

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Hess North Dakota Pipelines LLC  
12-inch Crude Oil Pipeline – McKenzie&Williams  
Siting Application**

**Case No. PU-15-31**

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

**June 22, 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 Hess North Dakota Pipelines LLC.

Brian Schmidt, Special Assistant Attorney General, as Counsel for the Public Service Commission, State Capitol, 600 East Boulevard Avenue, Bismarck, North Dakota 58505.

Janet Demarais Seaworth, Administrative Law Judge, Office of Administrative Hearings, 2911 North 4<sup>th</sup> Street, Suite 303, Bismarck, ND 58503, as Procedural Hearing Officer.

**Preliminary Statement**

On January 15, 2015, Hess North Dakota Pipelines LLC (Hess) filed applications for a certificate of corridor compatibility and a route permit for the location of a crude oil transmission facility in McKenzie and Williams Counties, North Dakota. The facility will consist of approximately 25.2 miles of pipe, oil storage tanks, a truck unloading area, three Pipeline Inspection Gauge (PIG) facilities, 6 valves, known as the Hawkeye Crude Oil Project (Project). The pipeline will transport crude oil from south of Lake Sakakawea near Keene to north of Lake Sakakawea near Tioga. The total cost of the Project is estimated to be \$104.7 million.

Also on January 15, 2015, Hess filed an application for a waiver of procedures and time schedules established under North Dakota Century Code sections 49-22-07, 49-22-08(5), 49-22-08.1(5), 49-22-13, and North Dakota Administrative Code section 69-06-01-02 and chapter 69-06-06, requiring separate filings, separate notices, and

separate hearings on the certificate of corridor compatibility application, route permit application, and the waiver of procedures and time schedules application.

On February 20, 2015, Hess filed a motion to consolidate the hearing in this proceeding with the hearing for case number PU-15-32, Hess's request for a certification for corridor compatibility and a route permit for a natural gas liquids pipeline.

On February 25, 2015, the Commission deemed the applications in case number PU-15-31 complete, consolidated case number PU-15-31 and case number PU-15-32 for hearing, and issued a Notice of Filings and Notice of Consolidated Hearing scheduling a public hearing on April 17, 2015 at 9:00 a.m. CST at The Brooks Hotel, 7115 2<sup>nd</sup> Avenue E., Williston, ND 58801.

The Notice of Consolidated Hearing identified the following issues to be considered in the application for waiver of procedures and time schedules:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects such that adherence to the procedures and time schedules may be waived?
2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

The Notice of Consolidated Hearing also identified the following issues to be considered in the application 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?

On April 17, 2015, the hearing was held as scheduled.

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

## Findings of Fact

1. Hess is a Delaware Limited Liability Company authorized to transact business in the State of North Dakota as evidenced by corporate papers filed with the Commission on January 15, 2015.

### Need for Facility

2. Hess concluded there is a need for the Project based on recent increases in oil extraction in western North Dakota and the need for additional oil transportation. Hess indicates the pipeline is necessary to move oil produced south of Lake Sakakawea to locations north of Lake Sakakawea.

### Size, Type and Preferred Location of Facility

3. The proposed facilities, the Hawkeye Crude Oil Project (Project), consist of approximately 25.2 miles of pipe, including approximately 22.8 miles of new 12-inch diameter pipe, approximately 2.4 miles of existing 8-inch diameter pipe and associated facilities, including the Hawkeye Oil Facility, consisting of tanks and a truck unloading area, and three sets of PIG launchers and receivers, 4 emergency shut-down valves, and two mainline valves to be located either at the Hawkeye Oil Facility or at existing facilities.

4. The Project crosses Lake Sakakawea. Hess currently owns steel pipelines crossing Lake Sakakawea, including three that were installed in 1956 and three that were installed in 1992. Hess intends to repurpose one of the pipelines installed in 1992 which is currently being used as a loop-line to carry gas from the tailgate of the Tioga Gas Plant in Williams County to a connection with the Northern Border Pipeline, to crude oil service. This is the 2.4 miles of existing 8-inch pipeline referred to above.

5. The Hawkeye Oil Facility is a new facility and Hess is currently negotiating to acquire rights to use the land upon which the facility will likely be located. All of the remaining aboveground facilities to be constructed as part of the Project will be located within the confines of existing Hess facilities.

