

June 19, 2019

**VIA HAND DELIVERY**

Mr. Steve Kahl  
Interim Executive Secretary  
North Dakota Public Service Commission  
600 East Boulevard Avenue Dept. 408  
Bismarck, ND 58505-4080

**RE: Dakota Access, LLC  
Siting Exclusion Certification  
PU-14-842**

Dear Mr. Kahl:

In accordance with North Dakota Century Code Section 49-22.1-01(3), this letter is provided to notify the North Dakota Public Service Commission (“Commission”) that Dakota Access, LLC (“Dakota Access”), intends to incorporate certain enhancements and/or modifications into the Dakota Access Pipeline Project to optimize the current system (the “Optimization”) at Johnsons Corner, McKenzie County, North Dakota.

1. Description of Existing Project

On December 22, 2014, Dakota Access made application to the Commission for a corridor certificate and route permit for the construction of the original Dakota Access Pipeline Project, an approximately 358-mile, 12-, 20-, and 30-inch diameter crude oil pipeline and associated facilities in Mountrail, Williams, McKenzie, Dunn, Mercer, Morton, and Emmons Counties, North Dakota with terminals near Stanley in Mountrail County, near Tioga in Williams County, near Epping in Williams County, near Trenton in Williams County, near Watford City in McKenzie County, and near Johnsons Corner in McKenzie County. The Commission entered its Findings of Fact, Conclusions of Law and Order and issued Certificate of Site Compatibility No. 179 and Route Permit No. 191 on January 20, 2016.

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On April 6, 2016, Dakota Access made application to the Commission for an amended certificate of corridor compatibility and amended route permit, seeking reroute approval at fifteen (15) locations in order to accommodate landowner requests, make environmental protection adjustments, and incorporate constructability modifications that would generally provide for more efficient installation and ultimately minimize long term impacts to landowners' property. The Commission initially approved fourteen (14) of Dakota Access's fifteen (15) requested reroute locations, and entered its Supplemental Findings of Fact, conclusions of Law and Order, and issued the First Amended Certificate of Site Compatibility No. 179 and First Amended Route Permit No. 191 for the Project on May 24, 2016. The Commission requested additional information regarding certain stability concerns of the final reroute request (referred to as "Reroute Location 50").

After Dakota Access provided the additional information regarding Reroute Location 50, as requested by the Commission, via a memorandum from GeoEngineers, the Commission entered its Second Supplemental Findings of Fact, Conclusions of Law and Order (the "Order"), issuing the Second Amended Certificate of Corridor Compatibility No. 179 and the Second Amended Route Permit No. 191 on June 22, 2016.

## 2. Description of Existing Facilities at Johnsons Corner

The Johnsons Corner location of the Optimization ("Johnsons Corner"), located in the NE ¼ of Section 23, Township 150N, Range 96W, holds one of Dakota Access' tank terminals. Johnsons Corner is the terminus of the supply route commencing in Stanley, North Dakota, and the location where the 30-inch diameter mainline commences and heads in a southeast direction. The Johnsons Corner tank terminal stores crude oil in two 200,000 barrel-capacity tanks designed and constructed in accordance with API standard 650 Welded Steel Tanks for Oil Storage, which use internal floating roof tanks to minimize emissions. Johnsons Corner also contains tank inlet and outlet manifolds, shipper receiving traps, shipper custody transfer meters, truck unloading facilities, booster pumps, inlet and outlet pipeline meters, mainline pumps, and a pipeline pump manifold. Construction at Johnsons Corner required the conversion of fifty (50) acres of land from agricultural, open space, herbaceous rangeland, and/or wetlands to industrial use.

As part of its Optimization, Dakota Access plans to construct and install certain enhancements and/or modifications to Johnsons Corner, pursuant to North Dakota Century Code § 49-22.1-01(3)(a).

