



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

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Darrell Nitschke

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August 25, 2016

Allan Beshore, Central Region Director  
901 Locust Street, Suite 462  
Kansas City, MO 64106

RE: Sacagawea Pipeline

Dear Mr. Beshore:

Enclosed are copies of two complaints recently filed with the North Dakota Public Service Commission concerning the Sacagawea Pipeline, a crude oil transmission pipeline being constructed by Sacagawea Pipeline Company, LLC in McKenzie and Mountrail Counties, North Dakota. Siting of this pipeline was approved by the Commission's January 5, 2016 Order (Case No. PU-15-114).

The filings contain multiple stated concerns relating to the pipeline's installation, some of which likely fall under the authority of PHMSA. Commission staff are currently investigating those items identified within the complaints that are subject to Commission jurisdiction.

You may contact me at 701-328-4188 if you have any questions regarding the Commission's investigation of these complaints.

Sincerely,

Julie Prescott  
Compliance and Competitive Markets

Enclosures

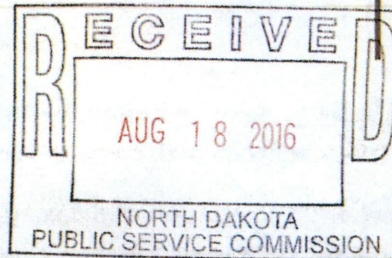
C: Derrick Braaten, Baumstark Braaten



**Derrick Braaten**  
Partner

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August 18, 2016

Mr. Darrell Nitschke, Executive Secretary  
North Dakota PSC  
600 East Boulevard Ave, Dept 408  
Bismarck, ND 58505-4080

*Via email and hand delivery*

**Re: Notice of Potential Violation  
Sacagawea Pipeline Company, LLC  
16-inch Crude Oil Pipeline – McKenzie & Mountrail  
Case No. PU-15-114**

Commissioners:

Enclosed for filing is an additional statement regarding the failure to conduct a final inspection of the pipeline that was the subject of Case No. PU-15-114.

Sincerely,

Derrick Braaten

Copy: Illona Jeffcoat Sacco (via email to [ijs@nd.gov](mailto:ijs@nd.gov))  
Lawrence Bender (via email to [lbender@fredlaw.com](mailto:lbender@fredlaw.com))  
Danielle Krause (via email to [dkrause@fredlaw.com](mailto:dkrause@fredlaw.com))  
Zachary Pelham (via email to [zep@pearce-durick.com](mailto:zep@pearce-durick.com))

Enclosure

4 **PU-16-582** Filed: 8/18/2016 Pages: 3  
Additional statement regarding potential violation

Re: Boyd Statement

My name is Jesse Graham, and I currently live at 11829 Bremen Point, Peyton, CO 80831. I have 4 years of experience in the pipeline construction industry.

Until a couple of weeks ago, I was part of the coating crew for pipeline contractor Boyd & Company, working on the Sacajawea Pipeline. I was hired by Boyd around March 29, 2016 and worked for the company until I was let go around the weekend of July 16, 2016.

Our crew worked on the coating of a roughly two-mile section of bore pipe that was designed to go under Lake Sakakawea. We were told the pull for the lake bore was scheduled on or about Saturday, July 16, 2016.

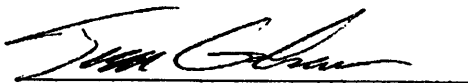
The process for preparing the bore pipe involved starting at one end of the pipe with a Holiday Detector ("jeep") to identify defects in the coating. Each time we found a defect, we would blast or sand down the place where we found the problem, re-apply the coating and then babysit it while it cured to make sure the coating fully protected the pipe. When we got to the other end we would start the process over again in the other direction.

We worked all day the day before the pipe was pulled under the lake trying to get it ready. On our last pass we found and repaired about a dozen jeeps, and we were expecting to take at least one more pass in the morning.

Instead, early the next morning, they started setting up for the pull. Usually, the pipe would be jeeped coming off the rollers prior to entering the bore entrance, but the General Superintendent told us to stay in our trucks because we were not going to be allowed to jeep the pipe. He also mentioned that he did not want our crew to jeep the pipe.

Once the pull was finished, we were told we were being let go. It was my understanding that Clive, who was Boyd's person in charge of us, said we took too long to finish the coating and used too many supplies.

I declare under penalty of perjury that the foregoing is true and correct.



