



Spire STL Pipeline LLC
700 Market Street
St. Louis, Missouri 63101

August 27, 2021

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington DC 20426

Re: Docket Nos. CP17-40-000, -001, -003, -004
Spire STL Pipeline LLC
Response to Landowner Comments Regarding Restoration

Dear Secretary Bose:

On August 3, 2018, the Federal Energy Regulatory Commission (“FERC” or “Commission”) issued an order granting Certificates of Public Convenience and Necessity to Spire STL Pipeline LLC (“Spire STL”) in the above-referenced dockets (“Certificate Order”) for the Spire STL Pipeline (“Project”).¹ Since commencing construction of the Project, Spire STL has filed comprehensive construction and inspection reports in accordance with the Certificate Order, Spire STL’s Implementation Plan, and FERC’s Upland Erosion Control, Revegetation, and Maintenance Plan (“Plan”) and Wetland and Waterbody Construction and Mitigation Procedures (“Procedures”). By doing so, Spire STL has consistently informed FERC and all interested parties of status updates and regarding the Project’s construction and corresponding issues, including restoration and revegetation issues raised by landowners or FERC Staff, or otherwise identified by Spire STL.

On July 30, 2021 and August 3, 2021, Central Land Consulting, LLC (“Central Land”) filed comments in this proceeding, most of which are nearly identical in form, and all containing misleading or incorrect allegations from landowners that Spire STL has “severe” ongoing compliance issues with the Certificate Order.² Spire STL is submitting this limited response to clarify the record.³

First, the Letters from Central Land note the restoration issues described in FERC’s March 18, 2021 order⁴ and stress that such issues are ongoing and allegedly have not been corrected by Spire STL. As an

¹ Thereafter, Spire STL filed its Implementation Plan for construction of the Project on August 13, 2018.

² Cletus Kampmann Jr., Restoration Update, Docket Nos. CP17-40-000, *et al.* (filed July 30, 2021); Dannie Malone, Restoration Update, Docket Nos. CP17-40-000, *et al.* (filed July 30, 2021); Jo Ann Mansfield, Restoration Update, Docket Nos. CP17-40-000, *et al.* (filed July 30, 2021); Pat & Rob Parker, Restoration Update, Docket Nos. CP17-40-000, *et al.* (July 30, 2021); Ray Sinclair, Restoration Update, Docket Nos. CP17-40-000, *et al.* (filed Aug. 3, 2021) (collectively, “Letters”). Counsel for the Schaeffer Tract also filed letter comments on July 30, 2021 in this proceeding. Schaeffer Tract, Response to July 21, 2021 Report, Docket No. CP17-40-000 (filed July 30, 2021). This response also addresses the concerns specific to that property.

³ To the extent necessary, Spire STL respectfully seeks leave to respond to the Letters. This response is necessary to provide information that will allow the Commission to fully and fairly consider the allegations in the reports. *See, e.g., Luzenac Am., Inc.*, 121 FERC ¶ 61,084 (2007); *Morgan Stanley Capital Grp., Inc. v. N.Y. Indep. Sys. Operator, Inc.*, 93 FERC ¶ 61,017, at 63,036 (2000).

⁴ *Spire STL Pipeline LLC*, 174 FERC ¶ 61,219 (2021) (“March 18 Order”).

initial matter, Spire STL has settled all outstanding issues, including any restoration or revegetation issues beyond those described in the March 18 Order, with two of the seven landowners at issue.⁵ This information has consistently been included in Spire STL's weekly status reports with the Commission since June. Indeed, this development was applauded by Central Land.⁶

Furthermore, as explained in Spire STL's weekly status reports, for the remaining five landowners described in the March 18 Order, the majority of landowners have either (1) refused to grant Spire STL temporary access to the construction right-of-way, which is necessary for Spire STL to complete restoration activities, or (2) requested that Spire STL delay any restoration activities until a later date.⁷ Spire STL is eager to complete the corrective actions described in the March 18 Order and has been ready to perform this work for several weeks. Spire STL is generally planning to start to perform this work for landowners represented by Central Land the week of September 13, 2021, consistent with landowners' prior extension requests.

