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File Number: 82RM - 348134

March 14, 2024

Ms. Amy Sweeney, Director  
U.S. Department of Energy Natural Gas  
Regulation  
FE-34 – Room 3E-056  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585  
fergas@hq.doe.gov

Re: Big River Energy, LLC, Docket No. 24- - LNG Application for Long-Term Authorization  
to Export Liquefied Natural Gas

Dear Ms. Sweeney:

Big River Energy, LLC ("Big River") seeks long-term, multi-contract authorization for itself or as agent for others under Section 3 of the Natural Gas Act to export liquefied natural gas from domestic resources for a term ending on July 31, 2030. Big River is seeking authority to export LNG to Mexico, with which the U.S. has a free trade agreement requiring national treatment for trade in natural gas.

Enclosed is confirmation of payment of the applicable filing fee of \$50.00 pursuant to 10 C.F.R. § 590.207. Please contact the undersigned if you have any questions regarding this filing.

Sincerely,

/s/ Mark F. Sundback  
Mark F. Sundback  
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
ONE OF COUNSEL FOR BIG RIVER ENERGY, LLC

SMRH:4894-2028-1763.3  
Enclosure

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

**BIG RIVER ENERGY, LLC**

)  
) Docket No. 24-\_\_\_\_ LNG  
)

**APPLICATION OF BIG RIVER ENERGY, LLC  
FOR LONG-TERM MULTI-CONTRACT AUTHORIZATION  
TO EXPORT LIQUIFIED NATURAL GAS**

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

**BIG RIVER ENERGY, LLC**

)  
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**APPLICATION OF BIG RIVER ENERGY, LLC  
FOR LONG-TERM MULTI-CONTRACT AUTHORIZATION  
TO EXPORT LIQUIFIED NATURAL GAS**

Pursuant to Section 3 of the Natural Gas Act (“NGA”), 15 U.S.C. § 717b, and Part 590 of the regulations of the Department of Energy (“DOE”), 10 C.F.R. § 590, Big River Energy, LLC (“Big River” or “Applicant”) submits this application (“Application”) to the DOE Office of Fossil Energy (“DOE/FE”) for long-term, multi-contract authorization for Applicant to export to Mexico a cumulative total of 44.7 Bcf<sup>1</sup> produced from domestic sources beginning no earlier than August 1, 2024 for a term ending on July 31, 2030.

Applicant seeks authorization to export LNG from natural gas liquefaction and truck facilities in 4 different locations (“the Facilities”)<sup>2</sup> to Mexico, a country with which the United States has a free trade agreement (“FTA”) requiring national treatment for trade in natural gas.

In support of this application, Applicant respectfully submits the following:

**I. DESCRIPTION OF APPLICANT AND EXPORT FACILITIES**

The exact legal name of the applicant is Big River Energy, LLC. Big River’s headquarters and principal place of business are at 5726 Bayou Glen Road, Houston, Texas 77057. Applicant is in the business of, *inter alia*, marketing LNG in and outside the United States. Applicant develops and provides innovative and sustainable solutions for permitting, vendor management, acquisition, and auditing across supply, logistics and distribution chains

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<sup>1</sup> See 10 C.F.R. § 590.202(b)(1).

<sup>2</sup> *Id.*

that span multiple energy industries, including oil, natural gas, electricity (conventional and renewable), petrochemical products and biofuels.

The Facilities are located at one of four different locations.<sup>3</sup> One location is the Ehrenberg Spectrum LNG Plant at 50660 Colorado River Road, Ehrenberg, AZ 85334, owned by Spectrum LNG. It will provide a maximum of up to 120,000 gallons per day. A second liquefaction facility will be located in Topock Arizona, at 5499 Needle Mountain Road, Topock, AZ 86436, owned by Applied LNG. It will provide a maximum of up to 50,000 gallons per day. A third liquefaction facility is the Ignacio Gas Plant located near Ignacio, Colorado, on the Southern Ute Indian Reservation in La Plata County, Colorado, owned by Harvest Four Corners, LLC. It will provide up to 45,000 gallons per day. A fourth liquefaction facility is located in Boron, California, at 14436 Contractors Road, Boron, CA 93523, owned by Clean Energy Fuels Corp. It will provide up to 35,000 gallons per day. LNG from the Facilities will serve domestic markets as well as the referenced exports.

