

111 FERC ¶ 61,018
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Cameron LNG, LLC

Docket No. CP02-378-002

ORDER AMENDING SECTION 3 AUTHORIZATION

(Issued April 13, 2005)

1. On December 9, 2004, Cameron LNG, LLC (Cameron) filed an application to amend the authorization issued in *Cameron LNG, LLC*, 104 FERC ¶ 61,269 (September 11, 2003).¹ The September 11 Order, among other things, authorized Cameron to site, construct, and operate a liquefied natural gas (LNG) terminal near Hackberry, Louisiana under section 3 of the Natural Gas Act.

2. In its petition to amend, Cameron proposes to modify the configuration of the terminal berthing facilities so that the facilities can handle larger LNG tankers. We will authorize the proposals herein because enabling Cameron's facilities to accommodate larger LNG tankers, which could potentially reduce tanker traffic in the Calcasieu Ship Channel, is not inconsistent with the public interest.

I. Background

3. In the September 11 Order, we authorized Cameron to construct and operate under section 3 an LNG terminal in order to receive LNG imports. The September 11 Order also authorized Cameron to construct and operate, under section 7(c) of the Natural Gas Act, a 35.4-mile long, 36-inch diameter pipeline from the tailgate of the proposed LNG terminal to Transcontinental Gas Pipe Line Corporation's compressor station in Beauregard Parish, Louisiana; to provide firm and interruptible transportation service on

¹ The Commission issued a preliminary determination in *Hackberry LNG Terminal, L.L.C.*, Docket No. CP02-374-000, *et al.*, 101 FERC ¶ 61,294 (2002). Cameron was formerly known as Hackberry LNG Terminal, L.L.C.

the 36-inch diameter pipeline under subpart G of Part 284; and to engage in routine construction, maintenance, and operational activities related to the 36-inch diameter pipeline under subpart F of Part 157.²

II. Proposals

4. Cameron proposes to amend the September 11 Order to modify the berthing facilities in order to allow LNG tankers up to 250,000 cubic meters in size to use its LNG terminal. To do this, Cameron proposes to expand the ship berthing capacity, modify ship departure angles, increase the authorized distance between ships, increase the authorized distance between ships and the channel, and add a turning basin.³ Specifically, Cameron proposes to (1) widen and enlarge the unloading slip from 1,250 feet by 1,100 feet to approximately 2,600 feet in width at the entrance, narrowing to 750 feet at the rear bulkhead wall, with a horizontal dimension depth of approximately 1,325 feet; (2) add an 850-foot-radius turning basin to the slip; and (3) move the eastern edge of the slip an additional 90 feet away from the edge of the channel for a total offset of 250 feet.

5. Cameron contends that its proposals will affect only the configuration of the berthing facilities at the import terminal. Cameron asserts that its proposals are designed to accommodate the berthing of the “next generation” of larger LNG tankers and to improve the safety margins of tankers berthing and departing the terminal by providing additional room for safer maneuvering. Cameron states that the widening of the unloading slip will provide the Lake Charles Pilots with the capability to bring the tankers out of the channel and turn the tankers within the slip without having to contend with the effects of the current. Cameron also contends that the modification of the slip and reorientation of the berths will allow for an integrated turning basin that will enhance berthing and departure options. As a result, Cameron asserts that annual tanker traffic to the terminal could be reduced by one-third, *i.e.*, from 190 vessels per year for 135,000 cubic meter ships to 130 vessels per year for 200,000 cubic meter ships. Cameron states that its proposals pose no significant environmental impacts.

² The environmental analysis for Cameron’s proposals in Docket No. CP02-374-000, *et al.*, was published in a final environmental impact statement (EIS) in August 2003. The analysis and environmental recommendations in the final EIS were incorporated into the September 11 Order.

³ Cameron’s proposals will require Hilcorp Energy Corp., a non-jurisdictional pipeline, to abandon in place 1,772 feet of flow line and relocate portions of 7,023 feet of 6-inch piping that crosses the terminal site. Cameron states that Hilcorp agreed to be responsible for removing and relocating its pipelines.

