

**NISOURCE  
HABITAT CONSERVATION PLAN/  
INCIDENTAL TAKE PERMIT  
ENVIRONMENTAL IMPACT STATEMENT**

**SCOPING REPORT**



April 2008

## TABLE OF CONTENTS

	<b>PAGE</b>
<b>1.0 INTRODUCTION.....</b>	<b>1</b>
<b>2.0 BACKGROUND.....</b>	<b>2</b>
<b>3.0 PURPOSE AND NEED FOR AGENCY ACTION .....</b>	<b>2</b>
3.1 Purpose.....	3
3.2 Need.....	3
3.3 Proposed Federal Action.....	3
3.4 Resources Summary.....	3
<b>4.0 SUMMARY OF SCOPING PROCESS.....</b>	<b>4</b>
4.1 Public and Agency Outreach and Notification .....	4
4.2 Open Houses/Public Scoping Meetings .....	6
4.2.1 Methodology .....	7
4.3 Agency Communication.....	10
4.3.1 Federal Agency Communication.....	10
4.3.2 State Agency Communication.....	10
4.3.3 Local Government Organizations .....	11
4.3.4 Local Non-Government Organization/Private Sector .....	11
<b>5.0 PUBLIC SCOPING RESULTS.....</b>	<b>13</b>
5.1 Biological and Physical Environment .....	13
5.1.1 Habitat.....	13
5.1.2 Vegetation.....	13
5.1.3 Wildlife .....	13
5.1.4 Water and Fish.....	14
5.2 Socio-Economic Environment .....	14
5.2.1 Tourism .....	14
5.2.2 Archaeological Resources .....	15
5.2.3 Infrastructure.....	15
5.2.4 Monitoring .....	15
5.2.5 Property Rights .....	15
5.2.6 Roadways .....	15
5.3 Other .....	15
5.3.1 Mapping .....	15
5.3.2 The Habitat Conservation Plan .....	16
5.3.3 Permitting.....	16
5.3.4 Adequacy of the HCP Process .....	18
5.3.5 Adaptive Management.....	18

<b>6.0 PRELIMINARY ALTERNATIVES .....</b>	<b>19</b>
<b>SUMMARY OF FUTURE ACTIONS.....</b>	<b>20</b>

**LIST OF FIGURES**

Figure 1: NiSource Pipeline Overview Map – EIS Scoping Meetings.....	8
--	---

**LIST OF APPENDICES**

Appendix A	Letters to FERC and USACE
Appendix B	Notice of Intent
Appendix C	Legal Notice
Appendix D	Notification for Open Houses/Scoping Meetings
Appendix E	List of Interested Parties (received public scoping letter)
Appendix F	Public Scoping Letter
Appendix G	Open House/Scoping Meetings – Display Boards
Appendix H	Open House/Scoping Meetings – Handouts
Appendix I	Open House/Scoping Meetings – Project Teams

## 1.0 INTRODUCTION

The U.S. Department of the Interior, Fish and Wildlife Service (hereafter referred to as the “Service”) is preparing an environmental impact statement (EIS) in compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) to evaluate the environmental impacts associated with a multi-species/multi-state Habitat Conservation Plan (HCP) and the issuance of an associated Incidental Take Permit (ITP). The applicant, NiSource, is developing the HCP and ITP application to comply with the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*). The HCP will likely address impacts associated with construction, operation, and maintenance activities along its approximate 15,000-mile network of natural gas pipelines, storage fields, appurtenant facility sites, and associated access roads in 17 states throughout the eastern United States.

As part of the NEPA EIS process, the Service conducted public scoping meetings, and consulted with various Federal and state agencies, including active participants at the time of this scoping effort - the U.S. Army Corps of Engineers (USACE), and Federal Energy Regulatory Commission (FERC). The purpose of these meetings and consultations was to solicit input from the general public, government agencies, and non-governmental organizations to assist the Service in identifying issues to be addressed in the EIS, as well as to develop a reasonable range of alternatives to be analyzed in the EIS. This report has been prepared to document the scoping process and to report on any feedback obtained from the scoping process. As such, this report includes the following information related to the scoping process and development of the draft EIS:

- Background information on the regulatory framework relative to the issuance of an ITP to NiSource or any of its interstate natural gas transmission subsidiaries;
- Definition, and Purpose and Need for the Proposed Action;
- Description of the proposed alternatives, including the no-action alternative;
- Summary of the scoping process and comments received; and,
- Summary of impact areas and issues to be addressed in the EIS.

## **2.0 BACKGROUND**

NiSource's interstate natural gas transmission system is currently maintained and operated by Columbia Gas Transmission Corporation, Columbia Gulf Transmission Corporation, Granite State Gas Transmission Corporation, and Crossroads Pipeline Corporation. These four subsidiaries currently maintain and operate approximately 15,000 miles of onshore and offshore interstate natural gas transmission pipelines and appurtenant facilities in Louisiana, Mississippi, Tennessee, Kentucky, Virginia, West Virginia, North Carolina, Indiana, Ohio, Pennsylvania, New York, New Jersey, Delaware, New Hampshire, Maine, Maryland, and Massachusetts. In addition, they operate and maintain 36 underground natural gas storage fields in conjunction with its pipeline system comprised of approximately 3,600 individual storage wells in West Virginia, Ohio, Pennsylvania, and New York.

