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& BYRON, P.A.

October 14, 2008

Via Hand Delivery

Mr. Patrick Fahn
North Dakota Public Service Commission
600 East Boulevard Avenue
Dept. 408
Bismarck, ND 58505-4080

Re: Pecan Pipeline (North Dakota), Inc.; Extension of Gas Gathering Facility from Palermo, North Dakota to Alliance Pipeline Interconnect near Towner, North Dakota

Dear Mr. Fahn:

Thank you for the opportunity to meet with you and other members of the North Dakota Public Service Commission staff relative to my client's plans for the construction and installation of additional pipelines in the State of North Dakota. Since our meeting, we have prepared, as you requested, this letter request for a determination of non-jurisdictional status.

I.
INTRODUCTION

Pecan Pipeline (North Dakota), Inc. ("Pecan North Dakota"), a wholly owned subsidiary of EOG Resources, Inc. ("EOG"), is proposing a natural gas pipeline extension of its existing gathering operations, which are performed in conjunction with EOG's development of oil and gas reserves in the Parshall-Bakken Pool in Mountrail County, North Dakota (the "Proposed Extension"). Currently, Pecan North Dakota has pending before the Federal Energy Regulatory Commission (the "FERC") a petition requesting a disclaimer of the FERC's jurisdiction over the Proposed Extension. The petition explains that the Proposed Extension will perform an exempt gathering function under Section 1(b) of the Natural Gas Act, 15 U.S.C. § 717(b) (2000). As this letter explains, the Proposed Extension is likewise exempt from the jurisdiction of the North Dakota Public Service Commission (the "PSC") for purposes of the Energy Conversion and Transmission Facility Siting Act. N.D.C.C. Chapter 49-22.

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II.
THE PROPOSED EXTENSION IS A GATHERING PIPELINE UNDER NORTH DAKOTA LAW

The PSC does not have siting authority over the Proposed Extension because the Proposed Extension is statutorily exempt. In North Dakota, any utility that plans to "own, operate, or start construction on any facility shall annually develop a ten-year plan." N.D.C.C. § 49-22-04. Upon receiving the plan, the PSC "shall . . . assess the impact . . . to ensure that energy conversion facilities and transmission facilities will be sited in an orderly manner . . . ." Id. Notably, however, the definition of "transmission facility" specifically excludes "an oil or gas pipeline gathering system." Id. § 49-22-03(12)(b). Thus, a gas pipeline gathering system is statutorily exempt from the PSC's siting authority. Because the Proposed Extension constitutes a gathering system, it is exempt from the PSC's jurisdiction.

A gathering system includes "pipelines and associated facilities used to collect gas from the well to the gas processing facility." Id. The Proposed Extension fits the statutory definition of a gathering system because it will essentially collect gas from wells in the area and provide an efficient means to help deliver the gas to a gas processing facility. More specifically, the Proposed Extension will begin at a point near Palermo, North Dakota. Currently, Pecan North Dakota has a gas processing facility at that site, but with the Proposed Extension, Pecan North Dakota will "mothball" the gas processing facility and replace it with a condensate (crude oil) recovery unit. Unlike the gas processing facility, the condensate recovery unit will be nothing more than an "associated facility" used to strip condensate from the gas stream. In essence, the Proposed Extension will extend Pecan North Dakota's existing gathering lines about 75 miles to the last to an interconnection with Alliance Pipeline, LP ("Alliance") near Towner, North Dakota. Alliance will then provide downstream transportation to a major processing complex owned and operated by Aux Sable Liquid Products, LP ("Aux Sable Processing Facility") near Chicago, Illinois. Based on all of this, the Proposed Extension is a gathering system.

III.
CONDENSATE RECOVERY VS. GAS PROCESSING

The condensate recovery unit is not a gas processing facility. The differences between the condensate unit and a gas processing facility are as follows:

Standard Gas Processing Facility

- A typical gas processing facility is designed for recovery and separation of natural gas liquids ("NGLs") and the removal of impurities in the gas necessary to deliver pipeline quality residue gas at the tailgate of the gas plant. Standard gas processing for the subject gas stream involves three main processes:

---oil and condensate removal
---water removal
---separation of NGLs

- Processing equipment consists of dehydration, mechanical refrigeration, turbo-cryogenic expansion, recompression and distillation columns designed to recover and remove all liquids from the inlet gas entering the facility.

- The process design is such that virtually all propane products and heavier can be captured in a pressurized NGL product stream which can be transported via truck and/or rail to other facilities for fractionation and final sale. The extraction of NGLs from the natural gas stream produces cleaner, purer natural gas so that the gas processing facility can deliver pipeline quality gas at the tailgate of the gas plant.

- The process uses mechanical refrigeration to lower the temperature of the gas to -30 F and then turbo-cryogenic expansion of the gas from 700 psig to 180 psig to further cool the gas to approximately -125 F. By cooling the gas to this temperature all the propane and heavier components are liquefied from the gas stream.

- Condensate liquids in a rich gas gathering system enter the plant and are fed to a separation column where the NGL portion of the stream (propane and heavier) can be directed to storage, and any entrained light ends can be returned to the gas stream for delivery to the transportation pipeline.

- At the end of the process, the gas is recompressed to sales gas pipeline conditions and meets the requirements for transport and sale as a natural gas product to end-users in the market place.

