



DAKOTA PRAIRIE REFINING, LLC

PO Box 5601  
Bismarck, ND 58506-5601  
www.DPRefining.com

Direct Dial No.  
(701) 530-1016  
(701) 530-1731 (fax)

December 17, 2013



Executive Secretary  
North Dakota Public Service Commission  
State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505

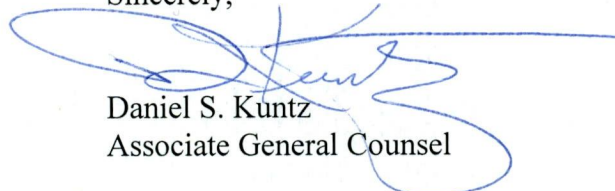
Re: Dakota Prairie Refining, LLC  
Petroleum Product Pipelines-Stark County  
Siting Application  
Case No. PU-13-799

Enclosed for filing are 11 sets of paper copies of the following documents in support of the application by Dakota Prairie Refining, LLC and Lario Shipping, LLC for a waiver of procedures and timelines for a certificate of corridor compatibility and an energy transmission route permit in the above-referenced proceeding:

1. Late Filed Exhibit No. 5 – Drawings of proposed corridor and route.
2. Late Filed Exhibit No. 6 – Certification Relating to Order Provisions with Tree and Shrub Mitigation Specifications signed on behalf of Dakota Prairie Refining, LLC.
3. Late Filed Exhibit No. 7 – Certification Relating to Order Provisions with Tree and Shrub Mitigation Specifications signed on behalf of Lario Shipping, LLC.
4. Late Filed Exhibit No. 8 – Affidavit of John P. Stumpf.
5. Proposed Findings and Fact and Conclusions of Law and Order.

Electronic versions of the above documents, along with electronic CAD drawings of the proposed corridor and route, are also being forwarded to you.

Sincerely,



Daniel S. Kuntz  
Associate General Counsel

Enclosures

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

**Dakota Prairie Refining, LLC  
Two Petroleum Product Pipelines- Stark County  
Siting Application**

**Case No. PU-13-799**

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

**December \_\_\_\_\_, 2013**

**Appearances**

Commissioners Brian 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 Applicants

Ryan M. Norrell, Legal Counsel, Public Service Commission.

Patrick Fahn, Director- Compliance and Competitive Markets, Public Service Commission.

Patrick Ward, Administrative Law Judge, 316 North 5<sup>th</sup> Street, P.O. Box 1695, Bismarck, ND 58502.

**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 September 18, 2013 Dakota Prairie Refining, LLC ("Dakota Prairie") and Lario Shipping, LLC ("Lario"), (collectively the "Applicants") filed an application for a waiver of all procedures and time schedules set forth in North Dakota Century Code chapter 49-22 and North Dakota Administrative Code article 69-06 for issuance of a Certificate of Corridor Compatibility and Route Permit for two petroleum product pipelines between the Dakota Prairie Refinery and the Lario Shipping, LLC rail hub in Stark County, North Dakota.

On November 18, 2013 and November 25, 2013, the Applicants submitted supplemental filings providing additional information to the Commission regarding studies and permits associated with the proposed route.

On October 23, 2013 the Commission issued a Notice of Filing and Notice of Hearing, scheduling a public hearing on the application for December 11, 2013 at 2:00 a.m. CST at the Dakota Prairie Refinery Administration Building, 3815 116<sup>th</sup> Avenue SW, Dickinson, North Dakota 58601. The Notice of Hearing identified the following issues to be considered in the Applicants' 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 the 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 Hearing identified the following issues to be considered for certificate of corridor compatibility and route permit are:

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?
1. 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 December 11, 2013, a public hearing was held as scheduled.

On December \_\_, 2013, the Applicants submitted late filed exhibits including detailed CAD drawings of a proposed Project corridor and route.

