

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

ONEOK Bakken Pipeline, L.L.C.  
16-Inch NGL Pipeline – Williams County  
Siting Application

Case No. PU-19-368

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

John G. Hamre deposes and says that:

he is over the age of 18 years and not a party to this action and, on the **2nd day of April 2020** he 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:

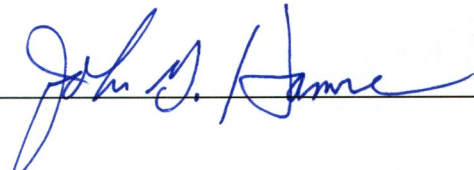
- Certificate of Corridor Compatibility Number 214
- Route Permit Number 224


The envelope was addressed as follows:

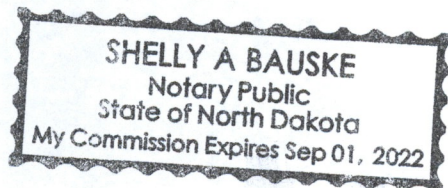
Wade C. Mann  
Crowley Fleck  
PO Box 2798  
Bismarck, ND 58502-2798  
Cert. No. 7019 1120 0002 3204 7023

Each address shown is the respective addressee's last reasonably ascertainable post office mail address.

Subscribed and sworn to before me  
this **2nd day of April 2020**.

  
\_\_\_\_\_

  
\_\_\_\_\_  
Notary Public



SEAL

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**ONEOK Bakken Pipeline, L.L.C.**  
**16-Inch NGL Pipeline – Williams County**  
**Siting Application**

**Case No. PU-19-368**

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

**April 1, 2020**

**Appearances**

Commissioners Brian Kroshus, Julie Fedorchak, and Randy Christmann

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

Zachary Pelham, Special Assistant Attorney General, 314 E. Thayer Ave., Bismarck, ND 58501, as Counsel for the North Dakota Public Service Commission.

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

**Preliminary Statement**

On November 25, 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 16-inch natural gas liquids (NGLs) transmission pipeline, and associated facilities in Williams County, North Dakota (Project).

On December 30, 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 December 17, 2019, December 18, 2019, and January 10, 2020, ONEOK filed information supplementing its consolidated application.

On January 22, 2020, the Commission deemed the consolidated application complete (Application) and issued a Notice of Filing and Public Hearing, scheduling a public hearing for March 6, 2020, at 9:00 a.m. Central Standard Time, at the City of

6. The estimated cost of the Project is \$100 million dollars.
7. ONEOK anticipates a fourth quarter 2020 in-service date for the facility.

#### Study of Preferred Location

8. ONEOK conducted a Class I cultural resource literature review and a desktop analysis for wetlands, waterbodies, woodlands, and other sensitive environmental resources across a one-mile wide area centered on the pipeline route (Study Area).
9. ONEOK conducted several surveys and a habitat assessment across an approximately 300-foot-wide area generally centered on the Project route (Survey Area). ONEOK conducted a natural resources survey across the Survey Area, which included wetland and waterbody surveys, noxious weed surveys, and a general habitat assessment for state- and federally-listed species. ONEOK also conducted a tree and shrub survey, an eagle nest survey, and a biological survey.
10. 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.
11. 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.
12. ONEOK initiated correspondence with federal, state and local departments, agencies and entities as follows:
  - a. Federal: (i) U.S. Fish and Wildlife Service (USFWS); (ii) U.S. Army Corps of Engineers; (iii) U.S. Department of Defense; and (iv) U.S. Department of Agriculture
  - b. State: (i) North Dakota State Historic Preservation Office (NDSHPO); (ii) North Dakota Parks and Recreation Department; (iii) North Dakota Department of Trust Lands; (iv) North Dakota Department of Environmental Quality; (v) North Dakota Geological Survey (NDGS); (vi) North Dakota State Water Commission; and (vii) North Dakota Game and Fish Department (NDGFD);
  - c. Local: (i) The Williams County Board of Commissioners; (ii) Williams County Water District; (iii) The Williams County Weed Control Board; (iv) Western Area Water Supply Authority; (v) the cities of Tioga and Springbrook; and (vi) the townships of Buford, Trenton, Tioga and Sauk Valley

