

 ORIGINAL

February 6, 2008



08-12-NG

Office of Fuels Programs, Fossil Energy  
U.S. Department of Energy  
Docket Room 3F-056, FE-50  
Forrestal Building  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

Re: Encinal Gathering, Ltd.

Dear Sirs:

Enclosed for filing with the Office of Fuels Program, Fossil Energy are an original and fifteen (15) copies of the "Application of Encinal Gathering, Ltd. for Long-Term Authorization to Import and Export Natural Gas from and to Mexico." Also enclosed is a check in the amount of \$50.00 made payable to Treasury of the United States, in payment of the filing fee required by 10 C.F. R. § 590.207.

Two additional copies of this transmittal letter are included with the filing. Please date-stamp these additional copies and return them to the undersigned in the self-addressed, stamped envelope provided for this purpose. If you have any questions concerning this filing, please do not hesitate to contact the undersigned at (210) 313-3441.

Respectfully submitted,



Brandon Seale  
International Projects Advisor  
Encinal Gathering, Ltd.

Enclosures

UNITED STATES OF AMERICA  
BEFORE THE  
DEPARTMENT OF ENERGY  
OFFICE OF FOSSIL ENERGY

 ORIGINAL

Encinal Gathering, Ltd.

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Docket No. FE98-\_\_-NG

**APPLICATION OF ENCINAL GATHERING, LTD.  
FOR LONG-TERM AUTHORIZATION TO IMPORT AND EXPORT  
NATURAL GAS FROM AND TO MEXICO**

Pursuant to Section 3 of the Natural Gas Act (“NGA”), 15 U.S.C. Section 717b and Part 590 of the Regulations of the Department of Energy (“DOE”), 10 C.F.R. Part 590, Encinal Gathering, Ltd. (“EGL”) hereby submits the instant application for long-term authority to import and export natural gas from and to Mexico, pursuant to the terms of EGL’s agreement with PEMEX Gas and Petroquímica Básica (“PGPB”). In support of this application, EGL respectfully states as follows:

**I.  
GENERAL**

Correspondence and communications regarding this application should be addressed to the following individuals:

Jessica Holcomb  
Legal Counsel  
Brandon Seale  
International Projects Advisor  
Encinal Gathering, Ltd.  
10101 Reunion Place, Suite 1000  
San Antonio, TX 78216

Vera C. Neinast  
Senior Counsel  
Akin Gump Strauss Hauer & Feld LLP  
300 W. 6<sup>th</sup> Street, Suite 2100  
Austin, TX 78701

Telephone: (210) 313-3441  
Facsimile: (210) 340-5882

Telephone: (512) 499-6224  
Facsimile: (512) 499-6290

## II. BACKGROUND

EGL is a Texas limited partnership engaged in the production and gathering of natural gas. EGL's principal offices are located at 10101 Reunion Place, Suite 1000, San Antonio, TX 78216. As stated in the attached opinion of counsel (Exhibit A), the proposed natural gas importation and exportation are within the corporate powers of EGL.

EGL is an indirect subsidiary of Lewis Energy Group, L.P., a privately-owned company engaged in the production, gathering, and treatment of natural gas in South Texas. Lewis Energy Group, L.P. has been drilling in the Olmos Formation in the Encinal Area for more than 25 years, and is currently the most active producer in Webb, LaSalle, and Dimmitt Counties, Texas.

Lewis Energy Group, L.P. also has a subsidiary, Lewis Energy Mexico, S. de R.L. de C.V. ("LEM"), that engages in exploration and production activities in Mexico across the border from Webb, LaSalle, and Dimmitt Counties, Texas. In 2004, LEM executed a Multiple Services Contract with PEMEX Exploracion y Produccion ("PEP"). The MSC entitles LEM to perform exploration and production activities in a tract of land comprising approximately 80,000 acres in northeastern Coahuila, Mexico, called the "Olmos Block." Over the past several years, LEM has drilled six wells in the Olmos Block, one of which lies less than one mile from the international border with the United States. LEM and EGL plan to drill as many as 60 more wells in this general vicinity, both in Mexico and in the U.S., respectively, over the next few years. Currently, there is no pipeline infrastructure in Mexico for approximately 60 miles in any direction,

effectively stranding all of the gas produced in the Olmos Block. In order to be able to produce gas from the Olmos Block, new gathering facilities need to be constructed. EGL wants to be able to extend its gathering system to the U.S.-Mexico border to connect with new gathering facilities being constructed in Mexico by LEM under LEM's MSC with PEP. This would enable EGL to connect this new production and expected future production to EGL's Big Reef Gathering System, for gathering and processing and ultimate consumption in the San Antonio area.

Because the border crossing facilities require prior federal approval under the NGA, on July 2, 2007, EGL filed an application with the Federal Energy Regulatory Commission ("FERC") in Docket No. CP07-418-000,<sup>1</sup> requesting authorization under Section 3 of the NGA to site, construct and operate natural gas gathering and metering facilities at the international boundary between the United States and Mexico, and for issuance of a Presidential Permit authorizing EGL to construct, operate, maintain, and connect the border crossing facilities to EGL's existing gathering facilities in Webb County. The FERC issued the requested Presidential Permit and NGA Section 3 authorization on December 10, 2007.<sup>2</sup> Ordering Paragraph (C) of the December 10, 2007 Order requires EGL to file an affidavit with the Secretary of the FERC prior to initiating construction of the border crossing facilities, stating that all appropriate DOE/FE authorizations have been obtained.

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<sup>1</sup> A copy of the text of the application (not including exhibits) is appended hereto as Attachment 1.

<sup>2</sup> *Encinal Gathering, Ltd.*, 121 FERC ¶ 61,248 (2007). A copy of the FERC order is appended hereto as Attachment 2.

### III. AUTHORIZATION REQUESTED

By the instant application, EGL requests authority to import up to 30 MMcf/day (approximately 11 Bcf/year) of natural gas from Mexico, and to export up to 30 MMcf/day (approximately 11 Bcf/year) of natural gas to Mexico, for a ten (10) year term beginning on the date the border crossing facilities are put into service, which is currently estimated to occur by June 30, 2008. The current plan is for the gas produced in the Olmos Block to be gathered and processed and consumed in the San Antonio area. EGL wants to have the flexibility, as future market conditions may warrant, to be able to reverse the flow on the facilities such that EGL's gas produced in South Texas and gathered via the Big Reef Gathering System may flow south into Mexico for processing and ultimate consumption in Mexico. For these reasons, EGL respectfully requests both import and export authorization.

