

1.0 INTRODUCTION

On September 8, 2006, Kinder Morgan Louisiana Pipeline LLC (KMLP) filed an application with the Federal Energy Regulatory Commission (FERC or Commission) under section 7(c) of the Natural Gas Act (NGA). As filed in Docket No. CP06-449-000, KMLP seeks a Certificate of Public Convenience and Necessity (Certificate) to construct, operate, and maintain a natural gas pipeline in southwest Louisiana. For the purposes of this environmental impact statement (EIS), the project is referred to as the “Project” or “KMLP Project.”

The Project has been designed to deliver a peak day capacity of not less than 3,395,000 decatherms (Dth) of regasified natural gas from the Sabine Pass Liquefied Natural Gas (LNG) Terminal to various intrastate and interstate natural gas pipeline systems. The Sabine Pass LNG Terminal is under construction, and will be owned and operated by Sabine Pass LNG, L.P., on an 853-acre tract of land along the eastern bank of Sabine Pass, south of Louisiana State Highway (SH) 82 in southwestern Louisiana. The FERC issued an order on December 21, 2004 (Order), granting approval under section 3(a) of the NGA for Sabine Pass LNG, L.P.’s proposal (FERC Docket No. CP04-47-000) to construct and operate Phase I facilities at the LNG import terminal and granting approval under section 7(c) of the NGA for 16 miles of 42-inch-diameter pipeline and associated facilities (called the Sabine Pass Pipeline). This order was based on, among other analyses, the *Final Environmental Impact Statement, Sabine Pass LNG and Pipeline Project* (Phase I Project FEIS) published in November 2004 (FERC 2004). Sabine Pass LNG, L.P. has subsequently applied for, and the FERC issued an Environmental Assessment in May 2006 on, proposed expansion (Sabine Pass LNG Phase II) facilities at the terminal (FERC 2006a). These activities and facilities at the Sabine Pass LNG Terminal are not within the scope of the Project.

Pipelines and associated facilities proposed by KMLP for the Project include:

- Leg 1 – 132.2 miles of 42-inch-diameter pipeline beginning within the Sabine Pass LNG Terminal in Cameron Parish and extending northward and easterly through Calcasieu, Jefferson Davis, and Acadia Parishes until it connects with an existing Columbia Gulf Transmission (CGT) interstate pipeline in Evangeline Parish, Louisiana.
- Leg 2 – 1.2 miles of 36-inch-diameter pipeline beginning within the Sabine Pass LNG Terminal and extending to a point of interconnection with the existing Natural Gas Pipeline Company of America (NGPL) pipeline just south of SH 82 in Cameron Parish, Louisiana.
- The Florida Gas Transmission (FGT) Lateral – 2.3 miles of 24-inch-diameter pipeline extending eastwardly from Leg 1 at approximately milepost (MP) 110.6 until it connects with the existing FGT Company’s Compressor Station #7 near the town of Williams in Acadia Parish, Louisiana.
- Associated mainline block valves (MLVs), metering, tie-in, and pigging facilities.

To the extent feasible, KMLP Project rights-of-way would parallel and overlap existing pipeline and utility rights-of-way, while providing a safe separation distance between the KMLP Project and any existing pipelines and utility lines. The width of the necessary construction rights-of-way for the various KMLP pipeline segments would differ according to the type of terrain encountered and the corresponding pipeline construction method that would be used, as further discussed in section 2 of this EIS. Approximately 3,031 acres of land would be temporarily affected by construction of the pipeline, storage yards, access roads, and aboveground facilities. Approximately 841 acres of land would be permanently affected by operation of the Project.

We¹ prepared this EIS to assess the environmental impact associated with construction, operation, and maintenance of the KMLP Project in Cameron, Calcasieu, Jefferson Davis, Acadia, and Evangeline Parishes, Louisiana as summarized above and more fully described in section 2 of this EIS.

The vertical line in the margin identifies text that has been modified in the final EIS and differs from the corresponding text in the draft EIS.

