

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

**Hiland Crude, LLC**  
**New Town Expansion Project – Mountrail County**  
**Siting Application**

**Case No. PU-15-416**

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

**June 30, 2017**

**Appearances**

At the time of the hearing on the June, 2015 applications, appearances were:

Commissioners Julie Fedorchak, Randy Christmann, and Brian Kroshus.

Lawrence Bender, Attorney at Law, Fredrikson & Byron, P.A., 1133 College Drive, Suite 1000, Bismarck, North Dakota 58501, on behalf of Hiland Crude, LLC.

John Schuh, Legal Counsel, North Dakota Public Service Commission.

Wade Mann, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

**Preliminary Statement**

On June 26, 2015, Hiland Crude, LLC (Hiland) filed with the North Dakota Public Service Commission (Commission) a Consolidated Application for a Certificate of Corridor Compatibility and Route Permit (Consolidated Application) to authorize the conversion of the New Town Expansion Project (Project) from a gathering pipeline to a transmission system, and for the installation of interconnect facilities to a third party storage facility. The Project consists of a 42.5-mile-long crude oil transmission pipeline and associated facilities in Mountrail County, North Dakota.

Also on June 26, 2015, Hiland filed an application for waiver of procedures and time schedules established under North Dakota Century Code sections 49-22-07.2, 49-22-08, 49-22-08.1, and 49-22-13, and North Dakota Administrative Code chapter 69-06-06 and section 69-06-01-02, requiring separate filings and applications, separate notices, and separate hearings on the certificate of corridor compatibility and route permit applications.

On January 20, 2016, the Commission entered its Findings of Fact, Conclusions of Law and Order (Order) issuing Corridor Certificate Number 178 and Route Permit Number 190 for the Project to Hiland.

On February 21, 2017, Hiland filed with the Commission an application to amend the Order and associated Corridor Certificate Number 178 and Route Permit Number 190 for the Project (Application). The Application seeks Commission approval to modify the specified design flow rate of the Project from 36,000 barrels of oil per day to 85,000 barrels per day.

On March 15, 2017, the Commission issued a Notice of Intent to Amend Order and Notice of Opportunity for Hearing (Notice), inviting interested parties to comment or request a hearing by April 13, 2017. The Notice also indicated that if deemed appropriate, the Commission can determine these matters without a hearing.

The Notice identified the following issues to be considered with respect to the Application:

1. Whether operation of the pipeline facilities at the increased maximum flow rate will continue to produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota;
2. Whether operation of the pipeline facilities at the increased maximum flow rate will continue to be compatible with the environmental preservation and the efficient use of resources; and
3. Whether operation of the pipeline facilities at the increased maximum flow rate at the existing location continue to 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.

One comment was received. No requests for hearing were received.

On June 27, 2016, the Commission discussed the matter with Hiland at an informal hearing.

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

#### **Findings of Fact**

1. Hiland Crude, LLC is an Oklahoma limited liability company. Hiland has been authorized to do business in the State of North Dakota since July 28, 2006, and is currently in good standing, as evidenced by the corporate papers filed with the Commission on July 20, 2015. (see Case No. PU-13-148).

## Size, Type, and Preferred Location of Facility

2. The Project consisted of installation and modification of facilities to interconnect an existing 42.5-mile, 8-inch underground crude oil pipeline (the New Town Pipeline) to a third party storage facility owned by Targa Badlands LLC called the New Town Terminal (Terminal).
3. The interconnection was constructed within the Targa New Town Terminal site and consists of measurement facilities, interconnecting piping, and associated above-ground appurtenances and ancillary electrical control systems.
4. The New Town Pipeline runs from the White Earth Injection Station to the Dakota Plains Rail Terminal Interconnect as depicted in Hearing Exhibit 2 and Late-Filed Exhibit 9. Other surface facilities located within the ROW along the New Town Pipeline include pipeline markers, valves, and other ancillary facilities along the length of the pipeline. The New Town Pipeline was constructed using 8-inch diameter steel pipeline with 0.188-inch wall thickness. When installed, the pipe was tested to a maximum operating pressure of 1,440 pounds per square inch gauge.
5. The Project also involved modification of Hiland's New Town Receipt Station. At this facility, Hiland constructed pumping and electrical facilities in order to convert a 1,200-barrel pressure relief tank to an inline supply tank.
6. On January 23, 2017, Hiland notified the Commission of its intent to modify the Project by constructing two pump station facilities within the previously designated corridor. Even with the addition of the two pump station facilities, the Project will operate at or below the maximum operating pressure allowed for the Project.
7. In accordance with the maximum operating pressure of 1,440 pounds per square inch gauge, the Project can safely flow up to 85,000 barrels of oil per day.
8. The total cost of the Project is approximately \$15 million.

