



2. The Commission has completed its environmental analysis of the proposals. As discussed below, we will grant the requested authorizations, subject to certain conditions. We also will clarify the March 15 Order as requested by KMLP.<sup>3</sup>

### **Background**

3. Natural is a Delaware corporation with a gas transmission system consisting of the Amarillo Line (Amarillo mainline) and the Gulf Coast Line (Gulf Coast mainline) as well as the A/G Line connecting the two mainlines. The Amarillo mainline extends from gas producing areas in North Central Texas, Southwest Texas, Southeast New Mexico, Southwest Oklahoma and the Panhandle areas of Texas and Oklahoma through the States of New Mexico, Texas, Oklahoma, Kansas, Nebraska, Iowa and Illinois, terminating at points in and near the metropolitan Chicago area. The Gulf Coast mainline extends from the offshore and onshore gas producing areas of South Louisiana and the Gulf Coast of Texas through the States of Louisiana, Texas, Arkansas, Missouri and Illinois, terminating at points in and near the metropolitan Chicago area, which are in common with the terminal points of the Amarillo Line. The A/G Line, an interconnection between the Amarillo mainline and the Gulf Coast mainline, runs from Carter County, Oklahoma to Cass County, Texas.

4. KMLP is a new limited liability company formed by Kinder Morgan Energy Partners (KMP) to construct a new pipeline system to transport regasified imported LNG from the Cheniere Sabine Pass LNG Terminal in Cameron Parish, Louisiana (Sabine LNG Terminal) to various delivery points in Louisiana. KMLP does not currently own any pipeline facilities and is not currently engaged in any natural gas transportation operations. Upon acceptance of any certificates of public convenience and necessity issued in this proceeding, and the commencement of service authorized thereunder, KMLP will become a natural gas company engaged in the transportation of natural gas in interstate commerce and subject to the Commission's jurisdiction under the NGA.

### **KLMP's Certificate Proposal**

5. KMLP proposes a new interstate natural gas pipeline system to provide open-access natural gas transportation to the systems of other interstate and intrastate natural gas pipelines. KMLP has entered into precedent agreements with Chevron U.S.A. Inc. and Total Gas & Power North America, Inc. providing for firm transportation service on the Louisiana Pipeline Project from the Cheniere Sabine Pass LNG Terminal. To effectuate such transportation service, in part, KMLP proposes to lease firm capacity

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<sup>3</sup> The request for rehearing will therefore be dismissed as moot.

from Natural. By leasing capacity from Natural, KMLP states that it will reduce the overall cost and improve the seamlessness of the project, as well as reduce new pipeline construction and the potential for associated environmental disruption.

6. Accordingly, KMLP requests certificates of public convenience and necessity authorizing: (i) the construction and operation of a new pipeline system, which will not include any new compression, that will extend from the Sabine LNG Terminal to various delivery points in Cameron, Calcasieu, Jefferson Davis, Acadia and Evangeline Parishes, Louisiana, including a long-term lease of capacity from Natural along a path within Cameron Parish, Louisiana from Natural's proposed interconnect with KMLP near Sabine Pass to two proposed delivery points off Natural's 24-inch UTOS Lateral in the Johnson's Bayou area; (ii) the undertaking of self-implementing interstate transportation of natural gas under Part 284, Subpart G of the Commission's Regulations; and (iii) blanket construction certificate authority under Part 157, Subpart F of the Commission's Regulations. KMLP also requests approval of its proposed initial recourse rates for transportation service, and of its pro forma tariff, which includes the authority to enter into negotiated rate agreements.

7. Specifically, the proposed Louisiana Pipeline Project which will consist of: (1) approximately 132 miles of 42-inch pipeline from the Sabine LNG Terminal in Cameron Parish, Louisiana to a point of interconnection with an existing Columbia Gulf Transmission Company line in Evangeline Parish, Louisiana (Leg 1); (2) approximately 1 mile of 36-inch pipeline that will extend from the Sabine LNG Terminal to a point of interconnection with Natural's existing interstate pipeline located north of the Sabine LNG Terminal (Leg 2); and (3) approximately 2.3 miles of 24-inch pipeline extending away from Leg 1 (at about milepost 110) to the existing Florida Gas Transmission Company compressor station in Acadia Parish, Louisiana. KMLP designed the project to have a firm peak day capacity of not less than 2,130,000 Dth on Leg 1 and not less than 1,265,000 Dth on Leg 2 (for a total firm capacity of not less than 3,395,000 Dth of natural gas).