Currently, as part of its annual natural gas pipeline operations, NiSource regularly undertakes construction and maintenance projects on its natural gas transmission system. Many such projects are located in habitats occupied by Federally-listed or proposed species and/or critical habitat that trigger ESA review. Many of these projects involve Federal agency (e.g., USACE, or FERC) authorizations and thereby require consultation pursuant to Section 7 of the ESA. However, some actions do not involve any Federal agency involvement. Under Section 9 of the ESA, NiSource is obligated to ensure that no unauthorized "take" of Federally-listed species occurs regardless of whether any Federal agencies are involved with the action. "Take" is defined in the ESA as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm may include significant habitat modification where it actually kills or injures a listed species through impairment of essential behavior (e.g., nesting or reproduction) (16 U.S.C. 1538). Section 10(a)(1)(B) of the ESA establishes a program, whereby persons seeking to pursue activities that otherwise could give rise to liability for unlawful "take" of federally protected species, may receive an ITP that protects them from such liability.

NiSource is seeking a 50-year ITP from the Service to more efficiently address their ESA requirements for construction, operation, and maintenance activities in the future (whether Federal agencies are involved or not). An application for an ITP must be accompanied by a habitat conservation plan (HCP) that specifies: the impact which will likely result from the taking of a listed species; the steps they take to minimize and mitigate the impacts; the funding that will be available to implement such steps; alternative actions to such taking they considered; and reasons why such alternatives were not utilized. The Service has elected to prepare an EIS to disclose and review its decision regarding NiSource's ITP request based on its long-term and far-reaching intent, and the potential precedence set by such a decision. As part of the requirements of the EIS, input is solicited from the public on the potential environmental impacts associated with issuance of the permit.

## **3.0 PURPOSE AND NEED FOR AGENCY ACTION**

To avoid future liability, NiSource is applying for an ITP under Section 10 (1)(a)(B) of the ESA. The permit would be issued by the Service for incidental take of federally listed (i.e., threatened

or endangered) species within a one-mile corridor centered upon the location of NiSource's existing facilities (i.e., ½ mile on each side of the right-of-way center line) in 17 states for up to 50 years. NiSource is currently preparing a draft HCP, which identifies conservation measures intended to minimize and mitigate impacts to federally listed species, some candidate species, and the recently de-listed bald eagle which would result from the activities covered by the ITP.

### **3.1 Purpose**

The purpose of the EIS is to analyze the impacts of the proposed action and other alternatives, in response to an application for an ITP related to activities that have the potential to result in take, pursuant to Section 10(1)(a)(B) of the ESA and its implementing regulations and policies. The purpose of the ITP is to provide for broader protection and conservation of the listed species under the ESA while enabling NiSource, through its subsidiaries, to construct, operate, maintain or additionally respond to emergency activities. The decision whether to issue the ITP will be based on the Service's NEPA and ESA compliance determinations. These determinations will be documented in the ESA Section 10 Findings document, the NEPA Record of Decision, and the intra-Service Section 7 Biological Opinion, which will be developed at the conclusion of the NEPA and ESA permit issuance processes.

### **3.2 Need**

Under Section 9 of the ESA, unauthorized impacts to listed species (threatened or endangered) may constitute a "take" and are prohibited. The need for the proposed action is based on the potential that otherwise lawful activities conducted by NiSource could result in the take of listed species, thus providing the impetus for an ITP. Take of a listed species, that is incidental to otherwise lawful activities, can be authorized under Section 10 of the ESA with preparation of an HCP and issuance of an ITP. The HCP will establish acceptable levels of incidental take of listed species that may occur as the unintended result of NiSource covered activities, will identify conservation measures to ensure that NiSource covered activities will not appreciably reduce the likelihood of survival or recovery of the species in the wild, and will minimize and mitigate the impacts to federally listed species to the maximum extent practicable.

### **3.3 Proposed Federal Action**

The proposed federal action is the issuance of an ITP pursuant to Section 10(1)(a)(B) of the ESA for the take of Federally-listed species as described in the NiSource's HCP.

### **3.4 Resources Summary**

In addition to the covered species, the EIS will address the following general categories of resources:

- Surface and ground water quality

- Geology
- Soils
- Hazardous materials
- Air quality
- Climate
- Vegetation/land cover
- Wetlands
- Wildlife
- Land use
- Socioeconomics
- Transportation and utilities
- Cultural, archaeological, historic resources
- Recreation
- Visual resources
- Noise

## 4.0 SUMMARY OF SCOPING PROCESS

This section summarizes the scoping process the Service conducted for the EIS. Through the scoping process, the Service solicited input from the public; from federal, state, and local agencies in Louisiana, Mississippi, Tennessee, Kentucky, Virginia, West Virginia, North Carolina, Indiana, Ohio, Pennsylvania, New York, New Jersey, Delaware, New Hampshire, Maine, Maryland, and Massachusetts, and from other interested parties regarding the scope of the EIS and the range of reasonable alternatives.

### 4.1 Public and Agency Outreach and Notification

The Service used several media to notify the public and potentially interested parties to provide them with the opportunity to participate in the scoping process.

#### ***Agency Notification***

On May 17, 2007, formal invitations were sent to both the FERC in Washington, DC, and to the USACE in Washington, DC, inviting them to become cooperating agencies as per regulations set forth in 40 CFR 1501.6. **Appendix A** contains copies of these letters.

