

155 FERC ¶ 61,287
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Gulf South Pipeline Company, LP

Docket No. CP15-517-000

ORDER ISSUING CERTIFICATE

(Issued June 20, 2016)

1. On June 12, 2015, Gulf South Pipeline Company, LP (Gulf South) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² for a certificate of public convenience and necessity, authorizing it to construct and operate two new compressor stations and to expand a third on its existing Index 129 system (or Legacy System) in Fort Bend, Harris, Polk, and Sabine Counties, Texas (Legacy System Expansion) and to construct and operate a new 66-mile-long, 36-inch-diameter pipeline lateral and new compressor station in Wharton and Brazoria Counties, Texas (Coastal Bend Header). The project, known as the Coastal Bend Header Project, will enable Gulf South to transport up to 1.42 billion cubic feet (Bcf) per day of natural gas to Freeport LNG Development, LP's (Freeport LNG) liquefaction and export terminal on Quintana Island in Brazoria County, Texas.
2. As discussed below, the Commission will grant the requested authorization, subject to the conditions herein.

I. Background and Proposal

3. Gulf South, a limited partnership formed under Delaware law, is a natural gas company as defined by section 2(6) of the NGA³ engaged in the transportation and storage of natural gas in interstate commerce subject to the Commission's jurisdiction. It

¹ 15 U.S.C. § 717f(c) (2012).

² 18 C.F.R. pt. 157 (2015).

³ 15 U.S.C. § 717a(6) (2012).

owns and operates approximately 7,240 miles of pipeline facilities extending from Texas through Louisiana, Mississippi, Alabama, and Florida.

4. The proposed addition of compression on Gulf South's existing Index 129 system (Legacy System Expansion) is designed to enable Gulf South to provide up to 1.4 Bcf per day of capacity to move gas from various supply sources to a new interconnection between Index 129 and the proposed Coastal Bend Header. The new capacity on Index 129 will be divided into two parts: 700 million cubic feet (MMcf) per day will be provided as southbound capacity on the northern portion of Gulf South's Index 129 and 700 MMcf per day will be provided as northbound capacity on the southern portion of Index 129.

5. Specifically, Gulf South proposes to construct and operate on Index 129:

- a new compressor station in Fort Bend County, Texas, at approximate milepost (MP) 127.30 (Brazos Compressor Station), consisting of one electric-motor-driven 26,400-horsepower (hp) compressor unit;
- a new compressor station in Harris County, Texas, at approximate MP 169.10 (North Houston Compressor Station), consisting of one electric-motor-driven 10,700-hp compressor unit;
- piping modifications to the existing Goodrich Compressor Station in Polk County, Texas, at approximate MP 220 to allow for station flow reversal from north to south;
- one additional gas-fired 15,748-hp turbine compressor at the existing Magasco Compressor Station in Sabine County, Texas, at approximate MP 293.80, along with piping modifications to allow for station flow reversal from north to south; and
- a new interconnection with the Coastal Bend Header.

Gulf South estimates the cost for the Legacy System Expansion to be \$145 million.

6. The Coastal Bend Header is designed to enable Gulf South to provide up to 1.42 Bcf per day of additional capacity from Index 129 and other receipt points to Freeport LNG's existing Stratton Ridge interconnection near the Town of Clute, Brazoria County, Texas.

7. Specifically, Gulf South proposes to construct and operate:

- a 66-mile-long, 36-inch-diameter header pipeline located in Wharton and Brazoria Counties, Texas;
- a new compressor station in Wharton County, Texas, at approximate MP 20.66 (Wilson Compressor Station), consisting of two Solar Taurus 70 gas-fired turbines and three Solar Titan 130 gas-fired turbines totaling 83,597 hp; and

- seven new meter and regulating stations at interconnections with various interstate and intrastate pipelines.⁴

Gulf South estimates the cost for the Coastal Bend Header to be \$545 million.

8. Prior to holding an open season, Gulf South and four companies (the Foundation Shippers)⁵ executed binding precedent agreements for 20-year terms for all of the capacity on the Legacy System Expansion and the Coastal Bend Header. Subsequently, Gulf South conducted a binding open season from September 11 to October 10, 2014, for capacity on the proposed facilities. No other entity submitted a conforming bid. Before commencing service, Gulf South states that it will execute firm transportation agreements with the Foundation Shippers at negotiated rates for 20-year terms.

9. Gulf South proposes to establish its existing system rates under Rate Schedule FTS and its existing system fuel retention percentage as initial recourse rates for firm transportation service on the Legacy System Expansion facilities. Gulf South also requests a predetermination that it may roll the costs of these facilities into its existing rates in its next NGA section 4 rate proceeding.

10. Gulf South proposes to recover costs associated with the additional capacity using incremental recourse rates for firm and interruptible transportation services on the Coastal Bend Header facilities under Rate Schedule Options FCB and ICB, respectively. Gulf South proposes to make a limited NGA section 4 filing to establish a fuel retainage rate for Rate Schedule Options FCB and ICB within 60 days of receiving a certificate from the Commission. Service under Rate Schedule Options FCB and ICB will entitle the shipper to transportation only on the Coastal Bend Header facilities; shippers will need to separately contract for service on the Legacy System, including service using the Legacy System Expansion.

⁴ Upstream of the interconnection with Index 129 are interconnections with Tennessee Gas Pipeline Company, LLC (at the Coastal Bend Header's point of origin); Transcontinental Gas Pipe Line Company; and Natural Gas Pipeline Company of America LLC. Downstream of the interconnection with Index 129 are interconnections with Houston Pipe Line Company LP/ETC Texas Pipeline LTD, Enterprise Products Partners L.P., and with Freeport LNG (at the Coastal Bend Header's terminus).

⁵ The Foundation Shippers are BP Energy Company, Chubu US Gas Trading LLC, Osaka Gas Trading & Export LLC, and E.ON Global Commodities North America LLC.

II. Notice, Interventions, and Protests

11. Notice of Gulf South's application was published in the *Federal Register* on July 2, 2015.⁶ The parties listed in Appendix A 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

12. Atmos Energy Corporation's (Atmos Energy) motion to intervene included a protest regarding the proposed rate treatment of the costs of the Legacy System Expansion. Atmos Energy's arguments are addressed below in the section on rates. Sierra Club's and landowner Monty Merecka's motions to intervene included protests, as did the comments of landowners JoElla Exley, George Matula, and Sue Ellen Davis. Sierra Club's and the landowner's protests concerned the project's potential environmental impacts. Environmental issues such as these are addressed in the Environmental Assessment (EA) and, to the extent necessary, in the environmental section of this order. Each of the Foundation Shippers filed comments in support of the project.

13. On August 4, 2015, Gulf South filed an answer to the protests from Atmos Energy and Sierra Club. Although the Commission's Rules of Practice and Procedure do not permit answers to protests,⁸ our rules also provide that we may waive this provision for good cause.⁹ We will accept Gulf South's answer here because it has provided information that assisted us in our decision-making.

14. On July 17, 2015, the United Municipal Distributors Group (UMDG)¹⁰ filed an untimely, unopposed motion to intervene. We find that UMDG has demonstrated a sufficient interest in the proceeding and that granting its intervention will not cause undue

⁶ 80 Fed. Reg. 38,192.

⁷ 18 C.F.R. § 385.214 (2015).

⁸ *Id.* § 385.213(a)(2).

⁹ *Id.* § 385.101(e).

¹⁰ UMDG consists of the following municipal-distributor customers of Gulf South: City of Brewton, Alabama; Town of Century, Florida; Utilities Board of the Town of Citronelle, Alabama; City of Fairhope, Alabama; Utilities Board of the City of Foley, Alabama; North Baldwin Utilities, Alabama; Okaloosa Gas District, Florida; City of Pascagoula, Mississippi; City of Pensacola, Florida; and South Alabama Gas District, Alabama.

delay, disruption, or other prejudice to the applicant or other parties.¹¹ Accordingly, we will grant UMDG's motion to intervene.

III. Discussion

15. Because the proposed facilities will be used to transport natural gas in interstate commerce subject to the Commission's jurisdiction, the construction and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.¹²

A. Application of the Certificate Policy Statement

16. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.¹³ 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 major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by the applicant's existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain.

17. 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 facilities. If residual adverse effects on these interest groups are identified after efforts 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

¹¹ 18 C.F.R. § 385.214(d) (2015).

¹² 15 U.S.C. §§ 717f(c), (e) (2012).

¹³ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128 (2000), *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

interests will we proceed to complete the environmental analysis where other interests are considered.

18. Gulf South's proposal for the Legacy System Expansion satisfies the threshold requirement that Gulf South will financially support the project without relying on subsidization from existing customers. Gulf South proposes to use its existing system maximum rates as initial recourse rates for services on the Legacy System Expansion facilities. Gulf South has shown that the incremental revenue received under the existing system rates would exceed the incremental cost of constructing and operating the facilities. Therefore, we find that the Legacy System Expansion will not be subsidized by existing customers.

19. Gulf South's proposal regarding the Coastal Bend Header also satisfies the threshold requirement that Gulf South will financially support the project without relying on subsidization from existing customers. The Commission has determined that, in general, when a pipeline proposes an incremental rate to recover the cost of a proposed expansion, the pipeline satisfies the threshold requirement that the project will not be subsidized by existing shippers.¹⁴ Here, as described above, the Coastal Bend Header facilities will be used to transport up to 1.42 Bcf per day of natural gas from the new interconnection on Index 129 to Freeport LNG's existing Stratton Ridge interconnection near the Town of Clute, Brazoria County, Texas. Similar to a lateral, the Coastal Bend Header facilities will not function to expand the amount of service available on Gulf South's Legacy System. Service under Gulf South's proposed new Rate Schedule Options FCB and ICB will only entitle shippers to service on the Coastal Bend Header facilities. Coastal Bend Header shippers still will need to contract (and pay) separately for any service on Gulf South's Legacy System. Gulf South's proposed incremental Coastal Bend Header rates are designed to recover the full cost of those facilities. Accordingly, we find that the Coastal Bend Header facilities will not be subsidized by existing customers.

20. We also find that the project will not adversely affect Gulf South's existing customers because there will be no degradation of their existing service. Nor will other pipelines in the market and their captive customers be adversely impacted; the project is designed to meet new demand rather than to displace service on other pipelines. With the exception of Atmos Energy's concerns about rates, no other pipeline company has protested Gulf South's application.

21. Gulf South also has worked to minimize adverse effects on landowners and surrounding communities. The proposed facilities will be sited on or adjacent to existing rights-of-way for approximately 40 percent of the route. In addition, Gulf South used the

¹⁴ See, e.g., *Transcon. Gas Pipe Line Corp.*, 98 FERC ¶ 61,155 (2002).

Commission's pre-filing process to identify the concerns of landowners and communities and to accommodate these concerns where feasible.

22. The Coastal Bend Header Project will enable Gulf South to provide 1.42 Bcf per day of capacity to provide firm transportation services for the four Foundation Shippers. These shippers each have signed long-term, precedent agreements that in aggregate fully subscribe the project. Based on the benefits that the Coastal Bend Header Project will provide, the lack of adverse effects on existing customers, other pipelines and their captive customers, and Gulf South's efforts to minimize impacts on landowners and surrounding communities, we find, consistent with the Certificate Policy Statement and section 7 of the NGA, that the public convenience and necessity requires approval of Gulf South's proposal, subject to the environmental conditions discussed below.

