

As-Built/Reclamation Inspection Report

Dakota Access, LLC.

DAPL Pump Station

Emmons County, North Dakota

ND PSC Case No. PU-19-204

Prepared for:

North Dakota Public Service Commission
Public Utilities Division
State Capitol
600 East Boulevard – Dept. 408
Bismarck, ND 58505-0480



November 2023

Table of Contents

EXECUTIVE SUMMARY	1
INTRODUCTION	2
PURPOSE AND SCOPE OF INSPECTION	2
ORDERS	3
CERTIFICATION	3
CONCLUSIONS	10
MANAGEMENT REVIEW	10

Executive Summary

The State of North Dakota, acting through its North Dakota Public Service Commission (Commission), Division of Public Utilities, has contracted Keitu Engineers & Consultants, Inc. (Keitu) to perform consulting services for an As-Built/Reclamation Siting Inspection. This report addresses the Orders established by the Commission and issues established in Case No. PU-19-204.

The purpose of the As-Built/Reclamation Inspection is to ensure the Project was constructed in compliance with the siting laws, rules, and the applicable Commission Orders for the Project and restored to pre-construction conditions. Prior to the inspection, Keitu reviewed all Project documents to verify any and all aspects requiring site verification.

The site was visually inspected on September 26, 2023 by Keitu staff. The Project was well-maintained, secured, and in good condition. During the Inspection, the areas appeared to have been properly restored. Vegetation had not be reestablished in some areas near the fence and BMPs are still in place in some areas.

During the inspection it was noted that site is in a different configuration then originally laid out in the application. Also the pump house appears larger and there was an addition of a motor control center (MCC) building.

Overall, the Project appeared to be constructed as planned with numerous efforts to minimize impacts and to stay in compliance with the siting laws, siting rules, and Commission Orders. If any areas outside the site boundaries were used for equipment or laydown areas they have been restored.

Introduction

The Project was approved in February 19, 2020. The construction start date is not noted in the NS PSC file but the first construction progress report was dated April 9, 2021. The Project is operated by Dakota Access, LLC. The project consists of approximately of a pump station located on a 20.8 acre site in Emmons County, North Dakota.

The Project is under the jurisdiction of the North Dakota Public Service Commission, which issued its Route Permit No. 191 and Certificate of Corridor Compatibility No. 179 for Case No. PU-19-204 on February 19, 2020.

Purpose and Scope of Inspection

The North Dakota Energy Conversion and Transmission Facility Act (North Dakota Century Code Chapter 49-22) authorizes the Public Service Commission to determine that the location, construction, and operation of jurisdictional energy conversion and transmission facilities will produce minimal adverse effects on the environment and welfare of the citizens of North Dakota. Construction Inspections ensure the Project is constructed in compliance with siting laws, rules, and the applicable Commission Order Amending Certificate and Permit (Order).

The Commission retained Keitu to complete an As-Built Construction Inspection of the Project. The inspection process included a review of the Consolidated Application for Certificate of Corridor Compatibility and Route Permit (Application), Order, Certification Relating to Order Provisions (Certification), and other applicable documents to determine Project-specific siting and construction requirements; a site visit and inspection of facilities; documentation of compliance; and a report summarizing findings. This report includes, but is not limited to, site visit observations, documentation of compliance deficiencies, and a summary of issues that should be addressed for the Project to be considered complete and in full compliance.

Methods

Keitu reviewed North Dakota siting laws and rules, the Application, Certification, and the Order for the Project to identify what Project-specific documentation was required for compliance. Keitu then reviewed Project documents in the PSC Online Case Search to identify those siting laws, rules, and Application and Order assertions that already had written verification, those that still required documentation, and those that required physical site verification.

Keitu Staff visited the Project area on September 26, 2023 to visually inspect the site. Digital photographs were taken showing typical Project infrastructure. The Project was in operation at the time of visit.

Orders

The following section includes discussion of a list of components of the Project that were asserted in the Order which could be documented during the As-Built Inspection to verify compliance with siting laws, rules and the Order for the Project, via either written documentation or physical site verification. Included are detailed findings and observations from Keitu personnel involved in the As-Built Inspection for the Project.

