

Hamre, John G.

From: Hamre, John G.
Sent: Thursday, October 30, 2014 11:31 AM
To: 'kkimes@nefflawnd.com'
Cc: Jeffcoat-Sacco, Illona
Subject: PU-13-136 Hiland Crude, LLC filing
Attachments: Petition for reconsiderations of Findings of Fact Conclusions of Law and Order (2).pdf

To:
Kathleen Key Imes
Attorney at Law
Neff Eiken & Neff, PC
111 E. Broadway
P.O. Box 1526
Williston, ND 58802-1526
kkimes@nefflawnd.com

RE: PU-13-136 Hiland Crude, LLC - Crude Oil Pipeline, McKenzie, Williams, Mountrail - Siting Application

Hi Kathleen,

Attached is a Petition for Reconsideration docketed in the captioned case.

Best regards,
John

John G Hamre
North Dakota Public Service Commission
600 E Blvd Ave Dept 408
Bismarck, ND 58505-0480
701-328-4279

October 29, 2014



VIA HAND DELIVERY

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


**RE: Hiland Crude, LLC —
Case Number PU-13-136**

Dear Mr. Nitschke:

Please find enclosed herewith for filing an original and ten (10) copies of the following documents in support of Hiland Crude, LLC's Petition for Reconsideration under North Dakota Administrative Code Section 69-02-06-02:

1. Petition for Reconsideration of Findings of Fact, Conclusions of Law and Order entered on October 8, 2014;
2. Affidavit of Service by Certified Mail.

Also enclosed is a CD containing the above-referenced documents in PDF format. Should you have any questions, please advise.

Sincerely,

LAWRENCE BENDER

cc: Jim Suttle (*via e-mail*)
Enclosures

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

IN THE MATTER OF THE COMBINED
APPLICATION OF HILAND CRUDE, LLC,
FOR A CERTIFICATE OF CORRIDOR
COMPATIBILITY AND ROUTE PERMIT
FOR HILAND CRUDE, LLC'S CRUDE OIL
PIPELINE PROJECT IN MCKENZIE,
WILLIAMS, AND MOUNTRAIL
COUNTIES

CASE NO. PU-13-136

**PETITION FOR RECONSIDERATION OF FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER ENTERED ON OCTOBER 8, 2014**

Hiland Crude, LLC ("Hiland"), submits this Petition for Reconsideration of the Findings of Fact, Conclusions of Law and Order ("Order") entered by the North Dakota Public Service Commission ("Commission") in the above-referenced matter on October 8, 2014. Service of the Order was provided to Hiland on October 14, 2014.¹ Hiland seeks reconsideration of the Order based on the incomplete record before the Commission at the time the Order was entered. As such, additional evidence in the form of this petition should be considered by the Commission for possible modifications to the Commission's Order.

I. BACKGROUND

On March 27, 2014, Hiland filed with the Commission a consolidated application for a Certificate of Corridor Compatibility and Route Permit ("Application") to authorize the conversion of a gathering pipeline system in McKenzie, Mountrail, and Williams Counties, North Dakota into a transmission system. On May 6, 2014, the Commission deemed Hiland's

¹ North Dakota Administrative Code Section 69-02-06-02 requires a "petition for reconsideration must be filed within fifteen days after notice of the decision has been given under North Dakota Century Code section 28-32-13." Because notice of the decision was provided to Hiland on October 14, 2014, a petition for reconsideration is due on or before October 29, 2014.

Application complete and issued a Notice of Filings and Notice of Hearing. A hearing was held on June 17, 2014, in Williston, North Dakota.

On July 15, 2014, Hiland filed with the Commission several late-filed exhibits that had been requested by the Commission at the hearing. Several work sessions were convened by the Commission in order to clarify various issues. As requested, Hiland filed the remaining late-filed exhibits in the following months. On October 8, 2014, the Commission issued its Findings of Fact, Conclusions of Law and Order, granting Hiland Certificate of Corridor Compatibility Number 157 and Route Permit Number 169, subject to certain conditions precedent.

