STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Hiland Crude, LLC **Case No. PU-13-136**
Crude Oil Pipeline, McKenzie, Williams, Mountrail
Siting Application

SECOND AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

February 25, 2014

Appearances

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

Lawrence Bender and Jillian R. Rupnow, Attorneys at Law, Fredrikson & Byron P.A., 1133 College Drive, Suite 1000, Bismarck, North Dakota 58501, on behalf of Hiland Crude, LLC.

Brian D. Schmidt, Special Assistant Attorney General, Legal Counsel for Public Service Commission, 122 East Broadway Avenue, Bismarck, North Dakota 58501.

Julie Prescott, Public Utility Analyst, Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505.

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

Preliminary Statement

On March 26, 2013, Hiland Crude, LLC (Hiland) filed a Letter of Intent to submit a combined application for a Certificate of Corridor Compatibility and a Route Permit for a crude oil pipeline (Project). Hiland indicated siting was not required for the initial construction and operation of the pipeline because it currently constitutes a gathering line pursuant to North Dakota Century Code section 49-22-03(12)(b).

On May 8, 2013, the Commission acknowledged a Letter of Intent was no longer required due to a change in the applicable law.

On March 27, 2014, Hiland filed applications for a certificate of corridor compatibility and a route permit to authorize the conversion of a gathering pipeline system in McKenzie, Mountrail, and Williams Counties, North Dakota, to a transmission system. Hiland included with its filing an application to waive certain procedures and time schedules required under North Dakota Century Code chapter 49-22, which requires separate filings and applications for a certificate of corridor compatibility and a route permit, separate notice of such applications, separate hearings on such applications, and certain time schedules.

On May 6, 2014, the Commission deemed Hiland's applications complete and issued a Notice of Filings and Notice of Hearing scheduling a hearing for June 17, 2014, at 10:00 a.m. CDT at Williston City Hall, 22 East Broadway, Williston, North Dakota 58802.

The Notice of Filings and Notice of Hearing identified the following issues to be considered with respect to the application for waiver of procedures and time schedules:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects and that adherence to applicable procedures and time schedules may be waived?

2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

The Notice of Filings and Notice of Hearing identified the following issues to be considered with respect to the applications for a certificate of corridor compatibility and a route permit:

1. 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?

2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?

3. 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 June 17, 2014, the hearing was held as scheduled.

On October 8, 2014, the Commission entered Findings of Fact, Conclusions of Law and Order issuing Certificate of Corridor Compatibility No. 157 and Route Permit No. 169 upon the grounds and with certain conditions as explained therein.

The October 8, 2014, Findings of Fact, Conclusions of Law and Order were served on Hiland on October 14, 2014.

On October 29, 2014, Hiland petitioned for reconsideration, requesting the Commission reconsider and amend Findings 18, 19, 20, 27, and any other necessary Findings as well as Order Numbers 2, 3, and 4. Hiland sought an amended order allowing it to operate portions of the pipeline that complied with the siting requirements as a transmission facility, with other sections remaining subject to the conditions described in the October 8, 2014, Findings of Fact, Conclusions of Law and Order.

On November 20, 2014, the Commission entered Amended Findings of Fact, Conclusions of Law and Order issuing First Amended Certificate of Corridor Compatibility No. 157 and First Amended Route Permit No. 169 upon the grounds and with certain conditions as explained therein.

The November 20, 2014, Findings of Fact, Conclusions of Law and Order were served on Hiland on November 21, 2014.

On December 17, 2014, Hiland filed with the Commission a Request for Route Deviation and Application for Amendment to Certificate of Corridor Compatibility and Route Permit. In its filing, Hiland seeks an amended order allowing it to reroute a portion of the pipeline around a rural residence located within 500 feet of the Tioga segment (McGinnity Reroute). Hiland included with its filing an application to waive certain procedures and time schedules required under North Dakota Century Code chapter 49-22, which requires separate filings and applications for a certificate of corridor compatibility and a route permit, separate notice of such applications, hearings on such applications, and certain time schedules.

On January 7, 2015, the Commission deemed Hiland's applications complete and issued a Notice of Filings and Notice of Opportunity for Hearing, which invited those interested to comment on the applications in writing or request a hearing by February 13, 2015, and further indicated that the Commission can determine the matter without a hearing.

The Notice of Filings and Notice of Opportunity for Hearing identified the following issues to be considered with respect to the application for waiver of procedures and time schedules:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects and that adherence to applicable procedures and time schedules may be waived?

