

UTILITY OCCUPANCY APPLICATION AND PERMIT

North Dakota Department of Transportation, Design
SFN 7995 (2-2016)

FOR STATE USE ONLY (Type or Print)

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|--------------------------------------|-------------------------------------|---|
| RIMS Document Number 73098 | Contract Number 671601679 | District Tracking Number 7-058-000.8953 |
|--------------------------------------|-------------------------------------|---|

APPLICANT INFORMATION

Authorized Utility Agent (must be same as signatory for permit)

| | | | |
|--|---------------------------|------------------------------------|-------------------|
| Company Name NST Express, LLC | Contact Name Chip Lang | Telephone Number (713) 244-5999 | |
| Mailing Address 10077 Grogans Mill Rd | City The Woodlands | State TX | ZIP Code 77380 |

Preparer - Consultant

| | | | |
|--|----------------------------|------------------------------------|-------------------|
| Company Name Contract Land Staff, LLC | Contact Name John Trepl | Telephone Number (832) 331-2546 | |
| Mailing Address 113 East Broadway | City Williston | State ND | ZIP Code 58801 |

Utility Contractor

| | | | |
|-------------------------------------|------------------------------|------------------------------------|-------------------|
| Company Name Loenbro | Contact Name Tye Whitlock | Telephone Number (406) 681-4746 | |
| Mailing Address 1900 32nd Ave NE | City Black Eagle | State MT | ZIP Code 59414 |

TYPE OF FACILITY (Complete appropriate space only.)

| | | |
|---|---------------------------|---------------------|
| Description of Proposed Facility 12.75" OD crude oil pipe. Pipeline will be constructed of .500" carbon steel with an ARO & FBO coated and installed via HDD. It crosses ND58 at a depth of 35' and will be protected using cathodic protection. | | |
| Size of Facility 12.75" OD | Number of Cables | Length of Down Guys |
| Pipeline Pressure 1440psig Max Operating Pressure | Size of Casing | Length of Casing |
| Location of Pole(s) | Location of Appurtenances | Location - Others |

TERMS AND CONDITIONS: Installation and maintenance of said facilities on highway right of way shall be subject to the North Dakota Department of Transportation's (NDDOT's) "A Policy for Accommodation of Utilities on State Highway Right of Way", current edition, and the following terms and conditions, attached hereto and made a part hereof.


The installation shall be completed on or before:

| |
|--------------------|
| Date 12/31/2016 |
|--------------------|

See page 2 for additional Terms and Conditions.

**** VERIFY THAT THIS LINE IS NOT IN CONFLICT W/ THE ND58 CONSTRUCTION IN 2016 & 2017**

APPROVAL


| | | |
|---|--|--|
| Company Name (Utility Agency) NST Express, LLC | Authorized Utility Agent Name (Type or Print) Chip Lang | Authorize Agent Title Vice President Operations & Engineering |
| Date 03/02/2016 | Authorized Agent's Signature  | |

To be signed by Owner, Partner, Corporate President, Vice President, or other authorized Corporate Officer. If signed by other authorized Corporate Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.

The Owner is hereby granted permission to install and maintain the facilities applied for, as shown on the plans attached hereto, and made a part hereof.

NDDOT Approved Date
4/22/16

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

| | |
|--|---|
| District Engineer (Type or Print) JOEL M. WILT | District Engineer Signature  |
|--|---|

R 72732

- (A) Installation/maintenance of said facilities shall be done in a manner satisfactory to the NDDOT district engineer.
- (B) Owner shall notify the NDDOT district engineer forty-eight (48) hours prior to installing, maintaining, relocating, or removing said facilities. All disturbed areas shall be restored to their original condition in a manner satisfactory to the NDDOT district engineer.
- (C) The owner shall be required to wear an ANSI/ISEA 107-2010 Class II high visibility garment while within the highway right-of-way as per the requirements of 23 CFR 634.
- (D) Owner shall repair or replace highway structures and appurtenances, and any existing facilities located on, over, or under highway right of way, which may be damaged as a result of the installation and maintenance of said facilities on highway right of way.
- (E) The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
- (F) Owner shall promptly remove said facilities from highway right of way, or shall relocate or adjust said facilities, at its sole cost and expense when requested to do so by NDDOT. The owner may be held responsible for delay costs caused by the owner's failure to use reasonable efforts to relocate or adjust facilities in a timely manner.
- (G) NDDOT specifically reserves the right to revoke, or change the terms and conditions of, this Permit with or without cause and upon notice to the Owner.

