

168 FERC ¶ 61,148
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Northern Natural Gas Company

Docket No. CP19-1-000

ORDER APPROVING ABANDONMENT

(Issued September 6, 2019)

1. On October 3, 2018, Northern Natural Gas Company (Northern) filed an application, as supplemented, pursuant to section 7(b) of the Natural Gas Act (NGA)¹ requesting authorization to abandon by sale to DKM Enterprises, LLC (DKM) approximately 146.6 miles of 24-inch-diameter pipeline and other appurtenant facilities on Northern's Palmyra to Ogden A-line system (Palmyra to Ogden A-line Project) located in Otoe and Cass Counties, Nebraska, and Mills, Pottawattamie, Cass, Audubon, Guthrie, Greene, and Boone Counties, Iowa. We will grant the requested authorization, subject to the conditions herein, as discussed below.

I. Background and Proposal

2. Northern, a corporation organized under the laws of the State of Delaware with its principal place of business in Nebraska, is a natural gas company, as defined by section 2(6) of the NGA,² engaged in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission. Northern is authorized to do business in the states of Delaware, Texas, New Mexico, Oklahoma, Kansas, Nebraska, Iowa, Minnesota, Illinois, Michigan, Wisconsin, South Dakota, and Louisiana. Northern's entire pipeline system consists of approximately 14,700 miles of pipeline extending from the Permian Basin in Texas to the Upper Peninsula of Michigan.

¹ 15 U.S.C. § 717f(b) (2012).

² *Id.* § 717a(6).

3. Northern proposes to abandon by sale to DKM its existing M580 and M530 A-line facilities,³ consisting of approximately 146.6 miles of 24-inch-diameter pipeline and appurtenant facilities between Palmyra, Nebraska, and Ogden, Iowa. Upon abandonment, DKM intends to reclaim most of the subject facilities for salvage within two years of the agreement, pursuant to the terms and conditions of the Purchase and Sale Agreement, between Northern and DKM, dated September 20, 2018.
4. To abandon the pipeline, Northern proposes to cut and cap below-ground pipe to disconnect the A-line at five disconnect sites: two locations along the M580 A-line and three locations along the M530 A-line. Specifically, Northern proposes to abandon:
 - (1) a 34.8-mile-long, 24-inch-diameter segment of the M580 A-line beginning at Northern's Palmyra compressor station located in Otoe County, Nebraska and ending in Cass County, Nebraska;
 - (2) an approximately 33-mile-long, 24-inch-diameter segment of the M580 A-line beginning in Mills County, Iowa, and ending at Northern's Oakland compressor station in Pottawattamie County, Iowa;
 - (3) a 49.9-mile-long, 24-inch-diameter segment of the M530 transition A-line beginning at the terminus of the M580 A-line at the Oakland compressor station and ending at the capped end in Guthrie County, Iowa; and
 - (4) a 28.9-mile-long, 24-inch-diameter segment of the M530 A-line beginning at the Carroll branch line in Guthrie County, Iowa, and ending at Northern's Ogden compressor station in Boone County, Iowa.
5. Northern has previously abandoned several segments of the A-line due to operational and integrity issues. As a result, the A-line is not a continuous pipeline from Palmyra, Nebraska, to Ogden, Iowa.
6. The U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration, Southwest Region (PHMSA) issued a Corrective Action Order on September 1, 2016, to Northern after an incident that occurred on the M640 A-line. As a proactive measure, Northern reduced the operating pressures on all its coupled pipeline segments greater than or equal to 14 inches in diameter or operating at more than 30 percent of the specified minimum yield strength, including the segments specified in this application. Further, Northern identified abandonment of the A-line

³ Northern's A-line system was issued a grandfathered certification April 6, 1943 in Docket No. G-280.

as the remediation alternative in the Remedial Work Plan submitted to PHMSA on April 5, 2017, in response to the corrective order.

7. To replace the A-line capacity lost as a result of the pressure reductions, Northern made filings in Docket Nos. CP17-116-000⁴ and CP17-434-000⁵ to construct and place facilities into service pursuant to the prior notice provisions of the Commission's regulations.⁶

8. In its February 12, 2019, data response, Northern confirmed that all farm-tap owners have consented to the abandonment, that negotiations were complete, and that the A-line facilities no longer serve any farm taps.⁷

II. Notice, Interventions, and Comments

9. Notice of Northern's application was published in the *Federal Register* on October 23, 2018, with comments due November 7, 2018.⁸ NJR Energy Services

⁴ Pursuant to its filing in Docket No. CP17-116-000, Northern constructed a 1.24-mile extension of Northern's existing D-line and a 1.01-mile extension of Northern's existing E-line to replace capacity lost on Northern's Ventura North A-line due to a reduction in operating pressure. 18 CFR § 157.205(h)(1) (2019).

