

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Hiland Operating, LLC**  
**6-Inch Natural Gas Liquids Pipeline**  
**Siting Application**

**Case No. PU-10-554**

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

**June 27, 2012**

**Appearances**

Commissioners Brian P. Kalk and Kevin Cramer

Jillian Rupnow, Attorney-at-Law, Fredrikson & Byron, P.A., 200 North Third Street, Suite 150, Bismarck, North Dakota 58501, on behalf of Hiland Operating, LLC.

Mark E Gruman, Legal Counsel, Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505.

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

**Preliminary Statement**

On November 2, 2011, the North Dakota Public Service Commission (“Commission”) issued an Order adopting the Administrative Law Judge’s Recommended Findings of Fact, Conclusions of Law, and Order in the above-captioned matter, and granting Certificate of Corridor Compatibility No. 125 and Route Permit No. 134 to Hiland Operating, LLC (“Hiland”), for a natural gas liquids (“NGLs”) pipeline project in McKenzie County, North Dakota (“Project”). As originally permitted, the Project consisted of approximately 14.1 miles of 6-inch diameter underground pipeline.

On April 17, 2012, Hiland filed with the Commission an application seeking approval of modifications to the Project route and corridor. The application included the April 16, 2012 affidavit of Michael Higgins, Project Manager for the Project, in support of the application.

On May 4, 2012, Hiland filed a supplement to its application, which included an application for waiver or reduction of procedures and time schedules pursuant to North Dakota Century Code, Chapter 49-22. In its waiver request, Hiland requests waiver of the following:

1. Procedures that may require separate filings of applications for an amended certificate of corridor compatibility, an amended route permit, and waiver of procedures and time schedules;

2. Procedures that may require separate notices of such applications;
3. Procedures that may require public hearings on such applications; and
4. Procedures that may require separate hearings on such applications, if either a formal or informal hearing is required.

The corridor and route modifications are located in Sections 31 and 32, Township 152 North, Range 103 West, and in Sections 4 and 5, Township 151 North, Range 103 West, McKenzie County, North Dakota. As modified, the Project would consist of approximately 12.5 miles of 6-inch diameter underground pipeline.

Hiland requests approval of the proposed corridor and route modifications for at least three reasons. First, the modifications will reduce the overall length of the Project by approximately 1.5 miles, thereby reducing potential environmental impacts, as well as Project costs. Second, the modifications will move the Project further from cultural sites located in Sections 29, 31, and 32, Township 152 North, Range 103 West, McKenzie County, North Dakota. Third, the modifications will result in the removal of fewer trees.

On May 16, 2012, the Commission issued a Notice of Filing, Notice of Informal Hearing, and Notice of Opportunity for Hearing ("Notice"), scheduling an informal hearing for June 20, 2012 at 1:30 p.m. CDT in the Commission Hearing Room on the 12<sup>th</sup> Floor of the State Capitol. The Notice further provided that comments and requests for a hearing must be received by June 15, 2012.

The Notice identified the following issues to be considered with respect to Hiland's application for waiver of procedures and time schedules:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects and that adherence to applicable procedures and time schedules may be waived?
2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

The Notice identified the following issues to be considered with respect to Hiland's applications for an amended Certificate of Corridor Compatibility and an amended Route Permit:

1. 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?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?

3. 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 June 13, 2012, the North Dakota Department of Health filed comments stating that it believes environmental impacts from the proposed construction will be minor and recommended certain construction methods to minimize fugitive dust emissions, minimize adverse effects on water bodies, and to minimize construction activity noise.

On June 20, 2012, the Commission held the informal hearing as scheduled. No requests for hearing were received.

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. As the materials filed by Hiland in its April 17, 2012 and May 4, 2012 applications state, and as was further discussed at the informal hearing, no exclusion or avoidance areas will be impacted by the requested corridor and route amendment.
2. As the materials filed by Hiland in its April 17, 2012 and May 4, 2012 applications state, and as was further discussed at the informal hearing, the State Historical Society of North Dakota, State Historic Preservation Office, has concurred that no historic properties are affected by the corridor and route amendments.

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

#### **Conclusions of Law**

1. The Commission has jurisdiction over the applicant, Hiland Operating, LLC, and over the subject matter of this application under North Dakota Century Code, Chapter 49-22.
2. Hiland Operating 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 issues its:

### Order

1. Hiland's application for waiver of procedures and time schedules is granted.
2. Hiland's request for amendments to the permitted corridor and pipeline route are granted, and Hiland is issued First Amended Certificate of Corridor Compatibility No. 125 and First Amended Route Permit No. 134. For purposes of the Certificate, the amended Corridor will consist of a 200-foot-wide area centered on the pipeline route.
3. The authorizations granted by the First Amended Certificate of Corridor Compatibility No. 125 and First Amended Route Permit No. 134 are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.
4. The amended corridor and amended route are subject to the conditions and limitations stated in the Findings of Fact, Conclusions of Law, and Order dated November 2, 2011, and are subject to the conditions and limitations stated in this Order.

### PUBLIC SERVICE COMMISSION



**Kevin Cramer**  
Commissioner



**Brian P. Kalk**  
Chairman

**Vacant**

**PUBLIC SERVICE COMMISSION**  
**STATE OF NORTH DAKOTA**

**First Amended**  
**Certificate of Corridor Compatibility Number 125**

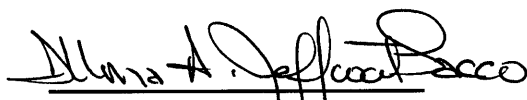
*This is to certify that the Commission has designated a transmission facility corridor for Hiland Operating, LLC, for the construction of a 14.1 mile, 6-inch pipeline and associated facilities in McKenzie County, North Dakota, for the transmission of natural gas liquids.*

*This certificate is issued in accordance with the Order of this Commission dated November 2, 2011 in Case No. PU-10-554 and amended with the Order of this Commission dated June 27, 2012, and is subject to the conditions and limitations noted in those Orders.*

*Bismarck, North Dakota, June 27, 2012.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**  
*(ACTING)*

  
**Commissioner**

**PUBLIC SERVICE COMMISSION**  
**STATE OF NORTH DAKOTA**

**First Amended**  
**Route Permit Number 134**

*This is to certify that the Commission has designated a transmission facility route for Hiland Operating, LLC for the construction of a 14.1 mile, 6-inch pipeline and associated facilities in McKenzie County, North Dakota, for the transmission of natural gas liquids.*

*This permit is issued in accordance with the Order of this Commission dated November 2, 2011 in Case No. PU-10-554 and amended with the Order of this Commission dated June 27, 2012, and is subject to the conditions and limitations noted in those Orders.*

*Bismarck, North Dakota, June 27, 2012.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**  
*(ACTING)*

  
**Commissioner**