UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Algonquin Gas Transmission, LLC	)	Docket No. CP 14-96-000

REQUEST FOR REHEARING OF RIVERKEEPER, INC.

Pursuant to section 19(a) of the Natural Gas Act ("NGA"), 15 U.S.C. § 717r(a), and Rule 713 of the Federal Energy Regulatory Commission's ("FERC" or "Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.713, Riverkeeper, Inc. ("Riverkeeper") hereby requests rehearing and rescission of the Commission's March 3, 2015 Order Issuing Certificate and Approving Abandonment ("Order") under sections 7(c) and 7(b) of the NGA, 15 U.S.C. §§ 717f(c), (b), for the Algonquin Incremental Market Project ("AIM Project") in the above captioned proceeding. As set forth below, FERC's issuance of the Order prior to receiving Water Quality Certification from New York State violated the Clean Water Act ("CWA"), 33 U.S.C. §§ 1251 *et seq*., and the environmental review underlying the Order is contrary to the requirements of the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4231 *et seq*., and its implementing regulations at 40 C.F.R. Parts 1500-1508, governing segmentation and evaluation of environmental impacts. Finally, the Commission erred by failing to mandate supplemental environmental review as part of Condition 16 of the Order in the event that the current crossing plan for the Hudson River is unsuccessful.

I. Statement of Issues

As described more fully in section III, below, Riverkeeper requests rehearing and rescission of the Order on the following grounds:

1. **The Commission erred by issuing the Order prior to receiving Water Quality**

Certification from New York State, in violation of the CWA. Section 401 of the CWA, 33 U.S.C. § 1341, requires an applicant for a federal license or permit to obtain certification that the proposed activity complies with state water quality standards. State Water Quality Certification must be granted or waived before a federal license or permit can be issued. Section 3(d) of the NGA, 15 U.S.C. § 717b(d)(3), specifically preserves the rights of states under the CWA, including the right to impose more stringent conditions when granting Water Quality Certification. *See PUD No. 1 v. Wash. Dep't of Ecology*, 511 U.S. 700 (1994); *City of Tacoma v. FERC*, 460 F.3d 53 (D.C. Cir. 2006). FERC violated the CWA by issuing the Order prior to receiving Water Quality Certification from New York State and by attempting to limit states' powers pursuant to CWA section 401.

2. **The Commission erred by segmenting environmental review of the AIM, Atlantic Bridge, and Access Northeast Projects, contrary to the requirements of NEPA.** Pursuant to NEPA's implementing regulations at 40 C.F.R. §§ 1508.25(a) and 1508.18(a), connected, cumulative, and similar actions must be evaluated together in a single environmental impact statement ("EIS"). The AIM Project is the first of three planned projects that will upgrade and expand capacity of the Algonquin pipeline system. Following the AIM Project, the Applicant plans to undertake the Atlantic Bridge Project and Access Northeast Project. These three projects are connected, cumulative, and similar actions that must be evaluated together, and FERC misapplied the law by failing to do so. *See Delaware Riverkeeper Network, et al. v. Federal Energy Regulatory Commission*, 753 F.3d 1304 (D.C. Cir. 2014); *Transcontinental Gas Pipe Line Company*,

LLC 149 FERC ¶ 61,258 (2014). The Commission erred by segmenting environmental review of the AIM, Atlantic Bridge, and Access Northeast Projects.

3. **The Commission erred by concluding that the AIM Project's water quality impacts will be avoided or adequately mitigated, as the EIS failed to provide the "hard look" required by NEPA.** In accordance with NEPA and its implementing regulations at 40 C.F.R. § 1500.1(b) and 1502.16 (a), (b), the full range of environmental impacts of a proposed action must be disclosed and evaluated and an agency must take a "hard look" at its environmental consequences before making a decision regarding that action. The AIM Project EIS contains several significant deficiencies – including failure to include missing information regarding water quality impacts and mitigation measures, and failure to evaluate impacts from stormwater runoff – and does not provide the hard look at environmental consequences required by NEPA. *See Robertson v. Methow Valley Citizens Council*, 490 U.S. 332 (1989); *N. Plains Res. Council v. Surface Transp. Bd.*, 668 F.3d 1067 (9th Cir. 2011); *Monroe Cnty. Conservation Council, Inc. v. Volpe*, 472 F.2d 693 (2nd Cir. 1972); *Ohio Valley Envtl. Coal v. U.S. Army Corps of Eng'rs*, 674 F. Supp. 2d 783 (S.D. W.Va. 2009). As a result, the EIS does not provide sufficient basis for FERC's determination that water quality impacts will be avoided or adequately mitigated and the Commission erred in finding otherwise.

4. **The Commission erred by failing to mandate supplemental environmental review as part of Condition 16 of the Order, which directs the Applicant to submit an alternative construction crossing plan in the event that the use of horizontal directional drilling ("HDD") to cross the Hudson River is unsuccessful.** NEPA's implementing regulations at 40 C.F.R. § 1502.9(c)(1) require the preparation of a

supplemental environmental impact statement ("SEIS") when there are "substantial changes" or "significant new circumstances or information" relevant to the environmental concerns of a proposed action. In the event that the current planned method of crossing the Hudson River via the trenchless crossing method HDD proves unsuccessful, and the Applicant follows the instructions set forth in Condition 16 of the Order and submits an alternative crossing plan for review and approval, the Commission must evaluate the new plan in an SEIS before taking action. *See Marsh v. Oregon Natural Resources Council*, 490 U.S. 360 (1989). FERC erred by failing to mandate supplemental environmental review as part of Condition 16 in the event that a new crossing plan for the Hudson River is required.

II. Statement of Relevant Facts

On February 28, 2014, Algonquin Gas Transmission, LLC ("Algonquin" or "Applicant") – a wholly owned subsidiary of Spectra Energy – filed with the Commission an application for a Certificate of Public Convenience and Necessity ("Application") for the AIM Project.[1] The AIM Project spans the states of New York, Connecticut, Rhode Island, and Massachusetts, and involves the replacement and expansion of approximately 37 miles of the existing Algonquin pipeline system, the upgrade of multiple compressor stations, and the upgrade of existing and construction of new metering and regulating stations along the pipeline route.[2] Once in operation, the AIM Project is expected to provide 342,000 dekatherms ("Dth") per day of natural

[1] Algonquin Gas Transmission, LLC, Abbreviated Application for a Certificate of Public Convenience and Necessity, Federal Energy Regulatory Commission ("FERC" or "Commission") Docket No. CP 14-96-000 (filed Feb. 28, 2014).
[2] FERC, Order Issuing Certificate and Approving Abandonment for the Algonquin Incremental Market Project, FERC Docket No. CP 14-96-000 (issued Mar. 3, 2015) ("Order") ¶ 4-6.

gas transportation service to city gate delivery points in Connecticut, Rhode Island, and Massachusetts.[3] The projected in service date for the AIM Project is November 2016.[4]

In New York State, the AIM Project involves the take up and relay of more than 15 miles of pipeline, replacing the existing 26 inch pipe with new 42 inch pipe, approximately two miles of new pipeline, and a new Hudson River crossing. The New York portion of the AIM Project also includes the upgrade of two compressor stations and two metering and regulating stations. The majority of the New York portion of the AIM Project is located within the Hudson River watershed, while approximately two miles of pipeline replacement and the expansion of the Southeast Compressor Station are located within a portion of the New York City drinking water supply watershed ("NYC watershed"), which provides drinking water for nine million New Yorkers. In New York, the AIM Project involves the crossing of 34 waterbodies and 77 wetlands, and the disturbance of approximately 24 acres of wetlands.[5] Stormwater runoff and downstream turbidity caused by construction within the NYC watershed will also potentially impact impaired drinking water supply reservoirs.[6]

The AIM Project is the first of multiple planned upgrades to the Algonquin pipeline system. The second is the Atlantic Bridge Project, which is also located in New York, Connecticut, Rhode Island, and Massachusetts, and involves the replacement and expansion of approximately 36 miles of the existing Algonquin pipeline system, upgrade of two compressor stations, two metering and regulating stations, and one regulator station, and construction of one new compressor station and two new metering and regulating stations. The Atlantic Bridge Project also entails modifications to facilitate south to north transportation on the Maritimes &

[3] *Id*. ¶ 1.
[4] FERC, Algonquin Incremental Market Project Final Environmental Impact Statement, FERC Docket No. CP 14-96-000 (issued Jan. 23, 2015) ("FEIS") at 2-37.
[5] *Id*., Appendices I & K at I-1 – I-3 & K-1 – K-4.
[6] *Id*. at 4-39 – 4-40.

Northeast pipeline system, to which the Algonquin pipeline system connects in Massachusetts. Once in operation, the Atlantic Bridge Project is expected to provide up to 222,000 Dth per day of transportation service to delivery points along the Algonquin system and to the Maritimes & Northeast pipeline for delivery to points in Maine and Canada. The projected in service date for the Atlantic Bridge Project is November 1, 2017.[7]

In New York State, the Atlantic Bridge Project will result in the take up and relay of approximately seven miles of pipeline, replacing the existing 26 inch pipe with new 42 inch pipe, and the upgrade of two metering and regulating stations. The entire New York portion of the Atlantic Bridge Project is located within the NYC and Hudson River watersheds. In fact, the majority of the New York portion of the project – approximately six miles – is located within the NYC watershed,[8] and continues construction in Yorktown, New York at the precise location where the AIM Project ends. *See* AIM and Atlantic Bridge project maps, attached as Exhibits 1 & 2, respectively. In addition to as yet unquantified waterbody crossings and wetland disturbance, stormwater runoff and downstream turbidity caused by construction within the NYC watershed will potentially impact impaired drinking water supply reservoirs.

Nearly four of the six miles of pipeline replacement proposed as part of the Atlantic Bridge Project in Yorktown and Somers, New York were originally proposed as part of the AIM Project. According to the Applicant's July 2013 draft Environmental Report for the AIM Project, the initial project proposal involved take up and relay of 26 inch pipe with 42 inch pipe within approximately six miles of the NYC watershed in Cortlandt, Yorktown, and Somers, New

[7] Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, LLC, Atlantic Bridge Project Environmental Report, Resource Report 1 – General Project Description, Pre-Filing Draft, FERC Docket No. PF 15-12-000 (Mar. 2015) ("Atlantic Bridge Resource Report 1") at 1-1 – 1-2.
[8] *Id*. at 1-6 – 1-10.

York.[9] *See* July 2013 initial AIM project map, attached as Exhibit 3. The AIM Project was later modified, and the portion of the project in the NYC watershed was shortened to an approximately two mile segment from Cortlandt to Yorktown, New York. An approximately four mile segment in Yorktown and Somers, New York was removed from the project.[10] *See* Exhibit 1. That same four mile segment – take up and relay of 26 inch pipe with 42 inch pipe from Yorktown to Somers, New York – has now been reproposed as part of the Atlantic Bridge Project.[11] *See* Exhibit 2.