8. The project will provide a new supply source for other pipelines. Specifically, Leg 1 interconnects with ANR Pipeline Company, Columbia Gulf Transmission Company, Florida Gas Transmission Company, Sabine Pipe Line LLC, Southwest Loop Delivery Point, Tennessee Gas Pipeline Company, Texas Eastern Transmission, L.P., Texas Gas Transmission, LLC, Transcontinental Gas Pipe Line Corporation, and Trunkline Gas Company, LLC, and Leg 2 interconnects with Natural.

9. Leg 2 of the project includes a long-term lease of 200,000 Dth per day of firm capacity from Natural along a path within Cameron Parish, Louisiana from Natural's proposed interconnect with KMLP to two proposed delivery points off Natural's 24-inch UTOS Lateral in the Johnson's Bayou Southwest Loop for deliveries to Bridgeline

Holdings, L.P. and Southwest Loop Johnson's Bayou. KMLP will regulate the pressure from 1,440 psig at the Sabine LNG Terminal down to 1,100 psig for delivery to Natural.

10. KMLP proposes to place Leg 1 of the project in service by October 1, 2008, and Leg 2 as soon as possible thereafter, but no later than April 1, 2009.

**Natural's Request for Authority to Abandon**

11. Correspondingly, Natural seeks authority to abandon 200,000 Dth/d of available firm capacity on its system by lease to KMLP on a long-term basis pursuant to the terms of a capacity lease agreement between the parties dated August 31, 2006. The leased capacity will start at a point on Natural's Louisiana Line in Cameron Parish, Louisiana, where it will interconnect with the Louisiana Pipeline Project. The leased capacity will extend east about 16 miles to a lateral of Natural's that extends south to Johnson's Bayou, where KMLP proposes two delivery points. That 24-inch lateral (which is approximately three miles long and is called the UTOS Lateral) historically has had a north-bound flow into Natural's Louisiana Line for movement westbound. In recent years, there has been little or no flow. The lease will also include capacity in the interconnection facility between the Louisiana Pipeline Project and Natural's Louisiana Line and in each of the two delivery points to be built at Johnson's Bayou.

12. The redirection of these flows from west to east on the Louisiana Line is being made possible by the installation of certain auxiliary piping facilities at Natural's existing Compressor Station No. 342 (CS 342) under section 2.55(a) of the Commission's regulations. KMLP will reimburse Natural for the cost of these facilities. Natural states that the lease arrangement will positively impact Natural's shippers by making additional capacity available in the short term. Further, Natural states that the short-haul nature of the lease arrangement on Natural's Louisiana Line means that there will be no incremental compressor utilization as a result of the lease.

13. The lease of 200,000 Dth/d of firm capacity from Natural is an integral part of the Louisiana Pipeline Project and will avoid the construction of new pipeline facilities. Under the capacity lease agreement, KMLP has contracted with Natural for an initial primary term of 21 years and 6 months, with an initial annual lease payment of \$500,000 escalating to \$1,000,000 annually over its primary term with additional escalation clauses built into the agreement covering the negotiated roll-over provisions. The lease payment compensates Natural for its related costs in providing the lease capacity.

## **Discussion**

### **Preliminary Determination**

14. In the March 15 Order we found that as KMLP was a new pipeline company without any existing customers, the proposed facilities will be constructed without subsidies. We also found no identified adverse effect on existing customers, other pipelines, landowners, or communities. Accordingly, we made a preliminary determination, pending completion of the environmental review, that KMLP's proposal is in the public convenience and necessity under section 7(c) of the NGA.

15. Having completed our environmental review as discussed below, we affirm our preliminary determinations in the March 15 Order that approval of the Louisiana Pipeline Project is required by the public convenience and necessity.

