

December 20, 2011

VIA HAND DELIVERY

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

**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 ten (10) copies of the following document in connection with the above-referenced matter:

1. Motion for an Amendment of the Findings of Fact, Conclusions of Law and Order Issuing Certificate of Corridor Compatibility and Route Permit, and Approval of Project Site Plan Modification (with accompanying exhibits).

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

Sincerely,



MOLLIE M. SMITH

MMS/ms
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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98 PU-10-637 Filed 12/20/2011 Pages: 14

Motion for an amendment of the Findings of Fact, Conclusions of Law and Order and project site modification
Rangeland Pipeline, LLC

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

IN THE MATTER OF THE APPLICATION
OF RANGELAND PIPELINE, LLC FOR A
CERTIFICATE OF CORRIDOR
COMPATIBILITY AND ROUTE PERMIT
FOR THE CONSTRUCTION OF AN
APPROXIMATELY 20-MILE-LONG
CRUDE OIL PIPELINE AND ASSOCIATED
FACILITIES IN WILLIAMS COUNTY,
NORTH DAKOTA

CASE NO. PU-10-637

**Motion for an Amendment of the Findings of Fact, Conclusions of Law and Order
Issuing Certificate of Corridor Compatibility and Route Permit,
and Approval of Project Site Plan Modification**

Rangeland Pipeline, LLC (“Rangeland”), hereby moves the North Dakota Public Service Commission (“Commission”) for an amendment of the Findings of Fact, Conclusions of Law and Order issued in the above-captioned matter and written approval of a modification to the site plan for Rangeland’s COLT Connector Pipeline Project (“Project”).

In support of its motion, Rangeland states as follows:

1.

On or about February 11, 2011, Rangeland filed a consolidated application for a Certificate of Corridor Compatibility and Route Permit with the Commission for its proposed Project.

2.

On or about March 9, 2011, the Commission acknowledged the appointment of Administrative Law Judge Allen C. Hoberg as substantive hearing officer (“Hearing Officer”).

3.

On or about August 1, 2011, a public hearing on Rangeland's application was held before the Hearing Officer as scheduled. At the time of the public hearing, SWCA Environmental Consultants ("SWCA"), which had been hired by Rangeland's environmental consultant (Barr Engineering Company) to perform cultural resource surveys, had identified a cultural resource site within the boundaries of the Beaver Lodge Meter Station Site located on the east end of the Project during its Class III Cultural Resource Inventory. In order to avoid any potential impact to the cultural resource site identified, Rangeland testified at the public hearing that it would fence the site out of the Beaver Lodge Meter Station Site.

4.

On September 27, 2011, the Hearing Officer issued Recommended Findings of Fact and Conclusions of Law and Recommended Order. Consistent with Rangeland's testimony, Finding of Fact paragraph 16 states: "One cultural resource site is located on the Beaver Lodge Meter Station Site . . . 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."

5.

On September 29, 2011, the Commission issued an Order adopting the Hearing Officer's Recommended Findings of Fact and Conclusions of Law and Recommended Order ("Order") and issuing Certificate of Corridor Compatibility No. 123 and Route Permit No. 132 to Rangeland.

6.

In accordance with the Order, SWCA erected a fence around the cultural resource site identified within the Beaver Lodge Meter Station Site to avoid impacts to the site during construction of the Project. However, Rangeland was unable to locate the cultural resources SWCA has previously identified within the fenced-off area. At Rangeland's request, Wade Burns with Beaver Creek Archaeology, Inc., who had been hired by Rangeland to monitor previously identified cultural resource sites during construction, conducted a second Class III Cultural Resource Inventory of the Beaver Lodge Meter Station Site. Mr. Burns concluded that no cultural resources were present within the Beaver Lodge Meter Station Site and recommended a finding of "No Significant Historic Properties Affected." The North Dakota State Historic Preservation Office ("SHPO") concurred with Mr. Burns' determination and recommendation. A copy of the Class III Cultural Resource Inventory Report and the SHPO concurrence letter are attached hereto as Exhibits A and B, respectively.

7.

Since it has been determined that no cultural resources are located within the Beaver Lodge Meter Station Site, Rangeland proposes to utilize the fenced off area when installing the Project facilities planned for the Beaver Lodge Meter Station Site that were identified in Rangeland's testimony and hearing exhibits.

