

156 FERC ¶ 61,159
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Paulsboro Natural Gas Pipeline Company LLC

Docket No. CP16-27-000

ORDER ISSUING CERTIFICATE AND GRANTING ABANDONMENT

(Issued September 7, 2016)

1. On December 1, 2015, Paulsboro Natural Gas Pipeline Company LLC (Paulsboro) filed an application, pursuant to sections 7(b) and (c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations,² requesting authorization to relocate an approximately 2.4-mile-long, 6- and 8-inch-diameter natural gas pipeline located between Delaware County, Pennsylvania, and Gloucester County, New Jersey (Delaware River Pipeline Relocation Project).

2. As discussed below, the Commission will grant the requested authorization, subject to certain conditions.

I. Background and Proposal

3. Paulsboro, a Delaware limited liability company, is a natural gas company as defined by section 2(6) of the NGA.³ Paulsboro is a subsidiary of PBF Holding Company LLC (PBF Holding), which is a subsidiary of PBF Energy Company LLC (PBF Energy Co.).

¹ 15 U.S.C. §§ 717f(b), (c) (2012).

² 18 C.F.R. pt. 157, Subpart A (2015).

³ 15 U.S.C. § 717(a)(6) (2012).

4. The pipeline was originally constructed by Mobil Oil Corporation (Mobil Oil) in 1941 as part of a 6.5-mile-long pipeline to deliver refined petroleum products from its refinery in Paulsboro, New Jersey, to a delivery terminal in Philadelphia, Pennsylvania.⁴ The fuel oil pipeline was later decommissioned in 1972. In 1998, the Commission issued Paulsboro's predecessor, Mobil Natural Gas Pipeline Co. (Mobil Natural Gas), a certificate to (1) convert a portion of the pipeline from refined petroleum products service to natural gas service, (2) construct and operate certain appurtenant and interconnection facilities, and (3) to transport natural gas exclusively for Mobil Oil.⁵ The 1998 order allowed Mobil Natural Gas to operate on a proprietary basis and did not require Mobil Natural Gas to provide open access transportation services. Specifically, the Commission waived the provisions of Part 154 of the regulations that require the filing of a gas tariff because "Mobil Natural Gas will serve only Mobil Oil and does not propose to charge Mobil Oil a transportation rate."⁶

5. Paulsboro's pipeline is approximately 2.4 miles long, originates in Delaware County, Pennsylvania, at an interconnection with Texas Eastern Transmission, LP (Texas Eastern) northwest of the Philadelphia International Airport (Philadelphia Airport), runs under the Delaware River, and terminates at the delivery point to the Paulsboro Refinery in Gloucester County, New Jersey. The pipeline is currently capable of transporting the equivalent of approximately 40,000 dekatherms per day (Dth/day). The delivery point to the refinery is adjacent to the Delaware River.⁷

6. Paulsboro proposes the Delaware River Pipeline Relocation Project to comply with a directive from the U.S. Army Corps of Engineers (USACE) to remove a portion of the existing pipe from the Delaware River. The existing pipeline is within the navigation channel, which is currently being deepened from 40 feet to 45 feet as part of the USACE's Delaware River Main Channel Deepening Project (Delaware River 45-Foot Project). On August 4, 2014, a USACE contractor struck and damaged the pipeline

⁴ See Paulsboro's Application at 3-4.

⁵ Paulsboro's Application at 4. See also *Mobil Natural Gas Pipeline Co.*, 82 FERC ¶ 61,280 (1998) (*Mobil Natural Gas*). In 1998, Mobil Natural Gas notified the Commission that its corporate name was changed to Valero Natural Gas (Valero), and in 2011, Valero notified the Commission of its name change to Paulsboro Natural Gas Company LLC.

⁶ *Mobil Natural Gas*, 82 FERC at 62,093.

⁷ Paulsboro Refining Company LLC, the owner of the refinery and all gas transported by Paulsboro, is an affiliate of Paulsboro. See Paulsboro's Application at 1.

during dredging activities. Paulsboro repaired the damaged pipeline pursuant to its emergency blanket authority and resumed service. On October 27, 2014, USACE informed Paulsboro that the deadline to remove and relocate the pipeline is June 30, 2017.