## 3. Stated Need for the Proposed Enhancements and/or Modifications for the Optimization

The stated enhancements and/or modifications for the Optimization are necessary to accommodate an increase in production from the Williston Basin, an increase in demand of pipeline

transportation of crude oil, and an increase in demand from current and potential new shippers. When the Dakota Access Pipeline began operating in June 2017, the Williston Basin production area was producing approximately 1.045 million barrels per day. By December 2018, production in the Williston Basin had increased to 1.349 million barrels per day — an increase of 29%. Current forecasts suggest that production is expected to increase by another 350 thousand to 450 thousand barrels per day over the next five years.

This increase in production has led to an increase in demand for crude petroleum transportation services on the Dakota Access Pipeline. Pipeline transportation for crude petroleum is safer, more efficient, and less expensive than railroad or truck transportation. Transportation of crude petroleum by railcars and trucks presents safety issues not presented by pipeline transportation, and also diverts railroad and trucking capacity away from other uses such as transportation of consumer and industrial products. The North Dakota Pipeline Authority's estimates of crude petroleum exported from North Dakota via rail have risen three-fold between July 2017 and November 2018, and are expected to continue to rise until sufficient pipeline capacity exists for the increasing crude oil production.

Moreover, as shown via an "open season" for shipper commitments held in the fourth quarter of 2018, it is clear that the existing maximum capacity of the Dakota Access Pipeline of 600 thousand barrels per day is oversubscribed by shippers holding or seeking long-term transportation contracts. This is without taking into account the need to reserve a portion of the capacity of the Dakota Access Pipeline for walk-up shippers. Seven new shippers participated in the open season, and the existing and potential new shippers have expressed significant interest in contracting for additional capacity to meet their expected future transportation needs at volumes that well exceed Dakota Access' current capacity (without the Optimization). The modifications and enhancements described herein as part of the Optimization will allow Dakota Access to meet the growing demand from shippers by optimizing and fully utilizing the existing pipeline infrastructure, without the need to install new pipelines, and without the need for shippers to use less safe and efficient means of transportation, such as rail. Additionally, the recent demands for transportation service on the Pipelines from walk-up shippers have exceeded the capacity available under the FERC's 10 percent holdback requirement.

#### 4. The Commission's Current Order

On June 22, 2016, the Commission issued an Order for construction of the original Dakota Access Pipeline which provided in pertinent part as follows:

\* \* \*

(2) Second Amended Certificate of Corridor Compatibility No. 179 is issued to Dakota Access, designating a corridor for the construction, operation, and

maintenance of approximately 358 miles of 12-, 20-, 24-, and 30-inch diameter crude oil pipeline and associated facilities in Mountrail, Williams, McKenzie, Dunn, Mercer, Morton, and Emmons Counties; the Stanley Tank Terminal in Mountrail County; the Ramberg Tank Terminal, the Epping Tank Terminal, and the Trenton Tank Terminal in Williams County; and the Watford City Tank Terminal and the Johnsons Corner Tank Terminal in McKenzie County, North Dakota. The Corridor will consist of the tank terminal sites and a generally 400-foot-wide area centered on the designated route, as depicted in Exhibit A of Dakota Access's December 22, 2014 filing, revised by the route adjustments depicted in Dakota Access' September 14, 2015 (Seventeen Adjustments) and December 2, 2015 (Hovde Reroute) filings, and revised by the route adjustments depicted in Amended Exhibit A of Dakota Access's April 19, 2016 filing.

(3) Second Amended Route Permit No. 191 is issued to Dakota Access, designating a route for the construction, operation, and maintenance of approximately 358 miles of 12-, 20-, 24-, and 30-inch diameter crude oil pipeline and associated facilities in Mountrail, Williams, McKenzie, Dunn, Mercer, Morton, and Emmons Counties, North Dakota. The designated route is depicted in Exhibit A of Dakota Access's December 22, 2014 filing, revised by the route adjustments depicted in Dakota Access' September 14, 2015 (Seventeen Adjustments) and December 2, 2015 (Hovde Reroute) filings, and revised by the route adjustments depicted in Amended Exhibit A of Dakota Access's April 19, 2016 filing.

(4) The May 20, 2015, Certification Relating to Order Provisions - Transmission Facility Siting (Certification), with accompanying Tree and Shrub Mitigation Specifications, is incorporated by reference and attached to this Order.

