

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Caliber Midstream Partners, L.P.  
6" NGL Pipeline Project – McKenzie County  
Siting Application

Case No. PU-14-689

**AFFIDAVIT OF SERVICE BY REGULAR MAIL**

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Amy Haugen** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **27th day of May, 2015**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope by regular mail, with postage fully prepaid, securely sealed and containing a photocopy of:

**Amended Findings of Fact, Conclusions of Law and Order**

The envelope was addressed as follows:

McKenzie County Auditor  
201 5<sup>th</sup> Street NW  
Watford City ND 58854

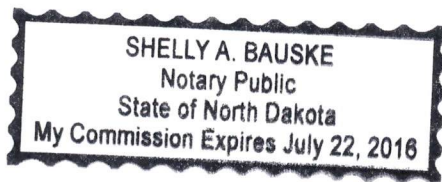
The address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this **27th day of May, 2015**.

  
\_\_\_\_\_

  
\_\_\_\_\_  
Notary Public

SEAL



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

**Caliber Midstream Partners, L.P.**  
**6" NGL Pipeline Project - McKenzie County**  
**Siting Application**

**Case No. PU-14-689**

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

**April 29, 2015**

**Appearances**

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

Lawrence Bender and Danielle M. Krause, Attorneys at Law, Fredrikson & Byron, P.A., 1133 College Drive, Suite 1000, Bismarck, North Dakota 58501, on behalf of the Applicant, Caliber Midstream Partners, L.P.

Zachary E. Pelham, Special Assistant Attorney General, 314 E. Thayer Avenue, Bismarck, North Dakota 58502, on behalf of the Public Service Commission.

Julie Prescott, Utility Analyst, North Dakota Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505.

**Preliminary Statement**

On August 15, 2014, Caliber Midstream Partners, L.P. (Caliber) filed applications for a certificate of corridor compatibility and a route permit concerning a 4.4-mile, 6-inch natural gas liquids pipeline and associated facilities in McKenzie County, North Dakota (Project).

Also on August 15, 2014, Caliber 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 separate hearings on the certificate of corridor compatibility and route permit applications.

On September 3, 2014; October 20, 2014; October 31, 2014; November 3, 2014; and November 5, 2014, Caliber filed supplemental information in support of its applications.

On November 6, 2014, the Commission found the applications for a certificate of corridor compatibility and a route permit complete. Also on November 6, 2014, the Commission issued a Notice of Filings and Notice of Hearing (Notice), scheduling a hearing for January 13, 2015, at 9:00 a.m. Central Time, at Teddy's Residential Suites, 113 9th Avenue SE, Watford City, North Dakota 58854.

The Notice 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 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 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?

The hearing was held as scheduled.

On April 8, 2015, the Commission entered Findings of Fact, Conclusions of Law and Order issuing Certificate of Corridor Compatibility No. 164 and Route Permit No. 176.

On April 13, 2015, Caliber filed a request for the Commission to amend the Findings of Fact, Conclusions of Law and Order to change the capacity of the Project from 21,000 barrels per day to 2,100 barrels per day. As filed within fifteen days of the decision, the request will be treated as a petition for reconsideration pursuant to North Dakota Century Code section 28-32-40 and North Dakota Administrative Code section 69-02-06-02.

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. Caliber is a Delaware limited partnership. Caliber is authorized to do business in the State of North Dakota, as evidenced by corporate papers filed with the Commission on October 24, 2014, in Case No. PU-14-756.

#### **Size, Type, and Preferred Location of Facility**

2. The Project consists of approximately 4.4 miles of 6-inch steel natural gas liquids (NGL) pipeline and associated facilities located approximately 7 miles southeast of the City of Alexander in McKenzie County, North Dakota.

3. The Project originates at Caliber's Hay Butte Gas Plant and ties into a NGL pipeline owned by ONEOK.

4. The pipeline was originally constructed as a gathering line for the purpose of transporting gas produced locally to Caliber's Hay Butte Gas Plant, but was not placed into service. Construction was initiated in 2013 and completed in 2014.