SIGNATURE

8-9-2016

DATE

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Sacagawea Pipeline Company, LLC  
16-inch Crude Oil Pipeline – McKenzie & Mountrail**

**Case No. PU-15-114**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document:

1. Letter to Public Service Commission from Derrick Braaten regarding additional statement regarding potential violation,

was on the 18<sup>th</sup> day of August, 2016, emailed to the following:

Lawrence Bender  
lbender@fredlaw.com  
Danielle Krause  
dkrause@fredlaw.com

Zachary Pelham  
zep@pearce-durick.com

Timothy Dawson  
tjdawson@nd.gov

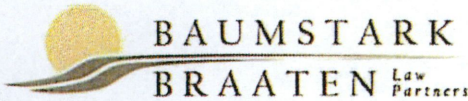
Illona Jeffcoat-Sacco  
ijs@nd.gov

DATED this 18<sup>th</sup> day of August, 2016.

**BAUMSTARK BRAATEN LAW PARTNERS**

/s/ Derrick Braaten

Derrick Braaten (ND 06394)  
derrick@baumstarkbraaten.com  
109 North 4th St., Suite 100  
Bismarck, ND 58501-4003  
Tel. 701-221-2911  
Fax 701-221-5842



Derrick Braaten  
Partner

derrick@baumstarkbraaten.com

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Bismarck, ND 58501  
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Fax: 701-221-5842  
www.baumstarkbraaten.com

August 3, 2016

Mr. Darrell Nitschke, Executive Secretary  
North Dakota PSC  
600 East Boulevard Ave, Dept 408  
Bismarck, ND 58505-4080

*Via email and hand delivery*

**Re: Notice of Potential Violation  
Sacagawea Pipeline Company, LLC  
16-inch Crude Oil Pipeline – McKenzie & Mountrail  
Case No. PU-15-114**

Commissioners:

Our firm has been retained to represent the interests of Intervenor Laborers District Council of Minnesota and North Dakota ("Laborers Union"). The Laborers Union was granted intervention by order of Administrative Law Judge Patrick Ward, dated March 29, 2016.

The Laborers Union has been contacted by a former laborer for Boyd & Company, the contractor selected to and which conducted the construction work for the subject pipeline. Based on the statement from this laborer, it appears that the construction process of the pipeline is not in accordance with the Public Service Commission's Findings of Fact, Conclusions of Law, and Order dated May 24, 2016.

Specifically, the PSC's Findings indicate that "The Project will be designed, constructed, operated, and maintained in compliance with Code of Federal Regulations Title 49 Part 195, Hazardous Liquids Pipeline Safety Regulations." Pursuant to 49 C.F.R. § 195.561, a contractor "must inspect all external pipe coating ... just prior to lowering the pipe into the ditch or submerging the pipe... [and] must repair any coating damage discovered." As is explained in the attached statement from Kenny Crase, it appears that the obligatory final inspection was not completed. More alarming, however, is the potential that a pipeline is being constructed beneath Lake Sakakawea with damaged coating.

Also attached is an affidavit from Evan Whiteford, who is employed by the Laborers Union. Mr. Whiteford's affidavit documents what he views as a failure by Boyd & Company to utilize best practices and generally to conduct its operations in a reasonable manner. While the Laborers Union may not have provided this additional information otherwise, in light of the potential serious violation described by Mr. Crase, the Laborers Union feels compelled to point out other potential issues that the PSC might want to review and inspect, in its discretion.

North Dakota Public Service Commission

August 3, 2016

Page 2

Sincerely,

A handwritten signature in black ink, appearing to read "Derrick Braaten", with a stylized, cursive script.

Derrick Braaten

Copy: Illona Jeffcoat Sacco (*via email to ijs@nd.gov*)  
Lawrence Bender (*via email to lbender@fredlaw.com*)  
Danielle Krause (*via email to dkrause@fredlaw.com*)  
Zachary Pelham (*via email to zep@pearce-durick.com*)  
Patrick Ward (*via email to pward@zkslaw.com*)

Enclosures

My name is Kenny Crase, and I currently live in Stanley, North Dakota. I have 34 years of experience in the construction industry, beginning as a mason tender and bricklayer in St. Louis, Missouri. My wife and I moved to North Dakota at the beginning of the oil boom because there wasn't enough work in St. Louis.

Since moving to North Dakota, I have gained an extensive knowledge of pipeline construction working as a pipeline laborer and inspector for several contractors and inspection companies, including Alpha Oil & Gas and B&B inspections.

My most recent job was for pipeline contractor Boyd & Company, where I worked as a laborer on the coating crew helping to build the Sacajawea Pipeline. I was hired by Boyd around March 1, 2016 and worked for the company until I was told I had been let go on July 16, 2016.