1.1 PROJECT PURPOSE AND NEED

The KMLP Project would site, construct, operate, and maintain the natural gas pipelines and associated infrastructure to deliver regasified LNG from the Sabine Pass LNG Terminal into the national pipeline and underground gas storage grid. The two capacity holders at the Sabine Pass LNG Terminal (Total Gas & Power North America (Total) and Chevron USA) are the shippers on the KMLP Project. The Project would provide access to an additional 11 interstate and intrastate natural gas pipelines at 14 interconnect points with a total take-away capacity of about 4.0 billion cubic feet per day (Bcf/d) and a total downstream interconnecting capacity of about 11.4 Bcf/d. These pipelines serve markets throughout much of the eastern half of the United States. Having such broad access to markets in the Gulf Coast, Northeast, Mid-Atlantic, South, Midwest, and Southeast, through multiple pipeline connections, would allow shippers to redirect supplies as pipeline capacity is available and in response to market dynamics. The pipeline system would provide natural gas delivery flexibility in addition to widespread market access.

The U.S. Department of Energy (DOE) Energy Information Administration (EIA) forecasts increasing demand for natural gas and a need for additional supplies of natural gas. In its *Annual Energy Outlook 2006*, the EIA projects that natural gas demand in the United States will grow from 22.4 trillion cubic feet (Tcf) in 2004 to almost 26.9 Tcf in 2030 (DOE 2006). About 60 percent of the demand growth is projected by EIA to occur east of the Mississippi River, which is the area served by the pipelines that would be connected to the KMLP Project. With an expected decline in imports from Canada, and modest increases from domestic production, LNG is expected to be a major supplier of this need. LNG imports in the EIA reference case reach 12 Bcf/d by 2030, or 16 percent of total demand. The importance of LNG to natural gas markets lies in providing additional supplies that help to moderate prices and in giving North American markets access to broader worldwide natural gas resources.

1.2 PURPOSE AND SCOPE OF THIS STATEMENT

The FERC is the federal agency responsible for authorizing applications to construct and operate natural gas pipeline facilities. The FERC is the lead federal agency for the preparation of this EIS in compliance with the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality (CEQ) regulations for implementing NEPA (40, Code of Federal Regulations (CFR) 1500-1508), and the FERC's regulations implementing NEPA (18 CFR 380). The FERC will use the results of the EIS as an element in its review of KMLP's application to determine whether to authorize the project. The FERC will consider the environmental issues, including our recommended mitigation measures, as well as non-environmental issues in making its decision.

On March 15, 2007, the Commission issued a *Preliminary Determination on Non-Environmental Issues and Preliminary Determination on Abandonment Authority* for the KMLP Project. This

¹ "We," "us," and "our" refer to the environmental staff of the FERC's Office of Energy Projects (OEP).

Preliminary Determination found that construction and operation of the Project is in the public interest, subject to the completion of the environmental review and issuance of a final order. Final approval of the Project, therefore, is dependent on the environmental impact assessment and mitigation development described herein, and the Commission's consideration of those issues.

The U.S. Army Corps of Engineers (COE) and U.S. Fish and Wildlife Service (FWS) are cooperating agencies for the preparation of this EIS. A cooperating federal agency has jurisdiction by law or special expertise with respect to environmental impacts involved with the proposal and is involved in the NEPA analysis. The Louisiana Department of Wildlife and Fisheries (LDWF) and the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NOAA Fisheries Service) also assisted us in the preparation of this EIS.

Our principal purposes in preparing this EIS are to:

- Identify and assess potential impacts on the human environment that would result from the Project;
- Describe and assess reasonable alternatives to the Project that would avoid or minimize adverse effects on the human environment;
- Identify and recommend specific mitigation measures to minimize environmental impacts; and
- Facilitate public involvement in identifying the significant environmental impacts.

Our analysis in this EIS focuses on the facilities that would be under the FERC's jurisdiction. The FERC jurisdictional facilities included in the Project would consist of three segments of pipelines as described above, including aboveground sites providing delivery interconnections, MLVs, pigging facilities, control systems, and other facilities, as further described in section 2 of this EIS. No compressor stations are proposed as part of the Project.