Algonquin, jointly with Maritimes & Northeast Pipeline, LLC, requested permission to begin the pre-filing review process for the Atlantic Bridge Project on January 30, 2015 – one week after FERC issued the Final Environmental Impact Statement ("FEIS") for the AIM Project – and was granted pre-filing approval on February 20, 2015.[12] The Applicant plans to submit its application for a Certificate of Public Convenience and Necessity for the Atlantic Bridge Project no later than September 2015.[13]

The third planned upgrade to the Algonquin pipeline system is the Access Northeast Project, which involves upgrades to the Algonquin and Maritimes & Northeast pipeline systems for the purposes of expanding natural gas transportation service to New England. The Access Northeast Project, in combination with the AIM and Atlantic Bridge Projects, is expected to provide an additional 1.5 billion cubic feet per day of capacity on the Algonquin pipeline system. *See* Spectra Energy website, Access Northeast, attached as Exhibit 4. The Applicant plans to

[9] Algonquin Gas Transmission, LLC, Algonquin Incremental Market Project Environmental Report, Resource Report 1 – General Project Description, Pre-Filing Draft, FERC Docket No. PF 13-16-000 (Jul. 2013), Appendix 1A.
[10] Algonquin Gas Transmission, LLC, Algonquin Incremental Market Project Environmental Report, Resource Report 1 – General Project Description, FERC Docket No. CP 14-96-000 (Feb. 2014), Appendix 1A.
[11] Atlantic Bridge Resource Report 1, Appendix 1A.
[12] FERC, Approval of Pre-Filing Request: Atlantic Bridge Project, FERC Docket No. PF 15-12-000 (issued Feb. 20, 2015).
[13] *Id*.

request pre-filing review beginning in late 2015, file an application for a Certificate of Public Convenience and Necessity in 2016, and place the Access Northeast Project in service by November 2018. *See* Exhibit 4 & Access Northeast website, FAQs, attached at Exhibit 5. Specific details regarding project construction have not yet been made publicly available.

Riverkeeper submitted comments regarding the scope of the Draft Environmental Impact Statement ("DEIS") for the AIM Project on October 15, 2013[14] and on the application for a Certificate of Public Convenience and Necessity on April 8, 2104.[15] In those comments, Riverkeeper identified a number of issues related to water quality and the AIM Project's likely impacts on both the Hudson River and NYC watersheds – including those related to stormwater, erosion and sedimentation, Hudson River and other waterbody crossings, and wetland and buffer disturbance – and urged the Commission to conduct a comprehensive environmental review pursuant to NEPA.

FERC issued the AIM Project DEIS on August 6, 2014.[16] Riverkeeper submitted detailed comments on the DEIS, and called on FERC to correct several significant deficiencies and revise and resubmit the DEIS for public review and comment.[17] The DEIS failed to comply with the requirements of NEPA in a number of respects, including relying on incomplete information, conducting an inadequate analysis of impacts to water resources, and impermissibly segmenting environmental review.

The Commission declined to revise and reissue the DEIS, and on January 23, 2015, issued the FEIS for the AIM Project. As discussed in section III, below, several significant

[14] Riverkeeper, Comments Regarding Scope of the Environmental Impact Statement for the Algonquin Incremental Market Project, FERC Docket No. PF 13-16-000 (filed Oct. 15, 2013).
[15] Riverkeeper, Comments on Abbreviated Application of Algonquin Gas Transmission, LLC for Certificate of Public Convenience and Necessity, FERC Docket No. CP 14-96-000 (filed Apr. 8, 2014).
[16] FERC, Draft Environmental Impact Statement for the Algonquin Incremental Market Project, FERC Docket No. CP 14-96-000 (Aug. 2014) ("DEIS").
[17] Riverkeeper, Comments on Algonquin Incremental Market Project Draft Environmental Impact Statement, FERC Docket No. CP-14-96-000 (filed Sep. 29, 2014) ("Riverkeeper DEIS comments").

deficiencies remain in the FEIS, which falls far short of the requirements of NEPA. Though the FEIS includes some of the information that was missing in the DEIS, the evaluation of impacts to water resources in the FEIS remains woefully inadequate, with significant pieces of information still missing and almost no evaluation of likely significant impacts resulting from stormwater runoff. Finally, the FEIS continues to impermissibly segment review of the AIM, Atlantic Bridge, and Access Northeast Projects, effectively failing to address the full scope and impact of the planned upgrades to the Algonquin pipeline system.

On March 3, 2015, despite the significant deficiencies in the FEIS and the fact that the Applicant had yet to obtain the required Water Quality Certification from New York State, the Commission issued the Order approving the AIM Project and granting a Certificate of Public Convenience and Necessity. The Order incorporates a list of environmental conditions recommended in the FEIS, including several requests for additional information and/or approvals prior to project construction.[18] Condition 16 of the Order, which was not included in the DEIS, but raised for the first time in the FEIS, instructs the Applicant to file an alternative construction crossing plan for review and approval in the event that the planned use of the trenchless crossing method HDD to install new pipeline under the Hudson River is unsuccessful.[19] On March 30, 2015, Riverkeeper filed a letter with the Commission regarding Condition 16 and the necessity of undertaking supplemental environmental review pursuant to NEPA in the event that an alternative crossing plan for the Hudson River is required.[20]

[18] Order, Appendix B.
[19] *Id*., Appendix B ¶ 16. Condition 16 instructs Algonquin to "file this plan concurrent with the submission of its application to the U.S. Army Corps of Engineers and other applicable agencies for a permit to construct using this alternative crossing plan."
[20] Riverkeeper, Letter re Final Environmental Impact Statement and Order Issuing Certificate and Approving Abandonment for the Algonquin Incremental Market Project, FERC Docket No. CP 14-96-000 (filed Mar. 30, 2015) ("Riverkeeper Alternative Hudson Crossing Letter").

For the reasons set forth below, Riverkeeper requests rehearing and rescission of the Order on the grounds that the Commission violated the CWA by approving the AIM Project prior to receiving Water Quality Certification from New York State and failed to comply with the requirements of NEPA in its environmental review and approval of the project.

III. Argument

The subsections below correspond to the numbered paragraphs in section I, above, and set forth in detail Riverkeeper's position regarding the identified issues.

Issue 1: The Commission erred by issuing the Order prior to receiving Water Quality Certification from New York State, in violation of the CWA.

Pursuant to Section 401 of the CWA, 33 U.S.C. § 1341, anyone applying for a federal license or permit[21] to conduct an activity which may result in a discharge to navigable waters must obtain certification that the activity complies with applicable state water quality standards, and the federal agency charged with reviewing that application may not grant a license or permit unless and until such certification is granted or waived. CWA Section 401 plainly states that "no license or permit shall be granted until the certification required by this section has been obtained or has been waived." *Id.* § 1341(a) (emphasis added). The Supreme Court agreed, finding that "[section] 401 of the [Clean Water] Act requires states to provide a water quality certification before a federal license or permit can be issued." *PUD No. 1 v. Wash. Dep't of Ecology*, 511 U.S. 700, 707 (1994) (emphasis added). Therefore, "without [section 401] certification, FERC lacks authority to issue a license." *City of Tacoma v. FERC*, 460 F.3d 53, 68 (D.C. Cir. 2006).

Despite the clear requirements of CWA section 401, the Commission issued the Order approving the AIM Project prior to receiving Water Quality Certification from New York State.

[21] FERC's Order issuing a Certificate of Public Certificate and Necessity constitutes a "license or permit" for the purposes of Clean Water Act section 401, as it was granted to permit an "activity which may result in any discharge into the navigable waters of the United States." 40 C.F.R. § 121.1(a).

Nor has New York waived its section 401 authority. As of this date, the New York State Department of Environmental Conservation has issued a Notice of Complete Application for Algonquin's Water Quality Certification and accepted public comments,[22] but has not yet made a decision whether to grant or deny.

The fact that the Commission conditioned construction authorization for the AIM Project on receipt of "all applicable authorizations required under federal law"[23] – which presumably includes section 401 Water Quality Certification – does not constitute compliance with the CWA. Section 401 of the CWA requires Water Quality Certification prior to the granting of a federal license or permit, and makes no exception for projects where final construction authorization is conditioned on receipt of the required Water Quality Certification after a license or permit has been issued. To do so flips the plain requirements of section 401 and undermines its purpose, which is to give states the authority to approve, deny, or condition projects that will impact water quality within their borders.

Moreover, FERC's issuance of the Order and environmental conditions prior to receiving New York State's Water Quality Certification usurps the state's authority to issue its own conditions for the AIM Project. In lieu of simply granting Water Quality Certification, a state may choose to approve a project pursuant to CWA section 401 contingent on the imposition of certain conditions, which, in turn, must be incorporated into the federal license or permit. 33 U.S.C. § 1341(d); *see also PUD No. 1*, 511 U.S. 713-714 ("States may condition certification upon any limitations necessary to ensure compliance with state water quality standards or 'any other appropriate requirements of State law.'"). In order to ensure that a state's authority to impose conditions when granting Water Quality Certification is not curtailed, FERC must

[22] New York State Department of Environmental Conservation, Notice of Complete Application and Notice of Legislative Public Comment Hearing (Dec. 31, 2014).
[23] Order, Appendix B ¶ 9.

receive such certification before approving a project so that the approval will incorporate the state's – and not just FERC's – required conditions.

Finally, by decreeing that "[a]ny state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate,"[24] the Commission stepped beyond the authority granted to it by the NGA and impermissibly attempted to limit states' powers under the CWA. The NGA specifically preserves the rights of states under the CWA. 15 U.S.C. § 717b(d)(3). This includes a state's right to impose more stringent conditions pursuant to section 401 Water Quality Certification, which underscores why, as discussed above, such certification must come before the issuance of a federal license or permit, not after. FERC may not limit a state's Water Quality Certification conditions to those consistent with its own Order; instead, it must incorporate the state's conditions into its Order. *See City of Tacoma*, 460 F.3d at 67 ("The Clean Water Act gives a primary role to states 'to block… local water projects' by imposing and enforcing water quality standards that are more stringent than applicable federal standards … FERC's role [under CWA Section 401] is limited to awaiting, and then deferring to, the final decision of the state.") (internal citations omitted).

Accordingly, FERC violated the CWA by issuing the Order approving the AIM Project prior to receiving Water Quality Certification from New York State. The Commission must rescind the Order and only reissue it if and when the Applicant receives the required Water Quality Certification. If the Applicant does receive Water Quality Certification, the Commission must then fully incorporate all conditions contained therein into any future Order.

[24] *Id*. ¶ 151.