## Study of Preferred Location

9. Hiland conducted a Class I cultural resource literature search on a two-mile-wide area centered on the Project route (Study Area) prior to construction of the New Town Pipeline. A Class III pedestrian survey was conducted using a variable 250 to 1,414 foot-wide area.
10. Field surveys were conducted to inventory any potential resource issues such as wetlands, water bodies, protected species, critical habitats, and/or cultural resources. Additionally, environmental data collected included information on soils, land use, wetlands and waterbody crossings, noxious weeds, trees, saplings, and shrubs, and protected species and habitats.
11. The following agencies were contacted by Hiland and provided comments regarding the Project: U.S. Fish and Wildlife Service (USFWS); North Dakota Department

of Health (DOH); United States Air Force (USAF); North Dakota Game and Fish Department (NDGF); North Dakota Parks and Recreation Department (NDPRD); and the North Dakota State Historic Preservation Office (SHPO). Input provided includes the following:

- NDPRD's June 26, 2014 response indicated that the Project will not affect state park lands managed by or Land and Water Conservation Fund recreation projects coordinated by their agency.
- NDGF's July 14, 2014 response indicated that the Project should not have any significant adverse effects on wildlife or wildlife habitat, including species of concern, provided the recommendations of the NDGFD are implemented where appropriate.
- USFWS's July 23, 2014 response offered comments to ensure the conservation of listed plant and animal species for construction of the Project.
- The SHPO concurred with Hiland's Class III cultural resource study recommendation that no historic properties or significant sites will be affected by the Project so long as the Project remains of the nature and in the location described in the Class III Cultural Resource Inventory Report, and Hiland follows any site avoidance measures set forth in the report.

12. No state or federal agencies presented evidence or testimony at the hearing.

#### Siting Criteria

13. 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.

14. Hiland evaluated the Project with respect to the Exclusion, Avoidance, Selection, and Policy criteria of the Commission.

#### Exclusion Areas

15. A transmission facility route must not be sited within an Exclusion Area. Exclusion Areas may be located within a corridor, but at no given point may such an area or areas encompass more than fifty percent (50%) of the corridor unless there is no reasonable alternative. A buffer zone of a reasonable width must be included to protect the integrity of the area. Natural screening may be considered in determining the width of the buffer zone.

16. Hiland testified that no Exclusion Areas are crossed by the 75-foot wide temporary right-of-way used during construction of the pipeline. Accordingly, the pipeline route is not located within any Exclusion Area.

17. Hiland's environmental consultants have concluded that construction of the New Town Pipeline had no significant effect on unique areas of biological wealth or habitats for rare and endangered species.

18. There were no sightings of threatened or endangered species within the 1-mile study area.

19. Hiland's erroneous indication in Table 3.C.2 that there were areas critical to the life stages of threatened or endangered animal or plant species within the 1-mile study area was based upon the sighting of seven (7) unoccupied nests with the potential to be used by eagles, which are protected under the Eagle Protection Act. However, eagles are not listed by the USFWS as threatened or endangered. Furthermore, Hiland states that based upon the size of the discovered unoccupied nests, eagle occupation would be improbable and any new construction for the New Town Expansion Project will not result in "take" of any federally listed species, migratory birds, or bald and golden eagles.

