

111 FERC ¶ 61,414
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Dominion Transmission, Inc.

Docket Nos. CP04-365-000

ORDER ISSUING CERTIFICATE

(Issued June 16, 2005)

1. On June 21, 2004, Dominion Transmission, Inc., (Dominion)¹ filed an application under section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity authorizing it to construct, install, own, operate, and maintain its Northeast Storage Project consisting of certain facilities located in West Virginia, Pennsylvania, and New York. The Northeast Storage Project will provide 9.4 Bcf of firm natural gas storage service and 163,017 dekatherms per day (Dt/d) winter-season firm transportation service.

2. The Commission finds that Dominion's proposal will serve the public interest because the project will provide additional storage capacity for the interstate market and new facilities and services to the gas market of the eastern United States. We find that Dominion's proposal serves the public convenience and necessity and grant the requested authorizations.

I. Proposal

3. Dominion proposes to develop a depleted production reservoir in Cattaraugus County, New York as the Quinlan Storage Pool (Quinlan Pool), install a new Quinlan Compressor Station, install and modify pipelines and measurement facilities in the Quinlan Pool area, make enhancements to the Fink-Kennedy-Lost Creek Storage

¹ Dominion is the interstate gas transmission business unit of Dominion Resources, Inc., a fully integrated natural gas and electric company. Dominion is engaged primarily in the business of storing and transporting natural gas in interstate commerce for customers principally in New York, Ohio, Pennsylvania, West Virginia, Virginia, Maryland and the District of Columbia. Dominion is an open access pipeline operating under the Commission's regulations and an approved tariff.

Complex (Fink Complex) in Lewis County, West Virginia, including a new Wolf Run Compressor Station, and modify the existing Leidy Metering and Regulating (M&R) Station.

4. The Northeast Storage Project will provide 9.4 Bcf of storage service by developing 4.0 Bcf of working gas capacity in the Quinlan Pool, enhancing the Fink Complex to utilize 4.468 Bcf of existing Fink Complex working gas capacity, and utilizing 0.932 Bcf of existing certificated storage capacity that is unsubscribed on Dominion's system. The Quinlan Compressor Station will have 2 compressor units capable of providing 4,740 horsepower (hp) of compression and dry bed dehydration facilities. The Quinlan Pool will be able to provide 4.0 Bcf of working gas capacity and 3.9 Bcf of cushion gas capacity, at a maximum deliverability of 200 MMcf/d, and an injection rate of 100 MMcf/d. The proposed active boundary of the Quinlan Pool is 191 acres. Dominion proposes a protective buffer of approximately 1000 feet from the active gas storage boundary, which is approximately 335 acres, for a total acreage of 526 acres. The buffer will act to protect the integrity of the field by minimizing drilling encroachment by third party producers.

5. At the Quinlan facility, Dominion proposes to convert the existing QE-2 producing well to observation status. Dominion proposes to convert one existing test well to active storage use as an injection/withdrawal (I/W) well and drill 4 additional wells to be utilized for I/W purposes. The four new wells will be connected to the compressor station by approximately 0.71 mile of the 16-inch-diameter QL-1 Pipeline.

6. To connect the Quinlan Pool to Dominion's existing facilities, Dominion proposes to construct approximately 21.3 miles of 20-inch pipeline (designated the TL-527) in Cattaraugus County, New York and McKean and Potter Counties, Pennsylvania; construct 0.9 mile and 0.1 mile of 8-inch pipeline in Potter County, Pennsylvania; 0.7 mile of 16-inch pipeline and five 8-inch well pipelines, totaling 0.11 mile in Cattaraugus County, New York; and construct 0.5 mile-long and 0.1-mile-long, 16-inch pipelines in Lewis County, West Virginia. Dominion initially proposed to relocate the existing Wolcott M&R Facility and construct the new Sharon M&R Facility in Potter County, Pennsylvania to reflect the new configuration of the lines in this area. In addition, Dominion initially intended to abandon in place a 1.76 mile length and 0.1 mile length of the 8-inch pipeline in Potter County, Pennsylvania under its part 157, subpart F blanket certificate. However, as part of the LN-15 Alternative, Dominion will not abandon the 1.76 mile line nor relocate the Wolcott M&R Facility.

7. At the Fink Complex, Dominion proposes to utilize an additional 4.468 Bcf of existing, authorized working gas to support the proposed project. The Fink Complex currently operates with two compressor stations, the Lightburn Compressor Station (28,000 hp) and the Sweeney Compressor Station (5,400 hp). Dominion also proposes to

construct and operate the new 3,550 hp Wolf Run Compressor Station at the Fink Complex, which will bring the total compression available at the Complex to 36,950 hp.

8. Dominion proposes to modify its Leidy M&R facility in Clinton County, Pennsylvania to handle the incremental deliveries to Northeast Storage Project customers. Dominion also proposes to add a pig launcher and receiver facilities at the Sharon Metering and Regulating (M&R) Facility and the State Line Compressor Station.

9. Dominion conducted two open seasons for its proposed firm services and one reverse open season to determine whether any of its existing customers desired to permanently release capacity that could be used to perform service as described in the open seasons. Dominion did not receive any nominations for released capacity that would obviate any of the proposed facilities.

10. As a result of the open season, Dominion executed precedent agreements with three local distribution customers for ten-year terms at maximum rates. These customers purchased 146,664 Dt/d of winter-season firm transportation service (under Rate Schedule FT-GSS service) and firm storage services (under Rate Schedule GSS) totaling 8,799,800 Dt (approximately 8.46 Bcf) of storage capacity and 146,664 Dt/d of storage demand. Dominion will be at risk for the unsubscribed 981,220 Dt of storage capacity and 16,353 Dt/d of storage demand.

