

142 FERC ¶ 61,186
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Gas Transmission Northwest, LLC

Docket No. CP12-494-000

ORDER ISSUING CERTIFICATE

(Issued March 14, 2013)

1. On July 31, 2012, Gas Transmission Northwest, LLC (GTN) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's Regulations² for authorization to construct and operate a lateral pipeline and other associated facilities in Morrow County, Oregon in order to provide up to 175,000 dekatherms (Dth) per day of firm transportation service to Portland General Electric Company's (PGE) Carty Generating Station (the Carty Lateral Project). For the reasons discussed below, the Commission grants GTN's requested certificate authorization subject to the conditions described below.

I. Background and Proposal

2. GTN is a natural gas company engaged in the transportation of natural gas in interstate commerce, subject to the Commission's jurisdiction. GTN's pipeline system extends for approximately 1,351 miles between the United States-Canada border at Kingsgate, British Columbia, and the Oregon-California border, providing open-access transportation service in Idaho, Washington, and Oregon.

3. PGE, which provides electric service to more than 800,000 customers in Oregon, plans to construct a combined cycle natural gas-fired power plant, known as the Carty Generating Station, in Morrow County. The plant will provide an incremental 300-500 megawatts (MW) of electric generation in order to meet PGE's forecasted growth.³

¹ 15 U.S.C. § 717f (2009).

² 18 C.F.R. § 157 (2012).

³ The Carty Generating Station is a non-jurisdictional facility, which in June 2012 received a final site certificate and final order from the Oregon Energy Facility Siting Council.

4. GTN proposes to construct and operate approximately 24.3 miles of 20-inch diameter pipeline between GTN's Ione Compressor Station and PGE's planned Carty Generating Station. GTN also proposes to construct and operate a tap assembly and pig launcher within the Ione Compressor Station yard or within GTN's adjacent right-of-way and a meter station and pig receiver at the Carty Generating Station. The Carty Lateral Project will enable GTN to provide up to 175,000 Dth per day of firm transportation service to the Carty Generating Station. GTN estimates the project cost to be \$54,353,000.

5. PGE specifically requested that GTN construct a lateral to its Carty Generating Station, and held an open season from February 13 through March 14, 2012 to ascertain whether there was any additional market demand. No other potential shipper expressed interest. On July 20, 2012, GTN and PGE entered into a precedent agreement, wherein PGE agreed to contract for the entire design capacity on the Carty Lateral Project for a term of 30 years.⁴

6. GTN proposes incremental recourse rates under its existing Rate Schedule FTS-1 for service on the Carty Lateral Project. GTN states that it has negotiated a long-term adjustable negotiated rate with PGE for service on the proposed facilities.

II. Notice and Interventions

7. Public notice of GTN's application was published in the *Federal Register* on August 13, 2012.⁵ No motions to intervene, protests or adverse comments were filed.

III. Discussion

8. Since the proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.⁶

⁴ GTN Application at Exhibit I.

⁵ 77 Fed. Reg. 48,132 (2012).

⁶ 15 U.S.C. §§ 717f (c) and 717f (e) (2006).

A. The Certificate Policy Statement

9. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.⁷ 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 the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

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

11. As discussed above, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. We find that the proposed Carty Lateral Project will not result in subsidization by existing customers. As described in more detail below, GTN has proposed incremental recourse rates under its existing Rate Schedule FTS-1 calculated to recover all construction, installation, operation and maintenance costs associated with the project from project shippers.

12. We find that the proposed project will have no adverse impacts on GTN's existing shippers. In addition, the project will not replace firm transportation service on any other pipeline. Further, no pipeline company in the market area has protested the application.

⁷ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227(1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

Thus, we find that there will be no adverse impact on other pipelines or their captive customers.

13. GTN will construct the Carty Lateral Project almost entirely on land used for agricultural purposes. GTN has contacted landowners along the proposed project route and no landowner has commented on the project. GTN expects limited, if any, use of eminent domain. Thus, we find that GTN has designed the project to minimize impacts on landowners and surrounding communities.

