

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-15-744

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

May 24, 2016

Appearances

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

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

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

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

Patrick J. Ward, Administrative Law Judge, Zuger Kirmis & Smith, 316 North Fifth Street, Bismarck, North Dakota 58502, as Procedural Hearing Officer.

Preliminary Statement

On November 20, 2015, Sacagawea Pipeline Company, LLC (Sacagawea) filed applications for a certificate of corridor compatibility and a route permit concerning approximately 13 miles of 16-inch diameter pipeline and associated facilities for the transmission of crude oil in McKenzie County, North Dakota.

Also on November 20, 2015, Sacagawea filed an application for waivers of procedures and time schedules established under North Dakota Century Code sections 49-22-07.2, 49-22-08, 49-22-08.1, and 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 on the certificate of corridor compatibility and a route permit applications, and certain time schedules.

On February 10, 2016, the Commission found the applications for a certificate of corridor compatibility and a route permit complete, and issued a Notice of Filings and Public Hearing scheduling a public hearing for April 19, 2016 at 9:00 a.m. Central Time at Teddy's Residential Suites, 113 9th Avenue SE, Watford City, North Dakota 58854.

Also on February 10, 2016, Sacagawea filed an amended application for a certificate of corridor compatibility and a route permit, identifying an additional two-mile-long, 16-inch diameter pipeline and associated facilities for the transmission of crude oil in McKenzie County, North Dakota. The 13-mile-long pipeline identified in Sacagawea's November 20, 2015 filing and the two-mile-long pipeline identified in Sacagawea's February 10, 2016 filing are collectively referred to hereafter as the "Project".

On February 24, 2016, the Commission issued a Notice of Amended Filings and Public Hearing (Notice), again noticing the public hearing for April 19, 2016 at 9:00 a.m. Central Time at Teddy's Residential Suites, 113 9th Avenue SE, Watford City, North Dakota 58854.

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 amended applications for a certificate of corridor compatibility and a route permit:

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

On April 19, 2016, 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:

Findings of Fact

1. Sacagawea Pipeline Company, LLC (Sacagawea) is a Delaware limited liability company authorized to do business in the State of North Dakota, as evidenced by corporate papers filed by Sacagawea with the Commission in Case No. PU-15-115.
2. Sacagawea testified that it is a joint business venture between Paradigm Energy Partners (Paradigm), Phillips 66, and Grey Wolf Midstream, LLC.
3. Sacagawea testified that the Project will be constructed by Paradigm, owned by Sacagawea, and operated by Phillips 66.

Size, Type, and Preferred Location of Facility

4. The Project will consist of a total of approximately 15 miles of 16-inch diameter steel pipeline and associated facilities to be located in McKenzie County, North Dakota. The Project will include a 13-mile-long segment that will originate at a service site near Johnson's Corner, North Dakota, and will terminate at Paradigm's Keene Crude Oil Terminal, located approximately 2.5 miles south of Keene, North Dakota. The Project will also include a two-mile-long segment that will originate at the service site near Johnson's Corner and will terminate at an interconnection with the Dakota Access Pipeline. The Project will be constructed to allow for the bidirectional flow of crude oil.
5. The maximum capacity of the Project will be 100,000 barrels per day, with an expected initial capacity of 75,000 barrels per day.
6. The maximum operating pressure for the pipeline will be 1,440 pounds per square inch gauge.
7. The pipe wall thickness will be 0.312 inches for pipe installed by trenching and 0.375 for pipe installed by boring.
8. Above-ground facilities will consist of one block valve, in-line inspection tool launcher and receiver sites, pipeline markers, meters, and rectifiers.
9. The total cost of the Project is expected to be \$22.8 million.

Study of Preferred Location

10. Sacagawea evaluated a one-mile-wide study area centered on the proposed route (Study Area) for soils, land use, wetlands and waterbodies, vegetation, and wildlife, including protected species and critical habitats.

