3. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to any party in this or in any other proceeding.

This 6th day of January, 1995

For the Plaintiff the United States of America:

Roger W. Fones,

Chief, Transportation, Energy, and Agriculture Section.

Donna N. Kooperstein,

Assistant Chief, Transportation, Energy, and Agriculture Section.

Jade A. Eaton,

Attorney, Transportation, Energy, and Agriculture Section.

Jill A. Ptacek,

Attorney, Transportation, Energy, and Agriculture Section.

For the Defendant El Paso Natural Gas Company:

Mary Anne Mason,

Esquire, Andrews & Kurth, L.L.P., 1701 Pennsylvania Ave., N.W., Washington, D.C.

Final Judgment

Plaintiff, United States of America, filed its Complaint on January 12, 1995. Plaintiff and defendant, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law. This Final Judgment shall not be evidence against or an admission by any party with respect to any issue of fact or law. Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties, it is hereby

Ordered, adjudged, and decreed, as follows:

Jurisdiction

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act, 15 U.S.C. § 1.

Definitions

As used herein, the term:

- (A) "agreement" means a contract, arrangement, or understanding, formal or informal, oral or written, between two or more persons;
- (B) "defendant" means El Paso Natural Gas Company;

- (C) "document" means all "writings and recordings" as that phrase is defined in Rule 1001(1) of the Federal Rules of Evidence;
- (D) "gathering" means collecting natural gas from the point of entry into the gathering system and moving the gas to a point where it is introduced into mainline transmission facilities; for gas that is compressed, processed, or treated subsequent to receipt into the gathering system and prior to delivery into mainline transmission facilities, gathering also includes the act of compressing, processing, or treating, as applicable;

(E) "gathering system" means the facilities used by the defendant to perform gathering in the San Juan Basin; (F) "including" means including but

not limited to:

(G) "inspection log" means the log the defendant is required to create and maintain pursuant to Section VI(C) of this Final Judgment, setting forth the information recorded by the defendant pursuant to Section VI(C)(1)-(7):

(H) "meter" means those devices used to measure the volume of natural gas flowing into or through the gathering

system;

- (I) "metering facilities" means any of the equipment necessary to connect a meter to the gathering system and to measure the flow of gas from a well or wells into the gathering system, including the meter, the meter house, and the meter run;
- (J) "meter installation" means the provision of service necessary to connect a well or wells to the gathering system, including construction and connection of metering facilities and the well-tie line:
- (K) "meter installation inspection" means any inspection of metering facilities that is required before gas may enter the gathering system through those
- (L) "person" means any natural person, corporation, firm, company, sole proprietorship, partnership, association, institution, governmental unit, or other legal entity;

(M) "San Juan Basin" means that area of northwestern New Mexico and southern Colorado in which defendant owns and operates a gathering system;

(N) "tap" means the interconnection between the well-tie line and the gathering system that requires a breach of the gathering pipeline wall, including the valve connecting the well-tie line with the gathering pipeline wall;

(O) "uniform" means reasonably consistent under the circumstances; but does not require that identical procedures must be applied to every situation. If procedures are not

identical, uniformity requires that there exists a reasonable and lawful basis to explain any differences or changes in the procedures applied, or in the manner in which stated procedures are applied:

(P) "well operator" means any person with whom the defendant contracts, or would contract, for meter installation, or from whom the defendant receives an inquiry regarding connecting a well or wells to the gathering system;

(Q) "well-tie line" means the pipe connecting the metering facilities to the gathering system.

III

Applicability

- (A) This Final Judgment applies to the defendant and to each of its successors, assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of the Final Judgment by personal service or otherwise.
- (B) Nothing herein contained shall suggest that any portion of this Final Judgment is or has been created for the benefit of any third party and nothing herein shall be construed to provide any rights to any third party.

Prohibited Conduct

The defendant is enjoined and restrained from:

(A) requiring a well operator to purchase metering facilities or meter installation from the defendant, or a third party under contract to the defendant, as a condition of connecting a well to the gathering system;

- (B) requiring a well operator to purchase construction or installation of any pipeline that connects a well to the metering facilities from the defendant, or a third party under contract to the defendant, as a condition of connecting that well to the gathering system, or imposing upon a well operator any requirements for such construction and installation if the operator chooses to purchase such pipeline construction and installation from a person other than the defendant;
- (C) requiring a well operator to pay any charge, other than one included in the gathering rate, for a metering facilities maintenance provided by the defendant or a third party under contract to the defendant;
- (D) entering into an agreement with a well operator to provide meter installation, meter installation inspection, or installation of a tap without first disclosing to the operator that the well operator may have the meter installation provided by a person