16. In the March 15 Order we also found that Natural and its customers will not subsidize the Louisiana Pipeline Project. We also found that Natural's shippers will benefit from the lease; that no current transmission service will be affected by the abandonment; that under the lease agreement, KMLP will pay less than Natural's maximum tariff rate; and, that the project will not result in adverse operational or economic impacts on existing Natural customers or on any other pipelines or its customers. Accordingly, we made a preliminary determination, pending completion of the environmental review, that the lease proposal is in the public convenience and necessity under section 7(c) of the NGA.

17. Having completed our environmental review, we affirm our determinations in the March 15 Order that approval of the lease proposal is in the public convenience and necessity under section 7(c) of the NGA.

### **Request for Rehearing and/or Clarification**

18. In its application, KMLP proposed a revenue crediting mechanism in its General Terms and Conditions section 11.7 which requires KMLP to credit to its firm shippers 75 percent of the interruptible revenue collected.

19. The March 15 Order required KMLP to revise its tariff to provide for a mechanism to credit 100 percent of the IT and AOS revenues, net of variable costs, to its firm and interruptible shippers.<sup>4</sup>

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<sup>4</sup> 118 FERC ¶ 61, 211 at P 50 (2007), *citing Port Author LNG, L.P.*, 115 FERC ¶ 61,344 at P 36 (2006).

20. In its request for rehearing and/or clarification, KLMP argues that the Commission's ruling fails to recognize that KMLP has allocated costs to interruptible service in addition to crediting 75 percent of its interruptible revenues. KLMP states that the Anchor Shippers have agreed to the cost allocation and crediting mechanism reflected in its certification application. KMLP requests the Commission grant rehearing and accept KMLP's filed proposal. Alternatively, KMLP seeks clarification or rehearing of the ruling to permit it to provide for either a 100 percent crediting mechanism, and adjust its recourse rates upward to eliminate the allocation done in its filing or eliminate crediting altogether and propose a new allocation of costs and volumes to interruptible and authorized overrun services.

21. We will clarify our ruling in the March 15 Order. The Commission's policy requires pipelines to credit 100 percent of interruptible (IT) and authorized overrun service (AOS) revenues, net of variable costs, to firm and interruptible shippers; or, in the alternative, allocate costs and volumes to these services.<sup>5</sup> The Commission clarifies that KMLP may choose either option discussed above. Consistent with this clarification, we will require KLMP recalculate its recourse rates consistent with the option it chooses, and to file documentation supporting its recalculated recourse rates and to file any other necessary related tariff changes.

### **Environmental Analysis**

22. Since the lease proposal by KLMP requires no construction of facilities, the proposal qualifies as a categorical exclusion under section 380.4(a)(27) of the Commission's regulations and therefore no environmental assessment is required.<sup>6</sup>

23. On January 26, 2007, Commission staff issued a draft Environmental Impact Statement (EIS) for the proposed Kinder Morgan Louisiana Pipeline Project. The Secretary of the Commission issued a *Notice of Availability of the Final Environmental Impact Statement for the proposed Kinder Morgan Louisiana Pipeline Project* on April 20, 2007. The draft and final EIS were mailed to federal, state, and local agencies, elected officials, Native American tribes, newspapers, public libraries, intervenors in this proceeding, and other interested parties (i.e., landowners, other individuals, and environmental groups who provided scoping comments). Approximately 1,650 copies of the final EIS were mailed to agencies, groups, and individuals on the mailing list.

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<sup>5</sup> See, e.g., *Rockies Express Pipeline LLC*, 116 FERC ¶ 61,272 at P 50 (2006).

<sup>6</sup>18 C.F.R. § 380.4 (a)(27) (2006).

24. The final EIS addresses the issues and concerns raised in response to the draft EIS, and also addresses: geology; soils and sediments; water resources; wetlands; upland vegetation; wildlife; aquatic resources; essential fish habitat (EFH); threatened, endangered, and special-status species; land use, recreation, and visual resources; socioeconomics; cultural resources; air quality and noise; reliability and safety, cumulative effects; and alternatives.

25. The United States (U.S.) Army Corps of Engineers (COE) and U.S. Department of the Interior, Fish and Wildlife Service (FWS) were cooperating agencies in the preparation of the final EIS.

