

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT

MEXICO PACIFIC LIMITED LLC

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)
) DOCKET NO. 22-167-LNG

NOTICE OF ENVIRONMENTAL ASSESSMENT

OCTOBER 23, 2023

I. BACKGROUND

On December 28, 2022, Mexico Pacific Limited LLC (MPL) filed an application (Application)¹ with the Office of Fossil Energy and Carbon Management (FECM) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA).² MPL supplemented its Application on January 24, 2023.³ MPL states that it is seeking additional export authority in connection with the continuing development of its proposed liquefied natural gas (LNG) production and offtake facility referred to as the MPL Facility, to be located on the Gulf of California, in the State of Sonora, Mexico.⁴ Previously, in Docket No. 18-70-LNG, DOE authorized MPL to export U.S.-sourced LNG from the MPL Facility in a total volume equivalent to 621 billion cubic feet (Bcf) per year (Bcf/yr) of natural gas. MPL states that it has since advanced and refined the Facility's design to "enhance the efficiency and optimize the operational capabilities of the MPL Facility."⁵

Accordingly, MPL requests long-term, multi-contract authorization to export an additional quantity of U.S.-sourced natural gas to Mexico, and after liquefaction in Mexico, to other countries, in a total volume equivalent to 425.57 Bcf/yr of natural gas (1.17 Bcf per day (Bcf/d)) as follows:

- (i) To use approximately 134.35 Bcf/yr (0.37 Bcf/d) in Mexico as "fuel for pipeline transportation or liquefaction in Mexico;"⁶

¹ Mexico Pacific Limited LLC, Application for Additional Long-Term, Multi-Contract Authorization to Export Natural Gas to Mexico and to Re-Export Liquefied Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations, Docket No. 22-167-LNG (Dec. 28, 2022) [hereinafter MPL App.].

² 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-FE1-2023, issued on April 10, 2023.

³ Mexico Pacific Limited LLC, Supplement to Application, Docket No. 22-167-LNG (Jan. 24, 2023) [hereinafter MPL App. Supp.].

⁴ See MPL App. at 4, 6.

⁵ *Id.* at 4.

⁶ *Id.* at 3.

- (ii) To use approximately 291.22 Bcf/yr of natural gas (0.80 Bcf/d) of natural gas in the proposed MPL Facility, where the U.S.-sourced natural gas would be liquefied, then re-exported⁷ 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);⁸ 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).⁹

MPL requests these FTA and non-FTA authorizations on a non-additive basis for a term to commence on the earlier of the date of first export or seven years from the date of the final order granting export authorization, and extending through December 31, 2050.¹⁰ MPL states that the total volume of 425.57 Bcf/yr that it is seeking authorization to export, when added to the 621 Bcf/yr that MPL is currently authorized to export in Docket No. 18-70-LNG, would equal a total of 1,046.57 Bcf/yr to be exported from the MPL Facility.¹¹

On April 28, 2023, in Order No. 4995, DOE granted the FTA portion of the Application, as required by NGA section 3(c).¹² MPL is thus authorized to export natural gas to Mexico in the total requested additional volume of 425.57 Bcf/yr of natural gas—which includes export by pipeline for use as a fuel for pipeline transportation or liquefaction (134.35 Bcf/yr) and re-export

⁷ For purposes of this proceeding, “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.

⁸ 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.

⁹ 15 U.S.C. § 717b(a); *see* MPL App. at 3, 4, 10.

¹⁰ MPL App. at 10. Additionally, MPL requests these authorizations on its own behalf and as agent for other entities that hold title to the U.S.-sourced natural gas at the time it is exported to Mexico and/or at the time it is re-exported as LNG from Mexico. *Id.* at 11.

¹¹ *Id.* at 3, 8-9.

¹² *Mexico Pac. Ltd. LLC*, DOE/FECM Order No. 4995, Docket No. 22-167-LNG, Order Granting Long-Term Authorization to Export Natural Gas to Mexico and to Other Free Trade Agreement Nations (Apr. 28, 2023).

after liquefaction in Mexico to FTA countries (291.22 Bcf/yr).¹³ The requested non-FTA volume, if approved, would not be additive to this FTA volume.

