

Wade C. Mann  
100 West Broadway, Suite 250  
P.O. Box 2798  
Bismarck, ND 58502-2798  
701.223.6585  
wmann@crowleyfleck.com

August 3, 2016

**Hand Delivery**

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



In re: Hess North Dakota Export Logistics LLC  
ETP Pipeline Project  
Case No. PU-16-189  
Our File No. 11-024-1656

Dear Mr. Nitschke:

Enclosed for filing are eleven copies of the Proposed Findings of Fact, Conclusions of Law and Order in the captioned case.

Please call should you have any questions. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Wade C. Mann".

Wade C. Mann

WCM/lh  
enc.

cc: Lacey Carver (via email)

**34** **PU-16-189** Filed: 8/3/2016 Pages: 8  
**Proposed Findings of Fact, Conclusions of Law and Order**

Hess North Dakota Export Logistics LLC

Wade Mann, Crowley Fleck, PLLP

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Hess North Dakota Export Logistics LLC  
12-inch Crude Oil Pipeline – Williams County  
Siting Application**

**Case No. PU-16-189**

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

**August \_\_, 2016**

**Appearances**

Wade C. Mann, Attorney at Law, Crowley Fleck PLLP, 100 West Broadway Suite 250, Bismarck, North Dakota 58501, on behalf of Hess North Dakota Export Logistics LLC.

John Schuh, Special Assistant Attorney General, Legal Counsel for the North Dakota Public Service Commission, 600 E. Boulevard Ave., Dept. 408, Bismarck, North Dakota 58505.

Patrick J. Ward, Administrative Law Judge, Office of Administrative Hearings, 316 North Fifth Street, Bismarck, North Dakota 58503, as Substantive Hearing Officer.

**Preliminary Statement**

On May 6, 2016, Hess North Dakota Export Logistics LLC (Hess), filed with the North Dakota Public Service Commission (Commission) a Consolidated Application for a Certificate of Corridor Compatibility and Route Permit (Application) for an approximately 1.1-mile, 12-inch crude oil pipeline and associated facilities in Williams County, North Dakota.

Also on May 6, 2016, Hess filed an Application for Waiver of Procedures and Time Schedules under North Dakota Century Code Sections 49-22-07, 49-22-08, 49-22-08.1, 49-22-13, and North Dakota Administrative Code Section 69-06-01-02 and Chapter 69-06-06, requiring separate filings, separate notices, and separate hearings on the certificate of corridor compatibility application, route permit application, and the waiver of procedures and time schedules application.

On June 8, 2016, the Commission deemed Hess's Application complete and issued a Notice of Filings and Public Hearing (Notice) scheduling a hearing for July 26, 2016, at 11:00 a.m. Central Time, at Neset Consulting Service, 6844 Highway 40, Tioga, North Dakota 58852.

The Notice 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 issues to be considered in the applications for a certificate of corridor compatibility and a route permit are:

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?

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

### **Findings of Fact**

1. Hess is a Delaware limited liability company authorized to do business in the State of North Dakota, as evidenced by the corporate papers filed with the Commission on May 6, 2016, in case No. PU-16-190.

### **Need for the Facility**

2. Hess concluded there is a need for the Project to relieve existing pipeline constraints in the area. The Project will provide firm, reliable transport of crude oil from Hess's Ramberg Truck Facility (RTF) to the proposed Energy Transfer Partners (ETP) facility. From this facility, the crude can continue through interconnection pipelines for distribution to refineries across the United States.

### **Size, Type, and Preferred Location of Facility**

3. The Project will consist of approximately 1.1-miles of 12-inch steel pipeline with a wall thickness of 0.375-inches and a 0.5-inch bore pipe wall thickness.
4. The normal operating pressure of the pipeline is 100 pounds per square inch gauge (psig) and the maximum operating pressure of the pipeline will be 1,184 psig.

5. The maximum design flow rate of the Project will be approximately 70,000 barrels per day with a normal throughput of approximately 50,000 barrels per day.

