

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

DELFIN LNG LLC

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)
) FE DOCKET NO. 13-129-LNG

ORDER GRANTING LONG-TERM, MULTI-CONTRACT AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS BY VESSEL
FROM A PROPOSED FLOATING LIQUEFACTION PROJECT AND
DEEPWATER PORT 30 MILES OFFSHORE OF LOUISIANA
TO FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NO. 3393

FEBRUARY 20, 2014

I. DESCRIPTION OF REQUEST

On October 7, 2013, Delfin LNG LLC (Delfin) filed an application (Application) with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA)¹ for long-term, multi-contract authorization to export liquefied natural gas (LNG) produced from domestic sources in a volume equivalent to approximately 657.5 billion cubic feet per year (Bcf/yr) of natural gas, or 1.8 Bcf per day (Bcf/d). Delfin seeks authorization to export the LNG for a 20-year term from a proposed floating liquefaction project to be located in West Cameron Block 167 (WC 167) of the Gulf of Mexico, offshore of Cameron Parish, Louisiana (Liquefaction Project). Delfin states that the floating liquefaction facility will be a “deepwater port” within the meaning of the Deepwater Port Act (33 U.S.C. § 1501, *et seq.*), and therefore also will require a license from the U.S. Department of Transportation’s Marine Administration (MARAD), in conjunction with the U.S. Coast Guard.

Delfin seeks to export LNG by vessel from the proposed Liquefaction Project to any country with which the United States currently has, or in the future will have, a Free Trade Agreement (FTA) requiring the national treatment for trade in natural gas,² and with which trade is not prohibited by U.S. law or policy (FTA countries).³ Delfin seeks to export this LNG on its own behalf and as agent for third parties. Delfin requests that this authorization commence on

¹ The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA (15 U.S.C. § 717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-002.04F, issued on July 11, 2013.

² 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.

³ DOE/FE notes that, on November 12, 2013, Delfin submitted an application to export the same volume of LNG requested herein to non-FTA countries. In that application, Delfin states that the volumes requested for export under the two applications are not additive. *See* Delfin LNG LLC, Application for Long-Term Authorization to Export LNG to Non-Free Trade Agreement Countries, FE Docket No. 13-147-LNG, at 2 (Nov. 12, 2013). DOE/FE will review Delfin’s non-FTA application separately. 15 U.S.C. § 717b(a).

the earlier of the date of first export or seven years from the date the authorization is issued (*i.e.*, February 20, 2021).

II. BACKGROUND

Applicant. Delfin is a Louisiana limited liability company with its principal place of business in Dallas, Texas. Delfin states that it is a wholly-owned subsidiary of Fairwood Peninsula LLC (Fairwood Peninsula), a Delaware limited liability company formed by executives from both the Fairwood Group (based in India and Singapore) and the Peninsula Group (based in the United States). Delfin describes the corporate structure as follows:

- Fairwood Peninsula is owned by FWNRL Energy Holdings (USA) Corporation (Fairwood USA) and the Peninsula Group.
- Fairwood USA is a Delaware corporation and a subsidiary of Fairwood Welbeck Natural Resources Pte. Ltd. (FWNRL).
- FWNRL is part of the Fairwood Group, an India-based group of companies with investments in energy, transportation, and urbanization. FWNRL is a company organized and existing under the laws of Singapore, with its principal place of business in Midland House, Singapore 188970. It is engaged in developing natural gas activities, including natural gas production and LNG liquefaction within the United States and regasification facilities and offtake contracts in Asia.
- The Peninsula Group is a privately owned, Texas-based group of companies with interests in land development, construction projects, and oil and gas.

Delfin states that principals of FWNRL and the Peninsula Group have been working on the development of the Liquefaction Project for several years and are engaged in advanced negotiations with major strategic partners.

Liquefaction Project. Delfin proposes to develop, own, and operate a floating liquefaction facility in WC 167 of the Gulf of Mexico. As stated above, Delfin asserts that the facility will qualify as a “deepwater port” under the Deepwater Port Act (DWPA),⁴ and thus will

⁴ 33 U.S.C. § 1501 *et seq.* Delfin states that the Deepwater Port Act authorizes the ownership, construction, and operation of marine terminals in federal waters of the Outer Continental Shelf. The Deepwater Port Act originally

require Delfin to obtain a license from MARAD, working in conjunction with the U.S. Coast Guard.