III. Interventions

6. Notice of Cameron's petition to amend was published in the *Federal Register* on December 28, 2004 (69 Fed. Reg. 77,748). CITCO Petroleum Corporation and ConocoPhillips Company filed untimely motions to intervene. CITCO's and ConocoPhillips' untimely motions have demonstrated in interest in this proceeding and have shown good cause for seeking to intervene out of time. Further, the untimely motions will not delay, disrupt, or otherwise prejudice this proceeding. Thus, we will grant the untimely motions to intervene.

7. BG LNG Services, LLC (BGLS) filed comments to Cameron's proposals.⁴ In turn, Cameron filed an answer to BGLS' comments. BGLS' comments and Cameron's answer address environmental issues. The issues raised in these pleadings are discussed in the environmental assessment (EA).

IV. Discussion

8. On January 25, 2005, we issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI).⁵ Our staff mailed the NOI to approximately 450 individuals, organizations, federal and state agency representatives, county and local government agencies, elected officials (United States representatives and senators, state governors, and local and state representatives), property owners adjacent to the project area, and other interested individuals. The NOI requested written or electronic comments from the public on the issues to be discussed in the EA and outlined how to become an intervenor in the proceeding.

9. In response to the NOI, we received comments from two individuals (Michael Tritico, representing the organization "Restore Explicit Symmetry To Our Ravaged Earth," and Rick Travis); four energy companies (BGLS, CITCO, ConocoPhillips, and Trunkline LNG Company, LLC); two state quasi-governmental organizations (the Lake Charles Harbor and Terminal District (Harbor District) and the

⁴ In its comments, BGLS states that it already has intervenor status because it intervened in 2002 in Cameron's original certificate proceeding in Docket No. CP02-374-000, *et al.* To the contrary, BGLS is not a party to the proceeding herein because the party status of intervenors terminates when the certificate proceeding before the Commission has been completed, as happened when the September 11, 2003 Order was issued, and the time for judicial review has expired. *E.g.*, *East Tennessee Natural Gas Company*, 104 FERC ¶ 61,019 at P 4, *reh'g denied*, 105 FERC ¶ 61,139 at P 17 (2003).

⁵ The NOI was published in the *Federal Register* on February 2, 2005. The 30-day comment period closed on February 25, 2005.

Lake Charles Pilots, Inc.); and two federal agencies (the United States Environmental Protection Agency (EPA) and the National Marine Fisheries Service). On April 5, 2005, Cameron filed a response that addressed some of the comments received during scoping.

10. Our staff prepared an EA for Cameron's proposal. The EA evaluated Cameron's proposed changes to the approved project and updated the analysis in the final EIS in Docket No. CP02-374-000, *et al.*, where necessary. The analysis in the EA relies on the analysis and conclusions in the final EIS and addresses the environmental issues specific to Cameron's proposed modifications. Environmental effects that were addressed in the final EIS, and would not change if the proposed modifications are authorized, were not re-evaluated in the EA. The EA addresses the specific concerns related to the proposals raised by the commenters.

11. Most of the comments concerned the proposed reconfiguration of the berthing facilities and the potential for Cameron to use tankers larger than envisioned in the original proposal (*i.e.*, up to 250,000 cubic meters, rather than 135,000 cubic meters). Staff's analysis also considers the potential use of larger tankers to transport LNG to the terminal site, as well as the associated effects on the Calcasieu River and Ship Channel and other channel users. In addition, the Lake Charles Pilots, the Harbor District, and the United States Coast Guard, who have local expertise relevant to the issues raised, reviewed Cameron's proposal. Likewise, the Coast Guard reviewed the analysis presented in the EA.

12. Based on the analysis and consultations, our staff recommends certain measures to minimize the impacts that the modified berthing facilities and the larger LNG tankers would have on the Calcasieu Ship Channel. We concur with these recommendations. They are attached as environmental conditions in the appendix to this order. We note that on March 20, 2004, the Coast Guard issued a letter of recommendation (Letter) for Cameron's original proposal in Docket No. CP02-374-000, *et al.* However, given the scope and complexity of the modifications proposed, the Coast Guard withdrew its Letter on March 21, 2005 and required the issuance of another Letter upon completion of an assessment of the issues related to the suitability of the waterway with regard to the proposed modifications.

