

155 FERC ¶ 61,026
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Northwest Pipeline, LLC

Docket No. CP15-8-000

ORDER ISSUING CERTIFICATE

(Issued April 11, 2016)

1. On October 27, 2014, Northwest Pipeline, LLC (Northwest) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² for authorization to construct and operate pipeline, metering, and appurtenant facilities in Cowlitz County, Washington (Kalama Lateral Project).
2. As discussed below, the Commission will grant the requested authorization, subject to the conditions herein.

I. Background

3. Northwest is a natural gas company, as defined by section 2(6) of the NGA,³ engaged in the transportation of natural gas in interstate commerce subject to the Commission's jurisdiction. Northwest is organized under the laws of Delaware and operates jurisdictional pipeline facilities in Washington, Oregon, Idaho, Nevada, Utah, Wyoming, Colorado, and New Mexico.
4. Northwest Innovation Works (NWIW) contemplates constructing a Methanol Plant in the northern industrial area of the Port of Kalama, Cowlitz County, Washington.

¹ 15 U.S.C. § 717f(c) (2012).

² 18 C.F.R. pt. 157 (2015).

³ 15 U.S.C. § 717a(6) (2012).

The Methanol Plant will produce methanol from natural gas for shipment to Asia, where it will be used to produce olefins.⁴

II. Proposal

5. Northwest proposes to construct and operate: (a) approximately 3.1 miles of 24-inch-diameter pipeline lateral extending from Northwest's existing 30-inch mainline near mile post (MP) 1254 to a proposed delivery meter station; (b) a delivery meter station located at the end of the proposed lateral near MP 3.1 which will consist of two 12-inch ultrasonic meters, filter/separator, control valve, communications equipment and a building to house the equipment; and (c) appurtenant facilities, including a 24-inch tap and valve on Northwest's mainline, plus block valves, and pig launching and receiving facilities. All of the proposed facilities are located in Cowlitz County. The Kalama Lateral Project will enable Northwest to provide 320,000 dekatherms (Dth) per day of firm transportation service to NWIW's contemplated Methanol Plant. Northwest estimates that the cost of the proposed facilities will be approximately \$22,756,705.

6. Northwest will provide firm and interruptible transportation on the proposed lateral under its existing Rate Schedules TFL-1 and TIL-1, respectively.⁵ On March 30, 2016, Northwest executed a precedent agreement with NWIW for 320,000 Dth per day of firm transportation service for a term of 25 years.

III. Notice, Interventions, Comments, and Protests

7. Notice of Northwest's application was published in the *Federal Register* on November 7, 2014.⁶ Northwest Industrial Gas Users, Sierra Pacific Power Company, Southwest Gas Corporation, Cowlitz County Cemetery District #6, and James Meigs filed timely, unopposed motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.⁷ The Washington Department of Fish and Wildlife (Washington DFW) filed

⁴ Olefins are used to manufacture common household items such as: plastics, paints, nylon carpet, particle board, cell phone cases, and pharmaceuticals, among other things.

⁵ Service under these rate schedules entitles a shipper to transportation rights only on the lateral. NWIW will acquire upstream transportation on Northwest's system under capacity release procedures or on a short-term firm or interruptible basis.

⁶ 79 Fed. Reg. 66,366 (2014).

⁷ 18 C.F.R. § 385.214(c) (2015).

a timely notice of intervention.⁸ The motions to intervene of Northwest Industrial Gas Users, Washington DFW, Cowlitz County Cemetery District #6, and James Meigs included comments. In addition, the Northwest Environmental Defense Center and Columbia Riverkeeper filed joint comments to the application.

8. On February 16, 2015, the Port of Kalama filed an untimely motion to intervene. We will grant the Port of Kalama's late-filed motion to intervene, since to do so at this stage of the proceeding will not delay, disrupt, or unfairly prejudice the proceeding or other parties.⁹

IV. Discussion

9. Since Northwest's 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 subsections (c) and (e) of section 7 of the NGA.¹⁰

A. Application of the Certificate Policy Statement

10. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.¹¹ The Certificate Policy Statement establishes 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 new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to appropriately consider the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, avoidance of

⁸ Rule 214 of the Commission's Rules of Practice and Procedure provides that state fish and wildlife agencies are a party to any proceeding upon filing a timely notice of intervention. 18 C.F.R. § 385.214(a)(2) (2015).

