

168 FERC ¶ 61,100
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur and Richard Glick.

Texas Eastern Transmission, LP

Docket No. CP18-533-000

ORDER APPROVING ABANDONMENT

(Issued August 21, 2019)

1. On July 24, 2018, Texas Eastern Transmission, LP (Texas Eastern) filed an application pursuant to section 7(b) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² for authority to abandon in place and by removal approximately 30 miles of varying-diameter lateral pipeline (Line 1-N) and associated facilities, in Harrison and Marion Counties, Texas. On May 31, 2019, Texas Eastern filed supplemental environmental information revising the proposed abandonment procedures to increase the number of miles to be abandoned by removal and decrease the number of miles to be abandoned in place (Supplemental Filing). As discussed below, the Commission grants the requested abandonment authorization, as revised, subject to conditions.

I. Background and Proposal

2. Texas Eastern, a Delaware limited partnership with its principal place of business in Texas, is a natural gas company, as defined by section 2(6) of the NGA,³ engaged in the transportation of natural gas in interstate commerce. It is an indirect, wholly-owned subsidiary of Spectra Energy Partners, LP, which is an indirect subsidiary of Enbridge, Inc. Texas Eastern's transmission system extends from Texas, Louisiana and the offshore Gulf of Mexico area, through the states of Mississippi, Arkansas, Alabama, Maryland, West Virginia, Missouri, Tennessee, Illinois, Indiana, Kentucky, Ohio,

¹ 15 U.S.C. § 717f(b) (2012).

² 18 C.F.R. Part 157 (2018).

³ 15 U.S.C. § 717a(6) (2012).

Pennsylvania, and New Jersey, to its principal terminus in the New York City metropolitan area.

3. In 1948, the Federal Power Commission authorized Texas Eastern in Docket No. G-1003 to construct and operate, among other facilities, its Line 1-N lateral line.⁴ Line 1-N extends approximately 30 miles from producer-owned meter number 70191 in Harrison County, Texas, to Texas Eastern's Line 1 mainline pipeline at milepost (MP) 33.83 in Marion County, Texas. Texas Eastern commenced service on Line 1-N in December 1948.

4. Texas Eastern states that Line 1-N and the associated facilities are no longer required to provide firm transportation service to its customers and have not been used to provide such service since November 2016. Therefore, Texas Eastern proposes to abandon Line 1-N and the related facilities to eliminate the need for future operating and maintenance expenses. Texas Eastern asserts that the abandonment of Line 1-N and the related facilities will not impact the daily design capacity or the operating conditions of its system, and will have no adverse effects on its ability to meet its firm transportation commitments.

5. Texas Eastern originally proposed to abandon in place 29.02 miles of the 8-, 10-, and 12-inch-diameter Line 1-N and to abandon by removal 0.58 miles of the lateral. However, in response to a request made in environmental comments by landowner Avinger Timber LLC (Avinger Timber), who is opposed to an in-place abandonment of Line 1-N on its property, Texas Eastern has agreed to abandon by removal the approximate three miles of 10-inch-diameter Line 1-N pipeline on Avinger Timber's property, in Harrison County, Texas. Thus, in its Supplemental Filing revising its abandonment procedures, Texas Eastern now proposes to abandon in place 26.06 miles of the 8-, 10-, and 12-inch-diameter Line 1-N and to abandon by removal 3.54 miles of the lateral. Texas Eastern also proposes to remove all above-ground facilities associated with each segment of Line 1-N, and to remove all facilities at Metering and Regulating (M&R) Station 70191 on Line 1-N.

6. Specifically, under its revised proposal, Texas Eastern requests authorization to:

- abandon in place 5.26 miles, and by removal 0.23 miles, of the 8-inch-diameter segment of Line 1-N from MP 0.0 to MP 5.49 in Harrison County;

⁴ See *Texas Eastern Transmission Corp.*, 7 FPC 1031 (1948) and *Texas Eastern Transmission Corp.*, 8 FPC 139 (1949).

