

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Dakota Prairie Refining, LLC/Lario Shipping, LLC
Two Petroleum Product Pipelines – Stark County
Siting Application

Case No. PU-13-799

AFFIDAVIT OF SERVICE BY CERTIFIED & REGULAR MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Jen Lein deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **2nd** day of **January, 2014**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

Findings of Fact, Conclusions of Law and Order
and an Original of:

Certificate of Corridor Compatibility No. 151
Route Permit No. 162
Route Permit No. 163

The envelope was addressed as follows:

David Podratz
Dakota Prairie Refining, LLC
3815 116th Ave. S.W.
Dickinson, ND 58601

Cert. No. 7013 2630 0001 2317 0262

Jen Lein further deposes and says that on the **2nd** day of **January, 2014**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.


The envelope was addressed as follows:


John Wadsworth
Lario Shipping, LLC
1111 E. 37th St. N.
Wichita, KS 67219

Affidavit of Service
Page 2
January 2, 2014

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

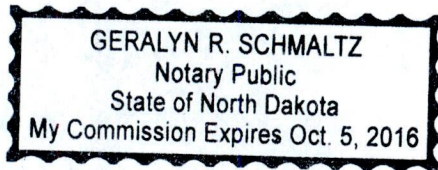
Subscribed and sworn to before me
this 2nd day of **January, 2014**.





Notary Public

SEAL



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-13-799

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

December 30, 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 5th 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 NDCC Chapter 49-22 and North Dakota Administrative Code (ND Admin. Code) Article 69-06 for issuance of a Certificate of Corridor Compatibility and Route Permit for two petroleum product pipelines (the Project) between the Dakota Prairie and the Lario 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 p.m. CST at the Dakota Prairie Refinery Administration Building, 3815 116th 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:

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 17, 2013, the Applicants submitted late filed exhibits including detailed CAD drawings of the proposed Project corridor and route and each applicant filed a fully executed Certification to Order Provisions – Transmission Facility Siting.

On December 27, 2013, the Applicants submitted amended late filed exhibits for the Certification to Order Provisions – Transmission Facility Siting and with accompanying Tree and Shrub Mitigation Specifications.

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 will be engaged in the refinement of crude oil into diesel fuel and liquefied petroleum gas. The remaining fraction of the crude oil that requires further processing – naphtha and Atmospheric Tower Bottoms (ATB), or liquid hydrocarbon products will be transported to the Lario rail hub for shipment to other refineries via rail. The Applicants will be engaged in the transmission of these liquid hydrocarbon products. The Applicants are 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. Dakota Prairie 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 ATB. Dakota Prairie 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 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 Dakota Prairie property location. The refinery is located on the west side of 116th Avenue SW and the rail hub is located on the east side of 116th Avenue about 3 miles SW of Dickinson.

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 wrapped 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 B31.4 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 wrapped 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 B31.4 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 116th Avenue SW will 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 116th 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 (USACE). 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 when it constructed the bridge over the Heart River.

Siting Criteria

12. ND Admin. Code § 69-06-08-02 sets forth criteria to guide and govern the preparation of the inventory of exclusion and avoidance areas, and the corridor and route suitability evaluation process for transmission facilities. The criteria set forth in ND Admin. Code § 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

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 ND Admin. Code § 69-06-08(1). There are no Exclusion Areas located on the proposed Project corridor and routes.

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 ND Admin Code § 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 ND Admin. Code § 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 ND Admin. Code § 69-06-08-04(4) by designing and locating the Project in such a manner as to maximize operational efficiency and economic benefits while minimizing impacts on agriculture, extractable resources, health and safety, plant and animal life, communications, and the visual effect on the surrounding area.

