

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY

MAIN PASS ENERGY HUB, LLC) FE DOCKET NO. 12-114-LNG
)

ORDER GRANTING LONG-TERM MULTI-CONTRACT AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS BY VESSEL
FROM THE MPEH DEEPWATER PORT LOCATED 16 MILES
OFFSHORE THE LOUISIANA COAST IN FEDERAL WATERS
TO FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NO. 3220

JANUARY 4, 2013

I. **DESCRIPTION OF REQUEST**

On September 11, 2012, Main Pass Energy Hub, LLC (Main Pass), filed an application (Application), with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA)¹ for long-term, multi-contract authorization, to export liquefied natural gas (LNG) in an amount up 24 million metric tons per year from the MPEH Deepwater Port, which consists of existing and new facilities located 16 miles offshore the Louisiana coast in Federal waters, for a 30-year term. Main Pass states the requested export amount is equivalent to approximately 3.22 billion cubic feet per (Bcf) per day (Bcf/d) of natural gas (equal to 1,175 Bcf per year (Bcf/yr)).² Main Pass seeks to export LNG by vessel to any nation with which the United States currently has, or in the future will have, a Free Trade Agreement (FTA) requiring the national treatment for trade in natural gas, and that currently has, or in the future develops, the capacity to import LNG via ocean-going carriers.³ Main Pass seeks to export this LNG on its own behalf and also as agent for third parties. Main Pass requests that this authorization commence on the earlier of the date of first export or eight years from the date the authorization is issued (January 4, 2021).

¹ The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA (15 U.S.C. §717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-002.04E issued on April 29, 2011.

² Main Pass requests authorization to export up to 24 million metric tons per year of LNG, which, it states, is equivalent to approximately 3.22 Bcf/d of natural gas. Consistent with DOE regulations (10 CFR part 590), applications are to provide volumes in Bcf, and subsequently, DOE/FE will authorize LNG exports equivalent to 1,175 Bcf/yr of natural gas.

³ The United States currently has free trade agreements requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

II. **BACKGROUND**

Main Pass is a Delaware limited liability company with its principal place of business in New Orleans, Louisiana. The Main Pass Energy Hub (MPEH) facilities are currently owned by Freeport-McMoRan Energy, LLC (FME), a subsidiary of McMoRan Exploration Co. (MMR). FME recently signed a memorandum of understanding with United LNG, LLC (ULNG), a limited liability company organized under the laws of Delaware, for a proposed Joint Venture development of MPEH as an LNG export facility. Both FME and ULNG will own 50 percent of Main Pass Energy Hub, LLC.

Main Pass states that the proposed MPEH Deepwater Port LNG export project (Project) would be configured to receive, store, condition, and liquefy domestic natural gas for export as LNG. Main Pass states that the LNG facility is located in approximately 210 feet of water at a deepwater site in the Gulf of Mexico on the Outer Continental Shelf of the United States, in Federal waters approximately 16 miles offshore from the southeast coast of Louisiana. Main Pass states that the Project includes modification of existing offshore structures, construction of new facilities and salt storage caverns, and construction, installation, and operation of floating liquefaction storage and offloading (FLSO) vessels to be used for the on-site liquefaction and exportation of LNG from the MPEH Deepwater Port. Main Pass states that the Project facilities would permit natural gas to be received by pipeline at the MPEH Deepwater Port, stored in natural gas salt caverns, liquefied on FLSO vessels, and loaded from those vessels onto LNG carriers for transport to the destination port.

Main Pass states that the Project involves the utilization of five large existing interconnected platforms and three smaller satellite platforms. In addition to the existing facilities, the Project will consist of six FLSO vessels, each capable of producing up to 4 million

metric tons per annum (MTPA) of LNG for a total capacity of 24 MTPA of LNG. Each FLSO unit will be moored using a buoy system at MPEH Deepwater Port and each unit will have an LNG storage capacity of 200,000 cubic meters, will be capable of liquefaction, and will have the capability to export LNG to off-taking LNG carriers utilizing a ship-to-ship process. Natural gas intake into the MPEH Deepwater Port will not exceed 4 Bcf/d.

Main Pass states that the source of natural gas for the Project will include the vast supplies available from the Gulf Coast producing regions, including recent discoveries of shale gas reserves. Main Pass states that in the immediate vicinity of the MPEH Deepwater Port is approximately 3 Bcf/d of pipeline capacity offshore as well as access to onshore pipeline networks.

