

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

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

Case No. PU-10-637

ORDER

September 29, 2011

The evidence of record has been considered and appraised.

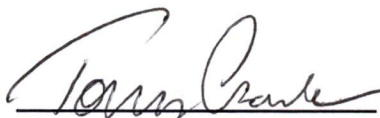
The Commission Orders:

1. The Hearing Officer's September 27, 2011 Recommended Findings of Fact, Conclusions of Law and Recommended Order, a copy of which is attached to this Order and made a part of this Order, is ADOPTED as the Public Service Commission's Findings of Fact, Conclusions of Law and Order.
2. Rangeland Pipeline, LLC's application for a waiver of procedures and time schedules is granted.
3. Certificate of Corridor Compatibility No. 123 is issued to Rangeland Pipeline, LLC for the construction, operation and maintenance of the transmission facilities. 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, and also the Beaver Lodge Meter Station site.
4. Route Permit No. 132 is issued to Rangeland Pipeline, LLC for the construction, operation and maintenance of the transmission facilities.
5. The August 30, 2011 Certification Relating to Order Provisions – Transmission Facility Siting (Certification), with accompanying Tree and Shrub Mitigation Specifications, is incorporated by reference and attached to this Order.
6. To the extent there are any conflicts or inconsistencies between the Application and August 30, 2011 Certification, the Certification provisions control.

PUBLIC SERVICE COMMISSION



Kevin Cramer  
Commissioner



Tony Clark  
Chairman



Brian P. Kalk  
Commissioner

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

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

**Case No. PU-10-637**  
**OAH File No. 20110081**

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

**September 27, 2011**

**Appearances**

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

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 North Dakota Public Service Commission.

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

**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"), 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 also filed an application requesting waiver of the following procedures and time schedules: (1) separate hearings on Rangeland'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 ("Hearing Officer").

On March 17, 2011, Rangeland 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 submitted amended information regarding the Project and requested that the public hearing be postponed pending resolution of routing issues.

On May 11, 2011, the Hearing Officer issued a Notice of Postponement and Indefinite Continuance.

On July 20, 2011, Rangeland filed with the Commission certain supplemental materials in support of the Application and the waiver application.

On August 1, 2011, the Hearing Officer issued a Notice of Rescheduled Hearing scheduling a public hearing for August 31, 2011, at 10:00 am at the Tioga City Hall, 12 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 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 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 other evidence presented, the Hearing Officer makes the following:

### **Findings of Fact**

1. Rangeland is a Delaware limited liability company that is headquartered in Sugar Land, Texas.
2. Rangeland 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 as the Beaver Lodge Meter Station Site. From there, the Project will connect to the Enbridge Pipelines (North Dakota) LLC ("Enbridge") and Tesoro High Plains Pipeline Company LLC ("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 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 proposed Project 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 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 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 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 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 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 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 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 water body 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 as long as the project is of the nature stated and so long as certain sites are avoided as recommended in the Class III cultural resources report.

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 study area; however, the park will not be crossed by the proposed Project 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 study area: cultural resources; a place of business and residences; and a reservoir or municipal water supply.

16. Cultural resources were identified within the study area. 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 proposed Project route. With respect to the cultural resource site located on the Beaver Lodge Meter Station Site, Rangeland will avoid it by fencing the cultural resource site out of the Beaver Lodge Meter Station Site. With respect to the other two cultural resource sites, Rangeland 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 study area. Three occupied residences and one unoccupied residence are within 500 feet of the proposed Project route; however, no schools or places of business are within 500 feet of the route. Rangeland 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 proposed Project route.

18. The Ray aquifer, which is the water source for the town of Ray, North Dakota, is located within the study area; however, the town of Ray's well is located approximately three miles away from the proposed 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 proposed Project route. Other small agricultural reservoirs are located within the study area, but will not be crossed by the proposed 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 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 Project route. Wetlands are present within the study area, but wetlands and waterbodies will be avoided by the route to the extent practicable. If avoidance is not possible, Rangeland 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.

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.

21. The U.S. Fish and Wildlife Service (the "FWS") comments focused on threatened and endangered species, candidate species, migratory birds, bald and golden eagles, and high value habitat avoidance. Rangeland will comply with the FWS recommendations as found in Exhibit 1 of the July 2011, supplemental materials submitted in support of the Application.

22. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility. Rangeland 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 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 performed the more thorough cultural resource field surveys, biological and wetlands/waterbody field surveys and environmental assessments, also called the survey corridor.

#### Measures to Minimize Impact

24. Rangeland has agreed to a number of steps to mitigate the impact of the Project, as indicated by the August 30, 2011 Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications.

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 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 Parts 194 and 195.