Issue 2: **The Commission erred by segmenting environmental review of the AIM, Atlantic Bridge, and Access Northeast Projects, contrary to the requirements of NEPA.**

As discussed in section II, above, the AIM Project is the first of three projects to be undertaken by the Applicant that will upgrade and expand capacity of the Algonquin pipeline system from November 2016 to November 2018. The second is the Atlantic Bridge Project, which has begun FERC pre-filing review and will involve construction in New York, Connecticut, Rhode Island, and Massachusetts. The projected in service date for the Atlantic Bridge project is November 2017, one year after the targeted in service date for the AIM Project. The third is the Access Northeast Project, which builds upon capacity upgrades that will be undertaken by the AIM and Atlantic Bridge Projects, has been announced by the Applicant's parent company, Spectra Energy, and has a projected in service date of November 2018. While the FEIS includes a limited discussion of the Atlantic Bridge Project as part of the cumulative impacts section, the Access Northeast Project is merely raised and dismissed "because details are unknown."[25]

Despite numerous public comments, including Riverkeeper's, that raised concerns regarding impermissible segmentation of the AIM, Atlantic Bridge, and Access Northeast Projects, FERC chose to continue to limit the scope of the EIS to the AIM Project.[26] As set forth below, this decision was in error, and the Commission must rescind the Order and properly combine review of all three projects.

Pursuant to the regulations implementing NEPA, an EIS must include: 1) connected actions, including those that are "interdependent parts of a larger action and depend on the larger action for their justification;" 2) cumulative actions, "which when viewed with other proposed

[25] FEIS at 4-282 – 4-300; Order ¶¶ 112-119.
[26] Order ¶ 108-111.

actions have cumulatively significant impacts;" and 3) similar actions, "which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together." 40 C.F.R. § 1508.25(a). Accordingly, "[a]n agency impermissibly 'segments' NEPA review when it divides connected, cumulative, or similar federal actions into separate projects and thereby fails to address the true scope and impact of the activities that should be under consideration." *Delaware Riverkeeper Network, et al. v. Federal Energy Regulatory Commission*, 753 F.3d 1304, 1313 (D.C. Cir. 2014).

In *Delaware Riverkeeper Network*, the Court held that the Commission violated NEPA when it segmented environmental review of four separate proposals by Tennessee Gas Pipeline Company to upgrade different sections of the Eastern Leg of its 300 Line. Finding that the four projects were "certainly 'connected actions,'" the Court explained:

> "There is a clear physical, functional, and temporal nexus between the projects. There are no offshoots to the Eastern Leg. The new pipeline is linear and physically interdependent; gas enters the system at one end, and passes through each of the new pipeline sections and improved compressor stations on its way to extraction points beyond the Eastern Leg. The upgrade projects were completed in the same general time frame, and FERC was aware of the interconnectedness of the projects … [t]he end result is a new pipeline that functions as a unified whole thanks to the four interdependent upgrades."

752 F.3d at 1308-1309. The Court went on to dismiss claims that there were logical termini between any of the new upgrade segments or that any possessed substantial independent utility apart from the others, finding that the projects were "inextricably intertwined" as part of the same linear pipeline. *Id*. at 1315-1317.

The AIM, Atlantic Bridge, and Access Northeast Projects fall into all three categories of actions that must be evaluated together in an EIS pursuant to 40 C.F.R. § 1508.25(a). First, as in *Delaware Riverkeeper Network*, the AIM, Atlantic Bridge, and Access Northeast Projects are

connected actions without independent utility, as all are interdependent parts of a larger action: the upgrade and expansion of the Algonquin pipeline system. The AIM and Atlantic Bridge Projects involve upgrade and expansion of different segments of the Algonquin pipeline system in the same four states, with several sections of both projects involving the take up of existing 26 inch pipe and replacing it with larger 42 inch pipe. In addition, four of the six miles of the Atlantic Bridge Project proposed within the NYC watershed were originally proposed as part of the AIM Project, and later separated into different project proposals. *See* discussion in Section II, above, and Exhibits 1, 2, & 3.

While construction details regarding the Access Northeast Project have not yet been made publicly available, information announced by Spectra Energy, the Applicant's parent company, make clear that it is inextricably intertwined with the AIM and Atlantic Bridge Projects. According to Spectra, Access Northeast involves "expanding Spectra Energy's Algonquin and Maritimes & Northeast systems." *See* Exhibit 4. Despite Spectra's claim that the thee projects are independent, its description of the Access Northeast Project notes that the "AIM expansion project will begin to de-bottleneck the pipeline system by winter of 2016, helping to enhance reliability and reduce natural gas price volatility in New England." *See* Exhibit 5. Spectra also estimates total pipeline capacity expansion by adding all three projects together, noting that combined with the AIM and Atlantic Bridge Projects, the Access Northeast Project will increase capacity on the system 150% by 2018. *See* Exhibit 4.

Further, the Algonquin pipeline is linear, running in a line from New Jersey through New York, Connecticut, Rhode Island, and Massachusetts before connecting with the Maritimes & Northeast pipeline system. The finished projects will function as a unified whole, and upgrade and expand sections of the same linear pipeline system that will deliver gas to Northeast

consumers and the Maritimes & Northeast pipeline system. All three projects are also closely connected in time, with each coming online exactly one year after the other from 2016 through 2018: first the AIM Project in November 2016, then the Atlantic Bridge Project in November 2017, and finally the Access Northeast Project in November 2018.

Second, the AIM, Atlantic Bridge, and Access Northeast Projects are cumulative actions, as each would affect many of the same resources in the same area, and the combined, incremental effect of each has the potential to be cumulatively significant. FERC recognized that the AIM and Atlantic Bridge Projects are cumulative actions with "facilities within the same area of influence."[27] Despite the Commission's dismissal of the Access Northeast Project "because [it] will not occur at the same time as the AIM Project … and details are unknown,"[28] it is also a cumulative action with both the AIM and Atlantic Bridge Projects. The Access Northeast Project is being constructed in the same area, during the same general timeframe, and will likely affect many of the same resources as the AIM and Atlantic Bridge Projects. It is also being undertaken by the same company, meaning that details regarding project plans and likely impacts should be readily available to FERC upon request.

Finally, the AIM, Atlantic Bridge, and Access Northeast Projects are similar actions. The Atlantic Bridge and Access Northeast Projects are certainly reasonably foreseeable, given that both have been publicly announced and the Atlantic Bridge Project has begun FERC pre-filing review. Both projects also share many similarities with the AIM project with respect to project components, construction activities, and likely environmental impacts, as discussed above, that provide a clear basis for evaluating their environmental consequences together.

[27] *Id*. ¶ 118.
[28] *Id*. ¶ 119.

Despite the evidence that the AIM, Atlantic Bridge, and Access Northeast Projects are connected, cumulative, and similar actions that must be evaluated together pursuant to NEPA, the Commission attempted to justify its decision to limit its evaluation to the AIM Project by maintaining that the "Atlantic Bridge and Access Northeast Projects are not fully defined 'proposals' and cannot be segmented by the Commission from its environmental review of the AIM Project under NEPA."[29]

The Commission misapplied the law and erred in determining that the AIM, Atlantic Bridge, and Access Northeast Projects were not impermissibly segmented due to the fact that FERC does not consider the latter two projects "proposals" at this time. First, NEPA requires a single evaluation of connected, cumulative, and similar "actions," 40 C.F.R. § 1508.25(a), which "include new and continuing activities, including … projects approved by federal agencies." 40 C.F.R. § 1508.18(a). Both the Atlantic Bridge and Access Northeast Projects are actions, *i.e.*, projects which are subject to approval by the Commission: the Atlantic Bridge Project has already begun pre-filing review and the Access Northeast Project has been publicly announced and plans to begin pre-filing review later this year. *See* Exhibit 5.

Second, the decision cited by the Commission in support of its proposition that impermissible segmentation is limited to projects which have reached the proposal stage,[30] *Transcontinental Gas Pipe Line Company, LLC*, 149 FERC ¶ 61,258 at P 66 (2014), is inapposite. The paragraph cited by FERC dismissed segmentation on the grounds that the project at issue had "nothing related to it currently before the Commission and there are no publicly available, quantifiable details about the project." *Id*. The Atlantic Bridge Project began pre-filing review before the Commission in February 2015, and quite a bit of information

[29] *Id*. ¶ 110.
[30] *Id*. ¶ 109.

regarding the project, including location of construction, timing, and general environmental impacts are publicly available and have in fact been submitted to FERC multiple times since at least September 2014.[31] And though the Access Northeast Project has not yet begun pre-filing review, related projects – namely the AIM and Atlantic Bridge Projects – are currently before the Commission. Public information regarding capacity goals, project timing, and general location of the Access Northeast Project is also readily available. *See, e.g.*, Exhibits 4 & 5.

Third, even if segmentation review is interpreted to be limited to "proposals" before the Commission, which applicable law does not support and Riverkeeper does not concede, the Atlantic Bridge Project clearly meets that definition. According to the regulation cited by FERC, a proposal under NEPA "exists at that stage in the development of an action when an agency subject to the Act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated." 40 C.F.R. § 1508.23. At this point in the pre-filing review process, FERC's immediate goal is determining whether and to what extent the Atlantic Bridge Project will be subject to NEPA environmental review. That decision, along with conduct of scoping review if an EIS is to be prepared, happens during the pre-filing process, before the Applicant submits its application for a Certificate of Public Convenience and Necessity. *See* 18 C.F.R. § 157.21(g). Thus, even using the narrow scope of segmentation advocated by FERC in the Order, the Atlantic Bridge Project is a proposal that that has been improperly segmented from environmental review along with the AIM Project.

Finally, segmenting review of the AIM, Atlantic Bridge, and Access Northeast Projects allows the Applicant to evade the full scope and impacts of the projects and is contrary to the

[31] *See e.g.*, Algonquin Gas Transmission, LLC, Response to DEIS, FERC Docket No. CP 14-96-000 (Sep. 29, 2014), Attachment B; Atlantic Bridge Resource Report 1.

public interest. As discussed above, all three projects involve upgrade and expansion of the same pipeline system, and Spectra is touting the increased system capacity that will result from completion of all three projects. While the Applicant benefits from the overall capacity upgrades that will be provided by the AIM, Atlantic Bridge, and Access Northeast Projects combined, segmenting environmental review of the three projects obfuscates their combined environmental costs. The public can review the combined benefits to transportation service by visiting the Applicant's website, but has no counterpart for clearly evaluating the projects' costs to the environment and communities. That is precisely the role of an environmental impact statement, and by choosing to limit the EIS to the AIM Project and segment the Atlantic Bridge and Access Northeast Projects, FERC has hindered NEPA review and deprived the public of the opportunity to evaluate the true costs of the projects.

Accordingly, the Commission erred by segmenting environmental review of the AIM, Atlantic Bridge, and Access Northeast Projects. The Commission must rescind the Order and properly combine review of all three projects in compliance with NEPA.

Issue 3: The Commission erred by concluding that the AIM Project's water quality impacts will be avoided or adequately mitigated, as the EIS failed to provide the "hard look" required by NEPA.

