

September 13, 2011

VIA HAND DELIVERY

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

RECEIVED

SEP 13 2011

PUBLIC SERVICE COMMISSION

**RE: RANGELAND PIPELINE, LLC
CRUDE OIL PIPELINE – WILLIAMS
COUNTY
CASE NUMBER PU-10-637**

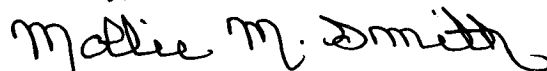
Dear Mr. Nitschke:

Rangeland Pipeline, LLC, submits herewith for filing an original and four (4) copies of the following documents in connection with the above-referenced matter:

1. Late-Filed Exhibit 7 (the Addendum to the Class I and Class III Cultural Resource Inventory of the Rangeland Pipeline COLT Connector Pipeline, Williams County, North Dakota, and a letter dated September 2, 2011 from the North Dakota State Historic Preservation Office);
2. Late-Filed Exhibit 11 (a letter dated September 1, 2011 from SWCA confirming that the Natural Resource Surveys covered the Beaver Lodge Meter Station Site); and
3. Proposed Findings of Fact, Conclusions of Law and Recommendation.

Also enclosed herewith is a CD containing this letter and the above-referenced documents in electronic format. If you have questions, please let me know.

Sincerely,



MOLLIE M. SMITH

MMS/ESV
Enclosures

cc: Mr. Christopher Keene (w/o encl. – via e-mail)
Mr. Rafael Colaco (w/o encl. – via e-mail)
Mr. Steve Broker (w/o encl. – via e-mail)
Mr. Daniel Flo (w/o encl. – via e-mail)

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PU-10-637 Filed: 9/13/2011 Pages: 9
Proposed Findings of Fact, Conclusions of Law and
Recommendation

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Rangeland Pipeline, LLC
Crude Oil Pipeline – Williams County
Siting Application

Case No. PU-10-637

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION

September __, 2011

Appearances

Allen C. Hoberg, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street – Suite 303, Bismarck, ND 58503, as Substantive Hearing Officer.

Mollie M. Smith, Attorney-at-Law, Fredrikson & Byron, P.A., 200 North Third Street, Suite 150, Bismarck, North Dakota 58501, on behalf of Rangeland Pipeline, LLC.

Mitchell D. Armstrong, Special Assistant Attorney General, Legal Counsel for Public Service Commission, 122 East Broadway Avenue, Bismarck, North Dakota 58502, 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.

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 February 11, 2011, Rangeland Pipeline, LLC (Rangeland Pipeline), 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 Williams County, North Dakota. Rangeland Pipeline also filed an application requesting waiver of the following procedures and time schedules: (1) separate hearings on Rangeland Pipeline'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) submission of mylar maps and stereo-pair aerial photographs, per the Commission's Application Guidelines for a Corridor Certificate and a Route Permit.

On March 9, 2011, the Commission acknowledged the appointment of Administrative Law Judge Allen C. Hoberg as substantive hearing officer.

On March 17, 2011, Rangeland Pipeline filed with the Commission supplemental information with respect to its Application.

On March 24, 2011, the Commission accepted the Application as complete and issued a notice of filing and notice of hearing, scheduling a public hearing for May 20, 2011 in Tioga, North Dakota.

On May 10, 2011, Rangeland Pipeline submitted amended information regarding the Project and requested that the public hearing be postponed pending resolution of routing issues.

On May 11, 2011, Judge Hoberg issued a Notice of Postponement and Indefinite Continuance.

On July 20, 2011, Rangeland Pipeline filed with the Commission Supplemental Materials in support of its Application and waiver application.

On August 1, 2011, Judge Hoberg issued a Notice of Rescheduled Hearing scheduling a public hearing for August 31, 2011, at 10:00 am at the Tioga City Hall, 12th 1st Street NE, Tioga, North Dakota.

The Notice of 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 utilities 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 August 24, 2011, Rangeland Pipeline filed a letter with the Commission providing a map depicting a route amendment.

On August 31, 2011, the public hearing was held as scheduled.

On September 13, 2011, Rangeland Pipeline filed late-filed Exhibit 7 and late-filed Exhibit 11 with the Commission.

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

Findings of Fact

1. Rangeland Pipeline is a Delaware limited liability company that is headquartered in Sugar Land, Texas.
2. Rangeland Pipeline has been authorized to do business in the State of North Dakota since February 7, 2011, as evidenced by the Certificate of Good Standing issued by the North Dakota Secretary of State on that same date.