7. Paulsboro proposes to abandon 12,332 feet of 6-and 8-inch-diameter pipeline (including the segment within the navigation channel). Paulsboro will abandon by removal approximately 4,179 feet of the pipeline, which includes approximately 425 feet of 8-inch-diameter pipeline within the Delaware River navigation channel (straddling Pennsylvania and New Jersey) and approximately 3,754 feet of 6-inch-diameter pipeline within the Philadelphia Airport property in Delaware County, Pennsylvania. Paulsboro will abandon in place approximately 8,153 feet of the existing pipeline, mainly located on the Philadelphia Airport and on property owned by the Consolidated Rail Corporation (Conrail) and by the City of Philadelphia, as well as in certain portions of the Delaware River outside of the navigation channel.⁸

8. To replace the abandoned pipeline, Paulsboro proposes to install approximately 12,130 feet of 24-inch-diameter pipeline, originating at the interconnection with Texas Eastern, and approximately 1,562 feet of 12-inch-diameter pipeline, from the entry point to Paulsboro, New Jersey, to the tie-in with the refinery facilities. The increased pipe size will enable Paulsboro to provide up to 60,000 Dth/day of service to the refinery.

9. In addition, Paulsboro proposes to install a new pig launcher at the Texas Eastern meter station on the Pennsylvania side of the pipeline and to construct a new aboveground Paulsboro Refinery tie-in, which will include a new pig receiver, block valves, and a reducer.

10. Paulsboro also requests waivers of certain filing, reporting, and other regulatory requirements otherwise applicable to an interstate pipeline owner and operator, and a Part 157, Subpart F blanket construction certificate to perform certain routine activities.

II. Public Notice, Interventions, and Comments

11. Notice of Paulsboro's application was issued on December 11, 2015, and published in the *Federal Register* on December 17, 2015.⁹ The notice established

⁸ Paulsboro will abandon in place approximately 1,324 feet of 8-inch-diameter pipeline within the Delaware River in Gloucester County, New Jersey; and approximately 3,069 feet of 6-inch-diameter pipeline and 3,760 feet of 8-inch-diameter pipeline in Delaware County, Pennsylvania.

⁹ 80 Fed. Reg. 78,726.

January 4, 2016, as the deadline for filing comments and interventions. PSEG Energy Resources & Trade, LLC and Conrail filed timely, unopposed motions to intervene, which were granted by operation of Rule 214(c)(1) of the Commission's Rules of Practice and Procedure.¹⁰

12. In its intervention, Conrail raised concerns that Paulsboro had not contacted it to discuss safety related issues, or to request a right of access to the Conrail right-of-way. Conrail also requested that the Commission condition approval of the application upon Paulsboro's adherence to Conrail's safety requirements and that Paulsboro indemnify Conrail of any environmental remediation obligations arising out of construction disturbances. On January 19, 2016, Paulsboro filed a response to Conrail's comments stating that it intended to cooperate with Conrail. On July 13, 2016, Conrail filed a letter stating that it has been negotiating with Paulsboro on the use of Conrail's right-of-way and was hopeful that an agreement would be reached.

13. Delaware Riverkeeper Network filed comments about environmental and safety matters including impacts on ecosystems, habits, water quality, and the need for an Environmental Impact Statement (EIS). These comments are addressed in the Environmental Assessment (EA) and, as appropriate, in the environmental section of this order.

III. Discussion

14. Since the facilities Paulsboro seeks to abandon have been used to transport natural gas in interstate commerce subject to the Commission's jurisdiction and the proposed replacement facilities will be used for jurisdictional service, the proposed abandonment, construction, and operation of the facilities are subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.

A. Abandonment

15. Section 7(b) of the NGA allows an interstate pipeline company to abandon jurisdictional facilities only if the abandonment is permitted by the present or future public convenience or necessity.¹¹ The applicant has the burden of providing evidence to show that the abandonment is permitted under this standard. The Commission has stated that continuity and stability of existing service are the primary considerations in

¹⁰ 18 C.F.R. § 385.214(c)(1) (2015).