In accordance with NEPA, federal agencies must take environmental considerations into account in their decision-making "to the fullest extent possible." 42 U.S.C. § 4332. Prior to approving any "major federal action significantly affecting the quality of the human environment," federal agencies must comprehensively evaluate environmental impacts, including adverse environmental effects and any means of preventing them, in a "detailed statement." *Id.* § 4332(2)(C). NEPA requires federal agencies to "take a 'hard look' at environmental consequences" and "provide for broad dissemination of relevant environmental information."

Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 350 (1989) (internal citations omitted).

The public availability of information regarding the environmental impacts of a proposed action is central to NEPA, which requires agencies to make "high quality" information available to "public officials and citizens before decisions are made and before actions are taken." 40 C.F.R. § 1500.1(b) (emphases added). The opportunity for public participation guaranteed by NEPA ensures that agencies will not take final action until after their analysis of the environmental impacts of their proposed action has been subject to public scrutiny. In situations where "data is not available during the EIS process and is not available to the public for comment … the EIS process cannot serve its larger informational role, and the public is deprived of their opportunity to play a role in the decision-making process." *N. Plains Res. Council v. Surface Transp. Bd.*, 668 F.3d 1067, 1085 (9th Cir. 2011).

In addition, an EIS must fully disclose and evaluate the complete range of environmental consequences of a proposed action, including "ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, [and] cultural" impacts, "whether direct, indirect, or cumulative." 40 C.F.R. §§ 1502.16(a), (b); 1508.8. As an "environmental full disclosure law," *Monroe Cnty. Conservation Council, Inc. v. Volpe*, 472 F.2d 693, 697 (2d Cir. 1972), NEPA "ensures that an agency will not act on incomplete information, at least in part, by ensuring that the public will be able to analyze and comment on an action's environmental implications." *Ohio Valley Envtl. Coal. v. U.S. Army Corps of Eng'rs*, 674 F. Supp. 2d 783, 792 (S.D. W. Va. 2009) (internal quotation marks and citations omitted).

Riverkeeper raised concerns regarding a number of issues where missing, incomplete, and/or insufficiently evaluated information about the AIM Project's water quality impacts in the DEIS precluded meaningful environmental review and asked FERC to revise and reissue the DEIS for public review and comment.[32] The Commission declined to do so, and instead released the FEIS without correcting several of the identified deficiencies relevant to evaluation of water quality impacts. As discussed below, these deficiencies render the FEIS incomplete, and, consequently, the FEIS fails to provide the hard look at environmental impacts required by NEPA and does not provide a sufficient basis for FERC's conclusion that the AIM Project is an "environmentally acceptable action."[33] The Commission therefore erred in determining that water quality impacts will be avoided or adequately mitigated.

a. Significant pieces of information missing from the DEIS remain outstanding in the FEIS.

The DEIS identified dozens of pieces of missing information and instructed the Applicant to submit them either prior to the end of the public comment period or prior to construction.[34] While Algonquin submitted some of this information prior to the release of the DEIS, several critical pieces of information are still missing from the FEIS. These include, but are not limited to:

- ➔ A site-specific crossing plan for the Catskill Aqueduct.[35]
- ➔ Revised site-specific crossing plans incorporating additional avoidance or mitigation measures for two vernal pools in New York.[36]
- ➔ A site-specific plan for Harriman State Park, including additional avoidance or mitigation measures.[37]

[32] Riverkeeper DEIS Comments at 2-8.
[33] *Id*. ¶ 150.
[34] DEIS at 5-17 – 5-25.
[35] FEIS at 5-24; Order, Appendix B ¶ 15.
[36] FEIS at 5-25; Order, Appendix B ¶ 18.
[37] FEIS at 5-25; Order, Appendix B ¶ 20.

Without the information identified above and acknowledged as still outstanding in section 5.2 of the FEIS, the FEIS remains incomplete and fails to comprehensively evaluate environmental impacts. The fact that FERC characterized requests for missing information as mitigation in both the FEIS and the Order does not make them so: in order to comply with NEPA, information regarding baseline conditions, environmental impacts, and the efficacy of proposed mitigation must be included and evaluated in an environmental impact statement prior to project approval. Requesting that this information be supplied as post-approval mitigation does not cure the inadequacy of pre-approval environmental review. *See N. Plains Res. Council*, 668 F.3d at 1083 (the fact that an agency "plans to conduct surveys and studies as part of its post-approval mitigation measures" does not constitute a "sufficiently 'hard look'" under NEPA). The Commission may not base its decision regarding environmental impacts from the AIM Project on incomplete environmental review.

b. The FEIS fails to include an evaluation of potentially significant environmental impacts from stormwater runoff.

Despite the significant risk to water quality, the FEIS fails to include a meaningful evaluation of the impacts from increased stormwater runoff due to construction activities and long-term changes in surface drainage patterns that are likely to be caused by the AIM Project. Rather, the FEIS merely mentions stormwater plans and management in passing, and, for the New York portions of the project, references a Stormwater Pollution Prevention Plan ("SWPPP") that is still in development and has not been included in the FEIS.[38]

As Riverkeeper detailed in our comments on the DEIS, stormwater runoff from construction can carry pollutants – such as debris, oil and other contaminants from equipment, and any herbicides used for vegetation clearing or right of way maintenance – from the project

[38] FEIS at 4-40.

site to downstream wetlands, streams, and other waterbodies. Construction site runoff can also erode exposed soils and transport sediment to receiving waters, decreasing water quality and degrading aquatic wildlife habitat, reducing species diversity, and damaging commercial and recreational fisheries. Long-term changes in hydrology and surface drainage patterns may also result from construction activities, particularly in areas, such as steep slopes, where changes in ground cover and topography can increase stormwater runoff, reduce the ability of natural systems to filter pollutants, and permanently alter drainage patterns.[39]

Consideration of impacts from stormwater runoff is important throughout the project, particularly so within the NYC watershed. As noted in section II, above, and in Riverkeeper's comments on the DEIS, the NYC watershed provides drinking water to nine million New Yorkers daily, and the AIM Project is located within a sensitive portion of the NYC watershed that is already impaired and subject to enhanced water quality protection criteria. If not properly controlled, stormwater runoff and downstream sedimentation caused by the AIM Project have the significant potential to degrade water quality and drinking water supplies.[40]

However, the FEIS contains only a cursory mention of stormwater runoff, and fails to include any substantive evaluation of its likely water quality impacts or mitigation measures, such as a detailed SWPPP, specific description of how the AIM Project construction schedule will be phased to coordinate with control measures contained therein, and consideration of alternative construction practices that can be used to avoid or reverse soil compaction and thereby prevent runoff volume. Without this evaluation, the FEIS is incomplete and fails to take the requisite hard look at the AIM Project's potentially significant water quality impacts.

[39] Riverkeeper DEIS Comments at 6-7.
[40] *Id*. at 2; 6-7.

Issue 4: **The Commission erred by failing to mandate supplemental environmental review as part of Condition 16 of the Order, which directs the Applicant to submit an alternative construction crossing plan in the event that the use of HDD to cross the Hudson River is unsuccessful.**

Condition 16 of the Order instructs the Applicant to file an alternative construction crossing plan for review and approval in the event that the planned use of HDD to cross the Hudson River is unsuccessful.[41] While the Commission notes that Algonquin would need to file applications with the U.S. Army Corps of Engineers and "other applicable agencies" and receive explicit approval for any alternative crossing plan,[42] it fails to specify that supplemental environmental review, in the form of a Supplemental Environmental Impact Statement ("SEIS"), would also be required.

Under NEPA, when there are "substantial changes in the proposed action that are relevant to environmental concerns" or "significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts," an SEIS must be prepared. 40 C.F.R. § 1502.9(c)(1); *see also Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 374 (1989) ("If there remains 'major Federal actio[n]' to occur, and if the new information is sufficient to show that the remaining action will 'affec[t] the quality of the human environment' in a significant manner or to a significant extent not already considered, a supplemental EIS must be prepared").

As discussed in Riverkeeper's March 30, 2015 letter to the Commission, using an alternative crossing method for the Hudson River would constitute a substantial change to the AIM Project with radically different environmental impacts.[43] Through the pre-filing, application, and environmental review processes, the Applicant has maintained that it will use

[41] Order, Appendix B ¶ 16.
[42] *Id*.
[43] Riverkeeper Alternative Hudson Crossing Letter at 3-4.

HDD, a trenchless crossing method, to install new 42 inch pipeline under the Hudson River. Given the Applicant's commitment to using HDD, no other potential method of crossing the Hudson River was evaluated during the environmental review process. Rather, FERC inserted Condition 16 as a recommended condition in the FEIS – without previously including it in the DEIS that was released for public review and comment – and subsequently adopted it as a condition of the Order. While FERC is correct to require additional review and approval in the event that HDD is unsuccessful and the Applicant prepares an alternative crossing plan, it may not make a determination regarding any alternative crossing plan for the Hudson River without first undertaking supplemental environmental review pursuant to NEPA. The Commission erred by failing to mandate supplemental environmental review as part of Condition 16, which must be revised.

IV. Conclusion

For the reasons set forth above, Riverkeeper respectfully asks the Commission to grant this request for rehearing and rescission of the Order.