WHEREFORE, Rangeland respectfully requests the following:


- a. That the following portions of Finding of Fact paragraph 16 be removed from the Order: (1) the finding that a cultural resource site is located within the Beaver Lodge

Meter Station Site; and (2) the requirement that Rangeland fence out a portion of the Beaver Lodge Meter Station Site; and

- b. That, should the Commission determine that Rangeland's use of the previously fenced off portion of the Beaver Lodge Meter Station Site for its Project facilities is a modification of the site plan for the Project, the Commission issue written approval of the modification.

DATED this 20th day of December, 2011.

FREDRIKSON & BYRON, P.A.

By 

Mollie M. Smith, ND Bar #06714
Attorneys for Rangeland Pipeline, LLC
200 North 3rd Street, Suite 150
P. O. Box 1855
Bismarck, ND 58501-1855
(701) 221-4020



Rangeland Energy Beaver Lodge Tank Location Project: A Class III Cultural Resources Inventory in Williams County, North Dakota

Prepared for: Rangeland Energy, LLC

Prepared by: Wade Burns

Beaver Creek Archaeology, Inc.
Mandan, North Dakota

BCA Project #: 2011 - 462

November, 2011



Beaver Creek
ARCHAEOLOGY

WHERE PROGRESS MEETS PRESERVATION

301 1st St NE, Suite 201 | Mandan, ND 58554 | PH (701) 663.5521 | FX (701) 663.5589

www.bcarch.org | e-mail: info@bcarch.org



EXHIBIT A

Manuscript Date Record Form

1. Manuscript Number:
2. SHPO Reference #:
3. Author(s) (List all authors names as they appear on the report title page): **Wade Burns**
4. Title (Complete title as it appears on the report title page): **Rangeland Energy Beaver Lodge Tank Location Project: A Class III Cultural Resource Inventory in Williams County, North Dakota.**
5. Report Date (As is appears on the report title page): **November, 2011**
6. Number of Pages (Including front matter, references cited and appendices): **7**
7. Type – I = Inventory (Class 3 CRI), T – Test, E= Excavation, O = Other: **Type I**
8. Acres – Class 3 inventory only; project description specified only in report: **10**
9. Legal Location(s) (no quarter sections) with Historic Context Study Unit(s): Consult township tables in The North Dakota Comprehensive Plan for Historic Preservation: Archaeological Component, (SHSND 1990) for Study Unit Assignments. Study Units: LM, CB, KN, HE, SM, GA, JA, GR, NR, SR, SO, SH, YE

COUNTY	TWP	R	SEC	SU
Williams	155	95	5	GA

Inventory Report

Submitted by Beaver Creek Archaeology, Inc.
301 1st Street NE Suite 201 Mandan, North Dakota 58554
Phone: (701) 663-5521; e-mail: info@bcarch.org

Report Title: Rangeland Energy Beaver Lodge Tank Location Project: A Class III Cultural Resource Inventory in Williams County, North Dakota.

Author: Wade Burns

Report Date: November, 2011

Acreage: 10

Land Status: Private

Survey Date: October 26, 2011

Project Sponsor: Rangeland Energy, LLC

Historic Context: Garrison Study Unit (#6)

Legal Description/Location of Project Area: The proposed project is located in the NE ¼ NW ¼ of Section 5 in T155N R95W Williams County, North Dakota as depicted on the USGS 7.5' Tioga SW quadrangle map. The proposed project is located on private surface.

Description of Proposed Project: The proposed project consists of the construction of a single battery tank and associated berm for Rangeland Energy, LLC. The Area of Potential Effect (APE) consists of ten acres. The ten acre survey block surrounds the proposed tank battery and berm location.

Result of File Search: Gwen Jakel conducted a literature search at the North Dakota State Historic Preservation Office (NDSHPO) on October 25, 2011. The search revealed five site(s), no site lead(s), no isolated find(s) and five Manuscript(s) on file within Section(s) 5 of the APE (see tables 1 & 2).

Inventory Report

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Table 1: Manuscripts on File at the Archaeology and Historic Preservation Division, State Historical Society of North Dakota in or near the APE.

