



**U. S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration**

**Natural Gas Distribution Infrastructure Safety and Modernization
Grant Program**

Lake Apopka Natural Gas District

Orange County, Florida

Finding of No Significant Impact

NGDISM-FY22-EA-2023-20

PHMSA Approval:

I. Introduction

This document serves as the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Finding of No Significant Impact (FONSI) and provides final agency determinations and approvals for the federal actions to comply with the requirements of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.) and CEQ regulations (40 CFR parts 1500-1508). This FONSI is based on the information and analysis contained in the Tier 1 Nationwide Environmental Assessment for the Natural Gas Distribution Infrastructure Safety and Modernization Grant Program¹ (Tier 1 EA) and the site-specific Tier 2 Environmental Assessment (Tier 2 EA), approved February 2, 2024, incorporated herein by reference.

II. Public Involvement

On November 9, 2022, PHMSA published a Federal Register notice (87 FR 67748) with a 30-day comment period soliciting comments on the "Tier 1 Nationwide Environmental Assessment for the Natural Gas Distribution Infrastructure Safety and Modernization Grant Program". During the 30-day comment period, PHMSA received one comment letter dated December 9, 2022, from the American Public Gas Association (APGA) on various aspects of the program and air quality related analysis identified in the EA. The APGA noted that the majority of projects would conduct pipe replacements by open trenching construction methods and that it is standard industry practice to seal and abandon legacy pipes rather than removing old pipeline for replacement. The APGA also provided perspectives on three areas relating to the environmental reviews of pipeline projects and include (1) the use of the specific studies (e.g., Lamb (2015)² and Weller et al. (2020)³ for quantifying greenhouse gas emissions, (2) utilization of the Social Cost of Greenhouse Gases (SC-GHG) and (3) the U.S. Army Corps of Engineer's Nationwide Permit (NWP) program. This APGA letter is available for public review at www.regulations.gov at the Docket No: PHMSA-2022-0123.

PHMSA reviewed the comment letter provided by APGA. PHMSA notes that project-specific construction methods are analyzed in the project specific Tier 2 EAs and that Tier 2 EAs include information on whether the work would include removal of old pipeline or abandonment. Regarding the suggested Lamb (2015) study for methane leak calculations, it is noted that PHMSA only utilized the pipeline material distribution reported by Weller et al. (2020) in order to quantify the leakage of methane from existing pipelines. The emission factors listed in the Tier 1 EA were calculated using data from Lamb (2015) and GRI/EPA (1996)⁴, not Weller et al. (2020). Table 1 of the Tier 1 EA lists the EPA methane emission factors, which were adopted from Lamb (2015). Regarding the SC-GHG, PHMSA analyzed the SC-GHG in accordance with the Council on Environmental Quality (CEQ) interim guidance to assist agencies in analyzing greenhouse gas (GHG) and climate change effects of their proposed actions under the National Environmental Policy Act (NEPA).⁵ CEQ recommends that agencies provide additional context for GHG emissions, including through the use of the best available social cost of GHG (SC-GHG) estimates, to translate climate impacts into the more accessible metric of dollars, allow decision makers and the public to make comparisons, help evaluate the significance of an action's climate change effects,

¹ <https://www.federalregister.gov/documents/2022/11/09/2022-24378/pipeline-safety-notice-of-availability-of-the-tier-1-nationwide-environmental-assessment-for-the>

² Lamb, B. K., Edburg, S. L., Ferrara, T. W., Howard, T., Harrison, M. R., Kolb, C. E., ... & Whetstone, J. R. (2015). Direct measurements show decreasing methane emissions from natural gas local distribution systems in the United States. *Environmental Science & Technology*, 49(8), 5161-5169.

³ Weller, Z. D., Hamburg, S. P., & von Fischer, J. C. (2020). A national estimate of methane leakage from pipeline mains in natural gas local distribution systems. *Environmental science & technology*, 54(14), 8958-8967

⁴ GRI/EPA 1996. Methane Emissions from the Natural Gas Industry. EPA-600/R-96-080. June 1996.

