

155 FERC ¶ 61,179  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur, Tony Clark,  
and Colette D. Honorable.

Crescent Point Energy U.S. Corp.  
and Eagle Rock Exploration Ltd.

Docket No. CP15-561-000

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

(Issued May 19, 2016)

1. On September 29, 2015, Crescent Point Energy U.S. Corp. (Crescent Point) and Eagle Rock Exploration Ltd. (Eagle Rock) (collectively, applicants) filed an application pursuant to section 3 of the Natural Gas Act (NGA),<sup>1</sup> Part 153 of the Commission's regulations,<sup>2</sup> and Executive Order Nos. 10485 and 12038<sup>3</sup> to: (i) transfer to Crescent

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<sup>1</sup> 15 U.S.C. § 717b (2012).

<sup>2</sup> 18 C.F.R. pt. 153 (2015).

<sup>3</sup> 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 United States 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

(continued...)

Point the NGA section 3 authorization and Presidential Permit that were issued to Eagle Rock on August 5, 2008, in Docket No. CP08-90-000; (ii) amend the section 3 authorization and Presidential Permit to reflect Crescent Point as the current owner and operator of the existing border crossing facility located at the international boundary between Glacier County, Montana, and the Province of Alberta, Canada (Border Crossing Facility); and (iii) vacate the section 3 authorization and terminate the Presidential Permit so that Crescent Point may abandon in-place the Border Crossing Facility. For the reasons discussed below, the Commission will grant the requested authorizations.

## **I. Background and Proposal**

2. Crescent Point is a corporation organized and existing under the laws of Delaware. Crescent Point is a wholly owned indirect subsidiary of Crescent Point Energy Corp.

3. Prior to its acquisition by Wild Stream Exploration (Wild Stream), as discussed below, Eagle Rock was a corporation under the laws of the Province of Alberta, Canada.<sup>4</sup>

4. The Commission-authorized Border Crossing Facility is an existing 30-foot-long section of a border crossing gathering line. The Border Crossing Facility extends across the Canada-United States border into the State of Montana. The 30-foot-long section is authorized under NGA section 3 for the importation of natural gas from the Province of Alberta into Glacier County, Montana, and is located on the United States side of the U.S.-Canadian border.<sup>5</sup> The Border Crossing Facility is located approximately 16 miles west of Sweetgrass, Montana, between Glacier County, Montana, and the Coutts area of the Province of Alberta.

5. The Border Crossing Facility interconnects with a non-jurisdictional 4-inch-diameter gathering line which runs in a southeasterly direction for a distance of approximately 19,400 feet, or 3.7 miles, and ties in with an existing third-party gathering system and processing facility (Omimex Tie-In Facility) in northern Montana

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natural gas. The Secretary of Energy has delegated such authority to DOE's Assistant Secretary for Fossil Energy.

<sup>4</sup> Both Wild Stream and Eagle Rock are or were publicly traded corporations dedicated to the exploration, development, and production of oil and gas.

<sup>5</sup> See *Regent Resources Ltd.*, 102 FERC ¶ 61,307 (2003). As stated in the application, the gathering facilities in Montana are exempt from the Commission's jurisdiction. See *Sword Energy Limited and Eagle Rock Exploration, Ltd.*, 124 FERC ¶ 61,143, at P 3 (2008).

downstream of the third-party North Moulton compressor station. The compressor station is operated by NorthWestern Energy.

6. On the Canadian side of the border, the Border Crossing Facility is connected to a 4-inch-diameter pipeline extending approximately 2,300 feet directly north to a gas meter station in the Province of Alberta.

7. The applicants state that there is currently no flow of natural gas through the Border Crossing Facility. Crescent Point states it is uncertain how long the Border Crossing Facility was inoperative under previous ownership, but can confirm that there has been no natural gas flow since March 2012.

8. In 2003, the Commission approved an application for NGA section 3 authorization and Presidential Permit filed by Regent Resources Ltd. (Regent) to construct the Border Crossing Facility in order to allow unprocessed gas from existing wells in Alberta, Canada, that had been shut in to be imported into an existing United States gathering and processing system.<sup>6</sup> In 2006, the Commission issued an order authorizing Sword Energy Limited (Sword) to acquire from Regent and operate the Border Crossing Facility, and in 2008, the Commission issued an order authorizing Eagle Rock to acquire the Border Crossing Facility from Sword.<sup>7</sup> Each of these Commission orders noted that the Secretaries of State and Defense had no objections to the requested authorizations.

9. Crescent Point states that in November 2009, Wild Stream purchased Eagle Rock. Wild Stream and Eagle Rock requested authorization from the Canadian National Energy Board (NEB) to transfer the Canadian segment of the Border Crossing Facility from Eagle Rock to Wild Stream. However, Eagle Rock and Wild Stream did not file a request with the Commission to amend the NGA section 3 authorization and Presidential Permit to enable Wild Stream to acquire and operate the Border Crossing Facility.