The volumes will be transported across the Calexico West Border to Mexicali, and the Calexico East Border to Mexicali, points depending on schedules, congestion and other variables. Alternatively, Applicant will seek to transport volumes at any lawful border crossing point between the U.S. and Mexico depending upon local congestion and convenience. The destination of the LNG transported by truck will be the Comision Federal de Electricidad (“CFE”) Gonzalez Ortega Power Plant in Mexicali, Mexico.<sup>4</sup> The volumes will be purchased by CFE/CFE International.

## **II. COMMUNICATIONS**

All communications and correspondence regarding this Application, including all service

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<sup>3</sup> The locations of the Facilities is depicted in Appendix C. Applicant does not have any ownership interest in any of the Facilities. Liquefaction will be performed on an arm’s length basis.

<sup>4</sup> 10 C.F.R. § 590.202(b)(3).

of pleadings and notice, should be addressed to the following persons:

Mark F. Sundback  
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2099 Pennsylvania Avenue, NW, Suite 100  
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Steve Magness  
Principal  
Big River Energy, LLC  
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Telephone: 405.535.6077  
E-mail: smagness@bigriverenergy.com

### **III. AUTHORIZATION REQUESTED**

Big River, a limited liability company registered in Texas, requests long-term multi-contract authorization to export via truck a cumulative total of 44.7 Bcf natural gas, that has been liquefied, to Mexico, a country with which the United States has an FTA requiring national treatment for trade in natural gas. Applicant requests this long-term authorization for a term beginning August 1, 2024 and ending on July 31, 2030.

Applicant is requesting this authorization both on its behalf and as agent for other parties who themselves will hold title to the LNG at the time of export pursuant to long-term sale and purchase agreements with Applicant. Applicant will comply with all DOE/FE requirements for exports and agents, including the registration requirements. When acting as agent, Applicant will register with the DOE/FE each LNG title holder for which Applicant seeks to export LNG as agent. When DOE regulations so require, Applicant will provide the DOE/FE with registration materials that include an acknowledgement and agreement by the LNG title holder to supply information necessary to permit Applicant to register that person or entity with DOE/FE, including (i) the LNG title holder's agreement to comply with any order issued by DOE/FE pursuant to this Application and all applicable requirements of DOE's regulations at 10 C.F.R. Part 590, including but not limited to destination restrictions; (ii) the exact legal name of the LNG title holder, state/location of incorporation/registration, primary place of doing business, and the LNG title holder's ownership structure, including the ultimate parent entity if the

registrant is a subsidiary or affiliate of another entity; (iii) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the LNG title holder to whom inquiries may be directed; (iv) within 30 days of execution, a copy, filed with DOE/FE of any long-term contracts, not previously filed with DOE/FE, including a non-redacted copy for filing under seal of (x) the executed long-term contract associated with the long-term export of LNG and/or (y) the executed long-term contract associated with the long-term supply of natural gas.<sup>5</sup>

Applicant is not submitting long-term supply agreements and long-term export agreements with the instant Application. Supplies may be purchased in liquid U.S. spot markets based on market circumstances.<sup>6</sup> Applicant therefore requests that the DOE/FE make a similar finding to that in *Sabine Pass*, DOE/FE Order No. 2961, with regard to the transaction-specific information of the type identified in Section 590.202(b) of the DOE regulations.<sup>7</sup> At the time of this Application, Applicant has not yet entered into such agreements given that a long-term export authorization is required to finalize arrangements with prospective customers. Big River expects long term contractual arrangements with CFE will be executed and affective by July 31, 2024, and exports thereunder to commence as soon thereafter as possible. In accordance with

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<sup>5</sup> See, e.g., *Freeport LNG Expansion. LP*, Docket No. 10-161-LNG, DOE/FECM Order No. 3282 at 11 (May 17, 2013) (noting that while “some of the proposed export supply may be secured through long-term contracts, [the applicant] expects to draw volumes of natural gas for itself and for its . . . customers from the spot market”); *Sabine Pass Liquefaction, LLC*, Docket No. 13-42-LNG, DOE/FECM Order No. 3307 at 5 (July 12, 2013) (observing that the applicant could either source its supply from the spot market or under long-term arrangements).