5. The maximum operating pressure of the Project will be 1,750 pounds per square inch gauge.

6. The maximum design flow rate of the Project will be 2,100 barrels per day.

7. The total anticipated cost of the Project is approximately \$1.8 million.

#### **Need for Facility**

8. Caliber concluded there is a need for the Project based on studies that indicate natural gas production in North Dakota has grown at a rate that has outpaced the State's available pipeline infrastructure.

9. Caliber stated the Project will allow NGL to be transferred from Caliber's Hay Butte Gas Plant to the ONEOK NGL transmission pipeline, where it can be fractionated, treated, or stored for use by petrochemical facilities or other end users.

#### **Study of Preferred Location**

10. Caliber evaluated a one-mile-wide study area centered on the route (Study Area) for natural resources, including soils, land use, vegetation, wetlands and water bodies, protected species, and wildlife habitats. Field surveys were conducted in the Study Area for wildlife habitats, raptor nests, and sensitive, threatened, and endangered wildlife species.

11. Caliber conducted a Class I cultural resources literature search and a Class III cultural resources field inventory on a 100-foot-wide area centered on the route.
12. The following agencies were contacted by Caliber: the United States Fish and Wildlife Service, the North Dakota Department of Trust Lands, the North Dakota Department of Health, the North Dakota Game and Fish Department, the North Dakota State Historic Preservation Office (NDSHPO), the North Dakota Parks and Recreation Department, the North Dakota State Water Commission (NDSWC), the North Dakota Aeronautics Commission, the North Dakota Department of Agriculture, the North Dakota Department of Career and Technical Education, the North Dakota Department of Commerce, the North Dakota Department of Labor, the North Dakota Geological Survey, the North Dakota Indian Affairs Commission, the North Dakota Department of Human Services, the McKenzie County Planning and Zoning Department, and the McKenzie County Soil Conservation District.
13. In a response dated August 29, 2014, the NDSHPO concurred with a "no significant sites" determination for the Project.
14. In a response dated October 31, 2014, the NDSWC indicated that Project does not affect or involve NDSWC or North Dakota State Engineer regulatory authority or responsibilities.

#### Siting Criteria

15. 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.
16. Caliber evaluated the Study Area for the Exclusion, Avoidance, Selection, and Policy criteria of the Commission.
17. A transmission facility route must not be sited within an Exclusion Area. No exclusion areas will be impacted by the Project.
18. 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.
19. A transmission facility must not be sited within an Avoidance Area unless the

applicant demonstrates that 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.

20. One cultural resource was identified during the Class III field inventory but was determined by Caliber's consultant to not be eligible for inclusion in the National Register of Historic Places.

21. One waterbody, a tributary to Antelope Creek, is crossed by the route. The waterbody was bored under by horizontal direct drilling to avoid impacts to the waterbody.

22. One wetland is crossed by the route. The wetland was determined by Caliber's environmental consultant to be not subject to the jurisdiction of the United States Army Corps of Engineers.

23. No other Avoidance Areas will be impacted by the Project.

24. In accordance with the Commission's Selection Criteria, a transmission facility route shall be approved if it is demonstrated that any significant adverse effects that will result from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum or managed and maintained at an acceptable minimum. Caliber has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria and indicates that the Project will have no significant adverse effects on the Commission's Selection Criteria.

25. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility. Caliber has analyzed the relevant Policy Criteria and has committed to designing and operating the Project in a manner that meets or exceeds federal and state standards for engineering, design, and safety; coordinating its facilities to optimize system capacity; mitigating any construction-related impacts through the use of best management practices, appropriate construction techniques, and environmental inspection during and following completion of construction; performing annual monitoring and treatment of noxious weeds and/or invasive species; and utilizing an existing corridor and rights-of-way.

#### Measures to Minimize Impact

26. The Project will be monitored 24 hours per day by operations staff at Caliber's Hay Creek Gas Plant.

27. Caliber will coordinate with local authorities and emergency managers regarding emergency response measures.

28. Caliber 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.

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 Caliber and the subject matter of these applications under North Dakota Century Code chapter 49-22.