B. Rates

Legacy System Expansion

23. Gulf South proposes to use its existing system rates under Rate Schedule FTS as the Legacy System Expansion's initial recourse rates. Atmos Energy filed a protest stating that it is premature to make any determination on the rates for the Legacy System Expansion, or on whether it would be appropriate to roll the project costs into Gulf South's system rates, until the conclusion of Gulf South's then-pending rate case.¹⁵ Subsequently, Gulf South filed a settlement to the rate case establishing a postage stamp rate design that the Commission approved on December 18, 2015.¹⁶ Accordingly, Atmos Energy's protest is now moot.

24. The settlement established a postage stamp rate design with a maximum daily firm reservation rate of \$0.3380 per dekatherm (Dth) and a commodity rate of \$0.0125 per Dth.¹⁷ For comparative purposes, Gulf South calculates an incremental daily firm reservation rate of \$0.0566 per Dth to recover the costs of the Legacy System Expansion. Gulf South developed the incremental rate by dividing the first-year demand cost of service of \$28,911,098, by the incremental annual throughput of 511,000,000 Dth at full

¹⁵ On October 24, 2014, Gulf South filed a rate case in Docket No. RP15-65-000 proposing a new system zonal rate design.

¹⁶ *Gulf South Pipeline Co., LP*, 153 FERC ¶ 61,326 (2015).

¹⁷ *Gulf South Pipeline Co., LP, Stipulation and Agreement of Settlement*, RP15-65-000, at 3, app. B at 2 (filed Sept. 25, 2015); *Gulf South Pipeline Co., LP, Gulf South Pipeline Co., LP Tariffs*, § 4.1 Currently Effective Rates – Transportation – FTS Service (12.0.1).

design capacity.¹⁸ Gulf South calculates an incremental firm commodity rate of \$0.0010 per Dth based on a first-year commodity cost of service of \$360,919.¹⁹

25. For mainline expansion facilities, such as the Legacy System Expansion, if the calculated incremental rate is less than a company's existing maximum applicable Part 284 rate, the Commission requires that the company charge its existing maximum applicable Part 284 rate as the initial recourse rate.²⁰ Because Gulf South's estimated incremental reservation and commodity rates of \$0.0566 and \$0.0010 per Dth, respectively, are less than the corresponding rates of \$0.3380 and \$0.0125 per Dth approved in the settlement, we will approve the use of Gulf South's currently effective firm transportation rates as the initial recourse rates for service using the Legacy System Expansion.

26. Gulf South did not specifically indicate what transportation rates it would apply for interruptible service provided on the Legacy System Expansion. Consistent with Commission policy, we will direct Gulf South to use its currently effective system interruptible transportation rate.²¹

27. Gulf South proposes to use its existing system fuel retainage percentage to recover the associated fuel and lost and unaccounted for gas on the Legacy System Expansion. Pursuant to the terms of its recent rate case settlement, Gulf South filed a fuel tracker mechanism in Docket No. RP16-131-000 that established an initial fuel rate of 1.23 percent, which the Commission approved on February 18, 2016.²² In its response to a Commission data request,²³ Gulf South states that the system-wide fuel rate established in its fuel tracker mechanism will be the fuel rate applicable to service on the Legacy System Expansion. Additionally, in its January 27 response, Gulf South provided an analysis demonstrating that system fuel rates will decrease as a result of the Legacy System Expansion. The Commission finds that Gulf South's analysis demonstrates that existing shippers will not subsidize fuel costs as a result of the expansion, and we approve the use of the system-wide fuel rate for the Legacy System Expansion.

¹⁸ Gulf South Application, Ex. N – Legacy at 2.

¹⁹ *Id.*

²⁰ *E.g., Trunkline Gas Co., LLC*, 119 FERC ¶ 61,078, at P 24 (2007).

²¹ *Transcon. Gas Pipe Line Corp.*, 124 FERC ¶ 61,160, at PP 27-28 (2008).

²² *Gulf South Pipeline Co., LP*, 154 FERC ¶ 61,115 (2016).

²³ Gulf South January 27, 2016 to Data Request of January 12, 2016.

28. Gulf South also requests a preliminary determination that it may roll the costs associated with providing service on the Legacy System Expansion into Gulf South's system-wide rates in its next NGA general section 4 rate proceeding. In considering a request for rolled-in rate treatment, a pipeline must demonstrate that rolling the costs associated with the construction and operation of new facilities into system rates will not result in existing customers subsidizing the expansion. In general, this means that a pipeline must show that the revenues to be generated by an expansion project will exceed the costs of the project.²⁴ To make this determination in a certificate proceeding, the Commission compares the cost of the project to the revenues that would be generated using actual contract volumes and the maximum recourse rate (or the actual negotiated rate if the negotiated rate is lower than the maximum recourse rate).²⁵ Gulf South explains that all four Foundation Shippers on the Legacy System Expansion have agreed to pay negotiated rates for the 20-year primary term of service using the entire project capacity. Because these negotiated rates are lower than Gulf South's maximum firm transportation service recourse rates, Gulf South calculates project revenues using the lower negotiated rates.²⁶ In Exhibit N to the application, Gulf South shows that over a 10-year period, the revenues associated with the Foundation Shippers' agreements will exceed the cost of service on the Legacy System Expansion by \$30,714,066, despite net losses in years one and two.²⁷ Because Gulf South's 2015 approved settlement bars it from filing new rates to be effective before May 1, 2023,²⁸ which is five years after the project's anticipated in-service date of April 1, 2018, the annual revenues of the Legacy System Expansion will exceed the annual cost-of-service by the time that Gulf South is able to file a new rate case.

29. Based upon the facts, estimates, and assumptions before the Commission in this proceeding, we will approve Gulf South's request for a pre-determination of rolled-in rate treatment for the Legacy System Expansion in its next NGA general section 4 rate

²⁴ See, e.g., *Rockies Express Pipeline LLC*, 150 FERC ¶ 61,161, at P 23 (2015).

²⁵ See *Tenn. Gas Pipeline Co., L.L.C.*, 144 FERC ¶ 61,219, at P 22 (2013).

²⁶ *Id.*

²⁷ Exhibit N – Legacy at 2. Gulf South estimates that the Legacy System Expansion will incur operating losses of \$1,371,417 and \$397,895 during the first and second years of operation, respectively. The annual costs of service in these years are \$29,272,017 and \$28,418,299. However, during the first 10 years of operation the revenues will total \$284,851,950 and the costs will total \$254,137,884, generating a net revenue of \$30,714,066.

²⁸ *Gulf South Pipeline Co., LP*, 153 FERC ¶ 61,326 (2015).

proceeding, absent any significant change in material circumstances from those described here.

Coastal Bend Header

30. Gulf South proposes incremental recourse rates for firm and interruptible transportation services on the Coastal Bend Header under new Rate Schedule Options FCB and ICB. Specifically, Gulf South proposes an incremental daily maximum firm reservation rate of \$0.2008 per Dth. Gulf South developed the rate by dividing the first-year demand cost of service of \$104,081,934 by the annual incremental throughput at full capacity of 518,300,000 Dth.²⁹ Gulf South proposes an incremental firm commodity rate of \$0.0025 per Dth based on a first-year commodity cost of service of \$916,820 divided by the commodity billing determinants of 362,810,000 Dth.³⁰ Gulf South also proposes an incremental maximum interruptible rate of \$0.2033 per Dth, which is the 100 percent load factor equivalent of the proposed firm transportation reservation rate plus the commodity rate of \$0.0025 per Dth.³¹

31. Customers taking service on the Coastal Bend Header will also be subject to a separately stated retention percentage under Rate Schedule Options FCB and ICB to recover the associated fuel and lost and unaccounted for gas. Gulf South intends to make a limited NGA section 4 filing to establish the retainage percentage within 60 days of receiving an order from the Commission approving the project.

32. We find that the proposed cost of service and the proposed incremental firm recourse rates for the Coastal Bend Header are reasonable with the exception of Gulf South's use of a 10.81 percent rate of return and a 2.89 percent depreciation rate in developing the cost of service. With respect to developing incremental rates for expansions of existing pipeline systems, our general policy is to use the rate of return and depreciation rates approved in the pipeline's last NGA general section 4 rate proceeding. In its rate case filed October 24, 2014, in Docket No. RP15-65-000, Gulf South sought a rate of return of 10.81 percent³² and a depreciation rate of 2.89 percent (inclusive of a 0.26 percent negative salvage rate).³³ The settlement approved on December 18, 2015,

²⁹ Gulf South Application at 14; *id.* Ex. N – Coastal Bend Header at 2.

³⁰ *Id.* Ex. N – Legacy at 2.

³¹ Revised Gulf South Pipeline Co. LP FERC NGA Gas Tariff, § 4.8.1 ICB – Interruptible Coastal Bend Header Option (*Pro Forma* Ver. 0.0.0).

³² Gulf South Application at 62; *see* Docket No. RP15-65-000.

³³ *Id.* at 59.

does not address the rate of return but does establish a depreciation rate of 2.18 percent (inclusive of a 0.10 percent negative salvage rate).³⁴ Thus, when Gulf South files to place the Coastal Bend Header recourse rates into effect, we direct Gulf South to revise the rates to incorporate the depreciation rates approved in its most recent general section 4 rate proceeding.

33. Consistent with Order No. 710, the Commission directs Gulf South to keep separate books and accounting of costs attributable to the Coastal Bend Header component of the project.³⁵ 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.

Negotiated Rate Agreements

34. The Foundation Shippers have agreed to pay negotiated rates. Gulf South must file either its negotiated rate agreements or tariff records setting forth the essential elements of the agreements, in accordance with the Alternative Rate Policy Statement³⁶ and the Commission's negotiated rate policies.³⁷ Gulf South must file the negotiated rate agreements or tariff records at least 30 days, but no more than 60 days, before the proposed effective date for such rates.³⁸

³⁴ *Gulf South Pipeline Co., LP*, 153 FERC ¶ 61,326, at app. E (2015).

³⁵ *See Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, FERC Stats. & Regs. ¶ 31,267, at P 23 (2008).

³⁶ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, *order granting clarification*, 74 FERC ¶ 61,194 (1996).

³⁷ *Natural Gas Pipeline 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, *dismissing reh'g and denying clarification*, 114 FERC ¶ 61,304 (2006).

³⁸ 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.

Pro Forma Tariff Records

35. Gulf South proposes *pro forma* tariff records to establish firm and interruptible Rate Schedule Options FCB and ICB, conforming changes to its General Terms and Conditions, *pro forma* service agreements consistent with the new rate schedule options, and the addition of a pooling area dedicated to the Coastal Bend Header under Rate Schedule PS. The Commission finds the proposals acceptable and directs Gulf South to file actual tariff records at least 30 days, but no more than 60 days, prior to the in-service date of the project.

C. Environmental Review

36. The Commission began its initial review of the proposed project following our November 5, 2014 approval in Docket No. PF15-4-000 for Gulf South to use the pre-filing process. As part of the Commission's pre-filing review, staff participated in open houses sponsored by Gulf South on January 20, January 22, and February 19, 2015, to explain the Commission's environmental review process to interested stakeholders. The Commission issued a *Notice of Intent to Prepare an Environmental Assessment (NOI)* on March 4, 2015. The NOI was published in the Federal Register on March 13, 2015,³⁹ and was mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners. The NOI opened a public scoping period through April 3, 2015. As a result of modifications to some of the planned pipeline alignments, on May 20, 2015, staff issued a letter inviting newly affected property owners to comment on the project within 30 days.

