

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Wyoming Interstate Company, Ltd.

Docket No. CP05-54-000

ORDER ISSUING CERTIFICATE

(Issued September 22, 2005)

1. On January 24, 2005, Wyoming Interstate Company Ltd. (Wyoming Interstate) filed an application under section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for a certificate of public convenience and necessity to construct and operate its Piceance Basin Expansion Project. This project consists of a new supply lateral pipeline, compressor and metering facilities, with appurtenances, in Rio Blanco and Moffatt Counties, Colorado, and Sweetwater County, Wyoming. Wyoming Interstate also seeks approval of its proposed incremental rate, fuel charges, and pro forma tariff for services provided by the proposed facilities.

2. We find that Wyoming Interstate's proposal is in the public interest because it will meet increasing shipper demand for the transportation of natural gas produced in the Piceance Basin, located in the Rocky Mountain region, to downstream markets. Further, based upon the environmental impact statement (EIS) prepared for Wyoming Interstate's proposal, we find that, with appropriate mitigation, the Piceance Basin Expansion Project is environmentally acceptable. Therefore, we will grant the requested certificate authority as modified and conditioned in this order.

**Background and Proposal**

3. Wyoming Interstate is a limited partnership formed under the laws of the State of Colorado by CIG Gas Supply Company and Wyoming Gas Supply, Inc., which are corporations organized under the laws of the State of Delaware. Wyoming Interstate has existing pipeline facilities and is subject to the Commission's jurisdiction as a natural gas company within the meaning of NGA section 2(6). Wyoming Interstate is engaged solely in the business of transporting natural gas in the states of Colorado and Wyoming.

4. Wyoming Interstate proposes to construct and operate approximately 141.7 miles of 24-inch diameter pipeline, with appurtenances, extending from the Greasewood Hub in Rio Blanco County, Colorado northward through Moffat County, Colorado to interconnections with Wyoming Interstate's mainline and the interstate pipeline system of Colorado Interstate Gas Company (CIG) at Wamsutter in Sweetwater County, Wyoming. Wyoming Interstate also proposes to construct and operate an additional 1,650 hp compressor station at the existing Greasewood Hub, and metering facilities at the Greasewood Hub and Wamsutter. The facilities are designed to have a capacity of 350,000 Dth per day, a projected in-service date of December 15, 2005, and an estimated cost of approximately \$120,200,000.

5. Wyoming Interstate proposes to offer incremental firm and interruptible transportation services using the proposed lateral pipeline and compression facilities. Wyoming Interstate states that its proposed recourse rates are based on the pre-tax return and depreciation rates approved by the Commission in Wyoming Interstate's last general rate filing. Wyoming Interstate held an open season during June 2004, which resulted in Wyoming Interstate entering into a precedent agreement with Williams Power Company (Williams Power) to transport up to 350,000 Dth per day for 15 years at negotiated rates. Wyoming Interstate also requests Commission approval of a most favored-nation provision in its agreement with Williams Power requiring Wyoming Interstate to reduce Williams Power's rate if Wyoming Interstate offers a future shipper a lower rate than Williams Power's negotiated rate.

### **Interventions and Protests**

6. Notice of Wyoming Interstate's application was published in the *Federal Register* on February 9, 2005 (70 *Fed. Reg.* 6,855). Entrega Gas Pipeline Inc., BP America Production Company and BP Energy Company (BP), Questar Pipeline Company, Marathon Oil Company (Marathon), Public Service Company of Colorado, Williams Power, and Western Gas Resources, Inc., filed timely, unopposed motions to intervene.<sup>1</sup> Williams Power's pleading included comments supporting the proposed project.

7. Following BP's and Marathon's filing of separate motions to intervene, they filed comments as the Indicated Shippers stating that the Commission should require Wyoming Interstate to revise the proposed tariff language to clarify that (1) an expansion shipper must pay both the expansion and mainline rates to move gas on Wyoming Interstate's proposed lateral and its existing mainline facilities, and (2) the calculation of

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<sup>1</sup> Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 CFR § 385.214 (2005).

the expansion incremental fuel charge will rely on the fuel charge formula that is already in Wyoming Interstate's existing tariff.

