

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

**Hiland Crude, LLC**  
**Dore Crude Oil Loop Pipeline Project – McKenzie County**  
**Siting Application**

**Case No. PU-14-840**

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

**April 8, 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, Hiland Crude, LLC.

Mitchell D. Armstrong, Special Assistant Attorney General, 122 East Broadway 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 December 17, 2014, Hiland Crude, LLC (Hiland) filed applications for a certificate of corridor compatibility and for a route permit concerning a 13-mile, 12-inch diameter crude oil pipeline and associated facilities in McKenzie County, North Dakota (Project). The Project will parallel and interconnect with Hiland's existing Market Center pipeline system, previously sited in Case No. PU-13-136 (Market Center Pipeline).

Also on December 17, 2014, Hiland 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 hearings on the certificate of corridor compatibility and route permit applications.

On February 5, 2015, and on February 10, 2015, Hiland filed supplemental information in support of its applications.

On February 11, 2015, the Commission found the applications for a certificate of corridor compatibility and for a route permit complete and issued a Notice of Filings and

Notice of Opportunity for Hearing (Notice). The Notice invited interested parties to comment or request a hearing by March 20, 2015.

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 effects 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?

No comments or requests for hearing were received by the Notice deadline of March 20, 2015.

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. Hiland is an Oklahoma limited liability company. Hiland is authorized to do business in the State of North Dakota, as evidenced by corporate papers filed with the Commission on April 4, 2014, in Case No. PU-13-148.

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

2. The Project consists of approximately 13 miles of 12-inch crude oil pipeline and associated facilities located in McKenzie County, North Dakota.

3. The Project will be a loop line constructed entirely within the corridor designated by the Commission for the Market Center Pipeline. In areas where the Project is located near the edge of the previously granted Market Center Pipeline corridor, Hiland has committed to utilizing horizontal directional drilling (HDD) construction methods so as not to conduct work outside of the Market Center Pipeline corridor. In areas where HDD is not utilized, Hiland will mark the edge of the Market Center Pipeline corridor to ensure that no construction activity takes place outside of the Market Center Pipeline corridor.
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 1,440 pounds per square inch gauge.
6. The maximum design flow rate of the Project will be 100,000 barrels per day.
7. The total anticipated cost of the Project is approximately \$10.5 million.

#### Need for Facility

8. Hiland concluded there is a need for the Project based on recent and significant increases in oil extraction in western North Dakota and a lack of efficient transportation methods.
9. Hiland stated the Project is necessary to increase the capacity of its Market Center Pipeline from 65,000 to 100,000 barrels per day.

#### Study of Preferred Location

10. Hiland evaluated a one-mile-wide study area centered on the route (Study Area) for natural resources, including soils, land use, wetlands and water bodies, and protected species and habitats. Field surveys were conducted in the Study Area for wildlife and on a 500-foot-wide area centered on the route for botany.
11. Hiland conducted a Class I cultural resources literature search on a two-mile-wide area centered on the route and a Class III cultural resources field inventory on a 300- to 400-foot-wide area centered on the route.
12. The following agencies were contacted by Hiland: the United States Army Corps of Engineers (USACE), the United States Fish and Wildlife Service (USFWS), the North Dakota Department of Trust Lands, the North Dakota Department of Health (NDDOH), the North Dakota Game and Fish Department (NDGFD), the North Dakota State Historic Preservation Office (NDSHPO), the North Dakota Industrial Commission, the

North Dakota Parks and Recreation Department (NDPRD), the North Dakota State Water Commission (NDSWC), and the McKenzie County Planning Department.

13. In a response dated October 27, 2014, the NDDOH indicated that environmental impacts from construction of the Project should be minor and can be controlled by proper construction methods.

14. In a response dated October 28, 2014, the NDSWC indicated that the Project is not located within an identified or mapped floodplain.

15. In a response dated November 3, 2014, the NDPRD indicated that the Project does not affect state park lands they manage or Land and Water Conservation Fund recreation projects they coordinate.

16. In a response dated November 5, 2014, the NDGFD indicated that the Project should not have any significant adverse effect on wildlife or wildlife habitat, including species of concern.

17. In a letter dated December 30, 2014, the NDSHPO concurred with a "no significant sites" determination for the Project.

18. Hiland will obtain and comply with all applicable county permits regulating zoning and land use.

#### Siting Criteria

19. 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.

20. Hiland evaluated the Study Area for the Exclusion, Avoidance, Selection, and Policy criteria of the Commission.

21. A transmission facility route must not be sited within an Exclusion Area. No exclusion areas will be impacted by the Project.