2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

The Notice of Filings and Notice of Opportunity for Hearing identified the following issues to be considered with respect to the applications for an amended certificate of corridor compatibility and an amended route permit:

1. 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?

2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?

3. 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?

No comments or request for hearing were received by the deadline of February 13, 2015.

On February 20, 2015, Hiland filed copies of waivers obtained from owners (Vance, Smith, Moline, and Kuester) of rural residences located within 500 feet of the pipeline route.

Having allowed all interested persons an opportunity to be heard, and having heard, reviewed and considered all testimony and evidence presented, and having fully considered Hiland's December 17, 2014, Request for Route Deviation and Application for Amendment to Certificate of Corridor Compatibility and Route Permit Petition for Reconsideration, the Commission makes the following:

Findings of Fact

1. Hiland is an Oklahoma limited liability company. Hiland is authorized to do business in the State of North Dakota, as evidenced by corporate papers filed with the Commission on April 4, 2014, in Case No. PU-13-148.

Size, Type, and Preferred Location of Facility

2. The Project consists of approximately 197 miles of pipeline located in McKenzie, Mountrail, and Williams Counties, North Dakota. The pipeline transports crude oil from Williams, McKenzie, and Mountrail Counties to major markets via (1) Enbridge's pipeline using a connection at Beaver Lodge; (2) COLT Rail Hub using a connection near Epping, North Dakota; (3) Plains' Bakken North Pipeline at Trenton Station, Savage Rail Station, and Enbridge Trenton Station using connections near Trenton, North Dakota; (4) Musket Rail using a loading station near Dore, North Dakota with a potential connection to Hiland's proposed Double H pipeline at this location; and (5) Bridger's Four Bears pipeline using a connection near Johnsons Corner.

3. The Project utilizes 8-inch diameter steel crude oil pipeline and the maximum operating pressure will be 1,440 pounds of pressure per square inch gauge. The maximum daily output will be 65,000 barrels per day.

4. The Project was built in six segments, with construction starting and ending as follows: Tioga segment (September 2010 – May 2011), Plains Delivery segment (July 2011 to January 2013, with a partial segment completed in February 2012), Dore segment (October 2011 to March 2012), Johnson Corner segment (August 2011 to October 2012), Epping to Tioga segment (July 2011 to April 2012), and the New Town segment (October 2012 to March 2013). In addition to these segments, the evidence

reflected an approximately 10-mile loop (loop) was constructed, with approximately 6.5 miles being constructed in late 2013 and operational in the first quarter of 2014. Hiland testified the loop was constructed as part of the gathering line to reduce pressure in the pipeline. The McGinnity Reroute is located along the Tioga segment.

5. Aboveground facilities include mainline valves, block valves, pig launching and receiving stations, rectifiers, and pipeline markers. Hiland intends to add tank facilities and pumps at several outlets to reduce overall line pressure and increase the maximum daily output of the pipeline system.

Need for the Facility

6. Hiland concluded there is a need for the additional facilities because the recent and significant increase in oil extraction has outpaced efficient transportation methods. Current crude oil transportation from oil wells to distribution points is primarily accomplished by tanker truck, or limited pipeline transportation. Increased production of crude oil and limited pipeline access combine to increase tanker truck traffic on North Dakota highways. In turn this increases road damage, the need to update or repair highways, emissions levels and raises concern for driver safety. The construction of additional pipelines would have a positive effect on efficient transportation of crude oil and would relieve some of the impacts resulting from trucking the crude oil. Addition of storage tanks and pumping facilities to the existing Project would provide a reliable transportation method for up to 65,000 bpd. In addition, the increase in maximum daily output will reduce truck traffic and negate the need for a parallel pipeline, reducing even further the overall impact of crude oil transportation in the area. Finally, the use of storage tanks will reduce overall pressure in the pipeline, increasing safety of the Project.

Study of Preferred Location(s)

7. Hiland evaluated a one-mile-wide study area (Study Area) centered on the existing pipeline route and on the route along the McGinnity Reroute. Field surveys were conducted based upon a minimum of a 250-foot wide area centered on the existing pipeline alignment and a minimum of a 500-foot wide area centered on the route along the McGinnity Reroute (Survey Area). The purpose of the field survey was to inventory any potential resource issues such as wetlands, water bodies, protected species, critical habitats, and/or cultural resources.