### **Discussion**

8. Since the application pertains to facilities used for the transportation of natural gas in interstate commerce, Wyoming Interstate's proposal is subject to the Commission's jurisdiction and the requirements of subsections (c) and (e) of section 7 of the NGA.

#### **A. Application of the Certificate Policy Statement**

9. On September 15, 1999, the Commission issued a Policy Statement to provide guidance as to how we will evaluate proposals for certificating major new construction.<sup>2</sup> The 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 Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances 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.

10. 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 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.

11. The Commission also considers potential impacts of the proposed project on other pipelines in the market and on those existing pipelines' 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, 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

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<sup>2</sup>*Certification of New Interstate Natural Gas Pipeline Facilities* (Policy Statement), 88 FERC ¶ 61,277 (1999), *order clarifying statement of policy*, 90 FERC ¶ 61,128 (2000); *order further clarifying statement of policy*, 92 FERC ¶ 61,094 (2000).

Commission proceed to complete the environmental analysis where other interests are considered.

12. Wyoming Interstate's proposal to charge an incremental rate for service on the proposed facilities meets the threshold requirement that existing shippers not subsidize the expansion facilities. The proposed facilities have been designed to transport a new source of gas. Therefore, Wyoming Interstate's proposal will not replace any firm transportation service on any other existing pipeline and thus will not adversely impact other pipelines or their customers. Further, the proposed facilities have been designed in a manner to minimize the impact on landowners and the environment. No landowners have protested or filed comments on Wyoming Interstate's proposal. On balance, the benefits of Wyoming Interstate's expansion project outweigh any minimal potential adverse impacts. Therefore, we will approve Wyoming Interstate's proposal.

### **B. Rates**

13. Wyoming Interstate proposes to charge Williams Power a negotiated monthly reservation rate of \$4.7237 per Dth for the contracted capacity, plus a commodity usage charge of \$0.0004 per Dth, which equates to \$0.1557 per Dth when expressed on a 100 percent load factor basis. Wyoming Interstate also proposes incremental firm and interruptible recourse rates for the Piceance Basin Expansion Project facilities based on the cost of service of the incremental facilities.<sup>3</sup> The proposed incremental firm maximum monthly reservation recourse rate for transportation service on the Piceance Basin Expansion Project facilities is \$5.2472 per Dth, with a commodity recourse rate of \$0.0004 per Dth. The proposed maximum recourse rate for interruptible service is \$0.1729 per Dth, stated on a 100 percent load factor basis.

14. Under Wyoming Interstate's proposal, all shippers transporting natural gas to other pipelines through the proposed Piceance Basin Expansion Project facilities will be subject to an incremental fuel lost and unaccounted (FL&U) charge of 0.29 percent. The percentage reflects both a fuel component of 0.14 percent for the Piceance Basin facilities and a lost and unaccounted (L&U) component of 0.15 percent. Wyoming Interstate

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<sup>3</sup> The creation of an incremental firm transportation rate is consistent with the Commission's regulations requiring the development of a recourse rate. Exhibit N reflects the estimated cost of service for the Piceance Basin Expansion Project. Wyoming Interstate used the pre-tax return levels and depreciation rates under the settlement agreement approved by the Commission for the consenting parties in Wyoming Interstate's last general rate case in Docket No. RP99-381-000 *et al.* See *Wyoming Interstate Co.*, 92 FERC ¶ 61,256 (2000).

explains that the fuel component accounts for compressor fuel to operate the compressor to be installed at the Greasewood Hub as part of the proposal, and the L&U component of 0.15 percent is consistent with the L&U component in Wyoming Interstate's tariff. Wyoming Interstate's tariff also provides that for a shipper using the Piceance Basin Expansion Project to Wyoming Interstate's mainline, that shipper shall pay a FL&U percentage of 0.14 percent.<sup>4</sup>

15. As noted above, Wyoming Interstate's precedent agreement with Williams Power is a negotiated rate agreement. Any service agreement signed with an expansion shipper containing a negotiated rate must comply with the Commission's Alternative Rate Policy,<sup>5</sup> the decision in *NorAm Gas Transmission Company (NorAm)*,<sup>6</sup> and *Modification of Negotiated Rate Policy*.<sup>7</sup> Consistent with *NorAm*, Wyoming Interstate will be required to file either its negotiated rate contract or numbered tariff sheets 30 days prior to the commencement of service on the expansion project, stating, for each shipper paying a negotiated rate, the exact legal name of the shipper, the negotiated rate, the applicable receipt and delivery points, the volume to be transported, and a statement that the agreement conforms in all material respects with the pro forma service agreement in Wyoming Interstate's FERC Gas Tariff.<sup>8</sup> Wyoming Interstate must also disclose all consideration linked to the agreements.

