

DAKOTA GASIFICATION COMPANY

A BASIN ELECTRIC SUBSIDIARY

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June 7, 2011

HAND DELIVERED

North Dakota Public Service Commission
State Capitol
Dept. 408
600 East Boulevard Avenue
Bismarck, ND 58505-0480

RECEIVED

JUN 07 2011

PUBLIC SERVICE COMMISSION

Re: Case No. PU-593-96-11
Permit No. 84

Dear Ladies & Gentlemen:

Dakota Gasification Company (**DGC**) received the above-referenced permit on December 31, 1998 from the North Dakota Public Service Commission (the **Commission**) authorizing the construction in North Dakota of approximately 167 miles of high-pressure (2700 psi design pressure for 14-inch segment, 2,964 psig design pressure for 12-inch segment) carbon dioxide pipeline across Mercer, Dunn, McKenzie, Williams and Divide Counties. As noted in the Commission's Finding of Fact in the above-referenced case, the carbon dioxide stream carried in this pipeline contains up to 2% hydrogen sulfide. Condition 15 of the permit states: "DGC's obligation for reclamation and maintenance of the right-of-way shall continue throughout the life of the pipeline." DGC is writing to the Commission with respect to this condition and related matters as we have suffered a great deal of degradation to our right-of-way as the result of the actions of a third party.

On May 25, 2011, during the course of a routine patrol of the pipeline, DGC discovered that a butte located in Dunn County located north of our mainline valve no. 3 and just south of the Little Missouri River crossing had caved-in leaving our pipeline exposed in two areas. We have attached as Exhibit 1 a collection of photographs taken shortly after our discovery of the cave-in. DGC's pipeline is the upper pipeline of the two exposed pipelines that appear in the pictures. After an evaluation, DGC took the following actions: lowered the pipeline pressure to approximately 1,000 psi, suspended carbon dioxide deliveries to our two Canadian customers pending further investigation and provided the appropriate notification to the Office of Pipeline Safety. We have since employed engineering experts who have informed us that the longitudinal and bending stresses on the pipeline that occurred as a result of the cave-in are such that the exposed pipeline, as well as 50 feet on either side of the exposed area, must be replaced. Accordingly, this week we are completely de-pressurizing the line so as to perform the necessary work.

On September 22, 2010, the Commission issued Route Permit No. 125 to Bridger Pipeline LLC (**Bridger**) authorizing construction of approximately 77 miles of 12-inch crude oil pipeline. As approved by the Commission, the northern 37-mile half of Bridger's pipeline generally parallels DGC's carbon dioxide pipeline. Bridger constructed its pipeline over the winter of 2010-2011. On December 9, 2010, one of Bridger's contractors struck our carbon dioxide pipeline twice requiring

that DGC lower the pressure of the pipeline, suspend deliveries to our Canadian customers and recoat the pipeline. Prior to construction, our field personnel met and DGC forwarded to Bridger a copy of our shape files providing the "as-built" location of the DGC carbon dioxide line.

Subsequent to this accident, we learned that Bridger was not aware that they had received these shape files. After consulting these shape files and Bridger's construction plans, DGC insisted that Bridger maintain a minimum distance of fifty feet, centerline to centerline, between the two pipelines for the then un-built balance of their project and doing so, we were able to prevent any further such incidents.

A review of the area of the cave-in leads DGC to believe that the cave-in was caused by slipshod construction practices on Bridger's pipeline. We note that Bridger's contractor had left a ridge of spoil material on the downhill side of DGC's right-of-way which presumably caused water to build up, pool and apply downhill pressure on Bridger's pipeline and trench. We note that it appears Bridger did not use appropriate backfill materials and also failed to compact its backfill. Finally, it appears to us that the Bridger's pipe was laid on backfill instead of being properly laid on the bottom of the trench.

As DGC was concerned that the poor construction methods employed at this location might be representative of the entire Bridger pipeline as it parallels DGC's carbon dioxide pipeline, we inspected the parallel line last week. Our concern was and is that there may be other areas where Bridger has jeopardized the lateral or sub-adjacent support of our carbon dioxide pipeline such that there may be similar movement of our pipeline whether or not a full cave-in occurs and whether or not apparent from surface conditions.

