

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Hiland Partners Holdings LLC
Roosevelt Gas Plant Expansion Project – McKenzie
Siting Application

Case No. PU-18-277

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

October ____, 2018

Appearances

Commissioners Randy Christmann, Julie Fedorchak, and Brian Kroshus.

Lawrence Bender, Attorney at Law, Fredrikson & Byron, P.A., 1133 College Drive, Suite 1000, Bismarck, North Dakota 58501, on behalf of Hiland Partners Holdings LLC.

Mitchell D. Armstrong and Sarah E. Wall, Special Assistant Attorney Generals, 122 East Broadway Avenue, Bismarck, North Dakota 58501, on behalf of the North Dakota Public Service Commission.

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

Preliminary Statement

On July 17, 2018, Hiland Partners Holdings LLC (Hiland), filed with the North Dakota Public Service Commission (Commission) an application for a Certificate of Site Compatibility for the Roosevelt Gas Plant Expansion Project (Roosevelt Plant).

On July 23, 2018 Hiland filed with the Commission supplemental information in support of its application for a Certificate of Site Compatibility for the Roosevelt Plant.

On August 1, 2018, Commission Staff requested additional information regarding the project.

On August 14, 2018, Hiland filed with the Commission additional supplemental information in support of its application for a Certificate of Site Compatibility for the Roosevelt Plant (together with the original application and first supplemental filing, the “Application”).

On August 22, 2018, the Commission deemed complete the application of Hiland.

Also on August 22, 2018, the Commission issued a Notice of Filings and Public Hearing (Notice) scheduling a hearing for September 27, 2018, at 10:00 a.m. Central Time at Teddy's Residential Suites, 113 9th Avenue 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 September 27, 2018, the hearing was held as scheduled.

On October 19, 2018, Hiland filed the following late-filed exhibits: Late-Filed Exhibit 5: Health Department Letter 9-9-2018; Late-Filed Exhibit 6: Plot Plan (Revised); Late-Filed Exhibit 7: Spill Plan; Late-Filed Exhibit 8: Total Power Load NOW; Late-Filed Exhibit 9: Map Detailing Location of Landowners; Late-Filed Exhibit 10: Timeline for Plant Expansion; Late-Filed Exhibit 11: Unanticipated Find Plan; Late-Filed Exhibit 12: Resident Mitigation Plan; Late-Filed Exhibit 13: Increase Trunk Transfer Survey; Late-Filed Exhibit 14: Blast Radius Report; Late-Filed Exhibit 15: NGL Spill Information; Late-Filed Exhibit 16: Information Relative to Flaring of Rich Gas; Late-Filed Exhibit 17: Pipeline Status.

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:

Findings of Fact

1. Hiland is a Delaware limited liability company authorized to do business in the State of North Dakota since August 24, 2011, and is currently in good standing, as evidenced by the corporate papers filed with the Commission on July 23, 2018.

Size, Type, and Preferred Location of Facility

2. The proposed Roosevelt Plant activities will consist of the addition of one cryogenic turbo-expander unit with a capacity to process 150 million standard cubic feet of natural gas per day (MMscfd) to produce natural gas liquids (NGLs) and residue gas, bringing the total net capacity of the facility to 200 MMscfd. Hiland owns a 38 acre parcel located approximately 7.5 miles south of Watford City, McKenzie County, North Dakota, and the Roosevelt Plant, including the existing facility and all associated facilities, will occupy approximately 30 acres of the 38 acre parcel.

3. The NGLs and residue gas will be transported from the Roosevelt Plant through existing pipelines systems.
4. The Roosevelt Plant infrastructure will include underground piping, above ground piping, and above ground gas processing equipment and systems.
5. The estimated cost of the Roosevelt Plant is \$150 million.

Study of Preferred Location

6. Hiland conducted an environmental analysis for the approximate 30-acre parcel of land and an approximately 1-mile buffer area around the perimeter of the 30-acre parcel (Study Area). Hiland also conducted a Class I Cultural Resource Literature Search to identify any previously recorded cultural resources within the Study Area.
7. Hiland performed field surveys on the approximate 30-acre parcel (Survey Area). Hiland also conducted a Class III inventory of the Survey Area, which is consisted of a pedestrian survey with a maximum 15-meter survey line separation distance.
8. Hiland initiated consultations with the appropriate state agencies as required by North Dakota Administrative Code Section 69-06-01-05. The following agencies were consulted regarding the Roosevelt Plant: U.S. Fish and Wildlife Service; North Dakota Game and Fish Department; North Dakota Department of Parks and Recreation; North Dakota Department of Trust Lands – Surface Management; North Dakota Department of Trust Lands – Minerals Management; North Dakota State Historical Preservation Office; North Dakota State Water Commission; McKenzie County Weed Control Board; McKenzie County Water Resource District; Western Area Water Supply Authority.

Siting Criteria

9. The Commission has established criteria pursuant to North Dakota Century Code Section 49-22.1-03 to guide the Commission 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.
10. Hiland evaluated the Study Area regarding the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.
11. 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.
12. Hiland's surveys did not record any Exclusion Areas within the Survey Area of the Study Area.

13. An Avoidance Area is a geographic area that may not be approved as a site for an energy conversion 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 sites.

14. Hiland's field surveys did not record any Avoidance Areas within the Survey Area, although intermittent tributaries were noted in the Study Area. Adverse impacts to wetlands are not anticipated.

15. The Commission's Selection Criteria are set forth in North Dakota Administrative Code Section 69-06-08-01(5). A site shall be approved only if it is determined that any significant adverse effects resulting 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. Hiland analyzed the effects that may result from the location, construction, and operation of the Roosevelt Plant to determine that no significant adverse effects will result.

