

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

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

February 25, 2015

Appearances

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

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, North Dakota 58501, on behalf of the Public Service Commission.

Julie Prescott, Utility Analyst, 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, North Dakota 58503, as Procedural Hearing Officer.

Preliminary Statement

On April 29, 2014, Meadowlark Midstream Company, LLC (Meadowlark) filed applications for a certificate of corridor compatibility and a route permit for an existing gathering pipeline in Divide and Williams Counties, North Dakota (Project).

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 for a route permit to include the Divide Pump Station (DPS) as an associated facility of the Project.

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

The Notice of Filings and Notice of Hearing identified the following issues to be considered with respect to the application for a 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 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 Notice of Filings and Notice of Hearing identified the following issues to be considered with respect to the applications for certificate of corridor compatibility and route permit:

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?

On August 26, 2014, Meadowlark filed supplemental information concerning the Project cost.

On September 30, 2014, the hearing was held as scheduled.

On November 20, 2014, Meadowlark filed revised as-built alignment sheets.

On February 17, 2014, Meadowlark filed supplemental information concerning the revised as-built alignment sheets and the Colt Rail Terminal (CRT).

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. Meadowlark is a Delaware limited liability company. Meadowlark is authorized to do business in the State of North Dakota, as evidenced by corporate papers filed with the Commission on April 30, 2014, in Case No. PU-14-224.

Size, Type, and Preferred Location of Facility

2. The Project consists of approximately 43.5 miles of existing pipeline and associated facilities located in Divide and Williams Counties, North Dakota. The pipeline will be converted from a gathering function to a transmission function in transporting crude oil from the DPS in Divide County to a connection at the CRT near Epping, North Dakota. The operating capacity of the existing gathering pipeline is approximately 15,000 barrels of oil per day.

3. The Project utilizes 8-inch diameter steel pipe and the maximum operating pressure will be 1,480 pounds per square inch gauge. With the addition of pumps at the DPS, the maximum design capacity will be 45,000 barrels of oil per day. Meadowlark testified that the pipeline was constructed in compliance with Code of Federal Regulations Title 49 Part 195 hazardous liquids pipeline safety standards.

4. Aboveground facilities will include block valves, one 20,000-barrel tank, one 55,000-barrel tank, and associated pumps.

5. The total anticipated cost of the Project is approximately \$21 million.

Need for Facility

6. Meadowlark concluded there is a need for the Project based on recent and significant increases in oil extraction in western North Dakota and a lack of efficient transportation methods.

Study of Preferred Location

7. Meadowlark evaluated a one-mile-wide study area (Study Area) centered on the existing pipeline alignment. Field surveys were conducted for cultural resources over a 150-foot wide area centered on the existing pipeline alignment (Cultural Resources Survey Area). Field surveys for natural resources were conducted over a 125-foot wide area centered on the existing pipeline alignment (Natural Resources Survey Area).

8. Meadowlark conducted a Class I literature search in the Study Area and a Class III cultural resource inventory in the Cultural Resources Survey Area. Additionally, environmental data collected in the Natural Resources Survey Area included information on soils, land use, wetlands and waterbody crossings, noxious weeds, trees and shrubs, and protected species and habitats.

9. The following agencies were contacted by Meadowlark: the United States Fish and Wildlife Service, the United States Department of Agriculture Farm Service Agency, the North Dakota Game and Fish Department, the North Dakota Parks and Recreation Department, the North Dakota Department of Trust Lands, the North Dakota State Historic Preservation Office (SHPO), and the North Dakota Department of Health. No agencies expressed concern with the Project.

10. In their letter dated July 3, 2014, the SHPO concurred with a "no significant sites" determination for the Project.

Siting Criteria

11. The Commission has established criteria pursuant to North Dakota Century Code section 49-22-05.1 to guide the Commission in evaluating the suitability of granting 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.

12. A transmission facility route must not be sited within an exclusion area. No exclusion areas will be impacted by the Project.

13. 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.

14. Pursuant to North Dakota Century Code section 49-22-05.1, areas within five hundred feet of an inhabited rural residence must be designated avoidance areas.

15. Pursuant to North Dakota Administrative Code section 69-06-08-02(2), areas within five hundred feet of a residence, school, or place of business are avoidance areas.

16. A transmission facility must not be sited within an avoidance area unless the applicant demonstrates that under the circumstances there are no reasonable alternatives, except, 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. Economic considerations alone are not sufficient to establish no reasonable alternative exists to siting within five hundred feet of an inhabited residence.

17. Meadowlark identified ten inhabited or potentially inhabited residences within five hundred feet of the existing pipeline.

18. Meadowlark has obtained written waivers from seven of the ten residence owners.

19. Meadowlark testified that the owner of the CRT at the time of pipeline construction specified the point where the pipeline terminus must connect to the CRT meter, which is located within five hundred feet of the three residences for which waivers have not been obtained.

