

March 28, 2016

VIA HAND DELIVERY

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

**RE: Plains Terminals North Dakota LLC -
Case No. PU-16-_____**

Dear Mr. Nitschke:

Enclosed for filing on behalf of Plains Terminals North Dakota LLC, please find an original and ten (10) copies of the following:

1. Consolidated Application for a Certificate of Corridor Compatibility and Route Permit for the Johnsons Corner to Dakota Access Pipeline Project;
2. Application for Waiver or Reduction of Procedures and Time Schedules; and
3. Map for Publication.

Electronic versions of all documents, including relevant shapefiles, are also provided.

A filing fee in the amount of \$25,000 is also enclosed herewith for filing. If you should have any questions, please advise.

Sincerely,

LAWRENCE BENDER

LB/dmk
Enclosures

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2

PU-16-140 Filed: 3/28/2016 Pages: 8
Application for Waiver of Procedures and Time Schedules

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

IN THE MATTER OF THE COMBINED
APPLICATION OF PLAINS TERMINALS
NORTH DAKOTA LLC, FOR A CERTIFICATE
OF CORRIDOR COMPATIBILITY AND
ROUTE PERMIT FOR THE JOHNSONS
CORNER TO DAKOTA ACCESS PIPELINE
PROJECT IN MCKENZIE COUNTY, AND
REQUEST FOR WAIVER OF PROCEDURES
AND TIME SCHEDULES

CASE NO. PU-16-_____

**Application of Plains Terminals North Dakota LLC for Waiver or
Reduction of Procedures and Time Schedules**

In connection with its submission of a consolidated application for a Certificate of Corridor Compatibility and Route Permit (“Consolidated Application”) for a 24-inch crude oil pipeline, approximately 3.5 miles in length, known as the Johnsons Corner to Dakota Access Pipeline Project to be located in McKenzie County, North Dakota (the “Project”), Plains Terminals North Dakota LLC (“Plains”) submits to the North Dakota Public Service Commission (“Commission”) this application for a waiver or reduction of procedures and time schedules set forth in Chapter 49-22 of the North Dakota Century Code (“Siting Act”) and Article 69-06 of the North Dakota Administrative Code (“Siting Rules”). Plains requests that the Commission waive and/or reduce procedures and time schedules required by the Siting Act and Siting Rules to accomplish the purposes as requested herein. Plains’s request includes, but is not limited to:

1. That the Commission waive, pursuant to North Dakota Century Code Sections 49-22-07.2 and 49-22-13, and North Dakota Administrative Code Section 69-06-01-02 and Chapter 69-06-06, the provisions of North Dakota Century Code Sections 49-22-08, 49-22-08.1, and 49-22-13, and North Dakota Administrative Code

Section 69-06-01-02 insofar as they require the separate filing of applications for a Certificate of Corridor Compatibility (“Corridor Certificate”) and a Route Permit, separate notices of such applications, separate hearings on such applications, and certain time schedules as set forth in said statutes and rules.

2. That the Commission allow for consolidation of the applications for a Corridor Certificate and a Route Permit, and allow for a consolidated notice of publication.
3. That the Commission hold a single consolidated hearing on this waiver request and its Consolidated Application.

Consistent with the Commission’s Energy and Transmission Facility Siting Guidelines (“Commission’s Guidelines”), Plains provides the following information in support of its waiver requests:

A. Description of Proposed Project.

1. **Type:** The Project will require installation of an underground steel pipeline that will transport crude oil. Additional surface structures outside of existing fenced facilities are not anticipated for the Project.

2. **Product:** The Project will transport crude oil.

3. **Size and Design:** The proposed Project will have a maximum operating temperature of 100 degrees Fahrenheit and a maximum operating pressure (“MOP”) of 1,480 pounds per square inch gauge (“psig”). The proposed Project will have a maximum throughput rate of 150,000 barrels per day (“bpd”). The proposed Project will typically operate at 1,440 psig and will have a normal throughput rate of approximately 50,000 bpd. The steel pipeline used for the Project will meet United States Department of Transportation regulations,

specifically the design criteria outlined in 49 CFR Part 195, Subpart C. The Project will be constructed, operated, and maintained in accordance with 49 CFR Part 195.

4. **Location:** The total length of the Project is approximately 3.5 miles located in McKenzie County, North Dakota. The Project will result in a transmission pipeline originating at the Plains Johnsons Corner Terminal (“JCT”), approximately three (3) miles east of Johnsons Corner, North Dakota, and will extend to the northwest to terminate at the Dakota Access Pipeline Johnsons Corner Terminal Facility (hereinafter referred to as “DAPL Terminal”), located approximately one (1) mile southeast of Johnsons Corner. Maps of the proposed Project are provided in the Consolidated Application, submitted herewith.

5. **Geographic Service Area:** As noted above, the Project is located in McKenzie County and will connect the JCT to the DAPL Terminal. The immediate area served by the Project will be western North Dakota; however, the crude oil will ultimately be distributed throughout the United States.