Delfin states that liquefaction at the new deepwater port will utilize floating liquefaction and storage vessels (FLNGV) to be moored near an existing platform located in WC 167, approximately 30 miles offshore of Cameron Parish, Louisiana. Delfin states that the platform is the terminus and metering point of the existing Enbridge Offshore Pipelines (UTOS) natural gas pipeline system, and is connected to the shore via an existing 42-inch diameter, 30-mile long gas pipeline. Delfin states that the pipeline system commenced operation in 1978 and previously was utilized for the purpose of transporting offshore natural gas production to onshore connections with Transcontinental Gas Pipe Line (Transco), Natural Gas Pipeline Company of America (NGPL), and ANR Pipeline Company (ANR), as well as to nearby gas processing plants. Delfin asserts that, because of significantly decreased flow volumes, this gas pipeline could no longer be economically operated for its original purpose. As a result, in 2011, the Federal Energy Regulatory Commission (FERC) authorized the pipeline to abandon its services and certificates, while deferring the final disposition of its facilities.⁵ Delfin maintains that the system has been idle since that time and is currently filled with nitrogen.

Delfin states that it has entered into a letter of intent with the owner of the pipeline system that provides Delfin the exclusive right to acquire the pipeline system, subject to the satisfaction of certain conditions including regulatory approvals.⁶ Delfin intends to recommission and to reverse the flow on the existing 42-inch pipeline for purposes of delivering feed gas to the Liquefaction Project. According to Delfin, the existing pipeline is anticipated to

applied only to oil import terminals, but was amended in 2002 to include LNG import terminals. Delfin states that Section 312 of the Coast Guard and Maritime Transportation Act of 2012 (H.R. 2838) further amended the Deepwater Port Act to include facilities for the export of oil and natural gas.

⁵ *Enbridge Offshore Pipelines (UTOS) LLC*, 136 FERC ¶ 62,269 (2011).

⁶ Delfin states that a letter acknowledging this agreement is attached to its Application as Appendix D.

have capacity to transport up to 1.8 Bcf/d of natural gas from the Louisiana coastline to the new Delfin deepwater port facility. Delfin states that, following the reactivation of its previous onshore interconnections with major interstate pipelines (Transco, NGPL, and ANR) and modifications to reverse flow, the pipeline will allow the Liquefaction Project to access the domestic natural gas interstate pipeline system.⁷

Delfin states that the planned liquefaction will be provided on FLNGVs that will be moored at purpose-built single point moorings located as near the terminus of the existing pipeline in WC 167 as operationally and safely as possible (expected to be within approximately 2000 feet). According to Delfin, the FLNGVs will have the capability to export LNG to off-taking LNG carriers utilizing a proven ship-to-ship, side transfer process. Delfin states that the precise location and spacing of the FLNGVs around the existing WC 167 platform will depend on further design work, as well as consultation with MARAD and the Coast Guard.⁸ Delfin states that it has begun consultation with these agencies concerning the licensing of the new port.

Delfin states that the Liquefaction Project will be constructed in four LNG trains. Delfin states that it has entered into a memorandum of understanding (MOU) with a midstream LNG company to provide at least the first two FLNGVs. According to Delfin, the focus of the MOU is to develop fast track, modular, and mid-scale liquefaction solutions of approximately 2.5 million metric tons per annum (mtpa) per train, based on existing technology and using completed front-end engineering and designs. Delfin estimates that, subject to obtaining all regulatory approvals, it will begin operation of the first train in 2017 and the second train in 2018.

⁷ A map showing both the location of WC 167 and the existing gas pipeline is attached to the Application as Appendix C.

⁸ A basic site plan for the mooring system and other site depictions are attached to the Application as Appendix E.

Delfin anticipates that the third and fourth LNG trains will be provided by FLNGVs ordered and constructed for purposes of this Project. Delfin states that it is engaged in advanced discussions with a ship-building company and a LNG carrier company concerning these trains. Delfin anticipates contracting with the ship-builder for the construction of a new FLNGV(s) for the third and fourth trains. Delfin states that these two trains will provide liquefaction capacity of 4.0 million mtpa each, bringing the total capacity of the Liquefaction Project to approximately 13 million mtpa. Delfin anticipates beginning operation of the third and fourth trains in 2019 and 2021, respectively.

Source of Natural Gas. Delfin states that it plans to export domestically produced natural gas sourced from both conventional and non-conventional production. Delfin anticipates that this gas will be available from the interstate pipeline grid, and delivered through reactivated onshore interconnections with its dedicated, existing pipeline to the new deepwater port. Delfin states that its connection with the interstate pipeline system will provide access to abundant and diverse supplies of natural gas produced from Louisiana and Texas (specifically in the Eagle Ford Shale) and across the United States.