EGL has executed a Base Contract for Sale and Purchase of Natural Gas ("Contract")<sup>3</sup> with MGI Supply Ltd. ("MGI Supply"), an entity created by PGPB to administer PGPB's activities in foreign commerce, pursuant to which EGL will take title to the gas at the border and sell the gas to be imported at market-based rates. EGL hereby requests confidential treatment of the Contract, pursuant to 5 U.S.C. 552(b) and the DOE Regulations at 10 C.F.R. §§ 1004.10 and 1004.11. The Contract is privileged and confidential and exempt from disclosure under the Freedom of Information Act and the DOE Regulations and should not be placed in the public file for the following reasons: the contract contains sensitive commercial and financial information that has

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<sup>3</sup> The Contract, marked as Exhibit B, is being filed herewith under seal.

been held in confidence by the parties; the information contained in the Contract is of a type customarily held in confidence by the parties thereto; the Contract is being submitted to the DOE in confidence, in a separate sealed envelope that is marked as confidential, with each page of the Contract marked as containing privileged and confidential information; the Contract is not available from public sources; disclosure of the Contract is likely to impair the U.S. Government's ability to obtain similar information in the future; and disclosure of the Contract is likely to cause substantial harm to the competitive position of EGL and/or MGI Supply.

Notwithstanding EGL's request for confidential treatment, EGL understands that it has an obligation under the DOE Regulations to describe generally the principal terms of the Contract in support of its application for import and export authority. Without waiving its request for confidentiality of the Contract, EGL states as follows:

Contract Term. The Contract becomes effective subject to the receipt of regulatory approvals on June 30, 2008, and the term continues for a five year primary term until June 29, 2013. The Contract may be renewed for an additional five-year term.

Commencement of Deliveries. The deliveries are projected to commence when the pipeline and metering facilities authorized by the FERC are completed and in service. EGL estimates the in-service date will be June 30, 2008.

Delivery Point. The point of delivery will be a point on the international boundary between Mexico and the United States at the point of interconnection between the facilities of LEM and EGL in Webb County, Texas.

Contract Quantity. The daily Contract quantity is 30,000 Mcf/day, or approximately 11 Bcf/year.

Price. The Contract provides for market-based pricing pursuant to a formula that uses as its reference point a specified reported index price, less adjustments for fuel, transportation, and processing costs. Accordingly, the Contract will remain competitive over its term.

#### **IV. PUBLIC INTEREST**

The Energy Policy Act of 1992 provides that the importation and exportation of natural gas from or to a nation with which there is in effect a free trade agreement shall be deemed to be within the public interest, and that applications for such importation and exportation shall be granted without modification or delay. Because EGL's application is for the importation and exportation of natural gas from and to Mexico, a nation with which the U.S. has a free trade agreement, EGL submits that this application is in the public interest.

#### **V. ENVIRONMENTAL IMPACT**

An Environmental Assessment was prepared by FERC as part of its consideration of EGL's application for approval to construct the border crossing facilities. No further environmental review is necessary for the import and export authorization.

**VI.  
REPORTING REQUIREMENTS**

EGL will comply with all reporting requirements deemed necessary by the DOE/FE, on a timely basis.

WHEREFORE, EGL respectfully requests authorization to import and export from and to Mexico up to 30,000 Mcf of natural gas per day for a ten-year period beginning on the date that the border crossing facilities are put into service, which is currently estimated to be June 30, 2008.

Respectfully submitted,



Brandon Seale  
International Projects Advisor  
Encinal Gathering, Ltd.  
10101 Reunion Place, Suite 1000  
San Antonio, TX 78216

VERIFICATION

STATE OF TEXAS

)

SS:

COUNTY OF TRAVIS

)

)

BEFORE ME, the undersigned authority, on this day personally appeared Brandon Seale, who, having been my me first duly sworn, on oath says that he is International Projects Advisor for Encinal Gathering, Ltd. and is duly authorized to make this Verification; that he has read the foregoing Application and that the facts therein stated are true and correct to the best of his knowledge, information and belief.

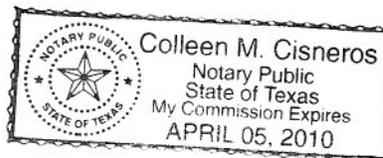
*Brandon Seale*  
\_\_\_\_\_  
Brandon Seale

Subscribed and sworn to before me, a notary public, this 6<sup>th</sup> day of February 2008.

*Colleen M. Cisneros*  
\_\_\_\_\_  
Notary Public

My Commission expires:

4/5/10



**EXHIBIT A**  
**OPINION OF COUNSEL**

ENCINAL GATHERING, LTD.

DOCKET NO. FE08-\_\_\_\_-NG

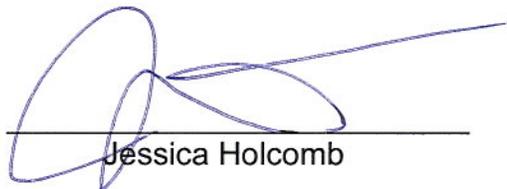
**EXHIBIT A**

**OPINION OF COUNSEL**

This opinion of counsel is submitted in accordance with the requirements of 10 C.F.R. § 590.202(c) in connection with the above-referenced application.

As counsel for Encinal Gathering, Ltd. ("EGL") I have reviewed the EGL partnership agreement dated March 25, 1992. I am familiar with the operations of EGL and I have reviewed this application and am familiar with its contents.

In my opinion, the proposed application for long-term authority to import and export natural gas from and to Mexico is within the corporate powers of EGL. There are no restrictions in either the laws of Texas or the governing documents of EGL that prevent EGL from engaging in the business of the importation or exportation of natural gas.



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Jessica Holcomb

Attorney for  
Encinal Gathering, Ltd.

**EXHIBIT B**

**BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS**

**THIS CONTRACT HAS BEEN FILED UNDER SEAL  
IN ACCORDANCE WITH THE PROVISIONS OF  
5 U.S.C. 552(b) AND 10 C.F.R. § 1004.10 AND 1004.11**

**ATTACHMENT 1**

**APPLICATION OF EGL**

**FILED WITH THE FEDERAL ENERGY REGULATORY COMMISSION  
FOR NGA SECTION 3 AUTHORIZATION AND PRESIDENTIAL PERMIT  
TO CONSTRUCT NATURAL GAS PIPELINE FACILITIES  
AT THE UNITED STATES-MEXICO BORDER**

**DOCKET NO. CP07-418-000**

**JULY 2, 2007**

ORIGINAL

PUBLIC

ENCINAL GATHERING, LTD.