⁵ Pursuant to its filing in Docket No. CP17-434-000, Northern constructed two segments of pipeline loop, totaling 13.8 miles, paralleling the existing Des Moines B-line to replace capacity lost on Northern's Des Moines A-line due to a reduction in operating pressure. 18 C.F.R. § 157.205(h)(1).

⁶ 18 C.F.R. § 157.205.

⁷ Northern's February 12, 2019 Responses to Data Requests, at 28. At the time Northern filed this abandonment application, one farm-tap owner served by the A-line facilities had not yet consented to the abandonment of the farm tap, as that tap owner wanted the A-line removed from his property. However, the farm-tap owner ultimately consented to the abandonment after Northern explained that the portion of pipeline on his property could not be removed from his property without consent of the state archaeologist in accordance with Iowa law protecting human remains. The Purchase and Sale Agreement also states that areas with Known Cultural Resources, which includes the farm-tap owner's portion of the A-line, cannot be removed by DKM. Purchase and Sale Agreement, Article 4.7.

⁸ *Northern Natural Gas Co.; Notice of Application*, 83 Fed. Reg. 53,469 (Oct. 23, 2018).

Company and Northern Illinois Gas Company d/b/a Nicor Gas filed timely, unopposed motions to intervene. The timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.⁹

10. Several landowners filed comments regarding the potential for environmental impacts from the salvage of the abandoned pipeline by DKM. These comments are addressed in the Environmental Assessment (EA) issued for the proposed Palmyra to Ogden A-line Project and, to the extent necessary, in the environmental section of this order.

III. Discussion

A. Abandonment

11. Section 7(b) of the NGA allows a natural gas pipeline company to abandon jurisdictional facilities or services if the abandonment is permitted by the present or future public convenience or necessity.¹⁰ In deciding whether a proposed abandonment is warranted, the Commission considers all relevant factors, but the criteria vary as the circumstances of the abandonment proposal vary.¹¹ When an applicant proposes to abandon facilities, the continuity and stability of existing services are the primary considerations in assessing whether the public convenience or necessity permit the abandonment.¹² If the Commission finds that an applicant's proposed abandonment will not jeopardize continuity of existing gas transportation services, it will defer to the applicant's business judgment.¹³

12. Northern will continue to own and operate other parallel pipelines, allowing shippers in the area to continue to receive service via use of the remaining system. As a result, abandonment of the A-line facilities will not result in the abandonment of service to existing shippers and there is no impact to current firm shippers on the subject

⁹ 18 C.F.R. § 385.214 (2018).

¹⁰ 15 U.S.C. § 717f(b) (2012).

¹¹ *El Paso Natural Gas Co.*, 148 FERC ¶ 61,226, at P 11 (2014).

¹² *See, e.g., id.* P 12.

¹³ *See, e.g., id.; Transwestern Pipeline Co., L.L.C.*, 140 FERC ¶ 61,147, at P 13 (2012) (citing *Trunkline Gas Co.*, 94 FERC ¶ 61,381, at 62,420 (2001)).

facilities. Further, Northern has completed negotiations with farm tap owners and the A-line no longer serves farm taps.¹⁴

13. Northern estimates that the sale of the subject facilities is estimated to save Northern and ultimately, its ratepayers, approximately \$35,000 per year in operating and maintenance expenses.¹⁵ The proposed abandonment will also eliminate safety risks from leaks and pipeline stress. As noted previously, following the corrective order issued by PHMSA in 2016, Northern identified abandonment of the A-line as the remediation alternative in the Remedial Work Plan submitted to PHMSA on April 5, 2017. In addition, the proposed abandonment will eliminate inefficiencies associated with the operation and maintenance of the subject facilities, allowing Northern to serve the needs of its shippers more effectively.¹⁶

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

B. Environmental Analysis

15. On November 14, 2018, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI). The NOI was published in the *Federal Register* on November 20, 2018 and sent to affected landowners; federal, state, and local government agencies; elected officials; Native American tribes; and other interested parties.¹⁷

16. In response to the NOI, the Commission received comments from nine landowners;¹⁸ the U.S. Department of Agriculture National Resources Conservation Service (NRCS); the U.S. Department of the Interior National Park Service (Park Service); the Tribal Historic Preservation Office of the Northern Cheyenne Tribe (Northern Cheyenne Tribe) and the Tribal Historic Preservation Office of the Cheyenne and Arapaho Tribes (collectively, Tribes); and the Teamsters National Pipeline Labor

¹⁴ Northern's February 12, 2019 Responses to Data Requests, at 28.

