B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act [11] and subparagraph (f)(3) of rule 19b–4 thereunder,[12] because it is concerned solely with the administration of the self-regulatory organization. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change in consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD–2003–76 and should be submitted by June 2, 2003.

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(3).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–11729 Filed 5–9–03; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

Office of International Energy and Commodities Policy

[Public Notice 4362]

Finding of No Significant Impact and Summary Environmental Assessment: PMI Services North America, Inc. Pipeline in Cameron County, TX

The proposed action is to issue a Presidential Permit to PMI Services North America, Inc. (''PMI'') to construct, connect, operate and maintain a 10⅝-inch outer diameter (''OD'') pipeline to convey refined petroleum products and liquid petroleum gas (''LPG'') across the border between Mexico and Cameron County, Texas. On behalf of PMI, URS Corporation of Austin, Texas, prepared a draft environmental assessment under the guidance and supervision of the Department of State (the ''Department''). The Department placed a notice in the **Federal Register**, 67 FR 65168 (2002), regarding the availability for inspection of PMI's Presidential Permit application and the draft environmental assessment.

Numerous Federal and State agencies independently reviewed the draft environmental assessment. They include: the United States Section of the International Boundary and Water Commission, the Department of Transportation, the Department of the Interior, the U.S. Fish and Wildlife Service, the Environmental Protection Agency, the Federal Emergency Management Administration, the Department of Defense, the Department of Commerce, the Department of Homeland Security, the Council on Environmental Quality, the Texas Railroad Commission, the Texas Historical Commission, the Texas Parks and Wildlife Department, and the Texas Commission on Environmental Quality. Some members of the public also reviewed the draft environmental assessment and submitted comments to the Department.

Comments received from the Federal and State agencies and the public were responded to directly or by incorporation in the analysis contained in the revised draft environmental assessment and/or by developing measures to be undertaken by PMI to prevent or mitigate potentially adverse environmental impacts.

This summary environmental assessment, comments submitted by the Federal and State agencies and the public, responses to those comments, and the final environmental assessment, as amended, together constitute the ''Final Environmental Assessment'' of the proposed action by the Department.

Summary of the Environmental Assessment

I. The Proposed Project

The Department is charged with the issuance of Presidential Permits for the construction, connection, operation and maintenance of pipelines crossing international boundaries. *See* Executive Order 11423 of August 16, 1968, 33 FR 11741 (1968), as amended by Executive Order 12847 of May 17, 1993, 58 FR 29511 (1993). PMI has applied for a Presidential Permit to construct, connect, operate and maintain a bi-directional 10⅝-inch OD pipeline (''the MB Pipeline'') at the U.S.-Mexico border. The MB Pipeline will connect the Transmontaigne terminal at the Port of Brownsville, Brownsville, Texas, with an existing Petróleos Mexicanos (PEMEX) pipeline in the state of Tamaulipas, Mexico. The U.S. portion of the project consists of approximately 17 miles of new pipeline from the Transmontaigne terminal to a location on the Rio Grande west of the unincorporated town of San Pedro, approximately 9 miles northwest of downtown Brownsville. The Mexican portion consists of approximately 11 miles of new pipeline from the Rio Grande crossing to the PEMEX pipeline at the town of Curva, Texas.

A significant portion of the route of the MB Pipeline will follow the Penn Octane (''POCC'') pipeline right of way, for which the Department issued a finding of no significant impact (''FONSI'') in 1999 (64 FR 42163 (1999)). The MB Pipeline follows the POCC right of way until it reaches the area of the Resaca de la Palma State Park west of Brownsville. Instead of following the POCC pipeline south to the US/Mexico border, the MB Pipeline angles west-southwest to cross the Rio Grande at a point approximately 4 miles upriver of the POCC crossing. The routing for the MB Pipeline has been designed to avoid, to the maximum extent possible, populated areas of Cameron County and sensitive environmental features, including existing State park lands and Federal nature preserve lands.

Initially, the MB Pipeline will transport less than 100,000 barrels of refined product (motor gasoline, diesel fuel or jet fuel) per day. It is designed, however, to transport up to 100,000 barrels of refined product and may later be used to transport LPG between the United States and Mexico.