The topics addressed in this EIS include geology; soils and sediments; water resources; wetlands; upland vegetation; wildlife; aquatic resources; essential fish habitat (EFH); threatened, endangered, and special-status species; land use, recreation, and visual resources; socioeconomics; cultural resources; air quality and noise; reliability and safety; cumulative effects; and alternatives. This EIS describes the affected environment as it currently exists, discusses the environmental consequences of the Project, and compares the Project's potential impact to that of alternatives. This EIS also presents our conclusions and recommended mitigation measures.

1.3 PERMITS, APPROVALS, AND REGULATORY REQUIREMENTS

As the lead federal agency for the KMLP Project, the FERC is required to comply with section 7 of the Endangered Species Act (ESA), the Magnuson-Stevens Fishery Conservation and Management Act (MSA), section 106 of the National Historic Preservation Act (NHPA), and section 307 of the Coastal Zone Management Act of 1972 (CZMA). Each of these statutes has been taken into account in the preparation of this document.

Section 7 of the ESA, as amended, states that any project authorized, funded, or conducted by any federal agency (e.g., the FERC) should not "...jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species

which is determined...to be critical...” (16 United States Code (USC) § 1536(a)(2)(1988)). The FERC, or the applicant as a non-federal party, is required to consult with the FWS and NOAA Fisheries Service to determine whether any federally listed or proposed threatened or endangered species or their designated critical habitat occur in the vicinity of the Project. If, upon review of existing data or data provided by the applicant, the FERC determines that these species or habitats may be affected by the Project, the FERC is required to prepare a biological assessment to identify the nature and extent of adverse impact, and to recommend measures that would avoid the habitat and/or species, or would reduce potential impact to acceptable levels. If, however, the FERC determines that no federally listed or proposed threatened or endangered species or their designated critical habitat would be affected by the Project, no further action is necessary under the ESA. See section 4.7 of this EIS for the status of this review.

The MSA, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), established procedures designed to identify, conserve, and enhance EFH for those species regulated under a federal fisheries management plan. The MSA requires federal agencies to consult with NOAA Fisheries Service on all actions or proposed actions authorized, funded, or undertaken by the agency that may adversely affect EFH (MSA §305(b)(2)). Although absolute criteria have not been established for conducting EFH consultations, NOAA Fisheries Service recommends consolidated EFH consultations with interagency coordination procedures required by other statutes, such as NEPA, the Fish and Wildlife Coordination Act, and the ESA, in order to reduce duplication and improve efficiency (50 CFR 600.920(f)). As part of the consultation process, the FERC has prepared an EFH Assessment included in section 4.6.3 of this EIS.

Section 106 of the NHPA requires the FERC to take into account the effects of its undertakings on properties listed on or eligible for listing on the National Register of Historic Places (NRHP), including prehistoric or historic sites, districts, buildings, structures, objects, or properties of traditional religious or cultural importance, and to afford the Advisory Council on Historic Preservation (ACHP) an opportunity to comment on the undertaking. The FERC has requested that KMLP, as a non-federal party, assist in meeting the FERC’s obligation under section 106 by preparing the necessary information and analyses as required by the ACHP procedures in 36 CFR 800. See section 4.10 of this EIS for the status of this review.

The CZMA calls for the “effective management, beneficial use, protection, and development” of the nation’s coastal zone and promotes active state involvement in achieving those goals. As a means to reach those goals, the CZMA requires participating states to develop management programs that demonstrate how these states will meet their obligations and responsibilities in managing their coastal areas. In the state of Louisiana, the Louisiana Department of Natural Resources (LDNR) is the agency responsible for administering the Coastal Zone Management Program (CZMP). Because section 307 of the CZMA requires federal agency activities to be consistent to the maximum extent practicable within the enforceable policies of a management program, the FERC has requested that KMLP seek a determination of consistency with Louisiana’s CZMP. See section 4.8.5 of this EIS for additional discussion of Louisiana’s CZMP.