## 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. ONEOK 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. ONEOK's studies and surveys did not record any known 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. Areas that are geologically unstable or potentially unstable are an Avoidance Area. NDGS's October 16, 2019 correspondence identified five areas of potential geologic instability within the proposed corridor. ONEOK has avoided impacts to one area by shifting the Project route and will utilize horizontal directional drilling ("HDD") methods to avoid impacts to three potentially instable areas as set forth and committed to by ONEOK in December 18, 2019 correspondence to the NDGS. (Hearing Exhibit 6). In December 20, 2019 correspondence, the NDGS stated it reviewed ONEOK's proposed avoidance measures and did not note any additional concerns. With respect to the fifth area of potential geologic instability located at approximate milepost 56.4, ONEOK testified this location appears to be located outside of the Project's workspace; however, ONEOK will conduct additional review of this area and submit its findings to the NDGS. ONEOK testified it will submit updated correspondence from the NDGS to the Commission for the fifth location prior to commencing construction in this area.

20. Areas within five hundred feet of a residence, school, or place of business are an Avoidance Area. ONEOK testified that it identified 20 occupied structures, consisting of

19 distinct landowners, within five hundred feet of the Project route. ONEOK has obtained waivers for 14 of these structures and submitted copies as Exhibit 4. ONEOK testified it will obtain the remaining landowner waivers prior to constructing the Project within 500 feet of said areas, or ONEOK will file a route adjustment with the Commission to be outside 500 feet of the occupied areas.

21. Areas containing historical resources not specifically designated as Exclusion or Avoidance Areas are an Avoidance Area. ONEOK's Class III cultural resource survey identified 10 cultural sites that remain unevaluated for inclusion on the National Register of Historic Places within the Project corridor but are not directly crossed by the Project route. ONEOK has applied NDSHPO recommended 100-foot avoidance buffers to these sites. In December 17, 2019 correspondence to the NDSHPO, ONEOK committed to various mitigative measures for nine of the unevaluated sites where full 100-foot buffers could not be maintained. On December 31, 2019, the NDSHPO issued a letter finding ONEOK's Class III Cultural Resource Survey acceptable and concurring with a "No Significant Sites Affected" determination provided the Project remains as proposed.

22. ONEOK's surveys did not identify any other Avoidance Areas within the Survey Area.

23. 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.

24. ONEOK will minimize and/or avoid impacts to wetlands or waterbodies by employing HDD where appropriate and by following best management practices where the trenching method is utilized. The Project will cross the Little Muddy River and Beaver Creek. ONEOK will avoid impacts to these crossings by utilizing the HDD method.

25. ONEOK identified one wetland within the Survey Area with potentially suitable habitat for piping plover. To avoid potential impacts to the piping plover, ONEOK has committed to undertake certain conservation measures as set forth in its January 24, 2020 correspondence to the USFWS including additional surveys of suitable habitat and presence/absence surveys as necessary and based upon the timing of construction within the identified area. In January 24, 2020 correspondence from the USFWS, the USFWS stated it has no objections to the Project and concurs with ONEOK's proposed conservation measures.

26. During construction, the increase in ambient sound will primarily be from the use of heavy equipment and trucks. Ambient sound will be minimal during pipeline operation.

27. The proposed Project will affect 682 acres of private land in North Dakota, of which approximately 67% consists of privately-owned cropland. Once construction is complete, ONEOK will restore land to its pre-construction contours and land use. ONEOK will also provide settlements to landowners for crop loss caused by construction.