Main Pass states that it is requesting this authorization in order to export LNG on its own behalf (by holding title to the LNG at the time of export) or by acting as an agent for others. Main Pass states that it will comply with all DOE requirements for an exporter or agent. Main Pass states that in DOE/FE Order No. 2986,⁴ DOE approved a proposal to register each LNG title holder for whom the applicant sought to export LNG as agent. Main Pass states it will register with DOE each LNG title holder for whom it seeks to export as agent, and will provide DOE with a written statement by the title holder acknowledging and agreeing (i) to comply with all requirements in its long-term export authorization, and (ii) to include those requirements in any subsequent purchase or sale agreement entered into by the title holder. Main Pass states it will also file under seal with DOE any relevant long-term commercial agreements it enters into with the LNG title holders on whose behalf the exports are performed.

⁴ *Freeport LNG Development, L.P.*, Order Granting Blanket Authorization to Export Previously Imported Liquefied Natural Gas by Vessel, FE Docket No. 11-51-LNG, DOE/FE Order No. 2986 (July 19, 2011).

Main Pass states that in recent orders granting long-term authorization to export LNG to FTA countries, the DOE has found that the applicants were not required to submit, with their applications, transaction-specific information, as specified in section 590.202(b) of DOE's regulations.⁵ Main Pass requests that DOE make the same finding in this case, i.e. that it is appropriate for Main Pass to submit additional specific information "when practicable" to enable Main Pass to proceed with securing customer agreements and developing the required offshore deepwater port facilities.

Main Pass states that Section 3(c) of the NGA requires that applications for authorization to export natural gas, including LNG, to any nation "with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest" and "shall be granted without modification or delay."⁶ Main Pass states this Application falls within the scope of Section 3(c) and should be processed and approved in accordance with this standard.

Main Pass states that the MPEH received a favorable Record of Decision issued by the U.S. Maritime Administration (MARAD) in January 2007 as a Deepwater Port for the importation and regasification of LNG, conditioning of natural gas, and storage of natural gas in salt caverns.⁷ Main Pass states that it is performing scoping studies to determine 1) those Federal, state or local agencies that need to be involved in National Environmental Policy Act (NEPA) environmental reviews, and 2) the incumbent additional studies that need to be performed in conjunction with the construction and modification of offshore platform facilities and the associated use of FLSO vessels for the MPEH Deepwater Port. Main Pass states that following DOE's issuance of the long-term export authorization requested in this Application,

⁵ 15 U.S.C. 717b(c).

⁶ id

⁷ See http://www.marad.dot.gov/ports_landing_page/deepwater_port_licensing/dwp_current_ports/dwp_current_ports.htm

Main Pass will initiate the pre-filing review process at MARAD for the proposed Project facilities. Main Pass anticipates that MARAD will act as the lead agency for the NEPA environmental review, with DOE acting as a cooperating agency.⁸ Main Pass requests that DOE issue an order approving the Application, with such approval subject to the environmental assessment and issuance of a license by MARAD for the MPEH Deepwater Port.

FINDINGS

(1) Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that applications to authorize (a) the import and export of natural gas, including LNG, from and to a nation with which there is in effect a FTA requiring national treatment for trade in natural gas, and (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without modification or delay. The instant Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the Application without modification or delay.⁹

(2) In light of DOE's statutory obligation to grant the Application without modification or delay, this grant of authority will not be conditioned on completion of an environmental review and issuance of a license by MARAD for the MPEH Deepwater Port, which had been requested by Main Pass.

(3) The countries with which the United States has an FTA requiring national treatment for trade in natural gas currently are: Australia, Bahrain, Canada, Chile, Colombia, Dominican

⁸ Section 312 of the *Coast Guard and Maritime Transportation Act of 2012* [H.R. 2838], signed into law by President Barack Obama on December 20, 2012, amends the definition of "deepwater port" in section 3(9)(A) of the Deepwater Port Act of 1974 (33 USC 1502(A)(9)) in order to include in the definition manmade deepwater structures used to export natural gas "from" any state. Prior to its amendment, the definition only included such structures used to import natural gas "to" any state.

⁹ DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 CFR Part 590, are applicable only to applications seeking to export natural gas, including LNG, to countries with which the United States does not have a FTA requiring national treatment for trade in natural gas.

Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore.