14. On balance, we find that the economic benefits of GTN's proposal outweigh any potential adverse impacts on the interests discussed. The Carty Lateral Project will provide PGE with access to the natural gas necessary to meet electricity demand in its service territory. Based on the benefits the project will provide and the minimal adverse effect on existing shippers, other pipelines and their captive customers, and landowners and surrounding communities, we find, consistent with the criteria discussed in the Certificate Policy Statement and section 7 of the NGA, that the public convenience and necessity requires approval of GTN's Carty Lateral Project, subject to the conditions discussed below.

B. Rates

15. GTN estimates a total cost of service for the Carty Lateral Project of \$11,014,000. Based on this, GTN calculated a recourse firm transportation Daily FTS-1 Reservation Rate of \$0.172430 per Dth, and a recourse rate for interruptible transportation service (ITS-1) of \$0.172430 per Dth, which is a non-mileage volumetric rate equal to the 100 percent load factor equivalent for firm transportation service.

16. GTN calculated its incremental cost of service using the estimated cost of facilities, engineering estimates for operation and maintenance expenses based on estimates for similar facilities, and other costs factors, including a rate of return of 9.55 percent.⁸ GTN designed its incremental reservation rates using the straight fixed-variable rate design methodology. Since there is no compression on the Carty Lateral, GTN proposes a fuel rate of 0.00 percent.

17. We have reviewed GTN's proposed cost-of-service, allocation, and rate design for its initial recourse rates and find that the calculations generally reflect current Commission policy. GTN used a 30-year depreciation period based on the economic life of the facilities as determined by the contract term with PGE, to calculate the recourse rates for the proposed incremental services. Although Commission policy generally requires that the depreciable life of facilities be based on the estimated useful life of the facilities, we have deviated from this policy and have allowed the depreciation rate to be

⁹ GTN Application at Exhibit P.

based on the life of the contract with respect to delivery laterals built on behalf of specific customers.⁹

18. GTN has used a return on equity (ROE) of 13 percent to calculate its proposed recourse rates, which differs from the ROE approved in its most recent rate settlement.¹⁰ We find that GTN has not supported its use of an ROE component different from its currently-approved system-wide ROE. Therefore, we will deny GTN's proposal to use the higher rate of return and direct GTN to make a filing no later than 60 days before the in-service date of the project to revise the recourse rates to reflect its currently-authorized ROE.

19. GTN states that it intends to enter into a negotiated rate agreement under Rate Schedule FTS-1 with PGE. GTN must file its negotiated rate agreement or a tariff record describing the negotiated rate agreements associated with this project in accordance with the Alternative Rate Policy Statement¹¹ and the Commission's negotiated rate policies.¹²

C. Environmental Review

20. Commission staff began its environmental review of the Carty Lateral Project following approval for GTN to use the pre-filing process on March 31, 2011, in Docket No. PF11-5-000. As part of the pre-filing review, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment, Request for Comments on Environmental Issues and Notice of Public Scoping Meeting* (NOI) on June 14, 2011. The NOI was published in the Federal Register¹³ and 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. On June 28, 2011, Commission staff held a public scoping meeting

⁹See, e.g., *Algonquin Gas Transmission Co.*, 118 FERC ¶ 61,222, at P 35 (2007).

¹⁰The current system rate of return on equity is 12.2 percent, as provided for in GTN's settlement in Docket No. RP94-149-000.

¹¹*Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, *order granting clarification*, 74 FERC ¶ 61,194 (1996).

¹²*Natural Gas Pipelines Negotiated Rate Policies and Practices; Modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003), *order on reh'g and clarification*, 114 FERC ¶ 61,042, *dismissing reh'g and denying clarification*, 114 FERC ¶ 61,304 (2006).

¹³76 Fed. Reg. 118 (2011).

near the proposed facility in Ione, Oregon to provide the public with an opportunity to learn more about the project and to comment on environmental issues.

