

1234

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

RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

August 23rd, 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 applications for a certificate of corridor compatibility and route permit for an approximately 1.1-mile, 12-inch crude oil pipeline and associated facilities to be located in Williams County, North Dakota (Project).

Also on May 6, 2016, Hess filed an application for a waiver of procedures and time schedules established 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 for a certificate of corridor compatibility and a route permit 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 North Dakota Export Logistics LLC (Hess) is a Delaware limited liability company authorized to do business in the State of North Dakota, as evidenced by corporate papers filed with the Commission on May 6, 2016 in case No. PU-16-190.

Size, Type, and Preferred Location of Facility

2. 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.
3. 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.

4. 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.
5. The Project will originate at Hess's Ramberg Truck Facility and terminate at a facility owned by Energy Transfer Partners, located approximately seven miles south of Tioga, North Dakota.
6. The total anticipated cost of the Project is approximately \$4.5 million dollars.

Study of Preferred Location

7. Hess identified a one mile wide area centered upon the proposed route (Study Area). Hess evaluated the Study Area for the Exclusion, Avoidance, Selection and Policy criteria of the Commission.
8. Field surveys were conducted on a 250-foot-wide area centered upon the proposed route (Survey Area) to inventory wetlands, waterbodies, protected species, critical habitats, and cultural resources.
9. Hess conducted a Class I cultural resource literature search within the Study Area and a Class III cultural resource inventory of the Survey Area. No cultural resources were identified within the Survey Area.
10. The following agencies were contacted by Hess regarding the Project: United States Fish and Wildlife Service; 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; North Dakota State Water Commission (NDSWC); North Dakota State Historic Preservation Office (NDSHPO); Western Area Water Supply Authority; Williams County Water Resource Board; and Williams County Weed Control Board.
11. In a response dated April 8, 2016, the NDSHPO concurred with a "No Historic Properties Affected" recommendation for the Project.
12. 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.
13. 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.
14. 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.

15. 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.

Siting Criteria

16. 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.

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

18. 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.

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

20. 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.

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

22. 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.

23. 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; and 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

24. 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.

25. The Project will be designed, constructed, operated, and maintained in accordance with the United States Department of Transportation regulations governing the transportation of crude oil, as set forth in 49 Code of Federal Regulations Part 195.

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

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

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

29. The proposed route crosses one waterbody. Hess has committed to boring under this waterbody, an intermittent stream, in order to minimize environmental impact.

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

Conclusions of Law

1. The Commission has jurisdiction over Hess North Dakota Export Logistics LLC and the subject matter of these applications under North Dakota Century Code chapter 49-22.

2. Hess North Dakota Export Logistics LLC 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 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, in accordance with 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 Application and pursuant to North Dakota Century Code section 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. A Certificate of Corridor Compatibility shall be issued to Hess North Dakota Export Logistics LLC, designating a corridor for the construction, operation and maintenance of an approximately 1.1-mile 12-inch diameter crude oil transmission pipeline in Williams County, North Dakota. For purposes of this Certificate, the designated corridor will consist of a 250-foot-wide corridor centered on the pipeline route as surveyed and depicted on the map identified as "Natural Resource – Topo Map", located in Appendix B of Hearing Exhibit 1.

3. A Route Permit shall be issued to Hess North Dakota Export Logistics LLC, designating a route for the construction, operation, and maintenance of an approximately 1.1-mile long crude oil transmission pipeline in Williams County, North Dakota. For purposes of this Permit, the designated route is the proposed route depicted in Appendix A of Hearing Exhibit 1.

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 (Certification) is incorporated by reference and attached to this Order.

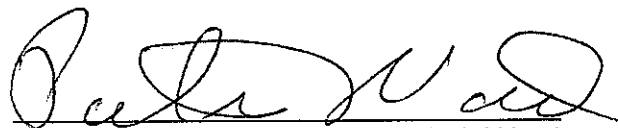
5. To the extent there are any conflicts or inconsistencies between Hess North Dakota Export Logistics LLC's Applications and the Certification, the Certification provisions control.

6. One year after the Project is placed in service, Hess North Dakota Export Logistics LLC shall file with the Commission a summary of the status of restoration activities related to the Project, including any restoration-related issues raised by landowners or identified by Hess North Dakota Export Logistics LLC.

7. If a spill by Hess North Dakota Export Logistics LLC requires notification to any other state or federal agency, Hess North Dakota Export Logistics LLC will also inform the Commission of such spill within 24 hours of occurrence by leaving a message at the Commission's toll free number, with a follow-up email to the Commission's Executive Secretary.

8. Hess North Dakota Export Logistics LLC 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.

Dated at Bismarck, North Dakota this 27th day of August, 2016.



Patrick J. Ward
Administrative Law Judge
Office of Administrative Hearings