

127 FERC ¶ 61,133
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Northern Natural Gas Company

Docket No. CP09-11-000

ORDER ISSUING CERTIFICATE
AND GRANTING ABANDONMENT AUTHORITY

(Issued May 13, 2009)

1. On October 17, 2008, in Docket No. CP09-11-000, Northern Natural Gas Company (Northern) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)¹ for a certificate of public convenience and necessity to construct and operate the Northern Lights 2009-2010 Zone EF expansion (Zone EF) in Minnesota. The expansion project would increase peak-day capacity by approximately 136,042 dekatherms per day (Dth/d) and would involve: (1) constructing, replacing, and operating compression, pipeline, and meter station facilities; and (2) abandoning pipeline facilities by removal and in-place. The Commission finds that the Zone EF expansion is required by the public convenience and necessity. Therefore, we will grant the requested authorizations, subject to the conditions set forth in this order.

I. Background and Proposal

2. Northern is a corporation organized under the laws of the State of Delaware with its principal place of business in Omaha, Nebraska. Northern is a natural gas company within the meaning of NGA section 2(6), and is authorized to do business in Delaware, Texas, New Mexico, Oklahoma, Kansas, Nebraska, Iowa, Minnesota, Illinois, Michigan, Wisconsin, North Dakota, South Dakota, and Louisiana.

3. Northern's proposed Zone EF expansion is a discrete, stand-alone component of a larger expansion known generally as the Northern Lights expansion project. Northern

¹ 15 U.S.C. § 717f (2006).

committed to undertaking the Northern Lights expansion project to expand its market area capacity to meet its customers' projected growth in demand through 2026. Prior to this commitment by Northern to meet its customers' projected growth in demand, several of its primary shippers had issued requests for proposals by other companies to build new greenfield capacity that would enable shippers to bypass Northern's transmission facilities in its market area.

4. The Commission has issued Northern certificates for the first two phases of the Northern Lights expansion.² Other construction activities related to the Northern Lights expansion have been undertaken by Northern pursuant to its Part 157 blanket certificate authority.³

5. Northern held an open season for the proposed Zone EF expansion capacity from October 31, 2007, through November 6, 2007, in which Northern solicited interest for firm transportation deliveries to Zone EF commencing on or after November 1, 2009. Northern also provided firm customers who currently have capacity in Zone EF with an opportunity to turn back capacity. Northern received no formal offers to turn back capacity.

6. Northern's proposed Zone EF expansion will enable Northern to provide incremental winter peak day firm service to meet residential, commercial, and industrial customer market growth in portions of its market area. Northern has executed agreements for 135,042 Dth/d of incremental firm service using the proposed capacity. Service under the agreements will increase to 136,042 Dth/day by 2011.⁴

A. Proposed Facilities

7. For the Zone EF expansion, Northern proposes to construct and operate: (1) a 6.37-mile extension of the 30-inch-diameter Faribault-Farmington D-Line (D-Line); (2) a

² *Northern Natural Gas Co.*, 118 FERC ¶ 61,136 (2007) and *Northern Natural Gas Co.*, 119 FERC ¶ 61,111 (2007), respectively.

³ Northern has made prior notice filings pursuant to the Part 157, Subpart F blanket certificate regulations in Docket Nos. CP08-56-000, CP08-76-000, CP08-95-000, CP08-97-000, and CP08-188-000.

⁴ Northern states that the proposed facilities will result in capacity greater than the 136,042 Dth/d currently subscribed by its customers. However, Northern is unable to determine the exact amount of additional capacity at this time. Any excess capacity will be posted on its website.

6.06-mile extension of the 30-inch-diameter Farmington-North Branch C-Line (C-Line);⁵ (3) a 6.06-mile extension of the 20-inch-diameter Elk River loop (Elk River loop); (4) 22.85 miles of 16-inch-diameter pipeline to replace 9.32 miles of the 2- and 3-inch-diameter Rockford branch line (Rockford replacement);⁶ (5) a new 10.85-mile, 16-inch-diameter pipeline (Corcoran branch line); (6) a new compressor station with a 15,000-horsepower unit located near Albert Lea, Minnesota (Albert Lea compressor station); and (7) a new meter station (Corcoran meter station).