11. The estimated total cost for Dominion's construction is \$64,814,400. Dominion proposes to assess incremental firm storage service rates that recover the costs of the incremental storage facilities from those customers who will use the proposed storage services. Dominion proposes an incremental Rate Schedule GSS demand rate of \$1.7620 per month per Dth, and a capacity rate of \$0.0294 per month per Dth. Dominion proposes to price the proposed firm transportation service under its existing Rate Schedule FT rates. Dominion claims that incremental cost-based transportation rates would be less than Dominion's existing transportation rates; therefore Dominion proposes to roll in the transportation costs at the time of its next general rate proceeding. For both services, Dominion proposes to assess surcharges and usage rates at those levels provided in Rate Schedules GSS and FT.

II. Interventions

12. Notice of Dominion's application was published in the *Federal Register* on July 14, 2004 (69 *Fed. Reg.* 42138). Sixteen entities² filed timely, unopposed motions to

² Process Gas Consumers Group, City of Richmond VA, Tennessee Gas Pipeline Company, Piedmont Natural Gas Company, Inc., IOGA of West Virginia, Consolidated
(continued)

intervene and the New York State Department of Environmental Conservation (NYSDEC) filed a timely notice of intervention.³ Con Ed/PGW's motion contained comments which are discussed below. Columbia Gas of Pennsylvania, Inc. and Columbia Gas of Virginia, Inc. filed a motion to intervene out of time. Vincent Quinlan filed a motion to intervene out of time and protest. The Commission finds that granting the late interventions at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. Therefore, for good cause shown, we will grant the late filed motions to intervene. (18 CFR § 385.214(d)(2004)). On May 17, 2005, Vincent L. Quinlan, Margaret I. Quinlan and Jeanne A. Quinlan (the Quinlans) filed comments to the environmental assessment issued in this proceeding out of time. No other protests, comments, or petitions to intervene in opposition were filed.

III. Discussion

13. Since the proposed facilities will be used to transport natural gas in interstate commerce, subject to the jurisdiction of the Commission, the construction, acquisition, and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

Public Convenience and Necessity

14. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction.⁴ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy

Edison Co. of N.Y. and Philadelphia Gas Works (Con Ed/PGW), National Fuel Gas Distribution Corporation, PSEG Energy Resources & Trade LLC, East Ohio Gas Co. dba Dominion East Ohio, New Jersey Natural Gas Company, Niagara Mohawk Power Corporation, National Fuel Gas Supply Corporation, NUI Utilities, Inc., Keyspan Delivery Companies, and PPL Gas Utilities Corporation.

³ Timely unopposed motions to intervene and timely notices of intervention are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 CFR § 385.214 (2004).

⁴ *Certification of New Interstate Natural Gas Pipeline Facilities* (Certificate Policy Statement), 88 FERC ¶ 61,227 (1999), *order clarifying statement of policy*, 90 FERC ¶ 61,128, *order further clarifying statement of policy*, 92 FERC ¶ 61,094 (2000).

Statement explained that in deciding whether to authorize the construction of major new pipeline facilities, we balance the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

15. 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, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we 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 we proceed to complete the environmental analysis where other interests are considered.

Subsidization

16. The threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Dominion has proposed charging an incremental rate for the firm storage services to be offered. Thus, there is no risk of subsidization of these services by existing customers. Moreover, as discussed below, the Commission is not making a predetermination supporting rolled-in rates for the proposed transportation services. Thus, Dominion's existing customers will not be subsidizing the Northeast Storage Project.

Adverse Impact

17. There will be no negative impact on existing customers, since their rates will not increase and their services will not be diminished or degraded. Further, Dominion's project will enhance the storage options available to its customers. Also, no storage or pipeline company or their customers have protested or objected to Dominion's proposals. Since the storage proposals are designed to meet incremental demand on Dominion's system, no service on other pipelines will be displaced. Thus, we conclude that Dominion's proposal will have no adverse impact on existing pipelines or their captive customers.

18. Dominion has designed the Northeast Storage Project to minimize the economic impact on effected landowners. The record shows that Dominion holds a portion of the storage rights for the acreage included within the active pool, as encompassed by the proposed Quinlan Pool boundary as well as the acreage within the protective boundary, and that Dominion is actively engaged in good-faith negotiations with landowners for any needed rights and easements. Thus, we find that any adverse impacts on landowners and communities near the storage field or along the pipeline route will be minimal.

19. The proposal to construct and operate facilities includes injection and withdrawal wells and compression additions to the Quinlan Pool and Fink Complex, creating approximately 4 Bcf of new working gas capacity in the Quinlan Pool, allowing access to 4.468 Bcf of existing working gas capacity in the Fink Complex, and utilizing 0.932 Bcf of existing system-wide capacity to provide 9.4 Bcf of incremental storage service. In addition, the facility is located within Dominion's system grid, and will, if constructed, improve the reliability and flexibility of Dominion's services to the northeast. We conclude that the Dominion facilities will further the development of the interstate natural gas infrastructure. For these reasons, we find, consistent with the Certificate Policy Statement and section 7(c) of the NGA, that the public convenience and necessity requires approval of Dominion's proposal. As is the Commission's practice, the certificate issued herein is conditioned on Dominion's having executed contracts for the level of service and the terms of service represented in the precedent agreements before commencing construction on the project.

Rates

20. The Commission accepts Dominion's proposed initial incremental rates for firm storage service under Rate Schedule GSS and the initial transportation rates under Rate Schedule FT.

21. Dominion requests a predetermination for rolled-in treatment for the transportation services on the basis that incremental cost-based transportation rates would be less than Dominion's existing transportation rates. However, Exhibit N, page 3 of 3, indicates that transportation revenue would only exceed costs after the third year of service. Therefore, the Commission cannot make a predetermination favoring rolled-in treatment for the transportation costs of service at this time. If Dominion seeks rolled-in treatment for these transportation services in a future NGA section 4 rate case, it will need to demonstrate that there will be no subsidization from its existing customers.

