UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT

NFE ALTAMIRA FLNG, S. DE R.L. DE C.V.	)	DOCKET NO. 22-110-LNG

ORDER GRANTING LONG-TERM AUTHORIZATION TO EXPORT NATURAL GAS TO MEXICO AND TO OTHER FREE TRADE AGREEMENT NATIONS

DOE/FECM ORDER NO. 4960

MARCH 3, 2023

I. DESCRIPTION OF REQUEST

On September 9, 2022, NFE Altamira FLNG, S. de R.L. de C.V. (NFE Altamira) filed an application (Application)[1] with the Office of Fossil Energy and Carbon Management (FECM)[2] of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA).[3] NFE Altamira states that it is submitting the Application in connection with the development of a floating liquefaction and export terminal project proposed by its affiliate, Mexico FLNG S. de R.L. de C.V. (Mexico FLNG).[4] This proposed facility, known as New Fortress Energy's Altamira FLNG Project (Project), will be located off the coast of Altamira Tamaulipas, Mexico, in the Gulf of Mexico.[5]

NFE Altamira requests long-term, multi-contract authorization to export U.S.-sourced natural gas to Mexico, and after liquefaction in Mexico, to other countries as described below, in a combined total volume equivalent to 158 billion cubic feet (Bcf) per year (Bcf/yr) of natural gas (0.43 Bcf per day (Bcf/d)).[6] NFE Altamira seeks to export this volume of natural gas for the following purposes:

(i) To use approximately 13 Bcf/yr (0.03 Bcf/d) in Mexico as "fuel in the liquefaction process and [] process gas loss during the pretreatment process;"[7]

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[1] NFE Altamira FLNG, S. de R.L. de C.V., Application for Long-Term, Multi-Contract Authorizations to Export Natural Gas to Mexico and to Re-Export Liquefied Natural Gas from Mexico to Free Trade Agreement and Non-Free Trade Agreement Nations, Docket No. 22-110-LNG (Sept. 9, 2022) [hereinafter NFE Altamira App.].
[2] The Office of Fossil Energy changed its name to the Office of Fossil Energy and Carbon Management on July 4, 2021.
[3] 15 U.S.C. § 717b. The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA has been delegated to the Assistant Secretary for FECM in Redelegation Order No. S4-DEL-FE1-2022, issued on June 13, 2022.
[4] NFE Altamira App. at 2.
[5] *Id*. at 2, 5, 18.
[6] *Id*. at 1.
[7] *Id*. at 5 (stating that the two liquefaction systems, described *infra* § II, will consume approximately 6.5 Bcf/yr of natural gas each, for a total of 13 Bcf/yr of natural gas) & n.13.

(ii) To use approximately 145 Bcf/yr of natural gas (0.40 Bcf/d) of natural gas in the proposed Project, where the U.S.-sourced natural gas will be liquefied, then re-exported[8] as LNG by vessel to:

(a) Any country with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries), under NGA section 3(c);[9] and

(b) Any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries), under NGA section 3(a).[10]

NFE Altamira further states that it seeks these authorizations "in order to re-export from Mexico U.S.-sourced natural gas for which it has acquired title in the United States, as well as U.S.-sourced volumes for which it acquires title in Mexico."[11]

According to NFE Altamira, the U.S.-sourced natural gas for which it has acquired title in the United States will be exported to Mexico at the United States-Mexico border via the existing border-crossing facilities of Valley Crossing Pipeline, LLC (Valley Crossing Pipeline), and potentially, cross-border natural gas pipelines that may be constructed in the future.[12] Additionally, NFE Altamira states that it may purchase U.S.-sourced natural gas in Mexico from upstream suppliers who have exported the natural gas from the United States (under the supplier's own FTA export authorization or under this requested authorization), with NFE Altamira acting as agent.[13] Once constructed, the Project will be capable of receiving,