I was familiar with Boyd before I took the job on the coating crew because I was an inspector on pipeline work where the company was responsible for directional drills. I was not eager to work for Boyd based on what I had seen as an inspector, but there wasn't enough inspection work available after oil prices collapsed and I needed a paycheck. I also had previous experience working with the coating

foreman, Mike Conrad, at Alpha, and I thought he would run a good crew.

There were a lot of headaches and delays in the coating process, especially on the roughly two-mile bore pipe that was pulled under Lake Sakagawea. In my opinion, most of the problems were caused by the coating material they used and the fact that the inspectors couldn't seem to get on the same page about what they wanted. There were two different inspection companies: Optimal Energy on the reservation and SDI off the reservation, and we went through multiple coating inspectors who had different ideas about what they wanted the pipe to look like. One inspector made us re-do all of our work because she said the second was applied outside the "cure window" even though the manufacturers specifications said it was fine.

We were told the pull for the lake bore was scheduled on or about Saturday, July 16. By the day before, our crew spent had about three weeks on the coating of the lake bore pipe. We would start at one of the pipe using a Holiday Detector (we called it the jeep) to identify defects in the coating. Each time we found a defect, we would blast or sand down the place where we found the problem, re-apply the coating, and then babysit it while it cured to make sure the coating fully protected the pipe. When we got to the other end, we would start all over again.

When you're coating the bore pipe, you keep going down the pipe checking for defects and fixing them until you can jeep the whole pipe and not find one. Then it's ready to be pulled through the bore, but while it's being pulled you jeep it one more time as it's coming off the rollers. The pipe should never go underground without a final jeep. But that's exactly what happened on this project.

We worked all day the day before the pipe was pulled under the lake trying to get it ready. On our last pass, we had found and tried to fix about a dozen jeeps, and we were expecting to take at least one more pass in the morning because the reapplication of the coating doesn't always work.

The coating material we used would sag and leave a ridge at the bottom of the pipe, and there was nothing you could do to stop it except wrap it in cellophane, which the inspectors didn't want us to do. The ridge wasn't really a problem for the integrity of the pipe, but the inspector wanted us to remove it anyway so they had us sand it down. We were able to sand the ridges out but the pipe was discolored where we sanded it.

An inspector from Phillips 66, which is one of the owners of the Sacagawea Pipeline, came by late that day. and I guess he wanted

the color to be uniform because we were told that we were going to have to reapply so the it looked the same all around the pipe.

Armaido told me that we were going to have reapply coating that night to make it uniform, and I said then you're going to need to bring out lights because it was already getting late. Then he changed his mind and told us we could knock off for the day. I figured we would have a chance to do a final jeep and fix any remaining defects in the morning.

Instead, early the next morning, they started setting up for the pull, even though the pipe had never made it through a final jeep. I remember the day not only because of what happened but because there was rain and some lightning, and they had people in their equipment.

We were ready to jeep the pipe as it was coming off the rollers into the bore, but the General Superintendent told us to stay in our trucks because we weren't going to be allowed jeep the pipe. I knew it was wrong, but he said the inspector had signed off on it, and I didn't think there was anything I could do to stop it.

The pull that Michels did was quick and efficient, the fastest I've ever seen, but I kept thinking about what would happen to the lake if the pipe corroded because it wasn't properly inspected. Once the pull

was finished, we were told we were being let go because Clive, who was Boyd's guy in charge of us had decided that we took to long to finish the coating.

There were safety and other problems on the project, for example Boyd consistently used incredibly steep, unsafe bore pits, and a lot of times the inspectors weren't around to inspect the work. But pulling a pipe that hadn't been properly inspected under Lake Sakagawea was probably the worst decision I've ever seen a pipeline contractor make. I was told they expected to have bigwigs there for the pull, although I didn't see any, and I was told it was going to cost \$100,000 a day to have Michels onsite waiting for the pipe, but I still don't understand why any company would put the lake at risk like that.

I declare under penalty of perjury that the foregoing is true and correct.

Kenny Erase  
SIGNATURE

7/28/16  
DATE

STATE OF NORTH DAKOTA        )

) SS.

COUNTY OF WILLIAMS         )

Evan Whiteford, being duly sworn under oath, hereby states as follows:

I give this affidavit based on my personal observation of construction of the Sacagawea Pipeline by pipeline contractor Boyd & Co. for Sacagawea Pipeline Company between July 12 and July 16, 2016. I have included in this affidavit a set of photos that I personally took along the pipeline right-of-way in Mountrail County during that period to document Boyd's clear failure to employ pipeline construction best practices and Sacagawea Pipeline Company's failure to enforce such practices.

