

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Hess North Dakota Pipelines LLC &
Hess North Dakota Export Logistics LLC
Keene Oil Gathering System Conversion
McKenzie County – Siting Application**

Case No. PU-18-024

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

May __, 2018

Appearances

Commissioners Randy Christmann, Julie Fedorchak, and Brian Kroshus.

Wade C. Mann and Casey A. Furey, Attorneys at Law, Crowley Fleck, PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58501, on behalf of Hess North Dakota Pipelines LLC and Hess North Dakota Export Logistics LLC.

Mitchell D. Armstrong, Special Assistant Attorney General, 122 East Broadway Avenue, Bismarck, North Dakota 58501, as Counsel for the Public Service Commission.

Patrick Ward, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

Preliminary Statement

On January 18, 2018, Hess North Dakota Pipelines, LLC and Hess North Dakota Logistics, LLC (collectively “Hess”), filed with the North Dakota Public Service Commission (“Commission”), a consolidated application (“Application”) for a Certificate of Corridor Compatibility and Route Permit concerning the conversion to a transmission line of an approximately 19-miles of existing 10-inch and 16-inch diameter crude oil gathering pipelines, and associated facilities in McKenzie County, North Dakota (“Project”).

On January 26, 2018, February 5, 2018, and February 9, 2018, Hess filed supplemental information with respect to the Application.

On February 14, 2018, the Commission deemed Hess’ Application complete and issued a Notice of Filings and Public Hearing (“Notice”) scheduling a hearing for April 10, 2018, at 9:00 a.m. Central Time at Teddy’s Residential Suites, 113 9th Ave SW, Watford City, North Dakota 58854.

The Notice identified the following issues to be considered with respect to the Application:

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?

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 April 10, 2018, the hearing was held as scheduled.

On June 7, 2018, Hess filed Late-Filed Exhibits 13-19.

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. Hess North Dakota Pipelines LLC and Hess North Dakota Export Logistics LLC are Delaware limited liability companies. Hess has been authorized to do business in the State of North Dakota, as evidenced by the Certificates of Good Standing filed with the Commission on January 18, 2018, in Case Nos. PU-15-033 and PU-16-190.

Size, Type, and Preferred Location of Facility

2. The Project consists of the conversion of approximately 19 miles of existing 10-inch and 16-inch crude oil gathering pipelines located in McKenzie County, North Dakota. The Project originates at Hess' existing Hawkeye Oil Facility and extends in a southerly direction with connections to the existing Crestwood Arrow Facility and the Dakota Access Pipeline Terminal. Hess proposes to convert the existing crude oil gathering pipeline to a crude oil transmission pipeline and add three booster pumps along the Project route. The existing 16-inch diameter steel pipeline was constructed in 2016/2017 and extends between the Crestwood Arrow Facility and the Dakota Access Pipeline Terminal. The existing 10-inch pipeline was constructed in 2014/2015 and extends between the Hawkeye Oil Facility and the Crestwood Arrow Facility.

3. The 10-inch diameter steel pipeline has a 0.365-inch wall thickness and the 16-inch steel pipeline has a wall thickness ranging from 0.25-inch to 0.50-inch.

4. The proposed Project is capable of transporting up to 160,000 barrels of oil per day as a transmission line and has a maximum operating pressure of 1,480 pounds per square inch. The existing pipelines were designed and constructed in compliance with the applicable provisions of Code of Federal Regulations Title 49, Part 195, hazardous liquids pipeline safety standards.

5. The estimated cost of the Project, including the proposed conversion, is approximately \$107 million dollars.

Study of Preferred Location

6. Hess conducted cultural and natural resource desktop surveys, as well as field surveys for the 250-foot-wide corridor centered on the Project route (“Corridor”).
7. Hess conducted a Class I Cultural Resource Literature Search and a Class III Cultural Resource Inventory of the Corridor.
8. The following agencies provided comments regarding the Project: North Dakota State Historical Preservation Office (“NDSHPO”); North Dakota Department of Trust Lands; North Dakota State Water Commission; North Dakota Game and Fish Department; Western Area Water Supply Authority; McKenzie County Weed Authority; and North Dakota Parks and Recreation.