[8] For purposes of this Order, "re-export" means to ship or transmit U.S.-sourced natural gas in its various forms (gas, compressed, or liquefied) subject to DOE's jurisdiction under the NGA, 15 U.S.C. § 717b, from one foreign country (*i.e.*, a country other than the United States) to another foreign country.
[9] 15 U.S.C. § 717b(c). The United States currently has FTAs 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.
[10] 15 U.S.C. § 717b(a); *see* NFE Altamira App. at 2, 7.
[11] NFE Altamira App. at 2.
[12] *Id*. at 1 & n.5, 6.
[13] *Id*. at 5-6, 8-9; *see also infra* § II (Source of Supply).

processing, and liquefying the U.S.-sourced natural gas, storing the resulting LNG, and loading the LNG onto ocean-going LNG vessels for delivery to export destinations.[14]

NFE Altamira requests the FTA and non-FTA authorizations on a non-additive basis for a term to commence on the date of first export following the commencement of commercial operation of the Project, and extending through December 31, 2050.[15] Additionally, NFE Altamira requests these authorizations on its own behalf and as agent for other entities that hold title to the natural gas at the time it is exported to Mexico and/or to the U.S.-sourced natural gas at the time it is re-exported as LNG from Mexico.[16]

Pursuant to NGA section 3(c), this Order grants the FTA portion of NFE Altamira's Application. NFE Altamira is authorized to export natural gas to Mexico in the total requested volume of 158 Bcf/yr of natural gas, which includes export by pipeline (13 Bcf/yr) and re-export after liquefaction in Mexico to FTA countries (145 Bcf/yr). This Order includes authority for NFE Altamira to re-export U.S.-sourced natural gas in the form of LNG to FTA countries whether the U.S.-sourced natural gas is purchased in the United States or in Mexico, subject to the registration requirements set forth herein.[17]

The non-FTA portion of the Application—seeking authorization to re-export the U.S.-sourced natural gas in the form of LNG to non-FTA countries—will be reviewed pursuant to

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[14] *Id.* at 5-7.
[15] *Id.* at 2-3, 7. *See also* U.S. Dep't of Energy, Extending Natural Gas Export Authorizations to Non-Free Trade Agreement Countries Through the Year 2050; Notice of Final Policy Statement and Response to Comments, 85 Fed. Reg. 52,237 (Aug. 25, 2020) [hereinafter 2050 Policy Statement]. Additionally, effective January 12, 2021, long-term export authorizations contain authority to export the same approved volume of LNG pursuant to transactions with terms of less than two years, including commissioning volumes, on a non-additive basis. *See* U.S. Dep't of Energy, Including Short-Term Export Authority in Long-Term Authorizations for the Export of Natural Gas on a Non-Additive Basis; Policy Statement, 86 Fed. Reg. 2243 (Jan. 12, 2021).
[16] NFE Altamira App. at 2.
[17] For purposes of this Order, DOE refers to purchasing and acquiring title of U.S.-sourced natural gas interchangeably.

NGA section 3(a) and addressed in a separate order.[18]

II. BACKGROUND

Applicant. NFE Altamira is a Mexican trading company with its principal place of business in Mexico City (Lomas de Chapultepec, Alcaldía Miguel Hidalgo), Mexico. NFE Altamira states that it is an indirect wholly-owned subsidiary of New Fortress Energy Inc. (NFE), which has its principal place of business in New York, New York, and is publicly traded on the NASDAQ.[19] NFE formed NFE Altamira "for the purpose of sourcing natural gas from the United States for delivery to the Project for subsequent liquefaction and re-export."[20]

NFE Altamira states that its affiliate, Mexico FLNG, will own the proposed Project and is also an indirect wholly-owned subsidiary of NFE.[21]

Proposed Altamira FLNG Project. NFE Altamira states that "the proposed Project will be constructed and operated wholly within Mexico and its territorial waters"[22]—specifically, off the coast of Altamira Tamaulipas, Mexico, in the Gulf of Mexico.[23] Other than the potential for temporary construction staging areas, there will be no onshore facilities associated with the Project.[24]

NFE Altamira states that the proposed Project will be designed using a modular approach.[25] The Project will involve the installation of two nominal 1.4 million metric tons per annum (mtpa) liquefaction systems, known as FLNG1 and FLNG2 (collectively, FLNGs), for a