II. Alternatives Considered

The Department considered several alternatives to the proposed MB Pipeline. These are described in detail in the final environmental assessment and in a summary fashion below:

Alternative 1: The ''no action'' alternative would involve continued transportation of refined products to the Brownsville terminal from Matamoros via tanker trucks. While this alternative would avoid the minor or temporary noise and air quality impacts associated with the construction of the MB Pipeline, truck transport is not the better alternative. Up to 50 tanker trucks of refined product might cross the border on a regular basis, resulting in (i) exhaust emissions of NO_X, CO, SO_2, VOC, and particulate matter that exceed that of pipeline transport; (ii) extra loads on busy highways and road bridges, (iii) transportation-related environmental degradation related to operation of a tanker truck fleet, including fueling and maintenance, and (iv) a continuous safety risk in a heavily urbanized area, including increased exposure to emissions, spills, and accidents during truck loading and unloading operations. If, as expected, the demand for cross-border shipments of product were to increase, the need for additional truck transport would result in greater impacts to the transportation infrastructure, public safety, and air quality. The added travel from existing tanker trucks would substantially increase the regional diesel exhaust burden, resulting in 15 to 37.5 tons per year of nitrogen oxides, and smaller amounts of other pollutants compared to the proposed MB Pipeline.

Alternative 2: A second alternative would involve the use of an existing 8⅝-inch OD POCC pipeline to transport refined products. POCC currently transports LPG through this pipeline, which could, however, be used to transport refined products. There is a second POCC pipeline which has a 6⅝-inch outer diameter and which runs parallel to the 8⅝-inch pipeline; this smaller pipeline is not currently being used. Prior to deciding to proceed with its application for authority to construct its own 10⅝-inch OD pipeline, PMI entered into negotiations with POCC on the use of its 8⅝-inch OD pipelines. The parties, however, were unable to reach agreement on a framework for completing due diligence and negotiating a definitive contract.

In addition, PMI has determined that a 10⅝-inch OD pipeline is consistent with and allows for anticipated growth in demand for pipeline transportation in this system. Overall PMI anticipates a need for increased trans-border commerce, to provide better alternatives to manage Mexican product commercial surpluses and shortfalls. In fact, replacement of truck transport with installation of efficient transportation systems such as the proposed MB Pipeline will likely serve to accelerate the increase in trans-border commerce. Thus, the Department has concluded that utilization of the POCC pipeline is not a viable alternative because (i) the parties were not able to reach agreement on commercial terms on its use, and (ii) it would not fulfill the anticipated long-term needs for a more efficient and effective high-volume transportation system.

Other Alternatives: In 1999, the Department issued a FONSI for the POCC pipeline. In that FONSI, the Department considered three alternate routes for the proposed project: Route A ran to the east of Brownsville and Matamoros; Route B ran though downtown Brownsville directly into Matamoros; and Route C ran through the northern and western suburban portions of Brownsville. Each of these alternatives were set aside. Route A was set aside on environmental grounds; Routes B and C were set aside due to their proximity to residences. For these same reasons, these alternate routes are being set aside for the MB Pipeline.

III. Summary of the Assessment of the Potential Environmental Impacts Resulting From the Proposed Action

A. Impacts of Construction and Normal Operation of the Pipeline

i. Environmental Impacts: The final environmental assessment contains detailed information on the environmental effects of the MB Pipeline and the alternatives outlined above. In particular, the final environmental assessment analyzed the impacts of construction and normal operation of the pipeline on air and sound quality, topography, water resources, soils, mineral resources, biological resources, land use, transportation, socioeconomic resources, and recreation and cultural resources. Based on the detailed environmental assessment and information developed by the Department and other Federal and State agencies in the process of reviewing the draft environmental assessment, the Department concluded that there would be (i) no impact to or on, among others, geology and topography, ground water, the Heritage status of the Rio Grande, wetlands, mineral resources, and recreation resources; (ii) insignificant, minor or temporary impact to or on, among others, noise, surface waters and canals, soils, protected biological resources, transportation, and land use; and (iii) net benefits to air quality through the elimination of exhaust emissions of CO, NO_X, VOCs, and particulate matter that are generated when tankers move fuel across the border. A more detailed analysis of each of these factors and their cumulative effects is provided in the final environmental assessment, as amended, to address issues raised by Federal and State agencies and the public.

