

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Sacagawea Pipeline Company, LLC  
16-Inch Crude Oil Pipeline – McKenzie & Mountrail  
Siting Application

Case No. PU-15-114

**AFFIDAVIT OF SERVICE BY CERTIFIED AND REGULAR MAIL**

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Geralyn R. Schmaltz** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **1st day of July, 2016**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Findings Of Fact, Conclusions Of Law And Order On Amended Corridor And Amended Route**

And Original Of:

- **First Amended Certificate of Corridor Compatibility Number 177**

And Original Of:

- **First Amended Route Permit Number 189**

The envelope was addressed as follows:

Lawrence Bender  
Attorney for Sacagawea Pipelines, LLC  
Fredrikson & Byron P. A.  
1133 College Drive Suite 1000  
Bismarck, ND 58501  
**Cert. No. 7015 3010 0000 6559 5755**

Geralyn R. Schmaltz further deposes and says that on the **1st day of July, 2016**, she deposited in the United States Mail, Bismarck, North Dakota, **two** envelopes by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.

The envelopes were addressed as follows:

Danielle Krause  
Attorney for Sacagawea Pipelines, LLC  
Fredrikson & Byron P. A.  
1133 College Drive Suite 1000  
Bismarck, ND 58501

Kevin Pranis  
Laborers District Council of Minnesota  
and North Dakota  
81 East Little Canada Road  
St. Paul, MN 55117

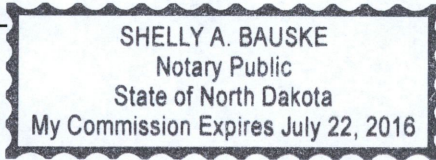
The address shown is the respective addressee's last reasonably ascertainable post office address.

*Gerard R. Schweg*

Subscribed and sworn to before me  
this **1st day of July, 2016**

*Shelly A. Bauske*  
\_\_\_\_\_  
Notary Public

SEAL



**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Sacagawea Pipeline Company, LLC  
16-inch Crude Oil Pipeline – McKenzie & Mountrail  
Siting Application**

**Case No. PU-15-114**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER ON AMENDED  
CORRIDOR AND AMENDED ROUTE**

**July 1, 2016**

**Appearances**

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

Lawrence Bender and Danielle Krause, Attorneys at Law, Fredrikson & Byron, P.A., 1133 College Drive, Suite 1000, Bismarck, North Dakota 58501, on behalf of Sacagawea Pipeline Company, LLC.

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

Kevin Pranis, 81 East Little Canada Road, St. Paul, Minnesota 55117, on behalf of Intervenor, Laborers District Council of Minnesota and North Dakota.

Wade C. Mann, Administrative Law Judge, Office of Administrative Hearings, 2911 North 4<sup>th</sup> Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

**Preliminary Statement**

On May 18, 2016, Sacagawea Pipeline Company, LLC (Sacagawea) filed an application to amend Certificate of Corridor Compatibility No. 177 and Route Permit No. 189 (Application), issued by the Commission on January 5, 2016, concerning approximately 70 miles of 16-inch diameter crude oil pipeline and associated facilities in McKenzie and Mountrail Counties, North Dakota (Application). The Application seeks Commission approval to modify a portion of the designated corridor and route located in Mountrail County (Reroute).

Also on May 18, 2016, Sacagawea 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 and chapter 69-06-06, requiring separate filings, notices, hearings, and certain time schedules on such applications.

Case No. PU-15-114

Findings of Fact, Conclusions of Law and Order on Amended Corridor and Amended Route

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On May 24, 2016, the Commission deemed the Application complete, and issued a Notice of Filings and Opportunity for Hearing (Notice), inviting interested parties to comment or request a hearing by June 23, 2016. The Notice stated the Commission can determine the matter without a hearing.

The Notice 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 and 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 an amended certificate of corridor compatibility and an amended route permit:

1. Will the location 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 June 23, 2016.

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. Sacagawea 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 June 8, 2015, in Case No. PU-15-115.

