

171 FERC ¶ 61,132  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Richard Glick, Bernard L. McNamee,  
and James P. Danly.

Bluewater Gas Storage, LLC

Docket No. CP19-471-000

ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT

(Issued May 21, 2020)

1. On May 23, 2019, Bluewater Gas Storage, LLC (Bluewater) filed an application pursuant to sections 7(b) and (c) of the Natural Gas Act (NGA)<sup>1</sup> and Part 157 of the Commission's regulations<sup>2</sup> requesting authorization to construct and operate a new 11,150 horsepower (hp) compressor station in Macomb County, Michigan, and to abandon in place approximately 420 feet of 20-inch-diameter pipeline.

2. For the reasons discussed below, the Commission will grant Bluewater's requested authorizations, subject to conditions.

**I. Background and Proposal**

3. Bluewater, a Delaware limited liability company,<sup>3</sup> is a natural gas company as defined by section 2(6) of the NGA,<sup>4</sup> and is engaged in the storage and transportation of natural gas in interstate commerce. Bluewater provides storage and hub services at market-based rates.<sup>5</sup>

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<sup>1</sup> 15 U.S.C. § 717f(b), (c) (2018).

<sup>2</sup> 18 C.F.R. pt. 157 (2019).

<sup>3</sup> Bluewater is a wholly owned subsidiary of Bluewater Natural Gas Holding, LLC, which was acquired by WEC Energy Group, Inc. in 2017.

<sup>4</sup> 15 U.S.C. § 717a(6).

<sup>5</sup> *BGS Kimball Gas Storage, LLC*, 117 FERC ¶ 61,122, at ordering para. (F) (2006).

4. Bluewater operates two natural gas storage facilities: the Columbus III facility and the Kimball 27 facility. The Columbus III facility, located in St. Clair County, Michigan, has a working gas storage capacity of 26.2 billion cubic feet (Bcf), a maximum daily injection rate of 460,000 thousand cubic feet per day (Mcf/day), and a maximum daily withdrawal rate of 500,000 Mcf/day.<sup>6</sup> The Kimball 27 facility, located in St. Clair County, Michigan, has a working gas storage capacity of 3.05 Bcf, with a maximum daily injection rate of 48,000 Mcf/day, and a maximum daily withdrawal rate of 65,000 Mcf/day.<sup>7</sup>

5. Bluewater's pipeline system consists of approximately 30 miles of 20-inch-diameter pipeline in Macomb and St. Clair Counties, Michigan. The Bluewater pipeline interconnects with the Vector Pipeline L.P. (Vector) and Great Lakes Transmission, LP interstate natural gas transmission systems and the Consumers Energy Company and DTE Gas Company local distribution systems on its western end, and extends to the international boundary between the United States and Canada on its eastern end, where it interconnects with the Union Gas Limited gas transmission facility.<sup>8</sup> The Bluewater pipeline also interconnects with a 5-mile-long, 8-inch-diameter pipeline that extends from the Kimball 27 storage facility,<sup>9</sup> and a 1.5-mile-long, 20-inch-diameter pipeline that extends from the compressor station at the Columbus III facility.

6. Bluewater proposes to construct a new 11,150 hp compressor station, consisting of one gas-driven centrifugal compressor unit and other appurtenant facilities. The compressor station will include: (1) a compressor building; (2) an electrical control building; (3) parts storage; (4) an air compressor building; and (5) ancillary equipment.<sup>10</sup> Bluewater also proposes to construct two 105-foot, 20-inch-diameter sections of pipeline to tie the proposed compressor station into Bluewater's existing 20-inch-diameter pipeline and to abandon in place approximately 420 feet of existing 20-inch-diameter pipeline.<sup>11</sup> The segment of the existing pipeline Bluewater proposes to abandon is located between the proposed suction pipeline into the compressor station and the discharge pipeline exiting the compressor station and will no longer be needed after

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<sup>6</sup> Application at 4.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 4-5.

<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.* at 8.

<sup>11</sup> *Id.*

construction of the proposed facilities. Bluewater estimates the total cost of the project to be approximately \$40 million.<sup>12</sup>

7. Bluewater states that in 2007, Vector completed a capacity expansion project that increased Vector's operating pressure at its interconnect with Bluewater, thus reducing the amount of gas Bluewater can deliver to Vector.<sup>13</sup> Bluewater asserts that the proposed compressor station will restore its delivery capacity into Vector to its design capability<sup>14</sup> and enable Bluewater's customers to reliably deliver natural gas supplies to end-users in Wisconsin via Vector's system.

8. Bluewater does not propose to increase the certificated storage capacity or deliverability of its system nor is it offering any new services. Similarly, Bluewater is not expanding its system to interconnect with any new natural gas pipelines or offering service to any new downstream market.<sup>15</sup> Thus, Bluewater states that its proposed project will have no effect on the Commission's October 27, 2006 market power analysis conducted during review of Bluewater's certificate application, which concluded that Bluewater lacked power in its storage market.<sup>16</sup>

## II. Notice, Intervention, and Comments

9. Notice of Bluewater's application was published in the *Federal Register* on June 13, 2019.<sup>17</sup> The Michigan Public Service Commission, Vector, and SEMCO Energy Gas Company filed timely, unopposed motions to intervene. Timely, unopposed motions to

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<sup>12</sup> *Id.* at 7. Bluewater states that existing customers have entered into precedent agreements with Bluewater whereby these customers would compensate Bluewater for the cost of the project. *Id.* at 10.

<sup>13</sup> See *Vector Pipeline LP*, 117 FERC ¶ 61,018 (2006) (approving the construction and operation of two new mainline compressor stations).

<sup>14</sup> Bluewater states that its existing interconnect with Vector is designed for 500,000 Mcf/day of firm deliverability, but since the expansion, delivery capacity has been limited to 120,000 Mcf/day.

<sup>15</sup> Application at 9.

<sup>16</sup> *Id.* at 7 n.10; *BGS Kimball Gas Storage, LLC*, 117 FERC ¶ 61,122 at P 31.