2. Caliber 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. Caliber's application for a waiver of procedures and time schedules is granted.
2. First Amended Certificate of Corridor Compatibility No. 164 is issued to Caliber, designating a 100-foot-wide corridor centered on the route for the construction, operation, and maintenance of approximately 4.4 miles of 6-inch natural gas liquids pipeline and associated facilities in McKenzie County, North Dakota.
3. First Amended Route Permit No. 176 is issued to Caliber, granting authority to construct, operate, and maintain approximately 4.4 miles of 6-inch natural gas liquids transmission pipeline and associated facilities in McKenzie County, North Dakota.
4. The Certification Relating to Order Provisions – Transmission Facility Siting (Certification) with accompanying Tree and Shrub Mitigation specifications as executed by Caliber and filed with the Commission on March 31, 2015, is incorporated by reference and attached to this Order.
5. To the extent there are any conflicts or inconsistencies between Caliber's applications and the Certification, the Certification provisions control.

### PUBLIC SERVICE COMMISSION

  
Randy Christmann  
Commissioner

  
Julie Fedorchak  
Chairman

  
Brian P. Kalk  
Commissioner

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

**First Amended**  
**Certificate of Corridor Compatibility Number 164**

*This is to certify that the Commission has designated a transmission facility corridor for Caliber Midstream Partners, L.P. for the construction, operation, and maintenance of approximately 4.4 miles of 6-inch diameter natural gas liquids pipeline in McKenzie County, North Dakota.*

*This certificate is issued in accordance with the Commission's April 8, 2015 Order and amended by the Commission's April 29, 2015 Order in Case No. PU-14-689, and is subject to the conditions and limitations noted in the Orders.*

*Bismarck, North Dakota, April 29, 2015.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

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

**First Amended Route Permit Number 176**

*This is to certify that the Commission has designated a transmission facility route for Caliber Midstream Partners, L.P. for the construction, operation, and maintenance of approximately 4.4 miles of 6-inch diameter natural gas liquids pipeline in McKenzie County, North Dakota.*

*This permit is issued in accordance with the Commission's April 8, 2015 Order and amended by the Commission's April 29, 2015 Order in Case No. PU-14-689, and is subject to the conditions and limitations noted in the Orders.*

*Bismarck, North Dakota, April 29, 2015.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Caliber Midstream Partners, L.P.  
6" NGL Pipeline Project – McKenzie County  
Siting Application

Case No. PU-14-689

CERTIFICATION RELATING TO ORDER PROVISIONS - TRANSMISSION FACILITY  
SITING

I am Dave Scobel, a representative of Caliber Midstream Partners, L.P. ("Company") with authority to bind Company 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 construction conference prior to initiating operation of the facility as a transmission facility, 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 certifies that it has obtained or is in the process of obtaining all necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission.
5. Company agrees to inform the Commission and the Commission's third-party construction inspector immediately prior to the Company initiating operation of the facility as a transmission facility.
6. Company certifies that the pipeline has been 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. Company agrees that if any pipeline is not buried 72 inches across undeveloped section lines, and the section line is later

developed into a roadway, it will incur all costs related to burying the pipeline 48 inches below the bottom of the ditch, which shall inure and be binding upon any successor or assignee of the Company and shall not cause any unreasonable delay of any roadway project.

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, tribal, 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 has constructed and will 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 certifies that all cultural resource mitigation plans have been submitted to and approved by the North Dakota State Historic Preservation Office.
12. Company certifies that any cultural resource, paleontological site, archeological site, historical site, or grave site discovered during construction was marked, preserved and protected from further disturbances until a professional examination could be made and a report of such examination, if applicable, was filed with the Commission and the State Historical Society and clearance to proceed was given by the North Dakota State Historic Preservation Office.
13. Company certifies that all buried facility crossings of graded roads were bored unless the responsible governing agency specifically permitted Company to open cut the road.
14. Company certifies that all pre-existing township and county roads and lanes used during construction were, or are being, repaired or restored to a condition equal to

or better than the condition prior to the construction of the transmission facility and accommodates their previous use; and that areas used as temporary roads or working areas during construction were, or are being, restored to their original condition.

