

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

**North Dakota Pipeline Company LLC  
24-Inch Crude Oil Pipeline - Sandpiper Project  
Siting Application**

**Case No. PU-13-848**

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

**February 10, 2016**

**Appearances**

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

Brian Bjella, Attorney at Law, Crowley Fleck PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58501, on behalf of North Dakota Pipeline Company LLC.

Brian Schmidt, Special Assistant Attorney General, 122 East Broadway Avenue, Bismarck, North Dakota 58502, on behalf of the Public Service Commission.

Patrick J. Ward, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14<sup>th</sup> Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

**Preliminary Statement**

On June 25, 2014, in Case No. PU-13-848, the Commission issued Certificate of Corridor Compatibility No. 153 and Route Permit No. 165 to North Dakota Pipeline Company, LLC (NDPL) for the construction, operation, and maintenance of approximately 300 miles of 24-inch diameter pipeline in Williams, Mountrail, Ward, McHenry, Pierce, Towner, Ramsey, Nelson, and Grand Forks Counties, North Dakota; a new pump station near Lakota in Nelson County, and additional storage and upgrades at the Beaver Lodge Station near Tioga in Williams County, the Stanley Station near Stanley in Mountrail County, and the Berthold Station near Berthold in Ward County, North Dakota.

On November 10, 2015, NDPL filed applications to amend the designated corridor and route at one location in Towner County and one location in Nelson County. NDPC proposes to adjust the pipeline route outside of the approved corridor at one location in Nelson County and one location in Towner County (Project).

Also on November 10, 2015, NDPL filed an application for waivers of procedures and time schedules established under North Dakota Century Code sections 49-22-07.2,

49-22-08, 49-22-08.1, 49-22-13, and North Dakota Administrative Code section 69-06-01-02, requiring separate filings, separate notices, and hearings on such applications.

On December 2, 2015, the Commission deemed the applications for an amended certificate of corridor compatibility and an amended route permit complete, and issued a Notice of Filings and Notice of Opportunity for Hearing (Notice), inviting interested parties to comment or request a hearing by January 7, 2016. The Notice stated the Commission can determine the matter without a hearing.

The Notice identified the following issues to be considered in 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 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 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 requests for hearing were received by the Notice of Opportunity deadline of January 7, 2016.

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. NDPL is a Delaware limited liability company authorized to do business in the State of North Dakota, as evidenced by corporate papers filed with the Commission on

January 16, 2016, in Case No. PU-14-51.

### Size, Type and Preferred Location of Facility

1. The Project consists of two route adjustments outside of the designated corridor. The length of the route adjustment in Towner County will be 10,114 feet outside of the designated corridor. The length of the route adjustment in Nelson County will be 18,309 feet outside of the designated corridor.

### Study of Preferred Location

2. The Project is within the two-mile-wide Study Area evaluated by NDPL in its applications for a certificate of corridor compatibility and a route permit.

3. NDPL conducted field surveys on those portions of the Project that will be located outside of the designated corridor (Survey Area) for wetlands and waterbodies, and threatened and endangered species and critical habitat.

4. NDPL conducted a Class III cultural resources inventory on the Survey Area. No cultural resources were identified within the Survey Area.

5. The Commission has established criteria pursuant to North Dakota Century Code Section 49-22-05.1 to guide the Commission in the corridor and route suitability evaluation and designation process. 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.

6. NDPL evaluated the Project for the Exclusion, Avoidance, Selection, and Policy criteria of the Commission.

7. An Exclusion Area may not encompass more than fifty percent of a corridor width unless there is no reasonable alternative. An Exclusion Area must be excluded in the consideration of a route for a transmission facility. A buffer zone to protect the integrity of the area must be included.

8. No Exclusion Areas are present within the Survey Area.

9. An Avoidance Area is a geographical 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.

10. A transmission facility may not be sited within an Avoidance Area unless the applicant demonstrates that under the circumstances there is no reasonable alternative. Economic considerations alone are not sufficient to establish no reasonable alternative.

11. Areas within five hundred feet of a residence, school, or place of business are Avoidance Areas. Pursuant to North Dakota Century Code section 49-22-05.1, 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.

12. One inhabited rural residence exists within 500 feet of the adjusted route. NDPL has obtained a waiver from the owner of the inhabited rural residence and has filed a copy of the waiver in this proceeding.

13. No other Avoidance Areas exist within the Survey Area.

14. In accordance with the Commission's Selection Criteria, a transmission facility route shall be designated only if it is demonstrated that any significant adverse effects resulting from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum or managed and maintained at an acceptable minimum.

#### Measures to Minimize Impact

15. NDPL has indicated that the purpose of the Project is to avoid wetlands along the designated route that are subject to easement by the United States Fish and Wildlife Service and the United States Department of Agriculture

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

#### Conclusions of Law

1. The Commission has jurisdiction over NDPL and the subject matter of this application under North Dakota Century Code Chapter 49-22.

