

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Liberty Midstream Solutions, LLC
8-inch Residue Gas Pipeline – Mountrail & Williams
Siting Application

Case No. PU-20-022

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

May 13, 2020

Appearances

Commissioners Brian Kroshus, Julie Fedorchak, and Randy Christmann.

Lawrence Bender, Attorney at Law, Fredrikson & Byron, P.A., 1133 College Drive, Suite 1000, Bismarck, North Dakota 58501, on behalf of Liberty Midstream Solutions, LLC.

Brian L. Johnson, Special Assistant Attorney General, as Counsel for the North Dakota Public Service Commission, 600 E. Boulevard Avenue, Dept. 408, Bismarck, North Dakota 58505.

Timothy Dawson, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503.

Preliminary Statement

On January 17, 2020, Liberty Midstream Solutions, LLC (Liberty), filed with the North Dakota Public Service Commission (Commission) a consolidated application for a certificate of corridor compatibility and route permit concerning the location of a residue gas pipeline, approximately 4.7-miles long, in Mountrail and Williams Counties, North Dakota (Project).

Also on January 17, 2020, Liberty filed with the Commission an application for waiver or reduction of procedures and time schedules established under North Dakota Century Code chapter 49-22.1 and North Dakota Administrative Code section 69-06-01-02 and chapter 69-06-06, regarding separate notices and separate hearings on such applications.

On February 3, 2020, 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 January 31, February 6, March 13, and April 13, 2020, Liberty filed supplemental documents with the Commission (together with the original application, the "Application").

On March 4, 2020, the Commission deemed Liberty's Application complete and issued a Notice of Filing and Public Hearing (Notice) scheduling a hearing for April 14, 2020, at 9:00 a.m. Central Time at Neset Consulting Service, 6844 State Highway 40, Tioga, North Dakota 58852.

The Notice identified the following issues to be considered with respect to the application for waiver of procedures and time schedules:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects and that adherence to applicable procedures and time schedules may be waived?
2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

The Notice identified the following issues to be considered with respect to the Application:

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 April 14, 2020, the hearing was held as scheduled via live, remote communication, allowing any interested parties to present testimony in person at Neset Consulting Service or via telephone. Hearing Exhibit 1 was admitted at the hearing.

The opportunity for public comment remained open until April 24, 2020.

On April 29, 2020, Liberty filed Late-Filed Exhibit 2.

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. Liberty Midstream Solutions, LLC is a Delaware limited liability company authorized to do business in the State of North Dakota, as evidenced by the corporate papers filed with the Commission on January 31, 2020, in Case No. PU-20-040.

Size, Type, and Preferred Location of Facility

2. The Project is comprised of an 8-inch steel residue gas transmission line located in Mountrail and Williams Counties, North Dakota. The Project will transport residue gas from the existing Liberty County Line Gas Plant in Williams County to an interconnection point with Alliance Pipeline's Tioga Lateral transmission line in Mountrail County for further transportation to markets in the Chicago, Illinois area. The proposed facility corridor and pipeline route is identified in Figure 1, Appendix A, Hearing Exhibit 1.

3. The proposed pipe will have a wall thickness of 0.322-inches and a maximum operating pressure of 2,180 pounds per square inch. The maximum operating temperature of the pipeline will be 120 degrees Fahrenheit.

4. The initial flow rate for the pipeline will be 10 million standard cubic feet per day or less with expansion capabilities of up to 120 million standard cubic feet per day.

5. Aboveground facilities for the Project will be limited to pipeline markers and cathodic test stations.

6. The estimated cost of the Project is \$4.6 million.

7. The estimated in-service date is the summer of 2020.

Study of Preferred Location

8. Liberty conducted a Class I cultural resource literature review and a desktop analysis for wetlands, waterbodies, and other sensitive environmental resources across a one-mile-wide area centered on the pipeline route (Study Area).

9. Liberty conducted several surveys across an approximately 200-foot-wide area centered on the Project route (Survey Area). Liberty conducted surveys for wetlands, waterbodies, threatened and endangered species, critical habitats, noxious weeds, and trees/saplings/shrubs.

10. Liberty 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 (SHPO). In a response dated February 7, 2020, SHPO concurred with a

determination of “No Significant Sites Affected” for the Project, provided the project takes place in the location and in the manner described in the documentation.

11. Liberty initiated correspondence seeking comments from the following federal, state and local agencies and entities as follows:
 - a. Federal: (1) Federal Aviation Commission; (2) U.S. Army Corps of Engineers; (3) U.S. Department of Defense; and (4) U.S. Fish and Wildlife Service;
 - b. State: (1) North Dakota Aeronautics Commission; (2) North Dakota Attorney General; (3) North Dakota Department of Agriculture; (4) North Dakota Department of Career and Technical Education; (5) Job Service of North Dakota; (6) North Dakota Department of Environmental Quality; (7) North Dakota Department of Health; (8) North Dakota Department of Human Services; (9) North Dakota Department of Transportation; (10) North Dakota Department of Trust Lands; (11) North Dakota Energy Development Impact Office; (12) North Dakota Game and Fish Department; (13) North Dakota Indian Affairs Commission; (14) North Dakota Industrial Commission; (15) North Dakota Labor Department; (16) North Dakota Parks and Recreation Department; (17) North Dakota Pipeline Authority; (18) North Dakota Soil Conservation Committee; (19) North Dakota State Water Commission; (20) North Dakota Transmission Authority; (21) North Dakota Geological Survey; (22) SHPO; and (23) Office of the Governor;
 - c. Local: (1) Mountrail County Commission; and (2) Williams County Commission.

