

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Meadowlark Midstream Company, LLC
8-inch Crude Oil Pipeline – Williams and Divide Counties
Siting Application**

Case No. PU-14-223

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

_____, 2014

Appearances

Commissioners Brian P. Kalk, Randy Christmann, Julie Fedorchak

John W. Morrison, Attorney at Law, Crowley Fleck PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58501 on behalf of the Applicant, Meadowlark Midstream Company, LLC

Kelsey Krapp, Special Assistant Attorney General, 103 South 3rd, Suite 5, Bismarck, ND 58501 on behalf of the Public Service Commission.

Julie Prescott, Compliance and Competitive Markets Division, North Dakota Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505

Wade C. Mann, Administrative Law Judge, Office of Administrative Hearings, 2911 North 4th Street, Suite 303, Bismarck, ND 58503, as Procedural Hearing Officer.

Preliminary Statement

Under North Dakota Century Code §49-22-07, a utility may not begin construction of a transmission facility in the state without first having obtained a route permit. The facility must be constructed, operated, and maintained in conformity with the permit and any terms, conditions, or modifications of the permit.

On April 29, 2014 Meadowlark Midstream Company, LLC (“Meadowlark”) filed an application for a certificate of corridor compatibility and an application for a route permit for the conversion from a gathering pipeline to a transmission pipeline of a 43.5 mile, 8-inch crude oil

pipeline in Divide and Williams Counties, North Dakota. On July 29, 2014, Meadowlark filed an application for waivers of procedures and time schedules established under North Dakota Century Code Sections 49-22-07.2, 49-22-08(5), 49-22-08.1(5), 49-22-13 and North Dakota Administrative Code Section 69-06-01-02 requiring separate filings, separate notices and separate hearings on such applications. On August 1, 2014, Meadowlark filed an amendment to the application to include the Divide Pump Station as an associated facility of the pipeline.

On August 4, 2014, the Commission found the applications complete and issued a Notice of Filings and Notice of Hearing scheduling a public hearing on September 30, 2014 at 9:00 a.m. MST at the Williston City Hall, 22 East Broadway, Williston, North Dakota 58802.

The issues to be considered in Meadowlark's request for a waiver of procedures and time schedules are as follows:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects such 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 issues to be considered in Meadowlark's applications for certificate of corridor compatibility and route permit are as follows:

1. Will the location, construction, and operation of the proposed facilities produce minimal adverse affects 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?

Having allowed all interested persons an opportunity to be heard and having heard, reviewed, and considered all the evidence presented, the Hearing Officer makes the following:

Findings of Fact

1. Meadowlark is a Delaware limited liability company authorized to transact business in the State of North Dakota.
2. Meadowlark is the operator of an existing 43.5 mile, 8-inch gathering line extending from the point in Divide County, North Dakota to a connection at the Colt Rail Terminal ("CRT") in Williams County, North Dakota.

Size, Type and Preferred Location of Facility

3. The existing gathering line gathers crude oil from a number of oil production facilities in Divide County to a connection at the CRT near Epping, North Dakota. Currently, oil is delivered into the pipeline from a number of separate pipelines connected to LACT facilities, or “lease automatic custody transfer” facilities, in Divide County by pumps located at the production facilities.
4. Meadowlark has encountered operational issues with the current configuration as a result of disruptions or interruptions at the CRT. Meadowlark has installed, but not yet commissioned, a 20,000 barrel tank and pumps at the proposed Divide Pump Station to act as surge control for deliveries to the CRT. Meadowlark proposes to install an additional 55,000 barrel tank and pumps at Divide Pump Station to support an additional delivery connection to a rail terminal in Burke County. The addition of storage and pumps to add pressure will result in a conversion of the gathering pipeline to a transmission line under Section 49-22-03(12), N.D.C.C.

Need for Facility

5. Oil production in Western North Dakota has more than tripled in the last three years. The current operating capacity of the pipeline is approximately 15,000 barrels of oil per day. The addition of the pumps at the Divide Pump Station will increase the capacity of the pipeline to 35,000 barrels of oil per day. Alternatives to the proposed pipeline conversion consist primarily of trucking the crude oil which causes additional wear and tear on county and state roads. Transporting the crude oil by pipeline is a more efficient and safer mode of transportation.

Study of Preferred Location

6. North Dakota Administrative Code Chapter 69-06-08 sets forth certain criteria to guide the Commission in evaluating the suitability of granting an application for a certificate of corridor compatibility and route permit. The criteria as set forth in North Dakota Administrative Code Section 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria. A transmission facility route must not be sited within an Exclusion Area. A transmission facility route must not be sited within an Avoidance Area unless the applicant demonstrates that under the circumstances there are no reasonable alternatives. In determining whether an Avoidance Area shall be designated for a 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. In accordance with the Commission’s Selection Criteria, a transmission route shall be approved

if it is demonstrated that no significant adverse impacts will result from the location, construction, and maintenance of the transmission facility. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility.