B. Rates

8. Northern estimates that the proposed Zone EF expansion project will cost \$120,496,894. Northern requests a predetermination that it will be appropriate to roll the costs associated with the project into its system-wide rates in a future section 4 rate proceeding. Northern states that the Zone EF expansion will provide additional capacity requested by Northern's customers and benefits to Northern's existing system, including increased reliability, system flexibility, and potential fuel savings.

9. In support of its request for a rolled-in rate determination, Northern states that it would have lost over \$40 million in current revenues if it had not committed to the Northern Lights expansion, including the proposed Zone EF expansion, to meet growth in customer demand in its market area. Northern emphasizes that prior to its making this commitment, three of its primary shippers – CenterPoint Energy Minnesota Gas (CenterPoint), Xcel Energy (Xcel), and Flint Hills Resources, LP (Flint Hills) – were cooperating in seeking to have new greenfield capacity built by another company into Northern's market area, which would have bypassed Northern's transmission system. Northern states that had it not committed to meeting these customers' growth in demand, their load could have been lost with the result that Northern's remaining customers would have faced increased rates and would have been further impacted by Northern's inability to economically expand. Therefore, Northern believes that the value represented by the

⁵ In Northern's pre-filing proceeding for the Northern Lights expansion project in Docket No. PF08-12-000, the Farmington-North Branch C-Line was referred to as the Riverside (Farmington-North Branch) C-Line Extension.

⁶ The proposed 16-inch-diameter line would parallel a segment of the existing Rockford branch line which would remain in service. The proposed 16-inch-diameter line would be routed around the City of Delano. In this area, the existing 3-inch-diameter line also would remain in service to minimize impacts to the farmsteads and the City of Delano. Some segments of the existing 2- and 3-inch-diameter Rockford branch line are proposed to be abandoned in place. See Northern's application at 13-16.

retention of the underlying volumes should be recognized by the Commission in determining whether a predetermination for rolled-in rate treatment is appropriate.

II. Public Notice, Interventions, and Protests

10. Notice of Northern's application in Docket No. CP09-11-000 was issued on October 28, 2008, and published in the *Federal Register* on November 4, 2008.⁷ Timely, unopposed motions to intervene were filed by MidAmerican Energy Company, Minnesota Energy Resources Corporation, and Three Rivers Park District.⁸ Motions to intervene out of time were filed by CenterPoint, Northern States Power Company, and Austin Utilities. The Commission finds that granting these out-of-time motions to intervene will not delay, disrupt or otherwise prejudice this proceeding, or place an additional burden on existing parties. Accordingly, the out-of-time motions to intervene are granted.⁹ The Three Rivers Park District submitted a protest with its motion to intervene that objected to the route of the Corcoran branch line. As a result of subsequent route realignments, the Three Rivers Park District withdrew its protest.

III. Discussion

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

A. Certificate Policy Statement

12. To determine whether a proposed project is required by the public convenience and necessity, we consider whether the proposal meets the criteria set forth in our Certificate Policy Statement addressing new facilities.¹⁰ In this policy statement, we establish criteria for determining whether there is a need for a proposed project, balance the public benefits against potential adverse impacts of the project, and determine whether the proposed project will serve the public interest. Our goal in evaluating

⁷ 73 Fed. Reg. 65,591(2008).

⁸ Timely, unopposed motions to intervene are granted under Rule 214(c) of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(c) (2008).

⁹ 18 C.F.R. § 385.214(d) (2008).

¹⁰ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000), *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

proposed projects 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, avoidance of unnecessary disruptions to the environment, and avoidance of the unnecessary exercise of eminent domain.

13. Under the Certificate Policy Statement, the threshold requirement for existing pipelines proposing a new project is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the new 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 location of the new facilities. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we evaluate the project by balancing the 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.

1. Subsidization

14. The threshold requirement for a new pipeline project is that the natural gas company must be prepared to financially support the project without relying on subsidization from existing customers. Northern has requested a predetermination of rolled-in rate treatment for the Zone EF expansion. As discussed below, we are denying such a predetermination because projected revenues from Northern's agreements with customers for use of the capacity to be created by the Zone EF expansion facilities do not exceed the cost of the facilities. Because we are denying this predetermination, Northern's existing customers will not subsidize the expansion. Accordingly, we find that the Certificate Policy Statement's threshold test is satisfied.

2. Benefits and Impacts

15. The next step under the Certificate Policy Statement is to consider whether the applicant has made efforts to eliminate or minimize any adverse effects the new 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 location of the new facilities.

16. The Zone EF expansion project should have no adverse non-rate impacts on Northern's existing customers. The Zone EF expansion will not adversely impact other pipelines in the market area or their captive customers since the purpose of the proposal is to serve growth in the gas requirements of Northern's existing customers, not to displace loads on other systems. The majority of construction activities for the Zone EF

expansion will be conducted within existing rights-of-way. Northern's use of existing land rights will minimize the number of new landowners affected by the project.

17. Based on the demand demonstrated for the proposed expansion¹¹ and the minimal adverse impacts on existing customers, other pipelines, landowners, or communities, we find that the benefits of the project outweigh the adverse effects on economic interests. Further, as discussed below, the environmental impacts of the project can be sufficiently mitigated such that we find, consistent with the Certificate Policy Statement and section 7 of the NGA, approval of the project is required by the public convenience and necessity.

B. Rates

1. Rolled-in Rate Determination

18. Northern requests a predetermination that it will be appropriate to roll the costs associated with the proposed Zone EF expansion in to its system-wide rates in a future section 4 rate proceeding. Generally, to receive authorization for rolled-in rate treatment, a pipeline must demonstrate that the revenues to be generated by an expansion project will exceed the costs of the project. This is not the case for the Zone EF expansion, and we are denying Northern's request for a predetermination supporting rolled-in rate treatment for the Zone EF expansion costs. This denial is without prejudice to Northern filing for and fully supporting rolled-in rate treatment for these facilities in a future rate case.

19. Northern's Exhibit N shows that the Zone EF expansion's estimated annual cost of service of \$54,133,000 exceeds projected annual revenues of \$27,816,000 by approximately \$26,317,000 during the first three years of service. However, Northern asserts that the Commission should consider all of the projects to be constructed under the Northern Lights expansion umbrella cumulatively in order to find that a predetermination supporting rolled-in rate treatment is appropriate for this Zone EF expansion. In Exhibit N-1, Northern presents the cumulative projected revenue for all the Northern Lights expansion projects through 2011, and emphasizes that the cumulative revenues exceed the projects' cumulative costs by \$29,874,000. Northern also asserts that the Commission should take into account the \$40.7 million in annual revenues that

¹¹ Northern indicates that its agreements with customers for services using the proposed facilities are final agreements, not precedent agreements. Nevertheless, in view of the possibility that not all of the current agreements will still be in effect at the time Northern seeks to commence construction, we will condition commencement of construction on Northern's having final agreements at that time for firm transportation volumes and terms equivalent to those reflected in the present agreements supporting its application.

Northern receives from CenterPoint, Xcel, and Flint Hills, the three primary shippers that Northern believes it would have lost if it had not committed to the overall Northern Lights expansion to meet their growing needs for capacity.

20. When the Commission makes an upfront determination in a certificate proceeding as to whether a project should receive rolled-in rate treatment, it does so based on the specific costs and revenues associated with the facilities being constructed. The Commission's approval of rolled-in rate treatment for Northern's initial Northern Lights expansion in its February 2007 order in Docket No. CP06-403-000 was based on the specific costs and revenues of the facilities being constructed under that project, and was not intended to apply to the broader umbrella of Northern Lights expansion projects that may be needed to meet anticipated customer growth needs through 2026.¹² The same was true of the Commission's May 2007 order in Docket No. CP06-433-000 approving Northern's Palmyra North expansion, which also was a Northern Lights expansion project.¹³ As it did in those proceedings, Northern has proposed the instant Zone EF expansion project as a discrete, stand-alone project, and the Commission's rate determination here will be based on the underlying costs and billing determinants associated with only the Zone EF expansion.

