

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. Case No. PU-11-680  
Natural Gas Pipeline- Morton County  
Siting Application

AFFIDAVIT OF SERVICE BY REGULAR, OR ELECTRONIC MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

Cara DeSaye deposes and says that:

she is over the age of 18 years and not a party to this action and, on the 22<sup>nd</sup> day of **August, 2013**, she deposited in the United States Mail, Bismarck, North Dakota, 3 envelopes by first class mail, fully prepaid, securely sealed and each containing a photocopy, and 23 addressees electronically mailed a copy of:

**Order**


The envelopes were addressed as follows:

See attached list.

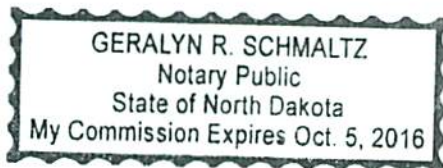
Each post office address shown is the respective addressee's last reasonably ascertainable post office address.

  
\_\_\_\_\_

Subscribed and sworn to before me  
this 22<sup>nd</sup> day of **August, 2013**.

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

**Montana-Dakota Utilities Co., a Division of MDU  
Resources Group, Inc.  
Natural Gas Pipeline – Morton County  
Siting Application**

**Case No. PU-11-680**

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

**August 21, 2013**

**Appearances**

Commissioners: Brian P. Kalk, Randy Christmann and Julie Fedorchak.

Daniel Kuntz, Associate General Counsel, MDU Resources Group, Inc. P.O. Box 5650, Bismarck, ND 58506-5650, on behalf of the Applicant Montana-Dakota Utilities Co.

Paul Sanderson, Zuger Kirmis & Smith, P.O. Box 1695, 316 North 5<sup>th</sup> Street, Bismarck, ND 58502-1695, on behalf of the Applicant Montana-Dakota Utilities Co.

Mitchell Armstrong, Special Assistant Attorney General for the Public Service Commission, Bismarck, North Dakota 58501.

Sara Cardwell, Public Utility Analyst, Public Service Commission, State Capitol, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Bonnie Fetch, Office of Administrative Hearings, 2911 North 14th Street, Suite 303 Bismarck, ND 58503, as Administrative Law Judge.

**Preliminary Statement**

Under North Dakota Century Code (NDCC) § 49-22-07, a utility may not begin construction of a transmission facility in the state without first obtaining a route permit. The transmission facility must be constructed, operated, and maintained in conformity with the permit and any terms, conditions, or modifications of the permit.

On February 13, 2013, Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (Montana-Dakota) filed with the North Dakota Public Service Commission (Commission) a combined application for a Certificate of Corridor Compatibility and Energy Transmission Facility Route Permit to authorize construction for a 24-mile 10-inch diameter natural gas pipeline in Morton County, North Dakota (the

Application). Pursuant to NDCC § 49-22-07.2 and North Dakota Administrative Code (ND Admin. Code) §69-06-06, Montana-Dakota also filed a request for waiver of procedures and time schedules.

On March .21, 2013, Montana-Dakota submitted a supplemental filing providing additional information to the Commission clarifying that all residences along the proposed route are outside any city limits, copies of waivers signed to date, a discussion of no reasonable route alternatives, groundwater mitigation efforts and the Environmental Mitigation Plan.

On March 27, 2013, the Commission deemed the Application complete and issued a Notice of Filing and Notice of Hearing, scheduling a public hearing on the application for May 3, 2013 at 9:00 a.m. CST at the City Commission Meeting Room, 205 2<sup>nd</sup> Ave NW, Mandan, North Dakota 58554. 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 utility's 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 May 3, 2013, a public hearing was held as scheduled.