ii. Environmental Justice/Socio-Economic Concerns: The environmental justice assessment for this project analyzed the impact of the potential human, health, socioeconomic, and environmental effects of the MB Pipeline on minority and low-income populations. The population of Cameron County is heavily minority, with outlying, less dense population areas of the county having higher percentages of minorities than the closer-in suburban areas to Brownsville. To the extent that minority and low-income populations reside in the vicinity of the MB Pipeline, they risk exposure to the insignificant, temporary and/or minor potential human health and environmental effects that are discussed in detail in the final environmental assessment and summarized above. These include temporary, minor construction related noise and threats to human safety due to fire or accidental product release. These risks, however, must be weighed against the benefits that would result from the removal of tanker trucks as the primary mode of refined product transportation. The removal of tanker trucks from roads, particularly border crossings, will increase safety at these highly sensitive locations and route refined products away from more populous areas of town while in transit. Also, emissions of hazardous air pollutants during loading operations within the Brownsville Matamoros airshed will be reduced. It is also worth noting that due to the overall makeup of the Brownsville metropolitan area, all of the alternatives for consideration, including the no-action alternative of tanker truck transport of gasoline and other refined products, will impact primarily low-income and minority

populations. There is no evidence to suggest that minority or low-income populations will experience disproportionate adverse impacts as a result of the construction and operation of the MB Pipeline. To the contrary, since less than 10% of the MB Pipeline will traverse areas where human health and safety could be adversely affected as compared to 50% in the case of truck transport, the MB Pipeline will result in lower risks to the health and safety of minority and low-income populations.

B. Impacts Due to Corrosion of the Pipeline or Damage From an Outside Agent

i. Impacts on Human Health and Safety: Corrosion of the MB Pipeline or damage to it from an outside agent may result in the release of hazardous liquids. Potential human health and safety impacts that may result from such a release include (i) fire or explosion from LPG or refined products, (ii) short-term exposure to hazardous vapors resulting from a refined product or LPG release, (iii) long-term exposure to hazardous vapors resulting from contaminated soils, ground water, or surface water following a release of refined products, and (iv) exposure to toxic constituents of refined product from ingestion.

The potential risks to human health and safety are most concentrated in areas where the MB Pipeline is close to residences, businesses, or transportation corridors. Only three small portions of the MB Pipeline will be located in areas where a pipeline accident could result in risk to nearby residences and businesses. This represents approximately 1¼ miles, or less than 7% of the total pipeline length. These also are the areas—along FM 1847, U.S. 77/83, and U.S. 281—where the greatest potential impact to health and safety of motorists is present.

Any mode of transporting hazardous liquids shares these potential safety impacts. Since accident rates for pipelines on a product mile basis are lower in magnitude (40 to 300 times) than those of rail or tanker transport, the U.S. Department of Transportation considers pipeline transport to be the safest transportation for refined product. As previously discussed, since the MB Pipeline will traverse less areas where impacts to human health and safety are likely to result from a major accident than the no-action alternative, the MB Pipeline should result in substantially lower risks to human health and safety than the ''no action'' alternative.

Expanding on the comparison of the project with the alternatives: (a) On a product mile transport basis, DOT statistics show that pipeline transport is safer than tanker truck transport by orders of magnitude; (B) less than 10% of the pipeline route will be in areas representing a threat to human health and safety, as indicated by proximity of residences or businesses which may be impacted by an accidental release; however more than 50% of the route used by tanker trucks would be in such areas, because of the natural development patterns along public roadways in urban settings. These two factors combine to make pipeline transport of product much safer than the ''no action'' alternative. Moreover, at the level where there is sufficient data to perform risk-analyses, it does not matter from a human health and safety standpoint whether product is transported in the MB Pipeline or in the POCC pipeline.