<sup>17</sup> 84 Fed. Reg. 27,627 (June 13, 2019).

intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.<sup>18</sup>

10. Numerous comments were filed by individuals and entities raising concerns over the need for and the environmental impacts of the proposed project. On July 12, 2019, and December 19, 2019, Bluewater filed answers in response to the comments.<sup>19</sup> These issues are addressed in the Environmental Assessment (EA) issued for the project and below.

### **III. Discussion**

11. Because the proposed project includes the abandonment of existing facilities<sup>20</sup> and the construction and operation of facilities to transport natural gas in interstate commerce subject to the Commission's jurisdiction, the proposal is subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.<sup>21</sup>

#### **A. Certificate Policy Statement**

12. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.<sup>22</sup> The Certificate Policy Statement establishes 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 explains that, in deciding whether to authorize the construction of new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. The

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<sup>18</sup> 18 C.F.R. § 385.214(c) (2019).

<sup>19</sup> Although the Commission's Rules of Practice and Procedure generally do not permit answers to protests, our rules also provide that we may, for good cause, waive this provision. 18 C.F.R. § 385.101(e). We will accept all the responsive pleadings filed in this proceeding because they have provided information that assisted us in our decision-making process.

<sup>20</sup> Bluewater did not specifically request authority to abandon certain segments of pipeline it intends to replace. However, because a 420-foot segment of pipeline will be abandoned in place, Bluewater must have authority to abandon the pipelines, which we grant herein.

<sup>21</sup> 15 U.S.C. § 717f(b), (c), (e).

<sup>22</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *corrected*, 89 FERC ¶ 61,040 (1999), *clarified*, 90 FERC ¶ 61,128 (2000), *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

Commission's goal is to appropriately consider 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.

13. Under this policy, the threshold requirement for existing applicants proposing new projects is that the applicant 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, and landowners and communities affected by the route of the new pipeline 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 consider the environmental analysis where other interests are addressed.

14. Bluewater's proposal satisfies the threshold requirement that it financially support the project without relying on subsidization from its existing customers. As discussed above, Bluewater provides firm and interruptible storage services at market-based rates. By charging market-based rates, Bluewater assumes the economic risks associated with the costs of the project's facilities. Additionally, the purpose of the proposed project is to enhance the quality and reliability of existing services by restoring Bluewater's ability to deliver gas into Vector at previously achievable levels. Existing Bluewater customers have signed precedent agreements whereby these customers have agreed to compensate Bluewater for the cost of the project. Therefore, we find that Bluewater's existing customers will not subsidize the Bluewater Compression Project and that the threshold no-subsidy requirement is met.

15. Because the project is designed to restore delivery capacity at the Vector interconnect to its design level, there will be no adverse impacts on Bluewater's shippers. Nor is there any evidence that Bluewater's proposed project will adversely affect any other pipelines or their customers. The proposal is not intended to replace service on other pipelines, and no other pipelines or their captive customers have objected to Bluewater's proposal. Thus, we find that Bluewater's proposed project will not adversely affect its existing customers or other pipelines and their captive customers.

16. We are further satisfied that Bluewater has taken appropriate steps to minimize adverse impacts on landowners and communities. The proposed facilities will be constructed adjacent to Bluewater's existing 20-inch-diameter pipeline on property owned entirely by Bluewater and will require minimal new easements from Consumers

Energy to connect the existing pipeline with the proposed compressor station.<sup>23</sup> Thus, we conclude that the project would not have a significant adverse economic effect on landowners and surrounding communities.

17. Some commenters challenge the need for the project.<sup>24</sup> They contend that individuals impacted by the proposed project will not benefit from it because the natural gas delivered to Vector will supply end-users in Wisconsin. In its answer, Bluewater asserts that the fact the proposed project will not directly serve Michigan retail customers does not mean that the project is not needed or beneficial to those customers.<sup>25</sup> Bluewater argues that the enhancement to Bluewater's operational capability improves the resilience of the gas transmission systems within Michigan, notwithstanding the operational need to serve Wisconsin retail customers.<sup>26</sup> The project will create new opportunities for other Vector shippers, serving various parts of Michigan, to utilize the restored delivery capability at Bluewater's interconnect with Vector.<sup>27</sup>

18. Commission policy is to examine the merits of individual projects and assess whether each project meets the specific need demonstrated. Here, no party disputes that Bluewater's ability to deliver volumes of gas from its storage facilities into Vector for further transportation to its downstream customers has been hampered by an increase in operating pressure on the Vector system. Bluewater's customers have entered into precedent agreements whereby they would compensate Bluewater for the cost of the project to restore deliverability capability that the Commission previously found to be in the public convenience and necessity.<sup>28</sup> The shippers have determined, based on their assessment of long-term needs and markets, that there is a need to regain the flexibility that was previously offered by Bluewater's storage service. We will not second guess

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<sup>23</sup> Application at 11-12.

<sup>24</sup> *See, e.g.*, Stephen N. Cassin June 26, 2019 Comments; Kurt and Alissa Jurek June 27, 2019 Comments; Patricia Paholsky June 27, 2019 Comments; Matthew Grucz June 28, 2019 Comments; Rivenoak Consulting June 28, 2019 Comments; Ron Trombly June 28, 2019 Comments; Members of the Omo Road Neighborhood Association June 28, 2019 Comments; Township of Ray July 10, 2019 Comments; Jeff Yaroch August 9, 2019 Comments.

<sup>25</sup> Bluewater July 12, 2019 Response to Comments at 8.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Application at 10.

their assessments.<sup>29</sup> That proposed facilities are frequently used to deliver gas to ultimate end-users at some distance from the community where the facilities are located is an inherent feature of interstate pipeline systems<sup>30</sup> and not germane to the Commission's determination of whether such facilities are required by the greater public convenience and necessity.