⁹ See 18 C.F.R. § 385.214(d) (2015).

¹⁰ 15 U.S.C. §§ 717f(c), (e) (2012).

¹¹ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999); *order on clarification*, 90 FERC ¶ 61,128 (2000); *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

11. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from 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 proposed route or location of the new pipeline facilities. 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 proceed to complete the environmental analysis where other interests are considered.

12. As discussed above, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from existing customers. Northwest proposes to charge a cost-based incremental recourse rate for service on the lateral. Accordingly, the project will not be subsidized by existing customers, and the threshold requirement of no subsidization is met.

13. We find that the proposed project will not adversely affect service to Northwest's existing customers. In addition, there will be no adverse impact on other existing pipelines in the region or their captive customers because the proposal is not intended to replace service on other pipelines. Rather, it will enable Northwest to provide firm transportation service to NWIW. In addition, no pipeline company or their captive customers have protested Northwest's proposal.

14. Northwest states that its proposals have been designed to minimize the impact on landowners, contending that construction would impact only 127.1 acres of land.¹² Northwest has minimized the impact on landowners by developing a route that incorporated extensive landowner input. We find that Northwest has designed the project to minimize adverse effects on landowners and surrounding communities.

15. The Kalama Lateral Project will enable Northwest to provide 320,000 Dth per day of firm natural gas transportation service to NWIW's contemplated Methanol Plant. Based on the benefits the project will provide, the lack of adverse effects on existing customers, other pipelines and their captive customers, and landowners and surrounding

¹² Northwest Application at 13.

communities, we find, consistent with the Certificate Policy Statement and section 7(c) of the NGA, that the public convenience and necessity requires approval of Northwest's proposal, subject to the conditions listed below.

B. Initial Rates

16. Northwest estimates the cost of constructing the proposed facilities would be \$22,756,705, and the first-year cost of service would be \$4,636,214. Northwest states that the cost of service is generally derived using the factors and methodology underlying the currently effective rates approved in its last NGA general section 4 rate case settlement in Docket No. RP12-490-000.¹³ In addition, Northwest used a day-one rate base for its return calculation.¹⁴ Finally, Northwest states that the cost of service for the project includes an allocation of existing Administrative and General (A&G) costs based on the Kansas-Nebraska methodology.¹⁵

17. Northwest proposes an initial maximum recourse reservation rate for firm transportation service of \$0.03969 per Dth per day with a volumetric charge of zero, plus the Annual Charge Adjustment and fuel assessment. Northwest states that the proposed initial recourse rate for interruptible service under Rate Schedule TIL-1 is the 100 percent load factor equivalent of the firm reservation rate.¹⁶ Northwest calculated its proposed rates using billing determinants of 320,000 Dth per day, the design capability of the project, and the estimated first-year cost of service of \$4,636,214.

18. We will conditionally approve Northwest's proposed recourse rates, subject to further revision when it makes the compliance filing ordered herein. We have consistently denied the use of a day-one rate base for initial rates and required instead the use of a first-year average rate base.¹⁷ Thus, we will require Northwest to file revised

¹³ See *Northwest Pipeline GP*, 139 FERC ¶ 61,071 (2012).

¹⁴ A day-one rate base is computed on the total investment in pipeline facilities on the day the pipeline becomes operational without regard to, or in recognition of, depreciation that will be accrued while the rates are in effect. *Trailblazer Pipeline Co.*, 18 FERC ¶ 61,244, at 61,507 (1982).

¹⁵ *Kansas-Nebraska Natural Gas Co. Inc.*, 53 FPC 1691 (1975), *order on reh'g*, 54 FPC 923, *aff'd*, 531 F.2d 227 (10th Cir. 1976) (method used to allocate A&G expenses among divisions or functions within a subsidiary).