- abandon in place 13.31 miles, and by removal 3.09 miles, of the 10-inch-diameter segment of Line 1-N from MP 5.49 to MP 21.89 in Harrison County;
- abandon in place 5.06 miles, and by removal 0.11 miles, of the 10-inch-diameter segment of Line 1-N from MP 21.89 to MP 27.06 in Marion County;
- abandon in place 2.43 miles, and by removal 0.11 miles, of the 12-inch-diameter segment of Line 1-N from MP 27.06 to MP 29.60 in Marion County where Line 1-N terminates at the interconnection with Texas Eastern's Line 1 mainline;
- abandon by removal all aboveground appurtenances on each of the 8-, 10-, and 12-inch-diameter segments of Line 1-N, including pig launcher/receiver barrels, valves, and pipeline markers;
- abandon by removal two 300-barrel storage tanks, two pressure vessels, a small 6-foot by 6-foot storage building, and associated equipment/piping on the 12-inch-diameter segment of Line 1-N in the pig launcher/receiver area at MP 27.06 (12-inch Dig 1 Location);
- abandon by removal all facilities at M&R Station 70191 at MP 0.0 (8-inch Dig 1 Location) in Harrison County, including a remote terminal unit and the associated 4-foot by 6-foot building, transmitters, and gas chromatograph (GC), and the associated 4-foot by 6-foot building.

7. Texas Eastern states that the segments of Line 1-N that will be abandoned in place will remain in the ground, either with no ground disturbance or by removing the pipeline and grouting the pipeline casing as described below, while the sections to be abandoned by removal will entail cutting and removing portions of the lateral from the ground. Texas Eastern states that the parts of Line 1-N that will be removed are all of the exposed portions of the lateral, which are visible aboveground or suspended, in addition to the approximate three miles of non-exposed lateral on Avinger Timber's property. Texas Eastern further explains that sections of Line 1-N under state roads, highways, and interstates, or at railroad crossings, are required to be cut, the carrier pipe removed, and the casing pipe grouted in place pursuant to the requirements of the Texas Department of Transportation.

8. Texas Eastern contends that the proposed abandonment activities will require minimal ground disturbance and will be primarily limited to its existing right of way; the project will temporarily affect approximately 26.6 acres of land within the existing temporary workspace. Texas Eastern further maintains that the abandonment activities will not impact active cropland or residential areas. Texas Eastern notes that none of the

project facilities will remain operational following completion of the abandonment activities, but that it will continue to retain and maintain the pipeline right of way following abandonment. However, Texas Eastern states that it will relinquish all of its pipeline right of way on the Avinger Timber property following completion of the abandonment activities.⁵

II. Notice, Interventions, and Comments

9. Notice of Texas Eastern's application was published in the *Federal Register* on August 13, 2018.⁶ NJR Energy Services Company; New Jersey Natural Gas Company; National Grid Gas Delivery Companies; Philadelphia Gas Works; Piedmont Natural Gas Company, Inc.; Duke Energy Indiana, LLC; Duke Energy Carolinas, LLC and Duke Energy Progress, LLC, jointly; Duke Energy Ohio, LLC and Duke Energy Kentucky, Inc., jointly; and Atmos Energy Corporation 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.⁷ No comments or protests were filed in response to the Commission's notice.

III. Discussion

10. Because the facilities Texas Eastern seeks to abandon have been used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the proposed abandonment is subject to the requirements of section 7(b) of the NGA.⁸

11. Section 7(b) of the NGA allows a natural gas pipeline company to abandon jurisdictional facilities or services only if the abandonment is permitted by the "present or future public convenience or necessity."⁹ The Commission has stated that continuity and stability of existing services are the primary considerations in assessing whether the public convenience or necessity permit the abandonment.¹⁰ If the Commission finds that

⁵ See Texas Eastern Supplemental Filing at 3.

⁶ 83 Fed. Reg. 40,028 (2018).

⁷ 18 C.F.R. § 385.214(c)(1) (2018).

⁸ 15 U.S.C. § 717f(b).

⁹ *Id.*

¹⁰ See, e.g., *WBI Energy Transmission, Inc.*, 163 FERC ¶ 61,033, at P 22 (2018); *Tres Palacios Gas Storage LLC*, 160 FERC ¶ 61,107, at P 25 (2017); and *El Paso Natural Gas Co., L.L.C.*, 148 FERC ¶ 61,226, at P 12 (2014) (citations omitted).

a pipeline's proposed abandonment will not jeopardize continuity of existing gas transportation services, it will defer to the pipeline's business judgment.¹¹

12. As noted above, Texas Eastern's Line 1-N lateral facilities have not been used to provide firm transportation service in over two years. Texas Eastern asserts that the proposed abandonment will have no impact on Texas Eastern's certificated capacity or operating conditions and, therefore, will not result in a reduction or disruption of service to its existing customers. The Commission finds that the proposed abandonment of Line 1-N facilities will not result in any disruption to the continuity and stability of Texas Eastern's existing firm transportation service.

