

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Savage Bakken Connector, Inc.  
10-Inch Crude Pipeline Project – Williams County  
Siting Application**

**Case No. PU-16-753**

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

**February 21, 2017**

**Appearances**

Brian R. Bjella, Attorney at Law, Crowley Fleck PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58501, on behalf of Savage Bakken Connector, Inc.

Brian Schmidt, Special Assistant Attorney General, 122 E. Broadway Ave., Bismarck, North Dakota 58501, on behalf of the North Dakota Public Service Commission.

Timothy J. Dawson, Administrative Law Judge, Director of the Office of Administrative Hearings, 2911 North 14<sup>th</sup> Street, Suite 303, Bismarck, North Dakota 58503, as Substantive Hearing Officer.

**Preliminary Statement**

On November 22, 2016, Savage Bakken Connector, Inc. (Savage), filed applications for a certificate of corridor compatibility and a route permit concerning approximately 2 miles of 10-inch inside diameter steel pipeline and associated facilities for the transportation of crude oil (Project). The Project is to be located in Williams County, North Dakota.

Also on November 22, 2016, Savage filed an application for waiver of procedures and time schedules established under North Dakota Century Code Sections 49-22-07.2, 49-22-08, 49-22-08.1, and 49-22-13, and North Dakota Administrative Code chapter 69-06-06 and section 69-06-01-02, requiring separate filings, separate notices and separate hearings on the certificate of corridor compatibility and route permit applications.

On December 20, 2016, the Commission found the applications for a certificate of corridor compatibility and route permit complete and issued a Notice of Filings and Public Hearing (Notice) scheduling a hearing for January 19, 2017, at 1:00 p.m. Central Time,

at The Ernie French Center, NDSU Williston Research Extension Center, 14120 Hwy. 2, Williston, North Dakota 58801.

The Notice identified the following issues to be considered with respect to the Application for a 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 identified the following issues to be considered with respect to the applications for a certificate of corridor compatibility and route permit:

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?

On January 19, 2017, the hearing was held.

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. Savage is a Utah corporation authorized to do business in the State of North Dakota, as evidenced by corporate papers filed with the Commission on November 22, 2016, and December 9, 2016.
2. Savage is a subsidiary of Savage Services Corporation. Savage Services Corporation owns the Savage Bakken Petroleum Hub located approximately 3.5 miles southwest of Trenton, North Dakota. The Savage Bakken Petroleum Hub is an open access unit train facility that ships crude oil to destinations served by rail.

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

3. The Project will consist of approximately 2 miles of 10-inch inside diameter steel pipeline, and associated facilities. The Project will originate at the Savage Bakken Petroleum Hub beginning in Section 36, Township 153 North, Range 103 West which is approximately 3.5 miles southwest of Trenton. The Project will end in Section 6, Township 152 North, Range 103 West, near North Dakota Highway No. 1804 where it will interconnect with the Dakota Access Pipeline. The pipe will have a wall thickness of 0.365 inches.
4. The maximum capacity of the Project will be 60,000 barrels per day. The maximum operating pressure of the pipeline will 1,480 pounds of pressure per square inch gauge and the maximum operating temperature will be 120 degrees Fahrenheit.
5. Associated facilities and equipment will include two pump stations, and launcher and receiver valve sets. The booster pump station and launcher and receiver valve sets will be located at the Savage Bakken Petroleum Hub. The pipeline is proposed to interconnect with the pipeline constructed by Dakota Access, LLC, as approved by this Commission in Case No. PU-14-842. The pump station at the Dakota Access connection site will consist of multiple 700 horsepower pumps along with associated electrical equipment. The injection pump station receiver valve set and metering station will be located 200 feet northeast of the Dakota Access pipeline interconnection.
6. 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.
7. The temporary construction right-of-way will be 100 feet wide. The permanent right-of-way will be 25 feet wide.
8. The total cost of the Project is estimated to be approximately \$6 million.

