

135 FERC ¶ 61,280  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
John R. Norris, and Cheryl A. LaFleur.

Northwest Pipeline GP

Docket No. CP11-59-000

ORDER GRANTING ABANDONMENT AND ISSUING CERTIFICATE

(Issued June 30, 2011)

1. On January 11, 2011, Northwest Pipeline GP (Northwest) filed an application under sections 7(b) and 7(c) of the Natural Gas Act (NGA)<sup>1</sup> and Part 157 of the Commission's regulations<sup>2</sup> requesting authority to construct, operate, and abandon natural gas pipeline and related facilities in Clackamas and Marion Counties, Oregon (Molalla Capacity Replacement Project).

2. For the reasons discussed below, the Commission will grant the requested authorizations, subject to the conditions described herein.

**I. Background and Proposal**

3. Northwest is organized under the laws of the State of Delaware. It is a natural gas company within the meaning of NGA section 2(6) and operates interstate pipeline facilities in Colorado, Idaho, New Mexico, Nevada, Oregon, Washington, Wyoming, and Utah, subject to the jurisdiction of the Commission.

4. The Grants Pass Lateral, a part of Northwest's interstate facilities, is a 260-mile long pipeline system consisting of 20-, 16-, and 12-inch diameter mainline segments, with 30-, 20-, and 16-inch diameter looped sections, that neck-down to a single 10-inch diameter pipeline. The Grants Pass Lateral connects with Northwest's mainline facilities

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<sup>1</sup> 15 U.S.C. § 717f(c) (2006).

<sup>2</sup> 18 C.F.R. Part 157 (2010).

at the Washougal Compressor Station in Clark County, Washington, and is divided into two sections – the 120-mile long Camas<sup>3</sup> to Eugene line and the 140-mile long Eugene to Grants Pass Line. Northwest's predecessor, El Paso Natural Gas Company, constructed the 16-inch diameter Camas to Eugene Line in the early 1960s<sup>4</sup> and Northwest constructed the 20-inch diameter loop line parallel to the 16-inch line in 1993.<sup>5</sup>

5. In 1994, Northwest conducted a pipeline requalification hydrostatic test on 17.6 miles of the 16-inch diameter line between the Oregon City Compressor Station near milepost (MP) 21.1 and the Molalla Meter Station near MP 38.7. The test uncovered numerous pipeline failures and evidence of stress corrosion cracking.<sup>6</sup> Northwest states that it has performed over 160 anomaly digs between Oregon City and Molalla and replaced over 7,500 feet of the 16-inch diameter pipeline between 2001 and 2010. Northwest states that its 2009 inspection and remediation activities using an electromagnetic acoustic transducer tool identified 64 anomalies. As a result, Northwest states that it completed two anomaly digs in 2009 and 62 anomaly digs in 2010 and that it replaced approximately 2,500 feet of the 16-inch diameter pipeline during that time frame.

6. Northwest states that this mitigation of the stress corrosion cracking has required extensive inspection, remediation, and monitoring activities which have led to ongoing disruptions for landowners, environmental impacts, and significant costs to Northwest and its customers. Therefore, Northwest requests authority to abandon in place approximately 15 miles of the 16-inch diameter Camas to Eugene Line extending from the Oregon City Compressor Station near MP 21.1 southward to MP 36.06 in Clackamas County, Oregon, and to construct and operate approximately 7.75 miles of 20-inch diameter loop pipeline from MP 41.02 to MP 48.77 to replace the capacity of the abandoned facilities.<sup>7</sup> The proposed loop will be parallel to the existing 16-inch diameter

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<sup>3</sup> Camas is near the Washougal Compressor Station.

<sup>4</sup> 26 FPC 788 and 26 FPC 816 (1960).

<sup>5</sup> *Northwest Pipeline Corp.*, 59 FERC ¶ 61,289 (1992).

<sup>6</sup> Stress corrosion cracking is cracking resulting from the combined influence of tensile stress and a corrosive environment.