¹⁶ \$0.03969 per Dth delivered, plus Annual Charge Adjustment and fuel.

¹⁷ See *Hackberry LNG Terminal LLC*, 101 FERC ¶ 61,294, at P 61 (2002); *KO*

(continued...)

rates reflecting the use of a first-year average rate base when it makes its compliance filing.

19. We reject Northwest's proposed allocation of existing A&G costs to incremental rates for service utilizing the project. The Commission does not reallocate costs underlying existing rates in a proceeding under section 7 of the NGA.¹⁸ Thus, we direct Northwest to remove A&G costs allocated to the project's cost of service when it makes its rate compliance filing. This holding is without prejudice to Northwest reallocating existing costs in its next NGA general section 4 rate case.

20. With regard to the proposed incremental interruptible rate, we find that Northwest has not credited interruptible revenues nor allocated costs or volumes in designing the rate. When establishing initial rates, the Commission requires that a pipeline either provide for the crediting of all interruptible revenues, net of variable costs, to shippers paying maximum rates or that the pipeline allocate volumes and costs to its interruptible service.¹⁹ Thus, when Northwest files its tariff in compliance with this order, we will require Northwest to either allocate costs and volumes to its interruptible service under Rate Schedule TIL-1 or revise its tariff to provide for 100 percent crediting of interruptible revenues, net of variable costs, to maximum rate firm and interruptible customers.

C. Negotiated Rates and Recordkeeping Requirements

21. Northwest proposes a negotiated levelized rate that it intends to charge NWIW. However, Northwest did not include in its application a negotiated rate agreement for the Commission to review. Therefore, we will not make a determination regarding Northwest's negotiated rate proposal at this time. Northwest must file either its negotiated rate agreement or tariff records setting forth the essential terms of the agreements associated with the project, in accordance with the Alternative Rate Policy Statement²⁰ and the Commission's negotiated rate policies.²¹ Such filing must be made at

Transmission Co., 74 FERC ¶ 61,101, at 61,309 (1996); and *Great Lakes Gas Transmission Ltd. P'ship*, 66 FERC ¶ 61,115, at 61,196 (1994).

¹⁸ *Trunkline Gas Co., LLC*, 145 FERC ¶ 61,108, at P 42 (2013).

¹⁹ See *Transcon. Gas Pipe Line Co.*, 130 FERC ¶ 61,019 (2010); *Maritimes & Northeast Pipeline L.L.C.*, 80 FERC ¶ 61,136 (1997).

²⁰ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, clarification granted, 74 FERC ¶ 61,194 (1996).

least 30 days, but not more than 60 days, before the proposed effective date for such rates.²²

22. To ensure that costs are properly allocated between Northwest's existing shippers and the incremental services proposed in this proceeding, we direct Northwest to keep separate books and accounting of costs attributable to the project. The books should be maintained with applicable cross-references, as required by section 154.309 of the Commission's regulations.²³ This information must be in sufficient detail so that the data can be identified in Statements G, I, and J in any future NGA section 4 or 5 rate case filing and the information must be provided consistent with Order No. 710.²⁴ Such measures protect existing customers from cost overruns and from subsidization that might result from under-collection of the project's incremental cost of service, as well as assist the Commission and parties in any rate proceedings to determine the costs of the project.

D. Fuel

23. Northwest states that under Rate Schedules TFL-1 and TIL-1, transportation shippers on the project will be responsible for only the incremental lost and unaccounted for (LAUF) fuel on the proposed lateral because there is no compression on the lateral. Northwest proposes an initial LAUF fuel reimbursement factor of zero (0.00 percent) for service on the lateral because, prior to placing the lateral into service, Northwest has no basis for calculating LAUF fuel. Northwest provides that pursuant to section 14.12 of the General Terms and Conditions of its tariff, the transportation fuel reimbursement factors, including LAUF fuel, are determined semi-annually to be effective on April 1 and October 1 of each year. Northwest states that in its first fuel reimbursement factor filing after placing the lateral into service, it will determine LAUF fuel reimbursement factors

²¹ *Natural Gas Pipelines Negotiated Rate Policies and Practices; Modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003), *order on reh'g and clarification*, 114 FERC ¶ 61,042, *reh'g dismissed and clarification denied*, 114 FERC ¶ 61,304 (2006).