6. The steel pipeline will meet U.S. Department of Transportation (DOT) regulations, specifically the design criteria outlined in 49 C.F.R. part 195 subpart C. The Project will be constructed per 49 C.F.R. part 195 subpart D, and operated and maintained per 49 C.F.R. part 195 subpart F.

7. The Project will be located in Williams County, North Dakota, and will result in a transmission pipeline originating at the RTF and will extend to the northeast to terminate at the ETP facility, located approximately 7-miles south of Tioga, ND.

8. No above-ground structures will be constructed as part of the Project.

9. The total anticipated cost of the Project is approximately \$4.5 million dollars.

#### Study of Preferred Location

10. Hess identified a one mile wide area centered upon the preferred pipeline alignment (Study Area) routed from the RTF to the ETP facility. Hess evaluated the Study Area for the Exclusion, Avoidance, Selection and Policy criteria of the Commission.

11. Field surveys were conducted on a 250-foot-wide area centered upon the proposed route (Survey Corridor) to inventory any potential resource issues regarding wetlands, waterbodies, protected species, critical habitats or cultural resources within the survey corridor, and to provide the baseline field data necessary to prescribe alternative routing or mitigation as necessary to minimize environmental impacts.

12. Hess conducted a Class I cultural resource literature search within the Study Area and a Class III cultural resource inventory of the Survey Corridor. No cultural resources were identified within the Survey Corridor.

13. The following agencies were contacted by Hess regarding the Project: U.S. Fish and Wildlife Service (USFWS); North Dakota Game and Fish Department (NDGFD); North Dakota Parks and Recreation – Natural Heritage Program (NDPRD); North Dakota Department of Health (NDDOH); North Dakota Department of Trust Lands (NDDTL); North Dakota State Water Commission (NDSWC); North Dakota State Historic Preservation Office (NDSHPO); Western Area Water Supply Authority (WAWSA); Williams County Water Resource Board (WCWRB); and Williams County Weed Control Board (WCWCB).

14. In a response dated April 8, 2016, the NDSHPO concurred with a “No Historic Properties Affected” recommendation for the Project.

15. In a response dated April 11, 2016, the NDPRD provided comments to Hess recommending that Hess revegetate impacted areas with native species. The agency expressed no other concerns. Hess will revegetate disturbed areas to landowner specifications. In the absence of a landowner request, Hess will use a native seed mix.

16. In a response dated April 11, 2016, the NDSWC provided comments to Hess regarding the proper disposal of all waste material associated with the project and that it is not to be placed in any identified floodway. The agency expressed no other concerns. Hess will dispose of all waste material properly.

17. In a response dated April 25, 2016, the NDGFD provided comments to Hess recommending that Hess take steps to protect wetlands and to avoid wooded draws and native prairies to the extent possible. NDGFD expressed no other concerns and indicated that they do not believe the Project will have significant adverse effects on wildlife or wildlife habitat. Hess will avoid wetlands, wooded draws and native prairie.

18. In a response dated June 21, 2016, the NDDOH provided standard comments to Hess regarding proper construction methods. NDDOH indicated that environmental impacts from construction of the Project will be minor and can be controlled by proper construction methods. Hess construction practices encompass the suggestions set forth by the NDDOH in the letter.

#### Siting Criteria

19. The Commission has established criteria pursuant to the 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.

20. A transmission facility route must not be sited within an Exclusion Area.

21. An Exclusion Area may not encompass more than fifty percent of a corridor width unless there is no reasonable alternative. A buffer zone of a reasonable width to protect the integrity of the area must be included.

22. No Exclusion Areas are present within the Survey Corridor.

23. Avoidance areas are geographic areas that may not be considered in the routing of a transmission facility, unless it is shown there is no reasonable alternative under the circumstances. A proposed corridor may contain avoidance areas; however, avoidance areas may not encompass more than 50% of the corridor width at any point, unless there is no reasonable alternative. 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.

24. Areas within 500-feet of a residence, school or place of business, and reservoirs and municipal water supplies are designated as avoidance areas.

