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April 4, 2018

*Electronic Mail and U.S. Mail*

Mr. Darrell Nitschke  
Executive Director  
North Dakota Public Service Commission  
600 E. Boulevard, Dept. 408  
Bismarck, ND 58505-0480  
[ndpsc@nd.gov](mailto:ndpsc@nd.gov)



In re: ONEOK Rockies Midstream, L.L.C.  
Bear Creek Gas Plant Expansion Project  
Dunn County  
Case No. PU-18-021  
Our File No. 072530-000016

Dear Mr. Nitschke:

Please find enclosed eight copies of the Proposed Findings of Fact, Conclusions of Law and Order in the captioned matter.

Please feel free to contact the undersigned 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: ALJ Timothy Dawson (via email & U.S. Mail)  
Mitchell Armstrong (via email & U.S. Mail)  
Michael Dailey (via email)

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NORTH DAKOTA

ONEOK Rockies Midstream, L.L.C.  
Bear Creek Gas Plant Expansion Project  
Dunn County  
Siting Application

Case No. PU-18-021

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**CERTIFICATE OF SERVICE**

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I hereby certify that on the 4<sup>th</sup> day of April, 2018, a true and correct copy of the **PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** was electronically mailed and deposited in the United States Post Office at Bismarck, North Dakota, and that the document with postage prepaid was mailed, directed to the persons to be served at their last known post office address as follows:

Timothy J. Dawson  
Administrative Law Judge  
Office of Administrative Hearings  
2911 North 14<sup>th</sup> Street, Suite 303  
Bismarck, ND 58503  
tjdawson@nd.gov

Mitchell Armstrong  
Special Assistant Attorney General  
122 East Broadway Avenue  
P.O. Box 460  
Bismarck, ND 58502-0460  
marmstrong@smithporsborg.com

Dated this 4<sup>th</sup> day of April, 2018.



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**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**ONEOK Rockies Midstream, L.L.C.  
Bear Creek Gas Plant– Dunn County  
Siting Application**

**Case No. PU-18-021**

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

**April \_\_, 2018**

**Appearances**

Commissioners Randy Christmann and Brian Kroshus.

Wade C. Mann and Casey A. Furey, Attorneys at Law, Crowley Fleck, PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58502, on behalf of the Applicant, ONEOK Rockies Midstream, L.L.C.

Mitchell D. Armstrong, Special Assistant Attorney General, 122 East Broadway Avenue, Bismarck, North Dakota 58502, as Counsel for the Public Service Commission.

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

**Preliminary Statement**

On January 10, 2018, ONEOK Rockies Midstream, L.L.C. (“ONEOK”) filed with the Commission (“Commission”) an application for a certificate of site compatibility authorizing construction of an addition to its existing Bear Creek Gas Plant located in Dunn County, North Dakota.

On February 14, 2018, the Commission deemed the application complete and issued a Notice of Filing and Public Hearing (“Notice”) for a public hearing to be held March 21, 2018, at 10:00 a.m. Central Time at the High Plains Cultural Center, 194 Central Avenue South, Killdeer, North Dakota 58640.

The Notice identified the following issues to be considered in this matter:

1. Will the location and operation of the proposed facility produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?

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[Proposed] Findings of Fact, Conclusions of Law and Order

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2. Is the proposed facility compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility location 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 March 20, 2018, Commissioner Julie Fedorchak filed with the Commission a letter of recusal from Case No. PU-18-021, due to a potential conflict.

On March 21, 2018, the hearing was held as scheduled.

On April 3, 2018, ONEOK filed Late-Filed Exhibit 1, an executed Certification Relating to Order Provisions and Tree and Shrub Specifications.

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

#### **Findings of Fact**

1. ONEOK 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 January 10, 2018, in Case No. PU-11-684.

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

2. ONEOK owns and operates the Bear Creek Gas Plant ("Plant") located approximately 5 miles north of the City of Killdeer. The Plant is located on a 76-acre parcel of land owned by ONEOK in the northeast quarter of Section 28, Township 146 North, Range 95 West, Dunn County, North Dakota. (*See* Hearing Exhibit No. 3 "Project Site Boundary").
3. The Plant's current name plate processing capacity is 80 million standard cubic feet per day ("MMscfd") of gas. ONEOK proposes to increase the processing capacity of the Plant up to 175 MMscfd of gas.
4. Plant infrastructure includes underground piping, above ground piping, and above ground processing equipment. ONEOK testified the Plant may include the addition of an amine treating system.
5. The Plant will process well-head associated natural gas from oil production wells connected to ONEOK's gathering system in Dunn County and the surrounding area. Once

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natural gas liquids (NGLs) are processed, the product will be sold and transported via NGL pipelines. Residue gas will be delivered to a pipeline owned and operated by Northern Border Pipeline Company.

6. The total cost of the Plant, including the proposed expansion, is approximately \$250 million.

#### Study of Preferred Location

7. ONEOK conducted cultural and natural resource desktop surveys, as well as field surveys for the entire Project Site Boundary prior to the Plant's construction.

8. ONEOK conducted a Class I Cultural Resource Literature Search of an area consisting of a 1-mile wide buffer area centered upon the Project Site Boundary as depicted on the Overview Map located on page 2 of Hearing Exhibit No. 1. ONEOK conducted a Class III Cultural Resource Inventory of 145 acres, which included the entire Project Site Boundary.