²² Pipelines are required to file any service agreement containing non-conforming provisions and to disclose and identify any transportation term or agreement in a precedent agreement that survives the execution of the service agreement.

²³ 18 C.F.R. § 154.309 (2015).

²⁴ *See Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, *FERC Stats. & Regs.* ¶ 31,267, at P 23 (2008).

for the lateral, that it does not have the information to determine LAUF on a designated lateral, and that it will need to develop a rational method of allocating a portion of system-wide LAUF to the lateral. Northwest proposes to perform the allocation on the basis of throughput or miles of pipeline with the objective of not double-charging lateral customers for LAUF (lateral service customers will incur a LAUF fuel reimbursement factor on the mainline system and on the lateral). We will approve Northwest's fuel proposal to charge a zero LAUF fuel reimbursement factor and develop a LAUF allocation method after the lateral is placed into service.²⁵

E. Tariff Changes

24. Northwest also filed a *pro forma* tariff record that reflects housekeeping changes to its existing tariff to account for the addition of 320,000 Dth per day of incremental service on Rate Schedules TFL-1 and TIL-1 for the Kalama Lateral Project. The Commission approves Northwest's proposed tariff changes.

F. Regulatory Asset for Variable Depreciation Under Negotiated Rates

25. Northwest proposes to charge NWIW a negotiated levelized rate based in part on variable regulatory depreciation over the 25-year primary contract term. In order to account for the difference between its straight-line book depreciation and the variable depreciation in the rate, Northwest proposes to establish a regulatory asset.

26. Northwest proposes to record the regulatory asset for differences in depreciation amounts recorded on its books and depreciation amounts recovered in its negotiated rate by debiting Account 182.3, Other Regulatory Assets, and crediting Account 407.4, Regulatory Credits. Northwest intends to extinguish or amortize the regulatory asset by crediting Account 182.3, and debiting Account 407.3, Regulatory Debits, as the amounts are recovered in rates.

27. Northwest maintains that the depreciation component of the proposed rates will, by the end of the 25-year primary term, equal the accumulated book depreciation. As discussed above, Northwest executed a precedent agreement with NWIW and will, prior to the commencement of service, execute a Rate Schedule TFL-1 Firm Service Agreement for the transportation of 320,000 Dth of gas per day for a period of 25 years. Northwest states the Commission has authorized such regulatory asset accounting

²⁵ See *Eastern Shore Natural Gas Co.*, 145 FERC ¶ 62,153 (2013).

treatment in similar circumstances, subject to execution of a formal service agreement prior to the commencement of service.²⁶

28. Under the Commission's Uniform System of Accounts, it is appropriate to record a regulatory asset for costs that would otherwise be chargeable to expense when it is probable that the costs will be recovered in future rates.²⁷ Northwest's negotiated rate plan indicates that it will recover 25 years of the total book depreciation expenses over the primary term of service with NWIW. However, we will condition approval of Northwest's proposed accounting treatment on: (1) the parties' executing and filing a service agreement that is consistent with the precedent agreement, which provides that NWIW cannot cancel the agreement prior to the expiration of the 25-year term, and (2) on future Commission acceptance of the negotiated rate.

29. We will accept Northwest's proposal to recognize a regulatory asset but, to ensure consistency with Commission policy with respect to negotiated rates, will require that Northwest not shift any unrecovered costs associated with this negotiated rate agreement to any of its other customers.

30. Our acceptance of this proposal is subject to Northwest's continuing obligation to meet the criteria for recognition of its regulatory asset. Should circumstances change so that Northwest is no longer entitled to recognize a regulatory asset, Northwest must promptly notify the Commission in an appropriate filing that would propose to remove the regulatory asset from its accounts.

G. Environmental Analysis

31. On November 23, 2011, Commission staff began its environmental review for the Kalama Lateral Project after granting Northwest's request to use the Commission's pre-filing process for the Kalama Lateral Pipeline Project²⁸ and assigned Docket

²⁶ Citing *Northwest Pipeline Corp.*, 116 FERC ¶ 61,151 (2006).