2. Sacagawea is a joint business venture between Paradigm Pipeline, LLC and Grey Wolf Midstream, LLC (Grey Wolf).

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

3. The Project consists of approximately 70 miles of 16-inch steel pipeline and associated facilities, to be located in McKenzie and Mountrail Counties, North Dakota.

4. The Project will originate at Paradigm Midstream Service's Keene terminal, located near Keene in McKenzie County, and will terminate at the Phillips 66 Partners' Palermo Rail Terminal, located near Palermo in Mountrail County.

5. The Project crosses both fee and tribal lands located within the boundary of the Fort Berthold Indian Reservation (Reservation).

6. The Three Affiliated Tribes of the Fort Berthold Indian Reservation (TAT), through its partial ownership of Grey Wolf, has a financial interest in the Project. TAT has consented to an easement for that portion of the Project which crosses tribal land within the Reservation. TAT did not testify at the formal hearing in this case, nor have they claimed any comparable tribal process or jurisdiction for siting or similar approval of the Project.

7. Above-ground facilities will include nine mainline block valves, two mainline check valves, and in-line inspection tool launcher and receiver sites. At the recommendation of the Commission, Sacagawea agreed to install an additional block valve on the pipeline at a location east of Lake Sakakawea between mile posts 18 and 24, as described in Late Filed Exhibit 16, "Affidavit of Troy Andrews".

8. The maximum capacity of the Project will be 200,000 barrels per day. The normal capacity of the Project will be 140,000 barrels per day.

9. The design, construction, and operation of the pipeline will be in accordance with the United States Department of Transportation (USDOT) regulations governing the transportation of crude oil, including USDOT regulations as set forth in 49 Code of Federal Regulations Part 195.

10. Locations impacted by the proposed Reroute in Mountrail County include: Sections 20, 29, 31, and 32 in Township 153 North, Range 91 West; and Sections 2 and 3, Township 152 North, Range 92 West.

11. The total anticipated cost of the Project is approximately \$125 million.

#### Study of Preferred Location

12. Sacagawea evaluated a one-mile-wide study area centered on the route (Study Area) for natural resources, including wildlife, protected species and critical habitats, wetlands and waterbodies, and trees and shrubs.

13. Field surveys were conducted on a 200-foot-wide area centered on the Project route and proposed route associated with the Littlefield Reroute (Survey Area) to inventory wildlife, protected species and critical habitats, wetlands and water bodies, trees and shrubs, and noxious weeds.

14. Sacagawea conducted a Class I cultural resources literature search on the Study Area and a Class III cultural resources field inventory on the Survey Area.

15. The following agencies were contacted by Sacagawea: the United States Fish and Wildlife Service (USFWS); the United States Air Force (USAF); the BIA; the United States Army Corps of Engineers (USACE); the North Dakota Game and Fish Department (NDGFD); the North Dakota Parks and Recreation Department (NDPRD); the North Dakota Department of Health (NDDOH); the North Dakota Department of Trust Lands (NDDTL); the North Dakota Office of the State Engineer; and the North Dakota State Historic Preservation Office (NDSHPO).

16. In responses dated November 12, 2014, and January 15, 2015, the NDGFD indicated that special use permits may be required and recommended that disturbance of native prairie and wooded draws be avoided to the extent possible, disturbed areas be reclaimed to pre-project conditions, the Lake Sakakawea crossing be bored, precautions be taken to prevent the introduction or movement of aquatic nuisance species within the state, steps should be taken to protect any wetlands that cannot be avoided, no alterations should be made to existing drainage patterns, above-ground appurtenances should not be placed in wetland areas, and unavoidable destruction or degradation of wetlands should be mitigated in kind. The NDGFD indicated that golden eagle nests exist in close proximity to the Project and recommended that a half-mile construction buffer be implemented around eagle nest sites known to be occupied within the past five years. The NDGFD concluded that the Project will not have a significant adverse impact on wildlife or wildlife habitat, including species of conservation priority, provided NDGFD recommendations are implemented where appropriate. In a response dated August 7, 2015, the NDGFD further recommended that valves be placed on both sides of Lake Sakakawea, that a maintenance schedule concerning pipe integrity be developed, and that the NDGFD be contacted prior to any launch or placement of items associated with the Project into waters of the state.