11. Sacagawea conducted field surveys on a typically 200-foot-wide area centered on the proposed route with wider areas for additional temporary workspaces along the 13-mile-long segment and on a typically 300-foot-wide area along the two-mile-long segment (Survey Area) to inventory soils, land use, vegetation, wetlands and waterbodies, noxious weeds, and wildlife, including protected species and critical habitats.

12. Sacagawea conducted a Class I cultural resource literature search on the Study Area and a Class III cultural resource inventory on the Survey Area.

13. The following agencies were contacted by Sacagawea and provided responses: the United States Air Force (USAF), the North Dakota Parks and Recreation Department (NDPRD), the North Dakota Department of Health (NDDOH), the North Dakota State Water Commission (NDSWC), the North Dakota State Historic Preservation Office (NDSHPO), and the McKenzie County Planning and Zoning Department.

14. In responses dated September 22, 2015 and April 5, 2016, the NDSHPO concurred with "No Significant Sites Affected" recommendations for the Project, provided that the Project remains as described in information provided by Sacagawea to the NDSHPO.

15. In a response dated October 8, 2015, the USAF indicated that it has no assets in the Project area.

16. In a response dated October 22, 2015, the NDDOH recommended that measures be taken to minimize fugitive dust emissions and that associated complaints be responded to in an efficient and effective manner; that care be taken near waters of the state to minimize impacts to water bodies from disturbance, reclamation, and oil, gas, or fuel spills associated with construction equipment; that a stormwater discharge permit may be necessary; that construction should not take place during early morning or late evening hours; that noise levels be minimized by use of mufflers on construction equipment; that spills be restricted from reaching surface waters; that a spill response plan be developed; and that the pipeline be properly monitored for leaks.

17. In responses dated October 26, 2015, and February 5, 2016, the NDSWC indicated that there are no floodplains identified in the Project area; that it is the responsibility of Sacagawea to contact all local, state, and federal agencies for required approvals, permits, and easements; that all waste materials associated with the Project must be disposed of properly; and that any impacts to observation or monitoring water wells resulting from the Project should be reported to the NDSWC.

18. In a response dated November 4, 2015, the NDPRD indicated that the Project will not affect state park lands managed by the NDPRD or Land and Water Conservation Fund recreation projects coordinated by the NDPRD, and that no species

of concern or other significant ecological communities are known to occur within one mile of the Project.

19. In a response dated February 1, 2016, the McKenzie County Planning and Zoning Department indicated that a Conditional Use Permit will be required for the Project.

Siting Criteria

20. 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.

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

22. Exclusion Areas may be located within a corridor, but at no given point may such an area or areas encompass more than fifty percent of the corridor unless there is no reasonable alternative. A transmission facility route must not be sited within an Exclusion Area.

23. No Exclusion Areas are present within the Survey Area.

24. 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. A transmission facility route 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.

25. No Avoidance Areas are present within the Survey Area.

26. 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.

27. Sacagawea has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria and has determined that no significant adverse impact will result from the location, construction, and operation of the Project.

Measures to Minimize Impact

28. Sacagawea has agreed to a number of steps to mitigate the impact of the Project as indicated by the Certification Relating to Order Provisions – Transmission Facility Siting with accompanying Tree and Shrub Mitigation Specifications (Certification) filed in this proceeding, which is incorporated by reference and attached to this Order.

29. Sacagawea testified that a Supervisory Control and Data Acquisition system will be installed as part of the Project to monitor pressure, flow, and temperature continuously at a control center located in Bartlesville, Oklahoma. The control center will have the ability to remotely shut down the Project.

30. Sacagawea testified that it will contract with Clean Harbors Environmental Services, JMAC Resources, and Absorbent Safety Solutions to provide emergency spill response.

31. Sacagawea testified that Paradigm and Phillips 66 are members of the Sakakawea Area Spill Response Company, LLC.

32. Sacagawea testified that it will station trained emergency response personnel at the Keene Crude Oil Terminal and at the Palermo Rail Terminal.