15. Company certifies that construction was suspended when weather conditions were such that construction activities would cause irreparable damage to roads or land. Company agrees to provide information regarding any work on the pipeline performed under such weather conditions and the measures taken to provide adequate protection.
16. Company certifies that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts were made, was stripped and segregated from the subsoil. Any area on which excavated subsoil was placed was also stripped of topsoil. After backfilling was completed, any excess subsoil was placed over the excavation area, blending the grade into existing topography. Topsoil was replaced over areas from which it was stripped only after the subsoil was replaced.
17. Company certifies that reclamation, fertilization, and reseeding was, or is being, done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
18. 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.
19. 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.
20. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
21. Company certifies all fences and gates removed or damaged during all phases of construction were repaired or replaced; and all fences and gates removed or damaged during operation of the transmission facility shall be repaired or replaced.
22. 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.
23. Company certifies that staging areas or equipment were not located on land owned by a person other than the Company unless otherwise negotiated with landowners.

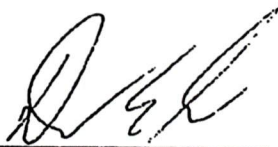
24. Company certifies that it has removed all waste that was a product of construction and has properly disposed of it. Company understands and agrees that it shall remove all waste that is a product of operation, restoration, and maintenance of the site, and will properly dispose of it.
25. Company 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.
26. Company certifies that it provided any necessary safety measures for traffic control or to restrict public access to the transmission facility during construction.
27. 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.
28. Company understands and agrees that, prior to operating its facility as a transmission facility, it shall send a letter to each landowner with whom an easement was executed for that location specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the easement.
29. Company understands and agrees that it will file with the commission the name and phone number of the current company representative who is responsible for receiving and resolving landowner issues for the transmission facility. The company will update this information whenever there is a change to the current company representative for the life of all easements for the transmission facility.
30. 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.
31. 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 commencement of operation of the facility as a transmission facility. 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 commencement of operation of the facility as a transmission facility. 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. 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.
33. 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.
34. Company certifies that no damage, as defined by North Dakota Century Code Chapter 49-23, occurred to underground facilities during construction. In the event of any damage to underground facilities did occur during the construction, Company shall report to the Commission what was done to correct the damage.
35. 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.
36. In the event the Company seeks application of NDCC 49-22-03(3)(a), colloquially known as the "footprint rule," the Company certifies it will comply with the provisions contained in Exhibit A to this Certification.

Dated this 11<sup>th</sup> day of February, 2015.

CALIBER MIDSTREAM PARTNERS, L.P.

By   
Dave Scobe

Its COO

## EXHIBIT A

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 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, tribal, 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 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. 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.
13. 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.
14. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaved 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. 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.
16. 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. 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. Company 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. 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.
19. 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.
20. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
21. 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.
22. 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.
23. 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.
24. 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.
25. 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.
26. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.
27. 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.

28. Company understands and agrees that, prior to beginning construction of the transmission facility at a location, it shall send a letter to each landowner with whom an easement was executed for that location specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the easement.
29. Company understands and agrees that it will file with the commission the name and phone number of the current company representative who is responsible for receiving and resolving landowner issues for the transmission facility. The company will update this information whenever there is a change to the current company representative for the life of all easements for the transmission facility.
30. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
31. 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.
32. 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 (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.
33. 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.
34. 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.

35. 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.
36. 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.
37. 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:
38. 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.
39. **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.
40. **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.

41. **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

**42. 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:

- 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 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.

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

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

**Caliber Midstream Partners, L.P.**  
**6" NGL Pipeline Project – McKenzie County**  
**Siting Application**

**Case No. PU-14-689**

**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).