19. The proposed project will provide the necessary compression to restore delivery capability to the certificated level at the Vector interconnect. Accordingly, we find that Bluewater has demonstrated a need for the Bluewater Compression Project and that the project's benefits will outweigh any adverse effects on existing shippers, other pipelines and their captive customers, and landowners and surrounding communities. Additionally, we find that Bluewater's proposed abandonment of facilities is permitted by the public convenience or necessity.<sup>31</sup> Therefore, we conclude that the project is consistent with the criteria set forth in the Certificate Policy Statement and analyze the environmental impacts of the project below.<sup>32</sup>

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<sup>29</sup> Cf. *Kinder Morgan Interstate Gas Transmission LLC*, 133 FERC ¶ 61,044, at P 25 (2010) (stating that the Commission will not substitute its business judgment for that of an applicant); *Gulf South Pipeline Co., LP*, 132 FERC ¶ 61,199, at P 63 (2010) (“the Commission gives deference to pipelines’ operational experience and provides pipelines with reasonable discretion to manage their own systems”) (citations omitted).

<sup>30</sup> The need for gas to move in interstate, as opposed to local, commerce is a fundamental purpose behind the NGA. See 15 U.S.C. § 717(b) (2018) (providing for jurisdiction over “the transportation of natural gas in interstate commerce . . . [and] the sale in interstate commerce of natural gas for resale”); *NAACP v. Fed. Power Comm’n*, 425 U.S. 662, 669-70 (1976) (recognizing that “the principal purpose of . . . [the NGA is] to encourage the orderly development of plentiful supplies of . . . natural gas at reasonable prices”); S. Rep. No. 80-429, at 3 (1947) (stating that, for projects the Commission determines are required by the public convenience and necessity, it would “defeat[] the very objectives of the [NGA]” that a “State may . . . require a natural-gas pipe-line company entering the State to serve the people of that State . . .”).

<sup>31</sup> 15 U.S.C. § 717f(b).

<sup>32</sup> See Certificate Policy Statement, 88 FERC at 61,745-46 (explaining that only when the project benefits outweigh the adverse effects on the economic interests will the Commission then complete the environmental analysis).

## **B. Rates**

20. Bluewater estimates the cost of the project to be approximately \$40 million and notes that it is authorized to charge market-based rates for firm and interruptible storage, hub, and wheeling services.<sup>33</sup>

21. Bluewater states that although the proposed project will interconnect with Bluewater's existing pipeline, Bluewater is not expanding its system to interconnect with any new natural gas pipelines or to offer service to any new downstream markets. Accordingly, Bluewater contends that the Commission's 2006 market power analysis of Bluewater's firm and interruptible storage, hub, and wheeling services will be unaffected by the proposed project.<sup>34</sup>

22. The Commission requires any pipeline with market-based rates to notify the Commission if future changes in storage circumstances may significantly affect its present market power status.<sup>35</sup> Because the proposed project will restore the originally certificated 500,000 Mcf/day of capacity at Bluewater's interconnect with Vector, we agree that a re-examination of Bluewater's market-based rate authority is unnecessary.<sup>36</sup>

## **C. Environmental Analysis**

23. On July 5, 2019, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Bluewater Compression Project, and Request for Comments on Environmental Issues* (NOI). The NOI was published in the *Federal Register*<sup>37</sup> 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, we received comments from 2 federal agencies, 3 state agencies, 2 local officials, 21 landowners, a Native American tribe, and a consulting firm. The primary

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<sup>33</sup> See *BGS Kimball Gas Storage, LLC*, 117 FERC ¶ 61,122 (authorizing Bluewater to operate existing pipeline and storage facilities, approving market-based rates for storage and hub services, and issuing Part 157 and 284 blanket certificates).

<sup>34</sup> Application at 7 n.10.

<sup>35</sup> 18 C.F.R. § 284.504(b) (2019).

<sup>36</sup> We note that the Commission reserves the right to require an updated market power analysis at any time. See, e.g., *Golden Triangle Storage, Inc.*, 152 FERC ¶ 61,158, at P 24 (2015).

<sup>37</sup> 84 Fed. Reg. 33,066 (July 11, 2019).



issues raised during the scoping process included the purpose and need of the proposed project; impacts to wildlife, land use, visual resources, socioeconomics, air quality, noise, and public safety; cumulative impacts; and alternatives.

24. To satisfy the requirements of the National Environmental Policy Act of 1969,<sup>38</sup> our staff prepared an Environmental Assessment (EA) for Bluewater'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, socioeconomics, cumulative impacts, and alternatives. All substantive comments raised during the scoping process were addressed in the EA.<sup>39</sup> The EA was issued for a 30-day comment period and placed into the public record on January 17, 2020. The Commission received comments on the EA from the United States Environmental Protection Agency (EPA), Mr. Mark Sorrow, and Mr. Chris Holsbeke. On February 25, 2020, Bluewater filed a response to the EA comments.<sup>40</sup>

### 1. Soils

25. The EPA states that the EA does not discuss the potential for the abandoned pipeline to become exposed due to erosion and the subsequent impacts of the exposed pipeline on water quality, water migration, species, and public safety.<sup>41</sup> These concerns were raised by the EPA during the scoping process for the project and are addressed in the EA.<sup>42</sup> The EA states that the area in which pipeline that will be abandoned is located does not have high wind or erosion potential and that there are no waterbody crossings or significant slopes in the area of the proposed abandonment.<sup>43</sup> Therefore, the EA concludes that there is no reason to believe that this abandoned pipeline segment will become exposed due to erosion.<sup>44</sup> We agree with this conclusion.

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<sup>38</sup> 42 U.S.C. §§ 4321 *et seq.* (2018); *see also* 18 C.F.R. pt. 380 (2019) (Commission's regulations implementing NEPA).

<sup>39</sup> EA at 3-4.

<sup>40</sup> Bluewater February 25, 2020 Limited Response to Comments.

<sup>41</sup> EPA February 14, 2020 EA Comments at 4.

<sup>42</sup> EA at 14.

<sup>43</sup> *Id.* at 14.

