

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

May 23, 2008

In Reply Refer To:  
North Baja Pipeline, LLC  
Docket No. CP08-152-000  
Presidential Permit

The Honorable Robert M. Gates  
Secretary of Defense  
Washington, D.C. 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 North Baja Pipeline, LLC (North Baja) with the Federal Energy Regulatory Commission on April 15, and amended on April 18, 2008, in Docket No. CP08-152-000 to amend its existing Natural Gas Act (NGA) section 3 authorizations and Presidential Permit issued on January 16, 2002.<sup>1</sup> These existing authorizations allow North Baja to operate border facilities located between the United States and Mexico for the transportation of natural gas.

Specifically, North Baja seeks an amendment of its previously issued Presidential Permit and authorization under section 3 of the Natural Gas Act (NGA) to include proposed new facilities at the international boundary between the United States and Mexico. These facilities comprise approximately 1,150 feet of 12-inch pipeline extending from North Baja's proposed Yuma Lateral at the center of the Salinity Canal in Yuma County, Arizona to the international boundary near Algodones, Mexico to interconnect with the natural gas facilities to be constructed, owned and operated in Mexico by Gasoducto Bajanorte, S. de R.L. de C.V.

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<sup>1</sup> See *North Baja Pipeline, LLC*, 98 FERC ¶ 61,020 (2002) amended by 121 FERC ¶ 61,010, at P 108-111 (2007). Although North Baja requested an amendment to the Presidential Permit issued and amended in these two orders, the Commission considers North Baja's application to be a request for a new Presidential Permit since the proposed border crossing facilities are unrelated to the existing facilities.

Also enclosed for your consideration is a draft copy of the proposed Presidential Permit to be issued to North Baja which incorporates terms and conditions that you and the Secretary of State have heretofore required in similar cases.

Applicants have requested that the Commission act without delay on their April, 2008 filings. Further, under section 15 of the NGA, 15 U.S.C. § 717n (2000), as amended by section 313 of the Energy Policy Act of 2005 (EPAAct 2005), Pub. L. No. 109-58, 119 Stat. 594 (2005), the Commission is required to establish a schedule to ensure expeditious completion of all Federal authorizations, including any permit, necessary for a proposed natural gas project for which authorization under section 3 of the NGA is required. Pursuant to regulations adopted by the Commission to implement NGA section 15 as amended by EPAAct 2005, your recommendation regarding this proposed Presidential Permit should be provided to the Commission no later than 90 days after the Commission issues its final environmental document. *See* 18 C.F.R. § 157.22 (2007). Notice of the initial schedule for the development of the environmental document, any subsequent changes to that schedule, issued draft environmental documents (if any), and the final environmental document will be available on the Commission's website and may be monitored by your staff via the Commission's eSubscription service.

The Commission would appreciate receiving your views regarding issuance of the amended Presidential Permit at an early date. Please do not hesitate to contact me at (202) 502-8400, or Ethel L. Morgan at (202) 502-8450, if you need any further information.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

cc: The Honorable Condoleezza Rice

Attachments:

Application

Draft of Presidential Permit

**PERMIT AUTHORIZING NORTH BAJA PIPELINE, LLC TO OPERATE AND  
MAINTAIN NATURAL GAS FACILITIES AT THE INTERNATIONAL  
BOUNDARY BETWEEN THE UNITED STATES AND MEXICO**

**FEDERAL ENERGY REGULATORY COMMISSION  
DOCKET NO. CP08-152-000**

**(Issued , 2008)**

North Baja Pipeline, LLC (Permittee) a limited liability company organized under the laws of the State of Delaware filed on April 15 and April 18, 2008, in Docket No. CP08-152-000 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 authorizing it to construct facilities located at the international boundary between the United States and Mexico.

By letter dated , 2008, the Secretary of State, and by letter dated , 2008, the Secretary of Defense, favorably recommended that the Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of a Permit 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 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:

Approximately 1,150 feet of 12-inch pipeline commencing from the Permittee's Yuma Lateral at the center of the Salinity Canal in Yuma County, Arizona to the international boundary near Algodones, Mexico to interconnect with the natural gas facilities to be constructed, owned and operated in Mexico by Gasoducto Bajanorte, S. de R.L. de C.V.

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

importation or exportation 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 Army 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 Army, 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 therefor. 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 imported or exported, 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 replacements.

Article 9. At such time as 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 be removed at the Permittee' 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.

Secretary

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

North Baja Pipeline, LLC

By \_\_\_\_\_

(Attest)

\_\_\_\_\_

Executed in triplicate