



MONTERRA ENERGY

Monterra Energy Takes Legal Action Against Closure of its Tuxpan Facility by Submitting to the Government of Mexico a Notice of Intent under NAFTA

- *Cites Potential Damages of \$667 Million*
- *Calls on the Government of Mexico to Cooperatively Resolve the Dispute and Uphold Rule of Law*

Houston, Texas, February 22, 2022 - Following the five month closure of its Tuxpan fuel terminal, Monterra Energy filed a Notice of Intent to Submit a Claim to Arbitration (the “Notice of Intent”) to the Government of Mexico for unlawful, discriminatory actions that impede the operation of Monterra’s state-of-the-art fuel imports terminal in the Gulf port of Tuxpan, Veracruz, denying due process, and violating provisions of the North American Free Trade Agreement (NAFTA) .

NAFTA Chapter 11 establishes clear mechanisms for U.S. companies to be awarded damages through an international arbitration process if an initial consultation process fails to resolve the issue satisfactorily. In the Notice of Intent, Monterra indicates that its damages resulting from these discriminatory actions could amount to approximately \$667 million dollars.

Monterra is one of several U.S. based companies whose operations have been shuttered by the Government of Mexico. Such closures also block the import of U.S. origin products and jeopardize jobs in Mexico and the United States.

“We have gone above and beyond to resolve the issue cooperatively so we can continue to support Mexico’s energy security and economy, while also providing well-paying jobs,” stated Arturo Vivar, CEO of Monterra. “We simply ask that Mexico uphold the rule of law and its treaty commitments. Our preferred course of action is an amicable resolution, but the Mexican government’s actions so far have left us with little choice but to pursue all legal options available.”

Monterra has repeatedly tried to resolve the closure including providing extensive evidence of its full compliance with legal and regulatory provisions. Mexican authorities have disregarded the evidence.

Specific claims and context

Monterra’s Tuxpan terminal (“Servitux”) was granted a 30-year permit by the Energy Regulatory Commission (CRE) on May 4, 2018. CRE made several visits to inspect the terminal prior to it going into operations. In July 2021, the company fulfilled the permit’s requirement to “provide notice to the CRE regarding initiation of storage operations.”

In the late-night hours of September 13, 2021, the CRE carried out an extraordinary inspection along with armed personnel of the National Guard and officials from the National Agency for Industrial Security and Environmental Protection of the Hydrocarbon's Sector (ASEA). The inspection led to a temporary closure with no legal justification. The terminal has been shuttered ever since. Prior to the terminal's closure, all product imported and unloaded originated from the United States.

The Closure Order is arbitrary, illegal, and fully inconsistent with the previous extensive exchange of correspondence between Servitux, an enterprise organized under Mexican law that is majority-owned by Monterra Energy, and the CRE. The company submitted all required documents and evidence over the past two years. Servitux has filed additional submissions since the closure took place, to which the CRE simply has not responded.

The actions against Monterra took place in the context of efforts by the Government of Mexico, starting in early 2019, to curtail the importation, storage, and distribution of petroleum products by foreign enterprises with the aim of restoring its national oil company, Petróleos Mexicanos (PEMEX), to the monopoly position it enjoyed before reforms enacted in 2013.

Monterra has made multiple offers to the Government of Mexico to cooperatively resolve the situation to reopen the terminal, but Mexico has rebuffed them.

NAFTA and USMCA considerations

The Government of Mexico's actions, taken through the CRE, ASEA and the Secretariat of Energy (SENER), among others, are in breach of several NAFTA provisions, international law, and Mexican law with respect to Monterra.

USMCA foresees in Annex 14-C, with respect to a legacy investment like Monterra's, the submission of a claim to arbitration in accordance with NAFTA's Chapter 11. Clauses that Mexico has breached include those on Treatment in Accordance with International Law (Minimum Standard), Expropriation, National Treatment, and Most Favored Nation treatment.

Notices of Intent under international agreements foresee an initial phase of negotiation and consultation to solve the controversy, aimed at avoiding the need to launch international arbitration. Given its desire for an amicable resolution, Monterra invites Mexico to resolve the claims prior to arbitration. Should negotiations fail, Monterra will have no choice but to submit its claim to arbitration seeking relief, including monetary damages, and possibly interim measures of protection.

About Monterra Energy

Monterra Energy was formed in 2014 to pursue select investment opportunities in the midstream sector in Mexico. Located in Houston, Texas, with a satellite office in Mexico City, it is distinguished by a proven management team with success across North and South America in the areas of upstream, midstream and oilfield services.

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