

July 5, 2016

VIA HAND DELIVERY

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

**Re: Banner Transportation Company, LLC
Case Number PU-11-99
Construction Inspection Report**

Dear Mr. Nitschke:

On August 28, 2015, the undersigned received a letter from Patrick Fahn, Director of Compliance and Competitive Markets for the North Dakota Public Service Commission (“Commission”) regarding the above-captioned matter. The letter requested documentation and information in accordance with recommendations following a post construction inspection. Since that time, Kinder Morgan Inc. (“Kinder Morgan”) has been working to collect information to satisfy the requests of the Commission. Commission staff has allowed Kinder Morgan additional time to research the various documents and information requested by the Commission.

A brief background of this matter is helpful to explain the involvement of Kinder Morgan and the results of the investigation conducted to date. In 2012, Arrow Field Services, LLC transferred to Banner Transportation Company, LLC Certificate of Corridor Compatibility Number 126 and Route Permit Number 135. *See* PSC Case No. PU-12-047. On June 5, 2012, Banner Transportation Company, LLC changed its name to Hiland Crude, LLC. In 2015, Kinder Morgan acquired Hiland Crude and its assets in North Dakota.

As an aside, Kinder Morgan has also discovered that the permits in Case No. PU-11-99 were not reissued in the name of Hiland Crude, LLC after the name change. A name change request to have the permits reissued to Hiland Crude, LLC has been filed with the Commission.

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Upon receipt of the letter from the PSC, Kinder Morgan began reviewing files for the information requested in the post construction inspection report. All locations where this information could reasonably be found were checked, and individuals with possible information were consulted. At this time, Kinder Morgan provides an update regarding each item as follows:

1. **Maps of approved corridor and associated GIS files, to be reconciled with the as-built drawings. Clarification is needed for 1) which route was chosen on the east end of the pipeline where it left the CDP facility (two alternatives were analyzed), 2) the alignment of the built route, 3) the disturbed area adjacent to the route in the NE ¼ of Section 19.**
 - Kinder Morgan conducted a review of the as-builts and the corridor map. The project was built per the as-builts submitted to the Commission (Docket No. 74). Information regarding clarification for the disturbed areas in the NE1/4 of Section 19 was not located.
2. **Documentation of repair of compacted soils and ruts in the drainage southeast of the tie-in on the west end.**
 - Documentation as requested here was not located. In the event the Commission desires this information, Kinder Morgan will have an environmental inspector review this issue.
3. **Documentation of repair of silt fences at Dry Creek and subsequent removal of silt fences along Dry Creek once adjacent vegetation is established and soils are stabilized**
 - Documentation as requested here was not located. In the event the Commission desires this information, Kinder Morgan will have an environmental inspector review this issue.
4. **A copy of the Conservation Plan for the Project as recommended by the USFWS.**
 - Documentation as requested here was not located. In the event the Commission desires this information, Kinder Morgan can have a conservation plan prepared.
5. **An explanation as to why the route was not moved closer to the section line to avoid fragmentation of Sprague’s pipit habitat as per the USFWS.**
 - Documentation regarding this information request was not located. Further, Kinder Morgan was unable to locate any individuals with knowledge of this issue, and cannot opine as to the reason Arrow Field Services, LLC did not move the route closer to the section line.

6. **Tree and shrub Mitigation Plan and three years of monitoring reports are needed, that is, the 2013 and 2014 reports should be filed with the final report documenting a 75 percent survival rate filed in 2015.**
 - Documentation as requested here was not located. In the event the Commission requires this information, Kinder Morgan will have a report done in 2016 for the trees and shrubs planted in or about 2014.

7. **Documentation as to the seed mix used and verification that vegetation has been established within the grassland area on the east half of the corridor. There were indications in a few areas that mixing of topsoil with subsoil had occurred, or that insufficient topsoil was replaced during reclamation. These areas had lighter-colored soils and poor revegetation establishment within the grassland area.**
 - Documentation as requested here was not located. In the event the Commission requires this information, Kinder Morgan can have an environmental inspector review this issue.

8. **It appeared crop production may have been suspended due to pipeline construction activities. Though presumably crop losses were being monetarily mitigated, the Company should report whether former land uses have been achieved.**
 - Documentation regarding this issue was not located. However, Kinder Morgan is unaware of any landowner issues regarding land use not being restored.

9. **Verification that the pipeline was designed, constructed, and is now operated in compliance with US DOT 49 CFR Parts 194 and 195.**
 - Hiland Crude and Kinder Morgan were not involved in the design and construction of the Project. However, based on a review of available information, and based on the current operation of the line, Kinder Morgan believes the pipeline is in compliance with US DOT 49 CFR Parts 194 and 195.

10. **Justification as to why the 80' buffer was not retained along Dry Creek.**
 - Documentation regarding this information request was not located. Further, Kinder Morgan was unable to locate any individuals with knowledge of this issue, and cannot opine as to the reason Arrow Field Services, LLC did not retain this buffer.

Based on the above, please advise as to additional information desired by the Commission.

Sincerely,



LAWRENCE BENDER

LB/dmk

Cc: Mr. Patrick Fahn (via e-mail)
Ms. Sara Cardwell (via e-mail)

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