37. We received comments in response to the NOI from nine individuals, the Sierra Club-National Chapter, the U.S. Army Corps of Engineers (Corps), U.S. Fish and Wildlife Service (FWS), Texas Parks and Wildlife Department (TPWD), and the Texas Historical Commission. The primary issues raised concerned the purpose and need for the project; impacts on topsoil and potential impact on drainage and loss of crop yields; impacts on water resources, wetlands, fisheries, vegetation and wildlife; impacts on the Columbia Bottomlands and woodland forest; property values; air quality and pollution; impacts from greenhouse gas emissions and climate change; noise from construction activities and long term noise impacts from compressor stations; and route alternatives and variations.

³⁹ 80 Fed. Reg. 13,362 (Mar. 13, 2015).

38. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA),⁴⁰ Commission staff prepared an environmental assessment (EA) for Gulf South's proposed Coastal Bend Header Project. The analysis in the EA addresses potential impacts to geology and soils; water resources and wetlands; fisheries, vegetation, and wildlife; cultural resources; land use, recreation, and aesthetics; socioeconomics; air quality; noise; reliability and safety; cumulative impacts to these resources; and alternatives. All substantive comments received in response to the NOI were addressed in the EA. Commission staff placed the EA into the public record on January 29, 2016, opening a 30-day comment period.⁴¹

39. The EA concludes that, based on the environmental analysis, Gulf South's application and supplemental filings, the implementation of Gulf South's proposed mitigation, and the mitigation recommended in the EA, the Commission's approval of the Coastal Bend Header Project would not constitute a major federal action significantly affecting the quality of the human environment.⁴²

40. Following the issuance of the EA, we received a letter from the FWS, dated March 24, 2016, providing concurrence with the EA's determination that the proposed project is "not likely to adverse[ly] effect" the federally listed whooping crane, which completes Endangered Species Act section 7 consultation requirements. Thus, the EA's recommended environmental condition 16a is omitted from the conditions in this Order.

41. The Commission received timely comments on the EA from the FWS; landowners Jeffrey Hershey, Michael Hershey, and Monty J. Merecka; the Sierra Club-Houston Regional Group (Sierra Club); TPWD; and an anonymous letter supporting the project. On March 11 and March 21, 2016, respectively, Gulf South filed an answer to the

⁴⁰ 42 U.S.C. §§ 4321-4370f (2012).

⁴¹ See *Notice of Availability of the Environmental Assessment for the Proposed Coastal Bend Header Project*, 81 Fed. Reg. 5997 (Feb. 4, 2016). Upon publication of the EA, a numbering error was discovered in section 5, Conclusions and Recommendations, on page 161. We have revised the condition numbers in the attachment of this order to correctly reflect Condition 18 and subsequent numbered conditions.

⁴² EA at 157.

comments of the Sierra Club and an answer to the comments of Jeffrey Hershey, Michael Hershey, TPWD, and the FWS.⁴³ The comments and Gulf South's answers are addressed in the relevant sections below.

D. Environmental Assessment or Environmental Impact Statement

42. Sierra Club argues that the Commission's EA, at 174 pages, exceeds both the length recommended by the Council on Environmental Quality (CEQ) and the length logically necessary to determine whether the project's environmental impacts would be significant.⁴⁴ Sierra Club asserts that the EA's length proves that an Environmental Impact Statement (EIS) is necessary to analyze the project's potential impacts.

43. The CEQ's advisory memorandum is general guidance to agencies and is not binding. While the advisory memorandum urges brevity in the preparation of an EA, it does not require an agency to prepare an EIS if it issues an EA with more than the CEQ's recommended 15 pages. The CEQ's guidance recognizes that a lengthy EA may be appropriate in cases of complexity, and while a lengthy EA sometimes may suggest the need for an EIS, the CEQ's guidance does not establish a blanket requirement. Here, the 174-page length of the EA was the product of a broad range of environmental issues in the resource reports, each of which was capable of being addressed through required mitigation to reduce the project's effects below the level of significance to warrant an EIS. The mere volume of these otherwise relatively non-complex environmental issues does not warrant further analysis in an EIS. The EA adequately addresses the numerous issues as concisely and briefly as possible, as Commission and CEQ regulations require. Moreover, the CEQ guidance cited by Sierra Club is over thirty years old.⁴⁵ And in any case, courts have held that the length of an EA "has no bearing on the necessity of an EIS."⁴⁶ "What ultimately determines whether an EIS rather than an EA is required is the

⁴³ Although our Rule 213 prohibits answers to protests and answers to answers, it permits answers to comments and other types of pleading not specifically prohibited. 18 C.F.R. § 385.213(a)(3) (2015); e.g., *Tex. Eastern Transmission, LP*, 153 FERC ¶ 61,311, at P 11 n.12 (2015).

⁴⁴ Sierra Club February 23, 2015 Comments on the EA at 1 (Sierra Club Comments on the EA).

⁴⁵ *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, 46 Fed. Reg. 18,026 (Mar. 23, 1981).

⁴⁶ *Tomac v. Norton*, 433 F.3d 852, 862 (D.C. Cir. 2005) (citing *Sierra Club v. Marsh*, 769 F.2d 868, 875 (1st Cir. 1985)).

scope of the project itself, not the length of the agency's report.”⁴⁷ A rule requiring an EIS for any EA over a certain number of pages would create a perverse incentive for agencies to produce bare-bones EAs.⁴⁸

44. Furthermore, as the EA explains, the Commission’s regulations implementing NEPA provide that “[i]f the Commission believes that a proposed action . . . may not be a major federal action significantly affecting the quality of the human environment, an EA, rather than an EIS, will be prepared first. Depending on the outcome of the EA, an EIS may or may not be prepared.”⁴⁹ Gulf South proposes to construct a new pipeline with more than a third of its length located along existing utility rights-of-way,⁵⁰ as well as two new electric-motor-driven compressor stations, and one new and one modified gas-fired compressor stations, with related smaller facilities. The Commission’s decades of experience implementing NEPA for pipeline projects indicates that such a project normally would not fall under the “major” category for which an EIS is automatically prepared.⁵¹ This category emphasizes construction and operation of projects of greater

⁴⁷ *Id.* (quoting *Heartwood, Inc. v. U.S. Forest Serv.*, 380 F.3d 428, 434 (8th Cir. 2004)).

⁴⁸ *Heartwood, Inc. v. U.S. Forest Serv.*, 380 F.3d at 434.

⁴⁹ EA at 3 (citing 18 C.F.R. § 380.6(b) (2015)).

⁵⁰ EA at 72.

⁵¹ 18 C.F.R. § 380.6(a)(3) (2015); *see, e.g., Tenn. Gas Pipeline Co.*, 131 FERC ¶ 61,140 (2010) (EA issued for a project consisting of 127.4 miles of 30-inch-diameter pipeline loops in Pennsylvania and New Jersey); *Magnum Gas Storage, LLC*, 134 FERC ¶ 61,197 (2011) (EA issued for a project which included a gas storage field on 2,050-acre site and associated 61.6-mile, 36-inch-diameter pipeline in Utah); *Colo. Interstate Gas Co.*, 131 FERC ¶ 61,086 (2010) (EA issued for a project which included two new 16-inch-diameter pipeline laterals totaling 118 miles in length in Colorado); *Equitrans, L.P.*, 117 FERC ¶ 61,184 (2006) (EA issued for a project which included 68 miles of new 20-inch-diameter pipeline in Kentucky).

scope and complexity than the one proposed here. As explained below, based on the EA's analysis and staff's recommended mitigation measures, the EA concludes, and we agree, that approval of the Coastal Bend Header Project would not constitute a major federal action significantly affecting the quality of the human environment.⁵² Thus, an EIS is not required.⁵³

E. Direct Impacts

1. Waterbodies and Wetlands

45. The Coastal Bend Header Project will cross 231 waterbodies. As noted in the EA, Gulf South will avoid impacts on forested riparian habitat by using the Horizontal Directional Drill (HDD) method, to cross all but two surface waters wider than 100 feet.⁵⁴ Gulf South will cross all other waterbodies using the open-cut method, in compliance with measures contained in our *Wetland and Waterbody Construction and Mitigation Procedures (Procedures)*. The EA concludes that project impacts to surface waterbodies are anticipated to be localized, minor, and temporary.⁵⁵

46. The FWS asserts that the removal of slow-growing forested riparian habitat during construction will degrade in-stream habitat conditions, will make streams more vulnerable to upland sources of pollution, and will undermine the stability of stream banks.⁵⁶ Sierra Club and TPWD contend that the Commission should require that Gulf South use HDD at all perennial and intermittent streams to prevent impacts to riparian

⁵² EA at 157. Under section 1508.18 of CEQ's regulations, "a 'major federal action' includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly." 40 C.F.R. § 1508.18 (2015) "Significantly" requires consideration of both the context and intensity of the project. *Id.* § 1508.27.

⁵³ CEQ regulations state that, where an EA results in a finding of no significant impact, an agency may proceed without preparing an EIS. *See* 40 C.F.R. §§ 1501.4(e), 1508.13 (2015).

⁵⁴ The Commission's *Wetland and Waterbody Construction and Mitigation Procedures* group waterbodies wider than 100 feet. as "major waterbodies." *Procedures* § I(B)(1)(c) (May 2013).

⁵⁵ EA at 44.

⁵⁶ FWS March 1, 2016 Comments on the EA at 7 (FWS Comments on the EA).

and aquatic wildlife habitats, particularly from fragmentation.⁵⁷ TPWD recommends additional mitigation measures to cross three TPWD-designated Ecologically Significant Stream Segments: the Brazos and San Bernard Rivers and Bastrop Bayou.⁵⁸ TPWD also recommends the use of HDDs more broadly to cross all bottomland forests.⁵⁹

47. For construction in riparian areas and wetlands, Gulf South will comply with the Commission's *Procedures* and other measures described in the EA's discussion of impacts and mitigation for surface waters and wetlands.⁶⁰ Our *Procedures* already require measures that are sufficient to avoid or minimize the degradation of the waterbodies that the FWS raises concerns about, and they are equivalent to measures that TPWD proposes.⁶¹ The EA concludes that impacts on surface waterbodies will be localized, minor, and temporary in nature.⁶² We affirm this conclusion.

48. It is not practical to implement an HDD at all waterbody and wetland crossings. The HDD method requires large additional temporary workspaces for entry and exit sites and favorable subsurface conditions to make drilling feasible. An HDD increases noise impacts, and may take several days or longer to complete. In many instances, open-cut crossings would be less disruptive. Under our *Procedures*, open-cut crossings must be completed within 24 hours for minor waterbodies narrower than 10 feet and within 48 hours, unless infeasible, for intermediate waterbodies wider than 10 feet but narrower than 100 feet.⁶³ The EA acknowledges that open-cut crossings can increase turbidity in

⁵⁷ Sierra Club Comments on the EA at 3.

⁵⁸ TPWD February 29 Comments on the EA at 6-7, 9.

⁵⁹ *Id.* at 6.

⁶⁰ EA at 44-45, 48.

⁶¹ Specifically, our *Procedures* already require Gulf South to cross perpendicularly to the waterbody, *id.* § V(B)(3)(b); to control erosion and sedimentation runoff from the start of construction through successful stabilization and revegetation with site-specific plants, *id.* §§ V(B)(4), V(B)(10), V(C)(8), VI(B)(2); to avoid damage to microhabitats, *id.* § V(C)(1)-(3); to maintain adequate flows to protect aquatic life, *id.* § V(B)(3)(e); to remove only vegetation impeding construction, *id.* § VI(A)(2)-(3); to avoid disturbance to root systems and soils, *id.* § VI(B)(2)(f)-(g); and to prevent equipment-based damage to vegetation, *id.* §§ VI(B)(1)(c)-(d), VI(B)(2)(e), (j).

⁶² EA at 44.

