

April 4, 2013

**VIA HAND DELIVERY**

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



**RE: BASIN TRANSLOAD, LLC  
10-INCH CRUDE OIL PIPELINE –  
CASE NUMBER PU-12-775**

Dear Mr. Nitschke:

Enclosed for filing, please find an original and ten (10) copies of the following documents in support of Basin Transload, LLC's ("Basin Transload") request for an amended Certificate of Corridor Compatibility and Route Permit:

1. Basin Transload, LLC's Application for Waiver or Reduction of Procedures and Time Schedules;
2. Affidavit of Ray Sheldon in Support of Application for Waiver;
3. Map depicting original route and requested reroute;
4. Letter from the North Dakota State Historical Preservation Office concurring with the finding of *No Historic Properties Affected* and *No Significant Sites Affected*;
5. Memorandum from Wenck Associates, Inc. regarding wetlands;
6. Certification from Ray Sheldon regarding exclusion and avoidance areas; and
7. Map for publication.

Also enclosed is a CD containing the above-referenced document in PDF format.

As noted in the attached Application for Waiver, due to the minor nature of the requested reroute, the time constraints regarding pipeline construction, and the fact that the requested route lies within property owned by Basin Transload, Basin Transload requests that the Commission staff make a determination regarding the requested modifications as soon as possible, prior to holding a public hearing on the matter.

Attorneys & Advisors / Fredrikson & Byron, P.A.  
main 701.7  
fax 701.2  
www.fredli

**53** **PU-12-775** Filed: 4/4/2013 Pages: 19  
**Application for Waiver or Reduction of Procedures  
and Time Schedules**

Letter to D. Nitschke  
April 4, 2013  
Page 2

Finally, please note that the Certification and Affidavit executed by Ray Sheldon are copies. The executed originals will be separately filed as soon as possible.

If you should have any questions, please advise.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jillian Rupnow", is written over the word "Sincerely,".

JILLIAN RUPNOW

Enclosures

cc: Ray Sheldon (*via e-mail*)  
Pat Fahn (*via e-mail*)

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BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NORTH DAKOTA

IN THE MATTER OF THE APPLICATION  
OF BASIN TRANSLOAD, LLC, FOR A  
CERTIFICATE OF CORRIDOR  
COMPATIBILITY AND ROUTE PERMIT  
FOR THE CONSTRUCTION OF AN  
APPROXIMATELY 7-MILE-LONG 10-  
INCH CRUDE OIL PIPELINE AND  
ASSOCIATED FACILITIES IN BURKE  
COUNTY, NORTH DAKOTA

CASE NO. PU-12-775

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**Application of Basin Transload, LLC,  
for Waiver or Reduction of Procedures and Time Schedules**

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In connection with its request for an amended Certificate of Corridor Compatibility and amended Route Permit for a 10-inch crude oil pipeline project approximately 7 miles in length, all of which will be located in Burke County, North Dakota (the "Project"), Basin Transload, LLC ("Basin Transload"), submits to the North Dakota Public Service Commission ("Commission") this application for a waiver or reduction of procedures and time schedules set forth in Chapter 49-22 of the North Dakota Century Code ("Siting Act") and Article 69-06 of the North Dakota Administrative Code ("Siting Rules"). In accordance with Section 49-22-07.2 of the North Dakota Century Code and Chapter 69-06-06 of the North Dakota Administrative Code, Basin Transload requests that the Commission waive the following requirements:

1. The requirements of Sections 49-22-08 and 49-22-08.1 of the North Dakota Century Code insofar as these sections may require the separate filing of applications for an amended Certificate of Corridor Compatibility and an amended Route Permit, and insofar as they may require separate publication of notices of filing said applications.

