

135 FERC ¶ 61,114
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Questar Pipeline Company

Docket No. CP11-25-000

ORDER ISSUING CERTIFICATE

(Issued May 4, 2011)

1. On November 10, 2010, Questar Pipeline Company (Questar) filed an application, in Docket No. CP11-25-000, under section 7(c) of the Natural Gas Act (NGA)¹ for a certificate of public convenience and necessity authorizing Questar to construct and operate approximately 24.6 miles of 24-inch diameter pipeline and related facilities in Uintah County, Utah (the ML104 Extension Project) in order to extend its interstate pipeline transmission system in response to customer demand. The ML104 Extension Project will add 160,000 dekatherms (Dth) per day of incremental capacity with 144,000 Dth per day already subscribed under firm transportation service agreements (TSA). Questar also requests a predetermination that it may roll the costs of the ML104 Extension Project into its existing rates in a future section 4 rate case. As discussed below, we will authorize the ML104 Extension Project and grant Questar's request for a predetermination of rolled-in rate treatment, with appropriate conditions.

I. Background and Proposal

2. Questar is a corporation organized and existing under the laws of the state of Utah with authority to transact business in the states of Utah, Colorado and Wyoming. Questar is a natural gas pipeline company engaged in the transportation of natural gas in interstate commerce subject to the Commission's jurisdiction. Questar provides open-access transportation service in Colorado, Utah, and Wyoming and operates open-access storage facilities in Utah and Wyoming.

3. Questar's southern transmission system extends from western Colorado, through central Utah to end-use markets located along the Wasatch Front, which principally

¹ 15 U.S.C. § 717f(c) (2006).

incorporates the Salt Lake City, Utah metropolitan area and adjacent cities. The southern transmission system includes the existing ML104, that comprises approximately 151 miles of 24-inch-diameter pipeline. ML104 extends from its eastern terminus at the Green River Block Valve (Green River) in Uintah County, Utah, west to the Wasatch Front with deliveries to Questar Gas Company, an affiliated local distribution company, at Payson Gate, and further west to an interconnection with Kern River Gas Transmission Company (Kern River) at Goshen, Utah.

4. ML104 was certificated and constructed in several stages over the past decade. In 2001, the Commission authorized Questar to construct and operate the first section of ML104 consisting of approximately 75 miles of 24-inch-diameter pipeline extending from Fausett Junction to an interconnect with Kern River and looping a portion of the existing ML40.² In 2005, the Commission authorized Questar to construct and operate approximately 18.7 miles of 24-inch-diameter pipeline to serve as an eastward extension of ML104 from the terminus at Fausett Junction to a new terminus at Soldier Creek.³ In 2007, the Commission authorized construction and operation of approximately 54 miles of 42-inch-diameter pipeline to serve as another eastward extension of ML104 from the terminus at Soldier Creek to a new terminus at the Green River.⁴

5. In the present application Questar states that its proposed ML104 Extension Project will extend ML104 by another 24.6 miles eastward from Green River to Questar's existing Fidlar Compressor Station (Fidlar), essentially completing a loop of Questar's ML40, to allow shippers to take advantage of plentiful gas supplies in the Uintah Basin. Questar states that the ML104 Extension Project will create approximately 160,000 Dth per day of incremental capacity, extending east from Green River to Fidlar. Associated ancillary facilities would include: Mainline Block Valves at Fidlar; one pig launcher/receiver at Fidlar; a measurement and control facility at Fidlar, consisting of a flow meter, control valve, pipe, and valves within the existing Fidlar site to control flow from Fidlar to Questar's ML104 and ML40 pipelines; eight pipeline taps to facilitate gas delivery into the pipeline system; cathodic protection that includes cathodic test leads; and other appurtenances. Questar does not propose to construct any new compression facilities as part of this application. Questar states that the ML104 Extension Project will cross about 12.1 miles of land managed by the U.S. Bureau of Land Management (BLM), 7.0 miles of land owned by the Uintah and Ouray Indian Reservation and managed by the Bureau of Indian Affairs, 5.3 miles of land managed by State Institutional Trust Lands Administration, and 0.1 miles managed by Utah Department of Natural Resources. No

² *Questar Pipeline Co.*, 95 FERC ¶ 61,404 (2001).