²⁷ The term "probable," as used in the definition of regulatory assets, refers to that which can reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved. *Revisions to Uniform System of Accounts to Account for Allowances under the Clean Air Amendments of 1990 and Regulatory-Created Assets and Liabilities and to Form Nos. 1, 1-F, 2 and 2-A*, FERC Stats. & Regs., Regulations Preambles (January 1991 - June 1996) ¶ 30,967 (1993) (Order No. 552).

²⁸ In 2012, Northwest proposed the Kalama Lateral Pipeline Project (Docket No. CP13-18-000), which would have used the same route as the Kalama Lateral Project currently under review here, but withdrew its application when the project proponent

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No. PF12-2-000. As part of the pre-filing review, staff participated in a scoping meeting in Kelso, Washington on July 10, 2012, to explain our environmental review process to interested stakeholders.

32. On December 11, 2014, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI). The NOI was published in the *Federal Register*²⁹ and mailed to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; local libraries and newspapers; and potentially affected landowners.

33. We received comments in response to the NOI from the U.S. Environmental Protection Agency (EPA), the Washington DFW, and local stakeholders. The EPA provided general comments addressing alternatives; cumulative impacts; seismic and land use impacts; hazardous waste; air quality; threatened and endangered species; impacts on water resources; floodplains and riparian resources; road construction and use impacts; climate change; consultation with tribal governments; environmental justice; other required permits; and monitoring.

34. The Washington DFW provided recommendations regarding horizontal directional drilling below all streams, baseline surveys of riparian and stream habitat around water crossings, and site evaluation for Washington state priority species and habitats. We also received comments during the public scoping process from various landowners regarding alternatives to the proposed route, route alignment on their respective properties, property value, well locations, public safety, and access to permanent access roads.

35. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA),³⁰ Commission staff prepared an environmental assessment (EA) for Northwest's proposal. The U.S. Army Corps of Engineers participated as a cooperating agency in the preparation of the EA, which addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, cumulative

declined to take part in the project. However, before the application was withdrawn, Commission staff participated in Northwest's pre-filing process and scoped the project. As appropriate, the EA considered the 2012 proceeding and addressed public comments filed with the Commission in 2012-2013.

²⁹ 79 Fed. Reg. 76,319 (2014).

³⁰ 42 U.S.C. §§ 4321 *et. seq.* (2012).

impacts, and alternatives. All substantive comments received in response to the NOI were addressed in the EA.

36. On July 13, 2015, the EA was issued for a 30-day comment period and placed into the public record. The Commission received comments on the EA from the EPA, the Washington DFW, and an individual stakeholder. These comments are addressed below.

H. The Methanol Plant

37. The EPA asserts that the EA failed to include an analysis of the environmental impacts that will result from the construction of NWIW's contemplated Methanol Plant. We disagree. The proposed Methanol Plant, which would be located on an approximately 90-acre site on the eastern bank of the Columbia River in Cowlitz County that would encompass the terminus of the pipeline and the proposed meter station, is not subject to the Commission's jurisdiction. However, it was nonetheless subject to environmental review in the EA prepared by Commission staff, as well as by the U.S. Army Corps of Engineers and under Washington state law.

38. In considering cumulative impacts attributable to Northwest's proposed Kalama Lateral Project, the EA identifies the Methanol Plant as one project that may, when its impacts are added to those of the proposed action, result in cumulative environmental impacts. The EA found that, due to the spatial and temporal overlap of construction and operation of the Methanol Plant with the Kalama Lateral Project, the plant would likely impact environmental resources also affected by the project, including land use, air quality, noise, water quality and habitat.³¹ However, due to the generally short-term nature of these impacts, and because nearly all construction impacts would be contained within the right-of-way and extra workspaces, the EA concludes that most impacts would be temporary and localized and thus, are generally not expected to contribute to regional cumulative impacts.³²

39. In addition to Commission staff's analysis in the EA, the Methanol Plant is currently subject to additional environmental review by local, state, and federal entities. In order to construct and operate the Methanol Plant, NWIW is required to obtain federal, state, county, and local permits, and to comply with Washington's State Environmental Policy Act (SEPA). Under SEPA, the Port of Kalama and Cowlitz County are preparing a Draft Environmental Impact Statement (EIS) to be followed by a public comment period. The draft EIS will consider the combined impacts from the development and

³¹ EA at 79.