### Project Design

6. The proposed pipe will have a 12-inch outside diameter (OD) and wall thickness (WT) of 0.375-inches, API 5L-X52, except for boring locations which will have a WT of 0.500-inches and the Lake Sakakawea crossing, which has an 8-inch OD and WT of 0.500-inches.

7. Hess testified that in early 2015 it conducted testing to determine that the depth of cover of the existing pipeline segment on the banks of the lake is at least 5-feet. Hess also testified that when the pipeline was installed under the lake in 1992, it was installed

6-feet below the bottom. The new pipeline segments will be buried with a minimum of 5-feet of cover except for locations/conditions that would warrant deeper burial depths, including burial to a depth of cover of 72 inches at undeveloped section lines.

8. The maximum operating pressure of the pipeline will be 1,000 pounds per square inch, but Hess intends to operate the pipeline at 900 pounds per square inch or less. At the maximum operating pressure the pipeline would have the capacity to ship 76,000 barrels of oil per day.

9. A supervisory control and data acquisition system will monitor pressure, flow and temperature 24 hours per day, 7 days per week at a control room in Tioga, North Dakota. The Project will also include emergency shut-down valves at various locations, including both sides of Lake Sakakawea, which can be shut-down remotely from the control room.

#### Study of Preferred Location

10. The Commission established criteria pursuant to the North Dakota Century Code Section 49-22-05.1 to guide the Commission in the corridor and route suitability evaluation and designation process. 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.

11. A transmission facility route must not be sited within an Exclusion Area.

12. An Exclusion Area may not encompass more than fifty percent of a corridor width unless there is no reasonable alternative. Exclusion Areas must be excluded from consideration of a route for a transmission facility. A buffer zone of a reasonable width to protect the integrity of the area must be included. Natural screening may be considered in determining the width of the buffer zone.

13. A transmission facility must not be sited within an Avoidance Area, unless the applicant shows that there is no reasonable alternative. In determining whether an Avoidance Area shall be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes.

14. Hess identified an area consisting of a two mile wide buffer (Study Area) routed from Hawkeye Oil Facility to Ramberg Truck Facility. Hess evaluated the Study Area for the Exclusion, Avoidance, Selection and Policy criteria of the Commission.

15. Hess conducted a Class I cultural resource literature search on a two mile-wide Study Area centered on the proposed pipeline route from the proposed Hawkeye Oil Facility to the existing Ramberg Truck Facility.

16. Hess conducted a Class III cultural resource and a natural resource inventory on a 200-foot wide survey corridor (Environmental Survey Area). Furthermore, Hess conducted a natural resource survey within a 200-foot wide survey corridor to gather information on soils, land use, wetlands and waterbody crossings, noxious weeds, trees and shrubs, and protected species and habitat.

17. Hess provided a copy of its Lake Sakakawea Site-specific Risk Assessment (hearing exhibit 14). That risk assessment report concludes that the risk of a release in the 2.5 mile existing segment under the lake is once every 190 years. Based on the worst case scenario information provided by Hess, if a spill were to occur it would have minimal to no effect on the water quality within the lake, plants and animals.

18. Hess identified Lake Sakakawea as an area within its corridor critical to the life stage of the Piping Plover. Hess further identified Lake Sakakawea as a designated critical habitat for the piping plover that would be crossed by the Project route. The identified habitat exists upon a section of an already existing pipeline located beneath Lake Sakakawea. As the piping plover's habitat is not beneath Lake Sakakawea, a reasonable buffer zone exists between the route and corridor with regard to the piping plover's habitat, and there is no evidence of an adverse impact.

19. An inhabited rural residence and active church exist within 500 feet of the route. Hess has obtained and filed with the Commission copies of written waivers from the owners of the inhabited rural residence and the church. The location of the pipeline was based on landowner preferences and there are no reasonable alternatives to the route near the active church.

20. The Project route and corridor intersects the Little Missouri National Grassland (LMNG) to the south of Lake Sakakawea. To achieve the Project's intent to transport crude oil from south of Lake Sakakawea to north of Lake Sakakawea, the Project is most reasonably designed to interconnect with existing infrastructure running beneath the lake. To achieve this intent and minimize the environmental impact of this route, there are no reasonable alternatives to the proposed corridor and route. Hess will obtain all necessary permits and comply with all laws and regulations prior to and during the construction of the pipeline through the LMNG.