The MB Pipeline project has incorporated many safety features to address human health and safety concerns. These include specifications and maintenance practices to reduce the probability of outside force (third-party) damage, corrosion, or poor construction practices resulting in a release of product. Drilling or boring below waterways reduces the probability that a pipeline release could contaminate valuable water resources. In addition, leak detection systems coupled with 4 remotely-operated valves provide a means for the operator to rapidly respond to any accidents by shutting down the pipeline and isolating the leaky section.

ii. Environmental Impacts: The air quality impacts from an accidental product release from the MB Pipeline would be short term and would not constitute a significant impact. Brownsville is not close to non-attainment for any of the National Ambient Air Quality Standards, and while a major release could result in an increase in ozone formation, environmental engineers advise it is not likely that even this condition would cause non-attainment conditions.

Groundwater contamination from an accidental release is more likely to occur due to a slow refined products leak that goes undetected for a substantial portion of time, so that product might transport through the soil downward to the local aquifer system. Proper cleanup of contaminated soil should prevent long-term impacts to groundwater. The transportation of soil downward to the local aquifer system, however, may also result in contamination of soils in the vadose zone, and stress local vegetation, a symptom that would be detected during the regular pipeline patrols. If such problems were observed, investigations could be commenced in the vicinity of the pipeline where the release is occurring, and remediation, including soil cleanup, could once again proceed. Given the slow transmission capability of the soil types surrounding the MB Pipeline, it is unlikely that substantial volumes of refined product would reach the local aquifer prior to detection and remediation.

Looking at the potential impacts to drinking water from an accidental release, the proposed MB Pipeline routing crosses the Rio Grande substantially upriver of the POCC crossing. This would place it further away from the diversion for the Olmito Water Supply, and from the Brownsville Diversion Point. This distance would be critical in an accident scenario because of the additional time it would take for product to travel downstream to those diversion points.

Most of the MB Pipeline right of way traverses areas characterized either by sparse grassy areas or by agricultural cultivation. An accidental release of product in either area would result only in minor impacts to biological resources. Emergency response and soil remediation should ensure no long-term impacts to the local vegetation. No threatened or endangered vegetative species were identified which might be critically impacted from a release.

In conclusion, the Department finds that impacts on the environment from an accidental release would not be significant.

iii. Probable Adverse Environmental Effects Which Cannot Be Avoided Due to Associated Cumulative Effects: The cumulative effects from an accidental release of product are discussed in detail in the final environmental assessment. In short, there are two important factors to take into consideration with respect to cumulative impacts analysis on human health and safety for the MB Pipeline. The first is the cumulative effect of risks to the MB pipeline, and correspondingly to those living or working near to the MB Pipeline, due to potential accidents on other pipelines in the vicinity. This particularly applies to the POCC pipeline, which shares a common right-of-way for approximately two thirds of the MB Pipeline route. The second is the cumulative effect of the increased overall risk to surrounding populations from an industrial accident occurring along the right-of-way that results in the release of hazardous liquids from the MB Pipeline, industrial sources or both.

A study of U.S. DOT databases has not revealed any cases where a belowground pipeline has had an

accidental release due to the effects of an accidental release, fire, or explosion of a nearby buried pipeline. There is at least one known event of an accidental fire on a pipeline causing rupture of a fixture (valve rack) on an adjacent pipeline. This distinction is important, because except for the metering station there are only two aboveground fixtures (valves) along the MB Pipeline from the Transmontaigne Terminal to the Rio Grande, and the metering station is not positioned near to the existing POCC pipeline. Therefore, only a very small portion of the proposed MB Pipeline is susceptible to damage from an accident on the POCC line.

There is insufficient incident data on pipelines in the United States to numerically analyze the cumulative risk of two pipelines occupying the same corridor. However, there remains the presumption that it is possible for a catastrophic event on one pipeline to cause damage to a nearby pipeline. If the MB Pipeline route is utilized, it would result in two pipelines running parallel for approximately 60–70% of the length of the MB Pipeline; alternatively, if the 8⅝ inch OD POCC pipeline alternative is utilized, it would result in two pipelines (the 8⅝ and the 6⅝ POCC lines) running parallel for nearly the entire length of the POCC pipelines. Therefore, there is an unquantifiable (and from an engineering perspective, insignificant) reduction in the risk of ''cumulative impacts'' from reducing the amount of ROW that PMI product transport will share with POCC LPG transport if the MB Pipeline is used.

