

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Dominion Cove Point LNG, LP

Docket No. CP05-395-000

ORDER GRANTING AUTHORIZATION UNDER SECTION 3
OF THE NATURAL GAS ACT

(Issued June 16, 2006)

1. On July 26, 2005, Dominion Cove Point LNG, LP (Cove Point) filed an application pursuant to section 3 of the Natural Gas Act (NGA) for authority to refurbish and reactivate two waste heat vaporizers (Vapor Reactivation Project) on Cove Point's liquefied natural gas (LNG) terminal site at Cove Point, Maryland. The purpose of the Vapor Reactivation Project is to provide an additional 250,000 Dth/day of firm send-out capacity to ensure that Cove Point can deliver up to its current peak-day capability of 1.0 MMDth/day of send-out capacity on a year-round basis.
2. The additional 250,000 Dth/d will be allocated to Cove Point's existing LTD-1 shippers¹ under a proposed incremental send-out service (ISQ), by modifying Cove Point's existing Rate Schedule LTD-1 under which it provides terminalling services. To deliver the increased volumes made available pursuant to the ISQ service, Cove Point is also proposing an off-peak firm transportation service (OTS) on the downstream Dominion Cove Point Pipeline (Cove Point Pipeline).
3. For the reasons discussed herein, we grant Cove Point the authority to refurbish and reactivate the waste heat vaporizers. We will defer making a finding concerning the proposed OTS service until Cove Point makes an appropriate NGA section 4 filing.

¹ The LTD-1 shippers are Shell NA LNG LLC (Shell LNG), BP Energy Company (BP Energy) and Statoil Natural Gas LLC (Statoil).

I. Background

4. Cove Point owns and operates an LNG import terminal near Lusby, in Calvert County, Maryland, and the Cove Point Pipeline, which extends approximately 87 miles from the terminal to interconnections with several interstate pipelines in Loudon County, Virginia. The LNG terminal and pipeline were authorized in 1972. LNG shipments to Cove Point ended in 1980 and the facilities were used only to provide a small amount of interruptible transportation through the Cove Point Pipeline until 1994 when the facilities were reactivated and adapted for the purpose of storing domestic natural gas during the summer for use at peak times during the winter.²

5. Cove Point continues to provide 10-day, 5-day and 3-day firm peaking services under Rate Schedules FPS-1, FPS-2, and FPS-3, respectively, and provides firm and interruptible transportation services under Rate Schedules FTS and ITS.³ Under a one-time election, the FPS customers chose to receive transportation service on the Cove Point Pipeline on an unbundled basis under Rate Schedule FTS, which is a Part 284 open-access transportation service.⁴

6. In a 2001 order,⁵ the Commission authorized Cove Point to construct new facilities and to reactivate and operate existing facilities to recommence the importation of LNG, and to provide LNG terminalling services for shippers importing LNG under

² *Dominion Cove Point LNG Limited Partnership*, 68 FERC ¶ 61,377 (1994), *reconsideration denied*, 69 FERC ¶ 61,292 (1994).

³ Under the FPS rate schedules, the customer may inject domestic gas for storage as LNG during an injection season from April 16 to December 14, which gas is later vaporized and redelivered during a withdrawal season from December 15 to April 15. The FPS rate schedules also include a bundled transportation service under which FPS customers receive transportation service on the Cove Point Pipeline from the LNG terminal to the interconnection with other interstate pipelines in Virginia.

⁴ The FPS customers are: Washington Gas Light Company (Washington Gas), Public Service Company of North Carolina, Inc. (North Carolina), Virginia Natural Gas Inc. (Virginia Gas), and Atlanta Gas Light Company (Atlanta Gas).

⁵ *Dominion Cove Point LNG Limited Partnership*, 97 FERC ¶ 61,043 (2001), *order on reh'g*, 97 FERC ¶ 61,276 (2001), *order on reh'g*, 98 FERC ¶ 61,270 (2002).

