

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY**

MAGNOLIA LNG LLC) **FE DOCKET NO. 13-132-LNG**
) **FE DOCKET NO. 13-131-LNG**
) **FE DOCKET NO. 12-183-LNG**

**APPLICATION FOR AMENDMENT TO LONG-TERM AUTHORIZATIONS TO
EXPORT LIQUEFIED NATURAL GAS TO NON-FREE TRADE AGREEMENT AND
FREE TRADE AGREEMENT NATIONS**

Pursuant to Section 3(a) of the Natural Gas Act (“NGA”)¹ and Part 590 of the Department of Energy’s (“DOE”) regulations,² Magnolia LNG LLC (“Magnolia LNG”) hereby submits this application (“Application”) for an amendment to the authorizations received in DOE, Office of Fossil Energy (“DOE/FE”) Order Nos. 3909, 3406, and 3245 (collectively, “Authorizations”).³ In the Authorizations, DOE/FE granted long-term, multi-contract authorization for Magnolia LNG to export domestically produced liquefied natural gas (“LNG”) from the proposed facility near Lake Charles, Calcasieu Parish, Louisiana (“Magnolia LNG Terminal”) to both: (1) nations with which the United States has entered into a free trade agreement (“FTA”) that requires national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (“FTA nations”); and (2) any other country with which trade is not prohibited by U.S. law or policy (“non-FTA nations”). Through this Application, Magnolia LNG seeks to align the authorized export volumes of LNG from the Magnolia LNG

¹ 15 U.S.C. § 717b(a).

² 10 C.F.R. Part 590.

³ *Magnolia LNG LLC*, DOE/FE Order No. 3909 (2016); *Magnolia LNG LLC*, DOE/FE Order No. 3406 (2014); *Magnolia LNG LLC*, DOE/FE Order No. 3245 (2013).

Terminal⁴ with the optimized production capacity design of the facilities.⁵ Thus, Magnolia LNG respectfully requests that the Authorization be amended to increase the total non-additive quantity of authorized exports of domestically produced LNG to 8.8 million tonnes per annum (“MTPA”), equivalent to approximately 1.23 billion cubic feet per day (“Bcf/d”) to non-FTA nations and 8.8 MTPA, or 1.23 Bcf/d, to FTA nations. This Application represents an increase of 0.8 MTPA, equivalent to 0.11 Bcf/d or approximately 40.7 Bcf per year (“Bcf/yr”),⁶ over the export volumes DOE approved in the Authorizations. Magnolia LNG respectfully requests that DOE approve this Application as soon as possible, but in no event later than 60 days from the date of this Application.

In support of this Application, Magnolia LNG respectfully states as follows:

⁴ The Federal Energy Regulatory Commission (“Commission” or “FERC”) authorized the siting, construction, and operation of the Magnolia LNG Terminal in 2016. *Magnolia LNG LLC*, 155 FERC ¶ 61,033 (2016), *reh’g denied*, 157 FERC ¶ 61,149 (2016) [hereinafter “*FERC Order*”].

⁵ On November 19, 2018, in FERC Docket No. CP19-19-000, Magnolia LNG filed a request for a limited amendment to the FERC Order (“Limited Application”) to increase the Magnolia LNG Terminal’s authorized total LNG production capacity from 8 million metric tons per annum (“MTPA”) to 8.8 MTPA. *See* Section III below for additional information on this proceeding.

⁶ Magnolia LNG notes that this proposed incremental increase, 40.7 Bcf/yr, above what DOE previously authorized for Magnolia LNG, is below the 51.75 Bcf/yr threshold of DOE’s newly established small-scale LNG exports exemption. In light of FERC Staff’s recent conclusion described *supra* note 5, and consistent with the arguments presented in Section VIII herein related to a categorical exclusion pursuant to NEPA, Magnolia LNG notes that this small incremental volume—if a stand-alone project—would qualify for the small-scale exemption. *See* <https://www.energy.gov/articles/us-department-energy-finalizes-rule-expedite-approval-small-scale-natural-gas-exports>.

