

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Denbury Green Pipeline – North Dakota, LLC
12-inch Cedar Hills Pipeline Pjct - Slope & Bowman
Siting Application**

Case No. PU-19-294

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

April 1, 2020

Appearances

Commissioners Brian Kroshus, Julie Fedorchak, and Randy Christmann

Wade Mann, Attorney at Law, Crowley Fleck PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58501, on behalf of Denbury Green Pipeline – North Dakota, LLC and Denbury Green Pipeline – Montana, LLC.

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

Timothy Dawson, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

Preliminary Statement

On August 8, 2019, Denbury Green Pipeline – Montana LLC, filed with the North Dakota Public Service Commission (Commission), a consolidated application for a certificate of corridor compatibility and a route permit concerning a 12-inch carbon dioxide (CO₂) transmission pipeline, and associated facilities in Slope and Bowman Counties, North Dakota (Project).

On August 15, 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 August 19, 2019, Denbury Green Pipeline – Montana, LLC and Denbury Green Pipeline – North Dakota, LLC (Denbury), filed an Amendment and Joinder of Denbury

Green Pipeline – North Dakota, LLC in application for a certificate of corridor compatibility and a route permit.

On November 15, 2019, and December 3, 2019, Denbury filed information supplementing its consolidated application.

On December 18, 2019, the Commission deemed Denbury's consolidated application (Application) complete and issued a Notice of Filing and Public Hearing (Notice) scheduling a hearing for February 6, 2020, at 10:00 a.m. central time at Bowman Lodge & Convention Center, 207 West Highway 12, Bowman, North Dakota 58623. 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 February 6, 2020, the hearing was held as scheduled. Hearing Exhibits 1 through 6 were admitted at the hearing.

On March 10, 2020, Denbury filed Late-filed Exhibits 7 and 8, and on March 11, 2020, Denbury filed a Supplement to Late-filed Exhibit 8.

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. Denbury Green Pipeline – North Dakota, LLC and Denbury Green Pipeline – Montana, LLC are both Delaware limited liability companies. Both Denbury entities have been authorized to do business in the State of North Dakota, as evidenced by the Certificate of Authority for each entity filed with the Commission on September 5, 2019.

Size, Type, and Preferred Location of Facility

2. The Project consists of approximately 17.77 miles of 12-inch inside diameter (12.75-inch outside diameter) welded steel pipeline with 9.23 miles located in North Dakota. The Project will originate with a connection point to Denbury's Cedar Creek Anticline CO2 pipeline in Fallon County, Montana, and terminate at Denbury's Miller Production Tank Battery Enhanced Oil Recovery Development Site located in the Northeast 1/4, Southwest 1/4 of Section 33, Township 132 North, Range 106 West in Bowman County, North Dakota. The Project includes metering stations, block valves, PIG launchers/receivers, and associated equipment at the receiving facility.
3. The Project utilizes 12-inch diameter steel pipe with a 0.469-inch to 0.562-inch wall thickness. The pipeline has a maximum operating pressure of 3,702 pounds per square inch gauge and a maximum operating temperature of 100 degrees Fahrenheit. The Project is capable of transporting up to 180 million standard cubic feet per day of CO2.
4. The proposed facility corridor and pipeline route is identified in the Survey Corridor map set in Appendix A of Hearing Exhibit 1.
5. The estimated cost of the Project is \$9.2 million dollars.
6. Denbury anticipates a November 2020 in-service date for the facility.

Study of Preferred Location

7. Denbury 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 pipeline route (Study Area).
8. Denbury conducted a habitat assessment across a 200-foot-wide area centered on the pipeline route (Survey Area). Denbury conducted a natural resources survey across the Survey Area, which included wetland and waterbody surveys, a noxious weed survey, a wildlife survey, a general habitat assessment for state- and federally-listed species, a tree/sapling/shrub survey, and a vegetative survey. Denbury also conducted a 0.5-mile line-of-sight binocular survey centered on the pipeline route for raptor nests.
9. Denbury conducted a Class III cultural resource inventory across the Survey Area. The Class III report was submitted to the North Dakota State Historic Preservation Office (NDSHPO). NDSHPO concurred with a "No Significant Sites Affected" determination provided the Project takes place in the location and in the manner described in the documentation.
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 its position with respect to the proposed facility at the public hearing.