13. Further, the Commission finds that the proposed Line 1-N abandonment will provide future rate benefits to Texas Eastern's customers by eliminating the need for ongoing operating and maintenance expenditures on aging facilities no longer necessary to the provision of service. Moreover, as discussed in the environmental analysis below, Texas Eastern has resolved Avinger Timber's concerns by agreeing to abandon by removal approximately three miles of 10-inch-diameter pipeline lateral on its property instead of abandoning it in place. Accordingly, no party or commenter opposes Texas Eastern's decision to abandon the Line 1-N facilities.

14. Therefore, based on the above considerations, the Commission finds that the proposed abandonment is permitted by the public convenience or necessity.

IV. Environmental Analysis

15. On September 6, 2018, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Line 1-N Abandonment Project and Request for Comments on Environmental Issues* (NOI). The NOI was published in the *Federal Register*¹² 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 landowners. In response to the NOI, the Commission received comments from Avinger Timber and Robert K. Manning, Jr., property owners in Marion County, Texas, whose land Line 1-N crosses.

16. The primary issues raised in response to the NOI included concerns regarding:

¹¹ See, e.g., *National Fuel Gas Supply Corp.*, 160 FERC ¶ 61,050, at P 17 (2017); and *Transwestern Pipeline Co., L.L.C.*, 140 FERC ¶ 61,147, at P13 (2012) (citing *Trunkline Gas Co.*, 94 FERC ¶ 61,381, at 62,420 (2001)).

¹² 83 Fed. Reg. 46,155 (Sept. 12, 2018).

- exposure of the abandoned pipeline from general erosion in the area;
- the damaged condition of the pipeline where exposed;

- potential natural resource and human impacts from contamination from asbestos or other hazardous materials coating the pipeline;

- impacts on ongoing farming and on utilization of property due to continued disturbance and natural erosion; and

- impacts on streams and other waterways from exposed portions of the abandoned pipeline in the waterways.

17. To satisfy the requirements of the National Environmental Policy Act of 1969,¹³ the Commission's staff prepared an Environmental Assessment (EA) for Texas Eastern'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. All substantive comments received in response to the NOI were addressed in the EA.

18. On January 25, 2019, the EA was issued and placed into the public record, and provided for a 30-day comment period. The Commission received comments on the EA from Avinger Timber. As noted, *supra*, Avinger Timber was opposed to the abandonment in place of Line 1-N on its property. In its comments, Avinger Timber raised a number of arguments and concerns in support of its position that Line 1-N must be abandoned by removal where it crosses its property.

19. Essentially, Avinger Timber argued Texas Eastern must remove Line 1-N on its property: (1) to facilitate its plans to actively harvest and reforest its lands immediately adjacent to the pipeline without a risk of pipeline damage; (2) to enable the continued mining of industrial gravel on land over and next to the pipeline; (3) to prevent potential injury or damages arising from future contact with the asbestos coating of the pipeline; (4) to avoid the pipeline from becoming a conduit transporting chemicals, water, and gas to or from a neighboring property; (5) where it intersects with Haggerty Creek, to prevent further erosion and unnatural widening of the creek bed; (6) under a large beaver pond of 20.4 acres covering 1300 feet of pipeline, to facilitate the proper maintenance of the pond, flood control devices, and its dam; (7) to enable it to carry out its plans to improve the dam and to build Lake Lorraine, a planned 333-acre lake project, intended to assist in flood control and provide irrigation to a tree nursery and water to livestock and crops;

¹³ 42 U.S.C. § 4321, *et seq.* (2012).

and (8) because Texas Eastern allegedly has no valid pipeline easement or 50-foot-wide right of way across Avinger Timber's lands.

20. Following discussions with Avinger Timber, Texas Eastern filed its Supplemental Filing in which Texas Eastern now proposes to abandon by removal the approximately three-mile portion of 10-inch-diameter Line 1-N pipeline that crosses Avinger Timber's land in Harrison County, Texas. As noted above, the additional abandonment activities will increase the length of the Line 1-N pipeline that Texas Eastern will abandon by removal from 0.58 mile to 3.54 miles, increasing the total acreage for the proposed 10-inch-diameter Dig 6 workspace by approximately 18 acres, for a total of approximately 26.6 acres of temporary disturbance. The entire Dig 6 workspace is on Avinger Timber's property. The Commission finds that Texas Eastern's agreement to remove the pipeline on Avinger Timber's property, as requested, effectively resolves Avinger Timber's above concerns, particularly in light of Texas Eastern's intent to relinquish all of its claimed pipeline right of way on the Avinger Timber property once the abandonment is completed.