Part 1 of 2

A Lewis Energy Group Company

P.O. Box 180  
Encinal, Texas 78019

July 2, 2007

Tel: 956/948-5561  
Fax: 956/948/5407

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

RE: Encinal Gathering, Ltd.  
Docket No. CP07- -000

418

Dear Ms. Bose:

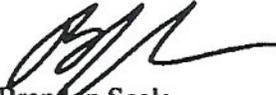
FILED  
OFFICE OF THE  
SECRETARY  
2007 JUL 12 A 8:44

Please find enclosed for filing with the Commission, pursuant to Sections 153.5 and 153.15 of the Commission's Regulations, 18 C.F.R §§ 153.5 and 153.15, and in accordance with the Commission's electronic filing requirements, an original and two conformed copies of Encinal Gathering, Ltd.'s ("EGL") Application for Presidential Permit and Natural Gas Act Section 3 Authorization in the above-referenced proceeding for the "Petrolero Project." The enclosed CDs contain a total of ten copies of the Application, including the transmittal letter and the Federal Register Notice.

Also enclosed are an original and two copies of the maps required to be filed as part of the Application. These maps reveal the location of Applicant's proposed pipeline facilities, which are critical energy infrastructure, but do not disclose critical energy infrastructure information. As permitted by 18 C.F.R. § 388.112(a), Applicant requests that the maps be treated as Non-Internet Public information. The maps have been marked as Non-Internet Public and placed in a separate marked envelope along with separate CDs that contain ten copies of the maps.

Please acknowledge receipt of this letter and the Application of EGL by file stamping and returning the two additional copies of this transmittal letter enclosed herein. A self-addressed, stamped envelope has been provided for this purpose.

Very truly yours,

  
Brandon Seale  
Lewis Energy Group, LP

PUBLIC

**ORIGINAL**

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**ENCINAL GATHERING, LTD**

**DOCKET NO. CP07-\_\_-000**

**APPLICATION OF ENCINAL GATHERING, LTD  
FOR NATURAL GAS ACT SECTION 3 AUTHORIZATION  
AND PRESIDENTIAL PERMIT TO CONSTRUCT NATURAL GAS  
PIPELINE FACILITIES AT THE UNITED STATES-MEXICO BORDER**

**VOLUME 1  
PUBLIC MATERIALS**

**FEDERAL ENERGY  
REGULATORY COMMISSION**

**2007 JUL 12 A 8:43**

**FILED  
OFFICE OF THE  
SECRETARY**

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**ENCINAL GATHERING, LTD**

**DOCKET NO. CP07-\_\_-000**

**APPLICATION OF ENCINAL GATHERING, LTD  
FOR NATURAL GAS ACT SECTION 3 AUTHORIZATION  
AND PRESIDENTIAL PERMIT TO CONSTRUCT NATURAL GAS  
PIPELINE FACILITIES AT THE UNITED STATES-MEXICO BORDER**

**VOLUME 1  
PUBLIC MATERIALS**

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**ENCINAL GATHERING, LTD**

**DOCKET NO. CP07-418000**

**APPLICATION OF ENCINAL GATHERING, LTD  
FOR NATURAL GAS ACT SECTION 3 AUTHORIZATION  
AND PRESIDENTIAL PERMIT TO CONSTRUCT NATURAL GAS  
PIPELINE FACILITIES AT THE UNITED STATES-MEXICO BORDER**

Encinal Gathering, Ltd. ("EGL" or "Applicant") hereby submits, pursuant to Section 3 of the Natural Gas Act ("NGA"), 15 U.S.C.A § 717b, and Subpart B of Part 153 of the Federal Energy Regulatory Commission's ("Commission") Regulations, 18 C.F.R. Part 153, Subpart B, its application for Commission authorization to site, construct, and operate certain natural gas pipeline and metering facilities at a point on the International Boundary between the U.S. and Mexico in Webb County, Texas ("Border Crossing Facilities"). These facilities are referred to in the enclosed environmental reports as the "Petrolero Project," and will be used to import natural gas from the Republic of Mexico ("Mexico") to the United States ("U.S.") and to export natural gas from the U.S. to Mexico.<sup>1</sup>

Applicant further requests issuance of a Presidential Permit authorizing Applicant to construct, operate, maintain, and connect these same Border Crossing Facilities, pursuant to Subpart C of Part 153 of the Commission's regulations, 18 C.F.R. Part 153,

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<sup>1</sup> EGL acknowledges that separate federal authorization for the importation and exportation of the gas commodity is required from the Department of Energy Office of the Assistant Secretary for Fossil Energy (DOE/FE). EGL has not yet filed for such authorization; however, EGL agrees, as a condition of its authorization hereunder, to file a statement that all required DOE/FE authorizations have been obtained prior to EGL's construction of the Border Crossing Facilities.

Subpart C, and Executive Order No. 10,485, 18 Fed. Reg. 5397 (1953), as amended by Executive Order No. 12,038, 43 Fed. Reg. 4957 (1978). Applicant respectfully requests that the Commission expeditiously grant the authorizations requested herein so as to enable Applicant to construct and commence service through the proposed Border Crossing Facilities in as timely a manner as possible.

### I. CORRESPONDENCE AND COMMUNICATIONS

The names, titles, and addresses of persons to be placed on the Commission's official service list and to whom correspondence or communications concerning this application should be addressed are as follows:

Jessica Holcomb  
Legal Counsel  
Brandon Scale  
International Projects Advisor  
Encinal Gathering, Ltd.  
10101 Reunion Place, Ste 1000  
San Antonio, TX 78216

Telephone: (210) 313-3441  
Facsimile: (210) 340-5882

Applicant further requests that an additional copy of all correspondence and communications be addressed to the following:

Robert F. Biard  
Senior Counsel  
Akin Gump Strauss Hauer & Feld LLP  
300 W. 6<sup>th</sup> Street, Ste 2100  
Austin, TX 78701

Telephone: (512) 499-6246  
Facsimile: (512) 499-6290

## II. DESCRIPTION OF APPLICANT

Applicant's exact legal name is Encinal Gathering, Ltd. EGL is a Texas limited partnership engaged in the production and gathering of natural gas. EGL's principal offices are located at 10101 Reunion Place, Suite 1000, San Antonio, TX 78216.

EGL is an indirect subsidiary of Lewis Energy Group, L.P. Lewis Energy Group, L.P. is a privately-owned company engaged in the production, gathering, and treatment of natural gas in South Texas. Lewis Energy Group, L.P. has been drilling in the Olmos Formation in the Encinal Area for more than 25 years, and is currently the most active producer in Webb, LaSalle, and Dimmitt Counties, Texas. Lewis Energy Group, L.P. also has a subsidiary, Lewis Energy México, S. de R.L. de C.V. (LEM), that engages in exploration and production activities in Mexico across the border from these counties in Texas.