### Study of Preferred Location

9. Savage evaluated a one-mile wide area centered on the proposed route extending from the Savage Bakken Petroleum Hub to the Dakota Access interconnection for resources including a Class I cultural resource literature survey (Study Area) as outlined in blue on page A-1 of Appendix A of Hearing Exhibit 2.
10. Savage conducted a Class III cultural resource inventory and various natural resource field surveys including land use, wildlife, protected species, critical habitats, wetlands and water bodies, and vegetation from the Savage Bakken Petroleum Hub to the Dakota Access interconnection over a 200 foot wide area (Survey Area) centered on the proposed route. The Survey Area was expanded in the southern portion where the pump station, access road and bore areas will be located to ensure all potential impacts

would be identified. The Survey Area is outlined in red on page A-1 of Appendix A of Hearing Exhibit 2.

11. The following agencies were contacted by Savage and provided comments regarding the Project: United States Army Corps of Engineers (USACE), State Historical Society of North Dakota (SHSND), North Dakota Game and Fish Department (NDGF), North Dakota State Water Commission (SWC), North Dakota Department of Commerce (NDDC), North Dakota Department of Health (NDDH), North Dakota Parks & Recreation, Job Service North Dakota, United States Bureau of Reclamation, United States Department of Agriculture (NRCS), and the Federal Aviation Administration (FAA). Input provided includes the following:

- a) USACE stated that permits may be required from the USACE, such as a Section 10 permit and a Section 404 permit.
- b) NRCS stated that impacts to wetlands should be avoided.
- c) NDGF stated that it did not believe that the Project will have a significant adverse effect on wildlife or wildlife habitat, as long as disturbed areas are reclaimed to pre-project conditions.
- d) With respect to the Class III cultural resources inventory report submitted in December 2016, SHSND stated in a letter dated December 8, 2016, that there has been a good faith effort to identify and avoid impacts to "Significant Sites."
- e) SWC stated that no permits relative to the National Flood Insurance Program were required and waste materials must be disposed of properly.
- f) The NDDC stated that the Project consultation letter had been reviewed through the North Dakota Federal Program Review Process and clearance had been given.
- g) The NDDH stated that it believed environmental impacts from the Project will be minor and can be controlled by proper construction methods, and provided its construction comments and construction and environmental disturbance requirements. The NDDH also stated that the project overlies the Trenton aquifer and care should be taken to avoid spills of any materials that would impact groundwater quality and that a private drinking water well was near the proposed route.
- h) North Dakota Parks & Recreation recommends that the project be accomplished with minimal impacts and all efforts to ensure critical habitats not be disturbed and any impacted areas be revegetated with species native to the project area.

- i) Job Service North Dakota stated that Savage was not liable to the construction project risk protection provision of the North Dakota Century Code and does not have to post a construction bond or letter of credit.
- j) The FAA stated it has no objection as long as the project does not affect navigable airspace.
- k) The Bureau of Reclamation stated that if the pipeline crosses Reclamation's irrigation canals, Savage would have to coordinate its construction activities with the local Irrigation District, and, if necessary, acquire a Special Use Permit; however, Savage represents that the project does not cross the irrigation canals.

### Siting Criteria

12. The Commission has developed 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.

13. Savage evaluated the Project with respect to the Exclusion, Avoidance, Selection and Policy Criteria of the Commission.

14. A transmission facility route must not be sited within an Exclusion Area. A buffer zone of a reasonable width to protect the integrity of the area must be included. Exclusion Areas may be located within a corridor, but at no given point may such an area or areas encompass more than fifty percent of the corridor unless there is no reasonable alternative. No Exclusion Areas are present within the Survey Area.