10. The applicants state that in March 2012, Crescent Point acquired Wild Stream and its pipeline facilities. Crescent Point claims that prior to the acquisition, Wild Stream did not disclose that there were any pipeline assets located in the United States associated with the acquisition. As a result, Crescent Point filed the requisite application for NEB authorization for the change of ownership for the relevant Canadian assets, but did not

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<sup>6</sup> *Id.*

<sup>7</sup> *Regent Resources Ltd. and Sword Energy Limited*, 117 FERC ¶ 61,036 (2006); *Sword Energy Limited and Eagle Rock Exploration, Ltd.* 124 FERC ¶ 61,143 (2008), respectively.

seek to amend the NGA section 3 authorization and Presidential Permit with reference to the Border Crossing Facility in the United States.

11. Crescent Point states that it conducted an inspection of the Canadian portion of the Border Crossing Facility in 2014. During the inspection, Crescent Point discovered that the Border Crossing Facility lacked a header pipe at the United States/Canada border and that the Border Crossing Facility was, therefore, part of a continuous pipeline segment. Following the inspection, Crescent Point reviewed the relevant Commission orders and learned that Eagle Rock still held the NGA section 3 Authorization and Presidential Permit for the Border Crossing Facility and that Wild Stream had not sought to amend the NGA section 3 authorization and Presidential Permit when it acquired Eagle Rock.<sup>8</sup>

12. In order to cure the gaps in regulatory approvals, Crescent Point requests that the Commission amend the NGA section 3 authorization and issue a Presidential Permit authorizing Crescent Point to operate the Border Crossing Facility. Crescent Point also requests that the Commission vacate the NGA section 3 authorization and terminate the Presidential Permit so that it may obtain the necessary approvals under Part 153 of the Commission's regulations to abandon in-place the Border Crossing Facility.

## **II. Public Notice and Intervention**

13. Notice of Crescent Point and Eagle Rock's application in Docket No. CP15-561-000 was published in the *Federal Register* on October 20, 2015 (80 Fed. Reg. 63,549). No motions to intervene or protests to the application were filed.<sup>9</sup>

## **III. Consultation with Secretaries of State and Defense**

14. On March 2, 2016, pursuant to Executive Order 12038, the Commission sent letters to the Secretaries of State and Defense seeking their recommendations on the applicants' request for issuance of a Presidential Permit authorizing Crescent Point's operation of the subject border crossing. By letters dated March 23, 2016 and April 11, 2016, the Secretaries of State and Defense, respectively, indicated that they have no objections to the proposed Presidential Permit for Crescent Point.

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<sup>8</sup> The applicants assert that Crescent Point and Wild Stream have since amended their purchase and sales agreement to include the Border Crossing Facility as an asset transferred from Wild Stream to Crescent Point.

<sup>9</sup> See 18 C.F.R. § 385.214 (2015).

#### IV. Discussion

15. Pursuant to Department of Energy Delegation Order No. 00-004.00A, effective May 16, 2006, the Commission has delegated authority to issue Presidential Permits and grant NGA section 3 authorizations. Section 153.9 of the Commission's regulations provides that prior Commission authorization is necessary for the transfer of facilities authorized under section 3 of the NGA.<sup>10</sup> Further, Article 8 of Eagle Rock's 2008 Presidential Permit states that neither the Presidential Permit nor any of the facilities covered by the permit may be voluntarily transferred.

16. The applicants state that the Border Crossing Facility and the non-jurisdictional gathering line are not operational and that Crescent Point has no intention of operating the facilities in the future. Therefore, we find Crescent Point's proposal to abandon the Border Crossing Facility as part of its Canada to Montana Discontinuation Project will not adversely affect any services currently being provided through the facility. However, Crescent Point must hold the NGA section 3 authorization and Presidential Permit for the Border Crossing Facility before it can proceed to abandon the facility. In view of these considerations, we find that the applicants' proposal is consistent with the public interest.

17. Presidential Permits and authorizations pursuant to section 3 of the NGA are non-transferable,<sup>11</sup> as contemplated in the joint application. Therefore, the Commission will issue a new Presidential Permit and new NGA section 3 authorization to Crescent Point.<sup>12</sup>

18. The facilities at issue have been out of service since at least 2012. Further, no party has intervened or filed a protest in this proceeding, indicating that there is no opposition to the applicants' proposal. Accordingly, we find Crescent Point's business decision to permanently deactivate the facilities to be reasonable. For these reasons, following receipt of Crescent Point's acceptance of the Presidential Permit, we will grant Crescent Point's request to terminate the Presidential Permit and vacate its NGA section 3 authorization.

19. Article 9 of the Presidential Permit states that upon surrender, revocation, or termination of a Presidential Permit, "the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place." Crescent Point requests that the Commission allow Crescent Point to leave the facilities in place after

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<sup>10</sup> 18 C.F.R. § 153.9 (2015).