<sup>44</sup> *Id.*

## 2. Native and Invasive Plants Species

26. The EPA states that the project could introduce non-native invasive plant species through, among other sources, the tires of heavy machinery and vegetation clearing.<sup>45</sup> The EPA recommends using pollinator-friendly native species to revegetate all disturbed green spaces after project construction is complete.<sup>46</sup> As stated in the EA, Bluewater will comply with the FERC *Upland Erosion Control, Revegetation, and Maintenance Plan* (Plan), which requires Bluewater to develop specific procedures in coordination with the appropriate agencies to prevent the introduction or spread of invasive species, noxious weeds, and soil pests resulting from construction and restoration activities. Bluewater has also committed to ensure that all ground disturbing equipment is clean and free of soil or plant debris prior to arriving, and leaving, the project site.<sup>47</sup> The FERC Plan also requires an applicant to seek seed mix recommendations from the local soil conservation authority.<sup>48</sup> Bluewater received recommendations from the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) on November 8, 2018<sup>49</sup> and proposed to implement the recommended seed mixtures accordingly. In its comments on the EA, Bluewater stated its willingness to follow the EPA's recommendations if the Commission determined that the recommended measure was warranted.<sup>50</sup> To address the EPA's concern regarding pollinator-friendly species, we have revised Environmental Condition 13 to require Bluewater to include in its seed mix pollinator friendly native seed species for revegetation of the green space areas of the compressor station site. Due to the small portion of permanent vegetation conversion, Bluewater's minimization measures, revised Environmental Condition 13, and Bluewater's commitment to follow the mitigation measures in the FERC Plan and those of the NRCS, the project will not significantly impact vegetation.

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<sup>45</sup> EPA February 14, 2020 EA Comments at 3.

<sup>46</sup> *Id.*

<sup>47</sup> EA at 18.

<sup>48</sup> *Id.* at 14.

<sup>49</sup> Application at 531 (Appendix 7A).

<sup>50</sup> Bluewater February 25, 2020 Limited Response to Comments at 1.

### 3. Public Outreach

27. The EPA states that the community should be kept informed of required mitigation measures, and a venue should be available for resident complaints to ensure mitigation measures are followed.<sup>51</sup>

28. Environmental Condition 6 requires Bluewater to file, in the Commission's public docket for this proceeding, an implementation plan that includes details on how it will implement the construction procedures and mitigation measures for the proposed project. Additionally, Environmental Condition 8 requires Bluewater to file biweekly construction status reports, which will include environmental compliance issues documented by its environmental inspector, descriptions of any landowner complaints, and the measures Bluewater will implement to resolve the environmental issues and complaints. Lastly, Environmental Condition 9 requires that Bluewater develop and implement an environmental complaint resolution procedure, which will provide landowners with directions for identifying and resolving any environmental mitigation problems or concerns during construction and restoration of the project.<sup>52</sup>

### 4. Visual Resources

29. In response to Bluewater's proposed landscaping plan, Mr. Holsbeke states that when trees on the project site are unhealthy, there should be a deadline for tree replacement,<sup>53</sup> asserting that under the proposed landscape plan, dead trees could remain in place for years without being replaced and that three months is a suitable timeframe for tree replacement.<sup>54</sup>

30. To create a visual buffer for nearby landowners, Bluewater has committed to annually reviewing the health of screening trees and berms to determine if maintenance is required or if trees should be replaced.<sup>55</sup> Bluewater states that when problems associated with trees at the project site are identified, it will address tree replacement in a timely

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<sup>51</sup> EPA February 14, 2020 EA Comments at 2.

<sup>52</sup> EA at 26. The "landowner/stakeholder topics" section of FERC's website provides various methods for landowners to resolve issues related to the construction or the operation of FERC-jurisdictional projects. *See* Federal Energy Regulatory Commission, *Natural Gas Project Landowner/Stakeholder Topics of Interest*, <https://www.ferc.gov/industries/gas/landowner-topics.asp> (accessed April 2020).

<sup>53</sup> Chris Holsbeke February 18, 2020 Response to EA at 1.

<sup>54</sup> *Id.*

<sup>55</sup> EA at 25-26.

manner.<sup>56</sup> Commission staff will inspect construction and monitor restoration of the project site on a regular basis to ensure compliance with the conditions of this order,<sup>57</sup> the measures set forth in Bluewater's landscaping plan, and the measures in the FERC Plan until restoration is deemed successful. The FERC Plan requires Bluewater to continue its revegetation efforts until revegetation is successful, file quarterly reports to document results of these efforts, and document any restoration concerns and Bluewater's corrective actions.

31. Next, Mr. Holsbeke states that a "barn" look for the proposed compressor station building is important to him and other landowners, and disagrees with the statement in the EA that the results of Bluewater's community outreach indicated that most attendees of open houses did not support such a look.<sup>58</sup> The visual simulation provided in Appendix B of the EA and the proposed landscaping plan confirm that the facilities will be barely visible to nearby landowners.<sup>59</sup> Changing the compressor station building to a "barn" look is unnecessary, as the facility will be screened sufficiently to block views of the compression station.<sup>60</sup> Therefore, we agree with the EA's determination that the proposed compressor station, with the implementation of Bluewater's proposed mitigation and the conditions included in this order, will not result in significant impacts on visual resources.<sup>61</sup>

## 5. Alternatives

32. Mr. Holsbeke states that the EA did not properly consider alternative compressor station locations.<sup>62</sup> In fact, the EA provides an analysis of multiple alternative locations for the proposed compressor station and finds that there is no alternative that is environmentally preferable, feasible, practical, and capable of meeting Bluewater's stated objective.<sup>63</sup> As stated in the EA, the potential alternative locations for the compressor

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<sup>56</sup> Bluewater February 25, 2020 Limited Response to Comments at 3.

<sup>57</sup> EA at 8.

<sup>58</sup> Chris Holsbeke February 18, 2020 Response to EA at 1.

<sup>59</sup> EA at 25.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 26.

<sup>62</sup> Chris Holsbeke February 18, 2020 Response to EA at 1.