In addition to the preceding authorities, the COE has the authority to issue permits for work or structures in navigable waters under section 10 of the River and Harbors Act and the discharge of dredged or fill material into waters of the United States under section 404 of the Clean Water Act (CWA). The COE would regulate the filling and grading activities in wetlands and waterbodies crossed by the Project. The U.S. Environmental Protection Agency (EPA) has the authority to review and veto COE decisions on section 404 permits.

Major permits, approvals, and consultations required at the federal, state, and local levels for the Project are identified in table 1.3-1. At the federal level, required permits and approval authority outside

TABLE 1.3-1**Major Permits, Approvals, and Consultations for the KMLP Project**

Agency	Permit/Approval/Consultation
FEDERAL AGENCIES	
Federal Energy Regulatory Commission	NGA section 7(c), Certificate of Public Convenience and Necessity
U.S. Army Corps of Engineers	Clean Water Act (CWA) section 404 Permit Rivers and Harbors Act section 10 Individual Permit
U.S. Fish and Wildlife Service (U.S. Department of the Interior)	Section 7, Endangered Species Act (ESA) Consultation, Migratory Bird Treaty Act Consultation, Fish and Wildlife Coordination Act Consultation
National Marine Fisheries Service (U.S. Department of Commerce, National Oceanic and Atmospheric Administration)	Section 7, ESA Consultation Magnuson-Stevens Fishery Conservation and Management Act, Essential Fish Habitat Consultation
Natural Resources Conservation Service (U.S. Department of Agriculture)	Prime Farmland, Hydric Soil/Soil Erosion and Sedimentation, Seed Mixture, and Conservation Reserve Program (CRP) Lands Consultation
STATE AGENCIES	
Louisiana Department of Natural Resources, Coastal Management Division	Coastal Use Permit (CUP) Coastal Zone Management Plan Consistency Determination
Louisiana Department of Wildlife and Fisheries	State-Listed Threatened and Endangered Species Consultation Consultations Regarding Activities in Sabine Lake and Protection of Oyster Resources
Louisiana Department of Environmental Quality	CWA, section 401, Water Quality Certification Louisiana Pollutant Discharge Elimination System (LAPDES): Construction Stormwater General Permit and Hydrostatic Test Water General Permit
Louisiana Department of Culture, Recreation, and Tourism, Office of Cultural Development, Division of Archaeology	National Historic Preservation Act, section 106 Consultation
Louisiana Department of Transportation	Road Crossing Permits
LOCAL AGENCIES	
Parish Police Juries	Building and Road Crossing Permits, Floodplain Development Permit
Irrigation Districts	Canal Crossing Approval
Levee Districts	Letter of No Objection
Local Entities (e.g., County Roads, Economic Development, etc.)	Planning and Development Consultation

of the FERC's jurisdiction include compliance with the CWA and the Rivers and Harbors Act. The FERC encourages cooperation between applicants and state and local authorities, but this does not mean that state and local agencies, through application of state and local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by the FERC. Any state or local permits issued

with respect to jurisdictional facilities must be consistent with the conditions of any authorization the FERC may issue.²

1.4 PUBLIC REVIEW AND COMMENT

On January 31, 2006, KMLP filed a request with the FERC to implement the Commission's Pre-filing process for the Project. On February 17, 2006, the FERC granted KMLP's request and established a Pre-filing docket number (PF06-16-000) to place information filed by KMLP and related documents issued by the FERC into the public record. The purpose of the Pre-filing process is to encourage the early involvement of interested stakeholders, facilitate interagency cooperation, and identify and resolve issues before an application is filed with the FERC.

