



Oregon

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To: Energy Facility Siting Council

From: Kathleen Sloan, Senior Siting Analyst

Date: October 11, 2024

Subject: Agenda Item G (Information Item): Mist Underground Natural Gas Storage Facility Request for Amendment 13. Council Review of Draft Proposed Order, and Comments received on the record of the public hearing, for the October 25, 2024 EFSC Meeting

Attachments:

1. [Draft Proposed Order](#) (provided in pdf and via hyperlink)
2. Written Comments on Draft Proposed Order (provided in pdf)
3. Transcript Summaries of Oral Testimony from Public Hearing (provided in pdf with link to [video recording](#))
4. Certificate Holder Responses to Comments (provided in pdf)

The Energy Facility Siting Council (Council or EFSC) will review the Request for Amendment 13 of the Mist Underground Natural Gas Storage Facility Site Certificate (RFA13) Draft Proposed Order (DPO), issues raised in received public comments, certificate holder's responses to comments and the Department's evaluation, as presented in this staff report. Council will have the opportunity to make comments and recommend changes to the Department for preparation of the Proposed Order.

STAFF RECOMMENDATION

In the DPO, issued on August 15, 2024 the Oregon Department of Energy (Department) recommended Council approve the requested site certificate amendment and grant issuance of the Thirteenth Amended Site Certificate, subject to compliance with existing, recommended amended, and recommended new site certificate conditions.

BACKGROUND AND FACILITY OVERVIEW

Mist Underground Natural Gas Storage Facility (Mist or facility) is an operating facility consisting of surface facilities to underground natural gas storage reservoirs including two compressor stations (Miller and North Mist), gathering pipelines, operations and maintenance facilities, and a gas transmission pipeline. Permitted throughput limit is 635 million standard cubic feet per day (MMscfd). The site boundary encompasses 5,472 acres. The certificate holder is Northwest Natural Gas Company (NWN or certificate holder), a shareholder-owned public utility. The site certificate was approved in 1981 and has been approved for 12 subsequent amendments.

SCOPE OF COUNCIL REVIEW

RFA13 includes proposed facility components under Council’s authority including: connecting pipelines; transmission pipelines; above-ground components such as compressor stations and equipment; and structures such as an operations and maintenance building.

PROPOSED FACILITY MODIFICATIONS

On August 9, 2024, the certificate holder filed RFA13 which seeks authorization to make the following changes to the site certificate (referred to as the Mist Resiliency Project):

At Miller Station:

- replace two existing (end of life) natural-gas fired turbines
- replace existing (end of life) underground distribution powerline from Highway 202 to Miller Station; and,
- increase the fenced boundary of Miller Station by adding approximately 7.52 acres adjacent to the existing station to create a permanent storage yard.

At North Mist Compressor Station (NMCS):

- install approximately 2.6 miles of underground gas transmission pipelines to connect the storage reservoirs (Crater, and new Medicine, Newton, and Stegosaur)¹ to NMCS;
- add three reciprocating gas fired compressors;
- add two dehydration trains, new air compressor, inlet and outlet coalescing filters, two new back-up power generators, fuel gas heater, skidded fuel gas regulators, and a power transformer;
- add a control building, a Power Distribution Center, compressor building, dehydration regeneration building, covered gas/diesel fill station and fuel tanks, and associated equipment.

RFA13 additions at NMCS would enable an increase of allowable throughput of natural gas from 635 MMscfd to 835 MMscfd.

The details of the requested amendment are described in the DPO Section I and II.A (See DPO p. 1 and pp: 9-19, Figures 2-4).

PUBLIC COMMENTS AND PUBLIC HEARING

The Public Notice of the DPO initiated a public comment period on RFA13 and the DPO that extended from August 15 through September 19, 2024. The public hearing was held virtually (via Webex and phone) and in-person at the People’s Utility District in Clatskanie on September 19, 2024. The Department received a total of 10 written comments. There were 2 oral commenters in addition to the certificate holder and members of Council, at the public hearing. Written public comments received and oral testimony transcript summaries from the public

¹ The injection/withdrawal wells necessary to develop Crater, Medicine, Newton and Stegosaur reservoirs are not within EFSC jurisdiction; gas well drill permits are required from DOGAMI, which must be obtained prior to construction.

hearing are included in Attachments 2 and 3. Although the DPO public comment period is not the appropriate time in the EFSC review process to request a contested case, some of the public commenters did request one as part of their comments.

DEPARTMENT EVALUATION OF ISSUES RAISED AND CHANGES TO DRAFT PROPOSED ORDER

Table 1 below provides the Department’s evaluation of issues raised in comments received, certificate holder responses (as applicable), and other changes recommended to be incorporated into the Proposed Order related to an amendment to a standard relevant to RFA13, adopted by Council prior to its Final decision on RFA13.

