

April 27, 2016

VIA HAND DELIVERY

Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480



**RE: BAKKEN OIL EXPRESS, LLC
CASE NO. PU-16-095**

Dear Mr. Nitschke:

Enclosed for filing in the above entitled matter, please find an original and ten (10) copies of the [Proposed] Findings of Fact, Conclusions of Law and Order for Bakken Oil Express, LLC. If you should have any questions, please advise.

Sincerely,

DANIELLE M. KRAUSE

Enclosure

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Proposed Findings of Fact, Conclusions of Law and Order

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Bakken Oil Express, LLC
Dickinson Bypass Reroute —Stark
Siting Application**

Case No. PU-16-95

[PROPOSED] FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

May 5, 2016

Preliminary Statement

On October 4, 2013, Bakken Oil Express, LLC (“BOE”), filed with the North Dakota Public Service Commission (“Commission”) a consolidated application for a Certificate of Corridor Compatibility and Route Permit (“Siting Application”) to authorize construction and operation of a crude oil pipeline (“Project”) in Dunn and Stark Counties, North Dakota. BOE also filed an application requesting waiver of certain procedures and time schedules.

On December 30, 2013, the Commission issued its Findings of Fact, Conclusions of Law, and Order, granting BOE Certificate of Corridor Compatibility Number 150 and Route Permit Number 161 to BOE to authorize construction of a 38-mile, 16-inch diameter crude oil pipeline.

On January 21, 2014, BOE submitted a request for a modification of the Order. Specifically, BOE requested that the Order be modified to change the approved pipeline diameter from sixteen (16) inches to twenty (20) inches for the southernmost four (4) miles of the Project pipeline. BOE requested the change to facilitate an interconnect with True Oil, LLC’s Belle Fouche Pipeline.

On February 26, 2014, the Commission issued its Findings of Fact, Conclusions of Law and Order, along with First Amended Certificate of Corridor Compatibility Number 150 and First Amended Route Permit Number 161 allowing for the change in diameter size for a portion of the Project. Construction of the Project was completed in 2014.

On February 26, 2016, BOE filed an application to amend First Amended Certificate of Corridor Compatibility Number 150 and First Amended Route Permit Number 161 (“Application”). BOE is proposing to relocate approximately 0.7 miles of the Project approximately 275 feet to the east of its current location in Sections 23 and 26 of Township 140 North, Range 97 West, Stark County. The purpose of rerouting the pipeline is to accommodate construction of the Dickinson Bypass by the North Dakota Department of Transportation. BOE also filed an application requesting waiver of certain procedures and time schedules.

On March 23, 2016, the Commission issued a Notice of Filings and Notice of Opportunity for Hearing, setting a comment period that would expire on April 22, 2016.

The Notice of Filings and Notice of Opportunity for Hearing identified the following issues to be considered with respect to the application for 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 and 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 of Filings and Notice of Opportunity for Hearing identified the following issues to be considered with respect to the Application:

1. Will the location 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?

No comments or requests for hearing were received by the Commission pursuant to the Notice of Filings and Notice of Opportunity for Hearing.

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

Findings of Fact

Size, Type, and Preferred Location of Facility

1. The Project is an existing crude oil pipeline consisting of approximately 38 miles of 16-inch and 20-inch steel crude oil pipeline located in Dunn and Stark Counties, North Dakota.
2. Construction of the Project was completed in July of 2014. As constructed, the Project originates at a tanker truck unloading and pumping facility near Killdeer, in Dunn County, North Dakota, and terminates at a rail loading and storage facility, owned and operated by BOE, located to the southwest of Dickinson, in Stark County, North Dakota.
3. The North Dakota Department of Transportation (“DOT”) contacted BOE and requested an approximately 275-foot shift in the location of the Project. The purpose of the shift is to avoid construction of a portion of the Dickinson Bypass being constructed by the DOT within Sections 23 and 26 of Township 140 North, Range 97 West along 116th Street SW, Dickinson, North Dakota. The total length of the route modification for the Project is 3,575.3 feet, or 0.677 miles.

Need for the Facility

4. The requested modification to the Project is based solely on a request from the DOT to relocate a portion of the Project. In its current configuration, the Project allows BOE to provide a safe and efficient mechanism to transfer crude oil in Dunn and Stark Counties. Transporting crude oil in western North Dakota currently involves significant movement of crude oil by tanker truck over public roadways, a public safety issue that the Project will continue to prevent. Approval of the requested modifications to the Project will allow BOE to continue to provide the needed capacity to transport crude oil production safely and economically from the Bakken and Three Forks formations to facilities with access to major markets.

5. The need for the facility is further addressed in the Commission's December 30, 2013 Order granting approval of the Project.

Study of Preferred Route Modification

6. In support of its Application for a modification to the route and corridor for the Project, BOE completed field studies encompassing the adjustment area.

