

125 FERC ¶ 61,197
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

SG Resources Mississippi, L.L.C.

Docket No. CP02-229-004

ORDER AMENDING CERTIFICATE

(Issued November 20, 2008)

1. On May 29, 2008, SG Resources Mississippi, L.L.C. (SG Resources) filed an application under section 7(c) of the Natural Gas Act (NGA) for amendment of its certificate authorizing the Southern Pines Energy Center (Southern Pines) salt dome storage project in Green County, Mississippi.¹ SG Resources seeks authority to further expand the working gas capacity of its three authorized caverns and to construct a fourth storage cavern, two additional brine disposal wells, a 24-inch diameter Destin Lateral Loop pipeline, additional pipeline interconnecting the Destin Lateral Loop pipeline, and two additional 8,000 horsepower engine-driven compressors. SG Resources also seeks affirmation of its market-based rate authority for its storage and hub services.

2. For the reasons discussed below, we will grant SG Resources' requests.

I. Background

3. SG Resources' Southern Pines storage facility is intended to serve a growing market for high-deliverability storage for the gas-fired electric generation market. In 2002, the Commission initially authorized SG Resources to construct two underground salt dome caverns, each with a working gas capacity of 6 Bcf and injection and deliverability capability of 0.3 and 0.6 Bcf per day (Bcf/d) respectively.² The 2002 certificate order also authorized, inter alia, two 3.13 mile, 24-inch diameter pipelines (the Destin Lateral and the Destin Lateral Loop) extending from the storage facility to an

¹ *SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029 (2002), *certificate amended*, 118 FERC ¶ 61,048 (2007).

² *SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029 (2002).

interconnection with Destin Pipeline Company, L.L.C.'s (Destin) interstate pipeline system .

4. In 2007, the Commission amended SG Resources' certificate to authorize it to double its total working storage capacity from 12 Bcf to 24 Bcf and to construct dual 26-mile long lateral pipelines from its Southern Pines storage facility to interconnect with Florida Gas Transmission Company and Transcontinental Gas Pipeline Corporation.³ The 2007 order vacated the authorization to construct the Destin Lateral Loop which SG Resources stated would not be necessary.

5. As of May 1, 2008, SG Resources began providing firm and interruptible storage services and interruptible hub and wheeling services using Cavern No. 1's eight Bcf of working storage capacity. SG Resources is continuing construction of Cavern Nos. 2 and 3.

II. The Proposal

6. Because of increased market demand for its gas storage services at the Southern Pines Energy Center, SG Resources' instant application seeks authorization to increase the working gas capacity of each of the three authorized storage caverns by 2 Bcf (from 8 Bcf to 10 Bcf), each supported by approximately 2.8 Bcf of cushion gas. SG Resources also proposes to develop a fourth cavern with 12.8 of Bcf total capacity, including 10 Bcf of working gas and 2.8 Bcf of cushion gas. These changes would increase the total working gas capacity of the Southern Pines Energy Center to 40 Bcf, supported by 11.2 Bcf of cushion gas. In addition, SG Resources proposes to construct two additional brine disposal wells and two additional 8,000 horsepower compressors. SG Resources states that the fourth storage cavern and the proposed new brine disposal wells will be constructed on the existing Southern Pines Energy Center project tract. With these expanded facilities, SG Resources maintains that it will be capable of withdrawing up to 2.4 Bcf/d and injecting up to 1.2 Bcf/d.

7. To allow customers to receive gas from additional sources and deliver gas to additional markets, SG Resources again proposes a 3.13-mile, 24-inch diameter pipeline to loop the Destin Lateral and an additional 200 feet of 24-inch diameter pipeline from the end of the proposed Destin Lateral Loop to meter stations at interconnections with Destin and Southeast Supply Header, LLC. The total combined capacity of the looped Destin Lateral pipeline facilities will be 1.2 Bcf/d. SG Resources asserts that the proposed loop will occupy the existing Destin Lateral corridor for its entire length and will have minimal adverse environmental or landowner impacts.