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. Dakota Prairie Refining, LLC will be engaged in the refinement of liquid hydrocarbons and liquid hydrocarbon products. The Applicants will be engaged in the transmission of liquid hydrocarbon products. The Applicants are a "utilities" as defined at NDCC § 49-22-03(13) engaged in the transmission of liquid hydrocarbon products under the siting jurisdiction of this Commission.

2. North Dakota currently imports more than fifty percent of the 53,000 barrels per day of diesel fuel used in the state and demand is expected to increase to 75,000 barrels per day by 2025. The Dakota Prairie Refinery will process 20,000 barrels of Bakken crude oil per day producing approximately 7,000 to 10,000 barrels of diesel fuel per day which will be transported by tractor tankers to end use locations within approximately 50 miles of the refinery. The refinery will also produce about 6,500 barrels per day (about nine to ten rail tankers) of naphtha and about 6,000 barrels per day (about eight to nine rail tankers) of atmospheric tower bottoms ("ATB"). The Dakota Prairie Refinery will be first plant of its kind to be built in the United States since 1976 and is scheduled to be operational by December 2014.

3. The purpose of the petroleum product pipeline Project (the "Project") is to provide for the transmission of the naphtha and ATB by-products from the refinery to the Lario rail hub where these petroleum products will be loaded into rail tankers for transportation to other destinations, typically outside of North Dakota, for further processing or end use. The Lario rail hub is located on property adjacent to the Dakota Prairie Refinery property location. The refinery is located on the west side of 116<sup>th</sup> Avenue SW and the rail hub is located on the east side of 116<sup>th</sup> Avenue SW.

#### Size, Type, and Preferred Location of Facility

4. The Project will consist of the construction of two refining product pipelines between the storage tanks at the refinery and the Lario rail hub, a distance of approximately 5900 feet. The pipelines will consist of a 6-inch diameter pipeline for transfer of naphtha and an 8-inch diameter heat traced and insulated pipeline for ATB. The Project pipelines are expected to cost approximately \$5 million. There are no current plans for expansion of the Project pipelines.

5. The 6-inch naphtha pipeline will be schedule 40, seamless ASTM A53 grade B, carbon steel piping with 150 class raised face weldneck flange, designed according to the ASME Code for Pressure Piping, B31.3. Above ground piping will be primed and painted. Any buried piping will be either sleeved or coated and cathodically protected. Normal pressure at design flow will range from 163 to 25 psig. The maximum outlet pump pressure for the pipeline is 187 psig. The design rating per Dakota Prairie standard for 150 class piping is 285 psig and the pressure rating of the pipe if designed per ASME B31.3 is 1650 psig.

6. The 8-inch ATB pipeline will be schedule 40, seamless ASTM A53 grade B, carbon steel piping with 300 class raised face weldneck flange, designed according to the ASME Code for Pressure Piping, B31.3. Above ground piping will be primed, painted electrically traced and insulated. Any buried piping will be either sleeved or coated and cathodically protected. Normal pressure at design flow will range from 141 to 25 psig. The maximum outlet pump pressure for the pipeline is 155 psig. The design rating per Dakota Prairie standard for 300 class piping is 760 psig and the pressure rating of the pipe if designed per ASME B31.3 is 1514 psig.

7. The above grade portion of the pipelines will be installed on pipe supports 3 to 17 feet above grade with the supports no greater than 20 feet apart. Approximately, 10 expansion loops will be incorporated into the design to ensure it is installed within the stresses permitted according to the ASME Code for Pressure Piping, B31.3. The pipeline crossing of 116<sup>th</sup> Avenue SW will be installed in accordance with a design approved by the Stark County Road Superintendent. The installation of the pipelines on the bridge over the Heart River will be designed to divert any leak off of the bridge to containment basins away from the river.

