



October 9, 2012

Kimberly D Bose, Secretary
Federal Energy Regulatory Commission
888 1st Street, N.E.,
Washington, DC 20426

Re: INGAA Comments Regarding Federal Energy Regulatory Commission Upland Erosion Control, Revegetation and Maintenance Plan ("Plan") and Wetland and Waterbody Construction and Mitigation Procedures ("Procedures") (Docket No. AD12 – 2 – 000)

Dear Ms Bose:

The Federal Energy Regulatory Commission ("FERC" or "The Commission") Office of Energy Projects is updating its Upland Erosion Control, Revegetation and Maintenance Plan ("Plan") and Wetland and Waterbody Construction and Mitigation Procedures ("Procedures"); last updated January 17, 2003. The Interstate Natural Gas Association of America ("INGAA") appreciates the opportunity to comment in this docket and supports FERC's efforts to update these documents as necessary based on sound science, experience and stakeholder input.

INGAA is a nonprofit trade association representing virtually all interstate natural gas transmission pipeline companies operating in the United States (U.S.) and comparable provincial pipelines operating in Canada. INGAA's United States members operate over 190,000 miles of pipeline and related facilities and account for over 80% of the natural gas transported and sold in interstate commerce in the United States.

The FERC Plan and Procedures ("Plan and Procedures") documents comprise construction best management practice standards that the FERC first introduced in 1994. The Commission last updated the Plan and Procedure documents in 2003, and INGAA worked with the Commission to provide extensive comment and feedback. In early 2012, the Commission solicited stakeholder input on the need to once again update the Plan and Procedures, which resulted in the above referenced Notice.

The current Plan and Procedures are supported by peer reviewed research and consider area specific conditions, and INGAA is pleased that the proposed changes are largely minor clarifications to existing baseline measures. INGAA also welcomes the addition of residential construction blasting plans and winter construction plans as part of the preconstruction planning requirements.

INGAA would like to emphasize that the key advantage and benefit of the FERC Plan and Procedures is that, while providing a framework of general best management practices specifically adapted to pipeline construction activities, the documents also allow a performance-based approach to achieving environmental compliance, recognizing that protection and impact

minimization may be achieved and/or measured in multiple ways subject to project- and/or region-specific conditions and factors such as topography, climate, soils, land cover/use, landowner requests, and other applicable regulatory drivers or permits. In so doing, the FERC Plan and Procedures provide a general suite of best management practices that may be used to govern and guide pipeline construction activities across the range of environments commonly encountered across the United States. The proposed changes are consistent with this approach and appropriately retain the performance-based approach that has allowed for flexibility in identifying the most appropriate tools and metrics of resource protection during construction.

Specific Comments

INGAA offers the following comments for the Commission to consider as it updates its Plan and Procedures. As always, INGAA welcomes the opportunity to work with the FERC and other stakeholders to cooperatively review and consider the proposed changes to these very important documents.

- Variances to the FERC Plan and Procedures – The FERC Plan & Procedures provide a framework of best management practices that are designed to address the activities of the majority of pipeline construction projects in the United States. At the same time, each project is unique and circumstances arise that might require a deviation from these baseline methods. Recognizing this, the Commission provides a variance process for project sponsors to propose alternative measures to the baseline best management practices.

INGAA strongly supports the FERC variance program that provides the best means of responding to circumstances that might arise for a specific project. For example, to address both safety and operational concerns, it may be necessary for a pipeline operator to maintain the right-of-way more often than is specified in the FERC Plan or maintain a portion of that right-of-way in an herbaceous state. In such cases, the variance program provides an avenue for FERC to work with project sponsors to address specific circumstances and ensure that adequate protections are in place for any situation that might arise.

- FERC Plan section II(B)(7) – FERC proposes to add relatively specific language describing sensitive environmental areas. Specifically, “Verifying that dewatering activities are properly monitored and do not result in the deposition of sand, silt, and/or sediment into sensitive environmental areas, including wetlands, waterbodies, cultural resource sites, and sensitive biological habitats; stopping dewatering activities”

INGAA does not object to the proposed addition but urges FERC to make such language consistent where appropriate. For example, the same language should be applied in FERC Plan II(B)(12) where sensitive areas also are referenced.

- FERC Plan section II(B)(17) – FERC proposes to add a section requiring verification that all activities associated with providing excess construction materials will not result in an adverse environmental impact. INGAA understands that FERC intends for the verification to apply to project sponsors and their associated activities related to the project. INGAA agrees, but is concerned that project sponsors may be held responsible for non-project use of construction materials not under sponsor control. For example, a landowner might request excess rock originating from trench excavation. Although a project sponsor might stockpile the excess rock in an approved, upland work area, the landowner could subsequently use the rock to fill a wetland. The project sponsor would have no control over that subsequent activity. INGAA suggests modifying the proposed language as follows to provide clarity that activities expected to be verified are those controlled by project sponsors.

Verifying that all project-sponsor controlled activities associated with providing excess construction materials for beneficial reuse will not result in adverse environmental impact or a violation of any permit or law.