20. At the hearing, the Commission requested additional evidence to support Meadowlark's contention that there are no reasonable alternatives to routing the pipeline within five hundred feet of the inhabited residences.

21. Meadowlark submitted a late-filed exhibit on October 20, 2014, including the Affidavit of Meadowlark's Construction Manager, Dean Blikre, with a map depicting the Project in relation to the inhabited residences at issue. Meadowlark identified one alternative to the proposed project route, but deemed that alternative to be unreasonable for the following reasons:

- a. The alternative route would add $\frac{3}{4}$ mile of pipe and right-of-way;
- b. owners of the CRT prohibited Meadowlark from crossing the truck lanes located on the eastern side of the alternative route;
- c. the railroad that owns the track located between the truck unloading facility and the tank yard discourages the laying of pipeline parallel to railroad tracks; and
- d. at its terminus, the alternative route would still be within five hundred feet of the inhabited residences at issue.

22. In its February 17, 2015, supplemental filing, Meadowlark provided a written statement from Edward Nadler, COLT Asset Manager for Crestwood Midstream Partners LP, the current owner of the CRT, which indicates that the CRT meter point location was determined by joint agreement between both parties at the time. The statement further indicates that the pipeline was located so as not to interfere with transfer and drain lines associated with the truck injection facility north of the CRT.

23. The Commission finds that there is no reasonable alternative to siting the pipeline with respect to the three rural residences for which waivers have not been obtained.

24. No other avoidance areas will be impacted by the Project.

Measures to Minimize Impact

25. Meadowlark has personnel available in the area to respond to any conditions 24 hours per day, seven days per 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, Texas, will report pipeline operations and facilitate early response to any breach or failure of the pipeline.

26. 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 filed in this proceeding, which is incorporated by reference and attached to this Order.

27. The design, construction, and operation of the Project must be in accordance with the United States Department of Transportation regulations governing the transportation of crude oil, including the regulations set forth in 49 CFR Part 195.

28. Meadowlark has an existing emergency response plan which applies to this Project.

From the foregoing Findings of Fact, and subject to the conditions explained therein, the Commission now makes the following:

Conclusions of Law

1. The Commission has jurisdiction over Meadowlark and the subject matter of these applications 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 Project is a transmission facility as defined in North Dakota Century Code section 49-22-03(12).

4. The location, construction, and operation of the 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 Project is compatible with the 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, as defined under 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 the following:

Order

The Commission orders:

1. Meadowlark's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility No. 159 is issued to Meadowlark, designating a corridor for the construction, operation, and maintenance of an approximately 43.5-mile, 8-inch crude oil transmission pipeline and associated facilities in Divide and Williams Counties, North Dakota. For purposes of the Certificate, the Corridor will consist of a 125-foot wide corridor centered on the pipeline route.
3. Route Permit No. 171 is issued to Meadowlark, granting authority to construct and operate an approximately 43.5-mile, 8-inch crude oil transmission pipeline and associated facilities in Divide and Williams Counties, North Dakota.
4. The Certification Relating to Order Provisions – Transmission Facility Siting (Certification) with accompanying Tree and Shrub Mitigation specifications as executed by Meadowlark and filed with the Commission on October 6, 2014, is incorporated by reference and attached to this Order.
5. To the extent there are any conflicts or inconsistencies between Meadowlark's applications and the Certification, the Certification provisions control.
6. Meadowlark shall send a letter to each landowner with whom an easement was executed for the transmission facility specifying the name and phone number of the

company representative who is responsible for receiving and resolving landowner issues for the life of the transmission facility.

PUBLIC SERVICE COMMISSION



Randy Christmann
Commissioner



Julie Fedorchak
Chairman



Brian P. Kalk
Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Certificate of Corridor Compatibility Number 159

This is to certify that the Commission has designated a transmission facility corridor for Meadowlark Midstream Company, LLC, for the construction, operation, and maintenance of approximately 43.5 miles of 8-inch diameter crude oil pipeline and associated facilities in Williams and Divide Counties, North Dakota.

This certificate is issued in accordance with the Order of the Commission dated February 25, 2015, in Case No. PU-14-223 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, February 25, 2015.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Route Permit Number 171

This is to certify that the Commission has designated a transmission facility route for Meadowlark Midstream Company, LLC, for the construction, operation, and maintenance of approximately 43.5 miles of 8-inch diameter crude oil pipeline and associated facilities in Williams and Divide Counties, North Dakota.