21. The Commission recognizes that Northern has made a business decision to enter into long-term agreements with certain customers in order to retain those customers on its system and to meet the future growth requirements of those customers. Nevertheless, it would not be appropriate or consistent with the Certificate Policy Statement to include the revenues from the retained load under these agreements with CenterPoint, Xcel, and Flint Hills in determining whether the costs of the Zone EF expansion should be afforded a presumption of rolled-in rate treatment in this certificate proceeding. The value of these retained contractual entitlements is not revenue that will be generated as a result of the construction of the facilities included in the Zone EF expansion. Nevertheless, in a future section 4 rate proceeding Northern will be free to argue that it should be allowed to increase its system-wide rates in order to recover the costs of the Zone EF expansion project costs because the project was necessary to retain load and loss of that load would have led to even higher rate increases for existing customers, and/or that, going forward, the Northern Lights projects should be considered as a whole for ratemaking purposes.

2. Fuel

22. The Zone EF expansion includes the Albert Lea compressor station, a new mainline compressor station near Albert Lea, Minnesota. Exhibit G in Northern's

¹² *Northern Natural Gas Co.*, 118 FERC ¶ 61,136, at P 25-26 (2007).

¹³ *Northern Natural Gas Co.*, 119 FERC ¶ 61,111, at P 25 (2007).

application shows that the fuel gas usage for the new station is estimated to be 3.153 million cubic feet per day (MMcf/d) when total station throughput is 942 MMcf/d. This results in a fuel percentage of 0.33 percent. This percentage is significantly lower than Northern's Market Area mainline fuel percentage of 1.58 percent for the 2008-2009 heating season. Therefore, the Commission approves rolled-in rate treatment for the fuel cost of the expansion.

C. Accounting

23. Northern proposes to capitalize a \$1.1 million Contribution in Aid of Construction (CIAC) payment to CenterPoint in fulfillment of its agreement to relocate the Corcoran delivery point 1.27 miles west from the originally agreed upon location. Northern proposes to record the CIAC in Account 303, Miscellaneous Intangible Plant, and amortize it by debiting Account 405, Amortization of Other Gas Plant, and crediting Account 111, Accumulated Provision for Amortization and Depletion of Gas Utility Plant. Consistent with the Commission's Uniform System of Accounts,¹⁴ Northern is directed to amortize the CIAC by debiting Account 404.3, Amortization of Other Limited-Term Gas Plant, instead of debiting Account 405. This accounting treatment is approved for accounting purposes only.¹⁵ As with any other cost, the inclusion of the contribution in Northern's rate base will be subject to scrutiny in a future rate filing.

D. Environmental Analysis

24. The Commission approved Northern's request to use the pre-filing review process for the Zone EF expansion on February 12, 2008, in Docket No. PF08-12-000. As part of the pre-filing review, Commission staff issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Northern Lights 2009-2010 Zone EF Expansion Project and Request for Comments on Environmental Issues* (NOI) on March 20, 2008. We received 24 responses to the NOI from four federal agencies, five state agencies, six local agencies, a Native American tribe, and eight landowners.

25. To satisfy the requirements of the National Environmental Policy Act, staff prepared an environmental assessment (EA) for Northern's proposal that was issued for public comment and placed into the record on February 27, 2009. The EA addressed the purpose and need for the project; construction, operation, and maintenance procedures;

¹⁴ 18 C.F.R. Part 201 (2008).