21. The revised abandonment procedures will temporarily impact an additional 5.6 acres of open land and 11.7 acres¹⁴ of scrub/shrub vegetation within the existing pipeline right of way. Impacts on vegetation will be similar to those described in the EA.¹⁵ Texas Eastern will restore disturbed areas as nearly as practicable to their original condition, install permanent erosion control measures as appropriate, and implement revegetation measures in accordance with the Commission's *Upland Erosion Control, Revegetation, and Maintenance Plan* (Plan) and *Wetland and Waterbody Construction and Mitigation Procedures* (Procedures), and Texas Eastern's Erosion & Sediment Control Plan. With the implementation of these measures, revegetation of the disturbed areas to pre-construction condition would likely occur within five years. Therefore, the Commission concludes that open land and vegetation impacts associated with Texas Eastern's revised abandonment activities would be temporary and not significant.

22. The revised abandonment activities along the three-mile section of pipeline to be removed will temporarily impact an additional 8.2 acres of surface waters (the beaver pond) and wetlands (3.9 acres and 4.3 acres, respectively). Texas Eastern has submitted to the U.S. Army Corps of Engineers a preconstruction notification for coverage under Nationwide Permit Number 12 for the additional wetlands temporarily impacted by the revised abandonment activities. Approval is pending. In addition, Texas Eastern will follow the Commission's Plan and Procedures to minimize impacts on, and protect and restore, these waterbodies and wetlands. Thus, the Commission finds that the revised

¹⁴ This includes wetland acreage.

¹⁵ EA at 19-20.

abandonment activities will result in temporary, short-term impacts on the associated surface waters and wetlands and will not significantly impact these resource areas.

23. Aquatic species impacts associated with the revised abandonment activities would be similar to those discussed under fisheries included in the EA.¹⁶ Because Texas Eastern's modified temporary workspace results in limited disturbance where wildlife species could be present, the Commission concludes that the additional adverse effects on wildlife and fisheries from revised abandonment activities would be short-term and not significant.

24. Texas Eastern states in its Supplemental Filing that it has committed to conducting environmental surveys for the 10-inch-diameter Dig 6 revised workspace, staging areas, and additional access roads, including surveys for endangered species. To date these surveys have not been conducted. Therefore, the Commission is adding Environmental Condition 12 in the appendix to this order, requiring Texas Eastern to complete these surveys and any necessary consultation with the U.S. Fish and Wildlife Service prior to commencing abandonment activities.

25. As further stated in its filing, Texas Eastern has committed to conducting a Phase I cultural resources survey of the areas within the 10-inch-diameter Dig 6 revised workspace that was not previously surveyed. To date, these surveys, too, have not been conducted. Therefore, the Commission is also adding Environmental Condition 13 in the appendix to this order, requiring Texas Eastern to complete these surveys and any necessary consultation with the State Historic Preservation Office prior to commencing abandonment activities.

26. The additional soil disruption and duration of the revised abandonment activities will result in minor, temporary increased impacts on air quality and noise as a result of abandoning the pipeline by removal on the Avinger Timber property. These impacts will be similar to those described in the EA for air quality and noise.¹⁷ There will be no additional permanent impacts on air and noise quality.

27. Finally, as discussed in the EA, Texas Eastern has committed to implementing the measures delineated in its the *Presumed Asbestos Containing Material Pipe Handling Plan* to ensure all sections of pipeline to be abandoned by removal are cut and removed in a manner that prevents the pipeline asbestos coating or other waste material from entering the environment.¹⁸ The disposal of the removed pipeline will be handled by a

¹⁶ *Id.* at 22.

¹⁷ *Id.* at 29-31.

¹⁸ *Id.* at 32-33.

specialized waste team and all asbestos-containing materials will be disposed of in accordance with the Environmental Protection Agency's Toxic Substance Control Act. Further, any future contact with the pipeline's asbestos coating by Avinger Timber will be eliminated by the pipeline's removal on its property.

28. Based on the analysis in the EA, as supplemented herein, we conclude that if abandoned in accordance with Texas Eastern'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.