22. Con Ed/PGW, in its comments, contends that expansion storage costs previously approved by the Commission for rolled-in rate treatment should now be borne by the incremental customers receiving storage service in the Northeast Storage Project. The Commission disagrees. The Commission will not upset its prior determination that

certain costs that were previously eligible for rolled-in rate treatment are no longer eligible for such treatment due to new incremental customers. Con Ed/PGW has presented no evidence supporting its contention that new incremental customers should be required to bear the cost of prior expansion projects.

23. Con Ed/PGW requests that the Commission require Dominion to charge incremental fuel and/or electric rates to the Northeast Storage Project's customers. Dominion counters that it operates its storage facilities on an integrated basis so there is not an easy way to identify the specific fuel use attributable to the activity of the Northeast Storage customers on an annual basis.⁵ However, Dominion has determined that on a peak day, the incremental fuel utilization from the Northeast Project will not exceed the associated fuel retention level, and existing customers would not be adversely affected by the project. Dominion adds that since it is at risk for fuel under its FERC Gas Tariff, existing customers will not experience any increase in fuel retention percentages as a result of this project.⁶ With respect to the electric surcharges, Dominion states that all of the proposed compressor units are gas-driven and therefore will not increase its current electric power charges. Based on these representations the Commission will allow Dominion to charge its system fuel and electric surcharges for storage and transportation on the Northeast Storage Project.

24. Con Ed/PGW is also concerned that Dominion may not have correctly stated the cost of the 3.9 Bcf of base gas necessary to operate the Quinlan Pool. Con Ed/PGW points to Exhibit K, page 1 of 2, where Dominion includes only \$1,248,000 for the purchase of line pack associated with the Quinlan Pool. Dominion explains that it was authorized to "liberate" 12.804 Bcf of base gas as part of two prior certificate projects.⁷ Dominion states that the 12.804 Bcf of liberated base gas is the source of the 3.9 Bcf of base gas necessary to support the Quinlan Storage Pool. Dominion states that the

⁵ See Dominion's May 23, 2005 data response.

⁶ See, *Dominion Transmission, Inc.*, 111 FERC ¶ 61,285 (2005) (authorizing Dominion to reduce its storage fuel retention percentage, retain its current transportation fuel retention percentage, lock in these percentages and continue to remain at risk for 5 years beginning on the effective date of the settlement.)

⁷ See *CNG Transmission Corp.*, 80 FERC ¶ 61,092 (1997) (authorizing Dominion to convert 7.494 Bcf of base gas to working gas at the Fink Complex.) See *CNG Transmission Corp.*, 85 FERC ¶ 61, 432 (1998) (authorizing Dominion, as part of its Market Area Storage Project, to convert 2.75 Bcf of base gas capacity at its Murrysville storage reservoir and 2.56 of base gas at its Fink Complex to working gas capacity.)

embedded unit cost of the liberated base gas is \$0.32 per Mcf, based on its June 22, 2001 Stipulation and Agreement in Docket Nos. RP00-632 et al. Thus, Dominion included a total amount of \$1,248,000 which is derived by multiplying \$0.32 per Mcf by the 3.9 Bcf of base gas required for the project. Dominion states that Exhibit K reflects no additional costs related to base gas. We find that Dominion's detailed support for its inclusion of \$1,248,000 for base gas for the Quinlan Storage Pool adequately responds to the concerns raised by Con Ed/PGW.

Environment

25. On August 25, 2004, we issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Northeast Storage Project and Request for Comments on Environmental Issues (NOI). We received responses to the NOI from NYSDEC, Pennsylvania Game Commission, U.S. Department of the Interior, National Park Service, U.S. Department of the Interior, Fish and Wildlife Service, John J. and Grace Bernhard, Mr. and Mrs. Joseph Frugoli, Phares W. and Mabel M. Fry, Allen and Diane Jerden (the Jerdens), Terrence W. Jones (Mr. Jones), Vincent L. Quinlan, Robert, Criss, and Rochael Roulo (the Roulos), John H. Smith, Renee and Walter Werkheiser, and Phyllis Marvin, and our staff addressed all substantive comments in the environmental assessment (EA) prepared for Dominion's proposal. The EA addresses geology, soils, water resources, fisheries, wetlands, vegetation, wildlife, threatened and endangered species, cultural resources, land use, air quality, noise, and alternatives.

26. On March 25, 2005, we sent the EA for comment to the above NOI commenters and to Dominion. We received timely comments from the Jerdens, the NYSDEC, Dominion, and Mr. Jones. On May 17, 2005, the Quinlans filed comments out of time.

27. The Jerdens indicated that they have entered into an agreement with Dominion for construction of the TL-533 Pipeline along Dominion's proposed route rather than along the Jerden's recommended alternative alignment discussed and recommended in the EA. We believe this is an appropriate compromise between the parties. The EA's recommendation No. 26 is therefore not necessary.

28. The NYSDEC clarified that the state's underground storage permit requirement for plugging and abandonment of previously drilled wells within the Quinlan Storage Field applies to any well which poses a threat to the integrity of the storage reservoir or buffer area, rather than to all wells whose total depth is above the confining zone of the storage reservoir. Therefore, EA recommendation No. 12 is modified to reflect this clarification.

29. Dominion provided numerous comments pertaining to data corrections, staff's recommendation to use the LN-15 Alternative, supplemental information, and

Dominion's proposed alternatives to conclusions and recommendations addressed in the EA. All of these are minor corrections that do not affect the conclusions or recommendations in the EA, except as further discussed herein. In addition, much of the data presented in Dominion's comments should be more properly addressed when Dominion files its initial Implementation Plan in accordance with EA recommendation No. 6. Dominion stated that it has incorporated the LN-15 Alternative described in the EA for a portion of the TL-527 Pipeline. Thus, the 1.7-mile-long LN-15 Pipeline segment and the Wolcott M&R Facility will not be abandoned or relocated as originally requested. Therefore, EA recommendation No. 25 is not necessary.