Measures to Minimize Impact

21. Dakota Prairie and Lario each agreed to a number of steps to mitigate the impact of the Project as indicated by their amended late filed exhibits dated December 27, 2013 which are comprised of their 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. NDCC § 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 NDCC Chapter 49-22 and ND Admin Code § 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 116th 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 NDCC Chapter 49-22.
2. The Applicants are utilities as defined in NDCC § 49-22-03(13) for the purposes of the Project.
3. The proposed pipelines are transmission facilities as defined by NDCC § 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 NDCC § 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 NDCC § 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 NDCC §49-22-04 and ND Admin. Code §69-06-02-02.
- b. Application for a corridor certificate and other requirements of NDCC §49-22-08, including §49-22-08(5) analysis, ND Admin. Code §69-06-01-04 and ND Admin. Code §69-06-05-01 to the extent not included in the Applicants' application for waiver, filings and hearing evidence.
- c. Application for a route permit and other requirements of NDCC §49-22-08.1, including §49-22-08.1(5) analysis to the extent not included in the Applicants' application for waiver, filings and hearing evidence.
- d. Specific provisions of law Applicant requests the commission waive under ND Admin. Code § 69-06-06-01(2)(l).

2. That Certificate of Corridor Compatibility No. 151 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 the width and shape of pipeline support racks and road crossing locations and a length equal to the route as shown in the late filed CAD drawings.

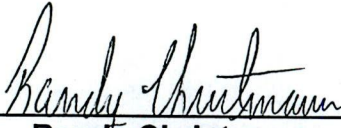
3. That a Route Permit No. 162 be issued to the Applicants granting authority to construct and operate the proposed 6-inch product pipeline approximately 5,900 feet in length in Stark County, North Dakota positioned on the pipeline support racks and as shown in the late filed CAD drawings.

4. That a Route Permit No. 163 be issued to the Applicants granting authority to construct and operate the proposed 8-inch product pipeline approximately 5,900 feet in length in Stark County, North Dakota positioned on the pipeline support racks and as shown in the late filed CAD drawings.

5. That each December 27, 2013 Certification Relating to Order Provisions - Transmission Facility Siting with accompanying Tree and Shrub Mitigation Specifications be incorporated by reference and attached to the Order issued by the Commission.

6. The Applicants shall commence construction of the Project pipelines across 116th 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



Randy Christmann
Commissioner



Brian P. Kalk
Chairman



Julie Fedorchak
Commissioner

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Corridor Compatibility Number 151

This is to certify that the Commission has designated a transmission facility corridor for Dakota Prairie Refining, LLC and Lario Shipping, LLC for the construction of a 6-inch and an 8-inch pipeline between the Dakota Prairie Refinery and the Lario Shipping, LLC rail hub in Stark County, North Dakota for the transmission of refined petroleum products.

This transmission facility corridor is designated in accordance with the Commission's December 30, 2013 Order in Case No. PU-13-799 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, December 30, 2013.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

STATE OF NORTH DAKOTA

Route Permit Number 162

This is to certify that the Commission has designated a transmission facility route for Dakota Prairie Refining, LLC and Lario Shipping, LLC for the construction of a 6-inch pipeline between the Dakota Prairie Refinery and the Lario Shipping, LLC rail hub in Stark County, North Dakota for the transmission of refined petroleum products.

This transmission facility route is designated in accordance with the Commission's December 30, 2013 Order in Case No. PU-13-799 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, December 30, 2013.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

STATE OF NORTH DAKOTA

Route Permit Number 163

This is to certify that the Commission has designated a transmission facility route for Dakota Prairie Refining, LLC and Lario Shipping, LLC for the construction of an 8-inch pipeline between the Dakota Prairie Refinery and the Lario Shipping, LLC rail hub in Stark County, North Dakota for the transmission of refined petroleum products.

This transmission facility route is designated in accordance with the Commission's December 30, 2013 Order in Case No. PU-13-799 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, December 30, 2013.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-13-799

CERTIFICATION RELATING TO ORDER PROVISIONS - TRANSMISSION FACILITY
SITING

I am John P. Stumpf, a representative of Dakota Prairie Refining, LLC ("Company") with authority to bind Dakota Prairie Refining, LLC to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.
3. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
4. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the transmission facility that requires said license or permit.
5. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated on construction activities on a weekly basis.
6. Company understands and agrees that where buried, the pipeline will be buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in range

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

7. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
8. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
9. Company agrees to construct and operate the transmission facility in the manner described in Company's application, in any late filed exhibits, and supplemental materials (Application). To the extent there are any conflicts or inconsistencies between Company's Application and the provisions in this Certification Relating to Order Provisions, the Certification provisions control.
10. Company agrees to report promptly to the Commission the presence in the permit area of any critical habitat or threatened species, endangered species, bald eagles, or golden eagles of which Company becomes aware and which were not previously reported to the Commission.
11. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made and a report of such examination is filed with the Commission and the State Historical Society and clearance to proceed is given by the Commission.
12. Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road.
13. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the transmission facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.

14. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures approved by the Commission are taken.
15. Company understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be stripped and segregated from the subsoil. Except along segments of the line using the double ditching method, any area on which excavated subsoil will be placed must also be stripped of topsoil. After backfilling is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.
16. Company understands and agrees that any reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
17. Company understands and agrees that its obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission facility.
18. Company understands and agrees that its obligation for reclamation and maintenance of the transmission facility, associated facilities, and roadways will continue throughout the life of the transmission facility.
19. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
20. Company understands and agrees that it shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
21. Company understands and agrees that it shall repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.
22. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
23. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.

24. Company understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
25. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.
26. Company understands and agrees that it shall advise the Commission of any extraordinary events which take place at the site of the transmission facility, including injuries to any person, or the death of any threatened or endangered species on the site within five business days of such event.
27. Company understands and agrees that it shall implement a procedure for how complaints concerning the transmission facility will be handled by Company
28. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
29. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility. Company understands and agrees to obtain written approval from the Commission prior to any modifications to the site plan or the transmission facility. Approval may be granted after notice and opportunity for hearing.
30. Company agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAO 83) UTM Zone 13N or 14N feet (NAO 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
31. Company understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for the transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

32. Company understands and agrees that in the event Company desires to construct, within any corridor granted by a Certificate of Corridor Compatibility in this proceeding, a transmission facility or energy conversion facility that was not included in Company's application in this proceeding, Company shall apply to the Commission for a Route Permit or Site Certificate for the facility.
33. Company shall notify the Commission, as soon as reasonably possible, if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined and clearance to proceed has been given by the Commission.
34. Company understands and agrees that the corridor certificate and route permit are subject to suspension or revocation and may, after hearing, be suspended or revoked for failure to comply with the Commission's order, requirements of the One-Call Excavation Notice System under North Dakota Century Code Chapter 49-23, the conditions and criteria of the certificate or permit or subsequent modification, or failure to comply with applicable statutes, or rules, regulations, standards, and permits of other state or federal agencies.
35. Company agrees to utilize the following procedures if Company seeks a route adjustment before or during construction of the pipeline, pursuant under N.D.C.C. §49-22-16.3:
36. Company will specifically identify which subsection of NDCC 49-22-16.3 it is requesting the adjustment under. Company will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application.
37. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before conducting any construction activities for any adjustment to the designated route within the designated corridor under NDCC 49-22-16.3(1), the Company will file:
 - a. Certification and supporting documentation affirming that construction activities will be within the designated corridor, will not affect any known exclusion or avoidance areas within the designated corridor;
 - b. Certification and supporting documentation, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01 (2)(n) identifying the designated corridor, route and the route adjustment;

- c. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

38. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(2), within the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route within the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
 - i. the designated corridor, route and the route adjustment;
 - ii. all exclusion and avoidance areas within the portion of the designated corridor containing the route adjustment
- b. Certification and supporting documentation affirming:
 - i. That construction activities will be within the designated corridor
 - ii. That construction activities will not affect any known exclusion area
- c. All field studies performed on the portion of the designated corridor containing the route adjustment;
- d. Specific information about any mitigation measures Company will take within the adjustment area;
- e. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- f. Certification that unless the Commission previously authorized the impact to the same avoidance area, that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist;
- g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

Company acknowledges and agrees that:

- 1. Written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity unless the Commission fails to act within ten working days of receipt of filing a complete adjustment application, in which case the adjustment is deemed approved.
- 2. The initiation of the ten working days begins upon receipt of a complete filing, to include Company's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Company, in the person of the key contact referenced above, is informed of the reason additional time is necessary for extension and has no objection to an extension.

39. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(3), outside the designated corridor and not affecting any exclusion and avoidance area, before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:
- a. Certification and supporting documentation affirming that construction activities will not affect any known exclusion or avoidance areas,
 - b. Certification and supporting documents stating the length of the proposed route outside of the corridor and a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, corridor adjustment, designated route and the route adjustment;
 - c. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment; and
 - d. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
 - e. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route
40. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(4), outside the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:
- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
 - i. the designated corridor, corridor adjustment, route and the route adjustment;
 - ii. all exclusion and avoidance areas within the adjustment area
 - b. Certification that construction activities will not affect any known exclusion area;
 - c. Certification that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist within the designated corridor and route;
 - d. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
 - e. Provide specific information about any mitigation measures Company will take within the adjustment area;

- f. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
- g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

Company acknowledges and agrees that

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 - 2. The initiation of the ten working days begins upon receipt of a complete filing, to include Company's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if if Company, in the person of the key contact referenced above, is informed of the reason additional time is necessary for extension and has no objection to an extension.
41. When applicable, Company may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.

Dated this 27 day of DECEMBER, 20 .

DAKOTA PRAIRIE REFINING, LLC

BY: 
John P. Stumpf

Its: Vice President and Manager

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-13-799

Tree and Shrub Mitigation Specifications

Inventory

1. The Company will provide estimated inventory of trees and shrubs cleared or anticipated to be cleared, including those that are considered invasive species or noxious weeds (e.g., *Caragana arborescens*, *Elaeagnus angustifolia*, *Rhamnus cathartica*, *Tamarix chinensis*, *T. parviflora*, *T. ramosissima*, *Ulmus pumila*), along the route. The inventory will include the location and estimated number, and species of trees and shrubs.
2. In windbreaks, shelterbelts and other planted areas, trees or shrubs anticipated to be cleared, regardless of size, must be inventoried for replacement.
3. In native growth areas, trees cleared that were 1 inch diameter at breast height (dbh) or greater must be inventoried for replacement.
4. In native growth areas, shrubs cleared in the corridor must be inventoried for replacement.
5. In native growth areas, trees and shrubs will be inventoried by estimated count or by a sampling method that properly represents the woody vegetation population. A sampling plan developed by the company, filed with the North Dakota Public Service Commission (Commission) and approved must define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots must be extrapolated to the total acreage of the wooded area to be cleared to determine the species and quantity of trees and shrubs to be replaced.

Clearing for Construction

6. The maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas is 50 feet, unless otherwise approved by the Commission.
7. If the area of trees or shrubs actually cleared differs from the area inventoried, the difference in number of trees and shrubs to be replaced must be noted on the inventory.

Replacement

8. Prior to tree and shrub replacement, documentation identifying the number and variety of trees and shrubs removed, as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings, must be filed with the Commission for approval.
9. Two 2-year-old saplings must be planted for every one tree removed. Two shrubs (stem cuttings) must be planted for every one shrub removed.
10. Except in the case of invasive or noxious species, trees and shrubs must be replaced by the same species or similar species, suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service. Invasive or noxious species must be replaced by similar non-invasive or non-noxious species suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.
11. Tree and shrub replacement must not be conducted within a 20 to 30 foot wide path over the pipeline to facilitate visual inspections of the right-of-way in accordance with U.S. Department of Transportation safety regulations.
12. Landowners must be given the option of having replacement trees and shrubs planted on the landowner's property, either on or off the right-of-way. The landowner must also be given the opportunity to waive those options in writing

in order to have replacement trees and shrubs planted off the landowner's property.

13. At the conclusion of the project, documentation identifying the actual number, variety, type, location and date of the replacement plantings must be filed with the Commission.
14. Tree and shrub replacements must be inspected annually, in September, for three years. The first annual inspection must be at least one year from the anniversary date of the original plantings. A report of each annual inspection must be submitted to the Commission by October 1 of each year, documenting the condition of plantings and any woodlands work completed as of September of each year. If after the third annual report the survival rate is less than 75%, the Commission may order additional planting(s).

