on gas



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The delusion of shale gas exports

US companies are eager to open new export markets for shale gas, in the form of liquefied natural gas (LNG). To achieve their objectives, they are proposing a staggering number of new gas export terminals,¹ mostly on the Gulf Coast - a region already devastated by the oil and gas industry. LNG has an enormous climate footprint, due to methane leakage throughout its lifecycle as well as the significant amount of energy required to transport gas, particularly in the liquefaction and regasification stages. Overall, from a climate perspective, LNG is even worse than coal.² Moreover, the construction of new export terminals is a direct incentive to producing more shale gas from fracking, resulting in devastating climate, environmental and health impacts. And this shale gas will be transported to France (among other countries) where fracking has been banned since 2011.³

In the Rio Grande Valley in Southern Texas, near the Mexican border, the oil and gas industry is planning on building three new LNG export terminals: Annova LNG, Texas LNG - and the largest, Rio Grande LNG. Although BNP Paribas pulled out of the Texas LNG project in October 2017,⁴ acknowledging that it went against the Paris Agreement, Société Générale is still backing Rio Grande LNG.

In May 2017 energy company NextDecade confirmed that it had selected Société Générale, a French bank, and Macquarie Capital as financial advisers for the Rio Grande LNG terminal and associated Rio Bravo Dual Pipeline. Société Générale will provide advice to NextDecade and assist it in finding financial backers. It is not the first time the French bank has been involved in such deals. NextDecade itself explained it had selected Société Générale because of its track record in the LNG sector: "*Société Générale has acted as Joint Lead Arranger in the financing and development of all LNG projects that have been commissioned in North America.*"⁵

And the figures speak for themselves: Société Générale is the world's leading financier of LNG exports, spending over 1.1 billion dollars in 2017 alone.⁶

Société Générale has boasted of its global leadership position in the sector, choosing to disregard the climate impacts of liquefied natural gas, claiming that it is "*an energy source that will enable transitioning to a low carbon economy and which will play a significant role in meeting world energy needs.*" It has basically put it in the same category as renewable energy.⁷ The climate impact of Rio Grande LNG and the Rio Bravo Dual Pipeline will nevertheless be considerable: the terminal and pipeline will create more than 10 million tons of CO₂-equivalent greenhouse gas emissions for each year of operation. And that figure does not include upstream and downstream pollution, during the extraction and transport of shale gas, and when the gas exported through Rio Grande LNG will be burnt to produce electricity. Overall, the project will emit more CO₂ than 21 coal plants, and even more than 44 coal plants if methane leakage throughout the gas life cycle is taken into account.⁸

About the corporation:

Parent Company: Société Générale S.A.

Legal status: Public limited company (Société anonyme)

Net banking income (2017): 24 billion euro

Net profit (2017): G2.8 billion euro

Employees (as at 31 Dec 2017): 147,125

This case is part of the report
THE EU AND THE CORPORATE IMPUNITY NEXUS
BUILDING THE UNBINDING TREATY ON TRANSNATIONAL CORPORATIONS AND HUMAN RIGHTS

The full report can be downloaded at:
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The gigantic Rio Grande LNG project will stretch over three kilometres and an area of about 400 hectares, and include six liquefaction trains and four storage reservoirs to liquefy and export more than 100 million cubic meters of gas every day. The Rio Bravo Dual Pipeline will be over 225 kilometres long and cut through the land of 150 families all the way from the Agua Dulce gas hub, which is connected to eight other gas pipelines, all linked to the Eagle Ford shale basin.⁹

The Rio Grande LNG and Rio Bravo Pipeline projects entail serious risks in terms of human rights, health and safety, and the environment. In view of its 'duty of vigilance,' Société Générale should give up its involvement in these projects, unless it is happy to play a role in these violations (see box).

Health and Safety Risks

As the condensation and transportation of gas are highly polluting, the Rio Grande LNG project will become by far the greatest source of pollution in the whole Cameron County. The company itself estimates that it will emit annually, among other hazardous air pollutants, more than 3,000 tons of carbon monoxide, more than 3000 tons of carcinogenic organic volatile compounds, and more than 800 tons of fine particles - which exacerbate asthma and are linked to heart and lung pathologies.¹⁰

These health impacts are especially worrying given that the terminals are to be built in an area that already struggles with major health disparities - that of Brownsville, the administrative centre of a rural community that is 93% Hispanic and Latino, communities which are more at risk of cancers associated with oil and gas infrastructure.¹¹ Many Native American families also live in the Rio Grande valley and often live on the fringes of society. Brownsville regularly tops the list of poorest towns in the USA. 35% of inhabitants were living below the poverty line in 2015, the highest rate in US urban areas.¹²