My observations are informed by an extensive knowledge of pipeline construction techniques that was acquired during a roughly nine-year career as a pipeline laborer, foreman, and union steward working on pipeline projects across the United States. I have completed more than 20,000 hours of work and 280 hours of skills training since I began my pipelining career in 2007. My employers included top contractors in the pipeline industry, and my experience includes projects that ranged from 42-inch mainlines to small gathering lines and well-site connections.

My work and training have given me a working knowledge of all major aspects of pipeline construction, including environmental controls, coating, locating, lowering-in, tie-in, testing, and clean-up. My current position as a Marketing Representative for the Laborers Union's Great Lakes Regional Organizing Committee, which I have held since January 2015, affords me additional opportunities to observe pipeline construction work.

The photos below show locations along the Sacagawea Pipeline right-of-way where sections of pipe were left lying on the ground. The first two were taken near 49<sup>th</sup> Street

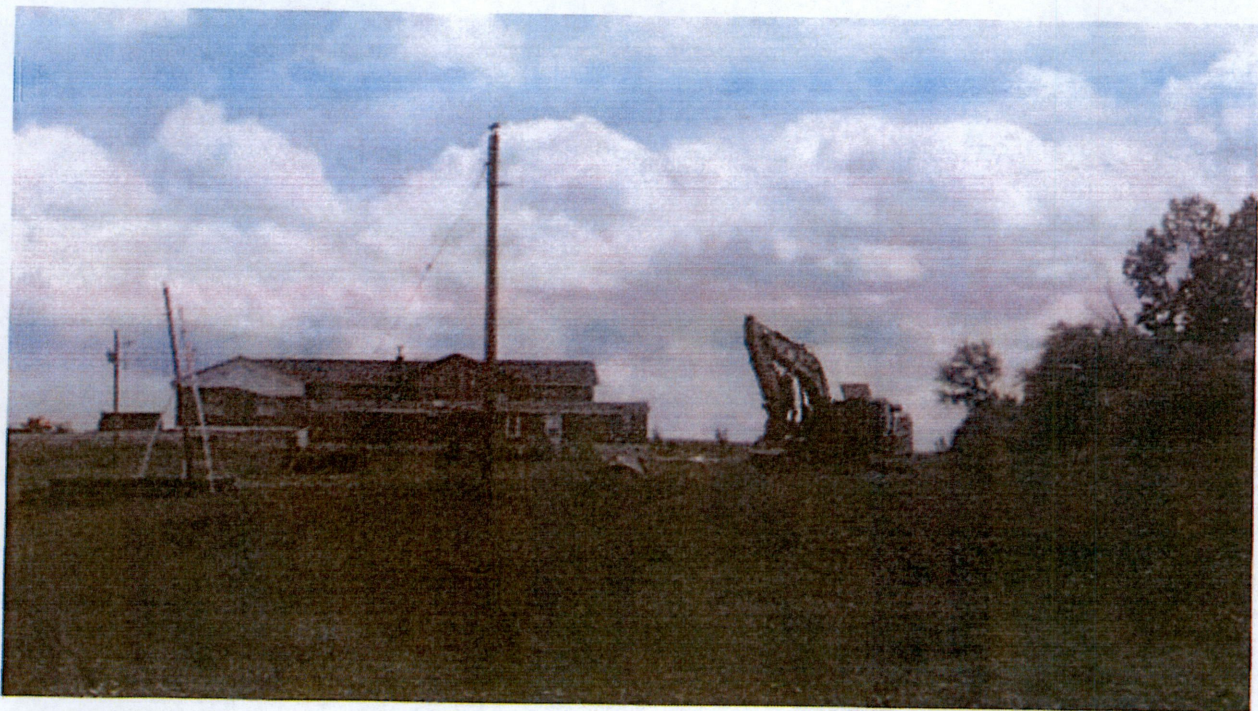
approximately two miles west of Highway 8, the second two were taken near Highway 8 south of 53<sup>rd</sup> Street NW, and the last was taken at 59<sup>th</sup> Street west of 80<sup>th</sup> Avenue NW. Skilled pipeline workers are taught never to place pipe on the ground because rocks and dirt can scratch the factory coating, which can contribute to corrosion and integrity problems down the line.