Business Model. Delfin states that it is engaged in commercial negotiations with numerous potential customers. Delfin anticipates that it will contract some of its capacity—in particular, portions of its first and possibly second LNG trains—with customers in FTA countries. It also anticipates entering into contracts with companies located in non-FTA countries, and therefore, as noted above, states that it will apply to DOE/FE separately for authorization to export LNG to non-FTA countries. *See supra* at 2.

Environmental Review. Delfin notes that, to accommodate the proposed export activities, construction of new facilities at the offshore Liquefaction Project site will be required.

Delfin states that its plans to file an application with MARAD for the necessary licensing of its deepwater port and authorization for the facilities to allow for the liquefaction of domestically produced natural gas and export of LNG from the offshore facilities. Delfin further asserts that an environmental review under the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, will be completed by MARAD and the Coast Guard, together with the participation of DOE, prior to granting the required authorizations.

III. FINDINGS

(1) Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that applications authorizing (a) the import and export of natural gas, including LNG, from and to a nation with which there is in effect a FTA requiring national treatment for trade in natural gas, and (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without modification or delay. This Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the requested authorization without modification or delay.⁹

(2) In light of DOE/FE's statutory obligation to grant this Application without modification or delay, there is no need for DOE/FE to review other arguments asserted by Delfin in support of the Application. The instant grant of authority should not be read to indicate DOE's views on those arguments.

(3) The countries with which the United States has an FTA requiring national treatment for trade in natural gas currently are: Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore.

⁹ DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 C.F.R. Part 590, are applicable only to applications seeking to export natural gas, including LNG, to countries with which the United States does not have a FTA requiring national treatment for trade in natural gas.

(4) As described above, Delfin requests authorization to export LNG on its own behalf and as agent for other entities who hold title to the LNG at the time of export. DOE/FE previously addressed the issue of agency rights in DOE/FE Order No. 2913,¹⁰ which granted Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC (collectively, FLEX) authority to export LNG to FTA countries. In that order, DOE/FE approved a proposal by FLEX to register each LNG title holder for whom FLEX sought to export LNG as agent. DOE/FE found that this proposal was an acceptable alternative to the non-binding policy adopted by DOE/FE in *The Dow Chemical Company*,¹¹ which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export. We find that the same policy considerations that supported DOE/FE's acceptance of the alternative registration proposal in DOE/FE Order No. 2913 apply here as well.

DOE/FE reiterated its policy on Agency Rights procedures in *Gulf Coast LNG Export, LLC*.¹² In *Gulf Coast*, DOE/FE confirmed that, in LNG export orders in which Agency Rights have been granted, DOE/FE shall require registration materials filed for, or by, an LNG titleholder (Registrant) to include the same company identification information and long-term contract information of the Registrant as if the Registrant had filed an application to export LNG on its own behalf.¹³

To ensure that the public interest is served, the authorization granted herein shall be conditioned to require that where Delfin proposes to export LNG as agent for other entities who

¹⁰ *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE Order No. 2913, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations (Feb. 10, 2011).

¹¹ *The Dow Chemical Company*, DOE/FE Order No. 2859, Order Granting Blanket Authorization to Export Liquefied Natural Gas (Oct. 5, 2010), at 7-8, discussed in *Freeport LNG*, DOE/FE Order No. 2913, at 7-8.

¹² *Gulf Coast LNG Export, LLC*, DOE/FE Order No. 3163, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel from the Proposed Brownsville Terminal to Free Trade Agreement Nations (Oct. 16, 2012).

¹³ See *id.* at 7-8.

hold title to the LNG (Registrants), Delfin must register with DOE/FE those entities on whose behalf it will export LNG in accordance with the procedures and requirements described herein.

(5) Section 590.202(b) of DOE's regulations requires applicants to supply transaction specific factual information "to the extent practicable."¹⁴ Additionally, DOE regulations at 10 C.F.R. Part 590.202(e) allow confidential treatment of the information supplied in support of or in opposition to an application if the submitting party requests such treatment, shows why the information should be exempted from public disclosure, and DOE determines it will be afforded confidential treatment in accordance with 10 C.F.R. § 1004.11.¹⁵

(6) DOE/FE will require that Delfin file or cause to be filed with DOE/FE any relevant long-term commercial agreements (contracts) pursuant to which Delfin exports LNG as agent for a Registrant once they have been executed. DOE/FE finds that the submission of all such agreements or contracts within 30 days of their execution using the procedures described below will be consistent with the "to the extent practicable" requirement of section 590.202(b). By way of example and without limitation, a "relevant long-term commercial agreement" would include an agreement with a minimum term of two years, such as a long-term sales contract involving LNG stored or liquefied at the Liquefaction Project.