21. Commission staff received written and verbal comments during the public scoping process from the U.S. Fish and Wildlife Service (FWS), the Oregon Department of Fish and Wildlife (ODFW), the Oregon Department of Energy, the Oregon Parks and Recreation Department, the Morrow County Planning Department (MCPD), The Nature Conservancy (TNC), and two individuals.

22. The comments received during the public scoping period were primarily concerned with the proposed route alignment. Specifically, the comments advocated avoidance of: (1) habitat for the Washington ground squirrel; (2) native sagebrush-steppe and grassland habitats; and (3) the Boardman Conservation Area, which includes all three of these native habitats. Prior to filing its application on July 31, 2012, GTN modified its originally-proposed route to address these concerns. GTN's proposed route that Commission staff analyzed in the Environmental Assessment (EA) avoids the high-quality Washington ground squirrel habitats within the Boardman Conservation Area.

23. To satisfy the requirements of the National Environmental Policy Act of 1969,¹⁴ Commission staff prepared an EA for the project.¹⁵ The FWS and the MCPD participated in the preparation of the EA as cooperating agencies. The EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, and alternatives.

24. The EA was issued for a 30-day comment period and placed into the public record on December 10, 2012. The Commission received comments on the EA from the National Park Service (NPS), ODFW, TNC, and GTN. In general, the NPS and TNC agree with the conclusions of the EA on routing, and affirm their preference for GTN's proposed pipeline route. The NPS expressed concern about the potential impact that both the proposed route and the alternative route (GTN's original route) could have an impact on intact portions of the Oregon National Historic Trail (Oregon Trail).

25. GTN changed its route during pre-filing to avoid impacts on the Boardman Conservation Area and reduce impacts on the Washington ground squirrel. GTN's decision to change the route is in keeping with the stated goals of the pre-filing process of identifying and resolving environmental issues and staff supported the route change. The

¹⁴ 42 U.S.C. §§ 4321 *et seq.* (2006).

¹⁵ The FWS and the MCPD participated in the preparation of the EA as cooperating agencies.

EA analyzes the original route as an alternative but concludes that this alternative offers no clear environmental advantage over the proposed route and does not recommend its use. The NPS stated that the alternative route crosses a segment of the Oregon Trail known as the Boardman High Potential Segment. The EA acknowledges that the alternative does impact this cultural resource; however, this was not a determining factor in discounting the alternative in the EA since the proposed route also crosses the Oregon Trail. Because GTN was denied survey access to the area along the proposed route, the cultural resource surveys are not complete. The EA recommends that GTN be required to complete the remaining cultural resource surveys prior to any construction for the project. We have included this recommendation as environmental condition 16 in this order. If any cultural sites are identified, the condition requires GTN to file avoidance and/or treatment plans for review and approval to ensure that its project does not result in any adverse impact on any cultural resource, including the Oregon Trail. Given the established process for avoiding or mitigating impacts on cultural resources, we believe the NPS concern has been addressed.

26. The ODFW provided comments regarding the project's permanent impact on the Washington ground squirrel habitat and compensatory mitigation. The EA states that although the 50-foot-wide operational easement would occupy 147.3 acres, the majority of this acreage consists of agricultural land (72 percent of the route) that would return to agricultural use during pipeline operation. The remainder of the permanent right-of-way, with the exception of the minor permanent aboveground facilities (a mainline valve and meter station), would be restored and monitored until revegetation is successful. As discussed in more detail below, GTN must develop and file a detailed Washington Ground Squirrel Mitigation Plan for review and approval prior to construction.