³ *Questar Pipeline Co.*, 110 FERC ¶ 61,035 (2005).

⁴ *Questar Pipeline Co.*, 119 FERC ¶ 61,077 (2007).

privately-owned lands will be crossed. Questar states that for approximately 71 percent of its length the project will be generally located adjacent to existing dirt roads, pipelines, pipeline facilities, and existing rights-of-way.

6. Questar states that the proposed project will: (i) allow existing firm shippers to amend their primary receipt-point capacity east to Fidlar, providing greater access to Uintah Basin natural-gas supplies that are produced, gathered and processed near Fidlar; (ii) allow Questar to retain existing contracts on its system that shippers had advised Questar otherwise would be terminated; (iii) eliminate the bottleneck that exists from Fidlar to the Green River, where currently only Questar's 20-inch ML40 exists; and (iv) enhance system reliability and provide operational flexibility along Questar's southern pipeline system.

7. Questar states that following an open season it held from December 15, 2009 through January 30, 2010, it negotiated or renegotiated (TSA) with five parties totaling 144,000 Dth per day of transportation capacity from receipt points in the area of Fidlar to delivery points on the west end of Questar's southern system. Questar states that it entered into one new Rate Schedule FT TSA with QEP Marketing Company for 20,000 Dth per day. Three other shippers, Anadarko Energy Services Company, EOG Resources, Inc. and El Paso Marketing LP, have extended their firm TSAs for a total of 94,000 Dth per day. Questar states that these TSAs will become effective on November 1, 2011, when the proposed project is expected to be placed in service.

8. Questar states that the fifth project shipper, Questar Gas Company, currently has 50,000 Dth per day of reserved daily capacity on the southern transmission system that it was not planning to renew. However, as a result of the ML104 Extension Project, Questar Gas Company will now only decrease its reserved daily capacity to 30,000 Dth per day beginning December 1, 2011, rather than terminate the contract altogether.

9. Questar states that the total estimated cost of the ML104 Extension Project is \$46,100,000 and requests a predetermination that it may roll the costs associated with the project into its system rates in a future section 4 rate case. The five shippers that have subscribed ML104 Extension capacity will pay the maximum system-wide reservation rate of \$5.28804 Dth per month.

II. Interventions

10. Notice of Questar's application was published in the *Federal Register* on December 1, 2010 (75 Fed. Reg. 74,697). Kern River, QEP Field Services Company, and Three Rivers Gathering, L.L.C. filed timely, unopposed motions to intervene.⁵

⁵ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(c) (2010).

Anadarko Uintah Midstream, LLC (Anadarko Uintah) filed a late motion to intervene. Anadarko Uintah has demonstrated an interest in this proceeding and granting its late intervention will not unduly delay or disrupt this proceeding or otherwise prejudice other parties; therefore, for good cause shown, we are granting the late motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedure.⁶ No protests or comments in opposition were filed.

III. Discussion

11. Since the proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of subsection (c) of section 7 of the NGA.⁷

A. Certificate Policy Statement

12. The Certificate Policy Statement provides guidance as to how the Commission will evaluate proposals for certificating new construction.⁸ 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 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 in evaluating new pipeline construction.

13. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project 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, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts

⁶ 18 C.F.R. § 385.214(d) (2010).

⁷ 15 U.S.C. § 717f(c) (2006).

⁸ *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).

have been made to minimize them, we 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 we proceed to complete the environmental analysis where other interests are considered.

14. As noted above, the threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Questar will provide the service under its existing Part 284 rates. Since none of the ML104 Extension Project costs are included in Questar's currently effective rates, accepting Questar's proposal to charge these rates as initial rates for this project will not result in subsidization by existing customers. In addition, Questar has signed agreements with five shippers for ninety percent of the capacity created by the proposed project at Questar's system-wide maximum rate, for ten-year terms. As discussed below, existing customers will not subsidize the ML104 Extension Project because total revenue from these agreements, even at the ninety percent subscription level, exceeds the ML104 Extension Project's cost of service.