(7) DOE/FE also will require Delfin to file any long-term contracts Delfin enters into providing for the long-term export of LNG on its own behalf from the Liquefaction Project. DOE/FE finds that the submission of these contracts within 30 days of their execution using the procedures described below will be consistent with the "to the extent practicable" requirement of section 590.202(b).

¹⁴ 10 C.F.R. § 590.202(b).

¹⁵ *Id.* § 590.202(e).

(8) In addition, DOE/FE finds that section 590.202(c) of DOE/FE's regulations¹⁶ requires that Delfin file, or cause to be filed, all long-term contracts associated with the long-term supply of natural gas to the Liquefaction Project within 30 days of their execution that either Delfin or the Registrant enters into.

(9) DOE/FE recognizes that some information in Delfin or a Registrant's long-term commercial agreements associated with the export of LNG, and/or long-term contracts associated with the long-term supply of natural gas to the Liquefaction Project may be commercially sensitive. DOE/FE therefore will provide Delfin the option to file or cause to be filed either unredacted contracts, or in the alternative: (A) Delfin may file, or cause to be filed, long-term contracts under seal, but it also will file either: i) a copy of each long-term contract with commercially sensitive 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, destinations, re-sale provisions, and other relevant provisions; and (B) the filing must demonstrate why the redacted information should be exempted from public disclosure.

To ensure that DOE/FE destination and reporting requirements included in the Order are conveyed to subsequent title holders, DOE/FE will include as a condition of this authorization that future contracts for the sale or transfer of LNG exported pursuant to the Order shall include an acknowledgement of these requirements.

ORDER

Pursuant to section 3 of the NGA, it is ordered that:

A. Delfin is authorized to export domestically produced LNG by vessel from the proposed floating Liquefaction Project to be located in West Cameron Block 167 (WC 167) of

¹⁶ *Id.* § 590.202(c).

the Gulf of Mexico. The volume authorized in this Order is up to the equivalent of 657.5 Bcf/yr of natural gas for a 20-year term, beginning on the earlier of the date of first export or 7 years from the date the authorization is issued (February 20, 2021). Delfin is authorized to export this LNG on its own behalf or as agent for other entities who hold title to the natural gas, pursuant to one or more long-term contracts (a contract greater than two years).

B. This LNG may be exported to Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore, and to any nation with which the United States subsequently enters into a FTA requiring national treatment for trade in natural gas, provided that the destination nation has the capacity to import LNG via ocean going vessels. FTA countries are currently identified by DOE/FE at:
<http://www.energy.gov/fe/services/natural-gas-regulation>.

C. Delfin shall ensure that all transactions authorized by this Order are permitted and lawful under U.S. laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the United States Department of the Treasury. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. (i) Delfin shall file, or cause others to file, with the Office of Oil and Gas Global Security and Supply a non-redacted copy of all executed long-term contracts associated with the long-term export of LNG on its own behalf or as agent for other entities from the Liquefaction Project. The non-redacted copies may be filed under seal and must be filed within 30 days of their execution. Additionally, if Delfin has filed the contracts described in the preceding sentence under seal or subject to claim of confidentiality or privilege, within 30 days of their

execution, Delfin shall also file, or cause others to file, for public posting either: i) a redacted version of the contracts described in the preceding sentence, or ii) major provisions of the contracts. In these filings, Delfin shall state why the redacted or non-disclosed information should be exempted from public disclosure.

(ii) Delfin shall file, or cause others to file, with the Office of Oil and Gas Global Security and Supply a non-redacted copy of all executed long-term contracts associated with the long-term supply of natural gas to the Liquefaction Project. The non-redacted copies may be filed under seal and must be filed within 30 days of their execution. Additionally, if Delfin has filed the contracts described in the preceding sentence under seal or subject to a claim of confidentiality or privilege, within 30 days of their execution, Delfin shall also file, or cause others to file, for public posting either: i) a redacted version of the contracts described in the preceding sentence, or ii) major provisions of the contracts. In these filings, Delfin shall state why the redacted or non-disclosed information should be exempted from public disclosure.