30. Regarding the addition of pig launcher and receiver facilities at the Sharon M&R Facility and the State Line Compressor Station as part of Dominion's proposal, we acknowledge that the facilities were shown on site maps, and should have been addressed in the EA, but Dominion's application failed to specifically identify those facilities as part of the project. However, whereas clearances for federally listed threatened and endangered species and cultural resources for the proposed Sharon M&R Facility site have been addressed in the EA, we have no evidence that such clearances were obtained for installation of the pig launcher and receiver facilities at the State Line Compressor Station. The need for such clearances, if any, should be addressed in Dominion's initial Implementation Plan in accordance with EA recommendation No. 6.

31. Recommendation No. 15 that follows from the discussion in sections 1.7 and 2.3.1 of the EA addresses Dominion's requirements for satisfaction of the NYSDEC's concern regarding compliance and/or mitigation measures pertaining to leaking wells within the Quinlan Compressor Station site. Dominion requested that Well No. P50 be removed from the list of wells that are of concern to the NYSDEC because Dominion has determined that it is located outside the Quinlan Compressor Station boundaries and outside the limits of disturbance for construction of the station. Therefore, in order to satisfy recommendation No. 15 with respect to Well No. P50, Dominion must demonstrate to the satisfaction of the NYSDEC that Well No. P50 is not located within the boundaries of the Quinlan Compressor Station. We note however, that according to information presented in the November 1963 Pennzoil Company Map No. 5AA, the configuration of the compressor station boundaries has to date not changed, and this map clearly shows Well No. P50 to be within the compressor station boundaries.

32. Dominion, in its response to the EA discussion on Mr. Jones' comment about reservoir pressure, restates that "the maximum stabilized shut-in wellhead pressure for the Quinlan Pool reservoir will be 2,317 psig, the discovery pressure of original production well QE-2" and that during injection, the pressure monitored in the observation well "will be approximately 2,568 psig [2,583psia] at the wellhead, and without that pressure Dominion would not be able to achieve the maximum capacity of the reservoir."

33. Dominion misinterprets the discussion in the EA of Mr. Jones' comment. The EA discussion was of Mr. Jones' concerns that raising the maximum pressure above the 2,317 psig discovery pressure of original production well QE-2 might result in exceeding the threshold pressure of the caprock resulting in gas migration from the storage reservoir. The EA concluded that the proposed maximum pressure, while higher than the discovery pressure, is consistent with the maximum reservoir pressure gradients utilized in storage operations in similar reef structures and lower than the threshold pressure of the caprock. Therefore, there should be no gas migration.

34. Dominion clarified that it will not remove any beaver dams without prior approval of the Director of OEP, except where the dams would cause a safety concern. In addition, Dominion will coordinate with the Pennsylvania Game Commission and the Pennsylvania Fish and Boat Commission if a beaver dam exists at the time of construction. Therefore, EA recommendation No. 16 is modified to reflect Dominion's clarification.

35. EA recommendation No. 18 required that Dominion avoid vegetation removal above horizontal directional drilling (HDD) paths to the maximum extent practicable. Staff's intention was to limit right-of-way clearing along HDD paths in areas where such clearing is not necessary for construction of the pipeline. Dominion now requests to use hand tools only to clear brush and saplings above HDD paths to facilitate the use of HDD tracking systems and subsequent installation of pipeline markers without written approval of the Director of OEP. We agree that a limited amount of vegetation clearing may be necessary in certain areas to facilitate a successful HDD installation. Therefore, EA recommendation No. 18 is modified as requested.

36. Dominion stated that it has reached a negotiated settlement with the Roulos regarding construction across their property. Therefore, EA recommendation No. 22 is not necessary.

37. Mr. Jones is concerned that the Commission is assuming authority over compliance regarding plugging and abandonment of wells within the Quinlan Pool storage reservoir when the NYSDEC is the governing regulatory authority on this issue. While the Commission is concerned for the integrity of the storage reservoir, we defer to the NYSDEC's specific rules and regulations under Article 23 of New York State's Environmental Conservation Law and the rules and regulations under Title 6, New York Code of Rules and Regulations, Parts 550 – 559 for ensuring that existing wells are properly abandoned.

38. Mr. Jones states that the 1,000-foot buffer zone around the storage reservoir is very restrictive and would prevent the potential development of future resources. Mr. Jones states that the restriction from use of the buffer zone was not contemplated under

the original storage agreement, and the landowners have not been properly compensated for such a restriction. Mr. Jones would like the Commission to eliminate the buffer zone after two injection/withdrawal cycles, after the storage reservoir has been shown to have a competent seal.

39. The Commission certifies a buffer zone to a storage field reservoir in order to prevent incursions by other producers into the reservoir formation between the active pool boundary and the outer boundary of the buffer zone, and to protect the integrity of the storage field. Compensation issues raised by Mr. Jones are a contractual matter between the parties.⁸ To the extent Mr. Jones seeks additional compensation under an existing agreement, the remedy lies in the court with the appropriate jurisdiction.

40. Mr. Jones requests that Dominion institute a continuous monitoring program throughout the pool acreage; make a credible effort to locate, mark and document all old wells; closely monitor directional drilling operations to ensure that old wells are not penetrated; and share the above information with all of the Quinlan property owners.

41. Part of Dominion's proposal is the operation of an observation well to continuously monitor pool pressure and detect the presence of gas. As indicated by EA recommendation No. 12, we are requiring Dominion to satisfy the NYSDEC regarding the showing of proof that all wells within the proposed storage reservoir and buffer areas that were drilled deeper than the confining zone of the reservoir are properly plugged and

⁸ In the construction certification process under section 7 of the NGA, the Commission often receives comments from affected landowners who express concerns over potential loss or damage to their property or mineral rights. Under section 7(h) of the NGA, when the certificate holder cannot acquire rights-of-way by contract or is unable to agree with the property owner on the amount of compensation, the certificate holder may acquire the property rights by exercising the right of eminent domain in a court action. Thus, the power of eminent domain rests with the certificate holder, not the Commission. Part of the Commission's policy in considering the effect that a proposed project will have on landowners and communities along the route includes the extent to which the applicant has attempted to limit the need to resort to eminent domain to obtain necessary property rights.