#### Study of Preferred Locations

8. The Applicants identified and requested a Project corridor and route width centered on pipe supports built between Dakota Prairie and Lario. A natural gas line is already located on the pipe supports within the Dakota Prairie property. The Project corridor and route are located entirely on property owned by the Applicants. The Project will cross the Heart River on a bridge in a protected pipe rack. The Project will cross a private Dakota Prairie road through a buried culvert and will cross 116<sup>th</sup> Avenue SW either in a buried culvert or by an underground boring. The Project parallels the BNSF Railway Right of Way for approximately fifty percent of its distance.

9. Dakota Prairie initially planned to construct a rail spur and loading facility on its property for the loading of naphtha and ATB onto rail tank cars. Further analysis and study determined that construction of a rail loading facility on the Dakota Prairie property required extensive additional rail trackage at much greater cost and environmental impact than construction of product pipelines to the nearby Lario loading facilities which will be built to accommodate the rail loading of the naphtha and ATB products. Dakota Prairie and Lario reached agreement on September 5, 2013 for the loading of naphtha and ATB products at a transload system to be developed by Lario.

10. Dakota Prairie conducted a Class I and Class III cultural resource inventory for the Dakota Prairie property located in Sections 15 and 16, Township 139 North, Range 97 West for the portion of the refinery project which cross wetlands or potential waters of the United States potentially under the jurisdiction of the U.S. Army Corps of Engineers. Three parcels surrounding four potentially USACE jurisdictional wetlands that had the potential of being impacted by the refinery project were inventoried. A total of 25.45 acres were inventoried. One previously recorded resource comprised of four segments of a historic railroad was relocated and one newly recorded resource, a railroad bridge, was located. Both resources are recommended eligible for listing on the National Register of Historic Places but neither resource will be affected by the refinery project or by the pipeline Project.

11. Dakota Prairie obtained a Section 404 permit from the USACE for impacts to wetlands associated with the construction of the bridge over the Heart River.

## Siting Criteria

12. NDAC Section 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 NDAC 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

13. 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.

14. The Project will have no impact on Exclusion Areas defined by NDAC 69-06-08(1). There are no Exclusion Areas located on the proposed Project corridor and route.

15. 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.

16. The Project will have no impact on Avoidance Areas defined by NDAC 69-06-08-02(2). There are no Avoidance Areas located on the proposed Project corridor and route.

17. 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.

18. The Project will not have a significant impact on the Selection Criteria set forth in NDAC 69-06-08-02(3). The Project will have no adverse impact on agriculture, wetlands or woodlands. The Project will have no adverse sound or visual impact on adjacent land uses; no impact on radio television or other communication and electronic control facilities. The Project length and design minimizes impacts to the environment and minimizes risks to human and animal health and safety. The Project will have minimal impact to plant life.

19. 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.

20. Dakota Prairie has demonstrated its commitment to maximize the benefits of the Project so as to meet the Policy Criteria set forth in NDAC 69-06-08-04(4) by designing and locating it's 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

21. Dakota Prairie agreed to a number of steps to mitigate the impact of the Project as indicated by the December \_\_, 2013 Certification Relating to Order Provisions - Transmission Facility Siting with the accompanying Tree and Shrub Mitigation Specifications.

22. Dakota Prairie will develop an emergency response program for the Dakota Prairie Refinery which will include the Project pipelines. Trained emergency first responders will be located on-site at the Dakota Prairie Refinery and Dakota Prairie will also coordinate its emergency response program with local emergency response programs.

#### Minimal Adverse Effects

23. N.D.C.C. Section 49-22-07.2 provides the Commission, after hearing and upon a finding that a proposed facility is of such length, design, location or purpose that it will produce minimal adverse effects, may issue an order waiving specified procedures and time schedules required by N.D.C.C. Chapter 49-22 and N.D.Admin.C. Chapter 69-06-06, including but not limited to applications, notices, and hearings, and may forthwith issue a certificate of corridor compatibility, or a route permit, with such conditions as the Commission may require.