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<sup>4</sup> Page 21 of Wyoming Interstate's application states that the L&U portion of the FL&U charge for Piceance Basin shippers delivering into Wyoming Interstate's mainline is deemed to be zero because shippers utilizing Wyoming Interstate's mainline will separately pay the L&U component pursuant to Wyoming Interstate's tariff.

<sup>5</sup> *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines*, 74 FERC ¶ 61,076 (1996).

<sup>6</sup> 75 FERC ¶ 61,076 (1996). The Commission approved Wyoming Interstate's request to implement negotiated rate authority in Docket No. RP97-28-000 *et al.*, 77 FERC ¶ 61,151 (1996) and 82 FERC ¶ 61,032 (1998).

<sup>7</sup> 104 FERC ¶ 61,134 (2003).

<sup>8</sup> This action merely emphasizes the Commission's current regulations which require that if the pipeline contends that its filing implements a negotiated contract that conforms to its form of service agreement in all material aspects, and therefore, it is not necessary to file the contract, such a filing will contain a statement that the pipeline's filing complies with the requirements of section 154.1(d) of the Commission's regulations. 18 C.F.R. § 154.1(d) (2005). Violation of this regulation may result in the rejection of the filing or suspension of the pipeline's negotiated rate authority.

16. In addition, Wyoming Interstate must maintain separate and identifiable accounts for volumes transported, billing determinants, rate components, surcharges and revenues associated with its negotiated rates in sufficient detail so that they can be identified in Statements G, I and J in any future NGA section 4 or 5 rate cases.

17. The Commission also agrees with Indicated Shippers that Wyoming Interstate should be required to revise its pro forma tariff language to clarify that an expansion shipper must pay both the expansion and the mainline rates to move gas on Wyoming Interstate's proposed lateral and its existing mainline facilities and that the incremental fuel charge for the expansion will rely on the fuel charge calculation formula that is already in Wyoming Interstate's existing tariff.

18. Finally, regarding Wyoming Interstate's request for approval of the most favored-nation clause in its precedent agreement with Williams Power, we find this kind of provision to be acceptable since it is applicable to only the negotiated rate to be paid by Williams Power and will not result in Williams Power receiving a different quality of service from other shippers or adversely affecting other shippers.<sup>9</sup>

#### **D. Environment**

19. On August 12, 2005, our staff issued a final EIS for the Piceance Basin Expansion Project.<sup>10</sup> Approximately 535 copies of the final EIS were mailed to agencies, groups, and individuals on the project mailing list.

20. The EIS was prepared with the participation and assistance of the U.S. Department of the Interior's Bureau of Land Management (BLM), which acted as a cooperating agency under the National Environmental Policy Act (NEPA). Because the BLM must comply with the requirements of NEPA before granting rights-of-way across lands under its management, cooperating agency status allows it to adopt the EIS to meet its responsibilities. About 46 percent of the project crosses lands under the administration of the BLM. BLM is considering the issuance of a new right-of-way (ROW) grant and

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<sup>9</sup> See *Colorado Interstate Gas Co. and Cheyenne Plains Gas Pipeline Co.*, 106 FERC ¶ 61,275 (2004); *Colorado Interstate Gas Company*, 101 FERC ¶ 61,268 (2002); and *Gulfstream Natural Gas System, LLC*, 100 FERC ¶ 61,075 at 61,125 (2002).

<sup>10</sup> On August 19, 2005, the U.S. Environmental Protection Agency published a Notice of Availability of the final EIS in the *Federal Register*. 70 *Fed. Reg.* 48,704 (Aug. 19, 2005).

associated temporary use permits that will apply to BLM-managed lands crossed by the project. The BLM's decision will be documented in a project Record of Decision (ROD) prepared by the BLM.