8. Hiland conducted a Class I literature search in the Study Area and a Class III cultural resource inventory in the Survey Area. Additionally, Hiland collected environmental data and information on soils, land use, wetlands and waterbody crossings, noxious weeds, trees, saplings, and shrubs, and protected species and habitats in the Survey Area.

9. The following agencies were contacted by Hiland and provided comments: North Dakota Parks and Recreation; North Dakota Game and Fish Department; United States

Army Corps of Engineers; U.S. Fish and Wildlife Service (USFWS); North Dakota State Historical Preservation Office (SHPO); and North Dakota Department of Health. No agencies expressed concern with the Project, but the USFWS indicated it had insufficient information to allow an adequate review. According to Hiland, the USFWS does not provide comments on projects already constructed.

10. In their letter dated October 30, 2013, the SHPO concurred with a "no significant sites" determination for the Project. Regarding the McGinnity Reroute, the SHPO provided a letter on November 26, 2014, indicating their "no significant sites" concurrence.

Siting Criteria

11. The Commission has established criteria pursuant to North Dakota Century Code section 49-22-05.1 to guide the Commission in evaluating the suitability of granting a Certificate of Corridor Compatibility and Route Permit. The criteria, as set forth in North Dakota Administrative Code section 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

12. A transmission facility route must not be sited within an Exclusion Area. No Exclusion Areas will be impacted by the Project.

13. An Avoidance Area is a geographic area that 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.

14. Pursuant to North Dakota Century Code section 49-22-05.1, areas within five hundred feet of an inhabited rural residence must be designated Avoidance Areas. The five hundred foot Avoidance Area criteria for an inhabited rural residence may be waived by the owner of the inhabited rural residence in writing. In addition, North Dakota Administrative Code section 69-06-08-02(2), designates areas within five hundred feet of a residence, school, or place of business as Avoidance Areas. The Project is within five hundred feet of nineteen rural residences, and waivers have been obtained from all of the owners of these residences.

15. In its Request for Route Deviation and Application for Amendment to Certificate of Corridor Compatibility and Route Permit, Hiland requests the Commission allow it to operate the Tioga segment as a transmission facility and not be subject to the conditions outlined in paragraph 20 of the November 20, 2014, Amended Findings of Fact, Conclusions of Law and Order.

16. The Project also crossed the Missouri River, an Avoidance Area. However, the pipeline was bored via horizontal directional drilling, and thus did not impact this Avoidance Area. Further, given the location of this pipeline and its purpose, crossing the Missouri River is unavoidable. Given the construction methods used and the impossibility of entirely avoiding the Missouri River, the Commission finds no reasonable alternative exists.

17. Thirteen potential historical sites within the field study corridor were previously impacted by the original pipeline construction which did not require an archaeological inventory at the time of design and construction. Of these thirteen sites, two were previously recorded and none are designated national or state historic sites. SHPO indicated the archaeology reports submitted by Hiland were acceptable and found no significant sites with respect to the Project.

18. A wetlands and waterbodies inventory identified several wetlands or waterbodies within the Study Area. All saturated wetlands and waterbodies were bored, and therefore no adverse impacts occurred. No impacts to wetlands or waterbodies are anticipated to occur as a result of installation of tanks and pumps. Isolated finds of tree rows and wooded areas were located within the Survey Area. Any trees or shrubs removed during construction of the Project will be replaced in accordance with the Commission's Tree and Shrub Mitigation Specifications.

19. The Project may have resulted in temporary modification of habitat and temporary displacement of wildlife, due to clearing and construction. The Project will have no significant impact on fish and wildlife resources and no impacts are anticipated to endangered, threatened, or sensitive plant or animal species.

20. In accordance with the Commission's Selection Criteria, a transmission facility route shall be approved if it is demonstrated that any significant adverse effects that will result from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum or managed and maintained at an acceptable minimum. Hiland has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria. The Project will have no significant adverse effects on the Commission's Selection Criteria.

21. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility. Hiland has analyzed the relevant Policy Criteria and has committed to designing, constructing, and operating the pipeline in accordance with all applicable federal, state, and local laws and regulations; energy conservation through the facility's location, process, and design; training and utilizing available labor in the state; constructing the Project to take advantage of economies of scale; achieving capacity in the most minimally intrusive and most efficient way possible; and coordinating with state and local officials. Hiland submitted evidence to demonstrate its commitment to maximize the benefits of the proposed transmission facility to the extent possible so as to meet the Policy Criteria.