<sup>63</sup> EA at 50-56.

station would increase the environmental impact of the project for a variety of reasons, including: (1) increasing the number of residences located near the proposed compressor station; (2) increasing impacts to wetlands, waterbodies, significantly forested areas, and current land uses; (3) destroying existing structures; and/or (4) causing unnecessary earth disturbances from building new and additional pipeline facilities beyond the impact required for the proposed site.<sup>64</sup> Therefore, we agree with the EA's finding that no alternative aboveground facility location provides a significant environmental advantage over the proposed site.<sup>65</sup>

33. Next, Mr. Mark Sorrow requests that Bluewater utilize electric-driven motors at the proposed compressor station.<sup>66</sup> Mr. Sorrow argues that electric-driven compressor units will minimize the safety, noise, and air quality impacts of the proposed project.<sup>67</sup>

34. The EA considered and eliminated the alternative of using an electric-driven compressor unit for a variety of reasons. Bluewater analyzed the use of an electric-driven compressor but determined that it would be more costly to build, operate, and maintain, and would not be as reliable during cold or inclement weather events.<sup>68</sup> The alternative would also not provide significant environmental advantages. The EA found that a new electric substation would need to be constructed for an electric motor-driven compressor, and would create additional permanent aboveground land use restrictions, additional aesthetic impacts associated with the views of the substation, additional construction impacts, and potential noise impacts on nearby residents.<sup>69</sup>

35. Moreover, although electric-driven compression would eliminate certain stationary source emissions at the compressor station, these emissions would be transferred to

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<sup>64</sup> *Id.* at 53-56.

<sup>65</sup> *Id.* at 56.

<sup>66</sup> Mark Sorrow February 25, 2020 Comments on EA.

<sup>67</sup> *Id.*

<sup>68</sup> Bluewater August 6, 2019 Response to Environmental Information Request at 43.

<sup>69</sup> EA at 57. Construction of a substation would add an additional year to the project's in-service date.

electric generation facilities, which could use a variety of other methods of electrical generation that yield their own environmental impacts.<sup>70</sup>

36. Considering the above, we find that the EA appropriately eliminated the electric-driven compressor unit alternative.

## 6. Air Quality and Noise

37. The EPA recommends several measures to reduce fugitive dust from construction, including watering the construction workspace, time limits on construction equipment idling, and best practices for reducing air emissions in the EPA's Construction Emission Control Checklist.<sup>71</sup> To reduce fugitive dust emissions, Bluewater has proposed several control measures, which include measures that overlap or are alternatives to the EPA's recommended measures. Specifically, Bluewater has indicated it would implement the following: (1) installing and maintaining erosion and sediment control measures during construction; (2) establishing revegetation following final grading; (3) applying water or dust suppressant for dust control; (4) limiting vehicle speed within the project workspace to 10 miles per hour or less; (5) daily inspection of wind erosion control measures and weekly documentation; and (6) checking areas that have been protected to ensure coverage and effectiveness of wind erosion controls, and reapplying or implementing additional wind erosion control measures if necessary.<sup>72</sup> Bluewater also stated it will limit equipment idling where feasible and that additional measures may be employed such as sweeping of paved roads and using gravel tracking pads at egress points to remove dirt from tires and tracks, and restoring disturbed areas following construction.<sup>73</sup> Bluewater will require all trucks hauling loose material to be equipped with tight-fitting tailgates and their loads securely covered prior to leaving the project construction sites.<sup>74</sup> The EA concludes that there would be no local or regionally significant impacts on air quality because of the small construction footprint and short construction timeframe. We

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<sup>70</sup> *Tennessee Gas Pipeline Company, L.L.C.*, 169 FERC ¶ 61,230 at P 74 (2019) (Glick, Comm'r, *dissenting in part*; McNamee, Comm'r, *concurring*).

<sup>71</sup> EPA February 14, 2020 EA Comments at 3.

<sup>72</sup> Application, Resource Report 7 at 7-10.

<sup>73</sup> Application, Resource Report 9 at 9-3.

<sup>74</sup> *Id.*

agree and find that imposing additional mitigation for fugitive dust emissions is not necessary.<sup>75</sup>

38. The EPA also encourages the reduction of methane emissions from operation of the compressor station.<sup>76</sup> Bluewater has committed to install technology, including some of the recommended methods in the EPA's Methane Challenge Program, to reduce methane emissions.<sup>77</sup> Therefore, we find that Bluewater has appropriately addressed this EPA comment with its proposed technology and best practices to reduce potential methane emissions from the project.

39. Next, the EPA questions why the EA identifies the closest residence as being 320 feet from the north fence line, but also states that the closest noise sensitive area, a residence, is 800 feet north of the compressor station.<sup>78</sup> Although the residence is 320 feet from the fence line, for the purpose of determining the closest noise sensitive area, the EA measured from the center point of the compressor building. Measuring from that point, the residence is 800 feet away.

40. Last, to evaluate noise impacts, the EPA requests that we clarify the time and frequency of blowdowns at the compressor station.<sup>79</sup> The EA disclosed blowdown activities during normal operation.<sup>80</sup> The EA also states that Bluewater would install a blowdown silencer, and that emergency full station blowdowns would be longer and louder than blowdown activities during normal operation.<sup>81</sup> Further, although the noise impacts of the compressor station and blowdowns would be audible at the nearby residential noise sensitive areas, the overall, time-averaged noise level from operation of the compressor station would not be greater than 55 decibels on the A-weighted scale and would not result in significant noise impacts on residents.<sup>82</sup> We agree with this determination. In addition, as required by Environmental Condition 14 in the appendix to

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<sup>75</sup> EA at 33.

<sup>76</sup> EPA February 14, 2020 EA Comments at 3.

<sup>77</sup> EA at 34.

<sup>78</sup> EPA February 14, 2020 EA Comments at 2.

<sup>79</sup> *Id.* at 2.

<sup>80</sup> EA at 36 (Table 14).

<sup>81</sup> *Id.* at 36.

<sup>82</sup> *Id.* at 37.

this order, Bluewater is required to file a noise survey to ensure that noise levels from the compressor station do not exceed a day-night sound level of 55 decibels on the A-weighted scale at any nearby noise sensitive areas. With the implementation of measures in the permits that Bluewater has committed to obtain prior to construction, FERC's Plan, and the environmental conditions of this order, the project will meet or exceed state standards and our noise requirements.