Finally, these potential cumulative risks are smaller in magnitude than the overall reduction in risk that would accrue from transporting the same volume of hazardous liquids in pipelines rather than in tanker trucks.

iv. Possible Conflicts Between the MB Pipeline and the Objectives of Federal, Regional, State and Local Use Plans, Policies and Controls for the Area Concerned: The MB Pipeline supports Brownsville's continued development of the Port of Brownsville for industrial uses, and removes hazardous liquids transport from international bridges and populated areas. PMI will be responsible for ensuring that all applicable environmental and construction permits are obtained prior to the implementation of any portion of this project.

IV. Prevention and Mitigation Measures

In order to control risks associated with outside force damage, corrosion and leaks, PMI has undertaken or will undertake the prevention and mitigation measures listed below. PMI has or will:

- Bury the pipeline a minimum of 3 feet below grade;
- Place and maintain prominent warning markers at all crossings and so that two are always in line-of-sight along the pipeline ROW;
- Require the pipeline operator to participate in all applicable one-call notification systems;
- Conduct regular ROW drive-overs or over flights in order to identify potential pipeline encroachments and unauthorized activities;
- Ensure that a PMI representative is physically present anytime there is construction activity within the pipeline ROW;
- Assign, on a permanent basis, a pipeline operator employee to headquarter in the area;
- Require the pipeline operator to participate in on-going public education initiatives stressing pipeline safety and damage prevention;
- Use factory-applied fusion-bonded epoxy coating on all pipes;
- Use field-applied coating on all welded joints;
- Conduct biennial surveys to determine effectiveness of corrosion control;
- Use a certified impressed current cathodic protection system;
- Use a heavy wall pipe in lieu of cased crossings;
- Use high-resolution internal inspection tools (*i.e.*, pigs) at least as frequently as required by 49 CFR 195;
- X-ray all girth welds completely;
- Use pipe manufactured at an ISO 9000-certified mill;
- Hydro test pipe in place to 125% of its maximum allowable operating pressure for 8 hours;
- Require that material specification, design, and construction meet or exceed all applicable standards and codes established by API, ASME, DOT/OPS, and TRC;
- Perform comprehensive construction and installation inspection;
- Provide continuous 24-hour monitoring of the MB Pipeline from a dispatch and control center;
- Use computers to identify significant operational deviations, and to set off appropriate alarms;
- Remotely monitor pressure at the Rio Grande River and always be capable of remotely blocking valve sites along the MB Pipeline;
- Provide on-going training and performance certification of employees responsible for pipeline operations and maintenance, as required by the Operator Qualification regulation of DOT;
- Install a fiber optic communications cable in the ditch to provide rapid and reliable transmission of signals between the pipeline equipment and the control room;
- Establish block valve spacing of less than 7.5 miles through industrial, commercial, or residential areas, as recommended under ASME/ANSI B31.4 standards for transport of LPG; and
- Install check valves with each block valve set to provide auto blockage of reverse flow prior to LPG transport.

V. Conclusion: Analysis of the Environmental Assessment Submitted by the Sponsor

On the basis of the final environmental assessment, the Department's independent review of that assessment, information developed during the review of the application and draft environmental assessment, comments received by the Department from Federal and State agencies and the public, and measures that PMI has or is prepared to undertake to mitigate or prevent potentially adverse environmental impacts, the Department has concluded that issuance of a Presidential Permit authorizing construction of the proposed MB Pipeline would not have a significant impact on the quality of the human environment within the United States. Accordingly, a Finding of No Significant Impact is adopted and an environmental impact statement will not be prepared.

The Final Environmental Assessment addressing this action is on file and may be reviewed by interested parties at the Department of State, 2200 C Street, NW., Room 3535, Washington, DC 20520 (Attn: Mr. Pedro Erviti, Tel. 202–647–1291).

Dated: May 6, 2003.

Stephen J. Gallogly,

Director, Office of Energy and Commodity Policy, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 03–11732 Filed 5–9–03; 8:45 am]

BILLING CODE 4710–07–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice With Respect to List of Countries Denying Fair Market Opportunities for Government-Funded Airport Construction Projects

AGENCY: Office of the United States Trade Representative.

ACTION: Notice with respect to a list of countries denying fair market opportunities for products and suppliers