On June 13, 2013, Montana-Dakota submitted a request to amend its applications for a corridor certificate and route permit to modify the pipeline corridor and route between Highway 1806 and the Heskett Station by moving the route and corridor, approximately 35 feet south of the original location shown on Exhibit No. MDU-4 at the hearing. The relocation does not affect any exclusion or avoidance areas. On June 19, 2013, the Commission determined the amendment to the applications did not materially affect the applications and a rehearing in the proceeding was not required (ND Admin. Code §69-06-04-01.5).

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. Montana-Dakota is a Division of MDU Resources Group, Inc. and is registered to conduct business in the State of North Dakota. Montana-Dakota is a "utility" as defined at NDCC § 49-22-03(13) engaged in the generation and transmission of electric energy under the regulatory jurisdiction of this Commission.
2. The natural gas pipeline project (Project) will consist of the construction of an underground 10-inch diameter, steel, natural gas pipeline, approximately 24 miles in length, originating at an interconnection with the Northern Border Pipeline system (Northern Border) near St. Anthony, North Dakota and terminating at the Heskett electric generating station north of Mandan, North Dakota.
3. The purpose of the Project is to supply the natural gas fuel requirements for Montana-Dakota's 88 megawatt (MW) Simple Cycle Combustion Turbine (SCCT) and associated facilities (PU-11-631) which will interconnect with Montana-Dakota's existing electric system.
4. The Project will utilize 10-inch diameter steel pipe and the maximum operating pressure will be 1,440 psi at a maximum discharge temperature of 114 degrees Fahrenheit. The maximum design flow rate is approximately 2,900 cubic feet per hour.
5. Construction is planned to start in August 2013 and be completed in the first quarter of 2014. The total estimated cost of the project is \$18.4 million.
6. Associated facilities to be constructed within the Project area include:
  - a. Town Border Station header;
  - b. In-line inspection tool launcher/receiver;
  - c. Mid-line valves;
  - d. Odorizer;
  - e. Cathodic protection; and
  - f. Gas delivery station.

### **Need for the Facility**

7. The Project is needed to provide natural gas to fuel Montana-Dakota's 88 MW SCCT electricity generator to be built north of Mandan, North Dakota at its Heskett electric generating station. On April 11, 2012, the Commission issued its Order on Settlement in Case Nos. PU-11-395 and PU-11-396 finding that the 88 MW SCCT project, including the associated natural gas pipeline, is a prudent resource addition to meet the needs of Montana-Dakota for electric generation capacity to serve its electric

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Finding of Fact, Conclusions of Law and Order

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distribution customers and that the public convenience and necessity will be served by the construction, ownership, and operation of the 88 MW SCCT project.

### Study of Preferred Locations

8. In its Application and supplemental filing, Montana-Dakota identified a one mile wide study area centered on the preferred pipeline route. Montana-Dakota identified a 400-foot-wide field survey area centered on the preferred pipeline route for the purpose of conducting cultural resource field surveys, biological, wetland field surveys, and other environmental field assessments.

9. Montana-Dakota analyzed a number of routing alternatives and factors, including engineering, economic, safety, and environmental factors and landowner considerations to determine the most feasible route.

10. Montana-Dakota contacted thirty-five federal, state, and local government agencies to notify them of the Project and to request their comments with respect to the Project. The following agencies provided written comments:

- a. U.S. Department of Interior, Fish and Wildlife Service;
- b. U.S. Department of Agriculture, Natural Resources Conservation Service;
- c. U.S. Department of Agriculture, North Dakota Farm Service Agency;
- d. U.S. Army Corps of Engineers;
- e. State Historical Society of North Dakota;
- f. North Dakota State Water Commission;
- g. North Dakota Parks and Recreation Department;
- h. North Dakota Game and Fish Department;
- i. North Dakota Department of Transportation; and
- j. North Dakota Department of Health.

11. Montana-Dakota conducted a Class I literature search on the one-mile wide Project study area. A Class III cultural resource inventory was completed on the field survey area. Additionally, environmental data collected included information on soils, land use, wetlands and water body crossings, noxious weeds, trees, saplings, shrubs, and protected species and habitats.