Typically, the landowners themselves are in the best position to determine the level of compensation and method of payment that would best suit their situation; and, it is incumbent upon the applicant to make good faith efforts to negotiate with landowners for any needed rights. However, if the parties cannot reach agreement, the Commission does not intervene. Issues of compensation for land taken by a pipeline under the eminent domain provisions of the NGA are matters for state or federal court.

would not affect Dominion's storage operations. As indicated above, Dominion would be required by the NYSDEC to closely monitor directional drilling operations in accordance with New York State's rules and regulations regarding underground storage and well completions. The sharing of any of the information that Dominion obtains by these activities would need to be negotiated between Dominion and the landowners.

42. Mr. Jones also asks whether the Commission or the NYSDEC has jurisdiction over non-compliance with air or noise pollution levels stated in the EA, or if that responsibility would fall to the NYSDEC. As indicated in Section 2.6.1 of the EA, the U.S. Environmental Protection Agency and the NYSDEC have jurisdiction over air emissions; as indicated in Section 2.6.2 of the EA, the Commission exercises jurisdiction over noise emissions.

43. Mr. Jones asks if Dominion is required to maintain the pipeline and electric power rights-of-way. Dominion is required to maintain the pipeline right-of-way in accordance with the recommendations contained in this order. However, small power supply lines constructed to power Dominion's proposed Sharon M&R Facility and Quinlan Compressor Station are non-jurisdictional facilities whose rights-of-way should be maintained by the Tri-County Rural Electric Cooperative and Niagara Mohawk Power Corporation rather than Dominion.

44. The Quinlans state that the impacts of hauling and placement of gravel related to the construction of the Quinlan Compressor Station and its access road have not been adequately addressed. Graveling of compressor station sites as well as other aboveground facility sites and access roads is an industry-accepted practice which we generally approve to minimize post-construction erosion. As stated in the EA, Dominion would implement our Upland Erosion control, Revegetation, and Maintenance Plan for mitigation of all areas disturbed during construction.

45. The Quinlans have concerns that the storage wells would not be equipped with sub-surface safety valves. Sub-surface safety valves are typically used in offshore applications to shut the well in if the pipeline connecting the well to the offshore platform is broken due to storm activity or collision with a ship. Sub-surface safety valves are not normally used on shore.

46. The Quinlans state that Dominion has told them that "the working pressure possibly could be increased, thereby increasing the capacity to closer to 6 Bcf. Increased pressure obviously could increase safety concerns, as well as seal integrity issues." The certificate being issued herein grants Dominion the authority to develop the Quinlan Storage Pool to a total inventory of 7.9 Bcf, of which 4.0 Bcf is working gas capacity and 3.9 Bcf is cushion gas, with a maximum reservoir pressure of 2,583 psia at the wellhead. Dominion is required to file with the Commission for NGA section 7 authority to make

any changes to the operational limitations set in this order.

47. The Quinlans are concerned by information from Dominion regarding the use of hazardous fluids that would be injected into the storage wells on the Quinlan property. We are not aware of the need for injection of anything other than gas into the Quinlan Storage Pool reservoir. However, there may be a need to use acid stimulation and/or clean-out fluids during completion of the injection/withdrawal wells. Any fluid injection into the reservoir during drilling and completion-related stimulation of the reservoir is regulated under New York State's rules and regulations regarding underground storage and well completions.

48. The Quinlans are also concerned about constructing permanent structures on their property for fear that Dominion could force their removal or relocate a pipeline next to the structure. Permanent structures may be constructed on the Quinlan property as long as they are not constructed on the permanent right-of-way held by Dominion. Regarding the surface area encompassing the storage field and the buffer zone above the storage reservoir, permanent structures may be built as long as they do not impact gas storage operations.

49. The Quinlans express concern that the potential noise impact at two locations near the fence line of the proposed Quinlan Compressor Station would be greater than 55 dBA Ldn. The Quinlans state that they do, in fact, have plans to develop these properties for home sites; however, as stated in the EA, there are no plans on file with local authorities for proposed residential development of the property. It is accepted practice at the Commission that we limit noise at prospective home sites when plans are on file with local authorities. To implement this, the Director of OEP is authorized under environmental condition 2 to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation. These steps may include requiring Dominion to install additional noise mitigation measures for newly constructed homes, if deemed necessary.

50. Further, the Quinlans claim that locating the Quinlan Compressor Station on top of a hill violates section 380.15(f)(1) of the Commission's regulations which requires that unobtrusive sites should be selected for the location of aboveground facilities. We disagree. The compressor station site is, in fact, located at an unobtrusive site, effectively surrounded by woodland, and not visible from any of the noise sensitive areas surrounding the compressor station.

51. Finally, the Quinlans argue that the Commission should have prepared an Environmental Impact Statement (EIS) for Dominion's project. They note that an EIS was not prepared because the EA concludes that the project would not constitute a major federal action significantly affecting the quality of the human environment. The

Quinlans take exception to this finding and argue that the “sheer size and scope” of the project reflects that it will have a significant impact upon the environment. The Quinlans point out that the project would: traverse eleven streams and one river, adversely impact wetlands, have temporary and permanent impacts on vegetation, cause loss of vegetation and wildlife habitat, and permanently denude 134.84 acres of forested upland. The Quinlans submit that these are significant impacts and therefore, under the National Environmental Policy Act of 1969 (NEPA),⁹ the Commission is required to prepare an EIS prior to issuing a certificate authorizing Dominion’s project.