It is important to note that before filing the combined application for a Certificate of Corridor Compatibility and Route Permit with the Commission, counsel for Hiland met with Commission staff to discuss the desired procedure for filing the Application. Counsel for Hiland suggested submission of the siting application in segments, but was instructed that one application would be the preferred method for submission. To accommodate the Commission's desires, Hiland submitted one consolidated Application encompassing the entire siting area, as opposed to segments as initially proposed.

II. STANDARD OF REVIEW

North Dakota Administrative Code § 69-02-06-02 provides a petition for reconsideration “must state the specific grounds upon which the petition rests or a statement of any further showing to be made.” North Dakota Century Code § 28-32-40 allows any party aggrieved by the final order of the agency to file a petition for reconsideration. Section 28-32-40 also establishes the criteria under which a Commission order may be found in error and establishes broad Commission discretion with respect to reviewing a petition for reconsideration. “The petition and any statement shall be considered a part of the record in the proceeding,” and Hiland

respectfully requests the Commission consider the statements herein to modify its Order issued on October 8, 2014. *See* N.D.C.C. § 28-32-40(3).

As required by North Dakota Administrative Code § 69-02-06-02, the specific grounds upon which Hiland bases this request for reconsideration is that the record was incomplete at the time the Commission entered its Order. Hiland provides this petition as a statement of further showing to be made in issuing an Order in accordance with the siting requirements. Hiland previously desired to site the project in segments, and requests that the Commission consider such an alternative at this time. Specifically, Hiland requests the Commission amend its Order to allow Hiland to operate a portion of the project as a transmission line under the Certificate of Corridor Compatibility and Route Permit issued by the Commission. Hiland is not seeking a certificate and permit for each segment, but instead requests modifications be made to the Order to allow a portion of the line be operated at this time. Based on Hiland's understanding of the intent of the Order at issue, Hiland proposes modifications that would ensure the Commission's actions in this case are consistent with the protection of landowners and the intent of the siting requirements.

III. PROPOSED CHANGES TO FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER.

Hiland requests the Commission reconsider its Findings of Fact, specifically Numbers 18, 19, 20, 27, and any other findings the Commission deems necessary, and issue amended Findings of Fact based on the fragmented operating procedure now requested by Hiland. In modifying the Findings of Fact, Hiland requests that Order Numbers 2, 3, and 4 also be modified. The Findings of Fact encompass the requirements set forth in Order Numbers 2, 3, and 4 requiring the certificate of corridor compatibility and route permit be subject to the special condition described in Order Number 4. Hiland seeks an amended Order essentially allowing Hiland to operate

portions of the pipeline that are in compliance with the siting requirements, with the other sections remaining subject to the condition precedent set forth in the Order.

As noted above, Hiland initially contemplated filing the Application in segments to proceed through the siting process segment by segment. However, after meeting with Commission staff, Hiland was counseled against filing in segments for ease of the process for the Commission. At this time, however, Hiland would request the Commission reconsider its October 8, 2014 Order and issue an order allowing for the portions of the pipeline outside the avoidance areas to be operated as a transmission line under Certificate of Corridor Compatibility Number 157 and Route Permit Number 169 previously issued by the Commission. Amendments to the language of the Order can accomplish such request, with no further certificates or permits being necessary.

As noted in Finding of Fact Number 5, the project was built in six segments: the Tioga segment, the Plains (Plains Delivery) segment, the Dore (Musket Lateral) segment, the Johnsons Corner segment, the Epping/Tioga segment, and the White Earth (New Town) segment.² Hiland originally contemplated siting these segments individually. At this time, Hiland proposes the Order and Certificate of Corridor Compatibility and Route Permit issued by the Commission be modified to allow for operation of the following segments based on no avoidance areas being present:

1) **Dore (Musket Lateral) Segment:** The Dore, or Musket Lateral, segment of the crude oil pipeline project currently consists of approximately 16 miles of 8.625-inch outside diameter pipe, as well as block valves, check valves, pumping stations, and pig launching and

² Attached hereto for convenience is late-filed Exhibit 5 depicting the segments and inhabited residences that qualify as avoidance areas. The names of the segments differ slightly from the Exhibit maps to the Findings of Fact, so both names are referenced herein when applicable.

receiving stations. The project extends from the Dore Junction, near Alexander, North Dakota, to the Dore Terminal near Dore, North Dakota. No inhabited residences are located within five hundred feet of this segment.