11. Denbury initiated correspondence with federal, state and local departments, agencies and entities as follows:

- a. Federal: (1) U.S. Fish and Wildlife Service; (2) U.S. Army Corps of Engineers; (3) U.S. Department of Defense (Minot Air Force Base); (4) U.S. Federal Aviation Administration; (5) U.S. National Park Service; and (6) U.S. Bureau of Reclamation;
- b. State: (1) North Dakota State Historic Preservation; (2) North Dakota Parks and Recreation Department; (3) North Dakota Department of Trust Lands; (4) North Dakota Department of Health; (5) North Dakota Geological Survey; (6) North Dakota State Water Commission; (7) North Dakota Game and Fish Department; (8) North Dakota Aeronautics Commission; (9) North Dakota Attorney General; (10) North Dakota Department of Agriculture; (11) North Dakota Department of Human Services; (12) North Dakota Department of Labor; (13) North Dakota Department of Career and Technical Education; (14) North Dakota Department of Commerce; (15) North Dakota Energy Infrastructure and Impact Office; (16) North Dakota Industrial Commission; (17) North Dakota Governor's Office; (18) North Dakota Department of Transportation; (19) North Dakota Indian Affairs Commission; (20) Job Service of North Dakota; (21) North Dakota State Soil Conservation Committee; (22) North Dakota Transmission Authority; (23) North Dakota Pipeline Authority; and (24) North Dakota Department of Environmental Quality;
- c. Local: (1) Slope County Board of County Commissioners; and (2) Bowman County Board of County Commissioners

Siting Criteria

14. 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.

15. Denbury evaluated the Survey Area and route regarding the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

16. 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.

17. Denbury's studies and surveys did not record any Exclusion Areas within the Survey Area.

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 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. Denbury's studies and surveys did not record any Avoidance Areas within the Survey Area. 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. Denbury analyzed the effects that may result from the location, construction, and operation of the Project. No significant adverse impacts will result from the location, construction and operation of the Project.

20. Wetlands are a Selection Criteria. Five palustrine emergent wetlands totaling approximately 0.42 acres are located in the Project corridor. Temporary workspaces will be located within the Project right-of-way at upland areas a minimum of 50 feet from the edge of a wetland. Sediment barriers, such as a silt fence, will be installed to prevent spoil and sediment-laden water from entering the wetland. Once construction is complete, wetland edges will be stabilized, and permanent erosion-control measures will be installed as directed by Denbury's environmental inspector. No permanent impacts to any wetlands are anticipated.

21. Agricultural production, family farms, and ranches are Selection Criteria. The proposed Project will affect 168.2 acres of land in North Dakota, of which approximately 10.3 acres consist of farmland of statewide importance. Once construction is complete, Denbury will restore the right-of-way to pre-construction contours, and the restoration will allow farming and ranching operations to continue over the operational right-of-way.

Additional Measures to Minimize Impact

22. Denbury 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.

23. The Tree and Shrub Mitigation Specifications require that the maximum width of tree and shrub removal is no more than 50 feet, unless approved by the Commission. Denbury requests the Commission approve clearing shrubs to 75 feet in the areas identified on the map set in Late-Filed Exhibit 8. Denbury states that additional clearance of shrubs in these areas of rough terrain will facilitate safe construction and travel operations.
24. NDSHPO reviewed Denbury's Unanticipated Discovery Plan, which provides response measures to be followed in the event of a discovery of cultural resources or human remains and found the Plan acceptable.
25. Little Beaver Creek will be crossed using the horizontal directional drilling construction method.
26. Construction and operation of the pipeline will be guided by the following plans: Emergency Response Plan, Integrity Management Plan, Environmental Mitigation Plan, Ecozone Reclamation Plan, Noxious Weed Management Plan, and Stormwater Pollution Prevention Plan.
27. Denbury will participate in the North Dakota One-Call Excavation Notice System.
28. The Project will be designed, constructed, maintained, inspected and operated to meet or exceed the U.S. Department of Transportation, Pipeline Hazardous Materials Safety Administration regulations, which include regular pipeline monitoring and periodic pipeline inspections.
29. A Supervisory Control and Data Acquisition (SCADA) system will allow Denbury to monitor the pipeline 24 hours a day, 7 days a week, and 365 days a year by trained controls personnel. The system will monitor the flow and pressure of the system, and the system will allow Denbury to identify and respond to situations outside normal operating conditions.
30. Denbury will coordinate with local authorities and emergency managers regarding emergency response measures.
31. Denbury will follow the recommendations in the January 10, 2019 letter from the North Dakota Game and Fish Department.
32. Denbury will inspect and clean equipment upon entry and exit from the job site to limit the spread of noxious weeds.

