

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Regent Resources Ltd. and Sword Energy Limited

Docket No. CP06-41-000

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

(Issued October 10, 2006)

1. On December 19, 2005, Regent Resources Ltd. (Regent) and Sword Energy Limited (Sword) (collectively, applicants) filed an application for an order: (1) authorizing the transfer to Sword of Regent's existing Natural Gas Act (NGA) section 3 authorization for the import and export of natural gas into and out of the United States; and (2) authorizing the transfer to Sword of the Presidential Permit which the Commission issued to Regent authorizing it to site, construct, operate, and maintain pipeline facilities and place of entry for import of natural gas at the International Boundary between the United States and Canada.¹ The border crossing facilities are located just north of Cut Bank, between Glacier County, Montana, and the Coutts area of Alberta, Canada.
2. For the reasons discussed below, we find that the issuance of a Presidential Permit and the granting of authorization to Sword pursuant to NGA section 3 to operate and maintain facilities at the international border between the United States and Canada are in the public interest, and we will grant the requested authorization.

¹ See *Regent Resources Ltd.*, 102 FERC ¶ 61,307 (2003).

I. Background and Proposal

3. In the December 19, 2005 filing, the applicants seek to amend the Presidential Permit issued to Regent on March 19, 2003. That order granted Regent authorization pursuant to NGA section 3 and a Presidential Permit to site, construct, operate, and maintain facilities for the importation of natural gas at the international boundary between Glacier County, Montana, and the province of Alberta, Canada. The facilities were constructed in September 2003 and have been in continuous operation since October 2003. They are currently used to import natural gas into the United States.

4. Specifically, the facilities consist of a 30-foot section of Regent Pipeline on the United States side (border crossing) which interconnects with a 4-inch pipeline (connector pipeline) constructed in the NW ¼ section 1, Township 37N, Range 5W, in Glacier County, Montana, by Regent Resources, Inc., a Montana subsidiary of Regent. The 30-foot border crossing segment is connected on the Canadian side to a 2,300-foot, 4-inch outer diameter line extending from a gas meter station at an existing well site directly south to the United States/Canadian border. On the United States side of the 30-foot section, the connector pipeline runs in a southeasterly direction for a distance of approximately 19,400 feet and ties in with an existing gathering system and processing facility located in Northern Montana.

5. The applicants request that the authorization under NGA section 3 and the Presidential Permit held in the name of Regent be changed to insert Sword's name in lieu of Regent's to recognize the sale of the facilities by Regent to Sword. The applicants state that the transfer of the facilities will not affect the underlying use of the facilities or the services that are currently provided to customers of the facilities.

6. Applicants state that the transfer to Sword of the authorization and Permit is not inconsistent with the public interest because it will improve access to supplies of natural gas and promote national economic policy by reducing barriers to foreign trade and stimulating the flow of goods and service between the United States and Canada.

Public Notice and Intervention

7. Notice of Regent and Sword's application in Docket No. CP06-41-000 was published in the *Federal Register* on January 2, 2006 (71 Fed. Reg. 104). No notices of intervention, motions to intervene, or protests to the application were filed.²

² Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.

Consultation with Secretaries of State and Defense

8. On February 2, 2006, pursuant to Executive Order 12038, the Commission sent letters to the Secretaries of State and Defense seeking their recommendations on a proposed amendment to Regent's Presidential Permit. By letters dated March 7, 2006, and August 15, 2006, the Secretaries of State and Defense, respectively, indicated that they have no objections to Regent's requested amendments to its Presidential Permit.³

IV. Discussion

9. Pursuant to section 3 of the NGA and authority delegated by the Secretary of Energy, the proposal is subject to the jurisdiction of the Commission.

10. Section 153.9 of the Commission's regulations provides that prior Commission approval is necessary for the transfer of facilities authorized under section 3 of the NGA. Further, Article 8 of Regent's 2001 Presidential Permit states that neither the Permit nor any of the facilities covered by the Permit may be voluntarily transferred.

11. The record in this case shows that approval of Regent's proposal is consistent with the public interest because it will continue to provide access to supplies of natural gas and promote national economic policy by reducing barriers to foreign trade and stimulating the flow of goods and services between the United States and Canada.