#### ***Federal Register – Notice of Intent***

The Service's formal scoping process began on October 11, 2007, with the publication in the Federal Register of a *Notice of Intent to Prepare an Environmental Impact Statement, Announcement of Public Scoping Meetings, and Request for Comments* (Federal Register, Vol. 72, No. 196 [October 11, 2007]). **Appendix B** contains a copy of the Notice of Intent (NOI). The notice provided information about:

- The project and the EIS;

- Species proposed for inclusion in the NiSource HCP; and,
- The website link for specific locations, dates, and times of the 13 public scoping meetings; how comments could be mailed, faxed, or e-mailed to the Service until December 8, 2007; and contact information for two key Service representatives for further information (their names, e-mail addresses, and telephone numbers).

In addition, both the NOI and the public scoping/*Dear Interested Party* letter (see details below) sent to over 1,300 known interested parties, contained a paragraph that asked for ‘federal, state, tribal, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with [the Service] in the preparation of the EIS’.

Persons needing reasonable accommodations in order to attend and participate in the scoping meetings were asked to contact the Service a minimum of one week in advance of the meeting such that appropriate arrangements could be made.

### ***Local Newspaper Announcements***

Both a legal notice and an open house/public scoping meeting notification were published in the following local newspapers one to two weeks prior to the public scoping meetings:

- *Binghamton Press* (Binghamton, NY);
- *Charleston Gazette* (legal notice only); *Charleston Daily Mail* (Open House/Public Scoping Meeting notification) (Charleston, WV);
- *Cleveland Sun* (Cleveland, OH);
- *All Around Cleveland* (Cleveland, OH);
- *The Daily Legal News* (Cleveland, OH);
- *The Plain Dealer* (Cleveland, OH);
- *Cleveland Free Times* (Cleveland, OH);
- *The Clarion-Ledger* (Jackson, MS);
- *The Advertiser* (Lafayette, LA);
- *Lexington Herald-Leader* (Lexington, KY);
- *The Tennessean* (Nashville, TN);
- *The City Paper* (Nashville, TN);
- *Philadelphia Daily News* (Philadelphia, PA);
- *Pittsburgh Tribune-Review* (Pittsburgh, PA);
- *New Pittsburgh Courier* (Pittsburgh, PA);
- *Pittsburgh Post Gazette* (Pittsburgh, PA);
- *Portsmouth Herald* (Portsmouth, NH);
- *Richmond Times-Dispatch* (Richmond, VA);
- *The Hill* (Washington, DC);

- *The Examiner* (Washington, DC);
- *Washington City Paper* (Washington, DC); and
- *Washington Times* (Washington, DC).

**Appendix C** contains a copy of the legal notice while **Appendix D** contains a copy of the notification for the open houses/public scoping meetings.

### ***Public Scoping Letter***

On October 18, 2007, a public scoping/*Dear Interested Party* letter was sent to over 1,300 known interested parties (see **Appendix E** for the list of interested parties). In addition, the public scoping letter was sent to federally recognized Native American Tribes in each of Louisiana, Maine, Massachusetts, Mississippi, and New York. The letter provided information on the project and the EIS, and included the dates of the 13 scoping meetings with the times and locations of the scoping meetings provided on a separate enclosed “*Venues for Open Houses*” document. In addition, notification was given that written comments would be received until December 8, 2007 through either U.S. Postal Mail, facsimile or the Service website.

For those people requiring further information, the names, e-mail addresses, and telephone numbers of two key Service representatives, along with a 1-800 number, were also provided.

A copy of the public scoping letter is included in **Appendix F**.

### ***Website***

To support distribution of the NOI and notice of the public meetings, these documents and the meeting information was posted on the Service – Region 3 website at the following link:  
[http://www.fws.gov/midwest/Endangered/permits/hcp/hcp\\_nisource.html](http://www.fws.gov/midwest/Endangered/permits/hcp/hcp_nisource.html)

## **4.2 Open Houses/Public Scoping Meetings**

The Service conducted 13 open houses/public scoping meetings to solicit input on the scope of the EIS associated with the issuance of an ITP to NiSource and approval of the associated HCP. The meetings took place in 11 states across the East, Southeast, and Midwest regions (see Section 4.2.1.2 and Figure 1) from 4:00 to 8:00 p.m. (local time) during the period from November 5 through November 16, 2007. The Washington, D.C. open house was held from 1:00 to 5:00 p.m.

Three teams worked concurrently to deliver the scoping meetings over a two-week period. Each team consisted of representatives from the Service and AMEC Earth & Environmental (AMEC) (contractor for completion of the EIS). NiSource was also allowed space during the scoping meetings in order to provide information regarding their operations and the HCP. Wherever possible, local representatives of the Service and/or AMEC were asked to staff the open house to bring local knowledge about the state and/or stakeholders to the project team. It was

important to deliver the scoping meetings with consistent information presented in the same manner. This methodology is described in the following section.

#### **4.2.1 Methodology**

At each open house/public scoping meeting, there were six information ‘stations’ arranged around the periphery of the room. Tables and easels at each station were used to display project information. Each station was attended by one or two project team members (see Section 4.2.1.2). Light refreshments were available at each of the scoping meetings.

##### **4.2.1.1 Information Stations**

Directional signage in each meeting venue guided attendees to the meeting room. Once at the meeting room, attendees were met at a Welcome and Registration desk. The information provided at each station is summarized below.

