

September 24, 2020

**HAND DELIVERED**

Mr. Steve Kahl  
Interim Executive Director  
North Dakota Public Service Commission  
600 E. Boulevard, Dept. 408  
Bismarck, ND 58505-0480

**RE: BOE Pipeline, LLC  
16-Inch Crude Oil Pipeline  
Case No. PU-16-094**

Dear Mr. Kahl:

Please find enclosed for filing in the above-referenced matter an original and five (5) copies of the following document:

**Letter by Scott Besmer of KLJ in Response to Letters by Three (3) ND Departments**

submitted on behalf of BOE Pipeline, LLC. A compact disc containing an electronic copy of the above listed documents and this letter in PDF format is also enclosed herewith.

If you should have any questions, please advise.

Sincerely,



LAWRENCE BENDER

LB/kl

Cc: Fred Anderson, ND Geological Survey  
Kathy Duttonhefner, ND Parks & Rec Dept.  
L. David Glatt, ND Dept. of Environmental Quality

Enclosures

71047232.1

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59 PU-16-94 Filed 09/24/2020 Pages: 6

Response to 6 Aug., 24 Aug., and 28 Aug. 2020 Agency Correspondence filings  
BOE Pipeline, LLC  
Lawrence Bender, Fredrikson&Byron P.A.



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September 24, 2020

Mr. Patrick Fahn  
Director  
Public Service Commission  
600 E Boulevard, Dept. 408  
Bismarck, ND 58505-0420

Re: BOE Pipeline Case No. PU-16-94

Dear Mr. Fahn:

This letter is in response to the three (3) letters received by the North Dakota Public Service Commission ("Commission") from the ND Geological Survey, dated August 6; the letter from ND Parks & Recreation Dept., dated August 24; and the letter from NDDEQ, dated August 25, 2020, in response to the application of BOE Pipeline, LLC dated February 24, 2016. To accommodate the Commission, we have responded to the three (3) letters separately as set forth below.

**ND Geological Survey**

1. The USGS was originally notified of the project from the filing of BOE's ten-year plan on June 26, 2018.
  - As part of the PSC application, KLJ mailed solicitation letters to numerous agencies and private stakeholders, including NDGS. The letter was dated June 8, 2015. No response was received as part of this solicitation.
2. Historic landslide areas: Section 4.16.1 (PDF page 33) and Section 2.4 (PDF page 9):
  - During construction activities, a combination of sand bag and foam trench breakers would be used to limit the saturation pressure within the trench, which would minimize the risk of potential landslides in the area. BOE Pipeline would survey and monitor the landslide areas for any movement during and upon completion of construction. If unmapped areas are encountered during construction the plan for them will be the same as mapped ones.
  - The pipeline would be monitored by supervisory control and data acquisition (SCADA) system communications, which would monitor for leaks during operation.

**ND Department of Quality**

1. Fugitive dust emissions: Section 4.5.1 (PDF page 20):



- Dust control measures (e.g., watering roadways, slow speeds) would be used by BOE Pipeline, when necessary, to minimize dust from truck and equipment movement on gravel and dirt roads.
2. Erionite: BOE is not proposing to build any permanent access roads. Temporary access would not be surfaced with gravel. Should this change and roads/trails need to be surfaced with gravel, aggregate would be acquired from a commercial/approved source.
  3. Protection of aquatic resources from siltation, spills, and disturbance: Section 4.17.1 (PDF page 34):
    - Potential impacts on surface water from construction activities would be avoided or minimized through implementation of BMPs such as using silt fences, straw wattles, earth berms, retention ponds, culverts, and/or rock check dams to reduce erosion and sediment transport. In addition, measures would be implemented to avoid disruption of the natural flow of any river, creek, stream, or wetland within the Project route. In areas where the Project intersects the Little Missouri River, drainageways, wetlands, or smaller streams and creeks, HDD would be used to construct the Project. A NDPDES permit, SWPPP, Emergency Response Plan, SPCC Plan, and Inadvertent Returns Contingency Plan would be developed and maintained for the Project. The operator of the pipeline would be required to write and conduct annual reviews on all operations and maintenance manuals. The manuals would describe standard operating and maintenance procedures and include emergency procedures and contacts.
  4. Stormwater Management/NDPDES: Section 4.7.1 (PDF page 22) and Section 6 (PDF page 59):
    - A NDPDES permit, SWPPP, Emergency Response Plan, SPCC Plan, and Inadvertent Returns Contingency Plan would be developed and maintained for the Project. The operator of the pipeline would be required to write and conduct annual reviews on all operations and maintenance manuals. The manuals would describe standard operating and maintenance procedures and include emergency procedures and contacts.
    - An application for stormwater discharge will be submitted to the ND Department of Quality prior to construction.
  5. Wellhead/source water protection areas and/or glacial drift aquifers: Section 4.7.1 (PDF pages 21 and 22):
    - No impacts on water supply would be expected from Alternative B. Impacts on existing or proposed water lines are not anticipated. Prior to commencement of construction activities, BOE Pipeline would coordinate with the water associations and private landowners in the vicinity of the Project route to identify water line locations and would avoid or minimize service disruptions, as necessary.



