

180 FERC ¶ 61,056  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;  
James P. Danly, Allison Clements,  
Mark C. Christie, and Willie L. Phillips.

Gas Transmission Northwest LLC

Docket No. CP21-29-000

ORDER DENYING PROTEST AND ISSUING CERTIFICATE

(Issued July 28, 2022)

1. On January 13, 2021, Gas Transmission Northwest LLC (Gas Transmission Northwest) filed a prior notice request pursuant to section 7 of the Natural Gas Act (NGA)<sup>1</sup> and sections 157.205 and 157.208(b) of the Commission's Part 157 blanket certificate regulations,<sup>2</sup> to construct and operate a new compressor station in Morrow County, Oregon (Coyote Springs Compressor Station Project).
2. On March 22, 2021, Columbia Riverkeeper filed a motion to intervene and protest to GTN's prior notice filing. On March 30, 2021, GTN filed an answer and motion to dismiss the protest and requested a waiver of the 30-day reconciliation period provided for by the blanket certificate regulations in prior notice proceedings. On April 7, 2021, Columbia Riverkeeper filed an answer opposing waiver of the reconciliation period.
3. The request for waiver was not granted, and the protest was not withdrawn during the reconciliation period. Accordingly, GTN's filing has been reviewed as a case-specific certificate application under section 7 of the NGA. As detailed below, we deny Columbia Riverkeeper's protest and authorize GTN to construct and operate the

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<sup>1</sup> 15 U.S.C. § 717.

<sup>2</sup> 18 C.F.R. §§ 157.205, 157.208(b) (2021). 18 C.F.R. § 157.208(b) allows the holder of a blanket certificate to undertake certain activities without specific Commission authorization if the project cost falls below a threshold level.

compressor station under NGA section 7(c)<sup>3</sup> and Part 157 of the Commission's regulations.<sup>4</sup>

## **I. Background and Proposal**

4. GTN is a natural gas company, as defined by section 2(6) of the NGA,<sup>5</sup> engaged in the transportation and storage of natural gas in interstate commerce. A Delaware limited liability company, GTN is a wholly owned direct subsidiary of TC Pipelines, LP (TC Pipelines). Its system consists of approximately 1,377 miles of interstate pipeline extending from the International Boundary at Kingsgate, British Columbia, to the Oregon-California border. The director of the Commission's Office of Energy Projects issued an order authorizing GTN to conduct routine activities under a blanket certificate in Docket No. CP82-530-000 on November 16, 1982.<sup>6</sup>

5. The part of GTN's system to be modified by the proposed project involves the Coyote Springs lateral, located in Morrow County, Oregon. The lateral, constructed in 1995, starts at milepost (MP) 304.25 on GTN's mainline and extends 18 miles north to a delivery point at the Coyote Springs Meter Station.<sup>7</sup> It transports natural gas that serves consumers in Washington, Oregon, and California, including gas utilities, industrial facilities, and electric generation plants.<sup>8</sup>

6. GTN states that the certificated design capacity of its mainline facilities is fully subscribed pursuant to long term agreements. Further, its mainline is operationally constrained by design pressure requirements at the Coyote Springs Lateral's terminus and operational fluctuations, e.g., changes in ambient temperature or firm flowing rights. To alleviate delivery pressure concerns, GTN proposes to construct and operate a new compressor station on the Coyote Springs Lateral near MP 304.25. GTN asserts that the proposed facilities will not create any additional transportation capacity and that they are solely necessary to maintain the reliability of existing services. GTN's project would include the following facilities within the new compressor station:

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<sup>3</sup> 15 U.S.C. § 717f.

<sup>4</sup> 18 C.F.R. pt 157 (2021).

<sup>5</sup> 15 U.S.C. § 717a(6).

<sup>6</sup> *Pacific Gas Transmission Co.*, 21 FERC ¶ 62,237 (1982). Pacific Gas Transmission was the predecessor to GTN.

<sup>7</sup> *Pacific Gas Transmission Co.*, 70 FERC ¶ 61,016 (1995).

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

- one new 1,586 hp Solar Saturn 20 turbine natural gas-fired compressor unit within a structural skid and enclosure;
- one emergency generator, three space heaters, and one fuel gas heater;
- a turbine air inlet system, enclosure ventilation system with fans, and ducting;
- a turbine exhaust/silencer and station blowdown silencer;
- a lube oil cooler, dry seal boost module, and station process gas suction scrubber;
- a turbine fuel gas conditioning skid and utility gas conditioning skid;
- related appurtenant equipment, piping, and facilities;
- an auxiliary building;
- a liquid storage building; and
- an auxiliary power unit.

7. The project would impact a total of 30.8 acres (including a temporary laydown yard) during project construction and would impact about 12 acres during operation (4.4 acres of which would be fenced in). Of this proposed permanent acreage, about 1.9 acres are within existing permanent GTN right-of-way.

8. GTN states that the new compressor station will provide operational reliability and flexibility and allow it to fulfill its contractual obligations for transportation service using its mainline's certificated design capacity, while still meeting its design pressure requirements, including those on the Coyote Springs Lateral. GTN estimates the total cost of the project to be approximately \$32.5 million.

## **II. Notice, Intervention and other Pleadings**

9. Notice of GTN's prior notice request was published in the *Federal Register* on January 21, 2021, with interventions and protests due on March 22, 2021.<sup>9</sup> Pursuant to section 157.205(h) of the Commission's regulations, authorization to construct and operate qualifying facilities under a blanket certificate is automatic so long as no protests are filed by the 60-day deadline. If a protest is timely filed and is not withdrawn within 30 days after the 60-day notice period (30-day "reconciliation period"), the prior notice request proceeds as an application under section 7(c) of the NGA for case-specific authorization.<sup>10</sup>

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<sup>9</sup> 86 Fed. Reg. 7286 (Jan. 21, 2021)

<sup>10</sup> 18 C.F.R. § 157.205(f).

10. As noted above, on March 22, 2021, Columbia Riverkeeper filed a motion to intervene and protest.<sup>11</sup> There were no other motions to intervene, notices of intervention or protests to the application.

11. On March 30, 2021, GTN filed an answer to Columbia Riverkeeper's protest requesting dismissal of the protest and waiver of the 30-day reconciliation period. On April 7, 2021, Columbia Riverkeeper filed an answer to GTN's answer, opposing the request for dismissal and waiver. Although the Commission's Rules of Practice and Procedure do not permit answers to protests or answers to answers,<sup>12</sup> our rules do provide that we may, for good cause, waive this provision.<sup>13</sup> We find good cause to do so in this instance because GTN's and Columbia Riverkeeper's answers provide information that will assist us in our decision-making process.

12. Columbia Riverkeeper's protest asserts that the proposed compressor station is not within the scope of activities eligible to be conducted under a blanket certificate because it is part of an expansion project GTN is developing. Columbia Riverkeeper argues that the expansion project is not in the public interest and that the Commission should conduct a section 7 review of the Coyote Springs Compressor Station Project and the future expansion project as a whole, including a complete environmental analysis.

13. GTN asks the Commission to dismiss the protest, waive the 30-day reconciliation period set forth in section 157.205(f) of the Commission's regulations, and grant authorization to proceed with construction.<sup>14</sup>

14. Columbia Riverkeeper opposes GTN's request to waive the 30-day reconciliation period. Columbia Riverkeeper states that, contrary to GTN's assertion that Columbia Riverkeeper would not agree to a resolution, if Columbia Riverkeeper is incorrect regarding whether there is a connection between the proposed Coyote Springs

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<sup>11</sup> Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's regulations. *See* 18 C.F.R. § 385.214 (2021).

<sup>12</sup> 18 C.F.R. § 385.213(a)(2) (2021).

<sup>13</sup> 18 C.F.R. § 385.101(e) (2021).

<sup>14</sup> We note that in its January 13, 2021 application, GTN proposed starting construction of the proposed facilities in April 2021 to meet a November 1, 2021 in-service date.

Compressor Station and a future expansion project, Columbia Riverkeeper would be open to correcting its mistake.<sup>15</sup>

15. The reconciliation period provided for in section 157.205(f) of the Commission regulations<sup>16</sup> has run. Thus, GTN's request for waiver is moot. Because the protest was not withdrawn, GTN's filing has been reviewed as a case-specific certificate application under section 7 of the NGA. For the reasons discussed below, the Commission denies the protest and authorizes GTN to construct and operate the proposed facilities under NGA section 7(c)<sup>17</sup> and Part 157 of the Commission's regulations.<sup>18</sup>

### III. Discussion

16. As a holder of a blanket construction certificate, GTN is authorized to undertake various routine activities, subject to reporting, notice, and protest requirements.<sup>19</sup> The blanket certificate rules set out a class of routine and well-understood activities that the Commission has determined to be in the public convenience and necessity under section 7(c) of the NGA, including, pursuant to section 157.210, constructing mainline facilities such as compressor stations.<sup>20</sup> The prior notice procedures apply to activities that are not minor enough to qualify for automatic authorization under the Commission's blanket certificate regulations but that are still expected to have relatively minimal impact on the environment, ratepayers, and pipeline operations.<sup>21</sup> All activities authorized under section 157.210 are subject to the prior notice requirement.<sup>22</sup>

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<sup>15</sup> Columbia Riverkeeper's April 4, 2021 Answer at 1-2.

<sup>16</sup> 18 C.F.R. § 157.205(f).

<sup>17</sup> 15 U.S.C. § 717f.

<sup>18</sup> 18 C.F.R. pt. 157.

<sup>19</sup> *Pacific Gas Transmission Co.* (predecessor to GTN), 21 FERC ¶ 62,237 and *Pacific Gas Transmission Co.* (predecessor to GTN LLC), 70 FERC ¶ 61,016.

<sup>20</sup> 18 C.F.R. §§ 157.203, 157.210.

<sup>21</sup> See *Interstate Pipeline Certificates for Routine Transactions*, Order No. 234, FERC Stats. & Regs. ¶ 30,368 (1982) (cross-referenced at 19 FERC ¶ 61,216); see also *Revisions to the Blanket Certificate Reguls. and Clarification Regarding Rates*, Order No. 686, 117 FERC ¶ 61,074 (2006); 18 C.F.R. pt. 157.

<sup>22</sup> 18 C.F.R. § 157.210.

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17. Any person may file a protest to object to a request filed under the prior notice provisions.<sup>23</sup> If the protest is not withdrawn or dismissed, the activity will not be deemed authorized by the blanket certificate and the Commission will treat the request as an application for case-specific section 7 authorization.<sup>24</sup> Further, Commission staff will

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<sup>23</sup> 18 C.F.R. §§ 157.10, 385.211.

<sup>24</sup> *Id.* § 157.205(f).

prepare an environmental assessment (EA) for all prior notice projects.<sup>25</sup> Preparation of an environmental document ensures that a pipeline company has, in fact, satisfied all of section 157.206(b)'s standard environmental conditions and also confirms that standard conditions are appropriate to address potential adverse environmental impacts from the project. In proceedings protested on environmental grounds, the Commission addresses any specific environmental concerns or issues raised to assess whether additional environmental conditions are needed.<sup>26</sup>

18. In its March 22, 2021 protest, Columbia Riverkeeper asserts that GTN's proposed Coyote Springs Compressor Station is part of a larger expansion project GTN is in the process of developing which would provide up to 250,000 dekatherms (Dth) per day of firm transmission service and, thus, the proposed compressor station is not within the scope of activities encompassed by blanket certification.<sup>27</sup> Columbia Riverkeeper is concerned about greenhouse gas emissions and climate impacts that might be associated with the additional 250,000 Dth per day of downstream gas consumption that would be facilitated by the future expansion project.<sup>28</sup> Columbia Riverkeeper argues that the Commission should conduct a section 7 review of the Coyote Springs Compressor

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<sup>25</sup> *Revisions to the Blanket Certificate Regul. & Clarification Regarding Rates*, Order No. 686, 117 FERC ¶ 61,074 at P 78 ("all the additional types of projects permitted under the expanded blanket program will be subject to the prior notice provisions and will be subject to an EA.").

<sup>26</sup> *Compare Equitrans, L.P.*, 147 FERC ¶ 61,032, at P 21 (2014); *CenterPoint Energy Gas Transmission Co.*, 121 FERC ¶ 61,180, at P 18 (2007) (authorizing pipeline companies to proceed under their Part 157 blanket certificates with the construction of compression facilities proposed in prior notice filings after addressing protesters' arguments and finding the blanket certificate regulations' standard noise abatement requirements adequate to ensure that the protesters would not be significantly affected by noise from operation of the new compressor station), *with Carolina Gas Transmission Corp.*, 150 FERC ¶ 61,111, at P 21 & n.23 (2015) (issuing case-specific certificate to authorize construction of compression facilities proposed under blanket certificate regulations' prior notice procedures because the Commission found additional environmental noise abatement conditions were appropriate to address protesters' concerns).

<sup>27</sup> Columbia Riverkeeper's March 22, 2021 Protest at 2-3 and Columbia Riverkeeper's April 7, 2021 Answer at 2-4. We note that GTN filed an application for a proposed 150,000 Dth XPress Project on October 4, 2021, in Docket No. CP22-2-000.

<sup>28</sup> Columbia Riverkeeper's March 22, 2021 Protest at 4 and Columbia Riverkeeper's April 7, 2021 Answer at 5.

Station Project and the future expansion project as a whole, including a complete environmental analysis.<sup>29</sup> As discussed in the environmental section of this order, Columbia Riverkeeper expands on its argument in its April 1, 2022 comments on the supplemental environmental assessment.

