

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



**In the Matter of:
FREEPORT LNG DEVELOPMENT, L.P.**

Docket No. 11-51 LNG

**APPLICATION OF
FREEPORT LNG DEVELOPMENT, L.P.
FOR BLANKET AUTHORIZATION TO EXPORT LIQUEFIED NATURAL GAS
ON A SHORT-TERM BASIS**

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application should be addressed to:

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Freeport LNG Development, L.P. ("Freeport LNG") requests that the Department of Energy ("DOE") Office of Fossil Energy ("FE"), issue an order granting blanket authorization for Freeport LNG to engage in short-term exports of up to 24 billion cubic feet ("Bcf")¹, on a cumulative basis, of liquefied natural gas ("LNG") that has been previously imported into the United States from foreign sources, for a two-year period commencing the date of authorization.

Freeport LNG proposes to export LNG from Quintana Island near Freeport, Texas to any country with the capacity to import LNG via ocean-going carrier, and with which trade is not prohibited by United States law or policy. This application is submitted pursuant to Section 3 of the Natural Gas Act (NGA),² Part 590 of the Regulations of the DOE,³ and Section 201 of the Energy Policy Act of 1992.⁴

In support of this application, FLEX respectfully shows as follows:

¹ Equivalent to 24.627 trillion British thermal units ("TBtus"), according to a DOE/FE conversion factor of 1,028 BTUs per cubic foot found at <http://www.netl.doe.gov/energy-analyses/energy-calc.html>.

² 15 U.S.C. § 717b (2010).

³ 10 C.F.R. § 590 (2010).

⁴ PUB. L. NO. 102-486, § 201, 106 STAT. 2776.2866 (1992) (codified as amended at 15 U.S.C. § 717b(c) (2010)).

I.

DESCRIPTION OF THE APPLICANT

The exact legal name of Freeport LNG is Freeport LNG Development, L.P., a Delaware limited partnership with four limited partners: (1) Freeport LNG Investments, LLLP, a Delaware limited liability limited partnership, which owns a 20% limited partnership interest in Freeport LNG; (2) ZHA FLNG Purchaser LLC, a Delaware limited liability company and wholly owned subsidiary of Zachry American Infrastructure, LLC, which owns a 55% limited partnership interest in Freeport LNG; (3) Texas LNG Holdings LLC, a Delaware limited liability company and wholly owned subsidiary of The Dow Chemical Company, which owns a 15% limited partnership interest in Freeport LNG; and (4) Turbo LNG, LLC, a Delaware limited liability company and wholly owned subsidiary of Osaka Gas Co., Ltd., which owns a 10% limited partnership interest in Freeport LNG.

In addition to the limited partners, Freeport LNG has one general partner that manages the company, Freeport LNG-GP, Inc., a Delaware corporation, which is owned 50% by an individual, Michael S. Smith, and 50% by ConocoPhillips Company.

The principal place of business for Freeport LNG is located at 333 Clay Street, Suite 5050, Houston, Texas 77022. Freeport LNG is authorized to do business in the State of Texas.

II.

AUTHORIZATION REQUESTED

In this application, Freeport LNG requests that DOE/FE grant blanket authorization to export up to a cumulative total of 24 Bcf of previously imported LNG on a short-term or spot market basis from its terminal on Quintana Island, Texas, to any country which has the capacity to import LNG via ocean-going carrier, and with which trade is not prohibited by United States

law or policy. Freeport LNG requests that this authorization include imported LNG supplies to which Freeport LNG holds title, as well as LNG supplies imported from foreign sources that Freeport LNG may export as agent on behalf of other entities who themselves hold title.

In this application, Freeport LNG is not requesting authority to export domestically produced natural gas or LNG. Furthermore, Freeport LNG will not export LNG to those countries with which trade is prohibited by U.S. law or policy. Two wholly-owned subsidiaries of Freeport LNG recently filed applications to export LNG, one of which is still pending before DOE/FE.⁵ Because those applications requested authorization to export domestically produced LNG, they are unrelated to this application, which seeks authorization to export foreign-source LNG.

III.

BACKGROUND

On June 18, 2004, the Federal Energy Regulatory Commission (“FERC”) issued an order authorizing Freeport LNG to site, construct and operate the Freeport Terminal on Quintana Island, southeast of the City of Freeport in Brazoria County, Texas.⁶ The facilities, completed in June 2008, include an LNG ship marine terminal and unloading dock, LNG transfer lines and storage tanks, high-pressure vaporizers, and a 9.6-mile send-out pipeline extending to the Stratton Ridge meter station.

