

November 9, 2011

VIA HAND DELIVERY

Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

RECEIVED

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PUBLIC SERVICE COMMISSION

**RE: BAKKENLINK PIPELINE, LLC
CRUDE OIL PIPELINE – WILLIAMS TO
BILLINGS COUNTIES
CASE NUMBER PU-10-218**

Dear Mr. Nitschke:

Enclosed for filing are an original and ten (10) copies of the proposed Findings of Fact, Conclusions of Law and Order Granting Corridor Certificate and Route Permit. Also enclosed is a CD containing the enclosed document noted above and this letter in PDF format.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

MOLLIE M. SMITH

MMS/tsv
Enclosures

cc: Mr. Steve Griesser (*via email w/enclosure*)

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STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BakkenLink Pipeline LLC
Crude Oil Pipeline – Williams to Billings County
Siting Application

Case No. PU-10-218

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER GRANTING
CORRIDOR CERTIFICATE AND ROUTE PERMIT**

November __, 2011

Appearances

Commissioners: Tony Clark, Kevin Cramer, and Brian P. Kalk.

Lawrence Bender and Mollie M. Smith, Attorneys-at-Law, Fredrikson & Byron, P.A., 200 North Third Street, Suite 150, Bismarck, North Dakota 58501, on behalf of BakkenLink Pipeline LLC.

Matthew Sagsveen, Assistant Attorney General, North Dakota Office of Attorney General, 600 E. Boulevard, Dept. 125, Bismarck, North Dakota 58505, on behalf of the North Dakota Public Service Commission.

Patrick Fahn, Director – Compliance and Competitive Markets Division, Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505, on behalf of the North Dakota Public Service Commission.

Al Wahl, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street – Suite 303, Bismarck, ND 58503, as Procedural Hearing Officer.

Preliminary Statement

Under North Dakota Century Code, Section 49-22-07, a utility may not begin construction of a transmission facility in the state without first having obtained a route permit. The facility must be constructed, operated, and maintained in conformity with the permit and any terms, conditions, or modifications of the permit.

On June 21, 2011, BakkenLink Pipeline LLC (“BakkenLink”) filed with the North Dakota Public Service Commission (“Commission”) a consolidated application for a Certificate of Corridor Compatibility and Route Permit (“Application”) to authorize construction of a crude oil pipeline project (“Project”) in Billings, Dunn, McKenzie, Stark and Williams Counties, North Dakota.

BakkenLink also requests that the Commission waive the following requirements: (1) that the Commission hold a separate hearing on BakkenLink’s waiver request, Certificate of Corridor Compatibility application and Route Permit application; (2) separately filed

applications for a Corridor Certificate and a Route Permit, and separate publication of notices of filing the applications; and (3) the submission of mylar maps and stereo-pair aerial photographs, per the Commission's Application Guidelines for a Corridor Certificate and a Route Permit.

On August 3, 2011, the Commission deemed the application of BakkenLink complete and issued a Notice of Filing and Notice of Hearing scheduling a hearing for September 1, 2011, at 10:00 am at the McKenzie County Court House, 201 5th Street NW, Watford City, North Dakota.

On August 30, 2011, the Commission issued a Notice of Continued Hearing.

On September 7, 2011, the Commission issued a Notice of Continued Hearing rescheduling the public hearing for October 25, 2011 at 9:00 am CDT at the McKenzie County Court House, 201 5th Street NW, Watford City, North Dakota.

The Notice of Continued Hearing identified the following issues to be considered:

1. Is the proposed facility of such length, design, location, or purpose that it will produce minimal adverse effects, or, does a demonstrable emergency exist which requires immediate construction and that adherence to the procedures and time schedules would jeopardize the utility's system?
2. Will the location, construction, and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
3. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
4. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On September 22, 2011, BakkenLink filed an Amendment to its Application.

On October 25, 2011, the public hearing was held as scheduled.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed and considered all testimony and evidence presented, the Commission makes the following:

Findings of Fact

1. BakkenLink is a Delaware limited liability company that is headquartered in Houston, Texas.
2. BakkenLink has been authorized to transact business in the State of North Dakota since February 24, 2011, as evidenced by a Certificate of Good Standing issued by the North Dakota Secretary of State on August 24, 2011.

Size, Type, and Preferred Location of Facility

3. The Project will consist of an underground mainline and two lateral lines that will transport light sweet crude, typical of Bakken production, and six receipt points. The mainline will consist of approximately 123.8 miles of 12-inch pipe extending from Beaver Lodge, North Dakota, to a proposed crude oil rail loading facility located near Fryburg, North Dakota, which is being developed by another entity. The Project's three 8-inch lateral lines will consist of an approximately 1.3-mile-long segment extending from the Arrow Midstream Receipt Point to an interconnection point with the mainline near Johnsons Corner, North Dakota, an approximately 16.4-mile-long segment extending from the Dunn Receipt Point to an interconnection point with the mainline approximately 30 miles north of Belfield, North Dakota, and an approximately 3.6-mile-long segment extending from the Belfield Receipt Point to an interconnection point with the mainline just north of Belfield, North Dakota. The receipt points will be: Beaver Lodge Receipt Point, Williams County; Keene Receipt Point, McKenzie County; Arrow Midstream Receipt Point, McKenzie County; Watford City Receipt Point, McKenzie County; Dunn Receipt Point, Dunn County; and Belfield Receipt Point, Stark County. The Project will be located in Billings, Dunn, McKenzie, Stark and Williams Counties, North Dakota. The total cost of the Project is estimated to be approximately \$126.5 million.