Size, Type, and Preferred Location of Facility

3. The Project will include approximately 20.5 miles of underground pipeline that will extend between the proposed Rangeland Terminals, LLC's COLT Hub near Epping, North Dakota, and a 120,000-barrel above-ground storage tank that will be located on a 16-acre site approximately 8 miles south of Tioga, North Dakota, referred to by Rangeland Pipeline as the Beaver Lodge Meter Station Site. From there, the Project will connect to the Enbridge and Tesoro transmission pipelines. The pipeline will be bi-directional. The Project will be located entirely in Williams County, North Dakota.
4. The Project will utilize 10-inch steel pipe and the maximum allowable operating pressure will be 1,480 pounds per square inch gauge. The pipeline will have a maximum capacity of up to 75,000 barrels per day.
5. Surface facilities installed as part of the Project will include: two pump stations; two meter stations; two "pig" launching and receiving stations; a 120,000-barrel above-ground storage tank; a block valve assembly; cathodic protection equipment; security fences; two approximately 20 foot by 30 foot buildings to house equipment; and pipeline markers. A pump station, a meter station, a "pig" launching and receiving station, the 120,000-barrel above-ground storage tank and the two small buildings will be located on the Beaver Lodge Meter Station Site.
6. Except at the endpoints and where the route needs to avoid existing infrastructure, the Project will generally be located adjacent and parallel to the existing Enbridge 10-inch crude oil pipeline.

Need for the Facility

7. Rangeland Pipeline has concluded that there is a need for the facility. A number of pipeline and rail facilities are planned to address a need for additional capacity to transport crude oil produced in northwestern North Dakota and northeastern Montana to market, and the Project will provide a safe and economic method for transporting crude oil to this incremental export capacity. Specifically, the Project will provide additional outlets for transporting crude oil to market, either via Rangeland Terminals, LLC's COLT Hub, or via existing Enbridge or Tesoro pipelines. Rangeland Pipeline also plans to interconnect the Project to future pipelines in the area, as appropriate, which will further increase the options for transporting crude oil to market.

Study of Preferred Route(s)

8. In its application, Rangeland Pipeline defined its study area as the one-mile wide corridor certificated by the Commission for the Enbridge 10-inch crude oil pipeline in Case No. PU-06-330. Within the study area, Rangeland Pipeline 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/waterbody field surveys and environmental assessments. The entire Beaver Lodge Meter Station Site was also surveyed for cultural, biological, wetland/waterbody and environmental resources.
9. Rangeland Pipeline analyzed a number of alternatives and factors, including engineering, economic, and environmental factors to determine the most feasible route. The potential alternatives considered included a trucking alternative, a rail alternative and routing alternatives.
10. The following agencies were contacted by Rangeland Pipeline and provided written comments: United States Department of Agriculture – Natural Resources Conservation Service; United States Army Corps of Engineers (USACE); North Dakota Department of Transportation; North Dakota Game and Fish Department; North Dakota Parks & Recreation Department; North Dakota Department of Health (NDDH); North Dakota State Water Commission; North Dakota State Land Department; and State Historical Society of North Dakota, State Historic Preservation Office (SHPO).
11. Rangeland Pipeline conducted Class I literature searches on the one-mile wide study area, and Class III cultural resource inventories were completed on the 200-foot wide survey corridor and the Beaver Lodge Meter Station Site. Additionally, environmental data collected included information on soils, land use, wetlands and waterbody crossings, trees and shrubs and protected species.
12. The SHPO has concurred with the determination that no historic properties will be affected by the Project.
13. 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 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.
14. A transmission facility route must not be sited within an Exclusion Area. One Exclusion Area, a municipal park, is located within the corridor; however, the park will not be crossed by the route.

15. 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. Three types of Avoidance Areas are located within the corridor: cultural resources; a place of business and residences; and a reservoir or municipal water supply.

16. Cultural resources were identified within the Project corridor. One cultural resource site is located on the Beaver Lodge Meter Station site and two cultural resource sites are located near, but are not crossed by, the Project route. With respect to the cultural resource site located on the Beaver Lodge Meter Station Site, Rangeland Pipeline will avoid and plans to fence the cultural resource site out of the Beaver Lodge Meter Station Site. With respect to the other two cultural resource sites, Rangeland Pipeline will avoid potential impacts to the sites by narrowing the construction right-of-way (ROW) to a width of 50 feet for a linear distance of 300 feet adjacent to the site and having a qualified archaeological monitor present during all earth disturbing activities adjacent to the site.