<sup>7</sup> The existing 20-inch diameter loop partially loops the 16-inch diameter line from the Oregon City Compressor Station to MP 41.02.

line and downstream of the 15 miles of 16-inch diameter pipeline to be abandoned in place.<sup>8</sup>

7. Northwest estimates that its proposals will cost approximately \$17.2 million. Northwest states that the project will be financed with internally generated funds. Northwest contends that the proposals will allow it to continue to meet contractual commitments to its existing customers while maintaining the operational flexibility and reliability historically provided by the 15 miles of pipe to be abandoned. In addition, Northwest asserts that its proposals are designed to mitigate environmental and landowner impacts. Specifically, Northwest states that replacing the abandoned section of the 16-inch pipe with the proposed 20-inch diameter loop will reduce the construction footprint by approximately seven miles, resulting in less impact to landowners and to the environment. Northwest contends that in choosing its proposed design it evaluated logical tie-in points, landowner concerns, environmental impacts, hydraulic analyses, and proximity to its existing footprint.

## **II. Notice, Interventions, and Motions**

8. Notice of Northwest's application was published in the *Federal Register* on January 27, 2011.<sup>9</sup> The Confederated Tribes of The Grand Ronde Community of Oregon (Grande Ronde Tribes), Sierra Pacific Power Company, and Southwest Gas Corporation filed timely, unopposed motions to intervene.<sup>10</sup> Columbia Riverkeeper<sup>11</sup> and Oregon Citizens Against the Pipeline<sup>12</sup> (jointly Columbia Riverkeeper) filed a timely joint, unopposed motion to intervene.

9. In their motions to intervene, the Grande Ronde Tribes and Columbia Riverkeeper raise environmental concerns about Northwest's proposals. Columbia Riverkeeper also contends that Northwest failed to demonstrate that the project was in the public interest

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<sup>8</sup> In addition, Northwest proposes to relocate the existing pig receiver at MP 41.02 to MP 48.04 and to install a new tap to connect the existing Monitor Meter Station to the proposed 20-inch diameter loop.

<sup>9</sup> 76 Fed. Reg. 4,890 (Jan. 27, 2011).

<sup>10</sup> Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010).

<sup>11</sup> Columbia Riverkeeper is a non-profit public interest group.

<sup>12</sup> The Oregon Citizens Against the Pipeline is a citizen's group that opposes natural gas pipelines and associated liquefied natural gas projects in Oregon.

and requests a “formal hearing.” The Grande Ronde Tribes’ and Columbia Riverkeeper’s concerns are addressed below.

10. A landowner, Mr. Bob Rinkes, filed comments concerning landslide issues on his property near Abernathy Creek along the Camas to Eugene Line in the vicinity of the pipeline proposed to be abandoned in place. Neighbors of Mr. Rinkes, Jamie Perini and Jerry and Pamela Emmons, filed comments supporting his concerns. In addition, Congressman Kurt Schrader filed a letter on behalf of Mr. Rinkes. Mr. Rinkes’ concerns are also addressed below.

### **III. Discussion**

11. Since Northwest’s facilities are and will be used to transport natural gas in interstate commerce, the proposed construction, operation, and abandonment are subject to the requirements of NGA sections 7(b) and (c).

#### **A. Columbia Riverkeeper’s Motion to Intervene**

12. Columbia Riverkeeper asserts that it is not clear from the application that the new pipeline is required by the public convenience and necessity and that Northwest failed to provide a factual basis for its contention that the pipeline, as proposed, is needed for the Pacific Northwest.<sup>13</sup> The Columbia Riverkeeper requests a “formal hearing.”

13. Section 7 of the NGA provides for a hearing when an applicant seeks a certificate of public convenience and necessity but does not require that all such hearings be formal trial-type hearings. An evidentiary trial-type hearing is necessary only where material issues of fact are in dispute and cannot be resolved on the basis of the written record.<sup>14</sup> As discussed herein, the written record provides a sufficient basis upon which to resolve the factual issues presented in this proceeding, and the Commission finds no need for an evidentiary or formal hearing.

