

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

June 21, 2005

In Reply Refer To:

EnCana Border Pipelines Limited  
105733 Alberta, Ltd.  
Docket No. CP05-211-000  
Presidential Permit

The Honorable Condoleeza Rice  
Secretary of State  
Washington, D.C. 20520

Dear Madam Secretary:

Pursuant to the provisions of Executive Order Nos. 10485 and 12038 of September 1, 1953, and February 3, 1978, respectively, and the Secretary of Energy's Delegation Order No. 0204-112, effective February 22, 1984, enclosed herewith for your information and consideration is a copy of an application filed jointly by EnCana Border Pipelines Limited (EnCana Border) and 105733 Alberta Ltd. (Alberta Ltd.) (collectively, applicants) with the Federal Energy Regulatory Commission (Commission) on April 29, 2005, in Docket No. CP05-211-000.

In the April 29, 2005 filing, the applicants seek to amend the Presidential Permit issued to 3698157 Canada Ltd. (Canada Ltd.), EnCana Border's predecessor, on January 11, 2001, in *Canadian-Montana Pipe Line Corp. and 3698157 Canada Ltd.*, 94 FERC ¶ 61,023 (2001). That order authorized Canada Ltd. to operate and maintain certain natural gas facilities at the United States/Canada international boundary between Monchy, Saskatchewan and Montana that it acquired from Canadian-Montana Pipeline Corporation, the original Permittee. The original Permittee constructed the facilities pursuant to Natural Gas Act (NGA) section 3 authorization and a Presidential Permit issued on January 19, 1999 in *Canadian-Montana Pipeline Corp.*, 87 FERC ¶ 61,323 (1999).

Specifically, the applicants request that the authorization under NGA section 3 and the Presidential Permit held in the name of Canada Ltd. be changed to insert Alberta Ltd.'s name in lieu of Canada Ltd. to recognize the sale of the facilities by EnCana Border to Alberta Ltd.) The requested new section 3 authorization and Presidential

Permit are to be held by Alberta Ltd. The transfer of the facilities will not affect the underlying use of the facilities or the services that are currently provided to customers on the facilities.

EnCana Border is a wholly owned subsidiary of EnCana Resources Inc. which is a wholly owned subsidiary of EnCana Corporation, a Canadian Federal corporation incorporated under the Canada Business Corporation Act. EnCana Border's principal office is located at 1800, 855 – 2nd Street, S.W., Calgary, Alberta, T2P3V4, Canada. Applicants explain that the current Permittee, Canada Ltd., changed its name to PanCanadian Border Pipelines Limited and then to EnCana Border Pipelines Limited as a result of the merger of PanCanadian Energy Corporation and Alberta Energy Company in April 2002. The Permittee did not apply to amend its Permit to reflect the changes in name. Applicants maintain that the name changes have had no effect on the operation or ownership of the facilities covered by the Permit and ask the Commission to waive, to the extent necessary, any regulation in order to allow the section 3 authorization and Permit to be transferred to Alberta Ltd.

Albera Ltd., a corporation organized and existing under the laws of Alberta, Canada, is a wholly owned subsidiary of Harvest Energy Trust (Harvest Trust), a royalty trust based in Calgary, Alberta. Harvest Trust acquires oil and gas properties through its wholly owned subsidiary Harvest Operations Corporation which manages the assets of Harvest Trust. Alberta Ltd. was incorporated on July 17, 2003, to own and operate the facilities for which transfer is sought. The principal offices of Alberta Ltd. and Harvest Trust are located at 2100 – 330 5<sup>th</sup> Avenue, S.W., Calgary, Alberta T2P OL4 Canada.

Also enclosed for your consideration is a draft copy of the amended Presidential Permit to be issued to Alberta Ltd., which incorporates terms and conditions you and the Secretary of Defense have heretofore required in similar cases. Consistent with current Commission policy, there are two substantive differences between the draft Permit and the existing Permit. Article 3 of the draft Permit does not limit the use of the subject facilities to the importation of gas. Thus, the facilities may be used for importation or exportation as consistent with current and future authorizations by the Department of Energy. Article 9 is revised to state that the Permittee is required to defer to the Commission's finding and requirement regarding which authorized facilities should be removed and which should remain in place, in the event that they are no longer used.

A similar letter, together with a draft of the proposed Presidential Permit and a copy of the application, is being sent to the Secretary of Defense. If the Secretary of Defense should make an unfavorable recommendation or propose any material change in the draft of the Permit, the Commission will immediately advise you.

The Commission would appreciate receiving your views regarding issuance of the proposed amended Permit at an early date. Please do not hesitate to contact me at (202) 502-8400, or Betty Toepfer at (202) 502-8785, if you need any further information.

By direction of the Commission.

Linda Mitry,  
Deputy Secretary.