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[18] *See* NFE Altamira FLNG S. de R.L. de C.V., Application for Long-Term, Multi-Contract Authorization to Export Domestically Produced Natural Gas to Mexico and to Re-Export Liquefied Natural Gas from Mexico to Non-Free Trade Agreement Countries, 87 Fed. Reg. 60,667 (Oct. 6, 2022).
[19] NFE Altamira App. at 3.
[20] *Id*. at 4.
[21] *Id*. at 2, 4.
[22] *Id*. at 19 & n.53 (providing the coordinates of the Project).
[23] *Id*. at 5. NFE Altamira provides a map of the proposed location as Appendix D to the Application.
[24] *Id*. at 7.
[25] NFE Altamira App. at 5.

total nominal capacity of 2.8 mtpa of LNG.[26] Each FLNG will contain three platforms consisting of natural gas processing, natural gas liquefaction, and utilities and accommodations. FLNG1 will utilize self-elevating platforms, and FLNG2 (to be located adjacent to FLNG1) will utilize fixed platform structures.[27]

NFE Altamira states that the FLNGs will transfer the LNG produced onto a LNG carrier that will act as a Floating LNG Storage Unit (or FSU).[28] The FLNGs will be connected to the Floating LNG Storage Unit via a flexible, partially submerged, 220-meter cryogenic hose transfer system, which will be positioned approximately 107 meters (350 feet) from the FLNGs. NFE Altamira further states that the LNG will be loaded from the Floating LNG Storage Unit to ocean-going vessels for delivery to export countries.[29] According to NFE Altamira, LNG carriers are expected to call on the Project approximately 40 times annually.[30]

NFE Altamira states that it expects the construction and in-service of the Project to be completed in the first quarter of 2023, with re-exports commencing immediately thereafter.[31]

Planned Pipelines. NFE Altamira states that it has identified the Valley Crossing Pipeline, a Texas intrastate pipeline, as the proposed export point for natural gas from the United States.[32] Specifically, NFE Altamira states that the Valley Crossing Pipeline is a border-crossing facility approved by the Federal Energy Regulatory Commission (FERC), which "extends from a point in Texas state waters approximately 30 miles east of the City of Brownsville in Cameron County, Texas, to the international boundary with the State of Tamaulipas, Mexico, in the Gulf

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[26] *Id*. at 4-5 & n.10. NFE Altamira states that 2.8 mtpa of LNG is equivalent to 145 Bcf/yr of natural gas, the volume of U.S.-sourced natural gas proposed for re-export in the form of LNG. *See id*. at 7.
[27] *See id.* at 5.
[28] *Id*.
[29] *Id.*
[30] NFE Altamira App. at 7.
[31] *See id*. at 3, 7.
[32] *Id*. at 6.

of Mexico."[33] NFE Altamira states that the Valley Crossing Pipeline provides service to CFE International (CFE), a subsidiary of the Mexican Comisión Federal de Electricidad, which serves customers in Mexico. CFE currently holds 100% of the firm capacity on the Valley Crossing Pipeline.[34]

According to NFE Altamira, the Valley Crossing Pipeline originates at the Nueces Header pipeline system near Agua Dulce and has connectivity to approximately 10 intrastate and interstate pipelines.[35] NFE Altamira further states that the Valley Crossing Pipeline system has the capacity to deliver up to 2.6 Bcf/d of natural gas—"well in excess of the export quantities proposed herein"—from the Nueces Header to an offshore interconnect at the United States/Mexico international border with the Sur de Texas Tuxpan natural gas pipeline system in Mexico.[36]

NFE Altamira states that, in Mexico, the feed gas will be transported to the Project site via (i) the Sur de Texas Tuxpan offshore natural gas pipeline system, and (ii) a proposed pipeline lateral that will connect the Sur de Texas Tuxpan pipeline system to the Project.[37] NFE Altamira states that its affiliate, Mexico FLNG, will construct this pipeline lateral as part of the Project.[38]

Additionally, NFE Altamira requests authorization to export natural gas from new or expanded U.S. cross-border pipelines that may be constructed in the future, independent of the