28. Rangeland will conduct environmental monitoring, including utilizing environmental inspectors during construction and requiring post-construction monitoring.
29. Rangeland will participate in the North Dakota One-Call Excavation Notice System.
30. Rangeland 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 Hearing Officer makes the following:

#### **Conclusions of Law**

1. The Commission has jurisdiction over the applicant, Rangeland, and over the subject matter of this application under North Dakota Century Code Chapter 49-22.
2. Rangeland 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 Recommended Findings of Fact and Conclusions of Law, the Hearing Officer issues the following:

#### **Recommended Order**

1. That Rangeland Pipeline, LLC's application for a waiver of procedures and time schedules be granted.
2. That a Certificate of Corridor Compatibility \_\_\_\_\_ 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 will consist of a 200-foot wide

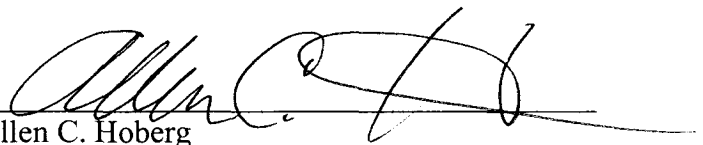
area centered on the pipeline route for the length of the route and the Beaver Lodge Meter Station Site.

3. That a Route Permit \_\_\_\_\_ 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. That the August 30, 2011 Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, be incorporated by reference and attached to the Order issued by the Commission.

5. That to the extent there are any conflicts or inconsistencies between the Application and certification provisions, the certification provisions control.

State of North Dakota  
Public Service Commission

By:   
Allen C. Hoberg  
Administrative Law Judge  
Substantive Hearing Officer  
Office of Administrative Hearings  
2911 North 14th Street — Suite 303  
Bismarck, North Dakota 58503  
Telephone: (701) 328-3200

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility Number 123**


*This is to certify that the Commission has designated a transmission facility corridor for Rangeland Pipeline, LLC for the construction of a 10-inch pipeline in Williams County, North Dakota for the transmission of crude oil.*

*This certificate is issued in accordance with the Order of this Commission dated September 29, 2011 in Case No. PU-10-637 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, September 29, 2011.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

# STATE OF NORTH DAKOTA

## Route Permit Number 132

*This is to certify that the Commission has designated a transmission facility route for Rangeland Pipeline, LLC for the construction of a 10-inch pipeline in Williams County, North Dakota for the transmission of crude oil.*


*This permit is issued in accordance with the Order of this Commission dated September 29, 2011 in Case No. PU-10-637 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, September 29, 2011.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

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

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

**Case No. PU-10-637**

**CERTIFICATION RELATING TO ORDER PROVISIONS**  
**TRANSMISSION FACILITY SITING**

I am PAUL S BROKER a representative of Rangeland Pipeline, LLC ("Rangeland") with authority to bind Rangeland to requirements to be set forth by the Commission in its Order and I certify the following:

1. Rangeland understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Rangeland shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Rangeland agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Rangeland representative, its construction supervisor, and a representative of Commission Staff, to ensure that Rangeland fully understands the conditions set forth in the Commission's order.
3. Rangeland agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
4. Rangeland understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the transmission facility that requires said license or permit.
5. Rangeland agrees to inform the Commission of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Rangeland shall keep the Commission updated on construction activities on a weekly basis.
6. Rangeland understands and agrees that the pipeline will be buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in rangeland, 48 inches for cultivated land, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines.
7. Rangeland understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the

Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.

8. Rangeland agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
9. Rangeland agrees to construct and operate the transmission facility in the manner described in Rangeland's application, in any late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.
10. Rangeland agrees to report promptly to the Commission the presence in the permit area of any critical habitat or threatened species, endangered species, bald eagles, or golden eagles of which Rangeland becomes aware and which were not previously reported to the Commission.
11. Rangeland understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area.
12. Rangeland understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made and a report of such examination is filed with the Commission and the State Historical Society and clearance to proceed is given by the Commission.
13. Rangeland understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Rangeland to open cut the road.
14. Rangeland understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the transmission facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.
15. Rangeland understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures approved by the Commission are taken.
16. Rangeland understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be stripped and segregated from the subsoil. Except along segments of the line using the double ditching method, any area on which excavated subsoil will be placed must also be stripped of topsoil. After backfilling is completed, any excess subsoil must be placed

over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.

17. Rangeland understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
18. Rangeland understands and agrees that its obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission facility.
19. Rangeland understands and agrees that its obligation for reclamation and maintenance of the transmission facility, associated facilities, and roadways will continue throughout the life of the transmission facility.
20. Rangeland agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
21. Rangeland understands and agrees that it shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the construction of the transmission facility.
22. Rangeland understands and agrees that it shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
23. Rangeland understands and agrees that it shall repair or replace all broken or damaged drainage tile during all phases of construction and operation of the transmission facility.
24. Rangeland understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Rangeland unless otherwise negotiated with landowners.
25. Rangeland understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
26. Rangeland understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
27. Rangeland understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.
28. Rangeland understands and agrees that it shall advise the Commission of any extraordinary events which take place at the site of the transmission facility, including injuries to any person, or the death of any threatened or endangered species on the site within five business days of such event.