- (H) The Owner, for him or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person, on the grounds of race, color, national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person, on the grounds of race, color, national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Owner will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and regulations, such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities set forth in this Assurance.

That in the event of breach of any of the above Non discrimination covenants, the NDDOT will have the right to terminate this Permit and to enter or re-enter and repossess said land and the facilities thereon and hold the same as if said Permit had never been made or issued.

- (I) If the utility facility includes drain tile, a "Request for Drainage on Highway Rights of Way", state form number 50909, must be made in conjunction with this permit.
- (J) The Department's review and subsequent approval of this permit request does not relieve the applicant of the responsibility to comply with all Federal and State laws and regulations that govern, but are not limited to, the protection of wetlands, threatened and endangered species, and migratory birds. The applicant is responsible to comply with all Federal and State laws and regulations that govern the protection of cultural resources within the permit application area (e.g., S.106 of the National Historic Preservation Act, 36 CRF Part 800; ND Century Code 55-02-07; ND Century Code 55-03-01.1). The applicant shall be aware of the ND State burial law (ND Century code 23-06-27; Administrative Rule 40-02) and ensure compliance for any discovery of human remains within the permit request area.
- (K) The Contractor agrees that NDDOT's review of the utility relocation plans, specifications, calculations, and field inspections shall be solely for NDDOT purposes and not for the benefit of the Utility or any third party and shall not be deemed to mean that the Utility's design and construction is structurally sound and appropriate or meets applicable federal and state regulations, laws, or local ordinances, codes, or industry standards (collectively, "Requirements"). The Utility affirms that it has taken all of the actions necessary and required for the construction, operation, and maintenance of its facility authorized hereunder, including compliance with all Requirements."
- (L) Detailed location maps showing lateral offsets from roadway centerlines are required for a permit.


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District Tracking Number

Please attach detail location map for each Utility Location. Use multiple utility locations when changing lateral offsets.

| | | |
|---|--|--|
| Highway Number ND 58 | Utility Location <input type="checkbox"/> Along or <input checked="" type="checkbox"/> Across | |
| Nearest City or Hwy Jct. East Fairview | Direction (N, S, E, W) North | Approximate Miles From 1/2 Mile |
| Begin | Reference Marker Mile Marker 0 | Direction (N, S, E, W) North |
| | Direction From Centerline (N, S, E, W) East | Longitudinal Offset (feet) 4727' / 5280' 0.8953 |
| End | Lateral Offset (feet) 50' | |

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|--------------------|--|---------------------------------|------------------------------------|--------|
| | Begin | | End | |
| Location Number | Reference Pt | Offset | Reference Pt | Offset |
| | 0.8953 | | | |
| Begin | Reference Marker Mile Marker 1 | Direction (N, S, E, W) South | Longitudinal Offset (feet) 553' | |
| | Direction From Centerline (N, S, E, W) West | | Lateral Offset (feet) 50' | |

1 x in y \$100/ea


NOTICE: The Recipient must comply with ALL applicable Federal, State and local laws, rules, regulations, codes, ordinances, etc., including, but not limited to North Dakota Century Code, Chapter 49-23. (ONE-CALL EXCAVATION NOTICE SYSTEM)

INSTALLATION AND MAINTENANCE: Installation and maintenance of said facilities on highway right of way shall conform to the following provisions:

1. Within thirty (30) days after construction, maintenance, relocation, or removal of said facilities, any right of way scars shall be removed and disturbed areas restored to original condition. Existing topsoil shall be removed prior to excavation and stockpiled until all disturbed areas are restored to original grade. The stockpiled topsoil shall be evenly and smoothly replaced over the areas disturbed by the trenches or pits.
2. Vehicles and other work equipment used to install or maintain said facilities within highway right of way shall, where possible, use established access points, service roads, driveways and approaches to enter or leave the outer portion of the right of way for the performance of necessary work operations. Such vehicles and work equipment shall not be parked on the through-traffic lanes or shoulders of the highway during installation or maintenance of said facilities. **The parking of equipment, vehicles, and storing of materials in the median on divided roadways is not permitted. On all roadways, parking and storing of materials may be permitted only if equipment, vehicles and material are located a minimum of 60 feet from the outside edge of the driving lane.**
3. Protection to the free and safe flow of the highway traffic shall be as required in accordance with the "Manual on Uniform Traffic Control Devices", current edition.
4. The Recipient will notify the District Engineer of the Department of Transportation forty-eight (48) hours prior to beginning this installation. Immediately following the final clean up of the area, the Recipient shall again notify the District Engineer of the Department of Transportation.
5. The Department of Transportation may not be the total fee owner and does not warrant the title to the highway right of way covered by the terms of this permit. The Recipient shall be responsible for reviewing the public records to determine ownerships and any encumbrances to the title of the properties covered by the terms of this permit.
6. Trenches and pits opened within the right of way shall be cut to O.S.H.A. Standards and shall be of minimum width necessary to accommodate installation of said facilities. **Trenches and Pits shall not be left open overnight, or unattended. Slopes shall not have more than a 2" drop off, all slopes shall be 4:1.**
7. Trenches and pits opened within the right of way shall be backfilled with the same material originally in place, compacted to a density equal to that of the adjacent undisturbed soil and restored to the original grade. The backfill shall be tamped in layers not exceeding six (6) inches in compacted thickness. Consolidation of the backfill by saturation or ponding is not permissible.

8. The pipeline shall have a minimum of thirty-six (36) inches of cover within highway right of way.
9. On longitudinal installations, where the buried cable or pipe is installed by plowing, the plowed ridges shall be mechanically compacted and made flush with the original ground.
10. Casing pipe, where installed, shall extend a minimum of two (2) feet beyond the toe of the highway inslopes. The casing pipe shall be sealed at both ends to prevent formation of a waterway through the casing.
11. The pipeline shall be installed under the surfaced section of the highway by boring or jacking pipe through the roadbed between the clear zone limits. Wet boring or jetting of the pipe under the roadway is not permissible.
12. The diameter of the hole for bored or jacked installations shall not exceed by more than one (1) inch the outside diameter of the facility. Oversized bores, overbreaks, and unused holes shall be backfilled with grout.
13. The location of the pipeline crossing shall be indicated by a marker post installed on each side of the highway at the right of way line. An identification sign shall be attached to one of the marker posts showing the name, address, and telephone number of the pipeline company.
14. The Department of Transportation shall be notified in advance of any proposed change in the type of transmittant carried by the pipeline, or any increase in the maximum working pressure specified in the application for the permit.
15. The casing pipe shall be continuous and shall extend a minimum of two (2) feet beyond the clear zone or two (2) feet beyond the toes of outer inslopes of the highway, whichever is further from the highway center line. The casing pipe shall be adequately sealed at both ends with suitable material that will prevent the formation of a waterway.
16. Casing is not required if approved extra wall thickness pipe is installed.
17. The Recipient shall indemnify, save, hold harmless, the State of North Dakota, its agencies, offices and employees, from any and all claims of any nature arising from any direct, indirect, or consequential damage to real property or business, including all costs, expenses, and attorney's fees, which may in any manner arise out of or result from this project.
18. The topsoil will be replaced on all disturbed areas and seeded as determined below (provide a temporary cover crop):

| Seed Class Mix Requirements | | |
|------------------------------------|----------------|---------------------------------------|
| Class II – Early Season | | |
| Grass Species | Variety | Pounds Pure Live Seed Per Acre |
| | | |

| | | |
|--------------------|--|-------------|
| Western Wheatgrass | Rodan, Rosana, Walsh, Flintlock, W.R. Poole, Recovery | 9.6 |
| Switchgrass | Dacotah, Forestburg, or Sunburst, Summer | 3.2 |
| Green Needlegrass | Lodorm, AC Mallard, Fowler | 2.4 |
| Sideoats Grama | Killdeer, Pierre, Butte | 3.6 |
| Slender Wheatgrass | Revenue, Primar, Adanac, Pryor, Firstrike | 5.0 |
| Total | | 23.8 |