15. We find that Questar's proposal will have no impact on its existing customers since the proposal will not result in any degradation of service to them. Further, we find no adverse impacts on existing pipelines in the market or their captive customers because the proposal is for new incremental service and is not intended to replace existing service on any other pipeline. Additionally, no pipeline company has protested Questar's application. We also find that the proposed facilities have been designed in a manner to minimize impacts on landowners. The ML104 Extension Project is generally located adjacent to existing dirt roads, pipelines, pipeline facilities, and existing rights-of-way for approximately 71 percent of its length, minimizing impacts on landowners and the environment, and no claims of adverse impacts on landowners and neighboring communities have been submitted.

16. We find that any potential adverse effects of the ML104 Extension Project are outweighed by the benefits it offers. The ML104 Extension Project will allow producers to shift their primary receipt points from declining coalbed methane production in the Ferron, Utah area east to the Fidlar area to access new supplies in the Uintah Basin. Substantial market demand for the project is demonstrated by the renegotiated and new TSAs that provide for the long-term subscription of ninety percent of the incremental capacity to be made available. Without the construction of this project, it appears likely that a number of the ML104 Extension Project shippers would not have renewed their existing contracts. Further, as noted above, Questar's existing shippers will not subsidize the ML104 Extension Project. For these reasons, we find, consistent with the Certificate Policy Statement and section 7(c) of the NGA, that the public convenience and necessity requires approval of Questar's proposed ML104 Extension Project.

B. Rates

17. The Commission approves the use of Questar's system rates for the initial rates for the incremental capacity.

18. Questar seeks a predetermination that it may roll the costs of the ML104 Extension Project into its existing rates in its next section 4 rate case. Questar states that revenue associated with the project exceeds the project's cost-of-service over the life of the contracts. Questar provides, in Exhibit N, a three year statement of revenues, expenses and income, as well as a 3-year cost-of-service analysis for the project.

19. Based on the five Rate Schedule T-1 agreements, Questar projects total revenue for the first three years of the ML104 Extension Project to be \$27,254,588 and the total cost of service for the first three years of the project to be \$23,470,149. Thus, the projected revenues would exceed the projected cost of service for the first three years of the project by \$3,784,439. Based on these projections, we would expect that if the costs and revenues associated with the project were rolled in with system costs in a section 4 rate case, existing customers would benefit from resultant rates lower than they would be otherwise.⁹ Therefore, Questar's request for a predetermination of rolled-in rate treatment for the costs associated with the ML104 Extension Project is granted, absent any significant change in circumstances.

C. Environmental Analysis

20. The Commission staff began its environmental review of the ML104 Extension Project in Docket No. PF10-7-000, following the February 4, 2010 approval of Questar's request to use the pre-filing process. As part of the pre-filing review, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Planned Mainline 104 Extension Project and Request for Comments on Environmental Issues* (NOI) on April 29, 2010. The NOI was mailed to about 230 entities including federal, state, and local officials; Native American groups; agency representatives; environmental and public interest groups; affected property owners;¹⁰ and local libraries and newspapers. In response to the NOI, we received four comment letters. The U.S. National Park Service and the Navajo Nation filed comments that did not raise any environmental concerns. The U.S. Fish and Wildlife Service (FWS) and Uintah County

⁹ See, e.g., *ETC Tiger Pipeline, LLC*, 134 FERC ¶ 61,084 (2011); *Iroquois Gas Transmission System, L.P.*, 122 FERC ¶ 61,242 (2008); *Tennessee Gas Pipeline Co.*, 125 FERC ¶ 61,100 (2008); *Colorado Interstate Gas Co.*, 99 FERC ¶ 61,262 (2002).

¹⁰ As mentioned above, the affected property is managed by the BLM, the Uintah and Ouray Tribe, the State Institutional Trust Lands Administration, and the Utah Department of Natural Resources.

filed comments concerning threatened and endangered species, migratory birds, raptors, and potential impacts on county road rights-of-way.

21. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA),¹¹ our staff prepared an environmental assessment (EA) for the ML104 Extension Project. The U.S. Bureau of Indian Affairs, the U.S. Bureau of Land Management, the FWS, and the Utah Public Lands Policy Coordination Office (Utah PLPCO) participated in the preparation of the EA as cooperating agencies. The analysis in the EA addressed: geology and soils; water resources and wetlands; fisheries, vegetation, wildlife, and threatened and endangered species; land use, recreation, and visual resources; cultural resources; air quality and noise; safety; cumulative impacts; and alternatives. As summarized below, the EA addressed all substantive issues raised during the scoping period.