21. The final EIS analyzed the Piceance Basin Expansion Project and addressed the project's purpose and need, alternatives, geology, soils and noxious weeds, water resources, wetlands and vegetation, fish and wildlife, federally listed species, land use, socioeconomics, cultural resources, air quality and noise, safety, and cumulative impacts. The final EIS addressed comments from individuals, organizations, companies, and local authorities who either attended the public meetings or provided written comments. Nine comment letters were received in response to the draft EIS, and one individual comment was received at the public meetings held in the project area.<sup>11</sup>

22. Based on information provided by Wyoming Interstate and further developed by field investigations, literature research, alternative analyses, and contacts with federal, state, and local agencies and individual members of the public, the EIS determines that construction and operation of the project will result in limited adverse environmental impact. The EIS concludes that if the project is constructed and operated as proposed by Wyoming Interstate and in accordance with the recommended mitigation measures, it would be an environmentally acceptable action. Although many factors were considered in this determination, the principal reasons are:

- 82 percent of the proposed pipeline would be located adjacent to existing pipeline, utility, and road ROWs. Where Wyoming Interstate's proposed pipeline would parallel existing pipelines, it would generally be installed at a 40-foot offset from the nearest pipeline centerline;
- the project would be consistent with or in conformance with federal resource management plans;
- Wyoming Interstate would implement a number of resource- or activity-specific plans, procedures, and agreements to protect natural resources, avoid, or limit environmental impact, and promote restoration of all disturbed areas during construction and operation of the project; and
- an environmental inspection and mitigation monitoring program would ensure compliance with all mitigation measures that become conditions of certification.

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<sup>11</sup> We issued the draft EIS on April 29, 2005.

23. We have reviewed the information and analysis contained in the final EIS regarding the potential environmental effect of the project. Based on our consideration of this information, we agree with the conclusions presented in the final EIS that Wyoming Interstate's project would have limited adverse environmental impact. This conclusion is based on the construction and operation of the project in accordance with Wyoming Interstate's proposed mitigation and the recommended environmental mitigation measures in the appendix to this order. Thus, we are including the environmental mitigation measures recommended in the final EIS as conditions to the authorization issued to Wyoming Interstate in this order.

24. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>12</sup> Wyoming Interstate 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 Wyoming Interstate. Wyoming Interstate shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

#### **E. Conclusion**

25. The Commission on its own motion, received and made a part of the record all evidence, including the application, amendment, and exhibits thereto, submitted in this proceeding, and upon consideration of the record,

#### **The Commission orders:**

(A) A certificate of public convenience and necessity is issued to Wyoming Interstate authorizing it to construct, own, operate, and maintain natural gas facilities, as described and conditioned herein, and as more fully described in the application.

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<sup>12</sup> 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).



(B) The certificate authority issued in Ordering Paragraph (A) is conditioned, as discussed in this order, and on the following:

- (1) Wyoming Interstate completing the authorized construction within one year of this order;
- (2) Wyoming Interstate complying with paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and
- (3) Wyoming Interstate's compliance with the environmental conditions listed in the appendix to this order.

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

(D) Wyoming Interstate must execute a firm contract equal to the level of service and in accordance with the terms of service represented in its precedent agreement prior to the commencement of construction.

(E) Wyoming Interstate's request for approval of its proposed incremental recourse rates, fuel charges, and pro forma tariff is granted, subject to Wyoming Interstate revising and refileing its proposed incremental recourse rates, fuel charges, and pro forma tariff no later than 30, but no sooner than 60, days prior to the in-service date, to conform with the following conditions:

- (1) Wyoming Interstate shall revise the proposed tariff language to clarify that an expansion shipper must pay both the expansion and mainline rates to move gas on Wyoming Interstate's proposed lateral authorized by this order and its existing mainline facilities; and

- (2) Wyoming Interstate shall revise the proposed tariff language to clarify that the calculation of the expansion incremental fuel charge will rely on the fuel charge formula that is already in Wyoming Interstate's tariff.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

## APPENDIX

As recommended in the EIS, this authorization includes the following condition(s):

1. Wyoming Interstate shall follow the construction procedures and mitigation measures described in its application, supplemental filings (including responses to staff data requests), and as identified in the EIS, unless modified by the Commission Order. Wyoming Interstate 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 has delegated authority to take what ever 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 ensure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
  
3. **Prior to any construction**, Wyoming Interstate shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.
  
