

DRAFT ENVIRONMENTAL IMPACT STATEMENT

**NISOURCE GAS TRANSMISSION
AND
STORAGE, INC.**

**MULTI-SPECIES
HABITAT
CONSERVATION
PLAN**

**APPLICATION
FOR
INCIDENTAL
TAKE PERMIT**

April 30, 2011

**U.S. Fish and Wildlife Service
Federal Energy Regulatory Commission
U.S.D.A. Forest Service
U.S. Army Corps of Engineers
National Park Service**



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EXECUTIVE SUMMARY

Introduction

Private landowners, corporations, State or local governments, or other non-Federal landowners who wish to conduct activities on their land that might incidentally harm (or “take”) wildlife listed as endangered or threatened under the Federal Endangered Species Act (ESA or Act) must first obtain an incidental take permit (ITP) from the U.S. Fish and Wildlife Service (USFWS or Service). Take, as defined by the ESA, means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. An ITP authorizes take that is incidental to, and not the purpose of, the carrying out of otherwise lawful activities.

In late 2005, NiSource Gas Transmission and Storage (NiSource) contacted the USFWS to discuss options for accomplishing ESA compliance for their natural gas transmission activities. The USFWS agreed to work with NiSource to assist with the development of a Multi-Species Habitat Conservation Plan (MSHCP) for certain pipeline activities. On July 16, 2009, NiSource filed an application with the Service for an incidental take permit (ITP), along with their MSHCP, seeking authorization for incidental take of nine ESA-listed species and one ESA-proposed species that would result from NiSource’s otherwise lawful interstate natural gas transmission (INGT) activities across a 14-state operating territory, including approximately 15,000 miles of existing pipeline facilities.

The NiSource MSHCP has been prepared to meet the requirements of Section 10 of the ESA. The conservation plan was developed to cover a 50-year timeframe and includes a suite of avoidance, minimization, and mitigation measures designed to reduce impacts and compensate for those impacts that are unavoidable. The MSHCP has also included a monitoring and adaptive management strategy designed to address uncertainty and new information regarding take calculations, Avoidance and Minimization Measures (AMMs), and

mitigation measures. NiSource proposes to use adaptive management to ensure flexibility to adjust operations to benefit species as new information is obtained.

Proposed issuance of an ITP by the Service is a Federal action that may affect the human environment and is, therefore, also subject to review under the National Environmental Policy Act (NEPA). As part of the NEPA process, the Service is required to prepare NEPA review documents (i.e., this Environmental Impact Statement) to be circulated for public review and comment.

Purpose and Need

The USFWS has prepared this Draft Environmental Impact Statement (DEIS) pursuant to NEPA, to assess environmental impacts associated with the issuance of an ITP to NiSource, Inc. The ITP would be issued pursuant to Section 10(a)(1)(B) of the ESA, as amended. The Service is the lead federal agency for preparation of the DEIS, however, the Federal Energy Regulatory Commission (FERC), the U.S. Army Corps of Engineers (USACE), the U.S. Department of Agriculture (USDA) Forest Service (USFS) Eastern Region and Southern Region, and the National Park Service (NPS) Southeast Region have cooperated with the Service on the production of this DEIS.

Project Summary

The NiSource MSHCP, which was developed in coordination with the Service, evaluated effects to 43 species. The MSHCP concluded that NiSource's activities will not result in take of 33 of the 43 total species evaluated. This conclusion has been reached due to the fact that 24 of the MSHCP species have been determined to be absent from the covered lands and nine will be protected by the implementation of Avoidance and Minimization Measures (AMMs) identified in the MSHCP. The remaining 10 species that have been analyzed in the MSHCP are requested for inclusion on the ITP as "take" species.

In addition to the 43 MSHCP species, 46 additional ESA-listed, proposed, or candidate species are known to occur or potentially occur within the proposed

project area (Covered Lands). As such, impacts to these additional species are assessed in this DEIS as well as in the Service's Biological Assessment (Appendix F) to fulfill both NEPA and ESA requirements. Furthermore, the Service's Biological Opinion will evaluate impacts and revise the assessments accordingly. Additional required best management practices common to all NiSource activities include those environmental protection measures found in NiSource's existing Environmental Construction Standards documents, which NiSource is bound to comply with when planning and implementing operations, maintenance, and construction activities.