12. The State Historic Preservation Office (SHPO) concurred with Montana-Dakota's recommendation that no historic properties or significant sites will be affected by the Project.

### Siting Criteria

13. ND Admin. Code §69-06-08-02 sets forth criteria to guide and govern the preparation of the inventory of exclusion and avoidance areas, and the corridor and route suitability evaluation process for transmission facilities. The criteria set forth in ND

Admin. Code §69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

14. Exclusion Areas must be excluded in the consideration of a route for a transmission facility. Exclusion Areas may be located within a corridor, but at no point shall such an area encompass more than fifty percent of the corridor width unless there is no reasonable alternative. A buffer zone of a reasonable width to protect the integrity of an Exclusion Area must be included in the siting of the transmission facility.

15. Montana-Dakota identified four Exclusion Areas defined by ND Admin. Code §69-06-08-02(1) existing within the one-mile Project study area, including:

- a. A variety of cultural resources on file at the State Historical Society of North Dakota;
- b. The Heskett Power Plant Public Fishing Stairway, a county park;
- c. Roughrider Park, a municipal park; and
- d. A significant ecological community consisting of shrubland.

16. No Exclusion Areas as defined by ND Admin. Code §69-06-08(1) are located within the 400 foot wide field survey area.

17. Avoidance Areas may not be considered in the routing of a transmission facility unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a transmission 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.

18. Montana-Dakota identified four Avoidance Areas defined by ND Admin. Code §69-06-08-02(2) existing within the one-mile Project study area, including:

- a. Historical resources which are not specifically designated as Exclusion or Avoidance Areas;
- b. Occupied residences and businesses within five-hundred feet of the proposed route;
- c. Reservoirs and municipal water supplies; and
- d. Water sources for organized rural water districts.

19. The Project will not have a significant impact on Avoidance Areas defined by ND Admin. Code §69-06-08-02(2). The historical resources, reservoirs and municipal water supplies, and water sources for organized rural water districts identified as Avoidance areas within the one-mile Project study area are not located on the proposed route.

20. A Class III cultural resource survey was performed and no new cultural resource sites were identified. SHPO provided a "No Historic Properties Affected" determination,

provided the Project remains as described and mapped in the survey. (SHPO Ref.: 112-0025C, June 7, 2013)

21. In accordance with the Commission's Selection Criteria, a transmission facility shall be approved only if it is demonstrated that no significant adverse impacts will result from the location, construction, and maintenance of the transmission facility.

22. The Project will not have a significant impact on the Selection Criteria set forth in ND Admin. Code §69-06-08-02(3) because any adverse effects on natural resources will be managed and maintained at an acceptable minimum. Once the Project is completed, Montana-Dakota will restore all disturbed areas.

23. In accordance with the Commission's Policy Criteria, preference may be given to an applicant that maximizes benefits resulting from the adoption of certain policies and practices.

24. Montana-Dakota has demonstrated its commitment to maximize the benefits of the proposed Project so as to meet the Policy Criteria set forth in ND Admin. Code §69-06-08-04(4) by designing and locating the Project in such a manner as to maximize operational efficiency and economic benefits while minimizing impacts on agriculture, extractable resources, health and safety, plant and animal life, communications, and the visual effect on the surrounding area.

#### Measures to Minimize Impact

25. Montana-Dakota has made other representations and covenants as contained in the Certification Relating to Order Provisions – Transmission Facility Siting, executed on May 3, 2013, and filed with the Commission on May 3, 2013, and in the Certification Relating to NDCC §49-22-16.3, executed and filed with the Commission on August 20, 2013, which are incorporated into this Order.

26. Montana-Dakota will implement various measures to protect the right-of-way (ROW) or mitigate the adverse impacts of ROW preparation and pipeline construction, operation, and maintenance on the human and natural environment. These measures include but are not limited to, utilizing low impact construction techniques in sensitive areas (horizontal directional drilling), installing erosion and sedimentation control measures, and restoring the ROW as closely as possible to pre-construction conditions. Montana-Dakota will work closely with the landowners and applicable agencies to ensure proper restoration of the ROW is accomplished.