1. Dakota Access's application for a waiver of procedures and time schedules is granted.
2. Dakota Access shall construct, operate, and maintain the Pump Station in accordance with the Findings of Fact.
3. Third Amended Certificate of Corridor Compatibility No. 179 is issued to Dakota Access, LLC. The designated corridor is amended for the addition of an approximately 20.8-acre area for the construction, operation, and maintenance of a pump station, in Emmons County, North Dakota. The addition to the designated corridor will consist of the pump station site as depicted in Exhibit A and Exhibit B to the Application filed on June 20, 2019.
4. Third Amended Route Permit No. 191 is issued to Dakota Access, LLC. The designated route is amended for the construction, operation, and maintenance of a pump station in Emmons County, North Dakota. The addition to the designated route for this purpose is depicted in Exhibit A and Exhibit B to the Application filed on June 20, 2019.
5. The November 13, 2019 Certification Relating to Order Provisions - Transmission Facility Siting, which will apply to the Pump Station site, is incorporated by reference and attached to this Order. The November 13, 2019 Certification does not amend the May 20, 2015 Certification Relating to Order Provisions - Transmission Facility Siting for the Dakota Access Pipeline, which remains in full effect for the Dakota Access Pipeline in Case No. PU-14-842.
6. Dakota Access will participate in the North Dakota One-Call Excavation Notice System.

All orders were followed.

Certification

The following section includes discussion of relevant items included in the Certification attached by reference to original Order. All certification points relevant to the As-Built Inspection Report are included.

1. Company understands and agrees that any amendment 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 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.
10. 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.
11. 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.

12. 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.
13. 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:

14. 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.
15. 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.
16. 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.
17. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
18. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
19. 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.
20. 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:

21. 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.
22. Upon request. Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
23. 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.

24. 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.
25. 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.
26. 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.
27. 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:

28. 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.
29. 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.
30. 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.

31. 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 Certification Relating to Order Provisions - Transmission Facility Siting Case No. PU-19-204 Page 5 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,
32. 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,
33. 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.
34. When applicable, Company may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.

All certification points were followed.

A preconstruction conference was held on September 16, 2020 and was attended by Company representatives and Patrick Fahn from the ND PSC.

Perennial Environmental Services, LLC. submitted a Class III Intensive Cultural Resource Survey for the Project to ND SHPO. In July 2019, ND SHPO issued a letter stating it had reviewed the report (ND SHPO Ref: 15-0106 ND Public Service Commission) and found it acceptable. ND SHPO concurred with no significant archeological or architectural site affected.

Construction reports were filed with the ND PSC.

Conclusions

During the as-built/reclamation inspection it was noted that some the layout, pump building size, and the addition of the motor control center building were different then the map submitted with the application. An updated map of the Site layout was not found in the ND PSC file. There were a few areas of missing vegetation near the fence and some BMPs that have not been removed.

Overall, the Project appeared to be constructed as designed with minimal impacts to the surrounding environment. The Project site was in good condition, well maintained, and appeared to be constructed in compliance with the siting laws, siting rules, and applicable Commission Orders.

Management Review

The services performed by Keitu and its staff for this project have been conducted in a manner consistent with the degree of care and technical skill appropriately exercised by professionals currently practicing in this area under similar time and budget constraints.

Recommendations and findings contained in this report represent our professional judgment and are based upon available information and technically accepted practices at the present time and location. Other than this, no warranty is implied or expressed.



11/8/2023

Jaimee Antognazzi, Operations Manager

Photo #1: Project Site

Date & Time: Tue Sep 26 14:08:35 CDT 2023
Position: +046.27700° / -100.33677°
Altitude: 512m
Datum: WGS-84
Azimuth/Bearing: 308° N52W 5476mils (True)
Zoom: 1X



Photo #2: Missing Vegetation Near Fence

Date & Time: Tue Sep 26 14:05:34 CDT 2023
Position: +046.27787° / -100.33692°
Altitude: 511m
Datum: WGS-84
Azimuth/Bearing: 345° N15W 6133mils (True)
Zoom: 1X



Photo #3: Vegetation Regrowth



Photo #4: Some BMPs in Place



Project Map:

