

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

**Vantage Pipeline US LP**  
**8-inch HVP Pipeline – West Spur Pipeline Pjct**  
**Siting Application**

**Case No. PU-15-142**

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

**September 2, 2015**

**Appearances**

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

Brian Bjella, Attorney at Law, Crowley Fleck PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58501, on behalf of Vantage Pipeline US, LP.

Brian Schmidt, Special Assistant Attorney General, on behalf of the North Dakota Public Service Commission, State Capitol, 600 East Boulevard Avenue, Bismarck, North Dakota 58505.

Patrick J. Ward, 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 April 13, 2015, Vantage Pipeline US LP (Vantage) filed applications for a certificate of corridor compatibility and a route permit concerning approximately 47 miles of 8-inch diameter steel high vapor pressure ethane pipeline and associated facilities, known as the "West Spur Lateral Pipeline Project", in Divide and Williams Counties, North Dakota (Project).

Also on April 13, 2015, Vantage filed an application for waivers of procedures and time schedules established under North Dakota Century Code sections 49-22-07.2, 49-22-08, 49-22-08.1, 49-22-13, and North Dakota Administrative Code chapter 69-06-06 and section 69-06-01-02, requiring separate filings, separate notices, separate hearings, and certain time schedules concerning the certificate of corridor compatibility application, the route permit application, and the waiver of procedures and time schedules application.

On June 3, 2015, the Commission found the applications for a certificate of corridor compatibility and a route permit complete, and issued a Notice of Filings and

Notice of Hearing (Notice) scheduling a hearing for August 13, 2015, at 9:00 a.m. Central Time at The Ernie French Center, NDSU, Williston, North Dakota 58801.

The Notice identified the following issues to be considered with respect to the application for a waiver of procedures and time schedules:

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

The Notice identified the following issues to be considered with respect to the applications for certificate of corridor compatibility and route permit:

1. Will the location, construction, and operation of the proposed facilities produce minimal adverse affects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On August 13, 2015, the hearing was held as scheduled.

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. Vantage is a Delaware limited partnership authorized to do business in the State of North Dakota, as evidenced by corporate papers filed with the Commission on May 15, 2015, in Case No. PU-11-114.

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

2. The Project consists of approximately 47 miles of 8-inch steel pipeline and associated facilities, to be located in Divide and Williams Counties, North Dakota. The Project will originate at ONEOK Partners, LP's Stateline II Gas Plant (SGP), located near Williston in Williams County, and will transport liquid ethane to an interconnect with Vantage's existing ethane pipeline system near Stady in Divide County.

3. Above-ground facilities will include two mainline block valves, in-line inspection tool launcher and receiver sites, and valves at the SGP and at the interconnection with Vantage's existing pipeline.
4. The maximum operating pressure of the Project will be 2,160 pounds per square inch.
5. The maximum capacity of the Project will be 30,000 barrels per day. The normal capacity of the Project will be 26,000 barrels per day.
6. The total anticipated cost of the Project is approximately \$20 million.

#### Need for Facility

7. Vantage testified there is a need for the Project to deliver liquid ethane for sale to markets in Alberta, Canada, to be used a feedstock in the production of a wide range of consumer and industrial products.
8. Vantage indicated that the Project will provide needed takeaway capacity for ethane, thereby helping to reduce regional flaring of natural and ethane gas.
9. Vantage indicated that the volatile nature of ethane restricts its transport by truck and rail, particularly over international borders, and therefore the Project provides the safest and most economical option for transporting ethane from the SGP to available markets.

#### Study of Preferred Location

10. Vantage evaluated a two-mile-wide study area centered on the route (Study Area) for natural resources, including land use, wildlife, protected species, critical habitats, wetlands and waterbodies, and vegetation. Field surveys were conducted on a 500-foot-wide area centered on the route (Survey Area) to inventory land use, wildlife, protected species, critical habitats, wetlands and water bodies, and vegetation.
11. Vantage conducted a Class I cultural resources literature search on the Study Area and a Class III cultural resources field inventory on a 500-foot-wide area centered on the route.
12. The following agencies were contacted by Vantage: the United States Fish and Wildlife Service (USFWS); the United States Department of Agriculture, Natural Resource Conservation Service (NRCS); the United States Department of the Interior, National Park Service (USNPS); the United States Department of the Interior, Bureau of Land Management; the United States Department of the Interior, Bureau of Reclamation (USBOR); the United States Air Force (USAF); the North Dakota Game and Fish Department (NDGFD); the North Dakota Parks and Recreation Department (NDPRD);

the North Dakota Department of Agriculture (NDDOA); the North Dakota Department of Health (NDDOH); the North Dakota Department of Trust Lands (NDDTL); the North Dakota State Water Commission; the North Dakota State Historic Preservation Office (NDSHPO); the Divide County Water Resource District; the Williams County Water Resource District; and the Divide County Weed Board; the Williams County Weed Board.

13. In a response dated January 28, 2015, the NDDOA indicated that there are no State Waterbank Program participants in either Divide or Williams Counties.

14. In a response dated January 28, 2015, the NDDTL indicated that the route will not cross North Dakota school trust lands.

15. In a response dated January 28, 2015, the USBOR indicated that the Project will not impact the Trenton Indian Service Area facilities or other USBOR interests.

16. In a response dated February 5, 2015, the USNPS indicated that the Project will not impact the Fort Union Trading Post National Historic Site.

17. In a response dated February 10, 2015, the USFWS indicated that no special use permit is required for the Project.

18. In a response dated February 24, 2015, the NDGFD indicated that the Project should not have any significant adverse effects on wildlife or wildlife habitat, including species of conservation priority.