The photo below, taken near 53<sup>rd</sup> Street NE east of Highway 8 in Mountrail County, shows an excavator working near overhead power lines without a spotter. In my experience a responsible contractor will not allow use heavy equipment in the vicinity of a live power line without a spotter because contact with the line can injure or kill the operator in addition to the potential for damage to the equipment and the power system.



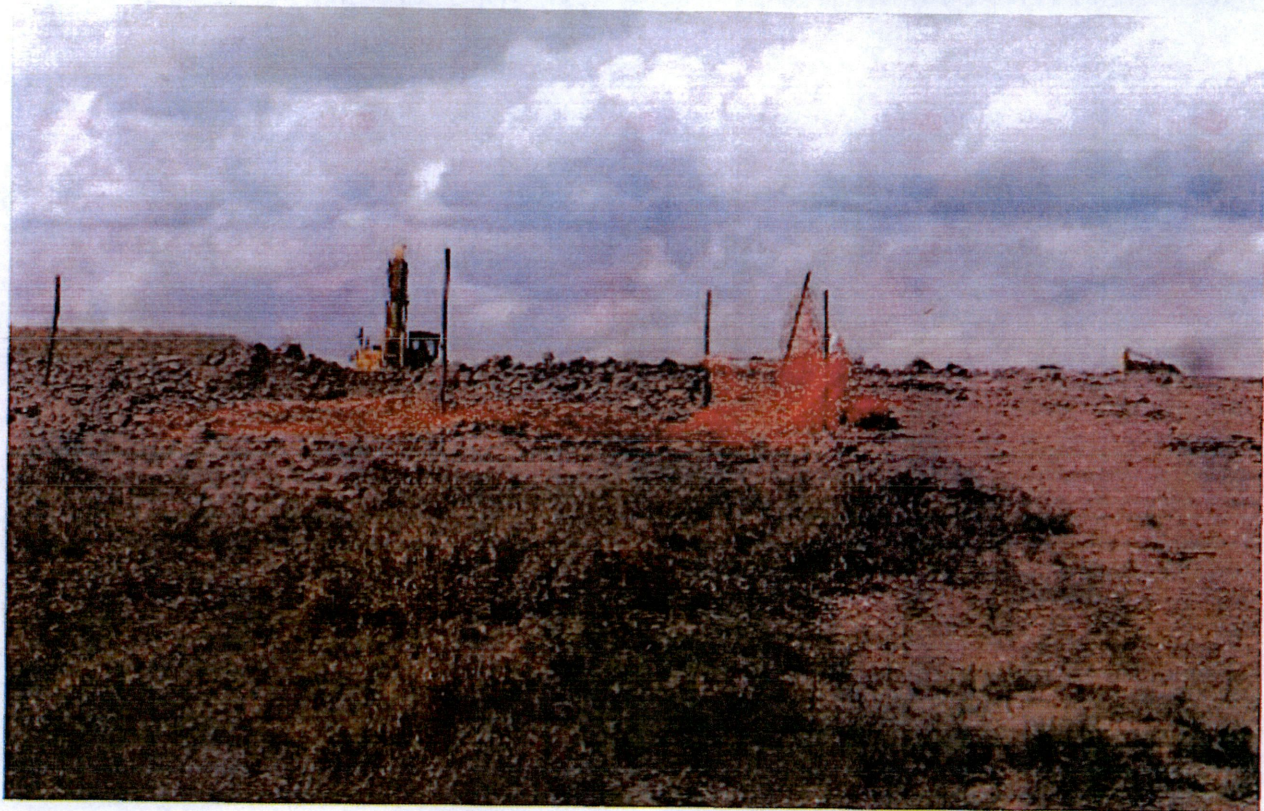
The next two photos, taken near 59<sup>th</sup> Street west of 80<sup>th</sup> Avenue NW, shows construction activity along a road that has not been adequately posted to warn drivers of potential hazards

ahead. In this situation, there should be signs and the flagger should be more visible for the safety of drivers and the crew.



The photos below – the first taken 59<sup>th</sup> Street west of 80<sup>th</sup> Avenue, the second taken near 49<sup>th</sup> Street approximately two miles west of Highway 8, and the rest taken two miles west of 92<sup>nd</sup> Avenue NW on an unnamed road south of Newton – show collapsed safety fence near road crossings that is no longer helping to protect people, animals, or vehicles from injury or damage that can result from a fall into a bore pit.