52. NEPA requires all federal agencies to prepare an EIS for "major Federal actions significantly affecting the quality of the human environment." 42 USC § 4332(C). However, neither NEPA nor the Commission’s regulations has established that the size of a project, alone, requires a finding of “significant impact.” Pursuant to NEPA, the Commission’s regulations provide that the Commission may first choose to prepare an EA for a project, a preliminary document which briefly provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact. 18 CFR § 380.2 (d)(1) (2004). After considering the EA, the Commission may then decide to issue either a finding of no significant impact (FONSI) 18 CFR § 380.2 (g) (2004) or prepare a more detailed EIS. The Commission will generally issue a FONSI on a project if mitigation measures will render a project’s environmental impacts insignificant. Each of the environmental concerns identified by the Quinlans has been addressed in the EA. In this order, the Commission is finding that, although there would be some environmental effect, the impact would not be significant and could be mitigated. Under these circumstances, an EIS is not required. Furthermore, the Quinlans have not shown that the decision to forego an EIS was uninformed or that the analysis in the EA was faulty. Therefore, this argument must be rejected.

53. The Quinlans claim that the “EA fails under the *New River* standards.” The Quinlans refer to a case where the court upheld the Commission’s determination not to supplement a Draft Environmental Impact Statement (DEIS) after it received a report that, among other things, identified factors that could result in horizontal directional drilling (HDD) failure.¹⁰ The Commission did not supplement the DEIS because it concluded that the new information did not significantly transform the nature of the

⁹ National Environmental Policy Act of 1969, 42 USC § 4321 *et seq.*

¹⁰ *East Tennessee Natural Gas Co.*, 102 FERC ¶ 61,225 (2003), *aff’d sub nom. National Committee for the New River, Inc. v. FERC*, 373 F.3d 1323, 1330-31 (D.C. Cir. 2004) (*New River*).

environmental issues raised in the DEIS and comments. The court found that the Commission was not arbitrary and capricious and did not abuse its discretion.

54. The Quinlans' reliance on *New River* is misplaced. Contrary to the Quinlan's assertion, *New River* does not establish or even mention any standard for determining whether to prepare an EIS. Other than the fact that the construction projects in both this case and in *New River* include HDDs (the instant project involves HDDs under two water bodies) there is no relevant correlation between the cases.¹¹ The matter of concern in *New River* was under what circumstances a DEIS must be supplemented. There is no mention of EAs, or any discussion of the Commission's decision to prepare an EIS rather than an EA. Neither do the court's findings or analysis have any analogical application to the EA issue in the instant case. There is simply nothing in *New River* that supports the Quinlan's position that an EIS for Dominion's proposal should be prepared.

55. Next, the Quinlans argue that an EIS must be prepared in this case because the Commission's regulations require preparation of an EIS for "major pipeline construction...using right-of-way in which there is no existing natural gas pipeline."¹² The Quinlans point out that part of the proposed 20-inch pipeline that will connect the Quinlan Pool with Dominion's existing facilities will be on a new right-of-way.

56. The Quinlans misread the Commission's regulations. Under the regulations, only "major" pipeline construction projects utilizing right-of-way where there is no existing natural gas pipelines would ordinarily require an EIS; other pipeline projects would receive an EA. However, there are not any convenient engineering or environmental criteria for drawing a bright line distinction between "major" and non-major pipeline projects.¹³ The determination is case specific. In this case, after considering all the factors and circumstances of this particular project as modified and mitigated, including the construction of approximately 19 miles of 20-inch pipeline on new right-of-way, the EA concludes that the proposal would not constitute "major" pipeline construction. The

¹¹ We note that the only standard mentioned in the cited case is that under the arbitrary and capricious standard of 5 U.S.C. § 706(2)(A), the Commission's determination that the new information was not significant enough to warrant preparation of a supplement to the DEIS, is entitled to deference.

¹² 18 CFR § 380.6(a)(3) (2004).

¹³ See *Regulations Implementing the National Environmental Policy Act of 1969, Notice of Proposed Rulemaking*, 52 FR 20314, May 29, 1987.

mere fact that a particular length of pipeline will require new right-of-way, does not compel a different conclusion.

57. The Quinlans also point out that the Commission's regulations require preparation of an EIS for an NGA section 7 application "to develop an underground storage facility except where depleted oil or natural gas producing fields are used."¹⁴ The Quinlans maintain that the Quinlan Storage Pool is not depleted since there is still over 1 Bcf of gas in the reservoir, which is more than 10 percent of the reservoir's original total gas. Therefore, they contend, the Commission should have prepared an EIS for Dominion's proposal.

58. The Quinlans have misconstrued the regulation. The decision to prepare an EA does not turn on what percentage of the reservoir's original contents remain. The salient feature is that the reservoir formerly contained oil or natural gas. The regulations do not require an EIS for the development of an underground natural gas storage facility where depleted oil or natural gas producing fields are used because the Commission reasonably expects that refilling such a reservoir with natural gas would present fewer environmental concerns than would the creation of a new reservoir which had not previously contained oil or gas. The regulations do not require an EIS in this case. Further, the Quinlans have presented no Commission or court decisions in support of their interpretation of the regulations.

59. In sum, the Commission's decision not to prepare an EIS did not violate NEPA. Beyond the conclusory statements in their comments, the Quinlans have failed to show that the Commission's decision to forego an EIS was not fully informed or well-considered. The EA for the project contains a detailed description of the purpose of, and need for, the project. In compliance with NEPA, the EA provides a detailed analysis of the project which addresses all important environmental considerations, including the project's impacts on geology and soils, water resources, fishery resources, threatened and endangered species, cultural resources, land use, wetlands, vegetation, wildlife, air quality, noise, and project alternatives. On the basis of this lengthy analysis, implementation of the mitigation measures proposed in Dominion's application and the EA's recommended environmental conditions, the EA concludes that the proposed project would not have a significant impact on the quality of the human environment. We are requiring Dominion to comply with the recommended environmental conditions (see Ordering Paragraph (E)) including the requirement to follow the construction procedures and environmental measures described in its application, supplements and data responses. An EIS is therefore unnecessary.

¹⁴ 18 CFR § 380.6(a)(2) (2004).

60. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with Dominion's application and supplements, including responses to staff's data requests, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

61. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. We encourage 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.¹⁵

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

Engineering

63. The engineering staff analyzed Dominion's application and concluded that if constructed as proposed, Dominion's facilities would be able to provide the projected 9.4 Bcf of storage service. The Quinlan reservoir is suitable for natural gas storage, with an estimated total inventory of 7.9 Bcf at a maximum shut-in wellhead pressure of 2,583 psia, and is capable of meeting the peak day maximum deliverability of 200 MMcf/d. Deliverability at the Quinlan is not limited by the storage pool, but by the dehydration limit of the surface facilities. The addition of the new Wolf Run Compressor Station at the Fink Complex will provide an additional 3,550 hp of compression, enabling Dominion to access and utilize the 4.468 Bcf of existing authorized working gas.

64. At a hearing held on June 15, 2005, 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, submitted in support of the authorizations sought herein, and upon consideration of the record,

¹⁵ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

The Commission orders:

(A) In Docket No. CP04-365-000, a certificate of public convenience and necessity is issued to Dominion authorizing it to acquire, construct and operate the storage facilities and to construct and operate the associated pipeline facilities, as described more fully in this order and in the application.

(B) The certificate issued in Ordering Paragraph (A) is conditioned on Dominion's compliance with all applicable Commission regulations under the NGA, 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 regulations.

(C) Dominion's proposed initial rates for firm storage and transportation services are approved.

(D) Dominion's request for a predetermination favoring rolled-in rate treatment for the associated transportation costs of service is denied. If Dominion seeks rolled-in treatment for these transportation services in a future NGA section 4 rate case, it will need to demonstrate that there will be no subsidization from its existing customers.

(E) The certificate issued in Ordering Paragraph (A) is conditioned upon Dominion's compliance with the environmental conditions set forth in the appendix to this order.

(F) Dominion's facilities shall be made available for service within eighteen months of the date of the order in this proceeding as required by section 157.20(b) of the Commission's regulations.

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

(H) Dominion must execute firm contracts equal to the level of service and terms of service represented in the precedent agreements prior to commencing construction.

(I) The certificate issued is further conditioned upon the following:

1. Maximum inventory of natural gas stored in the Quinlan Pool shall not exceed the certificated levels of 7,900 MMcf at 14.73 psia and 60 degrees

Fahrenheit, and the maximum shut-in wellhead storage pressure shall not exceed 2,583 psia, without prior authorization of the Commission.

2. The Quinlan Pool shall be operated in such manner as to prevent/minimize gas loss or migration.
3. For the Quinlan Pool, Dominion shall submit semiannual reports (to coincide with the termination of the injection and withdrawal cycles) containing the following information (volumes shall be stated at 14.73 psia and 60 degrees Fahrenheit and pressures shall be stated in psia):
 - (1) The daily volumes of natural gas injected into and withdrawn from the storage reservoir.
 - (2) The volume of natural gas in the reservoirs at the end of the reporting period.
 - (3) The maximum daily injection and withdrawal rates experienced during the reporting period. Average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured.
 - (4) Results of any tracer program by which the leakage of injected gas may be determined. If leakage of gas exists, the report should show the estimated total volume of gas leakage, the volume of recycled gas, and the estimated remaining inventory of gas in the reservoir at the end of the reporting period.
 - (5) Any surveys of pressures in gas wells, and the results of back-pressure tests conducted during the reporting period.
 - (6) The latest revised structural and isopach maps showing location of the wells and the location of the gas-water contact. These maps need not be filed if there is no material change from the maps previously filed.
 - (7) For the reporting period, a summary of wells drilled, worked over, or recompleted with subsea depth of formation and casing settings. Copies of any new core analyses, back-pressure tests, or well log analyses.

- (8) Discussion of current operating problems and conclusions.
- (9) Such other data or reports which may aid the Commission in the evaluation of the storage project.

Dominion shall continue to file these reports semiannually until the storage inventory volume and pressure have reached or closely approximate the maximum permitted in this order. Thereafter, the reports shall continue on a semiannual basis for a period of one year.

4. The maximum inventory of natural gas stored in the Fink Complex shall not exceed the certificated levels of 161,500 MMcf at 14.73 psia and 60 degrees Fahrenheit, and the maximum bottom hole storage pressure of 1,015 psia, without prior authorization of the Commission.
5. The Fink Complex shall continue to be operated in such manner as to prevent/minimize gas loss or migration.

(J) The motions to intervene out of time of Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc, and Vincent Quinlan are granted.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix

1. Dominion 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 this Order. Dominion must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.

2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of this Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation and activities associated with abandonment of facilities.

3. **Prior to any construction**, Dominion shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector'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**, Dominion 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 facilities approved by this Order. All requests for modifications of environmental conditions of this Order or site-specific clearances must be written and must reference, locations designated on these alignment maps/sheets.

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

5. Dominion 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 must 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 route variations required herein or extra workspace allowed by the Upland Erosion Control, Revegetation, and Maintenance Plan, 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 landowners that affect other landowners or could affect sensitive environmental areas.

6. **Within 60 days of the acceptance of this certificate and before construction begins**, Dominion shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Dominion would implement the mitigation measures required by this Order. Dominion must file revisions to the plan as schedules change. The plan shall identify:
 - a. how Dominion 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;
 - b. the number of environmental inspectors assigned per spread, and how the company would ensure that sufficient personnel are available to implement the environmental mitigation;
 - c. company personnel, including environmental inspectors and contractors, who would receive copies of the appropriate material;
 - d. what training and instructions Dominion would give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change), with the opportunity for OEP staff to participate in the training session(s);
 - e. the company personnel (if known) and specific portion of Dominion's organization having responsibility for compliance;
 - f. the procedures (including use of contract penalties) Dominion would follow if noncompliance occurs; and
 - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - i. the completion of all required surveys and reports;
 - ii. the mitigation training of onsite personnel;
 - iii. the start of construction; and
 - iv. the start and completion of restoration.
7. Dominion shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project and restoration of the ROW. **Prior to construction**, Dominion shall mail the complaint procedures to each landowner whose property would be crossed by the project.

