

145 FERC ¶ 61,112
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinohoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

NET Mexico Pipeline Partners, LLC Docket No. CP13-482-000

ORDER ISSUING PRESIDENTIAL PERMIT AND GRANTING AUTHORIZATION
UNDER SECTION 3 OF THE NATURAL GAS ACT

(Issued November 8, 2013)

1. On May 20, 2013, NET Mexico Pipeline Partners, LLC (NET Mexico) filed an application seeking authorization under section 3 of the Natural Gas Act (NGA)¹ and a Presidential Permit to site, construct, connect, operate, and maintain a border-crossing facility for the export of natural gas (the Export Facility) at the international boundary between the United States and Mexico in Starr County, Texas.²
2. For the reasons discussed below, the Commission will grant the requested authorizations, subject to certain conditions.

¹ 15 U.S.C. § 717b (2012); 18 C.F.R. Part 153 (2013) (implementing regulations).

² Authorization under section 3 of the NGA is necessary for the siting, construction, or operation of facilities to import or export natural gas. In addition, pursuant to Executive Order No. 10485, dated September 3, 1953 (18 Fed. Reg. 5397), as amended by Executive Order No. 12038, dated February 3, 1978 (43 Fed. Reg. 4957), a Presidential Permit also must be obtained for the portion of an import or export facility crossing one of the United States international borders. In Delegation Order No. 00-004.00A, effective May 16, 2006, the Secretary of the U.S. Department of Energy (DOE) renewed the delegation of authority to the Commission to grant or deny authorization under section 3 of the NGA and, if applicable, a Presidential Permit for the construction, operation, maintenance, or connection of import and export facilities. The Commission has no authority to approve or disapprove applications to import or export natural gas. The Secretary of Energy has delegated such authority to DOE's Assistant Secretary for Fossil Energy.

I. Background and Proposal

3. NET Mexico is a limited liability company organized under the laws of the state of Delaware to construct, own, and operate an intrastate pipeline in the state of Texas. The current members of NET Mexico are a Texas limited partnership, NET Mexico Pipeline Partners, LP, which holds a 90 percent equity interest in NET Mexico, and MGI Enterprises, Ltd., which holds a 10 percent equity interest. NET Mexico Pipeline Partners, LP is itself an indirect subsidiary of NET Holdings Management, LLC. NET Holdings Management, LLC, through NET Midstream, LLC, owns and operates six intrastate pipelines in Texas and one intrastate pipeline in Louisiana. MGI Enterprises, Ltd. is an indirect subsidiary of Pemex Gas y Petroquímica Básica (Pemex Gas). Pemex Gas is a subsidiary of Petroleos Mexicanos (Pemex), the Mexican state-owned petroleum company. MGI Enterprises, Ltd. is affiliated with MGI Supply, Ltd., which is the anchor shipper on NET Mexico.

4. NET Mexico proposes to construct approximately 1,400 feet of 48-inch diameter pipeline extending from a point in Starr County, Texas to the international border. The pipeline will be installed using a horizontal directional drill under the Rio Grande River. The facility will have a design capacity of 2.1 billion cubic feet (Bcf) per day and a maximum allowable operating pressure of 1,480 pounds per square inch gauge. The Export Facility will cost approximately \$2.7 million.

5. NET Mexico will transport gas southwest from the Agua Dulce Hub in Nueces County, Texas, to the Export Facility through an intrastate pipeline that NET Mexico proposes to construct, own, and operate under the jurisdiction of the Texas Railroad Commission. The intrastate pipeline will consist of approximately 120 miles of 42-inch-diameter pipeline with a total capacity of 2.1 Bcf per day. The intrastate pipeline will consist of a header system interconnecting with six other Texas intrastate pipelines as well as four Texas processing plants. It will later interconnect with two interstate pipelines. The header system will have approximately 100,000 horsepower of compression and will connect the Agua Dulce Hub with the border-crossing facilities.

6. The applicant states that the Export Facility will deliver gas into the to-be-constructed Los Ramones Pipeline in Mexico for further transportation and distribution into Mexico's expanding fuel markets for electric generation and industry. The Los Ramones Pipeline is a joint venture of Pemex and Sempra International, LLC. NET Mexico, via NET Midstream, LLC, has entered a long-term agreement with MGI Supply for service using the entire capacity of 2.1 Bcf per day.³ NET Mexico states that it will enter into an interconnection and operating agreement with the Los Ramones Pipeline.

³ The applicant acknowledges in its application that separate federal authorization for the exportation of gas is required from DOE's Office of Fossil Energy.

