

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

May 11, 2012

In Reply Refer To:

Kinder Morgan Texas Pipeline LLC  
Docket No. CP12-440-000  
Amended Presidential Permit

The Honorable Leon E. Panetta  
Secretary of Defense  
Washington, DC 20301

Dear Mr. Secretary:

Pursuant to the provisions of Executive Order Nos. 10485 and 12038 of September 1, 1953, and February 3, 1978, respectively, and the Secretary of Energy's Delegation Order No. 00-004.00A, effective May 16, 2006, enclosed herewith for your information and consideration is a copy of an application filed by Kinder Morgan Texas Pipeline LLC (Kinder Morgan) with the Federal Energy Regulatory Commission on April 30, 2012, in Docket No. CP12-440-000.<sup>1</sup> In its application, Kinder Morgan seeks to amend its existing Natural Gas Act (NGA) section 3 authorization and Presidential Permit originally authorized on November 26, 1996, and previously amended on December 17, 1997 and September 24, 2002, to increase the authorized design capacity of its border facilities from approximately 375 MMcf per day to 425 MMcf per day at the International Boundary between the United States and Mexico near Salineño, in Starr County, Texas. Kinder Morgan proposes no construction or modification to its previously approved facilities in this new application.

In its November 26, 1996 and December 17, 1997 Presidential Permits, the Commission authorized Kinder Morgan to site, construct, operate, and maintain facilities at the International Border with Mexico. In the amended Presidential Permit issued on September 24, 2002, the Commission, among other things, authorized Kinder Morgan to increase the design capacity of its border crossing pipeline to 375 MMcf per day. Kinder Morgan states that it has implemented a series of operational changes to its pipeline system upstream of the border crossing facilities so that the facilities are now capable of

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<sup>1</sup> Kinder Morgan was formerly known as MidCon Texas Pipeline Operator, Inc. and Kinder Morgan Texas Pipeline, L.P.

transporting 425 MMcf per day. In its April 30, 2012 application, Kinder Morgan states that modifying the existing Presidential Permit and NGA section 3 authorization would simply align Kinder Morgan's existing authorizations with the actual design capabilities of its cross border facilities.<sup>2</sup> Moreover, the amendment would allow Kinder Morgan to continue to provide Pemex-Gas Y Petroquimica Basica (Pemex) with increased gas supplies, as Pemex finishes repairing a damaged pipeline in Mexico that had diminished its access to other natural gas supply sources and resulted in curtailments.

Also enclosed for your consideration is a draft of the proposed amended Presidential Permit to be issued to Kinder Morgan, if the Commission approves its application. The Presidential Permit incorporates terms and conditions you and the Secretary of State have heretofore required in similar cases. Consistent with current Commission policy, Article 9 of the draft permit differs from Article 9 of the original permits. Article 9 is revised to state that the permittee is required to defer to the Commission's finding and requirement regarding which authorized facilities should be removed and which should remain in place, in the event that they are no longer used.

A similar letter, together with a draft of the proposed Presidential Permit and a copy of the application, is being sent to the Secretary of State. If the Secretary of State should make an unfavorable recommendation or propose any material change in the draft of the Permit, the Commission will immediately advise you.

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<sup>2</sup> Kinder Morgan states that since April 25, 2012, it has been transporting up to 425 MMcf per day through the cross border facilities under Part 284, Subpart I, of the Commission's regulations, which allows a pipeline, among other things, to transport gas in excess of its design capacity in emergency situations. 18 C.F.R. Part 284, Subpart I.

The Commission would appreciate receiving your views regarding issuance of the proposed Presidential Permit at an early date. Please do not hesitate to contact me at (202) 502-8400, or Edward Gingold at (202) 502-8114, if you need any further information.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

cc: The Honorable Hilary R. Clinton  
Secretary of State

Attachments:  
Application of Kinder Morgan Texas Pipeline LLC  
Draft of Amended Presidential Permit

**DRAFT**

**AMENDED PERMIT  
AUTHORIZING KINDER MORGAN TEXAS PIPELINE, LLC  
TO CONSTRUCT, OPERATE, MAINTAIN  
AND CONNECT NATURAL GAS FACILITIES  
AT THE INTERNATIONAL BOUNDARY  
BETWEEN THE UNITED STATES AND MEXICO**

**FEDERAL ENERGY REGULATORY COMMISSION  
Docket No. CP12-440-000**

(Issued May , 2012)

Kinder Morgan Texas Pipeline, LLC (Kinder Morgan), a corporation organized under the laws of the State of Delaware, filed on April 30, 2012, in Docket No. CP12-440-000, an application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00A, requesting that the Commission issue an order under section 3 of the NGA and an amended Presidential Permit authorizing Kinder Morgan to increase the design capacity of its facilities at the international boundary between the United States and Mexico from 375 to 425 MMcf per day.