28. The proposed Project will not have significant adverse impacts to extractive and storage resources, ground water flow patterns, or radio, television, and other communication or electronic facilities. If drainage patterns are disturbed during construction, ONEOK will restore those affected areas to their original local topography. Furthermore, the visual effect on adjacent areas will be minimal and mainly consist of the installation of four above-ground mainline block valves along with the pig launcher and receiver facilities.

#### Additional Mitigative Measures

29. 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.

30. ONEOK has developed several project control documents that will be utilized during construction activities to minimize and mitigate impacts on environmental resources including a: Construction Mitigation and Restoration Plan; Migratory Bird Plan; Storm Water Pollution Prevention Plan; Spill Prevention, Control and Countermeasure Plan; Unanticipated Discoveries Plan; Revegetation Plan; Weed Management Plan; and Dust Control Plan which are included in Exhibit H to the Application.

31. NDSHPO has approved ONEOK's Unanticipated Discoveries Plan, which provides response measures to be followed in the event of a discovery of cultural or human remains.

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

33. Fifty-eight percent of the pipeline will be co-located within the corridor of an existing pipeline.

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

35. The Project will be designed, constructed, maintained, and inspected to the USDOT Pipeline and Hazardous Materials Safety Administration regulations utilizing industry standards.

36. A Supervisory Control and Data Acquisition (SCADA) system will allow ONEOK 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 ONEOK to identify and respond to situations outside normal operating conditions.

37. ONEOK will employ environmental inspectors and third party inspectors to monitor construction activities and ensure activities are in compliance with company processes and practices.

38. ONEOK testified it has annual meetings to educate local emergency response officials and sends mailings to local response officials providing emergency contact information and details regarding leak identification and response procedures. ONEOK further testified its emergency response group is actively coordinating with the Williams County Emergency Officials to discuss emergency preparedness and response with respect to the Project.

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(13).
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. 214 is issued to ONEOK Bakken Pipeline, L.L.C., designating a corridor for the construction, operation, and maintenance of approximately 75 miles of 16-inch diameter natural gas liquids pipeline and associated facilities in Williams County, North Dakota. For purposes of this Certificate, the designated corridor generally consists of a 300-foot wide area centered on the designated route as depicted in Exhibit B.2 of the Application, Hearing Exhibit 1.
3. Route Permit No. 224 is issued to ONEOK Bakken Pipeline, L.L.C., designating a route for the construction, operation, and maintenance of approximately 75 miles of 16-inch diameter natural gas liquids pipeline and associated facilities in Williams County, North Dakota. For purposes of this Permit, the designated route is the route of the Project as depicted in Exhibit B.2 of the Application, Hearing Exhibit 1.
4. The Certification Relating to Order Provisions – Transmission Facility Siting with accompanying Tree and Shrub Mitigation Specifications executed February 25, 2020 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 conduct additional review on the one remaining area of potential geologic instability within the Project corridor and consult with the NDGS regarding its review and proposed avoidance measures. ONEOK shall submit its consultation with the NDGS to the Commission prior to commencing construction in this area.
7. ONEOK shall obtain all remaining 500-foot waiver(s) and provide copies to the Commission prior to constructing the Project on such portion of the Project for which the waiver is applicable.
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**

 _____ <b>Julie Fedorchak</b> Commissioner	 _____ <b>Brian Kroshus</b> Chairman	 _____ <b>Randy Christmann</b> Commissioner
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**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Route Permit Number 224**

*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 75 miles of 16-inch diameter natural gas liquids pipeline and associated facilities in Williams County, North Dakota.*

*This permit is issued in accordance with the Order of this Commission dated April 1, 2020, in Case No. PU-19-368 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 Gedorchak*  
\_\_\_\_\_  
**Commissioner**

**PUBLIC SERVICE COMMISSION**  
**STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility Number 214**

*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 75 miles of 16-inch diameter natural gas liquids pipeline and associated facilities in Williams County, North Dakota.*

*This certificate is issued in accordance with the Order of the Commission dated April 1, 2020, in Case No. PU-19-368 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 Jedorchak*  
\_\_\_\_\_  
**Commissioner**