

169 FERC ¶ 61,214
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern Star Central Gas Pipeline, Inc.

Docket No. CP19-31-000

ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT

(Issued December 19, 2019)

1. On December 21, 2018, Southern Star Central Gas Pipeline, Inc. (Southern Star), filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations,² requesting certificate and abandonment authorizations for its proposed Lines DT and DS Replacement Project located in Anderson and Franklin Counties, Kansas. Southern Star is seeking authorization to abandon approximately 32 miles of 26-inch-diameter pipeline and 31 miles of 20-inch-diameter pipeline and construct approximately 32 miles of 36-inch-diameter pipeline, and associated appurtenant facilities, to replace the abandoned pipelines (Lines DT and DS Replacement Project). We will grant the requested authorizations, subject to the conditions herein, as discussed below.

I. Background and Proposal

2. Southern Star, a corporation organized under the laws of the State of Delaware with its principal place of business in Kentucky, 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, subject to the Commission's jurisdiction. Southern Star owns and operates approximately 6,000 miles of pipeline located in Kansas, Oklahoma, Missouri, Wyoming, Colorado, Texas, Nebraska, and Kentucky.

3. Southern Star describes the Lines DT and DS Replacement Project as part of a multi-year modernization program to maintain and enhance pipeline safety, address aging

¹ 15 U.S.C. §§ 717f(b), (c) (2018).

² 18 C.F.R. pt. 157 (2019).

³ 15 U.S.C. § 717a(6).

infrastructure, and increase customer service reliability.⁴ On November 14, 2018, Southern Star filed an unopposed, pre-arranged settlement⁵ with its customers in Docket No. RP19-289 that, among other things, established a capital Cost Recovery Mechanism (CRM) through which existing base system shippers will share the cost of modernization projects identified in the settlement's Eligible Facilities Plan.⁶

4. The Lines DT and DS Replacement Project is the largest single modernization project identified in the Eligible Facilities Plan.⁷ Line DT was constructed in 1952 and has a maximum allowable operating pressure (MAOP) of 500 pounds per square inch gauge (psig).⁸ Line DS was constructed in 1946 with an MAOP of 690 psig.⁹ Southern Star states that maintaining these MAOPs is critical to enabling it to its meet firm shippers' contractual demands, but that pipeline corrosion has been an issue on these lines and increasingly frequent repairs are necessary to support the MAOPs.¹⁰ Further, Southern Star anticipates other potential issues in complying with safety or environmental regulations issued by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration ("PHMSA"), the U.S. Environmental Protection Agency ("EPA"), or other federal or state government agencies arising if it continues to operate the existing Lines DT and DS at their MAOPs.¹¹

5. Beginning at the Welda Compressor Station in Anderson County, Kansas, and terminating at the Ottawa Compressor Station in Franklin County, Kansas, Southern Star proposes to abandon:

⁴ Application at 3-4.

⁵ Southern Star November 14, 2018 Offer of Settlement and Petition for Approval of Settlement (RP19-289) (Settlement). The Commission approved the settlement on January 31, 2019. *Southern Star Central Gas Pipeline, Inc.*, 166 FERC ¶ 61,084 (2019).

⁶ Settlement at Appendix B.

⁷ Application at 4-5.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

- (1) 31.79 miles of 26-inch-diameter pipeline (Line DT); and
 - (2) 31.36 miles of 20-inch-diameter pipeline (Line DS).¹²
6. Approximately 92 percent of the existing Lines DT and DS will be abandoned by removal. The remaining segments will be abandoned in place to avoid or minimize impacts on resources.¹³
7. To replace the functionality of Lines DT and DS, Southern Star proposes to:
- (1) construct one new pipeline (Line DPA) consisting of 31.5 miles of 36-inch-diameter pipeline designed at an MAOP of 975 psig, beginning at the Welda Compressor Station, and primarily paralleling existing Line DS until Line DPA terminates at the Ottawa Compressor Station;
 - (2) construct three associated delivery laterals (Garnett, Scipio, and Richmond Laterals), consisting collectively of 5.94 miles of 2-, 3-, and 4-inch-diameter pipeline;
 - (3) modify the existing Welda and Ottawa Compressor Stations, five existing tie-ins, and associated appurtenant facilities; and
 - (4) construct a new regulator station (Richmond Regulator Station), two new launchers and/or receivers, three new mainline valves, and four tie-ins along the new laterals.¹⁴
8. Existing Lines DT and DS, as well as existing Line DP,¹⁵ will remain in service during construction of Line DPA and the new pipeline laterals. Southern Star anticipates construction of Line DPA will begin January 6, 2020, with an in-service date of

¹² *Id.* at 5-6.