⁵ <https://www.federalregister.gov/documents/2023/01/09/2023-00158/national-environmental-policy-act-guidance-on-consideration-of-greenhouse-gas-emissions-and-climate>

and better understand the tradeoffs associated with an action and its alternatives. PHMSA also supports the Army Corps of Engineer's NWP program. Based on a review and assessment of the APGA's comments, PHMSA has determined that no further analysis is warranted.

The approved Tier 2 EA for the Lake Apopka Natural Gas District was released on PHMSA's website [Tier 2 Site Specific Environmental Documents | PHMSA \(dot.gov\)](https://www.phmsa.dot.gov/about-phmsa/working-phmsa/grants/pipeline/tier-2-site-specific-environmental-documents)⁶ for public review on February 2, 2024, with a public comment period from February 2, 2024 to March 11, 2024. A notice of availability for the Tier 2 EA was published in the *West Orange Times & Observer* on February 8, 2024. The notice incorrectly included a March 5, 2024, due date for comments. Therefore, a revised notice of availability for the Tier 2 EA was published on February 15, 2024, correctly identifying March 11, 2024, as the due date for comment submission. The EA was available for public review on PHMSA's website at [PHMSA-Tier2-EA-Lake-Apopka-approved.pdf \(dot.gov\)](https://www.phmsa.dot.gov/about-phmsa/working-phmsa/grants/pipeline/tier-2-site-specific-environmental-documents) and a hard copy was available for review at the Lake Apopka Natural Gas District, 1320 Winter Garden Vineland Road, Winter Garden, FL 34787.

PHMSA did not receive any comments on the Tier 2 EA. The Tier 1 EA described that the majority of site-specific projects would utilize the insertion method of pipe replacement; however, it is noted that the Lake Apopka Natural Gas District would use horizontal directional drilling and open trench construction methods to replace the natural gas pipelines. These construction methods were disclosed and assessed in the Tier 2 EA.

III. Selected Action Alternative

The Selected Action alternative is identified as the "Proposed Action" in the Tier 2 EA and includes the following:

The Lake Apopka Natural Gas District Infrastructure Improvement Project includes the replacement of approximately 13.13 miles of vintage steel and vintage plastic polyethylene (PE) pipe in multiple areas of the system with modern PE pipe. The replacement of the 2-inch, 4-inch, and 6-inch steel mains and a section of 2-inch PE pipe and the associated service lines will take place in the following four segments (See Appendix A in the Tier 2 EA for project maps):

- Segment 1: Ocoee Apopka and Fullers Cross
- Segment 2: Gaymar Drive
- Segment 3: Abigail Drive, Rodger Williams & Semoran Crossing, Thompson Road and East 1st Street, Thore Avenue, Votaw Road and Rolfe Drive
- Segment 4: Sadler Drive and Sloewood Court

The project area contains 13.13 miles of main line and 156 steel service line replacements. The replacement pipeline will be installed on the "house" side of the easement, further away from the road than the existing pipelines. The existing pipeline is buried at a depth between 3 and 5 feet below grade. The new pipe will be installed using horizontal directional drilling with excavation at entry and exit points. Trenching may be required in certain locations depending on site conditions identified during construction. No new easements will be required for any segment of this project. All pipelines being replaced are either on existing utility easements or rights-of-way.

⁶ <https://www.phmsa.dot.gov/about-phmsa/working-phmsa/grants/pipeline/tier-2-site-specific-environmental-documents>

The project also includes purchasing equipment that will be used to minimize the release of methane by capturing gas during purging operations. Leak survey equipment will also be purchased to modernize the leak survey process.