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<sup>13</sup> Columbia Riverkeeper also asserts that the application fails to demonstrate that the proposed facility “is not inconsistent with the public interest,” as required by section 153.7(c) of the Commission’s regulations. Section 153.7(c) applies to applications filed pursuant to section 3 of the NGA and is inapplicable to Northwest’s proposal herein, which was filed under sections 7(b) and 7(c) of the NGA. The Commission evaluates applications under sections 7(b) and 7(c) of the NGA pursuant to section 157 of the regulations and the Certificate Policy Statement.

<sup>14</sup> See, e.g., *Southern Union Gas Co. v. FERC*, 840 F.2d 964, 970 (D.C. Cir. 1988); *Cerro Wire & Cable Co. v. FERC*, 677 F.2d 124 (D.C. Cir. 1982); and *Citizens for Allegan County, Inc. v. FPC*, 414 F.2d 1125, 1128 (D.C. Cir. 1969).

14. Further, the Commission finds that Northwest has provided sufficient information in its application and supplements to determine that the project is in the public convenience and necessity. As discussed below, abandonment of the existing 16-inch diameter pipeline segment is appropriate given its history of anomalies and stress corrosion cracking. The replacement project will reduce ongoing disruptions to landowners. Further, replacement of the capacity lost by abandonment is necessary to maintain existing service to Northwest's customers.

### **B. Abandonment**

15. Northwest seeks authorization pursuant to section 7(b) of the NGA to abandon in place approximately 15 miles of its 16-inch diameter Camas to Eugene Line. As discussed above, this segment of pipeline suffers from the effects of stress corrosion cracking which has led to several outages. In order to mitigate the effects of stress corrosion cracking, Northwest has had to remove the line from service in order to replace various segments of the pipeline. In addition to impacting services to Northwest's customers, these maintenance activities have inconvenienced landowners along the pipeline right-of-way. Abandonment of this pipeline and its replacement with a new pipeline loop will improve the reliability of existing services and reduce conflicts with landowners. Further, because the capacity associated with the pipeline to be abandoned will be offset by the construction of the new line, no existing services will be abandoned. Therefore, we find that it is in the public convenience or necessity to permit the abandonment.

### **C. Certificate Policy Statement**

16. The Certificate Policy Statement provides guidance as to how the Commission will evaluate proposals for certificating major new pipeline construction.<sup>15</sup> The Certificate Policy Statement established 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 explained that in deciding whether to authorize construction of major new natural gas facilities, the Commission balances the public benefits against the potential adverse impacts. The Commission's goal in evaluating new pipeline construction is to give appropriate consideration to enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, avoidance of

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<sup>15</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on further clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

unnecessary disruptions of the environment, and the unneeded exercise of eminent domain.

17. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the construction. 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.

18. The Certificate Policy Statement provides that it is not a subsidy for existing customers to pay for projects designed to replace existing capacity or improve the reliability or flexibility of existing service.<sup>16</sup> Here, the Commission finds that Northwest's proposals will improve the operational reliability of the Camas to Eugene Line by removing from service the 16-inch diameter pipeline that has experienced stress corrosion cracking and replacing its capacity with a 20-inch diameter loop. Thus, the Commission finds that the threshold no-subsidy requirement of the Certificate Policy Statement has been met. Further, the Commission finds that it will be appropriate for Northwest to roll the costs of the project into its existing rates in its next NGA section 4 general rate case.

19. The Commission also finds that the project will not have an adverse impact on Northwest's existing customers because it is designed to maintain existing services to these customers and will make their service more reliable by reducing outages associated with the line to be abandoned. Since the project does not include new service and affects only Northwest's system, there will be no adverse impact on other pipelines or their customers. In addition, the Commission finds that the proposed project has been designed to minimize impacts on landowners and the environment, since most of the necessary work will take place within previously disturbed rights-of-way. Further, the use of a larger diameter replacement pipeline will reduce the construction footprint by approximately seven miles. Northwest states that it will vary the route of the new facilities only where engineering and environmental concerns require it to do so.