22. The FWS submitted scoping comments concerning potential impacts on the endangered bonytail chub, Colorado pikeminnow, humpback chub, and razorback sucker (collectively, Colorado River Fish); the threatened Uinta basin hookless cactus; migratory birds; and raptors. As stated in section B.4.4 of the EA, even though Questar proposes to install its pipeline across the Green River using the horizontal directional drill (HDD) method, the project is likely to adversely affect the Colorado River Fish and their designated critical habitat. This conclusion is based on the project's temporary effect on 4.8 acres of floodplain habitat (3.6 acres on the west side of the Green River and 1.2 acres on the east side). Additionally, Questar will withdraw about 58 acre-feet of water from the Green and White Rivers for dust suppression and hydrostatic test water, which constitutes a depletion requiring formal consultation under section 7 of the Endangered Species Act (ESA)¹² for the Colorado River Fish.

23. The EA also states that while Questar has routed its pipeline to minimize impacts on the Uinta Basin hookless cactus, about 171 cacti are within the construction workspace. Questar proposes to avoid 121 of these cacti by fencing, bridging, or use of stove-pipe construction methods. The remaining 50 cacti are within the proposed workspace can not be avoided. Therefore, the EA concludes that the project is likely to adversely affect the Uinta Basin hookless cactus.

24. The Commission's staff prepared and submitted to the FWS a biological assessment for the Colorado River Fish and the Uinta Basin hookless cactus on March 8, 2011, initiating formal consultation as required under section 7 of the ESA.

¹¹ 42 U.S.C. §§ 4321-4370f (2006).

¹² 16 U.S.C. § 1536 (2006).

Environmental condition 11 to this order will ensure that ESA section 7 consultation with the FWS is completed prior to commencement of construction.

25. Section B.4.3 of the EA described Questar's proposed methods for minimizing impacts on migratory birds and raptors, including implementation of the FWS's *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbance*, spatial buffers, and recommended construction constraint periods. The EA concludes that these measures will adequately minimize any disruption of migratory birds.

26. Uintah County's scoping comments express concern about the pipeline being placed within the county road's rights-of-way. As stated in section 5.1 of the EA, the pipeline will generally parallel Questar's existing ML40, and any county road crossings will be conducted in accordance with the requirements of the Uintah County Road Department.

27. On March 4, 2011, the EA was placed into the public record of this proceeding and issued for a 30-day comment period. In response, we received comments from Questar, the Hopi Tribe, and the Utah PLPCO. Questar states that the reference made in its application to operating and maintaining its pipeline according to Title 43 of the Utah Administrative Code, Part XIII was incorrect. However, Questar states it would operate and maintain the proposed facilities in accordance with federal and state safety standards, including title 49 of the Code of Federal Regulations, part 192,¹³ as stated in sections A.7.7 and B.8.1 of the EA.

28. The Hopi Tribe requests that Questar provide copies of the monitoring reports and proposed treatment plans for review and comment if any cultural resources are identified during monitoring that could be adversely affected by project activities. Further, the Hopi Tribe requests notification if any human remains are encountered, pursuant to the Native American Graves Protection and Repatriation Act. We have revised environmental condition 12 to ensure that Questar provides copies of the monitoring reports and notifies the Hopi Tribe of any human remains.

29. As noted above, the Utah PLPCO was a cooperating agency in preparation of the EA. Staff did not receive any substantive comments from the Utah PLPCO during its administrative review; however, in a letter dated April 4, 2011, the Utah PLPCO identified some concerns associated with the project and clarified certain technical information.

30. The Utah PLPCO commented that the EA did not identify impacts on specific groundwater protection zones in the project area. Section 3.1 of the EA indicates that

¹³ 49 C.F.R. Part 192 (2010).

project construction activities such as trenching, dewatering, and backfilling could encounter shallow surficial aquifers in proximity to surface waterbodies and states that the depth of the construction activities relative to the shallowest aquifer in the project area would preclude any impacts on groundwater resources. In addition, the effects of construction would be short-term, and aquifers would be expected to quickly return to baseline conditions. As such, we affirm the EA's conclusion that project construction, operation, and maintenance activities will not have a significant impact on groundwater resources.