⁶³ *Procedures* at § V(B)(7)-(8).

the nearby waterway, but notes that Gulf South will install erosion control devices to reduce the amount of suspended sediments flowing downstream.⁶⁴ This risk is present with HDD activities as well, because they can result in inadvertent release of drilling fluids into the waterbody, which Gulf South would address with its project-specific contingency plan.⁶⁵ For these reasons, we will not require more use of HDD, as there appears to be no environmental advantage to the broader use of HDDs over the current proposal.

49. Gulf South's use of HDD as required will avoid most or all impacts on TPWD-designated Ecologically Significant Streams. TPWD may impose additional measures or conditions during the state permitting process for the Coastal Bend Header Project, as long as they do not conflict with federal requirements.

50. The FWS asserts that to prevent the transfer of exotic and invasive species, the withdrawal and discharge of hydrostatic testing water should only occur at sites within a limited distance along the same waterbody when flows are not low.⁶⁶

51. Gulf South proposes to withdraw hydrostatic test water for its test sections 1 and 2 from a site on a privately-owned lake and to discharge the water either at the same site, at sites on the lake less than 2 miles away, or at site 22 miles away on the Brazos River.⁶⁷ We agree that discharging lake water at a distance of 22 miles from its origin could introduce or transfer exotic species from one waterbody to the other. Therefore, we have added Environmental Condition 25, directing Gulf South not to discharge lake-sourced hydrostatic test water into the Brazos River. Gulf South proposes to withdraw and discharge hydrostatic test water for its test sections 3 and 4 from the same site on the Brazos River, thus posing no similar risk of species introduction or transfer.⁶⁸ As stated in the EA, Gulf South will follow all applicable local and state permits for withdrawal and discharge, as well as the mitigation measures contained in our *Procedures*. Therefore, we find that impacts from hydrostatic testing will be adequately minimized.

⁶⁴ EA at 44.

⁶⁵ *Id.* at 45.

⁶⁶ FWS Comments on the EA at 8.

⁶⁷ EA at 42-43; *id.* at 43 tbl.2.2-4.

⁶⁸ *Id.* at 43 tbl.2.2-4.

52. The project will result in temporary construction impacts on 19.6 acres of wetlands (including 8.8 acres of forested wetlands) and the permanent conversion of 7.3 acres of forested wetlands to herbaceous or non-forested wetland.⁶⁹ Sierra Club argues that the Commission should categorically forbid aboveground facilities, workspaces, and access roads within wetlands.⁷⁰ The FWS requests access to the wetland mitigation plan that Gulf South submitted to the Corps as part of its application for a permit under section 404 of the Clean Water Act in order to evaluate whether the proposed mitigation sufficiently offsets wetland impacts.⁷¹

53. We note the project will not result in any permanent wetland loss and that there are no aboveground facilities being sited within wetlands. Avoidance of all wetlands in the placement of workspaces and access roads is not always practical or feasible.⁷² To minimize construction impacts on wetlands, our *Procedures* require that all extra work areas must be located at least 50 feet from wetland boundaries, unless adjacent upland is already disturbed for other uses.⁷³ Our *Procedures* only allow a project sponsor to use the construction right-of-way as a means of access if wetland soil is stable enough or can be stabilized enough to avoid rutting. Otherwise, the project sponsor must either use unimproved access roads that have no impact on the wetland or, if upland roads do not provide reasonable access, the project sponsor must limit its movement of construction equipment to a single pass-through along the wetland construction right-of-way.⁷⁴ We conclude that these mitigation measures adequately minimize construction impacts on wetlands.

54. Regarding the FWS' request for the wetland mitigation plan that Gulf South submitted to the Corps, we note that correspondence from the Corps, including the agency's approval and summary of the wetland mitigation plan, is available for review in

⁶⁹ *Id.* at 48-49; *id.* at 49 tbl.2.2-7.

⁷⁰ Sierra Club Comments on the EA at 3.

⁷¹ FWS Comments on the EA at 10.

⁷² *Procedures* § VI(A)(6). Our siting regulations direct a project sponsor to avoid locating proposed facilities in wetlands, to the extent practicable. 18 C.F.R. § 380.15(e)(2) (2015).

⁷³ *Procedures* § VI(B)(1)(a).

⁷⁴ *Id.* § VI(B)(1)(c)-(d).

the project docket, using the eLibrary system on the Commission's website.⁷⁵ Pursuant to the Corps' October 14, 2015 verification of the project facilities under Nationwide Permit 12, Gulf South must offset project impacts to wetlands by purchasing mitigation credits from the Danza Del Rio Mitigation Bank prior to the start of construction.

2. Vegetation

55. The FWS disputes the EA's conclusion that because forests in the project area are already fragmented by utility corridors, agricultural land, and other development, the project is not anticipated significantly to contribute to the effects of forest fragmentation.⁷⁶ The FWS and Sierra Club express concern about direct loss and long-term fragmentation of habitat in the Columbia Bottomlands, a forested wetland. TPWD requests that Gulf South use an HDD to cross bottomland forests. Sierra Club argues that by ignoring forest edge effects along the project's construction right-of-way, Commission staff underestimates the project's "climatic acreage environmental impacts" altering the wind, temperature, humidity, light, and soil moisture of forest edge habitat.⁷⁷ Sierra Club similarly asserts that the project would add significantly to the existing fragmentation of crossed coastal prairie, isolated wetlands, wetlands connected to streams and floodplains, and farm and ranch lands.⁷⁸

56. We reject these arguments. To reduce impacts on the Columbia Bottomlands, Gulf South designed the project route to cross predominantly agricultural areas, to be located with existing utility rights-of-way to the extent practicable, and to avoid direct impacts on the San Bernard National Wildlife Refuge. Gulf South also incorporated route deviations to avoid an FWS conservation easement and a large forested tract managed by the U.S. Department of Agriculture's Natural Resource Conservation

⁷⁵ Gulf South November 16, 2015 filing (providing Nationwide Permit Verification 12 and Regional General Permit from the Corps).

⁷⁶ FWS Comments on the EA at 3; EA at 61.

⁷⁷ Sierra Club Comments on the EA at 2. Sierra Club uses a "rule of thumb" that the climatic effects of a clearcut extend into the forest approximately three tree heights. Sierra Club assumes and aggregates edge effects along all 66 miles of pipeline. But we note that only about 10 percent of project construction would cross forests, directly removing 115 acres. EA at 55-59.

⁷⁸ Sierra Club Comments on the EA at 2.

Service, as part of the Wetland Reserve Program.⁷⁹ The EA acknowledges the potential detriment to wildlife through lost or fragmented forest habitat. However, the EA also explains that Gulf South's proposal locates the pipeline with existing utility rights-of-way between mileposts 41.55 and 45.08, to reduce fragmentation. The EA also recognizes the important habitat value of the Columbia Bottomlands and recommends that Gulf South incorporate into its proposed route two route variations, known as Southern Alternative B and Deviation 14A. These route variations reduce impacts on forested lands by 6.5 acres and on wetlands by 6.6 acres, respectively, and increase location with other utilities by 2.5 miles, resulting in the location of 40 percent of the route with other rights-of-way.⁸⁰ We agree that these two route variations are environmentally preferable and have included these recommendations in Appendix B to this Order as Environmental Conditions 22 and 23, respectively.

57. In its answer to comments on the EA, Gulf South explains that its use of an HDD will avoid direct impacts within the Columbia Bottomlands on 10 streams, 2 waterbodies, and 1 discrete wetland. As stated in the EA and required in our *Procedures*, Gulf South will not clear vegetation between the HDD entry and exit points, further avoiding impacts on forests.⁸¹ It is not practical to use an HDD to cross all bottomland forests, as TPWD suggests, for the same reasons stated in the prior section about waterbody and wetlands crossings. Moreover, the widest proposed pipeline crossing of the Columbia Bottomlands will be approximately 3.8 miles. Employing an HDD is not technically feasible for a 3.8-mile-long segment of 36-inch-diameter pipeline. We considered the drilling of several contiguous segments of pipeline to achieve this length, but this would require clearing at least five to seven work areas for entry and exit points, each approximately 200 feet by 135 feet; a minimum of five pipe laydown areas to assemble the pipeline segments, each approximately 1,100 feet by 50 feet; and new access roads to transport drilling equipment and materials to the entry and exit pads and laydown areas. Also drilling equipment is substantially larger than typical trenching equipment and will produce more noise over a longer construction timeline, imposing greater disturbance to wildlife and other sensitive receptors. Using an HDD to cross the entire bottomland forest would result in equal or greater impacts on the bottomland forest than the proposed construction techniques. Therefore, we will not require an HDD at each crossing or for the entire bottomland forest, as it shows no environmental advantage over the current proposal.

⁷⁹ Answer of Gulf South Pipeline Company, LP to Comments of Sierra Club under Docket No. CP15-517, Attachment A, Gulf South's Supplemental Response to Sierra Club's Comments on the Columbia Bottomlands, at 3, filed on March 11, 2016.

⁸⁰ EA at 149-150.

⁸¹ EA at 52; *Procedures* at §§ V(D)(1), VI(D)(1) (post-construction maintenance).

58. Sierra Club's suggested method to calculate the forest edge effects of the construction right-of-way is speculative and unsupported.⁸² Sierra Club cites a book on the ecology of the red-cockaded woodpecker for a "rule of thumb" that edge effects extend into the forest a distance equal to three tree heights. The passage, which Sierra Club reproduces in an appendix to its filing, offers no source or basis for this rule.⁸³ Where credible information about edge effects exists, Commission staff use that information to analyze those effects in greater detail.⁸⁴ That is not the case here.

59. Where impacts on forest habitats cannot be avoided, the FWS recommends that Gulf South restore or enhance forest habitat in the Columbia Bottomlands and preserve such mitigation with a perpetual easement. In addition, or in the alternative, the FWS recommends that Gulf South provide funds to a third-party organization to acquire or to restore and preserve, forested habitat in the Columbia Bottomlands.⁸⁵ Sierra Club asserts that because the Coastal Bend Header Project is significant, a mitigation plan should be presented in an EIS to ensure full analysis of mitigation for streams and wetlands. For unavoidable losses to the Columbia Bottomlands, Sierra Club recommends that Gulf South acquire substitute habitat at a 5 to 1 ratio or pay several million dollars to the FWS to acquire additional Columbia Bottomlands nearby.⁸⁶

60. As mentioned above, pursuant to the Corps' October 14, 2015 verification of the project facilities under Nationwide Permit 12, Gulf South must offset project impacts on wetlands, including forested wetlands, by purchasing mitigation credits from the Danza Del Rio Mitigation Bank prior to the start of construction.⁸⁷ These include varying functional capacity units for lost ecosystem services: 5.8 units for storing water, 8.8 units for maintaining plant and animal communities, and 4.8 units for removing pollutants.

⁸² Sierra Club Comments on the EA at 2.

⁸³ *Id.*, app. 2 at 3.

⁸⁴ *See, e.g.*, the October 24, 2014 Final EIS for the Constitution Pipeline Project in Docket No. CP13-499-000 at 4-71 to 4-72 for staff's quantification of edge effects based on a relevant 2001 study.

⁸⁵ FWS Comments on the EA at 4-5.

⁸⁶ Sierra Club Comments on the EA at 5.

⁸⁷ Corps letter to Gulf South Pipeline Co., LP, dated October 14, 2015 at 2 (special condition 1).

61. Because we reject Sierra Club's argument that impacts from the Coastal Bend Header Project will be significant, we also reject the argument that Commission staff should present a mitigation plan in an EIS. As required under Environmental Condition 1 in Appendix B to this Order, under the Corps' special conditions, and under Gulf South's own commitments, Gulf South will adequately mitigate impacts on the Columbia Bottomland forest.