##### ***Station One – Welcome and Registration***

At this station each attendee was asked to register (providing his/her name, mailing address, email address) and asked whether he/she would like to be added to the mailing list. He/she was then given three handouts—an overview/text ‘map’ of the stations, a colored brochure explaining the permitting process, and a comment form asking for comments on the scope of the EIS. Attendees were encouraged to complete and return the comment form at the open house and deposit it in a comment form box supplied; but were also presented the option of mailing the form later to the Service – Region 3 using the postage paid reply located on the back of the comment form. Station One was staffed by a local Service Field Office representative or AMEC staff.

**Figure 1: NiSource Pipeline Overview Map – EIS Scoping Meetings**



### ***Station Two – Overview of the HCP/ITP and NEPA Processes***

Station Two presented general information about permitting under the ESA and defined “take” within the context of an ITP, the HCP/ITP Process, and compliance under the NEPA (for copies of all Display Boards, see **Appendix G**).

A fact sheet providing an overview of HCPs (Section 10 of the ESA) was available to attendees as a handout. This station was staffed by one or two regional staff from the Service (for copies of all hand-out materials see **Appendix H**).

### ***Station Three – NiSource***

Station Three was provided to allow NiSource to present background information about the company, its operations, and additional information about its HCP preparation. Handouts at this station included:

- Newsletter for the NiSource MSHCP Project;
- NiSource HCP Fact Sheet;
- NiSource HCP Frequently Asked Questions (FAQs); and,
- NiSource Environmental, Health & Safety Environmental Challenge Fund handout.

One or two NiSource representatives staffed this station.

### ***Station Four – NEPA and the EIS***

Station Four included information about NEPA and preparation of the EIS. A schematic displayed an overview of the NEPA process, and another display showed types of impacts that may be considered in the HCP and EIS. Handouts included a NEPA Fact Sheet and NEPA Frequently Asked Questions (FAQs). Station Four was staffed by an EIS project manager from AMEC.

### ***Station Five – Proposed Covered Lands, Species and Activities***

Station Five presented information that could be covered in the HCP/ITP Application, including the proposed lands (or geographical area), the wildlife species, and the types of activities that NiSource may engage in as part of its interstate natural gas transmission and storage business. Station Five also included a large map of the region corresponding to that particular scoping meeting and the endangered species lists for that specific region. Handouts at Station Five consisted of a potential partial list of covered species for the HCP and EIS. Attendees also had the option of requesting a colored copy of any of the regional maps. Station Five was staffed by an AMEC professional tasked with preparing a biophysical discipline-specific component of the EIS.

### **Station Six - Comments**

Tables and chairs were arranged near the refreshments so that attendees could sit and complete the comment form. Instructions on filling out the comment form and extra copies of the form were available at this station.

#### **4.2.1.2 Locations and Project Personnel for the Open Houses/Public Scoping Meetings**

The respective Project Team in attendance and the locations of each of the Open Houses/Public Scoping Meetings are provided in **Appendix I**.

### **4.3 Agency Communication**

#### **4.3.1 Federal Agency Communication**

Communication/written responses were received from the following federal agencies:

- U.S. Department of Housing and Urban Development (Ohio State [Columbus] Office);
- Natural Resources Conservation Service (Jackson, Mississippi Office);
- U.S. Environmental Protection Agency (Region 6 – Dallas, Texas);
- USDA Forest Service, Wayne National Forest (Nelsonville, Ohio);
- U.S. Fish & Wildlife Service – Cookeville, TN Field Office;
- U.S. Fish & Wildlife Service – Lafayette, LA Field Office;
- U.S. Fish & Wildlife Service – Wells, Maine Field Office;
- U.S. Environmental Protection Agency – Office of Science, Ecosystems and Communities, NEPA Implementation Section (Chicago, Illinois);
- U.S. Department of Homeland Security (Natural Hazards Program, Denton, Texas);
- U.S. Department of Interior – National Park Service (NPS) (Northeast Region, Philadelphia, PA); and
- Great Bay National Estuarine Research Reserve (Greenland, NH).

#### **4.3.2 State Agency Communication**

Communication/written responses were received from the following state agencies:

- State of Louisiana, Department of Transportation and Development (Baton Rouge, LA Office);
- Commonwealth of Virginia, Department of Environmental Quality (Richmond, VA Office);
- Commonwealth of Virginia, Department of Conservation and Recreation (Richmond, VA);

- Maryland Department of Natural Resources (Annapolis, MD);
- Kentucky State Nature Preserves Commission (Frankfort, KY);
- Virginia Department of Game and Inland Fisheries (Richmond, VA);
- Virginia Department of Game and Inland Fisheries (Snelling, MN);
- Lexington-Fayette Urban County Government (LFUCG) Division of Planning: Transportation Planning Section and Lexington Area Municipal Planning Office (MPO) (Lexington, KY);
- Louisiana Department of Wildlife and Fisheries – Ecological Investigations (Baton Rouge, LA); and
- Pennsylvania Department of Environmental Protection (Harrisburg, PA).

#### **4.3.3 Local Government Organizations**

- Monroe County Planning Commission (Stroudsburg, PA);
- Harrison County Commission (Clarksburg, West Virginia);
- County of Fauquier, Warrenton, VA; and
- Fairfax County, Department of Planning and Zoning (Fairfax, VA).