33. Sacagawea testified that it will participate in the North Dakota One-Call notification system.

34. Sacagawea testified that 100% of all field welds will be inspected.

35. Sacagawea testified that factors considered in selecting the proposed route included: topography; locations of existing corridors, cultural resources, trees, and shrubs; and landowner preference.

36. Sacagawea testified that no permanent roads will be constructed as a result of the Project.

37. Sacagawea testified that all wetlands, water crossings with standing water, and improved roads will be crossed by boring.

38. Sacagawea testified that it will consider methods described in the North Dakota State University publication “Successful Reclamation of Lands Disturbed by Oil and Gas Development and Infrastructure Construction” in reclaiming the Project.

39. Sacagawea testified that it has provided each landowner crossed by the proposed route with company contact information.

40. Sacagawea testified that no construction associated with the Project, with the possible exception of horizontal directional drilling, is anticipated to occur during winter months.

41. The Project will be designed, constructed, operated, and maintained in compliance with Code of Federal Regulations Title 49 Part 195, Hazardous Liquids Pipeline Safety Regulations.

42. The Laborers District Council of Minnesota and North Dakota (Intervenor) filed a closing brief with proposed findings of fact (Brief) in this proceeding. In its Brief, the Intervenor requests that the Commission require Sacagawea to provide additional documentation concerning the contractor to be selected for Project construction, to include a list of past projects of similar size completed by the contractor, information that demonstrates the contractor's successful right-of-way restoration of past projects, the contractor's access to skilled labor, and the contractor's plans relating to trench construction and x-ray inspection of pipeline welds. The Intervenor further requests in its Brief that the Commission defer action on the amended applications for a certificate of corridor compatibility and a route permit until such additional information is received and reviewed by the Commission.

43. The Commission's authority in siting the Project under ND Century Code chapter 49-22 does not extend to contractor selection for Project construction. Standards for construction, restoration and operation are included in this order and certification document and have been agreed to by Sacagawea. The Commission uses third party construction inspectors to monitor construction and reclamation and ensure that the pipeline is completed and restored according to the Commission's order. The company is legally bound to meet these requirements. The Commission finds that these standards and provisions are appropriate to ensure proper construction and reclamation and therefore finds no reason to defer action on the applications for a certificate of corridor compatibility and route permit or to require further documentation from Sacagawea.

From the foregoing Findings of Fact the Commission makes the following conclusions of law:

Conclusions of Law

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

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

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

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

Order

The Commission orders:

1. Sacagawea Pipeline Company, LLC's application for a waiver of procedures and time schedules is granted.
2. The Intervenor's request to defer action on the applications for a certificate of corridor compatibility and a route permit is denied.
3. Certificate of Corridor Compatibility No. 186 is issued to Sacagawea, designating a corridor for the construction, operation, and maintenance of approximately 15 miles of 16-inch diameter pipeline and associated facilities for the bidirectional transmission of crude oil in McKenzie County, North Dakota. For purposes of the Certificate, the designated corridor will consist of a typical 200-foot-wide area centered on the route and additional areas surveyed for the 13-mile-long segment between Johnsons Corner and the Keene Crude Oil Terminal, and a typical 300-foot-wide area centered on the route for the 2-mile-long segment between Johnsons Corner and the interconnect with the Dakota Access Pipeline. The designated corridor is depicted in Hearing Exhibit 2, Tab A4, Appendix 4.C.

4. Route Permit No. 198 is issued to Sacagawea, designating a route for the construction, operation, and maintenance of approximately 15 miles of 16-inch diameter pipeline and associated facilities for the bidirectional transmission of crude oil in McKenzie County, North Dakota. The designated route is depicted in Hearing Exhibit 2, Tab A4, Appendix 4.C.