¹⁵ Application at 6.

¹⁶ *Id.*

¹⁷ *Notice of Intent to Prepare an Environmental Assessment for the Proposed Palmyra to Ogden A-Line Project and Request for Comments on Environmental Issues*, 83 Fed. Reg. 58,560 (Nov. 20, 2018).

¹⁸ Audrey Charter, Larry Kenyon, Priscilla Foster and David White, Joanne Zreser, James and Jolene McLaughlin, Carl Johnson, Sandra Brugh, Ron and Mary Jo St. John, and John Sherwood.

Management Cooperation Trust (Teamsters). Eight of the nine landowners raised concerns regarding the impacts on their property, including erosion and damage to crops and soil, from the future salvage of the A-line by DKM. One landowner, Sandra Brugh, stated that she does not want work performed at night near her property. The NRCS confirmed that the project does not fall under the Farmland Protection Policy Act and that a Farmland Conversion Impact Rating is not necessary. The Park Service expressed concern that the project could impact the Mormon Pioneer, California, and Pony Express National Historic Trails. The Tribes commented that they determined the project would have no adverse effect and requested they be notified of any changes to the project or inadvertent discoveries of tribal resources. The Northern Cheyenne Tribe also requested that tribal monitors be present during ground-disturbing activities. The Teamsters commented in support of using union labor and services for work on the project.

17. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA), our staff prepared an Environmental Assessment (EA) for Northern's proposal. The analysis in the EA addresses geology and soils; groundwater; vegetation, wildlife, and special status species; cultural resources; land use and visual resources; air quality and noise; and cumulative impacts. The EA also assesses the no-action alternative. All substantive comments received in response to the NOI were addressed in the EA. The EA was placed into the public record on May 13, 2019 with a 30-day comment period.

1. Comments on the EA

18. The Commission received comments on the EA from the Iowa State Historic Preservation Office (Iowa SHPO) and one landowner, John Sherwood.

a. Iowa SHPO

19. The Iowa SHPO comments that the EA should have considered the future salvage of the A-line by DKM as part of the federal undertaking under National Historic Preservation Act (NHPA) section 106,¹⁹ and that Commission staff should have considered the potential adverse effect on historic properties from the future salvage.²⁰ The SHPO suggests the Commission develop and implement a programmatic agreement for the project and future salvage.²¹

¹⁹ 54 U.S.C. § 306108 (Pub. L. No. 113-287, 128 Stat. 3227) (2014)).

²⁰ Iowa SHPO May 24, 2019 Comments.

²¹ *Id.*

20. The EA correctly stated the scope of the federal undertaking as the Commission-jurisdictional activities approved in this order—the abandonment by sale of the A-line and the disconnection and capping of the pipeline at five interconnections where it is linked to other facilities.²² An undertaking is “a project, activity, or program ... requiring a Federal permit, license or approval.”²³ Because the Commission’s jurisdiction terminates upon the completion of abandonment activities, the Commission does not have the authority to authorize, deny, or place conditions on the future salvage.²⁴ Thus, the future salvage is not a part of the federal undertaking and is outside the scope of our NHPA review.

21. Regardless, it is unlikely that the future salvage will adversely impact historic properties because the Purchase and Sale Agreement between Northern and DKM requires DKM to abandon the pipeline in-place beneath the seven National Register of Historic Places-eligible (NRHP-eligible) and unevaluated historic properties crossed by the A-line.²⁵ This includes site 13ML203 where the Iowa SHPO raises concerns regarding the high probability of encountering cultural resources from the Glenwood Culture.²⁶

22. Further, the Commission finds that a programmatic agreement is not appropriate for the abandonment of the A-line. A programmatic agreement is appropriate for a large or complex project or where the project would otherwise require numerous individual requests.²⁷ Here, as stated in the EA, no cultural or historic properties were identified in

²² EA at 1. Four of the five disconnect locations are in Iowa. The fifth disconnect location is located in Nebraska. We did not receive comments from the Nebraska SHPO. As discussed in the EA, however, the Nebraska SHPO found that no historic properties would be affected by the abandonment. EA at 22.