The risk of water contamination from a potential release of crude oil by way of a break or leak in the proposed pipeline would be minimal. The Project would comply with USDOT regulations, specifically the design, construction, pressure testing, operation, welding, and maintenance requirements, as outlined in Transportation of Hazardous Liquids by Pipeline guidance (49 CFR Part 195). Upon completion of construction and prior to commissioning, the pipeline would be hydrotested for any potential leaks. The water from the hydrotesting would be discharged in accordance with the requirements listed in the North Dakota Pollutant Discharge Elimination System (NDPDES) permit and Storm Water Pollution Prevention Plan (SWPPP). Construction of the Project would include installation of MLVs, which would allow segments of the pipeline to be isolated if there were a rupture or break or for inspection and maintenance purposes. During operations, SCADA system communications would be used to monitor for leaks. In addition, the pipeline would receive regular inspections along the ROW for any indications of leaks and other maintenance issues.

If there were a leak or break in the pipeline during operations, short-term, adverse impacts on water supply could be expected. In the event of a leak or break, the section of the pipeline would be isolated, repaired, and hydrotested prior to recommissioning. Any crude oil released from a leak or break in the pipeline would be remediated in accordance with the Emergency Response Plan; Spill Prevention, Control, and Countermeasures (SPCC) Plan; Inadvertent Returns Contingency Plan; and North Dakota Department of Health (NDDH) regulations and requirements. Construction of the Project would reduce tanker truck traffic by approximately 660 trucks per day (assuming 250 liquid barrels per truck), which would reduce the overall risk of water contamination from crude oil spills on roadways associated with trucks transporting oil.

6. Spill Response Plan and monitoring for early detection of leaks: Section 2.4 (PDF page 9) and Section 4.7.1 (PDF page 22):

- Supervisory control and data acquisition (SCADA) system communications, which would monitor for leaks during operation, would be through satellite systems requiring only a small dish installed within the fenced MLV areas or cable communication systems.
- A NDPDES permit, SWPPP, Emergency Response Plan, SPCC Plan, and Inadvertent Returns Contingency Plan would be developed and maintained for the Project. The operator of the pipeline would be required to write and conduct annual reviews on all operations and maintenance manuals. The manuals would describe standard operating and maintenance procedures and include emergency procedures and contacts.

7. USACE Water Quality Certification: Section 4.18 (PDF page 35):

- BOE Pipeline would comply with the USACE Nationwide Permit 12 (NWP-12) and General Conditions for Nationwide Permits for installation of pipe and construction of the associated access roads.



## ND Parks and Recreation

### 1. Natural Heritage Database Rare Species and Significant Ecological Communities: Section 4.23.1 (PDF page 48 and 49):

- Construction of the proposed pipeline is not anticipated to cause permanent impacts on rare or sensitive species or irretrievable natural resources.

The risk of habitat contamination from a potential release of crude oil by way of a break or leak in the proposed pipeline would be minimal. The Project would comply with USDOT regulations, specifically the design, construction, pressure testing, operation, welding, and maintenance requirements, as outlined in Transportation of Hazardous Liquids by Pipeline guidance (49 CFR Part 195). Upon completion of construction and prior to commissioning, the pipeline would be hydrotested for any potential leaks. The water from the hydrotesting would be discharged in accordance with the requirements listed in the NDPDES permit and SWPPP. Construction of the Project would include installation of MLVs, which would allow segments of the pipeline to be isolated if there were a rupture or break or for inspection and maintenance purposes. During operations, SCADA system communications would be used to monitor for leaks. In addition, the pipeline would receive regular inspections along the ROW for any indications of leaks and other maintenance issues. In the event of a leak or break in the pipeline during operations, short-term, adverse impacts on rare or sensitive species could be expected.

In the event of a leak or break, the section of the pipeline would be isolated, repaired, and hydrotested prior to recommissioning. Any crude oil released from a leak or break in the pipeline would be remediated in accordance with the Emergency Response Plan, SPCC Plan, Inadvertent Returns Contingency Plan, and NDDH regulations and requirements. Construction of the Project would reduce tanker truck traffic by approximately 660 trucks per day (assuming 250 liquid barrels per truck), which would reduce the overall risk of impacts on rare or sensitive species from crude oil spills on roadways associated with trucks transporting oil.

Mitigation: The Project and associated structures have been routed to avoid impacts on rare and sensitive species and ecological communities. The following construction timing buffers would be implemented to minimize Project-related impacts on sharp-tailed grouse leks and bald and golden eagles:

- Minimum setback of 0.5-mile construction buffer for any active eagle nests from March 15 to July 15.
- Minimum setback of 0.25-mile construction buffer for any active sharp-tailed grouse lek sites from March 15 to May 15.



The construction timing would minimize impacts on species of concern. Following construction, the topography would be returned to its preconstruction contours and vegetation would be replaced, blending with surrounding areas, and reclaimed to landowner satisfaction. No further mitigation is anticipated at this time.

A NDPDES permit, SWPPP, Emergency Response Plan, SPCC Plan, and Inadvertent Returns Contingency Plan would be developed and maintained for the Project. The operator of the pipeline would be required to write and conduct annual reviews on all operations and maintenance manuals. The manuals would describe standard operating and maintenance procedures and include emergency procedures and contacts.

Hopefully, the Commission finds the foregoing useful in its deliberation regarding BOE's application.

Sincerely,

KLJ

A handwritten signature in blue ink that reads "Scott Besmer". The signature is written in a cursive, flowing style.

Scott Besmer  
Senior Project Manager  
KLJ Engineering LLC

Project #: 71043616.1