⁵ *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, FE Docket 10-160-LNG, Order No. 2913 (Feb. 10, 2011) and *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, FE Docket 10-161-LNG (Application Pending).

⁶ See *Freeport LNG Development, L.P.*, 107 FERC ¶ 61,278, (2004), *order granting rehearing and clarification*, 108 FERC ¶ 61,253 (2004), *order amending Section 3 authorization*, 112 FERC ¶ 61,194 (2005), *order issuing authorization*, 116 FERC ¶ 61,290 (2006).

In January 2008, the DOE/FE granted Freeport LNG a two-year blanket authorization to import LNG, up to a total quantity of 30 Bcf,⁷ and in December 2009 it granted Freeport LNG blanket authorization to import LNG for a second two-year term beginning on March 1, 2010 and ending February 29, 2012.⁸

In an order dated May 6, 2009, FERC authorized certain equipment modifications at the Freeport Terminal as required to enable the loading and export of foreign-source LNG.⁹ On May 28, 2009, DOE/FE issued Order No. 2644 authorizing Freeport LNG to export, on its own behalf or as an agent for others, up to a total quantity of 24 Bcf of foreign-source LNG from the Freeport Terminal over a two-year period to customers in the U.K., Belgium, Spain, France, Italy, Japan, South Korea, India, China and/or Taiwan.¹⁰ This authorization was later amended to permit export to Canada, Mexico, and any other country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy.¹¹

On November 19, 2010, Freeport LNG's wholly owned subsidiary, Freeport LNG, Expansion, L.P. filed an application for blanket authorization to export up to a combined total of 876 Bcf of LNG to Canada and Mexico for a two-year term. This request was granted by DOE/FE in Order No. 2884 on December 1, 2010.¹² On December 17, 2010, Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC, both wholly-owned subsidiaries of Freeport

⁷ *Freeport LNG Development, L.P.*, FE Docket No. 07-136-LNG, Order No. 2457 (Jan. 15, 2008). 15 U.S.C. §717b. This authority is delegated to the Assistant Secretary for FE pursuant to Redelegation Order No. 00.002.04D (November 6, 2007).

⁸ *Freeport LNG Development, L.P.*, FE Docket No. 09-130-LNG, Order No. 2737 (Dec. 15, 2009).

⁹ *Freeport LNG Development, L.P.*, 127 FERC § 61,105 (May 6, 2009).

¹⁰ *Freeport LNG Development, L.P.*, FE Docket No. 08-70-LNG, Order No. 2644 (May 28, 2009).

¹¹ *Freeport LNG Development, L.P.*, FE Docket No. 08-70-LNG, Order Nos. 2644-A (Sep. 22, 2009) and 2644-B (May 11, 2010).

¹² *Freeport LNG Expansion, L.P.*, FE Docket No. 10-150-LNG, Order No. 2884 (Dec. 01, 2010).

LNG, filed two applications to export domestically produced LNG.¹³ The first of these applications, which requested long-term authorization to export LNG to free trade agreement countries, was granted by DOE/FE in Order No. 2913 on February 10, 2011. The second application, which requested long-term authorization to export LNG to countries with which the U.S. does not have a free trade agreement, is still pending before DOE/FE.

This application is filed in anticipation of the expiration of Order No. 2644 (as amended by Order Nos. 2644-A and 2644-B) on May 27, 2011, and requests the same authorization previously granted by DOE/FE to Freeport LNG. Applicant requests authority to export previously imported LNG to which it holds title, as well as previously imported LNG that it may export on behalf of other entities who themselves hold title. The blanket export authorization requested is substantially similar to that previously granted by DOE/FE to Freeport LNG in 2009 and 2010,¹⁴ Cheniere Marketing, Inc. in 2009,¹⁵ and ConocoPhillips Company in 2009,¹⁶ and The Dow Chemical Company in 2010.¹⁷

As a result of technological advances, huge reserves of domestic shale gas that were previously infeasible or uneconomic to develop are now profitably producing natural gas in many regions of the United States. The United States is now estimated to have more natural gas resources than it can use in a century.¹⁸ The Annual Energy Outlook 2010, prepared by the U.S. Energy Information Administration (“EIA”), forecasts shale gas production to increase to 3.85

¹³ *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, FE Docket 10-160-LNG, Order No. 2913 (Feb. 10, 2011) and *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, FE Docket 10-161-LNG (Application Pending).