#### **4.3.4 Local Non-Government Organization/Private Sector**

Communication/written responses were received from the following private sector agencies:

- Conservation Fisheries Inc. (Knoxville, TN);
- Town of Wells, ME;
- Wells Conservation Commission (Wells, ME);
- West Virginia Trout Unlimited (Elkview, WV);
- Wells National Estuarine Research Reserve;
- Brian Farkas – Associated Press;
- Broome County Environmental Management Council (Port Crane, NY);
- Broome County Environmental Management Council (Binghamton, NY);
- Concerned citizen – Blanca Campos;
- Concerned citizen – James A. Garner;
- Concerned citizen – Mark Sellers;
- Concerned citizen – Sean Smith;

- Concerned citizen – Duncan St. Clair;
- Concerned citizen – Alice Supa;
- Concerned citizen – Bob Weinhold;
- Concerned citizen – Adrianna Woltman;
- Normandeau Associates (Environmental Consultants – Stowe, PA); and
- Great Works Regional Land Trust (South Berwick, ME);

## **5.0 PUBLIC SCOPING RESULTS**

Written comments were accepted through December 8, 2007. Each of these comments was included in this analysis. A total of 46 written responses were received. Most submissions contained comments on multiple issues. Approximately 26 percent of the comments received dealt with the temporal length of the permit and the width of the mile-wide corridor (either too wide or not wide enough). Many of the comments focused on the need to permanently protect the 300 acres of land owned by NiSource located in Wells, ME.

Based on the input received during the scoping process, the comments were categorized as follows:

### **5.1 Biological and Physical Environment**

#### **5.1.1 Habitat**

- Concerns expressed that the EIS should analyze habitat needs for each species and adjust the size of the covered lands. One example was that of black bears requiring more than a mile-wide corridor for their natural habitat.
- Concern that NiSource activities may impact the habitats of endangered species. Example given of chimney crayfish burrows providing habitat for two endangered species documented to occur in northwest Ohio and Northern Indiana.
- Comments that NiSource activities may also impact coastal projects designed to enhance, restore, or create wetlands in Louisiana.
- Concern expressed for the potential loss of hardwood forests and the possible loss of species dependent on such forests.

#### **5.1.2 Vegetation**

- Concerns about whether the EIS and HCP would address invasive plant and animal species.
- Comment that the proposed actions by NiSource could negatively impact the threatened small whorled pogonia population in Fairfax County, VA. Recommendation that habitats for the small whorled pogonia should be protected to the extent possible. Avoidance of the plant and its habitat were strongly recommended.

#### **5.1.3 Wildlife**

- Concern that eight species in Louisiana listed as endangered or threatened will be affected by actions included in the proposed permit.
- Concern that not enough species within the pipeline corridor have been identified by NiSource for inclusion in the HCP. Suggestion that state-listed species (including sensitive wildlife species) need to be included in addition to those already under consideration.

- Recommendation from the Virginia Department of Game and Inland Fisheries that the Virginia Wildlife Action Plan be reviewed as well as the Wildlife Action Plans for each state) as guidance to reduce impacts to imperiled species and their habitats.
- Suggestion from the Service (Lafayette, LA field office) that NiSource and its subsidiaries identify, avoid and immediately report bald eagle nests to the LA field office.
- Recommendation that NiSource, their subsidiaries, and their on-site contract personnel regularly inspect proposed work areas for the presence of undocumented nesting colonies (such as brown pelicans, herons, egrets, etc.) to minimize disturbance to colonial nesting birds.

#### **5.1.4 Water and Fish**

- Trout-related issues included the following:
  - Identify what road construction is required.
  - Identify any stream riparian disruption and remediation plans.
  - Identify stream crossings for pipes and roads.
  - Determine what disturbance of stream/streambed is needed/planned.
  - Identify any disturbance of springs.
  - Identify any disturbance of Karst areas.
  - Barriers to fish passage must not be allowed.
  - Sedimentation created by stream or riparian disturbance must be avoided and appropriate control techniques utilized.
  - Any discharges from operations to streams must meet the requirements of the Clean Water Act.
- Concern that NiSource activities will impact forested and/or emergent wetlands associated with major stream and river crossings in Louisiana.
- Recommendation that the 300 acres of land owned by NiSource in Wells, ME be permanently protected or conserved because the land contain portions of two headwater streams of significantly high quality. The land also contains numerous national and recreational resources identified as significant.
- Recommendation that NiSource and/or its subsidiaries incorporate the use of horizontal directional drilling methods at all major stream and/or river crossings.

### **5.2 Socio-Economic Environment**

#### **5.2.1 Tourism**

- Concern expressed by the Monroe County Planning Commission (Stroudsburg, PA) that potential project impacts may disrupt the economy thereby affecting tourism.

## **5.2.2 Archaeological Resources**

- Concern with impacts to potential archaeological resources at the Sully Historic Site and Cub Run Stream Valley Parks in Virginia. Potential areas to be impacted should be tested for the presence of archaeological resources.

## **5.2.3 Infrastructure**

- Recommendation from the Service (Lafayette, LA Field Office) of avoidance of infrastructure coastal projects such as canal plugs, rock dikes, levees, water control structures, diversion canals, etc.
- Concern regarding the National Flood Insurance Program and the possible negative impact of the project upon identified special flood hazard areas within the project locations/study area.

## **5.2.4 Monitoring**

- Question raised about who would be monitoring private land through the NiSource RoW during NiSource activities.
- Suggestion that monitoring protocols be evaluated and a plan developed that includes a process that allows for changes in management techniques and practices to meet multi-species HCP goals.

## **5.2.5 Property Rights**

- Question regarding the use of herbicides or pesticides in pipeline management or maintenance and, if so, if the use would be disclosed to the landowners whose properties are crossed by the pipeline or are adjacent to the pipeline right-of-ways.

## **5.2.6 Roadways**

- Anticipation from the Louisiana Department of Transportation and Development (DOTD) that roadway crossing permits will be needed from appropriate DOTD District Offices.

## **5.3 Other**

### **5.3.1 Mapping**

- Suggestion that the EIS should contain U.S. Geological Survey topographic maps.

### 5.3.2 The Habitat Conservation Plan

- Request from Wayne National Forest (WNF) that NiSource work with them during project planning for any project work that would affect the National Forest. WNF would like to be considered as a potential partner for the implementation of conservation measures and prescribed mitigations using Best Management Practices for the HCP.
- Request from the Town of Wells, ME that they be kept apprised of any developments on the project. Made mention that they are ready to cooperate should any conservation opportunities arise.

### 5.3.3 Permitting

- Suggested that the EIS should include analysis of requirements for monitoring and enforcement measures to ensure that the conditions of any permit are met.
- Suggested that the EIS should address provisions to add species and for other potential changes determined to be needed in habitat conservation that become apparent during the permit period.
- Suggested that the EIS should provide information on lessons learned from any such long-term permits already issued.
- Suggestion to expand the temporal environmental review (of this project) if this information is to be the basis for an agreement that will be in place for 50 years—concern that issuance of a take permit for 50 years is not warranted with the deficiency in information at present.
- Suggestion that the timeframe for the permit be reduced since the commenter felt that it is not possible to ensure that any recovery strategy or mitigation will be adequate for a project spanning 50 years, including decisions on take issues.
- Comment that it is not clear what aspects of the issued ITP will be negotiable during the subsequent review periods. An issue of whether the one-mile area included in the HCP would allow for expansion within this footprint or if the HCP would only cover maintenance actions of existing pipes. Suggested that there be well established benchmarks incorporated into the timeframe of this proposal that will trigger reviews and an open assessment of the conditions of the ITP and HCP.
- Recommendation that the length of the permit be changed to 10 years.
- Question whether activities in the one-mile-wide corridor by non-federal and private landowners (other than NiSource) would legally be able to proceed with an activity that would otherwise result in the illegal take of a listed species.
- Concern that because permitting for the HCP and ITP will happen at the federal level, there will be no opportunity for the Virginia Department of Game and Inland Fisheries to review maintenance activities within the pipeline corridor that may impact state-listed species.

- Recommendation that for any proposed NiSource activities that may affect National Wildlife Refuges (NWRs), Wildlife Management Areas or State Refuges, contact be made with the appropriate NWR manager to determine whether a Compatible Use Determination and/or Special Use Permit is necessary.
  - Suggestion that any development within floodplains be reviewed and appropriate permits issued to ensure compliance with the community's adopted Flood Damage Prevention Ordinance.
  - Concerns raised regarding approval of a permit that authorizes the taking of wildlife one-half mile from the centerline; a half-mile-wide buffer on either side (total of one-mile-wide corridor is too wide).
  - Comment that major new activities should be required to address conditions as they exist when the activity occurs, and should accommodate advancements in the science of preservation and protection of threatened and endangered species.
  - County of Fairfax, Virginia suggested that any actions taken by NiSource during its operations to repair, upgrade, replace, or expand its facilities should be in accordance with all Fairfax County Development policies. Operations and, if necessary, mitigation should adhere to the Chesapeake Bay Preservation Ordinance.
  - Preference for the following mitigation strategies:
    - modifications of land use practices and restrictions on access;
    - preservation of the existing habitat;
    - establishment of buffer areas, particularly around streams; and
    - application of best management practices that reduce or eliminate potential adverse effects.
- Secondary strategies (should the above strategies be unsuccessful):
- enhancement or restoration of damages or degraded habitat;
  - establishment of new habitat; and
  - funds dedicated to research with the intention of enhancing habitat or recovery of a species.
- Potential for misunderstanding what the EIS and subsequent ITP will and will not cover—specifically, that the issuance of the permit may be perceived (by gas companies) as a replacement for the NPS approval process. It was recommended that the EIS clearly state the purpose, scope, and application of the required permit, and that the permit clearly states that issuance of the ITP does not replace or otherwise change existing right-of-way or approval processes for sections of gas pipelines that cross NPS land.
  - Particular concern that the one-mile-wide corridor covered by the permit greatly exceeds the typical right-of-way width.

#### **5.3.4 Adequacy of the HCP Process**

- Comment that a lack of field surveys prior to the development of this particular HCP process significantly limits its ability to be considered a comprehensive analysis.
- Comment that a survey area limited to the one-mile-wide corridor is too narrow for certain species.
- Suggestion that specific guidelines on the activities that may be included under the header “maintenance” be included in the EIS.
- Concern noted with the EIS and the multi-state HCP being written simultaneously and that the public may not be able to provide meaningful input if they don’t fully know the scope, goal, or objectives of the HCP.
- Suggestion that the EIS needs to identify protocols should natural disasters cause modifications to the HCP or ITP.
- Question of how ‘adequacy’ in implementation of an approved HCP will be addressed.
- Recommended that further surveys of wildlife and land cover be considered—not enough information has been gathered to do an adequate environmental assessment.
- Recommended that the HCP address water quality issues.
- Suggested that determination of mitigation for potential impacts to resources needs to more adequately address where those resources occur using a combination of three methods:
  - use existing information as the baseline by which mitigation can be developed;
  - survey all impacted areas to determine what populations are present; and
  - delineate potential habitat using predictive analysis on the probability of occurrences of an endangered species within the potential habitat.