26. We received comment letters on the draft EIS from the COE, FWS, NOAA Fisheries, Natural Resources Conservation Service (NRCS), Environmental Protection Agency, U.S. Department of Interior, and Louisiana Department of Wildlife and Fisheries (LDWF), as well as written comments from KMLP. Most of the comments received regarded impacts on wetlands, habitats, and special-status species, which are discussed below. No comment letters were filed by any landowners or other stakeholders. The final EIS addressed all comments received in response to the draft EIS. No comments were filed after the final EIS issued.

27. Based on information provided by KMLP and further developed by field investigations, literature research, alternative and route variation analyses, and contacts with federal, state, and local agencies and individual members of the public, along with our recommended mitigation measures, the final EIS determined that construction and operation of the KMLP Project would result in limited adverse environmental impact.

### **Wetlands, Habitat, and Special Species**

28. As discussed in the final EIS, about 504.2 acres of wetland would be affected by construction of the project. About 14.9 acres of forested wetland would be permanently converted to other wetland types as a result of construction and operation of the Kinder Morgan Louisiana Pipeline Project. To compensate for permanent wetland impacts, KMLP is working with the COE, FWS, NOAA Fisheries, and the LDWF to finalize its draft Aquatic Resources Mitigation Plan (ARMP). The draft ARMP was provided in Appendix J of the final EIS. Further consultation with these federal and state agencies is needed to finalize the ARMP. The final version of the plan will be part of the COE's pending section 404 permit for the project.

29. Agency consultations resulted in the identification of 12 federally listed threatened or endangered species potentially within the project area. The FWS stated that the Kinder Morgan Louisiana Pipeline Project would not affect the West Indian manatee, three of the four bird species (the bald eagle, brown pelican, and piping plover), the two

fish species, and four of the five sea turtle species. Based on a survey report filed by KMLP in late January 2007, the FWS stated in a letter that the Kinder Morgan Louisiana Pipeline Project is not likely to adversely affect the red-cockaded woodpecker. NOAA Fisheries' Protected Resources Division requested that project impacts be assessed for five species of sea turtle under its jurisdiction. Therefore, our consultation with NOAA Fisheries is still ongoing. The final EIS and environmental condition number 29 of this order recommend that project construction may not begin until the Commission concludes any further necessary consultation with NOAA Fisheries regarding potential impacts to sea turtles.

30. Project construction is not expected to have a significant impact on EFH. Construction through the first 50 miles of the proposed pipeline route would impact approximately 99.5 acres of EFH. KMLP would use a horizontal direct drilling crossing method at the northern and southern banks of Sabine Lake to avoid impacts to EFH, the shoreline, oyster reefs, wetlands, and aquatic resources. Operation of the pipeline facilities would have minimal impacts on EFH since the pipeline would be buried and the existing EFH would become reestablished in the construction corridor. KMLP proposes to monitor the created or restored tidal wetlands annually for at least 3 years and to consult with appropriate agencies if monitoring indicates poor plant survival or insufficient coverage. Monitoring protocols were developed in consultation with NOAA Fisheries and are included in the draft ARMP. In its comments on the draft EIS, NOAA Fisheries stated that it concurs with our findings and that EFH coordination requirements have been fulfilled unless the Project is revised further. If the project is constructed and operated in compliance with the requirements of the final ARMP and the recommendations in the final EIS, impacts on EFH will be minimized.

31. The Kinder Morgan Louisiana Pipeline Project would not directly affect known oyster reefs, but oysters inhabiting the area could be affected by increased turbidity or by deposition of sediments suspended by construction activities. KMLP would compensate LDWF for each bottom substrate directly impacted by pipeline construction and has committed to compensate LDWF for the three-year average dockside value of live oysters impacted by sedimentation within 1,500 feet of construction. Specific requirements to provide compensation for impacts to oysters, as well as additional provisions to further protect the public oyster tonging area in Sabine Lake, would be included in the Louisiana Department of National Resource's (LDNR's) Coastal Use Permit.

### **Commission Determination**

32. The Commission has reviewed the information and analysis contained in the final EIS regarding the potential environmental effect of the project. Based on our consideration of this information, we agree with the conclusions presented in the final

EIS and find that the Kinder Morgan Louisiana Pipeline Project is environmentally acceptable, if the project is constructed and operated in accordance with the conditions discussed above and the EIS' other recommended environmental mitigation measures in the Appendix to this order. Thus, we are including the environmental mitigation measures recommended in the final EIS as conditions to the authorizations granted by this order for the Kinder Morgan Louisiana Pipeline Project.

33. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. We encourage cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>7</sup> KLMP shall notify the Commission's environmental staff by telephone, email or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies the applicant. KLMP shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

34. At a hearing held on June 21, 2007, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) Authority is granted to Natural, in Docket No. CP06-448-000, to abandon by lease to KMLP, 200,000 Dth per day of firm capacity on Natural's system in southern Louisiana.

(B) A certificate of public convenience and necessity is issued to KMLP authorizing it to lease the subject capacity from Natural, as described in the application and the March 15 Order.

(C) A certificate of public convenience and necessity under section 7(c) of the NGA is issued to KMLP authorizing it to construct and operate the Louisiana Pipeline Project, as described and conditioned herein and in the March 15 Order.

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<sup>7</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm'n.*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(D) A blanket transportation certificate is issued to KMLP under Subpart G of Part 284.

(E) A blanket construction certificate is issued to KMLP under Subpart F or Part 157.

(F) The certificate authority granted in Ordering Paragraphs (B) and (C) above is conditioned upon KMLP's compliance with all regulations under the NGA including, but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the regulations.

(G) The certificate authority granted in Ordering Paragraphs (B) and (C) above is conditioned upon KMLP's facilities being constructed and made available for service within three years of the date of the final order in this proceeding.

(H) The certificate authority issued in Ordering Paragraphs (B) and (C) is conditioned on KLMPs' compliance with the environmental conditions listed in the Appendix to this order.

(I) KLMP shall notify the Commission's environmental staff by telephone, email or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies an applicant. KLMP shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(J) KMLP's request for clarification is granted. Its request for rehearing is dismissed as moot.

(K) KMLP shall file actual tariff sheets that comply with the requirements contained in the body of this order at least 30 days but no more than 60 days prior to the commencement of service on the new facilities.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

### Appendix

As recommended in the EA, this authorization includes the following condition(s):

1. KMLP shall follow the construction procedures and mitigation measures described in its application, supplemental filings (including responses to staff information requests), and as identified in the EIS, unless modified by the Order. KMLP must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary;
  - b. justify each modification relative to site-specific conditions;
  - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
  - d. receive approval in writing from the Director of OEP **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of life, health, property, and the environment during construction and operation of the project. This authority shall allow:
  - a. the modification of conditions of the Order; and
  - b. design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, KMLP shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel will be informed of the EIs' authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EIS, as supplemented by filed alignment sheets, and shall include all of the staff's recommended facility locations. **As soon as they are available, and before the start of construction**, KMLP shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be

written and must reference locations designated on these alignment maps/sheets.

KMLP's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations. KMLP's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. KMLP shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction** in or near that area.

This requirement does not apply to extra workspace allowed by the *Upland Erosion Control, Revegetation, and Maintenance Plan*, minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
  - b. implementation of endangered, threatened, or special concern species mitigation measures;
  - c. recommendations by state regulatory authorities; and
  - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of this certificate and prior to construction**, KMLP shall file an initial Implementation Plan with the

Secretary for review and written approval by the Director of OEP describing how KMLP would implement the mitigation measures required by the Order. KMLP must file revisions to the plan as schedules change. The plan shall identify:

- a. how KMLP will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
  - b. the number of EIs assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - c. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
  - d. the training and instructions KMLP will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change), with the opportunity for OEP staff to participate in the training session;
  - e. the company personnel (if known) and specific portion of KMLP's organization having responsibility for compliance;
  - f. the procedures (including use of contract penalties) KMLP will follow if noncompliance occurs; and
  - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the mitigation training of onsite personnel;
    - (3) the start of construction; and
    - (4) the start and completion of restoration.
7. KMLP shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the Project and restoration of the right-of-way. **Prior to construction**, KMLP shall mail the complaint procedures to each landowner whose property would be crossed by the Project.
- a. In its letter to affected landowners, KMLP shall:
    - (1) provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon a landowner should expect a response;