Rate Schedules LTD-1 and LTD-2.⁶ As part of that authorization, the Commission approved a settlement (2001 Settlement) among all the parties that established initial rates for the new LTD customers and lower rates for the existing FPS and FTS customers.

7. In November 2003, the Commission authorized Cove Point to construct and operate two new compressor stations on the Cove Point Pipeline to provide additional west-to-east firm transportation capacity.⁷ In November 2004, the Commission authorized Cove Point to place into service a fifth LNG storage tank with a capacity of 2.8 Bcf that was approved in the 2001 reactivation orders. Thus, the LNG import terminal currently has a total storage capacity of 7.8 Bcf and 1.0 MMDth/day of peak send-out capacity.

II. Description of the Vapor Reactivation Project

8. Cove Point proposes to reactivate two existing vaporizers that have been dormant since 1980. This will require the replacement of existing vaporizer components as well as associated valves and piping. The vaporizers will use the heat produced by the existing gas turbine generators on site to support the vaporization process.

9. Although Cove Point is currently authorized to provide a maximum send-out capacity of 1.0 MMDth/day on a year-round basis, actual send-out capacity for LTD-1 service is generally limited to the existing firm entitlements of 750,000 Dth/day. The remaining 250,000 Dth/day of send-out capability is available to LTD-1 shippers for overrun service only on a limited basis due to Cove Point's service obligations to FPS customers and general plant maintenance. Thus, the refurbished waste heat vaporizers are intended to increase the existing terminal's send-out capacity available to LTD-1 service by 250,000 Dth/day.

10. Cove Point will provide the 250,000 Dth/day of send-out capacity to the three LTD-1 customers on a pro rata basis, under a proposed ISQ service, subject to certain

⁶ The LTD service consists of the receipt of LNG from tankers, the temporary storage of LNG, and the vaporization of LNG and delivery of natural gas to points along the existing Cove Point Pipeline.

⁷ *Dominion Cove Point LNG, LP*, 105 FERC ¶ 61,234 (2003).

excused interruptions.⁸ Cove Point has submitted *pro forma* tariff sheets setting forth the terms and conditions of the proposed ISQ service in language that modifies the existing Rate Schedule LTD-1 and certain provisions of the General Terms and Conditions (GT&C) of Cove Point's FERC Gas Tariff.⁹

11. Cove Point proposes to charge an incremental reservation rate of \$0.50 per Dth for up to 250,000 Dth/day of ISQ service to the LTD-1 shippers. The proposed reservation rate will be charged in addition to the reservation and commodity rates already being charged under Rate Schedule LTD-1. The reservation rate will also serve as the maximum rate for capacity release purposes for the ISQ service entitlements established under Rate Schedule LTD-1. Cove Point states that the reservation rate was agreed to in negotiations with its LTD-1 customers. In response to a data request, Cove Point provided a cost of service analysis for the ISQ rate. It also stated that the total construction cost for the Vapor Reactivation Project is \$5,123,670 and the annual cost of service is \$1,421,301. Cove Point states that it will file actual tariff sheets, with any of the Commission's modifications, between 30 and 60 days prior to the proposed effective date of service, as required by Commission regulations.¹⁰

12. Cove Point also provides *pro forma* tariff sheets for a new off-peak OTS service associated with the increased send-out capacity.¹¹ It states that it will file actual tariff sheets to establish the new Rate Schedule OTS in a future section 4 filing and its rate design will be included therein, as required by Commission regulations.¹²

⁸ Excused interruptions are allowed under the following conditions: (1) ambient temperatures exceeding 80 degrees Fahrenheit at 7:00 a.m. Eastern Time; (2) insufficient power generation to support the ISQ service; (3) insufficient nitrogen injection capability; (4) firm withdrawals provided under any FPS rate schedule; and (5) a constraint from providing service in accordance with any term or conditions in Rate Schedule LTD-1 or any applicable provision of Cove Point's FERC Gas Tariff.