¹³ *Id.* at 7.

¹⁴ *Id.* at 5.

¹⁵ Line DP is another existing line which, like Lines DT and DS, runs between the Welda Compressor Station and the Ottawa Compressor Station. Together, the three looped lines allow for bidirectional flow between the compressor stations. After the completion of the project, Line DP and Line DPA will continue to provide bidirectional flow between the stations.

November 2020.¹⁶ The three new associated pipeline laterals, the new Richmond Regulator Station, and all tie-ins are anticipated to be in-service by May 2021.¹⁷ After completing this construction, Southern Star will begin pipeline abandonment activities for Lines DT and DS and anticipates abandonment will be complete by August 2021.¹⁸ Modifications at the existing Welda and Ottawa Compressor Stations will begin in April 2021 and be completed by October 2021.¹⁹

9. Southern Star also proposes to abandon the farm taps on Line DT.²⁰ Southern Star states that it will compensate users behind these taps to convert to an alternative energy source, such as propane, or connect to an alternative provider of natural gas.²¹ Southern Star states that the mainline farm taps on Line DS will be reconnected to the new Line DPA because Line DPA will largely occupy the same right-of-way as Line DS.²²

10. Southern Star estimates the total cost of the Lines DT and DS Replacement Project to be approximately \$141,049,489.²³ Southern Star will finance the proposed project with funds from internally generated sources and/or contributions from its parent.²⁴

11. Southern Star states that it will initially recover a portion of the costs of the project through the CRM established by the settlement.²⁵ However, to the extent the full revenue requirement of the Lines DT and DS Replacement Project is not recovered by the CRM, Southern Star seeks a predetermination favoring rolled-in rate treatment for any

¹⁶ Application at 5-6.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.* at 7.

²⁴ *Id.*

²⁵ *Id.* at 9.

remaining costs of the project.²⁶ Southern Star states the Lines DT and DS Replacement Project is designed to maintain or improve service to existing customers, as well as enhance the reliability and safety of its system.²⁷ The project is not intended to increase system capacity or enable the provision of new service.²⁸

II. Notice, Interventions, and Comments

12. Notice of Southern Star's application in Docket No. CP19-31-000 was issued on January 4, 2019. Interventions and protests were due on January 25, 2019. Atmos Energy Corporation, the Missouri Public Service Commission, and the Public Service Company of Colorado filed timely motions to intervene.²⁹

13. The Kansas Department of Wildlife, Parks and Tourism filed comments concerning environmental impacts. These comments are addressed in the Environmental Assessment (EA) and, to the extent necessary, in the environmental section of this order.

III. Discussion

A. Abandonment

14. Section 7(b) of the NGA allows an interstate pipeline company to abandon jurisdictional facilities or services only if the abandonment is permitted by the present or future public convenience or necessity.³⁰ The applicant has the burden of providing evidence to show that the abandonment is permitted under this standard.³¹ The continuity and stability of existing service are the primary considerations in assessing whether the public convenience or necessity permit the abandonment.³² If the Commission finds that

²⁶ *Id.*

²⁷ *Id.* at 4-5, 9.

²⁸ *Id.* at 8.

²⁹ Timely, unopposed motions to intervene, which are granted by operation of Rule 214(c)(1) of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(c)(1) (2019).

³⁰ 15 U.S.C. § 717f(b) (2018).

³¹ *Columbia Gas Transmission, LLC*, 156 FERC ¶ 61,125, at P 10 (2016).

³² *El Paso Natural Gas Co., L.L.C.*, 148 FERC ¶ 61,226, at P 11 (2014).

an applicant's proposed abandonment will not jeopardize continuity of existing gas transportation services, it will defer to the applicant's business judgment.³³

15. As described above, Southern Star requests authorization to replace Lines DT and DS, two pipelines that are approximately 70 years old, with a single pipeline, Line DPA. Southern Star states that operating Lines DT and DS at their MAOPs is critical to meeting firm shipper demands, but requires increasingly frequent, inefficient repairs due to issues with corrosion.³⁴ Southern Star states that Line DPA will be equipped with cathodic protection to maintain the integrity of the pipeline.³⁵ Southern Star states that the Lines DT and DS Replacement Project will improve reliability on its system and will ensure the continued safe and efficient operation of the system to serve its existing customers.