21. A State Trust Land parcel runs approximately 1.2 miles north of Lake Sakakawea and is located within the Project Corridor. To achieve the Project's intent to transport crude oil from south of Lake Sakakawea to north of Lake Sakakawea, the Project is most reasonably designed to interconnect with existing infrastructure running beneath the lake. To achieve this intent and minimize the environmental impact of this

route, there are no reasonable alternatives to the proposed corridor. Hess has applied for and anticipates receiving Right-of-Way from the North Dakota Department of Trust Lands.

22. The Project route and corridor run beneath Lake Sakakawea which is a reservoir, municipal water supply, and water source for organized rural water districts. To achieve the Project's intent to transport crude oil from south of Lake Sakakawea to north of Lake Sakakawea, the Project is most reasonably designed to interconnect with existing infrastructure running beneath the lake. To achieve this intent and minimize the environmental impact of this route, there are no reasonable alternatives to the proposed corridor and route.

23. The Project route and corridor cross geologically unstable areas on the north and south sides of Lake Sakakawea. Hess has provided evidence indicating that based upon the USGS ground motion hazard mapping study, the potential ground motion hazard in the proposed corridor is low. Hess will use generally accepted mitigation strategies to avoid impacts to these geologically unstable areas. To achieve the Project's intent to transport crude oil from south of Lake Sakakawea to north of Lake Sakakawea, the Project is most reasonably designed to interconnect with existing infrastructure running beneath the lake. To achieve this intent and minimize the environmental impact of this route, there are no reasonable alternatives to the proposed corridor and route.

24. Hess has shown there are no areas in this corridor or route where animal plant species that are unique or rare to this state that would be irreversibly damaged by this Project as proposed.

25. Hess contacted governmental agencies and entities, including the Army Corps of Engineers, Bureau of Land Management, US Fish and Wildlife Service, US Forest Service, North Dakota Department of Trust Lands, North Dakota Game and Fish Department, North Dakota Parks and Recreation Department, North Dakota State Historical Preservation Office and Williams County Farm Service Agency concerning the Project.

26. In its June 5, 2013 response, the North Dakota Parks and Recreation Department referred Hess to the US Fish and Wildlife Service and the North Dakota Game and Fish Department.

27. In its June 18, 2013 response, the US Fish and Wildlife Service offered recommendations to Hess for avoiding/minimizing impacts from the construction of the Project.

28. In a response dated February 17, 2015, the State Historic Preservation Office concurred with Hess's Class III study recommendation of "no historic sites affected" provided the Project remains as mapped and described in the report.

29. There is no evidence of any other agency responses.

30. In accordance with the Commission's Selection Criteria, a transmission facility shall be approved only if it is determined that any significant adverse effects that will result from the location, construction and operation of the facility as they relate to the Selection Criteria will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum. Hess has analyzed the impacts of the Project in relation to all relevant Selection Criteria. No significant adverse impact will result from the location, construction and operation of the Project.

#### Mitigation to Minimize Impact

31. In 2012 Hess conducted an inline inspection PIG of the existing pipeline crossing Lake Sakakawea. Based on a 2014 analysis of the 2012 inline inspection data, Hess testified that the pipeline is suitable for conversion to crude oil service and fit for providing crude oil transportation.

32. Hess testified it will conduct another inline inspection PIG and pressure test of the pipeline prior to putting the pipeline into service. Hess also committed to conduct an in-line inspection once every forty-two months for the segment under the lake, an in-line inspection once every 5 years for the remaining segments, and a visual inspection of the pipeline route 26 times per year.

33. Hess will coordinate with local authorities and emergency managers regarding emergency response measures. Hess's emergency response plan will include the Project.

34. Hess made other representations and covenants as indicated by the Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Specifications.

35. Hess will use environmental monitors and inspectors to comply with all applicable permits.

From the foregoing Findings of Fact, the Commission makes the following:

#### Conclusions of Law

1. The Commission has jurisdiction over this proceeding under North Dakota Century Code Chapter 49-22.

2. Hess North Dakota Pipelines LLC is a utility as defined in North Dakota Century Code Section 49-22-03(13).

3. The Project proposed by Hess is a transmission facility as defined in North Dakota Century Code Section 49-22-03(12).
4. The construction and operation of the Project at the proposed location will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The proposed route for the Project is compatible with the environmental preservation and the efficient use of resources.
6. The proposed transmission facility survey area and route will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.
7. The Project at the proposed location will produce minimal adverse effects, and it is therefore appropriate for the Commission to grant Hess's application for a waiver of procedures and time schedules under North Dakota Century Code section 49-22-07.2.