The Selected Action alternative was chosen as it best meets the project's purpose and need to: (1) improve upon the safe delivery of energy by reducing the likelihood of incidents, as well as methane leaks; (2) avoid economic losses caused by pipeline failures; and (3) protect the environment and reduce climate impacts by remediating aged and failing pipelines and pipes prone to leakage.

IV. Minimization and Mitigation

- The Lake Apopka Natural Gas District (LANGD) shall implement the following mitigation measures:
 - Efficient use of on-road and non-road vehicles, by minimizing speeds and vehicles;
 - Minimizing excavation to the greatest extent practical;
 - Use of cleaner, newer, non-road equipment as practicable;
 - Minimizing all vehicle idling and at minimum, conforming with local idling regulations;
 - Ensuring that all vehicles and equipment are in proper operating condition;
 - On-road and non-road engines must meet EPA exhaust emission standards (40 CFR Parts 85, 86, and 89);
 - Covering open-bodied trucks while transporting materials;
 - Watering, or use of other approved dust suppressants, at construction sites and on unpaved roadways, as necessary;
 - Minimizing the area of soil disturbance to those necessary for construction;
 - Minimizing construction site traffic by the use of offsite parking and shuttle buses, as necessary;
 - Cross-compression technology will be used to capture methane during construction.
 - Avoid staging and laydown areas within identified NWI wetlands or FEMA Zone AE floodplains. The site will be restored to pre-construction contours.
 - If construction activities exceed soil disturbance thresholds and a 402 permit is required, LANGD will develop and implement a stormwater pollution prevention plan.
 - An incident response plan would be developed to control and minimize impacts to sensitive resources.
 - If construction activities exceed soil disturbance thresholds and a 402 permit is required, LANGD will develop and implement a stormwater pollution prevention plan.
- LANGD shall utilize best management practices, as appropriate, to control sediment and erosion during construction which may include silt fencing, check dams, and promptly covering all bare areas. All impacted areas shall be restored to pre-construction conditions.
- If, during project implementation, a previously undiscovered archaeological or cultural resource that is or could reasonably be a historic property is encountered or a previously known historic property will be affected in an unanticipated manner, all project activities in the vicinity of the discovery will cease and the LANGD will immediately notify PHMSA. This may include discovery of cultural features (e.g., foundations, water wells, trash pits, etc.) and/or artifacts (e.g., pottery, stone tools and flakes, animal bones, etc.) or damage to a historic property that was not anticipated. PHMSA will notify the State Historic Preservation Office and participating

federally recognized tribes and conduct consultation as appropriate in accordance with 36 CFR § 800.13. Construction in the area of the discovery must not resume until PHMSA provides further direction.

- In the event that unmarked human remains are encountered during permitted activities, all work shall halt and LANGD shall immediately contact PHMSA as well as the proper authorities in accordance with applicable state statutes to determine if the discovery is subject to a criminal investigation, of Native American origin, or associated with a potential archaeological resource. At all times human remains must be treated with the utmost dignity and respect. Human remains and associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be photographed, collected, or removed until PHMSA has conducted the appropriate consultation and developed a plan of action. Project activities shall not resume until PHMSA provides further direction.
- All work, material, equipment, and staging to remain within the road's existing right-of-way or utility easement or other staging areas as identified in the environmental documentation. If the scope of work changes in any way that may alter the effects to historic properties as described herein, the grant recipient must notify PHMSA, and consultation may be reopened under Section 106.
- A traffic control plan will be developed. LANGD will coordinate with emergency services and other agencies.
- LANGD will notify residents and businesses of parking impacts. Impacted areas will be restored to pre-construction conditions.
- LANGD will adhere to state and local noise regulations including the Orange County Noise Pollution Control Ordinance (Chapter 15 Article V.)
- Activities will be limited to occurring only during normal weekday business hours when noise restrictions are not in place.
- Proper maintenance of equipment mufflers will be performed.
- LANGD will provide advanced notification of service disruptions and the construction schedule will be communicated to the community. Services will be maintained at temporary facilities if appropriate.
- LANGD will make announcements of communications available in multiple languages.
- LANGD shall use standard construction safety methods and procedures; and conduct regular safety audits of crews performing work in the field and subsequent follow-up reporting and/or training, as required.
- LANGD shall ensure their DIMP procedures are updated as necessary, the work is constructed in accordance with industry best practices and the project will comply with all local, state, and federal regulations, including those for safety and any required inspections.