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<sup>16</sup> Certificate Policy Statement, 88 FERC ¶ 61,227 n. 12 (1999). *See also Northwest Pipeline Corp.*, 104 FERC ¶ 61,176, at P 23 (2003).

Northwest has worked with landowners, particularly farmers, to minimize impacts on their operations. Finally, landowners along the abandoned pipeline will no longer be impacted by maintenance/replacement activities associated with Northwest's efforts to mitigate issues associated with stress corrosion cracking.

20. Based on the benefits the project will provide and the lack of any identifiable adverse impacts on existing customers, other pipelines and their customers, and minimal impacts on landowners and communities, the Commission finds, consistent with the Certificate Policy Statement and section 7(c) of the NGA, that Northwest's project is required by the public convenience and necessity, subject to the conditions imposed herein. Further, as discussed above, the Commission also finds that the public convenience or necessity permit Northwest's abandonment of the proposed facilities under section 7(b) of the NGA because of the deteriorated condition of the facilities.

#### **D. Environment**

21. On February 16, 2011, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (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.

22. The Commission received comments in response to the NOI from a member of the U.S. House of Representatives, a local municipality, an affected landowner, and two members of the general public living in the project area. In addition, two intervenors, the Grande Ronde Tribes and Columbia Riverkeeper, raised environmental concerns. The primary issues raised were project location, landslide issues associated with retiring the pipeline segment in place at and near Abernathy Creek, impacts on agricultural land uses, impacts on water quality and aquatic species, wetland impacts, and safety.

23. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA),<sup>17</sup> the Commission's staff prepared an environmental assessment (EA) for the project. The EA addressed geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, visual resources, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. Substantive environmental comments received in response to the NOI were addressed in the applicable sections of the EA.

24. Congressman Kurt Schrader sent a letter on behalf of a landowner, Bob Rinkes, requesting that the Commission consider Mr. Rinkes' concerns about a landslide area

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<sup>17</sup> 42 U.S.C. §§ 4321-4370f (2006).

near the Abernathy Creek crossing of the pipeline segment proposed to be retired. As described in the EA (section 2.1.1.3), the Commission's staff conducted two site visits of the area and determined that additional study was necessary to characterize the source of groundwater flow potentially causing erosion and to ensure that appropriate restoration and mitigation measures are employed. In response to requests for additional information from Commission staff, Northwest has committed to undertaking a detailed geohydrological analysis of the site in coordination with Commission staff and Mr. Rinkes and development of a plan to identify and remediate drainage issues that could be caused by or impacting the existing pipeline right-of-way or nearby landslide.

25. In their motion to intervene, the Grand Ronde Tribes stated that members historically occupied the Willamette River Valley, and that members continue to use the land and waters in the valley. This includes fishing in streams and gathering traditional plant resources in uplands. The Grand Ronde Tribes are concerned about potential project impacts on aquatic resources (including the Pacific lamprey), wetlands and upland habitats, certain plant species, wildlife, and cultural resources.

26. The proposed 20-inch diameter pipeline will cross nine perennial water bodies (see Table 2.3.2-1 on page 2-32 of the EA).<sup>18</sup> Northwest will directionally drill two streams (Rock Creek and Butte Creek) that support anadromous fish, including Pacific lamprey, to avoid significant impacts on those water bodies and their fisheries. Pacific lamprey were not identified as being present in the other water bodies crossed by the new pipeline. The EA evaluated the general project-related effects on water quality and determined that impacts would be minimized by Northwest's proper implementation of the procedures of its project-specific Erosion Control and Revegetation Plan (ECRP).

27. The EA discusses possible effects of the project on wetlands and describes Northwest's commitment to follow its ECRP and adhere to the conditions of the U.S. Army Corps of Engineers permit under section 404 of the Clean Water Act. The EA concludes that the project would not have any significant impacts on wetlands.