Neighbouring communities are also concerned about explosion hazards. Methane is a colourless, odourless highly inflammable gas. A leak from a pipeline or a storage tank could potentially result in a massive, lethal ball of fire. Rio Grande LNG will also be using fuels such as propane, ethylene and butane - which are even more volatile than methane - for the gas cooling process. In spite of the fact that Rio Grande LNG would figure amongst the largest LNG terminals in the world, the recommended safety buffer zones between two gas infrastructures would not be respected if all three planned LNG terminals on the site (Rio Grande LNG, Texas LNG and Annova LNG) do go ahead.¹³ The hazard is compounded by the nearby SpaceX rocket launch site, currently under construction, which is only eight kilometres away. In June 2015 and September 2016, failed SpaceX rocket launches in Florida resulted in explosions. The risk of a failed rocket launch or a rocket falling on the Rio Grande LNG terminal cannot be excluded, as the Federal Energy Regulatory Commission itself has acknowledged.¹⁴

In addition, leaks will be harder to detect, as the gas transported by the Rio Bravo Pipelines will be odourless, further endangering surrounding communities. The Texas Railroad Commission, in charge of regulating oil and gas installations, has admitted it does not have enough inspectors to guarantee the safety of all the pipelines in the state.¹⁵

Biodiversity under threat

Rio Grande LNG and the two other planned terminals constitute a direct threat for the last remaining large-scale ecologically sensitive habitat in Texas. The area is home to a biodiversity that is recognised as one of the richest and most diverse in the United States.

Indeed, the proposed sites for the terminals are right on the edge of the nationally protected Laguna Astacosa reserve, on lands that were previously leased by the US Wildlife Service to safeguard fragile coastal ecosystems and the habitats of threatened species. This land, located along the Brownsville ship channel, belong to the Port of Brownsville, which is now leasing them to the three LNG corporations.



Photo: Lucie Pinson/
Amis de la Terre France



Photo: Teekid



Photo: Lucie Pinson/
Amis de la Terre France

The wildlife refuge, which stretches over 40,000 hectares, plays a vital role in the conservation of eight endangered animal species including ocelots and aplomado falcons.¹⁶ As of August 2015, there were only 53 ocelots left in all of Texas, most of them in the state's Southern tip, right where the new LNG export installations are to be located.¹⁷ The refuge also plays a key role in the protection of shorebirds, which results in economic benefits for the region as a whole, as more than half of all bird species in the US either live there or stop there during migration. The Laguna Astascosa reserve is the country's largest bird refuge and a prime destination for birdwatchers.

In addition to its exceptional biodiversity, the preserved lands of Laguna Astascosa also boast native natural vegetation and an intact coastline - an exception to the rest of the heavily industrialised Gulf coastline in Texas, which has long been sacrificed to refineries and petrochemical complexes. It is also home to what the US Fish and Wildlife Service has called "*one of the largest and most successful coastal wetland restoration projects in the United States*": the Bahia Grande section, comprising 8,800 hectares almost entirely covered in wetlands, which explains its role as a safe haven for a range of species and native vegetation. It also makes it a natural barrier against tropical storms. The preservation of this ecosystem is critical in the context of climate change, which will make severe weather events more frequent and more intense,¹⁸ hurricane Harvey being the latest example.

Respecting indigenous rights

The indigenous Esto'k Gna people, one of the oldest in Texas, is mobilised against the construction of the terminals and pipelines, alongside other communities and citizens that have come together under the umbrella of the "Save Rio Grande Valley from LNG" coalition.¹⁹ Free, prior and informed consent of indigenous communities is a right recognised by ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples. It is a right that should be recognised by the companies whose projects will affect the lands of indigenous communities, and should be required by the banks that back these projects. However, to date, NextDecade have not consulted the Esto'k Gna people. If they ever do talk to them, the Esto'k Gna people will express their adamant opposition to the Rio Grande LNG and Rio Bravo Pipeline.

Friends of the Earth France visited and talked directly with the communities in July 2017, and it appears, despite Société Générale's claims, that there has in fact been very little willingness from the sponsor to listen and respect the requests and concerns of the communities. The investigation also found that most local people had very little awareness of the project, even though local economic activities - particularly fishing, shrimp farming and tourism - will be directly affected by the construction and operation of the new LNG terminals. Eco-tourism, which alone accounts for 6,600 full or part-time jobs in the Valley, will likely be devastated. Rio Grande LNG, on the other hand, will only create 200 new permanent jobs.²⁰

How does the duty of vigilance apply to banks?