Year	MS #	Author	Location			Title
			Twp	R	S	
2011	11987	Smith, N.	155	95	5	A Class I and Class III Cultural Resource Inventory of the Rangeland Energy COLT Connector Pipeline, Williams Co., ND
2010	11790	Harty, J.	155	95	5	SORTI and Dunn Pipeline Projects: A Class III Cultural Resource Inventory, Williams and McKenzie Co., ND
2010	11686	Klinner, D.	155	95	5	Beaver Lodge to Berthold Pipeline: A Class III Cultural Resource Inventory, Mountrail, Ward & Williams Co., ND
2006	9856	Harty, J.	155	95	5	Enbridge Pipelines (ND) LLC, North Dakota Pipeline Expansion Project: A Class III Cultural Resource Inventory & Evaluative Testing of Three Sites, Williams Co., ND
1987	4319	Metcalf, M.	155	95	5	Cultural Resources Investigations on the North Dakota Segment of the Exxon Company, USA Bairoil-Dakota CO2 Pipeline Project, Golden Valley, Billings, Stark, Dunn, McKenzie & Williams Co., Western ND Vols 1 & 2

Table 2: Summary Information on Archaeological Sites Recorded near the APE.

SITS #	Location			Affiliation	Description	Recorder	NRHP Status
	Twp	R	S				
32WI99	155	95	5	Unknown	Stone Circle, Cairn	W. Burns	Ineligible
32WI100	155	95	5	Unknown/Historic	Stone Circle and Historic CM Scatter	K. Keim	Unevaluated
32WI137	155	95	5	Unknown	Stone Circle	M. Schropshire	Unevaluated
32WI138	155	95	5	Unknown	Stone Circle	J. Scott	Unevaluated
32WI1141	155	95	5	Unknown	Stone Circle	S. Lechert	Unevaluated

Field Personnel: Wade Burns (PI).

Field Methods: The proposed project area was inventoried on October 26, 2011 by Beaver Creek Archaeology. Weather conditions were good with sunny skies and approximately 30 °F. The proposed battery tank location was inventoried by the archaeologist(s) walking parallel pedestrian transects 2 meters apart to cover the APE. During the survey, field notes and overview pictures were taken.

Inventory Report

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The APE is located within the Garrison Study Unit (#6) as found in the *North Dakota Comprehensive Plan for Historic Preservation: Archaeological Component*. The APE is located within range land. Vegetation in the area consists of native and non-native grasses, plants and forbs in the undisturbed areas and no vegetation in the construction areas. Ground Surface Visibility (GSV) was approximately 100-45 % on average. Areas of higher visibility, such as the previously scraped area, erosion features, rodent burrows and areas of sparse vegetation were closely examined for cultural material.

Results and Recommendations: The investigation of the APE revealed that previously recorded cultural resources within site 32WI99 no longer existed. Site 32WI99, consisting of two double course stone circles, which had originally been recorded by UND was relocated located in 2009 by KLJ. The site was updated showing the location of the two features with an assigned UTM location. In 2011 SWCA conducted a site visit and stated in their update that they could not locate the two rings which KLJ had relocated. It is unclear as to whether previous ground disturbance, ground surface visibility or other causes were the reason as to why the features could not be relocated. During their site visit they recorded two additional features comprised of a cairn and a stone circle.

Beaver Creek Archaeology (BCA) was hired to monitor sites in the near vicinity to site 32WI99. 32WI99 was fenced off by SWCA prior to monitoring. Rangeland Energy asked BCA to do a field visit to site 32WI99 as they were unable to find the features previously recorded by SWCA. During the investigation by BCA it was determined that either the wrong locations were fenced and, as a result, the features had been destroyed, or that the rocks had wrongly been interpreted as a cairn and a stone circle (possibly due to poor surface visibility at the time). Surface visibility for BCA was excellent at the time of the field visit. The site area within the fenced off vicinity showed very few rocks. For the area believed to have been recorded as a stone circle, probing was conducted between the few rocks. No rocks were found between the couple of visible rocks which were partially buried. Other rocks within the area of the circle were not buried, but were laying on the surface with vegetation underneath them. The cairn location was comprised of a few loose rocks randomly scattered and not in any formation to suggest they comprised a cairn

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feature. There was no consistency in depth of rock as two of the rocks were loosely lying on the ground while the remaining three were eroding out at various depths. The remainder of the area was closely scrutinized for any traces of archaeological remains. No traces were found within the ten acre area within the APE. On November 10, 2011, Wade Burns consulted with Paul Picha (NDSHPO Archaeologist) about the site. It was recommended that a site form update be conducted and that a recommendation of Ineligible be made for the site since it no longer existed. Consequently, *No Significant Historic Properties Affected* is recommended and therefore, no further archaeological investigation is needed for the APE as mapped, photographed and described herein.