## 7. Safety

41. The EPA requests that the Commission require a construction traffic management plan to ensure that trucks hauling materials and heavy machinery avoid areas where children congregate.<sup>83</sup>

42. The EA estimates that the project would generate an average of 10 to 12 construction work vehicles and up to 10 large construction vehicle trips to and from the site per workday.<sup>84</sup> The EA states that Bluewater will obtain all necessary permits and adhere to all city and state regulations regarding traffic, truck restrictions, and traffic management measures.<sup>85</sup> Based on the limited size and duration of the construction, Bluewater's proposed traffic management strategies, and adherence to applicable permits, the EA concludes that the impacts on transportation would be temporary and not significant.<sup>86</sup>

43. In addition, the EA states that one existing residence is located approximately 30 feet from the temporary access road, and that Bluewater will minimize impacts on the residence by notifying the landowner before starting construction, limiting speed within the project workspace, and mitigating fugitive dust.<sup>87</sup> The EA also states that no schools occur within 1,500 feet of the project, and that the nearest recreational areas include a golf course located approximately 1 mile from the project area, a natural landmark located approximately 3.9 miles from the project area, and a state park located 4 miles from the project area.<sup>88</sup>

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<sup>83</sup> EPA February 14, 2020 EA Comments at 4.

<sup>84</sup> EA at 27.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.* at 24.

<sup>88</sup> *Id.* at 24-25.



44. Thus, given the location of the project area, Bluewater's construction measures, and that the project will not have a significant impact on transportation, we do not find that requiring a construction traffic management plan is necessary.

## 8. Climate Change

45. The EPA requests that we disclose reasonably foreseeable climate change impacts as indicated in the 4th National Climate Assessment.<sup>89</sup>

46. The EA estimates the maximum potential greenhouse gas (GHG) emissions from operation of the projects to be 33,711 metric tons per year carbon dioxide equivalent (CO<sub>2</sub>e).<sup>90</sup> To provide context to the EA's GHG estimate, 5.743 billion metric tons of CO<sub>2</sub>e were emitted at a national level in 2017 (inclusive of CO<sub>2</sub>e sources and sinks).<sup>91</sup> The operational and construction-related emissions of the project could potentially increase CO<sub>2</sub>e emissions based on the 2017 levels by 0.00005 percent at the national level.<sup>92</sup> Currently, there are no national targets to use as a benchmark for comparison.<sup>93</sup>

47. GHG emissions, such as those emitted from the operation of the project, will contribute incrementally to climate change, and the EA discloses various effects of climate change on the Midwest region of the United States.<sup>94</sup> However, as the

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<sup>89</sup> EPA February 14, 2020 EA Comments at 3.

<sup>90</sup> EA at 33 (Table 11).

<sup>91</sup> U.S. Environmental Protection Agency, *Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2017* at ES6-8 (Table ES-2) (2019), <https://www.epa.gov/sites/production/files/2019-04/documents/us-ghg-inventory-2019-main-text.pdf> (accessed April 2020).

<sup>92</sup> We note that this calculation does not include the total estimated construction-related emissions of 569 tons per year of CO<sub>2</sub>e, as such emissions are temporary and would occur only during construction of the project. *See* EA at 33 (Table 10).

<sup>93</sup> The national emissions reduction targets expressed in the EPA's Clean Power Plan were repealed, *Greenhouse Gas Emissions from Existing Electric Utility Generating Units*; Revisions to Emissions Guidelines Implementing Regulations, 84 Fed. Reg. 32,520, 32,522-32 (July 8, 2019), and the targets in the Paris Climate Accord are pending withdrawal.

<sup>94</sup> EA at 45-46 (detailing the environmental impacts attributed to climate change in the Midwest region from U.S. Global Change Research Program's 2017 and 2018 Climate Science Special Report: Fourth National Climate Assessment).

Commission has previously concluded, it cannot determine a project's incremental physical impacts on the environment caused by GHG emissions.<sup>95</sup> We have also previously concluded the Commission cannot determine whether an individual project's contribution to climate change would be significant.<sup>96</sup> That situation has not changed.

48. The EPA also recommends the adoption of measures, if warranted, to ensure that the proposed project would be resilient to any climate change impacts.<sup>97</sup> Commission staff did not recommend any specific resilience measures; however, the compressor station is not located within a floodplain,<sup>98</sup> nor would it appear to be susceptible to serious flooding. Therefore, we agree with the EA's conclusion that additional resilience measures are not necessary.

49. Based on the analysis in the EA, as supplemented herein, we conclude that if constructed and operated in accordance with Bluewater'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.

#### **D. Conclusion**

50. Based on our Certificate Policy Statement determination and our environmental analysis, we find under section 7 of the NGA that the public convenience and necessity requires approval of Bluewater's Compression Project, subject to the conditions in this order.

51. 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 construction and operation of the project, including authority to impose any additional measures deemed necessary to ensure continued compliance with the intent of the

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<sup>95</sup> *Dominion Transmission, Inc.*, 163 FERC ¶ 61,128, at PP 67-70 (2018) (LaFleur, Comm'r, *dissenting in part*; Glick, Comm'r, *dissenting in part*).

<sup>96</sup> *Id.*

<sup>97</sup> EPA February 14, 2020 EA Comments at 3.

<sup>98</sup> EA at 50 (Table 17).

conditions of the order, as well as the avoidance or mitigation of unforeseen adverse environmental impacts resulting from project construction and operation.

52. 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.<sup>99</sup>

53. At a meeting held on May 21, 2020, 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 and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Bluewater authorizing it to construct and operate the Compression Project, as described and conditioned herein, and as more fully described in the application and subsequent filings by the applicant, including any commitments made therein.

(B) Bluewater is granted permission and approval to abandon the pipeline segment, as more fully described in this order and the application.

(C) Bluewater shall notify the Commission of the date of the abandonment of facilities within 10 days.

(D) The certificate issued in ordering paragraph (A) is conditioned on Bluewater's:

- (1) completion of construction of the proposed facilities and making them available for service within two years of the date of this order pursuant to section 157.20(b) of the Commission's regulations;

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<sup>99</sup> See 15 U.S.C. § 717r(d) (state or federal agency's failure to act on a permit considered to be inconsistent with Federal law); see also *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293, 310 (1988) (state regulation that interferes with FERC's regulatory authority over the transportation of natural gas is preempted) and *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 245 (D.C. Cir. 2013) (noting that state and local regulation is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the Commission).