28. The EA also discusses the potential for the project to affect land that is in agricultural use.<sup>19</sup> As described in the EA, Northwest has developed a variety of specific measures to reduce or avoid impacting specialty crops and orchards, including avoiding construction within affected hop fields during the harvest times of late August through early October.

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<sup>18</sup> The EA addressed potential project impacts on water resources in section 2.2.

<sup>19</sup> The EA addressed land use in section 2.5.

29. The Grand Ronde Tribes identified one traditional cultural property (Mount Angel) in the vicinity of the project area.<sup>20</sup> However, as explained on pages 2-58 and 2-60 of the EA, this hill, now occupied by a monastery, is about one mile southeast of the terminus of the new pipeline and would not be affected by the project.

30. The EA was issued for a 30-day comment period and placed into the public record on May 11, 2011. The Oregon State Historic Preservation Office (SHPO) sent comments on cultural resources to Northwest, which in turn filed those comments with the Commission on May 25, 2011. On June 3 and 6, 2011, the SHPO filed comments on the cultural resources section of the EA with the Commission.

31. The SHPO concurs with staff's findings in section 2.6.3 of the EA that all the isolated finds are not eligible for nomination to the National Register of Historic Places (NRHP). However, the SHPO requests that a monitoring plan be developed by Northwest for areas where isolated finds are located, to be included as part of a revised Unanticipated Discovery Plan (Discovery Plan). The SHPO also indicates that it had not yet received a copy of Northwest's Discovery Plan. In a March 24, 2011 data request, staff directed Northwest to provide the SHPO with a revised Discovery Plan and to file the SHPO comments with the Commission. Page 2-65 of the EA states that Northwest needs to document that it provided the revised Discovery Plan to the SHPO. Environmental Condition 13a(1) in the appendix to this order requires that Northwest file SHPO comments on all cultural resources reports and plans prior to construction.

32. The EA (page 2-65) indicates that the Commission staff did not think that the house at 12297 Meridian Road was eligible for the NRHP, while the Samson Farm house appeared to be potentially eligible, pending the SHPO evaluation. In its letters to the Commission dated May 2 and June 1, 2011, the SHPO expressed its opinions that the historic house at 12297 Meridian Road is eligible, and the Samson Farm house is not eligible. The Commission staff defers to the SHPO's opinions.

33. The SHPO agrees with staff that Northwest should conduct testing for the NRHP at nine archaeological sites that are unevaluated and cannot be avoided (see Table 2.6-2 on pages 2-62-64 of the EA), and that the SHPO would comment on eligibility and effect for those sites once testing is complete. The SHPO also agrees that additional surveys are necessary. Environmental Condition 13 in the appendix to this order requires Northwest to conduct additional cultural resources investigations to complete the process of compliance with section 106 of the National Historic Preservation Act.

34. Based on the analysis in the EA, the Commission concludes that if constructed and operated in accordance with Northwest's application and supplements, and in compliance

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<sup>20</sup> The EA mentions cultural resources in section 2.6.

with the environmental conditions in the appendix to this order, the Commission's 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 and replacement of facilities approved by this Commission.<sup>21</sup>

36. 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, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) Permission for and approval of the abandonment by Northwest of approximately 15 miles of 16-inch diameter pipeline facilities, as described more fully above and in the application, is granted, subject to compliance with Part 157 of the Commission's regulations.

(B) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued under section 7(c) of the NGA authorizing Northwest to construct and operate the Molalla Capacity Replacement Project, as more fully described above and in the application.

(C) Northwest shall comply with all applicable Commission regulations under the NGA and particularly the general terms and conditions set forth in paragraphs (a), (c), (e) and (f) of section 157.20 and Parts 154 and 284 of the Commission's regulations.

(D) Northwest shall notify the Commission's environmental staff by telephone, email and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Northwest. Northwest shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

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<sup>21</sup>See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(E) The facilities authorized in this order shall be constructed and made available for service within one year of the date of issuance of this order, in compliance with section 157.2(b) of the Commission's regulations.