2. The requirements of Sections 49-22-07.2, 49-22-08, 49-22-08.1 and 49-22-13 of the North Dakota Century Code and Chapter 69-06-01-02 of the North Dakota Administrative Code insofar as these sections may require that the Commission hold a public hearing on a waiver request, the application for an amended Certificate of Corridor Compatibility, and/or the application for an amended Route Permit. Instead, Basin Transload requests that the Commission issue a notice and opportunity for hearing and publish it in the official newspaper of Burke County, North Dakota. Basin also requests that Commission staff approve Basin Transload's corridor and route amendment requests as soon as possible, and conditioned upon expiration of the notice period with receipt of any comments or requests for hearing. Furthermore, if either an informal or formal hearing is required, Basin Transload requests that the Commission hold a single consolidated hearing on its waiver requests and its consolidated application for an amended Certificate of Corridor Compatibility and amended Route Permit.

Consistent with the Commission's Energy and Transmission Facility Siting Guidelines ("Commission's Guidelines"), Basin Transload provides the following information in support of its requests for waiver and reduction of procedures and time schedule:

**I. Description of Proposed Project.**

1. **Type:** The Project will require installation of an underground steel pipeline that will transport crude oil. There will be no surface structures along the 7-mile pipeline between termination points. There are no compressor or pumping stations within the 7-mile length of the proposed pipeline. Surface structures will exist on the east terminus at the Tesoro Lignite Station in Section 34-T163N-R92W and the western terminus at the oil storage facility being developed separately by Basin Transload in Section 3-T162N-R93W.

2. **Product:** The Project, as modified, will still transport crude oil.
3. **Size and Design:** The size and design of the Project, as modified, will remain the same as approved in the Commission's Order. Any change in total pipeline length will be negligible.
4. **Location:** The total length of the Project is still approximately 7 miles, all of which is located in Burke County, North Dakota. The pipeline will connect Tesoro's Lignite Station in Section 34-T163N-R92W with the storage facility under development by Basin Transload in Section 3-T162N-R93W of Burke County. Maps depicting the original and proposed modified Project corridor and route are attached to the Affidavit of Ray Sheldon, submitted herewith, as **Exhibit A.**
5. **Geographic Service Area:** As noted above, the Project will take crude oil from Tesoro's High Plains Pipeline at Tesoro's Lignite station to Basin Transload's storage facility. The immediate area served by the Project will be western North Dakota; however, the crude oil will ultimately be distributed throughout the United States.
6. **Time Schedule:** Basin Transload has a target in-service date for the Project of June 2013. Basin Transload began construction on the approved portions of the pipeline in March 2013. Basin Transload hopes to obtain the Commission's approval of the re-routed portion of the pipeline as soon as possible, to avoid any disruption in the construction schedule.
7. **Future Plans:** At this time, Basin Transload has no specific plans for additions to or modifications of the Project.

## II. **Need for the Project.**

The development of hydrocarbon production in the Williston Basin has increased significantly in recent years due to advancements in deep horizontal directional drilling techniques and subsequent oil extraction in the Bakken and Three Forks shale formations. The

total recoverable amount of Bakken and Three Forks oil reserves is subject to interpretation and speculation. Studies conducted by the North Dakota Department of Mineral Resources (NDDMR)<sup>1</sup> and the U.S. Geological Survey<sup>2</sup> in 2008 and 2010 indicate that 4.0 to 6.3 billion barrels of recoverable reserves are available in North Dakota's Bakken and Three Forks formations. Information from the NDDMR indicates that oil production has increased dramatically over the past four years from nearly 110,000 bpd in 2007 to nearly 386,000 bpd in June, 2011,<sup>3</sup> and production is expected to continue to increase dramatically.<sup>4</sup>

The major constraint in transporting oil from North Dakota to refining centers is the lack of pipeline capacity. Several major projects have been planned to address the growing volumes of crude oil, but pipeline capacity is not expected to keep pace with production until early 2013, leaving incremental volumes to find alternative transportation methods, primarily rail.