The application for the Project requires the submittal of an Environmental Report to the FERC, consisting of 12 Resource Reports as specified in 18 CFR 157.14(a)(6-a), § 380.3, and § 380.12. Each Resource Report evaluated existing conditions and potential effects on a particular aspect of the environment. KMLP submitted a Preliminary Draft Resource Report 1 and Alternatives Analysis Summary (to be included in Resource Report 10) on March 17, 2006, followed by Draft Resource Reports 1 through 12 on June 2, 2006, and Revised Draft Resource Reports 1 through 12 on July 14, 2006. A list of environmental information requests based on a review of each round of the draft Resource Reports was prepared by the FERC and submitted to KMLP on July 3, 2006, and August 7, 2006. Revised Resource Reports were subsequently prepared by KMLP and submitted to the FERC along with its application filed on September 8, 2006. After accepting this filing, the FERC established a traditional docket number (CP06-449-000) to place related information submitted or developed subsequently into the public record.

KMLP has conducted public outreach activities to inform the public, resource agencies, industry, local government, and other interested parties about the Project and to identify public concerns. Company-sponsored outreach activities included meetings with regulatory agencies and meetings with special interest and stakeholder groups. KMLP held meetings with regulatory agencies on May 12, 2005, July 21, 2005, and June 23, 2006. KMLP also sent multiple agencies an e-mail with project-related information on December 7, 2005. KMLP held public open houses in Hackberry, Iowa, Iota, and Ville Platte, Louisiana during March 2006. KMLP considered public views and concerns identified during its outreach activities in the preparation of its Environmental Report. On March 6, 7, 9, and 13, 2006, FERC staff toured the pipeline routes and attended the applicant-sponsored open houses to answer questions about the Pre-filing review process.

On March 24, 2006, the FERC issued a *Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Kinder Morgan Pipeline Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to 1,642 interested parties including federal, state, and local officials; agency representatives; conservation organizations; local libraries and newspapers; and property owners along the pipeline routes. Issuance of the NOI opened the time period for receiving written comments and established a closing date of April 24, 2006, for receiving comments. However, we kept the comment period open beyond that date and informed interested parties that we would continue to take comments throughout our review of the Project. We received letters with comments in response to our NOI from NOAA Fisheries Service, FWS, and LDWF.

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

On April 26, 2006, the FERC issued a *Notice of Site Visit and Public Meetings*, which provided notice to the public that the FERC staff was conducting a site visit and holding three scoping meetings for the KMLP Project on May 8, 9, and 11, 2006. The April 26 notice included the specific times and locations (Ville Platte, Sulphur, and Iowa, Louisiana) for the scoping meetings. The scoping meetings provided an opportunity for the general public to learn more about the Project and to participate in our analysis by commenting on issues to be included in the EIS. Two persons commented at the Ville Platte meeting, two persons commented at the Sulphur meeting, and two persons commented at the Iowa meeting. Transcripts of these comments are part of the public record for the KMLP Project. On May 10, 2006, we conducted an aerial review of the Project by helicopter and we took a boat tour of the pipeline route in the northern end of Sabine Lake and vicinity. On May 9 and 11, 2006, we conducted a ground-based site visit of the entire route, which was open to the public.

In addition to the public notice process discussed above, we conducted agency consultations to identify issues that should be addressed in the draft EIS. These consultations included interagency meetings on May 11 and October 5, 2006, both in Lake Charles, Louisiana. Participants at one or both meetings included representation from the COE, NOAA Fisheries Service, FWS, and LDWF. Issues discussed during these meetings included routing alternatives to avoid impacts to wetlands, potentially affected EFH and oyster beds, construction methods at wetland and waterbody crossings, and potential effects to the Perry Ridge Shore Protection Project and the Black Bayou Hydrologic Restoration Project.

Issues identified in scoping comments and through input from resource agencies are summarized in table 1.4-1. We used the scoping comments to help focus the analysis in the draft EIS on potentially significant environmental issues related to the proposed action.