4. The Project will utilize 8-inch and 12-inch steel pipe and the maximum operating pressure will be 1,480 pounds per square inch gauge. The 12-inch mainline will have an initial capacity of 65,000 barrels per day ("bpd"), with a maximum capacity of up to 100,000 bpd. The 8-inch lateral lines will have an initial capacity of up to 15,000 bpd, with a maximum capacity of up to 20,000 bpd.

5. Surface facilities installed as part of the Project will include: receipt point tees; mainline valve assemblies; cathodic test stations; "pig" launchers and receivers; block valves; a SCADA system; and pipeline markers. Some small fenced-in enclosures to house associated power and control systems may be installed to allow valves to be operated remotely.

Need for the Facility

6. BakkenLink has concluded that there is a need for the facility because there is insufficient capacity from existing and planned pipeline infrastructure to meet the anticipated future transportation needs of producers in the Bakken and Three Forks development area, particularly in the area in which the Project will be located. The Project will help address anticipated regional pipeline and outlet constraints as development of the Bakken continues, will encourage development of local gathering systems, and will allow for future outlet connections to other major crude oil transmission systems.

Study of Preferred Route(s)

7. In its application, BakkenLink defined a one-mile wide study area centered on the preferred pipeline route. Within the study area, BakkenLink identified an approximately 200-foot wide survey corridor centered on the preferred pipeline route for the purpose of conducting cultural resource field surveys, biological and wetland/water body field surveys and environmental assessments.

8. BakkenLink analyzed a number of alternatives and factors, including engineering, economic, and environmental factors to determine the most feasible route. The alternatives considered included a no action alternative, market alternatives, existing pipeline alternatives, truck and rail alternatives, and routing alternatives.

9. The following agencies were contacted by BakkenLink and provided written comments: Natural Resource Conservation Service; United States Army Corps of Engineers (“USACE”); United States Department of the Interior – National Park Service; North Dakota Department of Transportation; North Dakota Game and Fish Department; North Dakota Parks and Recreation Department; North Dakota Department of Health (“NDDH”); Job Service North Dakota; and State Historical Society of North Dakota, State Historic Preservation Office (“SHPO”).

10. BakkenLink conducted a Class I literature search on a three-mile wide study area, and a Class III cultural resource inventory was completed on the 200-foot wide survey corridor. Additionally, environmental data collected included information on soils, land use, wetlands and water body crossings, and protected species.

11. The Commission has established criteria pursuant to North Dakota Century Code Section 49-22-05.1 to guide the Commission in evaluating the suitability of granting an application for a Certificate of Corridor Compatibility and Route Permit. The criteria, as set forth in North Dakota Administrative Code Section 69-06-08-02, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria.

12. A transmission facility route must not be sited within an Exclusion Area. The legislative boundary of the Theodore Roosevelt National Park is located within the survey corridor, but is not crossed by the route.

13. A transmission facility route must not be sited within an Avoidance Area unless the applicant shows that under the circumstances there are no reasonable alternatives. In determining whether an Avoidance Area shall be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. Four types of Avoidance Areas are located within the corridor: national grasslands; residences; a municipal water supply; and cultural resources.

14. Little Missouri National Grasslands (“LMNG”) is within the survey corridor and will be crossed by the route. BakkenLink has coordinated with the United States Forest Service (“USFS”) regarding crossing the LMNG. The route selected is located within an existing utility corridor, and will avoid USFS-designated roadless areas and suitable for wilderness areas.

15. Residences are present within the corridor; however, none of the residences, nor any schools or businesses, are within 500 feet of the route.

16. Lake Sakakawea is within the corridor and will be crossed by the route. The Project will cross Lake Sakakawea within a USACE-designated utility corridor where the route will parallel three existing pipelines. BakkenLink will obtain a permit from the USACE, who will also approve the construction method to be used for the crossing. Sediment sampling of the lake has

been performed and the NDDH will review the results prior to approval and permitting by the USACE.

17. Cultural resources are present within the survey corridor, but the route will avoid or mitigate impacts to any cultural resources in accordance with the SHPO's recommendations. Upon completion and receipt, BakkenLink will file with the Commission as late-filed Exhibit 10 a Class III Cultural Resource Inventory Report and SHPO concurrence letter.

18. In accordance with the Commission's Selection Criteria, a transmission route shall be approved if it is demonstrated that any significant adverse impacts that will result from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum or managed and maintained at an acceptable minimum. BakkenLink has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria. The Project will have no significant adverse impacts on the Commission's Selection Criteria.