19. Commission regulations prohibit blanket certificate holders from segmenting projects in order to meet the relevant cost limitations.<sup>30</sup> We have previously stated that this prohibition is intended to preclude the construction under a blanket certificate of projects that would not be functional without additional construction.<sup>31</sup> As discussed in the environmental section of this order, we find that GTN is not improperly segmenting the instant proposal from any future expansion project and that its construction and operation of the proposed compressor station under blanket authority is a stand-alone action independent of any expansion projects GTN might seek authorization for in the future. Accordingly, we will deny Columbia Riverkeeper's protest.

20. As explained above, when a prior notice filing is protested and the protest is not withdrawn within the reconciliation period, the activity is not deemed authorized under the blanket certificate and, instead, the Commission treats the filing as an application for case-specific authorization. However, when the Commission subsequently finds that the protest should be denied, it is Commission policy to authorize the construction and operation of the facilities under the applicant's Part 157 blanket certificate, rather than grant redundant case-specific certificate authority.<sup>32</sup>

21. We note, however, that the blanket certificate regulations require a finding that a proposed project will have no effect on any property protected by the National Historic

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<sup>29</sup> Columbia Riverkeeper's March 22, 2021 Protest at 4.

<sup>30</sup> 18 C.F.R. §§ 157.208(a), 157.208(b). *See also El Paso Nat. Gas Co.*, 95 FERC ¶ 61,461 (2001) (blanket regulations "are intended to prevent pipelines from breaking large replacement projects into smaller pieces so that they could qualify under the automatic or prior notice cost limits.").

<sup>31</sup> *See Revisions to the Blanket Certificate Regul. & Clarification Regarding Rates*, Order No. 686, 117 FERC ¶ 61,074. *See also* 18 C.F.R. § 157.202(b)(7), which defines a "project" as "a unit of improvement or construction that is *used and useful upon completion.*" (emphasis added).

<sup>32</sup> *Columbia Gas Transmission, LLC*, 148 FERC ¶ 61,138, at P 39 (2014). *See also Kinder Morgan Gas Transmission, LLC*, 133 FERC ¶ 61,044, at P 41 (2010) (citing *Tenn. Gas Pipeline Co.*, 125 FERC ¶ 61,258, at P 20 (2008); *Destin Pipeline Co.*, 83 FERC ¶ 61,308, at 62,268 (1998)).

Preservation Act.<sup>33</sup> As discussed in the environmental section of this order, the Confederated Tribes of the Umatilla Indian Reservation (Tribes) through their Cultural Resources Protection Program raised concerns regarding GTN's determination that its proposed project would have no effect on cultural resources. As discussed in the March 4, 2022 supplemental environmental assessment (supplemental EA) issued in this proceeding, although the Tribes, GTN, and Commission staff eventually concurred on a finding that the project would have "no adverse effects" on properties eligible for inclusion in the National Register of Historic Places,<sup>34</sup> this does not satisfy the "no effect" concurrence required by the Commission's regulations for authorizations under a blanket certificate.<sup>35</sup> Accordingly, the Commission will treat GTN's request as an application for case-specific section 7(c) authorization.

#### A. Certificate Policy Statement

22. The 1999 Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.<sup>36</sup> The 1999 Certificate Policy Statement establishes criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The 1999 Certificate Policy Statement explains that, in deciding whether to authorize the construction of new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to appropriately consider the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of

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<sup>33</sup> 18 C.F.R. § 157.206(b)(3)(ii).

<sup>34</sup> Supplemental EA at 27-28.

<sup>35</sup> 18 C.F.R. § 157.206(b)(3)(ii) (blanket certificate holder only on compliance with the National Historic Preservation Act if the Commission finds that there is *no effect* on any property protected by the Act).

<sup>36</sup> *Certification of New Interstate Nat. Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *corrected*, 89 FERC ¶ 61,040 (1999), *clarified*, 90 FERC ¶ 61,128 (2000), *further clarified*, 92 FERC ¶ 61,094 (2000) (1999 Certificate Policy Statement). To clarify, on March 24, 2022, the Commission suspended the effectiveness of the updated *Certification of New Interstate Nat. Gas Facilities*, 178 FERC ¶ 61,128 (2022) and *Consideration of Greenhouse Gas Emissions in Nat. Gas Infrastructure Project Revs.*, 178 FERC ¶ 61,108 (2022), issued on February 18, 2022 to replace the 1999 Certificate Policy Statement. *Certification of New Interstate Nat. Gas Facilities*, 178 FERC ¶ 61,197 (2022) (Order on Draft Policy Statements).

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

23. Under this policy, the threshold requirement for applicants proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, and landowners and communities affected by the route of the new pipeline facilities.<sup>37</sup> If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

24. As discussed above, the threshold requirement for pipelines proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. The Coyote Springs Compressor Station is intended to benefit existing customers by increasing the reliability of GTN's existing services, rather than to provide transportation for new, incremental volumes of gas. Accordingly, we find that GTN's existing shippers will not subsidize the proposed project.

25. Regarding the potential for the project to have adverse effects on GTN's existing customers and/or existing pipelines in the market and their captive customers, we note that the purpose of the proposed project is to increase system reliability, as described above, and it is not designed to bypass an existing pipeline or provide service that is already being provided by an existing pipeline. It will not displace existing service providers, and no pipelines or their captive customers have objected to GTN's proposal.

26. With respect to potential impacts on landowners, construction activities would occur within GTN's existing easements and right-of-way, and on an adjacent agricultural area. The project would impact a total of 30.8 acres (including a temporary laydown yard) during project construction and would impact about 12 acres during operation (4.4

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<sup>37</sup> In 2021, the Commission established the Office of Public Participation (OPP) to support meaningful public engagement and participation in Commission proceedings. OPP provides members of the public, including environmental justice communities, with assistance in FERC proceedings—including navigating Commission processes and activities relating to the project.

acres of which would be fenced in). Accordingly, we find that the proposed project has been designed to minimize impacts on landowners and the surrounding communities.

27. The proposed project will benefit GTN's customers by alleviating delivery pressure concerns and therefore increasing system reliability. Accordingly, we find that GTN has demonstrated a need for the project. Further the project will not have adverse economic impacts on existing shippers or other pipelines and their existing customers and will have minimal impacts on the interests of landowners and surrounding communities. Therefore, we conclude that the project is consistent with the criteria set forth in the 1999 Certificate Policy Statement and analyze the environmental impacts of the project.<sup>38</sup>

### **B. Pre-Determination of Rolled-In Rates**

28. GTN estimates that the cost for the compressor unit will be approximately \$32.5 million. While GTN does not request a pre-determination regarding rolled-in rate treatment, it is the Commission's policy to make such a finding, where appropriate.<sup>39</sup>

29. To support a pre-determination that a pipeline may roll the costs of a project into its system-wide rates in its next NGA section 4 general rate proceeding, a pipeline must demonstrate that rolling in the costs associated with the construction and operation of new facilities will not result in existing customers subsidizing the expansion.<sup>40</sup> The Certificate Policy Statement specifically provides that increasing the rates of existing customers to pay for projects designed to improve reliability or flexibility in providing a pipeline's existing services for its customers is not a subsidy.<sup>41</sup>

30. As discussed above, the purpose of the proposed project is to add compression for operational reliability and flexibility and to allow GTN to meet its mainline certificated design capacity and design pressure requirements for the benefit of existing customers.

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<sup>38</sup> See 1999 Certificate Policy Statement, 88 FERC at 61,745-46 (explaining that only when the project benefits outweigh the adverse effects on the economic interests will the Commission then complete the environmental analysis).

<sup>39</sup> See *N. Nat. Gas Co.*, 170 FERC ¶ 61,146, at P 23 (2020); *Trunkline Gas Co., LLC*, 135 FERC ¶ 61,019, at P 27 (2011) (granting a pre-determination of rolled-in rates, even though the applicant did not request it, because a pre-determination better enables existing and potential shippers to make decisions to protect their interests).

<sup>40</sup> *Columbia Gas Transmission, LLC*, 166 FERC ¶ 61,037, at P 30 (2019).

<sup>41</sup> Certificate Policy Statement, 88 FERC at 61,746 n.12. As discussed below, the proposed project will create no new capacity on GTN's system to accommodate any incremental firm services.

The Certificate Policy Statement recognizes the appropriateness of rolled-in rate treatment for projects constructed to improve the reliability of service to existing customers or to improve service by replacing existing capacity.<sup>42</sup> Accordingly, we will grant GTN a pre-determination favoring rolled-in rate treatment in a future NGA section 4 general rate proceeding, absent any significant change in circumstances.

### C. Environmental Review

31. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA), Commission staff prepared an environmental assessment (EA). The EA addressed geologic hazards, soils, groundwater, vegetation, wildlife and threatened and endangered species, cultural resources, air quality, climate change, and noise. The EA noted that U.S. Fish and Wildlife Service and the Oregon Department of Fish and Wildlife concurred that the project would not adversely affect any federal or state listed species, respectively, and the Oregon State Historic Preservation Office stated the proposed project would have no effect on historic properties.<sup>43</sup> The EA, which was placed in the record on March 15, 2021, determined that the project is consistent with the requirements of section 157.206(b) of the Commission's regulations governing blanket certificate projects. Columbia Riverkeeper filed comments in response to the March 2021 EA.

32. On June 14, 2021, Commission staff placed in the record a multi-month email exchange between the Tribes and GTN, in which the Tribes stated that two properties eligible for inclusion in the National Register of Historic Places and part of the Oregon Trail are within the proposed project's area of potential effect, which is within the Sisupa Traditional Cultural Property, and that there has been no assessment of the proposed project's effects on those resources.<sup>44</sup> Thus, the Tribes disagreed that there would be no effects on historic properties of religious and cultural significance to Indian tribes. As stated in the Supplemental EA, GTN provided a Cultural Resources Impacts Assessment report to the Tribes in an August 30, 2021 e-mail. On October 8, 2021, GTN filed with the Commission a revised report addressing the Tribes' comments on the assessment. The assessment concluded that, based on the available documentary data, the key landscape features associated with the Sisupa Traditional Cultural Property, Sand Hollow Battlefield Traditional Cultural Property, and the Oregon National Historic Trail either fell outside the project area or no longer exist. Therefore, the project is not anticipated to

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<sup>42</sup> *Id.*

<sup>43</sup> *See* EA at 9.

<sup>44</sup> *See* June 14, 2021 Project Memo providing record of communication between Commission staff, GTN, and the Confederated Tribes of the Umatilla.

negatively affect the significance or integrity of these historic properties. Therefore, GTN recommended a finding of “no adverse effects” to the three properties. In an October 5, 2021 e-mail, the Tribes concurred with the no adverse effects finding.

33. On November 5, 2021, the Commission issued a notice of schedule for the preparation of a Supplemental EA.<sup>45</sup> The Supplemental EA’s analysis addresses geology and soils, water resources, vegetation and wildlife, land use and visual resources, socioeconomics, cultural resources, air quality, climate change, noise, safety, and alternatives, as well as all substantive comments received in response to the EA and the NOS. The Supplemental EA was issued for a 30-day comment period and placed into the public record on March 4, 2022.<sup>46</sup> The Commission received comments on the Supplemental EA from the U.S. Environmental Protection Agency (EPA) and Columbia Riverkeeper, which are addressed below.

### 1. Segmentation

34. Columbia Riverkeeper asserts that the Coyote Springs Compressor Station Project is part of GTN’s larger XPress Project, which thus are connected, cumulative, and similar actions that must be considered together in a single NEPA document.<sup>47</sup> Columbia Riverkeeper points to statements in TC Pipelines’ fourth quarter 2019 and third quarter 2020 earnings calls to support its claim. Columbia Riverkeeper states that TC Pipelines’ earnings calls describe plans for a 250,000 Dth/d expansion project.<sup>48</sup> On October, 4, 2021, GTN filed an application seeking Commission authorization for a 150,000 Dth/d XPress Project.<sup>49</sup> Columbia Riverkeeper argues that the Coyote Springs Compressor Station is intended to eventually provide an additional 100,000 Dth/d of incremental capacity which, combined with the Xpress Project’s 150,000 Dth/d of capacity, would equal the 250,000 Dth/d discussed on the earnings calls.<sup>50</sup> Columbia Riverkeeper also

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<sup>45</sup> 86 Fed. Reg. 62,805 (Nov. 12, 2021).

<sup>46</sup> 87 Fed. Reg. 13,722 (Mar. 10, 2022).

<sup>47</sup> Columbia Riverkeeper April 1, 2022 Comments at 5-6.

<sup>48</sup> Columbia Riverkeeper April 1, 2022 Comments at 3-4.

<sup>49</sup> Gas Transmission Northwest LLC, Application, Docket No. CP22-2-000 (filed Oct. 4, 2021). The XPress Project includes modifying and adding compression at three existing compressor stations: No. 5 Athol Compressor Station in Kootenai County, Idaho; No. 7 Starbuck Compressor Station in Walla Walla County, Washington; and No. 10 Kent Compressor Station in Sherman County, Oregon.

