

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

August 29, 2019

In Reply Refer To:
Steel Reef Burke LLC
ONEOK Rockies
Midstream, L.L.C.
Docket No. CP19-465-000
Presidential Permit

The Honorable Dr. Mark T. Esper
Secretary of Defense
Washington, DC 20301

Dear Mr. Secretary:

Pursuant to the provisions of Executive Order Nos. 10485 and 12038 of September 3, 1953, and February 3, 1978, respectively, and the Secretary of Energy's Delegation Order No. 00-004.00A, effective May 16, 2006, enclosed herewith for your information and consideration is a copy of an application filed by ONEOK Rockies Midstream, L.L.C. (ORM)¹ and Steel Reef Burke LLC (Steel Reef)² (collectively, Applicants) with the Federal Energy Regulatory Commission on May 6, 2019, in Docket No. CP19-465-000. Steel Reef seeks an order granting Natural Gas Act (NGA) section 3 authorization and issuance of a Presidential Permit to acquire, operate, and maintain for the import and export of natural gas certain border crossing facilities, currently owned and operated by ORM, located between the United States and Canada near Portal, Burke County, North Dakota.³

¹ ORM, an indirect, wholly owned subsidiary of Oneok, Inc., is a limited liability company organized under the laws of the State of Delaware and based in Tulsa, Oklahoma.

² Steel Reef, an indirect, wholly owned subsidiary of Steel Reef Infrastructure Corp., is a limited liability company organized under the laws of the State of Delaware and based in Burke County, North Dakota.

³ Applicants propose no construction or modification to the facilities.

In 1997, the Commission authorized Interenergy Sheffield Processing Company (Interenergy Sheffield) to construct a natural gas pipeline, consisting of approximately 1.2 miles of 8.265-inch-diameter pipe, for the importation of natural gas at the international boundary between the United States and Canada, approximately 1 mile east of Portal, North Dakota (Border Crossing Facility).⁴ In 2000, the Commission issued an order authorizing Bear Paw Energy, L.L.C. (Bear Paw) to acquire the Border Crossing Facility from Interenergy Sheffield,⁵ and, in 2012, the Commission issued a notice redesignating ORM as the permit holder due to a name change.⁶ Both Commission orders noted that the Secretaries of State and Defense had no objections to the requested authorizations. In the application, Steel Reef seeks section 3 authorization and a Presidential Permit to own, operate, and maintain the Border Crossing Facility.⁷

Also enclosed for your consideration is a draft copy of the proposed Presidential Permit to be issued to Steel Reef, if the Commission approves its application. The proposed Presidential Permit incorporates terms and conditions you and the Secretary of State have required in similar cases.

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 State. If the Secretary of State should make an unfavorable recommendation or propose any material change in the draft Presidential Permit, the Commission will immediately advise you.

⁴ *Interenergy Sheffield Processing Co.*, 78 FERC ¶ 61,085 (1997).

⁵ *Interenergy Sheffield Processing Co.*, 91 FERC ¶ 61,286 (2000).

⁶ ONEOK Rockies Midstream, L.L.C., Notice of Redesignation of Proceeding, Docket No. CP12-449-000 (May 9, 2012).

⁷ NGA Section 3 authorizations and Presidential Permits are non-transferable; therefore, Applicants' request will be treated as a request by Steel Reef for a new NGA section 3 authorization and a new Presidential Permit. As holder of the authorizations, Steel Reef will then be the entity responsible for compliance with any conditions imposed in connection with their termination.

The Commission would appreciate receiving your views regarding issuance of the proposed Presidential Permit in the name of Steel Reef at your earliest convenience. Please do not hesitate to contact me at (202) 502-8400, or Rachael Warden at (202) 502-8717, if you need any further information.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

cc: The Honorable Michael R. Pompeo
Secretary of State

Enclosures:

Application of ONEOK Rockies Midstream, L.L.C. and Steel Reef Burke LLC
Draft of Presidential Permit

DRAFT
**PRESIDENTIAL PERMIT AUTHORIZING STEEL REEF BURKE LLC
TO OPERATE AND MAINTAIN NATURAL GAS FACILITIES AT THE
INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND
CANADA IN BURKE COUNTY, NORTH DAKOTA**

**FEDERAL ENERGY REGULATORY COMMISSION
DOCKET NO. CP19-465-000**

(Issued , 2019)

ONEOK Rockies Midstream, L.L.C. (ORM) and Steel Reef Burke LLC (Steel Reef or Permittee) filed on May 6, 2019, in Docket No. CP19-465-000, an application pursuant to Executive Order Nos. 10485 and 12038, dated September 3, 1953, and February 3, 1978, respectively, and the Secretary of Energy's Delegation Order No. 00-004.00A, effective May 16, 2006, requesting that the Commission issue an order under section 3 of the NGA and a Presidential Permit authorizing Steel Reef to operate and maintain certain pipeline and related facilities, as described in Article 2 below, for the import or export of natural gas from or to Canada.

By letter dated _____, 2019, the Secretary of State and by letter dated _____, 2019, the Secretary of Defense, favorably recommend that the Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of a Permit is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, the Secretary of Energy's Delegation Order No. 00-004.00A, and the Commission's regulations, permission is granted to the 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 therefore.

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

A natural gas pipeline consisting of approximately 1.2 miles of 8.265-inch outside-diameter pipe, extending on an uninterrupted basis under the United States-Canada International Boundary line to a non-jurisdictional interconnection approximately 1 mile east of Portal, Burke County, North Dakota.

Article 3. The natural gas facilities subject to this Permit, or which may subsequently be included herein by modification or amendment, may be utilized for the transportation 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 Defense 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 for the Secretary of Defense, to remove or alter the same so as to render navigation through such water 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 therefore. 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 agree 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 or 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 purchases 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 replacements.

Article 9. At such time that this Permit is surrendered, revoked, or otherwise terminated, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The Commission will specify the time within

which any authorized facilities shall be removed, and the Permittee shall remove those facilities within such time and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, the Commission may direct that possession of the same be taken and the facilities be removed at 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 costs 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 _____ has caused its name to be signed by _____, pursuant to a resolution of its Board of Directors duly adopted on the ____ day of _____, 2019, a certified copy of the record of which is attached hereto.

Steel Reef Burke LLC

By _____

(Attest)

Executed in triplicate