[33] *Id*. at 6 & n.14 (citing *Valley Crossing Pipeline, LLC*, 161 FERC ¶ 61,084 (2017)).
[34] *Id*.; *see id.* at 9 n.17 (stating that CFE currently holds a blanket authorization, DOE/FECM Order No. 4662, issued on February 11, 2021, in Docket No. 21-16-NG, to import and export natural gas from and to Mexico). On February 16, 2023, DOE issued a new blanket authorization to CFE to import and export natural gas from and to Mexico for a two-year term commencing on May 1, 2023 (after Order No. 4662 expires). *See CFE Internat'l LLC*, DOE/FECM Order No. 4959, Docket No. 23-16-NG, Order Granting Blanket Authorization to Import and Export Natural Gas From and To Mexico (Feb. 16, 2023).
[35] NFE Altamira App. at 6 & n.15 (identifying connecting pipeline systems in the U.S. natural gas pipeline grid).
[36] *Id.* at 6.
[37] *Id*. at 7.
[38] *Id*.

Project, and that interconnect with the Sur de Texas Tuxpan offshore pipeline system.[39]

Source of Supply. NFE Altamira indicates that it plans to purchase U.S.-sourced natural gas to be delivered to the Project for liquefaction and re-export in two ways. First, NFE Altamira states that it will purchase natural gas in the United States for export to Mexico via the Valley Crossing Pipeline. NFE Altamira states that the Valley Crossing Pipeline, through its many interconnections with the U.S. pipeline grid, provides access to a wide diversity of natural gas supplies produced in the United States at multiple supply hubs.[40]

NFE Altamira states that it "may also purchase U.S.-sourced natural gas in Mexico from third-parties who have exported such gas from the United States, either pursuant to their own export authorizations or under the authorization requested herein, with [NFE Altamira] acting as agent."[41] DOE addresses this proposed export arrangement in more detail below.

Business Model. NFE Altamira states that it has not yet entered into long-term export agreements or finalized supply arrangements for the Project.[42] NFE Altamira adds that it is in the process of entering into commercial agreements with CFE for firm use of CFE's capacity on both the Valley Crossing Pipeline and the Sur de Texas Tuxpan offshore pipeline system.[43]

NFE Altamira requests this authorization on its own behalf and as agent for other entities that hold title to the natural gas and/or LNG at the time of export or re-export, respectively.[44] NFE Altamira further states that, when acting as agent, it will register with DOE each natural gas or LNG title holder for which it seeks to export natural gas or re-export LNG as agent, and will comply with other registration requirements as set forth in recent DOE orders.[45] In particular,

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[39] *Id.* at 6; *see also id*. at 1 n.5, 8.
[40] *Id*. at 5, 9.
[41] *Id*. at 5-6.
[42] NFE Altamira App. at 9.
[43] *Id*. at 6.
[44] *Id*. at 2, 8.
[45] *Id.* at 8.

NFE Altamira anticipates that, "[t]hrough its affiliates," it "will purchase and transport natural gas, offload produced LNG into an [Floating LNG Storage Unit], and transload such LNG onto ocean going LNG carriers for distribution to downstream terminals or third-party carriers."[46] NFE Altamira states that, consistent with DOE's practice, it will file any transaction-specific long-term contracts with DOE as they are finalized.[47]

III. DISCUSSION REGARDING REGISTRATION REQUIREMENTS FOR U.S.-SOURCED NATURAL GAS PURCHASED IN MEXICO

As noted above, NFE Altamira requests authority to re-export from Mexico both U.S.-sourced natural gas "for which it has acquired title in the United States, as well as U.S.-sourced volumes for which it acquires title in Mexico."[48] In support of this request, NFE Altamira asks DOE for clarification of its registration requirements under both supply options—whether the U.S.-sourced natural gas is purchased (and title acquired) in the United States prior to export, or in Mexico after export from the United States by an "upstream supplier."[49] Specifically, NFE Altamira asks DOE "to affirm that, consistent with prior authorizations granted under similar circumstances," DOE's registration requirements "will apply only in circumstances where [NFE Altamira] exports natural gas from the United States or re-exports LNG from Mexico on behalf of an entity that holds title to the natural gas or LNG at the time that [NFE Altamira] exports it or re-exports it, respectively."[50]

Upon further review of this issue—and taking into account the recent growth and development of the Mexico re-export market[51]—DOE has determined that it is necessary to

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[46] *Id*. at 10.
[47] *Id*.
[48] NFE Altamira App. at 2; *see also id*. at 8-9.
[49] *Id*. at 8-9.
[50] *Id*. at 9.
[51] Since 2018, DOE has granted approval for the following authorization holders to export U.S.-sourced natural gas to Mexico to be liquefied and re-exported in the form of LNG from Mexico to both FTA and non-FTA countries

expand its position concerning the registration requirements that apply when an applicant is proposing to purchase U.S.-sourced natural gas, whether in the United States or Mexico, for re-export.