27. Montana-Dakota will utilize Environmental Inspector(s) during construction and restoration activities to ensure environmental compliance throughout the duration of the Project. Environmental inspection activities will include monitoring compliance with permit requirements, inspection of erosion control and sedimentation methods, inspection of topsoil segregation procedures, compliance with stream and wetland

construction and mitigation procedures and permits, spill response activities, inspection of water appropriation and dewatering activities and implementation of restoration plans. The Project contract documents will specifically address environmental compliance requirements and the construction contractor will be held responsible for mitigating any adverse impacts as identified by Montana-Dakota, applicable agencies, or landowners.

28. The design, construction, and operation of the transmission facility will be in accordance with the United States Department of Transportation (DOT) regulations governing the transportation of natural gas, as prescribed under 49 CFR Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, and all other applicable laws.

29. Montana-Dakota has an emergency response program in place for compliance with standards set by the DOT Pipeline and Hazardous Materials Safety Administration applicable to its natural gas utility operations. Montana-Dakota's emergency response plan has been submitted to and accepted by the DOT. Montana-Dakota seeks input from local first responders in conjunction with the implementation of its emergency response program.

30. Montana-Dakota's existing Emergency Response Plan will be applicable to the Project.

31. Montana-Dakota will participate in the North Dakota One-Call Excavation Notice System.

32. Montana-Dakota will ensure that the regulator station constructed at the interconnection with the North Border pipeline will be located within an insulated, enclosed structure such that noise from the regulator will not exceed 55 decibels audible (dBa) outside the regulator station. A sound pressure level of 55 dBa is approximately equivalent to noise from a car that is approximately 100 yards away and traveling at about 40 miles per hour. Montana-Dakota will manage the sound level of the regulator station to below 55 dBa at the nearest noise sensitive area.

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

### **Conclusions of Law**

1. The Commission has jurisdiction over the applicant, Montana-Dakota, and over the subject matter of this application under NDCC §49-22.

2. Montana-Dakota is a utility as defined in NDCC §49-22-03(13) for the purposes of the Project.

3. The proposed pipeline, and its associated facilities, is a transmission facility as defined by NDCC §49-22-03(12).

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Finding of Fact, Conclusions of Law and Order

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4. The location, construction, operation, and maintenance of the Pipeline will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The location, construction, operation, and maintenance of the Pipeline 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, as defined by NDCC §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 NDCC §49-22-07.2.

From the foregoing Findings of Fact and Conclusions of Law, the Commission issues the following:

#### **Order**

The Commission orders:

1. Montana-Dakota's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility Number 143 is issued to Montana-Dakota designating a corridor for the construction, operation, and maintenance of the proposed 10-inch, 24-mile natural gas pipeline and associated facilities in Morton County, North Dakota. For the purposes of the Certificate, the Corridor will consist of a 400 foot-wide area centered on the pipeline route for the length of the route.
3. Route Permit Number 156 is issued to Montana-Dakota granting authority to construct and operate the proposed 10-inch, 24-mile natural gas pipeline and associated facilities in Morton County, North Dakota as identified on Exhibits 3 through 6 at the hearing and Attachment A to the Company's June 13, 2013 request to amend the Application.
4. The May 3, 2013 Certification Relating to Order Provisions - Transmission Facility Siting with the accompanying Tree and Shrub Mitigation Specifications is incorporated by reference and attached to this Order.

5. Montana-Dakota must comply with the appropriate provisions of NDCC § 49-22-16.3 that became effective on April 2, 2013, if any adjustments to the corridor or route are needed after the certificate of corridor compatibility or route permit have been issued or during construction. The August 20, 2013 Certification Relating to NDCC § 49-22-16.3 is incorporated by reference and attached to this Order.