This DEIS analyzes and discloses potential impacts to the human environment that would result if the Service approves NiSource's proposal; specifically issuance of the ITP and the subsequent implementation of the HCP (Proposed Action). These activities include operation and maintenance; new construction; and certain expansion activities within the MSHCP Covered Lands footprint. As required by NEPA, this DEIS evaluates alternatives to the Proposed Action, developed in response to public, stakeholder, and agency comments. The DEIS also includes a No Action Alternative as a baseline for comparison of potential impacts of the Proposed Action and any alternatives.

Alternatives

Three alternatives have been identified in this DEIS for detailed analysis. In addition to the No Action alternative, presented as Alternative 1, Alternative 2 is the proposed issuance of a 50-year permit and Alternative 3 is the issuance of a permit for a 10-year term. Seven additional alternatives are discussed in Chapter 2 which have been considered but eliminated from further detailed analysis.

Alternative 1 – No Action Alternative (Status Quo)

The no action alternative means that NiSource would not receive an Incidental Take Permit to cover its activities. This does not mean that the company would be unable to provide natural gas to its customers, however. The company would

be limited to requesting project review from FERC or other Federal Agencies through Section 7 of the ESA. This is the mechanism that has been in place for years and the company believes the use of a Section 10 ITP would streamline project review where endangered and threatened species concerns are an issue.

Alternative 2 – Issuance of a 50-Year Permit and Approval of NiSource’s MSHCP (Proposed Action)

The Proposed Action being evaluated in this DEIS is the request by NiSource for the Service to issue a 50-year ITP for nine federally listed species and one proposed species within the MSHCP Covered Lands. The Covered Lands include a one-mile wide corridor centered on NiSource’s existing pipeline right-of-way (ROW), certain counties with well storage fields, and ancillary INGT facilities across its 14-state operating territory.

Alternative 3 – Issuance of a 10-Year Permit and Approval of the NiSource HCP

This alternative involves the same issuance, approval, and acceptance actions as Alternative 2, with a reduced permit term, subject to renewal and potential amendments to the HCP by NiSource.

This alternative responds to public input received during scoping. Suggestions for a shorter permit term were made due to the uncertainty about implementation of covered activities, consequences of the permit implementation over a 50-year horizon, species’ status over 50 years, and other uncertainties.

Alternative 3 would involve a processing of a renewal request at the end of the 10-year timeframe, which would be subject to additional NEPA as well as an evaluation of the operating conservation program. A shorter timeframe may decrease the uncertainty associated with the Service’s affects analysis. However, Alternative 3 would also change the HCP mitigation in that the Applicant has proposed a mitigation approach that involves mitigating for all presumed effects of O&M activity within the first 7 years of HCP implementation.

The agreement to conduct this “up front” mitigation for 50 years’ take is contingent upon receiving a 50-year permit. In that respect, the benefit of habitat creation and other mitigating efforts would be reduced along with the reduced permit timeframe.

Scope of the Analysis

Due to the geographic breadth of the proposed Covered Lands, the inability of NiSource to identify precise locations of future projects at this time, and the temporal (50-year) scale of the proposed permit, analyses in this DEIS are necessarily limited and programmatic in nature. Because NiSource’s MSHCP presents reasonable worst-case analyses for MSHCP Take Species, the DEIS is more robust in this area than for other components of the human environment. Additional analyses are also presented on those other 46 federally-listed species that NiSource could potentially encounter, with the intent that future ESA consultation would be streamlined for those species based on the analysis presented in this EIS and ESA consultation.

Potential impacts to those “other” components of the human environment (e.g., air quality, vegetation, wildlife, etc.) are discussed on a more programmatic and less precise basis as mentioned above. As such, these other components or resource areas will require subsequent NEPA analysis for individual projects as the precise location and scope of such projects are disclosed to cooperating agencies in the future. Although these activities are “reasonably” certain to occur at some point over the proposed 50-year period, the Service is unable to analyze site-specific or project-specific impacts in this EIS for these other resource areas, other than at a coarse level.

Public/Stakeholder Involvement

On October 11, 2007, the Service published a Notice of Intent (NOI) to prepare an EIS in the Federal Register (FR, Vol. 72, No. 196, pp 57953 – 57956), to solicit participation of federal, state, and local agencies, Tribes, and the public to determine the scope of this EIS and provide input relative to issues associated

with the proposed MSHCP project. In addition to the publication of the NOI, the scoping process included informal stakeholder and agency consultations, 13 public scoping meetings and a mailing to approximately 1,300 known interested parties. The letter provided project information, information on scoping meetings, and contact numbers. Public scoping lasted until December 8, 2007. A Scoping Report is included with this EIS.