The registration requirements set forth in this Order will apply to NFE Altamira whether the U.S.-sourced natural gas to be liquefied for re-export is purchased (and title acquired) by NFE Altamira either in the United States or in Mexico. Thus, the registration requirements set forth in this Order will apply in each of the following scenarios:

> (i) Where NFE Altamira exports U.S.-sourced natural gas from the United States or re-exports it in the form of LNG from Mexico on behalf of an entity that holds title to the natural gas or LNG at the time that NFE Altamira exports it or re-exports it, respectively, and
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> (ii) Where the U.S.-sourced natural gas is exported to Mexico by a person or entity other than NFE Altamira (*i.e.*, by an upstream supplier) pursuant to a different DOE authorization, and NFE Altamira purchases this exported natural gas in Mexico for re-export.[52]

DOE reaffirms that registration will not be required for purchases of natural gas produced in Mexico (*i.e.*, where the natural gas is Mexican-sourced, not U.S.-sourced).[53]

DOE finds that this broader approach to registration—whereby registration is required regardless of the country in which the U.S.-sourced natural gas is purchased and title acquired—is necessary to ensure consistency and accuracy in the Mexico re-export market. If DOE's registration requirements applied only where the U.S.-sourced natural gas were purchased in the

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under numerous export authorizations: Mexico Pacific Limited, LLC; ECA Liquefaction, S. de R.L. de C.V. (ECA Mid-Scale Project); Energía Costa Azul, S. de R.L. de C.V. (ECA Large-Scale Project); Epcilon LNG LLC; Vista Pacifico LNG, S.A.P.I. de C.V.; and now NFE Altamira. To date, none of these authorization holders have yet commenced exports, but ECA Liquefaction has commenced construction of the ECA Mid-Scale Project Phase 1.

[52] Registration is only required of the upstream supplier that exports the U.S.-sourced natural gas to Mexico, not of any intermediate seller(s) of the U.S.-sourced natural gas in Mexico.

[53] *See*, *e.g.*, *Energía Costa Azul, S. de R.L. de C.V.*, DOE/FECM Order No. 4365-B, Docket No. 18-145-LNG, Order Amending Long-Term Authorization to Re-Export U.S.-Sourced Natural Gas in the Form of Liquefied Natural Gas from Mexico to Non-Free Trade Agreement Nations (ECA Large-Scale Project), at 76 n.391 (Dec. 20, 2022), https://www.energy.gov/sites/default/files/2022-12/ord4365-B_0.pdf.

United States (prior to export to Mexico), then DOE would have no insight into U.S.-sourced natural gas exported to Mexico by an upstream supplier (under a separate FTA authorization) and purchased in Mexico—even though the U.S.-sourced natural gas in both scenarios would be delivered to the proposed Project for liquefaction and re-export. DOE finds that ensuring consistency across its registration requirements for U.S.-sourced natural gas is consistent with the public interest. With this greater visibility into movements of U.S.-sourced natural gas, DOE will be able to monitor most accurately the volumes of U.S.-sourced natural gas exported to Mexico, whether for consumption in Mexico or for re-export in the form of LNG from Mexico to other FTA countries.

IV. 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 requesting authority for (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/or (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without modification or delay. The FTA portion of NFE Altamira's Application —requesting authorization to export natural gas from the United States to Mexico and, after liquefaction in Mexico, to re-export a portion of the U.S.-sourced natural gas (whether purchased in the United States or Mexico) in the form of LNG to other FTA countries—falls within section 3(c), as amended. Therefore, DOE grants the requested FTA authorization without modification or delay.[54]

[54] DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 C.F.R. Part 590, are applicable only to applications seeking to export natural gas, including LNG, to non-FTA countries.