17. In a response dated November 14, 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 the NDPRD, that no data exists concerning documented animal species of concern or significant ecological communities within the Study Area, and any impacted areas be revegetated with species native to the Project area.

18. In a response dated November 26, 2014, the USFWS indicated that a Section 7 Consultation between federal agencies concerning the Endangered Species Act is anticipated. In a response dated August 10, 2015, the USFWS indicated that impacts to protected species will be "either insignificant or discountable" or will have "no effect".

19. In a response dated December 18, 2014, the NDDTL indicated that no school trust lands exist within the Study Area.

20. In a response dated February 4, 2015, the NDSHPO concurred with a "no significant sites affected" recommendation for the Project, provided recommendations concerning avoidance of cultural resources are followed. In a response dated February 17, 2015, the NDSHPO concurred with a "no significant sites" recommendation for the Project, provided the Project remains as described and mapped in the Class I and III cultural resource report dated February 12, 2015.

21. In a response dated July 7, 2015, the NDDOH recommended that measures be taken to minimize fugitive dust emissions and that associated complaints be responded to in an efficient and effective manner; that care should be taken during construction activities near waters of the state to minimize impacts to water bodies from disturbance, reclamation, and oil, gas, or fuel spills associated with construction equipment, that a stormwater discharge permit may be necessary, that construction should not take place during early morning or late evening hours and that noise levels be minimized by use of mufflers on construction equipment, that spills be restricted from reaching surface waters, that a spill response plan be developed, and that the pipeline be properly monitored for leaks.

22. In a response dated November 30, 2015, the USAF indicated that the Project will not interfere with Air Force communications systems within their intercontinental ballistic missile (ICBM) launch complex area and will be located at least 1,200 feet from ICBM launch facilities. The USAF recommended that at locations where the route will intersect buried USAF facilities, the Project must be installed by means of horizontal directional drilling under USAF cables in order to maintain a minimum separation distance of three feet.

23. Concerning the Littlefield Reroute, in a response dated April 18, 2016, the NDSHPO concurred with a "no significant sites affected" recommendation, provided the reroute location remains as described in the report submitted by Sacagawea to NDSHPO entitled "Addendum II to the Class I and Class III Cultural Resource Inventory of the Paradigm Sacagawea Pipeline in McKenzie and Mountrail Counties, North Dakota".

#### Siting Criteria

24. 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.

25. Sacagawea evaluated the Project for the Exclusion, Avoidance, Selection, and Policy criteria of the Commission.

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

27. Four cultural resource sites were identified during the Class III field survey, all of which remain unevaluated for listing in the National Register of Historic Places. None of the sites will be crossed by the route. Sacagawea has committed to protecting the integrity of these cultural resources by either avoiding them by at least 50 feet or by placing temporary fencing around the sites and providing an environmental monitor during ground-disturbing activities near the site. Sacagawea testified that the Tribal Historic Preservation Office was consulted concerning cultural resources for that portion of the Project which crosses tribal lands.

28. Areas within thirty feet on either side of a direct line between ICBM launch or launch control facilities to avoid microwave interference are considered to be Exclusion Areas. The Project crosses ICBM Exclusion Areas at three locations. Sacagawea has presented evidence that the Project will not affect USAF communications, and has received confirmation from the USAF that the planned pipeline bore depth will provide a buffer zone sufficient to protect the integrity of this Exclusion Area.

29. Areas critical to the life stages of threatened or endangered animal or plant species are considered to be Exclusion Areas. Lake Sakakawea has been designated by the USFWS as critical habitat for both the interior least tern, an endangered avian species, and the piping plover, a threatened avian species. Sacagawea testified that the Project will be bored underneath Lake Sakakawea and its adjacent uplands for one-half mile on either side of the lake in order to protect the integrity of this Exclusion Area.

30. No other Exclusion Areas are present within the Survey Area.

31. 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.

32. A transmission facility may 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.

33. 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.

34. Sacagawea testified that there are eleven inhabited rural residences within 500 feet of the proposed route, which involves a total of seven property owners. Sacagawea has obtained waivers from all seven property owners and has filed copies of the waivers in this proceeding.

