

152 FERC ¶ 61,048
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern Natural Gas Company, L.L.C.

Docket No. CP15-23-000

ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT

(Issued July 16, 2015)

1. On December 3, 2014, Southern Natural Gas Company, L.L.C. (Southern) filed an application under section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² for a certificate of public convenience and necessity to construct and operate the North Main Lines Relocation Project. Southern also seeks authorization under section 7(b) of the NGA to abandon in place three segments on its existing North Main Lines and one short segment on its Calera Branch Line, all in Jefferson County, Alabama.

2. As discussed in this order, the Commission grants the requested certificate and abandonment authorizations, subject to the conditions described herein.

I. Background and Proposal

3. Southern is a natural gas pipeline company engaged in the transportation of natural gas in interstate commerce, subject to the Commission's jurisdiction. Southern's natural gas transmission system extends through the states of Texas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, Tennessee, and Florida.

4. Southern states that by April 2016 the coal mining operations of Cliffs Natural Resources, Inc. (Cliffs) will extend to areas underneath some of Southern's existing

¹ 15 U.S.C. § 717f (b) and (c) (2012).

² 18 C.F.R. Parts 157 and 284 (2014).

pipeline facilities in Jefferson County, Alabama.³ According to Southern, Cliffs's longwall mining operations⁴ are expected to cause surface subsidence of up to three to six feet, which would exceed the level of subsidence the pipeline segments to be abandoned were designed and constructed to withstand. Thus, Southern asserts there is a substantial risk that pipeline segments in the areas of subsidence might be overstressed to the point of failure, potentially resulting in interruption of firm service. Southern states its proposed project will ensure the continued safe and efficient operation of its pipeline system by relocating three segments of pipe on its North Main Lines and a small portion of its Calera Branch Line to avoid the areas where mining subsidence is likely to occur.

5. Specifically, Southern proposes to:

- Abandon in place approximately 2.9 miles of its 22-inch-diameter North Main Line between milepost (MP) 297.28 and MP 300.15; 2.9 miles of the parallel 24-inch-diameter North Main Loop Line; 2.9 miles of the 24-inch-diameter 2nd North Main Line between MP 174.77 and MP 177.62; and 0.54 miles of the 20-inch-diameter Calera Branch Line between MP 0.30 and MP 0.84;
- Construct three 24-inch-diameter segments of replacement pipeline, each 3.5 miles in length to replace the abandoned segments of the North Main Line, North Main Loop Line, and 2nd North Main Line; and 0.43 miles of 20-inch-diameter replacement pipeline to relocate the abandoned segment of the Calera Branch Line.

³ A pipeline right-of-way easement generally does not convey mineral or other subsurface property rights. Therefore, depending on the terms of the easement, the owner of the mineral rights underlying a pipeline would have the right to produce the minerals, including, perhaps, depending on relevant state law, the right to subside the surface estate.

⁴ Longwall mining is a form of underground coal mining where a long wall of coal is mined in a single slice. The longwall mining technique involves the use of movable hydraulic roof supports, which make it possible to excavate blocks of coal up to 1,000 feet wide and 5,000 to 10,000 feet long. As the coal is excavated, the land above the longwall section subsides in a controlled operation. Subsidence, in this instance, refers to the sinking or settling of the surface land after coal is extracted from the subsurface and the mine supports are removed.

- Install new aboveground gate settings on each of the three relocated North Main Lines; and
- Abandon by removal the aboveground gate setting on each of the abandoned segments of the North Main Lines.

6. Southern states that replacing the proposed existing segment of the North Main Line's 22-inch-diameter pipe with 24-inch-diameter pipe will have a negligible impact on Southern's capacity and line pressure.⁵ Southern estimates that the cost of the North Main Lines Relocation Project will be \$42,358,978. Because the project facilities will be used to maintain existing services, Southern requests that the Commission make a finding supporting a presumption of rolled-in rate treatment for the project's costs in a future rate case under section 4 of the NGA.

II. Interventions

7. Notice of Southern's application was published in the *Federal Register* on December 24, 2014 (79 Fed. Reg. 77465). Alabama Gas Corporation, Atmos Energy Corporation, Atmos Energy Marketing LLC, Duke Energy Florida, Inc., NJR Energy Services Company, and South Carolina Electric & Gas Company filed timely, unopposed motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.⁶

III. Discussion

8. Since the subject facilities have been or will be used to transport natural gas in interstate commerce subject to the Commission's jurisdiction, the proposed

⁵ Southern states that the 22-inch-diameter North Main Line segment it proposed to abandon was originally constructed and placed into service in 1929, and that 22-inch-diameter pipe and fittings are currently considered an unusual size, difficult to find, and more expensive than 24-inch-diameter pipe and fittings. Southern is only proposing to replace a relatively short segment of the 22-inch-diameter North Main Line with larger 24-inch diameter pipe and does not propose an increase in certificated capacity or the volume of gas that the lines would transport.

⁶ 18 C.F.R. § 385.214(c) (2014).

abandonment, construction and operation of the facilities are subject to the requirements of section (b), (c) and (e) of section 7 of the NGA.⁷

A. Certificate Policy Statement

9. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.⁸ 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 existing pipelines proposing new projects 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 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 of the new facilities. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

11. As stated, the threshold requirement under the Certificate Policy Statement is that the pipeline must be prepared to financially support a project without relying on subsidization from its existing customers. Southern requests a finding supporting a presumption of rolled-in rate treatment in a future rate case for the costs associated with

⁷ 15 U.S.C. § 717f(b), (c), (e) (2012).

⁸ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

the North Main Lines Relocation Project. Southern states its proposed project to relocate several relatively short segments of pipe is needed to ensure the continued safe and efficient operation of its system because Cliffs' will be extending its longwall mining activities to areas beneath the existing pipeline segments, creating risk of subsidence that could overstress the existing facilities.

12. The Certificate Policy Statement provides that it is not a subsidy for existing customers to pay for projects designed to improve the reliability or flexibility of existing services, and the costs of such projects are permitted to be rolled into system rates.⁹ Southern's proposed project is required in order to maintain reliable service for its existing customers. Thus, it would not be considered a subsidy for Southern's customers to bear the costs associated with the project, and we find that Southern should be allowed to roll the costs of the project, including the costs of abandoning the existing pipeline in the expected subsidence areas, into its generally applicable rates in a future section 4 rate case, absent any significant and material change in circumstances.

13. The North Main Lines Relocation Project will not result in the degradation of any shippers' services or have any other adverse effects on Southern's existing customers. Further, the project is designed to maintain the reliability of existing Southern's services, not to create expansion capacity, and there are no objections by other pipeline companies or other evidence that firm services on other pipeline systems will be displaced. Thus, we find the proposed North Main Lines Relocation Project will not result in any adverse impact on Southern's existing customers or other pipelines or their captive customers.

14. Southern states that it has worked with landowners and communities to eliminate or minimize its proposed project's adverse impacts on landowners and communities, and that it revised its originally planned pipeline relocation route based on landowner comments. The new replacement cannot be placed in the existing right-of-way for the pipeline segments to be abandoned because mining activities is expected to cause subsidence in these portions of Southern's existing right-of-way. Accordingly, for purposes of our consideration under the Certificate Policy Statement, we find that

⁹ Certificate Policy Statement, 88 FERC ¶ 61,227 at n.12. *See, e.g., Columbia Gas Transmission, LLC*, 146 FERC ¶ 61,075, at PP 21- 22 (2014) (authorizing replacement of old, uncoated, bare steel pipe with larger diameter, coated and wrapped steel pipeline and replacement compression facilities with higher horsepower, and finding that a presumption of rolled-in rate would apply for both the costs attributable to replacing existing capacity and the costs attributable to the expansion capacity because an incremental rate calculated to recover the expansion costs would be less than Columbia's generally applicable system rate for service).

Southern has taken steps to minimize any adverse economic impacts to landowners and surrounding communities.

15. Based on the benefits Southern's proposed North Main Lines Relocation Project will provide and the lack of adverse effects the project will have on Southern's shippers, other pipelines systems, landowners and surrounding communities, we find on balance that certification of the project is consistent with the Certificate Policy Statement and that the public convenience and necessity requires approval of Southern's project, subject to this order's environmental and other conditions.

B. Abandonment

16. Southern requests authorization to abandon in place approximately 2.9 miles of its North Main Line, 2.9 miles of the parallel North Main Loop Line, 2.9 miles of the 2nd North Main Line, and 0.54 miles of the Calera Branch Line. Southern also requests authority to abandon by removal the aboveground gate setting on each segment of the North Main Lines to be abandoned.