12. Presidential Permits and authorizations pursuant to section 3 of the NGA are non-transferable,⁴ as proposed in the joint application. Therefore, to permit effectuation of the change in ownership of the facilities, the Commission will issue a new Presidential Permit and new NGA section 3 authorization to Sword rather than amend Regent's existing Presidential Permit and authorization as requested in the application.

³ The Department of Defense (DoD) letter states that it has no objection to the issuance of the requested Presidential Permit to Sword pending approval and validation of any associated Army Corps of Engineers (COE) permit process. Since there is no COE permit required for Regent's proposal, DoD's condition has been met.

⁴ 18 C.F.R. § 153.9(a) (2005). *See, e.g., Calpine Corp.*, 106 FERC ¶ 61,075 at P 11-12 (2004); Appendix at standard Article 8 of Sword's Presidential Permit.

13. Consistent with current Commission policy,⁵ Sword's Presidential Permit will provide, in Article 9 thereof, that any determinations regarding whether authorized facilities shall be abandoned in place or by removal shall be deferred until such time when the facilities are no longer in use.

14. Under this policy, no new facility construction, abandonment, or modification of existing facilities will occur. Therefore, since granting this application will not be a federal action significantly affecting the quality of the human environment, the preparation of an environmental assessment or environmental impact statement is not required.

15. The Commission on its own motion received and made part of the record in this proceeding all evidence, including the application supplements, and exhibits thereto submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) A Presidential Permit and NGA section 3 authority are issued to Sword to operate and maintain the facilities, as conditioned and described in this order.

(B) Sword 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.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

⁵ See, e.g., *Reef International*, 99 FERC ¶ 61,221 at P 21 (2002); *Calpine Corp.*, 106 FERC ¶ 61,075 at P 13 (2004).

**PERMIT AUTHORIZING SWORD ENERGY LIMITED TO OPERATE AND
MAINTAIN NATURAL GAS FACILITIES AT THE INTERNATIONAL
BOUNDARY BETWEEN THE UNITED STATES AND CANADA**

**FEDERAL ENERGY REGULATORY COMMISSION
DOCKET NO. CP06-41-000**

(Issued October 10, 2006)

Regent Resources Ltd. (Regent) and Sword Energy Limited (Sword), private corporations under the laws of the Province of Alberta, Canada, filed in Docket No. CP06-41-000 on December 19, 2005, an application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00A, for authorization to transfer to Sword (Permittee) the authorization issued to Regent on March 19, 2003 (102 FERC ¶ 61,307) to operate and maintain the natural gas transmission facilities described in Article 2 below at the international border between Glacier County, Montana, and the Province of Alberta, Canada, and to transfer to Sword the Permit to operate and maintain the facilities.

By letter dated March 7, 2006, the Secretary of State, and by letter dated August 15, 2006, the Secretary of Defense favorably recommend 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 General Rules and Regulations, permission is granted to the Permittee to operate and maintain the natural gas transmission 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 therefor.

Article 2. The following facilities are subject to this Permit: A 30-foot section of Regent Pipeline on the United States side (border crossing) which interconnects with a 4-inch pipeline (connector pipeline) constructed in the NW ¼ section 1, Township 37N, Range 5W, in Glacier County, Montana, by Regent Resources, Inc., a Montana

subsidiary of Regent. The 30-foot border crossing segment is connected on the Canadian side to a 2,300-foot, 4-inch outer diameter line extending from a gas meter station at an existing well site directly south to the United States/Canadian border. On the United States side of the 30-foot section, the connector pipeline runs in a southeasterly direction for a distance of approximately 19,400 feet and ties in with an existing gathering system and processing facility located in Northern Montana. The facilities were constructed in September 2003 and put into operation in October 2003, and have been in continuous operation since that time.

Article 3. The natural gas facilities described herein, or which may subsequently be included herein by modification or amendment, may be utilized for the importation or exportation of natural gas 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 for such purposes. 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 aforesaid facilities and connections, 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 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 and connections, 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 and connections used hereunder 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 and connections 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 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 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.

Magalie R. Salas,
Secretary.

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of _____, 2006 has caused its name to be signed by _____, [pursuant to a resolution of its Board of Directors duly adopted on the _____ day of _____, 2006,] a certified copy of the record of which is attached hereto.

Sword Energy Limited

By _____