Table 1: Department’s Evaluation of Issues Raised in Comments Received and Draft Proposed Order Changes

Committer and *location in record	Issues Raised/Comment Summary	Certificate Holder Responses Summary, as applicable	Related EFSC Standards and/or Requirements, as applicable	Recommended Changes to the Draft Proposed Order
Public Comments				
<p>Written comments: Cole Souder and others, Green Energy Institute Comment Letter *MSTAMD13Doc105</p>	<p>EFSC need standard - Commenters ask EFSC to adopt an ad hoc “need” standard into the regulations and then use that “need” standard to deny “RFA 13”</p>	<p>The need standard only applies to three types of “nongenerating facility[ies]” as defined in ORS 469.503. It does not apply to RFA13 because RFA13 does not fall under one of the three types of facilities that require a need analysis. EFSC cannot apply the need standard to RFA13 without first amending OAR 345-023-0005, which would require a formal rulemaking process.</p>	<p>Standards for Non-generating Energy Facility - OAR 345-024-0620; Need Standard for Non-generating Facility - OAR 345-023-0005; ORS 469.503 definitions</p>	<p>The Department does not recommend any changes. The Department agrees with the certificate holder that EFSC could not apply a need standard as requested by the commenters unless it first engaged in formal rulemaking to adopt such a standard. Agencies must follow their rules until the rules are properly amended or repealed. <i>Harsh Inv. Corp. v. State</i>, 88 Or App 151, 157, 744 P2d 588 (1987) The commenters do not articulate a legal basis in the statutes or rules governing EFSC procedures that would allow Council to deny NWN’s RFA13 until Council adopts a need standard for surface facilities related to an underground gas storage reservoir.</p>
<p>Written comments: Craig *MSTAMD13Doc96;</p>	<p>“related or supporting facilities” - Commenters identify that the DPO is flawed in a statement that asserts RFA13 components are “related or supporting facilities” in the same way RFA11 components were treated as “related or supporting facilities”</p>	<p>EFSC has determined, independent of the Final Order on Amendment 11, that regardless of differences between the energy facility and related or supporting facilities, Council has not adopted a need standard for surface facilities to an underground storage facility. While advocating for policy changes, the Commenters do not raise any issues with any applicable standards.</p>	<p>ORS 469.300 definitions</p>	<p>The Department agrees with the comment and in the Proposed Order has removed the language that stated RFA13 components are “related or supporting facilities.” However, that does not mean the need standard applies. While RFA13 includes components that are not related and supporting facilities, those components are surface facilities related to an underground natural gas storage facility and Council has not adopted a need standard for such facilities.</p>
<p>Written comments: Craig *MSTAMD13Doc96;</p> <p>Columbia Riverkeeper *MSTAMD13Doc105;</p> <p>Cole Souder and others, Green Energy Institute Comment Letter, *MSTAMD13Doc105</p>	<p>Increased carbon emissions and inconsistency with state’s climate policy and HB2021, and therefore Council should only approve facilities related to natural gas that are <i>needed</i>.</p>	<p>HB 2021 does not affect the determination here because it expressly relates to generating facilities, not non-generating facilities. House Bill 3630 gives ODOE the discretion to determine and develop the best strategy to achieve the state’s energy policy objectives and does not prohibit expansion of existing facilities.</p>	<p>Means of Compliance for Nongenerating Energy Facility - OAR 345-024-0630; HB 2021 and HB 3630</p>	<p>Council has not adopted a need standard for surface facilities related to an underground gas storage reservoir and recent statutory changes precluding EFSC from approving new or amended facilities that would produce or result in a significant increase CO2 emissions, respectively, specifically apply to “generating facilities”, and not to “nongenerating facilities.”</p>
<p>Written comments: Craig</p>		<p>Certificate holder and several federal and state regulatory agencies, including DOGAMI, DEQ, ODOE, and U.S. Pipeline</p>	<p>General Standards of Review – OAR 345-022-0000;</p>	<p>The Department takes public health and safety concerns very seriously, and is aware and has been involved, in</p>