⁹ See Exhibit P, attachment 1 to the application, for the *pro forma* tariff sheets associated with the proposed ISQ service.

¹⁰ Citing 18 C.F.R. §154.207 (2005).

¹¹ See Exhibit P, attachment 2 to the application, for the *pro forma* tariff sheets related to the proposed OTS service.

¹² Citing 18 C.F.R. § 154.202 (2005).

13. In the meantime, Cove Point requests the Commission to review all of the *pro forma* tariff sheets it has submitted for the ISQ and OTS services so that any issues can be resolved before it files actual tariff sheets with any changes ordered by the Commission.

III. Related Filings

14. In addition to its application in this proceeding, Cove Point has filed three other applications relating to its LNG facilities. On April 15, 2005, Cove Point filed two applications which, along with an application filed by Dominion Transmission, Inc. (DTI), are being addressed jointly as the Cove Point Expansion Project. The Cove Point Expansion Project consists of Cove Point's application to expand its LNG terminal through the addition of two new storage tanks and associated facilities (Docket No. CP05-130-000); its request to expand the Cove Point Pipeline by adding pipeline looping related facilities (Docket No. CP05-132-000); and DTI's application to expand and upgrade downstream pipeline and storage facilities on the DTI system (Docket No. CP05-131-000).

15. On November 16, 2005, Cove Point filed an application requesting authority to construct and operate additional nitrogen injection facilities so that it can continue to meet its tariff requirements for gas quality as its LNG import volumes increase (Docket No. CP06-26-000).

16. The Commission is considering the applications described above concurrently with the proposals in this proceeding.

IV. Notice, Interventions, Comments and Protests

17. Notice of the Cove Point application in this proceeding was published in the *Federal Register* on August 9, 2005 (70 *Fed. Reg.* 46159). Timely unopposed interventions were filed by the LTD-1 customers (Statoil, Shell LNG and BP Energy), ConocoPhillips Company, Maryland Conservation Council, Inc., Sierra Club and the FPS customers (Virginia Gas, Atlanta Gas, North Carolina and Washington Gas). Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.¹³ The LTD-1 customers all support the instant application. The FPS customers all protest the application.

¹³ 18 C.F.R. § 385.214(a)(3)(2005).

18. Answers to the protests and answers to answers were filed variously by Cove Point, Washington Gas and the LTD-1 customers. Answers to protests are generally not allowed.¹⁴ However, we will accept the responses filed here to assist the Commission in its decision making.

19. Washington Gas filed identical protests and answers in the Expansion Project dockets as it has in the proceeding. Washington Gas raises concerns regarding the safety of using imported LNG on domestic pipelines. These safety issues are being addressed in the Expansion Project order. All other issues are addressed below.

V. Discussion

A. Section 3 Authorization

20. Because the proposed LNG terminal facilities will be used to import gas from foreign countries, the construction and operation of the facilities and site of their location require approval by the Commission under section 3 of the NGA.¹⁵

21. The Commission's authority over facilities constructed and operated under section 3 includes the authority to apply terms and conditions as necessary and appropriate to ensure that the proposed construction and siting is in the public interest.¹⁶ Section 3 provides that the Commission "shall issue such order on application . . ." if it finds that the proposal "will not be inconsistent with the public interest."

¹⁴ 18 C.F.R. § 385.213(a)(2) (2005).

¹⁵ The regulatory functions of section 3 were transferred to the Secretary of Energy in 1977 pursuant to section 301(b) of the Department of Energy Organization Act (Pub. L. No. 95-91, 42 U.S.C. §§7101 *et seq.*). In reference to regulating the imports or exports of natural gas, the Secretary subsequently delegated to the Commission the authority to approve or disapprove the construction and operation of particular facilities, the site at which facilities shall be located, and with respect to natural gas that involves the construction of new domestic facilities, the place of entry or exit for exports. DOE Delegation Order No. 00-044.00, 67 *Fed. Reg.* 8,946 (2002). Accordingly, applications for authority to import natural gas must be submitted to the Department of Energy. The Commission does not authorize importation of the commodity itself.