24. The Project will have minimal adverse effects. The pipelines are approximately 5,900 feet in length- only about 650 feet longer than the jurisdictional threshold for the Commission's siting jurisdiction. The Project pipelines will be located entirely on property zoned for industrial use and owned by the Applicants. The Project pipelines will have no impact on third party property. The proposed corridor and route have been largely disturbed by the refinery and rail loading facility construction, and other utility and road infrastructure. The proposed corridor and route will not cross any exclusion or avoidance areas and are consistent with the Commissions Selection and Policy criteria. The above ground construction of the Project will minimize soil disturbance and facilitate on-going inspection and maintenance, integrity management, and prompt leak detection. Pipeline design pressures are substantially above the intended maximum pump output pressures. The crossing of 116<sup>th</sup> avenue will be in accordance with a design approved by the Stark County Road Superintendent.

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

### **Conclusions of Law**

1. The Commission has jurisdiction over this proceeding under North Dakota Century Code Chapter 49-22.
2. The Applicants are utilities as defined in North Dakota Century Code Section 49-22-03(13) for the purposes of the Project.
3. The proposed pipelines are transmission facilities as defined by North Dakota Century Code Section 49-22-03(12).
4. The location, construction, operation, and maintenance of the proposed transmission facilities 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 proposed transmission facilities are compatible with environmental preservation and the efficient use of resources.
6. The Project will produce minimal adverse human and environmental impact while assisting in meeting an energy need of the State of North Dakota.
7. The Project is of such length, design, location and purpose that it will produce minimal adverse effects, as defined by North Dakota Century Code Section 49-22-07.2.
8. It is appropriate for the Commission to waive certain procedures and time schedules as requested in the Application and provided under North Dakota Century Code Section 49-22-07.2.

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

### **Order**

1. The Applicants' application for a waiver of procedures and time schedules be granted for the following procedures and time schedules:
  - a. Development and submission of a ten year plan as provided at N.D.C.C. §49-22-04 and N.D.Admin.C. §69-06-02-02.
  - b. Submission of a letter of intent as provided by N.D.C.C. §49-22-07.1.
  - c. Application for a corridor certificate and other requirements of N.D.C.C. §49-22-08, N.D.Admin.C. §69-06-01-04 and N.D.Admin.C. §69-06-05-01 to the

extent not included in the Applicants' application for waiver, filings and hearing evidence.

- d. Application for a route permit and other requirements of N.D.C.C. §49-22-08.1 to the extent not included in the Applicants' application for waiver, filings and hearing evidence.
- e. Public hearings in addition to that held in this proceeding to the extent otherwise required by N.D.C.C. §49-22-13 and N.D.Admin.C. §69-06-01-02.
- f. A corridor at least ten percent of its length but not less than one mile as provided by N.D.Admin.C. §69-06-05-02(5).

2. That a Certificate of Corridor Compatibility be issued to the Applicants designating a corridor for the construction, operation, and maintenance of the proposed 6-inch and 8-inch product pipelines approximately 5,900 feet in length in Stark County, North Dakota. For the purposes of the Certificate, the Corridor will consist of a \_\_ foot-wide area centered on the pipeline support racks and road crossing locations for the length of the route.

3. That a Route Permit be issued to the Applicants granting authority to construct and operate the proposed 6-inch and 8-inch product pipelines approximately 5,900 feet in length in Stark County, North Dakota centered on the pipeline support racks and as shown in the late filed CAD drawings.

4. That the December \_\_, 2013 Certification Relating to Order Provisions - Transmission Facility Siting with the accompanying Tree and Shrub Mitigation Specifications be incorporated by reference and attached to the Order issued by the Commission.

5. The Applicants shall commence construction of the Project pipelines across 116<sup>th</sup> Avenue SW only in accordance with a construction design plan approved by the Stark County Road Superintendent. A copy of the approved design plan shall be filed with the Commission.

## **PUBLIC SERVICE COMMISSION**

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**Randy Christmann**  
Commissioner

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**Brian P. Kalk**  
Chairman

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**Julie Fedorchak**  
Commissioner