22. It is appropriate to authorize a corridor only for the Survey Area which is 250 feet on center of the pipeline route depicted on Hearing Exhibit 2 with the McGinnty reroute including 500 feet on center of the pipeline reroute as depicted on Figure 4.A.3.a – Route Map of Hiland's Request for Route Deviation and Application for Amendment to Certificate of Corridor Compatibility and Route Permit, subject to the conditions described herein.

Measures to Minimize Impact

23. Hiland has agreed to a number of steps to mitigate the impact of the Project, as indicated by the June 3, 2014, Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, which is incorporated by reference and attached to this Order.

24. The Project's permanent right-of-way (ROW) is 50 feet wide, while its temporary construction ROW was 75 feet wide. Hiland constructed temporary access roads for Project construction, which were or will be restored to pre-construction conditions following Project construction. Similarly, any access roads required for tank and pump installation will be temporary. No permanent roads will be constructed as part of the Project.

25. The design, construction, and operation of the pipeline must be in accordance with the United States Department of Transportation regulations governing the transportation of crude oil, including U.S. Department of Transportation regulations as set forth in 49 CFR Part 195.

26. Hiland participates in the North Dakota One-Call Excavation Notice System.

27. Hiland's existing emergency response plan includes the Project.

From the foregoing Findings of Fact, and subject to the conditions explained therein, the Commission now makes the following:

Conclusions of Law

1. The Commission has jurisdiction over Hiland and the subject matter of the applications under chapter 49-22 of the North Dakota Century Code.

2. Hiland is a utility as defined in section 49-22-03(13) of the North Dakota Century Code.

3. The Project is a transmission facility as defined in section 49-22-03(12) of the North Dakota Century Code.

4. The location, construction, and operation of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

5. The location, construction, and operation of the Project 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, in accordance with section 49-22-07.2 of the North Dakota Century Code.

8. It is appropriate for the Commission to waive those certain procedures and time schedules as requested in the Application and provided under section 49-22-07.2 of the North Dakota Century Code.

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

Order

1. That Hiland Crude, LLC's application for a waiver of procedures and time schedules be granted.

2. Second Amended Certificate of Corridor Compatibility No. 157 is issued to Hiland Crude, LLC, designating a corridor for the construction, operation, and maintenance of an approximately 197-mile, 8-inch crude oil pipeline and associated facilities in McKenzie, Mountrail, and Williams Counties, North Dakota. For purposes of the Certificate, the Corridor will consist of a 250-foot-wide corridor centered on the pipeline route as shown on the map provided in Hearing Exhibit 2 with the McGinnity reroute including a 500-foot-wide corridor centered on the pipeline route as depicted in Figure 4.A.3.a – Route Map of Hiland's Request for Route Deviation and Application for Amendment to Certificate of Corridor Compatibility and Route Permit.

3. Second Amended Route Permit No. 169 is issued to Hiland Crude, LLC, granting authority to construct and operate an approximately 197-mile, 8-inch crude oil pipeline and associated facilities in McKenzie, Mountrail, and Williams Counties, North Dakota. The designated route is shown on the map provided in Hearing Exhibit 2 with the McGinnity reroute provided in Figure 4.A.3.a – Route Map of Hiland's Request for Route Deviation and Application for Amendment to Certificate of Corridor Compatibility and Route Permit.

4. That the June 3, 2014, Certification Relating to Order Provisions – Transmission Facility Siting be incorporated by reference and attached to this Order.

5. To the extent there are any conflicts or inconsistencies between Hiland's Applications and the June 3, 2014, Certification, the Certification provisions Control.

6. Hiland shall send a letter to each landowner with whom an easement was executed for the transmission facility specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the transmission facility.

PUBLIC SERVICE COMMISSION

Randy Christmann **Commissioner**	**Julie Fedorchak** **Chairman**	**Brian P. Kalk** **Commissioner**

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Second Amended
Certificate of Corridor Compatibility Number 157

This is to certify that the Commission has designated a transmission facility corridor for Hiland Crude, LLC, for the construction, operation, and maintenance of approximately 197 miles of 8-inch diameter crude oil pipeline in McKenzie, Williams, and Mountrail Counties, North Dakota.

This certificate is issued in accordance with the Order of the Commission dated February 25, 2015, in Case No. PU-13-136 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, February 25, 2015.

ATTEST: ***PUBLIC SERVICE COMMISSION***

Danielle Nitschke — Julie Fedorchak

Executive Secretary ***Commissioner***

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Second Amended Route Permit Number 169

This is to certify that the Commission has designated a transmission facility route for Hiland Crude, LLC, for the construction, operation, and maintenance of approximately 197 miles of 8-inch diameter crude oil pipeline in McKenzie, Williams, and Mountrail Counties, North Dakota.