Issue	Specific Topics Raised in Comments	EIS Section Where Comments are Addressed
Proposed Action	Purpose of the project; construction methods; depth of pipeline; right-of-way widths.	1.1, 2.2, 2.3
Alternatives	Possibility of using existing pipelines instead of building a new one; routing alternatives to avoid impacts to wetlands, oyster beds, or lands suitable for new housing.	3.0
Geology and Soils	Soil compaction after laying pipe across crawfish ponds and rice fields.	4.2.2.1
Water Use and Quality	Potential impacts on water quality; potential impacts to underground irrigation systems.	4.3
Wetlands	Potential impacts on wetlands; potential impacts on hydrologic restoration projects.	4.4, 4.8.3.8
Vegetation	Potential impacts on riparian habitat; clearing of forested areas for drill sites.	4.3.2.2, 4.4.2, 4.5.2, 4.6.1.2
Wildlife and Aquatic Resources	Potential impacts on fisheries, marine fishery resources, EFH, and nesting habitat for colonial wading birds.	4.6
Threatened and Endangered Species	Potential impacts on federally and state-listed threatened, endangered, and special-status species.	4.7
Land Use	Potential impacts to the existing dredge material placement area on the northern bank of the Calcasieu River.	4.8

TABLE 1.4-1 (continued)

Issues Identified in the Public and Agency Scoping Process for the KMLP Project

Issue	Specific Topics Raised in Comments	EIS Section Where Comments are Addressed
Socioeconomics	Potential secondary impacts.	4.9
Reliability and Safety	Conformance with safety standards; responsibilities of construction contractors.	4.13
Mitigation	Measures to avoid, minimize, and offset impacts to wetlands.	All sections and 5.2

The FERC prepared a draft EIS for the KMLP Project, and on January 26, 2007, issued a *Notice of Availability of the Draft Environmental Impact Statement for the Proposed Kinder Morgan Louisiana Pipeline Project*. The draft EIS was filed with the EPA, and a formal notice was published in the Federal Register announcing that the draft EIS was available and had been mailed to individuals and organizations on the draft EIS mailing list for the project. In accordance with CEQ regulations implementing NEPA, a public comment period was established, ending on March 19, 2007, to allow the public to comment on the draft EIS in the form of written comments. Public comment meetings to receive comments on the draft EIS were held on February 26, 2007, in Lake Charles, Louisiana and on February 27, 2007, in Jennings, Louisiana. One person commented and three other people asked questions at the Lake Charles meeting. Nobody commented or asked questions at the Jennings meeting. Transcripts of both meetings are also part of the public record for the KMLP Project.

We received comment letters from the COE, FWS, NOAA Fisheries Service, Natural Resources Conservation Service (NRCS), EPA, and LDWF, as well as written comments from KMLP, but no comment letters from any landowners or other stakeholders. Comments on the draft EIS and our responses to those comments are provided in appendix N of this document. As noted previously, all substantive changes in this final EIS are indicated by vertical bars that appear in the margins. The changes were made in response to comments received on the draft EIS and as a result of updated information that became available after issuance of the draft EIS.

This final EIS was mailed to the agencies, individuals, and organizations on the mailing list included in appendix A and was filed with the EPA for formal notice of availability. In accordance with the CEQ regulations implementing NEPA, no agency decision on a proposed action may be made until 30 days after the EPA publishes a notice of availability of the final EIS. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal process that allows other agencies or the public to make their views known. In such cases, the agency decision may be made at the same time as the notice of the final EIS is published, allowing both periods to run concurrently. Should the Commission authorize the proposed project, it would be subject to a 30-day rehearing period. Therefore, the Commission could issue its decision concurrently with the EPA's notice of availability.

1.5 NONJURISDICTIONAL FACILITIES

Under section 7 of the NGA, the FERC is required to consider, as part of a decision to certificate jurisdictional facilities, all factors bearing on the public convenience and necessity. Toward this end, the FERC may need to consider the environmental impact of related "nonjurisdictional" facilities that would be constructed upstream or downstream of the jurisdictional facilities for the purpose of delivering,

receiving, or using the proposed gas volumes. Nonjurisdictional facilities are those facilities related to the Project that would be constructed, owned, and operated by others not subject to FERC jurisdiction.