This permit is issued in accordance with the Order of the Commission dated February 25, 2015, in Case No. PU-14-223 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, February 25, 2015.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-14-223

CERTIFICATION RELATING TO ORDER PROVISIONS - TRANSMISSION FACILITY
SITING

I am John R. Miller, a representative of Meadowlark Midstream ^{Company} Meadowlark, LLC ("Meadowlark") with authority to bind Meadowlark to requirements to be set forth by the Commission in its Order and I certify the following:

1. Meadowlark 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 Meadowlark shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Meadowlark agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Meadowlark representative, its construction supervisor, and a representative of Commission Staff, to ensure that Meadowlark fully understands the conditions set forth in the Commission's order.
3. Meadowlark 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. Meadowlark 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. Meadowlark 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, Meadowlark shall keep the Commission and the Commission's third-party construction inspector updated on construction activities on a weekly basis.
6. Meadowlark understands and agrees that 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. Meadowlark 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. Meadowlark 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. Meadowlark agrees to construct and operate the transmission facility in the manner described in Meadowlark's application, in any late filed exhibits, and supplemental materials (Application). To the extent there are any conflicts or inconsistencies between Meadowlark's Application and the provisions in this Certification Relating to Order Provisions, the Certification provisions control.
10. Meadowlark 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 Meadowlark becomes aware and which were not previously reported to the Commission.
11. Meadowlark understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area.
12. Meadowlark 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.
13. Meadowlark understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Meadowlark to open cut the road.
14. Meadowlark 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.

15. Meadowlark 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.
16. Meadowlark 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.
17. Meadowlark understands and agrees that 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.
18. Meadowlark understands and agrees that its obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission facility.
19. Meadowlark 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.
20. Meadowlark agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
21. Meadowlark 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.
22. Meadowlark 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.
23. Meadowlark understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Meadowlark unless otherwise negotiated with landowners.

24. Meadowlark 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.
25. Meadowlark 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.
26. Meadowlark understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.
27. Meadowlark 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.
28. Meadowlark understands and agrees that it shall implement a procedure for how complaints concerning the transmission facility will be handled by Meadowlark
29. Upon request, Meadowlark agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
30. Meadowlark 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. Meadowlark 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.
31. Meadowlark 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. Meadowlark 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 (NAD 83) UTM Zone 13N or 14N feet (NAD 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.

32. Meadowlark 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.
33. Meadowlark understands and agrees that in the event Meadowlark 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 Meadowlark's application in this proceeding, Meadowlark shall apply to the Commission for a Route Permit or Site Certificate for the facility.
34. 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 or permit 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.
35. Meadowlark 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.
36. Meadowlark agrees to utilize the following procedures if Meadowlark seeks a route adjustment before or during construction of the pipeline, pursuant under N.D.C.C. §49-22-16.3:
37. Meadowlark will specifically identify which subsection of NDCC 49-22-16.3 it is requesting the adjustment under. Meadowlark will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application.
38. **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 Meadowlark 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 Meadowlark will comply with the Commission's order, law and rules designating the corridor and route.

39. **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 Meadowlark 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 Meadowlark 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 Meadowlark will comply with the Commission's order, law and rules designating the corridor and route.

Meadowlark 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 Meadowlark's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Meadowlark, 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.

40. **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 Meadowlark 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 Meadowlark will comply with the Commission's order, law and rules designating the corridor and route

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

Meadowlark 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 Meadowlark's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Meadowlark, 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.
42. When applicable, Meadowlark may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.

Dated this 29th day of September, 2014.

COMPANY
MEADOWLARK MIDSTREAM MEADOWLARK, LLC

By: John R. Millan

Its: UP. Liquids Group

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-14-223

Tree and Shrub Mitigation Specifications

Inventory

1. Trees and shrubs 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*), must be inventoried before cutting. The inventory must record the location, 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 anticipated to be cleared that are 1 inch diameter at breast height (dbh) or greater must be inventoried for replacement.
4. In native growth areas, shrubs anticipated to be cleared in the permanent right-of-way must be inventoried for replacement.
5. In native growth areas outside the permanent right-of-way, shrubs must be cut flush with the surface of the ground, taking care to leave the naturally occurring seed bank and root stock intact. If soil disturbance is necessary, the native topsoil must be preserved and replaced after construction. Shrubs must be allowed to regenerate naturally where native topsoil is preserved and replaced. Where native topsoil is not preserved and replaced, shrubs anticipated to be cleared must be inventoried for replacement.
6. In native growth areas, trees and shrubs may be inventoried by actual count or by a sampling method that will properly represent the woody vegetation

population. A sampling plan developed by the company, filed with the North Dakota Public Service Commission (Commission) and approved prior to the start of construction 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

7. Trees and shrubs must be selectively cleared, leaving mature trees and shrubs intact where practical.
8. The maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas is 50 feet, unless otherwise approved by the Commission.
9. 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

10. 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.
11. 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.
12. 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.

13. 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.
14. 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.
15. 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.
16. 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).