EGL is not owned, wholly or in part, by any foreign government entity. EGL is not directly or indirectly subsidized by any foreign government entity. Furthermore, EGL has no agreement with any foreign government for such ownership or subsidization. In addition, EGL has no contract with any foreign government or person concerning control of operation or rates for the delivery or receipt of natural gas which may restrict or prevent other U.S. companies from extending their activities in the same general area affected by Applicant's proposal. Nor will the proposed project, if approved and implemented, impair the ability of EGL to render gathering service in the U.S. at reasonable rates to its existing customers.

### III. SUMMARY OF THE PROPOSED PROJECT

EGL conducts extensive production and gathering operations in South Texas, with drilling operations in Webb, LaSalle, and Dimmit counties. The wells in this area produce sweet gas in the Olmos Formation and sour gas in the Edwards Formation. EGL also owns and operates the Big Reef Gathering System, which connects EGL's H2S (or "sour") production to the Big Reef Treating Facility, a sour gas treatment facility.

LEM conducts exploration and production operations in Mexico across the international border from EGL's operations. On February 9, 2004, LEM executed a Contrato de Servicios Múltiples (Multiple Services Contract, or "MSC") with PEMEX Exploración y Producción (PEP). The MSC entitles LEM to perform exploration and production activities in a tract of land comprising approximately 80,000 acres in northeastern Coahuila, México, called the "Olmos Block." Since July of 2005, LEM has drilled six wells in the Olmos Block, one of which (Hidalgo No. 501) lies less than one mile from the U.S. border. The gas produced in the Olmos Block under the MSC belongs to PEP, who makes delivery of the gas to PEMEX Gas y Petroquímica Básica (PGPB) at the border of the block. At the moment, there is no pipeline infrastructure in Mexico for approximately sixty miles in any direction, effectively stranding all of the gas produced in the Olmos Block under the MSC. LEM and EGL plan to drill as many as sixty more wells in this general vicinity, both in Mexico and in the U.S., respectively, over the next few years.

EGL proposes to construct an extension of its existing natural gas gathering system to interconnect at the U.S.-Mexico border with new gathering facilities being constructed by LEM in Mexico for PEP and PGPB. This would enable EGL to connect

the production from the Olmos Block in the area to EGL's existing Big Reef Gathering System. EGL's new proposed pipeline facilities comprise the "Petrolero Project." While gathering facilities are not ordinarily subject to the jurisdiction of the Commission, the proposed Petrolero Project facilities would cross the international boundary between Mexico and the United States. Thus, a portion of the Petrolero Project facilities, *i.e.*, the Border Crossing Facilities, is subject to the Commission's jurisdiction under Section 3 of the NGA, and the importation of natural gas into the U.S. through such facilities is subject to federal jurisdiction, even though the gathering of gas is not otherwise jurisdictional under the NGA. In this application, EGL requests Commission authorization under Section 3 of the NGA to construct and operate the Border Crossing Facilities. The balance of EGL's Petrolero Project facilities are intrastate gathering facilities that are not subject to the Commission's jurisdiction, but are subject to the jurisdiction of the Railroad Commission of Texas.

In accordance with Section 153.7(b) of the Commission's regulations, below is a detailed summary of the Petrolero Project, including descriptions of the proposed facilities and all state, foreign, or other Federal governmental licenses and permits for the construction, operation, or modification of the facilities. All of the facilities described below will be constructed, owned, and operated by EGL.

#### **A. Jurisdictional Border Crossing Facilities**

The jurisdictional Border Crossing Facilities EGL proposes to construct consist of two 12-inch gathering lines, one for sour gas and one for sweet gas. These short pipeline segments will be approximately six hundred eighty-three (683) feet in length each and will cost approximately \$250,000. The design capacity of each segment of pipeline will

be approximately thirty million cubic feet per day (30 MMCFD). The jurisdictional Border Crossing Facilities will extend from the International Boundary at the center of the Rio Grande River, where they will interconnect with the facilities to be constructed by LEM for PEP and PGPB, eastward to pigging facilities at EGL's existing Galvan "H" No. 2 well site in Webb County, Texas. From these pigging facilities at the Galvan "H" No. 2 interconnection, EGL proposes to construct additional gathering facilities in Texas to connect the Border Crossing Facilities to EGL's existing Big Reef gathering system.

The Rio Grande River crossing will be performed by directionally drilling westward from the Galvan H #2 (API# 4247938536) well location a one thousand four hundred and thirty-five (1,435) foot hole, six hundred and eighty-three (683) feet of which will be in the U.S. The bore will be thirty (30) to thirty-six (36) inches in diameter. EGL will lay two 12-inch O.D., .500" wall thickness, Grade X42 pipes in the bore hole. One line will carry sweet gas, and one line will carry sour gas. Maximum operating pressure (MAOP) will be established at one thousand two hundred and fifty pounds per square inch gauge (1,250 psig) by pressure testing the lines to one thousand eight hundred and seventy-five pounds per square inch gauge (1,875 psig) or one and a half times the proposed MAOP. Pigging facilities of standard design with an MAOP of one thousand four hundred and forty pounds per square inch gauge (1,440 psig) will be installed on each line on each side of the river. Given current and projected volumes, the expected average operating pressures for the lines will be 450 - 550 psig. The jurisdictional Border Crossing Facilities will terminate at the pigging facilities located at the Galvan "H" No. 2 well site, which represents the westward terminus of EGL's existing gathering system at this time.

## **B. Non-jurisdictional Gathering Facilities**

From the pigging facilities, EGL will construct two 8-inch O.D. pipelines extending approximately one and two-tenths (1.2) miles eastward to EGL's existing Galvan Tank Battery. These lines will be installed along an existing flowline right-of-way, the width of which will be increased from 60 ft to 100 ft to accommodate the two new lines (expansion will be 40 ft entirely to the south). The two 8-inch lines will replace a 3-inch flowline in order to be able to accept deliveries off of the 12-inch jurisdictional lines described above. One 8-inch line will operate as a dedicated sweet gas line; the other, as a dedicated sour gas line. Separate measurement stations will be installed on the sweet and sour lines respectively at the Galvan Tank Battery. Two 8-inch pig launchers will be installed at the Galvan H #2 pigging facility and two 8-inch pig receivers will be installed at the Galvan Tank Battery. After measurement, the combined gas stream will be tied into the existing Big Reef 6-inch pipeline. From this interconnect with the Big Reef Gathering System, the gas will continue 4500 feet on the 6-inch pipeline to a tie-in with the main Big Reef Extension 10-inch pipeline, which will take the gas fourteen (14) miles to the Big Reef Amine Treating Facility where the H<sub>2</sub>S is removed and reinjected into the ground by means of an acid gas reinjection well located on-site in accordance with Texas Railroad Commission and Texas Commission on Environmental Quality requirements and procedures. The residue sweet gas is transported via the Big Reef Gathering System approximately 135 miles downstream to final processing at the San Martin Processing Plant in Bexar County, Texas, where the liquids are stripped to make the gas pipeline quality.