16. Because the functionality of the lines to be abandoned—Lines DT and DS—will be replaced by Line DPA, the proposed abandonment will not detrimentally impact Southern Star's ability to meet its existing service obligations. Furthermore, we are satisfied that the proposed project will not jeopardize the continuity of existing service because Southern Star states that Lines DT and DS will remain in-service until Line DPA is constructed and placed in-service. Therefore, we find that the proposed abandonment is permitted by the present or future public convenience or necessity.

B. Certificate Policy Statement

17. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.³⁶ 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 major new natural gas facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the

³³ See, e.g., *id.*; *Transwestern Pipeline Co. LLC*, 140 FERC ¶ 61,147, at P 13 (2012) (citing *Trunkline Gas Co.*, 94 FERC ¶ 61,381, at 62,420 (2001)).

³⁴ Application at 5.

³⁵ Application, Exhibit F-1 at 1-14.

³⁶ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

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

19. As stated above, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. The Commission has determined that it is not a subsidy under the Certificate Policy Statement for existing customers to pay for projects designed to replace existing capacity in order to improve the reliability or flexibility of existing service.³⁷ The settlement approved by the Commission in Docket No. RP19-289-000 identified the Lines DT and DS Replacement Project in its Eligible Facilities Plan, recognizing that replacing these lines will enable Southern Star to meet firm shippers' demands without the frequent repairs necessary to address corrosion on Lines DT and DS, thus improving service reliability and safety for existing customers. Accordingly, although Southern Star anticipates recovering the costs associated with the project from existing shippers through the CRM tariff provision approved in the settlement, we find that there will be no subsidization of the project by existing customers. We further find there will be no degradation of service to existing customers. We also find that there will be no adverse impacts on Southern Star's shippers or existing pipelines or their captive customers. The project is a replacement project designed to maintain existing services. Southern Star states the only pipeline interconnect on this portion of Southern Star's system is an interconnect with Panhandle Eastern Pipeline Company, LP in Franklin County, Kansas. A short lateral line currently runs from Line DS to this interconnect. As part of the Lines DT and DS Replacement Project, Southern Star will disconnect the existing lateral

³⁷ See e.g., *Columbia Gas Transmission, LLC*, 166 FERC ¶ 61,037, at P 21 (2019); *National Fuel Gas Supply Corp.*, 150 FERC ¶ 61,162, at P 15 (2015); *Northwest Pipeline Corp.*, 104 FERC ¶ 61,176, at P 23 (2003).

from Line DS and connect it to the new Line DPA. This will allow deliveries to the interconnect to continue unaffected by the project.³⁸

20. We further find that Southern Star has taken steps to minimize any adverse impacts on landowners and communities that might be affected by the project. The new Line DPA runs primarily parallel to and in the same right-of-way as existing Line DS. Approximately 81 percent of Line DPA and the new laterals will be collocated with existing Southern Star rights-of-way or will parallel existing utility corridors. Project activities at the existing Ottawa compressor station will be conducted entirely within properties owned by Southern Star, and the majority of construction activities will occur within the existing facility fence lines, using associated access roads. Project activities at the existing Welda compressor station will be conducted entirely within the existing facility fence line and use associated access roads. Temporary workspace outside of the existing fence line will be required for installation of below ground interconnect piping between the proposed Line DPA and existing Line DP. No new permanent impacts will be required outside of the existing fence line.

21. Based on the benefits the project will provide in improving the safety and reliability of the pipeline, the minimal adverse impacts on Southern Star's existing customers, other pipelines and their captive customers, and landowners and surrounding communities, we find that Southern Star's project is consistent with the Certificate Policy Statement and, as conditioned in this order, is required by the public convenience and necessity.

C. Predetermination Favoring Rolled-In Rate Treatment

22. Southern Star will not provide any additional service as a result of the proposed project; therefore, Southern Star is not requesting approval of any initial recourse rates in conjunction with its proposal. However, Southern Star is requesting a predetermination favoring rolled-in rate treatment for any project costs not recovered through the settlement's CRM. More specifically, if the full costs of the project are not recovered under the CRM by the mechanism's October 31, 2021 expiration date, absent a negotiated extension, Southern Star requests a predetermination that it may recover any remaining costs of the project through its base rates in an NGA general section 4 rate case.