<sup>6</sup> See 10 C.F.R. § 590.202(b)(2). See n. 5, *supra*.

<sup>7</sup> In the May 20, 2011 order granting Sabine Pass Liquefaction, LLC (“Sabine Pass”) long-term export authorization to Non-FTA countries, the DOE/FE found that Sabine Pass was not required to submit with its application transaction-specific information pursuant to Section 590.202(b) of the DOE regulations. The DOE/FE found that given the state of development for the proposed Sabine Pass export project, it was appropriate for Sabine Pass to submit such transaction-specific information when the contracts reflecting such information are executed. See *Sabine Pass Liquefaction, LLC, Opinion and Order Conditionally Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Termination to Non-Free Trade Agreement Nations*, FE Docket No. 10-11 I-LNG, DOE/FE Order No. 2961, at 41 (May 20, 2011) (“*Sabine Pass*”). Of course, in this case, the export application seeks authorization for supplies sold to Mexico, an FTA country.

the DOE/FE's stated policy in *Sabine Pass*, DOE/FE Order No. 2961, Applicant will submit or cause to be submitted long-term contracts under seal and either (i) a copy of each long-term contract with commercially 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 terms.<sup>8</sup>

To the extent that granting the instant application would overlap with Applicant's existing authority, and if the Department of Energy finds it necessary to do so, Applicant requests that the portion of DOE/FE Order No. 4938 authority issued to Big River that overlaps with authority issued pursuant to this Application be withdrawn and vacated as of the date such overlapping authority is granted pursuant to the instant Application. Specifically, Big River requests that existing authority to make exports to Canada, and any short-term exports to non-CFE buyers in Mexico independent of the long term authorization requested herein remain in effect. If the Department instead desires that Applicant file separately after such order's issuance to withdraw Order No. 4938 authority, upon receipt of such direction, Big River will do so.

#### IV. PUBLIC INTEREST

NGA Section 3(c), as amended by Section 201 of the Energy Policy Act of 1992 (Pub. L.102-486), provides that:

[T]he exportation of natural gas to a 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 applications for such importation or exportation shall be granted without modification or delay.<sup>9</sup>

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<sup>8</sup> The DOE/FE has previously held that the commitment to file contracts once they are executed complies with the requirement of 10 C.F.R. § 590.202(b) to supply transaction-specific information "to the extent practicable." *Id.*; see also, e.g., *Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC*, DOE/FE Order No. 4519 at 9 (Apr. 14, 2020); *Commonwealth LNG, LLC*, DOE/FE Order No. 4521 at 8 (Apr. 17, 2020). See 10 C.F.R. § 590.202(b)(4)-(5). 10 C.F.R. § 590.202(b)(6) is not applicable to these contemplated transactions.

<sup>9</sup> 15 U.S.C. § 717b(c)(2018).

Under this statutory presumption, this Application comports with the public interest and should be granted by DOE/FE without modification or delay. Indeed, DOE/FE promptly grants authorization for export to FTA nations as a matter of statutory requirement.

## **V. ENVIRONMENTAL IMPACT**

Because the issuance of authorization for export to FTA nations is a statutory requirement, DOE/FE is not required to consider the impact of FTA authorizations on the environment under the National Environmental Policy Act.<sup>10</sup> Additionally, the Facilities are already in existence and hence no construction disturbance will occur in connection with these sales.