4. The authorized facility locations shall be as shown in the EIS, as supplemented by filed alignment sheets. **As soon as they are available and before the start of construction**, Wyoming Interstate shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by 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.

Wyoming Interstate's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations. Wyoming Interstate'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. Wyoming Interstate 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, staging areas, pipe storage yards, new access roads, and other areas that shall be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species shall be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area.**

This requirement does not apply to route variations required herein, additional areas allowed by Wyoming Interstate's *Upland Erosion Control, Revegetation, and Maintenance Plan* (Wyoming Interstate's Plan), or minor field realignments per landowner needs and requirements that do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
- b. implementation of endangered, threatened, or special concern species mitigation measures;
- c. recommendations by state regulatory authorities; and
- d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.

6. **Within 60 days of the acceptance of this Certificate and before construction** begins, Wyoming Interstate shall file an initial Implementation Plan with the Secretary for the review and written approval of the Director of OEP describing how Wyoming Interstate will implement the mitigation measures required by this Order. Wyoming Interstate must file revisions to the plan as schedules change. The plan shall identify:
- a. how Wyoming Interstate will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
  - b. the number of EIs assigned per spread and a description of how Wyoming Interstate will ensure that sufficient personnel are available to implement the environmental mitigation;
  - c. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
  - d. the training and instructions Wyoming Interstate will 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 Wyoming Interstate 's organization having responsibility for compliance;
  - f. the procedures (including use of contract penalties) Wyoming Interstate will follow if noncompliance occurs; and
  - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for the:
    - i. completion of all required surveys and reports;
    - ii. mitigation training of onsite personnel;
    - iii. start of construction; and
    - iv. start and completion of restoration.
7. Wyoming Interstate shall employ a team of EIs (i.e., three or more) on each construction spread. The EIs shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation 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. employed in a full-time position, separate from all other activity inspectors;
  - e. 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
  - f. responsible for maintaining status reports.
8. Wyoming Interstate shall file updated status reports prepared by the head EI with the Secretary on a weekly basis **until all construction-related activities, including restoration activities, are complete**. On request, these status reports also will be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. the current construction status of each 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 EIs 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. a description of 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 that may relate to compliance with the requirements of the Commission Order, and the measures taken to satisfy their concerns; and
  - f. copies of any correspondence received by Wyoming Interstate from other federal, state, or local permitting agencies concerning instances of noncompliance, and Wyoming Interstate's response.
9. Wyoming Interstate 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/ restoration of the ROW and other areas of project-related disturbance are proceeding satisfactorily.

10. **Within 30 days of placing the certificated facilities in service**, Wyoming Interstate 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 Wyoming Interstate has complied with or will comply with. This statement also shall identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. In order to formalize the winter construction practices, Wyoming Interstate shall develop and file a Winter Construction Plan with the Secretary for review and written approval by the Director of OEP **prior to construction**. This plan shall include monitoring of temporary erosion controls monthly during the winter shut-down period as well as following any significant rain or snow melt-off events during this period.
12. To prevent vehicles from tracking noxious and invasive weeds along other parts of the ROW, Wyoming Interstate shall strip topsoil from the full width of the ROW in areas with known weed infestations.
13. Wyoming Interstate shall file an updated Weed Plan with the Secretary for review and written approval of the Director of the OEP **prior to construction**. This revised Weed Plan shall include all elements agreed to in Wyoming Interstate's June 20, 2005 filing, as well as milepost (MP) locations of wash stations that have been coordinated with the Bureau of Land Management (BLM) field offices (FOs), conservation districts, local governments, weed management areas, and the Wyoming Weed and Pest Council. At minimum these wash stations shall be located at the crossing of affected county lines.
14. To further reduce the spread of invasive and noxious weeds following construction activities, Wyoming Interstate shall conduct weed management surveys and control measures **at least once every 3 years** (following the initial 5 years of reclamation and weed control surveys) for the life of the project.
15. Wyoming Interstate shall revise its Blasting Plan to include the supplemental provisions from its June 20, 2005 filing. Wyoming Interstate shall file the revised Blasting Plan with the Secretary for review and written approval by the Director of OEP **prior to construction**.