¹¹ 15 U.S.C. § 717f(b) (2012); *see also El Paso Natural Gas Co.*, 135 FERC ¶ 61,079, at P 17 (2011).

assessing the public convenience or necessity of a permanent cessation of service under NGA section 7(b).¹²

16. Paulsboro requests authorization to abandon by removal and in place approximately 2.4 miles of pipeline extending from its interconnection with Texas Eastern to its tie-in with the Paulsboro Refinery, including pipeline located within the Delaware River. Paulsboro states that the Delaware River Relocation Project will accommodate USACE's Delaware River 45-Foot Project, safeguard the continued operation of its pipeline facilities, ensure continuation of existing service to the Paulsboro Refinery, and accommodate potential future commercial operations at the refinery.¹³ Because the facilities to be abandoned will be replaced by the facilities discussed below, the proposed abandonment will not adversely impact the existing customer, the Paulsboro Refinery.

17. Based on the above, we find that the proposed abandonment is permitted by the public convenience and necessity. Therefore, we will approve the abandonment.

B. Replacement Pipeline

1. Certificate Policy Statement

18. The Commission's Certificate Policy Statement provides guidance for evaluating proposals to certificate new pipeline construction.¹⁴ 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 existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

¹² See *Tallgrass Interstate Gas Transmission, LLC*, 144 FERC ¶ 61,197, at P 16 (2013); *Southern Natural Gas Co.*, 126 FERC ¶ 61,246, at P 27 (2009).

¹³ Paulsboro's Application at 7.

¹⁴ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

19. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from 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, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

20. As stated above, 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 pipeline was constructed as a proprietary line for use exclusively to deliver natural gas to the affiliated Paulsboro Refinery. Paulsboro provides no service to third-party shippers and does not have a FERC tariff. Therefore, we find that the threshold no-subsidy requirement has been met.

21. Because the project is designed to maintain and augment existing service to the current customer, we find the proposal will not degrade service to that customer and there will be no adverse impact on other pipelines or their captive customers. Further, no pipeline company or their captive customers has protested Paulsboro's application.

22. We further find that Paulsboro has taken steps to minimize any adverse impacts on landowners and communities that might be affected by the project. Paulsboro Refining, Conrail, the Philadelphia Airport, and Dave Henderson are the main property owners affected by the project. As discussed above, Conrail and Paulsboro continue to negotiate and are optimistic that an agreement will be reached that will permit Paulsboro to cross Conrail's property. Paulsboro and Mr. Henderson are continuing to negotiate easement agreements. The Philadelphia Airport and Paulsboro are also working to revise existing easements and leases to address requirements for the existing pipeline on airport property.¹⁵

23. The proposed project will ensure continued transportation of natural gas supplies to the refinery and compliance with the USACE directive and will shield the pipeline from further damage that could result from the Delaware River 45-Foot Project. Based

¹⁵ We note that neither the Philadelphia Airport nor Mr. Henderson intervened in the proceeding or filed comments regarding the proposed project.

on the benefits that will result from the project, with no adverse impacts on Paulsboro's existing customer and other pipelines and their captive customers and minimal impacts on landowners and surrounding communities, we find that Paulsboro's proposal is consistent with the Certificate Policy Statement, and, as conditioned in this order, is required by the public convenience and necessity.

C. Blanket Construction Certificate

24. A Part 157 blanket certificate gives an interstate pipeline authority automatically, or after prior notice, to construct, acquire, or abandon eligible pipeline facilities subject to the blanket certificate regulations' costs limits and environmental conditions. Because Paulsboro is operating a jurisdictional pipeline facility for which this order grants certificate authorization, we will also grant the requested Part 157, Subpart F blanket construction certificate authorizing Paulsboro's performance of certain routine activities in conjunction with its operation of the pipeline.