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

3. The Project proposed by NDPL is a transmission facility as defined in North Dakota Century Code Section 49-22-03(12).

4. The location, construction, and operation of the proposed 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 proposed Project is 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, pursuant to North Dakota Century Code Section 49-22-07.2.

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

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

### **Order**

The Commission orders:

1. NDPL's application for a waiver of procedures and time schedules is granted.
2. First Amended Certificate of Corridor Compatibility No. 153 is issued to NDPL, designating a corridor for the construction, operation and maintenance of approximately 300 miles of 24-inch crude oil pipeline and associated facilities in Williams, Mountrail, Ward, McHenry, Pierce, Towner, Ramsey, Nelson, and Grand Forks Counties, a new pump station near Lakota in Nelson County, and additional storage and upgrades at the Beaver Lodge Station near Tioga in Williams County, the Stanley Station near Stanley in Mountrail County, and the Berthold Station near Berthold in Ward County, North Dakota. For purposes of the Certificate, the corridor is depicted as the "Environmental Survey Area" on Exhibit D of Hearing Exhibits 1A and 1B, and as revised in NDPL's Supplement to Late-Filed Exhibits No. 2 and 4, and in Exhibits A.1 and A.2 of NDPL's November 10, 2015 filing.
3. First Amended Route Permit No. 165 is issued to NDPL, designating a route for the construction, operation, and maintenance of approximately 300 miles of 24-inch crude oil pipeline and associated facilities in Williams, Mountrail, Ward, McHenry, Pierce, Towner, Ramsey, Nelson, and Grand Forks Counties, North Dakota. The designated route for this purpose is depicted on the set of maps provided in NDPL's Hearing Exhibit No. 1, as revised in NDPL's Supplement to Late-Filed Exhibits No. 2 and 4 and in Exhibits A.1 and A.2 of NDPL's November 10, 2015 filing.
4. NDPL shall complete Class III cultural resource surveys on all remaining unsurveyed portions of the Survey Area, and shall file with the Commission documentation showing SHPO concurrence that no historic properties or sites will be affected prior to beginning construction in areas associated with each report.

5. NDPL is required to comply with all applicable laws, rules, and/or regulations in the event it desires to construct another or a different transmission facility than was specified in the application within the corridor granted in this proceeding.

**PUBLIC SERVICE COMMISSION**

  
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**Randy Christmann**  
Commissioner

  
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**Julie Fedorchak**  
Chairman

  
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**Brian P. Kalk**  
Commissioner

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

**First Amended**  
**Certificate of Corridor Compatibility Number 153**

*This is to certify that the Commission has designated a transmission facility corridor for North Dakota Pipeline Company, LLC for the construction, operation, and maintenance of approximately 300 miles of 24-inch crude oil pipeline and associated facilities in Williams, Mountrail, Ward, McHenry, Pierce, Towner, Ramsey, Nelson, and Grand Forks Counties, a new pump station near Lakota in Nelson County, and additional storage and upgrades at the Beaver Lodge Station near Tioga in Williams County, the Stanley Station near Stanley in Mountrail County, and the Berthold Station near Berthold in Ward County, North Dakota.*

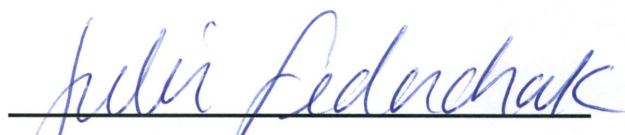
*This certificate is issued in accordance with the Orders of the Commission dated June 25, 2014 , and February 10, 2016, in Case No. PU-13-848 and is subject to the conditions and limitations noted in the Orders.*

*Bismarck, North Dakota, February 10, 2016.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

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

**First Amended**  
**Route Permit Number 165**

*This is to certify that the Commission has designated a transmission facility route for North Dakota Pipeline Company, LLC for the construction, operation, and maintenance of approximately 300 miles of 24-inch crude oil pipeline and associated facilities in Williams, Mountrail, Ward, McHenry, Pierce, Towner, Ramsey, Nelson, and Grand Forks Counties, a new pump station near Lakota in Nelson County, and additional storage and upgrades at the Beaver Lodge Station near Tioga in Williams County, the Stanley Station near Stanley in Mountrail County, and the Berthold Station near Berthold in Ward County, North Dakota.*

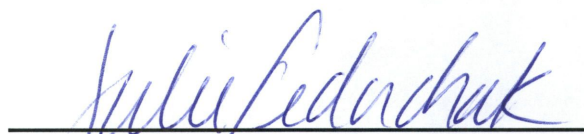
*This permit is issued in accordance with the Orders of the Commission dated June 25, 2014, and February 10, 2016 in Case No. PU-13-848 and is subject to the conditions and limitations noted in the Orders.*

*Bismarck, North Dakota, February 10, 2016.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**