2) **Johnsons Corner Segment:** The Johnsons Corner segment of the crude oil pipeline project currently consists of approximately 63 miles of 8.625-inch outside diameter pipe, as well as block valves, check valves, pumping stations, and pig launching and receiving stations. Following siting and construction, the pipeline system will also consist of 4 storage tanks located at the Camp Creek Injection, Watford Injection, East Camp Creek Injection and Johnsons Corner sites. The project extends from the Dore Junction, near Alexander, North Dakota, to the Johnsons Corner Station, near Johnsons Corner, North Dakota. No inhabited residences are located within five hundred feet of this segment.

3) **A Portion of the Plains (Plains Delivery) Segment:** The Plains, or Plains Delivery, segment of the crude oil pipeline project currently consists of approximately 68 miles of 8.625-inch outside diameter pipe, as well as block valves, check valves, pumping stations, and pig launching and receiving stations. Following siting and construction, the pipeline system will also consist of 4 storage tanks located at the Epping Injection Station, Bethel Injection Station, Trenton Station, and Bainville Injection Station. The project extends from the Dore Junction, near Alexander, North Dakota, to the Epping Injection Station near Epping, North Dakota.

At this time, Hiland seeks to operate only the portion of the Plains Delivery segment from the Bethel Injection Station to the Dore Junction near Alexander, North Dakota. Operation of this portion of the Plains Delivery segment under the certificate and route permit would include the storage tanks located at the Bethel Injection Station, the Trenton Station, and the Bainville Injection Station, none of which are located within five hundred feet of an inhabited residence.

As noted in the Order, the Commission has established criteria pursuant to N.D.C.C. § 49-22-05.1 to guide the Commission in evaluating the suitability of granting a Certificate of Corridor Compatibility and Route Permit. All criteria are satisfied as to the Dore (Musket Lateral) segment, the Johnsons Corner segment, and the relevant portion of the Plains Delivery segment as evinced by the record as a whole and as discussed in the Order. These segments contain no avoidance areas pursuant to N.D.C.C. § 49-22-05.1. Specifically, no areas within five hundred feet of an inhabited rural residence exist that would require conditions precedent be placed upon these segments. Accordingly, Hiland petitions the Commission for a revised order allowing the Dore (Musket Lateral) segment, the Johnsons Corner segment, and the relevant portion of the Plains Delivery segment from the Bethel Injection Station to the Dore Junction to be operated under Certificate of Corridor Compatibility Number 157 and Route Permit Number 169 with no conditions based on compliance with N.D.C.C. § 49-22-05.1.

IV. CONCLUSION

Hiland seeks an Order from the Commission in conformance with the fragmented operating and siting process as originally contemplated and described herein. Hiland respectfully requests that the Commission:

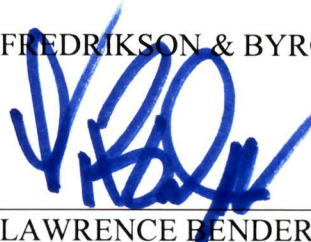
1. Allow this petition to supplement the record before the Commission;
2. Reconsider Finding of Fact Numbers 18, 19, 20, and 27, and Order Numbers 2, 3, and 4, and any other portions of the Order the Commission deems necessary, to allow the condition precedent governing the Certificate of Corridor Compatibility and Route Permit to apply only to the segments of the project specifically subject to avoidance areas;
3. Approve Hiland's proposal to operate the project in segments as originally contemplated. Specifically, Hiland requests the Commission modify the Order and conditions

placed on Certificate of Corridor Compatibility Number 157 and Route Permit Number 169 to allow operation of the Dore (Musket Lateral) segment, the Johnsons Corner segment, and the relevant portion of the Plains Delivery segment from the Bethel Injection Station to the Dore Junction as a transmission line. No additional certificates or route permits are necessary to achieve such request. The Tioga segment, the portion of the Plains Delivery segment from the Bethel Injection Station to the Epping Injection Station, the Epping/Tioga segment, and the White Earth (New Town) segment shall remain subject to the conditions set forth in Order Number 4 at this time; and

4. Conduct oral argument on this petition for reconsideration only if the Commission determines that such argument is necessary.

