

D. CONCLUSIONS AND RECOMENDATIONS

Based on the analysis in this EA, we have determined that if Millennium constructs and operates the proposed facilities in accordance with its application and supplements, and the staff's recommended mitigation measures, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment. We recommend that the Commission's Order contain a finding of no significant impact and include the mitigation measures listed below as conditions to any Certificate the Commission may issue.

1. Millennium 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. Millennium 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 OEP before using that modification.
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of 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**, Millennium shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, 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**, Millennium 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.
5. Millennium 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 our Upland Erosion Control, Revegetation, and Maintenance 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 begins,** Millennium shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Millennium must file revisions to the plan as schedules change. The plan shall identify:

- a. how Millennium 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 Millennium 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 Millennium 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 Millennium's organization having responsibility for compliance;
- g. the procedures (including use of contract penalties) Millennium 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, Millennium shall file updated status reports with the Secretary on a **monthly 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 Millennium'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 Millennium from other federal, state, or local permitting agencies concerning instances of noncompliance, and Millennium's response.

- 8. **Prior to receiving written authorization from the Director of OEP to commence construction of the project facilities**, Millennium shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).

- 9. Millennium 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 areas affected by the project are proceeding satisfactorily.

- 10. **Within 30 days of placing their respective authorized facilities in service**, Millennium shall each 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 which of the Certificate conditions Millennium/Millennium 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. Millennium shall conduct all tree removal greater than 5-inch-diameter breast height **between October 1 and March 31 and not begin construction** of facilities and/or use of any work areas until:
- a. the staff completes ESA Section 7 consultation with the FWS relating to the Indiana bat; and
 - b. Millennium has received written notification from the Director of the Office of Energy Projects (OEP) that construction or use of mitigation may begin.
12. Millennium **shall not begin construction** of facilities and/or use of staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
- a. Millennium provides the New York SHPO with the information requested in the SHPO's December 13, 2011 letter;
 - b. Millennium files with the Secretary the information and the SHPO's comments on the information;
 - c. Millennium files any required avoidance, treatment, or mitigation plan, and the SHPO's comments on the plan;
 - d. The ACHP is afforded an opportunity to comment if historic properties would be adversely affected; and
 - e. The FERC staff reviews and the Director of OEP approves the cultural resources report and any plan, and notifies Millennium in writing that treatment plans/mitigation measures 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.**"

13. **Prior to construction**, Millennium shall file a copy of the final building design and any comments received from the Town of Minisink for review and written approval by the Director of OEP. The final design should include specific measures to blend in with surrounding rural residential agricultural landscape and structures.
14. **Prior to construction**, Millennium shall file a copy of its final landscaping and site screening plan, and any comments received from the Town of Minisink, for review and written approval by the Director of OEP.

15. Millennium shall make all reasonable efforts to ensure its predicted noise levels from the Minisink Compressor Station are not exceeded at the nearby NSAs and file noise surveys showing this with the Secretary **no later than 60 days** after placing the Minisink Compressor Station in service. If the noise attributable to the operation of the Minisink Compressor Station at full load exceeds the predicted noise level at any nearby NSAs, Millennium shall file a report identifying what modifications it intends to make in order to meet the predicted level **within 1 year** of the in-service date. Millennium shall confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs any additional noise controls.
16. Millennium shall file a vibration survey with the Secretary **no later than 60 days** after placing the Minisink Compressor Station in service. If vibration attributable to the operation of the Minisink Compressor Station is perceptible at any nearby NSAs, Millennium shall install/implement additional vibration control mitigation measures **within 1 year** of the in-service date. Millennium shall confirm compliance with this requirement by filing a second vibration survey with the Secretary **no later than 60 days** after it installs the additional vibration controls.
17. **Prior to construction**, Millennium shall develop a landowner notification plan for planned blowdowns of the Minisink Compressor Station in consultation with the Town of Minsink. The plan shall include notification procedures for landowners within a 0.5-mile radius of the proposed station **at least two business days prior to** performing a planned station blowdown. Millennium shall file a copy of the plan, and any comments received from the Town of Minisink, with the Secretary.