15. A Class III Cultural Resource Inventory was completed on September 23, 2016. During this survey, three previously recorded cultural resources were identified (two historical sites and one architectural site). The SHPO issued a concurrence letter which found the report acceptable, and the concurrence letter has been filed with the Commission. Provided all work and ground disturbance stays within the survey corridor, and the one unevaluated architectural site is avoided by 50 feet or all work occurs across the road identified as 42<sup>nd</sup> Street NW, no significant sites will be impacted by the Project. The Project will avoid impacts to all three sites.

17. An Avoidance Area is a geographical area that may not be considered in the routing of a transmission facility unless the applicant shows that, under the circumstances, there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a transmission 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. Economic considerations alone are not sufficient to establish no reasonable alternative.

16. The Lewis and Clark Trail, which is part of North Dakota Highway No. 1804, intersects the Project, and is an Avoidance Area. There will be no disturbance to the trail as Savage will bore underneath the highway.

18. Pursuant to North Dakota Administrative Code section 69-06-08-02 (2) areas within five hundred feet of a residence, school or place of business are Avoidance Areas. Two structures, a church and a community building, are located within 500 feet of the pipeline route. Savage has obtained waivers from these facilities and has filed the waivers with the Commission.

19. Field wetland delineations were completed. A total of five wetlands, covering approximately 1.67 acres were delineated within the Study Area; however, there are only two wetlands (approximately 0.15 acres total) that are within the Survey Area.

20. Impacts to the natural stream wetland (See Appendix H of Hearing Exhibit 2 for information on Wetland 3) will be avoided by means of directional drilling, and the second wetland, a man-made ditch wetland will be trenched. According to U.S. Army Corps of Engineers Nationwide Permit 12, delineated wetlands can be trenched through to lay the pipeline in compliance with stipulations of the permit. Savage stated it will comply with the stipulations of the permit. The man-made ditch wetland will be reclaimed after construction to its pre-existing condition.

21. A pedestrian survey for raptor nests was conducted within the Survey Area in September of 2016. No raptor nests were observed during the survey. The Project has been sited to avoid suitable habitat for threatened, endangered and candidate species. No sensitive botanical or zoological species or communities of ecological importance were identified within the Study Area. Construction of the Project is not anticipated to cause permanent impacts on rare or sensitive species, or irretrievable natural resources.

22. With respect to the Policy Criteria of the Commission, as a coordination of facilities and location, the Project will provide for the transportation of crude oil from the Savage Bakken Petroleum Hub to the Dakota Access pipeline. The location of the Project will allow for collection and transportation of crude oil produced from oil wells in northwestern North Dakota.

23. With respect to the Selection Criteria of the Commission, approximately 6.8 acres of farmland of statewide importance would be temporarily impacted during construction, but would be returned to its pre-existing condition following construction. In North Dakota clayey and loamy soils are classified by the Natural Resources Conservation Service as farmland of statewide importance.

24. In accordance with the Commission's Selection Criteria, a transmission facility route shall be designated if it is demonstrated that any significant adverse effects that will result from the location, construction, and maintenance of the transmission facility will be

at an acceptable minimum, or will be managed and maintained at an acceptable minimum.

25. Savage has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria. No significant adverse impact will result from the location, construction and operation of the Project.

#### Measures to Minimize Impact

26. Savage has agreed to a number of steps to mitigate impact of the Project as indicated by the Certification Rating to Order Provisions-Transmission Facility Siting (Certification) with accompanying Tree and Shrub Mitigation Specifications, as filed in this proceeding, and which is incorporated by reference and attached to this Order.

27. Savage testified that a Supervisory Control and Data Acquisition System (SCADA), a cathodic protection system and a pipeline leak detection system will be installed on this Project. The Project will be continuously monitored from the Savage Petroleum Hub site. The Project can be shut down from the Savage Petroleum Hub site.

28. Savage testified that the Project would be constructed, maintained, and operated according to CFR Title 49, Part 195, Hazardous Liquids Pipeline Safety Regulations.