³ *SG Resources Mississippi, L.L.C.*, 118 FERC ¶ 61,048 (2007).

8. SG Resources asserts that the additional working storage capacity and Destin Lateral Loop proposed in this application will not invalidate the Commission's determination that SG Resources lacks market power. To support its assertion that it continues to qualify for authorization to charge market-based rates for storage and related services, SG Resources submits an updated market power study.

III. Notice, Interventions, Comments and Protests

9. Notice of SG Resources' application in Docket No. CP02-229-004 was published in the *Federal Register* on June 16, 2008 (73 Fed. Reg. 34,006). No motions to intervene or protests were filed.

IV. Discussion

A. Certificate Policy Statement

10. Because the proposed facilities will be used to provide natural gas services in interstate commerce subject to the jurisdiction of the Commission, their construction and operation is subject to the requirements of sections 7(c) and (e) of the NGA.

11. The Commission's September 15, 1999 Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction.⁴ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our goal in evaluating new pipeline construction is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain.

12. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to support the project financially without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers.

⁴*Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

13. The Commission also considers potential impacts of the proposed project on other pipelines in the market and those existing pipelines' captive customers, as well as landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission then proceed to complete the environmental analysis where other interests are considered.

14. SG Resources has placed one of its eight Bcf working-gas capacity storage caverns into service and all of its existing customers are receiving service under market-based rate agreements. Therefore, as we found in our 2002 certificate order and the 2007 order amending SG Resources' certificate, authorization of the proposed expansion will not result in subsidization by existing customers. Further, as discussed below, SG Resources will continue to lack market power following our approval of its proposed expansion, and we, therefore, are granting its request for continued market-based rate authority. By accepting market-based rate authority for all of its services, SG Resources continues to assume the economic risks associated with the costs of its storage project, including the expansion facilities approved herein, to the extent any capacity is unsubscribed. Accordingly, the Commission finds that SG Resources' expansion proposal satisfies the threshold no-subsidy requirement of the Certificate Policy Statement. We also find that the expansion will have no adverse impact on the services of existing customers.

15. Further, as discussed below, SG Resources' storage facility is located in a competitive market. The facility, including the expansion capacity authorized by this order, is needed to serve new demand in a region that is experiencing steady growth in natural gas storage requirements. No pipeline or storage company in SG Resources' market area has protested its proposed expansion. Accordingly, the Commission concludes that SG Resources' proposal will have no adverse impact on existing pipelines or storage providers or their captive customers.

16. Like the three previously authorized storage caverns, the proposed fourth storage cavern will be located within the 80-acre tract already owned by SG Resources. Further, SG Resources will construct the two additional brine disposal wells and pipeline facilities within previously disturbed areas. The Destin Lateral Loop pipeline will be located in the right-of-way approved in the 2002 certificate order for the existing Destin Lateral gas pipeline. Thus, SG Resources' expansion proposal minimizes any adverse effects on landowners.

17. Like the original project, the expanded SG Resources storage facility will further the development of needed natural gas infrastructure and will serve a growing market for high-deliverability storage serving the gas-fired electric market. The increased storage

capacity, the Destin Lateral Loop, and the additional 200 feet of pipeline to interconnect the SG Resources facilities with Southeast Supply Header, LLC will enhance storage options available to pipelines and their customers. To date, SG Resources has firm contractual storage commitments for 20 Bcf of working storage capacity, and anticipates firm service commitments exceeding its currently-certificated 24 Bcf of working gas. The proposed expansion project to increase total working gas capacity to 40 Bcf will still serve the public interest by providing for additional storage, hub, and wheeling services without significant landowner or environmental impacts. The benefits of the expanded storage project will outweigh any residual adverse effects. We conclude that the proposed expansion of the SG Resources' Southern Pines Energy Center is consistent with the criteria discussed in the Certificate Policy Statement and is required by the public convenience and necessity.

B. Market-Based Rates

18. SG Resources is seeking to reaffirm its authority to provide firm storage and interruptible hub and wheeling services at market-based rates. The Commission granted SG Resources' initial request to charge market-based rates for its services⁵ and subsequently re-affirmed that authorization,⁶ but expressly required SG Resources to submit a new market power study in the event it again sought to expand its Southern Pines facility. SG Resources submitted such a study showing that this proposed expansion of the Southern Pines Energy Center's capacity will not alter the Commission's previous determination that SG Resources does not have market power in providing firm storage and interruptible hub and wheeling services.

19. The Commission has approved market-based rates for storage services where applicants have demonstrated, under the criteria in the Commission's Alternative Rate Policy Statement that they lack significant market power or have adopted conditions that significantly mitigate market power.⁷ In prior orders, we have approved requests to charge market-based rates for storage services based on a finding that the operators of

⁵ 101 FERC ¶ 61,029 (2002).

⁶ 118 FERC ¶ 61,048 (2007).

⁷ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines* (Alternative Rate Policy Statement), 74 FERC ¶ 61,076 (1996), *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *petitions for review denied and dismissed*, *Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998), *criteria modified*, *Rate Regulation of Certain Natural Gas Storage Facilities*, Order No. 678, *FERC Statutes and Regulations* ¶ 31,220 (2006), *order on clarification and reh'g*, Order No. 678-A, 117 FERC ¶ 61,190 (2006).

proposed projects would not be able to exercise market power due to their proposed storage facilities' relatively small size, anticipated share of the market, and numerous competitors.⁸ In 2002, the Commission approved market-based rates for SG Resources' firm storage and interruptible hub and wheeling services and reaffirmed SG Resources' market-based rate authorization in the 2007 order that authorized an expansion of the SG Resources' Southern Pines facility. The Commission concluded in both orders that SG Resources would not possess market power over these services in the relevant geographic market.

20. In support of its request for continuation of market-based rate authority, SG Resources has filed, as Exhibit I to its May 29, 2008 application, an updated market power study based on the traditional criteria set forth in the Alternative Rate Policy Statement. SG Resources' market power study for the storage market defines the relevant product and geographic markets, measures market share and concentration, identifies the numbers and types of alternatives available to potential customers and evaluates other factors. The market power study defines the relevant geographic market as consisting of eastern Texas, Louisiana, Mississippi and Alabama (Gulf States Market), and concludes that SG Resources' proposed addition to working gas capacity does not alter the original conclusion that it lacks market power.

21. According to SG Resources' updated market power study, the storage facilities in the relevant geographic market, including the additional working gas capacity generated by the proposed upgrades to the Southern Pines facility, will have a total working gas capacity of 690.76 Bcf and total peak day deliverability of 19,125 MMcf. Including the additional 16 Bcf of additional working gas capacity proposed in this application, SG Resources' share of the total working gas capacity in the Gulf States Market will be approximately 5.8 percent and its share of peak day deliverability will be approximately 9.4 percent. The market power analysis also shows that seventeen other storage facilities in the Gulf States Market, totaling 306.4 Bcf of working gas capacity, are under development.

22. We use the Herfindahl Hirschman Index (HHI) test to determine market concentration for gas pipeline and storage markets. The Alternative Rate Policy Statement explains that a low HHI, generally less than 1,800, indicates that sellers cannot exert market power because customers have sufficiently diverse alternatives in the relevant market. While a low HHI suggests a lack of market power, a high HHI, generally greater than 1,800, requires closer scrutiny in order to make a determination about a seller's ability to exert market power. SG Resources' market power analysis shows an HHI calculation of 1,411 for working gas capacity and an HHI calculation of

⁸ *Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 (2006); *Pine Prairie Energy Center, LLC*, 109 FERC ¶ 61,215 (2004); *Egan Hub Partners, L.P.*, 99 FERC ¶ 61,269 (2002).

984 for peak day deliverability. These measures of market concentration are well below the Commission's threshold level of 1,800, indicating that SG Resources does not have market power in the relevant market area.

23. As to interruptible wheeling service, SG Resources presented a matrix, referred to as a “bingo-card analysis,” which identifies all possible interconnects for pipelines attached to a hub and indicates whether good alternatives exist. SG Resources' analysis shows that there are a number of alternative paths available to shippers desiring to wheel natural gas between interstate natural gas pipelines in the Gulf States Market. The market power study shows that SG Resources' market share for wheeling delivery capacity at alternative hubs and market centers in the Gulf States Market will be 14 percent and its market share for receipt capacity will be 17 percent. The HHIs are 1,277 for delivery capacity and 1,457 for receipt capacity, both of which are well below the 1,800 level set forth in the Alternative Rate Policy Statement. The market power study also shows that ample competitive alternatives exist for SG Resources' interruptible hub services and that there are alternative interconnection paths for every possible flow of gas among the pipelines with which the Southern Pines facility will interconnect.

24. In view of these considerations, we will reaffirm SG Resources' market-based rate authority for its storage, hub, and wheeling services. However, consistent with our 2002 and 2007 orders authorizing market-based rates for SG Resources, we will again require that SG Resources notify the Commission of future circumstances that may significantly affect its market power status. Thus, our approval of continued market-based rate authority is subject to re-examination in the event that: (a) SG Resources adds storage capacity beyond the capacity authorized in this order; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to Southern Pines; or (d) SG Resources or an affiliate acquires an interest in, or is acquired by, an interstate pipeline connected to Southern Pines. Because these circumstances could affect its market power status, SG Resources must notify the Commission within 10 days of acquiring knowledge of any such changes. The notification shall include a detailed description of the new facilities and their relationship to SG Resources.⁹

C. Waiver of Cost-Based Regulations

25. Because it proposes to charge market-based rates, SG Resources requests waiver of the Commission's cost-based regulations in § 157.6(b)(8) (cost and revenue data for rates); § 157.14(a)(13), (14), (16), and (17) (cost-based exhibits); § 157.14(a)(10) (accessible gas supplies); § 260.2 and Part 201 (accounting and reporting requirements for cost-of-service rate structure, including Form 2A); § 284.7(e) (reservation charge) and § 284.10 (straight fixed-variable rate design).

⁹ See, e.g., *Copiah County Storage Company*, 99 FERC ¶ 61,316 (2002); *Egan Hub*, 99 FERC ¶ 61,269 (2002).

26. The cost-related information required by these regulations is not relevant in light of our approval of market-based rates for SG Resources' storage services. Thus, consistent with our findings in previous orders,¹⁰ we will grant SG Resources' request for waivers, except for the information necessary for the Commission's assessment of annual charges.¹¹ SG Resources is required to file page 520 of Form No. 2-A, reporting the gas volume information which is the basis for imposing an Annual Charge Adjustment (ACA) charge. However, these waivers are subject to re-examination in the event that SG Resources' market power or market-based rates need to be re-examined. In addition, we also require SG Resources to maintain sufficient records consistent with the Uniform System of Accounts should the Commission require SG Resources to produce these reports in the future.

D. Engineering Condition for Sonar Surveys

27. Ordering Paragraph (D)(4) of the 2007 order amending SG Resources' certificate requires it to conduct sonar surveys every five years to monitor the cavern's dimensions, shape, and pillar thickness throughout the storage operations. SG Resources asks the Commission to eliminate the condition requiring sonar surveys of each storage cavern every five years because SG Resources proposes to implement an enhanced cavern integrity monitoring program at lower cost and less disruption to storage operations. As an alternative, SG Resources proposes to conduct a mechanical integrity test at least every five years, monitor the casing annulus pressure between the production casing and first outer casing, monitor gas activity into and out of the caverns, monitor pressure and temperature, conduct annual inventory verification surveys, and perform regular surveys of the caverns. SG Resources asserts that its circumstances are similar to those discussed in *Copiah Storage, LLC* in which the Commission vacated the same certificate condition because the storage operator proposed a monitoring process based on pressure and temperature data.¹²

28. Cavern integrity is integral to the safe and reliable operation of the facilities with minimal loss of gas and reduction in storage capacity. The Commission generally requires sonar surveys to monitor cavern integrity and to minimize salt creep because sonar surveys, as opposed to other technologies, are widely used, effective, and do not require special instrumentation to be permanently installed in the storage caverns. In

¹⁰ See, e.g., *SG Resources Mississippi, L.L.C.*, 118 FERC ¶ 61,252, at P 29 (2007), *Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 (2006), *Liberty Gas Storage, L.L.C.*, 113 FERC ¶ 61,247, at P 54 (2005).

