

August 3, 2016

Mr. Darrell Nitschke, Executive Secretary
North Dakota PSC
600 East Boulevard Ave, Dept 408
Bismarck, ND 58505-4080

Via email and hand delivery

**Re: Notice of Potential Violation
Sacagawea Pipeline Company, LLC
16-inch Crude Oil Pipeline – McKenzie & Mountrail
Case No. PU-15-114**

Commissioners:

Our firm has been retained to represent the interests of Intervenor Laborers District Council of Minnesota and North Dakota ("Laborers Union"). The Laborers Union was granted intervention by order of Administrative Law Judge Patrick Ward, dated March 29, 2016.

The Laborers Union has been contacted by a former laborer for Boyd & Company, the contractor selected to and which conducted the construction work for the subject pipeline. Based on the statement from this laborer, it appears that the construction process of the pipeline is not in accordance with the Public Service Commission's Findings of Fact, Conclusions of Law, and Order dated May 24, 2016.

Specifically, the PSC's Findings indicate that "The Project will be designed, constructed, operated, and maintained in compliance with Code of Federal Regulations Title 49 Part 195, Hazardous Liquids Pipeline Safety Regulations." Pursuant to 49 C.F.R. § 195.561, a contractor "must inspect all external pipe coating ... just prior to lowering the pipe into the ditch or submerging the pipe... [and] must repair any coating damage discovered." As is explained in the attached statement from Kenny Crase, it appears that the obligatory final inspection was not completed. More alarming, however, is the potential that a pipeline is being constructed beneath Lake Sakakawea with damaged coating.

Also attached is an affidavit from Evan Whiteford, who is employed by the Laborers Union. Mr. Whiteford's affidavit documents what he views as a failure by Boyd & Company to utilize best practices and generally to conduct its operations in a reasonable manner. While the Laborers Union may not have provided this additional information otherwise, in light of the potential serious violation described by Mr. Crase, the Laborers Union feels compelled to point out other potential issues that the PSC might want to review and inspect, in its discretion.

North Dakota Public Service Commission

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Sincerely,



Derrick Braaten

Copy: Illona Jeffcoat Sacco (*via email to ijs@nd.gov*)
Lawrence Bender (*via email to lbender@fredlaw.com*)
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Patrick Ward (*via email to pward@zkslaw.com*)

Enclosures

My name is Kenny Crase, and I currently live in Stanley, North Dakota. I have 34 years of experience in the construction industry, beginning as a mason tender and bricklayer in St. Louis, Missouri. My wife and I moved to North Dakota at the beginning of the oil boom because there wasn't enough work in St. Louis.

Since moving to North Dakota, I have gained an extensive knowledge of pipeline construction working as a pipeline laborer and inspector for several contractors and inspection companies, including Alpha Oil & Gas and B&B inspections.

My most recent job was for pipeline contractor Boyd & Company, where I worked as a laborer on the coating crew helping to build the Sacajawea Pipeline. I was hired by Boyd around March 1, 2016 and worked for the company until I was told I had been let go on July 16, 2016.

I was familiar with Boyd before I took the job on the coating crew because I was an inspector on pipeline work where the company was responsible for directional drills. I was not eager to work for Boyd based on what I had seen as an inspector, but there wasn't enough inspection work available after oil prices collapsed and I needed a paycheck. I also had previous experience working with the coating

foreman, Mike Conrad, at Alpha, and I thought he would run a good crew.

There were a lot of headaches and delays in the coating process, especially on the roughly two-mile bore pipe that was pulled under Lake Sakagawea. In my opinion, most of the problems were caused by the coating material they used and the fact that the inspectors couldn't seem to get on the same page about what they wanted. There were two different inspection companies: Optimal Energy on the reservation and SDI off the reservation, and we went through multiple coating inspectors who had different ideas about what they wanted the pipe to look like. One inspector made us re-do all of our work because she said the second was applied outside the "cure window" even though the manufacturer's specifications said it was fine.

We were told the pull for the lake bore was scheduled on or about Saturday, July 16. By the day before, our crew spent had about three weeks on the coating of the lake bore pipe. We would start at one of the pipe using a Holiday Detector (we called it the jeep) to identify defects in the coating. Each time we found a defect, we would blast or sand down the place where we found the problem, re-apply the coating, and then babysit it while it cured to make sure the coating fully protected the pipe. When we got to the other end, we would start all over again.

