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July 31, 2008

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GLORIA GEIGER  
ACTING EXECUTIVE SECRETARY  
PUBLIC SERVICE COMMISSION  
600 EAST BOULEVARD, DEPT 408  
BISMARCK ND 58505-0480

PUBLIC SERVICE COMMISSION

Re: NuStar Pipeline Operating Partnership, LP  
PSC Case No: PU-08-194  
Our File No. 12607

Dear Ms. Geiger:

Enclosed for filing is an original and seven copies of a Request to Withdraw Application for Certificate of Public Convenience and Necessity and Affidavit of Service. An electronic copy will be submitted to the Public Service Commission separately.

If you have any questions, please feel free to contact me.

Sincerely,



Todd D. Kranda

TK:ls  
Encs

c: NuStar Pipeline Operating Partnership, LP  
Attorney Illona Jeffcoat-Sacco  
Attorney Erik R. Johnson  
Attorney John Dingess



20 PU-08-194 Filed: 7/31/2008 Pages: 8  
Request to Withdraw Application for Certificate of  
Public Convenience & Necessity

NuStar Pipeline Operating Partnership, L.P.

KelschKelschRuff&Kranda, Todd Kranda

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NORTH DAKOTA

NUSTAR PIPELINE OPERATING PARTNERSHIP, L.P. )      CASE NO. PU-08-194  
NORTHERN PRODUCT SYSTEM )  
PUBLIC CONVENIENCE AND NECESSITY )

**REQUEST TO WITHDRAW  
APPLICATION FOR CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY**

NuStar Pipeline Operating Partnership, L.P. (NuStar Pipeline) hereby requests that the North Dakota Public Service Commission (Commission) approve the withdrawal of the recently filed April 23, 2008 Application of NuStar Pipeline for a Certificate of Public Convenience and Necessity for its North Product system located in Morton, Burleigh, Kidder, Stutsman, Barnes and Cass Counties, North Dakota. After further investigation and legal research into the matter NuStar Pipeline has determined that it is not necessary for NuStar Pipeline to seek or obtain a Certificate of Public Convenience and Necessity.

**PRELIMINARY STATEMENT**

On April 8, 2008, NuStar Pipeline Operating Partnership, L.P. issued North Dakota Public Service Commission Tariff No. 2 for its North Product System (“North Product System” or “Pipeline”) to reflect the change in company name from “Kaneb Pipe Line Operating Partnership, L.P.” (“Kaneb”) to “NuStar Pipeline Operating Partnership, L.P.” (“NuStar Pipeline”). On April 24, 2008, NuStar Pipeline filed its Application of North Product System for a Certificate of Public Convenience and Necessity to Operate the North Product System (PCN) before the Public Service Commission.

On June 30, NuStar Pipeline received notice of the City of Fargo’s Petition to Intervene

to Appear as a Party and Comments, and Request for Hearing. NuStar Pipeline and Fargo agreed to extend the deadline for NuStar Pipeline's response to July 31, 2008 and the Commission approved this extension.

**I. Historical Background of the North Product System Pipeline**

The North Product System is a common carrier pipeline that transports refined products (primarily gasoline and diesel) from Tesoro Petroleum Corporation's refinery located in Mandan, North Dakota to Roseville, Minnesota with six off-take locations along the route. Terminaling services are provided at the following locations: Jamestown, North Dakota; Moorhead, Minnesota; Sauk Centre, Minnesota; and Roseville, Minnesota. A map showing the location of the North Product System Pipeline is attached hereto as **Exhibit A**. The North Product System (pipeline and terminals) is owned by NuStar Pipeline, a limited partnership, organized and existing under the laws of the State of Delaware.

The North Product System was originally constructed by Amoco Oil Company (Amoco) in 1958 as a proprietary pipeline to transport petroleum products from Amoco's Mandan, North Dakota refinery to Roseville, Minnesota. Tesoro Petroleum Corporation ("Tesoro") purchased the North Product System and the Mandan Refinery in September, 2001 from BP Corporation North America Inc. and Amoco Oil Company (collectively "BP").

In December 2002, Kaneb purchased the North Product System from Tesoro. At the time of this purchase, Kaneb was an experienced pipeline operator, having owned and operated pipelines since 1955. Since that time, the North Product System has been used by Kaneb to transport refined products from Tesoro's Mandan Refinery to Roseville, Minnesota and the terminal locations along the route.

On July 1, 2005, Kaneb was acquired by NuStar Logistics, L.P., a subsidiary of NuStar

Energy L.P. (“NuStar Energy”) via a merger between NuStar Logistics, L.P. and Kaneb’s parent entities.<sup>1</sup> After this acquisition, Kaneb continued to operate as a subsidiary of NuStar Logistics and Kaneb continued to own and operate the North Product System. Further, when NuStar Logistics acquired the Kaneb entities, including what is now known as NuStar Pipeline, it acquired the combined knowledge and decades of pipeline operating experience of Kaneb many of whom are still employed by NuStar today. Effective March 31, 2008, Kaneb Pipe Line Operating Partnership, L.P. changed its name to NuStar Pipeline Operating Partnership L.P. (“NuStar Pipeline”).