62. In conclusion, regarding overall impacts on the Columbia Bottomlands, with the incorporation of Southern Alternative B and Deviation 14A, and with Gulf South's wetland compensation plan, we conclude that impacts on the Columbia Bottomlands and other forests, will be adequately minimized.

63. The FWS criticizes the vegetation classifications in the EA for failing to recognize oldfield and coastal prairie grasslands within Open Land.⁸⁸ For portions of the project that will affect Open Land, estimated in the EA to be 273 acres,⁸⁹ the FWS recommends that Gulf South (1) modify its *Revegetation Plan* to restrict the use of non-native grasses and to establish revegetation performance standards based on percent herbaceous cover of native grasses and (2) incorporate its *Revegetation Plan* into the *Migratory Bird Conservation Plan*.⁹⁰ Further, the FWS recommends that Gulf South's post-construction monitoring reports should incorporate the new performance standards, should report the number of exotic/invasive species in and near the right-of-way, and should report the efficacy of control measures implemented to control exotic/invasive species. The FWS recommends that copies of the post-construction monitoring reports be submitted to it for review.⁹¹

64. Though the FWS argues that the EA's Land Use classification of Open Land does not specify oldfield and coastal prairie grassland, the FWS does not criticize the EA's list of characteristic plant species in these areas. The EA notes that some unimproved pasture may already be frequently disturbed by livestock grazing.⁹² The project's impacts on grasslands will be temporary outside of the 50-foot permanently maintained

⁸⁸ Open Land is defined as "non-forested areas not otherwise classified as agriculture, and includ[ing] existing utility rights-of-way and unimproved pastures." EA at 53 tbl.2.3-1.

⁸⁹ EA at 58 tbl.2.3-2.

⁹⁰ FWS Comments on the EA at 9.

⁹¹ *Id.* at 9.

⁹² EA at 76 (Land Uses).

right-of-way. Upon completing construction, Gulf South will return the disturbed areas to pre-construction contours and will restore and revegetate the areas in accordance with Gulf South's *Revegetation Plan* and the baseline measures required in the Commission's *Upland Erosion Control, Revegetation, and Maintenance Plan (Plan)* and *Procedures*. Our *Plan* requires that project sponsors seed disturbed areas in accordance with written recommendations for seed mixes, rates, and dates from the local soil conservation authority.⁹³ Under Gulf South's *Revegetation Plan*, which it developed in consultation with the Texas Office of the U.S. Department of Agriculture's Natural Resources Conservation Service and with state resource agencies, Gulf South commits to seed the areas with local Little Bluestem, Big Bluestem, Switchgrass, Sideoats grama, and Green sprangletop, as well as season-dependent Winter tritcale or Browntop Millet.⁹⁴ There is no advantage to incorporating the *Revegetation Plan* in Gulf South's *Migratory Bird Conservation Plan*, as the FWS recommends.

65. The Commission's *Plan* defines successful revegetation as having a cover of non- nuisance vegetation similar in density and cover to adjacent undisturbed lands.⁹⁵ Given these existing requirements and standards, we see no reason to impose an additional limit on the use of non-native grasses or a percentage-based revegetation performance standard, as the FWS requests. A project sponsor must inspect revegetation at a minimum after the first and second growing seasons and must continue revegetation efforts until successful. Environmental Condition 10 in Appendix B to this Order prohibits Gulf South from placing the Coastal Bend Header Project into service until the

⁹³ *Plan* § V(D)(3)(b) (May 2013); *Procedures* § V(C)(7) (directing the project sponsor to revegetate disturbed riparian areas with native species of conservation grasses, legumes, and woody species, similar in density to adjacent disturbed lands."); *id.* § VI(C)(5) (directing project sponsor to consult with federal or state agencies to develop a project-specific wetland restoration plan, including measures to re-establish herbaceous and woody species).

⁹⁴ EA, app. H.

⁹⁵ *Plan* § VII(A)(2); *see also Procedures* § V(D)(1) ("allow a riparian strip . . . to permanently revegetate with native plant species across the entire construction right-of-way."); *id.* § VI(D)(5) ("Wetland revegetation shall be considered successful if . . . vegetation is at least 80 percent of either the cover documented for the wetland prior to construction, or at least 80 percent of the cover in adjacent wetland areas that were not disturbed by construction."); *id.* § VI(D)(6) ("For any wetland where revegetation is not successful at the end of 3 years after construction, develop and implement (in consultation with a professional wetland ecologist) a remedial revegetation plan to actively revegetate wetlands.").

Director of the Office of Energy Projects (OEP) determines that rehabilitation and restoration of the right-of-way and other affected areas are proceeding satisfactorily. Further disturbance will be limited to mowing or clearing of the full permanent right-of-way every three years or longer, with only a ten-foot-wide corridor over the pipeline cleared more frequently as necessary to maintain a herbaceous state.⁹⁶ Because the existing standard for successful revegetation requires that exotic and invasive species do not increase, and because Gulf South will implement measures during construction to avoid the spread of exotic and invasive species and measures after construction to monitor and eradicate future spreading as stated in its *Exotic and Invasive Species Control Plan*,⁹⁷ we see no reason to impose additional exotic and invasive species requirements in Gulf South's post-construction monitoring reports. Gulf South's post-construction monitoring reports will be posted to the project docket and will be available for agency and public review on the Commission's eLibrary system.

66. TPWD actively promotes the conservation of "rare species," which are not state-listed as threatened or endangered. TPWD identifies eight known occurrences of plant species of concern, special features, and natural communities within five miles of the project area. TPWD recommends that Gulf South identify potential adverse impacts to these resources, coordinate with TPWD if adverse impacts will occur, and incorporate conservation measures into its mitigation plan to offset harm.⁹⁸ The intention of Condition 17, which was included in the EA, is for Gulf South to consult and address certain state-listed species of concern that are directly affected by the project. Based on TPWD's comments, we are revising the condition to include rare species and natural communities of concern in Gulf South's consultation with TPWD. Gulf South will file the results of its consultations for all state-listed species, rare species, and any proposed mitigation, prior to construction. Additional discussion regarding state-listed species is provided further below.

⁹⁶ *Plan* § VII(A)(5); *see also Procedures* §§ V(D)(1), VI(D)(1) (allowing project sponsor to clear only a 10-foot corridor centered over the pipeline through riparian and wetland vegetation to maintain an herbaceous state and to remove trees within 15 feet of the pipeline with roots that could compromise the integrity of the pipeline coating).

⁹⁷ EA, app. J.

⁹⁸ TPWD Comments on the EA at 13.

3. Wildlife

a. Birds

67. The FWS notes that many Birds of Conservation Concern migrate through the Gulf Coast Prairie Bird Conservation Region, where the project is located, on the way to the West Gulf Coast Plain/Ouachitas Bird Conservation Region and beyond. The FWS recommends that the Commission expand its analysis to include species within the West Gulf Coast Plain/Ouachitas Bird Conservation Region, not just those within the Gulf Coast Prairie Bird Conservation Region analyzed in the EA.⁹⁹

68. As noted in the previous sections, Gulf South has taken and will take several measures to minimize the project's impacts to riparian, wetland, and upland areas that provide habitat to migratory birds. As recommended in the EA and as required by Environmental Condition 14 in Appendix B to this Order, Gulf South must develop a *Migratory Bird Conservation Plan* in consultation with FWS to be filed with the Commission before commencing construction. In its March 21, 2016 response to comments on the EA, Gulf South indicates that it is working with the FWS and TPWD to address the feasibility and adequacy of measures in the proposed *Migratory Bird Conservation Plan*.¹⁰⁰

69. We recognize that Birds of Conservation Concern are very mobile and may use habitats in multiple Bird Conservation Regions. The project's impacts to habitat described in the EA will generally apply to all bird species that may be in the project area. Impacts on the birds will be minimized through the mitigation measures in Gulf South's forthcoming *Migratory Bird Conservation Plan* and through the prohibition in our *Plan* and *Procedures* against post-construction routine clearing and mowing of the permanent right-of-way during the migratory bird nesting season between April 15 and August 1.¹⁰¹

70. As mentioned above, Gulf South must offset project impacts by purchasing mitigation credits from the Danza Del Rio Mitigation Bank prior to the start of construction.¹⁰² These include varying functional capacity units for lost ecosystem

⁹⁹ FWS Comments on the EA at 5.

¹⁰⁰ Gulf South March 21, 2016 Response to Comments on the EA at 2.

¹⁰¹ *Plan* § VII(A)(5); *Procedures* § V(D)(3).

¹⁰² Corps letter to Gulf south Pipeline Co., LP, dated October 14, 2015 at 2 (special condition 1).

services. In its March 11, 2016 answer to comments on the EA, Gulf South explains that it also plans voluntarily to donate funds to help aid in the conservation of forested habitat within the Columbia Bottomlands for migratory birds, as outlined in its *Migratory Bird Conservation Plan*. Gulf South states that it is working with the FWS to determine which organizations have opportunities to fund relevant projects.¹⁰³

71. TPWD recommends that Gulf South inform its employees and contractors of the potential for the federally-listed endangered whooping crane to occur in the project area and direct them to cease work and coordinate immediately with the FWS if whooping cranes are observed.¹⁰⁴

72. As stated in the EA, Commission staff requested concurrence from the FWS on staff's determination that the project is not likely to adversely affect the federally listed whooping crane. In a letter filed on March 29, 2016, the FWS concurred with staff's determination, based upon the implementation of two conservation measures. Specifically, the FWS directs Gulf South to educate its construction contractors on how to identify a whooping crane. The FWS requires that all work must cease if a whooping crane appears within 1,000 feet of construction activities and must not start again until the crane moves outside the 1,000-foot area. The FWS also directs Gulf South to flag or mark equipment over 15 feet in height to increase its visibility to whooping cranes to lessen the risk of collision. We will require these measures in Environmental Condition 16 in Appendix B to this Order. With the implementation of these measures, our consultation under section 7 of the Endangered Species Act is complete.

73. TPWD identifies three state-listed threatened birds that could be impacted by the project: the white-faced ibis, white-tailed hawk, and bald eagle.¹⁰⁵ Mr. Jeffery Hershey expresses concern about potential impacts to hawks and eagles under the preferred alternative that he asserts would not occur under rejected Alternative 1. TPWD recommends that Gulf South exclude construction activities from at least a 100-meter radius around any raptor nest during the period of February 1 through July 15.¹⁰⁶

74. As recommended in the EA and required in Environmental Condition 17 in Appendix B to this Order, Gulf South must consult with TPWD on the need to survey for state-listed threatened species in the project area, including the white-faced ibis, white-

¹⁰³ Gulf South March 11, 2016 Answer to Comments of Sierra Club, attach. A at 4.

¹⁰⁴ TPWD Comments on the EA at 3.

¹⁰⁵ *Id.* at 11.

¹⁰⁶ *Id.* at 4.

tailed hawk, bald eagle, and alligator snapping turtle. Gulf South will file all correspondence with the Commission reflecting results of any recommended surveys and any additional mitigation for these species. As stated in the EA, bald eagles or bald eagle nests were not observed in the project area. However, they may be present year-round because suitable breeding habitat exists. In the event that a bald eagle nest is observed in the project area prior to or during construction, Gulf South will adhere to the buffer requirements established in the FWS's *National Bald Eagle Management Guidelines*.¹⁰⁷ Because there are no anticipated impacts to hawks or eagles under the preferred alternative, Alternative 1 is not preferable on this basis as Mr. Hershey asserts.