E. Delfin shall include, and shall require other entities for whom Delfin acts as agent to include, the following provision in any agreement or other contract for the sale or transfer of LNG exported pursuant to this Order:

“Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries identified in Ordering Paragraph B of DOE/FE Order No. 3393, issued February 20, 2014 in FE Docket No. 13-129-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such LNG to such countries. Customer or purchaser further commits to cause a report to be provided to Delfin LNG LLC that identifies the country of destination, upon delivery, into which the exported LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that Delfin LNG LLC is made aware of all such actual destination countries.”

F. Delfin is permitted to use its authorization in order to export LNG as agent for other entities, after registering the other parties with DOE/FE. Registration materials shall include an

acknowledgement and agreement by the Registrant to supply Delfin with all information necessary to permit Delfin to register that person or entity with DOE/FE, including: (1) the Registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 C.F.R. Part 590, including but not limited to destination restrictions; (2) the exact legal name of the Registrant, state/location of incorporation/registration, primary place of doing business, and the Registrant's ownership structure, including the ultimate parent entity if the Registrant is a subsidiary or affiliate of another entity; (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the Registrant to whom inquiries may be directed; (4) within 30 days of execution, a copy, of any long-term contracts, not previously filed with DOE/FE, described in Ordering Paragraph D of this Order.

G. Each registration submitted pursuant to this Order shall have current information on file with DOE/FE. Any changes in company name, contact information, change in term of the long-term contract, termination of the long-term contract, or other relevant modification, shall be filed with DOE/FE within 30 days of such change(s).

H. As a condition of this authorization, Delfin shall ensure that all persons required by this Order to register with DOE/FE have done so. Any failure by Delfin to ensure that all such persons, including entities for whom Delfin acts as agent, are registered with DOE/FE shall be grounds for rescinding in whole or in part the authorization.

I. Within two weeks after the first export of domestically produced LNG occurs from the proposed Liquefaction Project in the Gulf of Mexico, Delfin shall provide written notification of the date that the first export of LNG authorized in Ordering Paragraph A above occurred.

J. Delfin shall file with the Office of Oil and Gas Global Security and Supply, on a semi-annual basis, written reports describing the progress of the proposed Liquefaction Project. The

reports shall be filed on or by April 1 and October 1 of each year, and shall include information on the progress of the proposed Project, the date the facility is expected to be operational, and the status of the long-term contracts associated with the long-term export of LNG and any long-term supply contracts.

K. Prior to any change in control of the authorization holder, Delfin must obtain the approval of the Assistant Secretary for Fossil Energy. For purposes of the Ordering Paragraph, a “change of control” shall include any change, directly or indirectly, of the power to direct the management or policies of Delfin, whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means.

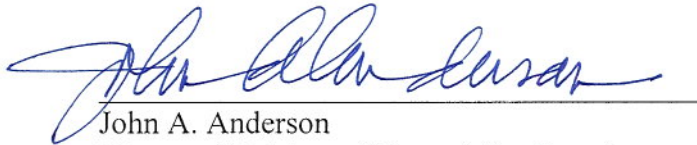
L. Monthly Reports: With respect to the LNG exports authorized by this Order, Delfin shall file with the Office of Oil and Gas Global Security and Supply, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made. The first monthly report required by this Order is due not later than the 30th day of the month following the month of first export. In subsequent months, if exports have not occurred, a report of “no activity” for that month must be filed. If exports of LNG have occurred, the report must give the following details of each LNG cargo: (1) the name(s) of the authorized exporter registered with DOE/FE; (2) the name of the U.S. export terminal; (3) the name of the LNG tanker; (4) the date of departure from the U.S. export terminal; (5) the country of destination into which the exported LNG was actually delivered; (6) the name of the supplier/seller; (7) the

volume in Mcf; (8) the price at point of export per million British thermal units (MMBtu); (9) the duration of the supply agreement (indicate spot sales); and (10) the name(s) of the purchaser(s).

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

M. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Oil and Gas Global Security and Supply, P.O. Box 44375, Washington, D.C. 20026-4375, Attention: Natural Gas Reports. Alternatively, reports may be e-mailed to ngreports@hq.doe.gov, or may be faxed to Natural Gas Reports at (202) 586-6050.

Issued in Washington, D.C., on February 20, 2014.



John A. Anderson
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Office of Oil and Gas Global Security and Supply
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