Enclosures:  
Application  
Draft Permit

**AMENDED PERMIT AUTHORIZING ENCANA BORDER PIPELINES LIMITED (ENCANA BORDER) TO TRANSFER TO 105733 ALBERTA, LTD. AUTHORIZATION HELD IN THE NAME OF 3698157 CANADA LTD. (NOW ENCANA BORDER) TO OPERATE AND MAINTAIN NATURAL GAS FACILITIES AT THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND CANADA**

**FEDERAL ENERGY REGULATORY COMMISSION  
Docket No. CP05-211-000**

EnCana Border, a wholly owned subsidiary of EnCana Resources Inc., a Canadian Federal corporation incorporated under the Canada Business Corporation Act and 105733 Alberta, Ltd. (Alberta Ltd.), filed on April 29, 2005 in Docket No. CP05-211-000 a joint application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 0204-112, requesting that the Commission issue an order: (1) authorizing EnCana Border to transfer to Alberta Ltd. existing Natural Gas Act section 3 authorization (held in the name of EnCana Border's predecessor, 3698157 Canada Ltd.) to operate and maintain facilities at the United States/Canada international boundary between Monchy, Saskatchewan and Phillips County, Montana, for the importation of natural gas into the United States; and (2) authorizing EnCana Border to assign to Alberta Ltd. the January 11, 2001 Presidential Permit which was issued to 3698157 Canada Ltd. authorizing it to operate and maintain facilities at the Monchy, Saskatchewan/Montana import point.

By letter dated            2005, the Secretary of State, and by letter dated            2005, the Secretary of Defense favorably recommended that the amended Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of an amended Permit to Alberta Ltd. is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, dated September 3, 1953, and February 3, 1978, respectively, the Secretary of Energy's Delegation Order No. 0204-112, effective February 22, 1984, and the Commission's regulations, permission is granted to Alberta Ltd. (Permittee) to operate and maintain the natural gas facilities described in Article 2 below, upon the terms and conditions of the Permit.

Article 1. It is expressly agreed by the Permittee that the facilities herein described shall be subject to all provisions and requirements of this Permit. This Permit may be modified or revoked by the President of the United States or the Federal Energy Regulatory Commission and may be amended by the Federal Energy Regulatory Commission, upon proper application therefor.

Article 2. The following facilities are subject to this Permit:

Approximately 30 feet of 8-inch diameter pipeline, with a capacity of 10 MMcf per day, extending from the international boundary near the Village of Monchy, Saskatchewan, Canada to an interconnection with the facilities of EnCana Energy Resources Inc. in Montana.

Article 3. The natural gas facilities authorized herein, or which may subsequently be included herein by modification or amendment, may be utilized for the importation or exportation of natural gas between the United States and Canada only in the amount, at the rate, and in the manner authorized under Section 3 of the Natural Gas Act.

Article 4. The operation and maintenance of the aforesaid facilities shall be subject to the inspection and approval of representatives of the United States. The Permittee shall allow officers and employees of the United States, showing proper credentials, free and unrestricted access to the land occupied by the facilities in the performance of their official duties.

Article 5. If in the future it should appear to the Secretary of the Army that any facilities or operations permitted hereunder cause unreasonable obstruction to the free navigation of any of the navigable waters of the United States, the Permittee may be required, upon notice from the Secretary of the Army, to remove or alter the same so as to render navigation through such waters free and unobstructed.

Article 6. The Permittee shall be liable for all damages occasioned to the property of others by the operation or maintenance of the facilities, and in no event shall the United States be liable therefor. The Permittee shall do everything reasonable within its power to prevent or suppress fires on or near land occupied under this Permit.

Article 7. The Permittee agrees to file with the Commission, under oath and in such detail as the Commission may require, such statements or reports with respect to the natural gas exported, imported, or the facilities described herein, as the Commission may, from time to time, request. Such information may be made available to any federal, state, or local agency requesting such information.

Article 8. Neither this Permit nor the facilities, nor any part thereof, covered by this Permit shall be voluntarily transferred in any manner, but the Permit shall continue in effect temporarily for a reasonable time in the event of the involuntary transfer of the facilities by operation of law (including transfer to receivers, trustees, or purchasers under foreclosure or judicial sale) pending the making of an application for a permanent Permit

and decision thereon, provided notice is promptly given in writing to the Commission accompanied by a statement that the facilities authorized by this Permit remain substantially the same as before the involuntary transfer. The Permittee shall maintain the facilities in a condition of repair for the efficient transportation of natural gas and shall make all necessary renewals and replacement.

Article 9. Upon the termination, revocation, or surrender of this Permit, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The facilities authorized shall be removed within such time as the Commission may specify, and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, or any portion thereof, the Commission may direct that possession of the same be taken and the facilities be removed at the Permittee's expense, and the Permittee shall have no claim for damages by reason of such possession or removal.

Article 10. The Permittee agrees that when, in the opinion of the President of the United States, evidenced by a written order addressed to it as holder of this Permit, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any of the facilities, or parts thereof, maintained or operated under this Permit, and all contracts covering the transportation or sale of natural gas by means of said facilities, to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes, and then to restore possession and control to the Permittee; and in the event that the United States shall exercise such right it shall pay the Permittee just and fair compensation for the use of said facilities upon the basis of a reasonable profit in time of peace, and the cost of restoring said facilities to as good condition as existed at the time of taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the Permittee.

Article 11. This Permit is subject to any action which the Government of the United States may in the future deem expedient or necessary to take in case any part of the aforesaid facilities comes into the control of any foreign government.

Article 12. The Government of the United States shall be entitled to the same or similar privileges as may by law, regulation, agreement, or otherwise, be granted by the Permittee to any foreign government.

By direction of the Commission.

Secretary.

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of \_\_\_\_\_, 2005 has caused its name to be signed by \_\_\_\_\_, [pursuant to a resolution of its Board of Directors duly adopted] on the \_\_ day of \_\_\_\_\_, 2005, a certified copy of the record of which is attached hereto.

105733 Alberta Ltd.

By \_\_\_\_\_

(Attest)

\_\_\_\_\_

Executed in triplicate