- (2) instruct the landowners that, if they are not satisfied with the response, they should call KMLP's Hotline; the letter should indicate how soon to expect a response; and
    - (3) instruct the landowners that, if they are still not satisfied with the response from KMLP's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030.
  - b. In addition, KMLP shall include in its weekly status report a copy of a table that contains the following information for each problem/concern:
    - (1) the date of the call;
    - (2) the identification number from the certificated alignment sheets of the affected property;
    - (3) the description of the problem/concern; and
    - (4) an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.
8. KMLP shall employ a team of EIs (at least two per construction spread). The EIs shall be:
  - a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Order and other grants, permits, certificates, or other authorizing documents;
  - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
  - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
  - d. a full-time position, separate from all other activity inspectors;
  - e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
  - f. responsible for maintaining status reports.
9. KMLP shall file updated status reports prepared by the EI with the Secretary on a weekly basis **until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
  - a. the current construction status of the Project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
  - b. a listing of all problems encountered and each instance of noncompliance observed by the EIs during the reporting period (both for the conditions

- imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
- c. corrective actions implemented in response to all instances of noncompliance, and their cost;
  - d. the effectiveness of all corrective actions implemented;
  - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and
  - f. copies of any correspondence received by KMLP from other federal, state or local permitting agencies concerning instances of noncompliance, and KMLP's response.
10. KMLP must receive written authorization from the Director of OEP **before commencing service of the Project**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the Project are proceeding satisfactorily.
11. **Within 30 days of placing the certificated facilities in service**, KMLP shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
  - b. identifying which of the certificate conditions KMLP has complied with or will comply with. This statement shall also identify any areas affected by the Project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.

12. KMLP shall limit its construction right-of-way width in upland areas to 120 feet for Leg 1, 100 feet for the FGT Lateral, and 100 feet for Leg 2 when not parallel to Leg 1. If additional right-of-way width in uplands is necessary, KMLP shall file with the Secretary a site-specific construction plan and written justification for any additional right-of-way width for review and written approval by the Director of OEP **prior to construction**. (page 2-9)
13. KMLP shall file with the Secretary revised construction drawings and alignment sheets that identify a:
  - a. 100-foot-wide construction right-of-way for Leg 1 and Leg 2 (where not parallel) in wetlands that would be crossed by the push-pull method;
  - b. 120-foot-wide construction right-of-way for Leg 1 and Leg 2 (where not parallel) in wetlands that would be crossed by conventional open-cut methods; and
  - c. 75-foot-wide construction right-of-way for the FGT Lateral in wetlands.

For wetlands where these right-of-way widths are not feasible, KMLP shall file site-specific justifications for wider construction rights-of-way for review and written approval by the Director of OEP **prior to construction**. (page 2-10)
14. KMLP shall file its project-specific SWPPP, including an E&SC Plan and SPRP, with the Secretary for review and written approval by the Director of OEP **prior to construction**. (page 2-11)
15. KMLP shall revegetate the construction right-of-way in coastal (and other submerged) wetlands using appropriate plant species from local commercial nurseries or vegetation that came from the right-of-way before construction. KMLP shall not use plants from adjacent wetlands to restore the right-of-way. (page 2-32)
16. KMLP shall file with the Secretary a site-specific construction plan for the crossing of foreign pipeline corridors between MP 25.3 and MP 26.8. These site-specific plans shall include scaled drawings identifying all areas that would be disturbed by construction. KMLP shall file these plans for review and written approval by the Director of OEP **prior to construction**. (page 2-42)
17. KMLP shall comply with the requirements of item V.A.5 of our Plan. If KMLP identifies a location(s) where it can not implement item V.A.5 of our Plan, KMLP shall file with the Secretary for review and written approval by the Director of OEP, any alternative measures that it would use to ensure that