17. Southern believes that underground longwall mining operations will cause surface subsidence of up to three to six feet in the areas of the four pipeline segments to be abandoned, posing a substantial risk of overstressing the pipeline segments to the point of failure and causing interruptions of firm service. Southern proposes to replace the four pipeline segments with relocated pipeline and gate settings in areas where mining activities will not cause subsidence. Therefore, the proposed abandonments will not cause any detriment to Southern's customers, and we find the abandonments are permitted by the public convenience or necessity, subject to Southern's compliance with this order's environmental conditions.

C. Accounting

18. Southern explains the North Main Line Relocation Project includes proposed construction activities that are a combination of standard operation and maintenance and replacement work that cannot be undertaken under section 2.55(b)¹⁰ of the regulations because expected subsidence of the right-of-way for the existing pipeline makes it necessary for the replacement pipeline to be relocated in new right-of-way outside the

¹⁰ 18 C.F.R. § 2.55(b) (2014).

subsidence areas. However, Southern does not describe how it plans to account for its costs of constructing, operating and maintaining the new replacement facilities.¹¹

19. Specifically, Southern did not identify the operating and maintenance expense accounts in which it plans to record the costs of the project's operation and maintenance activities, such as plant relocation, as required by Operating Expense Instruction No. 2 of the Commission's Uniform System of Accounts (USofA).¹² Therefore, the Commission cannot make a determination on the appropriateness of Southern's planned accounting treatment for the construction and maintenance activities relating to the new replacement facilities. Southern must ensure that project expenditures for its construction and maintenance activities are properly classified in accordance with appropriate Gas Plant and Operating Expense Instructions relating to the addition of and rearranging of plant.

D. Environmental Analysis

20. The Commission staff began its environmental review of the North Main Lines Relocation Project after approval of Southern's request to use the pre-filing process on June 9, 2014, in Docket No. PF14-12-000. As part of the pre-filing process, the Commission issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed North Main Lines Relocation Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting (NOI) on September 2, 2014. 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 property owners potentially affected by the Project.

21. We received comments in response to the NOI from the Alabama Department of Environmental Management (Alabama DEM) and three Indian tribes: Chickasaw Nation, Choctaw Nation of Oklahoma, and United Keetoowah Band of Cherokee in Oklahoma. We also received verbal comments from one individual at the public scoping meeting held in Bessemer, Alabama, on September 15, 2014. The primary issues raised by the Alabama DEM concerned Southern's compliance with the Alabama DEM's

¹¹ We note that Exhibit Y to Southern's application describes how Southern will account for the abandonment of the existing pipeline facilities to be replaced.

¹² The USofA prescribed for natural gas companies subject to the Natural Gas Act are set forth in Part 201 of the Commission's regulations. 18 C.F.R. Part 201 (2014). Operating Expense Instruction No. 2 identifies rearranging and changing the location of plant not retired as one of the work operations generally required to be accounted for as (a) maintenance cost, which would be charged to operating expense accounts.

construction general permit requirements; maintenance of a valid National Pollutant Discharge Elimination System coverage for stormwater discharges; maintenance of Best Management Practices; coverage of the project under a Clean Water Act, Section 404, Nationwide or General Permit; consistency of the project with the Alabama DEM's Coastal Program; and potential impacts on federally and state listed threatened and endangered species. No substantive issues or concerns were raised by the three Indian tribes. The scoping meeting commenter expressed a safety concern related to the distance of the relocated pipeline from the area where longwall mining would take place.

22. To satisfy the requirements of the National Environmental Policy Act, our staff prepared an environmental assessment (EA) for Southern's proposal. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. The EA specifically addressed each of the environmental comments received in response to the NOI, including safety.

23. Subsequent to Southern filing its application, Valley Creek Land & Timber, LLC (Valley Creek) expressed concern with the construction right-of-way crossing its pond about 1,000 feet north of Taylors Ferry Road. As discussed in the EA, FERC staff evaluated three pipeline route variations to address Valley Creek's concern. Two of the Valley Creek Variations avoid direct impacts on the pond by routing the pipeline right-of-way south of the proposed workspace, but cross Southern's Subsidence Risk Tolerance Line. The Subsidence Risk Tolerance Line identifies the area potentially subject to future direct or indirect impacts from planned mining operations by ground subsidence. The third variation crosses north of the proposed pipeline right-of-way and outside of the subsidence area of the coal mining operations. This northern variation extends the length of the pipeline by 0.10 mile, would impact about 2.1 more acres of forested areas, but still crosses the Valley Creek pond. The EA determined that none of the variations would offer a significant environmental advantage to the proposed route.

