

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

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

Case No. PU-19-085

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

May __, 2019

Appearances

Commissioners Brian Kroshus, Randy Christmann, and Julie Fedorchak.

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 ONEOK Bakken Pipeline, L.L.C..

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

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

Preliminary Statement

On February 27, 2019, 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 (the “Application”) concerning a 12-inch natural gas liquids (“NGLs”) transmission pipeline, and associated facilities in McKenzie, North Dakota (the “Project”).

On April 11, 2019, the Commission deemed ONEOK’s Application complete and issued a Notice of Filing and Public Hearing (“Notice”) scheduling a hearing for May 17, 2019, at 9:00 a.m. Central Time at the Little Missouri Inn & Suites Watford City, 109 E. 9th St. SW, 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 May 17, 2019, 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 its:

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 10.8 miles of NGL pipeline located in McKenzie County, North Dakota. The Project will originate at the Targa Badlands, L.L.C.'s Little Missouri Natural Gas Processing Plant ("Targa Gas Plant") (Case No. PU-14-853) in McKenzie County and terminate at an interconnection with ONEOK's planned Demicks Lake NGL Pipeline (Case No. PU-18-399) and existing Garden Creek to Riverview NGL Pipeline (Case No. PU-11-066) also located in McKenzie County.

3. The Project includes one pig launcher facility at the Targa Gas Plant and one receiver facility at the Project's terminus. The Project will transport approximately 20,000 barrels of NGLs per day.

4. The Project utilizes a 12-inch diameter steel pipeline with a 0.25-inch to 0.281-inch wall thickness. 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.

5. The proposed Project corridor and route are identified in Hearing Exhibit No. 6.

6. The estimated cost of the Project is approximately \$15 million dollars.

7. ONEOK anticipates a third quarter 2019 in-service date for the Project.

Study of Preferred Location

8. ONEOK conducted a Class I cultural resource literature review and a desktop analysis for wetlands, waterbodies, woodlands, and other sensitive environmental resources across a one-mile wide study area centered on the Project route.

9. ONEOK conducted field surveys and a habitat assessment on an approximately 300-foot-wide area generally centered on the Project route (“Project Corridor”). Areas where the Project Corridor extends greater than 300 feet and areas where surveys have not yet been completed are identified on Hearing Exhibit 6.
10. ONEOK’s studies and surveys determined that no designated critical habitat for threatened or endangered species exists within the Project Corridor.
11. ONEOK conducted a Class III Cultural Resource Inventory across the Project Corridor. The Class III reports were submitted to the North Dakota State Historic Preservation Office. Field surveys have not been completed in areas identified in Hearing Exhibit 6.
12. ONEOK initiated correspondence with federal, state, and local departments, agencies and entities identified in North Dakota Administrative Code section 69-06-01-05.
13. The following agencies provided comments regarding the Project: U.S. Fish and Wildlife Service; 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 Survey; North Dakota Game and Fish Department; and, the McKenzie County Weed Control Board.

Siting Criteria

14. 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.
15. ONEOK evaluated the Project Corridor and route regarding the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.
16. 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.
17. ONEOK’s studies and surveys did not record any known Exclusion Areas within the Project Corridor.
18. 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. Economic considerations alone will not justify approval of these areas.

19. Areas that are geologically unstable are an Avoidance Area. Based on North Dakota Geological Survey data, three areas having potential for future slope instability that are located within the Project Corridor and along the Project route; specifically, the Spring Creek crossing (approximate milepost 0.2), the Cherry Creek Crossing (approximate milepost 7.0), and an unnamed creek crossing (approximate milepost 7.6). ONEOK testified it will bore or use the horizontal directional drill (“HDD”) method at these three locations to avoid impacts to the identified creeks. ONEOK further testified that by boring or using HDD at these creek crossings, it has also avoided impacts to areas having potential for future slope instability.