I. COMMUNICATIONS AND CORRESPONDENCE

Correspondence and communications regarding this Application should be addressed to the following and those designated with an (*) should be designated as the agent for service for Magnolia LNG:

Ms. Kinga Doris
General Counsel and Corporate Secretary
Magnolia LNG LLC
1001 McKinney, Suite 600
Houston, TX 77002
Tel: 713.815.6921
Fax: 713.815.6905
KDoris@lnglimited.com

David L. Wochner*
Sandra E. Safro*
Michael L. O'Neill*
K&L Gates LLP
1601 K Street, N.W.
Washington, DC 20006
Tel: 202.778.9000
Fax: 202.778.9100
David.Wochner@klgates.com
Sandra.Safro@klgates.com
Mike.ONeill@klgates.com

II. DESCRIPTION OF THE APPLICANT

The exact legal name of the applicant is Magnolia LNG LLC, a limited liability company organized under the laws of Delaware, and a wholly owned indirect subsidiary of Liquefied Natural Gas Limited (“LNG Limited”). Magnolia LNG’s principal place of business is 1001 McKinney, Suite 600, Houston, Texas, 77002. LNG Limited is a publicly listed Australian company with the objective of identifying and developing LNG projects in the United States and in other countries. For example, LNG Limited is in the process of developing the Bear Head LNG project, an 8 MTPA LNG export terminal proposed for Nova Scotia, Canada.⁷

In addition to being publicly listed on the Australian Securities Exchange, LNG Limited has arranged for the quotation of its American Depositary Receipts on the OTC International platform in the United States, which enables qualifying non-U.S. companies to have direct exposure to the U.S. investment community.

⁷ *Bear Head LNG, LLC*, DOE/FE Order No. 3770 (2016).

III. BACKGROUND

On February 26, 2013, DOE/FE issued Order No. 3245 authorizing Magnolia LNG to export LNG from the proposed Magnolia LNG Terminal to FTA countries in a volume equivalent to 197.1 Bcf/yr of natural gas, or 0.54 Bcf/d, for a 25-year period.⁸ Separately, on January 5, 2014, DOE/FE issued Order No. 3406 authorizing Magnolia LNG to export LNG to FTA countries in a volume equivalent to approximately 197.1 Bcf/yr of natural gas, or 0.54 Bcf/d, for a 25-year period.⁹ On November 30, 2016, DOE/FE issued Order No. 3909, authorizing Magnolia LNG to export LNG to non-FTA nations in an amount up to 1.08 Bcf/d¹⁰ of natural gas for a 20-year period.¹¹ Magnolia LNG's two existing FTA orders are additive to one another for a combined total FTA export volume of 1.08 Bcf/d—the same volume of LNG as the existing non-FTA export volume authorized in Order 3909.

On November 19, 2018, in FERC Docket No.CP19-19-000, Magnolia LNG filed a request for a limited amendment to the FERC Order (“Limited Application”) to increase the Magnolia LNG Terminal’s authorized total LNG production capacity from 8 MTPA to

⁸ *Magnolia LNG LLC*, DOE/FE Order No. 3245 (2013).

⁹ *Magnolia LNG LLC*, DOE/FE Order No. 3406 (2014).

¹⁰ When Magnolia LNG submitted its original applications to DOE in 2012 and 2013, it allowed for some losses annually within the Magnolia LNG facility in calculating the corresponding daily natural gas equivalent of 8.0 MTPA. Based on its understanding at the time, it stated in its applications that the equivalent was 1.08 Bcf/d. In fact, after further refinement, 1.08 Bcf/d is not an exact equivalent to the fully permitted 8.0 MTPA. The actual gas equivalent for 8.0 MTPA is 1.12 Bcf/d. For the purposes of this proposed incremental increase from 8.0 MTPA to 8.8 MTPA, the equivalent daily gas volume of 1.12 Bcf/d has been used as the starting point. Producing 8.8 MTPA is the equivalent of 1.23 Bcf/d, an increase of 0.11 Bcf/d or approximately 40.7 Bcf/yr, above what DOE previously authorized for Magnolia LNG.