24. To minimize construction impacts on the pond, Environmental Condition 12 in the appendix to this order requires Southern to file a site-specific crossing plan with additional details on construction related turbidity and also requires Southern to reduce workspace and construction activities within the pond. The EA was issued for a 30-day comment period and placed into the public record on May 6, 2015. We received no comments on the EA.

25. Based on our consideration of the record, we agree with the conclusions presented in the EA, and find that if abandoned, constructed, and operated in accordance with Southern's application and supplements, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal would not

constitute a major federal action significantly affecting the quality of the human environment.

26. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.¹³

E. Conclusion

27. At a hearing held on July 16, 2015, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, and exhibits thereto, and all comments submitted, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Southern authorizing the construction of the North Main Lines Relocation Project as described in this order and more fully in the application.

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

- (1) Southern's completing authorized construction of the proposed facilities and making them available for service within one year of the date of this order pursuant to section 157.20(b) of the Commission's regulations;
- (2) Southern's compliance with all applicable Commission regulations including paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
- (3) Southern's compliance with the environmental conditions listed in the appendix to this order.

¹³ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply Corp. v. Public Service Commission of the State of the New York*, 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).

(C) Permission and approval is granted to abandon facilities, as more fully described in the application and in the body of this order.

(D) Southern shall account for the construction and maintenance activities related to the project in accordance with the Commission's USofA including the Gas Plant and Operating Expense Instructions.

(E) Southern 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 Southern. Southern 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 for Southern's North Main Line Relocation Project

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

1. Southern 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. Southern must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during abandonment, construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of the Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction or abandonment**, Southern shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel will be informed of the 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 or abandonment**, Southern 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.

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

5. Southern 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 or abandonment in or near that area.**

This requirement does not apply to extra workspace allowed by Southern's project-specific Upland Erosion Control, Revegetation, and Maintenance Plan described in the document 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 authorization and before construction or abandonment,** Southern shall file an Implementation Plan with the Secretary

for review and written approval by the Director of OEP. Southern must file revisions to the plan as schedules change. The plan shall identify:

- a. how Southern 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 Southern 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 per spread, 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 Southern 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 Southern's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Southern 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 onsite personnel;
 - iii. the start of construction; and
 - iv. the start and completion of restoration.
7. Southern shall employ at least one EI per construction spread. The EI(s) shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspectors;

- e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
8. Beginning with the filing of its Implementation Plan, Southern 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 will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
 - a. an update on Southern'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 EI(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;
 - e. the effectiveness of all corrective actions implemented;
 - f. a description of any landowner/resident complaints 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 Southern from other federal, state, or local permitting agencies concerning instances of noncompliance, and Southern's response.
9. **Prior to receiving written authorization from the Director of OEP to commence abandonment or construction of any project facilities,** Southern shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Southern 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.

11. **Within 30 days of placing the authorized facilities in service**, Southern shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed and abandoned in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the conditions in the Order Southern has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.

12. **Prior to construction**, Southern shall file with the Secretary, for review and approval by the Director of OEP, a revised site-specific crossing plan for the Valley Creek pond that estimates the levels and duration of turbidity associated with the crossing and presents the resulting impacts on aquatic life and habitat. The plan shall also include a revised waterbody crossing detail diagram at milepost 1.72 (NML-WC-001) that reduces the workspace and construction activities within the pond.

13. **Prior to construction**, Southern shall file with the Secretary its Wetland and Waterbody Construction and Mitigation Procedures with a revision to temporarily stabilize the right-of-way with annual ryegrass.

14. Southern shall not begin construction activities **until**:
 - a. Southern files with the Secretary copies of all survey reports;
 - b. the Commission staff receives comments from the U.S. Fish and Wildlife Service (FWS) regarding the proposed action;
 - c. the Commission staff completes formal consultation with the FWS, if required; and
 - d. Southern has received written notification from the Director of the OEP that construction or use of mitigation may begin.