- (2) compliance with all applicable regulations under the NGA, including paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
- (3) compliance with the environmental conditions listed in the appendix to this order; and
- (4) making a filing affirming that the parties have executed firm service agreements before commencing construction.

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

By the Commission. Commissioner Glick is dissenting in part with a separate statement attached.  
Commissioner McNamee is concurring with a separate statement attached.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**Appendix**  
**Environmental Conditions**

As recommended in the Environmental Assessment (EA), this authorization includes the following conditions:

1. Bluewater Gas Storage, LLC (Bluewater) 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. Bluewater 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), or the Director's designee, **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 abandonment activities and construction and operation of the Project. 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, construction and operation activities.
3. **Prior to any construction**, Bluewater 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 location 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**, Bluewater 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 the facility 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.

Bluewater'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. Bluewater's right of eminent domain granted under Natural Gas Act section 7(h) does not authorize it to increase the size of its natural gas facilities to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Bluewater 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, or the Director's designee, **before construction in or near that area.**

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 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**, Bluewater shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP, or the Director's designee. Bluewater must file revisions to the plan as schedules change. The plan shall identify:
- a. how Bluewater 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 Bluewater 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 Bluewater 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 Bluewater's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) Bluewater will follow if noncompliance occurs; and
  - h. for each discrete facility, a Gantt or Program Evaluation Review Technique 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. Bluewater shall employ at least one EI for the Project. 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, Bluewater 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 Bluewater'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 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 Bluewater from other federal, state, or local permitting agencies concerning instances of noncompliance, and Bluewater's response.
9. Bluewater shall develop and implement an environmental complaint resolution procedure, and file such procedure with the Secretary, for review and approval by the Director of OEP, or the Director's designee. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems or concerns during construction of the Project and restoration of the right-of-way and compressor station site. **Prior to construction**, Bluewater shall mail the complaint procedures to each landowner whose property is crossed by the Project or within 0.5 miles of the compressor station.



- a. In its letter to affected landowners, Bluewater shall:
    - (1) provide a local contact that the landowners should call first with their concerns and indicate how soon a landowner should expect a response;
    - (2) instruct the landowners that if they are not satisfied with the response, they should call Bluewater's Hotline and indicate how soon to expect a response; and
    - (3) instruct the landowners that if they are still not satisfied with the response from Bluewater's Hotline, they should contact the Commission's Landowner Helpline at 877-337-2237 or at LandownerHelp@ferc.gov.
  - b. In addition, Bluewater shall include in its **biweekly** status report a copy of a table that contains the following information for each problem/concern:
    - (1) the identity of the caller and date of the call;
    - (2) the location of the affected property;
    - (3) a description of the problem/concern; and
    - (4) an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.
10. Bluewater must receive written authorization from the Director of OEP, or the Director's designee, **before commencing construction of any Project facilities**. To obtain such authorization, Bluewater must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
  11. Bluewater must receive written authorization from the Director of OEP, or the Director's designee, **before placing the Project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way, compressor station site, and other areas affected by the Project are proceeding satisfactorily.
  12. **Within 30 days of placing the authorized facilities in service**, Bluewater 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 which of the conditions in the Order Bluewater 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.

13. **Prior to construction**, Bluewater shall file with the Secretary, for review and written approval by the Director of OEP, or the Director's designee, a revised landscape plan that incorporates: (1) pollinator-friendly native seed species on the berms and within the compressor station property open space outside of the operational footprint fence line, and (2) additional visual screening along Omo Road by replacing deciduous trees with more mature evergreen trees and/or adding more mature evergreen trees throughout the eastern portion of the site at grade level.
14. Bluewater shall file a noise survey with the Secretary **no later than 60 days** after placing the compressor station in-service. If a full load condition noise survey is not possible, Bluewater shall file an interim survey at the maximum possible horsepower load and file the full load survey **within 6 months**. If the noise attributable to the operation of all of the equipment at the compressor station under interim or full horsepower load conditions exceeds a day-night sound level ( $L_{dn}$ ) of 55 decibels on the A-weighted scale (dBA) at any nearby noise sensitive areas, Bluewater shall file a report on what changes are needed, for review and written approval by the Director of OEP, or the Director's designee, and shall install the additional noise controls to meet the level **within 1 year** of the in-service date. Bluewater shall confirm compliance with the above requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Bluewater Gas Storage, LLC

Docket No. CP19-471-000

(Issued May 21, 2020)

GLICK, Commissioner, *dissenting in part*:

1. I dissent in part from today's order because it violates both the Natural Gas Act<sup>1</sup> (NGA) and the National Environmental Policy Act<sup>2</sup> (NEPA). The Commission once again refuses to consider the consequences its actions have for climate change. Although neither the NGA nor NEPA permit the Commission to ignore the climate change implications of constructing and operating this project, that is precisely what the Commission is doing here.

2. In today's order authorizing Bluewater Gas Storage, LLC (Bluewater) to construct a new compressor station (Project), the Commission continues to treat greenhouse gas (GHG) emissions and climate change differently than all other environmental impacts.<sup>3</sup> The Commission again refuses to consider whether the Project's contribution to climate change from GHG emissions would be significant, even though it quantifies the direct GHG emissions from the Project's construction and operation.<sup>4</sup> That failure forms an integral part of the Commission's decisionmaking: The refusal to assess the significance of the Project's contribution to the harm caused by climate change is what allows the Commission to state that approval of the Project "would not constitute a major federal action significantly affecting the quality of the human environment"<sup>5</sup> and, as a result, conclude that the Project is in the public interest and required by the public convenience and necessity.<sup>6</sup> Claiming that a project has no significant environmental impacts while at

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<sup>1</sup> 15 U.S.C. § 717f (2018).

<sup>2</sup> National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 *et seq.*

<sup>3</sup> *Bluewater Gas Storage, LLC*, 171 FERC ¶ 61,132 (2020) (Certificate Order).

<sup>4</sup> Bluewater Compression Project Environmental Assessment at Tables 10 & 11 (EA).