20. Maps provided in Hiland's Consolidated Application identified sightings of plant and animal species that are unique or rare to North Dakota. Hiland's environmental consultants believe these species will not be irreversibly damaged due to the construction of the New Town Pipeline.

21. The Project may have resulted in temporary modification of habitat and temporary displacement of wildlife, due to clearing and construction. The Project did not have a significant impact on fish and wildlife resources and no impacts are anticipated to endangered, threatened, or sensitive plant or animal species for future construction.

#### Avoidance Areas

22. 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.

23. 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.

24. 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.

25. The Project is located within five hundred feet of nineteen (19) occupied residences. Hiland obtained waivers of the Avoidance Area from all the affected landowners.

26. Hiland testified that, other than crossing within 500 feet of residences, Avoidance Areas are not crossed by the 75-foot wide temporary right-of-way used during construction of the pipeline. Since waivers of the 500-foot Avoidance Area have been obtained from all the affected landowners, the pipeline route is not located within any Avoidance Area.

27. Certain historical resources are located within a one-mile wide study area centered along the route. Twenty-eight (28) previously unrecorded cultural resources and twenty-three (23) previously recorded cultural resources were identified within the field study corridor during the Class III Cultural Resources Inventory. Of these cultural resources, thirty-four (34) Native American stone feature sites were recommended potentially eligible for the National Register of Historic Places. Beaver Creek Archaeology, Inc. recommended these sites be avoided by a minimum of fifty (50) feet. Sites on the Fort Berthold Reservation had a recommended avoidance by a minimum of seventy-five (75) feet. Four (4) archaeological sites and four (4) architectural sites were recommended not eligible for the National Register of Historic Places. Boring was recommended for one site, as it is an active railroad. During the pedestrian survey, no evidence was observed of the eight (8) cultural material scatter site leads. One (1) isolated find was not relocated during the inventory. As noted previously, the SHPO concurred with Hiland's Class III cultural resource study recommendation that no historic properties or significant sites will be affected by the Project.

#### Selection Criteria

28. 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 will be managed and maintained at an acceptable minimum.

29. Hiland analyzed the impacts of the Project in relation to all of the relevant Selection Criteria. No significant adverse impact will result from the location, construction, and operation of the Project.

30. A wetlands and waterbodies inventory was completed along the pipeline route. Several wetlands or waterbodies are present along the route, but any indirect impacts from pipeline placement were temporary. The Project will have no significant impact on wetlands or waterbodies.

#### Measures to Minimize Impact

31. Hiland has agreed to a number of steps to mitigate the impact of the Project, as indicated by Late-Filed Exhibit 15, which includes the executed Certification Relating to Order Provisions – Transmission Facility Siting, New Facility Construction, with

accompanying Tree and Shrub Mitigation Specifications, and the executed Certification Relating to Order Provisions – Transmission Facility Siting, Gathering Line Conversion to Transmission Line, with accompanying Tree and Shrub Mitigation Specifications, which are incorporated by reference and attached to this Order.

32. The permanent right-of-way (ROW) for the New Town Pipeline is fifty (50) feet wide, while its temporary construction ROW was seventy-five (75) feet wide. During construction, Hiland used existing public roads to access the construction ROW, and did not modify roads or create new permanent access roads.

33. All construction and associated activities at the Targa New Town Terminal was completed on previously disturbed areas.

34. All construction and associated activities at the Hiland New Town Receipt Station was completed on previously disturbed areas.

35. Hiland testified that the Project will be monitored twenty-four (24) hours per day, seven (7) days per week at a control center in Houston, Texas. The control center will have the ability to remotely shut-down the Project.

36. Hiland testified that it will participate in the North Dakota One-Call Excavation System.

37. The design, construction, and operation of the pipeline must be in accordance with the United States Department of Transportation regulations governing the transportation of crude oil, including United States Department of Transportation regulations set forth in 49 C.F.R. Part 195.

38. Hiland will reverse the flow on the pipeline for movement of crude oil to the Double H Pipeline as opposed to transport by truck or rail. Therefore, the Project will relieve some of the impacts from trucking the crude oil or transporting the crude oil by rail.