¹⁴ Order Nos. 2644, 2644-A, and 2644-B, *see* notes 10 and 11, *supra*.

¹⁵ *Cheniere Marketing, Inc.*, F.E. Docket No. 08-77-LNG, Order Nos. 2651 (Jun. 8, 2009) and 2651-A (Jul. 31, 2009).

¹⁶ *ConocoPhillips Company*, F.E. Docket No. 09-92-LNG, Order No. 2731 (Nov. 30, 2009).

¹⁷ *The Dow Chemical Company*, F.E. Docket No. 10-57-LNG, Order No. 2859 (Oct. 5, 2010).

¹⁸ Domestic natural gas reserves, including both Alaska and the Lower 48, are estimated to total about 2,100 Tcf, which is about 92 times the annual U.S. consumption of 22.8 Tcf in 2009. MIT ENERGY INITIATIVE, INTERIM REPORT ON THE FUTURE OF NATURAL GAS 9 (2010).

Tcf by 2015 and 6.0 Tcf by 2035, representing 5.3% annual growth from 2008-2035.¹⁹ The Early Release Overview of the EIA's Annual Energy Outlook 2011 more than doubles its estimate of technically recoverable shale gas reserves,²⁰ and doubles its projected shale gas production to 12.0 Tcf by 2035.²¹ As a consequence of this rise in domestic production, LNG imports have fallen. As stated by the EIA, "[h]igh domestic production, high inventories, and low U.S. prices relative to European and Asian markets should continue to discourage LNG imports."²²

The export authorization requested herein will enable the Freeport facilities to have greater flexibility to attract LNG imports in the quantities necessary to maintain full operation of the Quintana Island terminal and related energy infrastructure during periods when U.S. market prices would not otherwise support LNG deliveries to the U.S. Additionally, granting the authorization requested will increase the likelihood that an imported supply is present and available for delivery to U.S. markets if those markets support it. Without the commercial flexibility provided by a blanket export authorization, imports of LNG cargoes to Freeport facilities will be limited and domestic consumers will have a reduced likelihood of additional supply in times of increased demand.

¹⁹ U.S. ENERGY INFORMATION ADMINISTRATION, ANNUAL ENERGY OUTLOOK 2010 135, Table A-14 (2010), available at [http://www.eia.doe.gov/oiaf/aeo/pdf/0383\(2010\).pdf](http://www.eia.doe.gov/oiaf/aeo/pdf/0383(2010).pdf) (hereinafter "EIA ANNUAL ENERGY OUTLOOK 2010").

²⁰ U.S. ENERGY INFORMATION ADMINISTRATION, ANNUAL ENERGY OUTLOOK 2011 EARLY RELEASE OVERVIEW, Executive Summary (2010), available at http://www.eia.doe.gov/forecasts/aeo/executive_summary.cfm.

²¹ *Id.*, at Table A-14 (2010), available at <http://www.eia.doe.gov/forecasts/aeo/pdf/tbla14.pdf>.

²² U.S. ENERGY INFORMATION ADMINISTRATION, SHORT-TERM ENERGY OUTLOOK (FEB. 8, 2011) available at http://www.eia.doe.gov/steo/#Natural_Gas_Markets.

IV.

PUBLIC INTEREST STANDARD

This application is submitted pursuant to Section 3 of the NGA, under which DOE/FE is required to authorize exports unless it makes an affirmative finding that such exports “will not be consistent with the public interest.”²³ Section 3 thus creates a statutory presumption in favor of the approval of this export application which opponents bear the burden of overcoming.²⁴ Although its application is presumptively in the public interest, it should further be noted that this blanket export authorization requested by Freeport LNG is also compatible with the principles established by the Policy Guidelines,²⁵ which promote free and open trade by minimizing federal control and involvement in energy markets, and DOE Delegation Order No. 0204-111, which requires “consideration of the domestic need for the gas to be exported.”²⁶

A. There Is No Domestic Reliance on the Gas That Freeport LNG Seeks to Export

There is currently no domestic reliance on the volumes of imported LNG that Freeport LNG seeks to export. Traditional domestic natural gas production has been supplemented by unconventional sources, such as shale gas formations, which new technologies have made economically recoverable. As a result of this increased domestic supply, domestic gas prices have remained low compared to other global markets, such as in Europe and Asia, discouraging imports to the U.S.

²³ 15 U.S.C. § 717b (2010).

²⁴ In *Panhandle Producers and Royalty Owners Ass’n v. ERA*, 822 F.2d 1105, 1111 (D.C. Cir. 1987), the court found that Section 3 of the NGA “requires an affirmative showing of inconsistency with the public interest to deny an application” and that a “presumption favoring ... authorization ... is completely consistent with, if not mandated by, the statutory directive.” See also *Independent Petroleum Ass’n v. ERA*, 870 F.2d 168, 172 (5th Cir. 1989); *Panhandle and Royalty Owners Ass’n v. ERA*, 847 F.2d 1168, 1176 (5th Cir. 1988).

²⁵ Policy Guidelines and Delegation Orders Relating to the Regulation of Imported Natural Gas, 49 Fed. Reg. 6,684 (Feb. 22, 1984).

²⁶ See 49 Fed. Reg. 6684 (Feb. 22, 1984).

In Order No. 2644, which granted Freeport LNG blanket authorization to export up to 24 Bcf (cumulative) of previously imported foreign-sourced LNG, the DOE/FE determined that there was no domestic reliance on the volumes of imported LNG that Freeport LNG sought to export. More recently, DOE/FE made the same finding in granting The Dow Chemical Company blanket authorization to export up to 390 Bcf (cumulative) of previously imported LNG from the Quintana Island terminal, commencing October 5, 2010.²⁷ In that Order, DOE/FE found that “the LNG which Dow seeks to export in this case is not needed in order to meet domestic market demand for natural gas on a competitively priced basis and that the exports of LNG authorized by this amendment will have no significant impact on the market’s ability to meet the demand for natural gas domestically.”²⁸

The imported LNG which Freeport LNG seeks to export will be surplus to the demands of U.S. markets during the period of requested authorization, and is needed primarily to enable Freeport LNG to economically maintain and operate its Quintana Island terminal. In the event that market conditions would support delivery of Freeport LNG’s imported supplies to U.S. markets, DOE/FE’s grant of the requested authorization would also serve to increase LNG supplies available for delivery to U.S. markets if those markets support it. As there is currently no domestic reliance on such supplies, the requested short-term blanket export authorization is consistent with the public interest.

B. Local Gas Supplies Will Not Be Reduced

Freeport LNG’s proposed export of foreign-sourced LNG will not result in a reduction of U.S. natural gas supplies, and will in fact increase the total supply available for delivery to U. S. markets if those markets support it. Granting Freeport LNG’s requested blanket export

²⁷ *The Dow Chemical Company*, F.E. Docket No. 10-57-LNG, Order No. 2859 (Oct. 5, 2010).

²⁸ *Id.* at 6.

authorization will enable it to acquire and store spot-market LNG cargoes, which will then be available to meet increased domestic needs and dampen U.S. gas price volatility during short-term rises in demand.

Freeport LNG's request is limited in both scope and duration. Freeport LNG is currently authorized to export previously-imported LNG, and this commercial flexibility helps ensure full and continual operation of its LNG import facilities at the Quintana Island terminal.²⁹ In this application, Freeport LNG does not seek to export domestically produced natural gas or LNG, but only to export previously-imported LNG.

C. Export Authorization Will Ensure the Operational Readiness of Essential Infrastructure

Freeport LNG is required to maintain safe and reliable cryogenic operations at its Quintana Island terminal, even during those periods when market conditions do not support LNG import activity. If the continuous cryogenic operations of the terminal facility are interrupted, it will take several weeks to restore it to operational readiness, during which time Freeport LNG and its Quintana Island terminal would be unable to respond to rapid changes in U.S. natural gas market conditions. Ensuring the continuing operation of essential U.S. energy infrastructure during times when market conditions alone may not be sufficient to do so is consistent with the public interest.

V.

ENVIRONMENTAL IMPACT

No changes to the Freeport LNG Quintana Island terminal would be required for the proposed export of foreign-source LNG. Consequently, granting this application will not be a

²⁹ Order Nos. 2644, 2644-A, and 2644-B, *see* notes 10 and 11, *supra*.

federal action significantly affecting the human environment within the meaning of the National Environmental Policy Act.³⁰ Therefore, an environmental impact statement or environmental assessment is not required.

VI.

REPORTING REQUIREMENTS

For all exports made pursuant to the authorization requested herein, Freeport LNG will undertake to file reports with the Office of Natural Gas Regulatory Activities pursuant to the requirements imposed by DOE/FE in its requested Order.³¹ Freeport LNG's reporting contact is:

Veronica Cantu
Freeport LNG Development, L.P.
333 Clay St., Suite 5050
Houston, Texas 77002
Tel (713) 333-4246
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VII.