| Seed Class Mix Requirements | | |
|------------------------------------|--|---|
| Class II – Late Season | | |
| Grass Species | Variety | Pounds Pure Live Seed Per Acre |
| Western Wheatgrass | Rodan, Rosana, Walsh, Flintlock, W.R. Poole, Recovery | 9.6 |
| Switchgrass | Dacotah, Forestburg, or Sunburst, Summer | 1.6 |
| Green Needlegrass | Lodorm, AC Mallard, Fowler | 3.6 |
| Canada Wild-rye | Mandan | 5.2 |
| Slender Wheatgrass | Revenue, Primar, Adanac, Pryor, Firstrike | 5.0 |
| Total | | 25.0 |

BY

Risk Management Appendix

Permits and Licenses with Private Individuals, Companies, Corporations, Etc. (referred to as Recipient):

Recipient agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Recipient to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Recipient also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred if the State prevails in an action against the Recipient in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Recipient shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverages:

- 1) **Commercial general liability and automobile liability** insurance – minimum limits of liability required are **\$250,000 per person and \$1,000,000 per occurrence.**
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The State of North Dakota and its agencies, officers, and employees (State) shall be endorsed as an **additional insured** on the commercial general liability and automobile liability policies.
- 4) Said endorsements shall contain a **"Waiver of Subrogation"** in favor of the state of North Dakota.
- 5) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

Recipient shall furnish a certificate of insurance evidencing the requirements in 1, 3, and 4 above to the undersigned State representative prior to commencement of this agreement.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time. If Recipient's insurance will expire prior to the term of this agreement, Recipient shall renew the above requirements and furnish a certificate of insurance evidencing the renewal to the undersigned State representative prior to the expiration of the insurance. Any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08.

When a portion of a Contract is sublet, the Recipient shall obtain insurance protection (as outlined above) to provide liability coverage to protect the Recipient and the State as a result of work undertaken by the Subcontractor. In addition, the Recipient shall ensure that any and all parties performing work under the Contract are covered by public liability insurance as outlined above. All Subcontractors performing work under the Contract are required to maintain the same scope of insurance required of the Recipient. The Recipient shall be held responsible for ensuring compliance with those requirements by all Subcontractors.

Recipient's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the State. Any insurance, self-insurance or self-retention maintained by the State shall be excess of the Recipient's insurance and shall not contribute with it. The insolvency or bankruptcy of the insured Recipient shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Recipient from meeting the retention limit under the policy. Any deductible amount or other obligations under the policy(ies) shall be the sole responsibility of the Recipient. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The State will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Recipient in excess of the minimum requirements set forth above.

April 13, 2016

NST Express, LLC
10077 Grogans Mill Rd
The Woodlands, TX 77380

Subject: Insurance Coverage Consistent With Contract
RIMS Document Number: 73098

You have submitted to the North Dakota Department of Transportation (NDDOT), in connection with your certificate of insurance, additional pages or language on the certificate which either purports to limit or qualify the information reflected on the certificate of insurance or which purports to change, modify or amend your company's insurance policies. NDDOT policy is to not solicit, review or approve contractors' insurance policies, endorsements or amendments to insurance policies, or insurance documents other than properly completed certificates of insurance. NDDOT contracts specify that contractors are responsible for acquiring and maintaining specified coverages and proof of insurance.

Please have a company executive authorized to execute contract documents sign and date the statement below attesting that your company has insurance coverage consistent with the contract provisions and immediately fax and mail it back to us.

Be advised that execution of this contract will be delayed until these issues have been resolved.

Sincerely,

Joel M. Wilt

The following signatory hereby states that the company has, and will maintain in force, insurance coverages (including proof of coverages) consistent with the contract specifications.

Utility Company Name: NST EXPRESS, LLC

Authorized Utility Agent Name (Type or Print): Chip Lang

Authorized Utility Agent Title: VP OPERATIONS + ENGINEER

Date: 4/15/2016

Signature: 