

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 9, 2003

In Reply Refer To:

Norteño Pipeline Company and
OkTex Pipeline Company
Docket No. CP03-99-000
Presidential Permit

The Honorable Colin L. Powell
Secretary of State
Washington, D.C. 20301

Dear Mr. Secretary:

1. 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. 00-004.00, effective December 6, 2001, enclosed herewith for your information and consideration is a copy of an application filed by Norteño Pipeline Company (Norteño) and OkTex Pipeline Company (OkTex) with the Federal Energy Regulatory Commission on April 15, 2003, in Docket No. CP03-99-000. In that application, OkTex seeks authorization to succeed to Norteño's existing Presidential Permit issued March 29, 1996.
2. Western Gas Interstate Company (WGI) constructed gas export facilities at the international border between the United States and Mexico in the City of El Paso in El Paso County, Texas, under authorizations granted by the Federal Power Commission, the predecessor of the Federal Energy Regulatory Commission, pursuant to Section 3 of the Natural Gas Act. 42 FPC 683 (1969), as modified at 57 FERC ¶ 61,174 (1991). In 1996, Norteño succeeded to the Presidential Permit of its affiliate WGI. 74 FERC ¶ 61,347 (1996).
3. Now, in its application pending in Docket No. CP03-76-000, OkTex proposes to acquire the facilities of its affiliate Norteño, including Norteño's gas export facilities. Accordingly, in the related application filed April 15, 2003, in Docket No. CP03-99-000, OkTex requests authority to succeed to Norteño's Presidential Permit. No additional facilities would be constructed to implement the requested change.

4. Also enclosed for your consideration is a draft copy of the proposed Presidential Permit to be issued to OkTex, which incorporates terms and conditions you and the Secretary of State have heretofore required in similar cases.
5. A similar letter, together with a draft of the proposed amended Presidential Permit and a copy of the application, is being sent to the Secretary of Defense. If the Secretary of State should make an unfavorable recommendation or propose any material change in the draft of the Presidential Permit, the Commission will immediately advise you.
6. The Commission would appreciate receiving your views regarding issuance of the proposed Permit at an early date. Please do not hesitate to contact me at (202) 502-8400, or Albert J. Francese at (202) 502-8736, if you need any further information.

By direction of the Commission.

Magalie R. Salas,
Secretary.

Enclosures:
Copy of Application
Permit

PERMIT AUTHORIZING OKTEX PIPELINE COMPANY
TO OPERATE, AND MAINTAIN NATURAL GAS
IMPORT FACILITIES AT THE INTERNATIONAL BOUNDARY
BETWEEN THE UNITED STATES AND MEXICO

FEDERAL ENERGY REGULATORY COMMISSION
DOCKET NO. CP03-99-000

OkTex Pipeline Company (OkTex), Permittee, filed with the Federal Energy Regulatory Commission (Commission) in Docket No. CP03-99-000, on April 15, 2003, an application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00. OkTex's application seeks a Presidential Permit to own and operate gas export facilities at the United States/Mexico International Boundary line at El Paso, Texas, said facilities being heretofore owned and operated by Norteño Pipeline Company (Norteño) pursuant to authorizations granted by the Commission in its order issued on March 29, 1996, in Docket No. CP96-83-000.¹

By letter dated _____, 2003, the Secretary of State, and by letter dated _____, 2003, the Secretary of Defense favorably recommended that the Permit be granted. The 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. 00-004.00, effective December 6, 2001, and the Commission's regulations, permission is granted to Permittee to operate and maintain the existing 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 Commission, and may be amended by the Commission, upon proper application therefor.

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

¹Western Gas Interstate Company and Norteño Pipeline Company, 74 FERC ¶ 61,347 (1996). See also Western Gas Interstate Company, 42 FPC 683 (1969), as modified 57 FERC ¶ 61,174 (1991).

the final metering station of the Del Norte No. 1 and Del Norte No. 3 laterals in the United States and the short length of pipe downstream of each metering station that connects directly to the natural gas facilities in Mexico.

Article 3. The natural gas facilities authorized herein, 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 construction, 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 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 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.

(S E A L)

Magalie R. Salas,
Secretary.

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of _____, 2003 has caused its named to be signed by _____, pursuant to a resolution of its Board of Directors duly adopted on the __ day of _____, 2003, a certified copy of the record of which is attached hereto.

OkTex Pipeline Company

By _____

(Attest)

Executed in triplicate

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

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In Reply Refer To:

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OkTex Pipeline Company

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