

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

WPX Energy Williston, LLC  
Twin Buttes Pipeline Project  
Jurisdictional Determination

Case No. PU-18-369

AFFIDAVIT OF SERVICE BY REGULAR MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **21st** day of **November, 2018**, she deposited in the United States Mail, Bismarck, North Dakota, 1 envelope by first class mail, fully prepaid, containing a copy of:

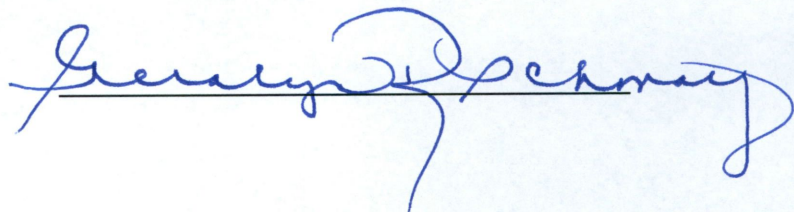
- Letter

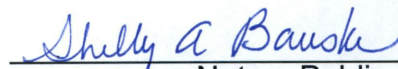
The envelope was addressed as follows:

Mr. William F. McCarthy  
E3 Environmental  
871 Jefferson Avenue  
St. Paul, MN 55102

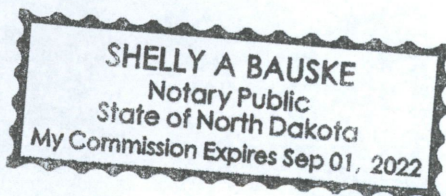
The post office address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this **21st day of November, 2018**.



  
Notary Public

SEAL



3 PU-18-369 Filed: 11/21/2018 Pages: 4  
Affidavit of Service, Reg. Mail - Letter

Public Service Commission

November 20, 2018

Mr. William F. McCarthy  
E3 Environmental  
871 Jefferson Avenue  
St. Paul, MN 55102

RE: WPX Energy Williston, LLC – Twin Buttes Pipeline Project

Dear Mr. McCarthy:

Thank you for your October 8, 2018 request for jurisdictional review of a proposed pipeline system comprised of three pipelines for transportation of produced water, wellhead gas, and crude oil, and “further discussion for the benefit of reaching a final determination regarding state jurisdiction” authority over various types of landownership both within and outside of the exterior boundary of the Fort Berthold Indian Reservation. On November 20, 2018, the Public Service Commission (Commission) discussed your request at the administrative matters portion of its regular meeting and asked me to respond to you.

While the courts have provided some guidance, they have not spoken directly to Commission jurisdiction over transmission siting as it relates to Tribal lands. Tribal civil jurisdiction is complex, requires careful evaluation of a range of facts, and jurisdictional determinations provide a narrow focus to the information provided to the Commission.<sup>1</sup> Due to the nature of the request, the Commission declines to provide a broad review of state jurisdictional authority. However, this letter responds to the proposed project as it relates to the various commodities.

Produced Water. As stated in your letter, the proposed pipeline collection system will gather produced water and deliver it to a central collection point within the system. The transportation of produced water from well sites and central collection points to disposal facilities utilizes various means including pipeline and tanker trucks.

N.D.C.C. § 49-22.1-01(7)(b) references the transmission of water as it relates to transportation to or from any gas or liquid energy conversion facility. Your request does not provide that the system operation relates to the transportation of water to and from a plant or

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<sup>1</sup> N.D. Admin. Code § 69-06-02.1-02 demonstrates that a request for a jurisdictional determination generally should be sufficiently comprehensive to avoid a broad advisory opinion.

associated facilities designed for or capable of manufacturing or refining the end use of gas, liquid hydrocarbon products, enrichment of uranium materials, or electrical generation.

Under the facts provided, the produced water line would not be subject to the Commission's siting jurisdiction.

Wellhead gas. The proposed project's wellhead gas will gather product along a collection system (typically low pressure) and deliver it to a common hub. A single trunk line that is typically high pressure aided by compression will be downstream from the hub and deliver the wellhead gas to a third-party receipt point for further transport or processing.

N.D.C.C. § 49-22.01-01(7)(a)(3) provides that a gathering system includes "pipelines and associated facilities used to collect gas from the well to the gas processing facility at which end-use consumer-quality gas is produced, with or without the addition of odorant." The collection system described appears to fall within the gathering line exception.

Under the facts provided, the wellhead gas line would not be subject to the Commission's siting jurisdiction.

Crude Oil. The proposed project's collection system will gather crude oil and deliver it to one or more central delivery points (CDP) where it will be staged for downstream transportation. A CDP is typically comprised of aboveground storage tanks of various volumes. Downstream transport from a CDP may utilize a combination of surface transport or pipeline. Typically, delivery from a CDP via pipeline requires the addition of a pump to achieve the pressure within the pipeline to assure flow.

N.D.C.C. § 49-22.1-01(7)(a)(3) provides that a gathering system includes pipelines and associated facilities "used to collect oil from the lease site to the first pipeline storage site where pressure is increased for further transport." As described, the collection system up to the CDP points comprised of aboveground storage tanks is a gathering system. Once reaching the CDP with the addition of a pump to increase pressure for further transport, the system no longer fits the gathering exception, and therefore, is a jurisdictional transmission line.

Under the facts provided, unless subject to other exceptions, the CDP marks the beginning of transmission that would be subject to the Commission's siting jurisdiction.

We thank you again for contacting us. If there are any other areas that we may be of assistance or questions you may have, please do not hesitate to contact us.

Best Regards,

A handwritten signature in black ink, appearing to read 'John M. Schuh', with a long horizontal flourish extending to the right.

John M. Schuh  
Special Assistant Attorney General