¹¹ *Magnolia LNG LLC*, DOE/FE Order No. 3909 (2016).

8.8 MTPA.¹² As it has refined its final design, Magnolia LNG estimates that the maximum LNG production for the Magnolia LNG is 8.8 MTPA. The Commission has established December 27, 2018, as the intervention and comment date and has stated that by March 6, 2019, the Commission will either publish its Environmental Assessment (“EA”) for the proposed action or issue a Notice of Schedule of Environmental Review establishing the anticipated date for the issuance of the EA or a final environmental impact statement (“FEIS”).¹³

Importantly, on December 21, 2018, FERC Staff published a one-page Environmental Assessment Report (“EAR”) for the proposed action, stating that:

All environmental impacts related to Magnolia’s original (and approved) proposal were considered under Docket No. CP14-347-000. *The current application does not involve any new or modified facilities, and would result in no additional environmental impacts.*¹⁴

Accordingly, FERC Staff selected “Environment Not Involved” on the EAR form, indicating Staff’s environmental review of the proposal is complete.

The authorization requested in the instant Application will align the DOE-authorized natural gas export volumes with the increase in production capacity requested in the Limited Application that is pending before FERC in Docket No. CP19-19-000. As described in the Limited Application, no construction or modification of facilities is required to accomplish this capacity increase.

¹² *Magnolia LNG LLC*, “Application of Magnolia LNG LLC for Limited Amendment to Authorization Granted Under Section 3 of the Natural Gas Act,” Docket No. CP19-19-000 (Nov. 19, 2018)[hereinafter “*Limited Application*”]. See Exhibit A.

¹³ *Magnolia LNG LLC*, “Notice of Application,” Docket No. CP19-19-000 (Dec. 6, 2018). See Exhibit B.

¹⁴ *Magnolia LNG LLC*, “Environmental Assessment Report,” Docket No. CP19-19-000 (Dec. 21, 2018)(herein, “*Environmental Assessment Report*”)[emphasis added]. See Exhibit C.

IV. AUTHORIZATION REQUESTED

In this Application, Magnolia LNG requests that DOE/FE amend the Authorizations received in Order Nos. 3245 and 3406 to allow Magnolia LNG to engage in long-term, multi-contract exports of up to 8.8 MTPA or 1.23 Bcf/d of natural gas from the Magnolia LNG Terminal to FTA nations for a 25-year term commencing the date of first commercial export of the Magnolia LNG Terminal. Magnolia LNG further requests that DOE/FE amend the Authorization received in Order No. 3909 to engage in long-term, multi-contract exports of up to 8.8 MTPA or 1.23 Bcf/d of natural gas from the Magnolia LNG Terminal to non-FTA nations for a 20-year term commencing on the date of first commercial export of the Magnolia LNG Project. Magnolia LNG requests that all other aspects of Order Nos. 3245, 3406, and 3909 apply equally to the requested additional volumes as they do to the currently authorized volumes of natural gas.

Consistent with FERC Staff's determination on December 21, 2018, discussed in Section III above, that "[t]he current application does not involve any new or modified facilities, and would result in no additional environmental impacts," Magnolia LNG believes that DOE/FE can comply with the National Environmental Policy Act ("NEPA") through a categorical exclusion.¹⁵ If DOE/FE determines that a categorical exclusion does not apply, alternatively it can satisfy its NEPA obligation through adoption of FERC's environmental review as DOE/FE has done with

¹⁵ Categorical exclusions apply to certain actions that an agency determines are not expected to have individually or cumulatively significant environmental impacts. 40 C.F.R. § 1508.4 (2015). Under DOE's regulations a categorical exclusion can apply to "[a]pprovals or disapprovals of new authorizations or amendments of existing authorizations to import or export natural gas under section 3 of the [NGA] that involve minor operational changes (such as changes in natural gas throughput, transportation, and storage operations) but not new construction." 10 C.F.R. Part 1021, Subpart D, Appendix B, B5.7 (*Import or export of natural gas, with operational changes*).

previous projects.¹⁶ Magnolia requests that DOE/FE issue the Amendment as soon as possible but in any event no later than 60 days after the filing of this Application.