MPL states that the U.S.-sourced natural gas would be exported to Mexico at the United States-Mexico border via existing and, potentially, future cross-border natural gas transmission pipelines.¹⁴ MPL further states that it would not source natural gas for the MPL Facility from Mexico.¹⁵ According to MPL, it plans initially to receive the natural gas produced in the United States and exported to Mexico through existing cross-border natural gas transmission pipelines, including an interstate pipeline owned by Sierrita Gas Pipeline LLC, and intrastate natural gas pipelines owned by Comanche Trail Pipeline, LLC, Roadrunner Gas Transmission, LLC and Trans Pecos Pipeline, LLC.¹⁶ MPL asserts that, if the proposed border crossing pipeline owned by Saguaro Connector Pipeline, L.L.C. obtains authorization and the related Presidential Permit from the Federal Energy Regulatory Commission (FERC), MPL would expect to add that pipeline to the several existing pipeline routes over which MPL and its customers may transport natural gas from the United States to Mexico for delivery to the MPL Facility.¹⁷

For the non-FTA portion of MPL's request,¹⁸ DOE published a notice of the Application in the *Federal Register* (Notice of Application) on February 1, 2023.¹⁹ The Notice of Application called on interested persons to submit protests, motions to intervene, notices of intervention, and comments by April 3, 2023.²⁰ In response, DOE received two motions to

¹³ See *id.* at 5, 13.

¹⁴ See MPL App. at 9; see also MPL App. Supp. at 1-2.

¹⁵ See MPL App. at 9.

¹⁶ See *id.*

¹⁷ MPL App. Supp. at 2.

¹⁸ DOE finds that the requirement for public notice of applications, as well as other hearing-type procedures in 10 C.F.R. Part 590, apply only to applications seeking to export natural gas, including LNG, to non-FTA countries.

¹⁹ See Mexico Pacific Limited LLC; Application for Additional Long-Term, Multi-Contract Authorization to Export U.S.-Sourced Natural Gas to Mexico and to Re-Export Liquefied Natural Gas from Mexico to Non-Free Trade Agreement Countries; Notice of Application, 88 Fed. Reg. 6716 (Feb. 1, 2023) [hereinafter Notice of App.].

²⁰ *Id.*

intervene and protests, filed by Public Citizen, Inc.²¹ and Sierra Club,²² respectively; and comments filed by the Institute for Energy Economics and Financial Analysis.²³

Before reaching a final decision on a non-FTA application under NGA section 3(a), DOE must also comply with the National Environmental Policy Act (NEPA).²⁴ In evaluating applications for re-export authorization similar to MPL’s Application, DOE has used recent guidance to inform its environmental analysis. On January 27, 2021, the President issued Executive Order (E.O.) No. 14008, *Tackling the Climate Crisis at Home and Abroad*.²⁵ Additionally, on April 20, 2022, the Council on Environmental Quality (CEQ) issued a final rule for implementing CEQ’s NEPA regulations, including the definition of environmental “effects.”²⁶ DOE has determined that, consistent with E.O. 14008 and its obligations under NEPA, it is appropriate to evaluate the potential environmental impacts—including the greenhouse gas (GHG) emissions—of exporting (or re-exporting) U.S.-sourced LNG from the proposed MPL Facility to non-FTA countries. Therefore, in this Notice, DOE is announcing that it is undertaking an environmental assessment (EA) under NEPA to analyze MPL’s requested exports of U.S.-sourced LNG to non-FTA countries, as described below.

²¹ Public Citizen, Inc., Motion to Intervene and Protest, Docket No. 22-167-LNG (Apr. 3, 2023).

²² Sierra Club, Motion to Intervene and Protest, Docket No. 22-167-LNG (Apr. 3, 2023).

²³ Institute for Energy Economics and Financial Analysis, Comments Regarding the Application to Expand Export and Re-Export Operations by Mexico Pacific Limited LLC, Docket No. 22-167-LNG (Mar. 29, 2023). For additional procedural history, including but not limited to Supplemental Comments subsequently filed by Sierra Club and opposed by MPL, see Docket No. 22-167-LNG.

²⁴ 42 U.S.C. § 4321 *et seq.*

²⁵ E.O. 14008 sets forth policies to address climate change, specifically to “organize and deploy the full capacity of [Federal] agencies to combat the climate crisis.” Exec. Order No. 14008 of Jan. 27, 2021, *Tackling the Climate Crisis at Home and Abroad*, 86 Fed. Reg. 7,619 (Feb. 1, 2021), <https://www.federalregister.gov/documents/2021/02/01/2021-02177/tackling-the-climate-crisis-at-home-and-abroad>. E.O. 14008 further requires the “Federal Government [to] drive assessment, disclosure, and mitigation of climate pollution and climate-related risks in every sector” of the U.S. economy. *Id.*

²⁶ See Council on Env’tl. Quality, National Environmental Policy Act Implementing Regulations Revisions; Final Rule, 76 Fed. Reg. 23,453 (Apr. 20, 2022).

