

Casey A. Furey
100 West Broadway, Suite 250
P.O. Box 2798
Bismarck, ND 58502-2798
701.223.6585
cfurey@crowleyfleck.com

February 21, 2020

Via Electronic Mail & Hand Delivery

Mr. Steve Kahl
Executive Director
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480
ndpsc@nd.gov

In re: Belle Fourche Pipeline Company
Case No. PU-14-135
Certification Pursuant to N.D.C.C. § 49-22.1-01(3)(a)
Our File Nos. 013084-000014 & 013084-000006

Dear Mr. Kahl:

On behalf of Belle Fourche Pipeline Company (“Belle Fourche”), enclosed for filing in the above-referenced matter are eight copies of Belle Fourche’s Certification Pursuant to N.D.C.C. § 49-22.1-01(3)(a) for improvements to the existing 10-inch crude oil pipeline permitted by the Commission in Case No. PU-14-135 (the “Project”) and this filing letter.

On July 10, 2014, the Commission adopted Findings of Fact, Conclusions of Law and Order in Case No. PU-14-135 (the “Order”) authorizing the construction, operation, and maintenance of the Project. Provision 30 of the Certification Relating to Order Provisions issued in PU-14-135, states as follows:

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.

(PU-14-135, Docket No. 29). Certification Provision No. 30 is inconsistent with, and superseded by, the process set forth in N.D.C.C. § 49-22.1-01(3). Subsequent to the issuance of the Order, N.D.C.C. § 49-22.1-01(3)(a) was enacted which governs the statutory certification process set forth in the Siting Act that provides for an exemption from the siting process for facility

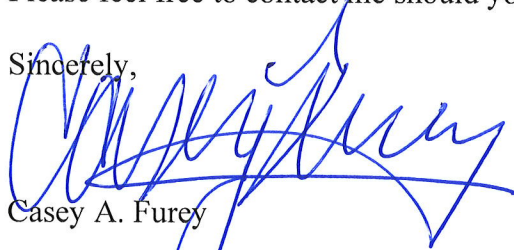
BILLINGS BISMARCK BOZEMAN BUTTE CASPER CHEYENNE HELENA KALISPELL MISSOULA SHERIDAN WILLISTON

improvements upon a utility's certification in writing to the Commission. Specifically, N.D.C.C. § 49-22.1-01(3) provides that certain activities do not constitute "construction" that would otherwise require Commission siting approval. Section 49-22.1-01(3)(a) does not require notice and opportunity for hearing for the type of improvements Belle Fourche has proposed.

Because N.D.C.C. § 49-22.1-01(3)(a) supersedes the procedural requirements set forth in Provision No. 30, and the improvements discussed in the Certification do not constitute "construction" under the Siting Act, Belle Fourche respectfully submits that it is within its right to commence improvement activities upon compliance with the provisions of § 49-22.1-01(3)(a). However, if the Commission determines that notice of opportunity for hearing is necessary, Belle Fourche requests that the Commission issue notice of opportunity for hearing to strike Provision No. 30 from the Certification Relating to Order Provisions consistent with current law, and issue an acknowledgment letter acknowledging that Belle Fourche may proceed with improvement activities while the notice period commences. Belle Fourche believes this request is reasonable and consistent with the Commission's prior actions in instances where older certification provisions regarding modification procedures have conflicted with statutory provisions subsequently enacted and set forth in the Siting Act.

Please feel free to contact me should you have any questions. Thank you.

Sincerely,



Casey A. Furey

Encl.

cc: Wade C. Mann (via email)
Kevin Cook (via email)
John Schuh (via email)
Brian Johnson (via email)
Patrick Fahn (via email)
Adam Renfandt (via email)
Mitchell Armstrong (via email)