When you're coating the bore pipe, you keep going down the pipe checking for defects and fixing them until you can jeep the whole pipe and not find one. Then it's ready to be pulled through the bore, but while it's being pulled you jeep it one more time as it's coming off the rollers. The pipe should never go underground without a final jeep. But that's exactly what happened on this project.

We worked all day the day before the pipe was pulled under the lake trying to get it ready. On our last pass, we had found and tried to fix about a dozen jeeps, and we were expecting to take at least one more pass in the morning because the reapplication of the coating doesn't always work.

The coating material we used would sag and leave a ridge at the bottom of the pipe, and there was nothing you could do to stop it except wrap it in cellophane, which the inspectors didn't want us to do. The ridge wasn't really a problem for the integrity of the pipe, but the inspector wanted us to remove it anyway so they had us sand it down. We were able to sand the ridges out but the pipe was discolored where we sanded it.

An inspector from Phillips 66, which is one of the owners of the Sacagawea Pipeline, came by late that day. and I guess he wanted

the color to be uniform because we were told that we were going to have to reapply so the it looked the same all around the pipe.

Armaido told me that we were going to have reapply coating that night to make it uniform, and I said then you're going to need to bring out lights because it was already getting late. Then he changed his mind and told us we could knock off for the day. I figured we would have a chance to do a final jeep and fix any remaining defects in the morning.

Instead, early the next morning, they started setting up for the pull, even though the pipe had never made it through a final jeep. I remember the day not only because of what happened but because there was rain and some lightning, and they had people in their equipment.

We were ready to jeep the pipe as it was coming off the rollers into the bore, but the General Superintendent told us to stay in our trucks because we weren't going to be allowed jeep the pipe. I knew if was wrong, but he said the inspector had signed off on it, and I didn't think there was anything I could do to stop it.

The pull that Michels did was quick and efficient, the fastest I've ever seen, but I kept thinking about what would happen to the lake if the pipe corroded because it wasn't properly inspected. Once the pull

was finished, we were told we were being let go because Clive, who was Boyd's guy in charge of us had decided that we took to long to finish the coating.

There were safety and other problems on the project, for example Boyd consistently used incredibly steep, unsafe bore pits, and a lot of times the inspectors weren't around to inspect the work. But pulling a pipe that hadn't been properly inspected under Lake Sakagawea was probably the worst decision I've ever seen a pipeline contractor make. I was told they expected to have bigwigs there for the pull, although I didn't see any, and I was told it was going to cost \$100,000 a day to have Michels onsite waiting for the pipe, but I still don't understand why any company would put the lake at risk like that.

I declare under penalty of perjury that the foregoing is true and correct.

Kenny Erase
SIGNATURE

7/28/16
DATE

approximately two miles west of Highway 8, the second two were taken near Highway 8 south of 53rd Street NW, and the last was taken at 59th Street west of 80th Avenue NW. Skilled pipeline workers are taught never to place pipe on the ground because rocks and dirt can scratch the factory coating, which can contribute to corrosion and integrity problems down the line.







The photo below, taken near 53rd Street NE east of Highway 8 in Mountrail County, shows an excavator working near overhead power lines without a spotter. In my experience a responsible contractor will not allow use heavy equipment in the vicinity of a live power line without a spotter because contact with the line can injure or kill the operator in addition to the potential for damage to the equipment and the power system.



The next two photos, taken near 59th Street west of 80th Avenue NW, shows construction activity along a road that has not been adequately posted to warn drivers of potential hazards

ahead. In this situation, there should be signs and the flagger should be more visible for the safety of drivers and the crew.



The photos below – the first taken 59th Street west of 80th Avenue, the second taken near 49th Street approximately two miles west of Highway 8, and the rest taken two miles west of 92nd Avenue NW on an unnamed road south of Newton – show collapsed safety fence near road crossings that is no longer helping to protect people, animals, or vehicles from injury or damage that can result from a fall into a bore pit.







The next photo, taken in the vicinity of 60th Street a mile west of 79th Avenue, shows a section of the right-of way where heavy equipment has obviously been moved across unprotected wetland, leaving a clear set of tracks. Heavy equipment can permanently damage fragile wetland soil and vegetation, which is why a responsible contractor will use a mat bridge when wetland crossings are unavoidable.