³² *Id.*

operation of the Kalama Lateral pipeline, the Methanol Plant, and the associated marine export terminal.³³ The Washington Department of Ecology will also review both the pipeline and Methanol Plant pursuant to section 401 of the Clean Water Act (CWA), with applicable provisions of Washington's water pollution control laws. Additionally, the U.S. Army Corps of Engineers is currently reviewing the entire project, including the Kalama Lateral pipeline and Methanol Plant, under section 404 of the CWA³⁴ and section 10 of the Rivers and Harbors Act.³⁵

I. Greenhouse Gas Emissions/Climate Change/Air Quality

40. EPA challenges the adequacy of the EA's climate change analysis, asserting that it is not consistent with the Council on Environmental Quality's (CEQ) *Revised Draft Guidance on the Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Reviews* (CEQ Guidance).³⁶ EPA comments that the EA failed to follow the CEQ Guidance, which encourages agencies to use greenhouse gas (GHG) emissions as a proxy for climate impacts and suggests, to the extent that quantifying those impacts is impossible, that the EA include a reason for that finding.

41. EPA claims that the EA should have addressed potential GHG emissions from the Methanol Plant, as well as the indirect effects of both the pipeline and Methanol Plant, including GHG emissions from associated shipping, the production and use of methanol, and, to the extent possible, from the displacement of coal-derived methanol with gas-derived methanol.

42. Ms. Diane L. Dick, an individual stakeholder, expressed concern about the air quality impacts associated with the pipeline with respect to the industrial nature of the entire area and in consideration with other proposed projects, permit applications, and fugitive methane emissions.

³³ EA at 79.

³⁴ 33 U.S.C. § 1344 (2012).

³⁵ 33 U.S.C. § 403 (2012).

³⁶ *Revised Draft Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Reviews*, issued on December 18, 2014, available at <http://energy.gov/nepa/downloads/revised-draft-guidance-consideration-greenhouse-gas-emissions-and-climate-change-nepa>.

43. Section 6.1 of the EA appropriately identifies and quantifies the GHG emissions that would result from construction and operation of the project.³⁷ In addition to quantifying GHG emissions from project construction and operation, the EA identifies many climate change related environmental effects in the project's Northwest region resulting from overall GHG emissions, including higher temperatures, declining snowpack, and sea level rise.³⁸ Because there is no standard methodology to determine how a project's incremental contribution to GHG emissions would result in physical effects on the environment either locally or globally, NEPA requires no further analysis.

44. The EA concludes that, while the project's GHG emissions would contribute to the overall amount of atmospheric GHG, they would be short-term in nature. Due to the short length of the pipeline and the minimal source locations along the pipeline for significant fugitive emissions, the EA found it would be impossible to quantify the impacts that the GHG emissions from construction and operation of the project would have on climate change. Additionally, as discussed above, the State of Washington and the U.S. Army Corps of Engineers are currently conducting additional environmental review of the Methanol Plant and its associated marine export terminal, which will include analysis of potential GHG emissions from those facilities, increased vessel traffic, and potential impacts on climate change.³⁹

45. Finally, based on the short length of Northwest's project and the lack of an associated compressor station, there are no permanent sources of operational emissions proposed for the project, with the exception of very minimal fugitive methane emissions.⁴⁰ Cowlitz County is in the Portland Interstate Air Quality Control Region (Oregon-Washington) which is designated in attainment for particulate matter less than 10 microns (PM₁₀) and particulate matter less than 2.5 microns (PM_{2.5}). The Washington and Oregon ambient air quality standards for PM_{2.5} and PM₁₀ are the same as the National Ambient Air Quality Standards and are protected through any required state air quality permits. The air quality impacts and fugitive emissions of NWIW's contemplated

³⁷ EA at 64-65 (construction), 66 (operation).