With the constraints to the existing transportation infrastructure in the Project area, construction of the Project will provide Basin Transload with a safe and efficient mechanism to transfer crude oil. Additionally, transporting crude oil from Tesoro's High Plains Pipeline currently involves significant movement of crude oil by tanker truck over public roadways, a public safety issue that the Project will prevent. Thus, the Project will provide the needed

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<sup>1</sup> Bohrer, M., Fried, S., Helms, L., Hicks, B., Juenker, B., McCusker, D., Anderson, F., LeFever, J., Murphy, E., and Nordeng, S. North Dakota Department of Mineral Resources. State of North Dakota Bakken Resources Study Project 23 (2008).

<sup>2</sup> United State Geological Survey. Assessment of Undiscovered Oil Resources in the Devonian-Mississippian Bakken Shale Formation, Williston Basin Province, Montana and North Dakota (2008). Web access in March, 2011 at: <http://geology.com/usgs/bakken-formation-oil.shtml>.

<sup>3</sup> North Dakota Department of Mineral Resources. North Dakota Monthly Oil Production Statistics. Web access in January 2012 at: <https://www.dmr.nd.gov/oilgas/stats/historicaloilprodstats.pdf>.

<sup>4</sup> North Dakota Department of Mineral Resources. Activities and Projections. Web access in January 2012 at: <https://www.dmr.nd.gov/oilgas/presentations/ActivityandProjectionsWilliston2010-08-03.pdf>.

capacity to transport crude oil production safely and economically from the Bakken and Three Forks formations to facilities with access to major markets.

For additional analysis of the need for the Project, including a discussion of alternatives evaluated, please see Section C of Basin Transload's Consolidated Application, which was filed with the Commission on November 9, 2012.

**III. Cost.**

The Project will still cost approximately \$4.5 million.

**IV. Waiver Request.**

Basin requests that the Commission grant the waivers requested herein because said waivers are needed to prevent potentially significant delays to the Project. As noted above, the Project is needed to provide a safe and economical means of transporting crude oil from Tesoro's High Plains Pipeline at Tesoro's Lignite station to Basin Transload's storage facility, from which crude oil may be distributed through the United States. Utilizing the Project will eliminate the need to transport the crude oil to rail facilities or other pipeline facilities via truck, which, in turn, will reduce truck traffic on North Dakota roads and highways. Without the waivers of time schedules and procedures requested, completion of the Project will be delayed and the Project will not be able to satisfy the immediate need for a safer, more efficient means of transporting crude oil from the High Plains Pipeline to facilities that have access to major markets.

Section 49-22-07.2 of the North Dakota Century Code provides that the Commission may waive procedures and time schedules upon a finding that "the proposed facility is of such length, design, location, or purpose that it will produce minimal adverse effects." Based upon the investigation and analysis set forth in Basin Transload's Consolidated Application, granting the waivers requested is appropriate because the proposed facility will produce minimal adverse effects due to its length (only approximately 7 miles), its design (an underground, small-diameter

pipeline with few above-ground appurtenances), its location (crossing pasture and farmland in rural Burke County and avoiding Exclusion and Avoidance Areas), and its purpose (underground transportation of crude oil). The re-route will also avoid adverse effects to landowners, as the original route and requested re-route are located entirely on property owned by Basin Transload.


Further, the documentation of environmental and cultural resource studies and analyses conducted for the proposed corridor and route modifications—which was included in the application for Certificate of Corridor Compatibility and Route Permit and request for amended Certificate of Corridor Compatibility and amended Route Permit—demonstrates that there will be minimal adverse effects due to the modifications, and that the proposed modifications comply with the exclusion and avoidance area criteria set forth in Section 69-06-08-02 of the North Dakota Administrative Code. In fact, the amended wetland delineation shows that the re-route will actually impact approximately 700 less feet of wetlands than the original route. Further, the North Dakota State Historical Preservation Office has concurred that no historical properties will be affected by the re-route. As such, the requested modifications also comply with the requirements of Section 69-06-05-02(2) of the North Dakota Administrative Code.

For the reasons set forth above, Basin Transload respectfully requests that the Commission grant the requested waivers and render an expeditious decision.