19. Wetland delineations were completed along the proposed route. Wetlands are present within the study area and will be crossed by the route. BakkenLink will take steps to protect wetlands and waterbodies, and no permanent impacts to wetlands or waterbodies are anticipated. Upon completion and receipt, BakkenLink will file with the Commission as late-filed Exhibit 11 an addendum to the Wetland Delineation Report (Exhibit 6) providing information that was not available at the time of the public hearing. In addition, BakkenLink will file with the Commission as late-filed Exhibit 12 a list of the legal descriptions for and GIS mapping of directional drilling and conventional bore locations along the route, as well as the anticipated depth of the pipeline below the waterbody bed for waterbody crossings.

20. Some woodlands are present within the study area, and have been avoided by the route to the extent practicable. An inventory of trees and shrubs that would be affected by the Project will be completed. Trees and shrubs will be replaced in accordance with the Commission's tree and shrub mitigation specifications.

21. The Project may result in modification of habitat and temporary displacement of wildlife, due to clearing and construction. The Project will have no significant impact on fish and wildlife resources and no impacts are anticipated to endangered, threatened or sensitive plant or animal species.

22. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility. BakkenLink has analyzed the relevant Policy Criteria and has expressly committed to designing, constructing and operating the pipeline in accordance with all applicable federal, state and local laws and regulations; energy conservation through the facility's location, process and design; training and utilizing available labor in the state; constructing the Project to take advantage of economies of scale; achieving transmission capacity in the most minimally intrusive and most efficient way possible; and coordinating with state and local officials. BakkenLink submitted evidence to demonstrate commitment to maximize the benefits of the proposed transmission facility as far as is possible so as to meet the Policy Criteria.

23. It is appropriate to authorize a corridor only for the area for which BakkenLink performed the more thorough cultural resource study.

Measures to Minimize Impact

24. BakkenLink has agreed to a number of steps to mitigate the impact of the Project, as indicated by the October 24, 2011 Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, which is attached to this Order.

25. The Project's permanent right-of-way ("ROW") will be 50 feet wide, while its temporary ROW will generally be 100 feet wide. Additional temporary workspace may be required at certain locations (*e.g.*, road, railroad and river crossings), while a narrower temporary ROW may be used in environmentally sensitive areas. The construction ROW will be reduced to 50 feet wide in wooded areas. BakkenLink will use existing public roads to access the ROW, and does not expect to modify roads or construct new permanent access roads.

26. The design, construction and operation of the pipeline will be in accordance with the United States Department of Transportation regulations governing the transportation of crude oil, as prescribed under 49 CFR Parts 194 and 195.

27. BakkenLink will participate in the North Dakota One-Call Excavation Notice System.

28. BakkenLink will prepare an Emergency Response Plan with the assistance of local authorities and first responders as part of the pipeline commissioning activities.

From the foregoing Findings of Fact, the Commission now makes its:

Conclusions of Law

1. The Commission has jurisdiction over the applicant, BakkenLink Pipeline LLC, and over the subject matter of this application under North Dakota Century Code Chapter 49-22.

2. BakkenLink is a utility as defined in North Dakota Century Code Section 49-22-03(13).

3. The proposed pipeline is a transmission facility as defined in North Dakota Century Code Section 49-22-03(12).

4. The location, construction, and operation of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

5. The location, construction and operation of the Project are compatible with environmental preservation and the efficient use of resources.

6. The Project will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

7. The Project is of such design and location that it will produce minimal adverse effects, in accordance with North Dakota Century Code Section 49-22-07.2.

8. It is appropriate for the Commission to waive those certain procedures and time schedules as requested in the Application and provided under North Dakota Century Code Section 49-22-07.2.

From the foregoing Findings of Fact and Conclusions of Law, the Commission now issues its:

Order

The Commission orders:

1. BakkenLink Pipeline LLC's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility Number ___ is issued to BakkenLink Pipeline LLC designating a corridor for the construction, operation, and maintenance of the proposed pipeline, conditioned upon BakkenLink filing with the Commission late-filed Exhibits 10, 11 and 12 prior to the preconstruction conference. For purposes of the Certificate, the Corridor consists of a 200-foot wide area centered on the pipeline route for the length of the route.
3. Route Permit Number ___ is issued to BakkenLink Pipeline LLC granting authority to construct and operate a 12-inch and 8-inch crude oil pipeline system with receipt points and associated facilities in Billings, Dunn, McKenzie, Stark and Williams Counties, conditioned upon BakkenLink filing with the Commission late-filed Exhibits 10, 11 and 12 prior to the preconstruction conference.
4. The October 24, 2011 Certification Relating to Order Provisions – Transmission Facility Siting is incorporated by reference and attached to this Order.
5. To the extent there are any conflicts or inconsistencies between the Application and the certification provisions, the certification provisions control.

PUBLIC SERVICE COMMISSION

Kevin Cramer
Commissioner

Tony Clark
Chairman

Brian P. Kalk
Commissioner