(4) DOE/FE addressed the issue of agency rights in *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE Order No. 2913 (Order 2913), issued February 10, 2011. In Order 2913, DOE/FE approved a proposal by Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC (collectively, FLEX) to register each LNG title holder for whom FLEX sought to export LNG as agent. This proposal was an acceptable alternative to the non-binding policy adopted by DOE/FE in *Dow Chemical*,¹⁰ which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export. We find that the same policy considerations that supported DOE/FE's acceptance of the alternative registration proposal in Order 2913 apply here as well. Accordingly, the authorization granted herein shall require that where Main Pass proposes to export as agent for others, Main Pass will register those companies in accordance with the procedures and requirements described herein.

DOE/FE reiterated its policy on Agency Rights procedures in *Gulf Coast LNG Export, LLC*.¹¹ In *Gulf Coast*, DOE/FE confirmed that in LNG export orders in which Agency Rights have been granted that it shall require registration materials filed for, or by, an LNG title-holder (Registrant) to include the same company identification information and long-term contract information of the Registrant as if the Registrant had filed an application to export LNG on its own behalf.

(5) Section 590.202(b) of DOE's regulations requires applicants to supply transaction specific factual information "to the extent practicable." Additionally, DOE regulations at 10

¹⁰ *The Dow Chemical Company*, DOE/FE Opinion and Order No. 2859 (FE Docket No. 10-57-LNG), October 5, 2010, at p. 7 and 8.

¹¹ *Gulf Coast LNG Export, LLC (Gulf Coast)*, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel from the Proposed Port of Brownsville, Texas, Terminal to Free Trade Agreement Nations, DOE/FE Order No. 3163, FE Docket No. 12-05-LNG, October 16, 2012.

CFR part 590.202(e) allow confidential treatment of the information supplied in support of or in opposition to an application if the submitting party requests such treatment, shows why the information should be exempted from public disclosure, and DOE determines it will be afforded confidential treatment in accordance with 10 CFR 1004.11.

(6) In the Application, Main Pass states it will file under seal with DOE/FE any relevant long-term commercial agreements between Main Pass and a Registrant once they have been executed. In addition, DOE/FE will require that Main Pass will cause to be filed with DOE/FE any subsequent relevant long-term commercial agreements entered into by a Registrant, once they have been executed. DOE/FE finds that the submission of these contracts within 30 days of their execution using the procedures described below will be consistent with the “to the extent practicable” requirement of section 590.202(b). By way of example and without limitation, a “relevant long-term commercial agreement” would include an agreement with a minimum term of two years such as a long-term sales contract involving natural gas or LNG stored or liquefied at the MPEH Deepwater Port, an agreement to provide gas processing or liquefaction services at the MPEH Deepwater Port, or an agreement to provide export services from the MPEH Deepwater Port.

(7) DOE/FE also will require Main Pass to file any long-term contracts Main Pass enters into providing for the long-term export of LNG on its own behalf from the MPEH Deepwater Port. DOE/FE finds that the submission of these contracts within 30 days of their execution using the procedures described below will be consistent with the “to the extent practicable” requirement of section 590.202(b).

(8) In addition, DOE/FE finds that section 590.202(b) requires that Main Pass file, or cause to be filed, all long-term contracts associated with the long-term supply of natural gas to

the MPEH Deepwater Port within 30 days of their execution that either Main Pass or the Registrant enters into.

(9) DOE/FE recognizes that some information in Main Pass's or a Registrant's long-term commercial agreements associated with the export of LNG, and long-term contracts associated with the long-term supply of natural gas to the MPEH Deepwater Port may be commercially sensitive. DOE will therefore require that (A) when Main Pass files, or causes to be filed, such a long-term contract under seal, that it also file either: i) a copy of each long-term contract with commercially sensitive information redacted, or ii) a summary of all major provisions of the contract(s) including, but not limited to, the parties to each contract, contract term, quantity, any take or pay or equivalent provisions/conditions, destinations, re-sale provisions, and other relevant provisions; and (B) the filing must demonstrate why the redacted information should be exempted from public disclosure.

ORDER

Pursuant to section 3 of the NGA, it is ordered that:

A. Main Pass is authorized to export domestically produced LNG by vessel from the proposed MPEH Deepwater Port off the southeast coast of Louisiana, up to the equivalent of 1,175 Bcf/y of natural gas for a 30-year term, beginning on the earlier of the date of first export or 8 years from the date the authorization is issued (January 4, 2021), pursuant to one or more long-term contracts with third parties that do not exceed the term of this authorization.