In legal terms, large private French banks are "*sociétés anonymes*" (private limited companies). As they have more than 5,000 employees, they are subject to the new French corporate "duty of vigilance" law, and published their first "vigilance plans" in early 2018. But how is this "duty of vigilance" to be concretely enforced and understood as regards the financial sector?

In order to answer this question, previous developments should be taken into account. As a result of civil society campaigns - including campaigns led by Friends of the Earth France from 2005 onwards - banks have developed a number of voluntary guidelines to address social and environmental risks as well as human rights violations within their funding and investment policies. It can be assumed that these banks' vigilance plans will be based on already existing voluntary guidelines and processes. Société Générale's first plan states that "*the company sees this new regulation as an opportunity to clarify and strengthen its existing vigilance framework*".²¹

Consequently, from an internal perspective, banks have developed their own "sectoral policies" to guide their decisions in high-risk sectors such as extractive industries, arms and palm oil. They also collectively created in 2003 - and further developed since then - the "Equator Principles", 10 principles that commit signatory banks to take certain environmental and social criteria into account before getting involved in any form of financial advice, any form of significant project funding or any loan to corporations.²² The Equator Principles have similar features to what will be requested from vigilance plans, such as the requirement to identify risks and set up a whistleblowing mechanism. When a promoter is not able to prove its project will comply with the Equator Principles, Equator Principles Financial Institutions (EPFIs) are to refuse to fund it or to grant loans to the companies involved in the project. As for financial advice as regards to the project, EPFIs must demand that their client "*explicitly communicates their intention to comply with the Equator Principles*." The Equator Principles Association also intends to update its regulations, paying particular attention to climate issues and the rights of indigenous peoples. Société Générale endorsed the Equator Principles in 2007 and has currently 12 sectoral policies in place, including an oil and gas policy, adopted in May 2018.²³

Like many other banks, Société Générale publicly states that its human rights commitments are "guided" by a number of international conventions and standards.²⁴ These include the United Nations Guiding Principles on Business and Human Rights (UNGPs). In June 2017, the UN Commission for Human Rights published an interpretive guide of the UNGPs for the banking sector.²⁵ The following remarks are included in the guide:

- "*A bank can contribute to an adverse impact through its own activities²⁶ (actions or omissions)— either directly alongside other entities, or through some outside entity, such as a client(...) For example, a bank that provides financing to a client for an infrastructure project that entails clear risks of forced displacements may be considered to have facilitated—and thus contributed to—any displacements that occur, if the bank knew or should have known that risks of displacement were present, yet it took no steps to seek to get its client to prevent or mitigate them.*"
- "*For example, if a bank identifies or is made aware of an on-going human rights issue that is directly linked to its operations, products or services through a client relationship, yet over time fails to take reasonable steps to seek to prevent or mitigate the impact—such as bringing up the issue with the client's leadership or board, persuading other banks to join in raising the issue with the client, making further financing contingent upon correcting the situation, etc.—it could eventually be seen to be facilitating the continuance of the situation and thus be in a situation of 'contributing'.*"

As the "duty of vigilance" law draws in part from the UNGPs, this guide could assist judges in assessing and interpreting the obligations and liabilities of the banks subject to this law.

Conclusion

The Rio Grand LNG mega project, and the Rio Bravo Dual Pipeline both seriously jeopardise indigenous rights, the health and safety of neighbouring communities, and biodiversity. It is the kind of project Société Générale should immediately refuse to get involved in, in accordance with the Equator Principles and with the UN Guiding Principles, which it endorsed many years ago. It is therefore a test of how seriously the bank will take its new legal obligations under the corporate duty of vigilance law.

Both in regards to NextDecade's own liability as the company behind the project and Société Générale's role, there is no way a simple plan can adequately prevent all the identified risks of Rio Grande LNG, especially as some of its ecological and social impacts could prove irreversible. In its first vigilance plan, Société Générale has identified key issues such as respect for indigenous communities, climate change, conserving biodiversity, but the actual content of the plan provides little detail and is generally vague when it comes to providing concrete solutions to these issues.

Unless it relinquishes its role as financial advisor, Société Générale will probably fund LNG terminal and pipeline projects. In the unlikely event that it provides financial advice yet chooses not to fund the project itself, Société Générale would nevertheless remain one of the parties responsible for the project as well as for its negative impacts.