35. The Little Missouri National Grasslands (Grasslands), an Avoidance Area, are present within the Survey Area, but are not crossed by the route.

36. Areas of geologic instability are considered to Avoidance Areas. Seven areas of geologic instability are present within the Survey Area, of which two areas will be crossed by the route. Sacagawea testified that these two areas, which are composed of a mixture of strata and deposits that have slid to the base of Saddle Butte, will be crossed utilizing practices to minimize impacts as identified in Hearing Exhibit 1, Appendix K, and will be monitored until site stabilization is achieved. The pipeline route is constrained in its available path as it traverses the base of Saddle Butte by numerous existing well pads and also by North Dakota Surface Trust land west of Saddle Butte. Due to these geographical route constraints, the Commission finds there is no reasonable alternative to the proposed route crossing these Avoidance Areas. Four shallow areas of geologic instability present on banks of Lake Sakakawea will be avoided by boring, as discussed in Attachment 1, "Geotechnical Investigations", of Appendix I.

37. No other Avoidance Areas are present within the Survey Area.

38. In accordance with the Commission's Selection Criteria, a transmission facility route shall be designated only if it is demonstrated that any significant adverse effects resulting from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum or managed and maintained at an acceptable minimum.

39. 156 wetlands and 26 water bodies were identified within the Survey Area, of which 17 wetlands and 10 water bodies are potentially subject to USACE jurisdiction under the Nationwide Permit 12 process.

### Measures to Minimize Impact

40. Sacagawea testified that a supervisory control and data acquisition system (SCADA) will be installed as part of the Project, and operations will be continuously monitored by a control center located in Bartlesville, Oklahoma.
41. Sacagawea testified that back-up systems for both power and communications loss will be installed as part of the Project.
42. Sacagawea testified that the company has contracted with Clean Harbors Environmental Services, a private contractor, to provide emergency spill response.
43. Sacagawea testified that trained emergency response personnel will be stationed at the Palermo terminal, and that trailers containing emergency spill response equipment will be stationed at both the Keene and Palermo terminals.
44. Sacagawea testified that it participates in the One Call notification system and anticipates having utility locators on-site during Project construction.
45. Sacagawea testified that the bore length under Lake Sakakawea was minimized by selecting a location where the width of the lake is narrow, that geotechnical studies have been performed for the crossing, and that adjacent topography is considered suitable for construction work.
46. Sacagawea testified that boring under Lake Sakakawea will be performed by an experienced contractor that has performed boring projects of a similar scope internationally.
47. Sacagawea testified that a solution composed only of fresh water and bentonite will be used as a drilling fluid for boring activities associated with the Project.
48. Sacagawea testified that the pipeline will be buried at least 100 feet below the bed of Lake Sakakawea.
49. Sacagawea 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.
50. Sacagawea agreed to refer to the NDSU Extension Service Publication No. R1728, "Successful Reclamation of Lands Disturbed by Oil and Gas Development and Infrastructure Construction," as a guide for best reclamation practices in constructing the Project.
51. Sacagawea will have environmental inspectors with stop-work authority on each construction spread.

52. Sacagawea has committed to protecting the integrity of wetlands and waterbodies crossed by the route by using best management practices to minimize erosion and to prevent sediment discharge, which will include minimizing the footprint of environmental disturbance, installing sediment barriers, trench plugs, and temporary slope breakers as necessary, and properly restoring topsoil.

53. Sacagawea testified that construction will take place outside of the sensitive breeding season for terns and plovers.

54. Approximately 45% of the Project is co-located with existing utility corridors.

55. Concerning the Littlefield Reroute, Sacagawea has indicated that all landowner easements have been obtained.

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

### **Conclusions of Law**

1. The Commission has jurisdiction over Sacagawea and the subject matter of these applications under North Dakota Century Code chapter 49-22.

