

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

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

Case No. PU-19-85

AFFIDAVIT OF SERVICE BY CERTIFIED 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 **4th day of June 2019**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- Findings of Fact, Conclusions of Law and Order

And Original Of:

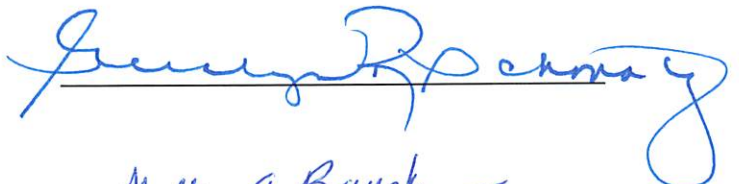
- Certificate of Corridor Compatibility Number 211
- Route Permit Number 221

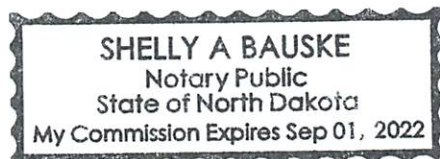
The envelope was addressed as follows:

Wade C. Mann  
Crowley Fleck PLLP  
PO Box 2798  
Bismarck, ND 58502-2798  
Cert. No. 7018 2290 0000 9934 4187

The address shown is the respective addressee's last reasonably ascertainable post office and electronic mail addresses.

Subscribed and sworn to before me  
this **4th day of June 2019**.

  
\_\_\_\_\_  
Shelly A. Bauske  
Notary Public



SEAL

51 PU-19-85 Filed: 6/4/2019 Pages: 20  
Affidavit of Service by Certified Mail - FOF, COL, and  
Order

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

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

Case No. PU-19-85

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

**May 31, 2019**

**Appearances**

Commissioners Brian Kroshus, Julie Fedorchak, and Randy Christmann

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

Sarah Wall, Special Assistant Attorney General, 122 East Broadway Avenue, Bismarck, ND 58502, as Counsel for the North Dakota Public Service Commission.

Hope Hogan, Office of Administrative Hearings, 2911 North 14<sup>th</sup> 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 a route permit concerning the location of a 12-inch natural gas liquids (NGLs) transmission pipeline and associated facilities in McKenzie County, North Dakota (Project).

On March 20, 2019, the Commission provided notification of the application to the townships with retained zoning authority, cities, and counties in which any part of the proposed pipeline corridor would be located.

On March 26, 2019, ONEOK filed information supplementing its consolidated application.

On April 11, 2019, the Commission deemed ONEOK's consolidated application complete (Application) and issued a Notice of Filing and Public Hearing, scheduling a public hearing for May 17, 2019, at 9:00 a.m. Central Standard Time, at Little Missouri Inn & Suites, 109 9<sup>th</sup> Avenue Southeast, Watford City, North Dakota 58854. The notice identified the following issues:

1. Will construction, 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. Exhibits 1 through 7 were admitted at the hearing. Exhibits 8 and 9 were filed on May 24, 2019.

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 Bakken Pipeline, L.L.C. is a Delaware limited liability company. ONEOK Bakken Pipeline, L.L.C. has been authorized to do business in the State of North Dakota, as evidenced by the corporate papers filed with the Commission on February 7, 2019, in Case No. PU-13-739.

#### **Size, Type, and Preferred Location of Facility**

2. The Project consists of approximately 10.8 miles of 12-inch diameter steel pipeline in McKenzie County, North Dakota. The Project will originate at the Targa Badlands, L.L.C. Little Missouri Natural Gas Processing Plant (Targa Gas Plant) (PU-14-853) in McKenzie County and terminate at an interconnection with ONEOK's planned Demicks Lake NGL Pipeline (PU-18-399) and with the existing Garden Creek to Riverview NGL Pipeline (PU-11-66). The Project includes a pig launcher facility at the Targa Gas Plant

and a pig receiver facility at the Project terminus. The Project will transport approximately 20,000 barrels of NGLs per day.

3. The Project utilizes 12-inch diameter steel pipe with a 0.25-inch to 0.281-inch wall thickness. The pipeline will have a maximum operating pressure of 1,480 pounds per square inch.
4. The proposed facility corridor and pipeline route are identified in Hearing Exhibit 6.
5. The estimated cost of the Project is \$15 million dollars.
6. ONEOK anticipates a third quarter 2019 in-service date for the facility.