V. Findings and Determinations

Based on the analysis in this Tier 2 EA, PHMSA did not identify any significant adverse impacts on human health or the natural environment that would result from implementation of the Selected Action Alternative. The project will not require any additional right-of-way or easements.

PHMSA issued a Section 106 'No Historic Properties Affected' finding for the project and sent a letter to the Florida Division of Historical Resources initiating Section 106 consultation and requesting concurrence on PHMSA's finding on January 10, 2024. The Apopka Historical Society and Museum and the Historical Society of Central Florida were copied on the letter and invited to participate as consulting parties. PHMSA also sent letters on January 10, 2024, to the following federally recognized tribes, inviting them to participate in consultation:

- Coushatta Tribe of Louisiana
- Miccosukee Tribe of Indians
- Muscogee (Creek) Nation

The letter to the tribes initiated Section 106 consultation to determine if there were any historic properties of cultural or religious significance to the tribes, to determine if the tribes would like to be consulting parties, and to notify the tribes of PHMSA's intention to make a finding of 'No Historic Properties Affected'.

The Florida Division of Historical Resources, acting in its capacity as the Florida State Historic Preservation Office (SHPO), responded on February 22, 2024, requesting that the project area be subjected to a cultural resources assessment survey as conditions in the area were favorable for the presence of archaeological and historical resources. PHMSA requested a meeting with the SHPO to better understand their concerns and the scope of the requested survey. On March 6, 2024, PHMSA staff met with SHPO representatives, clarified the project scope, and confirmed that ground disturbance would be limited to the existing right-of-way (ROW) and utility easements. PHMSA staff also noted that they have standard protocols for unanticipated discoveries. As a result of this discussion, SHPO staff indicated that a cultural resources survey would not be needed. The SHPO followed up with a letter dated March 7, 2024, stating that it is their opinion that the proposed project is unlikely to affect historic properties and requested a condition be included regarding unanticipated discoveries.

No responses were received from the tribes or other consulting parties within 30 days of submitting the consultation letters and therefore, in accordance with 36 CFR § 800.5(c)(1), PHMSA may proceed with carrying out the undertaking.

The Cultural Resource mitigation measures are listed above in Section IV, Minimization and Mitigation. Should the project area or scope of work change, or if cultural materials are encountered during construction, PHMSA would re-open consultation with SHPO and the federally recognized tribes. In the event of unanticipated discoveries, the grantee is required to stop work and notify PHMSA immediately. In turn, PHMSA would consult with SHPO and the federally recognized tribes. Attached to this FONSI is a document providing details on the protocol and requirements regarding unanticipated discoveries, which addresses the request of SHPO.

Consistent with the Tier 1 EA and the Tier 2 EA, PHMSA is making a FONSI determination, in accordance with 40 CFR 1501.6, for this project as it meets the following conditions:

- The Tier 2 Environmental Questionnaire for the selected action is complete and accurate.
- The types and extent of anticipated environmental impacts are as expected in the Tier 1 EA.
- Project proponent commits to compliance with applicable Federal and State environmental requirements.
- The project proponent commits to perform mitigation measures described in the Tier 2 Site Specific Environmental Assessment.
- PHMSA's review of the Tier 2 Environmental Questionnaire did not identify adverse and unanticipated types or levels of environmental impacts.