29. Rangeland understands and agrees that it shall implement a procedure for how complaints concerning the transmission facility will be handled by Rangeland
30. Upon request, Rangeland agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
31. Rangeland understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility. Rangeland understands and agrees to obtain written approval from the Commission prior to any modifications to the site plan or the transmission facility. Approval may be granted after notice and opportunity for hearing.
32. Rangeland agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission, and will provide this information within three months of the Commission order approving the corridor. Rangeland also agrees to provide an electronic version of the approved corridor that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
33. Rangeland agrees to provide the Commission with both an electronic and a paper copy of the design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within three months of the completion of the construction. Rangeland also agrees to provide an electronic version of the as-built facility design specifications that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
34. Rangeland understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for the transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.
35. Rangeland understands and agrees that in the event Rangeland desires to construct, within any corridor granted by a Certificate of Corridor Compatibility in this proceeding, a transmission facility or energy conversion facility that was not included in Rangeland's application in this proceeding, Rangeland shall apply to the Commission for a Route Permit or Site Certificate for the facility.
36. Rangeland shall notify the Commission, as soon as reasonably possible, if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities

during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Rangeland shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined and clearance to proceed has been given by the Commission or Commission staff.

37. Rangeland understands and agrees that the corridor certificate and route permit are subject to suspension or revocation and may, after hearing, be suspended or revoked for failure to comply with the Commission's order, requirements of the One-Call Excavation Notice System under North Dakota Century Code Chapter 49-23, the conditions and criteria of the certificate or permit or subsequent modification, or failure to comply with applicable statutes, or rules, regulations, standards, and permits of other state or federal agencies.

Dated this 30<sup>th</sup> day of AUGUST, 2011.

RANGELAND PIPELINE, LLC

By Paul S. Stoker

Its EVP & COO

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

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

**Case No. PU-10-637**

**Tree and Shrub Mitigation Specifications**

**Inventory**

1. Trees and shrubs anticipated to be cleared, including those that are considered invasive species or noxious weeds (e.g., *Caragana arborescens*, *Elaeagnus angustifolia*, *Rhamnus cathartica*, *Tamarix chinensis*, *T. parviflora*, *T. ramosissima*, *Ulmus pumila*), shall be inventoried before cutting. The inventory shall record the location, number, and species of trees and shrubs.
2. In windbreaks, shelterbelts, and other planted areas, trees or shrubs anticipated to be cleared, regardless of size, shall be inventoried for replacement.
3. In native growth areas, trees anticipated to be cleared that are 1-inch diameter at breast height (dbh) or greater shall be inventoried for replacement.
4. In native growth areas, shrubs anticipated to be cleared in the permanent right-of-way shall be inventoried for replacement.
5. In native growth areas outside the permanent right-of-way, shrubs shall be cut flush with the surface of the ground, taking care to leave the naturally occurring seed bank and root stock intact. If soil disturbance is necessary, the native topsoil shall be preserved and replaced after construction. Shrubs shall be allowed to regenerate naturally where native topsoil is preserved and replaced. Where native topsoil is not preserved and replaced, shrubs anticipated to be cleared shall be inventoried for replacement.
6. In native growth areas, trees and shrubs may be inventoried by actual count or by sampling method that will properly represent the woody vegetation population. A sampling plan developed by the company, filed with the North Dakota Public Service Commission (Commission), and approved prior to the start of construction shall define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots shall be extrapolated to the total acreage of the wooded area to be cleared to determine the species and quantity of trees and shrubs to be replaced.

### **Clearing for Construction**

7. Trees and shrubs shall be selectively cleared, leaving mature trees and shrubs intact where practical.
8. The width of clear cuts through windbreaks, shelterbelts and all other wooded areas shall be limited to 50 feet or less unless otherwise approved by the Commission.
9. If the area of trees or shrubs actually cleared differs from the area inventoried, the difference in number of trees and shrubs to be replaced shall be noted on the inventory.

### **Replacement**

10. Prior to replacement, documentation identifying the number and variety of trees removed as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings shall be filed with the Commission for approval.
11. Tree replacement shall be on a 2 to 1 basis with 2-year-old saplings. Shrub replacement shall be on a 2 to 1 basis with stem cuttings.
12. Trees and shrubs shall be replaced by the same species or similar species, except in the case of invasive species or noxious weeds, suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.
13. Landowners shall be given the option of having replacement trees or shrubs planted off the right-of-way on the landowner's property or waiving that requirement in writing and allowing those replacement trees or shrubs to be planted at alternative locations.
14. At the conclusion of the project, documentation identifying the actual number, variety, type, location, and date of the replacement plantings shall be filed with the Commission.
15. Tree and shrub replacements shall be inspected once a year for three years, on or about the anniversary of the plantings, and, on or shortly before October 1 of each year, a report shall be submitted to the Commission documenting the condition of replacement planting and any woodlands work completed. If after three years from the anniversary of the plantings the survival rate is less than 75%, the Commission may order additional planting(s).