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

REQUEST FOR
APPROVAL OF CHANGE IN CONTROL

IN

DOE/FE ORDER NOS.
2913, 2913-A, 3066, 3066-A, 3282, 3282-A, 3282-B, 3357 and 3357-A

IN

FE DOCKET NOS. 10-160-LNG, 10-161-LNG, 12-06-LNG and 11-161-LNG

BY

FREEMPORT LNG EXPANSION, L.P., FLNG LIQUEFACTION, LLC, FLNG
LIQUEFACTION 2, LLC AND FLNG LIQUEFACTION 3, LLC

Dated: July 3, 2014

July 3, 2014

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**REQUEST FOR
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**I.
INTRODUCTION**

Freeport LNG Expansion, L.P., FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC and FLNG Liquefaction 3, LLC (collectively, "FLEX") have filed four applications with the Department of Energy, Fossil Energy ("DOE/FE") for long-term export of domestically sourced liquefied natural gas ("LNG") from the Freeport LNG Terminal at Quintana Island, Texas. Two of these applications, in DOE/FE Docket Nos. 10-160-LNG and 12-06-LNG, are for LNG exports to countries with which the United States has Free Trade Agreements ("FTA") providing for national treatment for trade in natural gas. The two FTA applications were approved by DOE/FE in DOE/FE Order Nos. 2913 and 3066.¹ The other two applications, in DOE/FE Docket Nos. 10-161-LNG and 11-161-LNG, are for exports to countries with which the United States does not have a FTA ("non-FTA"). The two non-FTA applications were conditionally granted on May 17, 2013, in DOE/FE Order No. 3282, and on November 15, 2013, in DOE/FE Order No. 3357. DOE/FE subsequently amended the foregoing FTA orders and non-FTA conditional orders in DOE/FE Order Nos. 2913-A, 3066-A, 3282-A, 3282-B and 3357-A.²

FLEX respectfully requests that DOE/FE expeditiously approve the below described proposed changes in control of the upstream ownership of FLNG Liquefaction, LLC ("FLIQ1")

¹ *Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations*, DOE/FE Order No. 2913 (FE Docket No. 10-160-LNG), February 10, 2011; DOE/FE Order No. 2913-A, February 7, 2014; *Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal to Free Trade Agreement Nations*, DOE/FE Order No. 3066 (FE Docket No. 12-06-LNG), February 10, 2012; DOE/FE Order No. 3066-A, February 7, 2014

² *Application of Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC for Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries*, DOE/FE Order No. 3282 (FE Docket No. 10-161-LNG), December 17, 2010. *Application of Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC for Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Countries*, DOE/FE Order No. 3357 (FE Docket No. 11-161-LNG), December 19, 2011. [DOE/FE Order No. 3282-A, February 7, 2014; DOE/FE Order No. 3282-B, June 6, 2014 and DOE/FE Order No. 3257-A, June 6, 2014.

and FLNG Liquefaction 2, LLC (“FLIQ2”). The contemplated indirect changes in control are necessary components of the financing of the FLEX project. The DOE/FE approval sought herein is critically time sensitive and is required to complete satisfactory financing of the FLEX LNG export facilities anticipated to occur early in the fourth quarter of 2014.

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II. **DESCRIPTION OF TRANSACTIONS**

The FLEX LNG export project will liquefy and export domestically sourced natural gas to both FTA and non-FTA countries. The FLEX export facilities will initially include three liquefaction trains:

- FLIQ1 will own the initial liquefaction train (“Train 1”), and has entered into a long-term liquefaction tolling agreement (“LTA”) with each of Osaka Gas Co., Ltd (“Osaka Gas”) and Chubu Electric Power Co., Inc. (“Chubu Electric”) that will commence upon achieving commercial operation of Train 1.
- FLIQ2 will own the second liquefaction train (“Train 2”), and has entered into an LTA with BP Energy Company (“BP”) that will commence upon achieving commercial operation of Train 2.
- FLNG Liquefaction 3, LLC (“FLIQ3”) will own the third liquefaction train (“Train 3”), and has entered into an LTA with each of Toshiba Corporation and SK E&S LNG, LLC that will commence upon achieving commercial operation of Train 3.

The capital costs for the construction of each of Train 1, Train 2 and Train 3 will be separately financed by FLIQ1, FLIQ2 and FLIQ3, respectively, with equity and debt financing provided by third parties. Financial close for FLIQ1 and FLIQ2 and the start of construction of Train 1 and Train 2 will be simultaneous, and is anticipated to occur early in the fourth quarter of

2014. Financial close for FLIQ3 and the start of construction of Train 3 is anticipated to occur 6 to 9 months following the financial close for FLIQ1 and FLIQ2.