- FERC Plan section III(G) – The Commission proposes to add a new section III(G) to address residential construction activities. While the proposed language provides baseline practices that are easy to understand, INGAA is concerned that the term “immediately” as used in the last sentence of the proposed addition may lend itself to varying interpretations. Through discussions with FERC staff, it is INGAA’s understanding that the term “immediately” was meant to refer to an “as soon as possible” timing, taking into account the time and circumstances of the day, as well as prevailing weather conditions. INGAA believe this could become a source of disagreement. Section V(A)(1) of the FERC Plan allows for some flexibility in the timing of cleanup operations subject to seasonal or weather conditions, given maintenance of temporary erosion controls. INGAA urges FERC to include similar language in section III(G) that will provide similar flexibility and ensure a clear understanding of FERC’s intent.
- FERC Plan section III(I) – Winter Construction – INGAA welcomes the addition of the new section, Winter Construction. INGAA believes that de-mystifying winter construction techniques and best management practices would foster acceptance of the concept as a legitimate practice among U.S. regulators, thereby expanding the “toolbox” of project planners. To that extent, the INGAA Foundation, the research arm of INGAA, has approved a new initiative to develop a model plan that addresses frozen-season construction (hereafter termed “winter” construction) as this may become more common as new gas plays emerge in the northern states. A significant driver in this trend is the increasing difficulty many companies are finding in efficiently executing pipeline construction during spring and early summer months due to biological timing restrictions such as those stemming from nesting migratory birds.

The model winter construction plan will focus on construction and environmental protection practices unique to frozen conditions. Many Canadian companies have a lot of experience with winter construction and have well-developed procedures.

- Topics to be addressed will include
- Route and Project Planning
- Equipment
- ROW Considerations (construction procedures, mitigation measures, additional temporary work space, etc.)
- Temporary ROW Stabilization
- Restoration

New Section III. I of the Plan requires submittal of a winter construction plan “if construction is planned for the winter season.” The new section does not further define when that requirement would be triggered. For example, is it triggered by a calendar date or by conditions in the field, or either? If it is triggered by field conditions, what are those conditions? In order to make this requirement as practical and effective as possible, the need for a winter construction plan submittal on any given project should be based upon a dialogue between the applicant and FERC environmental staff.

The term “winter season” is vaguely and broadly defined. In some locations (e.g., southern states), construction activities may continue through the winter period with no discernible impact or change in methodology/timing. To provide better definition, as well as consistency with Section V(A)(1) of the FERC Plan, we suggest modifying the first sentence of the proposed language to read, “If construction is planned for the winter season when conditions could delay successful decompaction, topsoil replacement, or seeding until the following spring, file a project-specific winter construction plan...”

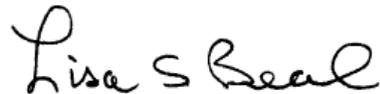
- FERC Plan IV(F)(4)(b) – In some cases the Plan specifies “certified” weed-free straw or hay, while the term “certified” is not present in Plan section IV(F)(4)(b). INGAA is unclear whether there is a rationale for the difference. In the spirit of consistency, INGAA urges FERC to use one term or the other consistently or define the difference.
- FERC Plan IV(F)(4)(h) and FERC Procedures V(C)(4) – Proposed new language in the FERC Plan indicates that mesh or netted erosion control materials should not be used in sensitive wildlife habitat where entanglement may be a concern. Additionally, proposed new language in the FERC Procedures requires that erosion control fabric be installed on all waterbody banks at the time of final recontouring. In some instances, these requirements could potentially conflict with one another. INGAA urges FERC to add language to section V(C)(4) of the Procedures to allow for exceptions in the use of erosion control fabric at waterbody banks if located in a sensitive wildlife habitat where entanglement could be a concern.

- FERC Procedures VI(D)(4) – INGAA supports the intent of the Plan and Procedures to restore wetlands back to the original condition post construction. The proposed language seems to expand the metrics for assessing the success of that intent. Specifically, the FERC proposes to expand the definition of successful revegetation from a requirement to restore 80 percent of the type, density, and distribution of the vegetation in adjacent, undisturbed wetland areas to a combination of four distinct criteria, all of which must be satisfied. Taken as a whole, these criteria seem targeted to provide for restoration of an affected wetland to a state that is either entirely unaffected by wetland construction and/or potentially more pristine than the pre-construction condition (e.g., total absence of undesirable exotic species). This does not recognize the fact that project sponsors would have already completed a permitting process with the U.S. Army Corps of Engineers (USACE), which would authorize project-related temporary and/or permanent impacts to wetlands, as well as provide compensatory mitigation for those impacts, as deemed appropriate by the USACE. For these reasons, INGAA urges the FERC to revert to the previous criteria for assessing wetland revegetation success.

INGAA is pleased to provide these comments to the FERC Plan and Procedures documents and best management practices for pipeline construction. We would welcome the opportunity to meet with the Commission to further discuss our comments and look forward to working with FERC in the future.

If you have any questions, please contact me at 202-216-5935 or lbeal@ingaa.org.

Sincerely,



Lisa Beal
Vice President, Environment and Construction Policy
Interstate Natural Gas Association of America