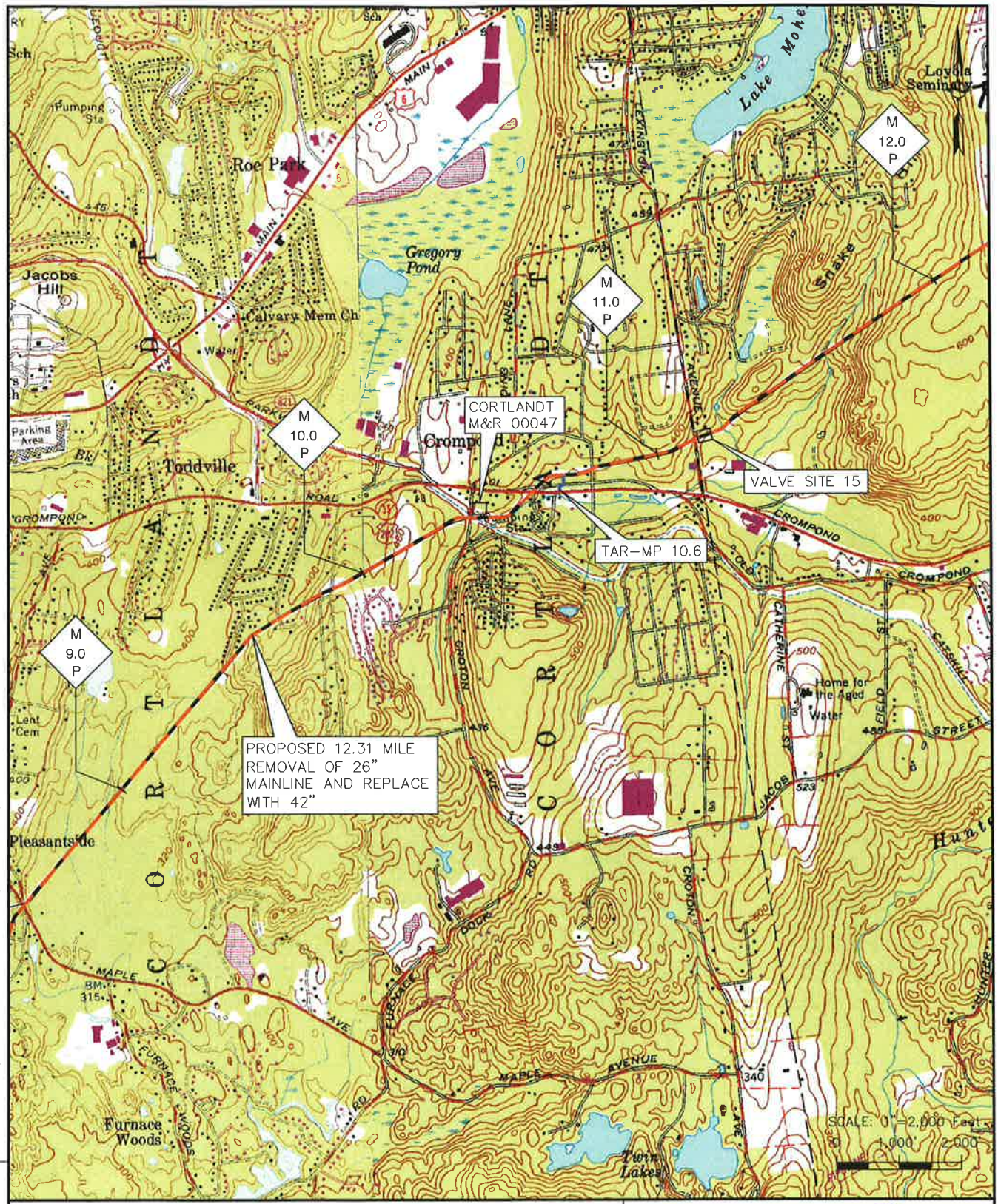
Respectfully submitted,

Misti Duvall
Staff Attorney
Riverkeeper, Inc.
78 North Broadway, E-House
White Plains, NY 10603
914-422-4228
mduvall@riverkeeper.org

Dated: April 2, 2015

Exhibit 1:
AIM project map

Algonquin Gas Transmission, LLC, Algonquin Incremental Market Project Environmental Report, Resource Report 1 – General Project Description, FERC Docket No. CP 14-96-000 (Feb. 2014), Appendix 1A



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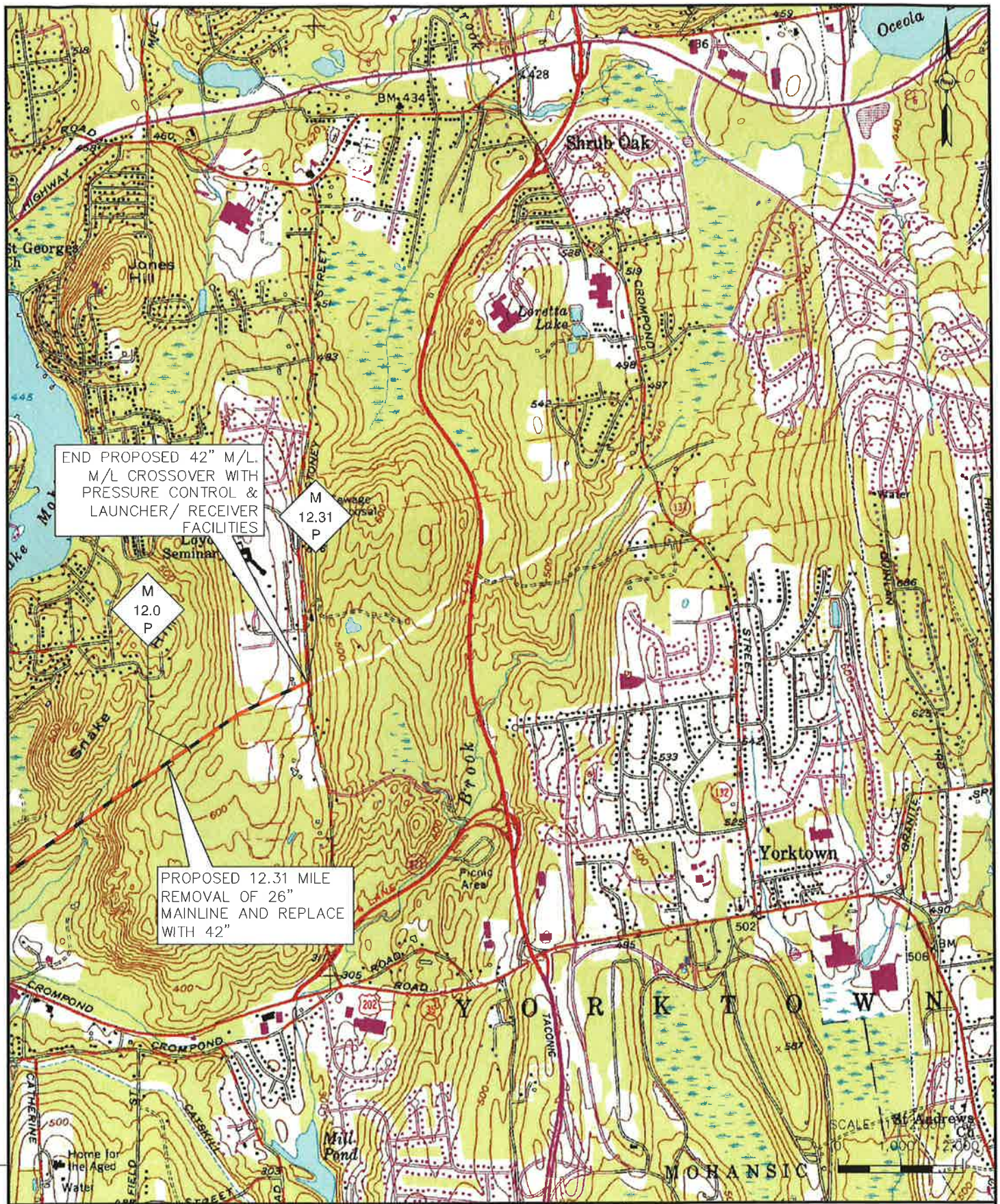
Spectra Energy Partners.

Algonquin Gas Transmission, LLC
5400 Westheimer Ct. Houston, TX 77056-5310 713 627-5400



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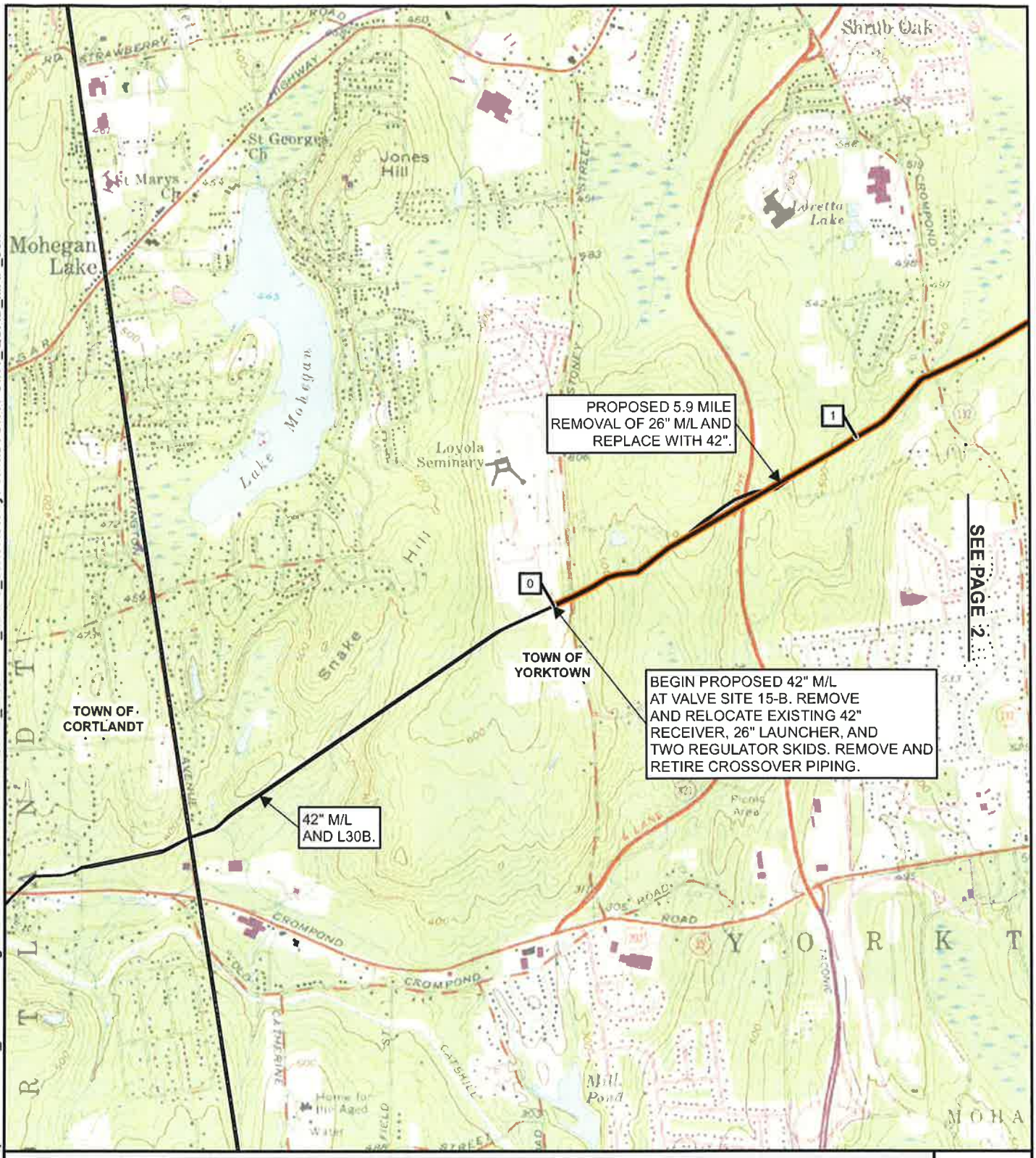
Spectra Energy Partners.