Programmatic and Future Site-Specific Analysis

As described above, impacts of this programmatic EIS are discussed at a broad scale. Therefore, a tiered approach to NEPA is appropriate. The CEQ regulations (40 CFR 1502.20) and Department of the Interior regulations (43 CFR 46.140) encourage tiering of NEPA analysis. Tiering refers to the coverage of general matters in broader environmental documents (i.e. EISs) followed by subsequent, environmental analyses focusing on site-specific environmental issues and incorporating by reference the general discussions in the broader document. Tiering is appropriate when the initial analysis involves a broad program, plan (such as this HCP EIS), or policy-oriented environmental impact statement tiering to a later program, plan, or policy statement or analysis of lesser scope (in this case future FERC, USFS, COE, or NPS site-specific NEPA). Traditionally tiered NEPA analyses are completed by the agency that issues the programmatic EIS and a Record of Decision (ROD). Here, the U.S. Fish and Wildlife Service will issue a ROD for its incidental take permit. But we do not anticipate that the cooperating agencies will sign or adopt that ROD. Rather, pursuant to CEQ NEPA regulations, they will be encouraged to “tier” off the programmatic EIS by adopting relevant portions of that document.

Environmental Impacts

Future operation, maintenance, and construction activities associated with NiSource’s future INGT activities have potential to result in impacts to the environment. The estimated annual average disturbance anticipated from operations and maintenance activities and new construction will be

approximately 19,000 acres. NiSource estimates that approximately 18,000 of these impacted acres would be within previously disturbed land (e.g., existing ROW) and that approximately 900 acres per year would be associated with new construction, equating to approximately 0.2 percent of the Covered Lands footprint. All NiSource INGT activities would be subject to application of best management practices as described in NiSource's Environmental Construction Standards documents, as well as additional AMM's as described in the HCP for implementation of either of the action alternatives. All future disturbance associated with these activities would receive reclamation as required by the regulating agency.

This DEIS evaluates, to the extent possible, those potential impacts for surface water, ground water, climate, air quality, vegetation, wetlands, wildlife and fish, threatened, endangered, candidate, and proposed species, socioeconomics and environmental justice, transportation and utilities, cultural resources, recreation, and visual resources.

Surface Water

Pipeline activities with potential to impact surface water resources include hydrostatic testing (water removal and disposal), clearing and grading of streambanks, in-stream trenching or other work, trench dewatering, blasting, and weed spraying. Impacts may arise from lack of shading, suspension of sediments (turbidity), direct impact to aquatic organisms, and release of drilling fluids during horizontal directional drilling. Implementation of regulatory requirements for impact avoidance (e.g., erosion control, stream setbacks for herbicide use, agency approved crossing techniques, equipment bridges, wetland mats, seasonal restrictions, etc.) are expected to reduce or eliminate potential for long-term or otherwise significant impacts the vast majority of the time.

Ground Water

Future NiSource construction activities and storage field operations have the potential to directly or indirectly impact localized ground water resources. Impacts could include contamination associated with blasting activities, turbidity associated with trench construction (in shallow aquifers), reductions in ground water quantity due to dewatering, contamination associated with hydraulic fracturing activities associated with storage field construction and operations. Implementation of standard environmental construction standards (BMPs) and other regulatory requirements associated with permitting is expected to reduce the potential for significant or long term impacts.

Geology

NiSource future operations and construction activities are expected to have minimal impacts to local or regional geology, topography, or geologic hazards. An example of a potential geologic impact and measures that will be used to avoid the impact would be the practice of surveying and clearly marking karst features and identifying buffers around such features during ground disturbing activities.

Soils

Future impacts to soil resources from NiSource activities could include impacts to soil stability impacts, erosion, compaction, and contamination. NiSource's standard construction practices include measures to reduce or avoid potential soil impacts including temporary erosion control, stockpiling topsoil for reclamation, and standard spill prevention, containment, and control practices. No long term significant impacts to soil resources are expected to result from future NiSource activities.

Climate

NiSource future activities would not be expected to result in large-scale changes to local or regional climate. Future operations and construction activities may

potentially influence local air quality, though they would not be expected to influence climate either directly or indirectly.

Air Quality

Required compliance with the Clean Air Act and National Ambient Air Quality Standards, as well as any local or site-specific regulations for air quality within the Covered Lands footprint, is expected to minimize impacts to air quality. Impacts from future activities may include short-term local air quality degradation related to ground disturbance (dust) and/or internal combustion exhaust.