¹⁵ See, e.g., *Kinder Morgan Interstate Gas Transmission LLC*, 122 FERC ¶ 61,154, at P 32 (2008); *Trunkline Gas Co., LLC*, 122 FERC ¶ 61,050, at P 11-12 (2008); *Kern River Gas Transmission Co.*, 99 FERC ¶ 61,085, at 61,372 (2002); *Horizon Pipeline Co., L.L.C.*, 92 FERC ¶ 61,205, at 61,688 (2000).

land requirements; permits; water resources and wetlands; vegetation; threatened and endangered species; wildlife; geology; soils; land use; socioeconomics; cultural resources; air and noise quality; reliability and safety; and alternatives to the proposed project. The EA also addressed all substantive issues raised in the scoping comment letters. Eight comments were filed in response to the EA. These are summarized and addressed below.

26. The Minnesota State Historic Preservation Office commented to clarify its recommendations regarding the individual components of the project and the results of the cultural resources surveys. The EA discussed cultural resource surveys completed to date and related findings for each project component.¹⁶ Northern has been unable to conduct surveys on some properties due to lack of access permission. Therefore, Environmental Condition No. 17 ensures that Northern cannot begin construction activities until it has filed the required cultural resources surveys, evaluation reports, any necessary treatment plans, and the Minnesota State Historic Preservation Officer's comments on the reports for the Commission's review.

27. In response to the EA, the City of Independence, Minnesota, withdrew its prior protest and stated that Northern and the affected landowners have reached an agreement on pipeline alignment. The EA discusses the reroute requested by the city and the incorporation of the reroute into the project alignment.¹⁷

28. The United States Environmental Protection Agency commented that the EA addressed all of the concerns raised in its April 21, 2008 letter, and that no major outstanding issues remained.

29. Louis Dessellier, an affected landowner on the Elk River loop, expressed concern with lack of access to his neighborhood during construction, removal of mature trees, the impact of construction on oak wilt disease, and the removal of an existing farm tap on his property. In response to Mr. Dessellier's concern that the construction corridor would clear a stand of 100-year-old trees, the EA explains that Northern has agreed to reduce the construction workspace to the existing easement on Mr. Dessellier's property.¹⁸ On March 27, 2009, Northern responded to Mr. Dessellier's other concerns and stated that neighborhood access would be available at all times during construction, the farm tap on Mr. Dessellier's property is served by an existing pipeline that would not be affected by

¹⁶ EA at 72.

¹⁷ EA at 98.

¹⁸ EA at 64.

the proposed Elk River loop, and an oak wilt mitigation plan would be implemented during construction.

30. Barb Camarata and Craig Marble, Christine Hays, and Duane Lyon also expressed concern that the timing of construction would aggravate oak wilt disease and possibly impact trees inside and outside of Northern's construction right-of-way. Oak wilt is a fungus that infects oak trees through scars from cutting, pruning, or wounding. Oak wilt can also transfer from an infected oak to a healthy oak through connecting root systems. The high risk period for oak wilt is between April 1 and July 15.

31. Northern developed an oak wilt mitigation plan that was approved by the City of Ham Lake's Park and Tree Commission and has been presented to the city council. Northern has requested a variance from the city in order to clear oak trees during the high risk period. Northern's oak wilt mitigation plan proposes control and mitigation measures, such as construction monitoring by a certified arborist, post-installation inspections into the summer of 2010, and immediate tree painting or wound dressing for all pruned or cut trees. On April 10, 2009, Northern filed comments in response to landowners' concerns to clarify the certification of the contracted arborist and assure full implementation of the oak wilt mitigation plan. On April 20, 2009, the city council denied Northern's variance request and reinforced the vegetation restrictions during the high risk period. Nevertheless, Environmental Condition No. 21 ensures that Northern cannot begin construction activities until it has concluded consultation with the City of Ham Lake and filed the required oak wilt mitigation plan and any revised alignment sheets for the Commission's review.

32. Christine Hays and Duane Lyon also expressed concern with compensation for tree removal on their properties. An easement agreement is between a company and a landowner, and it typically specifies compensation for losses resulting from construction. The Commission is not involved in matters dealing with right-of-way compensation or monetary damages.