<sup>50</sup> Columbia Riverkeeper April 1, 2022 Comments at 4-5.

argues that the projects are connected because the Coyote Springs Compressor Station would affect service on the same mainline as the XPress Project facilities, and the timing of both projects is similar.<sup>51</sup> Columbia Riverkeeper is concerned that if the Coyote Springs Compressor Station Project is considered independently, that the GHG emissions from that compressor station would fall below the Commission's significance threshold and therefore would not be fully evaluated as they would be if the projects were considered together in one environmental analysis.<sup>52</sup>

35. To support its argument Columbia Riverkeeper cites to a 2014 appellate court decision, *Del. Riverkeeper Network v. FERC*,<sup>53</sup> and the Council on Environmental Quality's (CEQ) regulations, section 1508.25(a).<sup>54</sup> As discussed below, we find that the Coyote Springs Compressor Station Project and the XPress Project are not connected actions that would require consideration in a single NEPA document. We also note that these two projects are not cumulative actions or similar actions that might justify consideration of environmental impacts in a single analysis.

## 2. Connected Actions

36. As described in the CEQ's regulations, "connected actions" include actions that: (a) automatically trigger other actions that may require an EIS; (b) cannot or will not proceed unless other actions are taken previously or simultaneously; or (c) are interdependent parts of a larger action and depend on the larger action for their justification.<sup>55</sup> In *Del. Riverkeeper Network v. FERC*,<sup>56</sup> the court ruled that individual pipeline proposals were interdependent parts of a larger action where four pipeline projects, when taken together, would result in "a single pipeline" that was "linear and

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<sup>51</sup> Columbia Riverkeeper April 1, 2022 Comments at 3-10. The instant application was filed on January 13, 2021 with a proposed November 1, 2021 in-service date; the XPress Project application was filed on October 4, 2021 with a proposed November 1, 2023 in-service date.

<sup>52</sup> Columbia Riverkeeper April 1, 2022 Comments at 9-10.

<sup>53</sup> 753 F.3d 1304, 1313 (D.C. Cir. 2014) (explained that an agency impermissibly segments NEPA review when it divides connected, cumulative, or similar federal actions into separate projects and thereby fails to address the true scope and impact of the activities that should be under consideration).

<sup>54</sup> Columbia Riverkeeper April 1, 2022 Comments at 6.

<sup>55</sup> 40 C.F.R. § 1501.9(e)(1) (2021).

<sup>56</sup> 753 F.3d 1304 (D.C. Cir. 2014).

physically interdependent” and where those projects were financially interdependent.<sup>57</sup> The court put a particular emphasis on the four projects’ timing, noting that, when the Commission reviewed the proposed project, the other projects were either under construction or pending before the Commission.<sup>58</sup> Courts have subsequently indicated that, in considering a pipeline application, the Commission is not required to consider in its NEPA analysis other potential projects for which the project proponent has not yet filed an application, or where construction of a project is not underway.<sup>59</sup> Further, the Commission need not jointly consider projects that are unrelated and do not depend on each other for their justification.<sup>60</sup>

37. We find that the Coyote Springs Compressor Station Project is not connected to the XPress Project. First, unlike the project at issue in the *Delaware Riverkeeper* proceeding, in which Tennessee Gas Pipeline Company, L.L.C. submitted four separate project proposals to construct and operate interlocking loop segments of new pipeline that completed a full and continuous upgrade of a pipeline where gas enters at one end and passes through each of the new pipe sections and improved compressor stations on its way to delivery points beyond those new pipeline sections, the Coyote Springs Compressor Station Project and the Xpress Project involve discrete compressor stations located over 50 miles apart. Second, while all four of Tennessee Gas’s project proposals increased system capacity, as discussed below, the Coyote Springs Compressor Station Project and the Xpress Project would serve two different purposes: the Xpress Project would increase system capacity, while the Coyote Springs Compressor Station Project would merely allow GTN to maintain and improve the reliability of its existing services provided through its already-authorized design capacity. Lastly, while adjustment of Tennessee Gas’s negotiated rates for service to customers whose contracts were used to establish need for each project was linked to completion of the other projects, there is no evidence indicating that the Coyote Springs Compressor Station Project and the Xpress Project are financially interdependent. Although the Coyote Springs Compressor Station would affect service on the same mainline as the facilities that would be modified as part of the XPress Project, the projects are not directly related to each other nor are they

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<sup>57</sup> *Del. Riverkeeper Network*, 753 F.3d at 1308.

<sup>58</sup> *Id.*

<sup>59</sup> *Minisink Residents for Env’tal. Pres. & Safety v. FERC*, 762 F.3d 97, 113, n.11 (D.C. Cir. 2014).

<sup>60</sup> *See Myersville Citizens for a Rural Cmty. Inc. v. FERC*, 783 F.3d 1301, 1326 (D.C. Cir. 2015).

contingent on the other's success or failure – they have no functional or financial interdependence.

38. GTN states that the intended use of the Coyote Springs Compressor Station is to stabilize gas pressure within the pipeline from its interconnect with GTN's existing 42-inch-diameter Mainline B to delivery points at the Logan, Coyote Springs I, Coyote Springs II and Cascade Specialties interconnects.<sup>61</sup> GTN's application in this proceeding included flow diagrams demonstrating that the Coyote Springs Compressor Station Project will provide GTN the operational ability to provide *existing* certificated capacity on the Coyote Springs Extension at higher delivery pressures, while operating within GTN's mainline pressure requirements, and that the project will not create any incremental capacity. The information GTN provided shows that the proposed project will serve the stated purpose of alleviating operational constraints on GTN's mainline and delivery pressure concerns resulting from existing design pressure requirements and operational situations.

39. The Coyote Springs Compressor Station Project and the XPress Project have independent utility, serving different purposes – the Coyote Springs Compressor Station Project is necessary to increase system reliability, while the XPress Project would expand the GTN system to provide additional transportation capacity. While both projects build on an existing infrastructure network, they are independently useful. Each would be constructed regardless of whether the other is constructed. The Coyote Springs Compressor Station Project does not trigger or depend on the XPress Project and would proceed on its own. They are not connected actions.

### 3. Cumulative and Similar Actions

40. As discussed below, Commission staff has evaluated the proposed project's potential for cumulative impacts with the Xpress Project and concluded that no cumulative impacts would occur from construction or operation of the proposed project because the nearest XPress Project facilities are over 50 miles from the Coyote Springs Compressor Station site and thus, the impacts from the respective projects will not overlap.<sup>62</sup> Moreover, although the projects might seem similar because they both involve compression facilities, were proposed in 2021, and will affect service on the same mainline, analyzing both projects in one environmental document would not have improved staff's alternatives analysis since the projects have different stated objectives, are not functionally interdependent, and could not be reconfigured to avoid overall

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<sup>61</sup> GTN Application at § 1.1, p. 1-1.

<sup>62</sup> See *infra* P 45.

impacts. Combining the two projects' environmental impacts would serve no purpose; therefore, separate reviews are appropriate.

41. The EPA agrees that the Coyote Springs Compressor Project serves a different purpose than GTN's Xpress Expansion Project, but recommends, for transparency, incorporating the Coyote Springs Compressor Station Project Supplemental EA by reference into environmental impact statement being developed for the GTN Xpress Expansion Project.<sup>63</sup> We note that the EPA is a cooperating agency and is assisting Commission staff with the Xpress Project EIS preparation, and that any request to incorporate documents by reference into the record of the Xpress Project EIS will be addressed in that proceeding.

#### 4. Indirect Impacts

42. Columbia Riverkeeper also asserts that it is reasonably foreseeable that GTN will file an application to further expand the capacity of its system by 100,000 Dth/day.<sup>64</sup> Specifically, Columbia Riverkeeper contends that, although GTN does not propose to increase its mainline capacity through the Coyote Springs Compressor Project in this proceeding, "it is clear" that GTN intends to request authority to increase capacity through a future application after the compressor station is in service.<sup>65</sup> Thus, Columbia Riverkeeper believes that the Commission must consider the impacts associated with that potential future expansion project in this proceeding as indirect impacts of the Coyote Springs Compressor Station Project.<sup>66</sup>

43. NEPA requires agencies to consider indirect effects or impacts that "are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable."<sup>67</sup> Regarding reasonable foreseeability, courts have found that an impact is reasonably foreseeable if it is "sufficiently likely to occur that a person of ordinary prudence would take it into account in reaching a decision."<sup>68</sup> Although courts have held

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<sup>63</sup> EPA April 4, 2022 Comments at 1.

<sup>64</sup> This purported future project is separate and distinct from the 150,000 Dth/d Xpress Project discussed *infra* at PP 45-47.

<sup>65</sup> Columbia Riverkeeper April 1, 2022 Comments at 2-5.

<sup>66</sup> Columbia Riverkeeper April 1, 2022 Comments at 13.

<sup>67</sup> 40 C.F.R. § 1508.1(g)(2).

<sup>68</sup> *EarthReports, Inc. v. FERC*, 828 F.3d 949, 955 (D.C. Cir. 2016) (citations omitted); *see also Sierra Club v. Marsh*, 976 F.2d 763, 767 (1st Cir. 1992).

that NEPA requires “reasonable forecasting,”<sup>69</sup> an agency “is not required to engage in speculative analysis”<sup>70</sup> or “to do the impractical, if not enough information is available to permit meaningful consideration.”<sup>71</sup>

44. The Coyote Springs Compression Station Project is designed, not to increase capacity as part of any future expansion project, but to provide needed additional reliability and flexibility to GTN’s existing facilities so that GTN can meet its contractual obligations to provide service using its existing certificated capacity. Moreover, Columbia Riverkeeper has provided no evidentiary support for its contention that the Coyote Springs Compressor Station will be used in the future to provide 100,000 Dth/d of incremental mainline capacity.<sup>72</sup> Accordingly, we find that GTN’s construction and operation of the Coyote Springs Compressor Station is a stand-alone action independent of any expansion projects GTN might seek authorization for in the future. Outside of GTN’s proposed Xpress Project, which application is pending at the Commission, GTN has not proposed or filed with the Commission any application for any other future expansion projects. Accordingly, there is no future 100,000 Dth/day expansion whose impacts could be reasonably foreseeable indirect impacts of the Coyote Springs Compressor Station Project.

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<sup>69</sup> *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1079 (9th Cir. 2011) (quoting *Selkirk Conservation All. v. Forsgren*, 336 F.3d 944, 962 (9th Cir. 2003)).

<sup>70</sup> *Id.* at 1078.

<sup>71</sup> *Id.* (quoting *Env’t. Prot. Info. Ctr. v. U.S. Forest Serv.*, 451 F.3d 1005, 1014 (9th Cir. 2006)).

<sup>72</sup> Columbia Riverkeeper asserts that statements in TC Pipelines’s earnings calls indicate that reliability work at brownfield compression facilities is part of the XPress Project, but correctly notes that the Coyote Springs Compressor Station is a greenfield facility. Columbia Riverkeeper then points to GTN’s 2019 GTN Open Season for 250,000 Dth/d of incremental capacity on its system, which referenced a Phase I which was projected to be in service by Nov. 1, 2022, and provide up to 100,000 Dth/d of service and a Phase II would provide up to 150,000 Dth/d of service. Given that GTN’s proposed Xpress project would provide 150,000 Dth/d, Columbia Riverkeeper asserts, without support, that there is necessarily a planned future Phase III, where 100,000 Dth/d would be added at the Coyote Springs Compressor Station. Columbia Riverkeeper Comments on SEA at 4.

## 5. Cumulative Impacts

45. While the Supplemental EA did not include a cumulative impact analysis, it did include a section describing the baseline environmental trends and planned activities in the project area.<sup>73</sup> To augment the Supplemental EA,<sup>74</sup> Commission staff has evaluated potential cumulative impacts of the Coyote Springs Compressor Station Project. Cumulative impacts represent the incremental effects of a proposed action when added to other past, present, or reasonably foreseeable future actions, regardless of the agency or party undertaking such other actions. Cumulative impacts can result from individually minor, but collectively significant actions, taking place over time.

46. This cumulative impact analysis generally follows a method set forth in relevant CEQ and EPA guidance and focuses on potential impacts from the proposed project on resource areas or issues where the incremental contribution would be potentially significant when added to the potential impacts of other actions. Accordingly, the cumulative impacts analysis considers actions that impact environmental resources affected by the proposed action within all or part of the areas affected by the proposed action (i.e., geographic scope), and within all or part of the time span of the impacts. The geographic scope used to assess cumulative impacts regarding GTN's proposal for each resource are discussed in the table below.

<b>Geographic Scope of Cumulative Impacts</b>	
<b>Resources and Impacted Populations</b>	<b>Geographic Scope</b>
Soils and Geology	Construction Workspaces
Groundwater, Wetlands, Vegetation, Wildlife	Hydrologic Unit Code (HUC) 12 Watershed
Surface Water Resources	HUC 12 Watershed. For direct in-water work (e.g. dredging) include potential overlapping impacts from sedimentation, turbidity, and water quality
Cultural Resources	Overlapping impacts within the Area of Potential Effects
Land Use	1 mile radius

<sup>73</sup> Supplemental EA at 10.

<sup>74</sup> See *National Environmental Policy Act Implementing Regulations Revisions*, 87 Fed. Reg. 23,453 (Apr. 20, 2022) (revising NEPA implementing regulations to require assessments of indirect and cumulative).

Visual	For aboveground facilities, distance that the tallest feature at the proposed facility would be visible from neighboring communities.
Noise – Operations	Other facilities that would impact any noise sensitive area (NSA) within 1 mile of a noise emitting permanent aboveground facility
Noise – Construction	0.25 mile from aboveground facilities.
Air Quality – Operations	0.8 kilometer as this is the furthest reaching that the significant impact level (SIL) for air quality would reach, as stated in the Supplemental EA.
Air Quality – Construction	0.25 mile from aboveground facilities
Socioeconomics	Crossed by the contractor yards or within 1 mile of aboveground facilities
Environmental Justice	Block groups crossed by contractor yards or within 1 mile of aboveground facilities.