<sup>5</sup> Certificate Order, 171 FERC ¶ 61,132 at P 49; *see also* EA at 59.

<sup>6</sup> Certificate Order, 171 FERC ¶ 61,132 at P 50.

the same time refusing to assess the significance of the project's impact on the most important environmental issue of our time is not reasoned decisionmaking.

3. The Commission's failure to meaningfully consider climate change forces me into dissenting from certificate orders that I might otherwise support. The operation of the Project is expected to emit 33,000 metric tons of CO<sub>2</sub> annually,<sup>7</sup> which might not be significant. But the Commission refuses to even engage in that analysis.<sup>8</sup> Prior to issuing a section 7 certificate, the Commission must find both that the proposed project is needed, and that, on balance, its potential benefits outweigh its potential adverse impacts.<sup>9</sup> Although need for the Project is an important consideration, and demonstrated in today's order,<sup>10</sup> need alone is not sufficient to find that the Project is consistent with the public interest. Instead, the Commission must also determine that the Project's benefits outweigh its adverse impacts, including its GHG emissions, which the Commission cannot do without meaningfully evaluating the impacts of those emissions. I cannot join an order that countenances such an incomplete assessment of a project's adverse impacts, regardless of what I might otherwise think of that project.

For all these reasons, and those articulated previously,<sup>11</sup> I respectfully dissent in part.

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Richard Glick  
Commissioner

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<sup>7</sup> *Id.* P 46; EA at Table 11.

<sup>8</sup> Certificate Order, 171 FERC ¶ 61,132 at P 47.

<sup>9</sup> *See Sabal Trail*, 867 F.3d at 1373 (explaining that section 7 of the NGA requires the Commission to balance “the public benefits [of a proposed pipeline] against the adverse effects of the project,’ including adverse environmental effects” (quoting *Myersville Citizens for a Rural Cmty. v. FERC*, 783 F.3d 1301, 1309 (D.C. Cir. 2015)).

<sup>10</sup> Certificate Order, 171 FERC ¶ 61,132 at PP 18-19.

<sup>11</sup> *See, e.g., Transcontinental Gas Pipe Line Co. LLC*, 171 FERC ¶ 61,032 (2020) (Glick, Comm'r, dissenting in part); *Transcontinental Gas Pipe Line Co. LLC*, 171 FERC ¶ 61,031 (2020) (Glick, Comm'r, dissenting in part); *Columbia Gas Transmission, LLC*, 170 FERC ¶ 61,045 (2020) (Glick, Comm'r, dissenting in part).

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Bluewater Gas Storage, LLC

Docket No. CP19-471-000

(Issued May 21, 2020)

McNAMEE, Commissioner, *concurring*:

1. Today's order issues Bluewater Gas Storage, LLC (Bluewater) a certificate of public convenience and necessity for authorization to construct and operate a new 11,150 horsepower compressor station in Macomb County, Michigan (Project).<sup>1</sup> Bluewater proposes the Project to restore its delivery capacity into Vector Pipeline, LP's (Vector) interstate natural gas pipeline system to its design capability.<sup>2</sup> Bluewater states that the Project will enable Bluewater's customers to continue to reliably deliver natural gas supplies to end-users in Wisconsin via Vector's system.<sup>3</sup> The Project will not add any incremental capacity.

2. I fully support the order as it complies with the Commission's statutory responsibilities under the Natural Gas Act and the National Environmental Policy Act. The order determines that the Project is in the public convenience and necessity, finding that the Project will not adversely affect Bluewater's existing customers or competitor pipelines and their captive customers, and that the Project will have minimal impacts on landowners and communities.<sup>4</sup> The order also finds that the Project will not significantly affect the quality of the human environment.<sup>5</sup> Further, the Commission has quantified and considered the greenhouse gases (GHG) emitted by the construction and operation of the Project,<sup>6</sup> consistent with the holding in *Sierra Club v. FERC (Sabal Trail)*.<sup>7</sup>

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<sup>1</sup> *Bluewater Gas Storage, LLC*, 171 FERC ¶ 61,132 (2020).

<sup>2</sup> *Id.* P 7.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* PP 14-19.

<sup>5</sup> *Id.* P 49.

<sup>6</sup> *Id.* PP 46-47; Environmental Assessment at 33.

<sup>7</sup> 867 F.3d 1357 (D.C. Cir. 2017). I note that my concurrence in *Transcontinental Gas Pipe Line Company, LLC (Transco)* in which I incorporate herein, states that

3. I write separately to respond to my colleague’s argument that the Commission should have determined whether the GHG emissions related to the Project are “significant.” In my concurrence in *Transco*, I explain that the Commission has no reasoned basis to make a determination of whether GHG emissions related to the proposed facilities are significant.<sup>8</sup> Further, it is not appropriate for the Commission to establish out of whole cloth a GHG emission mitigation program, particularly when Congress has introduced and failed to pass 70 legislative bills to reduce GHG emissions over the last 15 years.<sup>9</sup> As I explain in *Transco*, Congress delegated the Administrator of the U.S. Environmental Protection Agency the exclusive authority to establish standards of performance for air pollutants, including GHGs.<sup>10</sup> For logistical reasons and administrative efficiency, I hereby incorporate my analysis in *Transco* by reference and am not reprinting the full text of my analysis here.<sup>11</sup>

For the reasons discussed above and incorporated by reference herein, I respectfully concur.

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Bernard L. McNamee  
Commissioner

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“[t]hough the D.C. Circuit’s holding in *Sabal Trail* is binding on the Commission, it is not appropriate to expand that holding through the dicta in *Birckhead* so as to establish new authorities under the NGA and NEPA. The Commission is still bound by the NGA and NEPA as enacted by Congress, and interpreted by the U.S. Supreme Court and the D.C. Circuit. Our obligation is to read the statutes and case law in harmony.” *Transco*, 171 FERC ¶ 61,032 (2020) (McNamee, Comm’r, concurring at P 13 n.31).

<sup>8</sup> *Id.* PP 63-74.

<sup>9</sup> *Id.* PP 53-62.

<sup>10</sup> *Id.* PP 54-58.

<sup>11</sup> *Id.* PP 53-74.