(F) Northwest shall notify the Commission of the date of the abandonment within 10 days thereof.

(G) Northwest shall comply with the environmental conditions set forth in the appendix of this order.

(H) Columbia Riverkeeper's request for a formal hearing is denied.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

## Appendix

### Environmental Conditions

1. Northwest shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the Order. Northwest must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary;
  - b. justify each modification relative to site-specific conditions;
  - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
  - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction, operation, and activities associated with retirement 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, operation, and activities associated with retirement.
3. **Prior to any construction**, Northwest shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, Environmental Inspector (EI), and contractor personnel will be informed of the EI's 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 alignment sheets. **As soon as they are available, and before the start of construction**, Northwest shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

Northwest's exercise of eminent domain authority granted under NGA Section

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

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

This requirement does not apply to extra workspace allowed by Northwest's Erosion Control and Revegetation Plan and/or minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

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

- a. implementation of cultural resources mitigation measures;
  - b. implementation of endangered, threatened, or special concern species mitigation measures;
  - c. recommendations by state regulatory authorities; and
  - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the certificate and before construction or retirement activities begins**, Northwest shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Northwest must file revisions to the plan as schedules change. The plan shall identify:
    - a. how Northwest will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
    - b. how Northwest will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and

- specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
- c. the number of EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
  - e. the location and dates of the environmental compliance training and instructions Northwest will give to all personnel involved with construction and restoration (initial and refresher training as the Project progresses and personnel change);
  - f. the company personnel and specific portion of Northwest's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) Northwest will follow if noncompliance occurs; and
  - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the environmental compliance training of onsite personnel;
    - (3) the start of construction; and
    - (4) the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, Northwest shall file updated status reports with the Secretary on a **biweekly** basis until all construction and restoration activities are complete. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on Northwest's efforts to obtain the necessary federal authorizations;
  - b. the construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally-sensitive areas;
  - c. a listing of all problems encountered and each instance of noncompliance observed by the 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 Northwest from other federal, state, or local permitting agencies concerning instances of noncompliance, and Northwest's response.
8. **Prior to receiving written authorization from the Director of OEP to commence construction of project facilities**, Northwest shall file with the Secretary documentation that it has received all authorizations required under federal law (or evidence of waiver thereof).
9. Northwest must receive written authorization from the Director of OEP **before placing the project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
10. **Within 30 days of placing the authorized facilities in service**, Northwest shall file an affirmative statement with the Secretary, certified by a senior company official:
  - a. that the facilities have been constructed/retired/installed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
  - b. identifying which of the certificate conditions Northwest has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. **Prior to construction** at MP 41.4, Northwest shall file with the Secretary a report fully characterizing the material found in the soil near MP 41.4, including an assessment regarding potential risks to the human or natural environment and mitigation measures to avoid or minimize potential impacts.
12. Northwest **shall not begin construction** activities **until**:
  - a. the staff receives comments from the National Marine Fisheries Service (NMFS) regarding the proposed action;
  - b. the staff completes informal consultation with the NMFS; and
  - c. Northwest has received written notification from the Director of the OEP that construction or use of mitigation may begin.
13. Northwest **shall not begin construction** of facilities, and use of any staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
  - a. Northwest files with the Secretary:
    - (1) remaining cultural resources survey reports;
    - (2) site evaluation report(s), and avoidance/treatment plans, as required;

- and
- (3) comments on the cultural resources reports and plans from the Oregon SHPO and interested Indian tribes.
  - b. the Advisory Council on Historic Preservation is afforded an opportunity to comment if historic properties would be adversely affected; and
  - c. the Commission's staff reviews, and the Director of OEP approves, the cultural resources reports and plans, and notifies Northwest in writing that treatment plans/mitigation measures (including archaeological data recovery) may be implemented and/or construction may proceed.

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