³⁸ EA at 83-84.

³⁹ Port of Kalama and Cowlitz County, January 27, 2015 *State Env'tl. Policy Act Scoping Document* at 5, 7.

⁴⁰ EA at 66.

Methanol Plant are discussed qualitatively in the EA and would be addressed in greater detail in the forthcoming SEPA EIS.⁴¹

J. Water Quality

46. EPA and the Washington DFW recommend that Northwest expand its use of HDD techniques and continue consultation with the State of Washington to ensure water quality standards are met. The Washington DFW reiterates its earlier recommendations for alternative water crossing methods and baseline surveys to ensure Northwest mitigates the site to its pre-project state.

47. The EA fully assesses the impacts to surface waters and wildlife resulting from construction and operation of the proposed project, and finds that the project would not significantly impact water quality. The EA indicates that Northwest would use the HDD method when constructing the project below Interstate 5, the Burlington Northern Santa Fe Railroad, and two waterbodies (S-2A6 and S-2A7).⁴² In order to minimize potential impacts to waterbodies, Northwest plans to implement a number of protective measures including restoring pre-construction contours; using temporary and permanent erosion control devices; sampling stormwater discharges to waterbodies for parameters such as turbidity and pH; monitoring HDD operations and the drill path; conducting re-fueling activities at least 100 feet from any waterway or wetland; secondary containment of stored fuel and lubricants; routine inspection of materials and containers; and pre-positioning of spill-response equipment.⁴³

48. The EA properly concludes that if Northwest constructs and operates the project as described in its application and adheres to staff's recommendations as incorporated into this order, the project would not significantly impact water quality.

K. Wildlife and Habitat

49. EPA recommends that Northwest continue consultation with the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the Washington DFW in order to protect biota and habitat.

⁴¹ EA at 79.

⁴² EA at 15, 35.

⁴³ EA at 36-37.

50. The proposed project would be located within two State of Washington priority habitats: the Carrolls Bluff Oaks (oak woodlands) and the Kalama Flats (wetlands). In addition, four priority wildlife species -- the bald eagle, eastern wild turkey, Canada goose, and elk -- may occur within the project area.⁴⁴ In order to reduce potential impacts to oak woodlands, we will require that prior to construction, Northwest file an Oak Woodland Impact Minimization Plan, which is to include the results of Northwest's botanical surveys and describe proposed measures to avoid, minimize, and/or mitigate project impacts to oak woodlands. Based on Northwest's proposed construction methods, the characteristics of habitat types and wildlife species in the construction area, the presence of similar habitats adjacent to construction activities, Northwest's proposed impact avoidance and minimization measures, and its adherence to our recommendation concerning oak woodlands, we find that construction and operation of the project would not result in a significant impact on wildlife species or habitats.

L. Environmental Permits

51. In its comments, the EPA expresses concern about other environmental permits the project requires and requests that the EA's list of required permits be updated. As a condition of this order, we will require Northwest to submit documentation that it has obtained all federal permits prior to commencement of construction (See Environmental Condition 9 in the appendix to the order).

52. Based on the analysis in the EA, as a supplemental in this order, we conclude that if constructed and operated in accordance with Northwest's application and supplement, 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

53. 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 local laws, may prohibit or unreasonably delay the construction of facilities approved by this Commission.⁴⁵

⁴⁴ EA at 42.

⁴⁵ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 243 (D.C. Cir. 2013) (holding state and local regulation is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the

54. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, as supplemented, and exhibits thereto, and all comments and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Northwest to construct and operate the Kalama Lateral Project, as described and conditioned herein, and as more fully described in the application.

(B) The authorization in Ordering Paragraph (A) is conditioned on Northwest's:

- (1) compliance with all applicable regulations under the NGA including, but not limited to, Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
- (2) constructing and making available for service the facilities described herein within two years of the date of the order, in accordance with section 157.20(b) of the Commission's regulations;
- (3) compliance with the environmental conditions in the appendix to this order.