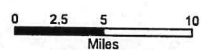
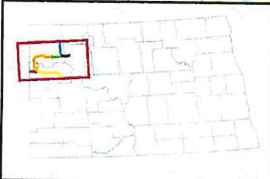
Dated this 29th day of October, 2014.

FREDRIKSON & BYRON, P.A.



By

LAWRENCE BENDER, ND Bar #03908
DANIELLE M. KRAUSE, ND Bar # 06874
Attorneys for Hiland Crude, LLC
1133 College Drive, Suite 1000
Bismarck, ND 58501-1215
(701) 221-8700

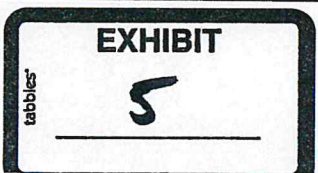


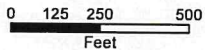
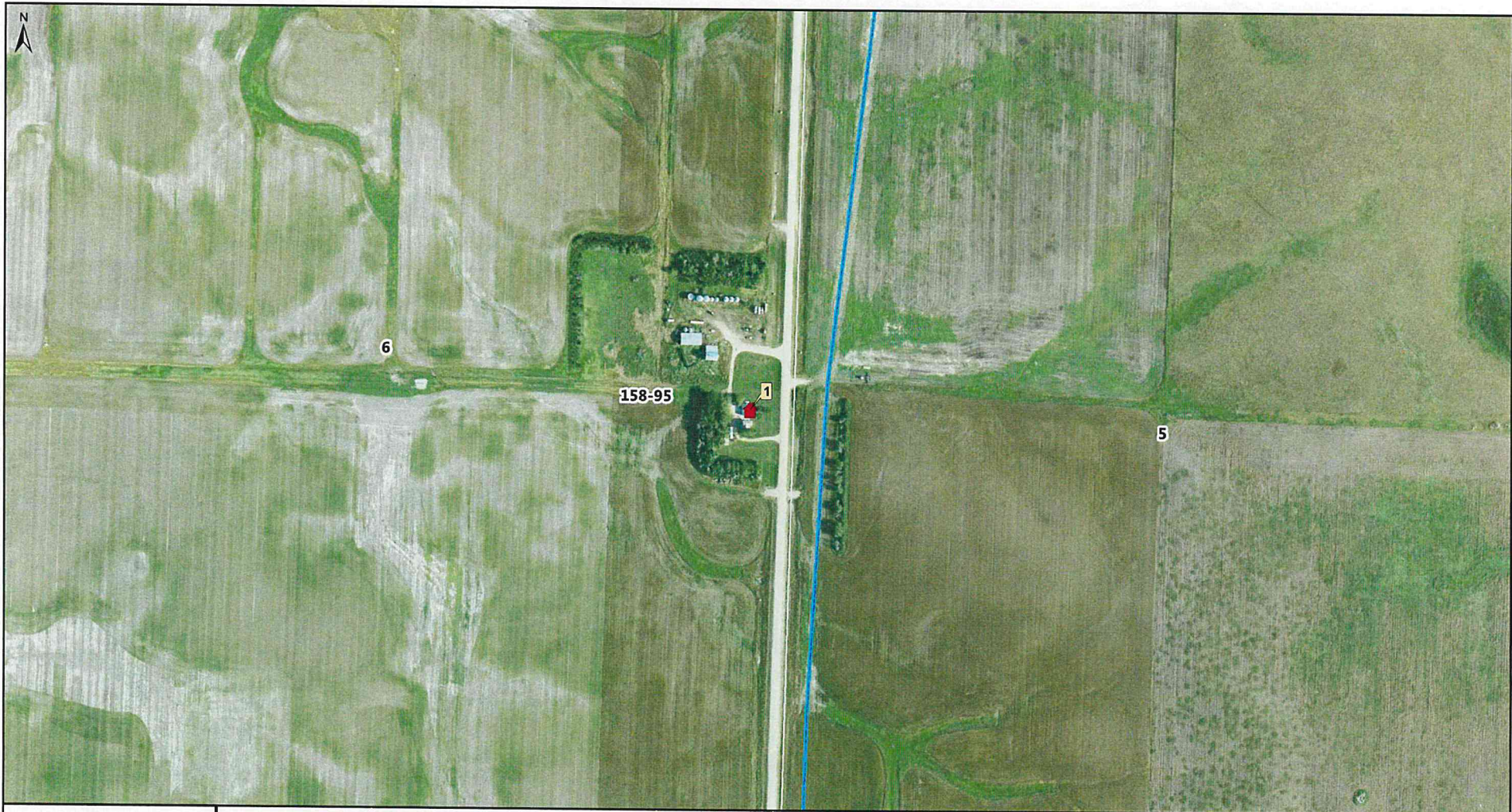
- Legend**
- New Town Segment
 - Johnsons Corner Segment
 - Epping to Tioga Segment
 - Plains Delivery Segment
 - Musket Lateral Segment
 - Tioga Segment
 - Facility
 - ▲ Refusal to sign waiver
- 1 - McGinnity, Leonard
 - 2 - Vance, Lavern & Julianna
 - 3 - Smith, Wade & Melissa
 - 4 - Moline, Dale & Arlyss
 - 5 - Kuester, Lyle & Dorothy