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-13-799

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

I am John C. Wadsworth, a representative of Lario Shipping, LLC ("Company") with authority to bind Lario Shipping, LLC to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.
3. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
4. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the transmission facility that requires said license or permit.
5. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated on construction activities on a weekly basis.
6. Company understands and agrees that where buried, the pipeline will be buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in range

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

7. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
8. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
9. Company agrees to construct and operate the transmission facility in the manner described in Company's application, in any late filed exhibits, and supplemental materials (Application). To the extent there are any conflicts or inconsistencies between Company's Application and the provisions in this Certification Relating to Order Provisions, the Certification provisions control.
10. Company agrees to report promptly to the Commission the presence in the permit area of any critical habitat or threatened species, endangered species, bald eagles, or golden eagles of which Company becomes aware and which were not previously reported to the Commission.
11. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made and a report of such examination is filed with the Commission and the State Historical Society and clearance to proceed is given by the Commission.
12. Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road.
13. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the transmission facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.

14. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures approved by the Commission are taken.
15. Company understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be stripped and segregated from the subsoil. Except along segments of the line using the double ditching method, any area on which excavated subsoil will be placed must also be stripped of topsoil. After backfilling is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.
16. Company understands and agrees that any reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
17. Company understands and agrees that its obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission facility.
18. Company understands and agrees that its obligation for reclamation and maintenance of the transmission facility, associated facilities, and roadways will continue throughout the life of the transmission facility.
19. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
20. Company understands and agrees that it shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
21. Company understands and agrees that it shall repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.
22. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
23. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.

24. Company understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
25. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.
26. Company understands and agrees that it shall advise the Commission of any extraordinary events which take place at the site of the transmission facility, including injuries to any person, or the death of any threatened or endangered species on the site within five business days of such event.
27. Company understands and agrees that it shall implement a procedure for how complaints concerning the transmission facility will be handled by Company
28. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
29. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility. Company understands and agrees to obtain written approval from the Commission prior to any modifications to the site plan or the transmission facility. Approval may be granted after notice and opportunity for hearing.
30. Company agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAO 83) UTM Zone 13N or 14N feet (NAO 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
31. Company understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for the transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

32. Company understands and agrees that in the event Company desires to construct, within any corridor granted by a Certificate of Corridor Compatibility in this proceeding, a transmission facility or energy conversion facility that was not included in Company's application in this proceeding, Company shall apply to the Commission for a Route Permit or Site Certificate for the facility.
33. Company shall notify the Commission, as soon as reasonably possible, if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined and clearance to proceed has been given by the Commission.
34. Company understands and agrees that the corridor certificate and route permit are subject to suspension or revocation and may, after hearing, be suspended or revoked for failure to comply with the Commission's order, requirements of the One-Call Excavation Notice System under North Dakota Century Code Chapter 49-23, the conditions and criteria of the certificate or permit or subsequent modification, or failure to comply with applicable statutes, or rules, regulations, standards, and permits of other state or federal agencies.
35. Company agrees to utilize the following procedures if Company seeks a route adjustment before or during construction of the pipeline, pursuant under N.D.C.C. §49-22-16.3:
36. Company will specifically identify which subsection of NDCC 49-22-16.3 it is requesting the adjustment under. Company will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application.
37. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before conducting any construction activities for any adjustment to the designated route within the designated corridor under NDCC 49-22-16.3(1), the Company will file:
 - a. Certification and supporting documentation affirming that construction activities will be within the designated corridor, will not affect any known exclusion or avoidance areas within the designated corridor;
 - b. Certification and supporting documentation, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01 (2)(n) identifying the designated corridor, route and the route adjustment;