After careful and thorough consideration of the facts herein, the undersigned finds that the proposed Federal action, namely the Selected Action alternative, is consistent with existing environmental policies and objectives as set forth in NEPA and other applicable environmental requirements and is not a major federal action significantly affecting the quality of the human environment or otherwise, including any condition requiring consultation pursuant to Section 102(2)(c) of NEPA. Furthermore, PHMSA finds that the Tier 1 EA and Tier 2 EA satisfy the requirements of NEPA (42 U.S.C. 4321 et seq.) and CEQ regulations (40 CFR parts 1500-1508). As a result, PHMSA will not prepare an Environmental Impact Statement.

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION (PHMSA)
UNANTICIPATED DISCOVERIES PROTOCOLS

A. Unexpected Discoveries, Previously Unidentified Properties, or Unexpected Effects:

In accordance with 36 CFR § 800.13, if a previously undiscovered archeological or cultural resource that is or could reasonably be a historic property is encountered or a previously known historic property will be affected in an unanticipated manner during construction, the Grant Recipient will implement the following procedures. This may include discovery of cultural features (e.g., foundations, water wells, trash pits, etc.) and/or artifacts (e.g., pottery, stone tools and flakes, animal bones, etc.) or damage to a historic property that was not anticipated. We advise construction personnel to cease construction and for the Grant Recipient to consult with PHMSA to address post-review concerns. Each step within these procedures will be completed within seven (7) days unless otherwise specified:

1. The person or persons encountering such properties or effects shall immediately stop construction in the area of the discovery and notify the Grant Recipient, who will contact PHMSA and the Section 106 point of contact (POC; contact information listed below). Upon notification by the Grant Recipient of a discovery, PHMSA shall immediately notify the State Historic Preservation Office (SHPO), participating Tribe(s)/Nation(s), and other consulting parties that may have an interest in the discovery, previously unidentified property or unexpected effects, and consult to evaluate the discovery for eligibility for listing in the National Register of Historic Places (National Register) and/or the effects of the undertaking on historic properties.
2. The Grant Recipient will take all reasonable measures to avoid or minimize harm to the property until PHMSA has completed consultation with the SHPO, participating Tribe(s)/Nation(s), and any other consulting parties. They will require the contractor to immediately cease all ground disturbing and/or construction activities within a 100-foot radius buffer zone of the discovery, which PHMSA may reduce or expand based on SHPO standards. For any discovered archeological resources, the Grant Recipient will also halt work in surrounding areas where additional subsurface remains are reasonably expected to be present.
3. The Grant Recipient will ensure that no excavation, operation of heavy machinery, or stockpiling occurs within the buffer zone. The Grant Recipient will secure the buffer zone through the installation of protective fencing. The Grant Recipient will not resume ground disturbing and/or construction activities within the buffer zone until the specified Section 106 process is complete. Work in all other Project areas may continue.
4. Following notification of an unanticipated discovery or effect, the Grant Recipient, in coordination with PHMSA, the Section 106 POC, and consultants as appropriate, will investigate the discovery site and evaluate the resource(s). The Grant Recipient or their consultant will prepare and submit a written document containing a proposed determination of National Register eligibility for the resource and/or, if relevant, an assessment of the Undertaking's effects on historic properties. PHMSA may elect to assume eligibility and/or adverse effects for expediency.
5. If the unanticipated discovery is determined to be eligible for listing in the National Register and/or adverse effects cannot be avoided, the Grant Recipient, in coordination with PHMSA, will propose in writing to SHPO and participating Tribe(s)/Nation(s) and consulting parties, treatment measures to resolve adverse effects.
6. If it is necessary to develop treatment measures, the Grant Recipient, in coordination with PHMSA, will implement the approved treatment measures. The Grant Recipient will ensure construction-related activities within the buffer zone do not proceed until consultation with SHPO, Tribe(s)/Nation(s) and other consulting parties concludes with: 1) a determination that the resource is not National Register-eligible or there are no new adverse effects; 2) the agreed upon treatment

measures have been implemented; or 3) it has been agreed that the treatment measures can be completed within a specified time period after construction-related activities have resumed.