7. Meadowlark conducted desk-top studies of a one-mile wide corridor centered on the proposed pipeline route for the exclusion, avoidance, selection and policy criteria of the Commission. Meadowlark also conducted pedestrian surveys for archeological and cultural resources over a 150-foot wide area centered on the proposed pipeline route and conducted field surveys using a 125-foot wide area centered on the proposed pipeline for botany and a one-mile wide area for wildlife.
8. The only exclusion area included within the one mile-wide corridor are some cultural resources but Meadowlark's consultant determined, and the State Historic Preservation officer concurred, that no significant sites have been impacted by the project.
9. The only avoidance areas included within the corridor are ten occupied, or possibly occupied, structures within 500 feet of the pipeline. Meadowlark has obtained waivers from the owners of seven of these structures. Meadowlark has attempted to obtain waivers from the owners of the other three structures, but has been unable to obtain the waivers after making reasonable attempts. However, Meadowlark established that as a result of the location of the tie-in to the CRT in relation to those structures, there is no reasonable alternative to the route selected that would maintain 500 foot clearance of the structures. Additionally, while the owners of the structures did not sign waivers, they did not intervene or appear at the hearing or voice any opposition to the project.

Mitigation to Minimize Impact

10. Meadowlark has constructed the pipeline in a manner to reduce impact on the human environment and has taken reasonable steps to prevent erosion and minimize the impact on vegetation, wildlife, and water resources. Meadowlark has determined through a consultant, and the State Historic Preservation Officer has agreed, that the construction of the pipeline has not impacted and will not impact any historic properties.
11. Meadowlark has personnel available in the area to respond to any conditions 24 hours a day, seven days a week. Valves will allow the pipeline to be quickly shut down in the event of any system failure. Meadowlark's SCADA system, located in its control center in Houston, TX, will report pipeline operations and facilitate early response to any breach or failure of the pipeline.
12. Meadowlark has agreed to a number of steps to mitigate the impact of the Project as indicated by the Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications.

From the foregoing Findings of Fact, the Hearing Officer makes the following:

Conclusions of Law

1. The Commission has jurisdiction over the applicant, Meadowlark, and over the subject matter of this application under North Dakota Century Code Chapter 49-22.
2. Meadowlark is a utility as defined in North Dakota Century Code Section 49-22-03(13).
3. The pipeline proposed to be operated by Meadowlark after construction of the Divide Pump Station is a transmission facility as defined in North Dakota Century Code Section 49-22-03(12).
4. The location, construction, and operation of the pipeline as a transmission line will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The pipeline corridor and route are compatible with the environmental preservation and the efficient use of resources.
6. The pipeline corridor and route 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, as defined under North Dakota Century Code Section 49-22-07.2.

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

Order

The Commission orders:

1. Meadowlark's application for waiver of procedures and time schedules is granted.
2. Meadowlark is issued Certificate of Corridor Compatibility for a Transmission Facility Corridor No. ____ and Route Permit for Construction of a Transmission Facility No. ____ to construct the facilities necessary to convert the pipeline to a transmission line.

3. Meadowlark shall obtain approval from the Commission or Commission staff prior to any changes or deviations to the pipeline route.
4. The Certificate of Compatibility for a Transmission Facility Corridor No. ____ and Route Permit for Construction of a Transmission Facility No. ____ are effective for the life of the Pipeline, but are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.
5. Meadowlark shall comply with all the rules and regulations of all other agencies having jurisdiction over any phase of the proposed project. Prior to commencing construction of any phase of the proposed project, Meadowlark shall obtain all other necessary licenses and permits for construction of such phase, and provide copies to the Commission prior to construction of each phase.
6. Meadowlark shall conduct a preconstruction conference to be held prior to the commencement of any additional construction. The conference must include a Meadowlark representative, Meadowlark's construction supervisor, and Commission staff, to ensure that Meadowlark fully understands the conditions set forth in this order.
7. Meadowlark shall comply with the Certification Relating to Order Provisions – Pipeline Siting filed in this proceeding and attached hereto.
8. Meadowlark 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 issued in this proceeding. In the event of any damage to underground facilities, Meadowlark 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.
9. The route permit is 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 permit or subsequent modification, or failure to comply with applicable statutes or rules, regulations, standards, and permits of other state or federal agencies.

Dated this ___ day of _____, 2014.

PUBLIC SERVICE COMMISSION

Randy Christman
Commissioner

Brian P. Kalk
Chairman

Julie Fedorchak
Commissioner