20. ONEOK identified an additional area of potential geological instability consisting of a potential abandoned mine located along the Project Corridor but not crossed by the route. See, Hearing Exhibit No. 6 (approximate milepost 10.6). ONEOK testified it did not locate the potential abandoned mine during its field surveys and review of historical aerial imagery did not show any evidence of a mine in the area.

ONEOK committed to consulting with the Commission’s Abandoned Mine Lands (“AML”) Division regarding the potential abandoned mine location. Based upon ONEOK’s consultation with AML, the AML determined no abandoned mine is located at approximate mile post 10.6 in Hearing Exhibit No. 6. *See*, Late-Filed Exhibit 8.

21. Areas within five hundred feet of a residence, school, or place of business are an Avoidance Area. ONEOK testified that two occupied structures are located within five hundred feet of the Project route. ONEOK has obtained waivers from the landowner who owns both structures and has filed a copy with the Commission. *See*, Exhibit E to Hearing Exhibit No. 1.

22. Areas containing historical resources not specifically designated as Exclusion or Avoidance Areas are an Avoidance Area. The Class III Cultural Resource Investigation identified eleven sites within the Project Corridor. Ten of the eleven sites were determined to be ineligible for inclusion on the National Register of Historic Places. One site remains unevaluated and ONEOK testified the Project has been routed to avoid impacts to this site; therefore, no impacts to this Avoidance Area are anticipated. On February 22, 2019, the NDSHPO issued a concurrence letter determining “No Significant Sites Affected.” *See*, Hearing Exhibit No. 4.

23. ONEOK’s studies and surveys did not identify any other known Avoidance Areas within the Project Corridor.

24. 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 and testified that the Project will not result in significant adverse effects to the Commission’s Selection Criteria.

25. 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.

26. ONEOK testified it has maximized the benefits that result from implementing the policies and practices set forth in the Commission's Policy Criteria.

27. ONEOK testified it has obtained easement agreements for all but approximately one mile, or 95%, of the Project length. 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

28. ONEOK has made representations and covenants to mitigate potential Project impacts, as indicated by the Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications. *See*, Hearing Exhibit No. 2.

29. ONEOK has developed several documents that will be used to minimize and mitigate impacts to environmental resources. *See*, Exhibit G to Hearing Exhibit No. 1; Hearing Exhibit No. 3.

30. No designated Dakota skipper critical habitat exists within the Project Corridor; however, ONEOK's habitat surveys identified potentially suitable habitat for the Dakota skipper within the Project Corridor. ONEOK testified it has routed the Project to avoid impacts to suitable Dakota skipper habitat.

31. ONEOK has executed a Weed Management Plan with McKenzie County to assist in controlling noxious weeds. *See*, Hearing Exhibit No. 5.

32. ONEOK has minimized the Project's environmental disturbance by co-locating approximately 89 percent of the Project with an existing pipeline corridor and/or other linear infrastructure.

33. The Project will have a leak detection system comprised of transmitters that monitor temperature, pressure, and density, among other things. A Supervisory Control and Data Acquisition (SCADA) system will allow ONEOK to monitor this data and the Project 24 hours a day, 7 days a week, and 365 days a year by trained controls personnel. The system will allow ONEOK to identify and respond to situations outside normal operating conditions.

34. ONEOK testified that it will comply with all applicable safety laws and standards.

35. 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. 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

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 10.8 miles of 12-inch diameter natural gas liquids pipeline and associated facilities in McKenzie County, North Dakota. For purposes of this Certificate, the designated corridor consists of an approximately 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 10.8 miles of 12-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 Hearing Exhibit No. 6.
3. The Certification Relating to Order Provisions – Energy Conversion Facility Siting with accompanying Tree and Shrub Mitigation Specifications executed May 6, 2019 (Hearing Exhibit No. 2), 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 Hearing Exhibit No. 6. 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 Hearing Exhibit No. 6. 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 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.
8. 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