The photos below show areas where the contractor has failed to properly install or maintain silt fence or other erosion controls. Skilled pipeliners are trained to install and maintain proper erosion controls, because erosion can kill wetland vegetation, while removing topsoil necessary to sustain native plant life or cultivation on exposed areas. The following photo shows a section of the right-of-way on 53rd Street NW East of Highway 8 in Mountrail County where no silt fence has been put in place to prevent runoff into a wetland.



The next two photos, taken at a location east of 87th Avenue on an unnamed road in Mountrail County, show an area where silt fence was installed but then evidently run over and neglected.



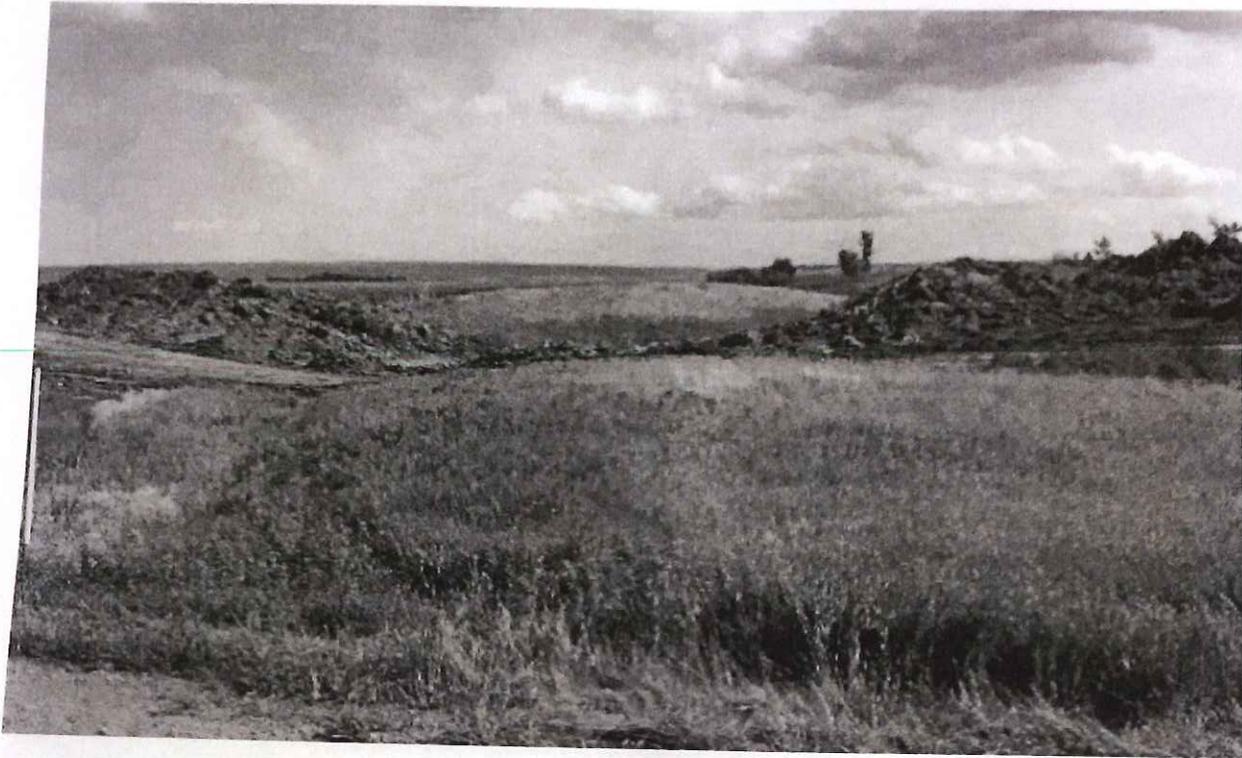


The photos below show locations along the right-of-way where there is clearly no silt fence in place to protect a wetland area. The first photos was taken near 80th Avenue NW north of 59th Street NW; the second two were taken approximately a half-mile west of 87th Avenue NW along an unnamed road north of Newtown; and the remainder were taken about two miles west of 9nd Avenue NW on an unnamed road soth of Newtown.









The above is true and correct to the best of my knowledge.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Signed _____

Subscribed and sworn to before me

this 2 day of AUG, 2016.

Notary Public _____