¹⁶ *Distrigas Corporation v. FPC*, 495 F.2d 1057, 1063-64), *cert. denied*, 419 U.S. 834 (1974); *Dynegy LNG Production Terminal, L.P.*, 97 FERC ¶ 61,231 (2001).

22. In recent years, the Commission has chosen to exercise a less intrusive degree of regulation for LNG import terminals, and has not required the applicant to offer open-access service or to maintain a tariff or rate schedules for its terminalling service.¹⁷ On August 8, 2005, the Energy Policy Act of 2005 (EPAAct 2005) was signed into law.¹⁸ Section 311 of EPAAct 2005 amends section 3 of the NGA regarding the Commission's authority over the siting, construction, expansion or operation of an LNG terminal. As pertinent here, section 311(c) of EPAAct 2005 adds a new NGA section 3(e)(4) requiring that an order issued for an LNG terminal that also offers service to customers on an open-access basis, as does Cove Point, "shall not result in subsidization of expansion capacity by existing customers, degradation of service to existing customers, or undue discrimination against existing customers as to their terms or conditions of service at the facility."

23. Our authorization of the refurbished facilities and the ISQ service here is consistent with new NGA section 3(e)(4). The Commission recognizes the important role that LNG will play in meeting future demand for natural gas in the United States and has noted that the public interest is served through encouraging gas-on-gas competition by introducing new imported supplies.¹⁹ The record in this case shows that the Vapor Reactivation Project will provide such additional supplies of natural gas to consumers. Additionally, the proposed ISQ service will be offered to LTD-1 customers pursuant to a separate, incremental rate under Rate Schedule LTD-1, ensuring that existing customers will not subsidize the new service. Further, because the ISQ service will be subordinate to firm withdrawals under FPS rate schedules, the proposal will result in no degradation of service to Cove Point's existing customers or undue discrimination against existing customers as to their terms and conditions of service. Therefore, we find that, subject to the conditions imposed in this order, the Vapor Reactivation Project is not inconsistent with the public interest.

B. LTD Settlement

24. Cove Point and its LTD-1 customers entered into a settlement on May 24, 2005 (LTD Settlement) concerning, among other things, Cove Point's agreement to file the Expansion Project certificate filings and the instant Vapor Reactivation Project filing.

¹⁷ See *Hackberry LNG Terminal, L.L.C.*, 101 FERC ¶ 61,294 (2002), *order issuing certificates and granting reh'g*, 104 FERC ¶ 61,269 (2003).

¹⁸ Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005).

¹⁹ *Hackberry LNG*, 101 FERC ¶ 61,294 at P 26 (2002).

Cove Point provided a redacted copy of the LTD Settlement in its January 11, 2006 response to a Commission data request.²⁰

25. Atlanta Gas and Virginia Gas state that Cove Point should be required to file an unredacted version of the LTD Settlement so that all of its customers can determine the true impact that the Settlement will have on their service. North Carolina asserts that the tariff changes contained in this application amend Cove Point's 2001 Settlement with its customers. Specifically, North Carolina believes that the proposed services may make it more difficult for FPS shippers to retain their peaking storage capacity under the right of first refusal process (ROFR) established in the LTD Settlement. Therefore, it asserts that Cove Point should not have entered into the LTD Settlement to the exclusion of the FPS shippers or Commission staff and without direct Commission approval. North Carolina states that this has resulted in Cove Point seeking piece-meal approval of portions of the LTD Settlement through this Vapor Reactivation Project filing, as well as other related proceedings.

26. Cove Point responds that the LTD Settlement redactions were minor, consisting of commercially sensitive terms relating primarily to pricing and scheduling. Cove Point further asserts that nothing in the LTD Settlement amends the 2001 Settlement or changes the rights and obligations of the FPS shippers or affects the quality of FPS service. Cove Point states that the LTD Settlement memorializes agreements between Cove Point and the LTD shippers and envisions future filings, of which this application is one.