(C) Northwest must execute firm contracts equal to the level of service and in accordance with the terms of service represented in its precedent agreement prior to commencement of construction.

(D) Northwest's initial rates and tariff revisions are approved, as conditioned and modified in this order.

(E) Northwest is directed to file actual tariff records implementing the changes to its rates discussed in the body of this order and its proposed tariff no less than 30 days, and no more than 60 days, prior to the commencement of service. That filing should be made as a compliance filing under filing code type 580 and will be assigned an RP docket. It will be processed separately from the instant certificate proceeding in Docket No. CP15-8-000.

Commission); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(F) Northwest shall file either its negotiated rate agreement or tariff records describing the transaction for each shipper paying a negotiated rate at least 30 days, and not more than 60 days, prior to the commencement of service.

(G) Northwest shall keep separate books and accounting of costs attributable to the proposed incremental capacity and service, as more fully discussed above.

(H) Northwest 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 Northwest. Northwest shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Northwest Pipeline, LLC
Kalama Lateral Project
Docket No. CP15-8-000

1. Northwest 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. Northwest 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 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 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 project construction and operation.

3. **Prior to any construction**, Northwest shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel would be informed of the EI's authority and have been or would 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**, Northwest 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.

Northwest's exercise of eminent domain authority granted under NGA section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations. Northwest'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. Northwest 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, 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 FERC'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 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 the authorization and before construction begins**, Northwest shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Northwest must file revisions to the plan as schedules change. The plan shall identify:
 - a. how Northwest 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 Northwest 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 would receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instructions Northwest will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
 - f. the company personnel (if known) and specific portion of Northwest's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Northwest 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. Northwest shall employ at least one EI per construction spread. The EI 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.
8. Beginning with the filing of its Implementation Plan, Northwest 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 would also be provided to other federal and state agencies with permitting responsibilities.

Status reports shall include:

- a. an update on Northwest'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(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);
 - 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 Northwest from other federal, state, or local permitting agencies concerning instances of noncompliance, and Northwest's response.
9. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Northwest shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Northwest must receive written authorization from the Director of OEP **before placing the project into service**. Such authorization would 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 authorized facilities in service**, Northwest 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 would be consistent with all applicable conditions; or
 - b. identifying which of the conditions in the Order Northwest 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. **Prior to construction**, Northwest shall file with the Secretary for review and approval by the Director of OEP, an Oak Woodland Impact Minimization Plan. This plan shall include the results of Northwest's botanical surveys between Mileposts 2.1 and 2.4 and address the Washington DFW's management recommendations pertaining to oak woodlands. This plan shall also describe the measures Northwest will implement to avoid, minimize and/or mitigate impacts on oak woodlands including the reduction of construction workspace through oak woodlands.
13. **Prior to construction between Mileposts 1.1 and 1.3**, Northwest shall file with the Secretary, for review and approval by the Director of OEP, a cemetery impact avoidance, minimization, and mitigation plan developed in consultation with Cowlitz County Cemetery District No. 6.
14. Northwest **shall not begin construction** of facilities, and/or use of all staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
 - a. Northwest files with the Secretary:
 - (1) remaining cultural resources survey report(s);
 - (2) site evaluation report(s), and avoidance or treatment plan(s), as required; and
 - (3) comments on cultural resources reports and plans from the Washington State Historic Preservation Office and interested Indian tribes.
 - b. the Advisory Council on Historic Preservation is afforded an opportunity to comment if historic properties would be adversely affected; and
 - c. the Commission staff reviews and the Director of OEP approves the cultural resources reports and plans, and notifies Northwest 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.”**

15. Northwest **shall file in its construction status reports** the following for the horizontal directional drilling entry point:
 - a. the noise measurements from the nearest noise sensitive area, obtained at the start of drilling operations;
 - b. the noise mitigation that Northwest implemented at the start of drilling operations; and
 - c. any additional mitigation measures that Northwest will implement if the initial noise measurements exceeded a day-night sound level of 55 decibels on the A-weighted scale at the nearest noise sensitive area and/or increased noise is over ambient conditions greater than 10 decibels.