FLIQ1

The FLIQ1 debt requirements will be provided by the Japan Bank for International Cooperation (“JBIC”) and a consortium of commercial banks. The approximately \$1.2 billion in FLIQ1 equity requirements for Train 1 will be provided 50% each by Osaka Gas and Chubu Electric through to-be-formed wholly-owned U.S. subsidiaries of each of them (the Osaka Gas subsidiary, “Osaka Gas Member” and the Chubu Electric subsidiary, “Chubu Member”), in exchange for an ownership interest for each of such Osaka Gas Member and Chubu Member in FLIQ1’s 100% parent company, FLIQ1 Holdings, LLC (“FLIQ1 Holdings”). The remaining ownership interest in FLIQ1 Holdings will be retained by its current parent, Freeport LNG Expansion, L.P. (“Freeport Expansion”).

Osaka Gas and Chubu Electric are two of the largest utilities and LNG end users in Japan. Additional information regarding Osaka Gas and Chubu Electric is available at <http://www.osakagas.co.jp/en/> and <http://www.chuden.co.jp/english/>, respectively.

Following the new equity investments by Osaka Gas Member and Chubu Member in FLIQ1 Holdings, all votes with respect to FLIQ1 Holdings and indirectly, FLIQ1, will require the unanimous consent of Freeport Expansion, Osaka Gas Member and Chubu Member (or at least one appointee of each of them to the Board of Managers of FLIQ1 Holdings). Consequently, this voting control will grant each of Freeport Expansion, Osaka Gas Member and Chubu Member equal power to direct the management and policies of FLIQ1. Foreign ownership in U.S. LNG export facilities is not inconsistent with the public interest. As the DOE/FE has previously determined, while foreign direct investment “...may be used to finance purchases of natural gas for export as LNG and the construction of LNG liquefaction and export facilities, we are not persuaded the inflow of foreign capital for these purposes would be inconsistent with the public interest....”³

FLIQ2

The FLQ2 debt requirements will be sourced from the U.S. project finance bank markets. The approximately \$1.3 billion in FLIQ2 equity requirements for Train 2 will be provided by the IFM Global Infrastructure Fund (“IFM”), a global infrastructure fund advised by IFM Investors, in exchange for an ownership interest in FLIQ2’s 100% parent company, FLIQ2 Holdings, LLC (“FLIQ2 Holdings”). The remaining ownership interest in FLIQ2 Holdings will be retained by its current parent, Freeport Expansion.

³ *Jordon Cove Energy Project, L.P., Order conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from Jordon Cove LNG Terminal in Coos Bay, Oregon to Non-Free Trade Nations*, DOE/FE Order No. 3413 at p. 120.

IFM Investors, a global fund manager with nearly US\$50 billion in funds under management across infrastructure, debt, listed equities and private equity, is one of the biggest infrastructure investors in the world, with nearly US\$18 billion of infrastructure assets under management. Established over 20 years ago, it is owned by 30 major not-for-profit pension funds, with investments in the United States, Australia and Europe. The capital investment in FLIQ2 will be owned by some of the largest pension funds globally, including 5 of the top 10 U.S. public pension funds. Additional information regarding IFM Investors is available at <http://www.ifminvestors.com/us/home>.

Following the new equity investment by IFM in FLIQ2 Holdings, voting control of FLIQ2 Holdings and indirectly, FLIQ2, all votes with respect to FLIQ2 Holdings and, indirectly, FLIQ2, will require the unanimous consent of Freeport Expansion and IFM. Consequently, this voting control will grant each of Freeport Expansion and IFM equal power to direct the management and policies of FLIQ2.