16. The Commission's Policy Criteria are set forth in North Dakota Administrative Code Section 69-06-08-01(6). The Commission may give preference to an application demonstrating certain benefits of the energy conversion facility. Hiland has committed to maximizing benefits that result from implementing the policies and practices applicable to the proposed energy conversion facility.

Measures to Minimize Impact

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

18. Hiland's Class III cultural resource survey did not identify any new or previously recorded cultural resources within the Survey Area. The North Dakota State Historical Preservation Office concurred with Hiland's Class III survey recommendation of "No Significant Sites Affected."

19. In a response dated September 6, 2018, the North Dakota Department of Health (NDDOH) recommended that: (i) care be taken during construction activity near any water of the state to minimize adverse effects on a water body from disturbance, reclamation, and oil, gas, or fuel spills associated with construction equipment; (ii) a storm water discharge permit may be necessary; (iii) care should be taken to avoid spills of any materials that may have an adverse effect on groundwater quality and all spills must be immediately reported to the NDDOH and appropriate remedial actions performed; (iv) the proposed project has the potential to be a source of emissions to the air capable of causing or contributing to air pollution and may be required to

have an Air Pollution Control Permit to Construct/Operate as required by Chapter 33-15-14 of the North Dakota Air Pollution Control Rules; (v) projects that involve construction of pipelines should select locations that minimize the potential for impacts to human health and the environment during and after construction by avoiding, when possible, source water protection areas and sensitive surface and groundwater environments; (vi) pipeline routes should select areas with natural barriers to both surface and ground waters; (vii) human health and environment should be further protected by developing a spill response plan that emphasizes rapid deployment of prepositioned assets necessary to contain spills and subsequent cleanup; and (viii) proper surveillance and monitoring for early detection of leaks should be required.

20. The North Dakota Game and Fish Department, North Dakota Department of Parks and Recreation, North Dakota Department of Trust Lands – Surface Management, North Dakota Department of Trust Lands – Minerals Management, and North Dakota State Water Commission all indicated no concerns with the proposed Roosevelt Plant.

21. In a response dated August 3, 2018, the McKenzie County Weed Office required Hiland to complete a weed management plan for approval. The McKenzie County Weed Office has approved the weed management plan submitted by Hiland.

22. Hiland received a conditional use permit (CUP) from McKenzie County for the existing Roosevelt Gas Plant. Hiland testified that the CUP will be updated to account for the Roosevelt Plant.

23. Hiland testified that it will comply with any requirements or recommendations made by any local, state, or federal agency.

24. The addition of the Roosevelt Plant adjacent to an existing gas processing facility will minimize environmental disturbance and utilize existing infrastructure including access roads, utilities, gathering systems, and delivery and take away pipelines.

25. Hiland will continue to coordinate with local authorities and emergency managers regarding emergency response measures. During both construction and operation, Hiland will implement its Emergency Procedures, Risk Management, Unanticipated Discovery, Spill Prevention and Control, and Erosion Control plans at the Roosevelt Plant.

26. Hiland will utilize the ND One Call system during construction.

27. Hiland does not expect any adverse impact on the surface drainage because construction specifications for the Roosevelt Plant take into consideration surrounding topography and draining patterns.

28. Hiland testified it will work with adjacent landowners by communicating construction plans and mitigating, where possible, negative impacts of the plant operating long term.

From the foregoing Findings of Fact, the Commission makes the following conclusions of law:

Conclusions of Law

1. The Commission has jurisdiction over the applicant, Hiland Partners Holdings LLC, and over the subject matter of the Application under North Dakota Century Code Chapter 49-22.1.
2. Hiland is a utility as defined in North Dakota Century Code Section 49-22.1-01(12).
3. The Roosevelt Plant is an energy conversion facility as defined in North Dakota Century Code Section 49-22.1-01(5).
4. The location, construction, and operation of the Roosevelt 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 Roosevelt Plant is compatible with the environmental preservation and the efficient use of resources.
6. The Roosevelt 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.

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

Order

The Commission orders: Hiland Partners Holdings LLC

1. Certificate of Site Compatibility No. ___ is issued to Hiland Partners Holdings LLC designating a site for the construction, operation, and maintenance of the Roosevelt Gas Plant Expansion Project. For purposes of this Certificate, the designated site is 30 acres of the 38-acre parcel of land located approximately 7.5 miles southeast of Watford City, in the W/2SE/4 of Section 30, Township 149 North, Range 98 West, McKenzie County, North Dakota, and as identified on the maps contained in Appendix B of Hearing Exhibit 1.
2. The Certification Relating to Order Provisions – Energy Conversion Facility Siting with attached Tree and Shrub Mitigation Specifications executed September 25, 2018, is incorporated by reference and attached to this Order.
3. To the extent there are any conflicts or inconsistencies between Hiland’s application and the Certification, the Certification provisions control.

4. Prior to the commencing construction of any portion of the proposed project, Hiland shall obtain all other necessary licenses and permits for construction of such portion, and provide copies to the Commission prior to construction of the portion of the project.

5. If a spill by Hiland requires notification to any other state or federal agency, Hiland 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.

6. Hiland is required to comply with all applicable laws, rules, and/or regulations in the event it desires to construct another or difference energy conversion facility that was specified in the Application within the site designated in this proceeding.

PUBLIC SERVICE COMMISSION

**Brian Kroshus
Commissioner**

**Randy Christmann
Chairman**

**Julie Fedorchak
Commissioner**

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