9. ONEOK initiated consultations with various agencies regarding the Plant. The following agencies provided comments: U.S. Fish and Wildlife; U.S. Department of Defense; U.S. Army Corps of Engineers; North Dakota State Historic Preservation Office ("ND SHPO"); North Dakota Game and Fish Department; North Dakota Department of Trust Lands; and the North Dakota State Water Commission.

10. There is no evidence of any other agency responses expressing any concerns on ONEOK's proposal.

#### Siting Criteria

11. Pursuant to North Dakota Century Code section 49-22-05.1, the Commission has established criteria to guide in evaluating the suitability of granting an application for a certificate of site compatibility. The criteria, as set forth in North Dakota Administrative Code section 69-06-08-01, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

12. ONEOK evaluated the Study Area for Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria.

13. With the exception of prime and unique farmland as stated in North Dakota Administrative Code section 69-06-08-01(1)(d), an Exclusion Area is a geographic area that must be excluded in the consideration of a site for an energy conversion facility.

14. The Project Site Boundary consists of approximately 3.22 acres of prime farmland. The Commission finds that the prime farmland removed from use by the Plant is of such small

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acreage as to have a negligible impact on agricultural production, and the exclusion does not apply.

15. No Exclusion Areas are located within the Project Site Boundary.

16. An energy conversion facility must not be sited within an Avoidance Area unless the applicant demonstrates that under the circumstances there is no reasonable alternative. In determining whether an Avoidance Area should 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 sites.

17. The Class III inventory identified three historic archaeological sites with the Project Site Boundary. One of the sites was not eligible for inclusion on the National Register of Historic Places. The other two sites were avoided during construction of the Plant. ONEOK testified the proposed expansion will not affect the two historic sites. In correspondence dated December 14, 2017, the ND SHPO concurred with ONEOK's Class III survey recommendation of "No Adverse Effect to or No Significant Sites Affected."

18. No additional Avoidance Areas are located within the Project Site Boundary.

19. In accordance with the Commission's Selection Criteria, a site 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. ONEOK analyzed the effects that may result from the location, construction, and operation of the Plant. No significant adverse effects will result.

20. In accordance with the Commission's Policy Criteria, preference may be given to an application demonstrating certain benefits of the energy conversion facility. ONEOK has committed to maximizing the benefits of the Plant so as to meet the Policy Criteria.

#### Measures to Minimize Impact

21. ONEOK has made other representations and covenants as indicated by the Certification Relating to Order Provisions – Energy Conversion Facility Siting, with accompanying Tree and Shrub Specifications.

22. The addition of processing capacity for the Plant will have economic benefits and will minimize environmental disturbance by utilizing existing infrastructure, including access roads, utilities, gathering systems, and delivery and take away pipelines.

23. All work associated with the expansion will occur within the previously developed Plant footprint.
24. ONEOK testified no trees or shrubs exist within the Project Site Boundary.
25. ONEOK will obtain any necessary permits from the North Dakota Department of Health prior to construction of those portions of the Plant for which a permit is required.
26. ONEOK will continue to coordinate with local authorities and emergency managers regarding emergency response measures.
27. ONEOK testified that it will perform pressure and function testing before putting new facilities into service. ONEOK further testified it will comply with all applicable safety laws and standards.
28. ONEOK will utilize the North Dakota One Call system during construction.
29. ONEOK testified it will work with Dunn County by communicating its construction plans to aid in the orderly use of county roads.

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

#### **Conclusions of Law**

1. The Commission has jurisdiction over the applicant, ONEOK Rockies Midstream, L.L.C, and over the subject matter of the application under North Dakota Century Code Chapter 49-22.1.
2. ONEOK is a utility as defined in North Dakota Century Code section 49-22.1-01(12).
3. The Plant is an energy conversion facility as defined in North Dakota Century Code section 49-22.1-01(6).
4. The location, construction, and operation of the Plant 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 Plant is compatible with the environmental preservation and the efficient use of resources.
6. The Plant 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.

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

### **Order**

The Commission Orders:

1. Certificate of Site Compatibility No. \_\_\_ is issued to ONEOK Rockies Midstream, L.L.C., designating a site for the construction, operation, and maintenance of the Bear Creek Gas Plant. For purposes of this Certificate, the designated site consists of the 76-acre parcel of land located approximately 5 miles north of Killdeer, Dunn County, North Dakota, as identified on Hearing Exhibit 3.
2. The Certification Relating to Order Provisions – Energy Conversion Facility Siting with attached Tree and Shrub Mitigation Specifications executed April 3, 2018, is incorporated by reference and attached to this Order.
3. To the extent there are any conflicts or inconsistencies between ONEOK’s application and the Certification, the Certification provisions control.
4. ONEOK shall obtain all other necessary licenses and permits prior to commencing construction on such portion of the Plant for which the license and/or permit is required, and shall provide copies to the Commission.

### **PUBLIC SERVICE COMMISSION**

Recused

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**Julie Fedorchak**  
**Commissioner**

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**Randy Christmann**  
**Chairman**

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**Brian Kroshus**  
**Commissioner**