**PUBLIC SERVICE COMMISSION**

  
\_\_\_\_\_  
**Randy Christmann**  
Commissioner

  
\_\_\_\_\_  
**Brian P. Kalk**  
Chairman

  
\_\_\_\_\_  
**Julie Fedorchak**  
Commissioner

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

**Montana Dakota Utilities Co., a Division of MDU Resource Group, Inc.**  
**Heskett Station Natural Gas Pipeline – Morton County**  
**Siting Application**

**Case No. PU-11-680**

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

I am Andrea Stenberg, a representative of Montana Dakota Utilities Co., a Division of MDU Resource Group, Inc., (“Company”) with authority to bind it to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company 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 Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission’s order.
3. Company 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. Company 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. Company agrees to inform the Commission and the Commission’s third-party construction inspector of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission’s third-party construction inspector updated on construction activities on a weekly basis.
6. Company 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 range land, 48

inches for cultivated land, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines.

7. Company 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. Company 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. Company agrees to construct and operate the transmission facility in the manner described in Company's application, in any late filed exhibits, and supplemental materials (Application). To the extent there are any conflicts or inconsistencies between Company's Application and the provisions in this Certification Relating to Order Provisions, the Certification provisions control.
10. Company 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 Company becomes aware and which were not previously reported to the Commission.
11. Company 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. Company 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. Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road.
14. Company 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. Company 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. Company 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. Company 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. Company 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. Company 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. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
21. Company 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.
22. Company understands and agrees that it shall repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.

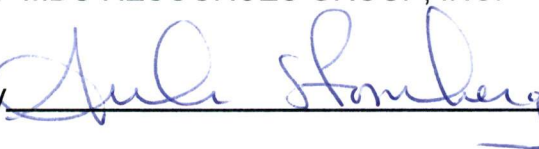
23. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
24. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
25. Company 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.
26. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.
27. Company 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.
28. Company understands and agrees that it shall implement a procedure for how complaints concerning the transmission facility will be handled by Company.
29. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
30. Company 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. Company 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.
31. Company agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built 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

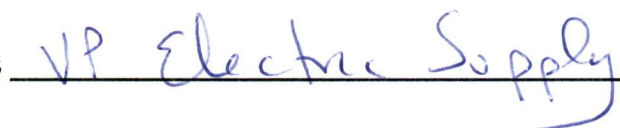
and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.

32. Company 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.
33. Company understands and agrees that in the event Company 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 Company's application in this proceeding, Company shall apply to the Commission for a Route Permit or Site Certificate for the facility.
34. Company 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, Company 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.
35. Company 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 3 day of May, 2013.

MONTANTA-DAKOTA UTILITIES CO., A DIVISION  
OF MDU RESOURCES GROUP, INC.

By 

Its 

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

**Montana Dakota Utilities Co., a Division of MDU  
Resource Group, Inc.  
Heskett Station Natural Gas Pipeline – Morton County  
Siting Application**

**Case No. PU-11-680**

**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*), must be inventoried before cutting. The inventory must 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, must 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 must be inventoried for replacement.
4. In native growth areas, shrubs anticipated to be cleared in the permanent right-of-way must be inventoried for replacement.
5. In native growth areas outside the permanent right-of-way, shrubs must 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 must be preserved and replaced after construction. Shrubs must 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 must be inventoried for replacement.

6. In native growth areas, trees and shrubs may be inventoried by actual count or by a 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 must define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots must 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 must be selectively cleared, leaving mature trees and shrubs intact where practical.
8. The maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas is 50 feet, 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 must be noted on the inventory.

### **Replacement**

10. Prior to tree and shrub replacement, documentation identifying the number and variety of trees and shrubs removed, as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings, must be filed with the Commission for approval.
11. Two 2-year-old saplings must be planted for every one tree removed. Two shrubs (stem cuttings) must be planted for every one shrub removed.