47. Commission staff did not identify any other projects proposed or planned within one mile of the project, and as documented in the Supplemental EA, all project impacts are anticipated to occur within the one-mile radius. Further, Commission staff reviewed data indicating the locations of the Xpress Project facilities and determined that the facilities closest to the Coyote Springs Compressor Station Project proposed in this proceeding would be about 62 miles away. Therefore, there are no cumulative impacts that would occur from the construction or operation of the proposed project.

## 6. Earthquakes

48. Columbia Riverkeeper states that the Supplemental EA fails to address the potential for Cascadia Subduction Zone earthquakes.<sup>75</sup> Seismic hazards are addressed in the Supplemental EA at section 1.2, which notes that U.S. Geological Survey National Seismic Hazard Probability modeling incorporates seismicity, fault-slip rates, and the frequency of earthquakes of various magnitudes across the nation and takes into account hazards from the Cascadia Subduction Zone. The Supplemental EA concludes, and we concur, that based on the magnitude and intensity of recent and historic seismic activity

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<sup>75</sup> Columbia Riverkeeper April 1, 2022 Comments at 13-14.

in the project vicinity, and the absence of active faults underlying the project area, future seismic incidents are not expected to adversely impact the project.<sup>76</sup>

## 7. Alternatives

49. Columbia Riverkeeper states that the Supplemental EA erred in dismissing the no-action alternative because GTN is vague about project need.<sup>77</sup> As discussed above, the proposed project will benefit GTN's customers by allowing it to fulfill its contractual obligations for transportation service using its mainline's certificated design capacity by alleviating delivery pressure concerns, therefore increasing system reliability. As stated in the Supplemental EA, adopting the no-action alternative could result in GTN needing to construct other natural gas facilities to meet its mainline certificated design capacity and design pressure requirements, which might result in similar or greater environmental impacts.<sup>78</sup> Accordingly, the Supplemental EA concludes, and we concur, that the no-action alternative is not a reasonable alternative to meet the project objectives.

50. Columbia Riverkeeper also states that the Supplemental EA erred in dismissing potential alternative compressor station designs, particularly regarding the option of requiring GTN to install electric motor driven compressor units.<sup>79</sup> As stated in the Supplemental EA, GTN provides natural gas to Columbia Basin Electric Cooperative, Inc. (the local power provider). Using natural gas for its compressor station and thereby providing its own source of power eliminates the need to supply natural gas to, and then acquire power from, this local power provider. Further, using natural gas to power the station would minimize potential disruptions from electric power outages. In the event of an outage, natural gas would continue to be supplied to Columbia Basin Electrical Cooperative, Inc., local communities, and businesses, and the electricity required to run electric-powered compressor units would not need to be pulled off the electric grid. The alternative would reduce local air emissions, but it would increase regional emissions from the service provider of grid supplied electricity.<sup>80</sup> Accordingly, the Supplemental EA concludes, and we concur, that overall, there is not sufficient evidence that the alternative would provide a significant environmental advantage.

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<sup>76</sup> Supplemental EA at 13.

<sup>77</sup> Columbia Riverkeeper April 1, 2022 Comments at 14.

<sup>78</sup> Supplemental EA at 46.

<sup>79</sup> Columbia Riverkeeper April 1, 2022 Comments at 14-15.

<sup>80</sup> Supplemental EA at 48-49.

## 8. Air Quality

51. Columbia Riverkeeper states that compressor stations emit significant amounts of air pollution through engine operation and venting into the ambient air when the pressure in the pipeline exceeds safe levels and that operating the proposed project might result in impacts from fugitive leaks.<sup>81</sup> Columbia Riverkeeper references a study related to methane plumes, which spread downwind and were measured a mile away at levels potentially harmful to nearby residents, especially when cold air is overlain by warmer air (temperature inversions). Columbia Riverkeeper states that these high levels of methane, especially in an enclosed space, can cause suffocation, loss of consciousness, headache and dizziness, among other symptoms.<sup>82</sup>

52. As stated in the Supplemental EA, operating the proposed project might result in pipeline venting, blowdowns, and fugitive leaks, which are events that release methane.<sup>83</sup> Methane, the primary component of natural gas, is colorless, odorless, and tasteless. It is not toxic, but is classified as a simple asphyxiate, possessing a slight inhalation hazard. If breathed in high concentration, oxygen deficiency can result in serious injury or death. Methane has an auto-ignition temperature of 1,000°F and is flammable at concentrations between 5.0% and 15.0% in air. An unconfined mixture of methane and air is not explosive; however, it may ignite and burn if there is an ignition source. A flammable concentration within an enclosed space in the presence of an ignition source can explode. It is buoyant at atmospheric temperatures and disperses rapidly in air. The U.S. Department of Transportation – Pipeline Hazardous Materials Safety Administration (USDOT-PHMSA) is mandated to prescribe minimum safety standards to protect against risks posed by natural gas facilities under Title 49 of the U.S. Code, Chapter 601. The USDOT-PHMSA administers the USDOT's national regulatory program to ensure the safe transportation of natural gas and other hazardous materials by pipeline. It develops safety regulations and other approaches to risk management designed to ensure safety in the design, construction, testing, operation, maintenance, and emergency response of natural gas facilities. Many of the regulations are written as performance standards, which set the level of safety to be attained and allow the operator to use various technologies to achieve safety. USDOT-PHMSA is responsible for ensuring that people and the environment are protected from the risk of incidents. With compliance with

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<sup>81</sup> Columbia Riverkeeper April 1, 2022 Comments at 16-17.

<sup>82</sup> Columbia Riverkeeper April 1, 2022 Comments at 17.

<sup>83</sup> Supplemental EA at 33-34.

USDOT-PHMSA safety standards, operation, and maintenance requirements, the safety risks associated with the Coyote Springs Compressor Station would be minimized.<sup>84</sup>

53. Columbia Riverkeeper references another study that evaluates the health effects of emissions from natural gas compressor stations. Columbia Riverkeeper states that this study evaluated the health effects of the emissions from 18 natural gas compressor stations and found that, collectively, these sites released 40 million pounds of 70 different contaminants over a seven-year period. Columbia Riverkeeper states that the largest volume of emissions were nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), formaldehyde, and particulate matter. Columbia Riverkeeper also states that “air pollution from a compressor station can easily travel 10 miles or more before returning to ground level.”<sup>85</sup>

54. The study that Columbia Riverkeeper references aggregated the emissions data for 18 Title V major source compressor stations that operate throughout New York. As described in the Supplemental EA, however, the Coyote Springs Compressor Station is a minor source and not a Title V major source. Title V sources represent larger facilities that emit a greater volume of emissions as a major source than a minor source.<sup>86</sup> As stated in the Supplemental EA, the Coyote Springs Compressor Station would emit 30, 38, 0.07, and 0.56 tons per year of NO<sub>x</sub>, CO, formaldehyde, and particulate matter, respectively. In attainment areas, Title V sources have a minimum potential to emit threshold of 100 tons per year for NO<sub>x</sub> and CO, and 10 tons per year for formaldehyde (as a hazardous air pollutant). These thresholds are significantly higher than the Coyote Springs Compressor Station’s potential to emit for these same pollutants. In addition, pollutant dispersion is highly dependent on weather and meteorological conditions, which are standard inputs into air dispersion modeling developed for specific pollutant sources. As discussed below, the site-specific air dispersion modeling summarized in the Supplemental EA provides a more accurate representation of the predicted pollutant concentrations than the study Columbia Riverkeeper references that simply aggregates total pollutant mass over a seven-year period and does not use dispersion modeling.

55. Generally, transmission-quality natural gas is composed of approximately 95% methane.<sup>87</sup> When combusted, methane forms carbon dioxide (CO<sub>2</sub>) and water vapor,

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<sup>84</sup> Supplemental EA at 44.

<sup>85</sup> Columbia Riverkeeper April 1, 2022 Comments at 17.

<sup>86</sup> Supplemental EA at 31.

<sup>87</sup> Overview of the Oil and Natural Gas Industry. September 30, 2021.  
<<https://www.epa.gov/natural-gas-star-program/overview-oil-and-natural-gas-industry#:~:text=Gathering%20and%20Processing%3A%20Stripping%20out,95%2D98>

composing the majority of compressor station emissions. The CO<sub>2</sub> emissions, combustion-related emissions, including NO<sub>x</sub> and CO, and the emissions associated with the majority of the remaining 5% of natural gas composition are summarized in table 6 in the Supplemental EA.<sup>88</sup> With the exception of CO<sub>2</sub>e, all the compounds identified in table 6 in the Supplemental EA have known health impacts, and are therefore regulated by the EPA through various components of the Clean Air Act. Under the Clean Air Act, the EPA established the National Ambient Air Quality Standards (NAAQS) to protect human health (including sensitive subpopulations such as children or those with chronic illnesses) and public welfare.

56. As discussed in the Supplemental EA, to assess the Coyote Springs Compressor Station's impacts on regional air quality, GTN conducted an ambient air quality analysis for NO<sub>2</sub>, particulate matter of aerodynamic diameter of 2.5 microns or less (PM<sub>2.5</sub>), particulate matter of aerodynamic diameter 10 microns or less (PM<sub>10</sub>), CO, and sulfur dioxide (SO<sub>2</sub>) using the EPA's Air Quality Dispersion Modeling program version 19191.<sup>89</sup> The model estimates the maximum predicted concentrations of criteria pollutants emitted from the compressor station using conservative assumptions consistent with EPA guidelines. The results of the modeling indicate that the proposed project would result in air quality impacts that extend out to 0.8 kilometers for one-hour NO<sub>x</sub>, which would be the farthest impacts. According to the EPA, concentrations of criteria pollutants that are at less than significant impact levels (SIL), would not result in significant impacts on air quality.<sup>90</sup> Beyond 0.8 kilometers, one-hour NO<sub>x</sub> concentrations would be less than the SIL and are therefore insignificant, and the remaining pollutants would also have maximum concentrations that are less than the SILs. Based on the air quality modeling results, the Supplemental EA concluded, and we concur, that the proposed project, in combination with existing background concentrations, would not cause or contribute to a violation of the NAAQS for nearby populations. Accordingly, the proposed project would not significantly affect air quality.

57. Columbia Riverkeeper references another study that analyzes the emissions from upstream and midstream facilities and volatile organic compounds near oil and gas

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%20percent%20methane)>.

<sup>88</sup> Supplemental EA at 34.

<sup>89</sup> Supplemental EA at 34.

<sup>90</sup> EPA *Guidance on Significant Impact Levels for Ozone and Fine Particles in the Prevention of Significant Deterioration Permitting Program*. (April 17, 2018), [https://www.epa.gov/sites/default/files/2018-04/documents/sils\\_policy\\_guidance\\_document\\_final\\_signed\\_4-17-18.pdf](https://www.epa.gov/sites/default/files/2018-04/documents/sils_policy_guidance_document_final_signed_4-17-18.pdf).

production facilities.<sup>91</sup> The emissions from upstream facilities, which use pre-processed, raw natural gas that contains impurities and contaminants that are removed during gas processing, are not comparable to the emissions of transmission facilities that use transmission-quality, processed natural gas. The proposed project would use post-processed, transmission-quality gas; therefore, the results of that study are not relevant to analysis of the proposed project.

## 9. Greenhouse Gas Emissions and Climate Change

58. The Council on Environmental Quality defines impacts as “changes to the human environment from the proposed action or alternatives that are reasonably foreseeable,” which include those effects “that occur at the same time and place” and those that “are later in time or farther removed in distance.”<sup>92</sup> An impact is reasonably foreseeable if it is “sufficiently likely to occur such that a person of ordinary prudence would take it into account in reaching a decision.”<sup>93</sup>

59. For the proposed project, the reasonably foreseeable and causally connected GHG emissions are emissions associated with the project’s construction and operation. The Commission is not herein characterizing these emissions as significant or insignificant because we are conducting a generic proceeding to determine whether and how the Commission will conduct significance determinations going forward.<sup>94</sup> However, we are providing and considering information about these emissions, based on the information in this proceeding.<sup>95</sup> Specifically, the Supplemental EA estimates that construction of the project may result in emissions of up to 739 metric tons of carbon dioxide equivalents (CO<sub>2</sub>e).<sup>96</sup> The project’s estimated operational GHG emissions are 13,379 metric tons per year (tpy) CO<sub>2</sub>e.<sup>97</sup> The project’s operational emissions were calculated based on 100%

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<sup>91</sup> Columbia Riverkeeper April 1, 2022 Comments at 17-18.

<sup>92</sup> 40 C.F.R. § 1508.1(g).

<sup>93</sup> *Id.* § 1508.1(aa).

<sup>94</sup> Although we acknowledge that the Commission has previously assessed the “significance” of GHGs, *see N. Nat. Gas Co.*, 174 FERC ¶ 61,189 (2021), we do not do so here. The Commission is considering approaches for assessing significance in a pending proceeding. Order on Draft Policy Statements, 178 FERC ¶ 61,197.

<sup>95</sup> *See WildEarth Guardians v. Jewell*, 738 F.3d 298, 309 (D.C. Cir. 2013).

<sup>96</sup> Supplemental EA at 34.

<sup>97</sup> *Id.*

utilization; i.e. it is assumed that the facilities are operated at maximum capacity for 365 days/year, 24 hours/day.

