

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Meadowlark Midstream Company, LLC
10-inch Crude Oil Pipeline – Divide & Burke Cnty
Siting Application

Case No. PU-14-823

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

May 13, 2015

Appearances

Commissioners Julie Fedorchak, Randy Christmann, 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.

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

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 November 17, 2014, Meadowlark Midstream Company, LLC (Meadowlark) filed applications for a certificate of corridor compatibility and for a route permit concerning a 46-mile, 10-inch diameter crude oil pipeline and associated facilities in Divide and Burke Counties, North Dakota (Project).

Also on November 17, 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, 49-22-08.1, 49-22-13, and North Dakota Administrative Code chapter 69-06-06 and section 69-06-01-02, requiring separate filings, separate notices, and separate hearings on the certificate of corridor compatibility and route permit applications.

On January 21, 2015, the Commission found the applications for a certificate of corridor compatibility and a route permit complete, and issued a Notice of Filings and Notice of Hearing (Notice) scheduling a hearing for March 30, 2015 at 9:30 a.m. Central

Time at the Crosby Community Center, 1002 Second Street SE, Crosby, North Dakota 58730.

On March 6, 2015, Meadowlark filed supplemental information in support of its applications.

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?

On March 30, 2015, the hearing was held.

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 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 46 miles of 10-inch crude oil pipeline, to be known as the "Stampede Pipeline", and associated facilities, located in Divide and

Burke Counties, North Dakota. The Project originates at Meadowlark's existing Divide Pump Station (DPS) in Divide County and terminates at the Basin Transload and Global Partners' Basin Transload Rail Facility (BTRF) in Burke County.

3. Aboveground facilities will include a 400-barrel pressure relief tank at the BTRF, pig launchers and receivers, and block valves.
4. The Project will be designed, constructed, operated, and maintained in compliance with Code of Federal Regulations Title 49 Part 195 Hazardous Liquids Pipeline Safety Regulations subparts C, D, and F.
5. The maximum operating pressure of the Project will be 1,480 pounds per square inch gauge.
6. The maximum design flow rate of the Project will be 50,000 barrels per day.
7. The total anticipated cost of the Project is approximately \$33 million.

Need for Facility

8. Meadowlark concluded there is a need for the Project based on recent and significant increases in oil extraction in the Williston Basin and a lack of efficient transportation methods.
9. Meadowlark testified that the Project will result in reduced truck traffic in Divide and Burke Counties.

Study of Preferred Location

10. Meadowlark evaluated a one-mile-wide study area centered on the route (Study Area) for natural resources. Field surveys were conducted on a 150-foot-wide area centered on the route (Survey Area) to inventory soils, land use, wetlands and water bodies, vegetation, and protected species and critical habitats.
11. Meadowlark conducted a Class I cultural resources literature search on the Study Area and a Class III cultural resources field inventory on the Survey Area.
12. The following agencies were contacted by Meadowlark: the United States Fish and Wildlife Service (USFWS), the North Dakota Game and Fish Department (NDGFD), the North Dakota Parks and Recreation Department (NDPRD), the North Dakota Department of Trust Lands, the Abandoned Mine Lands Division of the North Dakota Public Service Commission (NDPSC), the North Dakota State Historic Preservation Office (NDSHPO), and the North Dakota Department of Health (NDDOH).

13. In a response dated August 15, 2014, the NDGFD indicated that the Project should not have any significant adverse effects on wildlife or wildlife habitat, including species of concern.
14. In a response dated August 26, 2014, the NDPSC recommended that Meadowlark conduct geotechnical testing along the route in areas formerly mined for coal.
15. In responses dated August 29, 2014 and November 4, 2014, the NDSHPO concurred with a "no significant sites" determination for the Project.
16. In a response dated September 25, 2014, the USFWS indicated that impacts to wetlands are not anticipated by construction of the Project.
17. In a response dated December 10, 2014, the NDPRD indicated that the Project will not affect state park lands managed by or Land and Water Conservation Fund recreation projects coordinated by their agency.
18. In a response dated February 12, 2015, the NDDOH indicated that environmental impacts from the proposed construction are expected to be minor and can be controlled by proper construction methods.
19. As recommended by the NDPSC, Meadowlark performed a geotechnical study along the portion of the route that crosses a reclaimed surface mining area. The study indicated no concerns for construction of the Project through the reclaimed area.

Siting Criteria

20. 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.
21. Meadowlark evaluated the Project for the Exclusion, Avoidance, Selection, and Policy criteria of the Commission.
22. A transmission facility route must not be sited within an Exclusion Area.
23. One cultural resource, a historic railroad segment owned and operated by Canadian Pacific, was identified during the Class III field inventory as eligible for listing with the National Register of Historic Places. Meadowlark has committed to protecting the integrity of this resource by boring under the site in agreement with the property owner and NDSHPO.

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

25. 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.