(2) In light of DOE's statutory obligation to grant the FTA portion of this Application without modification or delay, there is no need for DOE to review other arguments asserted by NFE Altamira in support of the Application. The instant grant of authority should not be read to indicate DOE's views on those arguments or on NFE Altamira's pending request for non-FTA export authorization.

(3) The countries with which the United States has a FTA requiring national treatment for trade in natural gas currently are: Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore.

(4) NFE Altamira requests authorization to export natural gas and re-export LNG from U.S.-sourced natural gas (whether purchased in the United States or Mexico) on its own behalf and as agent for other entities that hold title to the natural gas or LNG at the time of export or re-export, respectively. DOE previously addressed the issue of Agency Rights in DOE/FE Order No. 2913,[55] which granted Freeport LNG Expansion, L.P., *et al.* (collectively, FLEX) authority to export LNG to FTA countries. In that order, DOE approved a proposal by FLEX to register each LNG title holder for whom FLEX sought to export LNG as agent. DOE found that this proposal was an acceptable alternative to the non-binding policy adopted by DOE in *The Dow Chemical Company*,[56] which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export. DOE finds that the same policy

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[55] *Freeport LNG Expansion, L.P., et al.,* DOE/FE Order No 2913, Docket No. 10-160-LNG, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011).

[56] *The Dow Chemical Company*, DOE/FE Order No. 2859, Docket No. 10-57-LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas, at 7-8 (Oct. 5, 2010), discussed in *Freeport LNG*, DOE/FE Order No. 2913, at 7-8.

considerations that supported DOE's acceptance of the alternative registration proposal in DOE/FE Order No. 2913 apply here as well.

DOE has reiterated its policy on Agency Rights procedures in other authorizations, including *Cameron LNG, LLC*, DOE/FE Order No. 3680.[57] In that order, DOE determined that, in LNG export orders in which Agency Rights have been granted, DOE 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.[58]

To ensure that the public interest is served, the authorization granted herein shall require that, where NFE Altamira proposes to export natural gas as agent for other entities (Registrants) that hold title to the natural gas at the time of export to Mexico and/or to the U.S.-sourced natural gas at the time it is re-exported from Mexico as LNG (whether the U.S.-sourced natural gas is purchased in the United States or Mexico), NFE Altamira must register those entities with DOE in accordance with the procedures and requirements described herein, including in Section III of this Order.

(5) Section 590.202(b) of DOE's regulations requires applicants to supply transaction-specific factual information "to the extent practicable."[59] Additionally, DOE regulations at 10 C.F.R. § 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

[57] *Cameron LNG, LLC*, DOE/FE Order No. 3680, Docket No. 15-36-LNG, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cameron LNG Terminal in Cameron and Calcasieu Parishes, Louisiana, to Free Trade Agreement Nations (July 10, 2015).
[58] *Id.* at 8-9.
[59] 10 C.F.R. § 590.202(b).

information should be exempted from public disclosure, and DOE determines it will be afforded confidential treatment in accordance with 10 C.F.R. § 1004.11.

(6) DOE will require that NFE Altamira file or cause to be filed with DOE any relevant long-term commercial agreements or contracts pursuant to which NFE Altamira exports natural gas or re-exports U.S.-sourced natural gas as LNG as agent for a Registrant once those agreements or contracts have been executed (whether the U.S.-sourced natural gas is purchased in the United States or Mexico). DOE finds that the submission of all such agreements or contracts within 30 days of their execution using the procedures described below is 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.

(7) DOE also will require NFE Altamira to file any long-term contracts NFE Altamira enters into providing for the long-term export (or re-export) of U.S.-sourced natural gas as LNG on its own behalf from the proposed Project (whether the U.S.-sourced natural gas is purchased in the United States or Mexico). DOE 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) DOE finds that section 590.202(c) of DOE's regulations[60] requires that NFE Altamira file, or cause to be filed, all long-term contracts associated with the long-term supply of U.S.-sourced natural gas to the Project, whether signed by NFE Altamira or any Registrant (and whether the U.S.-sourced natural gas is purchased in the United States or Mexico), within 30 days of their execution.