²³ 36 C.F.R. § 800.16(y) (2018).

²⁴ See *Tennessee Gas Pipeline Co., L.L.C.*, 160 FERC ¶ 61,144, at P 113 (2017) (“... once [the applicant] abandons its pipeline, Commission jurisdiction ends and we will have no further involvement...”).

²⁵ Purchase and Sale Agreement, Article 4.7; EA at 10, 39.

²⁶ Purchase and Sale Agreement, Article 4.7; EA at 10, 39; Iowa SHPO May 24, 2019 Comments at 5.

²⁷ 36 C.F.R. § 800.14(b); *City of Tacoma, Washington*, 76 FERC ¶ 61,173, at 61,980 (1996).

the disconnect locations affected by the project.²⁸ And, Northern's abandonment is a relatively simple project and limited to ground-disturbing activities in four, small discrete disconnect locations in Iowa.²⁹ Apart from the pipeline itself, no historic properties were identified that would be affected by the abandonment. Impacts on the pipeline were mitigated through the 2002 publication of *Natural Gas Comes to Iowa: What it Meant When the A-Line Arrived* by Christopher Castaneda.³⁰ Though no historic properties were identified at the four disconnect locations in Iowa, Northern developed, in consultation with the Iowa State Archaeologist, an Unanticipated Discoveries Plan in the event cultural resources are discovered during the disconnection.³¹ With regards to the future salvage, the Commission does not have the authority to require a programmatic agreement, or impose other protective measures, because the future salvage is not subject to the Commission's jurisdiction.³²

23. In addition, the Iowa SHPO clarifies the nature and extent of its consultative role and comments that the EA incorrectly states that the SHPO made a finding of 'no historic properties affected.' The SHPO is correct. In its September 24, 2018 email to Northern, the Iowa SHPO only states that, with regards to the four disconnect locations, the results of Northern's cultural survey "could be used to support an agency determination of no historic properties affected."³³ It is the Commission, not the SHPO, that makes the final finding of no adverse effect.³⁴ Considering the comments from the Iowa and Nebraska

²⁸ EA at 26.

²⁹ EA at 5-6.

³⁰ EA at 24; *see Exemption Regarding Historic Preservation Review Process for Projects Involving Historic Natural Gas Pipelines*, 67 Fed. Reg. 16,364 (Apr. 5, 2002) (exempting from NHPA section 106 review the effects to a historic natural gas pipeline from its abandonment where the historic pipeline is documented prior to the abandonment).

³¹ EA at 25.

³² EA at 35. *See Tennessee Gas Pipeline Co.*, 160 FERC ¶ 61,144 at P 113 (stating that the Commission has "no further involvement" with a pipeline after abandonment).

³³ Iowa SHPO May 24, 2019 Comments at 2 (reproducing the text of the September 24, 2018 email).

³⁴ 36 C.F.R. § 800.5(b).

SHPOs,³⁵ it is our agency determination that the project will have no adverse effect on historic properties for the reasons explained above and in the EA.³⁶

b. John Sherwood

24. John Sherwood expresses concern regarding potential impacts from erosion and sedimentation on his property, particularly to a pond and grass seeding, during DKM's future salvage of the pipeline. He states that he does not object to abandoning the pipeline in-place, just to its salvage. As described in the EA, the eventual salvage of the pipeline after abandonment, if it does occur, is not subject to the Commission's jurisdiction.³⁷ However, the Purchase and Sale Agreement provides that DKM and an affected landowner may agree to abandon the pipeline in place under his or her property.³⁸ Northern states that a landowner's request to abandon the pipeline in place will be honored even in the event DKM and the landowner cannot reach an agreement.³⁹ Additionally, Northern reports that DKM may abandon the pipeline in-place under environmentally sensitive areas, including wetlands and waterbodies.⁴⁰

25. Even if the pipeline is salvaged, the EA describes the measures outlined in the Purchase and Sale Agreement that DKM will take to minimize environmental impacts to disturbed lands.⁴¹ DKM also must obtain applicable permits and approvals from federal, state, and local regulatory agencies prior to initiating the non-Commission-jurisdictional activities and abide by any appropriate permit requirements during removal of the pipeline. Finally, DKM has agreed to restore lands to their pre-removal condition after salvage.⁴²

³⁵ See *supra* note 22.