FLIQ3

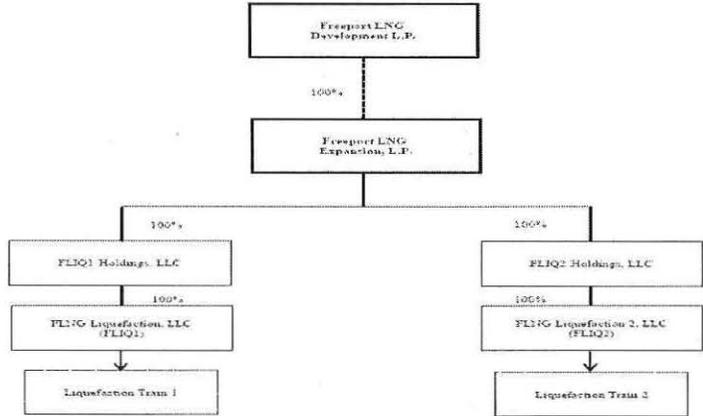
As financial close for FLIQ3 and the start of construction of Train 3 is anticipated to occur 6-9 months following financial close by FLIQ1 and FLIQ2, the source of debt and equity funding for FLIQ3's capital costs for construction of Train 3 has not yet been finalized. To the extent that the structure of such funding would result in a change in control of the ownership of FLIQ3 requiring DOE/FE prior approval, a subsequent request to DOE/FE for approval of such change will be made.

Freeport LNG Terminal Operations and Export Administration

Operation and maintenance of the Freeport LNG facilities (both regasification and liquefaction) will continue to be under the control of the existing owner/operator of the facility, Freeport LNG Development, L.P. ("Freeport Development") through various contractual arrangements with and among FLIQ1, FLIQ2 and FLIQ3. Freeport Development is the ultimate 100% parent of Freeport Expansion. No change in control is occurring with respect to Freeport Development or Freeport Expansion. It is intended that Freeport Expansion will be the single point of contact with DOE/FE with respect to reporting and administration under the FTA and non-FTA export authorizations for the FLEX export project.

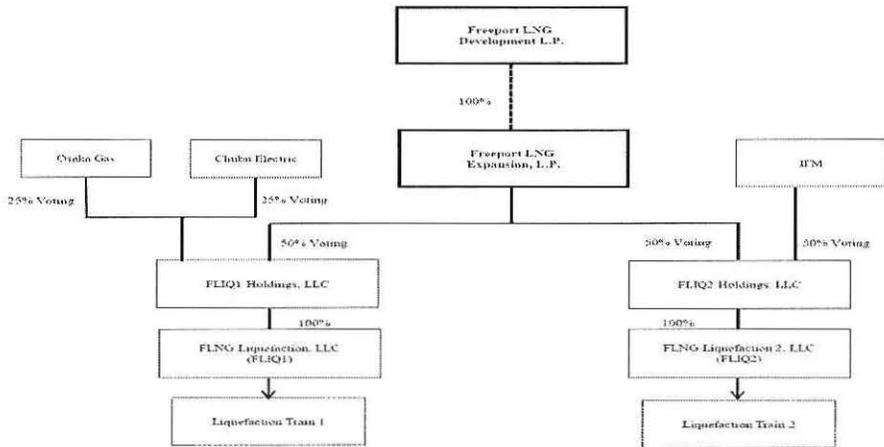
Description of Current Control Structure of Authorization Holders

The following structure chart illustrates the current ownership of control of Freeport Expansion, FLIQ1 and FLIQ2.



Description of Post-Financing Control Structure of Authorization Holders

The following structure chart illustrates the post-financing control structure of Freeport Expansion, FLIQ1 and FLIQ2. No change is occurring with respect to the ownership of Freeport Expansion or Freeport Development.



III.
REQUIREMENT FOR APPROVAL OF CHANGE IN CONTROL OF EXPORT
AUTHORIZATIONS

Pursuant to section 3 of the Natural Gas Act (“NGA”)⁴ and section 590.405 of the Department of Energy’s (“DOE”) regulations,⁵ authorization to “export natural gas shall not be transferable or assignable unless specifically authorized by the Assistant Secretary.” FLEX does not propose to transfer or assign any of the authorizations in DOE/FE Order Nos. 2913, 2913-A, 3066, 3066-A, 3282, 3282-A, 3282-B, 3357 or 3357-A. However, in DOE/FE Order Nos. 3282 and 3357, DOE expressly requires prior approval by the Assistant Secretary for Fossil Energy for any change in control of an authorization holder. In Ordering Paragraph N of each of those two DOE/FE Orders, a change in control was defined as including “any change, directly or indirectly, of the power to direct the management or policies of” Freeport Expansion or FLIQ1.⁶⁷