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[60] *Id.* § 590.202(c).

(9) DOE recognizes that some information in NFE Altamira's or a Registrant's long-term commercial agreements associated with the export of U.S.-sourced natural gas and/or the re-export of such natural gas as LNG, and/or long-term contracts associated with the long-term supply of U.S.-sourced natural gas to the Project (whether purchased in the United States or Mexico), may be commercially sensitive. DOE therefore will provide NFE Altamira the option to file or cause to be filed either unredacted contracts, or in the alternative: (A) NFE Altamira may file, or cause to be filed, long-term contracts under seal, but it also will 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, destination, re-sale provisions, and other relevant provisions; and (B) the filing must demonstrate why the redacted or non-disclosed information should be exempted from public disclosure.[61]

To ensure that DOE destination and reporting requirements included in the Order are conveyed to subsequent title holders, DOE will include as a condition of this authorization that future contracts for the sale or transfer of LNG exported pursuant to the Order shall include an acknowledgement of these requirements.

ORDER

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

A. NFE Altamira FLNG, S. de R.L. de C.V. (NFE Altamira) is authorized to export U.S.-sourced natural gas by pipeline from the United States to Mexico and, after liquefaction in Mexico, to re-export the U.S.-sourced natural gas (whether purchased in the United States or Mexico) in the form of LNG by vessel from the proposed New Fortress Energy Altamira FLNG

[61] *Id.* § 590.202(e) (allowing confidential treatment of information in accordance with 10 C.F.R. § 1004.11).

Project (Project), to be located off the coast of Altamira Tamaulipas, Mexico, to FTA countries. The volume authorized in this Order is equivalent to 158 Bcf/yr of natural gas for a term to commence on the date of first export following the commencement of commercial operation of the Project, and extending through December 31, 2050. NFE Altamira is authorized to export this LNG on its own behalf and as agent for other entities that hold title to the natural gas or LNG, pursuant to one or more contracts of any duration.[62]

B. This natural gas may be re-exported as LNG 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 with which 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 LNG via ocean-going vessels. FTA countries are currently identified by DOE at: https://www.energy.gov/fecm/how-obtain-authorization-import-andor-export-natural-gas-and-lng.

C. NFE Altamira 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. (i) NFE Altamira shall file, or cause others to file, with the U.S. Department of Energy, Office of Fossil Energy and Carbon Management, Office of Resource Sustainability,

[62] *See* U.S. Dep't of Energy, Including Short-Term Export Authority in Long-Term Authorizations for the Export of Natural Gas on a Non-Additive Basis; Policy Statement, 86 Fed. Reg. 2,243, 2,245 (Jan. 12, 2021).

Office of Regulation, Analysis, and Engagement (FE-34) a non-redacted copy of <u>all executed long-term contracts associated with the long-term re-export of U.S.-sourced natural gas in the form of LNG</u> from the Project (whether the U.S.-sourced natural gas is purchased in the United States or Mexico) on NFE Altamira's own behalf or as agent for other entities. If NFE Altamira enters an agreement to sell U.S.-sourced natural gas in the form of LNG through an affiliated entity, all long-term contracts entered into by that affiliated entity shall also be subject to the requirements of this paragraph. The non-redacted copies must be filed within 30 days of their execution and may be filed under seal, as described above.

(ii) NFE Altamira shall file, or cause others to file, with the Office of Regulation, Analysis, and Engagement a non-redacted copy of <u>all executed long-term contracts associated with the long-term supply of U.S.-sourced natural gas</u> to the Project (whether the U.S.-sourced natural gas is purchased in the United States or Mexico). The non-redacted copies must be filed within 30 days of their execution and may be filed under seal, as described above.

E. NFE Altamira is permitted to use its authorization to re-export U.S.-sourced natural gas in the form of LNG as agent for other LNG title-holders (Registrants) (whether the U.S.-sourced natural gas is purchased in the United States or Mexico), after registering those entities with DOE. Registration materials shall include an acknowledgement and agreement by the Registrant to supply NFE Altamira with all information necessary to permit NFE Altamira to register that person or entity with DOE, including: (1) the Registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 C.F.R. 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; and (4) within 30 days of execution, a copy of any long-term contracts not previously filed with DOE, described in Ordering Paragraph D of this Order.