V. EXPORT SOURCES

Magnolia LNG has executed a precedent agreement with Kinder Morgan Louisiana Pipeline (“KMLP”) to provide the direct connection to the Magnolia LNG Terminal through which feed gas supplies will flow, and the compression required to transport the feed gas to the terminal.¹⁷ In light of the proximity to Henry Hub, through KMLP, Magnolia LNG’s tolling customers will be able to directly access multiple other interstate natural gas pipelines and storage facilities, thus providing a variety of stable and economical supply options.

Magnolia LNG anticipates that the sources of natural gas will include conventional and unconventional supplies from various producing regions, including recent shale gas discoveries in the Haynesville, Eagle Ford, Barnett, Floyd-Neal/Conasauga, and Marcellus shale plays that will be delivered to the Magnolia LNG Terminal via the interstate pipeline grid. These shale plays represent a vast supply of natural gas and contain an estimated 3,693 trillion cubic feet (“Tcf”) of recoverable gas.¹⁸ The size of traditional and emerging natural gas supply sources in

¹⁶ See e.g., *Freeport LNG Development, L.P. et al.*, Environmental Assessment Report, FERC Docket No. CP15-518-000 (Mar. 31, 2016); see also *Freeport LNG Development, L.P.*, 156 FERC ¶ 61,019 (2016); *Sabine Pass Liquefaction, LLC*, 146 FERC ¶ 61,117 (2014).

¹⁷ FERC Order at P 32. FERC has approved KMLP’s project to serve the Magnolia LNG Terminal, the Lake Charles Expansion. FERC Order at Ordering Paragraph (C).

¹⁸ See 83 Fed. Reg. 27314 (June 12, 2018) [hereinafter, “2018 LNG Export Study”]. The 2018 LNG Export Study notes that “previous EIA forecasts have underestimated growth in U.S. oil and gas production, as the pace of improvement in drilling and hydraulic fracturing technologies outpaced expectations.” It further notes that the ICF estimates the current U.S. technically recoverable natural gas resource to be 3,693 Tcf. *Id.* at 38. See also, U.S. Energy Information Administration, “U.S. Crude Oil and Natural Gas Proved Reserves, Year-End 2017,” at p.14 (released Nov. 2018), at <https://www.eia.gov/naturalgas/crudeoilreserves/pdf/usreserves.pdf> (noting that the United States had 464.3 Tcf of proved natural gas reserves as of December 31, 2017, representing a 36.1% increase).

close proximity to the Magnolia LNG Terminal will provide Magnolia LNG's potential customers with diverse and reliable alternative gas supply options.

VI. APPLICABLE LEGAL STANDARD

Magnolia LNG's Application to amend Order No. 3909 to allow for additional exports to non-FTA nations must be reviewed under Section 3(a) of the NGA, which sets forth the general standard of review for applications seeking authorization to export LNG to non-FTA nations. Section 3(a) provides:

[N]o person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the [Secretary] authorizing it to do so. The [Secretary] *shall issue* such order upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest. The [Secretary] may by order grant such application, in whole or part, with such modification and upon such terms and conditions as the [Secretary] may find necessary or appropriate.¹⁹

DOE/FE has recognized that “[t]his provision creates a rebuttable presumption that a proposed export of natural gas is in the public interest.”²⁰ DOE/FE has further explained that, pursuant to this standard of review, “DOE/FE must grant such an application unless opponents of the application overcome that presumption by making an affirmative showing of inconsistency with the public interest.”²¹ DOE/FE already has found that exports of LNG from the Magnolia LNG Terminal to non-FTA nations are in the public interest.²² In granting Magnolia LNG's previous application for export to non-FTA nations, DOE/FE reviewed a “substantial administrative record” that included DOE-commissioned studies, Magnolia LNG's third-party

¹⁹ 15 U.S.C § 717b(a) (emphasis added).