D. Rates and Accounting

25. Paulsboro requests continuation of a general waiver of the Commission's rate schedule and tariff filing requirements under Part 154 of the Commission's regulations that would otherwise apply to its activities under the authority requested. Paulsboro also requests waiver of a number of accounting and reporting requirements, including those requirements under Parts 158, 201 (including the Uniform System of Accounts), 225, and 250 of the Commission's regulations. In addition, Paulsboro requests waiver of Part 260 of the Commission's regulations, which includes the requirement to file Form Nos. 2 and 2-A.¹⁶ Although Paulsboro asks for waiver from Part 260, it acknowledges that recent Commission precedent indicates that even if a pipeline receives waiver, it must file Pages 1 and 520 of Form Nos. 2 or 2-A with the Commission.¹⁷ Therefore, Paulsboro's requested waiver excludes the annual filing of these pages and, if applicable, payments of the Commission's Annual Charges Assessment in accordance with the Commission's regulations.

26. Paulsboro affirms that it does not intend to transport third-party gas. Therefore, consistent with previous certificates that were issued to companies with similar

¹⁶ See 18 C.F.R. § 260.2, FERC Form No. 2-A, *Annual report for Nonmajor natural gas companies*.

¹⁷ Paulsboro's Application at 15 (citing *Hiland Partners Holding, LLC*, 153 FERC ¶ 62,062 (2015); *Kaiser-Frontier Midstream, LLC*, 152 FERC ¶ 62,121 (2015)).

operations,¹⁸ the Commission finds the public interest would not be served by subjecting Paulsboro to all of the regulatory requirements applicable to interstate natural gas pipeline companies. Accordingly, Paulsboro's request for waiver of the Commission's otherwise applicable regulatory requirements is granted, as requested.

27. However, Paulsboro is required to file Page 1 and Page 520 of Form No. 2-A by April 18 of each year. Moreover, if Paulsboro receives a bona fide request for third-party service, the Commission will reexamine these waivers. Therefore, this certificate is conditioned to require Paulsboro to apply for blanket transportation authority under Part 284 of the Commission's regulations within 30 days of Paulsboro's receipt of any bona fide request to provide service. In the event of a request for firm transportation service, Paulsboro must comply with the applicable Part 284 reporting obligations and business practices.

E. Environmental Analysis

28. On January 19, 2016, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Delaware River Pipeline Removal Project and Request for Comments on Environmental Issues* (NOI). The NOI 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.

29. In response to the NOI, the Commission received comments from three state agencies and one non-governmental organization. The Commission also received environmental comments with a filed intervention. The primary issues raised during the scoping process concerned cultural resources, permitting requirements, easement negotiations, and the scope of the Commission's National Environmental Policy Act (NEPA) analysis.

30. To satisfy the requirements of NEPA, our staff prepared an EA for Paulsboro's proposal that was placed in the public record on July 18, 2016. All comments received in response to the NOI were addressed in the EA. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. No comments were received on the EA.

¹⁸ See *Western Gas Resources, Inc.*, 119 FERC ¶ 61,308, at P 20 (2007); *Continental Natural Gas, Inc.*, 83 FERC ¶ 61,065 (1998); *Kaiser-Frontier Midstream, LLC*, 152 FERC ¶ 62,121 (2015).

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

32. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The 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.¹⁹

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

The Commission orders:

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

(B) A blanket construction certificate is issued to Paulsboro under Subpart F of Part 157 of the Commission's regulations.

(C) The certificate authorized in Ordering Paragraph (A) is conditioned on:

(1) Paulsboro's proposed project being constructed and made available for service within two years of the date of this order, pursuant to section 157.20(b) of the Commission's regulations;

¹⁹ See 15 U.S.C. § 717r(d) (state or federal agency's failure to act on a permit considered to be inconsistent with Federal law); see also *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988) (state regulation that interferes with the Commission's regulatory authority over the transportation of natural gas is preempted) and *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 243 (D.C. Cir. 2013) (noting that state and local regulations is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the Commission).