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<p>Samuel Semerjian Maria Gibson/American Aquifers Daniel Schatz Liz Becker Nickie Schatz, *MSTAMD13Doc96, *MSTAMD13Doc98 through MSTAMD13Doc104; Oral Comment: Daniel Schatz, *MSTAMD13Doc112</p>	<p>Alleged public health and safety concerns and impacts from environmental contamination of area aquifers and groundwater/drinking water from Mist Underground Natural Gas Storage Facility</p>	<p>and Hazardous Materials Safety Administration, reviewed the concerns that were raised and did not find any violations in how NWN operates and maintains natural gas storage operations. DOGAMI enforces storage well design and implementation standards to prevent the release of any natural gas into the atmosphere or contamination of the native aquifers. These standards remain at or above the level of national storage standards set by PHMSA. The Mist Underground Natural Gas Storage Facility employs a variety of technologies and systems to monitor the wellheads and pipelines. In addition to continuous monitoring of the storage wells and associated transmission line pressure via SCADA, wellheads, well safety systems, well piping, and site locations are inspected for operability, leaks, and mechanical or other faults weekly under our integrity monitoring program. Wellhead master valves and pipeline isolation valves are tested at least annually to ensure proper function and ability to isolate the well.</p>	<p>Public Services - OAR-345-022-0110; Public Health and Safety Standards for Surface Facilities Related to Underground Gas Storage Reservoirs - OAR 345-024-0030</p>	<p>part, in the evaluation of potential groundwater contamination associated with operation of the Mist Underground Natural Gas Storage Facility. The Department received a similar written complaint by Nicki Schatz on September 22, 2022 alleging NWN misuse of an un-permitted well that was contaminating domestic wells in the area of the Mist facility. The Department coordinated with DEQ and DOGAMI and its own compliance officer to investigate the complaint and inspect the site. DEQ and DOGAMI responded to the complaint in writing and ODOE completed its final inspection response on Nov. 22, 2024. DOGAMI’s letter verified that the facility was in compliance with their permit from DOGAMI. DEQ was never asked to renew the permit by NWN. The Department found that there was no evidence that NWN had ever used the wells in question, and for that reason, had not violated the site certificate. The Department closed the complaint in November 2022. As identified by NWN, there is no evidence that NWN’s facility operations are associated with the alleged issues, and there is no evidence that the changes proposed in RFA13 would change the outcome or result in public health and safety impacts. No substantive changes to Proposed Order recommended.</p>
<p>Written comments: Samuel Semerjian Maria Gibson/American Aquifers Daniel Schatz Liz Becker Nickie Schatz *MSTAMD13Doc98 through MSTAMD13Doc104</p>	<p>Exhibit H and inadequate/outdated data relied upon for RFA13 assessment of seismic risks, seismic risks not adequately characterized. RFA13 Exhibit H Table H-8 is not based on USGS’s 2020 geologic hazards map; recent USGS mapping show extensive faulting and cap rock exposure within the southernmost boundary of the gas field.</p>	<p>None provided</p>	<p>Structural Standard - OAR 345-022-0020, Exhibit H; Public Health and Safety Standards for Surface Facilities Related to Underground Gas Storage Reservoirs - OAR 345-024-0030</p>	<p>RFA13 Exhibit H was prepared by registered professional engineers and certified engineering geologist from GeoEngineers. Two site-specific geotechnical reports are provided in RFA13 Exhibit H. The Department retained subject matter experts through its consultant, Haley-Aldrich, to review and evaluate the adequacy of these Geotech reports. The Department is working with certified geologists through its consultant (Haley-Aldrich) and DOGAMI to evaluate the facts provided and any impacts to the analysis or adequacy of conditions. Changes may be incorporated into the Proposed Order.</p>

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<p>Written comments: Craig Samuel Semerjian Maria Gibson/American Aquifers Daniel Schatz Liz Becker Nickie Schatz, *MSTAMD13Doc96, *MSTAMD13Doc98 through MSTAMD13Doc104;</p> <p>Oral Comment: Daniel Schatz, * MSTAMD13Doc112</p>	<p>Alleged illegal dumping of contaminants, soil contamination and enforcement and other concerns about environmental compliance issues with facility</p>	<p>Certificate holder and several federal and state regulatory agencies, including DOGAMI, DEQ, ODOE, and U.S. Pipeline and Hazardous Materials Safety Administration, reviewed the concerns that were raised and did not find any violations in how NWN operates and maintains natural gas storage operations.</p>	<p>General Standards of Review – OAR 345-022-0000; Soil Protection Standard - OAR 345-022-0022, Exhibit I; Public Health and Safety Standards for Surface Facilities Related to Underground Gas Storage Reservoirs - OAR 345-024-0030</p>	<p>No changes to Proposed Order recommended.</p>
<p>Oral and Written Comments: Chief Joe Kaczinski, Mist-Birkenfeld Rural Fire Protection District, *MSTAMD13Doc110, *MSTAMD13Doc111</p>	<p>Written letter of support for RFA13 and ability to provide services to facility.</p>	<p>NA</p>	<p>Public Services – OAR 345-022-0110</p>	<p>Department consulted with Mist Birkenfeld Rural Fire Protection District, as a reviewing agency, on impacts to public services. Based on this consultation, Department recommends that the Proposed Order Section III.M.1 Public Service – Fire Protection Services incorporate a change to recommended Public Services Condition 2, to clarify that the agreement between certificate holder and Clatskanie Rural Fire Protection District should also include Mist Birkenfeld Rural Fire Protection District. Flemming Pond is owned/operated by Mist Birkenfeld; the pump system requested by Clatskanie RFPD should be shared by both RFPDs.</p>
<p>Council Members</p>				
<p>Oral comment - Councilmember Condon question during Information Item prior to Public Comment period *MSTAMD13Doc115</p>	<p>Potential for fugitive emissions on pipelines and at the Mist Underground Natural Gas Storage Facility</p>	<p>NWN uses Supervisory Control and Data Acquisition (“SCADA”) and telemetry to monitor the system in real time and transmit data from remote sources. This technology makes it possible to quickly detect leaks even in remote locations. We conduct biannual aerial patrols and two-week-long foot patrols at the Facility. Regular valve maintenance occurs as well. Any fugitive emissions are</p>	<p>Public Health and Safety Standards for Surface Facilities Related to Underground Gas Storage Reservoirs - OAR 345-024-0030</p>	<p>The Department recommends the certificate holder’s additional facts provided in their response be incorporated into Section IV.C (evaluation of OAR 345-024-003) of the Proposed Order to reflect the certificate holder’s response on mechanisms designed to monitor systems, including leaks and fugitive emissions.</p>