IV.
STANDARD OF REVIEW
PUBLIC INTEREST STANDARD

DOE/FE reviews applications to transfer control of a DOE/FE export authorization using the public interest standard under section 3 of the NGA.⁸ DOE/FE will approve an application unless it determines that the requested transfer or assignment is not consistent with the public interest.⁹ This does not, however, mean that the public interest finding in the underlying orders is subject to re-evaluation. Where, as in these FLEX financing transactions, “the transfer does not effect [sic] the terms and condition of the underlying...arrangement, the DOE can rely on its previous determinations regarding that arrangement when considering the transfer application.”¹⁰

Section 3(c) of the NGA requires that applications for authorization to export natural gas, including LNG, to nations with which there is in effect an FTA requiring national treatment for trade in natural gas be deemed consistent with the public interest and granted without

⁴ 15U.S.C. § 717b (2010)

⁵ 10 C.F.R. § 590.405 (2013)

⁶ DOE/FE Order No. 3282, p. 125; DOE/FE Order No. 3357, p. 168. [DOE/FE Orders Nos. 2913 and 3066 did not contain similar conditions in their ordering paragraphs.]

⁷ Under DOE/FE Order No. 3282-A, DOE/FE authorized the addition of FLIQ2 and FLIQ3 as additional authorization holders under DOE/FE Order No. 3282.

⁸ *Nw. Pipeline Corp.*, DOE Opinion & Order No. 664, 1 FE 4J 70,683, at 3-4 (1992), reh’g denied, DOE/FE Opinion & Order No. 664-A, 1 FE 170,656, order terminating long-term authorization, DOE/FE Order No. 664-B, 1 FE71,047 (1994), order amending authorization, DOE/FE Order No. 664-C (1999); *Consumer Power Co.*, DOE Opinion & Order No. 390, 1 FE 70,310 (1990) *order terminating authorization*, DOE/FE Order no. 390-B (1995).

⁹ See, e.g., *Brooklyn Union Gas Co.*, DOE Opinion & Order No. 561, 1 FE70,515, at 4, 8 (1991), reh’g denied, DOE/FE Opinion & Order No. 561-A (1992).

¹⁰ *Supra*, *Brooklyn Union Gas Co.* at p. 7.

modification or delay.¹¹ The DOE/FE has found that, in light of its statutory obligation to grant such applications without modification or delay, there is no need for the DOE/FE to engage in any analysis of factors affecting the public interest.¹² Obviously this is applicable to the two FTA dockets and authorizations DOE/FE Order Nos. 2915 and 3066. Likewise, DOE/FE has already determined in the FLEX conditional Non-FTA authorizations, DOE/FE Order Nos. 3282 and 3357, that the proposed Non-FTA exports are not inconsistent with the public interest.¹³ There are no facts presented in this change in control application that should cause DOE/FE to alter its determination that the proposed FLEX Non-FTA exports are not inconsistent with the public interest. Thus, no new public interest analysis is required with respect to the proposed exports from the Freeport project.

Because the transactions described above are associated with the equity capital investments required to finance construction of the Train 1 and Train 2 export facilities, approval of the indirect changes in control of FLIQ1 and FLIQ2 is a pre-requisite to beginning construction and, ultimately, commencement of LNG exports. The change in control of FLIQ1 and FLIQ2 will not impact any of the terms and conditions of the FLEX authorizations. DOE/FE's determination that the proposed FLEX exports are not inconsistent with the public interest remains unchanged.¹⁴ As DOE/FE has previously found, "(s)ection 3 creates a statutory presumption in favor of approval of an export application, and the Department must grant the requested export extension unless it determines the presumption is overcome by evidence in the record of the proceeding that the proposed export will not be consistent with the public interest. Opponents of an application bear the burden of overcoming this presumption."¹⁵ Absent a substantial demonstration that DOE/FE's prior public interest determination has been rebutted, a request to approve a change in control must be granted.

Any party that challenges a request for approval of a change in control bears a heavy

¹¹ DOE/FE Order No. 2913, p. 5-6.

¹² See, e.g. Sabine Pass Liquefaction, LLC, DOE/FE Order No. 2833 (2010).

¹³ DOE/FE Orders Nos. 3282 and 3357.

¹⁴ *Great Lakes Gas Transmission LP*, DOE Opinion & Order No. 424 (1990); *Midwestern Gas Transmission Co.*, DOE Opinion & Order No. 318 (1989) ("Viking will succeed Midwestern as buyer under the contracts underlying the authorizations. In no other respect will the terms and conditions of these contracts change. Only the identity of the importer will change."); *Brooklyn Union Gas Co.*, DOE Opinion & Order No. 561, 1 FE 170,515 at 5-7 (1991); *Consumer Power Co.*, DOE Opinion & Order No. 390, 1 FE 170,310 (1990), order amending authorization, DOE/FE Order No. 390-A, 1 FE 170,997 (1994), order terminating authorization, DOE/FE Order No. 390-B (1995).