Algonquin Gas Transmission, LLC
5400 Westheimer Ct. Houston, TX 77056-5310 713 | 627-5400

Exhibit 2:
Atlantic Bridge project map

Algonquin Gas Transmission, LLC and Maritimes & Northeast Pipeline, LLC, Atlantic Bridge Project Environmental Report, Resource Report 1 – General Project Description, Pre-Filing Draft, FERC Docket No. PF 15-12-000 (Mar. 2015), Appendix 1A



1 MILE POST

EXISTING METERING AND REGULATING (M&R) STATION MODIFICATION REQUIRED

PROPOSED PIPELINE

EXISTING ALGONQUIN GAS TRANSMISSION PIPELINE

MUNICIPALITY BOUNDARY

COUNTY BOUNDARY

N W E S

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STONY POINT TAKE-UP AND RELAY - USGS QUAD EXCERPT
(MOHEGAN LAKE, NY - CROTON FALLS, NY)

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Spectra Energy Partners

Algonquin Gas Transmission, LLC
5400 Westheimer Court, Houston, TX 77056-5310 713.627.5400

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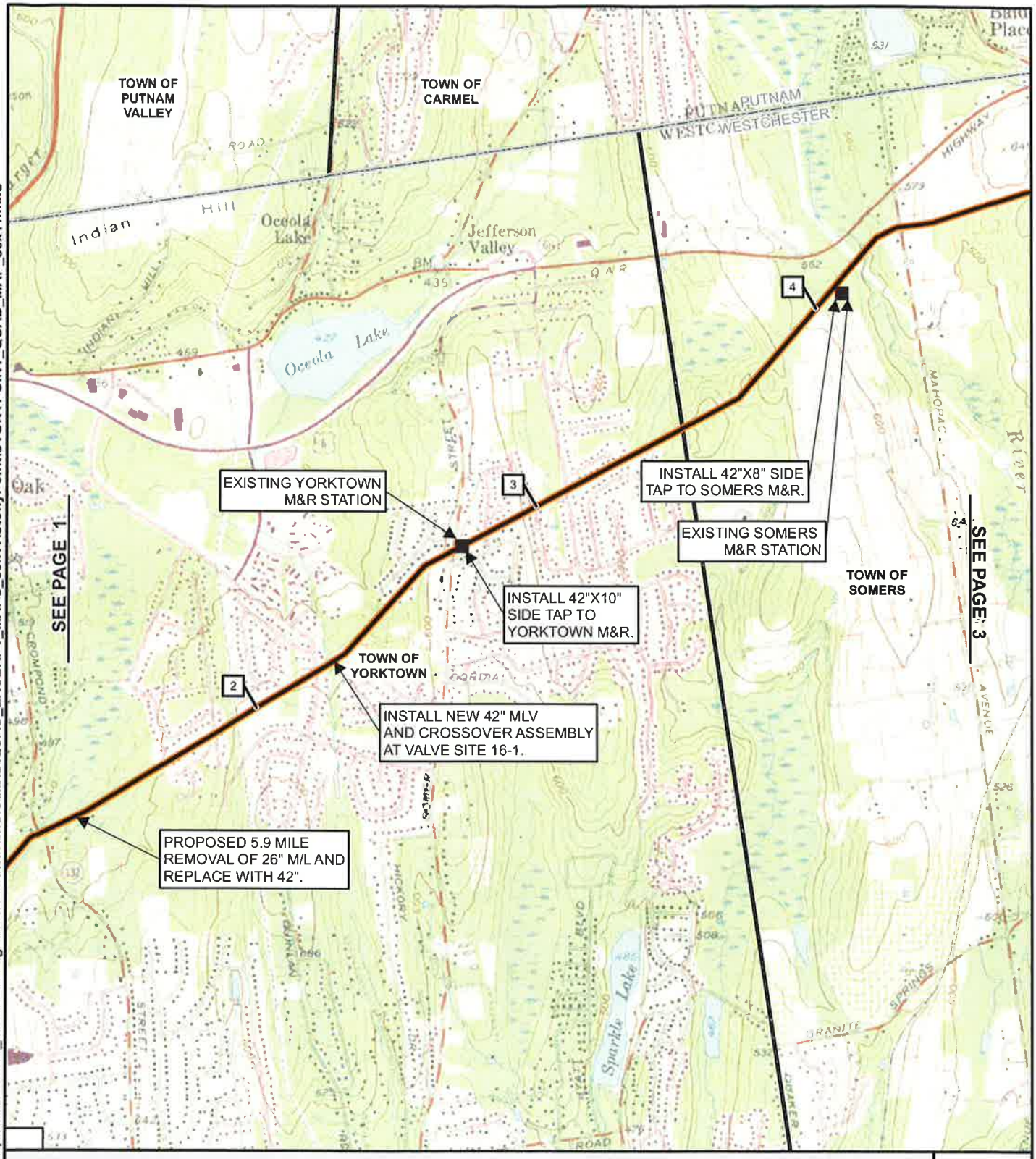

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(MOHEGAN LAKE, NY - CROTON FALLS, NY)

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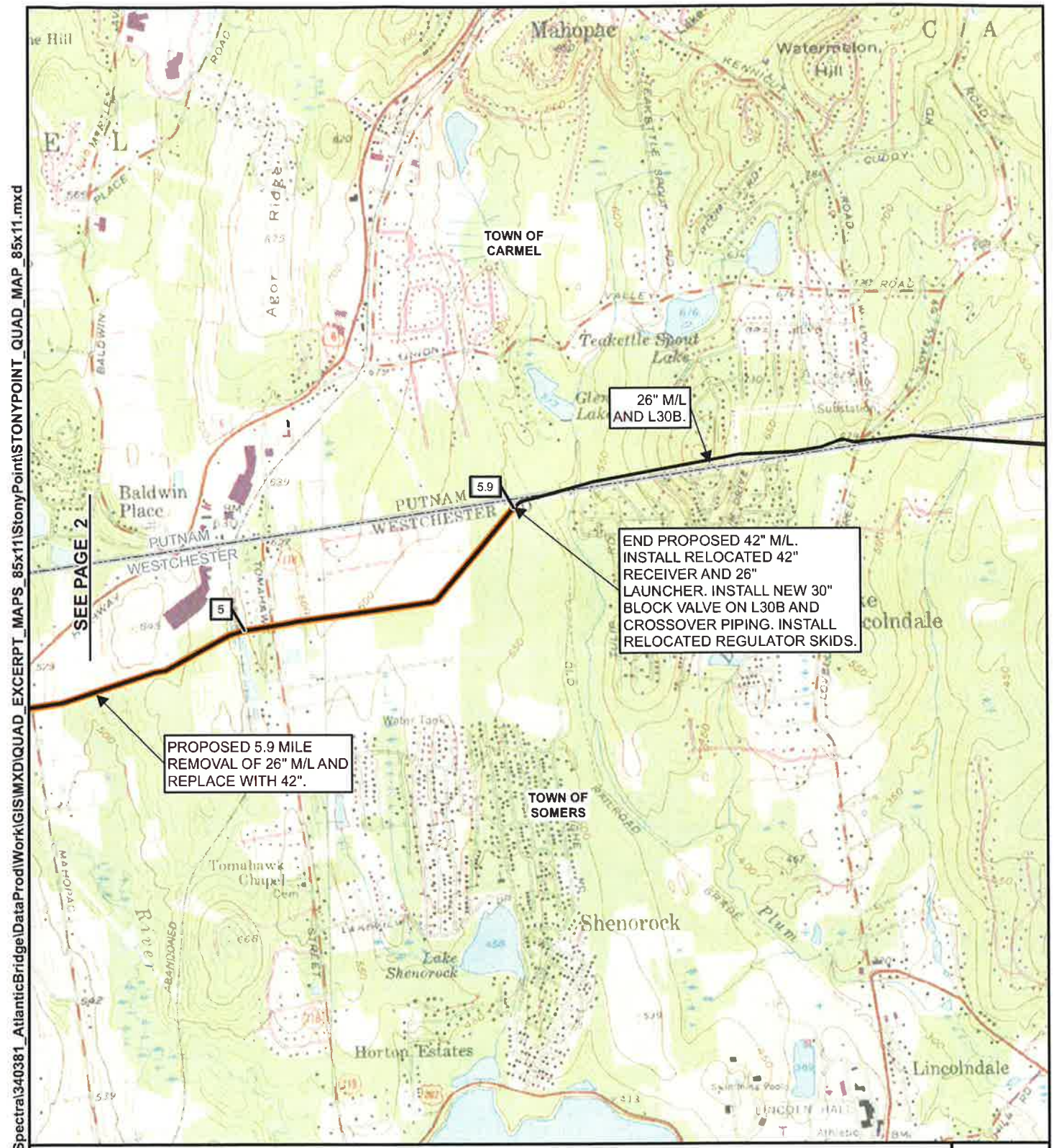
Algonquin Gas Transmission, LLC
5400 Westheimer Court, Houston, TX 77056-5310 713.627.5400



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1 MILE POST

EXISTING METERING AND REGULATING (M&R) STATION MODIFICATION REQUIRED

PROPOSED PIPELINE

EXISTING ALGONQUIN GAS TRANSMISSION PIPELINE

MUNICIPALITY BOUNDARY

COUNTY BOUNDARY

N W E S

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(MOHEGAN LAKE, NY - CROTON FALLS, NY)

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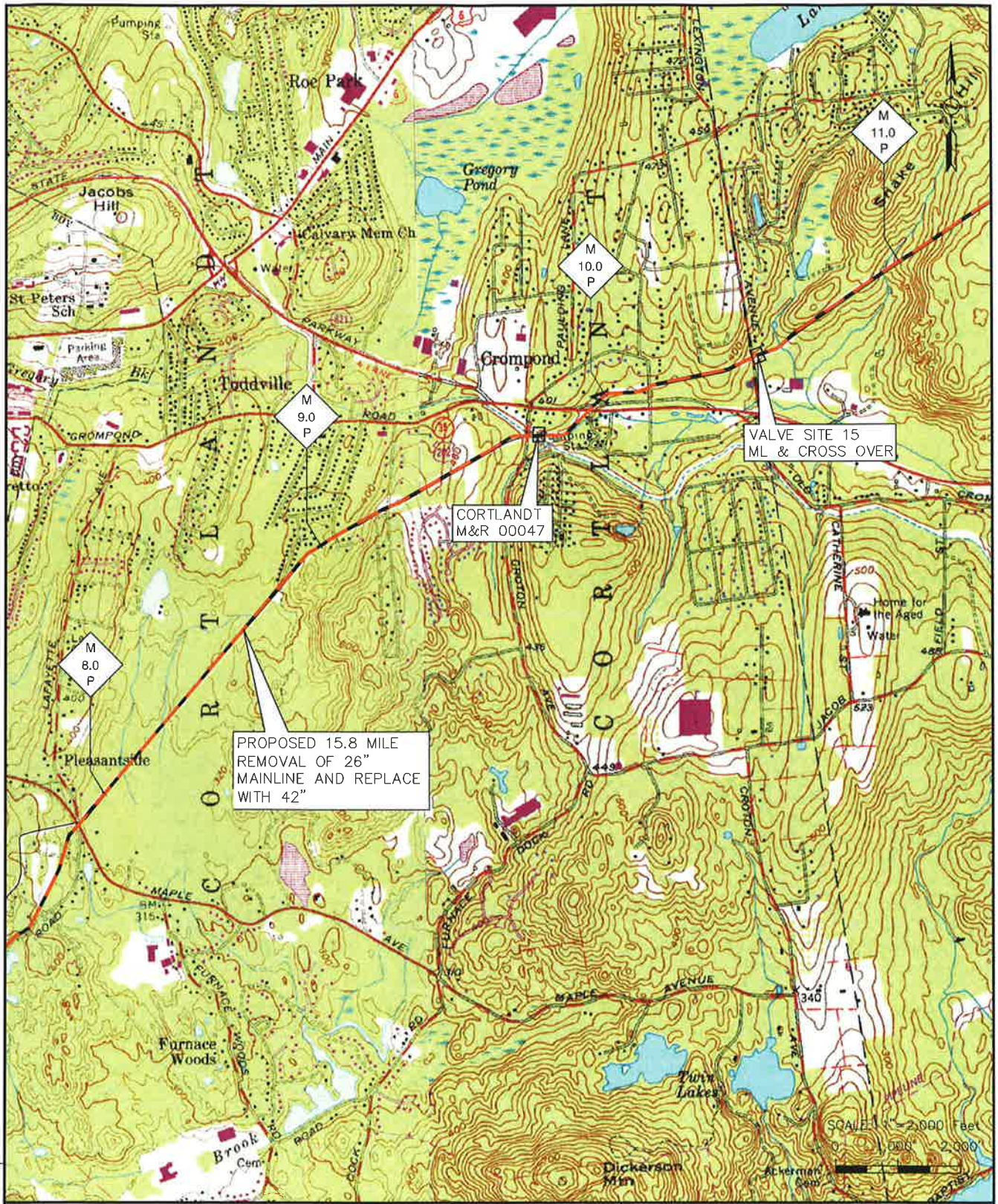
Spectra Energy Partners