- pre-construction contours are restored without compromising pipeline integrity. (page 4-8)
18. **Prior to construction**, KMLP shall file with the Secretary for review and written approval by the Director of OEP, a Plan for the Discovery and Management of Contaminated Soils and Groundwater. (page 4-14)
  19. **Prior to construction**, KMLP shall file with the Secretary a statement that if water quality or yield were found to be impaired due to the Project, KMLP would provide a temporary water supply and re-test the well within 30 days. In addition, KMLP shall replace any potable water supply system that it damages during construction and cannot repair to its former capacity and quality. KMLP shall identify in its report to the Secretary all potable water supply systems damaged by construction and how they were repaired. (page 4-19)
  20. KMLP shall file with the Secretary a site-specific construction plan for the crossing of each waterbody proposed as a HDD crossing. These site-specific plans shall include scaled drawings identifying all areas that would be disturbed by construction. KMLP shall file these plans for review and written approval by the Director of the OEP along with the COE permit **prior to construction** across those waterbodies. (page 4-23)
  21. **Prior to construction**, KMLP shall file the following environmental information with the Secretary for review and written approval by the Director of OEP:
    - a. site-specific construction plan for the HDD crossing of the Calcasieu River and marina between MP 49.6 and MP 51.1 along Leg 1; and
    - b. documentation of consultation with COE for the HDD crossing of the Calcasieu River and the use of COE dredge spoil area located at MP 50.0. (page 4-28)
  22. KMLP shall use hand clearing methods for clearing vegetation in the path of all HDDs in wetland areas. (page 4-32)
  23. **Prior to construction**, KMLP shall file with the Secretary for review and written approval of the Director of OEP, the construction plans for Access Roads 2, 3, and 4-5 that includes details on culvert size and placement to maintain wetland hydrology. Culvert size and placement shall be developed in consultation with FWS, LDWF, and COE. (page 4-36)

24. KMLP shall consult with LDNR, NOAA Fisheries Service, FWS, and NRCS, and develop site- specific construction and restoration plans for crossing the Black Bayou Hydrologic Restoration Project and Perry Ridge Shore Protection Project. KMLP shall file with the Secretary copies of its consultation, along with construction and restoration plans, for review and written approval by the Director of OEP **prior to construction**. (page 4-38)
25. KMLP shall continue consultations with the FSA and NRCS to identify the extent and location of all CRP lands within Jefferson Davis Parish that would be affected by construction and operation of the Project. In addition, KMLP shall file with the Secretary **prior to construction** copies of its consultation and documentation of any stipulations or recommendations to avoid and minimize impacts to any CRP lands that would be affected. (page 4-39)
26. KMLP shall install trench breakers between the freshwater and marine/brackish boundaries of wetlands crossed by the project to minimize the intrusion of saltwater into freshwater hydrologic conditions. (page 4-40)
27. **Prior to construction**, KMLP shall file with the Secretary a copy of the finalized Aquatic Resources Mitigation Plan developed in consultation with COE, NOAA Fisheries Service, FWS, LDNR, and LDWF. (page 4-42)
28. KMLP shall consult with the NHP of LDWF and develop mitigation measures to protect the old prairie crawfish during construction through roadside ditches. KMLP shall file with the Secretary copies of its consultation **prior to construction**. (page 4-73)
29. KMLP shall not begin construction activities **until**:
  - a. the FERC completes any necessary consultations with NOAA Fisheries Service regarding potential impacts to sea turtles; and
  - b. KMLP receives written notification from the Director of OEP that construction and/or implementation of conservation measures may begin. (page 4-73)
30. KMLP shall consult with the FWS to determine if FWS conservation easement properties are crossed by the Project. KMLP shall file with the Secretary documentation of its consultation with FWS, including any recommended mitigation measures, for review and written approval by the Director of OEP **prior to construction**. (page 4-83)

31. KMLP shall not begin construction on any facilities associated with the KMLP Project **until** it files with the Secretary a copy of the CZM program consistency determination issued by the LDNR. (page 4-85)
32. KMLP shall defer construction and use of facilities and staging, storage, and temporary work areas and new or to-be-improved access **until** it files with the Secretary cultural resource reports, as appropriate, and the SHPO's comments; and the Director of OEP reviews and approves all reports and notifies KMLP in writing that it may proceed.

All material filed with the Commission containing **location, character, and ownership information** about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: "**CONTAINS PRIVILEGED INFORMATION—DO NOT RELEASE.**" (page 4-96)

33. **Prior to construction**, KMLP shall file with the Secretary for review and written approval by the Director of OEP, a noise mitigation plan for HDD operations at MP 44.5 and MP 99.8. This plan shall identify what measures such as noise barriers and other controls it will implement prior to the start of drilling operations to reduce noise from HDD activities at NSAs. (page 4-115)