Vegetation

NiSource current environmental construction standards include measures to avoid long-term impacts to vegetation including required post-construction restoration. Additional measure included in the HCP relative to protecting vegetation include restrictions on tree clearing, restrictions on mowing in certain habitats and at certain times, equipment washing to avoid transfer of weed seeds, avoidance of tussocks and hummocks, etc. Other than establishment of permanent ROW during new construction, no long-term impacts to vegetation resources are expected from future NiSource activities.

Wetlands

Under all alternatives, NiSource would continue to comply with USACE and applicable state or local regulations relative to wetland impacts, including obtaining and complying with associated wetland-related permits and authorizations. Wetland avoidance and protective measures currently undertaken by NiSource include restoration activities, equipment bridging, herbicide use restrictions, directional drilling under wetlands, and prohibition of hazardous materials storage near wetlands. Additional wetland avoidance and protection measure associated with the HCP would further minimize potential wetland impacts from future NiSource activities. Unavoidable wetland impacts

would require compensatory mitigation associated with state and/or federal permitting.

Wildlife and Fish

NiSource's future activities would potentially impact non-listed fish wildlife species, including migratory birds, depending on the nature of the activity, timing, and location. Potential impacts could include direct mortality from vehicle traffic, vegetation maintenance or mowing, noise-related impacts from construction, habitat degradation from construction, or habitat loss due to impacts to aquatic resources. NiSource's current standard construction requirements, including stipulations and standards related to mowing, clearing, grading, trenching, water body crossing, spill prevention, and restoration would serve to minimize the potential for significant impacts to wildlife from future activities.

Threatened, Endangered, Proposed, and Candidate Species

The nature of potential impacts to Federally listed, proposed, and candidate species would be similar to that discussed for non-listed wildlife and fish. Future activities would potentially directly or indirectly impact these species depending on the nature of the activity, timing, and location. Standard avoidance and/or minimization measures (BMPs) that are implemented as part of NiSource's environmental construction practices, as well as MSHCP AMMs would reduce the potential for significant impacts, with the exception of the 10 species for which the company is requesting take authorization. With respect to these 10 "take species", the mitigation strategy proposed in the MSHCP is expected to compensate for the impact of the take.

Land Use

Lands within the covered land area include federal, state, local, and private ownership, along with the various land use regulations pertaining to each. Land management agencies as well as private land owners have agreements entered into agreements with NiSource for ROW easements. As such, NiSource may

access and manage the lands under easement to the extent described in the easement. Typically, NiSource is authorized to access the property for ROW maintenance and access to pipeline facilities for operation. Approval of the ITP and MSHCP and future NiSource activities is not expected to have significant direct or indirect impact to future land use within the Covered Lands footprint, although activities associated with proposed conservation and mitigation projects could serve to protect certain lands from future development.

Socioeconomics and Environmental Justice

No measurable direct or indirect impacts to employment, income, population (including low income/minority populations), housing, or public services are expected due to issuance of the ITP and implementation of the MSHCP during future NiSource projects. Variations in employment and/or goods and services associated with future construction activities as well as any HCP-associated mitigation projects may occur but these are expected to be localized and insignificant in scope.

Transportation and Utilities

With all alternatives, future NiSource projects would be subject to regulatory and utility approval, including permits for ROW encroachment, and many would also require additional state or federal level permits or review. Conditions of approval within transportation-related permits might include notification requirements and traffic control measures during construction and maintenance, depending on the activity. Mitigation related to utilities could include efforts to avoid temporary construction-related disruptions in service, coordination with utility providers prior to construction, and schedule planning to minimize disruption during construction.

Recreation

Public lands available for recreation have existing land use restrictions that guide allowable development and uses on these lands. As such, these restrictions

would guide all NiSource activities regardless of the issuance of the ITP, and would not be influenced or impacted by the ITP or implementation of the MSHCP. Future NiSource projects may result in short-term impacts to localized recreation resources during construction and/or maintenance activities, though these are not expected to be large scale or of long duration.

Visual Resources

Implementing any of the alternatives would not specifically authorize activities that would directly affect the quality of visual resources within the Covered Lands footprint. Potential direct or indirect impacts to visual resources (e.g., permanent clearing of vegetation or viewshed modification due to ROW construction) may occur. To the extent that these modifications are subject to future site-specific approval, the activities would be subject to conditions of approval applied at the time of occurrence.

Noise

Overall, implementing any of the alternatives would not specifically authorize projects that would directly or indirectly affect potential noise-sensitive locales within or near the covered lands. Future projects, depending on their nature (e.g., heavy equipment operation, blasting, drilling), would likely be subject to additional regulatory review (state, local, federal). Compliance with applicable regulations would reduce or minimize the potential for noise impacts.