Condensate Recovery Unit

- The Condensate Recovery Unit focuses only on removal of the condensate (C5+) components of the inlet gas stream. It does not recover and separate all NGLs and purify gas so that pipeline quality gas is delivered at the tailgate of the facility, but instead retains most of the NGLs with the gas so the combined dense phase stream can be gathered for processing at a gas processing facility downstream.

- The Condensate Recovery Unit consists of mechanical refrigeration, separation, and gas compression. The process uses mechanical refrigeration to lower the temperature of the

gas to plus 40 F, which is adequate to remove all Pentane and heavier components from the gas stream.

- Condensate liquids produced by the Recovery Unit are fed to a stabilizer where the Pentane and heavier components are recovered as a liquid. Any entrained light gas is returned to the gas stream.

- The design of the equipment is such that virtually all Pentane and heavier products in the inlet gas are liquefied and recovered as an atmospherically-stabilized condensate product. Such condensate product can be sold as oil.

- Ethylene glycol is injected into the inlet gas stream to prevent freezing, allowing virtually all of the Pentane-plus components in the gas stream to condense.

- The resulting gas phase is a high BTU stable dense phase gas stream that can be gathered and delivered to a gas processing facility where the NGLs can be separated from the gas and fractionated, and impurities removed so that pipeline quality residue gas is available at the tailgate of the gas plant.

IV.
GAS GATHERING VS. TRANSMISSION

The Eighth Circuit Court of Appeals recently compared and contrasted gathering-pipeline systems and transmission-pipeline systems in Clajon Gas Co., L.P. v. C.I.R., 354 F.3d 786, 788 (8th Ct. App. 2003) (determining the duration of a taxpayer's depreciation schedule for its natural gas pipeline). Id. The Clajon court noted a number of distinguishing characteristics. For instance, one way that a gathering system is different from a transmission system is the quality of the gas being delivered. Id. Simply stated, A gathering system does not carry "pipeline quality" gas. Id. As another example, the size of the pipelines was also a distinguishing factor. Id. A transmission facility has pipelines ranging from twenty to forty-two inches in diameter. Id. A gathering system, on the other hand, has smaller pipelines ranging in diameter from two (2) to twenty (20) inches. Id. at 788 n.6.

The Proposed Extension will not deliver "pipeline quality" gas. Generally, pipeline quality gas is gas that meets gas-contract specifications as to the content of natural gas liquids, water, and other impurities. Id. at 788. The gas that will be delivered through the Proposed Extension will be "dense phase" gas, which is not considered pipeline quality. It is called dense phase gas because the hydrocarbon dew point of the gas delivered on the Proposed Extension is too high to comply with the specifications of virtually any interstate pipeline. In fact, it far exceeds the gas quality specifications of Alliance's tariff, but Alliance has agreed to waive the

hydrocarbon dew point specification, subject to FERC approval, because the relatively small amount of dense phase gas can safely be blended with the far larger quantities in Alliance's mainline. Another indication that the gas that is delivered through the Proposed Extension will not be pipeline quality is the fact that it would not be possible for any end-user to take direct delivery of the dense phase gas for any end use application, absent processing.

The size of the pipelines currently existing and planned in the Proposed Extension both indicate that the Proposed Extension is a gathering system. As noted above, the diameter of a gathering facility pipeline ranges from two to twenty inches. Id. at 788 n.6. At present, the Pecan North Dakota system has over 140 miles of six-to-eight inch gathering lines in operation. The Proposed Extension will add approximately 75 miles of twelve-inch diameter pipeline. Thus, the Proposed Extension will consist entirely of pipeline that is well within the range of diameters for gathering facility pipelines. Again, this fact buttresses the previous assertion that the Proposed Extension is a gathering system.

V.
NEED TO EXTEND GAS GATHERING SYSTEM

Moreover, the Proposed Extension is vital to alleviating the shortage of gathering infrastructure available to the rapidly developing Bakken formation generally and the Parshall-Bakken Pool specifically. The Bakken formation is a prolific oil and gas system. Currently, Pecan North Dakota's processing facility is only capable of processing 20,000 MLF per day. Further, Pecan North Dakota must extract 50% of the Btu value as "Y-grade" natural gas liquids mix or it will be subject to flaring. The result is a gas stream with less than 50% of its inlet Btu value. Equally important, the Y-Grade natural gas liquids must be moved by truck or rail, both of which present very substantial economic and logistical hurdles. This is already causing capacity bottlenecks for marketing crude oil produced in North Dakota. The Proposed Extension, however, will be capable of delivering 80,000 MLF per day of dense phase gas with approximately 83% of its inlet Btu value by the second year of operations.

The Proposed Extension is the solution to the current capacity bottlenecks, and must be implemented expeditiously. By the end of this year, EOG projects that its wells will exceed 20,000 MLF per day. In addition, other producers in the area who have either connected to Pecan North Dakota's gathering facilities, or expressed a strong interest in doing so, are expected to produce an additional 10,000 MLF per day by the end of 2008. Thus, quickly moving away from the processing limits of Pecan North Dakota's gas processing facility to a long-term solution is absolutely critical to maintaining the current rate of development in the Mountrail County area.

To permit the Proposed Extension to achieve its extremely important purpose on a timely basis, Pecan North Dakota and EOG request that the PSC recognize that the Proposed Extension non-jurisdictional. If you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,

Lawrence Bender

LB/clc

cc: Ray Ingle
Dustin Ammons
Jodie Davis

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