## **II. The North Product System Provides an Essential Public Service**

The Pipeline provides essential transportation for the delivery of refined products manufactured at Tesoro’s Mandan Refinery through North Dakota and into Minnesota to meet consumer demand. Pipeline transportation is the safest and most efficient economical cost method of transporting the refined products that are required to serve the citizens of North Dakota. The Pipeline transports approximately 19,000 barrels per day (16.9 million barrels per year) to meet the refined products demand of the citizens of North Dakota via two terminals in Jamestown, North Dakota and the Moorhead, Minnesota terminal which serves the Fargo area. NuStar Pipeline estimates that it would take approximately 110 fuel trucks per day driving across the state of North Dakota to replace the volume of product transported via the Pipeline. It is clear that the Pipeline serves a very critical public need.

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<sup>1</sup> At the time of this acquisition, NuStar Energy L.P. was known as Valero L.P. and NuStar Logistics, L.P. was known as Valero Logistics Operations, L.P. Valero L.P. changed its name to NuStar Energy L.P. effective April 1, 2007. Valero Logistics Operations, L.P. changed its name to NuStar Logistics, L.P. effective April 1, 2007.

**III. No Certificate of Public Convenience and Necessity is required for the North Product System Pipeline.**

The North Product System Pipeline has been in existence for over fifty years, and from the information that NuStar Pipeline has been able to obtain, the North Dakota PSC has never required any of the companies that have operated the pipeline to obtain a PCN. Pursuant to § 49-03.1-01 of the North Dakota Century Code, “*No public utility shall begin construction or operation of a public utility plant or system without first obtaining from the commission a certificate that public convenience and necessity require or will require such construction and operation.*” (Emphasis added) NuStar Pipeline did not *begin construction or begin operation* of the North Product System Pipeline, this pipeline has been in existence for over fifty years, and therefore a PCN is not now required. The Public Service Commission only has the authority conferred upon it by the legislature. Grafton v. Ottertail Power Co., 86 N.W.2d 197 (N.D. 1957)

**IV. NuStar Pipeline is not a Public Utility as defined under North Dakota Law, and is not required to obtain a PCN.**

North Dakota Century Code § 49-03.1-02, defines “public utility” as any person firm or corporation engaged in this state to furnish its product or services to the public generally which is subject to the jurisdiction of the commission. NuStar Pipeline is not engaged in North Dakota to furnish its transportation services to the public generally. NuStar Pipeline is transporting refined products of one company, Tesoro Petroleum Corporation Refinery in Mandan. The Commission has in previous cases, (most recently in Williston Basin Pipeline Company v. Koch Industries, Inc. PU-552-92-442), made a similar determination that the type of service being provided by NuStar Pipeline does not require the issuance of a PCN.