5. The April 12, 2016 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.

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

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

PUBLIC SERVICE COMMISSION

 _____ Randy Christmann Commissioner	 _____ Julie Fedorchak Chairman	 _____ Brian P. Kalk Commissioner
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**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Certificate of Corridor Compatibility Number 186


This is to certify that the Commission has designated a transmission facility corridor for Sacagawea Pipeline Company, LLC for the construction, operation, and maintenance of approximately 15 miles of 16-inch diameter crude oil pipeline and associated facilities in McKenzie County, North Dakota.


This certificate is issued in accordance with the Order of the Commission dated May 24, 2016 in Case No. PU-15-744 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, May 24, 2016.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Route Permit Number 198

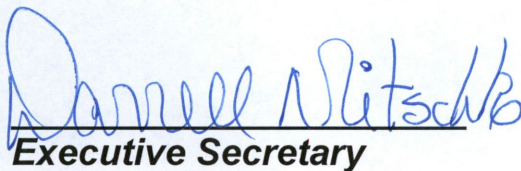
This is to certify that the Commission has designated a transmission facility route for Sacagawea Pipeline Company, LLC for the construction, operation, and maintenance of approximately 15 miles of 16-inch diameter crude oil pipeline and associated facilities in McKenzie County, North Dakota.

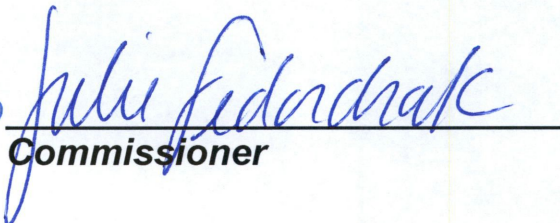
This permit is issued in accordance with the Order of this Commission dated May 24, 2016 in Case No. PU-15-744 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, May 24, 2016.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

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

Case No. PU-15-744

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

I am Troy Andrews, a representative of Sacagawea Pipeline Company, LLC ("Company") with authority to bind the Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to 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 understands and agrees that topsoil removal will begin when the Commission's third-party construction inspector is present at the Project site to observe that topsoil is properly removed and kept segregated from subsoil until replacement occurs. Company shall establish the date and time for the Commission's third-party construction inspector's topsoil removal oversight in the preconstruction conference.
10. 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.
11. 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.
12. 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 carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must also be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/ early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil 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.

13. Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road.
14. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
15. 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.
16. 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.
17. Company understands and agrees that the Commission has authority to stop Project construction activities in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm.

Restoration and Maintenance:

18. 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.
19. 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.
20. 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.

21. Company will fulfil its obligation for reclamation and maintenance of the approved transmission facility right-of-way, transmission facility, and associated facilities continuing throughout the life of the transmission facility.
22. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
23. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.
24. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
25. 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.
26. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.

Communication with Landowners and PSC:

27. 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.
28. 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.
29. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
30. 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.
31. 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.

32. 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.
33. 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.
34. Company shall notify the Commission as soon as reasonably possible if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined.

Route Adjustments Before or During Construction:

35. 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:
36. 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.
37. **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.

38. 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.

39. **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.

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

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:

- i. the designated corridor, corridor adjustment, route and the route adjustment;
- ii. all exclusion and avoidance areas within the adjustment area
- b. Certification that construction activities will not affect any known exclusion area;
- c. Certification that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist within the designated corridor and route;
- d. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- e. Provide specific information about any mitigation measures Company will take within the adjustment area;
- f. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
- g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

Company acknowledges and agrees that:

- 1. Written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity unless the Commission fails to act within ten working days of receipt of filing a complete adjustment application, in which case the adjustment is deemed approved.
 - 2. The initiation of the ten working days begins upon receipt of a complete filing, to include Company's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Company, in the person of the key contact referenced above, is informed of the reason additional time is necessary for extension and has no objection to an extension.
41. 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 12 day of April, 2016.

SACAGAWEA PIPELINE COMPANY, LLC

By

Troy Andrews

Its

Manager

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. PU-15-744

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).