The jurisdictional facilities for the Project are described in detail in section 2.1 of this EIS. The only nonjurisdictional facility would consist of a pipeline to connect the KMLP Project to the existing Bridgeline intrastate pipeline. The Bridgeline interconnect site would be located at the end of the Enbridge Offshore Pipeline (UTOS) near Johnsons Bayou, on the north side of SH 82, approximately 16 miles east of the Sabine Pass LNG Terminal. The connecting pipeline would be approximately 500 feet long (its diameter is still being determined) and would require about 1.15 acres of land, all contained within an existing natural gas facility. The pipeline would be constructed by its owner/operator, Bridgeline Holdings, L.P., at a time that is expected to coincide with the construction timeframe for the KMLP Project in order to be available when the KMLP Project is placed in service by April 1, 2009. Organizations responsible for approving the connecting pipeline would include the Coastal Management Division of LDNR (for a CUP), the COE (for review of jurisdictional wetland issues, if any), and other resource agencies (e.g., for threatened and endangered species and cultural resources).

We use four factors to determine whether there is sufficient federal control and responsibility over a project as a whole to warrant environmental analysis of Project-related nonjurisdictional facilities. These factors are:

- Whether the regulated activity comprises “merely a link” in a corridor-type project (e.g., a transportation or utility transmission project);
- Whether there are aspects of the nonjurisdictional facility in the immediate vicinity of the regulated activity that affect the location and configuration of the regulated activity;
- The extent to which the entire Project would be within the FERC’s jurisdiction; and
- The extent of cumulative federal control and responsibility.

With regard to the first factor, the jurisdictional facilities (i.e., the KMLP Project) are a link in a natural gas transportation project. The KMLP Project would connect the Sabine Pass LNG Terminal with other interstate and intrastate pipelines that ultimately deliver natural gas downstream to consumers. Therefore, this factor favors the FERC’s review of the proposed nonjurisdictional facility.

With regard to the second factor, the Project would transport natural gas received from the Sabine Pass LNG Terminal to the nonjurisdictional Bridgeline connecting pipeline, but the design and route of the KMLP Project has not been uniquely influenced by the location or configuration of the nonjurisdictional facility. The KMLP Project would interconnect with one other pipeline in the Johnsons Bayou area in addition to the Bridgeline pipeline (at the Southwest Loop Johnsons Bayou Delivery Point). In addition, Kinder Morgan states that the proximity of the NGPL pipeline to the Sabine Pass LNG Terminal, the availability of lease capacity on the existing NGPL and UTOS pipelines, and the multiple pipelines potentially available at the end of the UTOS pipeline were the factors that influenced the decision to transport gas to the Johnsons Bayou area. Therefore, this factor does not favor the FERC’s review of the proposed nonjurisdictional facility.

With regard to the third factor, intrastate pipeline facilities are regulated by state and local permitting agencies. The FERC has no authority over the permitting, licensing, funding, construction, or operation of the nonjurisdictional Bridgeline connecting pipeline. Therefore, this factor also weighs against extending the scope of the environmental review.

With regard to the fourth factor, federal control is determined by the amount of federal financing, assistance, direction, regulation, or approval inherent in a project. The nonjurisdictional Bridgeline connecting pipeline would be a private construction project under state and local jurisdiction. The federal government has no financial involvement, and no federal funds are involved. As noted above, the Bridgeline connecting pipeline would be located within the fenced area of an existing natural gas facility that has been previously disturbed. Although no wetlands appear within the footprint of the interconnect site, construction of the connecting pipeline could impact wetlands (e.g., from runoff and erosion) that are part of the nearby coastal marsh. It is anticipated that such impacts, if any, would be minor and temporary and would be authorized under a COE nationwide permit. Other federal agencies are expected to have either very limited or no involvement in the approval of the nonjurisdictional Bridgeline pipeline. Therefore, cumulative federal control is minimal, and this factor does not warrant extending the FERC's environmental review.

Based on the results of this four factor test applied to the KMLP Project, we have determined that only one factor favors examining the nonjurisdictional facility. Therefore, insufficient justification exists to warrant extension of the FERC's environmental review to include the nonjurisdictional facility.