³⁸ We additionally note that Southern Star's proposal to terminate deliveries to the farm taps on Line DT will not impact the consumers behind those taps because Southern Star states that it will compensate them for the costs associated with converting to an alternative energy source or connecting to an alternative natural gas provider. Application at 6.

23. To support a request for predetermination favoring rolled-in rate treatment, a pipeline must demonstrate that rolling in the costs associated with the construction and operation of the new facilities will not result in existing customers subsidizing the expansion.³⁹ The Certificate Policy Statement specifically provides that increasing the rates of existing customers to pay for projects designed to improve reliability or flexibility in providing a pipeline's existing services for its customers is not a subsidy.⁴⁰ Further, the Certificate Policy Statement recognizes the appropriateness of rolled-in rate treatment for projects constructed to improve the reliability of service to existing customers or to improve service by replacing existing capacity, rather than to increase levels of service.⁴¹

24. As stated above, the purpose of the Lines DT and DS Replacement Project is to maintain the integrity and safety of Southern Star's pipeline network and improve the reliability of service to its existing customers.⁴² The project is not designed to provide new capacity or offer additional services.⁴³ Accordingly, we will grant Southern Star's request for predetermination favoring rolled-in rate treatment for the project in its next general rate proceeding, absent any material change in circumstances. We have granted similar preliminary determinations in prior cases where, as here, the incurred costs are attributable to the maintenance of safety and reliability of the pipeline for the benefit of existing customers.⁴⁴

³⁹ *Columbia Gas Transmission, LLC*, 164 FERC ¶ 61,036, at P 24 (2018).

⁴⁰ Certificate Policy Statement, 88 FERC ¶ 61,227 at n.12.

⁴¹ Certificate Policy Statement, 90 FERC ¶ 61,128 at 61,393-94.

⁴² Application at 5.

⁴³ *Id.* at 8.

⁴⁴ *See, e.g., Columbia Gas Transmission, LLC*, 166 FERC ¶ 61,037 at P 31; *Columbia Gas Transmission, LLC*, 156 FERC ¶ 61,125, at P 20; *Columbia Gas Transmission, LLC*, 153 FERC ¶ 61,042, at P 20 (2015); *Columbia Gas Transmission, LLC*, 134 FERC ¶ 61,196, at P 22 (2011); *Columbia Gas Transmission Corp.*, 111 FERC ¶ 61,431, at P 12 (2005); *Northwest Pipeline Corp.*, 104 FERC ¶ 61,176 at P 23, *reh'g denied*, 105 FERC ¶ 61,109 (2003).

IV. Environmental Analysis

25. On February 8, 2019, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI).⁴⁵ The NOI was mailed to affected landowners; federal, state, and local government agencies; elected officials; Native American tribes; and other interested parties. In response to the NOI, the Commission received a comment letter from the Kansas Department of Wildlife, Parks and Tourism regarding impacts on state-listed wildlife species, designated critical habitats, and on state-managed lands.

26. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA), our staff prepared an EA for Southern Star'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, socioeconomics, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. All substantive comments received in response to the NOI were addressed in the EA.

27. The EA was placed into the public record on September 9, 2019, with a 30-day comment period. The Commission received comments from the Teamsters National Pipeline Labor Management Cooperation Trust (Teamsters) that state their support for the project and a number of purported environmental, socioeconomic, and construction advantages of using unionized labor.⁴⁶ They also submitted a copy of a brochure describing the services that the Teamsters provide during pipeline construction.⁴⁷ The Commission cannot require Southern Star to hire union contractors and takes no position on a company's choice regarding any specific service provider; it is in Southern Star's discretion to determine whether to use union contractors and Teamster-provided services.⁴⁸ No other comments on the EA were submitted.

28. Based on the analysis in the EA, as supplemented herein, we conclude that if constructed and operated in accordance with Southern Star's application and supplements, including any commitments made therein, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal

⁴⁵ *Notice of Intent to Prepare an Environmental Assessment for the Proposed Lines DT and DS Replacement Project, and Request for Comments on Environmental Issues*, 84 Fed. Reg. 4,058 (Feb. 14, 2019).

⁴⁶ Teamsters September 23, 2019 Filing.

⁴⁷ *Id.*

⁴⁸ *Columbia Gas Transmission*, 166 FERC ¶ 61,037 at n.40.

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 abandonment and restoration activities, 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 project abandonment and restoration.

30. 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, operation and abandonment of facilities approved by this Commission.⁴⁹

31. At a hearing held December 19, 2019, 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 Southern Star authorizing it to construct and operate the proposed Lines DT and DS Replacement 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.