75. The white-faced ibis nests in colonial waterbird rookeries. The FWS and TPWD recommend measures for the *Migratory Bird Conservation Plan* to address rookeries, including buffer zones where construction activities are prohibited and timing restrictions to forbid disturbance to rookeries during nesting from early February to late August.¹⁰⁸

76. As noted in the EA, one known white-faced ibis rookery has been documented within one mile of the project area. No rookeries were observed during field surveys. If a rookery is observed in the project area prior to or during construction, Gulf South will adjust the route to avoid it. Gulf South will also address rookeries in its forthcoming *Migratory Bird Conservation Plan*.¹⁰⁹

b. Mussels

77. The FWS agrees with the EA's recommendation that Gulf South conduct pre-construction surveys for federal candidate mussels (the smooth pimpleback, Texas pimpleback, and Texas fawnsfoot) and state-listed freshwater mussel species at perennial stream crossings where open-cut trenching methods are proposed. The FWS recommends that if mussels are found, Gulf South should work with the FWS and TPWD to mitigate impacts. For waterbody crossings using an HDD, the FWS also requests that as part of Gulf South's *Plan for Containment of Inadvertent Release of Drilling Mud during Horizontal Directional Drilled Wetland and Waterbody Crossings*, Gulf South should notify the FWS and notify TPWD's "Kills and Spills Team" within 24 hours of any inadvertent release.¹¹⁰

¹⁰⁷ EA at 67.

¹⁰⁸ FWS Comments on the EA at 8; TPWD Comments on the EA at 5.

¹⁰⁹ EA at 68.

¹¹⁰ FWS Comments on the EA at 7.

78. TPWD recommends that Gulf South (1) identify proposed crossings of suitable habitat for the state's 15 listed mussels; (2) conduct mussel surveys where construction would occur and modify construction to avoid disturbance or degradation of habitat; (3) avoid direct disturbance of habitat and degradation of water quality where threatened mussels or their habitat are found; and (4) use several best management practices for riparian areas to minimize impacts on mussels as well as fish species which are the mussel larval host. TPWD notes that Gulf South may need to relocate mussels to protect them.

79. Gulf South's proposal to use an HDD for most waterbody crossings of 100-feet or greater will significantly avoid direct impacts on listed mussels. Where Gulf South proposes to cross perennial streams with an open cut method, impacts to mussels will be avoided or mitigated through compliance with conditions in the Corps's Nationwide 12 Permit, e.g., condition 5 prohibits activities in areas of concentrated shellfish populations,¹¹¹ and compliance with our *Procedures* requiring sediment controls, 24-hour and 48-hour time limits, and streambank restoration.

80. As recommended in the EA and required by Environmental Condition 15 in Appendix B to this Order, Gulf South must conduct pre-construction surveys for federal candidate mussels at perennial stream crossings where open-cut trenching methods are proposed to ensure that candidate mussels will not be impacted by project activities. In addition, Gulf South must coordinate with TPWD on appropriate mitigation measures for state-listed mussels. Gulf South must file resulting survey reports and resulting construction mitigation plans with the Commission for review and written approval.¹¹²

4. Climate Change

81. The EA calculated construction- and operation-related greenhouse gas emissions for the project. It reports the combined greenhouse gas (GHG) emissions in units of carbon dioxide equivalents (CO₂e), with methane weighted at 25 units CO₂e to reflect its global warming potential relative to carbon dioxide.¹¹³ The EA reports construction-related greenhouse gas emissions of 14,375 tons CO₂e and operation-related GHG

¹¹¹ Corps November 11, 2016 Permit No. SWG-2014-01037, general condition 5.

¹¹² In Gulf South's March 21, 2016 answer to comments on the EA, Gulf South states that it has contacted various specialists who are qualified to conduct the necessary mussel surveys. Gulf South states that it will coordinate with FWS and TPWD once the surveys are complete. Gulf South March 21, 2016 Response to Comments on the EA at 2.

¹¹³ EA at 93.

emissions of 394,109 tons per year (tpy) CO₂e, primarily from the new gas-fired Wilson and Magasco Compressor Stations.¹¹⁴ The operation-related emissions include 60 tpy CO₂e from pipeline equipment leaks and 194 tpy CO₂e from meter stations.¹¹⁵

82. Sierra Club argues that the Commission must implement CEQ's December 2014 *Revised Draft Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Reviews* (Revised Draft GHG Guidance)¹¹⁶ to prepare a more comprehensive analysis of the Coastal Bend Header Project's impacts on climate change and to analyze mitigation. Sierra Club emphasizes CEQ's recommendation that agencies use estimated greenhouse gas emissions and potential changes in carbon sequestration as the proxy for assessing a proposed action's potential climate change impacts, to enable a reasoned choice between alternatives and mitigations.¹¹⁷

83. The EA appropriately analyzes the project's incremental contribution to climate change and the likely impacts of climate change on the project area.¹¹⁸ In addition to quantifying GHG emissions from project construction and operation, the EA identifies many climate change related environmental effects in the project's Southeast region resulting from overall GHG emissions, including sea level rise and warmer waters in the Gulf of Mexico driving more intense storms.¹¹⁹ The EA acknowledges that "estimated emissions associated with the project would incrementally increase the atmospheric concentrations of GHGs, in combination with GHG emissions from other sources identified in the cumulative impacts analysis."¹²⁰ The EA explains, however, that no standard methodology exists to determine how incremental contributions of greenhouse gases from an individual project will result in physical effects on the environment, either

¹¹⁴ *Id.* at 102 tbl.2.7-4, 103 tbl.2.7-5.

¹¹⁵ *Id.* at 104-105, 105 tbl. 2.7-7, 105 tbl.2.7-8.

¹¹⁶ 79 Fed. Reg. at 77,802 (Dec. 24, 2014). CEQ has not finalized its Revised Draft GHG Guidance.

¹¹⁷ Sierra Club Comments on the EA at 5, *id.* app. 6 at 8 (reproducing Revised Draft GHG Guidance).

¹¹⁸ EA at 141-143.

¹¹⁹ *Id.* at 142-43.

¹²⁰ *Id.* at 143.

globally or locally.¹²¹ Thus it is impossible to determine whether the project's incremental contribution to climate change would be significant.

84. Carbon sequestration is the process through which plant life removes carbon dioxide from the atmosphere and stores it in biomass. No standard methodology exists to calculate GHG emissions related to changes in vegetation.¹²² The project would impact about 115 acres of forested land. The removal of these trees from the permanent right-of-way will reduce carbon sequestration during the entire project lifetime. The removal of trees from the temporary right-of-way will also reduce carbon sequestration, but a portion of the sequestration capacity will return as 58.5 acres of the temporary right-of-way are allowed to revert back to pre-existing conditions, with young fast-growing trees removing more carbon dioxide from the atmosphere than they release. Given the limited loss of forests and the partial offsetting due to new growth, we conclude that the project would not significantly impact cumulative carbon sequestration.

85. Sierra Club faults the EA's failure to analyze certain other GHG emissions and climate change impacts over the project's full lifetime (i.e., 50 years) attributable to: (a) operating the two gas-fired compressor stations, (b) leaking methane, and (c) burning the project's carried gas.¹²³ Sierra Club argues that the Commission also must analyze

¹²¹ *Id.*

¹²² Sierra Club notes the USDA's Comet-Farm tool. Sierra Club Comments on the EA, app. 6 at 15 n.34. This tool relies on figures from a separate USDA report about quantifying GHG sources and sinks for forests, wetlands, and other landscapes. The USDA is forthcoming about weaknesses:

There is often tremendous uncertainty associated with estimates of forest carbon baselines, such that even at large scales (e.g., state-level) the power to detect statistically significant changes in forest carbon stocks is limited to major disturbances [e.g., insects, drought, or wildfire]. Compounding the sampling error often associated with forest inventories, there is measurement and model error that may not be acknowledged. . . . There is a level of uncertainty associated with not only tree volume/biomass equations, but also with the various forest carbon pools . . . found across a diversity of forest ecosystems . . .

USDA, *Quantifying Greenhouse Gas Fluxes in Agriculture and Forestry: Methods for Entity-Scale Inventory* 6-28 (July 2014), http://www.usda.gov/oce/climate_change/Quantifying_GHG/USDATB1939_07072014.pdf.

¹²³ Sierra Club Comments on the EA at 2.

the potential impacts from downstream end-use consumer emissions as indirect, connected, and cumulative potential environmental impacts.

86. The EA appropriately reports the annual maximum potential GHG emissions from both proposed new gas-fired compressor stations. Under the Clean Air Act, annual emissions trigger regulation. The EA notes that both the Wilson and Magasco Compressor Stations must report emissions to EPA (triggered at 25,000 tpy CO₂e) and that the Wilson Compressor Station exceeds the major source threshold for the Prevention of Significant Deterioration program (100 tpy CO₂e).¹²⁴ CEQ similarly recommends a 25,000 tpy CO₂e threshold to quantify GHG emissions but denies that this threshold indicates significance.¹²⁵ The EA reports 60 tpy CO₂e of GHGs leaking each year from project equipment. This figure includes methane.¹²⁶ Because no standard methodology exists to determine the significance of these emissions, an accounting over the entire project lifetime, as requested by Sierra Club, would not provide a more meaningful figure for our decision-making than the annual figure. Thus, we reject Sierra Club's arguments.

87. Though we acknowledge that end users would also emit GHGs, these emissions cannot be attributed to the project because fuel supply is demand-driven. End users would have a need for the fuel without the exported natural gas from this project and would obtain gas from another source. Because we do not have information regarding the destination of the carried gas after its presumed conversion to LNG and export from the Freeport LNG terminal into the global market, we can neither reasonably estimate emissions from transportation of the LNG by tanker vessels nor predict where or how the exported gas will ultimately be consumed (e.g., for transportation, electric generation, heating, or industrial feedstock), much less what alternative fuel sources it may replace. Thus, we reject Sierra Club's argument because it would require us to engage in speculative analyses and provide information that will not meaningfully inform the decision-making process.

¹²⁴ EA at 104 tbl.2.7-6. A footnote to the table explains that a major source for GHG emissions will not be regulated under the Prevention of Significant Deterioration program unless it also emits 250 or more tons per year of a non-GHG pollutant.

¹²⁵ *Revised Draft Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Reviews*, 79 Fed. Reg. at 77,802, 77,807 (Dec. 24, 2014).

¹²⁶ EA at 91, 105 tbl.2.7-8; Gulf South March 11, 2016 Answer to Comments on the EA at 12.

88. The U.S. Department of Energy (DOE) has created two documents, the “Addendum to Environmental Review Documents Concerning Exports of Natural Gas from the United States”¹²⁷ and “Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States,”¹²⁸ to provide certain general estimates about the environmental impacts associated with natural gas production and end use. However, those impacts are not specific to the proposal before us. And, as the DOE explained, in the absence of information regarding where and when additional gas production will arise, the environmental impacts of such production “are not ‘reasonably foreseeable’ within the meaning of the CEQ’s NEPA regulations,” and “cannot [be] meaningfully analyze[d].”¹²⁹

89. Although not directly relevant to the proposal before the Commission, and not required by NEPA, the Commission notes the DOE Addendum’s conclusion that natural gas development leads to both short-and long-term increases in local and regional air emissions.¹³⁰ It also found that such emissions may contribute to climate change. But to the extent that natural gas production replaces the use of other carbon-based energy sources, DOE found there may be a net positive impact in terms of climate change.¹³¹ The Life Cycle Report concludes that U.S. LNG exports for power production in European and Asian markets will not increase life-cycle GHG emissions, when compared to regional coal extraction and consumption for power production.¹³²

¹²⁷ DOE, *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From The United States* (August 2014), <http://energy.gov/sites/prod/files/2014/08/f18/Addendum.pdf> (DOE Addendum).