60. As we have done in prior certificate orders, we compare GHG emissions to the total GHG emissions of the United States as a whole and at the state level. This comparison allows us to contextualize the project's projected emissions. 5,222.4 million metric tons of CO<sub>2</sub>e were emitted at a national level in 2020 (inclusive of CO<sub>2</sub>e sources

and sinks).<sup>98</sup> Construction-related emissions of the project could potentially increase CO<sub>2</sub>e emissions based on the 2020 levels by 0.00001%. In subsequent years, the operational emissions (13,379 metric tpy of CO<sub>2</sub>e) could potentially increase CO<sub>2</sub>e emissions based on the 2020 national levels by 0.00026%. At the state level, energy related CO<sub>2</sub>e emissions in Oregon were 41.8 million metric tons of CO<sub>2</sub>e in 2019.<sup>99</sup> Construction emissions from the project could potentially increase CO<sub>2</sub>e emissions based on the Oregon 2019 levels by 0.001%; in subsequent years, the project's operational emissions could increase CO<sub>2</sub>e emissions by 0.03%.

61. Columbia Riverkeeper asserts that the Coyote Springs Compressor Station will increase the amount of gas moving through the system to a level closer to its design capacity and that the Commission must consider the associated upstream and downstream impacts.<sup>100</sup> NEPA requires agencies to consider indirect effects or impacts that "are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable."<sup>101</sup> In granting certificate authorizations, the Commission evaluates proposed projects' impacts based on the design capacity of the proposed facilities. As discussed above, and as stated in the Supplemental EA,<sup>102</sup> the Coyote Springs Compressor Station will not increase GTN's design capacity beyond currently

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<sup>98</sup> EPA, *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2020* at ES-4 (Table ES-2) (Apr. 2022), <https://www.epa.gov/system/files/documents/2022-04/us-ghg-inventory-2022-main-text.pdf>.

<sup>99</sup> U.S. Energy Information Administration, Table 1, State Energy-Related Carbon Dioxide Emissions by Year, Unadjusted: Oregon (April 13, 2022), <https://www.eia.gov/environment/emissions/state/> (accessed June 14, 2022).

<sup>100</sup> Columbia Riverkeeper April 1, 2022 Comments at 12-13.

<sup>101</sup> 40 C.F.R. § 1508.1(g)(2).

<sup>102</sup> Supplemental EA at 38.

authorized levels. Accordingly, there is no need for further consideration of indirect upstream or downstream impacts associated with increased gas flows.

62. Columbia Riverkeeper states that the Commission should use the social cost of carbon, or similar cost benefit analyses, to assess the impact of the proposed project's greenhouse gas (GHG) emissions on environmental justice communities.<sup>103</sup> The social cost of GHGs is an administrative tool intended to quantify, in dollars, estimates of long-term damage that may result from future emissions of carbon dioxide, nitrous oxide, and methane. To provide additional context, we are disclosing Commission staff's estimate of the social cost of GHGs associated with the reasonably foreseeable emissions from the Project using the calculations described below.<sup>104</sup> However, noting pending litigation challenging federal agencies' use of the Interagency Working Group on the Social Cost of Greenhouse Gas' (IWG) interim values for calculating the social cost of GHGs,<sup>105</sup> we are not relying on or using the social cost of GHGs estimates to make any finding or determination regarding either the impact of the proposed project's GHG emissions or whether the project is in the public convenience and necessity.<sup>106</sup>

63. Commission staff used the methods and values contained in the IWG's current draft guidance but note that different values will result from the use of other methods.<sup>107</sup>

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<sup>103</sup> Columbia Riverkeeper April 1, 2022 Comments at 19.

<sup>104</sup> See also *Vecinos para el Bienestar de la Comunidad Costera v. FERC*, 6 F.4th 1321, 1329-30 (D.C. Cir. 2021).

<sup>105</sup> See *Missouri v. Biden*, 8th Cir. No. 21-3013; *Louisiana v. Biden*, No. 21-cv-1074-JDC-KK (W.D. La). On February 11, 2022, the U.S. District Court for the Western District of Louisiana issued a preliminary injunction limiting federal agencies' employment of estimates of the social costs of GHGs and use of the IWG's interim estimates. On March 16, 2022, the U.S. Court of Appeals for the Fifth Circuit issued a stay of the district court's preliminary injunction, finding among other things that the federal agency respondent's continued use of the interim estimates was lawful. *Louisiana v. Biden*, No. 22-30087 (5th Cir. Mar. 16, 2022).

<sup>106</sup> Furthermore, the Commission is not applying the social cost of carbon herein because it has not determined which, if any, modifications are needed to render that tool useful for project-level analyses. See CEQ's May 27, 2021 Comments filed in Docket No. PL18-1-000, at 2 (noting that it is working with representatives from the IWG to develop forthcoming additional guidance regarding the application of the social cost of GHGs tool in federal decision-making processes, including in NEPA analyses).

<sup>107</sup> *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990*, Interagency Working Group on

Accordingly, Commission staff calculated the social cost of carbon dioxide, nitrous oxide, and methane. For the analysis, staff assumed discount rates of 5%, 3%, and 2.5%;<sup>108</sup> assumed the project will begin service in 2023; and that the project's emissions will be at a constant rate for 20-years. Noting these assumptions, the emissions from construction and operation of this project are calculated to result in a total social cost of GHGs equal to \$3,837,233, \$12,436,980, and \$18,125,624, respectively (all in 2020 dollars).<sup>109</sup> Using the 95th percentile of the social cost of GHGs using the 3% discount rate,<sup>110</sup> the total social cost of GHGs from the project is calculated to be \$36,233,101 (in 2020 dollars).

## 10. Environmental Justice

64. In conducting NEPA reviews of proposed natural gas projects, the Commission follows the instruction of Executive Order 12898, which directs federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority and low-income populations (i.e., environmental justice communities).<sup>111</sup> Executive Order 14008 also directs agencies to develop

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Social Cost of Greenhouse Gases, United States Government, February 2021 (IWG Interim Estimates Technical Support Document).

<sup>108</sup> IWG Interim Estimates Technical Support Document at 24. To quantify the potential damages associated with estimated emissions, the IWG methodology applies consumption discount rates to estimated emissions costs. The IWG's discount rates are a function of the rate of economic growth where higher growth scenarios lead to higher discount rates. For example, IWG's method includes the 2.5% discount rate to address the concern that interest rates are highly uncertain over time; the 3% value to be consistent with Office of Management and Budget Circular A-4 (2003) and the real rate of return on 10-year Treasury Securities from the prior 30 years (1973 through 2002); and the 5% discount rate to represent the possibility that climate-related damages may be positively correlated with market returns. Thus, higher discount rates further discount future impacts based on estimated economic growth. Values based on lower discount rates are consistent with studies of discounting approaches relevant for intergenerational analysis. *Id.* at 18-19, 23-24.

<sup>109</sup> The IWG draft guidance identifies costs in 2020 dollars. *Id.* at 5 (Table ES-1).

<sup>110</sup> This value represents “higher-than-expected economic impacts from climate change further out in the tails of the [social cost of CO<sub>2</sub>] distribution.” *Id.* at 11. In other words, it represents a higher impact scenario with a lower probability of occurring.

<sup>111</sup> Exec. Order No. 12,898, 59 Fed. Reg. 7629 (Feb. 16, 1994). While the Commission is not one of the specified agencies in Executive Order 12898, the

“programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts.”<sup>112</sup> Environmental justice is “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”<sup>113</sup>

65. As discussed in the Supplemental EA, and consistent with CEQ<sup>114</sup> and EPA<sup>115</sup> guidance, the Commission’s methodology for assessing environmental justice impacts considers: (1) whether environmental justice communities (e.g., minority or low-income populations)<sup>116</sup> exist in the project area; (2) whether impacts on environmental justice

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Commission nonetheless addresses environmental justice in its analysis, in accordance with our governing regulations and guidance, and statutory duties. 15 U.S.C. § 717f; FERC, *Guidance Manual for Environmental Report Preparation* at 4-76 to 4-80 (Feb. 2017), <https://www.ferc.gov/sites/default/files/2020-04/guidance-manual-volume-1.pdf>.

<sup>112</sup> Exec. Order No. 14,008, 86 Fed. Reg. 7619 (Feb. 1, 2021). The term “environmental justice community” includes disadvantaged communities that have been historically marginalized and overburdened by pollution. *Id.* at 7629. The term also includes, but may not be limited to minority populations, low-income populations, or indigenous peoples. See EPA, EJ 2020 Glossary (Sep. 7, 2021), <https://www.epa.gov/environmentaljustice/ej-2020-glossary>.

<sup>113</sup> EPA, *Learn About Environmental Justice*, <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice> (Sep. 22, 2021). Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies. *Id.*

<sup>114</sup> CEQ, *Environmental Justice: Guidance Under the National Environmental Policy Act* 4 (Dec. 1997) (CEQ’s *Environmental Justice Guidance*), [https://www.energy.gov/sites/default/files/nepapub/nepa\\_documents/RedDont/G-CEQ-EJGuidance.pdf](https://www.energy.gov/sites/default/files/nepapub/nepa_documents/RedDont/G-CEQ-EJGuidance.pdf).

<sup>115</sup> See generally EPA, *Promising Practices for EJ Methodologies in NEPA Reviews* (Mar. 2016) (*Promising Practices*) [https://www.epa.gov/sites/default/files/2016-08/documents/nepa\\_promising\\_practices\\_document\\_2016.pdf](https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf).

<sup>116</sup> See generally Exec. Order No. 12,898, 59 Fed. Reg. 7629 (Feb. 16, 1994). Minority populations are those groups that include: American Indian or Alaskan Native;

communities are disproportionately high and adverse; and (3) possible mitigation measures. As recommended in *Promising Practices*, the Commission uses the 50% and the meaningfully greater analysis methods to identify minority populations.<sup>117</sup> Specifically, a minority population is present where either: (1) the aggregate minority population of the block groups in the affected area exceeds 50%; or (2) the aggregate minority population in the block group affected is 10% higher than the aggregate minority population percentage in the county.<sup>118</sup>

66. CEQ's Environmental Justice Guidance also directs low-income populations to be identified based on the annual statistical poverty thresholds from the U.S. Census Bureau. Using *Promising Practices*' low-income threshold criteria method, low-income populations are identified as block groups where the percent of a low-income population in the identified block group is equal to or greater than that of the county.

67. To identify potential environmental justice communities during preparation of the Supplemental EA, Commission staff used 2019 U.S. Census American Community Survey data<sup>119</sup> for the race, ethnicity, and poverty data at the state, county, and block group level. Additionally, in accordance with *Promising Practices*, staff used EJScreen, EPA's environmental justice mapping and screening tool, as an initial step to gather information regarding minority and low-income populations; potential environmental quality issues; environmental and demographic indicators; and other important factors. No block groups were identified that exceed the thresholds for analysis.<sup>120</sup> Accordingly, our staff concluded, and we concur, that no environmental justice communities exist in the project area.

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Asian or Pacific Islander; Black, not of Hispanic origin; or Hispanic.

<sup>117</sup> See *Promising Practices* at 21-25.

<sup>118</sup> Supplemental EA at 24-25. Here, Commission staff selected Morrow County as the comparable reference community to ensure that affected environmental justice communities are properly identified. A reference community may vary according to the characteristics of the particular project and the surrounding communities.

<sup>119</sup> U.S. Census Bureau, American Community Survey 2019 ACS 5-Year Estimates Detailed Tables, File# B17017, Poverty Status in the Past 12 Months by Household Type by Age of Householder, <https://data.census.gov/cedsci/table?q=B17017;File#B03002> Hispanic or Latino Origin By Race, <https://data.census.gov/cedsci/table?q=b03002>.

<sup>120</sup> Supplemental EA at 25.

a. **Determining the Appropriate Geographic Area**

68. Columbia Riverkeeper states the Supplemental EA fails to provide any support for the assertion that a 1-mile radius is consistent with the Commission's regulations set forth at 18 C.F.R. § 380.12 (2021), and asks for clarification on how the Commission "determined that a 1-mile radius around the proposed aboveground facility is the appropriate unit of geographic analysis for assessing impacts on environmental justice communities."<sup>121</sup> Columbia Riverkeeper states that there is a high likelihood that the project will impose disproportionately high and adverse impacts in areas outside the one-mile radius chosen by Commission staff in the Supplemental EA.<sup>122</sup>

69. Commission staff determined that a 1-mile radius is sufficiently broad, considering the likely concentration of construction activities, noise, visual, traffic, and air emissions impacts near the aboveground facilities.<sup>123</sup> With regard to noise, the project would result in a minimal sound level increase at the nearest (and only) residence within 1 mile of the facilities (0.9 mile north of the facilities). The Supplemental EA states that the increase in noise would likely not be perceptible at this residence;<sup>124</sup> therefore, noise impacts farther away would also not be perceptible. Regarding visual impacts, GTN would provide visual screening at the proposed compressor station to minimize impacts of the facilities during operation.<sup>125</sup> In addition, there are existing deciduous trees immediately to the south of the closest residence (0.9 mile north) that provide visual screening of the proposed compressor station site.<sup>126</sup> At that distance, the compressor station is not anticipated to be a prominent feature and would be consistent with other features like wind turbines, farming silos, and agricultural buildings.<sup>127</sup> Construction traffic impacts would consist of approximately 75 trips per day, would be localized, less than significant, and temporary, lasting the duration of construction (11 months).<sup>128</sup>

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<sup>121</sup> Columbia Riverkeeper April 1, 2022 Comments at 18.