\* \* \*

Order dated June 22, 2016.

Dakota Access's original application and amendments were filed in accordance with Chapter 49-22 of the North Dakota Century Code, now codified as Chapter 49-22.1 of the North Dakota Century Code, commonly referred to as the Energy Conversion and Transmission Facilities Act (the "Act"). Section 49-22.1-01 of the Act provides that in situations where a "utility," like Dakota Access, has acquired a certificate or permit under the Act and proposes modifications to the transmission facility, such activities may be conducted without the necessity of additional Commission hearings and orders if the utility certifies in writing to the Commission as follows:

\* \* \*

- (4) Before conducting any activities, the utility certifies in writing to the commission that:
- (a) The activities will not affect any known exclusion or avoidance area;
  - (b) The activities are for the construction:

- [1] Of a new gas or liquid energy conversion facility;
  - [2] Of a new gas or liquid transmission facility;
  - [3] To improve the existing gas or liquid energy conversion or gas or liquid transmission facility; or
  - [4] To increase or decrease the capacity of the existing gas or liquid energy conversion facility or gas or liquid transmission facility; and
- (c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility.

N.D.C.C. § 49-22.1-01.

5. Proposed Modifications of the Optimization

In connection with Dakota Access's continuing efforts to improve its transmission facilities for the transportation of crude oil within the State of North Dakota, Dakota Access has determined that certain enhancements and/or modifications as part of the Optimization at Johnsons Corner will result in more efficient operation of the facilities.

Work associated with the improvement of Johnsons Corner will include the following:

- Modifications to existing inlet and outlet pipeline meters;
- Modifications to existing shipper custody transfer meters;
- Replacement and/or addition of pipeline pump manifolds and inlet and outlet manifolds within the original booster pump location;
- Addition of one (1) 300,000 barrel-capacity tank designed and constructed in accordance with API standard 650 Welded Steel Tanks for Oil Storage with an internal floating roof tank; and
- Addition of two (2) 6,000 HP mainline pumps.

In accordance with N.D.C.C. § 49-22.1-01(3)(a), Dakota Access provides the following:

- (1) All construction activities associated with the enhancements and/or modifications related to the Optimization at Johnsons Corner will be located within the current tank terminal location, located in the NE ¼ of Section 23, Township 150N, Range 76W, approximately 0.75 miles east of Johnsons Corner in McKenzie County, North Dakota, as designated within the Second Amended Certificate of Corridor Compatibility No. 179 and the Second Amended Route Permit No. 191.

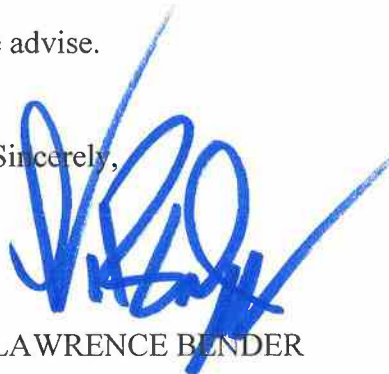
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- (2) An environmental analysis, conducted in connection with the original Application submitted to the Commission for construction of the original Dakota Access Pipeline, evaluated the project site for Exclusion and Avoidance Areas as set forth in N.D. Admin. Code § 69-06-08-01. The enhancements and/or modifications related to the Optimization at Johnsons Corner will not affect any known Exclusion or Avoidance Areas.
- (3) The activities to be conducted are for the increase of capacity of the existing liquid transmission facility.
- (4) The attached Certification provides the information required by N.D.C.C. § 49-22.1-01(3)(a)(4). As set forth in the Certification, Dakota Access will comply with all applicable conditions and protections in siting laws and rules and Commission orders previously issued for construction of the original Dakota Access Pipeline.

Dakota Access requests the Commission acknowledge receipt of the attached Certification and appreciates the time and attention provided to this matter by the Commission and staff.

Should you have any questions, please advise.

Sincerely,



LAWRENCE BENDER

LB/cah

Enclosures

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