27. The EA also states that GTN has committed to avoiding habitat classified by the ODFW as Habitat Categories 1 or 2¹⁶ and to reducing the width of the right-of-way through the two grassland areas classified by ODFW as Habitat Category 3.¹⁷ In addition, the EA recommends the inclusion of environmental condition 14, which requires GTN to file its Washington Ground Squirrel Mitigation Plan for review and approval prior to construction. We have included this recommendation as an environmental condition to this order, and note that the required plan will be developed in

¹⁶ Habitat Category 1 is defined as “[i]rreplaceable, essential and limited habitat,” and Habitat Category 2 is defined as “[e]ssential and limited habitat.” Oregon Dep’t of Fish and Wildlife, Habitat Categories and Mitigation Strategies, http://www.dfw.state.or.us/lands/mitigation_policy.asp.

¹⁷ Habitat Category 3 is defined as “[e]ssential habitat, or important and limited habitat.” Oregon Dep’t of Fish and Wildlife, Habitat Categories and Mitigation Strategies, http://www.dfw.state.or.us/lands/mitigation_policy.asp.

coordination with the FWS and ODFW. We conclude that environmental condition 14 sufficiently addresses ODFW's stated concerns and recommendations.

28. The ODFW comments on a statement in the EA regarding GTN's decision to site the project outside of the 785-foot disturbance buffer from active Washington ground squirrel colonies wherever possible. ODFW recommends complete avoidance of these colonies, which are considered Habitat Category 1. As discussed in the EA, GTN will only impact areas within the 785-foot disturbance buffer if there is a break in habitat between the colony and the work area (e.g., road or cropland) and if the ODFW and FWS give site-specific approval. Currently, only one location has been identified where this situation would occur (milepost 0.0) and the ODFW gave its approval, along with providing additional mitigation measures. We conclude that GTN's proposal addresses the ODFW's concerns that the project should avoid areas designated as Habitat Category 1.

29. In addition, the ODFW seeks clarification of GTN's commitment to revegetate disturbed areas along the right-of-way. As stated in the EA, GTN would monitor the right-of-way annually for a minimum of three years as required by our *Upland Erosion Control, Revegetation and Maintenance Plan* (Plan), and would review the success of the revegetation five years after construction and again, if needed, ten years after construction. GTN's proposed measures and its compliance with our Plan will ensure successful revegetation of the disturbed right-of-way. Additionally, Commission staff will conduct periodic inspections of the right-of-way until restoration is complete.

30. TNC recommends that GTN develop a more comprehensive mitigation program for migratory birds and Washington ground squirrels, such as the one being developed for the Cascade Crossing Transmission Project (Cascade Project).¹⁸ However, the Commission finds that comparable mitigation is inappropriate because the Cascade Project is an electric transmission project, with primary impacts that are fundamentally different from those of a natural gas pipeline project, including the construction of permanent above-ground structures and roads. GTN has committed to developing a Migratory Bird Conservation Strategy in coordination with the FWS and a Washington Ground Squirrel Mitigation Plan in coordination with the ODFW and the FWS, which will both be reviewed and approved by the director of the Office of Energy Projects (OEP) prior to construction. Commission staff finds that GTN's proposed mitigation

¹⁸ The Cascade Project as discussed in the EA is an approximately 200-mile-long electrical transmission line. The project sponsor, Portland General Electric, revised the project as of January 2013, to a 122-mile-long transmission line with up to four new substations and would parallel existing electric transmission lines (<http://www.cascadecrossingproject.com/pge.aspx>). Due to the Cascade Project changes, its impacts on the Washington ground squirrel are uncertain at this time.

plan is consistent with both the nature of the Carty Lateral Project and with similar pipeline projects. We conclude that TNC's concerns have thus been adequately addressed.

31. TNC also states that the Commission should consider the long-term impacts on the grasslands and sagebrush-steppe habitats in the project area. Section B.3.1 of the EA adequately discusses the long-term impacts on these habitats and describes the mitigation and monitoring that GTN proposes in order to minimize grassland and sagebrush-steppe habitat impacts to the maximum extent practical.

32. Finally, TNC raises concerns about potential project impacts on the existing Multi-Species Candidate Conservation Agreement with Assurances (MSCCAA) which covers a significant portion of the surrounding area.¹⁹ The GTN route does not cross land areas covered within the MSCCAA; neither will the route affect the 250-foot buffer zone around the MSCCAA. A portion of the route (milepost 12.3-14.0) is within 250 feet of the boundary of the Boardman Conservation Area, however, the landowners in that area are not parties to the MSCCAA.