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

Conclusions of Law

1. The Commission has jurisdiction over Denbury and over the subject matter of the Application under North Dakota Century Code chapter 49-22.1.
2. Denbury 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. Denbury shall construct, operate, and maintain the Project in accordance with the Commission's Findings of Fact.
2. Certificate of Site Compatibility No. 215 is issued to Denbury Green Pipeline – North Dakota, LLC and Denbury Green Pipeline – Montana, LLC, designating a corridor for the construction, operation, and maintenance of approximately 9.23 miles of 12-inch diameter CO2 pipeline and associated facilities in Slope and Bowman Counties, North Dakota. For purposes of this Certificate, the designated corridor consists of a 200-foot wide area centered on the designated route.
3. Route Permit No. 225 is issued to Denbury Green Pipeline – North Dakota, LLC and Denbury Green Pipeline – Montana, LLC, designating a route for the construction, operation, and maintenance of approximately 9.23 miles of 12-inch diameter CO2 pipeline and associated facilities in Slope and Bowman Counties, North Dakota. For purposes of this Permit, the designated route is the route of the Project as depicted on the Survey Corridor map set in Appendix A of Hearing Exhibit 1.

4. The Certification Relating to Order Provisions – Transmission Facility Siting with accompanying Tree and Shrub Mitigation Specifications executed February 3, 2020 is incorporated by reference and attached to this Order. The Tree and Shrub Mitigation Specifications are modified to allow shrubs to be cleared up to a width of 75 feet in the areas identified on the map set in Late-Filed Hearing Exhibit 8.
5. To the extent there are any conflicts or inconsistencies between Denbury's Application and the Certification, the Certification provisions control.
6. Denbury shall file with the Commission its Noxious Weed Management Plan developed to reflect the conditions in Slope and Bowman Counties prior to construction.
7. Denbury 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.
8. Denbury 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 225

This is to certify that the Commission has designated a transmission facility route for Denbury Green Pipeline - North Dakota, LLC and Denbury Green Pipeline – Montana, LLC for the construction, operation, and maintenance of approximately 9.23 miles of 12-inch diameter carbon dioxide pipeline and associated facilities in Slope and Bowman Counties, North Dakota.

This permit is issued in accordance with the Order of this Commission dated April 1, 2020, in Case No. PU-19-294 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, April 1, 2020.

ATTEST:

PUBLIC SERVICE COMMISSION

Steve Kahl

Executive Secretary

Julie Fedorchak

Commissioner

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Certificate of Corridor Compatibility Number 215

This is to certify that the Commission has designated a transmission facility corridor for Denbury Green Pipeline - North Dakota, LLC and Denbury Green Pipeline – Montana, LLC for the construction, operation, and maintenance of approximately 9.23 miles of 12-inch diameter carbon dioxide pipeline and associated facilities in Slope and Bowman Counties, North Dakota.

This certificate is issued in accordance with the Order of the Commission dated April 1, 2020 in Case No. PU-19-294 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, April 1, 2020.

ATTEST:

PUBLIC SERVICE COMMISSION

Steve Kahl

Executive Secretary

Julie Fedorchak

Commissioner



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Denbury Green Pipeline – North Dakota, LLC
12-inch Cedar Hills Pipeline Pjct – Slope & Bowman
Siting Application

Case No. PU-19-294

CERTIFICATION RELATING TO ORDER PROVISIONS
TRANSMISSION FACILITY SITING

I am DAVID E. SUGGARD, a representative of Denbury Green Pipeline – North Dakota, 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 3RD day of FEBRUARY, 2020.

Denbury Green Pipeline – North Dakota, LLC

By 
DAVID E. SHEPPARD

Its SVP OF OPERATIONS

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Denbury Green Pipeline – North Dakota, LLC
12-inch Cedar Hills Pipeline pjct – Slope & Bowman
Siting Application**

Case No. PU-19-294

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.