7. NET Mexico also states that, while it will initially provide only intrastate service on its upstream pipeline, it intends at a later time to provide interruptible transportation services under section 311 of the Natural Gas Policy Act⁴ (NGPA) on behalf of two interstate pipelines in Texas. Authorization for these services would be sought in a separate, future proceeding.

II. Public Notice, Interventions, and Comments

8. Notice of NET Mexico's application was published in the *Federal Register* on June 7, 2013 (78 Fed. Reg. 34,359). Timely motions to intervene were filed by Miguel Alonzo Barrera; Calpine Energy Services, L.P.; Katherine Hopper; Laborcitas Creek Ranch, LP; P. C. Cage Ranch, Ltd.; Scott Kibbe Land Co., Ltd.; Seeligson Ranch, LLC; and Sheerin Real Properties, Ltd.⁵ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.⁶

9. A motion for leave to intervene out of time was filed by MGI Supply, on June 27, 2013. MGI Supply provided comments in support of the proposed project regarding the benefit to expanding gas demand in Mexico. We will grant this motion since to do so will not delay the proceeding, prejudice the rights of any other party, or place an additional burden on existing parties.⁷

10. No protests or adverse comments were filed.

III. Consultation with Secretaries of State and Defense

11. On June 28, 2013, the Commission sent copies of the application and a draft Presidential Permit to the Secretaries of State and Defense for their recommendations. Replies on behalf of the Secretary of State dated August 9, 2013, and the Secretary of

⁴ 15 U.S.C. § 3371 (2012).

⁵ Excluding Calpine Energy Services, L.P., these entities are large landholders in southern Texas. We note that only Sheerin Real Properties, Ltd., requests to intervene based on interests directly affected by the border-crossing facilities, which occupy a portion of its land. The remaining entities request to intervene based on interests potentially affected by the proposed nonjurisdictional intrastate pipeline that would supply gas to the border-crossing facilities. Specific environmental concerns arising from the intrastate pipeline should be addressed before state regulators.

⁶ 18 C.F.R. § 385.214(c) (2013).

⁷ See 18 C.F.R. § 385.214(d) (2013).

Defense dated August 8, 2013, indicate no objection to the issuance of the requested Presidential Permit.⁸

IV. Discussion

A. Public Interest

12. Because the subject facilities will be used to export gas across the United States/Mexico international border, the proposal is subject to the Commission's jurisdiction under section 3 of the NGA.

13. Section 3 provides for the Commission's approval of an application under that section "unless it finds that the proposal will not be consistent with the public interest."⁹ Under its section 3 authority, the Commission may also apply terms and conditions as necessary and appropriate to ensure that the proposed siting, construction, and operation are not inconsistent with the public interest.¹⁰

14. The construction of the Export Facility is necessary to meet the expanding fuel demand for power generation and industrial activity in Mexico. Further, the Export Facility will promote national economic policy by reducing barriers to foreign trade and stimulating the flow of goods and services between the United States and Mexico, both of which are signatories to the North American Free Trade Agreement (NAFTA),^{11,12} providing for fewer restrictions on natural gas imports and exports.

15. The Export Facility will have a minimal impact on landowners because the construction activities will temporarily disturb 8.2 acres of land, but only 0.3 acres will

⁸ Executive Order No. 10485, 18 Fed. Reg. 5397 (September 9, 1953), requires that the Commission obtain favorable recommendations of the Secretaries of State and Defense prior to issuing a Presidential Permit authorizing the construction of facilities at the borders of the United States for the exportation or importation of natural gas.

⁹ 15 U.S.C. § 717b(a) (2012).

¹⁰ *Id.*

¹¹ Pub. L. No. 103-182, 107 Stat. 2057 (1993); Implementation of the North American Free Trade Agreement Act, Executive Order No. 12889, 58 Fed. Reg. 69,681 (Dec. 27, 1993).

¹² NGA section 3 provides that "the exportation of natural gas to a nation with which there is a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such importation and exportation shall be granted without modification or delay."

be permanently maintained for operation and maintenance. NET Mexico intends to negotiate an easement to convey a right-of-way to perform construction.¹³ After construction, NET Mexico will restore the disturbed areas in accordance with FERC guidelines.

16. In view of the above considerations, the Commission finds that the approval of the Export Facility for the exportation of natural gas is not inconsistent with the public interest. Therefore, the Commission will issue a Presidential Permit, set forth in Appendix B to this order, and an NGA section 3 authorization to site, construct, connect, operate, and maintain the Export Facility. However, the Commission will exercise its discretion under section 3 of the NGA to make its grant of authorization “upon such terms and conditions as the Commission may find necessary or appropriate.”