33. GTN, in its comments on the EA, sought to clarify its two proposed modifications to the Commission's *Wetland and Waterbody Construction and Mitigation Procedures* (Procedures) relating to the proposed open-cut crossing of Willow Creek, a coolwater fishery. As discussed in the EA, GTN's proposed timing²⁰ and crossing methods are consistent with the Procedures, provided GTN receives final approvals from the ODFW and the Oregon Department of State Lands.²¹

34. GTN requests that the Commission revise the EA's recommended environmental condition 15 to remove the restriction limiting construction to daylight hours only. GTN clarified that although construction would primarily occur during daylight hours, some activities may require construction at night. GTN contends that for the majority of the

¹⁹ The MSCCAA is a 25-year agreement between TNC, PGE, ODFW, and Threemile Canyon Farms, under which the parties implement habitat management, operational modifications, and conservation measures for four species, including the Washington ground squirrel, over approximately 93,000 acres in northeast Oregon. *See* 68 Fed. Reg. 51,589 (2003).

²⁰ Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources (June 2008), *available at* http://www.dfw.state.or.us/lands/inwater/Oregon_Guidelines_for_Timing_of_%20InWater_Work2008.pdf.

²¹ *Wetland and Waterbody Construction and Mitigation Procedures*, at Section V.B.1.

project route, any construction that would extend into the night would not affect residences due to the distance from residences, with the exception of one residence located near the construction right-of-way at milepost 0.9. This residence is currently unoccupied. We have revised environmental condition 15 to clarify that the requirements in this condition, including the limitation on nighttime construction, will only apply if the residence at milepost 0.9 is occupied at the time of construction.

35. We have reviewed the information and analysis contained in the record, including the EA, regarding the potential environmental effect of GTN's proposed project. Based on our consideration of this information, we agree with the conclusions presented in the EA and find that if constructed and operated in accordance with GTN's application and supplements, and the environmental conditions imposed herein, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

36. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. We encourage cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.²²

37. 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) A certificate of public convenience and necessity is issued to GTN, authorizing the construction of the proposed Carty Lateral Project, as described more fully in this order and in the application.

(B) The certificate issued herein is conditioned on GTN's compliance with all of the applicable regulations under the NGA including, but not limited to, Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations.

²²See, 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.*, 52 FERC ¶ 61,091 (1990), *order on reh'g*, 59 FERC ¶ 61,094 (1992).

(C) The facilities authorized herein shall be constructed and made available for service within two years of the date of the order in this proceeding, as required by section 157.20(b) of the Commission's regulations.

(D) The certificate issued in Ordering Paragraph (A) above is conditioned on GTN's compliance with the environmental conditions included in the Appendix to this order.

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

(F) GTN's request for authority to charge incremental rates for the Carty Lateral Project is approved, subject to GTN filing the rates with a revised return on equity. GTN shall submit actual tariff records that comply with the requirements contained in the body of this order no less than 60 days prior to the in-service date of the Carty Lateral.

(G) GTN shall file either its negotiated rate agreement or tariff records describing the transaction for each shipper paying a negotiated rate at least 30 days, and not more than 60 days, prior to the commencement of service.