<sup>122</sup> Columbia Riverkeeper April 1, 2022 Comments at 15-18.

<sup>123</sup> Supplemental EA at 25.

<sup>124</sup> *Id.* at 40.

<sup>125</sup> *Id.* at 20.

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Id.* at 23.

70. Regarding air quality impacts, based on dispersion modeling for the criteria pollutant that would extend farthest from the site (which, for this project, would be nitrogen oxide),<sup>129</sup> the radius of impact is 0.8 kilometer (0.5 mile), which is well within the 1-mile radius examined in the Supplemental EA. Outside the 0.5-mile radius of impact, the project would not contribute to an exceedance of the National Ambient Air Quality Standards (NAAQS), which are established to protect human health, including sensitive populations such as children, the elderly, and those with compromised respiratory function, i.e. asthmatics.<sup>130</sup> In addition, the combined total of background and pollutant emissions from the new compressor station are well below the NAAQS. Impacts associated with use of the laydown yard would be localized and temporary, lasting the duration of construction (11 months).<sup>131</sup> No permanent impacts associated with the laydown yard would occur. Given the above, we conclude that the scope of the Supplemental EA's analysis is justified.

**b. Identifying Environmental Justice Communities**

71. Columbia Riverkeeper contends that the Supplemental EA does not explain: (i) how its methodology for identifying environmental justice communities complies with the cited 1997 CEQ or 2016 EPA guidance; and (ii) which thresholds from either the 1997 CEQ or 2016 EPA guidance were used and the bases for using them. Columbia Riverkeeper states that the Supplemental EA's Table 4 shows that environmental justice communities are present within the Census Tract Block Groups containing the proposed compressor station and laydown areas, and that 40.7% and 13.9% of Morrow County are minority and low income, respectively, which are higher than state percentages. Columbia Riverkeeper further states that the Environmental Justice Screen Maps in Exhibit A of its April 1, 2022 comments indicate that the proposed project area is mapped with environmental justice and socioeconomic factors at a higher rate than Oregon as a whole. Columbia Riverkeeper also states that the communities surrounding the proposed project and laydown sites are within census tracts that are known to be the most vulnerable to climate change in Oregon.<sup>132</sup> Columbia Riverkeeper contends that the

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<sup>129</sup> Oxides of nitrogen are a mixture of gases that are composed of nitrogen and oxygen. Two of the most toxicologically significant compounds are nitric oxide (NO) and nitrogen dioxide (NO<sub>2</sub>).

<sup>130</sup> Supplemental EA at 35.

<sup>131</sup> *Id.* at 32.

<sup>132</sup> Citing Oregon Health Authority, 2015 Social Vulnerability Assessment, containing a set of maps focused on social vulnerability indicators intended for climate resilience and adaptation planning in Oregon.)  
<https://www.oregon.gov/oha/ph/HealthyEnvironments/climatechange/Documents/Social->

Supplemental EA erred in concluding that “no environmental justice communities are present within the study area and no disproportionately high and adverse impacts would be experienced by environmental justice communities.”<sup>133</sup>

72. Staff identified environmental justice communities based on comparisons of census block group data with county data, consistent with methodologies provided in EPA and CEQ guidelines.<sup>134</sup> The Supplemental EA’s Table 4 shows that 26.8% and 35.9% of the census block groups where the compressor station and laydown yard are located, respectively, are minority and 8.4% are low income, which are lower than the Morrow County percentages. We concur with the Supplemental EA’s conclusion that, using the federal agency methodology, this data indicates absence of environmental justice communities and, accordingly, absence of disproportionate impacts.

**c. Participation of Environmental Justice Communities**

73. Columbia Riverkeeper also states that the Supplemental EA fails to meaningfully consider the expertise of Tribal communities, communities of color, low-wealth, and many rural communities in either determining the potential adverse impacts of this project or tailoring mitigation options in line with the needs of environmental justice communities that live next to the project facility.<sup>135</sup> Meaningful involvement of potentially affected environmental justice residents means: (1) people have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; (2) the public’s contributions can influence the regulatory agency’s decision; (3) community concerns will be considered in the decision-making process; and (4) decision makers will seek out and facilitate the involvement of those potentially affected.<sup>136</sup>

74. As discussed above,<sup>137</sup> notice of GTN’s prior notice request was published in the *Federal Register* on January 21, 2021, and a notice of schedule for the preparation of the Supplemental EA was published in the *Federal Register* on November 5, 2021.

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Vulnerability-Assessment.pdf.

<sup>133</sup> Columbia Riverkeeper April 1, 2022 Comments at 18-19.

<sup>134</sup> Supplemental EA at 24-25.

<sup>135</sup> Columbia Riverkeeper April 1, 2022 Comments at 20.

<sup>136</sup> EPA, *Learn About Environmental Justice*, <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice> (Sep. 22, 2021).

<sup>137</sup> *See supra* at PP 9, 31-33.

On March 4, 2022, to satisfy NEPA requirements, the Commission issued a notice of availability for the Supplemental EA. The Commission mailed a copy of the notice of the Supplemental EA to federal, state, and local government representatives and agencies; environmental and public interest groups; Native American tribes; and potentially affected landowners and other interested individuals and groups. The Commission invited comments on the Supplemental EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. All comments received earlier in this proceeding were addressed in the Supplemental EA and comments received after the Supplemental EA was issued are addressed in this order.

**d. Impacts on Farm Workers and Other Transient Laborers**

75. The EPA recommends that the Commission consider potential impacts on farm workers and other transient laborers that may be working within the 1-mile radius of the project impact area, which is an agricultural area.<sup>138</sup> The EPA states that farm workers and other transient laborer may have prolonged exposure to the natural environment and environmental hazards, limited access to health care, less awareness of environmental health risks, and limited English proficiency.<sup>139</sup>

76. Farm workers and transient laborers might be impacted by noise and air emissions during project construction (and environmental restoration activities) for about 11 months. Heavy machinery would generate noise,<sup>140</sup> and construction equipment and delivery vehicles would generate combustion-related exhaust emissions.<sup>141</sup> Ground disturbing activities, such as grading and excavation, and vehicle traffic on paved and unpaved roads, would generate fugitive dust.<sup>142</sup> To minimize fugitive dust, GTN proposes to apply water or dust suppressant onto disturbed surfaces during construction, road grading, or land clearing; limit vehicle speed to 15 miles per hour; conduct proper maintenance of equipment; minimize soil disturbance; clean paved roads to remove dirt tracked from the construction site; and cover open-haul trucks.<sup>143</sup> Based on the limited duration of construction activities, the minimal emissions associated with these activities,

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<sup>138</sup> EPA April 4, 2022 Comments at 1.

<sup>139</sup> *Id.*

<sup>140</sup> Supplemental EA at 39.

<sup>141</sup> *Id.* at 32.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

the project area's designation as an attainment area in compliance with the NAAQS, and the temporary duration that farm workers or transient laborer's may be in the immediate vicinity of construction activities, we conclude that these impacts would not be significant.

77. Farm workers and transient laborers might be impacted by noise and air emissions during project operation. Regarding operational air emissions, as discussed, the results of GTN's modeling analysis indicate that the combined total of background and pollutant emissions from the new compressor station would not exceed the NAAQS, which are established to protect human health, including sensitive populations like children, the elderly, and those with compromised respiratory function (i.e. asthmatics).<sup>144</sup> The air quality modeling is intended to evaluate worst-case air quality impacts on nearby residents; therefore, based on the results of the air quality modeling, impacts on nearby farm workers or transient laborers who are temporarily in the area would not be significant.<sup>145</sup> Regarding operational noise impacts, based on GTN's commitment to install noise mitigation measures, the noise survey requirement in the appendix to this order (see environmental condition 12), and the limited time workers would be near the station, we conclude that noise impacts would not be significant.

## 11. Environmental Analysis Conclusion

78. Based on the analysis in the EA and Supplemental EA, we conclude that, if constructed and operated in accordance with GTN's application and supplements, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

### D. Conclusion

79. The proposed project will enable GTN to increase system reliability on facilities used to provide service to existing customers. Further, the project will not have adverse economic impacts on existing shippers or other pipelines and their existing customers and will have minimal impacts on the interests of landowners and surrounding communities. Based on the discussion above, we find under section 7 of the NGA that the public convenience and necessity requires approval of GTN's Coyote Springs Compressor Station Project, subject to the conditions in this order.

80. Compliance with the environmental conditions appended to our orders is integral to ensuring that the environmental impacts of approved projects are consistent with those

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<sup>144</sup> Supplemental EA 34-35.

<sup>145</sup> *Id.*

anticipated by our environmental analyses. Thus, Commission staff carefully reviews all information submitted, and will issue a notice to proceed with a particular activity only when satisfied that the applicant has complied with all applicable conditions. We also note that the Commission has the authority to take whatever steps are necessary to ensure the protection of environmental resources during construction and operation of the project, including authority to impose any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the order, as well as the avoidance or mitigation of unforeseen adverse environmental impacts resulting from project construction and operation.

81. 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>146</sup>

82. At a meeting held on July 28, 2022, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, and exhibits thereto, and all comments and upon consideration of the record,

The Commission orders:

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

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on:

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<sup>146</sup> See 15 U.S.C. § 717r(d) (state or federal agency's failure to act on a permit considered to be inconsistent with Federal law); see also *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293, 310 (1988) (state regulation that interferes with FERC's regulatory authority over the transportation of natural gas is preempted) and *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 245 (D.C. Cir. 2013) (noting that state and local regulation is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the Commission).

- (1) Completion of construction of the proposed facilities and making them available for service within three years of the date of this order pursuant to section 157.20(b) of the Commission's regulations;
  - (2) Compliance with all applicable Commission regulations under the NGA including, but not limited to, Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and
  - (3) Compliance with the environmental conditions listed in the appendix to this order.
- (C) Gas Transmission Northwest LLC is granted a pre-determination of rolled-in rate treatment for project costs, as discussed above.
- (D) Columbia Riverkeeper's March 22, 2021 protest is denied.
- (E) Gas Transmission Northwest LLC shall notify the Commission's environmental staff by telephone or e-mail of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Gas Transmission Northwest LLC. Gas Transmission Northwest LLC shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.
- By the Commission. Chairman Glick is concurring with a separate statement attached.  
Commissioner Danly is concurring in part with a separate statement attached.  
Commissioner Clements is concurring with a separate statement attached.

( S E A L )

Debbie-Anne A. Reese,  
Deputy Secretary.

### Appendix

As recommended in the Supplemental EA, this authorization includes the following conditions:

1. Gas Transmission Northwest LLC (GTN) 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 Supplemental EA, unless modified by the Order. GTN must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary;
  - b. justify each modification relative to site-specific conditions;
  - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
  - d. receive approval in writing from the Director of the Office of Energy Projects (OEP), or the Director's designee, **before using that modification.**
2. The Director of OEP, or the Director's designee, has delegated authority to address any requests for approvals or authorizations necessary to carry out the conditions of the Order, and take whatever steps are necessary to ensure the protection of environmental resources during construction and operation of the Project. This authority shall allow:
  - a. the modification of conditions of the Order;
  - b. stop-work authority; and
  - c. the imposition of any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the Order as well as the avoidance or mitigation of unforeseen adverse environmental impact resulting from Project construction and operation.
3. **Prior to any construction**, GTN shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, Environmental Inspectors (EI), and contractor personnel will be informed of the EIs' 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 Supplemental EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, GTN shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for the facility approved by the Order. All requests for

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

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

5. GTN shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP, or the Director's designee, **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by the Commission's *Upland Erosion Control, Revegetation, and Maintenance Plan* and/or minor field realignments per landowner needs and requirements 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 the authorization and before construction begins**, GTN shall file an Implementation Plan with the Secretary for review and

written approval by the Director of OEP, or the Director's designee. GTN must file revisions to the plan as schedules change. The plan shall identify:

- a. how GTN will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
  - b. how GTN will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
  - c. the number of EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
  - e. the location and dates of the environmental compliance training and instructions GTN will give to all personnel involved with construction and restoration (initial and refresher training as the Project progresses and personnel change);
  - f. the company personnel (if known) and specific portion of GTN's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) GTN will follow if noncompliance occurs; and
  - h. 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. environmental compliance training of onsite personnel;
    - iii. start of construction; and
    - iv. start and completion of restoration.
7. GTN shall employ at least one EI. The EI(s) shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Order and other grants, permits, certificates, or other authorizing documents;
  - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
  - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
  - d. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and

- e. responsible for maintaining status reports.
8. Beginning with the filing of its Implementation Plan, GTN shall file updated status reports with the Secretary on a **biweekly** basis until all construction and restoration activities are complete. On request, these status reports shall also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
    - a. an update on GTN's efforts to obtain the necessary federal authorizations;
    - b. the construction status of the Project, work planned for the following reporting period, and any schedule changes for work in environmentally sensitive areas;
    - c. a listing of all problems encountered and each instance of noncompliance observed by the EI(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
    - d. a description of the corrective actions implemented in response to all instances of noncompliance;
    - e. the effectiveness of all corrective actions implemented;
    - f. a description of any landowner/resident complaints that may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and
    - g. copies of any correspondence received by GTN from other federal, state, or local permitting agencies concerning instances of noncompliance, and GTN's response.
  9. GTN must receive written authorization from the Director of OEP, or the Director's designee, **before commencing construction of any Project facilities**. To obtain such authorization, GTN must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
  10. GTN must receive written authorization from the Director of OEP, or the Director's designee, **before placing the Project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the Project are proceeding satisfactorily.
  11. **Within 30 days of placing the authorized facilities in service**, GTN shall file an affirmative statement with the Secretary, certified by a senior company official:
    - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or

- b. identifying which of the conditions in the Order GTN 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. GTN shall file with the Secretary a noise survey for the Coyote Springs Compressor Station **no later than 60 days** after placing the station into service. If full power load condition noise surveys are not possible, GTN shall file an interim survey at the maximum possible power load **within 60 days** of placing the station into service and file the full power load survey **within 6 months**. If the noise attributable to operation of all equipment at the station under interim or full power load conditions exceeds a day-night sound level of 55 decibels on the A-weighted scale at any nearby noise sensitive area, GTN shall:
- a. file a report with the Secretary, for review and written approval by the Director of OEP, or the Director's designee, on what changes are needed;
  - b. install additional noise controls to meet that level **within 1 year** of the in-service date; and
  - c. confirm compliance with this requirement by filing a second full power load noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Gas Transmission Northwest LLC

Docket No. CP21-29-000

(Issued July 28, 2022)

GLICK, Chairman, *concurring*:

1. I concur with the Commission's decision to grant Gas Transmission Northwest LLC's (Gas Transmission Northwest) prior notice request, under the Natural Gas Act and Commission regulations, to construct and operate a new compressor station. I write separately because today's order does not assess the significance of the climate impacts from the project's greenhouse gas (GHG) emissions.