¹⁵ *Phillips Alaska Natural Gas Corp.*, DOE Opinion & Order No. 1473, 2 FE 170,317 at 13 (1999), order amending authorization, DOE/FE Order No. 1473-A (2008). See also *Brooklyn Union Gas Co.*, DOE Opinion & Order No. 561, 1 FE 170,515, at 6-7 (1991) (finding that protesters failed to rebut presumption that transfer and import was not inconsistent with the public interest); *Pipeline Corp.*, DOE/FE Opinion & Order No. 664, at 6-7 (Dec. 9, 1992) ("The burden of proof, however, belongs to [protesters] and they have failed to rebut DOE's previous finding, a finding which was based on circumstances that will not change as a result of the proposed transfer."); *Great Lakes Gas Transmission LP*, DOE Opinion & Order No. 424 (1990); *Nw. Pipeline Corp.*, DOE Opinion & Order No. 664, 1 FE 170,683 at 6-7 (1992) ("[T]he burden of proof, however, belongs to Producers and they have failed to rebut DOE's previous finding of need in Order 383, a finding which was based on circumstances that will not change as a result of the proposed transfer.")

burden of proof. It must prove that the record evidence demonstrates that the prior DOE/FE determinations that the exports are not inconsistent with the public interest have been rebutted. That is a particularly difficult burden where, as in this case, the proposed change in control will have no effect on any of the terms and conditions of the prior DOE/FE orders.

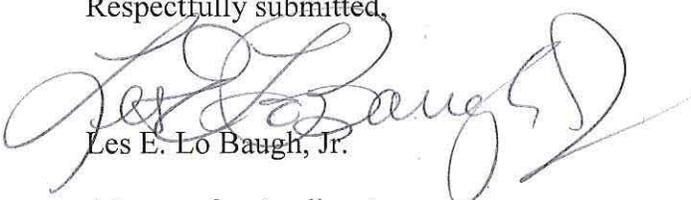
V.
ENVIRONMENTAL IMPACT

The proposed changes in control of FLIQ1 and FLIQ2 will not in any way change the nature, extent, location, or operations of the proposed FLEX liquefaction project facilities. Nor will approval of the changes in control result in any federal action significantly affecting the human environment within the meaning of the National Environmental Policy Act ("NEPA").¹⁶ The ongoing NEPA review, led by the Federal Energy Regulatory Commission with the DOE as a participating agency, will not be impacted. Hence, no additional NEPA review is required.

VIII.
CONCLUSION

The above described indirect changes in control of FLIQ1 and FLIQ2 will not change or undermine any aspect of the FLEX export authorizations. The changes in control also will not adversely impact the public interest in any regard, nor will they have any impact on the proposed liquefaction export facilities or the environment. However, these proposed changes in control will facilitate the realization of the significant benefits to be derived from the FLEX project. For the reasons set forth above, FLEX respectfully requests that DOE/FE expeditiously approve the above described change in control.

Respectfully submitted,


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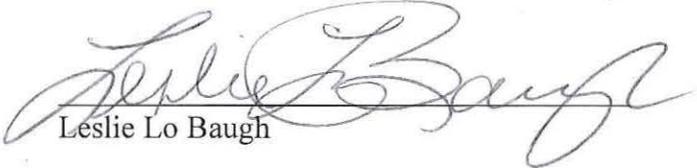
¹⁶ 42 U.S. C. 4321 et seq.

VERIFICATION

County of Los Angeles

State of California

I, Leslie Lo Baugh, being duly sworn on his oath, do hereby affirm that I am familiar with the contents of this Request for Approval of Change in Control and that the matters set forth therein are true and correct to the best of my knowledge, information and belief.


Leslie Lo Baugh

Sworn to and subscribed before me, a Notary Public, in and for the State of California, this 3rd day of July, 2014.


Patricia Cormier Herron, Notary Public



CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the parties on listed below in Docket Nos. 10-160 LNG, 10-161 LNG, 12-06 LNG and 11-161-LNG and DOE/FE for inclusion in the FE dockets in the above-referenced proceedings in accordance with 10 C.F.R. § 590.107(b)(2011).

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Dated at Los Angeles, California, this 3rd day of July, 2014.

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