### **C. Operation of the Petrolero Project Facilities**

LEM has drilled several wells in Mexico, and EGL proposes to construct the Petrolero Project facilities in order to be able to connect this new production and expected future production, to EGL's Big Reef Gathering System for gathering and processing and ultimate consumption in the San Antonio area. Although this is EGL's current plan, EGL wants to have the flexibility, as future market conditions may warrant, to be able to reverse the flow on the Border Crossing Facilities such that EGL's gas produced in South Texas and gathered via the Big Reef Gathering System may flow south into Mexico for processing and ultimate consumption in Mexico. For these reasons, EGL respectfully requests the Commission to authorize EGL to use the Border Crossing Facilities for both the importation and the exportation of natural gas.<sup>2</sup>

A list of all agencies consulted and/or through which permits or authorizations for the U.S. portion of the project must be obtained is included in Resource Report I.6.

### **IV. THE PROPOSED PROJECT IS IN THE PUBLIC INTEREST**

Section 3(c) of the NGA provides that the importation of gas from, and the exportation of gas to, a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas (including Mexico) "shall be deemed to be consistent with the public interest, and application for such importation or exportation shall be granted without modification or delay." Consistent with this principle, the Commission should approve EGL's application for the Border Crossing Facilities expeditiously.

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<sup>2</sup> EGL will obtain appropriate DOE/EE authorization to export gas prior to any exports taking place.

Further, in accordance with Section 153.7(c)(1) of the Commission's regulations, EGI's "Petrolero Project" also is not inconsistent with the public interest for the following reasons:

- (i) The proposal will benefit consumers by increasing gas supply competition within the United States. According to the Energy Information Administration ("EIA"), the demand for natural gas is expected to rise 2.3 percent in 2007 over the demand in 2006.<sup>3</sup> Further, natural gas demand is expected to continue to grow - the EIA's Annual Energy Outlook 2006 predicts that total domestic consumption of natural gas will increase from 22.4 trillion cubic feet ("tcf") in 2004 to 27.0 tcf in 2025.
- (ii) Increasing supply will reduce prices to consumers. Reducing gas prices, in turn, will permit consumers to spend more on non-energy items, stimulating economic growth. Reduced prices will also stimulate demand for natural gas in the industrial sector. Natural gas is a clean-burning fuel. Today, major Texas cities including San Antonio are engaged in developing programs to address non-attainment of EPA's clean air standards. As those plans are implemented, clean-burning fuels like natural gas will take on increasing importance. Increasing supply and lowering cost will mitigate the negative economic impact of the measures necessary to meet clean air goals.
- (iii) The proposal will also promote the goals stated in the North American Free Trade Agreement ("NAFTA") that relate to the cooperative economic development in the United States and the United Mexican States. With the

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<sup>3</sup> Energy Information Agency, Short Term Forecast issued February 7, 2006, Table HI-1.

ability to reverse flow when market conditions warrant, EGL will be able to meet future natural gas demand in Mexico, consistent with the policies espoused by NAFTA.

- (iv) The proposed project will not impair the ability of the Applicant to render gathering services in the United States at reasonable rates to its existing customers. The Applicant currently has thirty million cubic feet per day (30 MMCFD) of capacity on the Big Reef system. The system terminates at the Big Reef Treating Facility, which has a total permitted throughput capability of thirteen million cubic feet per day (13 MMCFD). Permitting has already begun with the Texas Commission on Environmental Quality to increase the permitted capacity to forty-five million cubic feet per day (45 MMCFD) to coincide with the planned arrival of an additional thirty million cubic feet per day (30 MMCFD) amine treater to remove contaminants from the gas in the fourth quarter of 2007. This leaves an excess capacity of approximately thirty-two million cubic feet per day (32 MMCFD). Anticipated volumes from this project are not expected in excess of fifteen million cubic feet per day (15 MMCFD).
- (v) This project will not restrict or prevent other United States companies from extending their activities in the same general area. The proposed project will bring natural gas produced in Mexico into the United States to complete the production process and turn the gas into pipeline-quality gas and, when circumstances warrant, to reverse flow gas into Mexico for processing and consumption. The contract with PGPB does not restrict the ability of another

pipeline to offer gathering and processing services for the gathering and delivery of this gas to alternative processing points.

- (vi) LEM is constructing the facilities in Mexico under its MSC with PEP. EGL is in the process of finalizing an arms-length contract with PGPB for the gathering and marketing of natural gas in the U.S. This contract, when it is finalized, will be filed with the Commission under seal as Exhibit D. The business relationship with PGPB includes the gathering, processing, treatment, dehydration, and compression in the U.S. of natural gas produced and gathered in Mexico. The relationship is based on contracts negotiated at arms-length, and neither PGPB nor the Republic of Mexico has acquired any ownership interest in EGL. Neither PGPB nor the Republic of Mexico provides any subsidies or payments other than those contained in the written contract for services. EGL does not at this time have a contract with PGPB for any services related to potential future reverse flow of the Border Crossing Facilities.

For the foregoing reasons, EGL's application is consistent with the public interest and in accordance with NGA Section 3(c) should be granted "without modification or delay."

#### **V. SECTION 157.3(c)(2) STATEMENTS**

EGL's proposed "Petrolero Project" will be used to provide gathering service that is exempt from the provisions of the NGA. In determining whether the pipeline facilities constitute exempt gathering facilities, the Commission considers the purpose, location, and operation of the facility, the general business activity of the owner of the facility, and

whether the jurisdictional determination is consistent with the NGA and Natural Gas Policy Act of 1978 (NGPA). As set forth below, other than the jurisdictional Border Crossing Facilities, which are jurisdictional solely because they cross an international boundary, the proposed Petrolero Project facilities are gathering facilities exempt from the provisions of the NGA pursuant to Section 1(b) thereof for the following reasons:

- 1) The Petrolero Project facilities are an extension of the Big Reef Gathering System to enable the connection of additional wells in a producing area. The Petrolero Project facilities are upstream of treatment and processing facilities. The nearest amine treater for removing contaminants from the gas (Big Reef Treating Facilities, Webb County, TX) is sixteen miles downstream of the Petrolero Project facilities, and the nearest sweet gas processing facilities (San Martin Processing Plant, San Antonio, Texas) are one hundred and thirty five (135) miles downstream from the Petrolero Project facilities. The gas entering the Petrolero Project facilities is either sour gas or sweet gas that is not pipeline quality.
- 2) EGL is a wholly owned subsidiary of Lewis Energy Group, a fully integrated E&P company located in Webb County devoted primarily to E&P activity. Lewis Energy Group, through EGL, owns only one hundred and twelve (112) miles of pipeline, of which fifty-six (56) are more properly classified as flowlines (2 miles of 4" pipe, 47 miles of 3" pipe, 7 miles of 2" pipe). The remainder is comprised primarily of a forty-six (46) mile 10" line which serves as the backbone of the sour gathering system. EGL's activity represents less than 1% of Lewis Energy Group's annual revenues.