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		<p>publicly reported to the Oregon Department of Environmental Quality (“DEQ”) on an annual basis.</p> <p>In addition to continuous monitoring of the storage wells and associated transmission line pressure via SCADA, wellheads, well safety systems, well piping, and site locations are inspected for operability, leaks, and mechanical or other faults weekly under our integrity monitoring program. Wellhead master valves and pipeline isolation valves are tested at least annually to ensure proper function and ability to isolate the well.</p> <p>DOGAMI enforces stringent storage well design and implementation standards to prevent the release of any natural gas into the atmosphere or contamination of the native aquifers. These standards remain at or above the level of national storage standards set by PHMSA.</p>		
<p>Councilmember Devlin Oral Comment at Public Hearing *MSTAMD13Doc113</p>	<p>Questions about NWN future relationship with PGE and facility</p>	<p>NWN has a contract with PGE to provide long-term, no-notice underground gas storage service through 2049. PGE uses the facility to fuel its gas-fired electric power generation facilities, which backs up PGE’s variable load of renewable energy on the electric grid. While HB 2021 sets cleanenergy targets by 2040 that include offramps for risks to reliability and cost, PGE is best positioned to answer how they plan to use the contracted capacity.</p>	<p>N/A</p>	<p>No changes to Proposed Order recommended.</p>
<p>Rule Change – Adopted Prior to Council’s Decision on Amendment 13</p>				
<p>Department staff</p>	<p>Council adoption of a rule change and new rate for Carbon Offset.</p>	<p>NA</p>	<p>Means of Compliance for Nongenerating Energy Facilities Standard OAR 345-024-0630 (See DPO pp: 183-187).</p>	<p>Department recommends that the Proposed Order Section IV.E. Means of Compliance..incorporate changes to reflect the updated CO2 offset rate, changing from \$4.27 to \$6.40/ton, if the amended rule is adopted by Council at the October 2024 meeting.</p>

Next Steps

No later than 30 days after the Council's review of the DPO, the Department must issue a Proposed Order recommending approval, modification or denial of the request for amendment to the site certificate. The issuance of the Proposed Order will be accompanied by a public notice establishing a deadline for requests for a contested case proceeding.

To be eligible to request a contested case proceeding, a person must have raised an issue either in person at the public hearing or in a written comment submitted between August 15 and September 19, 2024, the date the record closed. Contested case requests must be submitted in writing to ODOE by a deadline that will be specified within that notice.

To properly raise an issue in a request for a contested case proceeding, the issue must be within the jurisdiction of EFSC and must have been raised with sufficient specificity to afford EFSC, the Department and the certificate holder an opportunity to respond to the issue. The issue must also raise a significant issue of fact or law that is reasonably likely to affect EFSC's determination that the facility, with the changes proposed in the amendment request, meets applicable laws and EFSC standards included in OAR Chapter 345 Divisions 22, 23, and 24.

Following the conclusion of the contested case, or if there is no contested case, the Council will review the Proposed Order which may be adopted, modified, or rejected. If the Proposed Order is adopted or adopted with modifications, the Council will issue a Final Order granting issuance of an amended site certificate. If the Proposed Order is denied, the Council shall issue a Final Order denying issuance of the amended site certificate. The Final Order will be subject to judicial review by the Oregon Supreme Court as provided in ORS 469.403.