25. Hess identified one potentially occupied structure within the Corridor. The potentially occupied structure is not located within 500-feet of the pipeline route. Four wells were identified within the Corridor. None of the identified wells are used for municipal water, and no reservoirs or municipal water supplies were identified within the Corridor.

26. Avoidance Areas are present within the Project's Corridor but will not be crossed by the route or negatively impacted by the Project.

27. Wetland surveys and a jurisdictional determination were completed for the proposed route.

28. No wetlands were identified within the pipeline route.

29. One waterbody was delineated within the Survey Corridor, totaling approximately 0.13 acres. This intermittent stream is crossed by the route. Hess has committed to boring under the intermittent stream and will take steps to protect waterbodies. No permanent impacts to waterbodies are anticipated.

30. In accordance with the Commission's Selection Criteria, a transmission facility shall be approved only if it is determined that any significant adverse effects that will result from the location, construction and operation of the facility as they relate to the Selection Criteria will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum. Hess has analyzed the impacts of the Project in relation to all relevant Selection Criteria. No significant adverse impact will result from the location, construction and operation of the Project.

31. In accordance with the Commission's Policy Criteria, preference may be given to an application demonstrating certain benefits of the transmission facility. Hess has analyzed the relevant policy criteria and has committed to: designating, 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 the economics of scale; achieving capacity in the most minimally intrusive and most efficient way possible; an coordinating with state and local officials. Hess submitted evidence to demonstrate its commitment to maximize the benefits of the proposed transmission facility to the extent possible so as to meet the Policy Criteria.

#### Measures to Minimize Impact

32. Hess has agreed to steps to mitigate the impact of the Project, as indicated by the executed 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.

33. Hess will coordinate with local authorities and emergency managers regarding emergency response measures and follow Hess's emergency response plan for the Project.

34. Standard operating procedures will conform to applicable United States Department of Transportation requirements, which include regular pipeline monitoring and periodic inspection.

35. Hess participates in the North Dakota One-Call Excavation System.

36. All landowner easements needed for construction of the Project have been obtained.

From the foregoing Findings of Fact, the Hearing Officer now makes the following:

### **Conclusions of Law**

1. The Commission has jurisdiction over Hess and the subject matter of the Application under N.D.C.C. ch. 49-22.

2. Hess is a utility as defined in N.D.C.C. § 49-22-03(13).

3. The Project proposed by Hess is a transmission facility as defined in N.D.C.C. § 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 environmental preservation and the efficient use of resources.

6. The proposed transmission facility survey area and route 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, and, therefore, it is appropriate for the Commission to grant Hess's application for a waiver of procedures and times schedules under N.D.C.C. § 49-22-07.2.

From the foregoing Findings of Fact and Conclusions of Law, the Commission now makes its:

### **Order**

The Commission orders:

1. Hess North Dakota Export Logistics, LLC's application for waiver of procedures and time schedules is granted.

2. Certificate of Corridor Compatibility No. \_\_\_ is issued to Hess designating a corridor in Williams County, North Dakota for the construction, operation and maintenance of an approximately 1.1-mile 12-inch diameter crude oil transmission pipeline. For purposes of the Certificate, the designated corridor is approximately 1.1-miles long and 250-feet wide centered on the pipeline route designated in this order.

3. Route Permit No. \_\_\_ is issued to Hess, designating a route in Williams County, North Dakota for the construction and operation of an approximately 1.1-mile long crude oil transmission pipeline. For purposes of this Permit, the designated route is the proposed route depicted in Appendix A of the Consolidated Application.

4. The Certification Relating to Order Provisions - Transmission Facility Siting (Certification), with accompanying Tree and Shrub Mitigation Specifications executed on July 15, 2016 and filed with the Commission on July 18, 2016 is incorporated by reference and attached to this Order.

5. To the extent there are any conflicts or inconsistencies between Hess's Applications and the Certification filed July 18, 2016, the Certification provisions control.

Dated at Bismarck, North Dakota this \_\_\_ day of August, 2016.

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Patrick J. Ward  
Administrative Law Judge  
Office of Administrative Hearings