¹²⁸ National Energy Technology Laboratory, DOE, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States* (May 2014), <http://energy.gov/sites/prod/files/2014/05/f16/Life%20Cycle%20GHG%20Perspective%20Report.pdf> (Life Cycle Report).

¹²⁹ DOE Addendum at 2. The Life Cycle Report similarly acknowledged the limitations and uncertainty in the underlying modeling data. Life Cycle Report at 18.

¹³⁰ DOE Addendum at 32.

¹³¹ *Id.* at 44.

¹³² Life Cycle Report at 18.

90. Based on the requested broader GHG analysis, Sierra Club argues that the Commission must require broad climate change mitigation measures, such as a climate change ecological resilience and resistance plan, as recommended in CEQ's Revised Draft GHG Guidance.¹³³

91. We reject this argument. CEQ recommends in the Revised Draft GHG Guidance that agencies should compare alternatives and potential mitigation that addresses GHG emissions, carbon sequestration, and the impacts of climate change, if such information would be useful to advance a reasoned choice.¹³⁴ Here, the range of reasonable alternatives to satisfy the project's purpose and need do not meaningfully differ in potential GHG emissions, so the broader mitigation analysis requested by Sierra Club would not be useful to advance the Commission's reasoned choice.

92. Michael Hershey contends that the EA inappropriately ignores GHG emissions from metering stations, which could release large amounts of GHGs if the entire pipeline's capacity were vented to the atmosphere.¹³⁵

93. We disagree. Gulf South would be subject to the 25,000 tpy CO₂e reporting requirement for emissions related to the proposed compressor stations and meter stations including, but not limited to, compressor venting, blowdown vent stacks, and leaks from valves, meters, and connectors. The EA reports the annual emissions related to the seven meter and regulator stations, estimated separately at a maximum of 55 tpy CO₂e and in total at 194 tpy CO₂e.¹³⁶ These emissions would be far below the 25,000 tpy CO₂e reference point. The EA also acknowledges that natural gas would be vented both from blowdown and purging associated with line pigging and from the operation of actuated valves, which the EA estimates will total 40.22 tpy CO₂e. It is highly unlikely that the entire 66-mile-long pipeline would need to be vented at full pressure for repair or maintenance, as Mr. Hershey argues. Instead, Gulf South would likely reduce pressure along the segment of the pipeline where repairs are necessary and would isolate the segment using its mainline valves before venting gas. Given the information provided in

¹³³ Sierra Club Comments on the EA at 5; *id.* app. 6 at 17.

¹³⁴ *Revised Draft Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in NEPA Reviews*, 79 Fed. Reg. at 77,802, 77,805 (Dec. 24, 2014).

¹³⁵ Michael Hershey February 29, 2016 Comments on the Environmental Assessment at 1.

¹³⁶ EA at 105 tbl. 2.7-7.

the EA and Gulf South's application, we find that GHG emissions from meter stations have not been ignored or miscalculated.

F. Affected landowner

94. The proposed site of the new Wilson Compressor Station abuts the northern boundary of property owned by Mr. Monty Merecka. In the EA, no significant adverse impacts were anticipated on residential receptors on Mr. Merecka's property because residences are approximately 0.8 to 1 mile south of the compressor station, which is buffered partially by dense wooded areas and agriculture.¹³⁷ Mr. Merecka asserts concerns about the compressor station's emissions of air pollution, noise, and light. Mr. Merecka requests compensation for the significant losses to his property value.

95. The EA fully evaluates the regulated air emissions from the Wilson Compressor Station.¹³⁸ The compressor station would be in an attainment area for the National Ambient Air Quality Standards. Using air quality dispersion modeling, Gulf South estimated ambient pollutant concentrations in the vicinity of the compressor station. It concluded that the facility's emissions cannot cause or contribute to an exceedance of any air quality standards established to protect human health.¹³⁹

96. The EA evaluates the ambient noise level both before and after construction of the Wilson Compressor Station at noise sensitive areas (NSAs) around the proposed site. The nearest NSA, about 2,250 feet from the site, has an existing ambient noise level of 39.4 A-weighted decibels (dBA). When the Wilson Compressor Station is under full operation, the generated noise when added to the existing ambient level would be 46.0 dBA, a 6.6-decibel increase.¹⁴⁰ This projected noise level would remain below the threshold day-night average sound level (L_{dn}) of 55 dBA that the EPA has established to protect the public from excessive noise. Mr. Merecka's residence is located approximately 4,400 feet from the proposed compressor station site, about twice as far away as the nearest NSA, so it will bear incrementally lower noise levels. Under Environmental Condition 21 in Appendix B to this Order, Gulf South must file a noise survey after the compressor station is placed into service and must install additional noise controls within one year if actual noise levels exceed the threshold L_{dn} of 55 dBA.

¹³⁷ *Id.* at 80.

¹³⁸ *Id.* at 103-104, 103 tbl. 2.7-5, 104 tbl.2.7-6.

¹³⁹ EA at 106-107, 107 tbl. 2.7-9.

¹⁴⁰ *Id.* at 115 tbl. 2.8-6.

97. Because Mr. Merecka's residence is approximately 0.8 mile from the Wilson Compressor Station and because the compressor station site is buffered partially to the south by dense wooded areas and agriculture, we affirm the EA's conclusion that no significant adverse lighting impacts on residential receptors will occur.

98. The impact the project could have on property values depends upon many variables, including the size of the parcel, the parcel's current value and land use, and the value of nearby properties. We acknowledge that the Wilson Compressor Station, like the other proposed facilities, could impact resale values for nearby property and influence potential purchasers. As noted in the EA, however, the Wilson Compressor Station will be sited near an existing compressor station and will not be visible due to vegetation screening.¹⁴¹ Given that the compressor station's air and noise impacts will be below regulatory limits to protect public health, we conclude that potential losses to Mr. Merecka's property value should be minimal.

G. Cumulative Impacts

99. The FWS notes that the EA does not assess cumulative impacts from a future intrastate pipeline that Kinder Morgan Tejas Pipeline, LLC, contemplates constructing in the project area to deliver gas to the Freeport LNG terminal.¹⁴² Based on public information, the company plans to construct and operate approximately 40 miles of intrastate pipeline extending from the Kinder Morgan Tejas mainline to an interconnection point in Stratton Ridge, Texas, to deliver gas for export at the Freeport LNG terminal's Train 3. Kinder Morgan intends to construct the facilities by late 2019, two years after Gulf South's intended construction of the Coastal Bend Header Project.

100. CEQ defines "cumulative impact" as the "impact on the environment that results from the incremental impact of the [proposed] action when added to other past, present, and reasonably foreseeable future actions."¹⁴³ Though public information suggests that the intrastate pipeline will be located in the Coastal Bend Header's region of influence for cumulative impacts to some resources, Kinder Morgan is in the early planning stages and no detailed information is available to allow either a qualitative or quantitative analysis of any potential cumulative impacts. Thus, the EA did not err in failing to address Kinder Morgan's contemplated project. Regardless, we do not anticipate any cumulative impacts from the two projects' construction activities (e.g., emissions, erosion, noise, and traffic) due to the two-year gap in project construction schedules.

¹⁴¹ *Id.* at 85-86.

¹⁴² FWS Comments on the EA at 10.

¹⁴³ 40 C.F.R. § 1508.7 (2015).

101. We note that in order to construct and operate the intrastate pipeline, Kinder Morgan must obtain federal, state, county, and local permits, including from the Corps, the Texas Railroad Commission, the Texas Commission on Environmental Quality, and others. Conditions from these regulators will minimize impacts, thereby reducing the probability of any cumulative impacts on environmental resources.

H. Alternatives and Deviations

102. Affected landowner Michael Hershey requests that we reconsider the No-Action Alternative because the export of natural gas cannot be in the public interest.¹⁴⁴

103. Issues regarding the export (or import) of the commodity natural gas are within the purview of the Department of Energy's Office of Fossil Energy (DOE/FE),¹⁴⁵ which thoroughly addressed equivalent arguments raised by the Sierra Club during the DOE/FE proceeding to authorize exports from the Freeport LNG terminal.¹⁴⁶ The Commission evaluates applications under section 7 of the NGA for the interstate transportation of natural gas pursuant to guidance set forth in our Certificate Policy Statement, as discussed above. Under the No-Action Alternative, the service requested and subscribed by the shippers on the proposed project could not be provided.

104. Michael Hershey and Jeffrey Hershey request that the Commission reconsider Alternative 1 based on several alleged benefits. The EA explains that Alternative 1 would begin at a site for the Tennessee Gas Pipe Line meter and regulation station about 7.5 miles northeast of the origin of the preferred alternative and would travel southeast

¹⁴⁴ Michael Hershey Comments on the EA at 1.

¹⁴⁵ Section 3(a) of the NGA provides, in part, that “no person shall export any natural gas from the United States to a foreign country . . . without first having secured an order of the Commission authorizing it to do so.” 15 U.S.C. § 717b (2012). In 1977, the Department of Energy Organization Act transferred the regulatory functions of section 3 of the NGA to the Secretary of Energy. Pub. L. No. 95-91, 42 U.S.C. § 7101 *et. seq.* (2012). Subsequently, the Secretary delegated to the Commission authority to “[a]pprove or disapprove the construction and operation of particular facilities, the site at which such facilities shall be located, and with respect to natural gas that involves the construction of new domestic facilities, the place of entry for imports or exit for exports” DOE Delegation Order No. 00-004.00A (effective May 16, 2006). The Secretary, however, has not delegated to the Commission any authority to approve or disapprove the import or export of the commodity itself or to consider related issues.

¹⁴⁶ *Freeport LNG Development, L.P.*, 148 FERC ¶ 61,076, at P 32 n.17 (2014) (citing DOE/FE Order No. 3357 at 73-140; 148-157; 154 (Nov. 15, 2013)).

about 11.5 miles until joining with the preferred route at milepost 10.12. Michael Hershey and Jeffrey Hershey note that Alternative 1's site for the proposed Tennessee Gas Pipe Line metering and regulation station, from which the new header pipeline will originate, would be located with an existing gas transfer facility along a highway, rather than the preferred alternative's site in a field.¹⁴⁷ They assert that Alternative 1 reduces the station's environmental footprint because it would be located with another facility; offers easy access to roads and utility rights-of-way; crosses a landscape that is more conducive to construction, more frequently disturbed, and less valuable as wildlife habitat; and potentially allows the existing gas transfer facility or nearby rice driers to use the station's vented gas.¹⁴⁸

105. We affirm the EA's analysis of Alternative 1. The EA compares Alternative 1 to the corresponding segment of the preferred route between mileposts 0.0 and 10.12. Despite the benefits asserted by Michael Hershey and Jeffrey Hershey, the EA concludes that although Alternative 1 would affect a similar number of wetlands and fewer waterbodies than the preferred route, it would affect proportionally more forested wetlands than emergent wetlands, would add 1.3 miles to the length of the land disturbance, and would reduce the extent of co-location of the proposed facilities with other, existing utilities.¹⁴⁹ We agree with the EA's finding that Alternative 1 shows no overall significant environmental advantage compared with the proposed route.