B. Environmental Analysis

17. On July 2, 2013, the Commission issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed NET Mexico Pipeline Project and Request for Comments on Environmental Issues (NOI). The NOI was mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

18. We received written comments in response to the NOI from the U.S. Environmental Protection Agency (EPA).¹⁴ The EPA stated that the EA should address project impacts on water and biological resources, endangered species, invasive species, air quality (including greenhouse gas emissions), and cultural and historic resources. The EPA also offered specific comments on habitat protection, project purpose and need, alternatives analysis, cumulative impacts, and tribal coordination. We addressed these comments in our environmental analysis.

19. In addition, the EPA requested that the environmental review address the following: stormwater considerations, wetlands, Clean Water Act Section 303, mobile and stationary source controls, administrative controls, climate change, the National Pollutant Discharge Elimination System permit, hazardous materials, hazardous waste and solid waste, and environmental justice and impacted communities. As stated in our Environmental Assessment, NET Mexico’s proposed action would not affect any resources to an extent that would trigger the listed permits or authorizations. Therefore, these issues are not addressed in the EA.

¹³ An authorization under NGA section 3 does not carry the ability to acquire necessary property rights by the exercise of the right of eminent domain.

¹⁴ EPA August 22 Comments.

20. To satisfy the requirements of the National Environmental Policy Act, our staff prepared an EA for NET Mexico's proposal. The EA was placed into the public record on October 4, 2013. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. The EA addresses the EPA's relevant comments in Sections B and C, as applicable.

21. As discussed in the EA, the Export Facility pipeline would begin at a point approximately 6 miles east of Rio Grande City, Starr County, Texas, and extend 1,400 feet to the international border with Mexico beneath the center of the Rio Grande River. To construct its Export Facility, NET Mexico would employ a horizontal directional drilling (HDD) method to cross underneath the Rio Grande River. This method would avoid direct impacts on the sensitive environmental resources associated with this waterbody. Another 1,247 feet of nonjurisdictional pipeline of equal diameter would extend south into Mexico. Construction of the border-crossing facility within the United States will require a total temporary disturbance of about 8.2 acres of land. Following construction, Net Mexico will retain about 0.3 acre for operation of the project facilities.

22. The EA states that NET Mexico's proposed HDD would occur at an alignment depth of 70 feet beneath the Rio Grande River and concludes that a successful HDD under the river would result in little or no impact on this waterbody or on biological resources. NET Mexico would implement several measures, as described in its Directional Drill Contingency Plan, to minimize the potential for any drilling fluid to enter the Rio Grande River during the HDD, and would notify the U.S. Army Corps of Engineers of any inadvertent release. The EA recommends that NET Mexico revise its Directional Drill Contingency Plan to include specific measures to contain and clean up any inadvertent release of drilling fluid within the Rio Grande River. Accordingly, Environmental Condition 11 of this order requires NET Mexico to file the revised plan prior to construction.

23. The EA also describes the environmental impacts likely to be associated with the nonjurisdictional intrastate facilities that NET Mexico would build upstream of the Export Facility. The environmental impacts were determined using the best available data provided by NET Mexico. NET Mexico would construct and operate approximately 120 miles of 42-inch-diameter intrastate pipeline in Starr County, Texas, subject to the jurisdiction of the Texas Railroad Commission. NET Mexico would also construct approximately 1,247 feet of 48-inch-diameter pipeline on the Mexican side of the international border. The EA presents information related to these nonjurisdictional facilities as part of the cumulative impacts analysis.

24. Based on the analysis in the EA, the Commission finds that if the proposed facilities are constructed and operated in accordance with NET Mexico's application and supplements, and in compliance with the environmental conditions in Appendix A to this

order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

25. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this authorization. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.¹⁵

V. Conclusion

26. The Commission on its own motion, received and made part of the record all evidence, including the application(s), supplements, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) A Presidential Permit and NGA section 3 authorization are issued authorizing NET Mexico, to site, construct, connect, operate, and maintain natural gas export and border-crossing facilities, as described and conditioned in this order, subject to the conditions of the Presidential Permit and compliance with the environmental conditions in Appendix A to this order.

(B) NET Mexico shall sign and return the testimony of acceptance of all provisions, conditions, and requirements of the Presidential Permit to the Secretary of the Commission within 30 days of the issuance of this order.

(C) The authorized Export Facility shall be completed and placed in service within three years of the date of issuance of this order.

(D) NET Mexico shall notify the Commission's environmental staff by telephone, email, and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies NET Mexico. NET

¹⁵ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *Nat'l Fuel Gas Supply v. Pub. Serv. Comm'n*, 894 F.2d 571 (2d Cir. 1990); *Iroquois Gas Transmission System, LP, et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992); and *Dominion Transmission, Inc.*, 141 FERC ¶ 61,240, at P 68 (Dec. 20, 2012) (finding "state and local regulation is preempted by the NGA to the extent they conflict with federal regulation, or would delay the construction and operation of facilities approved by this Commission.").