Dated this 4th day of April, 2013.

FREDRIKSON & BYRON, P.A.

By



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LAWRENCE BENDER, ND Bar #03908  
JILLIAN RUPNOW, ND Bar #06937  
*Attorneys for Basin Transload, LLC*  
200 North 3<sup>rd</sup> Street, Suite 150  
P. O. Box 1855  
Bismarck, ND 58501-1855  
(701) 221-4020



OF THE STATE OF NORTH DAKOTA

**Basin Transload, LLC  
Crude Oil Pipeline — Burke County  
Siting Application**

CASE NO. PU-12-775

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Affidavit of Ray Sheldon in Support of the Application of Basin Transload, LLC, for an Amended Corridor Certificate and Route Permit, and the Application for Waiver or Reduction of Procedures and Time Schedules

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STATE OF MONTANA                    )  
  ) ss.  
COUNTY OF YELLOWSTONE        )

Ray Sheldon, being first duly sworn upon oath, states and alleges as follows:

1. That I submit this affidavit in support of the application for an amended Certificate of Corridor Compatibility and Route Permit and the Application for Waiver or Reduction of Procedures and Time Schedules, filed by Basin Transload, LLC (“Basin Transload”) in the above-captioned matter.

2. That I am the Development Director for Basin Transload, acting as Project Manager for this project.

3. That on January 16, 2013, the North Dakota Public Service Commission (“Commission”) issued its Order granting Basin Transload a Certificate of Corridor Compatibility and Route Permit for the Project (“Order”).

4. That Basin Transload requests the Commission approve a modification of the approved Project route and corridor in Burke County, North Dakota. Both the approved and proposed modified route and corridor are depicted on the maps attached hereto as **Exhibit A**.

5. That Basin Transload is requesting the proposed route and corridor modification to conform with potential future plans to construct additional railroad tracks on Basin

Transload's property in the NE/4 of Section 3, Township 162 North, Range 93 West of Burke County, North Dakota. Rather than build over or relocate the pipeline at a later date, Basin would prefer to reroute the pipeline at this time to a location outside of the potential rail construction area to prevent future conflict.

6. That the original route crossed 1,053 feet of right-of-way in the NE/4 of Section 3, Township 162 North, Range 93 West, owned by the Canadian Pacific Railroad and leased to Basin Transload, and the requested reroute will cross only 71 feet of said Canadian Pacific right-of-way with the remainder of the reroute entirely within property owned by Basin Transload.

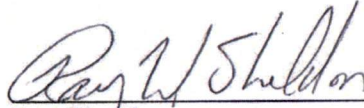
7. That a cultural resources inventory has been completed for the proposed modified route and corridor. A letter from the North Dakota State Historic Preservation Office, dated March 12, 2013, concurring with the findings of *No Historical Properties Affected* and *No Significant Site Affected* is attached hereto as **Exhibit B**.

8. That botany, wetland, and wildlife surveys have been completed for the proposed route and corridor modifications. A memorandum prepared by Wenck Associates, Inc. is attached hereto as **Exhibit C**.

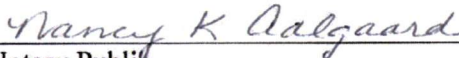
9. That no avoidance or exclusion areas, as set forth in Sections 69-06-08-02(1) and (2) of the North Dakota Administrative Code, will be crossed by the proposed route modification. *See* **Exhibits B, C**.