²⁰ *Magnolia LNG LLC*, DOE/FE Order No. 3909 at 10 (2016).

²¹ *Id.*

²² *Id.*

consultant report,²³ and FERC’s final Environmental Impact Statement to support its finding that Magnolia LNG’s proposed exports will be in the public interest.²⁴

DOE must review Magnolia LNG’s Application to amend Order Nos. 3245 and 3406 to allow for additional exports to FTA nations under Section 3(c) of the NGA, which provides that application for authorization to export natural gas and LNG to FTA nations are deemed to be in the public interest and must be granted without modification or delay.²⁵ DOE consistently has found that, in light of its statutory obligation, there is no need for it to engage in an analysis of factors affecting the public interest in a decision to act on such application.²⁶

VII. GRANTING THIS APPLICATION IS IN THE PUBLIC INTEREST

As noted above, the DOE/FE has previously determined that natural gas exports as LNG from the Magnolia LNG Terminal to non-FTA nations and FTA nations are not inconsistent with the public interest.²⁷ Magnolia LNG incorporates by reference the record developed in demonstrating the public interest benefits in FE Docket No. 13-132-LNG and asks that its requested Amendment be granted pursuant to Section 3(a) of the NGA. Approving this Application will support the DOE’s previous determination and allow Magnolia LNG to

²³ See North American Market Impact Study, Berkeley Research Group (Oct. 8, 2013), Appendix A of *Magnolia LNG LLC*, Application for Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, FE Docket No. 13-132-LNG (Oct. 15, 2013).

²⁴ *Id* at 9.

²⁵ 15 U.S.C § 717b.

²⁶ See *Magnolia LNG LLC*, DOE/FE Order No. 3245 at P 6 (2013) (“In light of DOE’s statutory obligation to grant this Application without modification or delay, there is no need for DOE/FE to review the other arguments posed by Magnolia LNG in support of the Application.”); *Magnolia LNG LLC*, DOE/FE Order No. 3406 (2014).

²⁷ *Magnolia LNG LLC*, DOE/FE Order No. 3909 at P 9 (2016); *Magnolia LNG LLC*, DOE/FE Order No. 3245 (2013).

continue its progress towards construction and commercial operation, which will allow Magnolia LNG to contribute to the local, regional, and national economies.

Further, NERA Economic Consulting's ("NERA") 2018 LNG Export Study supports the conclusion that the authorization requested in this Application is not inconsistent with the public interest.²⁸ The 2018 LNG Export Study demonstrates that gross domestic product ("GDP") grows as U.S. LNG exports increase because the U.S. economy benefits from investment in liquefaction facilities, export revenues, income from the upstream and midstream natural gas industry, and tolling charges generated by the LNG export facilities.²⁹ Moreover, analyses conducted in this study support the claim that LNG exports would not result in any significant price impacts to U.S. consumers.³⁰ As DOE determined in Order No. 3909, LNG exports from the proposed Magnolia LNG Terminal in Lake Charles, Louisiana will create jobs, develop industry, foster continued production of domestic conventional and unconventional natural gas supplies, promote international trade and improve the U.S. balance of trade, and promote strong relationships with strategic allies.³¹ As a result, DOE should find that granting the requested authorization is in the public interest.

VIII. ENVIRONMENTAL IMPACT

This Application does not request authorization for the construction of new facilities or the modification of facilities and equipment that the Commission considered and approved previously in the Authorizations. Magnolia LNG therefore respectfully requests that DOE

²⁸ *2018 LNG Export Study*.

²⁹ *2018 LNG Export Study* at 67.