(H) Prior to the commencement of construction, GTN shall execute contracts for service at levels and under terms and conditions equivalent to those it represented was subscribed under its precedent agreement.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Environmental Conditions

1. GTN shall follow the construction procedures and mitigation measures described in its application and supplements and as identified in the EA, unless modified by the Order. GTN 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 the OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of the Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to ensure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, GTN 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 inspectors' 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. **As soon as they are available, and before the start of construction**, GTN 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. GTN's exercise of eminent domain authority granted under Natural Gas Act section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations. GTN'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. GTN 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, as well as staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of the OEP **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by our *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. **At least 60 days before construction begins**, GTN shall file an Implementation Plan with the Secretary for review and written approval by the Director of the OEP. GTN must file revisions to the plan as schedules change. The plan shall identify:
 - a. how GTN will implement the construction procedures and mitigation measures described in its application and supplements, identified in the EA, and required by the Order;
 - b. how GTN 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 on-site construction and inspection personnel;
 - c. the number of environmental inspectors assigned 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 location and dates of environmental compliance training and instructions GTN will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel changes);
 - f. the company personnel (if known) and specific portion of GTN's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) GTN will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - i. The completion of all required surveys and reports,
 - ii. The environmental compliance training of on-site personnel,
 - iii. The start of construction, and
 - iv. The start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, GTN 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 GTN'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 inspectors during the reporting period (both for the conditions imposed by FERC 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 GTN from other federal, state, or local permitting agencies concerning instances of noncompliance, and GTN's response.

8. **Prior to receiving written authorization from the Director of the OEP to commence construction of any project facilities**, GTN shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
9. GTN must receive written authorization from the Director of the OEP **before placing its project into service**. 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.
10. **Within 30 days of placing the certificated facilities in service**, GTN 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 will be consistent with all applicable conditions; or
 - b. identifying the certificate conditions GTN 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**, GTN shall file with the Secretary the results of its outstanding geologic investigations of the project route, along with any mitigation and/or monitoring measures it would implement to minimize the risk of a landslide during project construction and operation for the review and written approval of the Director of OEP.
12. **Prior to construction**, GTN shall revise and file with the Secretary for review and written approval of the Director of OEP, its Blasting Plan to specify the structure distance from the blasting zone that it would include in the pre-blast surveys. If no applicable regulations exist to determine this distance, GTN shall use at least 150 feet. The revised Blasting Plan shall also describe mitigation in the event that a structure or water supply well is damaged as a result of blasting activities.
13. **Prior to construction**, GTN shall file its Migratory Bird Conservation Strategy for review and written approval of the Director of OEP. In addition, GTN shall provide documentation of its consultation with the U.S. Fish and Wildlife Service regarding the Migratory Bird Conservation Strategy.
14. **Prior to construction**, GTN shall file with the Secretary its Washington Ground Squirrel Mitigation Plan for review and written approval of the Director of OEP along with documentation of its coordination with the U.S. Fish and Wildlife

Service. GTN shall not begin construction of the project until Commission staff completes any necessary Endangered Species Act section 7 conference or consultation with the FWS, and GTN receives written approval from the Director of OEP that construction and/or use of mitigation (including implementation of conservation measures) may begin.

15. **Prior to construction**, GTN shall file a plan to minimize impacts on the residence at approximate milepost 0.9. The plan shall include the following mitigation measures that GTN will implement if the residence is occupied during construction:
 - a. notifying the landowner at least 24 hours in advance of construction commencing on their property;
 - b. limiting construction activity, except for hydrostatic testing, to daylight hours;
 - c. maintaining access to and from the residence at all times, unless written authorization is obtained from the landowner;
 - d. ensuring a separation of the construction activity from the residence (e.g. installing safety fencing along the edge of the construction work area for a distance of 100 feet on either side of the residence); and
 - e. preserving mature trees and landscaping unless removal is necessary for the safe operation of construction equipment.

16. GTN shall **not begin construction** of facilities and/or use of all staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
 - a. GTN files with the Secretary:
 - (1) remaining cultural resources survey reports and the results of ethnographic studies;
 - (2) site evaluation reports 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 will be adversely affected; and
 - c. Commission staff reviews and the Director of OEP approves the cultural resources reports and plans, and notifies GTN in writing that treatment 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.”**

17. **Prior to construction**, GTN shall file with the Secretary its final location for the mainline valve site for review and written approval by the Director of OEP. In addition, GTN shall provide any outstanding survey reports for the mainline valve site and documentation of its consultation with the landowner for acquisition of this site.