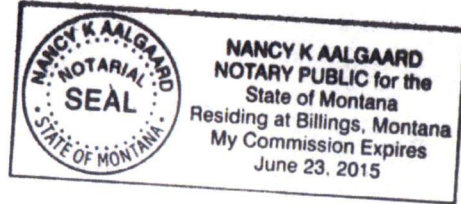
10. That no selection criteria, as set forth in Section 69-06-08-02(3) of the North Dakota Administrative Code, will be negatively impacted by the proposed route modification. *See* **Exhibits B, C**.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Ray Sheldon

Subscribed and sworn to before me, *Ray Sheldon,*  
this 3<sup>rd</sup> day of April, 2013. *County of Yellowstone, State of Montana*

  
\_\_\_\_\_  
Notary Public



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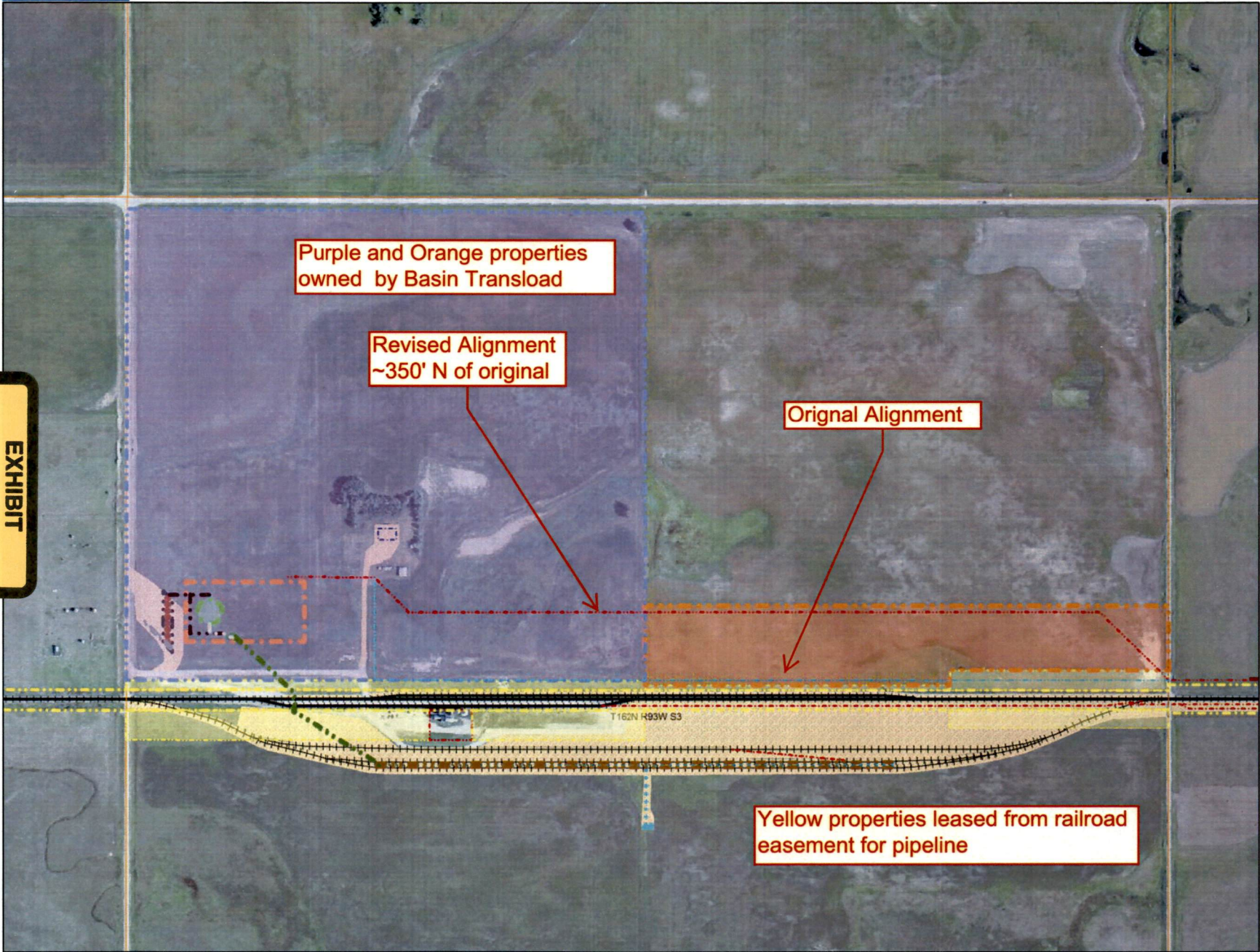