Next, several of the Letters incorrectly allege that Spire STL has failed to comply with the Certificate Order based on FERC Staff's July 20, 2021 inspection report.⁸ This is simply not true.⁹ While the July 20 Inspection Report notes that restoration across properties ranged from successful restoration to properties that require more attention,¹⁰ the report concludes that "restoration of affected lands, which is a process that occurs over multiple years, is proceeding satisfactorily."¹¹ Spire STL is unaware of any findings in the July 20 Inspection Report that Spire STL is not complying with the Certificate Order, Spire STL's Implementation Plan, or FERC's Plan and Procedures. As for those properties that require more attention, Spire STL has already responded to FERC Staff's July 20 Inspection Report in Spire STL's most recent monthly construction status report filed on August 19, 2021.¹² Spire STL's monthly filing demonstrates that all concerns either have been addressed, have plans to be addressed in the near future, or are otherwise delayed based on landowners' preferences or failure to respond to Spire STL.

Finally, with respect to the concerns in the Letters that are specific to each landowner's property, several of which are being raised for the first time by the landowner, Spire STL provides the following information and updates. This information, along with any updates, will be included in Spire STL's next monthly status report covering the August 2021 timeframe.

⁵ See, e.g., Spire STL Pipeline LLC, Corrective Action Status Report No. 21, Docket Nos. CP17-40-000, *et al.*, at n.4 (filed Aug. 16, 2021) ("Status Report 21").

⁶ See also Central Land Consulting, LLC, Acknowledgement of Resolution with Spire, CLC, and Forrest Jones, Docket Nos. CP17-40-000, *et al.* (filed June 1, 2021) (confirming settlement reached between Spire STL and Jones); Central Land Consulting, LLC, Acknowledgement of Resolution with Spire, CLC, and Rusty & Gayle Willis, Docket Nos. CP17-40-000, *et al.* (filed June 1, 2021) (confirming settlement reached between Spire STL and Willis).

⁷ See Spire STL Pipeline LLC, Corrective Action Status Report No. 22, Docket Nos. CP17-40-000, *et al.* (filed Aug. 23, 2021).

⁸ *Spire STL Pipeline LLC*, Docket Nos. CP17-40-000, *et al.* (July 20, 2021) (Restoration Inspection Report) ("July 20 Inspection Report").

⁹ See *id.* at 4 (concluding that "restoration of affected lands, which is a process that occurs over multiple years, is proceeding satisfactorily"). Spire STL remains concerned however that landowners are being misinformed by repeated, incorrect, and misleading statements made by persons purporting to represent landowners. See, e.g., Carmen Ensinger, *What Happens Next for Spire*, Greene Prairie Press, Vol. 152, No. 26 at A1 (June 30, 2021) (representative of landowners claiming that FERC "has already revoked [Spire STL's] certificate"); *id.* at A2 (representative of landowners quoted saying that a scheduled FERC Staff onsite inspection was the first time in FERC's "90-year history," and therefore meant that FERC was planning to fine Spire STL "hundreds of millions of dollars" without offering further support).

¹⁰ July 20 Inspection Report at 3.

¹¹ *Id.* at 4.

¹² Spire STL's most recent monthly status report was just filed on August 19, 2021. Spire STL Pipeline LLC, Monthly Status Report No. 88, Docket Nos. CP17-40-000 (filed Aug. 19, 2021).

Kampmann (MO-SC-319.000)

- Contours. Spire STL restored the right-of-way contours in accordance with FERC's Plan and Procedures after construction of the Project. FERC Staff visited the subject property during its most recent inspection and did not raise these issues (as alleged by landowner) as part of the July 20 Inspection Report.
- Soil compaction. The right-of-way was decompacted after construction of the Project pursuant to the requirements of the Illinois Department of Agriculture's Agricultural Impact Mitigation Agreement with Spire STL ("AIMA"), even though this property is in Missouri and not subject to the AIMA. This work was also consistent with FERC's Plan. Although soil compaction was not identified as an issue in the July 20 Inspection Report, Spire STL will continue to monitor this property.
- Ponding. Spire STL has identified areas of ponding within the workspace and is coordinating with the landowner's representatives to remediate the ponding concerns and resulting bare areas, as reported in Spire STL's most recent monthly construction status report.
- Vegetative growth. Spire STL has repeatedly explained in this proceeding that full restoration and revegetation may not be completed after several growing periods, despite implementation of all mitigation efforts.¹³ Spire STL will continue to monitor vegetative growth for this and other landowner properties, where applicable.