³⁶ See *supra* PP 19-23; EA at 21-26.

³⁷ EA at 1, 35-39.

³⁸ Purchase and Sale Agreement, Article 4.2.

³⁹ Northern's February 2, 2019 Responses to Data Requests at 517.

⁴⁰ EA at 10.

⁴¹ EA at 9-10; Purchase and Sale Agreement, Article IV.

⁴² EA at 10; Purchase and Sale Agreement, Article 4.4(a).

IV. Conclusion

26. Based on the analysis in the EA, as supplemented herein, we conclude that if abandoned in accordance with Northern's application and supplements, including any commitments made therein, 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.

27. Compliance with the environmental conditions appended to our orders is integral to ensuring that the environmental impacts of approved projects are consistent with those anticipated by our environmental analyses. Thus, Commission staff carefully reviews all information submitted. Only when satisfied that the applicant has complied with all applicable conditions will a notice to proceed with the activity to which the conditions are relevant be issued. We also note that the Commission has the authority to take whatever steps are necessary to ensure the protection of environmental resources during abandonment and restoration activities, including authority to impose any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the order, as well as the avoidance or mitigation of unforeseen adverse environmental impacts resulting from project abandonment and restoration.

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 and upon consideration of the record,

The Commission orders:

(A) Northern's request to abandon certain pipeline facilities and ancillary facilities, as described and conditioned herein, and as more fully described in the application and subsequent filings by the applicant, including any commitments made therein, is granted.

(B) The authority issued in Ordering Paragraph (A) above is conditioned on Northern's compliance with the environmental conditions set forth in Appendix A to this order.

(D) Northern shall notify the Commission within 10 days of the effective date of the abandonment of the facilities referenced in Ordering Paragraph (A).

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

(F) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order pursuant to 18 C.F.R. § 385.713.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix
Environmental Conditions

As recommended in the Environmental Assessment (EA), this authorization includes the following conditions:

1. Northern Natural Gas Company (Northern) shall follow the abandonment procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the Order. Northern 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, or the Director's designee, has delegated authority to address any requests for approvals or authorizations necessary to carry out the conditions of the Order, and take whatever steps are necessary to ensure the protection of all environmental resources during activities associated with abandonment and restoration. This authority shall allow:
 - a. the modification of conditions of the Order;
 - b. stop-work authority; and
 - c. the imposition of any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the Order as well as the avoidance or mitigation of unforeseen adverse environmental impact resulting from project abandonment and restoration activities.

3. **Prior to any construction or abandonment activities**, Northern shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the 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 abandonment and restoration activities.

4. The authorized abandonment activities shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Northern shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000

with station positions for all work approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

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

This requirement does not apply to extra workspaces 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 authorization and before abandonment activities begin**, Northern shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Northern must file revisions to the plan as schedules change. The plan shall identify:
 - a. how Northern 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 Northern will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and

- c. 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 Northern 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 Northern's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Northern will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for the:
 - i. completion of all required surveys and reports;
 - ii. environmental compliance training of onsite personnel;
 - iii. start of construction; and
 - iv. start and completion of restoration.
7. Northern shall employ at least one EI. The EI(s) 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, Northern shall file updated status reports with the Secretary on a **biweekly** basis until all abandonment and restoration activities are complete. On request, these status reports shall also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:

- a. an update on Northern'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 work in environmentally sensitive areas;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the EI(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;
 - e. the effectiveness of all corrective actions implemented;
 - f. a description of any landowner/resident complaints that 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 Northern from other federal, state, or local permitting agencies concerning instances of noncompliance, and Northern's response.
9. Northern must receive written authorization from the Director of OEP **before commencing abandonment activities**. To obtain such authorization, Northern must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. **Within 30 days of completing project abandonment**, Northern shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been abandoned in compliance with all applicable conditions, and that continuing activities would be consistent with all applicable conditions; or
 - b. identifying which of the conditions in the Order Northern has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. **Prior to any abandonment activities**, Northern shall file the following information with the Secretary for review and written approval by the Director of the OEP:
- a. identify any known facilities to be disturbed having asbestos containing materials (ACM);
 - b. develop protocols to comply with the appropriate requirements to identify

- ACMs that might be encountered;
- c. if facilities with ACMs would be disturbed, identify how any abandoned ACM-contaminated material would be properly disposed of; and
 - d. develop worker protection protocols for handling ACM-contaminated materials.