<sup>11</sup> *Id.*

<sup>12</sup> The Presidential Permit is attached as the appendix to this order.

termination of its Presidential Permit and vacation of the section 3 authorization. Crescent Point believes its plan is prudent due to the short length and small diameter of the facilities, the remoteness of their location, and the environmental disturbance that would result from removal of the facilities. We agree that it is appropriate to allow Crescent Point's border crossing facilities to remain in place because it is the least environmentally disruptive method of ending service on these facilities.

20. Crescent Point states that it will ensure that the Border Crossing Facility and gathering line are: (a) physically isolated or disconnected from any operating facility or other pipeline; (b) cleaned out; (c) purged with air or inert gas; (d) protected by suitable internal and external corrosion control measures; (e) not isolated or disconnected in a manner that results in an adjoining operating pipeline having fittings or connection points remaining that would create stagnant fluid traps or dead legs; and (f) left in a safe condition. Crescent Point further states that records of internal and external corrosion control programs will be maintained for the life of the Border Crossing Facility and gathering line.

21. Crescent Point submitted an Environmental Report with its application. Crescent Point maintains that, given the limited scope of the abandonment activities and lack of ground disturbance, no impacts to the natural or human environment are anticipated. Crescent Point states that the National Marine Fisheries Service, U.S. Fish and Wildlife Service, and Montana Fish, Wildlife & Parks all concur that abandonment will have no adverse impact on biological resources. In addition, Crescent Point consulted with the Montana State Historic Preservation Office, which concurred that there would be no effect on National Register-listed or eligible cultural resources as a result of abandonment.

22. To satisfy the requirements of the National Environmental Policy Act, Commission staff prepared an environmental assessment report. Based on the analysis in the report, we conclude that the abandonment would not constitute a major federal action significantly affecting the quality of the human environment.

23. At a hearing held on May 19, 2016, 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, and all comments, and upon consideration of the record,

The Commission orders:

(A) A Presidential Permit and NGA section 3 authorization are granted to Crescent Point to operate and maintain the subject import/border crossing facility, subject to the conditions in the Presidential Permit.

(B) Crescent Point 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) Upon receipt by the Secretary of the testimony of acceptance, the Commission shall vacate the section 3 authorization and terminate the Presidential Permit.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

## Appendix

### **PRESIDENTIAL PERMIT AUTHORIZING CRESCENT POINT ENERGY U.S. CORP TO ACQUIRE, OPERATE, AND MAINTAIN FACILITIES FOR THE IMPORTATION OF NATURAL GAS AT THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND CANADA IN GLACIER COUNTY, MONTANA**

#### **FEDERAL ENERGY REGULATORY COMMISSION DOCKET NO. CP15-561-000**

(Issued May 19, 2016)

Crescent Point Energy U.S. Corp. (Crescent Point) and Eagle Rock Exploration Ltd. (Eagle Rock) (Permittees) filed on September 29, 2015, in Docket No. CP15-561-000 an application pursuant to Executive Order Nos. 10485 and 12038, dated September 3, 1953, and February 3, 1978, respectively, and the Secretary of Energy's Delegation Order No. 00-004.00A, effective May 16, 2006, requesting that the Commission issue an order under section 3 of the NGA and a Presidential Permit authorizing Crescent Point (Permittee) to acquire from Eagle Rock certain pipeline and related facilities and to operate and maintain such facilities, as described in Article 2 below, that were used in the past for the importation of natural gas from Canada.

By letter dated March 23, 2016, the Secretary of State, and by letter dated April 11, 2016, the Secretary of Defense, favorably recommended 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, the Secretary of Energy's Delegation Order No. 00-004.00A, and the Commission's Regulations, permission is granted to 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:

A 30-foot long segment of pipeline extending across the Canada/United States border at the NW corner of Section 1, Township 37N, Range 5W in the State of Montana for a distance of 30 feet. The 30-foot long border crossing facility is connected on the Canadian side of the border to 4-inch diameter pipeline extending 2,300 feet directly north to a gas meter station in LSD 8 of section four (4), Township one (1), Range sixteen (16), West of the fourth (4<sup>th</sup>) Meridian in the Province of Alberta. On the United States side of the border, the 30-foot border crossing facility interconnects with 4-inch diameter pipeline which runs in a southeasterly direction for a distance of approximately 19,400 feet and ties in with an existing third-party gathering system and processing facility in northern Montana at SE ¼ section 8, Township 37N, Range 4W downstream of the third-party North Moulton compressor station.

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 imported from Canada 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 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 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 imported or exported, 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 replacements.

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.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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

Crescent Point Energy U.S. Corp.

By \_\_\_\_\_

(Attest)

\_\_\_\_\_

Executed in triplicate