

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**ONEOK Bakken Pipeline, L.L.C.
20-Inch NGL Pipeline – McKenzie County
Siting Application**

Case No. PU-18-399

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

April __, 2019

Appearances

Commissioners Brian Kroshus, Randy Christmann, and Julie Fedorchak.

John Morrison and Wade Mann, Attorneys at Law, Crowley Fleck PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58501, on behalf of ONEOK Rockies Midstream, L.L.C.

Mitchell Armstrong, Special Assistant Attorney General for the North Dakota Public Service Commission, 122 E. Broadway Ave., Bismarck, North Dakota 58501.

Timothy 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 November 28, 2018, ONEOK Bakken Pipeline, L.L.C. (“ONEOK”), filed with the North Dakota Public Service Commission (“Commission”), a consolidated application for a Certificate of Corridor Compatibility and Route Permit concerning a 20-inch natural gas liquids (“NGLs”) transmission pipeline, and associated facilities in McKenzie, North Dakota (“Project”).

On February 7, 2019, ONEOK filed an amended application for two route segments located outside of the corridor contained in the original application (Original Application Docket No. 1 and Amended Application Docket No. 18, collectively herein “Application”).

On February 28, 2019, the Commission deemed ONEOK’s Application complete and issued a Notice of Filing and Public Hearing (“Notice”) scheduling a hearing for April 3, 2019, at 9:00 a.m. Central Time at Teddy’s Residential Suites, 113 9th Ave. SE, Watford City, North Dakota 58854.

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

1. Will the location, operation, and maintenance of the facility at the proposed location 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 construction, operation, and maintenance of the facility at the proposed 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 3, 2018, the hearing was held as scheduled.

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. ONEOK has been authorized to do business in the State of North Dakota, as evidenced by the Certificate of Good Standing filed with the Commission on February 7, 2019, as Docket No. 6 in Case No. PU-13-739.

Size, Type, and Preferred Location of Facility

2. The Project consists of approximately 77 miles of NGL pipeline, with approximately 74.3 miles located in McKenzie County, North Dakota. The Project includes seven mainline block valves, one pig launcher facility, and one pig launcher and receiver facility.

3. The Project will originate at the Demicks Lake Natural Gas Processing Plant (Case No. PU-14-764) in McKenzie County and terminate at an interconnection point in Richland County, Montana.

4. The Project utilizes a 20-inch diameter steel pipeline with a 0.344-inch to 0.375-inch wall thickness. The Project is capable of transporting up to 40,000 barrels of NGLs per day.

5. The Project has a maximum operating pressure of 1,480 pounds per square inch and complies with the applicable portions of Code of Federal Regulations Title 49 Part 195 hazardous liquids pipeline safety standards.

6. The estimated cost of the Project is approximately \$125 million dollars.

Study of Preferred Location

7. ONEOK conducted field surveys on a minimum 300-foot-wide areas centered on the Project route ("Project Corridor"), except that surveys have not been completed on those areas identified in Map Set Exhibit B.4, Hearing Exhibit 5 (Docket No. 45).

8. ONEOK conducted a Class I Cultural Resource Literature Review of a one-mile-wide evaluation corridor centered on the Project route to identify any previously recorded cultural resources.

9. ONEOK conducted Class III Cultural Resource Inventory field surveys on the Project Corridor except that surveys have not been completed on those areas identified in Map Set Exhibit B.4, Hearing Exhibit 5 (Docket No. 45).

10. The following agencies provided comments regarding the Project: U.S. Forest Service; U.S. Fish and Wildlife Service; U.S. Army Corps of Engineers; U.S. Department of Defense; U.S. Department of Agriculture; North Dakota State Historical Preservation Office ("NDSHPO"); North Dakota Department of Parks and Recreation; North Dakota Department of Trust Lands; North Dakota Department of Health; North Dakota Geological Society; North Dakota State Water Commission; and, North Dakota Game and Fish Department.

Siting Criteria

11. 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.

12. ONEOK evaluated the Project Corridor and route regarding the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

13. 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. A transmission facility route must not be sited within an Exclusion Area.

14. State registered archeological sites are an Exclusion Area. One eligible cultural resource site on record with the NDSHPO is located within the Project Corridor. ONEOK testified that the route will not impact the portions of the registered site which contribute to its eligibility. ONEOK received concurrences from the NDSHPO and submitted copies to the Commission (Hearing Exhibits 9-12, Docket Nos. 49-50). ONEOK testified it will file remaining NDSHPO concurrence for all un-surveyed areas of the Project Corridor prior to beginning construction in said areas.

15. ONEOK's surveys did not record any other known Exclusion Areas within the Project Corridor.

16. An Avoidance Area is a geographical 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 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.

17. Designated or registered national grasslands are an Avoidance Area. The Project crosses the Little Missouri National Grasslands. ONEOK testified the crossing area was selected to collocate within a previously established pipeline corridor. ONEOK testified alternative routes would require a longer Project route. ONEOK further testified there is no reasonable alternative to avoid impacts to the Little Missouri National Grasslands and that ONEOK will obtain a Special Use Permit from the United States Forest Service prior to commencing construction at this crossing.