16. Wyoming Interstate shall coordinate with Entrega Gas Pipeline, Inc. (Entrega) regarding the crossings of the Yampa and Little Snake Rivers. This coordination shall attempt to minimize in-stream and bank disturbances and shall consider the use of a shared crossing bridge at each location. Wyoming Interstate shall file the results of this coordination with the Secretary for the review and written approval of the Director of OEP **prior to constructing these crossings.**
17. Wyoming Interstate shall consult the appropriate state and federal fisheries agencies and the Colorado State Engineer to determine suitable flow conditions and locations for hydrostatic test water withdrawals and discharge locations. In addition, Wyoming Interstate shall coordinate with the U.S. Fish and Wildlife Service (FWS) and appropriate state agencies before and during construction to ensure that surface water withdrawals required for horizontal directional drill (HDD) purposes have minimal impacts on flows and fisheries. Wyoming Interstate shall incorporate the outcome of these consultations in its weekly status report **prior to any hydrostatic testing or HDDs.**
18. Wyoming Interstate shall file with the Secretary for review and written approval of the Director of the OEP data to characterize the quality of potential dust control water sources prior to their use. Wyoming Interstate also shall ensure that all water or water/chemical mixes applied to areas to be revegetated must meet state or federal water quality standards set for irrigated agricultural uses.
19. Should construction extend into the raptor nesting season, Wyoming Interstate shall conduct additional pre-construction raptor nest surveys in accordance with agency (BLM, state wildlife agency, and FWS) approved protocols. Results of the raptor nest surveys shall be reported to the appropriate BLM FO, state wildlife agency, and the FWS Western Colorado FO for review and reconsideration to appropriate protective buffers. Further, Wyoming Interstate shall report the results of any pertinent communications it has with the BLM, FWS, Colorado Division of Wildlife, and Wyoming Game and Fish Department with the Secretary and shall not begin construction **until** the FERC Staff has reviewed the information, completed any necessary consultations with the FWS, and the Director of OEP notifies Wyoming Interstate in writing that construction or use of mitigation may begin.
20. **Prior to construction,** Wyoming Interstate shall contact the FWS (and BLM on federal land) for guidance regarding mitigation measures that may be necessary to protect raptor nests, roost sites, or other wildlife concerns where blasting is anticipated along the Piceance Project ROW. The results of any such coordination shall be filed with the Secretary for the review and approval of the Director of



OEP. The filing shall specify the specific locations (by MP) where blasting may occur, known raptor nest and roost locations within the general vicinity of the blasting, and mitigation measures that shall be implemented to minimize impacts on nesting raptors, roost sites, or other wildlife concerns.

21. **Prior to conducting surveys** for the Dudley Bluffs bladderpod, Dudley Bluffs twinpod (also known as Piceance twinpod), and Ute ladies'-tresses, Wyoming Interstate shall coordinate with the FWS to ensure proper survey timing and protocols. Wyoming Interstate shall, **prior to the start of construction**, file the following information with the Secretary:
  - 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 MPs surveyed); and
  - e. results of the surveys, to indicate species presence or absence.
  
22. If a federally listed plant species was found during preconstruction surveys, Wyoming Interstate shall notify the Commission staff, the FWS, and the BLM (for plants found on BLM-managed lands) **before commencing any project construction** activity in order for us to complete our Endangered Species Act Section 7 obligations. This notification shall contain Wyoming Interstate's evaluation of whether or not the plant(s) could be avoided by fencing, reroute, or by the use of a horizontal bore. Further, Wyoming Interstate shall not begin construction activities **until**:
  - a. the staff receives comments from the FWS regarding the proposed action;
  - b. the staff completes formal consultation with the FWS, if required; and
  - c. Wyoming Interstate has received written notification from the Director of OEP that construction or use of mitigation may begin.
  
23. Wyoming Interstate shall submit the 2004 and 2005 survey results for Debris milkvetch to the FWS for review. **Prior to construction**, Wyoming Interstate shall file with the Secretary correspondence confirming that the FWS has received these survey results.
  
24. In order to determine if black-footed ferret surveys are required, Wyoming Interstate shall provide maps of all white-tailed prairie dog towns within 0.5 mile of the outside edge of the ROW to the FWS for review. If prairie dog survey

results indicate the need for protocol ferret surveys, Wyoming Interstate shall not begin construction activities **until**:

- a. the staff receives comments from the FWS regarding the proposed action;
- b. the staff completes formal consultation with the FWS, if required; and
- c. Wyoming Interstate has received written notification from the Director of OEP that construction or use of mitigation may begin.