- a. In its letter to affected landowners, Dominion shall:
 - (1) provide a local contact that the landowners should call first with their concerns; the letter should 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 Dominion's Hotline; the letter should indicate how soon to expect a response; and
 - (3) instruct the landowners that, if they are still not satisfied with the response from Dominion's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030.
 - b. In addition, Dominion shall include in its bi-weekly status report a copy of a table that contains the following information for each problem/concern:
 - (1) the date of the call;
 - (2) the identification number from the certificated alignment sheets of the affected property;
 - (3) the 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.
8. Dominion shall employ at least one environmental inspector per construction spread. The environmental inspector shall be:
- a. responsible for monitoring and ensuring compliance with all mitigative measures required by this 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 and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of this Order, and any other authorizing document;
 - d. responsible for documenting compliance with the environmental conditions of this Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - e. responsible for maintaining status reports.
9. Dominion shall file updated status reports prepared by the head environmental inspector 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. the current construction status of the project spread, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspectors 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;
 - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
 - d. the effectiveness of all corrective actions implemented;
 - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and
 - f. copies of any correspondence received by Dominion from other federal, state or local permitting agencies concerning instances of noncompliance, and Dominion's response.
10. Dominion must receive written authorization from the Director of OEP **before commencing service** from the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
11. **Within 30 days of placing the certificated facilities in service**, Dominion 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 certificate conditions Dominion 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 injection of gas into the storage reservoir**, Dominion shall file with the Secretary a copy of the New York State Department of Environmental

Conservation (NYSDEC) Underground Storage Permit, including any stipulations or conditions attached to the permit, showing that it has satisfied the NYSDEC regarding proof that all wells within the proposed storage reservoir and buffer areas that were drilled deeper than the confining zone of the reservoir are properly plugged and would not affect Dominion's storage operations.

13. **Prior to construction of the Wolf Run Compressor Station and associated pipelines,** Dominion shall file for review and approval of the Director of OEP its geotechnical report including design recommendations demonstrating how potential slope stability problems would be addressed.
14. **Prior to construction of the TL-527 Pipeline,** Dominion shall file with the Secretary a site specific plan for construction near the spring at MP 7.3. The plan shall document the nature and condition of the spring and include specific measures to monitor water flow and quality during and after construction.
15. **Prior to construction,** Dominion shall file with the Secretary evidence that it has complied with all NYSDEC compliance and/or mitigation measures regarding leaking wells at the Quinlan Compressor Station site.
16. **Prior to construction,** Dominion shall coordinate with the North-Central Regional Office of the Pennsylvania Game Commission, file its final design plans for the Butter Creek crossing, and file copies of all stream crossing permits, including any stipulations or conditions attached to the permits, with the Secretary. In no event shall Dominion remove any beaver dams without prior written approval from the Director of OEP, except where necessary due to safety-related concerns.
17. **Prior to construction,** Dominion shall provide a site-specific explanation of the conditions that would not permit a 50-foot setback from wetland WDLC020 and file with the Secretary revised alignment sheets that include the accurate location of all proposed extra workspaces.
18. Dominion shall limit vegetation removal above horizontal directional drilling paths to the maximum extent practicable, except for clearing of brush and saplings using hand tools to facilitate the use of horizontal directional drilling tracking systems and installation of pipeline markers. No vegetation shall be removed with power tools or construction equipment without **prior written approval by the Director of OEP.**

19. Dominion shall conduct surveys, where necessary, for the bald eagle and the Indiana bat in the appropriate habitat along the facilities in Pennsylvania and West Virginia during the appropriate survey period. **Before the initiation of surveys**, Dominion shall consult with the U.S. Fish and Wildlife Service (FWS) to determine the need for surveys, appropriate survey methods, and survey periods for each species. If facilities are not constructed **within one year from the date of issuance of the certificate**, Dominion shall consult with the appropriate offices of the FWS to update the species list and to determine if additional surveys are required. The survey reports and any FWS comments on the survey and its conclusions shall be filed with the Secretary. The survey reports shall include the following information:
 - a. name(s) and qualifications of the person(s) conducting the survey;
 - b. method(s) used to conduct the survey;
 - c. date(s) of the survey;
 - d. area surveyed (include the mileposts surveyed); and
 - e. proposed mitigation that would substantially minimize or avoid the potential impacts.

20. Dominion shall not begin construction activities **until**:
 - a. the staff receives comments from the FWS (Pennsylvania and West Virginia field offices) regarding the proposed action;
 - b. the staff completes formal consultation with the FWS, if required; and
 - c. Dominion has received written notification from the Director of OEP that construction or use of mitigation may begin.

21. Except for the facilities located in New York State, Dominion shall defer implementation of any treatment plans/measures; construction or use of all staging, storage and temporary work areas and new or to-be-improved access roads **until**:
 - a. Dominion files with the Secretary the timber matting plan and the State Historic Preservation Officer's (SHPO) comments, as well as SHPO comments on the supplemental Wolf Run Compressor Station report and supplemental report for McKean and Potter Counties, Pennsylvania; and
 - b. The Director of OEP reviews and approves all reports and plans and notifies Dominion in writing that treatment plans/measures may be implemented or construction may proceed.

All material filed with the Commission containing **location, character, and ownership** information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: **“CONTAINS PRIVILEGED INFORMATION-DO NOT RELEASE.”**

22. Dominion shall install silencers on all blowdown stacks ensuring that they do not exceed 55 dBA Ldn at any noise sensitive areas (NSAs).
23. Dominion shall file a noise survey with the Secretary **no later than 60 days** after placing the Quinlan Pool and Wolf Run Compressor Stations in service. If the noise attributable to the operation of the facilities at full load exceeds an Ldn of 55 dBA at any nearby NSAs, Dominion should install additional noise controls to meet that level **within 1 year** of the in-service date. Dominion should confirm compliance with the Ldn of 55 dBA requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.
24. Dominion shall construct the TL-527 Pipeline using the LN-15 Alternative described in the EA.