#### Study of Preferred Location

7. 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 area centered on the proposed pipeline route (Study Area).
8. ONEOK conducted field surveys and a habitat assessment across an approximately 300-foot-wide area generally centered on the pipeline route (Survey Area). Areas where the Survey Area extends greater than 300 feet and areas where surveys have not yet been completed are identified on Hearing Exhibit 6.
9. ONEOK conducted a Class III cultural resource inventory across the Survey Area. The Class III reports were submitted to the North Dakota State Historic Preservation Office. Areas where surveys have not been completed are identified in Hearing Exhibit 6.
10. Section 49-22.1-13(4) of the North Dakota Century Code provides that a site shall not be designated that violates the rules of any state agency, and that compliance with an agency's rules shall be presumed if the agency fails to present at the public hearing its position with respect to the proposed facility.
11. ONEOK initiated correspondence with the following federal, state and local departments, agencies and entities:
  - a. Federal: (i) U.S. Army Corps of Engineers; (ii) U.S. Department of Agriculture; (iii) U.S. Department of Defense; (iv) U.S. Fish and Wildlife Service;
  - b. State: (i) North Dakota Department of Trust Lands; (ii) North Dakota Department of Health; (iii) North Dakota Game and Fish Department; (iv) North Dakota Geological Survey; (v) North Dakota Parks and Recreation

Department; (vi) North Dakota State Historic Preservation Office (NDSHPO); and (vii) North Dakota State Water Commission;

- c. Local: (i) McKenzie County Board of Commissioners; (ii) McKenzie County Water Resource District; (iii) McKenzie County Weed Control Board; and (iv) Western Area Water Supply Authority

### Siting Criteria

12. The Commission has developed criteria pursuant to North Dakota Century Code section 49-22.1-03 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.

13. ONEOK evaluated the Survey Area and route regarding the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

14. An Exclusion Area is a geographic area that must be excluded in the consideration of a route for a transmission facility. 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.

15. ONEOK's studies and surveys did not identify any Exclusion Areas within the Survey Area.

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 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.

17. Areas that are geologically unstable or potentially 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 Survey Area and along the proposed pipeline 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 these creeks.

18. Areas within five hundred feet of a residence, school, or place of business are an Avoidance Area. ONEOK identified two occupied structures within five hundred feet of

the proposed pipeline route. ONEOK has obtained waivers from the owner of both structures and submitted copies as Exhibit E to Hearing Exhibit 1.

19. Areas containing historical resources not specifically designated as Exclusion or Avoidance Areas are an Avoidance Area. ONEOK's Class III Cultural Resource Survey identified eleven areas containing historical resources within the Survey Area. 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. On February 22, 2019, the NDSHPO issued a letter finding ONEOK's Class III Cultural Resource Survey acceptable and concurring with a "No Significant Sites Affected" determination for the Project provided site 32MZ3249 is avoided by the Project, and provided the project remains as mapped and described in the Class III report.

20. ONEOK's surveys did not identify any other Avoidance Areas in the Survey Area.

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

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.

23. ONEOK testified it has maximized the benefits set forward by the Policy Criteria set forth in Section 69-06-08-02(4) of the North Dakota Administrative Code.

#### Additional Mitigative Measures

24. ONEOK has agreed to a number of measures to mitigate potential Project impacts, as indicated by the attached Certification Relating to Order Provisions – Transmission Facility Siting along with the attached Tree and Shrub Mitigation Specifications.

25. ONEOK is developing several documents that will be used to minimize and mitigate impacts to environmental resources. These draft documents are included in Exhibit G to Hearing Exhibit No. 1, Hearing Exhibit No. 3. The documents will be finalized and filed with the Commission prior to construction.

26. No designated Dakota Skipper critical habitat exists within the Survey Area, however, ONEOK's habitat surveys identified potentially suitable habitat for the Dakota

Skipper within the Survey Area. ONEOK testified it has routed the Project to avoid impacts to suitable Dakota Skipper habitat.

27. ONEOK has executed a Weed Management Plan with McKenzie County for controlling noxious weeds.

28. ONEOK is reducing the Project's environmental disturbance by co-locating approximately 89 percent of the Project with an existing pipeline corridor and other linear infrastructure.