#### **5.3.5 Adaptive Management**

- It was suggested that the EIS should cite examples and layout thresholds, and describe the process that would be followed should adaptive management techniques be employed.

## 6.0 PRELIMINARY ALTERNATIVES

Based on comments received during the scoping period, several preliminary alternatives are currently being considered for inclusion in the EIS. In addition to the No Action Alternative, and the Proposed Action, these include the following:

- Modified Permit Duration
  - To be responsive to commentor concerns over the proposed 50-year permit duration an alternative may be considered that analyzes potential impacts associated with a shorter permit duration.
- Modified List of Covered Species
  - An alternative may be considered that responds to comments relative to a desire to include additional covered species (e.g., state listed species not covered under the ESA) in the permit.
- Modified Description of Covered Lands
  - An alternative may be considered that analyzes potential impacts of covered activities within a narrower covered lands corridor.
- Modified List of Covered Activities
  - An alternative that includes only those activities associated with regular operations and maintenance of Nisource's existing pipeline facilities may be considered.
- Alternative Implementation Strategies
  - An alternative may be considered that specifically addresses options relative to implementation of the HCP and ITP (e.g., procedures for notification, monitoring, and reporting of covered activities, mitigation actions, and conservation measures) during the life of the permit.

Analysis during the development of the EIS will determine which of these preliminary alternatives will be subject to detailed analysis and which, if any, may be dropped from further consideration in the EIS based on a relevance to, or compatibility with, the Purpose of and Need for Action and/or or the Proposed Action.

## **SUMMARY OF FUTURE ACTIONS**

The Service will accept public input during development of the HCP and EIS. All written public comments will become part of the administrative record.

The next formal comment period will open when the Notice of Availability of the draft EIS and draft HCP is published. The Service and formal cooperating agencies will circulate a notice of the draft EIS and draft HCP to interested parties. The draft documents will be available to the public on the Service website, and by request from the Service. Availability of the draft EIS will be announced by publication of a notice in the Federal Register. Following the release of the drafts, there will be a minimum 60-day public comment period.

At the conclusion of this second public comment period, the draft EIS and draft HCP will be revised, and the proposed final EIS and final HCP will be prepared. Availability of the proposed final EIS will be announced by publication of a notice in the Federal Register, at which time a 30-day waiting period will commence. Notification will also be sent to all persons who provided comments during any phase of the public comment process.

## **Appendix A**

### **Letters to FERC and USACE**

## **Appendix B**

### **Notice of Intent**

## **Appendix C**

### **Legal Notice**

## **Appendix D**

### **Notification for Open Houses/Public Scoping Meetings**

## **Appendix E**

### **List of Interested Parties (Received Public Scoping Letter)**

## **Appendix F**

### **Public Scoping Letter**

**Appendix G**

**Open House/Scoping Meeting  
Display Boards**

## **Appendix H**

### **Open House/Scoping Meetings Handouts**

## **Appendix I**

### **Open House/Scoping Meetings Project Teams**

## **Appendix I**

### **Open House/Scoping Meetings – Project Teams**

Three project teams were in attendance in the East, Southeast and Midwest regions concurrently. The respective Project Team in attendance and the locations of each of the Open Houses/Public Scoping Meetings are listed below.

#### ***Eastern Region***

- **Portsmouth, NH – November 5, 2007**

The Scoping Meeting was held at the Portsmouth Courtyard by Marriott. Project representatives included Tony Tur (Service Field Office Representative – Station One), Glenn Smith (Service Regional Manager – Station Two), Rick Hall Jr. (NiSource Representative – Station Three), Pam Chan (AMEC Project Manager – Station Four), and Phil Perhamus (AMEC Biophysical Specialist – Station Five). Caroline Burgess (AMEC) was the Public Outreach Team Lead and circulated amongst the stations.

- **Binghamton, NY – November 6, 2007**

The scoping meeting was held at the Binghamton Regency Hotel and Conference Center. Project representatives included Ann Rafter (AMEC Local Representative – Station One), Robyn Niver (Service Regional Manager – Station Two), Rick Hall Jr., Joe Kopalek, and Rich Yench (NiSource Representatives – Station Three), Pam Chan (AMEC Project Manager – Station Four), and Chuck Harman (AMEC Biophysical Specialist – Station Five). Caroline Burgess (AMEC) was the Public Outreach Team Lead and circulated amongst the stations.

- **Philadelphia, PA – November 7, 2007**

The scoping meeting was held at the Holiday Inn Express. Project representatives included Annette Scherer (Service Field Office Representative – Station One), Robyn Niver (Service Regional Manager – Station Two), Rick Hall Jr. (NiSource Representative – Station Three), Pam Chan (AMEC Project Manager – Station Four), and Chuck Harman (AMEC Biophysical Specialist – Station Five). Caroline Burgess (AMEC) was the Public Outreach Team Lead and circulated amongst the stations.

- **Richmond, VA – November 14, 2007**

The scoping meeting was held at the Richmond Marriott Hotel. Project representatives included Kim Smith (Service Field Office Representative – Station One), TJ Miller (Service Regional Manager – Station Two), John Shafer (NiSource Representative – Station Three), Pat Mullen (AMEC Project Manager – Station Four), and Chuck Harman (AMEC Biophysical Specialist – Station Five). Katherine Zilm (AMEC) was the Public Outreach Team Lead and circulated amongst the stations.