39. A post-construction estimation inventory of trees and shrubs potentially impacted by the Project has been completed. Trees and shrubs will be replaced in accordance with the Commission's Tree and Shrub Mitigation Specifications.

From the foregoing Findings of Fact the Commission makes the following Conclusions of Law:

#### **Conclusions of Law**

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

2. Hiland is a utility as defined in North Dakota Century Code section 49-22-03(13).

3. The Project is a transmission facility as defined in North Dakota Century Code section 49-22-03(12).

4. The location and operation of the Project at the increased maximum flow rate will continue to produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The location and operation of the Project at the increased maximum flow rate will continue to be compatible with the environmental preservation and the efficient use of resources.
6. Operation of the Project at the increased maximum flow rate at the existing location will continue to 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 waiver application under North Dakota Century Code section 49-22-07.2 and North Dakota Administrative Code chapter 69-06-06.

From the Findings of Fact and Conclusions of Law, the Commission makes the following order:

#### **Order**

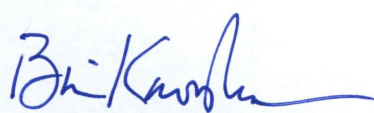
1. Hiland Crude, LLC's June, 2015 application for a waiver of procedures and time schedules was granted by the Findings of Fact, Conclusions of Law and Order dated January 20, 2016 on the June 2015 applications.
2. The February 21, 2017, Application to Amend the Order and associated Corridor Certificate Number 178 and Route Permit Number 190 for the Project to modify the specified design flow rate of the Project from 36,000 barrels of oil per day to 85,000 barrels per day is approved.
3. First Amended Corridor Certificate Number 178 is issued to Hiland Crude, LLC designating a corridor for the construction, operation, and maintenance of approximately 42.5 miles of 8-inch diameter pipeline and associated facilities for the transmission of crude oil in Mountrail County, North Dakota. For purposes of the Certificate, the designated corridor will consist of an area 250 feet wide centered on the designated pipeline route.
4. First Amended Route Permit Number 190 is issued to Hiland Crude, LLC designating a route for the construction, operation, and maintenance of approximately 42.5 miles of 8-inch diameter pipeline and associated facilities for the transmission of crude oil in Mountrail County, North Dakota. For purposes of the Permit, the designated route is the route depicted on the map included as Figure 1.A.1 in the Consolidated Application for a Certificate of Corridor Compatibility and Route Permit, and further depicted in the Pipeline Profile submitted as Late-Filed Exhibit 8.

5. The November 30, 2015 Certification Relating to Order Provisions – Transmission Facility Siting, New Facility Construction, with accompany Tree and Shrub Mitigation Specifications, and the November 30, 2015 Certification Relating to Order Provisions – Transmission Facility Siting, Gathering Line Conversion to Transmission Line, with accompany Tree and Shrub Mitigation Specifications, are incorporated by reference and attached to this Order.

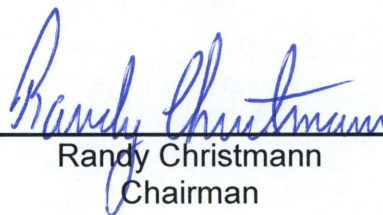
6. To the extent that there are any conflicts or inconsistencies between Hiland's applications in this proceeding and the Certifications, the provisions of the Certifications control.

7. Hiland 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**



Brian Kroshus  
Commissioner



Randy Christmann  
Chairman



Julie Fedorchak  
Commissioner

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**First Amended  
Corridor Certificate  
Number 178**

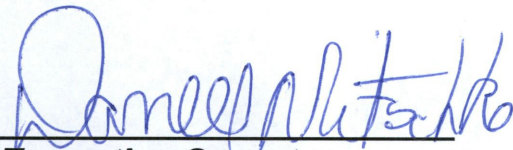
*This is to certify that the Commission has designated a transmission facility corridor for Hiland Crude, LLC. for the construction, operation, and maintenance of approximately 42.5 miles of 8-inch diameter crude oil pipeline and associated facilities in Mountrail County, North Dakota at the maximum design flow rate of 85,000 barrels per day.*