¹¹ See *Wycoff Gas Storage Co., LLC*, 105 FERC ¶ 61,027, at P 65 (2003).

¹² 123 FERC ¶ 61,082 (2008).

Petal Gas Storage, L.L.C., the Commission allowed for continued adjustments to its monitoring requirements to reflect technological advancements in measures to ensure the integrity of natural gas storage facilities.¹³ In *Egan Hub Storage, LLC*¹⁴ and *Saltville Gas Storage Company, LLC*,¹⁵ the Commission accepted the companies' proposed alternative methods for testing the integrity of their storage caverns.

29. We will grant SG Resources' request for elimination of the condition in Ordering Paragraph (D)(4) of the 2007 order requiring sonar surveys of each storage cavern every five years, as we find that SG Resources' proposed monitoring program is an acceptable alternative means to maintain cavern integrity. SG Resources' proposed mechanical integrity testing methodology is consistent with the intent of the sonar testing requirement and will effectively monitor the caverns' integrity to ensure the safe and reliable operation of the facilities. Should SG Resources discover any integrity issues through its real-time monitoring, its must file those results with the Commission, with its proposal for addressing them. SG Resources must comply with all other engineering conditions in the 2007 order.

E. Environmental Review

30. On June 27, 2008, we issued a *Notice of Intent to Prepare an Environmental Assessment for the proposed Southern Pines Energy Center Expansion Project II and Request for Comments on Environmental Issues* (NOI). We received no comment letters in response to the NOI. Our staff issued an environmental assessment (EA) of SG Resources' proposal on October 17, 2008. The EA addresses geology, soils, water resources, fisheries, wetlands, vegetation, wildlife, threatened and endangered species, cultural resources, land use, air quality, noise, reliability, safety, cumulative impacts, and alternatives.

31. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with SG Resources' application and supplements, including responses to the staff's data request, SG Resource's proposed mitigation measures, and the additional mitigation measures recommended in the EA and adopted in the appendix to this order, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

32. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The

¹³ *Petal Gas Storage, L.L.C.*, 120 FERC ¶ 61,226, at P 26 (2007).

¹⁴ 122 FERC ¶ 61,209 (2008).

¹⁵ 122 FERC ¶ 61,151 (2008).

Commission encourages 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.¹⁶

33. At a hearing, held on November 20, 2008, 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 authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) SG Resources' certificate of public convenience and necessity, issued October 10, 2002, as amended January 24, 2007, is further amended to authorize SG Resources to construct and operate the facilities described in the body of this order, as more fully described in its application, subject to the environmental and engineering conditions stated in the body of this order and in the appendix.

(B) This authorization is conditioned on SG Resources' compliance with all applicable Commission regulations under the NGA, particularly the general terms and conditions in Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the regulations.

(C) SG Resources' facilities authorized by this order must be constructed and made available for service within three years of the date of the order in this proceeding as required by section 157.20(b) of the Commission's regulations.

(D) SG Resources' request to charge market-based rates for firm storage and interruptible hub and wheeling services is approved, consistent with the discussion in the body of this order. This authorization is subject to reexamination in the event that: (a) SG Resources expands its storage capacity beyond the amount authorized in this proceeding; (b) an affiliate acquires an interest in another storage field in the relevant geographic market area; (c) an affiliate links storage facilities to SG Resources; or (d) SG Resources or an affiliate acquires an interest in or is acquired by an interstate pipeline in SG Resources' market. SG Resources or an affiliate shall notify the Commission if any of the above conditions occur within 10 days of acquiring such knowledge.