Algonquin Gas Transmission, LLC
5400 Westheimer Court, Houston, TX 77056-5310 713-627-5400

Exhibit 3:
July 2013 initial AIM project map

Algonquin Gas Transmission, LLC, Algonquin Incremental Market Project Environmental Report, Resource Report 1 – General Project Description, Pre-Filing Draft, FERC Docket No. PF 13-16-000 (Jul. 2013), Appendix 1A



ALGONQUIN INCREMENTAL MARKET PROJECT
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Spectra Energy

Algonquin Gas Transmission, LLC
5400 Westheimer Ct. Houston, TX 77056-5310 713 / 627-5400

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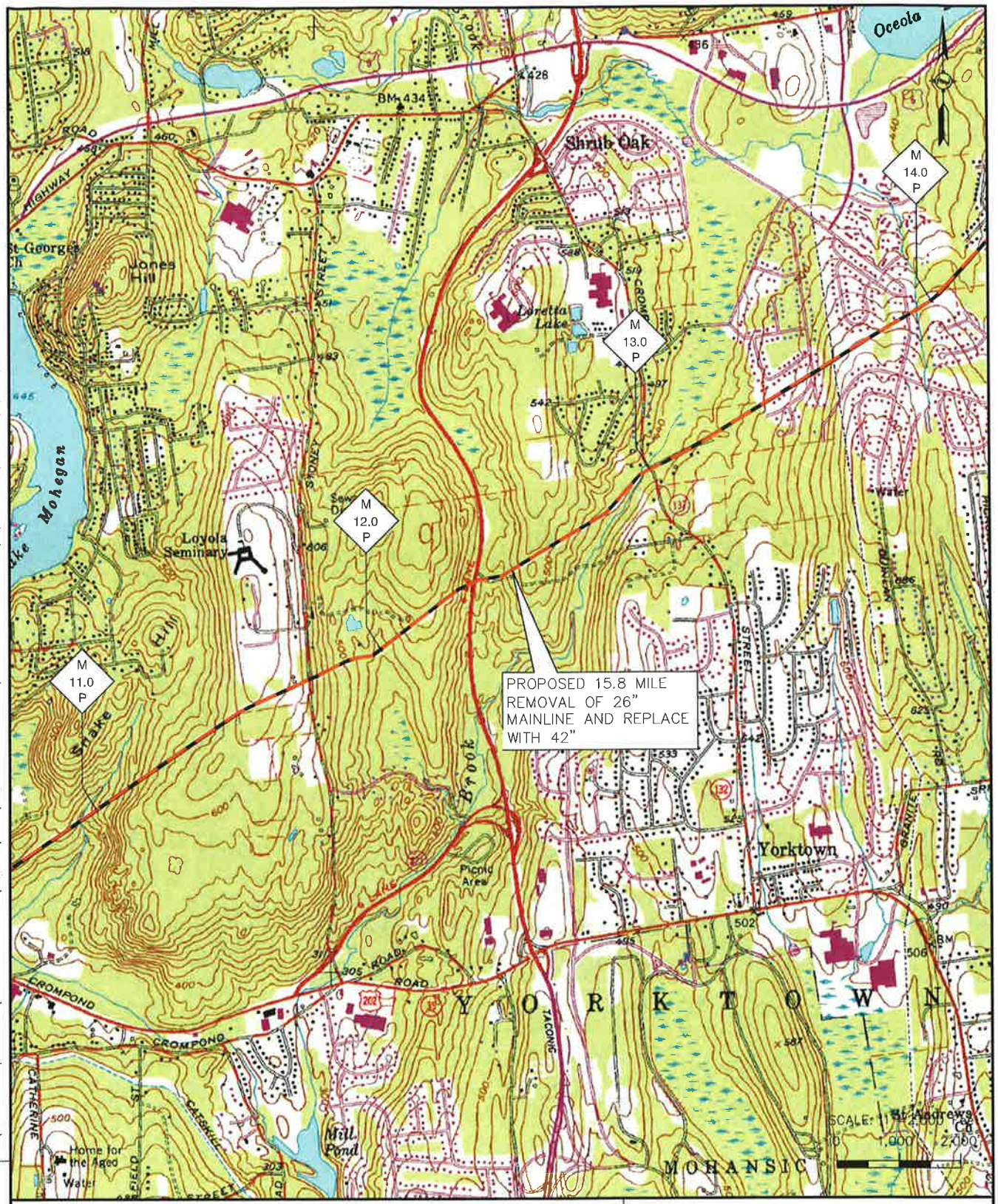

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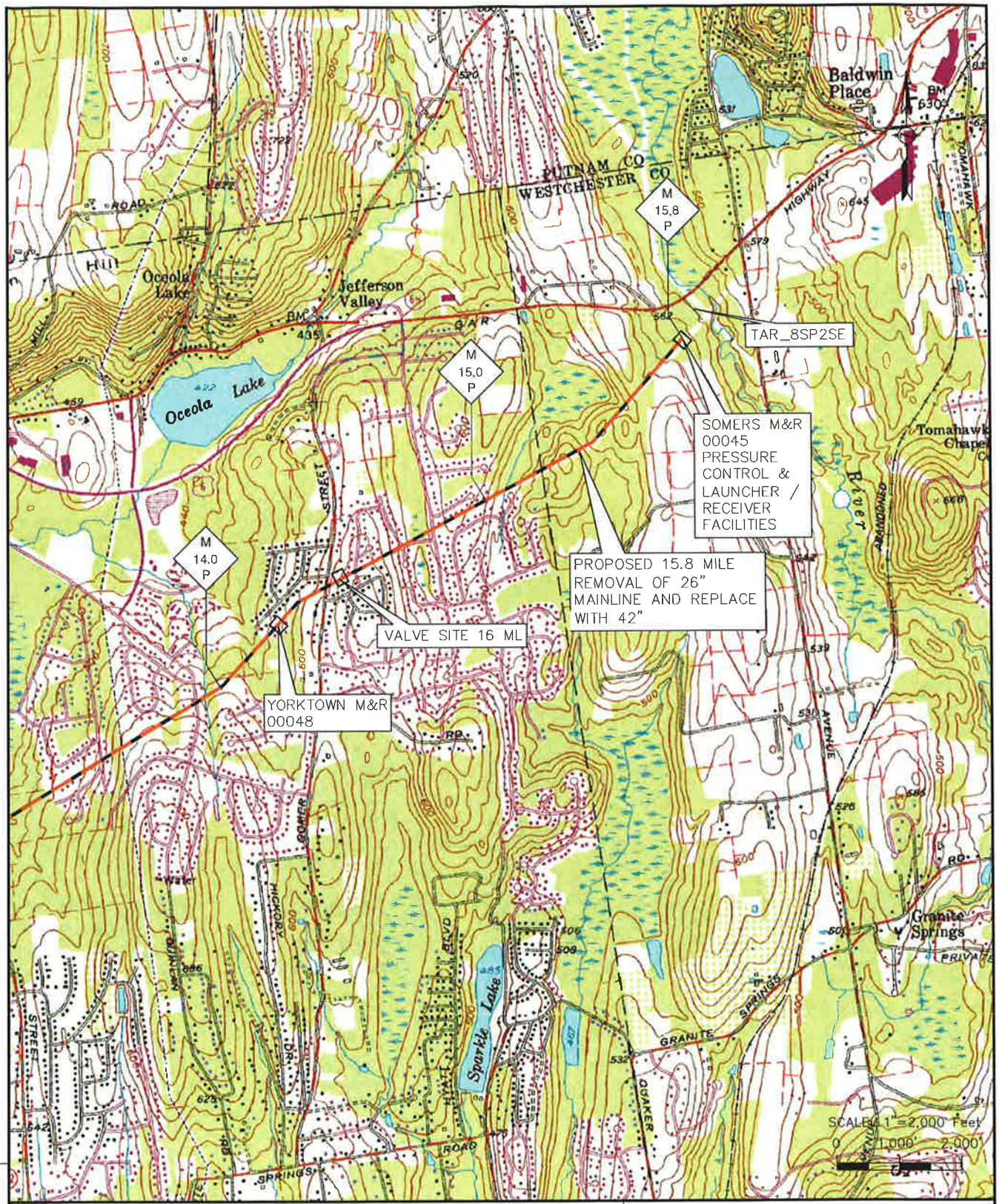
Spectra Energy

Algonquin Gas Transmission, LLC
5400 Westheimer Ct. Houston, TX 77056-5310 713 / 627-5400



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ALGONQUIN INCREMENTAL MARKET PROJECT
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Spectra Energy

Algonquin Gas Transmission, LLC
5400 Westheimer Ct. Houston, TX 77056-5310 713 / 627-5400

Exhibit 4:
Spectra Energy website, Access Northeast

Spectra Energy, Access Northeast: A New England Energy Reliability Solution, available at: http://www.spectraenergy.com/Operations/New-Projects-and-Our-Process/New-Projects-in-US/Access-Northeast (last visited Apr. 1, 2015)

Spectra Energy Corp Headquarters
5400 Westheimer Court
Houston, TX 77056-5310
(713) 627-5400

New Projects and Our Process

Reliable, Affordable Energy for New England's Prosperity

Access Northeast: A New England Energy Reliability Solution

access northeast

To learn more about Access Northeast, visit www.AccessNortheastEnergy.com.