12. Except in the case of invasive or noxious species, trees and shrubs must be replaced by the same species or similar species, suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service. Invasive or noxious species must be replaced by similar non-invasive or non-noxious species suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.
13. Tree and shrub replacement must not be conducted within a 20 to 30 foot wide path over the pipeline to facilitate visual inspections of the right-of-way in accordance with U.S. Department of Transportation safety regulations.
14. Landowners must be given the option of having replacement trees and shrubs planted on the landowner's property, either on or off the right-of-way. The landowner must also be given the opportunity to waive those options in writing in order to have replacement trees and shrubs planted off the landowner's property.
15. At the conclusion of the project, documentation identifying the actual number, variety, type, location and date of the replacement plantings must be filed with the Commission.
16. Tree and shrub replacements must be inspected annually, in September, for three years. The first annual inspection must be at least one year from the anniversary date of the original plantings. A report of each annual inspection must be submitted to the Commission by October 1 of each year, documenting the condition of plantings and any woodlands work completed as of September of each year. If after the third annual report the survival rate is less than 75%, the Commission may order additional planting(s).

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Case No. PU-11-680

**CERTIFICATION RELATING TO N.D.C.C. §49-22-16.3**

I am Michael J. Gardner, a representative of Montana-Dakota Utilities Company, a Division of MDU Resources Group, Inc. ("Company") with authority to bind the Company to requirements to be set forth by the Commission in its Order and I certify that the Company agrees to the following if it seeks an adjustment to the designated route (route adjustment) before or during construction of the pipeline under N.D.C.C. §49-22-16.3:

1. Company will specifically identify the subsection of N.D.C.C. §49-22-16.3 under which it is requesting the adjustment.
2. Before conducting any construction activities for any route adjustment within the designated corridor, Company will file with the Commission maps meeting the requirement of N.D. Admin. Code § 69-06-04-01(n) and identifying:
  - a. the designated route and the route adjustment;
  - b. the designated corridor;
  - c. all exclusion and avoidance areas within the designated corridor area containing the route adjustment ;
  - d. all landowners and their associated property within the designated corridor area containing the route adjustment; and
  - e. all government entities with an interest in the designated corridor area containing the route adjustment.
3. Before conducting any construction activities for any route adjustment outside the designated corridor, maps filed with the Commission under paragraph 2 will include the following additional information:
  - a. the length of the route outside the designated corridor;
  - b. the corridor adjustment for the route adjustment;
  - c. the width of the adjusted corridor;
  - d. identification of all exclusion and avoidance areas within the adjusted corridor;
  - e. identification of all landowners and their associated property within the adjusted corridor; and
  - f. identification of all government entities with an interest in the adjusted corridor.


4. Company will provide the name and contact information for each: (1) owner of real property on which the route adjustment and any adjusted corridor will be located; (2) owner of real property within five hundred (500) feet of the route adjustment and any adjusted corridor, if different than those identified in (1) above; (3) owner of real property on which any affected avoidance area is located; and (4) any applicable governmental entity with an interest in the adjustment area, property adjacent to the route adjustment and any adjusted corridor, and any affected avoidance area. Company will also provide a description of the nature of each entity's interest sufficient for the Commission and Commission staff to evaluate potential impacts.
5. Company will provide sufficient supporting documentation indicating that no landowner or interested government entity opposes the adjustment. If a landowner or interested government entity is opposed to the route adjustment, Company will provide documentation from the landowner or government entity stating its objection. If no documentation exists, Company will provide a description of its understanding of the nature of any landowner or government entity objection.
6. If the construction activity associated with the adjustment will not affect any known exclusion or avoidance area, Company will certify in its filing that construction activities will not affect any known exclusion or avoidance areas and will provide all field studies performed to conclude that exclusion or avoidance areas will not be impacted within the revised corridor.
7. If the construction activity associated with the adjustment will impact an avoidance area, Company will provide, before any construction activities are undertaken:
  - a. specific information describing avoidance areas expected to be impacted;
  - b. all field studies performed to conclude that avoidance areas will be impacted;
  - c. specific information describing why Company asserts there is no reasonable alternative to impacting the avoidance area;
  - d. specific information describing why Company asserts there is good cause to impact the avoidance area; and
  - e. specific information about any mitigation measures Company will take.
8. If Company is seeking an adjustment under subsection 2 or 4 of N.D.C.C. §49-22-16.3, Company agrees the initiation of the statutory ten working days time frame for Commission action will not start until Company has been notified in writing, including electronic mail, that all of the information required by law has been received by the Commission. Company further acknowledges that if Commission staff provides written notice, including electronic mail, to the Company within five working days after the Company's filing is complete that full Commission action is necessary to authorize an impact to an avoidance area, staff's written notice to Company that Commission action is necessary initiates the statutory ten working days time frame.