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

G. As a condition of this authorization, NFE Altamira shall ensure that all persons required by this Order to register with DOE have done so.[63]

H. NFE Altamira, or others for whom NFE Altamira acts as agent, shall include the following provision in any agreement or other contract for the sale or transfer of U.S.-sourced natural gas exported or re-exported in the form of LNG (whether purchased in the United States or Mexico) pursuant to this Order:

> Customer or purchaser acknowledges and agrees that it will resell or transfer U.S.-sourced natural gas, including in the form of LNG, purchased hereunder for delivery only to countries identified in Ordering Paragraph B of DOE/FECM Order No. 4960, issued March 3, 2023, in Docket No. 22-110-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of the natural gas or LNG to such countries. Customer or purchaser further commits to cause a report to be provided to NFE Altamira FLNG, S. de R.L. de C.V. that identifies the country (or countries) into which the natural gas or re-exported LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that NFE Altamira FLNG, S. de R.L. de C.V. is made aware of all such actual destination countries.

[63] *See supra* § III.

I. Within two weeks after the first export of U.S.-sourced natural gas authorized in Ordering Paragraph A occurs, NFE Altamira shall provide written notification of the date of first export to DOE.

J. NFE Altamira shall file with the Office of Regulation, Analysis, and Engagement, on a semi-annual basis, written reports describing the status of the proposed Project. The reports shall be filed on or by April 1 and October 1 of each year, and shall include information on the status of the proposed Project, including but not limited to the following: (i) the status of permits required under Mexican state and federal laws for the siting, construction, and operation of the Project and for the re-exports of the LNG subject to this authorization; (ii) the date the Project is expected to be operational, and (iii) the status of any associated long-term supply and re-export contracts.

K. With respect to any change in control of the authorization holder, NFE Altamira must comply with DOE's Procedures for Change in Control Affecting Applications and Authorizations to Import or Export Natural Gas.[64] For purposes of this Ordering Paragraph, a "change in control" shall include any change, directly or indirectly, of the power to direct the management or policies of NFE Altamira, whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means.[65] A rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, 10% or more of the voting securities of such entity.

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[64] *See* U.S. Dep't of Energy, Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas, 79 Fed. Reg. 65,541 (Nov. 5, 2014).

[65] *See id*. at 65,542.

L. Monthly Reports: With respect to the export of U.S.-sourced natural gas authorized by this Order, NFE Altamira shall file with the Office of Regulation, Analysis, and Engagement, within 30 days following the last day of each calendar month, a report on Form FE-746R indicating whether exports of U.S.-sourced natural gas 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 natural gas have occurred, the report must provide the information specified for each applicable activity and mode of transportation, as set forth in the Guidelines for Filing Monthly Reports. These Guidelines are available at: https://www.energy.gov/fecm/guidelines-filing-monthly-reports.

With respect to the re-export of U.S.-sourced natural gas as LNG authorized by this Order (whether the U.S.-sourced natural gas is purchased in the United States or Mexico), NFE Altamira shall file with the Office of Regulation, Analysis, and Engagement, within 30 days following the last day of each calendar month, a report on Form FE746R indicating whether re-exports of this LNG to FTA countries 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 re-export. In subsequent months, if re-exports have not occurred, a report of "no activity" for that month must be filed. If re-exports of LNG have occurred, the report must provide the information specified for each applicable activity and mode of transportation, as set forth in the Guidelines for Filing Monthly Reports. These Guidelines are available at: https://www.energy.gov/fecm/guidelines-filing-monthly-reports.

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

M. All monthly report filings on Form FE-746R shall be made to the Office of

Regulation, Analysis, and Engagement according to the methods of submission listed on the Form FE-746R reporting instructions available at: https://www.energy.gov/fecm/regulation.

Issued in Washington, D.C., on March 3, 2023.

Amy R. Sweeney

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Date: 2023.03.03 18:16:03 -05'00'

Amy R. Sweeney
Director, Office of Regulation, Analysis, and Engagement
Office of Resource Sustainability