¹⁶ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 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).

(E) SG Resources' request for waivers of the Commission's cost-based regulations is granted, as discussed herein. SG Resources is required to file page 520 of Form No. 2-A to report gas volume information as the basis for imposition of ACA charges. These waivers are subject to re-examination in the event that SG Resources' market power or market-based rates need to be re-examined. SG Resources shall maintain records consistent with the Uniform System of Accounts.

(F) The certificate condition set forth in Ordering Paragraph (D)(4) of the 2007 order requiring sonar surveys of each storage cavern every five years is eliminated. SG Resources shall implement its proposed enhanced cavern integrity monitoring program. SG Resources must file annually the results of a detailed monitoring plan to ensure the maintenance of cavern integrity that includes: (1) a mechanical integrity test at least every five years; (2) monitoring the casing annulus pressure between the production casing and the first outer casing; (3) monitoring gas activity into and out of the caverns; (4) monitoring key wellhead parameters, including pressure and temperature; (5) conducting annual inventory verification studies; and (6) performing regular surveys of the cavern providing electronic readouts of the down-hole cavern pressure and temperature. SG Resources must comply with all other engineering conditions in the 2007 order.

(G) SG Resources shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies SG Resources. SG Resources shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

SG Resources Mississippi, L.L.C. Southern Pines Energy Center Expansion Project II Docket No. CP02-229-004

This authorization is subject to the following environmental conditions:

1. SG Resources shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the environmental assessment (EA), unless modified by the Order. SG Resources must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (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 the Office of Energy Projects (OEP) before using that modification.
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction, operation and abandonment of the project. This authority shall allow:
 - a. the modification of conditions of the Order; and
 - b. the 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, operation and abandonment.
3. **Prior to any construction**, SG Resources shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel shall be informed of the environmental inspector's authority and have been or shall 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 EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, SG Resources 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.

5. SG Resources 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 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. **Prior to construction**, SG Resources shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. SG Resources must file revisions to the plan as schedules change. The plan shall identify:
 - a. how SG Resources will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
 - b. how SG Resources 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;
- c. the number of environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
 - e. the training and instructions SG Resources 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(s);
 - f. the company personnel (if known) and specific portion of SG Resources' organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) SG Resources will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - i. the completion of all required surveys and reports;
 - ii. the mitigation training of onsite personnel;
 - iii. the start of construction; and
 - iv. the start and completion of restoration.
7. SG Resources shall employ at least one environmental inspector per construction spread. The environmental inspector 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 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.
8. SG Resources shall file updated status reports prepared by the environmental inspector with the Secretary on a **biweekly** 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 environmental inspector(s) 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 SG Resources from other federal, state or local permitting agencies concerning instances of noncompliance, and SG Resources' response.
 9. SG Resources must receive written authorization from the Director of OEP **before commencing service** from 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.
 10. **Within 30 days of placing the certificated facilities in service**, SG Resources 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 SG Resources 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.

11. **Prior to the start of the construction**, SG Resources shall file with the Secretary, for review and written approval by the Director of OEP a well drilling noise analysis identifying noise-sensitive areas (NSAs) within 0.5 mile of each well location showing existing and projected noise levels. For those wells with projected noise levels of above 55 decibels on the A-weighted scale (dBA) at the NSAs, SG Resources shall provide a plan for reducing the projected noise levels, including the mitigation measures that would be implemented prior to construction. During drilling operations, SG Resources shall monitor noise and make all reasonable efforts to restrict noise from drilling operations to no more than a day-night sound level (Ldn) of 55 dBA at the NSAs.
12. SG Resources shall file a noise survey with the Secretary **no later than 60 days** after placing the authorized compressor units at the Southern Pines Energy Center Gas Handling Facility in service. If the noise attributable to the operation of the facility **at full load** exceeds an Ldn of 55 dBA at any nearby NSAs, SG Resources shall install additional noise controls to meet that level **within 1 year** of the in-service date. SG Resources shall confirm compliance with the Ldn of 55 dBA requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.