19. In a response dated February 24, 2015, 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, and that no documented occurrences of species of concern or other significant ecological communities are known to occur within the Study Area.

20. In a response dated March 10, 2015, the NDDOH indicated that there are no Section 319 Nonpoint Source Pollution Watershed projects or Section 303(d) listed waters in the Study Area.

21. In a response dated March 27, 2015, the USAF indicated that the Project will not impact USAF assets.

22. In responses dated March 27, 2015, and August 14, 2015, the NDSHPO concurred with "no significant sites affected" determinations for the Project.

23. In a response dated March 30, 2015, the NRCS indicated that the Farmland Protection Policy Act is not applicable to properties crossed by the Project, and that

United States Department of Agriculture benefits to program participants will not be affected if impacts to wetlands are minimal.

#### 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. Vantage 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. A transmission facility route may not be sited within an Exclusion Area.

27. Sixty-five cultural resource sites were identified during the Class III field survey. Six of these sites are located within the proposed construction right-of-way. Of these six sites, one site has been determined to not be eligible for listing with the National Register of Historic Places. Vantage has committed to protecting the integrity of the remaining five sites by fencing and providing a 45-foot buffer around two sites, and by boring under three sites. Vantage will provide environmental inspectors to monitor construction around these five cultural resource sites located within the proposed construction right-of-way.

28. No exclusion areas encompass more than fifty percent of the Survey Area. The proposed route does not cross any Exclusion Areas. Construction, operation, and maintenance of the Project will not impact any Exclusion Areas.

29. 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.

30. 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.

31. 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.

32. Vantage testified that there are no residences, schools, or places of business within 500 feet of the proposed route.

33. The proposed route does not cross any Avoidance Areas. Construction, operation, and maintenance of the Project will not impact any Avoidance Areas.

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

35. Seventy wetlands and twelve water bodies were identified during the environmental field survey. Eleven wetlands and eight water bodies are located within the proposed construction right-of-way. Vantage has committed to protecting the integrity of these wetlands and water bodies by boring where standing water is present and by using best management practices, which will include minimizing the footprint of environmental disturbance and length of time for construction through the wetlands and water bodies, properly restoring topsoil, and installing trench and slope breakers as necessary to reduce erosion.

#### Measures to Minimize Impact

36. Vantage testified that a supervisory control and data acquisition system with an uninterruptible power supply will be installed as part of the Project, and operations will be continuously monitored by a control center located in Joffre, Alberta, Canada.

37. Vantage testified that the Project will be constructed, maintained, and operated according to Title 49, Part 195 of the Code of Federal Regulations.

38. Vantage 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.

39. Vantage has agreed to use 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.

From the foregoing Findings of Fact, and subject to the conditions explained therein, the Commission now makes the following:

### **Conclusions of Law**

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

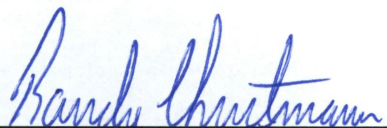
From the foregoing Findings of Fact and Conclusions of Law, the Commission now issues the following:

## Order

The Commission orders:

1. Vantage's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility No. 171 is issued to Vantage Pipeline US LP, designating a corridor for the construction, operation, and maintenance of approximately 47 miles of 8-inch diameter high vapor pressure ethane pipeline and associated facilities in Divide and Williams Counties, North Dakota. The Corridor will consist of a 500-foot-wide area centered on the route.
3. Route Permit No. 183 is issued to Vantage Pipeline US LP, designating a route for the construction, operation, and maintenance of approximately 47 miles of 8-inch diameter high vapor pressure ethane pipeline and associated facilities in Divide and Williams Counties, North Dakota. The designated route for this purpose is depicted as "Preferred Route" on Page 1 of Part 9 of Hearing Exhibit 1.
4. The August 6, 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 Vantage's applications in this proceeding and the Certification, the Certification provisions control.
6. Vantage 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**  
Commissioner

  
\_\_\_\_\_  
**Julie Fedorchak**  
Chairman

  
\_\_\_\_\_  
**Brian P. Kalk**  
Commissioner

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility Number 171**

*This is to certify that the Commission has designated a transmission facility corridor for Vantage Pipeline US LP for the construction, operation, and maintenance of approximately 47 miles of 8-inch diameter high vapor pressure ethane pipeline and associated facilities in Divide and Williams Counties, North Dakota.*

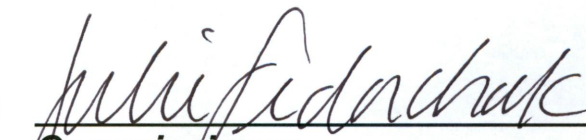
*This certificate is issued in accordance with the Order of the Commission dated September 2, 2015, in Case No. PU-15-142 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, September 2, 2015.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Route Permit Number 183**

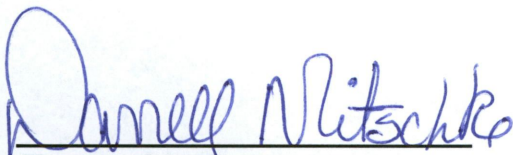
*This is to certify that the Commission has designated a transmission facility route for Vantage Pipeline US LP for the construction, operation, and maintenance of approximately 47 miles of 8-inch diameter high vapor pressure ethane pipeline and associated facilities in Divide and Williams Counties, North Dakota.*

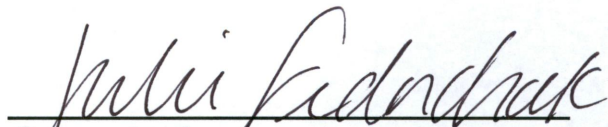
*This permit is issued in accordance with the Order of this Commission dated September 2, 2015, in Case No. PU-15-142 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, September 2, 2015.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**