ENDNOTES

- 1 According to the Federal Energy Regulatory Commission, the US Department of Energy and Canada's National Energy Board, the industry is planning on building 36 new LNG export terminals in the US (there are currently only two - the Sabine Pass LNG terminal and the Cove Point LNG terminal) and 20 in Canada. However, a recent study concluded that only six of them could see the light of day: Rachel Adams-Heard, "Study Sees Only 6 Survivors Out of List of U.S., Canadian LNG Projects", SNL Beta, S&P Global Market Intelligence, 12 January 2017.
- 2 Robert W. Howarth, "A Bridge To Nowhere: Methane Emissions and the Greenhouse Gas Footprint of Natural Gas", Energy Science & Engineering, 22 April 2014, Rainforest Action Network, *A bridge to nowhere: the climate, human rights and financial risk of liquefied natural gas exports*, Report, March 2017.
- 3 https://www.lemonde.fr/planete/article/2011/06/30/gaz-de-schiste-le-parlement-interdit-l-utilisation-de-la-fracturation-hydraulique_1543252_3244.html
- 4 <https://group.bnpparibas/en/press-release/bnp-paribas-takes-measures-accelerate-support-energy-transition>
- 5 "NextDecade Engages Societe Generale and Macquarie Capital as Financial Advisors for Rio Grande LNG", 2 May 2017.
- 6 "Banking on Climate Change", Rainforest Action Network, March 2018.
- 7 <https://www.societegenerale.com/fr/transition-energetique-engagements-climat/financement-transition-energetique> et <https://www.societegenerale.com/fr/content/societe-generale-sengage-en-faveur-du-climat-1>
- 8 "Rio Grande LNG & Associated Greenhouse Gas Emissions", Rainforest Action Network.
- 9 "Rio Grande LNG Is an Enormous Threat to the RGV", May 22, 2016.
- 10 Ibid.



- 11 Lesley Fleischman, Declan Kingland, Christopher Maxwell, Elena Rios, "Latino Communities at Risk: The Impact of Air Pollution from the Oil and Gas Industry", Clean Air Task Force, League of United Latin American Citizens, National Hispanic Medical Association, September 2016, Page 2.
- 12 <https://247wallst.com/special-report/2015/10/08/americas-richest-and-poorest-cities/11/>. "QuickFacts: Brownsville City, Texas", United States Census Bureau, consulted on 23 September 2016.
- 13 According to expert Jerry Haven, the recommended safe distance is 3 miles (4.8 kilometres): http://www.oregonlive.com/business/index.ssf/2014/04/gas_explosion_at_lng_facility.html
- 14 Jonathan Crawford, "U.S. Raises Concerns Over SpaceX Launches Near Gas Projects", Bloomberg, 28 October 2016.
- 15 Railroad Commission of Texas, Legislative appropriations request for fiscal years 2016 and 2017.
- 16 "Friends of the Laguna Atascosa Wildlife Refuge", consulted on 10 February 2017.
- 17 "Recovery Plan for the Ocelot", First Revision, U.S. Fish and Wildlife Service, July 2016.
- 18 Bahia Grande Unit, U.S. Fish and Wildlife Service, 29 March 2015.
- 19 "Save RGV From LNG".
- 20 For more information on Société Générale's support for natural gas and shale gas, as well as the Rio Grande LNG project, see the report by Friends of the Earth France "Société Générale, plein gaz sur les fossiles", published in March 2018. For more information on the consultations, see discussions between Société Générale and Friends of the Earth France, March 2018: <http://www.amisdela terre.org/Rio-Grande-LNG-Pourquoi-la-position-de-Societe-Generale-ne-tient-pas.html>
- 21 Société Générale's first vigilance plan can be viewed here (pp. 265-268): <https://www.societegenerale.com/sites/default/files/documents/Document%20de%20r%C3%A9f%C3%A9rence/2018/ddr-2018-societe-generale-depot-amf-d18-0112-fr.pdf>
- 22 http://www.equator-principles.com/resources/equator_principles_french_2013.pdf
- 23 <https://www.societegenerale.com/fr/mesurer-notre-performance/rse/finance-responsable>
- 24 <https://www.societegenerale.com/rapport-rse/11-droits-humains.html>
- 25 See the United Nations Guiding Principles on Business and Human Rights, and the Interpretive Guide to the banking sector.
- 26 "A bank's 'own activities' in this context includes actions and decisions (including omissions) involving third parties, such as providing financial products and services to clients," Interpretive Guide, p. 4.