31. The Utah PLPCO also indicated that the EA neglected to reference and evaluate the use-designation classification for Willow Creek. The Utah PLPCO states that Willow Creek is only partially supporting its beneficial use status due to elevated levels of total dissolved solids (TDS). The Utah PLPCO requested that the EA disclose any project-related TDS impacts on Willow Creek as well as on other proximal waterbodies' use classifications.

32. As discussed in the EA, the project will cross Willow Creek by using a dry-ditch technique, avoid high-flow conditions, and otherwise comply with Questar's Wetland and Waterbody Construction and Mitigation Procedures. This will minimize the overall sedimentation and turbidity caused by the crossing and any potential increases in levels of TDS, both at the crossing location as well as downstream. Further, as noted in the EA, Questar is required to comply with Clean Water Act sections 401 and 404.¹⁴ The Utah Department of Environmental Quality (UDEQ) administers section 401 and could include additional TDS minimization measures as a part of its permitting authority. Environmental condition 8 requires Questar to file with the Secretary documentation that it has received all applicable authorizations required under federal law prior to commencing construction.

33. The Utah PLPCO identified the spread of aquatic invasive species (AIS), such as invasive aquatic plants, mollusks, or fish-oriented pathogens, as a concern during construction of the project. The Utah PLPCO indicated that the state has developed an AIS mitigation plan that details decontamination procedures for equipment that will be in contact with state waters and requested that Questar adopt this plan. As stated in the EA, Questar has committed to ensuring that all equipment be free of soil, debris, and plant matter (which would include removal of any aquatic invasive species) before traveling to the project area. The EA also notes that hydrostatic test water pumps and hoses will withdraw water from the Green and White Rivers, and that Questar must obtain a National Pollution Discharge Elimination System permit from the UDEQ, which could include additional stipulations to address the spread of aquatic invasive species. Questar

¹⁴ 33 U.S.C. §§ 1341, 1344 (2006).

stated in a letter filed April 21, 2011 that it will adopt the AIS mitigation plan during construction of the project.

34. The Utah PLPCO also stated that it has jurisdiction over wildlife management in Utah and that the Utah Division of Wildlife Resources (UDWR) should be consulted regarding the project's potential impacts on wildlife. Section 4.3 of the EA concluded that impacts on big game species and other wildlife would not be significant, due in part to Questar's adherence to certain state-designated big game timing restrictions, as well as the temporary and limited impact of construction activity. The Utah PLPCO has not provided any information that would cause us to revisit the conclusion in the EA.

35. In its comments, the Utah PLPCO acknowledged Questar's mitigation measures to minimize air quality impacts during construction of the project and recommended that Questar further restrict off-road construction mobile sources in accordance with title 40 of the Code of Federal Regulations section 89.112.¹⁵ Section 7.1 of the EA details Questar's mitigation measures to minimize construction-related air quality impacts. In its April 21, 2011 letter, Questar confirmed that the off-road construction equipment will meet the aforementioned standards. Questar will also be required to develop a dust control plan to be used during construction of the project in accordance with the UDEQ's Utah Division of Air Quality's (UDAQ) Rule R307-205-5.¹⁶ Questar's compliance with the UDAQ's fugitive dust requirements, the mitigation measures identified in the EA, and the short-term nature of project construction-related impacts, confirms the EA's conclusion that the project will not result in a significant impact on regional air quality.

36. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with Questar's application and supplements, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

37. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or

¹⁵ 40 C.F.R. § 89.112 (2010).

¹⁶ Utah Admin. Code r.307-205-5 (2011).

local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.¹⁷

D. Engineering

38. Staff's review of the facilities concludes that the proposed facilities can support the addition of 160,000 Dth per day of incremental capacity on the ML104 system. In addition, we find the proposed extension will alleviate the existing capacity constraint from the Fidlar area to downstream markets.

39. 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) A certificate of public convenience and necessity is issued authorizing Questar to construct and operate the ML104 Extension Project, as described more fully in the order and in the application.