This permit is issued in accordance with the Order of this Commission dated February 25, 2015, in Case No. PU-13-136 and is subject to the conditions and limitations noted in the Order.

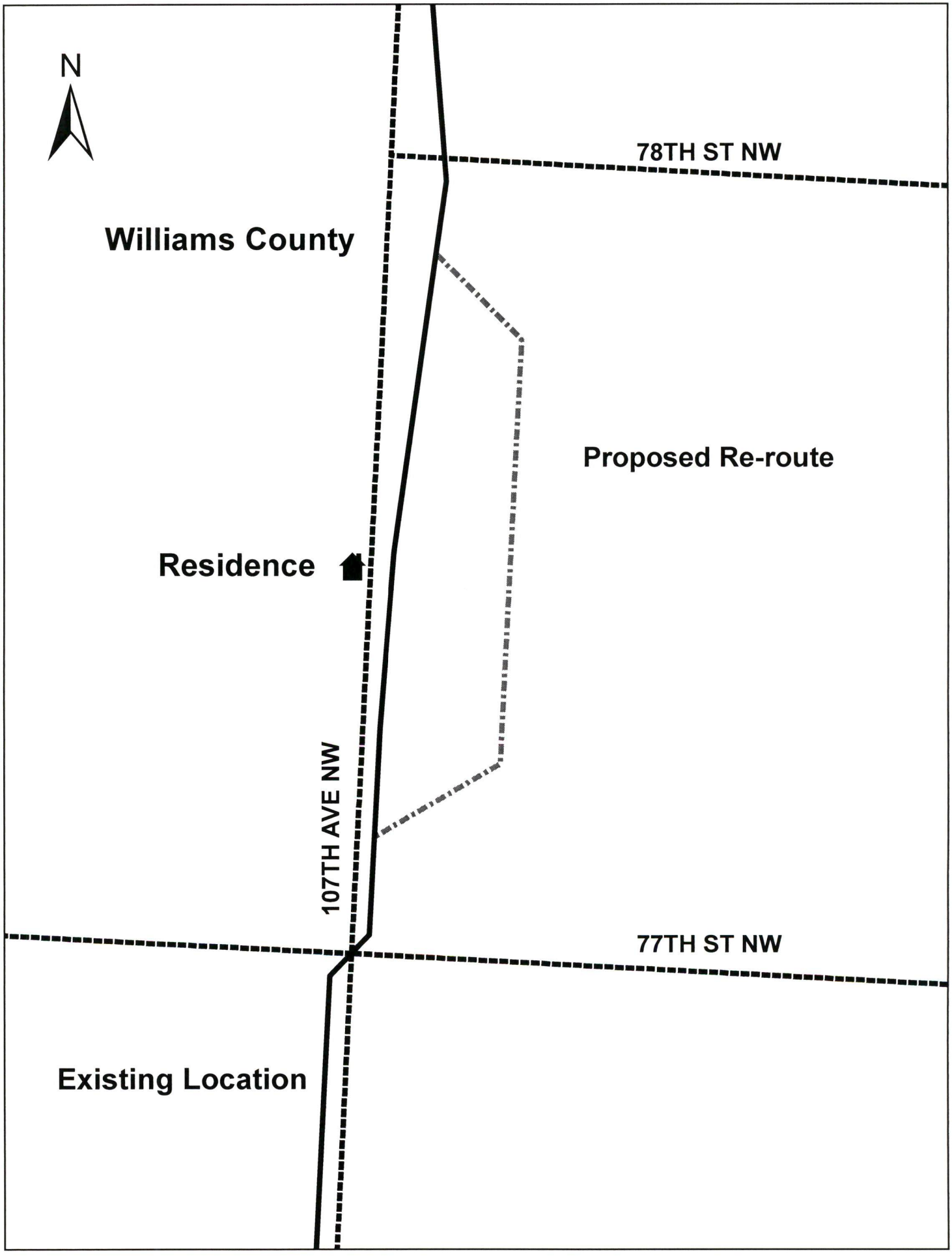
Bismarck, North Dakota, February 25, 2015.

ATTEST:

Executive Secretary

PUBLIC SERVICE COMMISSION

Commissioner


N
78TH ST NW
Williams County
Proposed Re-route
Residence
107TH AVE NW
77TH ST NW
Existing Location