2. Commission precedent supports the conclusion that the project's GHG emissions will not "significantly" affect the environment within the meaning of the National Environmental Policy Act (NEPA).<sup>1</sup> Where, as here, it is unlikely that climate impacts can be deemed significant under *any* framework for assessing significance that the Commission may ultimately adopt, the Commission should simply say so.

3. In *Northern Natural Gas Co.*, the Commission found that it could determine the significance of GHG impacts for NEPA purposes using best available quantitative and qualitative evidence and applying its expertise and judgment.<sup>2</sup> The courts have long construed NEPA based on a "common sense" understanding of its terms.<sup>3</sup> Like previous orders, today's order explains that the Commission is not making a determination on significance because the Commission intends to assess how we will conduct significance determinations in the pending generic proceeding on our now-draft policy statement. However, that does not compel us to abandon applicable Commission precedent in determining whether the GHG emissions in this case would "significantly" affect the environment.

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<sup>1</sup> NEPA § 102(2)(C), 42 U.S.C. § 4332(2)(C).

<sup>2</sup> See *N. Nat. Gas Co.*, 174 FERC ¶ 61,189, at PP 32, 33 (2021).

<sup>3</sup> See, e.g., *Vermont Yankee Nuclear Power Corp. v. Nat. Res. Def. Council, Inc.*, 435 U.S. 519, 551 (1978) ("common sense" teaches NEPA requirement for "detailed statement of alternatives" does not include every conceivable alternative).

4. I would have preferred for the Commission to apply its *Northern Natural* precedent.<sup>4</sup> The record here reflects that Gas Transmission Northwest's project will result in construction emissions of up to 739 metric tons of CO<sub>2</sub>e and operational emissions of 13,379 metric tons per year CO<sub>2</sub>e.<sup>5</sup> I would have concluded that these GHG emissions are not significant. And as I have explained before, in my view there is nothing about GHG emissions or their contribution to climate change that prevents this agency from making determinations about their significance.<sup>6</sup>

5. Still, I believe that the record before us indicates that the Coyote Springs Compressor Station Project is needed and in the public interest. The record reflects, and no party disputes, that the project will benefit Gas Transmission Northwest's customers by alleviating delivery pressure concerns and therefore increasing system reliability.<sup>7</sup>

For these reasons, I respectfully concur.

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Richard Glick  
Chairman

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<sup>4</sup> *N. Nat. Gas Co.*, 174 FERC ¶ 61,189 at P 32 (finding that “there is nothing about GHG emissions or their resulting contribution to climate change that prevents us from making . . . [a] significance determination”).

<sup>5</sup> *Gas Transmission Northwest LLC*, 180 FERC ¶ 61,056, at P 59 (2022).

<sup>6</sup> See, e.g., *Texas LNG Brownsville LLC*, 169 FERC ¶ 61,130, at PP 5-7, 17-19 (2019) (Glick, Comm'r, dissenting); *Nat'l Fuel Gas Supply Corp.*, 172 FERC ¶ 61,039, at P 17 (2020) (Glick, Comm'r, dissenting).

<sup>7</sup> *Gas Transmission Northwest LLC*, 180 FERC ¶ 61,056 at PP 24-25, 27; see generally *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227, 61,748 (1999) (noting increased reliability as one potential indicator of a public benefit for a proposed natural gas project).

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Gas Transmission Northwest LLC

Docket No. CP21-29-000

(Issued July 28, 2022)

DANLY, Commissioner, *concurring in the judgment*:

1. I concur in the decision to grant authorization for Gas Transmission Northwest LLC to construct and operate the compressor station under section 7(c) of the Natural Gas Act (NGA).<sup>1</sup> I write separately to make a handful of points.

2. *First*, although I agree that the Commission must act “in accordance with our . . . statutory duties,”<sup>2</sup> it is necessary to take a moment to explain the scope of the public convenience and necessity standard. The Supreme Court has found that NGA section “7(e) requires the Commission to evaluate all factors bearing on the public interest.”<sup>3</sup> This obligation, however, is not unlimited in scope and this requirement cannot be read in a vacuum. The Supreme Court has explained that the inclusion of the term “public interest” in our statute is not “a broad license to promote the general public welfare”—instead, it “take[s] meaning from the purposes of the regulatory legislation.”<sup>4</sup> We must then turn to the purpose of the NGA, which the Supreme Court has instructed us is “to encourage the orderly development of plentiful supplies of . . . natural gas at reasonable prices.”<sup>5</sup> To the extent to which any of the Commission’s recent or future

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<sup>1</sup> 15 U.S.C. § 717f(c).

<sup>2</sup> *Gas Transmission Nw. LLC (GTN)*, 180 FERC ¶ 61,056, at P 64 n.111 (“While the Commission is not one of the specified agencies in Executive Order 12898, the Commission nonetheless addresses environmental justice in its analysis, in accordance with our governing regulations and guidance, and statutory duties.”) (citing 15 U.S.C. § 717f; FERC, *Guidance Manual for Environmental Report Preparation* at 4-76 to 4-80 (Feb. 2017), <https://www.ferc.gov/sites/default/files/2020-04/guidance-manual-volume-1.pdf>).

<sup>3</sup> *Atl. Ref. Co. v. Pub. Serv. Comm’n of N.Y.*, 360 U.S. 378, 391 (1959).

<sup>4</sup> *NAACP v. FPC*, 425 U.S. 662, 669 (1976) (*NAACP*).

<sup>5</sup> *Id.* at 669-70; *accord Myersville Citizens for a Rural Cmty. v. FERC (Myersville)*, 783 F.3d 1301, 1307 (D.C. Cir. 2015) (quoting *NAACP*, 425 U.S. at 669-70). I note that the Supreme Court has also recognized the Commission has authority to consider “other subsidiary purposes,” such as “conservation, environmental, and antitrust

certificate issuances attempt to expand the subjects considered in the Commission's balancing under the public convenience and necessity standard, as contemplated in the now-draft Updated Certificate Policy Statement,<sup>6</sup> I reiterate my view that any balancing regime the Commission employs must "take meaning" from the purpose of the NGA.

3. *Second*, as I have explained in recently-issued certificate orders,<sup>7</sup> while not fatal to the durability of the order, I would have explicitly repudiated *Northern Natural Gas Company*<sup>8</sup> and reaffirmed the Commission's earlier position that "[w]ithout an accepted methodology, the Commission cannot make a finding whether a particular quantity of greenhouse gas [(GHG)] emissions poses a significant impact on the environment, whether directly or cumulatively with other sources, and how that impact would contribute to climate change."<sup>9</sup> This is because, as the Commission has stated, it is unable to connect a particular project's GHG emissions to discrete, physical effects on the environment.<sup>10</sup> The Council on Environmental Quality (CEQ) has found similarly.<sup>11</sup>

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questions." *NAACP*, 425 U.S. at 670 & n.6 (citations omitted). But all subsidiary purposes are, necessarily, subordinate to the statute's primary purpose.

<sup>6</sup> *Certification of New Interstate Nat. Gas Facilities*, 178 FERC ¶ 61,107 (2022) (Updated Certificate Policy Statement); see *Certification of New Interstate Nat. Gas Facilities*, 178 FERC ¶ 61,197, at P 2 (2022) (converting the two policy statements issued on February 18, 2022, Updated Certificate Policy Statement, 178 FERC ¶ 61,107 and *Consideration of Greenhouse Gas Emissions in Nat. Gas Infrastructure Project Revs.*, 178 FERC ¶ 61,108 (2022) (Interim GHG Policy Statement), to "draft" policy statements).

<sup>7</sup> See, e.g., *Columbia Gulf Transmission, LLC*, 178 FERC ¶ 61,198 (2022) (Danly, Comm'r, concurring in the judgment at PP 2-4) (*Columbia Gulf*).

<sup>8</sup> *N. Nat. Gas Co.*, 174 FERC ¶ 61,189 (2021) (*Northern*). In *Northern*, a majority of my colleagues established what has been referred to (by some) as the "eyeball" test. See Catherine Morehouse, *Glick, Danly spar over gas pipeline reviews as FERC considers project's climate impacts for first time*, UTIL. DIVE, Mar. 19, 2021, <https://www.utilitydive.com/news/glick-danly-spar-over-gas-pipeline-reviews-as-ferc-considers-projects-cli/597016/> ("We essentially used the eyeball test," [Chairman Glick] said, adding that based on that analysis, "it didn't seem significant in terms of the impact of those emissions on climate change.").

<sup>9</sup> *Dominion Transmission, Inc.*, 163 FERC ¶ 61,128, at P 67 (2018) (footnote omitted).

<sup>10</sup> See, e.g., *Nat'l Fuel Gas Supply Corp.*, 158 FERC ¶ 61,145, at P 188 (2017).

<sup>11</sup> See CEQ, *Draft [National Environmental Policy Act (NEPA)] Guidance on*

Moreover, there is no standard by which the Commission could, consistent with our obligations under the law, ascribe significance to a particular rate or volume of GHG emissions.<sup>12</sup> And the Commission's recent attempts to do so, absent the expertise to make such a determination and the statutory authority to impose it, have amounted to little more than picking arbitrary numbers.<sup>13</sup>

4. By now stating in our orders that “[t]he Commission is not herein characterizing these emissions as significant or insignificant because we are conducting a generic proceeding to determine whether and how the Commission will conduct significance determinations going forward,”<sup>14</sup> the Commission has effectively preserved the ability to expand the use of its flawed “eyeball” test, possibly employing a new number as the threshold. The inclusion of this section in our recent orders shows that my colleagues persist in the belief that we have the authority to establish an arbitrary significance threshold. How will the Commission conduct significance determinations going forward? Or a better question: how exactly *can* the Commission conduct significance determinations going forward? We have a mess on our hands because of changing, inconstant practice and because the Commission's seeming policy of picking a number out of thin air and then declaring it the threshold brings significant legal risk.<sup>15</sup> This case

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*Consideration of the Effects of Climate Change and Greenhouse Gas Emissions*, at 3 (Feb. 18, 2010), <https://obamawhitehouse.archives.gov/sites/default/files/microsites/ceq/20100218-nepa-consideration-effects-ghg-draft-guidance.pdf> (“it is not currently useful for the NEPA analysis to attempt to link specific climatological changes, or the environmental impacts thereof, to the particular project or emissions, as such direct linkage is difficult to isolate and to understand.”).

<sup>12</sup> See, e.g., *Mountain Valley Pipeline, LLC*, 163 FERC ¶ 61,197, at P 292 (2018).

<sup>13</sup> See Interim GHG Policy Statement, 178 FERC ¶ 61,108 at PP 79-81 (establishing a significance threshold of 100,000 metric tons per year (tpy) of CO<sub>2</sub>e); *id.* (Danly, Comm’r, dissenting at PP 32-36) (explaining why the majority’s presumptive significance threshold is illogical); see also *Northern*, 174 FERC ¶ 61,189 (Danly, Comm’r, concurring in part and dissenting in part at P 16) (comparing the *Northern* test to “like posting a speed limit sign with a question mark instead of a number, leaving it to the police officer to decide arbitrarily whether you were speeding”).

<sup>14</sup> *GTN*, 180 FERC ¶ 61,056 at P 59.

<sup>15</sup> The Commission is authorized to make a “rational legislative-type judgment” but may not “pluck a number out of thin air when it promulgates rules.” *WJG Tel. Co., Inc. v. FCC*, 675 F.2d 386, 388-89 (D.C. Cir. 1982) (quoting *FCC v. Nat’l Citizens Comm. for Broad.*, 436 U.S. 775, 814 (1978)); see also *LeMoyne-Owen Coll. v. NLRB*, 357 F.3d 55, 61 (D.C. Cir. 2004) (“In the absence of an explanation, the ‘totality of the circumstances’ can become simply a cloak for agency whim—or worse.”) (citation

is an example of that. While neither acknowledged nor adopted in the instant order, Commission staff made a significance determination in this docket's environmental document,<sup>16</sup> which was published after the issuance of the Commission's Interim GHG Policy Statement<sup>17</sup> and before that policy statement was retroactively converted to a draft policy statement.<sup>18</sup> In two proceedings, the Commission issued an order that neither acknowledged nor adopted staff's significance determination.<sup>19</sup> But in one recent

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omitted).