29. 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 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

30. ONEOK will participate in the North Dakota One-Call Excavation Notice System.

31. ONEOK testified that they will comply with all applicable safety laws and standards.

From the foregoing Findings of Fact, the Commission now makes its:

### **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 construction, operation, and maintenance of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

5. The Project is compatible with the environmental preservation and the efficient use of resources.

6. The construction, operation, and maintenance of the Project minimizes 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. ONEOK shall construct, operate, and maintain the Project in accordance with the Commission's Findings of Fact.
2. Certificate of Site Compatibility No. 211 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 generally consists of a 300-foot wide area centered on the designated route.
3. Route Permit No. 221 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 6.
4. The Certification Relating to Order Provisions – Transmission Facility Siting with accompanying Tree and Shrub Mitigation Specifications executed May 6, 2019 is incorporated by reference and attached to this Order.
5. To the extent there are any conflicts or inconsistencies between ONEOK's Application and the Certification, the Certification provisions control.
6. ONEOK shall complete field surveys for the un-surveyed areas within the designated corridor as identified in Hearing Exhibit 6. ONEOK shall file copies of all environmental field surveys with the Commission prior to beginning construction in those areas.
7. ONEOK shall complete a Class III Cultural Resource Survey for un-surveyed areas within the Project Corridor as identified in Hearing Exhibit 6. ONEOK shall submit cultural resources finds to NDSHPO for review and file a copy of NDSHPO's concurrence with the Commission prior to beginning construction in those areas.
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 prior to construction.

9. ONEOK is required to comply with all applicable laws, rules, and 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

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Route Permit Number 221**

*This is to certify that the Commission has designated a transmission facility route for ONEOK Bakken Pipeline, L.L.C. 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.*

*This permit is issued in accordance with the Order of this Commission dated May 31, 2019, in Case No. PU-19-85 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, May 31, 2019.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
\_\_\_\_\_  
**Interim Executive Secretary**

  
\_\_\_\_\_  
**Commissioner**

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility Number 211**

*This is to certify that the Commission has designated a transmission facility corridor for ONEOK Bakken Pipeline, L.L.C. 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.*

*This certificate is issued in accordance with the Order of the Commission dated May 31, 2019 in Case No. PU-19-85 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, May 31, 2019.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
\_\_\_\_\_  
**Interim Executive Secretary**

  
\_\_\_\_\_  
**Commissioner**

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

ONEOK Bakken Pipeline, LLC  
12-Inch NGL Pipeline – McKenzie County  
Siting Application

Case No. PU-19-085

CERTIFICATION RELATING TO ORDER PROVISIONS  
TRANSMISSION FACILITY SITING

I am *TODD McKENZIE*, a representative of ONEOK Bakken Pipeline, LLC ("Company") with authority to bind Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22.1 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
3. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the transmission facility that requires said license or permit.
4. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
5. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
6. Company understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for the

transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

**Construction:**

7. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.
8. Company understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area.
9. Company understands and agrees that topsoil removal will begin when the Commission's third-party construction inspector is present at the Project site to observe that topsoil is properly removed and kept segregated from subsoil until replacement occurs. Company shall establish the date and time for the Commission's third-party construction inspector's topsoil removal oversight in the preconstruction conference.
10. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated on construction activities on a monthly basis.
11. Company understands and agrees that the pipeline will be buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in range land, 48 inches for cultivated land, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines.
12. Company understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must also be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/ early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.

13. Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road.
14. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
15. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made and a report of such examination is filed with the Commission and the State Historical Society.
16. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures are taken by Company.
17. Company understands and agrees that the Commission has authority to stop Project construction activities in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm.

**Restoration and Maintenance:**

18. Company understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
19. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the transmission facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.
20. Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.

21. Company will fulfill its obligation for reclamation and maintenance of the approved transmission facility right-of-way, transmission facility, and associated facilities continuing throughout the life of the transmission facility.
22. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
23. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.
24. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
25. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
26. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.

**Communication with Landowners and PSC:**

27. Company understands and agrees that, prior to beginning construction of the transmission facility at a location, it shall send a letter to each landowner with whom an easement was executed for that location specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the easement.
28. Company understands and agrees that it will file with the commission the name and phone number of the current company representative who is responsible for receiving and resolving landowner issues for the transmission facility. The company will update this information whenever there is a change to the current company representative for the life of all easements for the transmission facility.
29. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
30. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the transmission facility, including injuries to any person.
31. Company agrees to report to the Commission, as soon as reasonably possible, the presence in the permit area of any critical habitat or threatened or endangered species of which Company becomes aware and which were not previously reported to the Commission.

32. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility.
33. Company agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
34. Company shall notify the Commission as soon as reasonably possible if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined.