⁴⁹ 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).

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on Southern Star's:

- (1) completion of the 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;
- (2) compliance with all applicable Commission regulations, particularly the general terms and conditions set forth in Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and
- (3) compliance with the environmental conditions in the appendix of this order.

(C) Southern Star is granted permission and approval to abandon the facilities described in this order, and as more fully described in the application.

(D) Southern Star shall notify the Commission within 10 days of the abandonment of the facilities.

(E) Southern Star's request for a predetermination of rolled-in rate treatment of Project costs is granted, as discussed above.

(F) Southern Star 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 Southern Star. Southern Star shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix
Environmental Conditions

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

1. Southern Star shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the Order. Southern Star 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 (Director of 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 construction and operation of the Project, and abandonment activities. 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 construction and operation / abandonment activities.
3. **Prior to any construction**, Southern Star shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel would be informed of the EI's authority and have been or would be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Southern Star shall file with the Secretary any revised detailed survey maps/sheets at a scale not smaller than 1:6,000 with station positions for the

facilities approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

Southern Star'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. Southern Star'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 pipeline facilities to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Southern Star 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, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of the OEP **before construction in or near that area.**

This requirement does not apply to extra workspaces 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 resource mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual's landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the Order and before construction or abandonment by removal begins**, Southern Star shall file an Implementation Plan with the Secretary for review and written approval by the Director of the OEP.

Southern Star must file revisions to the plan as schedules change. The plan shall identify:

- a. how Southern Star would implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
 - b. how Southern Star would incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned per spread, and how the company would ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who would receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instruction Southern Star would give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
 - f. the company personnel (if known) and specific portion of Southern Star's organizations having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Southern Star would follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - i. the completion of all required surveys and reports;
 - j. the environmental compliance training of onsite personnel;
 - k. the start of construction; and
 - l. the start and completion of restoration.
7. Southern Star shall employ at least one EI for the Project. The EI(s) shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspectors;

- e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
8. Beginning with the filing of its Implementation Plan, Southern Star shall file updated status reports with the Secretary on a **biweekly** basis until all construction, abandonment, and restoration activities are complete. On request, these status reports would also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
 - a. an update on Southern Star'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 Southern Star from other federal, state, or local permitting agencies concerning instances of noncompliance, and Southern Star's response.
9. Southern Star must receive written authorization from the Director of OEP **before commencing construction or abandonment of any Project facilities**. To obtain such authorization, Southern Star must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Southern Star must receive written authorization from the Director of OEP **before placing the Project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the areas affected by the Project are proceeding satisfactorily.
11. **Within 30 days of placing the authorized facilities in service**, Southern Star shall file an affirmative statement with the Secretary, certified by a senior company official:

- a. that the facilities have been constructed/abandoned in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the conditions in the Order Southern Star has complied with or will comply with. This statement shall also identify any areas affected by the Project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
12. **Prior to construction**, Southern Star shall file with the Secretary, for review and written approval by the Director of OEP, field-verified locations of active oil and gas wells within 100 feet of Project workspaces and site-specific measures to protect these wells from damage.
13. **Prior to construction**, Southern Star shall file with the Secretary, for review and written approval by the Director of OEP:
 - a. results of testing that show that atrazine levels within the sediments at the Middle Creek crossing location are within the acceptable range; or
 - b. a revised crossing plan for Middle Creek that includes the use of a trenchless crossing method (i.e. conventional bore or Horizontal Directional Drill).
14. Southern Star shall file a noise survey with the Secretary **no later than 60 days** after placing the modified Ottawa Compressor Station in service. If a full horsepower load condition noise survey is not possible, Southern Star shall file an interim survey at the maximum possible horsepower load and provide the full load survey **within 6 months**. If the noise attributable to the operation of all the equipment at the modified Ottawa Compressor Station under interim or full horsepower load conditions exceeds an day-night sound level (L_{dn}) of 55 decibels on the A-weighted scale (dBA) at any nearby noise sensitive areas (NSAs), Southern Star shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within 6 months** of the in-service date. Southern Star 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.
15. Southern Star shall file noise surveys with the Secretary **no later than 60 days** after placing the Richmond Regulator Station in service. If the noise attributable to the operation of the Richmond Regulator Station exceeds an L_{dn} of 55 dBA at the closest NSA, Southern Star shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within 6 months** of the in-service date. Southern Star 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.