Latest News: National Grid Joins Eversource Energy and Spectra Energy on Access Northeast; Project Launches Open Season for New England Energy Reliability Solution (Feb. 18, 2015)

New England faces a well-publicized energy challenge. Lack of sufficient energy infrastructure in the region is driving electricity prices higher, limiting economic competitiveness and growth, and straining systems to the point where serious energy reliability issues threaten public safety and security. These challenges will continue until the region's infrastructure constraints are resolved.

Access Northeast's Solution Is:

1 Timely

Our electric power solution could begin service as early as 2018.

2 Environmentally Responsible

The expansions can occur on our existing footprint to minimize environmental impact and stakeholder disruption.

3 Scalable

The natural gas supply increase will be available in increments.

4 Effective

Access Northeast is already directly connected to ~ 70% of New England's natural gas-fired electric generation, which will provide natural gas to power plants critical for grid stability on the coldest and warmest days.

Readily Expandable Pipelines

Related Information

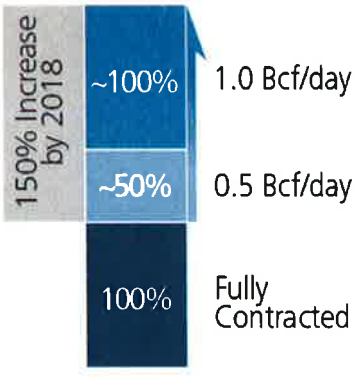
Spectra Energy's Comments to FERC (10/1/14)

Spectra Energy's Maine PUC Filing (9/29/14)

Pipelines are Full

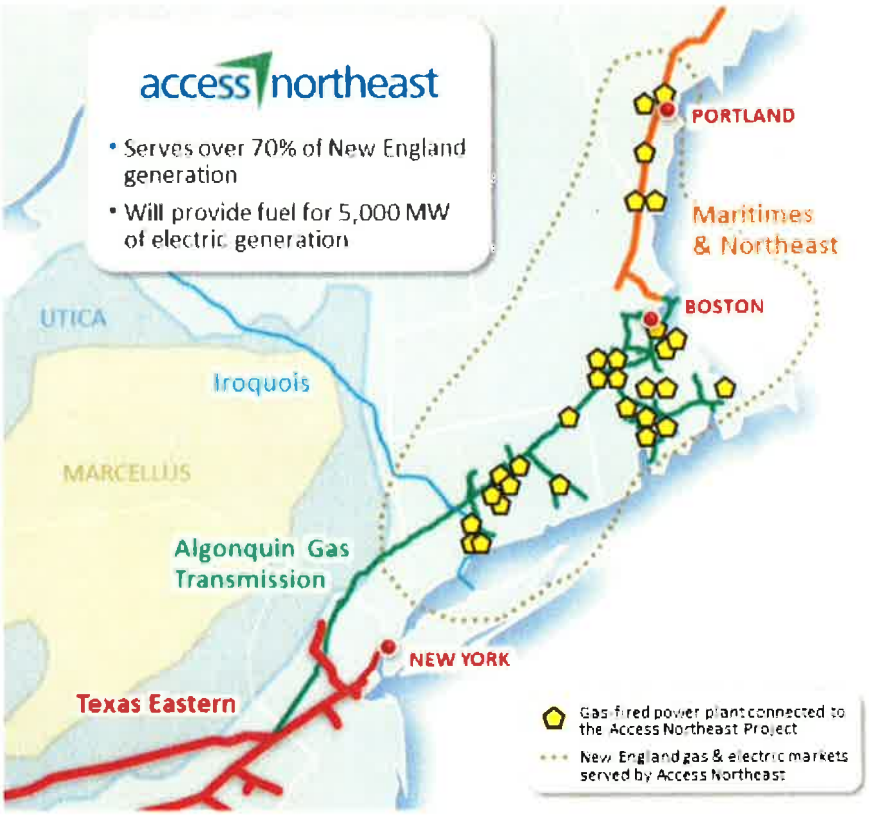
New England natural gas supply is limited by lack of pipeline capacity.

Algonquin Gas Transmission: West to East Usage and Potential Increased Capacity



Relevant News

- Oil Plunge Boosts U.S. Natural Gas Imports to 7-Year High (Bloomberg, 1/9/15)
- ISO New England Issues Annual Power System Plar for New England (ISO-NE, 11/6/14)
- Maine Officials Cheer Plan for $3 Billion Natural Gas Expansion (Maine Public Broadcasting, 9/16/14)



New England's governors, members of the congressional delegation and other policymakers have placed a high priority on developing a solution. While the details of planning and financing need to be resolved, there is widespread agreement that New England needs additional energy infrastructure.

Access Northeast supports a portfolio of investments to ensure a reliable, diverse and affordable energy supply and to sustain the region's investments in energy efficiency and renewable power. We also understand that additional natural gas supply to the region will be a part of that diverse solution.

Natural Gas and Electric Power

Typically, gas distribution companies, not electric power producers, hold the firm contracts for natural gas flowing into New England. Spectra Energy currently has two projects in development, Algonquin Incremental Market (AIM) and Atlantic Bridge, that will increase natural gas supply for residences and businesses in 2016 and 2017, respectively. For energy reliability, however, the power generators need access to natural gas service during peak demand. The current effort by the region's leaders is critical to making that happen, and thus critical for New England's future security and prosperity. Access Northeast is independent of AIM and Atlantic Bridge.

A Key Question

From our perspective, the fundamental question that must be considered for new natural gas transportation to New England is:

- ***Will the solution include specific capacity to deliver additional natural gas directly to the electric generators?***

- FERC: ISO-NE Must Address Reliability Concerns (9/9/14)
- New England Spot Natural Gas Prices Hit Record Levels This Winter (EIA, 2/21/14)
- Peak-To-Average Electricit Demand Ratio Rising In New England And Many Other U.S. Regions (EIA, 2/18/14)

Presentations

Spectra Energy's Richard Kruse: Presentation to the Pennsylvania Independent Oil and Gas Association - May 14, 2014

Additional Sources of Information

New England Committee on Electricity (NESCOE)

Independent System Operator New England (ISO-NE)

Federal Energy Regulatory Commission (FERC): New England Electric Power Markets

Energy Information Administration (EIA) - New England States:

Connecticut

Maine

Massachusetts

New Hampshire

Rhode Island

Vermont

If the answer is yes, lower prices and increased energy reliability will follow.

Preview of Access Northeast's Solution

New England's existing natural gas pipeline infrastructure can be enhanced to: 1) improve power system reliability; 2) make the region more economically competitive by reducing electric costs; and 3) protect New England's quality of life by minimizing environmental and community impacts.

Specifically, Access Northeast proposes expanding Spectra Energy's Algonquin and Maritimes & Northeast systems, pipelines which already directly connect to about 60 percent of New England's natural gas-fired electric generation. Through an alliance with Iroquois Gas Transmission, Access Northeast is connected to more than 70 percent of the region's gas generation.This will provide direct, guaranteed natural gas deliveries to critical power plants that are required for grid stability, especially on peak power demand days.

The pipeline expansions will be available in increments of 200 million cubic feet per day (cf/d), up to 1 billion cf/d (1.5 billion cf/d including AIM and Atlantic Bridge), and could be in service as early as November 2018. Importantly, the expansions can occur on our existing footprint to minimize environmental impact and stakeholder disruption. This solution will be timely, environmentally responsible, scalable and effective.

Click below for more information about the project:

- Draft Tariff for Energy Reliability Service (ERS) (pdf, 301 KB)

Watch Spectra Energy's President of U.S. Transmission and Storage, Bill Yardley, discuss the company's expansion plans to help the New England region increase its natural gas pipeline capacity.

For more information:

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Media

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> Operations > New Projects and Our Process > New Projects in U.S. > Access Northeast

Exhibit 5:
Access Northeast website, FAQs

Access Northeast, FAQs: About Access Northeast, available at: http://accessnortheastenergy.com/faqs/faq-about-access-northeast (last visited Apr. 1, 2015)

access northeast
(http://accessnortheastenergy.com/)

FAQs

About Access Northeast (http://accessnortheastenergy.com/faqs/faq-about-access-northeast/)

Operations & Safety (http://accessnortheastenergy.com/faqs/faq-operations-safety/)

The Access Northeast Map (http://accessnortheastenergy.com/faqs/the-access-northeast-map/)

News

News Releases (http://accessnortheastenergy.com/category/news-releases/)

Relevant News (http://accessnortheastenergy.com/category/relevant-news/)

About Access Northeast

Why is this project important?

What is the timeline of this project?

After we receive expressions of interest – due May 1 – we will finalize the scope of the project and plan to pre-file with FERC late in 2015 and file our FERC 7c application in 2016. We would expect to receive and accept the FERC certificate in 2017, which would allow service to come on line in 2018. It's important to note that the expansion on Algonquin and Maritimes existing facilities will be within existing rights-of-way while having minimal environmental and community impact. Achieving this schedule requires regulators, and state and federal policy makers to act expeditiously.

What is the expected cost?

How much additional natural gas will this provide?

Would this project allow all merchant gas generation in New England to operate, even on the coldest winter days?

How much of this expansion will be on existing infrastructure versus new construction?

How does this accommodate renewable energy?

What is the project path?

How will this impact AIM & Atlantic Bridge Projects?

Have you discussed this project with state government leaders? What was their reaction?

What regulatory approvals are required?

About

Access Northeast (http://accessnortheastenergy.com/about-us/access-northeast/)
Eversource Energy (http://accessnortheastenergy.com/about-us/eversource-energy/)
National Grid (http://accessnortheastenergy.com/about-us/national-grid/)
Spectra Energy (http://accessnortheastenergy.com/about-us/spectra-energy/)

Energy for You

Energy for You (http://accessnortheastenergy.com/energy-for-you/)

News

News Releases (http://accessnortheastenergy.com/category/news-releases/)
Relevant News (http://accessnortheastenergy.com/category/relevant-news/)

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About Access Northeast (http://accessnortheastenergy.cc/faqs/faq-about-access-northeast/)
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Map (http://accessnortheastenergy.cc/faqs/the-access-northeast-map/)

nationalgrid

(http://accessnortheastenergy.com/)

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access northeast
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FAQs

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How will this impact AIM & Atlantic Bridge Projects?

Access Northeast is independent from Spectra Energy's previously announced Algonquin Incremental Market (AIM) and Atlantic Bridge projects. AIM and Atlantic Bridge are separate and independent projects. Spectra Energy's AIM expansion project will begin to de-bottleneck the pipeline system by winter of 2016, helping to enhance reliability and reduce natural gas price volatility in New England. AIM is underpinned by long-term commitments from gas utility companies across southern New England. Atlantic Bridge's proposed in-service date is November 2017, and it will be similarly supported by gas

utilities.

Have you discussed this project with state government leaders? What was their reaction?

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at White Plains, NY this 2nd day of April, 2015.

Misti Duvall

Misti Duvall
Staff Attorney
Riverkeeper, Inc.