106. Michael Hershey also asks that the Commission reconsider access roads AR-P-1 and AR-P-2 to reach the Tennessee Gas Pipe Line meter and regulation station and reconsider AR-P-3 to reach the pipeline. Mr. Hershey proposes a gravel road that he asserts is almost a mile shorter than the planned route, avoids any close habitations, and runs along a wastewater disposal unit with land available for staging during pipeline construction. Michael Hershey also requests that the Commission not authorize AR-P-3 because it unnecessarily burdens a road used by a landowner for access to his building site and future home. Instead Mr. Hershey states that Gulf South can access the pipeline from County Road 211.¹⁵⁰

¹⁴⁷ Michael Hershey Comments on the EA at 1; Jeffrey Hershey February 29, 2016 Comments on the EA at 1.

¹⁴⁸ Id. Jeffrey Hershey Comments on the EA at 1.

¹⁴⁹ EA at 146.

¹⁵⁰ Michael Hershey Comments on the EA at 1.

107. We have added new Environmental Condition 24 in Appendix B to this Order requiring Gulf South to re-evaluate access roads AR-P-1, AR-P-2, and AR-P-3 to determine whether alternative routes are feasible in light of Mr. Hershey's concerns. Gulf South must file the results of this assessment with the Commission, and any newly identified access roads not previously reviewed in the EA will be filed for our consideration, prior to construction. In its March 21, 2016 response to comments on the EA, Gulf South indicates that it is currently in negotiations with a new landowner for use of an alternative road from County Road 102 to provide access to the Tennessee Gas Pipe Line meter and regulation station site rather than access roads AR-P-1 and AR-P-2.¹⁵¹

I. Conclusion

108. 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 or operation of facilities approved by this Commission.¹⁵²

109. 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, and all comments submitted, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Gulf South, authorizing it to construct and operate the proposed facilities, as described and conditioned herein, and as more fully described in the application.

¹⁵¹ Gulf South March 21, 2016 Response to Comments on the EA at 3.

¹⁵² 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 that state and local regulation is preempted by the NGA to the extent that it conflicts with federal regulation or would delay the construction and operation of facilities approved by the Commission); *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(B) The certificate authority granted in Ordering Paragraph (A) is conditioned on Gulf South's:

- (1) completion of construction of the proposed facilities and making them available for service within two years of the date of this order pursuant to section 157.20(b) of the Commission's regulations;
- (2) compliance with all applicable Commission 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;
- (3) compliance with the environmental conditions in Appendix B to this order.
- (4) execution of firm service agreements equal to the level of service and in accordance with the terms of service represented in its precedent agreement prior to commencing construction.

(C) Gulf South's request for authority to charge incremental firm and interruptible rates for the Coastal Bend Header is approved, subject to Gulf South filing to revise the rates as discussed above.

(D) Gulf South's proposal to use its currently effective system-wide rates as the initial rates for Legacy System Expansion capacity is approved.

(E) Gulf South is required to use its system interruptible transportation rates for the Legacy System Expansion capacity.

(F) Gulf South's request for a predetermination supporting rolled-in rate treatment of the Legacy System Expansion's costs in its next NGA general section 4 rate proceeding is granted, absent a significant change in material circumstances, as discussed in the body of this order.

(G) Gulf South shall file actual tariff records setting forth its incremental rates and other proposed changes to its tariff implementing the Project at least 30 days, but no more than 60 days, prior to the date the Project facilities go into service. That filing should be made as an eTariff compliance filing using type of filing code 580, and will be assigned an RP docket. It will be processed separately from the instant certificate proceeding in Docket No. CP15-517-000.

(H) Gulf South must file its negotiated rate agreements at least 30 days, but no more than 60 days, prior to the date the Project facilities go into service.

(I) Gulf South shall keep separate books and accounting of costs and revenues attributable to the Coastal Bend Header facilities as discussed in the body of this order.

(J) Gulf South 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 Gulf South. Gulf South shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

(K) The UMDG's untimely motion to intervene is granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A
Timely Interventions

Atmos Energy Marketing LLC and Trans Louisiana Gas Pipeline, Inc.
BP Energy Company
Chubu US Gas Trading LLC
Consolidated Edison Company of New York, Inc.
Distributor Coalition¹⁵³
E.ON Global Commodities North America LLC
Exelon Corporation
Freeport LNG Development, L.P.
J. Michael Hershey
NJR Energy Services Company
Osaka Gas Trading & Export LLC
PSEG Energy Resources & Trade LLC
Sequent Energy Management, L.P.
Sierra Club

¹⁵³ The Distributor Coalition members are the local distribution companies CenterPoint Energy Resources Corporation, Mobile Gas Service Corporation, Willmut Gas Company, and the City of Vicksburg, Mississippi.

Appendix B
Environmental Conditions

1. Gulf South must 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 this Order. Gulf South 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 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 will allow:
 - a. the modification of conditions of this 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 impacts resulting from project construction, operation, and activities associated with abandonment.
3. **Prior to any construction activities**, Gulf South must 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 EIs' authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations must be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Gulf South must 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 or sheets.

Gulf South's exercise of eminent domain authority granted under the Natural Gas Act Section 7(h) in any condemnation proceedings related to the Order must be

consistent with these authorized facilities and locations. Gulf South's right of eminent domain granted under the Natural Gas Act Section 7(h) does not authorize it to increase the size of its natural gas pipelines or aboveground facilities to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Gulf South must 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 must be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by the *Commission's Upland Erosion Control, Revegetation and Maintenance Plan*, and/or minor field realignments per landowner needs and requirements that 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 Certificate and before construction begins,** Gulf South must file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Gulf South must file revisions to the plan as schedules change. The plan must identify:
 - a. how Gulf South 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 this Order;
 - b. how Gulf South 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 per spread, 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 Gulf South 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 Gulf South's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Gulf South 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/or abandonment; and
 - (4) the start and completion of restoration.
7. Gulf South must employ at least one EI per construction spread. The EI(s) must be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by this 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 this 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 this 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, Gulf South must file updated status reports with the Secretary on a **biweekly basis until all construction and restoration activities are complete**. On request, these status reports must also be provided to other federal and state agencies with permitting responsibilities. Status reports must include:
 - a. an update on Gulf South'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 EIs during the reporting period (both for the conditions imposed by the Commission and any environmental conditions or permit requirements imposed by other federal, state, or local agencies);
 - d. a description of 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 that may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by Gulf South from other federal, state, or local permitting agencies concerning instances of noncompliance, and Gulf South's response.
9. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Gulf South must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Gulf South 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.
11. **Within 30 days of placing the authorized facilities in service**, Gulf South must file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed, and/or installed 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 Gulf South 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**, Gulf South must file with the Secretary, for the review and written approval of the Director of OEP, its Remediation Plan containing specific measures that it will implement to reduce the potential of water loss due to disturbance of clay soils in rice farming areas. (*EA section 2.1.2*)
13. **Within 30 days of placing the facilities in service**, Gulf South must file with the Secretary a report summarizing whether any complaints were received concerning well yield or water quality and how each was resolved. (*EA section 2.2.1*)
14. **Prior to construction**, Gulf South must file with the Secretary a copy of the Migratory Bird Conservation Plan developed in consultation with the U.S. Fish and Wildlife Service for the project. (*EA section 2.3.4*)
15. **Prior to construction**, Gulf South must conduct pre-construction surveys for federal candidate mollusks Smooth pimpleback, Texas fawnfoot, and Texas pimpleback at perennial stream crossings where open-cut trenching methods are proposed, including Lone Tree Creek, Clarks Branch, unnamed tributaries of Linnville Bayou and the San Bernard River, Mound Creek, an unnamed tributary of Mound Creek, unnamed tributary of Varner Creek, Little Slough, and Big Slough, to ensure candidate mollusks will not be impacted by project activities. Gulf South must coordinate with the Texas Parks and Wildlife Department on appropriate mitigation measures for mollusks listed as threatened in the state of Texas. Gulf South must file with the Secretary, for the review and written approval by the Director of OEP, the resulting survey reports and any resulting construction mitigation plans for the federal candidate mollusks. (*EA section 2.3.5*)
16. **Prior to construction**, Gulf South must educate all construction crews on how to identify a whooping crane; if a crane is identified within 1,000 feet of construction activities, all work must cease as soon as possible until the crane or cranes move outside that 1,000-foot buffer area of their own volition. Also, if equipment over 15 feet high is to be used for project work, Gulf South must ensure that the equipment is flagged or marked to increase visibility to whooping cranes and lessen the risk of collisions.
17. **Prior to construction**, Gulf South must consult with the Texas Parks and Wildlife Department on the need for surveys for the state-listed threatened species in the project area, including bald eagle, white-faced ibis, white-tailed hawk, and alligator snapping turtle; must consult with the Texas Parks and Wildlife Department regarding rare species and natural communities of concern; and must

file with the Secretary the correspondence with any recommended survey results and any additional mitigation for these species. (*EA section 2.3.5*)

18. Gulf South must 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. Gulf South files with the Secretary the additional addendum reports or plans for any previously unreported areas and the State Historic Preservation Office's comments;
 - b. the Advisory Council of Historic Preservation is afforded an opportunity to comment if historic properties would be adversely affected; and
 - c. Commission staff reviews and the Director of OEP approves the cultural resources reports, and notifies Gulf South in writing that construction may proceed.

All material filed with the Commission containing location, character, and ownership information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: "CONTAINS PRIVILEGED INFORMATION--DO NOT RELEASE." (*EA section 2.4.4*)

19. **Gulf South must include in its biweekly status report** a copy of a table that contains the following information for each problem/concern identified by landowners through its environmental complaint resolution plan:
 - a. the identity of the caller and date of the call;
 - b. the location by milepost and identification number from the authorized alignment sheet(s) of the affected property;
 - c. a description of the problem/concern; and
 - d. an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved. (*EA section 2.5.3*)
20. **Prior to construction**, Gulf South must file with the Secretary documentation of the authorization from the U.S. Army Corps of Engineers and/or the Texas Railroad Commission indicating that Gulf South's project is consistent with the Texas Coastal Management Program. (*EA section 2.5.5*)
21. Gulf South must file a noise survey with the Secretary **no later than 60 days** after placing the Wilson, Brazos, North Houston, and Magasco Compressor Stations into service. If full load condition noise surveys are not possible, Gulf South must provide interim surveys at the maximum possible horsepower load and provide the full load survey **within six months**. If the noise attributable to the operation of all of the equipment at the compressor stations under interim or full horsepower load exceeds a day-night sound level of 55 A-weighted decibels at the nearest noise sensitive area, Gulf South must file a report on what changes are needed and will install the additional noise controls to meet the level **within one year** of the in-

- service date. Gulf South must confirm compliance with the above requirement by filing a second noise survey for each station with the Secretary **no later than 60 days** after it installs the additional noise controls. (*EA section 2.8.3*)
22. **Prior to construction**, Gulf South must incorporate into its final route alignment the Southern Alternative B Route between mileposts 31 and 36. Gulf South must file with the Secretary detailed alignment sheets and all appropriate resource information based on updated field surveys of the new alignment for review and approval by the Director of OEP. (*EA section 3.4*)
 23. **Prior to construction**, Gulf South must incorporate into its final route alignment Deviation 14A between mileposts 39 and 40. Gulf South must file with the Secretary detailed alignment sheets and all appropriate resource information based on updated field surveys of the new alignment for review and approval by the Director of OEP. (*EA section 3.4*).
 24. **Prior to construction**, Gulf South must re-evaluate access roads AR-P-1, AR-P-2 and AR-P-3 and determine if alternative routes are feasible that consider the concerns raised in a letter by Michael Hershey filed on February 27, 2016. Gulf South must file with the Secretary the results of this assessment and must file any alternative access roads in compliance with environmental condition 5 above.
 25. Gulf South shall not discharge lake-sourced water into the Brazos River for its hydrostatic testing activities due to the potential to transfer exotic species.