6. **Time Schedule:** Plains proposes to develop the Project on the following schedule:

- March 2016 — Plains files with the Commission a consolidated application for a Corridor Certificate and Route Permit.
- June 2016 — The Commission issues a Corridor Certificate and Route Permit for the Project.
- Third Quarter 2016 — Plains will begin construction of the Project. Construction is anticipated to last approximately two (2) months.
- Commissioning and restoration activities will commence immediately following construction of the Project.

7. **Future Plans:** At this time, Plains has no specific plans for additions to or modifications of the Project.

B. Need for the Project.

The development of hydrocarbon production in the Williston Basin has increased significantly in recent years due to advancements in deep horizontal directional drilling techniques and subsequent oil extraction in the Bakken and Three Forks shale formations. The total recoverable amount of Bakken and Three Forks oil reserves are subject to interpretation and speculation. Studies conducted by the North Dakota Department of Mineral Resources (“NDDMR”)¹ and the U.S. Geological Survey² in 2008 and 2010 indicate that 4.0 to 6.3 billion barrels of recoverable reserves are available in North Dakota’s Bakken and Three Forks formations. Information from the Department of Mineral Resources indicates that oil production has increased dramatically over the past five years. In January of 2011, North Dakota produced 342,923 barrels of oil per day. That figure has increased to 1,122,106 barrels per day in January of 2016.³

Construction of the Project will provide firm, reliable transport of approximately 50,000 bpd of crude oil between the JCT and the DAPL Terminal. From the DAPL Terminal, the product will be transported via interconnecting pipelines for distribution to refineries in mid-continent and gulf coast area refineries. For additional analysis of the need for the Project, including a discussion of alternatives evaluated, please see Sections 3 and 4 of the Certificate of

¹ Bohrer, M., Fried, S., Helms, L., Hicks, B., Juenker, B., McCusker, D., Anderson, F., LeFever, J., Murphy, E., and Nordeng, S., North Dakota Department of Mineral Resources, State of North Dakota Bakken Resources Study Project 23 (2008).

² United State Geological Survey, Assessment of Undiscovered Oil Resources in the Devonian-Mississippian Bakken Formation, Williston Basin Province, Montana and North Dakota, 2008, <http://pubs.usgs.gov/fs/2008/3021/> (last visited Mar. 22, 2016).

³ North Dakota Department of Mineral Resources, North Dakota Monthly Oil Production Statistics, <https://www.dmr.nd.gov/oilgas/stats/historicaloilprodstats.pdf> (last visited Mar. 22, 2016).

Corridor Compatibility portion of Plains's Consolidated Application, which accompanies this waiver application.

C. Cost.

Plains estimates that it will cost approximately \$5 million to develop the Project.

D. Waiver Request.

Plains requests that the Commission grant the waivers requested herein because said waivers are needed to prevent potentially significant delays to the Project. As noted above, the Project is needed to connect the JCT and the DAPL Terminal and address the transportation of growing volumes of crude oil from the Bakken Formation to numerous refining centers across the United States. Recently, the DAPL Terminal and associated pipeline received the final regulatory approvals and is poised to move into the construction phase. Without the waivers of time schedules and procedures requested, completion of the Project will be delayed and the Project will not be able to satisfy the immediate need for a safer, more efficient means of transporting crude oil to facilities that have access to major markets.

Section 49-22-07.2 of the North Dakota Century Code provides that the Commission may waive procedures and time schedules upon a finding that "the proposed facility is of such length, design, location, or purpose that it will produce minimal adverse effects." Based upon the investigation and analysis set forth in Plains's Consolidated Application, granting the waivers requested is appropriate because the proposed facility will produce minimal adverse effects due to its length (only approximately 3.5 miles), its design (an underground, small-diameter pipeline), its location (located in rural McKenzie County and avoiding Exclusion and Avoidance Areas), and its purpose (underground pipeline transportation of crude oil).

In determining whether the proposed facility will result in adverse impacts on the environment, Plains evaluated the Project using the criteria set forth in the Siting Act, the Siting Rules, and the Commission's Guidelines. More specifically, Plains evaluated the impacts of the Project considering the siting criteria set forth in Section 69-06-08-02 of the North Dakota Administrative Code and the factors set forth in Section 49-22-09 of the North Dakota Century Code. Impacts associated with the Project, and mitigation measures that will be taken with respect to said impacts, are summarized in Sections 4 and 5 of the Route Application portion of Plains's Consolidated Application. Based upon Plains's siting criteria evaluation, and the factors set forth in the Guidelines, the Project will have minimal adverse effects.

Accordingly, Plains respectfully requests that the Commission grant the requested waivers and render an expeditious decision.

Dated this 28th day of March, 2016.

FREDRIKSON & BYRON, P.A.

By 

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