**Route Adjustments Before or During Construction:**

35. Company agrees to utilize the following procedures if Company seeks a route adjustment before or during construction of the pipeline, pursuant under N.D.C.C. § 49-22.1-15.
36. Company will specifically identify which subsection of NDCC § 49-22.1-15 it is requesting the adjustment under. Company will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application.
37. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before conducting any construction activities for any adjustment to the designated route within the designated corridor under NDCC § 49-22.1-15(1), the Company will file:

- a. Certification and supporting documentation affirming that construction activities will be within the designated corridor, will not affect any known exclusion or avoidance areas within the designated corridor;
- b. Certification and supporting documentation, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, route and the route adjustment;
- c. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

**38. ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC § 49-22.1-15(2), within the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route within the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
  - i. the designated corridor, route and the route adjustment;
  - ii. all exclusion and avoidance areas within the portion of the designated corridor containing the route adjustment
- b. Certification and supporting documentation affirming:
  - i. That construction activities will be within the designated corridor
  - ii. That construction activities will not affect any known exclusion area
- c. All field studies performed on the portion of the designated corridor containing the route adjustment;
- d. Specific information about any mitigation measures Company will take within the adjustment area;
- e. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- f. Certification that unless the Commission previously authorized the impact to the same avoidance area, that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist;
- g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

Company acknowledges and agrees that:

1. Written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity unless the Commission fails to act within ten working days of receipt of filing a complete adjustment application, in which case the adjustment is deemed approved.
2. The initiation of the ten working days begins upon receipt of a complete filing, to include Company's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Company, in the person of the key contact referenced above, is informed of the reason additional time is necessary for extension and has no objection to an extension.

39. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC § 49-22.1-15(3), outside the designated corridor and not affecting any exclusion and avoidance area, before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:

- a. Certification and supporting documentation affirming that construction activities will not affect any known exclusion or avoidance areas,
- b. Certification and supporting documents stating the length of the proposed route outside of the corridor and a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, corridor adjustment, designated route and the route adjustment;
- c. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment; and
- d. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
- e. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

40. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC § 49-22.1-15(4), outside the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
  - i. the designated corridor, corridor adjustment, route and the route adjustment;

- ii. all exclusion and avoidance areas within the adjustment area
- b. Certification that construction activities will not affect any known exclusion area;
- c. Certification that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist within the designated corridor and route;
- d. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- e. Provide specific information about any mitigation measures Company will take within the adjustment area;
- f. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
- g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

Company acknowledges and agrees that:

1. Written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity unless the Commission fails to act within ten working days of receipt of filing a complete adjustment application, in which case the adjustment is deemed approved.
2. The initiation of the ten working days begins upon receipt of a complete filing, to include Company's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Company, in the person of the key contact referenced above, is informed of the reason additional time is necessary for extension and has no objection to an extension.

41. When applicable, Company may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.

Dated this 16<sup>th</sup> day of May, 2019.

ONEOK BAKKEN PIPELINE, LLC

By Todd McElimney  
Todd McElimney



Its VP Construction Projects

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**ONEOK Bakken Pipeline, LLC  
12-Inch NGL Pipeline – McKenzie County  
Siting Application**

**Case No. PU-19-085**

**Tree and Shrub Mitigation Specifications**

**Inventory**

Prior to cutting or clearing trees or shrubs for construction:

- All trees one-inch or greater in diameter at breast height must be inventoried to record the location, number, and species.
- All shrubs and all coniferous trees of any diameter must be inventoried to record the location, number, and species.

**Clearing**

The maximum width of tree and shrub removal is 50 feet, unless otherwise approved by the Commission.

**Replacement**

1. Landowners must be given the option to have trees and shrubs that are removed from their property replaced on their property. The landowner may waive this option in writing. If the landowner waives this option, the company shall plant replacement trees and shrubs in an alternate location in the same region, if practical.
2. Trees and shrubs must be replaced on a minimum two-to-one basis. The company shall develop a Tree and Shrub Mitigation Plan (Plan) in consultation with landowners who are seeking replacement trees and shrubs and in accordance with USDA-NRCS-North Dakota Field Office Technical Guide: Windbreak and Woodland Tree Care and Management. The guidelines outlined in the Technical Guide shall be followed until filing of the Plan summary outlined in number 5 below.
3. The purpose of the company's Tree and Shrub Mitigation Plan is to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefit to landowners, farmers and ranchers, the community, wildlife and the environment.
4. The Plan, including the proposed number, variety, type, location, and approximate date for plantings, shall be filed with and approved by the Commission.
5. Two years after completion of the plan, the company must file a summary documenting how the plan achieved the purpose outlined in number 3 above. The summary must also report the number of surviving replacement trees and shrubs.
6. The Commission will consider, on a limited basis as conditions warrant, mitigation plans that provide long-term wildlife habitat and conservation benefits but do not involve the replanting of trees and shrubs.