29. Savage testified that it will participate in the North Dakota One-Call Evacuation System.

30. Savage testified that it will file a copy of its Emergency Response Plan with the Commission.

31. Savage testified that all easements necessary for construction of the Project have been obtained, with the exception of one.

32. To ensure protection of any new environmental or cultural finds during topsoil removal, Savage has committed to have an environmental inspector and a cultural resources specialist on site during topsoil removal operations.

33. Savage testified that a conditional use permit for the Project is not required by Williams County, North Dakota, and has filed with the Commission a letter from the County indicating the same.

34. The Project will be constructed in compliance with the standards established by the National Electric Safety Code.

35. Savage commits to participating in a preconstruction call with Commission Staff and the Commission's third-party construction inspector. Savage commits to informing the Commission and its third-party construction inspector of the date it will begin construction. Savage commits to coordinating with the Commission's third-party

construction inspector concerning site inspections, and keeping the Commission and its third-party construction inspector informed of the Project's status on a monthly basis.

36. In the event that construction is undertaken by Savage after topsoil has frozen to the point that frost inhibits soil segregation, Savage has committed to the following applicable winter construction guidelines as set forth in the following documents: North Dakota State University Extension Service, Publication R 1728, "Successful Reclamation of Lands Disturbed by Oil and Gas Development and Infrastructure Construction, August 2014; INGAA Foundation, Inc. Report No. 2013.04, "Planning Guidelines for Pipeline Construction During Frozen Conditions," December 2013.

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

### **Conclusions of Law**

1. The Commission has jurisdiction over Savage and the subject matter of these applications under North Dakota Century Code chapter 49-22.
2. Savage 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, as defined under 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 waiver application under North Dakota Century Code section 49-22-07.2 and North Dakota Administrative Code chapter 69-06-06.

From the Findings of Fact and Conclusions of Law, the Hearings Officer now issues the following:

## Recommended Order

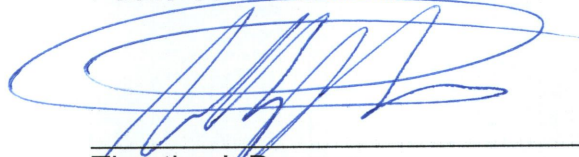
1. Savage's application for a waiver of procedures and time schedules is granted.
2. A Certificate of Corridor Compatibility shall be issued to Savage designating a corridor for the construction, operation, and maintenance of an approximately 2 mile long, 10-inch inside diameter crude oil pipeline and associated facilities in Williams County, North Dakota. For purposes of the Certificate, the designated corridor is depicted as outlined in red on page A-1 of Appendix A of Hearing Exhibit 2.
3. A Route Permit shall be issued to Savage, designating a route for the construction, operation and maintenance of an approximately 2 miles long, 10-inch inside diameter crude oil pipeline and associated facilities in Williams County, North Dakota. For purposes of the Permit, the designated route is depicted in green on page A-1 of Appendix A of Hearing Exhibit 2.
4. The January 9, 2017, Certification, with accompanying Tree and Shrub Mitigation Specifications, is incorporated by reference and attached to this Order.
5. To the extent there are any conflicts or inconsistencies between Savage's applications in this proceeding and the Certification, as amended by paragraph 6 of this Order, the Certification provisions control.
6. Provision 12 of the Certification is amended to state the following:

Company understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must also be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. If Company removes topsoil once topsoil freezes to the point that frost inhibits proper soil segregation, it shall follow the winter construction guidelines in the following documents: North Dakota State University Extension Service, Publication R1728, "Successful Reclamation of Lands Disturbed by Oil and Gas Development and Infrastructure Construction," August 2014; and INGAA Foundation, Inc., Report No. 2013.04, "Planning Guidelines for Pipeline Construction During Frozen Conditions," December 2013.
7. If a spill by Savage requires notification to any other state or federal agency, Savage 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. Savage 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 21<sup>st</sup> day of February, 2017

State of North Dakota  
Public Service Commission



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