- 3) The Petrolero Project facilities are located in the middle of a producing area through which the Rio Grande River runs. Producing wells are located along the length of the pipeline, both on the U.S. side (Galvan H #1, API# 4247931099; Galvan H #2, API# 4247938536) and the Mexican side (Hidalgo No. 1, 2, 401, 501, and 502). This pipeline will enable the economical connection of future wells in this area along the same line.

EGL is a gas producer and gatherer, with existing production and gathering facilities in the area. The proposed Border Crossing Facilities are located in a producing field and would be nonjurisdictional gathering facilities but for the international border crossing. For the foregoing reasons, the Commission should find that the proposed project constitutes gathering facilities exempt from the relevant provisions of the NGA.

## **VI. LANDOWNER NOTIFICATION**

Section 153.3 of the Commission's Regulations provides that applicants to construct Part 153 facilities are subject to the landowner notification requirements set forth in 18 C.F.R. Section 157.6(d). In accordance with these provisions, EGL hereby states that it has already notified the single affected landowner and will make a good faith effort to notify any towns, communities, and local, state and federal governments and agencies involved in the Petrolero Project either by certified or first class mail, sent within 3 business days following the date the Commission issues a notice of the application, or by hand, within the same time period. Further, EGL will publish notice twice of the filing of the application, not later than 14 days after the date that a docket number is assigned to the application, in a daily or weekly newspaper of general

circulation in Webb County, where the project is located. The notice provided by EGL will comply with the Commission's notice content requirements, as set forth in Section 157.6(d)(3). Finally, EGL will file with the Commission an updated list of affected landowners, including information concerning notices that were returned as undeliverable, within 30 days of the date the application is filed.

#### **VII. EXHIBITS REQUIRED BY 18 C.F.R. § 153.8**

In accordance with Section 153.8 of the Commission's regulations, the following Exhibits are attached or omitted for the reasons indicated.

Exhibit A – A certified copy of the Partnership Agreement of Applicant:

Submitted herewith.

Exhibit B – Detailed statement of financial and corporate relationship between Applicant and any other person or corporation:

Submitted herewith.

Exhibit C – Statement, including signed opinion of counsel, showing that the construction and operation of the facilities for the import and export of natural gas are within the corporate powers of Applicant, and that Applicant has complied with all applicable laws and regulations of the State or States in which Applicant operates:

Submitted herewith.

Exhibit D – Where proposal is for a pipeline connection for the import or export of natural gas, a copy of any construction and operation agreement between Applicant and the operators of the border facilities in the U.S. or Mexico:

LEM is constructing the facilities in Mexico under its MSC with PEP. EGL is in the process of finalizing an arms-length contract with PGPB for the gathering and marketing of natural gas in the U.S. This contract, when it is finalized, will be filed with the Commission under seal as Exhibit D.

Exhibit E – If the proposal is to import or export LNG, evidence that an appropriate and qualified concern will properly and safely receive or deliver such LNG:

Omitted as inapplicable.

Exhibit E-1 –If LNG import facility is to be located at a site in zones 2, 3, or 4 of the Uniform Building Code's Seismic Risk Map of the U.S., or where there exists a risk of surface faulting or ground liquefaction, a report on earthquake hazards and engineering:

Omitted as inapplicable.

Exhibit F – An Environmental Report as specified by 18 C.F.R. § 380.3:

Submitted herewith.

Exhibit G – Geographic map showing the physical location of the facilities to be used for the Applicant's proposed import or export operations and indicating with particularity the ownership of facilities at and on each side of the U.S.-Mexico border.

Detailed topographical maps are included with the maps being submitted as Non-Internet Public information.

### VIII. CONCLUSION

WHEREFORE, EGL requests that, pursuant to NGA Section 3, the Commission authorize it to site, construct, and operate the Border Crossing Facilities described above. EGL further requests that, pursuant to Subpart C of Part 153 of the Commission's Regulations and Executive Orders Nos. 10,485 and 12,038, the Commission issue it a Presidential Permit authorizing EGL to construct, operate, maintain, and connect these same Border Crossing Facilities. EGL also respectfully requests that the Commission expeditiously grant the authorizations herein requested so as to permit the construction and operation of the Border Crossing Facilities in as timely a manner as possible.

Respectfully submitted,

Encinal Gathering, Ltd.

  
Brandon Sault  
International Projects Advisor  
Encinal Gathering, Ltd

**ATTACHMENT 2**

**ORDER OF THE FEDERAL ENERGY REGULATORY COMMISSION**

*ENCINAL GATHERING, LTD.*, 121 FERC ¶ 61,248 (2007)

121 FERC ¶ 61,248  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Suedeem G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellingshoff.

Encinal Gathering, Ltd.

Docket No. CP07-418-000

ORDER ISSUING PRESIDENTIAL PERMIT AND NGA SECTION 3  
AUTHORIZATION

(Issued December 10, 2007)

1. On July 2, 2007, Encinal Gathering, Ltd. (Encinal) filed an application in Docket No. CP07-418-000 requesting authorization under section 3 of the Natural Gas Act (NGA) to site, construct, and operate certain natural gas pipeline and metering facilities at a point on the International Boundary between the United States (U.S.) and the Republic of Mexico (Mexico) in Webb County, Texas and Coahuila, Mexico (Border Crossing Facilities) and for issuance of a Presidential Permit authorizing Encinal to construct, operate, maintain, and connect these same Border Crossing Facilities to its existing gathering facilities in Webb County. The Border Crossing Facilities would be used to import natural gas from Mexico to the U.S. and to export natural gas from the U.S. to Mexico.<sup>1</sup>

2. For the reasons discussed below, we will issue Encinal a Presidential Permit and the NGA section 3 authorizations, subject to certain conditions, to site, construct, operate and maintain its proposed pipeline facilities between the U.S. and Mexico because granting these authorizations are not inconsistent with the public interest.