Printed: 6/20/2014



**Residence Map
Market Center Pipeline**





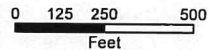
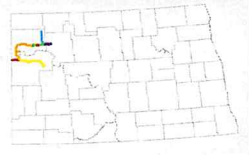
Legend

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- Johnsons Corner Segment
- Epping to Tioga Segment
- Plains Delivery Segment
- Musket Lateral Segment
- Tioga Segment
- Refusal to sign waiver
- Section
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- 3 - Smith, Wade & Melissa
- 4 - Moline, Dale & Arlyss
- 5 - Kuester, Lyle & Dorothy



**Residence Map
Market Center Pipeline**

Printed: 6/20/2014



Legend

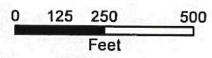
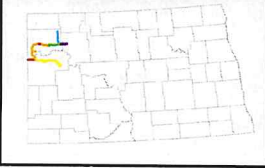
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**Residence Map
Market Center Pipeline**

Printed: 6/20/2014



Legend

- New Town Segment
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**Residence Map
Market Center Pipeline**

Printed: 6/20/2014

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Hiland Crude, LLC
Crude Oil Pipeline, McKenzie, Williams Mountrail
Siting Application

Case No. PU-13-136

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Irma Madera deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **29th** day of **October, 2014**, she deposited in the United States Mail, at Bismarck, North Dakota, three (3) envelopes, fully prepaid, securely sealed and a copy of the following document submitted in the above referenced proceeding in each envelope:

**PETITION FOR RECONSIDERATION OF FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER ENTERED ON OCTOBER 8, 2014**

The envelopes were addressed as follows:

Brian D. Schmidt
Mitch D. Armstrong
Special Assistant Attorney Generals
Legal Counsel for Public Service Commission
122 East Broadway Avenue
P.O. Box 460
Bismarck, North Dakota 58502-0460

Cert. No.: 70140150000131394845

Julie Prescott
Advocacy Staff
North Dakota Public Service Commission
600 East Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

Cert. No.: 70140150000131394852

Wade C. Mann
Administrative Law Judge
Office of Administrative Hearings
2911 North 14th Street, Suite 303
Bismarck, ND 58503

Cert. No.: 70140150000131394869

The addresses shown are the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this 29th day of October, 2014.

SEAL



A handwritten signature in black ink, appearing to read "Wade C. Mann", written over a horizontal line.

A handwritten signature in blue ink, appearing to read "Sheila A. Long", written over a horizontal line.

Notary Public