## **VI. APPENDICES**

The following appendices are submitted as part of this Application

Appendix A	Verification
Appendix B	Opinion of Counsel
Appendix C	Location of the Facilities

## **VII. CONCLUSION**

WHEREFORE, for the foregoing reasons, Applicant respectfully requests that DOE/FECM grant, without modification or delay, Applicant's request for authorization to export a cumulative total of up to 44.7 Bcf of natural gas that has been liquefied to Mexico via truck for a 6-year term commencing on August 1, 2024.

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<sup>10</sup> *Dep't. of Transp. v. Public Citizen*, 541 U.S. 752, 769-770 (2004); *South Dakota v. Andrus*, 614 F.2d 1190, 1193 (8th Cir. 1980).



Respectfully submitted,

Mark F. Sundback

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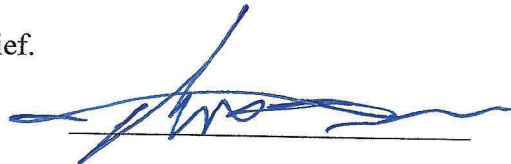
***Attorney for Big River Energy, LLC***

Dated: March 14, 2024

APPENDIX A  
(Verification)

State of TEXAS     )  
                                  )  
County of HARRIS    )

BEFORE ME, the undersigned authority, Steve Magness, a principal of Big River Energy, LLC, on this day personally appeared. who. having been by me first duly sworn. on oath says that he is duly authorized to make this Verification on behalf of Big River Energy, LLC: that he has read the foregoing instrument and that the facts therein stated are true and correct to the best of his knowledge, information and belief.



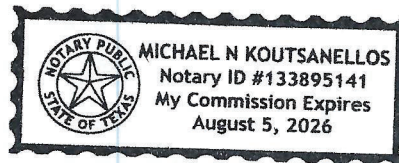
Name: Steve Magness  
Title: Principal, Big River Energy, LLC

SUBSCRIBED AND SWORN TO before me on the 14<sup>th</sup> day of March, 2024  
<sup>MK</sup> <sup>MK</sup>  
14<sup>th</sup> March

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

August 5<sup>th</sup>, 2026



**APPENDIX B**  
**OPINION OF COUNSEL**



Chad Mills  
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March 13, 2024

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Director, Office of Regulation, Analysis, and Engineering  
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Re: Big River Energy, LLC ("Big River") application for Long-Term Authorization to Export Liquefied Natural Gas

Dear Ms. Sweeney:

This opinion is submitted pursuant to Section 590.202(c) of the regulations of the U.S. Department of Energy, 10 C.F.R. § 590.202(c) (2020) as part of Big River's March 14, 2024 application. The undersigned is counsel to Big River. We have reviewed the corporate documents of Big River Energy, LLC, a Texas limited liability company, and it is our opinion that the proposed export of liquefied natural gas as described in the application filed by Big River to which this Opinion of Counsel is attached as Appendix B, is within the corporate powers of Big River.

The opinions in this opinion letter are limited to the Texas Limited Liability Company Act.

The opinions expressed in this opinion letter (a) are strictly limited to the matters stated in this opinion letter, and without limiting the foregoing, no other opinions are to be implied and (b) are only as of the date of this opinion letter, and we are under no obligation, and do not undertake, to advise you or any other person or entity either of any change of law or fact that occurs, or of any fact that comes to our attention, after the date of this opinion letter, even though such change or such fact may affect the legal analysis of a legal conclusion in this opinion letter. This opinion letter is (a) delivered to you solely for your benefit in connection with your review of the Application and may be relied upon only by you in connection with such review and may not be relied upon by you for any other purpose; (b) may not be relied on by, or furnished to, any other person or entity without our prior written consent; and (c) without limiting the foregoing, may not be quoted, published or otherwise disseminated, without in each instance our prior written consent. Notwithstanding the foregoing, you may furnish or disseminate a copy of this opinion

Ms. Amy Sweeney  
March 13, 2024  
Page 2

letter to the extent required by law, but no other person or entity to which this opinion may be delivered or furnished may rely on it without or prior written consent.

Sincerely,



Chad Mills  
For SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

**APPENDIX C**  
**LOCATION OF FACILITIES**