2. Sacagawea 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. Sacagawea's application for a waiver of procedures and time schedules is granted.
2. First Amended Certificate of Corridor Compatibility No. 177 is issued to Sacagawea Pipeline Company, LLC designating a corridor for the construction, operation, and maintenance of approximately 70 miles of 16-inch diameter crude oil pipeline and associated facilities in McKenzie and Mountrail Counties, North Dakota. The Corridor will consist of a 200-foot-wide area centered on the route.
3. First Amended Route Permit No. 189 is issued to Sacagawea Pipeline Company, LLC designating a route for the construction, operation, and maintenance of approximately 70 miles of 16-inch diameter crude oil pipeline and associated facilities in McKenzie and Mountrail Counties, North Dakota. The designated route for this purpose is depicted in Appendix B, "Project Maps", of Hearing Exhibit 2, and as amended as depicted in Exhibit A of Sacagawea's May 18, 2016 filing.
4. The August 20, 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.
5. To the extent that there are any conflicts or inconsistencies between Sacagawea's applications in this proceeding and the Certification, the Certification provisions control.
6. Sacagawea is required to comply with all 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.

**PUBLIC SERVICE COMMISSION**

  
Randy Christmann      Julie Fedorchak      Brian P. Kalk  
Commissioner      Chairman      Commissioner

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

**First Amended**  
**Certificate of Corridor Compatibility Number 177**

*This is to certify that the Commission has designated a transmission facility corridor for Sacagawea Pipeline Company, LLC for the construction, operation, and maintenance of approximately 70 miles of 16-inch diameter crude oil pipeline and associated facilities in McKenzie and Mountrail Counties, North Dakota.*


*This certificate is issued in accordance with the Orders of the Commission dated January 5, 2016 and July 1, 2016 in Case No. PU-15-114 and is subject to the conditions and limitations noted in the Orders.*

*Bismarck, North Dakota, July 1, 2016.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

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

**First Amended Route Permit Number 189**

*This is to certify that the Commission has designated a transmission facility route for Sacagawea Pipeline Company, LLC for the construction, operation, and maintenance of approximately 70 miles of 16-inch diameter crude oil pipeline and associated facilities in McKenzie and Mountrail Counties, North Dakota.*

*This permit is issued in accordance with the Orders of this Commission dated January 5, 2016 and July 1, 2016 in Case No. PU-15-114 and is subject to the conditions and limitations noted in the Orders.*

*Bismarck, North Dakota, July 1, 2016.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
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**Executive Secretary**

  
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**Commissioner**

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Sacagawea Pipeline Company, LLC  
16-inch Crude Oil Pipeline – McKenzie & Mountrail  
Siting Application

Case No. PU-15-114

CERTIFICATION RELATING TO ORDER PROVISIONS - TRANSMISSION FACILITY  
SITING

I am Tray Andrews, a representative of Sacagawea Pipeline Company, LLC ("Company") with authority to bind the 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 monthly 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.
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 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.
35. Company understands and agrees that the corridor certificate and route permit are subject to suspension or revocation and may, after hearing, be suspended or revoked for failure to comply with the Commission's order, requirements of the One-Call Excavation Notice System under North Dakota Century Code Chapter 49-23, the conditions and criteria of the certificate or permit or subsequent modification, or failure to comply with applicable statutes, or rules, regulations, standards, and permits of other state or federal agencies.
36. 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:
37. 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.
38. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before conducting any construction activities for any adjustment to the designated route within the designated corridor under NDCC 49-22-16.3(1), the 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.

39. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(2), within the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route within the designated corridor, the 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.

40. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(3), outside the designated corridor and not affecting any exclusion and avoidance area, before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the 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

41. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(4), outside the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the 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.

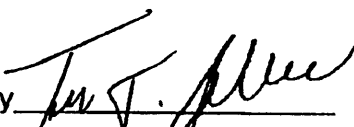
Company acknowledges and agrees that:

- 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.

- 42. 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 20<sup>th</sup> day of August, 2015.

SACAGAWEA PIPELINE COMPANY, LLC

By   
Troy Andrews

Its Representative

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Sacagawea Pipeline Company, LLC  
16-inch Crude Oil Pipeline – McKenzie & Mountrail  
Siting Application

Case No. PU-15-114

**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).