33. The EA required that Northern complete consultation with the U.S. Fish and Wildlife Service (FWS) before beginning construction. On April 6, 2009, Northern filed documentation of consultation from the FWS in which FWS concurred with the finding that there are no federally listed or proposed species and/or designated or proposed critical habitats in the project area. To minimize the potential impacts to the ellipse mussel and other mussel species in the project area, the EA recommended that Northern complete a mussel survey and solicit comments from the Minnesota Department of Natural Resources (MDNR).¹⁹ On March 9, 2009, Northern filed a completed mussel

¹⁹ EA at 108.

survey report and consultation with MDNR reflecting the absence of mussel species in the project area. Northern has complied with the EA's recommendations regarding federally-listed species and mussel consultations. Therefore, these recommendations are not included in the Appendix of this order.

34. Based on the discussion in the EA, we conclude that if constructed in accordance with Northern's application filed on October 17, 2008, supplemental documentation, and staff's recommended mitigation measures, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

35. 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, replacement, or operation of facilities approved by this Commission.²⁰

IV. Conclusion

36. For the reasons discussed above, we find the benefits of Northern's proposed Zone EF expansion project will outweigh any potential adverse impacts, the proposed project is consistent with the Commission's Certificate Policy Statement on new facilities, and the proposed facilities and abandonment are required by the public convenience and necessity.

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

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Northern Natural Gas Company (Northern) under section 7(c) of the Natural Gas Act for the Zone EF expansion project, Docket No. CP09-11-000, as more fully described herein and in the application.

(B) Northern is granted approval to abandon facilities, as more fully described herein and in the application.

²⁰ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm'n*, 894 F.2d 571 (2d Cir. 1990); *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(C) Northern shall not commence construction unless it has final agreements for firm transportation volumes and terms equivalent to those reflected in the agreements supporting its application.

(D) Northern's request for a predetermination of rolled in rate treatment is denied without prejudice to Northern's demonstrating in a future NGA section 4 filing that such treatment will not result in subsidization of the expansion capacity by existing shippers.

(E) Northern shall adhere to the accounting requirements discussed in the body of the order.

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

Environmental Conditions

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

1. Northern shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA unless modified by this Order. Northern must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary;
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the Project. This authority shall allow:
 - a. the modification of conditions of 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 and operation.
3. **Prior to any construction**, Northern shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel would be informed of the environmental inspector's authority and have been or would be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, and 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 facilities approved by this Order. All requests for modifications of environmental conditions of this Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

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

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

This requirement does not apply to extra workspace allowed by *Northern's Upland Erosion Control, Revegetation, and Maintenance Plan*, 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 this Certificate and before construction begins**, Northern shall file an initial 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 this Order;
 - b. how Northern 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 environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
 - e. the 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:
 - (1) the completion of all required surveys and reports;
 - (2) the mitigation training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.

7. Northern shall employ a team of environmental inspectors that includes at least one per spread, during construction and restoration. The environmental inspectors shall 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 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. 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
 - e. responsible for maintaining status reports.
8. Beginning with the filing of its initial Implementation Plan, Northern shall file updated status reports with the Secretary on a **bi-weekly** basis **until all construction and restoration activities are complete**. On request, these status reports would also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
 - a. an update on 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 stream crossings or work in other environmentally sensitive areas;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(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. 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 this 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 shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project and restoration of the right-of-way. **Prior to construction**, Northern shall mail the complaint procedures to each landowner whose property would be crossed by the project.
- a. In its letter to affected landowners, Northern shall:
- (1) provide a local contact that the landowners should call first with their concerns; the letter shall indicate how soon a landowner should expect a response;
 - (2) instruct the landowners that, if they are not satisfied with the response, they should call Northern's Hotline; and
 - (3) instruct the landowners that, if they are still not satisfied with the response from Northern's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030.
- b. In addition, Northern shall include in its **bi-weekly status report** a copy of a table that contains the following information for each problem/concern:
- (1) the date of the call;
 - (2) the identification number from the certificated alignment sheets of the affected property;
 - (3) the description of the problem/concern; and
 - (4) how it was resolved or why it has not been resolved.
10. Northern must receive written authorization from the Director of OEP **before commencing service** from the Project. Such authorization would only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the Project are proceeding satisfactorily.