B. Unanticipated Discovery of Human Remains

If the unanticipated discovery includes what is or suspected to be human remains, the Grant Recipient will implement the following procedures. At all times human remains must be treated with the utmost dignity and respect. Human remains or associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be photographed, collected or removed until appropriate consultation has taken place and a plan of action has been developed. We advise construction personnel to cease construction and for the Grant Recipient to consult with the PHMSA to address post-review concerns. Each step within these procedures will be completed within seven (7) days unless otherwise specified:

1. If marked or unmarked graves, human skeletal remains, or skeletal remains believed to be human are encountered during development, all potential disturbance to the graves, skeletal remains, or associated items (e.g., artifacts, headstones, etc.) must cease and law enforcement be notified in accordance with applicable State statute(s) and to determine if the discovery is subject to a criminal investigation. The Grant Recipient will notify PHMSA and the Section 106 POC within twenty-four (24) hours of the initial discovery.
2. Work in the general area of the discovery will stop immediately and the Grant Recipient will immediately secure and protect the human remains and any associated artifacts in place in such a way that minimizes further exposure or damage from the elements, looting, and/or vandalism. The Grant Recipient will ensure a perimeter with a 100-foot radius buffer zone around the discovery is established where there will be no excavation, operation of heavy machinery, or stockpiling. PHMSA may reduce or expand this buffer zone based on SHPO standards. The Grant Recipient will secure the buffer zone through the installation of protective fencing at minimum. The Grant Recipient will not resume ground disturbing and/or construction activities within the buffer zone until the specified Section 106 process is complete. Work in all other Project areas may continue.
3. If a criminal investigation is not appropriate, the Grant Recipient will ensure compliance with any applicable State and local laws pertaining to human remains, funerary objects, and cemeteries. Discoveries of human remains on Federal or Tribal lands shall be subject to the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC §3001-3013, 18 USC § 1170); and the Archaeological Resources Protection Act (ARPA) (14 USC § 470), as applicable. PHMSA, in coordination with the Grant Recipient, will consult with the appropriate Tribe(s)/Nation(s) and consulting parties.
4. In the event the human remains encountered are of Native American origin, PHMSA, in coordination with the Grant Recipient, will consult with the appropriate Tribe(s)/Nation(s) and SHPO to determine treatment measures for the avoidance, recovery or reburial of the remains and any associated artifacts. When applicable, PHMSA and the Grant Recipient will follow the principles within the ACHP's Policy Statement on Burial Sites, Human Remains, and Funerary Objects, dated March 1, 2023.
5. If the remains are not of Native American origin, the Grant Recipient, in coordination with PHMSA, will consult with the SHPO and participating consulting parties to determine if the discovery is a historic property, take into account the effects on the historic property, and resolve adverse effects, as appropriate.
6. If it is necessary to develop treatment measures, the Grant Recipient, in coordination with PHMSA, will implement the approved treatment measures. The Grant Recipient will ensure ground disturbing and construction-related activities within the buffer zone do not proceed until consultation with the SHPO, consulting Tribe(s)/Nation(s) and participating consulting parties

concludes with: 1) a finding that the resource is not National Register-eligible or there are no new adverse effects; 2) the agreed upon treatment measures have been implemented; or 3) it has been agreed that the treatment measures can be completed within a specified time period after construction-related activities have resumed.

7. The Grant Recipient, in coordination with PHMSA, will also ensure ground disturbing and construction-related activities within the buffer zone do not proceed until the Grant Recipient has complied with all applicable State or local cemetery or burials laws.

Points of contact are as follows:

- PHMSA: Matt Fuller - (217) 707-8169; Matt.Fuller@dot.gov
- Section 106 POC (Volpe): Kathering Giraldo – (857) 320-1359; PHMSA106@dot.gov