

UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
OFFICE OF FOSSIL ENERGY

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AMERICA HUNTER EXPLORATION LTD. ) FE DOCKET NO. 92-27-NG  
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ORDER GRANTING BLANKET AUTHORIZATION  
TO IMPORT NATURAL GAS FROM CANADA

DOE/FE OPINION AND ORDER NO. 672

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SEPTMBER 24, 1992  
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I. BACKGROUND

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On February 28, 1992, American Hunter Exploration Ltd. (American Hunter) filed an application with the Office of Fossil Energy of the Department of Energy (DOE), under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127, requesting blanket authorization to import from Canada up to 300 Bcf of natural gas over a two-year term beginning on the date of the first delivery after October 5, 1992, the date American Hunter's current blanket import authorization expires.<sup>1</sup> American Hunter intends to use existing facilities to import the proposed volumes and would submit quarterly reports detailing each import transaction.

American Hunter, a corporation organized under the laws of the State of Delaware, is a wholly owned subsidiary of Canadian Hunter Exploration Ltd. and has its headquarters in Calgary, Alberta, Canada. American Hunter is primarily an exploration and production company, but it is also involved in the importation of gas from Canada, including but not limited to gas produced by Canadian Hunter Exploration Ltd. American Hunter requests authority to import gas on its own behalf as well as on behalf of suppliers and purchasers for whom American Hunter may act as an agent.

A notice of the application was published in the Federal Register on April 3, 1992, inviting protests, motions to intervene, notices of intervention, and comments to be filed by

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1/ DOE Opinion and Order No. 169 (Order 169), 1 ERA 70,696  
(April 30, 1987).

May 4, 1992./<sup>2</sup> No comments or motions to intervene were  
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 received.

II. DECISION \_\_\_\_\_

The application filed by American Hunter has been evaluated  
 to determine if the proposed import arrangement meets the public  
 interest requirements of section 3 of the NGA. Under section 3,  
 an import must be authorized unless there is a finding that it  
 "will not be consistent with the public interest./<sup>3</sup> This  
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 determination is guided by DOE's natural gas import policy  
 guidelines./<sup>4</sup> Under these guidelines, the competitiveness of  
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 an import in the markets served is the primary consideration for  
 meeting the public interest test.

American Hunter's uncontested import proposal, as set forth  
 in the application, is consistent with section 3 of the NGA and  
 the DOE's import policy guidelines. The import authorization  
 sought, similar to other blanket arrangements approved by  
 DOE,/<sup>5</sup> would provide American Hunter with blanket approval,  
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 within prescribed limits, to negotiate and transact individual,  
 spot and short-term purchase arrangements without further  
 regulatory action. The fact that each purchase will be

2/ 57 FR 11474. \_\_\_\_\_  
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3/ 15 U.S.C. 717b. \_\_\_\_\_  
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4/ 49 FR 6684, February 22, 1984. \_\_\_\_\_  
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5/ See, e.g., IGI Resources, 1 FE 70,617 (July 30, 1992);  
— ——— SEMCO Energy Service, Inc., 1 FE 70,606 (June 30, 1992); and  
————— Northwest National Gas Company, 1 FE 70,605 (June 29, 1992).  
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voluntarily negotiated in response to market conditions, as asserted in American Hunter's application, provides assurance that the transactions will be competitive with other natural gas supplies available to American Hunter. Under American Hunter's propose import arrangement, transactions will only occur when producers and sellers can provide spot or short-term volumes, customers need such import volumes, and prices remain competitive. Therefore, American Hunter's import proposal will further the Secretary of Energy's policy goal to reduce trade barriers by encouraging competition between U.S. and Canadian gas suppliers and purchasers.

After taking into consideration all of the information in the record of this proceeding, I find that granting American Hunter blanket authorization is in the public interest and should be granted.<sup>6</sup> However, I want to reemphasize the rationale

behind DOE's blanket authorization program and the importance of the quarterly reporting requirements to the viability of that program.