- c. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

38. ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED: Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(2), within the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route within the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
 - i. the designated corridor, route and the route adjustment;
 - ii. all exclusion and avoidance areas within the portion of the designated corridor containing the route adjustment
- b. Certification and supporting documentation affirming:
 - i. That construction activities will be within the designated corridor
 - ii. That construction activities will not affect any known exclusion area
- c. All field studies performed on the portion of the designated corridor containing the route adjustment;
- d. Specific information about any mitigation measures Company will take within the adjustment area;
- e. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- f. Certification that unless the Commission previously authorized the impact to the same avoidance area, that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist;
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- 1. Written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity unless the Commission fails to act within ten working days of receipt of filing a complete adjustment application, in which case the adjustment is deemed approved.
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39. ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED: Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(3), outside the designated corridor and not affecting any exclusion and avoidance area, before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:

- a. Certification and supporting documentation affirming that construction activities will not affect any known exclusion or avoidance areas,
- b. Certification and supporting documents stating the length of the proposed route outside of the corridor and a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, corridor adjustment, designated route and the route adjustment;
- c. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment; and
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40. ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED: Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(4), outside the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
 - i. the designated corridor, corridor adjustment, route and the route adjustment;
 - ii. all exclusion and avoidance areas within the adjustment area
- b. Certification that construction activities will not affect any known exclusion area;
- c. Certification that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist within the designated corridor and route;
- d. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- e. Provide specific information about any mitigation measures Company will take within the adjustment area;


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41. When applicable, Company may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.

Dated this 27 day of DECEMBER, 2013.

Lario Shipping, LLC

BY: 
John C. Wadsworth

Its: Project Director

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-13-799

Tree and Shrub Mitigation Specifications

Inventory

1. The Company will provide estimated inventory of trees and shrubs cleared or anticipated to be cleared, including those that are considered invasive species or noxious weeds (e.g., *Caragana arborescens*, *Elaeagnus angustifolia*, *Rhamnus cathartica*, *Tamarix chinensis*, *T. parviflora*, *T. ramosissima*, *Ulmus pumila*), along the route. The inventory will include the location and estimated number, and species of trees and shrubs.
2. In windbreaks, shelterbelts and other planted areas, trees or shrubs anticipated to be cleared, regardless of size, must be inventoried for replacement.
3. In native growth areas, trees cleared that were 1 inch diameter at breast height (dbh) or greater must be inventoried for replacement.
4. In native growth areas, shrubs cleared in the corridor must be inventoried for replacement.
5. In native growth areas, trees and shrubs will be inventoried by estimated count or by a sampling method that properly represents the woody vegetation population. A sampling plan developed by the company, filed with the North Dakota Public Service Commission (Commission) and approved must define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots must be extrapolated to the total acreage of the wooded area to be cleared to determine the species and quantity of trees and shrubs to be replaced.

Clearing for Construction

6. The maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas is 50 feet, unless otherwise approved by the Commission.
7. If the area of trees or shrubs actually cleared differs from the area inventoried, the difference in number of trees and shrubs to be replaced must be noted on the inventory.

Replacement

8. Prior to tree and shrub replacement, documentation identifying the number and variety of trees and shrubs removed, as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings, must be filed with the Commission for approval.
9. Two 2-year-old saplings must be planted for every one tree removed. Two shrubs (stem cuttings) must be planted for every one shrub removed.
10. Except in the case of invasive or noxious species, trees and shrubs must be replaced by the same species or similar species, suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service. Invasive or noxious species must be replaced by similar non-invasive or non-noxious species suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.
11. Tree and shrub replacement must not be conducted within a 20 to 30 foot wide path over the pipeline to facilitate visual inspections of the right-of-way in accordance with U.S. Department of Transportation safety regulations.
12. Landowners must be given the option of having replacement trees and shrubs planted on the landowner's property, either on or off the right-of-way. The landowner must also be given the opportunity to waive those options in writing

in order to have replacement trees and shrubs planted off the landowner's property.

13. At the conclusion of the project, documentation identifying the actual number, variety, type, location and date of the replacement plantings must be filed with the Commission.
14. Tree and shrub replacements must be inspected annually, in September, for three years. The first annual inspection must be at least one year from the anniversary date of the original plantings. A report of each annual inspection must be submitted to the Commission by October 1 of each year, documenting the condition of plantings and any woodlands work completed as of September of each year. If after the third annual report the survival rate is less than 75%, the Commission may order additional planting(s).