*This certificate is issued in accordance with the Order of the Commission dated January 20, 2016 in Case No. PU-15-416 and amended with the Order of this Commission dated June 30, 2017 and is subject to the conditions and limitations noted in these Orders.*

*Bismarck, North Dakota, June 30, 2017.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

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

**First Amended  
Route Permit  
Number 190**

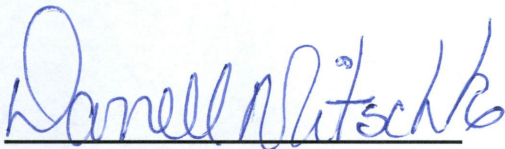
*This is to certify that the Commission has designated a transmission facility route for Hiland Crude, LLC. for the construction, operation, and maintenance of approximately 42.5 miles of 8-inch diameter crude oil pipeline and associated facilities in Mountrail County, North Dakota at the maximum design flow rate of 85,000 barrels per day.*

*This permit is issued in accordance with the Order of this Commission dated January 20, 2016 in Case No. PU-15-416 and amended with the Order of this Commission dated June 30, 2017 and is subject to the conditions and limitations noted in these Orders.*

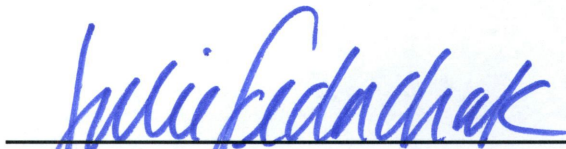
*Bismarck, North Dakota, June 30, 2017.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**



**Executive Secretary**



**Commissioner**

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Hiland Crude, LLC  
New Town Expansion Project – Mountrail County  
Siting Application**

**Case No. PU-15-416**

**CERTIFICATION RELATING TO ORDER PROVISIONS  
TRANSMISSION FACILITY SITING  
GATHERING LINE CONVERSION TO TRANSMISSION LINE**

I am William E. Wolf, a representative of Hiland Crude, LLC ("Company") with authority to bind Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to 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.
3. Company agrees that it shall obtain all necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to initiating operation of the transmission facility that requires said license or permit.
4. 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.
5. 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.
6. 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.

**Construction:**

7. Company agrees to hold a construction conference prior to initiating operation of the facility as a transmission facility, 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.
8. Company understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior initiating operation of the facility as a transmission facility.
9. Company agrees to inform the Commission and the Commission's third-party construction inspector immediately prior to the Company initiating operation of the facility as a transmission facility.
10. Company certifies that the pipeline has been 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, and 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines. Company agrees that if any pipeline is not buried 72 inches across undeveloped section lines, and the section is later developed into a roadway, it will incur all costs related to burying the pipeline 48 inches below the bottom of the ditch. This agreement shall inure and be binding upon any successor or assignee of the Company and shall not cause any unreasonable delay of any roadway project.
11. Company certifies that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts were made, was stripped and segregated from the subsoil. Any area on which excavated subsoil was placed was also be stripped of topsoil. After backfilling was completed, any excess subsoil was placed over the excavation area, blending the grade into existing topography. Topsoil was replaced over areas from which it was stripped only after the subsoil was replaced.
12. Company certifies that all buried facility crossings of graded roads were bored unless the responsible governing agency permitted Company to open cut the road.
13. Company certifies that staging areas or equipment were not located on land owned by a person other than Company unless otherwise negotiated with landowners.
14. Company certifies that if any cultural resource, paleontological site, archeological site, historical site, or grave site discovered during construction, was marked, preserved and protected from further disturbances until a professional examination

could be made and a report of such examination was filed with the Commission and the State Historical Society and clearance to proceed was given by the North Dakota State Historic Preservation Office.

15. Company certifies that construction was suspended when weather conditions were such that construction activities would cause irreparable damage to roads or land, unless adequate protection measures were taken by Company.