27. We find that the LTD Settlement is an agreement between Cove Point and its import shippers concerning their respective rights and obligations surrounding future filings. The parties may comment on those filings when they are made and the Commission will review each filing for sufficiency. For this reason, and because the excised portions of the LTD Settlement appear to concern commercially sensitive information, we will not require Cove Point to file an unredacted version of the settlement. Further, we do not find that the proposals that we are acting on in this order in any way amend or alter the FPS customers' rights under the 2001 Settlement, particularly the ROFR rights of FPS customers. To the extent that the LTD Settlement

²⁰ Cove Point's Response to Staff's November 17, 2005 Data Request, Question No. 6.

discusses the use of capacity, such discussion is limited to how capacity will be allocated as it becomes available from FPS customers who do not exercise their ROFR rights.²¹

C. Rate Issues

1. ISQ Service

28. North Carolina asserts that Cove Point has not justified initial rates for the ISQ service as required by the Commission's regulations for changing rate schedules.²² Atlanta Gas and Virginia Gas state that the Commission should not approve the commercial agreements regarding the rates for the ISQ service until such agreements are filed.

29. Cove Point responds that it is requesting authority to provide ISQ service as a part of the services it provides under its existing Rate Schedule LTD-1. Cove Point requests the Commission consider the ISQ rate as a commercially negotiated price among the parties that is consistent with the Commission's light-handed regulation of LNG import projects under the Hackberry Policy, as codified in EAct 2005. Under these circumstances, states Cove Point, the Commission is not required to examine the ISQ rate, and workpapers for the proposed rates are not required. Even so, Cove Point states that its application provides a rate schedule, with terms and conditions of service, including the rate for the proposed service.

30. As referenced by Cove Point, EAct 2005 amended the NGA by adding a new section 3(e)(3) providing that, before January 1, 2015, the Commission shall not condition an order approving an application to site, construct, expand or operate an LNG terminal on: (1) a requirement that the LNG terminal offer service to customers other than the applicant, or any affiliate of the applicant securing the order; (2) any regulation of the rates, charges, terms, or conditions of service of the LNG terminal; or (3) a requirement to file schedules or contracts related to the rates, charges, terms, or conditions of service of the LNG terminal. For that reason, we will not condition our approval of this construction authority on Cove Point's making any further filings related

²¹ The Commission's orders in Docket No. RP05-43 discuss the relationship between storage and transportation capacity that is returned to Cove Point after the expiration of firm transportation contracts held by FPS shippers. 111 FERC ¶ 61,294 (2005), *order on reh'g*, 115 FERC ¶ 61,068 (2006).

²² *Citing* 18 CFR § 154.204 (2005).

to the rates, charges, terms or conditions of service related to the ISQ service that is to be provided at the LNG terminal.

31. However, although we will not herein impose any conditions on Cove Point regarding the ISQ rate schedule, we note that the application included a *pro forma* tariff sheet setting forth an ISQ reservation rate of \$0.50 per Dth, while the cost of service provided by Cove Point supports a recourse rate of \$0.4738 per Dth.²³ While we are precluded by the new NGA section 3(e)(3) from requiring Cove Point to offer its proposed ISQ service pursuant to a filed tariff, if it chooses to do so, the rate for that service must be supported by the costs to provide the service, or estimates of the costs to provide the service. Given that ISQ, as described and proposed by Cove Point, is merely an enhancement of the existing LTD-1 Rate Schedule, if Cove Point makes a limited section 4 filing to implement the service, the rate for this service must be consistent with cost data and rate structure already approved by the Commission. The data provided by Cove Point does not support a recourse rate of \$0.50 per Dth. Because Cove Point has negotiated rate authority, if it chooses to provide this service pursuant to the Commission's regulations and its tariff, it may reach agreement with its customers to charge a rate different from its recourse rate. Any recourse rate set forth in the tariff must be consistent with, and properly derived from the underlying cost of service data.