(B) The certificate issued herein is conditioned on Questar's compliance with all of the applicable regulations under the NGA, particularly the general terms and conditions set forth in Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20.

(C) To the extent it has not already done so, prior to commencing construction, Questar must execute service agreements for the levels and terms of service reflected in any precedent agreements submitted in support of its proposal.

(D) Questar's facilities shall be constructed and made available for service within one year of the date of the order in this proceeding, in accordance with section 157.20(b) of the Commission's regulations.

(E) The initial rates for the incremental capacity are Questar's currently effective system rates.

(F) Questar's request for a predetermination supporting rolled-in rate treatment for the costs of the project in its next general NGA section 4 rate proceeding is granted, barring a significant change in circumstances, as discussed in the body of this order.

¹⁷ 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).

(G) Questar must file revised tariff sheets at least 30 days but not more than 60 days prior to commencement of the proposed service.

(H) The certificate issued herein is conditioned on Questar's compliance with the environmental conditions set forth in the appendix to this order.

(I) Questar shall notify the Commission's environmental staff by telephone, email, and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Questar. Questar 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

Environmental Conditions for the ML104 Extension Project

Questar Pipeline Company (Questar) 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 EA, unless modified by the Order. Questar 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 delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation 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 the project construction and operation.
3. **Prior to any construction**, Questar shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI's 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 EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Questar 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 the facility 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.

Questar's exercise of eminent domain authority granted under the Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to this Order must be consistent with these authorized facilities and locations. Questar'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. Questar 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 the OEP **before construction in or near that area.**

This requirement does not apply to extra workspaces allowed by Questar's Upland Erosion Control, Revegetation, and Maintenance Plan and/or 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 resource 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 before construction begins**, Questar shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Questar must file revisions to the plan as schedules change. The plan shall identify:
 - a. how Questar 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 Questar 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 EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instructions Questar 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 sessions;
 - f. the company personnel (if known) and specific portion of Questar's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Questar will follow if noncompliance occurs; and
 - h. 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 environmental compliance training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, Questar shall file updated status reports 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. an update on Questar's efforts to obtain the necessary federal authorizations;
 - b. the 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;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the EI 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;
 - d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;

- e. the effectiveness of all corrective actions implemented;
 - f. 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
 - g. copies of any correspondence received by Questar from other federal, state, or local permitting agencies concerning instances of noncompliance, and Questar's response.
8. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Questar shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
9. Questar must receive written authorization from the Director of OEP **before placing the project into service**. 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**, Questar 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 Questar 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. Questar **shall not begin** construction of facilities and/or use of any work areas **until**:
- a. the FERC staff completes formal Endangered Species Act Section 7 Consultation with the U.S. Fish and Wildlife Service regarding impacts on the bonytail chub, Colorado pikeminnow, humpback chub, razorback sucker, and Uinta Basin hookless cactus; and
 - b. Questar has received written notification from the Director of OEP that construction or use of mitigation may begin.
12. Questar **shall not begin** construction of facilities and/or use of staging, storage, or temporary work areas and new or to-be-improved access roads **until**:

- a. Questar files with the Secretary:
- (1) any comments received from the Utah State Historic Preservation Office, U.S. Bureau of Land Management's Vernal Field Office, Utah's State Institutional Trust Lands Administration, and interested Native American tribes on the cultural resources survey report, and
 - (2) any additional cultural resources survey report(s), site evaluation report(s) and avoidance/treatment plan(s), as required;
 - (3) a commitment that Questar will:
 - i. provide the Hopi Tribe with copies of the monitoring reports and any proposed treatment plans for review and comment if any cultural resources are identified during monitoring that would be adversely affected by project activities; and
 - ii. notify the Hopi Tribe of any human remains encountered during construction pursuant to the Native American Graves Protection and Reparation Act.
- b. the Advisory Council on Historic Preservation is afforded an opportunity to comment if historic properties would be adversely affected; and
- c. the FERC staff reviews and the Director of OEP approves the cultural resources reports and plans, and notifies Questar in writing that treatment plans/mitigation measures (including archaeological data recovery) may be implemented and/or construction may proceed.

All materials 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.”**