By letter dated , 2012, the Secretary of State, and by letter dated , 2012, the Secretary of Defense, favorably recommended that this Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of this Permit, allowing the export permission requested by Kinder Morgan, is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, dated September 3, 1953, and February 3, 1978, respectively, the Secretary of Energy's Delegation Order No. 00-004.00A effective May 16, 2006, and the Commission's regulations, permission is granted to Kinder Morgan (Permittee) to operate and maintain the natural gas facilities described in Article 2 below, upon the terms and conditions of the Permit.

Article 1. It is expressly agreed by the Permittee that the facilities herein described shall be subject to all provisions and requirements of this Permit. This Permit may be modified or revoked by the President of the United States or the Federal Energy Regulatory Commission and may be amended by the Federal Energy Regulatory Commission, upon proper application therefore.

Article 2. The following facilities are subject to this Permit:

A natural gas transmission facility located near Salineño, Starr County, Texas consisting of approximately 878 feet of 30-inch diameter pipe extending from a connection with intrastate pipeline facilities operated by Kinder Morgan to the International Boundary. The design capacity of the border facilities will be approximately 425 MMcf per day.

Article 3. The natural gas facilities subject to this Permit, or which may subsequently be included herein by modification or amendment, may be utilized for the transportation of natural gas between the United States and Mexico only in the amount, at the rate, and in the manner authorized under section 3 of the Natural Gas Act.

Article 4. The operation and maintenance of the aforesaid facilities shall be subject to the inspection and approval of representatives of the United States. The Permittee shall allow officers and employees of the United States, showing proper credentials, free and unrestricted access to the land occupied by the facilities in the performance of their official duties.

Article 5. If in the future it should appear to the Secretary of the Defense that any facilities or operations permitted hereunder cause unreasonable obstruction to the free navigation of any of the navigable waters of the United States, the Permittee may be required, upon notice from the Secretary of the Defense, to remove or alter the same so as to render navigation through such waters free and unobstructed.

Article 6. The Permittee shall be liable for all damages occasioned to the property of others by the operation or maintenance of the facilities, and in no event shall the United States be liable therefore. The Permittee shall do everything reasonable within its power to prevent or suppress fires on or near land occupied under this Permit.

Article 7. The Permittee agrees to file with the Commission, under oath and in such detail as the Commission may require, such statements or reports with respect to the natural gas exported, imported, or the facilities described herein, as the Commission may, from time to time, request. Such information may be made available to any federal, state, or local agency requesting such information.

Article 8. Neither this Permit nor the facilities, nor any part thereof, covered by this Permit shall be voluntarily transferred in any manner, but the Permit shall continue in effect temporarily for a reasonable time in the event of the involuntary transfer of the facilities by operation of law (including transfer to receivers, trustees, or purchasers under foreclosure or judicial sale) pending the making of an application for a permanent Permit and decision thereon, provided notice is promptly given in writing to the Commission accompanied by a statement that the facilities authorized by this Permit remain substantially the same as before the involuntary transfer. The Permittee shall maintain the

facilities in a condition of repair for the efficient transportation of natural gas and shall make all necessary renewals and replacement.

Article 9. At such time that this Permit is surrendered, revoked, or otherwise terminated, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The Commission will specify the time within which any authorized facilities shall be removed, and the Permittee shall remove those facilities within such time and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, the Commission may direct that possession of the same be taken and the facilities removed at the Permittee's expense, and the Permittee shall have no claim for damages by reason of such possession or removal.

Article 10. The Permittee agrees that when, in the opinion of the President of the United States, evidenced by a written order addressed to it as holder of this Permit, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any of the facilities, or parts thereof, maintained or operated under this Permit, and all contracts covering the transportation or sale of natural gas by means of said facilities, to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes, and then to restore possession and control to the Permittee; and in the event that the United States shall exercise such right it shall pay the Permittee just and fair compensation for the use of said facilities upon the basis of a reasonable profit in time of peace, and the cost of restoring said facilities to as good condition as existed at the time of taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the Permittee.

Article 11. This Permit is subject to any action which the Government of the United States may in the future deem expedient or necessary to take in case any part of the aforesaid facilities comes into the control of any foreign government.

Article 12. The Government of the United States shall be entitled to the same or similar privileges as may by law, regulation, agreement, or otherwise, be granted by the Permittee to any foreign government.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of \_\_, 2012 has caused its name to be signed by \_\_, [pursuant to a resolution of its Board of Directors duly adopted] on the \_\_ day of \_\_, 2012, a certified copy of the record of which is attached hereto.

Kinder Morgan Texas Pipeline LLC

By \_\_\_\_\_

(Attest)

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Executed in triplicate