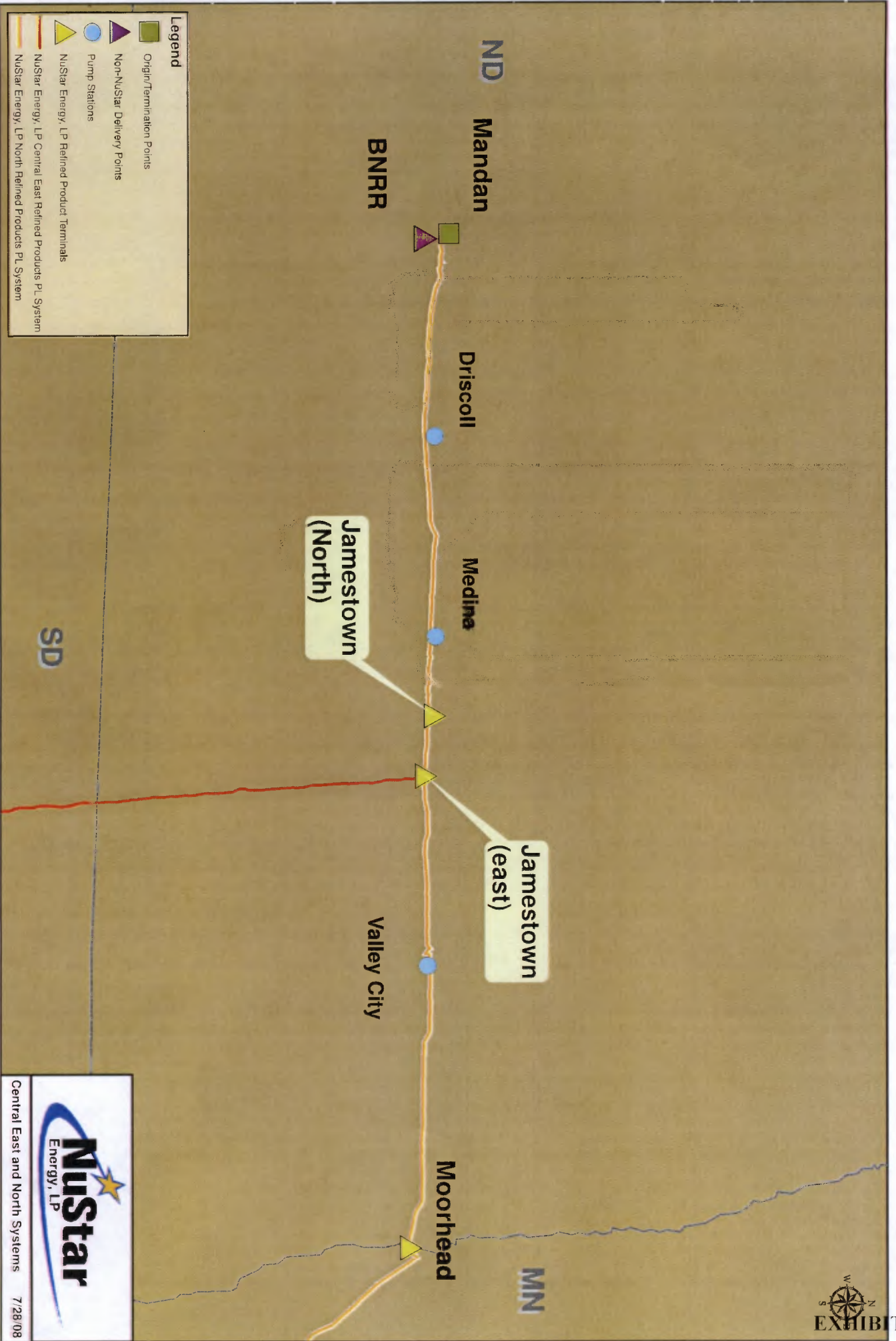
Accordingly, NuStar Pipeline respectfully requests that the pending April 23, 2008 Application of NuStar Pipeline for a Certificate of Public Convenience and Necessity for its North Product System located in Morton, Burleigh, Kidder, Stutsman, Barnes and Cass Counties, North Dakota, be withdrawn without a hearing.

Dated this 31<sup>ST</sup> day of July, 2008.



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ND

Mandan

BNSF

Driscoll

Medina

Jamestown  
(North)

Jamestown  
(east)

Valley City

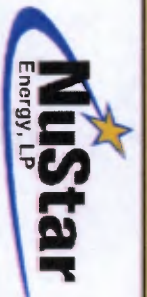
Moorhead

MIN

SD

**Legend**

- Origin/Termination Points
- Non-NuStar Delivery Points
- Pump Stations
- NuStar Energy, LP Refined Product Terminals
- NuStar Energy, LP Central East Refined Products PL System
- NuStar Energy, LP North Refined Products PL System



BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NORTH DAKOTA

NUSTAR PIPELINE OPERATING PARTNERSHIP, LP ) CASE NO. PU-08-194  
NORTHERN PRODUCT SYSTEM )  
PUBLIC CONVENIENCE AND NECESSITY )

**AFFIDAVIT OF SERVICE**

The undersigned hereby certifies that on the 31 day of July, 2008, the undersigned deposited in the United States Post Office at Mandan, North Dakota, a true and correct copy of the following document(s) in the above-captioned action:

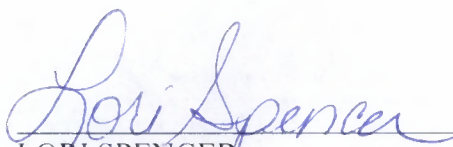
Request to Withdraw Application for Certificate of Public Convenience and Necessity  
Letter to Public Service Commission

That a copy of the above document(s) was securely enclosed in an envelope with postage duly prepaid, and addressed as follows:

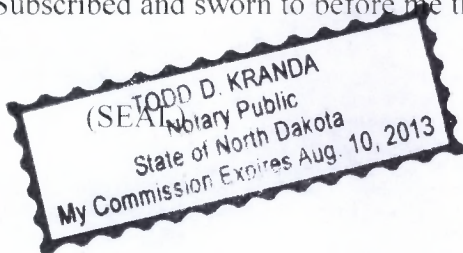
ILLONA JEFFCOAT-SACCO  
ATTORNEY AT LAW  
PUBLIC SERVICE COMMISSION  
600 E BOULEVARD, DEPT 408  
BISMARCK ND 58505-0480

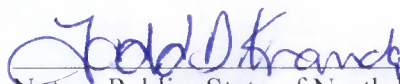
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FARGO ND 58102

  
LORI SPENCER

Subscribed and sworn to before me this 31<sup>ST</sup> day of July, 2008.



  
Notary Public, State of North Dakota