The next photo, taken in the vicinity of 60<sup>th</sup> Street a mile west of 79<sup>th</sup> Avenue, shows a section of the right-of way where heavy equipment has obviously been moved across unprotected wetland, leaving a clear set of tracks. Heavy equipment can permanently damage fragile wetland soil and vegetation, which is why a responsible contractor will use a mat bridge when wetland crossings are unavoidable.



The photos below show areas where the contractor has failed to properly install or maintain silt fence or other erosion controls. Skilled pipeliners are trained to install and maintain proper erosion controls, because erosion can kill wetland vegetation, while removing topsoil necessary to sustain native plant life or cultivation on exposed areas. The following photo shows a section of the right-of-way on 53<sup>rd</sup> Street NW East of Highway 8 in Mountrail County where no silt fence has been put in place to prevent runoff into a wetland.



The next two photos, taken at a location east of 87<sup>th</sup> Avenue on an unnamed road in Mountrail County, show an area where silt fence was installed but then evidently run over and neglected.

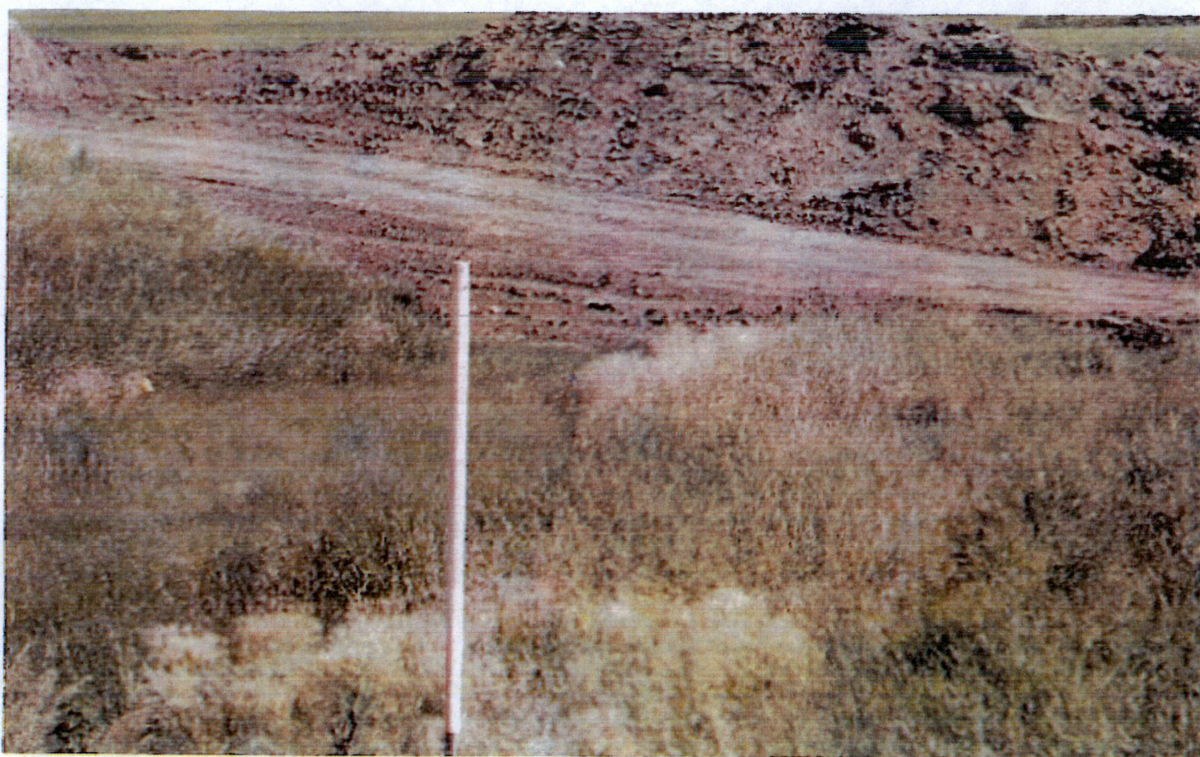




The photos below show locations along the right-of-way where there is clearly no silt fence in place to protect a wetland area. The first photos was taken near 80<sup>th</sup> Avenue NW north of 59<sup>th</sup> Street NW; the second two were taken approximately a half-mile west of 87<sup>th</sup> Avenue NW along an unnamed road north of Newtown; and the remainder were taken about two miles west of 9nd Avenue NW on an unnamed road soth of Newtown.









The above is true and correct to the best of my knowledge.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Signed \_\_\_\_\_

Subscribed and sworn to before me

this 2 day of AUG, 2016.

Notary Public \_\_\_\_\_