³⁰ The study concludes that U.S. natural gas prices are far more dependent on available resources and extraction technologies than on U.S. LNG export policy. *2018 LNG Export Study* at 55.

³¹ *Magnolia LNG LLC*, DOE/FE Order No. 3909 (2016).

determine that a categorical exclusion applies to this Application.³² As noted above, if the agency conducting the NEPA analysis determines that a proposed action is not expected to have individually or cumulatively significant environmental impacts, a categorical exclusion may apply under the regulations and guidance from the Council on Environmental Quality.³³

FERC already has thoroughly evaluated and approved all of the facilities at issue in this proceeding. Moreover, as noted above, FERC Staff now has determined that “All environmental impacts related to Magnolia’s original (and approved) proposal were considered under Docket No. CP14-347-000. The current application does not involve any new or modified facilities, and would result in no additional environmental impacts.”³⁴ In light of this, Magnolia LNG anticipates that FERC will authorize Magnolia LNG’s requested LNG production capacity increase, as the FERC commissioners have found previously in similar incremental production increase applications.³⁵ Therefore, Magnolia LNG submits that there are no environmental impacts associated with this Application that DOE has not already considered in issuing its prior Authorizations and respectfully requests DOE to act immediately to approve this increase in production capacity.³⁶

³² 10 C.F.R. Part 1021, Subpart D, Appendix B, B5.7.

³³ See 40 C.F.R. § 1508.4; see also *Final Guidance on Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act*, 77 Fed. Reg. 14,473 (Mar. 12, 2012).

³⁴ See Environmental Assessment Report.

³⁵ *Freeport LNG Development, L.P.*, 156 FERC ¶ 61,019 (2016); *Sabine Pass Liquefaction, LLC*, 146 FERC ¶ 61,117 (2014).

³⁶ DOE/FE previously has adopted FERC’s EA and issued a FONSI for a proposed capacity increase. See *Freeport LNG Expansion, L.P.*, DOE/FE Order No. 3957 at P 10 (2016).

IX. OTHER RELATED AUTHORIZATIONS

As previously mentioned, a Limited Application to amend Magnolia LNG's FERC Order is pending at FERC. As explained in the Limited Application, Magnolia LNG based its initial calculation of nameplate capacity on conservative design and operating assumptions and that preliminary estimate represented a conservative nominal capacity during one year of operating conditions. Magnolia LNG is seeking to align the approved export volume of the Authorization with the maximum liquefaction capacity for the optimized Magnolia LNG Project.

X. REQUEST FOR EXPEDITED REVIEW

Magnolia LNG respectfully requests that the DOE/FE issue an order granting this Application as soon as possible, but in no event later than 60 days from the date of this Application. In order to process this Application expeditiously, Magnolia LNG also requests that the DOE/FE establish a shortened notice period and require that protests, motions to intervene, and public comments be filed within ten (10) business days from the agency's notice of this Application.

Good cause exists to allow the shortened notice period and expedited action Magnolia LNG requests. This Application does not propose any construction activities so there are no environmental impacts that FERC must consider in reviewing this Application. Furthermore, expedited action on this Application will clarify the DOE-approved capacity of the Magnolia LNG Project as Magnolia LNG continues to negotiate with potential customers for LNG offtake. Therefore, it is in the public interest to grant this request for expedited treatment because this request will not prejudice stakeholder interests.

XI. CONCLUSION

For the reasons stated above, Magnolia LNG requests that DOE/FE issue an order granting this instant Application to increase the quantity of authorized exports of domestically produced LNG up to 8.8 MTPA or 1.23 Bcf/d to non-FTA nations and up to 8.8 MTPA or 1.23 Bcf/d to FTA nations. Magnolia LNG respectfully requests that FERC grant this Application as soon as possible but in no event later than 60 days from the date of this Application.

Respectfully submitted,

/s/ David L. Wochner

David L. Wochner

Sandra E. Safro

Michael L. O'Neill

Counsel for Magnolia LNG LLC

Dated: December 31, 2018