<sup>16</sup> Commission Staff March 4, 2022 Environmental Assessment for Coyote Springs Compressor Station Project at 38 ("In order to assess impacts on climate change associated with the Project, we applied the Commission's Interim Policy Statement on 'Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews' issued on February 18, 2022 in Docket No. PL21-3-000 that established a significance threshold of 100,000 metric tpy of CO<sub>2</sub>e. The Project's construction and operation emissions would fall below the Commission's presumptive significance threshold based on 100 percent utilization.") (citing Interim GHG Policy Statement, 178 FERC ¶ 61,108).

<sup>17</sup> Interim GHG Policy Statement, 178 FERC ¶ 61,108.

<sup>18</sup> See Order on Draft Policy Statements, 178 FERC ¶ 61,197 at P 2.

<sup>19</sup> Compare *ANR Pipeline Co.*, 179 FERC ¶ 61,122, at P 35 (2022) ("The Commission is not herein characterizing these emissions as significant or insignificant because we are conducting a generic proceeding to determine whether and how the Commission will conduct significance determinations going forward"), and *id.* P 35 n.42 ("Although we acknowledge that the Commission has previously assessed the 'significance' of GHGs, see *N. Nat. Gas Co.*, 174 FERC ¶ 61,189 (2021), we do not do so here. The Commission is considering approaches for assessing significance in a pending proceeding.") (citing Order on Draft Policy Statements, 178 FERC ¶ 61,197), with Commission Staff, Final Environmental Impact Statement for ANR Pipeline Co. Wisconsin Access Project, Docket No. CP21-78-000, at 53-54 (Mar. 18, 2022) ("In order to assess impacts on climate change associated with the Project, Commission staff applied the Commission's Interim Policy Statement on 'Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews' issued on February 18, 2022 in Docket No. PL21-3-000 that established a significance threshold of 100,000 metric tpy of CO<sub>2</sub>e. The Project's operational and downstream emissions would exceed the Commission's presumptive significance threshold based on 100 percent utilization.") (citing Interim GHG Policy Statement, 178 FERC ¶ 61,108). See also *Rover Pipeline LLC*, 179 FERC ¶ 61,043, at P 18 (2022) (stating that "[t]he Commission is not herein characterizing these emissions as significant or insignificant because we are conducting a generic proceeding to determine whether and how the Commission will

proceeding, the Commission did in fact acknowledge that staff previously assessed significance, and declined to adopt that determination.<sup>20</sup> We should stop confusing our practice and we should no longer preserve our ability to establish arbitrary thresholds. The establishment of the 100,000 metric tpy significance threshold was a mistake,<sup>21</sup> and I urge the Commission not to make the same mistake again. Establishment of arbitrary thresholds for the purpose of establishing a level at which mitigation will be required is likely outside our authority<sup>22</sup> and, if the Commission's choice of an arbitrary number is unsupported by actual reasoning, it will fail under the Administrative Procedure Act.

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conduct significance determinations going forward” and failing to acknowledge that Commission staff determined in the environmental assessment issued on February 24, 2022 that the project's construction, operation, and downstream emissions would fall below the Commission's presumptive 100,000 tpy significance threshold based on 100 percent utilization).

<sup>20</sup> See *Spire Storage W. LLC*, 179 FERC ¶ 61,123, at P 52 n.106 (2022) (“acknowledg[ing] that the Commission has previously assessed the ‘significance’ of GHGs, see *N. Nat. Gas Co.*, 174 FERC ¶ 61,189 (2021), and Commission staff assessed the significance of GHGs for the project in the final EIS by applying the Commission's February 17, 2022 Interim Policy Statement”).

<sup>21</sup> But see *Columbia Gulf*, 178 FERC ¶ 61,198 (Glick, Chairman, concurring at P 5 n.14) (“I recognize the now-draft GHG policy statement proposes 100,000 metric tons as a threshold over which a project's GHG emissions would be presumed significant. In my view, *that is a deliberately conservative number* intended to ensure that the Commission did not lead projects developers down the path of an environmental assessment, only to subsequently change course and require an environmental impact statement *in the event that the Commission were to establish a lower threshold* in a final GHG policy statement than it did in the then-interim, now-draft policy statement. I remain open to reviewing the comments submitted in response to that draft statement, as well as guidance we may receive from other federal agencies, in considering what threshold would be appropriate in a final policy statement.”) (emphasis added) (citation omitted).

<sup>22</sup> See *Atl. City Elec. Co. v. FERC*, 295 F.3d 1, 8 (D.C. Cir. 2002) (“As a federal agency, FERC is a ‘creature of statute,’ having ‘no constitutional or common law existence or authority, but *only* those authorities conferred upon it by Congress.”) (quoting *Michigan v. EPA*, 268 F.3d 1075, 1081 (D.C. Cir. 2001)) (emphasis in *Atl. City Elec. Co.*); see *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988) (“It is axiomatic that an administrative agency's power to promulgate legislative regulations is limited to the authority delegated by Congress.”); see also Senate Energy & Nat. Res. Committee, *Full Committee Hearing To Review FERC's Recent Guidance On Natural Gas Pipelines*, <https://www.energy.senate.gov/hearings/2022/3/full-committee-hearing->

5. Moreover, recent Supreme Court case law counsels a cautious and deliberate approach when attempting to regulate subject matters that are not clearly placed within the jurisdiction granted to us by Congress, especially when the regulation of these fields will have a profound effect on a major industry that is fundamental to the health and prosperity of all Americans. *West Virginia v. Environmental Protection Agency (West Virginia)*<sup>23</sup> should give the Commission pause before wading further into this territory. This case perfectly mirrors Commissioner Christie's dissent regarding the major questions doctrine.<sup>24</sup> The Commission is charged under the NGA with "encourag[ing] the orderly development of plentiful supplies of . . . natural gas at reasonable prices."<sup>25</sup> It is *not* an environmental statute and to adopt mitigation policies or establish thresholds, the effect of which would be to frustrate the primary purpose of the statute all the while pursuing policy goals in an arena not delegated by Congress invites challenges under *West Virginia*. "A decision of such magnitude and consequence rests with Congress itself, or an agency acting pursuant to a clear delegation from that representative body."<sup>26</sup> Moreover, given the Supreme Court's reinvigoration of the major questions doctrine, we should abandon a project that clearly exceeds the boundaries of our delegated authority and proceed by simply terminating Docket No. PL21-3-000 (Consideration of Greenhouse Gas Emissions in Natural Gas Infrastructure Project Reviews).

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to-review-ferc-s-recent-guidance-on-natural-gas-pipelines, at 00:58:30 (Mar. 3, 2022) (questioning by Chairman Manchin regarding the recent policy statements: "The Commission, you all acknowledge, that . . . no federal agency, including this Commission has established a threshold for determining what level of project-induced greenhouse gas emissions is significant. Why do you all think that FERC, whose primary purpose is to regulate efficient and reliable energy, should be the first agency, the first to set such a standard rather than the environmental agencies?") (March 2022 Senate Hearing); *see generally* Interim GHG Policy Statement, 178 FERC ¶ 61,108 (Danly, Comm'r, dissenting).

<sup>23</sup> No. 20-1530, 2022 WL 2347278 (U.S. June 30, 2022).

<sup>24</sup> *See* Interim GHG Policy Statement, 178 FERC ¶ 61,108 (Christie, Comm'r, dissenting at PP 3, 22-28); Updated Certificate Policy Statement, 178 FERC ¶ 61,107 (Christie, Comm'r, dissenting at PP 3, 22-28).

<sup>25</sup> *NAACP*, 425 U.S. at 669-70 (citations omitted); *accord Myersville*, 783 F.3d at 1307 (quoting *NAACP*, 425 U.S. at 669-70).

<sup>26</sup> *West Virginia v. EPA*, 2022 WL 2347278, at \*18.

6. *Third*, I object to the inclusion of a Social Cost of GHGs calculation in this order.<sup>27</sup> The Commission has often—and extensively—discussed why the Social Cost of Carbon, or a similar calculation, is ill-suited to project-level NEPA review, and why the Social Cost of Carbon cannot meaningfully inform the Commission’s decision to approve or disapprove natural gas infrastructure projects under the NGA.<sup>28</sup> No valuable information can be gleaned from the numbers included in the instant order and they serve merely to confuse the matter—they should be omitted from future issuances.<sup>29</sup>

For these reasons, I respectfully concur in the judgment.

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James P. Danly  
Commissioner

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<sup>27</sup> *GTN*, 180 FERC ¶ 61,056 at P 63.

<sup>28</sup> *See, e.g., Mountain Valley Pipeline, LLC*, 161 FERC ¶ 61,043, at P 296 (2017), *order on reh’g*, 163 FERC ¶ 61,197, at PP 275-97 (2018), *aff’d sub nom. Appalachian Voices v. FERC*, No. 17-1271, 2019 WL 847199, at \*2 (D.C. Cir. 2019) (“[The Commission] gave several reasons why it believed petitioners’ preferred metric, the Social Cost of Carbon tool, is not an appropriate measure of project-level climate change impacts and their significance under NEPA or the Natural Gas Act. That is all that is required for NEPA purposes.”).

<sup>29</sup> Because the Social Cost of Carbon was not developed for project-level review, its use is not required for the evaluation of impacts under section 1502.21 of the CEQ’s regulations. 40 C.F.R. § 1502.21(c). This reasoning is consistent with *Florida Southeast Connection, LLC* where the Commission stated, “[a]nd we do not dispute that [the Social Cost of Carbon] is generally accepted in the scientific community and can play an important role *in different contexts, such as rulemaking proceedings.*” 164 FERC ¶ 61,099, at P 35 (2018) (emphasis added) (footnote omitted).

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Gas Transmission Northwest LLC

Docket No. CP21-29-000

(Issued July 28, 2022)

CLEMENTS, Commissioner, *concurring*:

1. I concur with this order and write separately to clarify why I agree with the decision not to characterize the significance of the greenhouse gas (GHG) emissions associated with the proposed Coyote Springs Compressor Station.<sup>1</sup>
2. As I have explained at greater length in my concurrences in other recent certificate orders,<sup>2</sup> so long as the Commission meets its substantive obligations under the National Environmental Policy Act (NEPA), it is appropriate to decline to label GHG emissions as significant or insignificant while we are considering comments on our Draft GHG Policy Statement and deciding on a final policy.<sup>3</sup>
3. The Commission has met its substantive NEPA obligations here. To begin with, NEPA requires us to prepare an Environmental Impact Statement for a project with impacts that might significantly affect the quality of the human environment.<sup>4</sup> In this case, the Commission prepared a supplemental environmental assessment (EA), which concluded that the construction and operation of the Coyote Springs Compressor Station

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<sup>1</sup> *Gas Transmission Northwest LLC*, 180 FERC ¶ 61,056, at P 59 (2022) (Order).

<sup>2</sup> See, e.g., *Columbia Gulf Transmission, LLC*, 178 FERC ¶ 61,198 (2022) (Clements, Comm'r, concurring); *Tenn. Gas Pipeline Co.*, 178 FERC ¶ 61,199 (2022) (Clements, Comm'r, concurring); *Iroquois Gas Transmission Sys., L.P.*, 178 FERC ¶ 61,200 (2022) (Clements, Comm'r, concurring); *Atlantic Coast Pipeline, LLC*, 178 FERC ¶ 61,201 (2022) (Clements, Comm'r, concurring).

<sup>3</sup> See Order on Draft Policy Statements, 178 FERC ¶ 61,197, at P 2 (2022); *Consideration of Greenhouse Gas Emissions in Nat. Gas Infrastructure Project Reviews*, 178 FERC ¶ 61,108 (2022).

<sup>4</sup> See 42 U.S.C. § 4332(C); 40 C.F.R. § 1502.3 (2012); *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 985 F.3d 1032, 1039 (D.C. Cir. 2021), *cert. denied*, 2022 WL 516382 (Feb. 22, 2022).

would not significantly affect the environment.<sup>5</sup> The EA describes the climate impacts caused by GHG emissions, as the courts have said agencies should do.<sup>6</sup> The courts have further determined that quantifying emissions and comparing them to national and state emissions levels is a “reasonable proxy” for assessing climate impacts from GHG emissions.<sup>7</sup> The Commission’s order does this as well.<sup>8</sup>

4. After carefully weighing the Coyote Springs Compression Station’s benefits and adverse impacts, including its potential effects on climate change, I have concluded that the project meets the public convenience and necessity standard under NGA section 7(e).<sup>9</sup>

For these reasons, I respectfully concur.

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Allison Clements  
Commissioner

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<sup>5</sup> *Coyote Springs Compressor Station Project Supplemental Environmental Assessment*, Docket No. CP21-29-000 (Mar. 2022). The Commission also prepared an environmental assessment report. See *Environmental Assessment Report for Gas Transmission Northwest, LLC*, Docket No. CP21-29-000 (Mar. 15, 2021).

<sup>6</sup> See, e.g., *WildEarth Guardians v. Jewell*, 738 F.3d 298, 308-311 (D.C. Cir. 2013).

<sup>7</sup> *Id.* at 309; *Sierra Club v. FERC*, 867 F.3d 1357, 1374 (D.C. Cir. 2017).

<sup>8</sup> Order, 180 FERC ¶ 61,056 at PP 59-60.

<sup>9</sup> 15 U.S.C. § 717f(e).

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