Siting Criteria

9. The Commission has developed criteria pursuant to North Dakota Century Code section 49-22-05.1 to guide the site, corridor, and route suitability evaluation and designation process. The criteria, as set forth in North Dakota Administrative Code 69-06-08-02, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.
10. Hess evaluated the Project Corridor and route regarding the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.
11. An Exclusion Area 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.
12. State registered archeological sites are an Exclusion Area. Hess identified 16 designated sites within the Project Corridor. The Project route crosses 5 of these sites. On September 30, 2016, the NDSHPO provided concurrence that there has been a good faith effort to identify and avoid impacts to “Significant Sites,” provided the project remains as described.
13. No other known Exclusion Areas were identified within the Project’s Corridor.
14. An Avoidance Area is a geographic area that may not be considered in the routing of a transmission facility 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 routes.
15. Areas within five hundred feet of a residence, school, or place of business are an Avoidance Area. Hess obtained written waivers of the five hundred foot avoidance area criteria for the structures identified in Late-Filed Exhibit 17, and has filed copies with the Commission.
16. No other known Avoidance Areas were identified within the Project Corridor.

17. The Commission's Selection Criteria is set forth in North Dakota Administrative Code section 69-06-08-02(3). A corridor or route 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 analyzed the effects that may result from the location, construction, and operation of the Project to determine that no significant adverse effects will result.

18. The Commission's Policy Criteria is set forth in North Dakota Administrative Code section 69-06-08-02(4). The Commission may give preference to an applicant demonstrating certain benefits from the proposed transmission facility. Hess has committed to maximizing the benefits that result from implementing the policies and practices applicable to the Project.

Measures to Minimize Impact

19. Hess has made representations and covenants as indicated by the Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications. *See* Docket No. 26.

20. The conversion of the gathering pipeline will minimize environmental disturbance by utilizing existing infrastructure, including access roads, utilities, gathering systems, and delivery and take away pipeline.

21. Hess will obtain any necessary permits prior to operating the pipeline as a transmission line.

22. Hess will utilize a monitoring system as more particularly described in Late-Filed Exhibit 18.

23. Hess will comply with all applicable safety laws and standards in converting the pipeline.

24. Hess will utilize the North Dakota One Call system during construction.

From the foregoing Findings of Fact the Commission makes the following Conclusions of Law:

Conclusions of Law

1. The Commission has jurisdiction over the applicants, Hess North Dakota Pipelines LLC and Hess North Dakota Export Logistics LLC, and over the subject matter of the Application under North Dakota Century Code chapter 49-22.1.
2. Hess is a utility as defined in North Dakota Century Code section 49-22.1-01(12).
3. Upon conversion, the Project is a transmission facility as defined in North Dakota Century Code section 49-22.1-01(7).
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 is compatible with the 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.

From the foregoing Findings of Fact and Conclusions of Law, the Commission makes the following order:

Order

The Commission orders:

1. Certificate of Site Compatibility No. ___ is issued to Hess North Dakota Pipelines LLC and Hess North Dakota Export Logistics LLC, designating a corridor for the construction, operation, and maintenance of approximately 19 miles of 10-inch and 16-inch diameter crude oil transmission pipeline and associated facilities in McKenzie County, North Dakota. For purposes of the Certificate, the designated corridor consists of a 250-foot-wide area centered on the designated route.
2. Route Permit No. ___ is issued to Hess North Dakota Pipelines LLC and Hess North Dakota Export Logistics LLC, designating a route for the construction, operation, and maintenance of approximately 19 miles of 10-inch and 16-inch diameter crude oil transmission pipeline and associated facilities in McKenzie County, North Dakota. For purposes of the Permit, the designated route is the route of the existing gathering line as depicted in Hearing Exhibit No.12.
3. The Certification Relating to Order Provisions – Energy Conversion Facility Siting with attached Tree and Shrub Mitigation Specifications executed April 5, 2018, is incorporated by reference and attached to this Order.

4. To the extent there are any conflicts or inconsistencies between Hess' Application and the Certification, the Certification provisions control.

5. Hess shall obtain all other necessary licenses and permits prior to commencing construction on such portion of the Project for which the license and/or permit is required, and shall provide copies to the Commission.

6. If a spill by Hess requires notification to any other state or federal agency, Hess will also inform the Commission of such spill within 24 hours of the occurrence by leaving a message at the Commission's Toll Free Number, with a follow-up email to the Commission's Executive Secretary.

7. Hess is required to comply with all applicable laws, rules, and/or regulations in the event it desires to construct another or a different transmission pipeline than was specified in the Application within the Corridor designated in this proceeding.

PUBLIC SERVICE COMMISSION

Julie Fedorchak
Commissioner

Randy Christmann
Chairman

Brian Kroshus
Commissioner