32. If Cove Point chooses to provide the ISQ service pursuant to its negotiated rate authority, it is obligated to file either numbered tariff sheets setting forth the details of the negotiated rate agreement, or the negotiated rate contracts, consistent with Commission policy as articulated in the Alternative Rate Policy Statement,²⁴ and the Commission's decision in *NorAm Gas Transmission Company*.²⁵

²³See Cove Point's January 11, 2006 response to question number 1.

²⁴ *Alternative to Traditional Cost-Of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, Alternative Rate Policy Statement*, 74 FERC ¶ 61,076 (1996), *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996); *petition for review denied, Burlington Resources Oil & Gas Co. v. FERC*, Nos. 96-1160, *et al.*, U.S. App. Lexis 20697 (D.C. Cir. July 20, 1998).

²⁵ *NorAm Gas Transmission Company*, 77 FERC ¶ 61,011 (1996) (*NorAm*).

2. OTS Service

33. The FPS shippers object to the OTS service that is to be provided on the Cove Point Pipeline downstream from the LNG terminal. The Commission finds that Cove Point has failed to meet the Commission's requirements for filings to initiate a new rate schedule as set forth at section 154.202 of the Commission's regulations, including: (1) a statement of the effective date for commencement of the new service; (2) an explanation of the impact of the new service on firm and interruptible customers, including the effect on receipt and delivery point flexibility, nominating and scheduling priorities, allocation of capacity, operating conditions and curtailment; and, (3) workpapers that detail the computations underlying the proposed rate for the new service.²⁶ Accordingly, the Commission declines to make any determination regarding the OTS service and the associated rates until Cove Point makes an appropriately supported tariff filing.

V. Environmental Analysis

34. Our staff prepared an environmental assessment (EA) for Cove Point's proposal. The EA addresses vegetation and wildlife, soils, air quality, noise, reliability, safety and security, and alternatives. Based on the discussion in the EA, there would be no significant adverse environmental impacts. If constructed and operated in accordance with Cove Point's application filed July 26, 2005, and the environmental conditions included in the appendix to this order, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

35. The Vapor Reactivation Project would not relocate the existing process equipment, and past operation has shown the equipment has been reliable and safe. This project would refurbish and recommission existing equipment and add one replacement iso-butane tank that would be installed within the process area.

36. The waste heat vaporizers would remain located at their original position within the facility. The original facility is sited on a large, undeveloped tract to minimize potential offsite hazards from LNG spills.

37. We have examined the existing arrangement of the fire protection, hazard detection, and hazard control systems that are installed and are proposed in the area. This arrangement would address and control any hazardous condition in the area and would be integrated into the existing systems at the facility. This project would have no significant

²⁶ 18 C.F.R. § 154.202 (2005).

impact on the current facility's security requirements because it would not increase the footprint of the site. Existing security personnel and procedures would be used to address security in the area.

38. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. 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/replacement or operation) of facilities approved by this Commission.

39. Cove Point shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Cove Point. Cove Point shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

40. At a hearing held on June 15, 2006, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) Cove Point is authorized under section 3 of the Natural Gas Act to refurbish and reactivate the two waste heat vaporizers and associated valves and piping, at its existing LNG terminal, as more fully described in this order and in the application.

(B) Action on Cove Point's proposed OTS service is deferred until Cove Point submits that proposal in an NGA section 4 filing.

(C) This authorization is conditioned on Cove Point's compliance with the environmental conditions set forth in the appendix to this order.

(D) Cove Point shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Cove Point. Cove Point shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(E) Cove Point's facilities shall be constructed and made available for service within two years of the date of the order in this proceeding.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix

Environmental Conditions for Cove Point's Vapor Reactivation Project Docket No. CP05-395-000

1. Cove Point shall follow the construction procedures and mitigation measures described in its application and as identified in the environmental assessment (EA), unless modified by this Order. Cove Point 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**, Cove Point 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 the construction and restoration activities.