7. A wetland survey has been completed for the proposed route and corridor modification and a Wetland Delineation Report was prepared along an approximately one-mile corridor. Approximately 0.21 acres of wetlands were field delineated and identified within the study area. Final determination of jurisdictional wetlands within the study area is ultimately the decision of the United States Army Corps of Engineers ("USACE"). All necessary permits shall be acquired in the event that the delineated wetlands within the study area are determined to be jurisdictional by the USACE and will be affected by the proposed construction.

8. BOE, through its contractors, conducted a Class I literature search and a Class III cultural resource inventory in connection with the Siting Application for the Project and prepared a Class I Letter Report Addendum to the Class III Cultural Resource Inventory for the route modification which recommended the minor relocation proceed under a No Significant Sites Affected classification.

9. The SHPO has concurred with the determination that no significant sites will be affected by the modification to the Project in the small area noted in the Class I Letter Report Addendum to the Class III Cultural Resource Inventory.

10. The Commission has established criteria pursuant to Section 49-22-05.1 of the North Dakota Century Code to guide the Commission in evaluating the suitability of granting a Certificate of Corridor Compatibility and Route Permit. The criteria, as set forth in Section 69-06-08-02 of the North Dakota Administrative Code, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

11. A transmission facility route must not be sited within an Exclusion Area. No new Exclusion Areas will be impacted by the Project.

12. A transmission facility route must not be sited within an Avoidance Area unless the applicant shows that under the circumstances there are no reasonable alternatives. In

determining whether an Avoidance Area shall be designated for a 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. No new Avoidance Areas will be impacted by the Project.

13. In accordance with the Commission's Selection Criteria, a transmission facility route shall be approved if it is demonstrated that any significant adverse impacts that will result from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum or managed and maintained at an acceptable minimum. BOE has analyzed the impacts of the Project and route modification in relation to all of the relevant Selection Criteria. The Project will have no significant adverse impacts on the Commission's Selection Criteria.

14. BOE does not anticipate any impacts to botany or wildlife, other than the impacts previously discussed in the Siting Application, based on the limited distance between the original route and the route modification. The Project may result in temporary modification of habitat and temporary displacement of wildlife, due to clearing and construction. The Project will have no significant impact on fish and wildlife resources and no impacts are anticipated to endangered, threatened, or sensitive plant or animal species.

15. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility. As set forth by BOE in previous filings for the Project, which will include the relocation, BOE has analyzed the relevant Policy Criteria and has committed to designing, constructing, and operating the pipeline in accordance with all applicable federal, state, and local laws and regulations; energy conservation through the facility's location, process, and design; training and utilizing available labor in the state; constructing the Project to take advantage of economies of scale; achieving capacity in the most minimally intrusive and most efficient way possible; and coordinating with state and local officials.

Measures to Minimize Impact

16. BOE previously agreed to a number of steps to mitigate the impact of the Project, as indicated by the December 4, 2013 Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, which is incorporated by reference and attached to this Order.

17. The design, construction, and operation of the pipeline is in accordance with the United States Department of Transportation regulations governing the transportation of crude oil.

From the foregoing Findings of Fact, the Commission now makes the following:

Conclusions of Law

1. The Commission has jurisdiction over the Application, Bakken Oil Express, LLC, and over the subject matter of the Application under Chapter 49-22 of the North Dakota Century Code.

2. The requested Project modification will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
3. The requested Project modification is compatible with environmental preservation and the efficient use of resources.
4. The Project modification 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.
5. The requested Project modification is of such design and location that it will produce minimal adverse effects, in accordance with Section 49-22-07.2 of the North Dakota Century Code.
6. It is appropriate for the Commission to waive those certain procedures and time schedules as requested in the Application and application for a waiver of procedures and time schedules as provided under Section 49-22-07.2 of the North Dakota Century Code.

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

Order

1. Bakken Oil Express, LLC's application for a waiver of procedures and time schedules is granted.
2. Bakken Oil Express, LLC's request for amendment to the First Amended Certificate of Corridor Compatibility No. 150 and the First Amended Route Permit No. 161 issued by the Commission on February 26, 2014, in Case Number PU-13-825 is granted.
3. That Second Amended Certificate of Corridor Compatibility No. 150 is issued to Bakken Oil Express, LLC, designating a corridor for the construction, operation, and maintenance of a 16- to 20-inch crude oil pipeline and associated facilities in Dunn and Stark Counties, North Dakota. For purposes of the Certificate, the Corridor will consist of the previously designated corridor for the Project and the updated 200-foot-wide survey corridor for the modification to the Project.
4. That Second Amended Route Permit No. 161 is issued to Bakken Oil Express, LLC, granting authority to relocate the approximately 0.7 miles of pipeline and operate the 16- to 20-inch crude oil pipeline and associated facilities in Dunn and Stark Counties, North Dakota associated with the Project.
5. That the December 4, 2013 Certification Relating to Order Provisions – Transmission Facility Siting be incorporated by reference and attached to this Order.

**State of North Dakota
Public Service Commission**

**Randy Christmann
Commissioner**

**Julie Fedorchak
Chairman**

**Brian Kalk
Commissioner**

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