B. This LNG may be exported to Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore, and to any nation that the United States

subsequently enters into a FTA requiring national treatment for trade in natural gas, provided that the destination nation has the capacity to import ocean going vessels. FTA countries are currently identified by DOE/FE at:

<http://www.fossil.energy.gov/programs/gasregulation/index.html>.

C. Main Pass shall ensure that all transactions authorized by this order are permitted and lawful under U.S. laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the United States Department of the Treasury. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. Main Pass shall file, or cause to be filed, with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term export of LNG on its own behalf or as agent for or on behalf of others, from the proposed MPEH Deepwater Port, including both a non-redacted copy filed under seal and either: i) a redacted version of the contract, or ii) major provisions of the contract, for public posting, within 30 days of their execution. Applying the same procedures, Main Pass shall file, or cause to be filed, with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term supply of natural gas to the proposed MPEH Deepwater Port, both un-redacted under seal, and either: i) a redacted version of the contract, or ii) major provisions of the contract, for public posting within 30 days of their execution. In these filings, Main Pass shall show why the redacted or non-disclosed information should be exempted from public disclosure.

E. Main Pass shall include the following provision in any contract for the sale or transfer of LNG exported pursuant to this Order:

"Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries identified in Ordering Paragraph B of DOE/FE Order No. 3220 issued January 4, 2013 in FE Docket No. 12-114-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such LNG to such countries. Customer or purchaser further commits to cause a report to be provided to Main Pass that identifies the country of destination, upon delivery, into which the exported LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that Main Pass is made aware of all such actual destination countries."

F. Main Pass is permitted to use its authorization in order to export LNG on behalf of or as agent for others, after registering the other party with DOE/FE. Registration materials shall include an acknowledgement and agreement by the registrant to supply Main Pass with all information necessary to permit Main Pass to register that person or entity with DOE/FE, including: (1) the registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 CFR part 590, including but not limited to destination restrictions; (2) the exact legal name of the registrant, state/location of incorporation/registration, primary place of doing business, and the registrant's ownership structure, including the ultimate parent entity if the registrant is a subsidiary or affiliate of another entity; (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the registrant to whom inquiries may be directed; (4) within 30 days of execution, a copy, of any long-term contracts, not previously filed with DOE/FE, described in Ordering paragraph (D) of this Order, including both a non-redacted copy for filing under seal and either: i) a redacted version of the contract, or ii) major provisions of the contract, for public posting.

G. Each registration submitted pursuant to this Order shall have current information on file with DOE/FE. Any changes in company name, contact information, change in term of the long-term contract, termination of the long-term contract, or other relevant modification, shall be filed with DOE/FE within 30 days of such change(s).

H. Within two weeks after the first export of domestically produced LNG occurs from the proposed MPEH Deepwater Port off the southeast coast of Louisiana, Main Pass shall provide written notification of the date that the first export of LNG authorized in Order Paragraph A above occurred

I. Main Pass shall file with the Office of Natural Gas Regulatory Activities, on a semi-annual basis, written reports describing the progress of the proposed liquefaction facility project. The reports shall be filed on or by April 1 and October 1 of each year, and shall include information on the progress of the proposed MPEH Deepwater Port off the southeast coast of Louisiana, the date the facility is expected to be operational, and the status of the long-term contracts associated with the long-term export of LNG and any long-term supply contracts.

J. Monthly Reports: With respect to the LNG exports authorized by this Order, Main Pass shall file with the Office of Natural Gas Regulatory Activities, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made. The first monthly report required by this Order is due not later than the 30th day of the month following the month of first export. In subsequent months, if exports have not occurred, a report of "no activity" for that month must be filed. If exports of LNG have occurred, the report must give the following details of each LNG cargo: (1) the name(s) of the authorized exporter registered with DOE/FE; (2) the name of the U.S. export terminal; (3) the name of the LNG tanker; (4) the date of departure from the U.S. export terminal; (5) the country of destination; (6)

the name of the supplier/seller; (7) the volume in Mcf; (8) the price at point of export per million British thermal units (MMBtu); (9) the duration of the supply agreement (indicate spot sales); and (10) the name(s) of the purchaser (s).

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

K. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Natural Gas Regulatory Activities, P.O. Box 44375, Washington, D.C. 20026-4375, Attention: Natural Gas Reports. Alternatively, reports may be e-mailed to ngrreports@hq.doe.gov, or may be faxed to Natural Gas Reports at (202) 586-6050.

Issued in Washington, D.C., on January 4, 2013.



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