The Department's blanket authorization program has given commercial parties the flexibility to participate more fully in a changing gas market, the spot market in particular, because it

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6/ Because the proposed import/export of gas will use existing facilities, DOE has determined that granting this application is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321, et seq.); therefore,

neither an environmental impact statement nor an environmental assessment is required. See 40 CFR 1508.4 and 57 FR 15122

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(April 24, 1992).



enables importers to negotiate and transact individual, short-term sales arrangements without further regulatory action. A cornerstone of the program is the mandatory quarterly reports which are required to be filed by all firms receiving blanket authorizations and which are available for public inspection. In the initial orders granting short-term blanket authority, the DOE discussed the agency's responsibility for ensuring that the parameters surrounding each sale are in the public interest./7

The reporting requirements were imposed in those cases and all subsequent "blanket-type" authorizations in order to fulfill that responsibility. The Department decided that advanced knowledge of the precise terms of each transaction was not necessary because the public interest would be fully protected by the after-the-fact reporting conditions; the quarterly reports are the quid pro quo for receiving what amounts to pre-approval of import or export arrangements under a blanket authorization. The DOE's blanket authorization program including the reporting requirements, has been upheld by the Federal courts./8

American Hunter has a history of non-compliance with the reporting conditions under its current blanket import authorization. Despite numerous oral and written communications

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7/ See e.g., Cabot Energy Supply Corporation, 1 ERA 70,124 (February 26, 1985), and Northwest Alaskan Pipeline Company,

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1 ERA 70,585 (February 26, 1985).

8/ See Panhandle Producers and Royalty Owners Association v. ERA

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(Panhandle I), 822 F. 2d 1105 (D.C. Cir., June 30, 1987), and  
Panhandle Producers and Royalty Owners Association v. ERA

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(Panhandle II), 847 F. 2d 1168 (5th Cir., June 28, 1988).

with American Hunter stressing the importance of the reporting requirements, American Hunter has consistently failed to comply with the notification and reporting requirements as specified in Order 169.<sup>9</sup> Compliance with the terms and conditions of any

import or export authorization is a prerequisite for the continued use of such authorizations. For the reasons discussed above, this is particularly true regarding the quarterly reporting requirements imposed on blanket authorization holders, and the Ordering Paragraph requiring those reports states that failure to file may result in revocation of the authorization. Due to American Hunter's consistent failure to comply with the reporting conditions of its current import authorization, I will make DOE's position absolutely clear: any future non-compliance, including a failure to file the quarterly report required by Order 169 to be submitted by October 30, 1992, will result in the immediate rescission of American Hunter's import authority without further proceedings.

ORDER

For reasons set forth above, pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. American Hunter Exploration Ltd. (American Hunter) is authorized to import up to 300 Bcf of Canadian natural gas over a

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9/ On June 20 and December 13, 1991, letters from DOE were sent to American Hunter emphasizing that the complete, accurate, and timely submission of reports is an important condition to its

import authorization, and that failure to comply with these conditions could result in the suspension or rescission of its import authority.

two-year term beginning on the date of the first delivery after October 5, 1992.

B. This natural gas may be imported at any point on the United States/Canadian border where existing pipeline facilities are located.

C. Within two weeks after deliveries begin, an officer of American Hunter shall provide written notification to the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, of the date of the first delivery of natural gas authorized in Ordering Paragraph A above occurred.

D. With respect to the imports authorized by this Order, an officer of American Hunter shall file within 30 days following each calendar quarter, quarterly reports indicating whether imports of natural gas have been made, and if so, giving, by month, the total volume of the imports per Mcf and the average purchase price per MMBtu at the international border. The reports shall also provide the details of each import transaction, including (1) the names of the seller(s); (2) the names of the purchaser(s); (3) estimated or actual duration of the agreement(s); (4) transporter(s); (5) point(s) of entry; (6) geographic market(s) served; and, if applicable, (7) the per unit (MMBtu) demand/commodity/reservation charge breakdown of the price, any special contract price adjustment clauses, and any take-or-pay or make-up provisions. If no imports have been made, a report of "no activity" for that calendar quarter must be

filed. Failure to file quarterly reports within the specified 30 days following the end of a calendar quarter, or failure to give

written notification of first delivery within the specified two weeks after delivery begins, will result in immediate rescission of this authority without any further proceedings.

E. The first quarterly report required by paragraph D of this order is due not later than January 30, 1993, and should cover the period from October 6, 1992, until the end of the calendar quarter ending December 31, 1992.

Issued in Washington, D.C., on September 24, 1992.

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Charles F. Vacek  
Deputy Assistant Secretary  
for Fuels Programs  
Office of Fossil Energy