II. ENVIRONMENTAL ASSESSMENT UNDER NEPA

DOE has identified the following four topics for analysis in the EA (although this list is not intended to predetermine any analysis and is subject to change):

(1) Production of U.S.-Sourced Natural Gas: The potential environmental impacts associated with unconventional natural gas exploration and production activities in the lower-48 states, using DOE's *Addendum to Environmental Review Documents Concerning Exports of Natural Gas from the United States*²⁷ already in the record for this proceeding;²⁸

(2) Cross-Border Pipelines: The utilization of cross-border pipeline facilities that interconnect the United States and Mexico and that MPL may utilize for its U.S. natural gas supply.²⁹ The EA will take into account any environmental review for such pipeline facilities previously conducted by FERC;

(3) Mexico's Environmental Review: Because the proposed MPL Facility will be constructed and operated in Mexico, a description of Mexico's environmental review process for the construction and operation of liquefaction terminals and related facilities;³⁰ and

(4) GHG Emissions: The global nature of GHG emissions associated with re-exporting U.S.-sourced LNG from Mexico from a life cycle perspective, using DOE's two life cycle GHG reports already in the record for this proceeding.³¹

DOE will prepare the EA in accordance with the CEQ regulations at 40 C.F.R. Parts 1500-1508 and DOE's NEPA implementing procedures at 10 C.F.R. Part 1021.³² Pursuant to 10

²⁷ U.S. Dep't of Energy, *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States*, 79 Fed. Reg. 48,132 (Aug. 15, 2014) [hereinafter *Addendum*]; *see also* <https://www.energy.gov/fecm/addendum-environmental-review-documents-concerning-exports-natural-gas-united-states>.

²⁸ *See* Notice of App., 88 Fed. Reg. at 6716.

²⁹ *See* MPL App. at 9-10; MPL App. Supp. at 1-2.

³⁰ This description of Mexico's environmental review process will be included in the EA for completeness.

³¹ In 2014, DOE published its first life cycle GHG report prepared by DOE's National Energy Technology Laboratory (NETL). *See* U.S. Dep't of Energy, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States*, 79 Fed. Reg. 32,260 (June 4, 2014). In 2019, DOE published an update to the 2014 Report also prepared by NETL. *See* Nat'l Energy Tech. Lab., *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update* (DOE/NETL-2019/2041) (Sept. 12, 2019), <https://www.energy.gov/sites/prod/files/2019/09/f66/2019%20NETL%20LCA-GHG%20Report.pdf>; *see also* U.S. Dep't of Energy, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update – Response to Comments*, 85 Fed. Reg. 72 (Jan. 2, 2020). Both the 2014 Report and (as noted above) 2019 Update are in the record for this proceeding. *See* Notice of App., 88 Fed. Reg. at 6716-6717.

³² MPL requests that DOE incorporate by reference into this proceeding the EAs that DOE previously prepared for Energía Costa Azul, S. de R.L. de C.V. (ECA) (Docket No. 18-145-LNG) and Vista Pacifico LNG, S.A.P.I. de C.V.

C.F.R. § 1021.301(c), DOE is concurrently providing notice of the EA to the cross-border host states of Arizona, Texas, and California (where the possible cross-border pipeline facilities are located), and to all Indian tribes on or within 100 kilometers of the U.S. border in those states.

DOE intends to complete a draft EA for public comment. Following a 30-day public comment period, DOE will finalize the EA, including addressing any public comments received on the draft EA. DOE's projected schedule for this process is as follows:

Notice of Availability of Draft EA November 17, 2023

Notice of Availability of Final EA February 16, 2024

DOE notes that it may need to obtain further information from MPL to complete its analysis, and the schedule above assumes that DOE receives complete and prompt responses to such inquiries (submitted within approximately two weeks). If any delays of one week or more to the scheduled dates become necessary, DOE will provide notice of such change in the docket for this proceeding.

Issued in Washington, D.C., on October 23, 2023.

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Office of Resource Sustainability

(Vista Pacifico) (Docket No. 20-153-LNG). *See* MPL App. at 30. Additionally, MPL requests that DOE “evaluate the same topics” that DOE evaluated in those EAs. *Id.* Because DOE will be undertaking an EA in connection with the non-FTA portion of MPL’s Application, DOE finds that it is unnecessary to incorporate the ECA and Vista Pacifico EAs into this proceeding. However, DOE intends to analyze the same four topics that DOE considered in those EAs (recognizing, as noted above, that those topics are subject to change).