9. If a route adjustment is granted within the original designated corridor or in an adjusted corridor, Company agrees to incorporate and follow all provisions of the Commission's Order designating the original route and corridor unless Company specifically requests relief from a specific provision, and the requested relief is specifically granted.
10. Company certifies that it will comply with the Commission's Order and all applicable laws, rules, and regulations designating the corridor and route with respect to any adjustment.
11. Company understands and agrees that the application of Paragraph 30 of the May 3, 2013 Certification Relating to Order Provisions is amended by this Certification Relating to N.D.C.C. §49-22-16.3 regarding plans to modify the transmission facility or plans to modify the site plan for the transmission facility before or during construction of the transmission facility.

Dated this 28<sup>th</sup> day of August, 2013.

MONTANA-DAKOTA UTILITIES CO., A DIVISION OF  
MDU RESOURCES GROUP, INC.

By

  
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Michael J Gardner

Its

Executive VP- Utility Ops Support

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility Number 143**

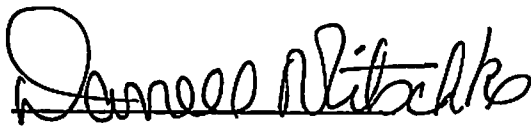
*This is to certify that the Commission has designated a transmission facility corridor for Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc.'s 24 mile, ten-inch diameter natural gas pipeline from an interconnection with the Northern Border Pipeline system near St. Anthony, North Dakota and terminating at the Heskett electric generating station north of Mandan, North Dakota.*

*This certificate is issued in accordance with the Order of this Commission dated August 21, 2013 in Case No. PU-11-680 and is subject to the conditions and limitations noted in the Order.*

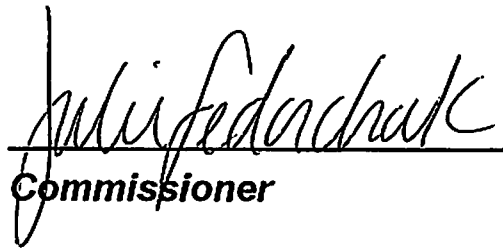
*Bismarck, North Dakota, August 21, 2013.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**



**Executive Secretary**



**Commissioner**

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

**Route Permit Number 156**

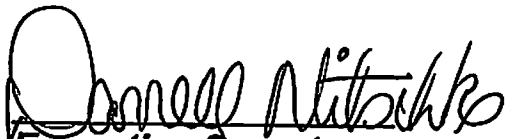
*This is to certify that the Commission has designated a transmission facility route for Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc.'s 24 mile, ten-inch diameter natural gas pipeline from an interconnection with the Northern Border Pipeline system near St. Anthony, North Dakota and terminating at the Heskett electric generating station north of Mandan, North Dakota.*

*This permit is issued in accordance with the Order of this Commission dated August 21, 2013 in Case No. PU-11-680 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, August 21, 2013.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**