APPENDICES

Appendix A:	Opinion of Counsel
Appendix B:	Verification and Certified Statement

VIII.

CONCLUSION

Freeport LNG requests short-term blanket authorization to export up to a cumulative total of 24 Bcf of LNG from the Quintana Island terminal to any country which has or will in the

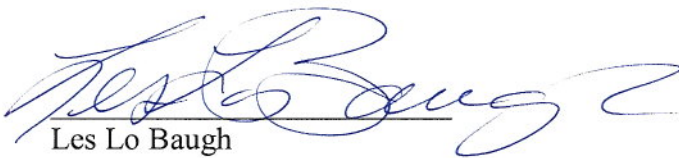
³⁰ 42 U.S.C. § 4231, *et seq.*

³¹ See Procedural Order Eliminating Quarterly Reporting Requirement and Amending Monthly Reporting Requirement for Natural Gas and LNG Import/Export Holders, FE Docket No. 08-01-PO, DOE/FE Order No. 2464 (Feb. 6, 2008).

future develop the capacity to LNG via ocean-going carrier, and with which trade is not prohibited by U.S. law or policy. Freeport LNG requests authorization to export LNG on its own behalf or as agent for others. Freeport LNG requests authority to export previously imported LNG to which Freeport LNG holds title, as well as previously imported LNG that Freeport LNG may export behalf of other entities who themselves hold title.

Based on the reasoning provided in this application, Freeport LNG respectfully requests that the DOE/FE determine that Freeport LNG's request for short-term blanket authorization to export LNG to which Freeport holds title, as well as on behalf of other entities who themselves hold title, to those countries with which trade is not prohibited by U.S. law or policy is not inconsistent with the public interest. Accordingly, Freeport LNG requests that DOE/FE issue an order pursuant to Section 3(c) of the Natural Gas Act, as amended by Section 201 of the Energy Policy Act of 1992, for blanket authorization to export LNG.

Respectfully submitted,



Les Lo Baugh
Brownstein Hyatt Farber Schreck, LLP
Attorneys for
Freeport LNG Development, L.P.

April 20, 2011

Brownstein | Hyatt
Farber | Schreck

April 20, 2011

Mr. John Anderson
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RE: Freeport LNG Development, L.P.
Application for Blanket Authorization to Export Liquefied Natural Gas On a Short-Term Basis

Dear Sir:

This opinion is submitted pursuant to Section 590.202(c) of the U.S. Department of Energy's regulations. I have examined the Amended and Restated Articles of Incorporation of Freeport LNG Development, L.P. and other authorities as necessary, and have concluded that the proposed exportation of liquefied natural gas from the United States, as described in the Application for Blanket Authorization to Export Liquefied Natural Gas On a Short-Term Basis to which this Opinion of Counsel is attached as Appendix A, is within the corporate powers of both Freeport LNG Development, L.P.

Respectfully submitted,



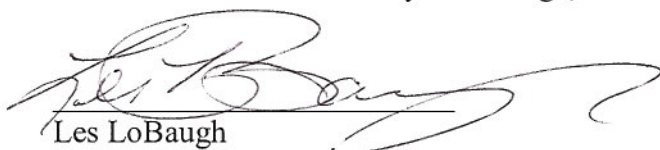
Les Lo Baugh

VERIFICATION
and
CERTIFIED STATEMENT

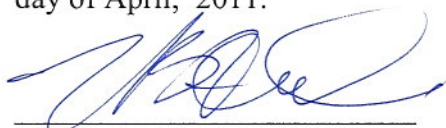
County of Los Angeles

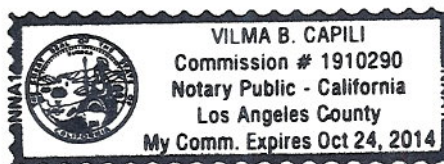
State of California

I, Les LoBaugh, being duly sworn on his oath, do hereby affirm that I am a duly authorized representative of Freeport LNG Expansion, L.P. and FLNG Liquefaction LLC; that I am familiar with the contents of this application; and that the matters set forth therein are true and correct to the best of my knowledge, information and belief.


Les LoBaugh

Sworn to and subscribed before me, a Notary Public, in and for the State of California, this 20th day of April, 2011.


Vilma Capili, Notary Public



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