25. To minimize potential impacts on nesting bald eagles, Wyoming Interstate shall:

- a. conduct pre-construction bald eagle nest surveys at known nest sites and within suitable nesting habitat during the appropriate period in accordance with approved BLM, state wildlife agency, and FWS protocols if construction were to occur during the breeding season.
- b. **not construct within 1 mile** of active bald eagle nest sites in Wyoming Interstate during the nesting season (February 1 through August 15) and **within 0.5 mile** of active bald eagle nest sites in Colorado during the nesting season (November 15 through July 31).
- c. stop work in the area and concurrently notify the Commission staff, the BLM (if on federal land), and the FWS, and file such information with the Secretary if Wyoming Interstate encounters a previously unidentified active bald eagle nest **within 1 mile of the construction ROW in Wyoming or within 0.5 mile of the construction ROW in Colorado**. Wyoming Interstate shall not continue with construction **until** the staff has reviewed the information, completed any necessary consultation with the FWS, and the Director of OEP notifies Wyoming Interstate in writing that construction may proceed or use of mitigation may begin.

26. If Wyoming Interstate's proposed bald eagle roost monitoring results provide evidence that eagles are being disturbed by construction activities, Wyoming Interstate shall coordinate with the FWS and/or BLM to determine appropriate actions necessary to ensure that bald eagles are not disturbed further. Wyoming Interstate shall report the results of the coordination in a filing with the Secretary, and shall not begin construction **until** the staff has reviewed the information, completed any necessary consultations with the FWS, and the Director of OEP notifies Wyoming Interstate in writing that construction or use of mitigation may begin.

27. If Wyoming Interstate believes that removal of a bald eagle roost tree is unavoidable, Wyoming Interstate shall not remove the identified tree **until**:
- a. the staff receives comments from the FWS regarding the proposed action;
  - b. the staff completes formal consultation with the FWS, if required; and
  - c. Wyoming Interstate has received written notification from the Director of OEP that construction or use of mitigation may begin.
28. In order to minimize potential impacts on mountain plover from pipeline construction activities, Wyoming Interstate shall not construct and/or conduct reclamation activities in suitable mountain plover habitat during breeding season between April 10 and July 10 **until** Wyoming Interstate has:
- a. conducted agency-approved surveys for the mountain plover;
  - b. developed a mitigation plan, including agency-approved buffer zones or other protection measures for nests and chicks; and
  - c. filed this information with the Secretary for review and written approval of the Director of the OEP **before construction or use of mitigation may begin**.
29. Wyoming Interstate shall defer construction and use of facilities and staging, storage, and extra workspace areas, and access roads **until**:
- a. Wyoming Interstate files with the Secretary all remaining cultural resource inventory and evaluation reports, and necessary avoidance or treatment plans;
  - b. Wyoming Interstate files with the Secretary the BLM's and the Colorado and Wyoming State Historic Preservation Offices' comments, as applicable, on all reports and plans; and
  - c. the Director of OEP reviews and approves all reports and plans and notifies Wyoming Interstate in writing that it 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.”**

30. To ensure that nearby noise-sensitive areas are protected from noise impacts resulting from the installation and operation of additional compression at the

existing CIG Greasewood Compressor Station, Wyoming Interstate shall file a noise survey with the Secretary **no later than 60 days after placing the authorized unit at the CIG Greasewood Compressor Station in service.** If the noise attributable to the operation of the compressor station at full load exceeds an day-night equivalent sound level ( $L_{dn}$ ) of 55 decibels on the A-weighted scale (dBA) at any nearby noise-sensitive area, Wyoming Interstate shall install additional noise controls to meet that level within 1 year of the in-service date. Wyoming Interstate shall confirm compliance with the  $L_{dn}$  of 55 dBA requirement by filing a second noise survey with the Secretary no later than 60 days after Wyoming Interstate installs the additional noise controls.

31. To reduce potential cumulative dewatering effects on the Little Snake River during the low flow fall season, Wyoming Interstate shall coordinate its hydrostatic testing and dust control withdrawals with Entrega such that no Piceance and Entrega Project water withdrawals occur simultaneously from the Little Snake River.