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

### **Order**

The Commission orders:

1. Hess North Dakota Pipelines LLC's application for waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility No. 168 is issued to Hess designating a corridor in McKenzie and Williams Counties, North Dakota for the construction, operation and maintenance of a crude oil transmission pipeline. For purposes of the Certificate, the designated corridor is 25.2 miles long and 200-feet wide centered on the pipeline route designated in this order.
3. Route Permit No. 180 is issued to Hess, designating a route in McKenzie and Williams Counties, North Dakota for the construction and operation of a 25.2 mile long crude oil transmission pipeline. The designated route for this purpose is illustrated by a red line identified in maps labeled as Hawkeye Trunklines Project Overall Review Map (hearing exhibits 1 & 2).
4. The April 16, 2015, Certification Relating to Order Provisions – Transmission Facility Siting (Certification), with accompanying Tree and Shrub Mitigation Specifica-

tions, 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.
- c. The phrase "and clearance to proceed has been given by the Commission" is hereby removed from Certification Provision 35.

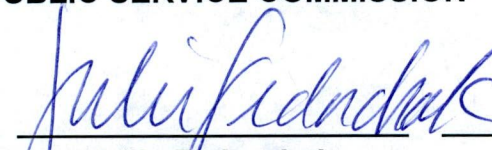
5. To the extent there are any conflicts or inconsistencies between Hess's Applications and the April 16, 2015, Certification, the Certification provisions along with the alterations in Order Provision 4 control.

6. Hess is required to comply with the applicable laws, rules, and/or regulations in the event it desires to construct another or a different transmission facility than was specified in the application within the corridor granted in this proceeding.

7. Hess shall comply with all the rules and regulations of all other agencies having jurisdiction over any phase of the proposed project. Prior to commencing construction of any phase of the proposed project, Hess shall obtain all other necessary licenses and permits for construction of such phase, and provide copies to the Commission prior to construction of each phase.

**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**

**Hess North Dakota Pipelines LLC  
Hawkeye Crude Oil Pipeline Project  
McKenzie and Williams County  
Siting Application**

**Case No. PU-15-031**

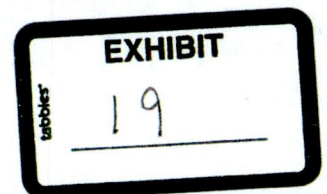
**CERTIFICATION RELATING TO ORDER PROVISIONS - TRANSMISSION FACILITY  
SITING**

I am Brent Lohnes, a representative of Hess North Dakota Pipelines 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

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Exhibit 19  
Hess North Dakota Pipelines LLC

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Exhibit 19  
Hess North Dakota Pipelines LLC



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 16 day of April, 2015.

Hess North Dakota Pipelines LLC

By Brent Lohme

Its Director, Plant & Field Operations

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

**Hess North Dakota Pipelines LLC  
Hawkeye Crude Oil Pipeline Project  
McKenzie and Williams County  
Siting Application**

**Case No. PU-15-031**

**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 168**

*This is to certify that the Commission has designated a transmission facility corridor for Hess North Dakota Pipelines LLC for the construction, operation and maintenance of approximately 25.2 miles of crude oil pipeline in McKenzie and Williams Counties, North Dakota.*

*This certificate is issued in accordance with the Commission's Findings of Fact, Conclusions of Law and Order in Case No. PU-15-31 dated June 22, 2015, and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, June 22, 2015.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**



**Executive Secretary**



**Commissioner**

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

**Route Permit**  
**Number 180**

*This is to certify that the Commission has designated a transmission facility route for Hess North Dakota Pipelines LLC, for the construction, operation and maintenance of approximately 25.2 miles of crude oil pipeline in McKenzie and Williams Counties, North Dakota.*

*This certificate is issued in accordance with the Commission's Findings of Fact, Conclusions of Law and Order in Case No. PU-15-31 dated June 22, 2015, and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, June 22, 2015.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**