(2) Paulsboro's compliance with all applicable Commission regulations, particularly the general terms and conditions set forth in paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations and all other applicable regulations are not waived pursuant to Ordering Paragraph (E) below; and

(3) Paulsboro's compliance with the environmental conditions listed in the Appendix to this order.

(D) Paulsboro's request to abandon facilities, as described in this order and in the application, is granted, subject to the conditions described herein and in the Appendix.

(E) Paulsboro shall notify the Commission within 10 days of the date(s) of its abandonment(s) of facilities as authorized by this order. Paulsboro shall complete authorized abandonments within one year from the date of this order.

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

(G) The waiver request is granted of Parts 154, 158, 201, 225, 250, as well as Part 284, and Part 260 of the Commission's reporting requirements with the exception of Page 1 and Page 520 of FERC Form No. 2-A, subject to review and reconsideration by the Commission if Paulsboro receives a bona fide request for transportation service, as conditioned and more fully discussed above.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

Paulsboro Natural Gas Company, LLC

Environmental Conditions

As recommended in the environmental assessment (EA), this authorization includes the following conditions:

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

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

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

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

- (i) implementation of cultural resource mitigation measures;
 - (ii) implementation of endangered, threatened, or special concern species mitigation measures;
 - (iii) recommendations by state regulatory authorities; and
 - (iv) 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 or abandonment by removal begins**, Paulsboro shall file an Implementation Plan with the Secretary for review and written approval by the Director of the OEP. Paulsboro must file revisions to the plan as schedules change. The plan shall identify:

- a. how Paulsboro will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the order;
 - b. how Paulsboro will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instructions Paulsboro 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 Paulsboro's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Paulsboro would follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (i) the completion of all required surveys and reports;
 - (ii) the environmental compliance training of onsite personnel;
 - (iii) the start of construction and abandonment by removal; and
 - (iv) the start and completion of restoration.
7. Paulsboro shall employ at least one EI. The EI shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions of the order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.

8. Beginning with the filing of its Implementation Plan, Paulsboro shall file updated status reports with the Secretary on a **bi-weekly** basis until all abandonment by removal, construction, and restoration activities are complete. On request, these status reports would also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
 - a. an update on Paulsboro'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/permit requirements imposed by other federal, state, or local agencies);
 - d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;
 - e. the effectiveness of all corrective actions implemented;
 - f. a description of any landowner/resident complaints which may relate to compliance with the requirements of the order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by Paulsboro from other federal, state, or local permitting agencies concerning instances of noncompliance, and Paulsboro's response.
9. **Prior to receiving written authorization from the Director of the OEP to commence construction or abandonment of any project facilities**, Paulsboro shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Paulsboro must receive written authorization from the Director of OEP **before placing the new pipeline 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**, Paulsboro shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed and abandoned in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the conditions in the order Paulsboro 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. Paulsboro shall **not begin construction or abandonment activities until**:
 - a. Commission staff receives comments from the National Marine Fisheries Service regarding the proposed action relative to the Atlantic sturgeon and shortnose sturgeon;
 - b. The Commission completes any necessary Endangered Species Act Section 7 consultation with the National Marine Fisheries Service for the Atlantic sturgeon and shortnose sturgeon; and
 - c. Paulsboro has received written approval from the Director of OEP that construction or use of mitigation measures may begin.

13. Paulsboro shall **not begin abandonment or construction until** it files with the Secretary a copy of the determination of consistency with the Coastal Zone Management Plan issued by the New Jersey Department of Environmental Protection and the Pennsylvania Department of Environmental Protection.

14. Paulsboro shall **not begin construction or abandonment** of facilities and/or use of staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
 - a. Paulsboro files with the Secretary comments on the cultural resources report and archaeological avoidance and protection plan from the New Jersey State Historic Preservation Office;
 - b. the Advisory Council on 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 plans, and notifies Paulsboro in writing that treatment plans/mitigation measures (including archaeological data recovery) may be implemented and/or construction may proceed.

All materials filed with the Commission containing **location, character, and ownership** information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: **“CONTAINS PRIVILEGED INFORMATION - DO NOT RELEASE.”**