Mexico shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(E) The motion to intervene out-of-time filed by MGI Supply, on June 27, 2013, is granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

APPENDIX A.

Environmental Conditions

As recommended in the environmental assessment (EA), this authorization includes the following conditions:

1. NET Mexico shall follow the construction procedures and mitigation measures described in its application and supplements, including responses to staff data requests, and as identified in the EA, unless modified by the Order. NET Mexico must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during activities associated with the construction and operation of the Project. This authority shall allow:
 - a. the modification of conditions of the Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction of facilities**, NET Mexico shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.

4. The authorized facility locations shall be as shown in the EA. **As soon as they are available, and before the start of construction**, NET Mexico shall file with the Secretary any revised construction workspace configuration drawings at a scale not smaller than 1:6,000 with station positions for all activities approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

5. NET Mexico shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area**.

This requirement does not apply to extra workspace allowed by the FERC *Upland Erosion Control, Revegetation, and Maintenance Plan* and/or minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
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6. **Within 60 days of the acceptance of the Authorization and before construction begins**, NET Mexico shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how will implement the mitigation measures required by the Commission Order. NET Mexico must file revisions to the plan as schedules change. The plan shall identify:

- a. how NET Mexico would implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
 - b. how NET Mexico would incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned and how the company would ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who would receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instructions NET Mexico would give to all personnel involved with construction activities and restoration (initial and refresher training as the Project progresses and personnel change);
 - f. the company personnel (if known) and specific portion of NET Mexico's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) NET Mexico will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (1) the completion of all required surveys and reports;
 - (2) the environmental compliance training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, NET Mexico shall file updated status reports with the Secretary on a **biweekly basis until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on NET Mexico's efforts to obtain the necessary federal authorizations;
 - b. the construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the EI(s) during the reporting period (both for the conditions

- imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
- d. a description of corrective actions implemented in response to all instances of noncompliance, and their cost;
 - e. the effectiveness of all corrective actions implemented;
 - f. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by NET Mexico from other federal, state or local permitting agencies concerning instances of noncompliance, and NET Mexico's response.
8. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, NET Mexico shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
9. NET Mexico must receive written authorization from the Director of OEP **before placing the project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the facility sites and other areas affected by the project are proceeding satisfactorily.
10. **Within 30 days of placing the authorized facilities in service**, NET Mexico shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the Authorization conditions NET Mexico has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. **Prior to construction**, NET Mexico shall file with the Secretary a revised Directional Drill Contingency Plan, which includes measures to contain and collect any inadvertent releases of drilling fluid within the Rio Grande River, for review and approval by the Director of OEP.

APPENDIX B**PERMIT AUTHORIZING NET MEXICO PIPELINE PARTNERS, LLC
TO SITE, CONSTRUCT, AND OPERATE NATURAL GAS FACILITIES
AT THE INTERNATIONAL BOUNDARY
BETWEEN THE UNITED STATES AND MEXICO****FEDERAL ENERGY REGULATORY COMMISSION
Docket No. CP13-482-000**

(Issued November 8, 2013)

NET Mexico Pipeline Partners, LLC, (NET Mexico), a limited liability corporation organized under the laws of the State of Delaware, filed on May 20, 2013, in Docket No. CP13-482-000, 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 Natural Gas Act (NGA) and a Presidential Permit authorizing NET Mexico to site, construct, and operate a new border crossing pipeline facility at the international boundary of the United States and Mexico to accommodate the exportation of natural gas between the United States and Mexico.

By letter dated August 9, 2013, the Secretary of State, and, by letter dated August 8, 2013, the Secretary of Defense favorably recommend that this Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of this Permit, allowing the export permission requested by NET Mexico, is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, dated September 1, 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 NET Mexico (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 1,400 feet of 48-inch diameter pipeline with a maximum daily export capacity of 2.1 billion cubic feet (Bcf) per day, designed to transport natural gas to a new delivery interconnection with the to-be-constructed Los Ramones Pipeline at the international boundary between the United States and Mexico in Starr County, Texas, near Rio Grande City, Texas.

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 Defense, to remove or alter the same so as to render navigation through such water 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 Permittee 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. Upon the termination, revocation, or surrender of this Permit, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The facilities authorized shall be removed within such time as the Commission may specify, and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, or any portion thereof, the Commission may direct that possession of the same be taken and the facilities be 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 its 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.

Kimberly D. Bose,
Secretary.