Malone (IL-JC-179.00)

- Topsoil/subsoil mixing. Spire STL segregated topsoil and subsoil according to FERC's Plan and Procedures, as corroborated by FERC Staff throughout construction and reiterated in the March 18 Order.¹⁴
- Contours. Spire STL restored the right-of-way contours in accordance with FERC's Plan and Procedures after construction of the Project. Spire STL notes that FERC Staff visited the subject property and did not find contour issues as part of the July 20 Inspection Report.
- Soil compaction. As this is not an agricultural area, it does not require soil decompaction according to the AIMA or FERC Plan. Additionally, as this ground is heavily grazed by cattle, compaction on ROW is comparable to that off ROW
- Creek bank. Spire STL and FERC Staff both observed landowners' creek bank in the course of FERC Staff's most recent inspection and concluded that because any slip is very minor, it does not require additional remediation at this time. While the creek bank is stable, Spire STL will continue to monitor the creek bank going forward.
- Erosion. Erosion on the north property line is very minor, and any silt runoff is being contained by the erosion control devices ("ECDs") prior to going into the roadside waterway. The accumulated silt was removed and the ECDs were repaired on July 13, 2021.
- Rocks and woody debris. Spire STL has observed minimal construction debris and plans to remove the debris when it returns to the property to revegetate. Because the debris is minimal, it should have no impact on current cattle operations.
- Vegetation. Revegetation efforts were identified in the July 20 Inspection Report and have already been addressed in Spire STL's most recent monthly construction status report, as noted above. Spire STL also notes that it previously replanted the pasture land with a seed mix consisting of 28 lbs meadow mix, 40 lbs rye grain seed, 50 lbs winter wheat, and 240 lbs fertilizer (per acre) as recommended by the local soil conservation district and agricultural inspector,

¹³ See, e.g., Spire STL Pipeline LLC, Response to CLC and IDOA Comments, Docket Nos. CP17-40-000, *et al.*, at 6 & n.18 (filed Sept. 4, 2020) (citing FERC Plan at Section VII.A.1 (requiring, at a minimum, pipelines to conduct inspections after the first and second growing seasons); *Vector Pipeline L.P.*, 87 FERC ¶ 61,225, at 61,985 (1999) ("After construction, impacts on soil productivity that may result from the construction of the pipeline could continue over a period of several growing seasons, despite implementation of all the proposed measures[.]").

¹⁴ March 18 Order at PP 33–34 (finding that FERC Staff ensured STL Pipeline was implementing best practices to handle, segregate, stabilize, and replace topsoil and subsoil).

consistent with FERC's Plan and Procedures. Spire STL also notes that the landowner previously did not allow sufficient time for the seeds to take root before allowing his cattle to graze the workspace.

Mansfield (IL-GC-068.000)

- **Contours.** Spire STL restored the right-of-way contours in accordance with FERC's Plan and Procedures after construction of the Project. Spire STL notes that FERC Staff visited the subject property and did not find contour issues as part of the July 20 Inspection Report.
- **Soil compaction.** The right-of-way was decompacted after construction of the Project pursuant to the requirements of the AIMA as well as FERC's Plan.
- **Erosion.** Erosion concerns at the north end of the property were identified in the July 20 Inspection Report and are addressed in Spire STL's most recent monthly construction status report, as stated above. Spire STL is actively working with the landowner's representatives to remediate this issue.
- **Ponding.** Ponding concerns were identified in the July 20 Inspection Report and are addressed in Spire STL's most recent monthly construction status report, as stated above. Spire STL is actively working with the landowner's representatives to remediate this issue.
- **Rocks and woody debris.** Spire STL has identified minimal construction debris in the workspace and is actively working with the landowner's representatives to remediate this issue.
- **Crop growth.** The landowner is responsible for planting their own agricultural fields after construction and as such Spire STL cannot ensure that the type of crop within the workspace is the same type of crop outside of the workspace. Additionally, Spire STL notes that the density and vigor of vegetation on the construction right-of-way is nearly similar to that of the vegetation on the adjacent off-right-of-way and by all measures is progressing satisfactorily.
- **Vegetation.** Spire STL has repeatedly explained in this proceeding that full restoration and revegetation may not be completed after several growing periods, despite implementation of all mitigation efforts.¹⁵ With respect to the type of crop being planted, Spire STL notes that the landowner is responsible for planting their own agricultural fields now that construction of the Project is complete.