Purple and Orange properties owned by Basin Transload

Revised Alignment ~350' N of original

Original Alignment

Yellow properties leased from railroad easement for pipeline



T162N R93W S3

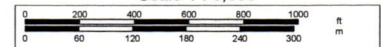
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www.delorme.com



Scale 1 : 8,000



1" = 666.7 ft

Data Zoom 14-6



**STATE  
HISTORICAL  
SOCIETY  
OF NORTH DAKOTA**

Jack Dalrymple  
Governor of North Dakota

North Dakota  
State Historical Board

Gereld Gerntholz  
Valley City - President

Calvin Grinnell  
New Town - Vice President

A. Ruric Todd III  
Jamestown - Secretary

Albert I. Berger  
Grand Forks

Diane K. Larson  
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Chester E. Nelson, Jr.  
Bismarck

Margaret Puetz  
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Sara Otte Coleman  
Director  
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Kelly Schmidt  
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Alvin A. Jaeger  
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Mark Zimmerman  
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Parks and Recreation  
Department

Grant Levi  
Acting Director  
Department of Transportation

Merlan E. Paaverud, Jr.  
Director

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March 12, 2013

Ms. Rebecca Spring  
ECI Environmental Services  
Electrical Consultants, Inc.  
3521 Gabel Road  
Billings MT 59102

**NDSHPO REF.: 13-0013a PSC Docket Number 12-775  
Revised Route for Proposed THPP Lignite Lateral Pipeline which will run  
adjacent to the BNSF Railroad ROW in portions of [T162N R93W sections 1-3  
and T162N R92W Sections 3-6] Burke County, North Dakota**

Dear Ms. Spring,

We reviewed your revised project documents (received via e-mail on March 11, 2013) for NDSHPO REF.: 13-0013 PSC Docket Number 12-775 Revised Route Proposed THPP Lignite Lateral Pipeline which will run adjacent to the BNSF Railroad ROW in portions of [T162N R93W sections 1-3 and T162N R92W Sections 3-6] Burke County, North Dakota.

We concur with *"No Historic Properties Affected"* and *"No Significant Sites Affected"* determinations provided that the project is of the nature stated, and that it takes place in plotted location in the correspondence.

Thank you for the opportunity to review this project. If you have questions please contact either Paul Picha at [ppicha@nd.gov](mailto:ppicha@nd.gov) or (701) 328-3574 or Susan Quinnell at [squinnell@nd.gov](mailto:squinnell@nd.gov) or (701) 328-3576.

Sincerely,

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

c: Patrick Fahn, ND PSC



**MEMORANDUM TO FILE**

**March 13, 2013**

**PROJECT: Lignite Pipeline**  
**T162N-R92W-Sections 3, 4, 5, and 6**  
**T162N-R93W-Sections 1, 2, and 3**  
**Burke County, North Dakota**  
**Re-alignment of Lignite Pipeline in T162N-R93W-Sec. 3**

Electrical Consultants, Inc. (ECI) contracted with Wenck Associates, Inc. (Wenck) to delineate wetlands within a corridor surrounding a proposed pipeline near the cities of Lignite and Columbus, Burke County, North Dakota. ECI has received notification from Basin Transload that the alignment of the pipeline through their parcel located in T162N-R93W-Sec. 3 has shifted to the north approximately 350 ft. ECI has asked for assistance from Wenck to indicate the potential impacts to wetlands within the area (Crystal Kuntz, Electrical Consultants, Inc., pers. commun.).