17. One place of business, a feed lot, and eleven residences are present within the corridor. Three occupied residences and one unoccupied residence are within 500 feet of the route; however, no schools or places of business are within 500 feet of the route. Rangeland Pipeline has obtained written waivers of the avoidance area criterion from the owners of each of the four residences that are within 500 feet of the route.

18. The Ray aquifer, which is the water source for the town of Ray, North Dakota, is located within the corridor; however, the town of Ray's well is located approximately three miles away from the Project route and will not be impacted by the Project. In addition, given the depth of the Ray aquifer, the aquifer will not be impacted by the Project route. Other small agricultural reservoirs are located within the corridor, but will not be crossed by the Project route.

19. 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. Rangeland Pipeline 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.

20. Wetland determinations were completed along the proposed route. Wetlands are present within the corridor, but wetlands and waterbodies will be avoided by the route to the extent practicable. If avoidance is not possible, Rangeland Pipeline will take steps to protect wetlands and waterbodies. No permanent impacts to wetlands or waterbodies are anticipated. Small amounts of woodlands are present within the corridor, and have been avoided by the route to the extent practicable. An inventory of trees and shrubs that would be affected by the Project has been completed, and trees and shrubs will be or have been counted and will be replaced in accordance with the Commission's tree and shrub mitigation specifications.

21. The Project may result in temporary displacement of wildlife, due to clearing and construction, but impacts are expected to be temporary and minimal. 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. Rangeland Pipeline 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 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. Rangeland Pipeline 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 Rangeland Pipeline performed the more thorough cultural resource study.

Measures to Minimize Impact

24. Rangeland Pipeline has agreed to a number of steps to mitigate the impact of the Project, as indicated by the August 22, 2011 Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, which is attached hereto.

25. The Project's permanent ROW will be 30 feet wide. The Project's temporary ROW will generally be 80 to 100 feet wide, except the temporary ROW may be between 150 to 200 feet wide at certain locations, *e.g.*, beginning and end of the Project; approaching wetlands, waterbodies, roads and railroads; rocky soil; steep slopes; rugged terrain; and where horizontal directional drilling or boring will be done. The construction ROW may be reduced to 70 feet wide or less in wetlands, and will be reduced to 50 feet wide in wooded areas. The proposed ROW will generally be located 100 feet north of the existing Enbridge pipeline ROW, except at the end points and where existing infrastructure needs to be avoided. Rangeland Pipeline will use existing public roads to access the ROW, although a short driveway may need to be constructed to facilitate ingress and egress to the block valve site. Dirt roads or two-track trails may require grading and/or filling, and temporary access roads may be required.

26. A stick nest survey will be conducted along the route and impacts to active nests identified by the survey will be avoided.

27. The design, construction and operation of the pipeline will be in accordance with the United States Department of Transportation (DOT) regulations governing the transportation of crude oil, as prescribed under 49 CFR Part 195.

28. Rangeland Pipeline will conduct environmental monitoring, including utilizing environmental inspectors during construction and requiring post-construction monitoring.

29. Rangeland Pipeline will participate in the North Dakota One-Call Excavation Notice System.

30. Rangeland Pipeline 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, Judge Hoberg now makes his:

Conclusions of Law

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

2. Rangeland Pipeline 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 length, design, location and purpose 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, Judge Hoberg now issues his:

Recommendation

Judge Hoberg recommends as follows:

1. That Rangeland Pipeline, LLC's application for a waiver of procedures and time schedules be granted.

2. That Certificate of Corridor Compatibility Number ___ be issued to Rangeland Pipeline, LLC designating a corridor for the construction, operation, and maintenance of the proposed pipeline. For purposes of the Certificate, the Corridor should consist of a 200-foot wide area

centered on the pipeline route for the length of the route and the Beaver Lodge Meter Station Site.

3. That Route Permit Number ____ be issued to Rangeland Pipeline, LLC granting authority to construct and operate a 10-inch crude oil pipeline and associated facilities in Williams County, North Dakota.

4. The August 30, 2011 Certification Relating to Order Provisions – Transmission Facility Siting be incorporated by reference and attached to the Order issued by the Commission.

State of North Dakota
Public Service Commission

By: _____
Allen C. Hoberg
Administrative Law Judge
Substantive Hearing Officer
Office of Administrative Hearings
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Bismarck, North Dakota 58503
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