The attached photographs, which were taken on June 2, 2011, corroborate our suspicions. The photographs set forth in Exhibit 2 were taken in Section 35, T148N, R96W, Dunn County and illustrate that the Bridger pipe is exposed in several areas and that there are similar ridges of spoil material on the DGC right-of-way. The photograph labeled 006 shows a cut-out as a result of the complete lack of erosion control. Photograph 007 shows another hillside wash-out. The Exhibit 3 photographs were taken in Section 2, T147N, R96W, Dunn County and illustrate a similar pool of water in the Bridger right-of-way. The photographs in Exhibit 4 were taken on the north side of the Little Missouri crossing in Sections 23 and 26, T148N, R96W, Dunn County. Please note that in the photograph labeled 010 that there is less than 30 feet centerline to centerline. The photographs labeled 011 and 012 illustrate a large cut-out of a hillside. They, too, indicate the exposed Bridger pipeline. We were quite surprised to find a Caterpillar dozer buried in the Bridger right-of-way as shown in picture 025 in Exhibit 5 taken in Sections 6 and 7, T148N, R95W, Dunn County. Photograph 021 shows a cut-out approximately 20 feet wide. Photograph 022 raises the question as to whether the Bridger pipeline was undermined (look on opposite hill). The final set of pictures set forth in Exhibit 6 were taken in Sections 20 and 28, T149N, R95W, Dunn County and again illustrate the lack of proper backfilling and the use of the native material for this backfilling. Picture 026 again shows a large cut-out without any erosion control present. Photograph 029 shows severe damage to the hillside.

In addition to the foregoing, we note that Bridger has built its pipeline right through the road we constructed to our mainline valve 3. This will require construction of a new road as access to this valve site is vital to our ability to perform work on the valve. Given the damage that Bridger has done to the DGC right-of-way, DGC requests that the Commission order Bridger to restore the DGC right-of-way to the condition it was in prior to Bridger's construction of its oil pipeline, as well as replace the road Bridger destroyed leading our mainline valve no. 3.

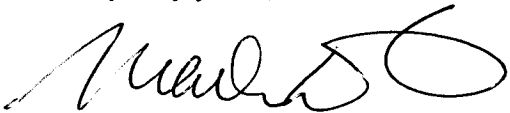
As a related matter, while DGC understands and generally supports the Commission's policy with respect to establishing corridors to accommodate pipelines and transmission lines that cross the State so as to minimize the impact these facilities have on the people and resources of the State, DGC requests that the Commission revisit this policy with respect to maintaining a minimum distance between facilities and, in particular, a minimum distance away from high-pressure pipelines containing carbon dioxide and/or hydrogen sulfide.

As noted in the Commission's Findings of Fact in the DGC pipeline case, carbon dioxide is heavier than air, so it will displace oxygen if allowed to accumulate in low lying areas. The analysis provided to the Commission indicated that a lethal concentration of carbon dioxide could occur as far away as 760 feet from a rupture of the pipeline or 230 feet from a leak and that a one-minute exposure to this concentration of carbon dioxide would be fatal. Again, as also noted by the Commission in its Findings, hydrogen sulfide is also heavier than air and concentrations could occur in surface depressions. Lethal concentrations of hydrogen sulfide could occur as far away as 620 feet from a rupture or 230 feet from a leak. A five-minute exposure to this concentration of hydrogen sulfide could be lethal.

While it is difficult for us to imagine why Bridger would elect to build its oil pipeline so close to DGC's carbon dioxide pipeline, we are now left with a situation where any time either party is performing repair or maintenance work on its pipeline, we will likely be crossing over the other's right-of-way and pipe and will likely be performing work or temporarily placing material in the other's right-of-way. Given the risk parameters with respect to a pipeline which operates to provide carbon dioxide containing up to two percent hydrogen sulfide at a pressure of 2,200 psi as it is delivered in Canada, DGC believes it would be appropriate for the Commission to undertake rulemaking that would require that, where possible: (1) a minimum distance be maintained from facilities posing a potential greater threat to the public; (2) steps be taken to avoid or minimize crossings of such facilities; and (3) require that to the extent possible, such crossings be at ninety-degree angles to the pipeline.

Finally, we think it also might be prudent for the Commission to investigate the practicality of constructing pipeline projects during the winter months given the limited ability to access appropriate backfill material.

Very truly yours,



Mark D. Foss
General Counsel

mdf/mw

Enclosures: Exhibits 1-6































Picture 006.jpg





Picture 008.jpg

Exhibit 2



Picture 009.jpg













Picture 028.jpg







Picture 021.jpg



Picture 022.jpg







Picture 017.jpg





Picture 019.jpg