Parker (IL-JC-200.000)

- **Contours.** Spire STL restored the right-of-way contours in accordance with FERC's Plan after construction of the Project. Spire STL notes that FERC Staff visited the subject property and did not find contour issues as part of the July 20 Inspection Report.
- **Soil compaction.** The right-of-way was decompacted after construction of the Project pursuant to the requirements of the AIMA as well as FERC's Plan.
- **Erosion.** The majority of erosion identified in the workspace is caused by issues outside the limits beyond the workspace and existed before the construction of the Project. Other minor erosion issues were identified in the July 20 Inspection Report and will be addressed in Spire STL's monthly construction status report.
- **Creek banks.** Spire STL and FERC Staff recently identified a minor slip on a creek bank on the property, which is addressed in Spire STL's most recent monthly construction status report. Spire STL will actively monitor the slip to determine if additional remediation is required.
- **Rocks and woody debris.** Spire STL and FERC Staff have identified minimal construction debris in the workspace, and Spire STL is actively working with the landowner's representatives to remediate.

Schaeffer (IL-SC-312.000)

- **Soil compaction.** The right-of-way was decompacted after construction of the Project pursuant to the requirements of the AIMA. This work was also consistent with FERC's Plan. Spire STL has

¹⁵ See *supra* note 13.

investigated the concerns with landowners' representative present and is awaiting further communications with the landowner to discuss remediation activities.

Sinclair (IL-JC-183.000)

- Topsoil/subsoil mixing. Spire STL segregated topsoil and subsoil according to FERC's Plan, as corroborated by FERC Staff throughout construction and reiterated in the March 18 Order.¹⁶
- Contours. Spire STL restored the right-of-way contours in accordance with FERC's Plan after construction of the Project. Spire STL notes that FERC Staff visited the subject property and did not find contour issues as part of the July 20 Inspection Report.
- Soil compaction. The right-of-way was decompacted after construction of the Project pursuant to the requirements of the AIMA. This work was also consistent with FERC's Plan and Procedures.
- Rill erosion. Spire STL has identified isolated instances of rill erosion and is actively working with the landowner's representatives to remediate, as reported in Spire STL's most recent monthly construction status report. These same issues were previously addressed in 2020 and will likely continue to erode (as it did prior to construction) when crops are removed. Currently, the rill erosion runoff is flowing into the ECDs and not reaching the delineated wetland.
- Ponding and soil saturation. Spire STL and FERC Staff have identified the saturated areas, all of which are described and addressed in Spire STL's most recent monthly construction report. Spire STL is actively working with the landowner's representatives to remediate.
- Vegetation. Spire STL has repeatedly explained in this proceeding that full restoration and revegetation may not be completed after several growing periods, despite implementation of all mitigation efforts.¹⁷ With respect to the type of crop being planted, Spire STL notes that the landowner is responsible for planting his own agricultural fields now that construction of the Project is complete.

Spire STL reiterates that it will continue restoration and revegetation activities in accordance with the Certificate Order and FERC's Plan and Procedures. Spire STL will also continue to submit its ongoing status reports, respond to any future inspection reports from FERC Staff, and address any additional landowner issues that are raised in the process, until FERC determines that restoration is successful. Furthermore, Spire STL will continue to monitor the right-of-way and address landowner concerns for the life of the asset, even after FERC determines that restoration is successful.

If you have any questions regarding this request, please do not hesitate to contact me at 346-308-7555 or Sean.Jamieson@SpireEnergy.com. Thank you.

Sincerely,

/s/ David L. Feeman

David L. Feeman
General Manager
Spire STL Pipeline LLC

cc: All Parties on Service List
Gertrude Fernandez-Johnson, Office of Energy Projects, FERC
Christine Crumpton, Office of Energy Projects, FERC
Jennifer Ward, Edge Engineering and Science

¹⁶ March 18 Order at PP 33–34 (finding that FERC Staff ensured STL Pipeline was implementing best practices to handle, segregate, stabilize, and replace topsoil and subsoil).

¹⁷ See *supra* note 13.

CERTIFICATE OF SERVICE

I hereby certify that on this, the 27th day of August, 2021, I have caused a copy of the foregoing document to be served, by electronic mail, upon all parties listed on the service list compiled by the Office of the Secretary, Federal Energy Regulatory Commission, for the above-referenced proceeding.

/s/ Russell Kooistra

Russell Kooistra

Troutman Pepper Hamilton Sanders LLP

401 9th Street, NW, Suite 1000

Washington, DC 20004

(202) 274-2872

russell.kooistra@troutman.com