13. Other comments expressed concern over the amount of dredging required to construct the modified berthing facilities and the associated impacts on coastal marsh wetland. The EA addresses these concerns and staff recommends that Cameron consult with the EPA regarding sediment testing. We concur with this recommendation. The EA notes that Cameron received permits from the United States Army Corps of Engineers; the Louisiana Department of Environmental Quality, Office of Environmental Services; and the Louisiana Department of Natural Resources, Coastal Management Division that address the impacts on coastal marsh habitat and approve Cameron's proposed dredging.

14. Based on the analysis and discussion in the EA, we conclude that approval of this project would not constitute a major federal action significantly affecting the quality of the human environment, if Cameron constructs and operates the facilities in accordance with its application and supplements and the conditions in the appendix to this order.

15. We find that the proposals will enable larger LNG tankers to safely use Cameron's LNG terminal. Because larger LNG tankers will be able to use Cameron's facility, fewer tankers may be needed to supply the terminal which could reduce traffic in the Calcasieu Ship Channel. In addition, as determined in the EA, the proposals will not significantly affect the quality of the human environment. Thus, we find that Cameron's proposals are not inconsistent with the public interest under section 3 and we will issue the authorizations requested herein.

16. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this authorization. We encourage 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.⁶

The Commission orders:

(A) The authorization issued in the September 11 Order to site, construct, and operate an LNG terminal is amended to authorize Cameron to modify the tanker berthing facilities appurtenant to its LNG terminal, as more fully described in the order and in the petition to amend.

(B) Cameron shall comply with the environmental conditions contained in the appendix to this order.

(C) In all other respects, the September 11 Order shall remain in full force and effect.

⁶ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(D) CITCO's and ConocoPhillips' untimely motions to intervene are granted.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix

Environmental Conditions for Cameron's Proposals in Docket No. CP02-378-002

1. Cameron 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 this order. In addition, unless superceded by this order, all environmental conditions attached to the September 11, 2003 Order shall remain in effect. Cameron 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 all steps necessary to ensure the protection of life, health, property, and the environment during construction and operation of the project. This authority shall include:
 - a. stop-work authority and authority to cease operation; and
 - b. the design and implementation of any additional measures deemed necessary to assure continued compliance with the intent of the conditions of this order.
3. **Prior to any construction,** Cameron shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector'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. Cameron shall contact the EPA to assess the need for additional testing of dredged material and, if necessary, prepare and submit these testing plans to the EPA. Any such plans must be filed with the Secretary, along with any comments by the EPA, for review and written approval by the Director of OEP **prior to the start of the dredging in locations specific to the proposed modification.**

5. Cameron shall defer construction and use of the proposed facilities (including newly proposed staging, storage, and temporary work areas), and any newly proposed disposal areas until:

a. Cameron files a color copy of the map attachment to its October 12, 2004 letter to the Louisiana State Historic Preservation Office (SHPO), clearly identifying the areas reviewed by the SHPO;

b. Cameron files the cultural resources survey report for the revised terminal site and the borrow and laydown areas, and the SHPO's comments on the report;

c. Cameron requests the SHPO's comments on the need for survey of any newly proposed disposal areas, and files the SHPO's comments, any report, and the SHPO's comments on any report;

d. Cameron files a commitment to use the unanticipated discoveries plan approved in Docket No. CP02-374-000, *et al.*; and

e. the Director of OEP reviews and approves all cultural resources survey reports and notifies Cameron that it may proceed.

All material filed with the Commission containing **location, character, and ownership** information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: "**CONTAINS PRIVILEGED INFORMATION – DO NOT RELEASE.**"

6. Cameron shall defer construction of the marine facilities proposed herein until it:

a. consults with the Coast Guard and, as necessary, the Harbor District, the Lake Charles Pilots, and the Calcasieu River Waterway Harbor Safety Committee regarding waterway suitability issues (including the potential for allision and berthing procedures);

b. completes any further modeling or other analyses deemed necessary as a result of this consultation; and

- c. files the results and outcome of the analyses and consultations with the Secretary for review and written approval by the Director of OEP.