29. Compliance with the environmental conditions appended to our orders is integral to ensuring that the environmental impacts of approved projects are consistent with those anticipated by our environmental analyses. Thus, Commission staff carefully reviews all information submitted. Only when satisfied that the applicant has complied with all applicable conditions will a notice to proceed with the activity to which the conditions are relevant be issued. We also note that the Commission has the authority to take whatever steps are necessary to ensure the protection of environmental resources during the abandonment activities of the project, including authority to impose any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the order, as well as the avoidance or mitigation of unforeseen adverse environmental impacts resulting from the abandonment activities of the project.

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

The Commission orders:

(A) Texas Eastern's request to abandon facilities, as described in this order and more fully in the application as supplemented, is granted, subject to the conditions described herein and in the appendix of this order.

(B) Texas Eastern shall notify the Commission within 10 days of the date(s) of its abandonment(s) of facilities as authorized by this order.

(C) Texas Eastern shall complete the authorized abandonment within one year from the date of this order.

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

(E) Texas Eastern shall comply with the environmental conditions set forth in the appendix of this order.

By the Commission. Commissioner McNamee is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Environmental Conditions

1. Texas Eastern Transmission, LP (Texas Eastern) 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. Texas Eastern 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, or the Director's designee, has delegated authority to address any requests for approvals or authorizations necessary to carry out the conditions of the Order, and take whatever steps are necessary to ensure the protection of environmental resources during activities associated with abandonment of the Project facilities. This authority shall allow:
 - a. the modification of conditions of the Order;
 - b. stop-work authority; and
 - c. the imposition of any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the Order as well as the avoidance or mitigation of unforeseen adverse environmental impact resulting from project abandonment activities.

3. **Prior to any abandonment activities**, Texas Eastern 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 abandonment and restoration activities.

4. The authorized facility abandonment work shall be as shown in the EA as supplemented by filed alignment sheets to include the 10-inch Dig 6 revised workspace. **As soon as they are available, and before the start of abandonment activities**, Texas Eastern 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 work 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. Texas Eastern shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all 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 abandonment work in or near that area commences.**

This requirement does not apply to extra workspace allowed by the Commission's *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 workspace 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 abandonment begins,** Texas Eastern shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Texas Eastern must file revisions to the plan as schedules change. The plan shall identify:
 - a. how Texas Eastern will implement the project abandonment 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 Texas Eastern 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 Texas Eastern 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 Texas Eastern's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Texas Eastern 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. Texas Eastern shall employ at least one EI. The EI 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, Texas Eastern shall file updated status reports with the Secretary on a **biweekly** basis until all abandonment 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 Texas Eastern'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 work in 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;
 - 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 Texas Eastern from other federal, state, or local permitting agencies concerning instances of noncompliance, and Texas Eastern's response.
9. Texas Eastern must receive written authorization from the Director of OEP **to commence abandonment**. To obtain such authorization, Texas Eastern must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. **Within 30 days of abandoning and removing the facilities**, Texas Eastern shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been 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 Texas Eastern 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 abandonment activities**, Texas Eastern shall file with the Secretary, for review and written approval by the Director of OEP, procedures that it will follow to identify, handle, temporarily store, and properly dispose of potentially contaminated soils or groundwater, if discovered during construction, and precautions for minimizing the exposure of workers and the public.
12. Texas Eastern shall not begin abandonment activities **until**:
 - a. all necessary surveys within the 10-inch Dig 6 revised workspace have been completed;
 - b. the staff receives comments from the U.S. Fish and Wildlife Service regarding the proposed action;
 - c. the staff completes any necessary Endangered Species Act Section 7 consultation with the U.S. Fish and Wildlife Service, if required; and
 - d. Texas Eastern has received written notification from the Director of OEP that construction and/or use of mitigation (including implementation of conservation measures) may begin.
13. Texas Eastern shall not begin abandonment of facilities and/or use of staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
 - a. Texas Eastern files with the Secretary, a cultural resources survey report of the areas within the 10-inch Dig 6 revised workspace not previously surveyed, and the Texas State Historic Preservation Office's comments on the report.
 - b. the Advisory Council on Historic Preservation is afforded an opportunity to comment if historic properties would be adversely affected; and
 - c. Commission staff reviews and the Director of the OEP approves the survey report, and notifies Texas Eastern 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: **“CUI/PRIV - DO NOT RELEASE.”**