After off-site review of the proposed pipeline alignment changes, it appears the new pipeline alignment will reduce impacts by avoiding most of the wetland areas situated along the existing rail line. The new alignment may impact a small wetland depression where the pipeline directs west in the eastern extent of Section 3. It appears the majority of Wetland 25 will be avoided, though the extreme northwestern portion of the wetland may be impacted. The new alignment is well to the north of Wetland 26, though it appears a small isolated basin situated northwest of Wetland 26 may be within the alignment area. The potential impacts to Wetland 28 will be greater than the previous alignment if the new alignment is chosen. If the new alignment is chosen, Wetland 29 will not be impacted. The new alignment will have approximately 742 linear feet less wetland impacts than the previous alignment. See **Tables 1 and 2** for potential previous alignment and new alignment wetland impacts.

Table 1. Potential wetland impacts along previous Lignite Pipeline alignment in T162N-R93W-Sec. 3.

Wetland Number	Potential Impact (linear feet)
25	566 ft
26	337 ft
27/28	478 ft
29	390 ft
Total	1,771 ft



Table 2. Potential wetland impacts along re-alignment of Lignite Pipeline in T162N-R93W-Sec. 3.

Potential Wetland Area	Potential Impact (linear feet)
East end of Sec. 3	287 ft
NW of Wetland 25	101 ft
NW of Wetland 26	85 ft
Wetland 28	556 ft
Total	1,029 ft

All of the wetland areas along the previous alignment and those that appear to be along the new alignment seem to be isolated basins and therefore not regulated by the US Army Corps of Engineers.

These results are based on off-site review of aerial images, USFWS National Wetland Inventory, and NRCS Web Soil Survey. It is recommended that field verification be completed for the proposed alignment change prior to any field construction to avoid potential impacts.

Sincerely,

WENCK ASSOCIATES, INC.



Daniel S. Ackerman, M.S.  
Wetland Scientist

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NORTH DAKOTA

**Basin Transload, LLC  
Crude Oil Pipeline — Burke County  
Siting Application**

CASE NO. PU-12-775

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Certification of Ray Sheldon in Support of the Application of Basin  
Transload, LLC for an Amended Corridor Certificate and Route Permit

---

STATE OF MONTANA

COUNTY OF YELLOWSTONE

Ray Sheldon states and alleges as follows:

1. That I submit this certification in support of the application for an amended Certificate of Corridor Compatibility and Route Permit and the Application for Waiver or Reduction of Procedures and Time Schedules, filed by Basin Transload Pipeline LLC (“Basin Transload”) in the above-captioned matter.

2. That I am employed by Basin Transload and I am the Project Manager with regard to Basin Transload’s proposed crude oil pipeline project that is the subject of the above-captioned matter.

3. That on January 16, 2013, the North Dakota Public Service Commission (“Commission”) issued its Order granting Basin Transload a Certificate of Corridor Compatibility and Route Permit for the Project.

4. That Basin Transload is requesting the Commission approve a modification of the approved Project route and corridor in Burke County, North Dakota.

5. That Basin Transload is requesting the proposed route and corridor modification to conform with potential future plans to construct additional railroad tracks on Basin

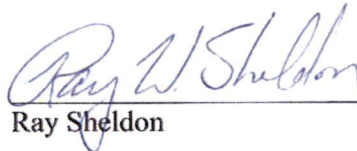
Transload's property in the NE/4 of Section 3, Township 162 North, Range 93 West, Burke County, North Dakota. Rather than build over or relocate the pipeline at a later date, Basin would prefer to reroute the pipeline at this time to a location outside of the potential rail construction area to prevent future conflict.

6. That the requested route change will not affect any exclusion or avoidance areas, or any of the Public Service Commission's selection criteria. Furthermore, Basin Transload confirmed that no cultural sites are affected by the reroute and the overall impacts from construction activities are expected to be reduced due to the fact the reroute affects fewer feet of wetland area.

7. That no existing or future county roads are affected by the requested reroute.

8. That construction on the pipeline is expected to commence in the imminent future.

9. That, because the requested reroutes (1) do not affect any landowners, (2) do not affect any new exclusion or avoidance areas, and (3) do not adversely impact any selection criteria, Basin Transload requests the Commission staff grant Basin Transload's requested route and corridor amendments as soon as possible.

  
Ray Sheldon

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