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

27. Areas within five hundred feet of a residence, school, or place of business are Avoidance Areas. Pursuant to North Dakota Century Code section 49-22-05.1, the five hundred foot avoidance area criteria for an inhabited rural residence may be waived by the owner of the inhabited rural residence in writing.

28. Meadowlark identified eight inhabited rural residences within five hundred feet of the proposed route.

29. Meadowlark has obtained written waivers from the owners of all eight inhabited rural residences, and has filed copies of the waivers in this proceeding.

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

31. In accordance with the Commission's Selection Criteria, a transmission facility route shall be designated 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.

32. Meadowlark testified that the route will cross seven wetlands which are potentially jurisdictional under the United States Army Corps of Engineers' Nationwide Permit 12 process. Meadowlark testified that the company has committed to boring under all seven wetlands so as to minimize potential for adverse impacts during construction.

33. Meadowlark 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.

34. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility. Meadowlark has analyzed the relevant Policy Criteria and has committed to conducting its business in compliance with all applicable environmental laws and regulations in order to safeguard the environment, human health, wildlife and natural resources; designing, constructing, operating, and maintaining the Project in a manner that meets federal standards; maintaining contact with local government officials to exchange information and resolve issues; coordinating its facilities to optimize system capacity; monitoring and responding to landowner and community concerns; and paralleling existing utility and road corridors.

Measures to Minimize Impact

35. Meadowlark testified that a supervisory control and data acquisition system will be installed as part of the Project, and operations will be monitored by a control center located in Woodlands, Texas, 24 hours per day, 7 days per week.

36. Meadowlark indicated that Summit Midstream Partners, LLC, Meadowlark's parent company, also maintains a backup control center in Montgomery County, Texas, that is available for Project operations monitoring.

37. 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.

38. Meadowlark has an existing emergency response plan which applies to this Project. Meadowlark testified that a copy of this plan has been provided to local government officials, that an emergency response trailer will be located at the DPS, and that emergency response personnel employed by Meadowlark will be stationed in Divide County and will be available 24 hours per day, 7 days per week.

39. Meadowlark testified that 12 wetlands along the route are currently subject to USFWS conservation easements and will be bored or avoided so as to not jeopardize the terms of those easements.

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 are 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. 166 is issued to Meadowlark, designating a corridor for the construction, operation, and maintenance of approximately 46 miles of 10-inch crude oil transmission pipeline and associated facilities in Divide and Burke Counties, North Dakota. The Corridor will consist of a 150-foot-wide area centered on the route.
3. Route Permit No. 178 is issued to Meadowlark designating a route for the construction, operation, and maintenance of 46 miles of 10-inch crude oil transmission pipeline and associated facilities in Divide and Burke Counties, North Dakota.

4. The March 30, 2015 Certification Relating to Order Provisions – Transmission Facility Siting (Certification) with accompanying Tree and Shrub Mitigation specifications is incorporated by reference and attached to this Order with the following modifications:

- a. The second to last word in Certification Provision 5 is hereby changed from “weekly” to “monthly”;
- b. Certification Provision 34 is hereby removed; and
- c. The phrase “and clearance to proceed has been given by the Commission” is hereby removed from Certification Provision 35.

5. To the extent there are any conflicts or inconsistencies between Meadowlark's applications and the Certification, the Certification provisions control.

PUBLIC SERVICE COMMISSION

		
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Randy Christmann Commissioner	Julie Fedorchak Chairman	Brian P. Kalk Commissioner

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Certificate of Corridor Compatibility Number 166

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 46 miles of 10-inch diameter crude oil pipeline in Divide and Burke Counties, North Dakota.

This certificate is issued in accordance with the Order of the Commission dated May 13, 2015 in Case No. PU-14-823 and is subject to the conditions and limitations noted in the Order.

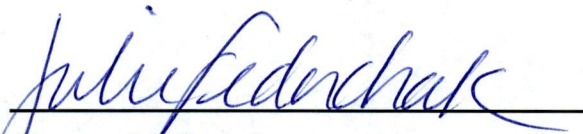
Bismarck, North Dakota, May 13, 2015.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Route Permit Number 178

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 46 miles of 10-inch diameter crude oil pipeline in Divide and Burke Counties, North Dakota.

This permit is issued in accordance with the Order of this Commission dated May 13, 2015 in Case No. PU-14-823 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, May 13, 2015.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Meadowlark Midstream Company, LLC
10-inch Crude Oil Pipeline – Divide to Burke Cnty
Siting Application

Case No. PU-14-823

CERTIFICATION RELATING TO ORDER PROVISIONS - TRANSMISSION FACILITY
SITING

I am John R. Millar, a representative of Meadowlark Midstream Company, LLC ("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 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 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 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. 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 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.

Dated this 30th day of March, 2015.

MEADOWLARK MIDSTREAM COMPANY, LLC

By *John R. Millar*
John R. Millar

Its V.P. Engineering & Asset Mgmt.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Meadowlark Midstream Company, LLC
10-inch Crude Oil Pipeline – Divide to Burke Cnty
Siting Application

Case No. PU-14-823

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).