**Restoration and Maintenance:**

16. Company certifies that upon completion of the construction of the facility, Company restored the area affected by the activities to as near as was practicable to the condition as it existed prior to the beginning of construction.
17. Company certifies that all pre-existing township and county roads and lanes used during construction were, or are being, repaired to a condition that is equal to or better than the condition prior to the construction of the transmission facility and accommodates their previous use, and that areas used as temporary roads or working areas during construction were, or are being, restored to their original condition.
18. Company certifies that reclamation, fertilization, and reseeding was, or is being done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
19. Company understands and agrees that its obligation for reclamation and maintenance of the transmission facility right-of-way, transmission facility, associated facilities, fences and gates, drainage tile, 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 certifies that it removed all waste that was a product of construction and has properly disposed of it. Company understands and agrees that it shall remove all waste that is a product of operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
22. Company certifies that it provided any necessary safety measures for traffic control or to restrict public access to the transmission facility during construction.

**Communication with Landowners and PSC:**

23. Company understands and agrees that, prior to operating its facility as a transmission facility, it shall send a letter to each landowner with whom an


easement was executed for that facility 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.

24. 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.
25. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior initiating operation of the facility as a transmission facility.
26. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the transmission facility, including injuries to any person.
27. Company agrees to report to the Commission, as soon as reasonably possible, the presence in the permit area of any critical habitat or threatened or endangered species of which Company becomes aware and which were not previously reported to the Commission.
28. 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.
29. 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 transmission facility showing the location of the transmission facility as built, and will provide this information within 3 months of commencement of operation of the facility as a transmission facility. Company also agrees to provide an electronic version of the corridor approved by the Commission and the facility design specifications 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 commencement of operation of the facility as a transmission facility. 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.

30. 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 activities conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend activities 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.
31. 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 30<sup>th</sup> day of November, 2015.

HILAND CRUDE, LLC

By   
WILLIAM WOLF

Its ASSISTANT GENERAL COUNSEL

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

**Hiland Crude LLC**  
**New Town Expansion Project – Mountrail County**  
**Siting Application**

**Case No. PU-15-416**

**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).

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Hiland Crude, LLC  
New Town Expansion Project – Mountrail County  
Siting Application**

**Case No. PU-15-416**

**CERTIFICATION RELATING TO ORDER PROVISIONS  
TRANSMISSION FACILITY SITING  
NEW FACILITY CONSTRUCTION**

I am William E. Wolf, a representative of Hiland Crude, LLC ("Company") with authority to bind Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to 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.
3. 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.
4. 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.
5. 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.
6. 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.

**Construction:**

7. 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.
8. 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.
9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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.

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 are taken by Company.

**Restoration and Maintenance:**

16. 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.
17. 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.
18. 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.
19. Company understands and agrees that its obligation for reclamation and maintenance of the transmission facility right-of-way, transmission facility, associated facilities, fences and gates, drainage tile, 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 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.
22. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.

### Communication with Landowners and PSC:

23. 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.
24. 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.
25. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
26. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the transmission facility, including injuries to any person,.
27. Company agrees to report to the Commission, as soon as reasonably possible, the presence in the permit area of any critical habitat or threatened or endangered species of which Company becomes aware and which were not previously reported to the Commission.
28. 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.
29. 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.

30. 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.

**Route Adjustments Before or During Construction:**

31. 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:
32. 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.
33. **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.
34. **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.

35. **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

36. **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:

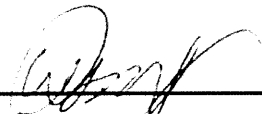
- 1. Written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity unless the Commission fails to act within ten working days of receipt of filing a complete adjustment application, in which case the adjustment is deemed approved.
- 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 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.

37. 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 30<sup>th</sup> day of November, 2015.

HILAND CRUDE, LLC

By   
\_\_\_\_\_  
WILLIAM WOLFE

Its ASSISTANT GENERAL COUNSEL

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

**Hiland Crude LLC**  
**New Town Expansion Project – Mountrail County**  
**Siting Application**

**Case No. PU-15-416**

**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).