

BADLANDS CONSERVATION ALLIANCE
A VOICE FOR WILD NORTH DAKOTA PLACES

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North Dakota Public Service Commission
600 E Boulevard, Dept. 408
Bismarck, ND 50505-0480

RE: ND PSC Public Hearing on PU-10-218, Watford City, ND

Dear Public Service Commissioners:

I am submitting this testimony on behalf of Badlands Conservation Alliance, a non-profit organization focused on management and thoughtful protection of public lands and natural resources in western North Dakota. We have no economic gain in this arena, but rather a deep respect for North Dakota, her values, our communities, and what the landscape brings to us.

We would like to point out that Theodore Roosevelt National Park makes up one-fifth of one-percent of the land area of North Dakota. In three discrete units throughout the larger Little Missouri Valley – home to a North Dakota State Scenic River – the National Park is surrounded by the 1.1 million-acre Little Missouri National Grassland, which in itself makes up only 2.4-percent of the land area of North Dakota.

The Bakken Formation in North Dakota covers over 14,000 square miles, or twenty-percent of the state. Additional oil-bearing formations including the Three Forks, Spearfish, and Tyler are under early development and will expand the oil patch in North Dakota well beyond the Bakken. Direct and indirect impacts on communities - both good and bad - are already extending over nearly half of the state.

We live in a hugely transformative time. We have difficult and deeply consequential decisions to make. They are decisions not only for ourselves and for our children, but for generations to come. BCA acknowledges the benefits to individuals, communities, our State and the Nation that come with oil development. We also recognize the need to be comprehensive and thoughtful in our planning.

The proposal before the Commission today is not merely about a crude-oil pipeline. It is about a decision that will or will not lead to irreversible industrialization of a travel corridor that runs the length of the Little Missouri National Grassland and connects the two largest units of Theodore Roosevelt National Park. These lands are held in trust not just for North Dakotans, but for the entire nation.

BCA does not support any waiver of procedures or time schedules relating to this project, and would assert that the corridor and route proposed by BakkenLink Pipeline, LLC is contrary to the North Dakota Administrative Code that directs the work of the North Dakota Public Service Commission. Indeed, we find it contradictory to environmental preservation and to the efficient use of resources.

Under Administrative Code **Chapter 69-06-08-02: Transmission facility corridor and route criteria:**

1. **Exclusion areas.** *The following geographical areas shall be excluded in the consideration of a route for a transmission facility.*

Under a. – National Park

The proposed route currently runs through the administrative boundary of the North Unit of Theodore Roosevelt National Park. Plain and simple, this is not acceptable. Furthermore, BCA asks that this exclusion area be delineated on all associated maps.

Under d. and e. – Species protection

Sprague's pipit is a ND Level I Species of Concern. The US Fish and Wildlife Service has determined that the Sprague's pipit warrants protection under the Endangered Species Act and holds it as a candidate species until a listing proposal is prepared. Further habitat fragmentation and disturbance will exacerbate listing. The Service has stated that the pipit requires large patches of prairie (170 to 776 acres) for nesting and that the impact of an object or disturbance is much larger than the actual footprint.

Similarly, scientific research is showing that golden eagles as protected by the Bald and Golden Eagle Protection Act are dependent upon their larger territorial bounds and not merely their annual nest sites, which vary from year to year.

The ND Game and Fish *Impacts of Oil and Gas Development on Select North Dakota Natural Resources* report of May 2011 repeatedly states:

It should be incumbent upon all North Dakotans that the jobs and revenue associated with the O/G industry could come with a cost; namely, diminished hunting and outdoor recreational opportunities through the loss of primary habitat due to direct and indirect effects of O/G development that sustains the wildlife populations that are so highly valued by the state's citizens.

2. **Avoidance Areas.** *The following geographical areas shall not be considered in the routing of a transmission facility unless the applicant shows that under the circumstances there is no reasonable alternative...Economic considerations alone shall not justify approval of these areas.*

Under a. – National Grasslands

The Little Missouri is a National Grassland. BCA asks that this avoidance area be delineated on all associated maps.

Under d. – Areas which are geologically unstable.

The Badlands breaks of the Little Missouri River, the Missouri River, and the larger Little Missouri National Grassland have demonstrated their inherent geological instability in no uncertain terms in the last few years. This instability is a threat to pipeline safety/integrity, as well as human health and well-being.

Returning to the opening language of **Avoidance Areas:** National Grasslands "...Shall not be considered in the routing of a transmission facility." A key word here is the "unless" that follows. BCA would insist that discussion by BakkenLink Pipeline, LLC in its original Corridor Certificate/Route Permit Application of June 21, 2011, page 31, puts forward at least two alternative routes that have not been given full or reasonable consideration.

The language is as follows:

- 1) *Two different routing options through/around the LMNG were explored. The first generally followed the proposed Bridger pipeline route around the east side of the grasslands, and*
- 2) *The second routing option was considered at the request of the USFS. Representatives of USFS initially indicated the preference for a route paralleling the Northern Border Pipeline Company natural gas pipeline, northeast of the proposed route, instead of the more direct route south of Watford City to Belfield.*

The existence of these two potential routes nullifies the "unless" and requires that this proposed route through and adjacent to the Little Missouri National Grassland be withdrawn.

Additionally, the introductory paragraph for NDA 69-06-08-02 states, *Exclusion and avoidance areas may be located within a corridor, **but at no given point shall such an area or areas encompass more than fifty percent of the corridor width** unless there is no reasonable alternative.*

We have already determined that reasonable alternatives exist. A serious default also presents itself in that a minimum of three areas exhibit over 50 percent, and up to 100 percent, of the corridor composed of avoidance areas. We cite for your convenience Appendix B of the September 22, 2011 Amendment to Application:

Figure 2 - US Army Corps of Engineers and US Forest Service lands south of the crossing of the Missouri River.

Figure 7 - Little Missouri National Grassland

Figure 8 - Little Missouri National Grassland

This is contrary to Administrative Code.

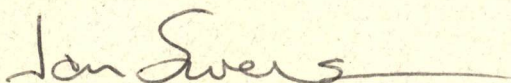
It is BCA's understanding that the Bureau of Land Management is the lead federal agency in conducting an Environmental Assessment on this proposed BakkenLink Pipeline project. We encourage their inclusion of a full range of alternatives that address the concerns BCA states above. We also welcome the opportunity for a broader public process on a project as significant in cumulative impacts as this proposed project.

Already this proposed pipeline is tied to a proposed rail transport facility in Fryburg that threatens the South Unit of Theodore Roosevelt National Park. To be located on a northern slope that faces the Park boundary a mile and a half distant, impacts to the Park will certainly include viewshed impingement, noise and light pollution, and increased commercial traffic and dust.

Our National Park and National Grasslands are being swallowed up by an industrializing landscape. It is our duty as North Dakota citizens to speak for those national public lands with which we have been entrusted. If we want a remnant of our home landscape to remain, we must act. There are natural resources of even more enduring value than what we dig, drill or otherwise develop. It is those natural resources for which we speak.

Badlands Conservation Alliance thanks you for this opportunity to comment.

Respectfully,



Jan Swenson, ED
Badlands Conservation Alliance