11. **Within 30 days of placing the certificated facilities in service**, Northern shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities would be consistent with all applicable conditions; and
 - b. identifying which of the certificate conditions Northern has complied with or would 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. **Within 1 year of completion of construction**, Northern shall file a report with the Secretary identifying all potable water supply systems damaged by construction and how they were repaired.
13. Northern shall not conduct any open-cut crossings of waterbodies proposed to be crossed using horizontal directional drill (HDD) until it files an amended crossing plan with the Secretary for review and written approval by the Director of OEP. The amended crossing plan shall include site-specific, scaled drawings identifying all areas that would be disturbed using the proposed alternate crossing method. Northern shall file the amended crossing plan concurrent with the appropriate state and federal applications required for implementation of the plan.
14. **Prior to construction of the Crow River HDD crossings** (Rockford Replacement MPs 0.86 and 15.86), Northern shall file with the Secretary, for review and written approval by the Director of OEP, revised site-specific HDD crossing plans. The revised plans shall avoid construction of travel lanes between the entry and exit points of the HDD crossings to the maximum extent feasible; provide detailed procedures for minimizing clearing during construction and operation, with the intent of limiting equipment passage and ground disturbance along the drill path; include procedures for secondary containment of pumps; site-specific justification for any proposed additional temporary workspaces; and copies of all applicable correspondences with the Army Corps of Engineers and the Minnesota Pollution Control Agency regarding the travel lanes or hydrostatic test water discharges at these locations.
15. Northern shall continue to consult with the MDNR regarding state listed species to determine the need for additional surveys or mitigation that would further minimize or avoid potential impacts on such species. Northern shall file with the Secretary the results of that consultation as well as any associated survey reports or take authorizations.

16. **Prior to construction**, Northern shall file with the Secretary a complete list of Conservation Reserve Program (CRP) lands crossed by the Project and a copy of the site-specific restoration plans for the affected CRP lands and Farm Service Agency comments on the plans.
17. Northern **shall not begin** implementation of any treatment plans/measures (including archaeological data recovery), **construction of facilities**, or use of staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
 - a. Northern files with the Secretary all cultural resources survey and evaluation reports, and any necessary treatment plans, including the HDD avoidance plans, and the Minnesota State Historic Preservation Officer comments on the reports and plans; and
 - b. The Director of OEP reviews and approves all cultural resources survey reports and plans and notifies Northern in writing that treatment plans/mitigation measures may be implemented or construction may proceed.

All material filed with FERC 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.**”

18. **Prior to construction**, Northern shall file with the Secretary, for review and written approval by the Director of OEP, a plan that includes mitigation to reduce the HDD noise contribution at the noise sensitive areas (NSAs) that are projected to be above a day-night sound level (L_{dn}) of 55 decibels on the A-weighted scale (dBA). During drilling operations, Northern shall monitor noise and make all reasonable efforts to restrict noise from the drilling operations to no more than an L_{dn} of 55 dBA at nearby NSAs.
19. Northern shall make all reasonable efforts to assure its predicted noise levels from the Albert Lea Compressor Station are not exceeded at all nearby NSAs and file noise surveys showing this with the Secretary **no later than 60 days** after placing the compressor station into service. However, if the noise attributable to the operation of the new compressor station at full load exceeds an L_{dn} of 55 dBA at any nearby NSA, Northern shall file a report on what changes are needed and shall install additional noise controls to meet that level **within 1 year** of the in-service date. Northern shall confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.

20. **Prior to the start of construction of the Corcoran Branch Line**, Northern shall file with the Secretary, for review and written approval by the Director of OEP, a site specific construction plan for tract number HE-002.2 that is developed in consultation with the affected landowner.

21. **Prior to the start of construction of the Elk River Loop Extension**, Northern shall conclude consultation with the City of Ham Lake and file with the Secretary, for review and written approval by the Director of OEP, an approved oak wilt mitigation plan and any revised alignment sheets reflecting the reduction in workspace to its existing easement in the areas sensitive to oak wilt.