**I. Background and Proposal**

3. Encinal is a Texas limited partnership engaged in the production and gathering of natural gas and is an indirect subsidiary of Lewis Energy Group, L.P. (LEG), a privately-owned company engaged in the production, gathering, and treatment of natural gas in South Texas. Encinal conducts production and gathering operations in Webb, LaSalle, and Dimmit counties in Texas. The wells in this area produce sweet gas in the Olmos

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<sup>1</sup> Encinal's proposed project, including the non-jurisdictional portions, is called the Petrolero Project, while the phrase Border Crossing Facilities refers only to the portion of the project that will cross the border.

Formation and sour gas in the Edwards Formation. Encinal also owns and operates the Big Reef Gathering System, which connects Encinal's sour gas production to the Big Reef Treating Facility, a sour gas treatment facility.

4. Another LEG subsidiary, Lewis Energy Mexico, S, de R.L. de C.V. (LEM), engages in exploration and production activities in Mexico, across the International Boundary from Encinal's operations. Since July of 2005, LEM has drilled six wells in the Olmos Block, a tract of land comprising approximately 80,000 acres in Coahuila, Mexico, one of which lies less than one mile from the U.S. border. LEM has executed a Contrato de Servicios Múltiples (Multiple Services Contract) with PEMEX Exploracion Produccion (PEMEX Exploracion) that entitles LEM to perform exploration and production activities in the Olmos Block. The gas produced in the Olmos Block under the Multiple Services Contract belongs to PEMEX Exploracion, which makes delivery of the gas to PEMEX Gas y Petroquímica Básica at the border of the block. LEM and Encinal plan to drill as many as sixty more wells in this general vicinity, both in Mexico and the U.S., respectively, over the next few years, according to Encinal. Currently, there is no pipeline infrastructure in Mexico for approximately sixty miles in any direction beyond the Olmos block, thus stranding all of the gas produced there.

5. Therefore, Encinal states, LEM plans to construct gathering facilities in Mexico that would interconnect with the facilities Encinal proposes in this proceeding to provide an outlet for the stranded gas.

## **II. Summary of the Proposed Project**

6. Encinal proposes to construct a 683-foot extension of its existing natural gas gathering system to interconnect at the border between the U.S. and Mexico with new gathering facilities being constructed by LEM in Mexico. This would enable Encinal to connect the stranded production from the Olmos Block in Mexico through the Border Crossing Facilities to its existing Big Reef Gathering System.

7. The proposed Border Crossing Facilities comprise two twelve-inch-diameter gathering lines, one for sour gas and one for sweet gas.<sup>2</sup> These pipeline sections would be horizontally directionally drilled under the Rio Grand River and would be a total of 1,435 feet long, 683 feet of which would be located in the U.S. From the International Boundary at the center of the Rio Grande River, the Border Crossing Facilities would extend eastward to pigging facilities at Encinal's existing Galvan "H" No. 2 well site in

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<sup>2</sup> Sour gas refers to gas that contains chemical impurities, most notably hydrogen sulfide (H<sub>2</sub>S) or other sulfur compounds, while sweet gas is free of such impurities when produced.

Webb County, Texas, the westward terminus of Encinal's gathering system. Encinal states that the design capacity of each segment of pipeline will be approximately thirty million cubic feet per day (MMcf/d) and will cost approximately \$250,000 to construct.<sup>3</sup>

8. The non-jurisdictional gathering facilities would consist of two parallel eight-inch-diameter pipelines extending approximately 1.2 miles from the eastern terminus of the Border Crossing Facilities eastward to Encinal's existing Galvan Tank Battery and fall under the jurisdiction of the Texas Railroad Commission.

9. Encinal has stated that, at present, the purpose of the proposed Border Crossing Facilities (and the additional non-jurisdictional portion of the Petrolero Project facilities) is to connect new natural gas production in Mexico to Encinal's gathering system for ultimate consumption in the San Antonio, Texas area. However, should future market conditions warrant, Encinal wishes to have the flexibility to reverse the flow of gas through the Border Crossing Facilities to enable gas produced and gathered via the Big Reef Gathering System to flow south into Mexico for processing and ultimate consumption in Mexico. For this reason, Encinal has requested that the Commission authorize use of the Border Crossing Facilities for both the importation and the exportation of natural gas.

### **III. Notice and Interventions**

10. Notice of Encinal's application in Docket No. CP07-418-000 was published in the *Federal Register* on July 31, 2007.<sup>4</sup> A timely motion to intervene was filed by MGI Supply Ltd. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.<sup>5</sup> There were no protests or comments to the application.

### **IV. Discussion**

11. Because Encinal's Border Crossing Facilities will be used to export and import natural gas, the construction, operation and maintenance of the border crossing facilities are subject to our jurisdiction and the requirements of NGA section 3.

12. Further, 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. 00-004.00A, effective May 16, 2006, the Commission, subject to

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<sup>3</sup> Encinal anticipates that total volumes from this project would not exceed fifteen MMcf/d.

<sup>4</sup> 72 Fed. Reg. 41,717 (July 31, 2007).

<sup>5</sup> 18 C.F.R. § 385.214(c) (2007).

approval from the Secretary of State and the Secretary of Defense, is authorized to issue a Presidential Permit approving the construction and operation of the subject facilities located at the international border with Mexico.

13. On August 24, 2007, the Commission sent copies of the application and draft Presidential Permits to the Secretary of State and the Secretary of Defense for their recommendations. A reply on behalf of the Secretary of State was filed on November 23, 2007. A reply on behalf of the Secretary of Defense was filed on November 27, 2007.<sup>6</sup> The replies indicate no objection to the issuance of the Presidential Permit, as described herein. The Secretary of State, however, requests that language be placed in the permit to note that plans for the proposed facilities must be presented to the International Boundary and Water Commission for review and approval and we have done so. Additionally, the Secretary of Defense notes that if a facility will be sited, constructed, expanded or operated on land or interest in land owned or controlled by a military department, including Army civil works activities, then an appropriate real estate use agreement must be obtained as a separate action with the applicable departments. We note that Encinal's facilities are not proposed to be located on land currently owned or controlled by a military department.

14. Encinal asserts that the proposal will benefit consumers by increasing gas supply competition within the U.S., which in turn will reduce natural gas prices to consumers and stimulate economic growth. Additionally, it argues that reduced prices would stimulate demand for natural gas in the industrial sector, which would aid in the attainment of EPA clean air standards in the San Antonio, Texas area. Further, Encinal argues that its proposal to reverse the flow of natural gas through the facilities, if market conditions warrant, promotes the goals stated in the North American Free Trade Agreement (NAFTA) that relate to the cooperative economic development in the U.S. and Mexico. Finally, Encinal contends that the proposed project will not impair its ability to render gathering services in the U.S. at reasonable rates to its existing customers.