22. One raptor nest was identified during the wildlife field survey within the 1-mile buffer zone recommended by the USFWS. Hiland has indicated that construction relating to the Project will not occur within one mile from the nest during nesting season as recommended by the USFWS.

23. One sensitive plant species was identified during the botany field survey, but is not within the construction ROW.

24. One sensitive animal species was identified during the wildlife field survey. Highland's environmental consultant has stated that the species will not be damaged by construction of 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. Pursuant to North Dakota Century Code section 49-22-05.1, areas within five hundred feet of an inhabited rural residence must be designated as Avoidance Areas.

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

28. A transmission facility must not be sited within an Avoidance Area unless the applicant demonstrates that under the circumstances there are no reasonable alternatives, except, pursuant to North Dakota Century Code section 49-22-05.1, the five hundred foot avoidance area criteria for an inhabited rural residence may be waived by the owner of the inhabited rural residence in writing. Economic considerations alone are not sufficient to establish no reasonable alternative exists to siting within five hundred feet of an inhabited residence.

29. Hiland identified six inhabited rural residences within five hundred feet of the existing pipeline.

30. Hiland has obtained written waivers from all six of the rural residence owners.

31. Two cultural resources were identified during the Class III field inventory. Hiland has committed to protecting the integrity of the sites by placement temporary 50-foot buffers and boring under the sites.

32. NDSHPO concurred with a "No Significant Sites" determination provided the mitigation measures proposed by Hiland are taken.

33. All wetland crossings will be bored under so as to minimize potential for adverse impacts to wetlands during construction.

34. The Project crosses the Yellowstone River. Hiland's Yellowstone scour study performed for the USACE predicts an estimated scour depth of between 3 and 32 feet.

Hiland has committed to boring beneath the Yellowstone River at a depth of not less than 50 feet below the river bed.

35. Hiland has received authorization from the USACE for its Yellowstone River crossing through the USACE's Nationwide Permit 12 process.

36. Based on the construction method proposed and the impossibility of avoiding the Yellowstone River, and given the purpose of the Project, the Commission finds no reasonable alternative to the Project exists.

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

38. 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. Hiland 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.

39. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility. Hiland 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

40. The Project will be monitored by Hiland's Control Center, which also serves as an emergency call center. The Control Center is monitored by pipeline operations 24 hours per day.

41. Hiland 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.

42. Hiland has an existing emergency response plan which applies to this Project.

43. Hiland participates in the North Dakota One-Call notification system.

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 Hiland and the subject matter of these applications under North Dakota Century Code chapter 49-22.
2. Hiland 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. Hiland's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility No. 163 is issued to Hiland, designating a corridor for the construction, operation, and maintenance of approximately 13 miles of 12-inch crude oil transmission pipeline and associated facilities in McKenzie County, North Dakota. For purposes of the Certificate, the Corridor will consist of the corridor

approved by the Commission for Hiland's Market Center Pipeline in Case No. PU-13-136.

3. Route Permit No. 175 is issued to Hiland, granting authority to construct, operate, and maintain approximately 13 miles of 12-inch crude oil 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 Hiland and filed with the Commission on March 26, 2015, is incorporated by reference and attached to this Order.

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

**PUBLIC SERVICE COMMISSION**

  
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**Randy Christmann**  
Commissioner

  
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**Julie Fedorchak**  
Chairman

  
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**Brian P. Kalk**  
Commissioner

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

Hiland Crude, LLC  
Dore Crude Oil Loop Pipeline – McKenzie County  
Siting Application

Case No. PU-14-840

**CERTIFICATION RELATING TO ORDER PROVISIONS - TRANSMISSION FACILITY  
SITING**

I am Ryan Oehl, a representative of Hiland Crude, 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 26 day of March, 2015.

HILAND CRUDE, LLC

By Ryan Dahl

Its Senior Right of Way Agent

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

**Hiland Crude, LLC**  
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**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).

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility Number 163**

*This is to certify that the Commission has designated a transmission facility corridor for Hiland Crude, LLC for the construction, operation, and maintenance of approximately 13 miles of 12-inch diameter crude oil pipeline in McKenzie County, North Dakota.*

*This certificate is issued in accordance with the Order of the Commission dated April 8, 2015 in Case No. PU-14-840 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, April 8, 2015.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Route Permit Number 175**

*This is to certify that the Commission has designated a transmission facility route for Hiland Crude, LLC for the construction, operation, and maintenance of approximately 13 miles of 12-inch diameter crude oil pipeline in McKenzie County, North Dakota.*

*This permit is issued in accordance with the Order of this Commission dated April 8, 2015 in Case No. PU-14-840 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, April 8, 2015.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**