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Figure 1: Overview of the APE (photo taken after fieldwork date). View to the Southwest.

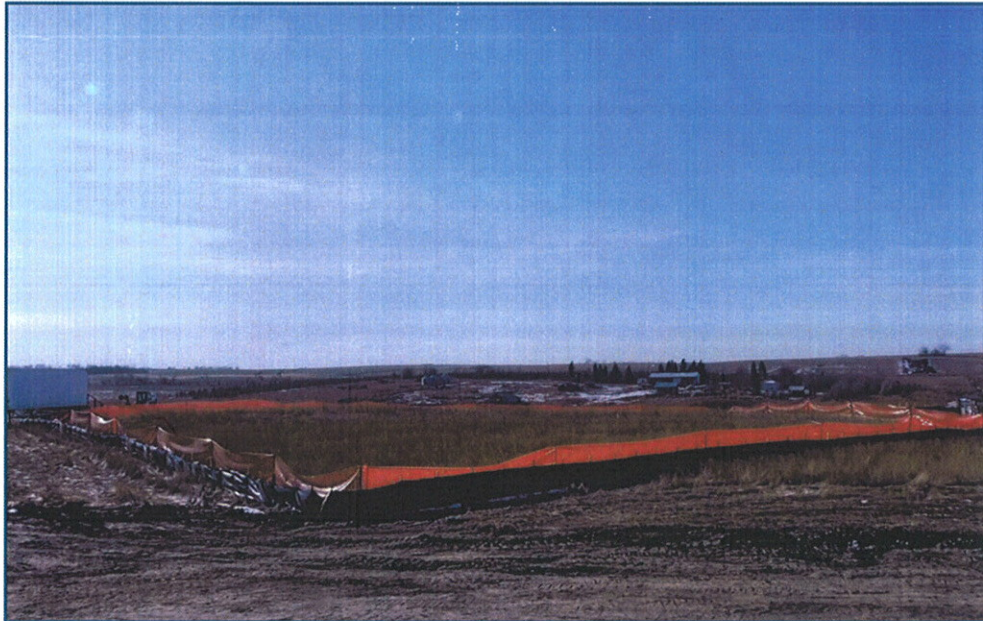


Figure 2: Overview of the APE (photo taken after fieldwork date). View to the West.



Beaver Creek ARCHAEOLOGY

Rangeland Energy Beaver Lodge Tank Project
Rangeland Energy, LLC
T155N R95W Sec. 5
Tioga SW Quad. Map
Williams County, North Dakota



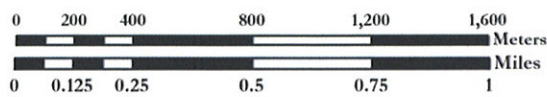
Legend

APE

Cultural Resources

Eligible/Unevaluated Sites

Ineligible Site/Isolated Find



Base Map: USGS 7.5'
Scale: 1:24,000
UTM NAD83 Zone 13



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

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Governor of North Dakota

North Dakota
State Historical Board

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November 25, 2011

Ms. Raina Hanley
Beaver Creek Archaeology
301 1st St NE, Suite 201
Mandan ND 58554

ND SHPO Ref.:12-0212 No Federal or State Lead "Rangeland Energy Beaver Lodge Tank Battery: A Class III Cultural Resources Inventory in Williams County, North Dakota" in a portion of [T155N R95W Section 5]

Dear Ms. Hanley,

We reviewed ND SHPO Ref.:12-0212 No Federal or State Lead "Rangeland Energy Beaver Lodge Tank Battery: A Class III Cultural Resources Inventory in Williams County, North Dakota," and find the Beaver Creek Archaeology report acceptable. If consulted by a federal agency, we would concur with "No Historic Properties Affected" or if consulted by a North Dakota state agency, we would concur with "No Significant Sites" determinations for this location.

Thank you for the opportunity to review this report. Please include the ND SHPO Reference number listed above in further correspondence for this specific project. If you have any questions please contact Susan Quinnell, Review and Compliance Coordinator at (701) 328-3576 or squinnell@nd.gov

Sincerely,

Merlan E. Paaverud, Jr.
State Historic Preservation Officer
(North Dakota) and
Director, State Historical Society of North Dakota