15. Based on our review of the record, and the absence of any objection from the Secretaries of State and Defense, we find that Encinal's proposed project would facilitate

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<sup>6</sup> Executive Order No. 10485 requires that the Commission obtain the favorable recommendation of the Secretaries of State and Defense before issuing a Presidential Permit. 18 Fed. Reg. 5,397 (Sept. 9, 1953), *as amended* by Executive Order 12038, 43 Fed. Reg. 4,957 (Feb. 7, 1978).

trade between the U.S. and Mexico thereby promoting the objectives of the Energy Policy Act of 1992<sup>7</sup> and is not inconsistent with the public interest. Accordingly, we will grant Encinal's request for NGA section 3 authorization and a Presidential Permit.<sup>8</sup>

16. Encinal states that it will obtain the required authorization from the Department of Energy Office of Fossil Energy (DOE/FE) prior to initiating the importation or exportation of natural gas. However, in accordance with section 153.6 of our regulations, we will require Encinal to file an affidavit stating that all appropriate DOE/FE authorizations have been obtained prior to initiating construction of the Border Crossing Facilities.<sup>9</sup>

#### V. Environmental Matters

17. On November 1, 2007, we issued an environmental assessment (EA) that addresses geology, soils, water resources, wetlands, vegetation, wildlife, endangered and threatened species, land use, cultural resources, air and noise quality, and alternatives of the Petrolero Project (including the non-jurisdictional facilities). Based on the discussion in the EA, we conclude that if the Petrolero Project is constructed and operated in accordance with Encinal's application and our recommendations, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

18. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of the Presidential Permit and NGA section 3 authorization granted by this order. 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 or operation of facilities approved by this Commission.<sup>10</sup> Encinal 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 Encinal. Encinal shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

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<sup>7</sup> See 15 U.S.C. § 717b (2000).

<sup>8</sup> See Appendix A to this order.

<sup>9</sup> 18 C.F.R. § 153.6 (2007).

<sup>10</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm'n*, 894 F.2d 571 (2d Cir. 1990); *Iroquois Gas Transmission System*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

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19. The Commission on its own motion, received and made a part of the record all evidence, including the application (s), as supplemented, and exhibits thereto, submitted in this proceeding and upon consideration of the record,

The Commission orders:

(A) The Commission approves the requests by Encinal for an authorization under NGA section 3 and a Presidential Permit (attached as Appendix A hereto) authorizing it to site, construct, operate and maintain pipeline facilities at the border of the United States and Mexico, as described in the application and in the body of this order.

(B) Encinal shall sign and return the Testimony of Acceptance of all the provisions, conditions and requirements of the Presidential Permits to the Secretary of the Commission within 30 days of the issuance of this order.

(C) Prior to initiating construction of the Border Crossing Facilities, Encinal shall file an affidavit with the Secretary of the Commission stating that all appropriate DOE/FE authorizations have been obtained.

(D) Encinal shall comply with the Environmental Conditions contained in Appendix B of this order.

(E) Encinal 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 Encinal. Encinal shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**APPENDIX A**

**PRESIDENTIAL PERMIT  
AUTHORIZING ENCINAL GATHERING, LTD.  
TO SITE, CONSTRUCT, OPERATE, AND MAINTAIN FACILITIES  
FOR EXPORTATION AND IMPORTATION OF NATURAL GAS  
AT THE INTERNATIONAL BOUNDARY BETWEEN  
THE UNITED STATES AND MEXICO  
IN WEBB COUNTY, TEXAS**

**FEDERAL ENERGY REGULATORY COMMISSION  
DOCKET NO. CP07-418-000**

(Issued December 10, 2007)

Encinal Gathering, Ltd., (Encinal or Permittee), a limited liability company organized and existing under the laws of the State of Texas, filed on July 12, 2007, in Docket No. CP07-418-000, an application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00A, requesting that the Commission issue an order under section 3 of the NGA and a Presidential Permit authorizing Permittee to site, construct, operate, and maintain certain pipeline and related facilities and the place of entry and exit for importing and exporting natural gas as described in Article 2 below at the International Boundary between the United States and Mexico in Webb County, Texas.

By letter filed November 23, 2007 the Secretary of State, and, by letter filed November 27, 2007, 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, dated September 3, 1953, and February 3, 1978, respectively, the Secretary of Energy's Delegation Order No. 00-004.00A, effective May 16, 2006, and the Commission's Regulations, permission is granted to Permittee to construct, operate, install, 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: Two parallel twelve-inch-diameter pipelines, each approximately 683 feet in length extending from the Permittee's Big Reef Gathering System and ending at the International Boundary between the United States and Mexico in Webb County, Texas.

Article 3. The natural gas facilities authorized herein, or which may subsequently be included herein by modification or amendment, may be utilized for importation or exportation 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. Plans for work must be presented to the International Boundary and Water Commission for review and approval.

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 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 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

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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.

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IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of \_\_\_\_\_ has caused its named 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.

Encinal Gathering, Ltd.

By \_\_\_\_\_

(Attest)

\_\_\_\_\_

Executed in triplicate

## APPENDIX B

### Environmental Conditions

1. Encinal shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the environmental assessment (EA), unless modified by this Order. Encinal 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 whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
  - a. the modification of conditions of this Order; and
  - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Encinal 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 construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA. **As soon as they are available, and before the start of construction**, Encinal shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by this Order. All requests for modifications of environmental conditions of this Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

5. Encinal shall file updated status reports prepared by the environmental inspector with the Secretary on a **biweekly** basis **until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
  - a. the current construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
  - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
  - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
  - d. the effectiveness of all corrective actions implemented;
  - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and
  - f. copies of any correspondence received by Encinal from other federal, state or local permitting agencies concerning instances of noncompliance, and Encinal's response.
  
6. **Prior to construction**, Encinal shall file a site-specific horizontal direction drill (HDD) contingency plan with the Secretary, for review and written approval. The plan shall include:
  - a. the results of geotechnical feasibility investigations;
  - b. a contingency plan for crossing the waterbody in the event a directional drill is unsuccessful;
  - c. a description of how an inadvertent release of drilling mud would be contained and cleaned up; and
  - d. a description of how an abandoned drill hole would be sealed, if necessary.
  
7. **Prior to construction**, Encinal shall complete consultation with the Texas parks and Wildlife Department (TPWD) regarding potential project impacts on state listed species, and shall file with the Secretary copies of all correspondence and responses to any TPWD recommendations.