- **Washington, D.C. – November 15, 2007**

The scoping meeting was held at the Service Offices – Department of the Interior. Because the open house/public scoping meeting was held in the nation's capital, the assumption was that there would be a large turnout so the decision was made to send two teams into Washington, DC. Thus, project representatives included Caroline Burgess and Katherine Zilm (AMEC Representatives – Station One), TJ Miller and Tom Magnuson (Service Regional Managers – Station Two), Rick Hall Jr. and John Shafer (NiSource Representatives – Station Three), Pam Chan and Pat Mullen (AMEC Project Managers – Station Four), and Chuck Harman (AMEC Biophysical Specialist – Station Five).

### ***Southeastern Region***

- **Lafayette, LA – November 6, 2007**

The scoping meeting was held at the Best Western Hotel Acadiana & Conference Center. Project representatives included Benjamin Thatcher (Service Field Office Representative – Station One), Lee Andrews (Service Regional Manager – Station Two), Ann Schoolcraft (NiSource Representative – Station Three), Pat Mullen (AMEC Project Manager – Station Four), and Mary Motte Fikri (AMEC Biophysical Specialist – Station Five). Jim Boggs, Debbie Fuller and Bridget Firmin provided additional Service support. Katherine Zilm (AMEC) was the Public Outreach Team Lead and circulated amongst the stations.

- **Jackson, MS – November 7, 2007**

The scoping meeting was held at the Telcom Center. Project representatives included Ray Aycock, Kathy Lunceford, and Shauna Ginger (Service Field Office Representative – Station One), Lee Andrews (Service Regional Manager – Station Two), Ann Schoolcraft (NiSource Representative – Station Three), Pat Mullen (AMEC Project Manager – Station Four), and Mary Motte Fikri (AMEC Biophysical Specialist – Station Five). Katherine Zilm (AMEC) was the Public Outreach Team Lead and circulated amongst the stations. Jimmy Fowler with Columbia Gulf Transmission was also in attendance to provide support to Station Three.

- **Nashville, TN – November 8, 2007**

The scoping meeting was held at the Radisson Hotel at Opryland. Project representatives included David Pelren (Service Field Office Representative – Station One), Mike Armstrong (Service Regional Manager – Station Two), Scott Burnsworth (NiSource Representative – Station Three), Pat Mullen (AMEC Project Manager – Station Four), and Mary Motte Fikri (AMEC Biophysical Specialist – Station Five). Katherine Zilm (AMEC) was the Public Outreach Team Lead and circulated amongst the stations.

### ***Midwest Region***

- **Lexington, KY – November 6, 2007**

The scoping meeting was held at the Ramada Conference Center. Project representatives included Carrie Lona (Service, KY Field Office – Station One), Mike Armstrong (Service Regional Manager – Station Two), Kim McNeil (NiSource Representative – Station Three), Brandon Kish (AMEC Project Manager – Station Four), and Marty Marchaterre (AMEC

Biophysical Specialist – Station Five). Cheryl McArthur (AMEC) was the Public Outreach Team Lead and circulated amongst the stations.

- **Columbus, OH – November 7, 2007**

The scoping meeting was held at the University Plaza Hotel. Project representatives included Angela Zimmerman (Service Field Office Representative – Station One), TJ Miller (Service Regional Manager – Station Two), Dale Helmers and Tom Lamadue (NiSource Representatives – Station Three), Brandon Kish (AMEC Project Manager – Station Four), and Marty Marchaterre (AMEC Biophysical Specialist – Station Five). Cheryl McArthur (AMEC) was the Public Outreach Team Lead and circulated amongst the stations.

- **Charleston, WV – November 8, 2007**

The scoping meeting was held at the Ramada Plaza (South Charleston). Project representatives included Tom Chapman (Service Field Office Representative – Station One), Forest Clark (Service Regional Manager – Station Two), Kim McNeil, Beverly Johnson, and Roger Givens (NiSource Representatives – Station Three), Brandon Kish (AMEC Project Manager – Station Four and Station Five). Cheryl McArthur (AMEC) was the Public Outreach Team Lead and circulated amongst the stations.

- **Cleveland, OH – November 13, 2007**

The scoping meeting was held at the Renaissance Cleveland Hotel. Project representatives included Mary Knapp (Service Field Office Representative – Station One), Tom Magnuson (Service Regional Manager – Station Two), Dale Helmers (NiSource Representative – Station Three), Brandon Kish (AMEC Project Manager – Station Four), and Marty Marchaterre (AMEC Biophysical Specialist – Station Five). Cheryl McArthur (AMEC) was the Public Outreach Team Lead and circulated amongst the stations.

- **Pittsburgh, PA – November 14, 2007**

The scoping meeting was held at the Doubletree Hotel and Suites, Pittsburg City Center. Project representatives included Jaime Johnson (AMEC Local Representative – Station One), Tom Magnuson (Service Regional Manager – Station Two), Rick Hall Jr. and John Knapp (NiSource Representatives – Station Three), Brandon Kish (AMEC Project Manager – Station Four), and Marty Marchaterre (AMEC Biophysical Specialist – Station Five). Cheryl McArthur (AMEC) was the Public Outreach Team Lead and circulated amongst the stations.