18. Areas that are geologically unstable are an Avoidance Area. Based on North Dakota Geological Survey data, one landslide deposit area is within the Project Corridor; however, this landslide deposit area will be avoided by the Project route.

19. Areas within five hundred feet of a residence, school, or place of business are an Avoidance Area. ONEOK testified that it identified three occupied structures within five hundred feet of the Project route. ONEOK has obtained waivers for two of these structures and has filed copies with the Commission. *See Exhibit E to Hearing Exhibit No. 2, Docket No. 18.* ONEOK testified it will obtain the remaining landowner waiver prior to constructing the Project within 500 feet of said area or ONEOK will file a route adjustment pursuant to North Dakota Century Code section 49-22.1-15.

20. ONEOK's surveys did not identify any other known Avoidance Areas within the Project Corridor.

21. 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. ONEOK analyzed the effects that may result from the location, construction, and operation of the Project to determine that no significant adverse effects will result.

22. 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. ONEOK has committed to maximizing the benefits that result from implementing the policies and practices applicable to the Project.

23. ONEOK testified it has obtained easement agreements for all but 12.5 miles, or 16% of the Project. ONEOK testified it will obtain all remaining necessary landowner easements prior to constructing the Project in said areas. ONEOK further testified that if it is unable to obtain the remaining required easement agreements, ONEOK will reroute the Project and comply with the applicable filing requirements contained in North Dakota Century Code chapter 49-22.1.

Measures to Minimize Impact

24. ONEOK 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. 33.
25. ONEOK conducted Dakota skipper habitat and occupancy studies. No designated critical Dakota skipper habitat is located within the Project Corridor. ONEOK testified that after consultation between the U.S. Fish and Wildlife Service and the U.S. Forest Service, as part of the U.S. Forest Service's process to review and/or approve an application for a Special Use Permit, ONEOK will take measures to avoid impacts to suitable occupied Dakota skipper habitat.
26. ONEOK has minimized the Project's environmental disturbance by collocating the Project within an existing pipeline corridor.
27. ONEOK will obtain any necessary permits from the United States Forest Service prior to commencing construction on the portion of the Project that crosses Little Missouri National Grasslands.
28. ONEOK testified that it will comply with all applicable safety laws and standards.
29. ONEOK will utilize the North Dakota One Call system during construction.

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

Conclusions of Law

1. The Commission has jurisdiction over ONEOK 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 Project is a transmission facility as defined in North Dakota Century Code section 49-22.1-01(7).
4. With respect to the portion of the Project that crosses the Little Missouri National Grasslands, the Commission finds there is no reasonable alternative to routing the Project in this location.
5. 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.
6. The location, construction, and operation of the Project is compatible with the environmental preservation and the efficient use of resources.

7. 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

The Commission orders:

1. Certificate of Site Compatibility No. ___ is issued to ONEOK Bakken Pipeline, L.L.C., designating a corridor for the construction, operation, and maintenance of approximately 74.3 miles of 20-inch diameter natural gas liquids pipeline and associated facilities in McKenzie County, North Dakota. For purposes of this Certificate, the designated corridor consists of a 300-foot wide area centered on the designated route.
2. Route Permit No. ___ is issued to ONEOK Bakken Pipeline, L.L.C., designating a route for the construction, operation, and maintenance of approximately 74.3 miles of 20-inch diameter natural gas liquids pipeline and associated facilities in McKenzie County, North Dakota. For purposes of this Permit, the designated route is the route of the Project as depicted in Map Set Exhibit B.4, Hearing Exhibit No. 5, Docket No. 45.
3. The Certification Relating to Order Provisions – Energy Conversion Facility Siting with accompanying Tree and Shrub Mitigation Specifications executed March 28, 2019 (Docket No. 33), is incorporated by reference and attached to this Order.
4. To the extent there are any conflicts or inconsistencies between ONEOK’s Application and the Certification, the Certification provisions control.
5. ONEOK shall complete field surveys for the un-surveyed areas within the Project Corridor as identified in Map Set Exhibit B.4, Hearing Exhibit 5 (Docket No. 45). ONEOK shall file reports with the Commission prior to beginning construction in said areas.
6. ONEOK shall complete a Class III Cultural Resource Survey for un-surveyed areas within the Project Corridor as identified in Map Set Exhibit B.4, Hearing Exhibit 5 (Docket No. 45). ONEOK shall submit cultural resources finds to NDSHPO for review, and file a copy of NDSHPO’s response with the Commission prior to beginning construction in said areas.
7. ONEOK shall obtain all remaining landowner easements prior to constructing the Project in said areas. If ONEOK is unable to obtain the required easement agreements, ONEOK will reroute the Project and comply with the applicable filing requirements contained in North Dakota Century Code chapter 49-22.1.

8. ONEOK 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.

9. ONEOK 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 facility than was specified in the Application within the corridor designated in this proceeding.

PUBLIC SERVICE COMMISSION

Julie Fedorchak
Commissioner

Brian Kroshus
Chairman

Randy Christmann
Commissioner