Siting Criteria

12. The Commission has established 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 Section 69-06-08-02, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

13. Liberty evaluated the Project for the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria of the Commission.

14. An Exclusion Area may not encompass more than fifty percent of a corridor width unless there is no reasonable alternative. An Exclusion Area must be excluded in the consideration of a route for a transmission facility. A buffer zone of a reasonable width to protect the integrity of an Exclusion Area must be included in the siting of the transmission facility.

15. Liberty’s studies and surveys did not record any Exclusion Areas within the Survey Area.

16. An Avoidance Area is a geographic area that may not be considered in the routing of a transmission facility unless the applicant shows that, under the circumstances, there

is no reasonable alternative. In determining whether an Avoidance Area should be designated for a transmission 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.

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

18. In accordance with the Commission's Selection Criteria set forth in North Dakota Administrative Code section 69-06-08-02(3), a transmission facility route shall be approved if it is demonstrated that any significant adverse effects that will result from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum or managed and maintained at an acceptable minimum. Liberty has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria. The Project will have no significant adverse effects on the Commission's Selection Criteria.

19. Wetlands are a selection criteria. Three wetlands were identified within the Survey Area. Two will be crossed using the horizontal directional drilling technique, and one will be crossed using the open-cut method. The impacted areas will be revegetated, and the wetlands will be restored to its previous contours. Furthermore, silt fence will be installed along the right-of-way adjacent to wetlands.

20. The impact upon agricultural production and family farms and ranches is a selection criteria. Following completion of the pipeline, Liberty will restore any right-of-way to its original, preconstruction elevation and contours, and landowners will be able to resume agricultural and ranching operations. If yield deficiencies are caused by pipeline construction, the cost of applying fertilizer to remedy soil nutrient levels will be paid to the landowner.

21. In accordance with the Commission's Policy Criteria set forth in North Dakota Administrative Code section 69-06-08-02(4), preference may be given to an applicant demonstrating certain benefits of the transmission facility. Liberty submitted evidence to demonstrate its commitment to maximize the benefits of the proposed transmission facility to the extent possible so as to meet the Policy Criteria.

22. Efficiencies may include starting pipeline construction with completion of similar pipeline projects in order to minimize mobilization/demobilization costs, timing pipe acquisition and delivery with other projects in the area, and constructing the pipeline using multiple spreads in order to minimize overall construction time.

Additional Measures to Minimize Impact

23. Liberty has agreed to a number of steps to mitigate the impact of the Project, as indicated by the executed Certification Relating to Order Provisions – Transmission

Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, which is incorporated by reference and attached to this Order.

24. The Project will be designed, constructed, and operated in accordance with U.S. Department of Transportation regulations governing the transportation of hazardous liquids by pipeline, which are set forth in 49 Code of Federal Regulations (CFR) Part 192.

25. Liberty testified will follow a written manual of procedures for conducting normal operations and maintenance activities and for handling abnormal operations and emergencies in accordance with 49 CFR Part 192. In the event that the pipeline's pressure exceeds operating tolerance, Liberty's County Line Gas Plant is equipped with a pressure release valve. Furthermore, once constructed, a leak detection and monitoring system will be employed.

26. Liberty will have third-party inspectors on site during construction who will oversee the Project's environmental mitigation measures, and they will have the authority to stop construction activities and order corrective mitigation.

27. Liberty will conduct outreach meetings with local emergency response officials to educate them on the steps Liberty takes during pipeline emergencies.

28. Liberty will co-locate approximately a third of the pipeline with an existing utility corridor.

29. Liberty has developed several project control documents that will be utilized in connection with the construction and operation of the Project including a Storm Water Pollution Prevention Plan, Weed Management Plan, Dust Control Plan, Emergency Action Plan, Damage Prevention Program plan, and an Unanticipated Discovery Plan.

30. Liberty will conduct regular pipeline monitoring, periodic inspection, internal inspections, and foot patrol inspections as required by the Department of Transportation regulations.

31. Prior to the beginning of construction, Liberty will clean contractor vehicles and equipment of soil and debris capable of spreading noxious weeds. Furthermore, Liberty will ensure that seed mixes are certified weed free from approved certified sources as recommended by the county weed agencies.

32. Liberty will participate in the North Dakota One-Call notification system.

33. Liberty will comply with all applicable safety laws and standards.

34. The Project's permanent right-of-way will typically be 25 feet wide, while the temporary construction right-of-way will be 100 feet wide.

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

Conclusions of Law

1. The Commission has jurisdiction over the applicant, Liberty Midstream Solutions, LLC, and the subject matter of the Application under Chapter 49-22.1 of the North Dakota Century Code.
2. Liberty is a utility as defined in Section 49-22.1-01(12) of the North Dakota Century Code.
3. The Project is a gas or liquid 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 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.
7. It is appropriate for the Commission to waive those certain procedures and time schedules as requested in the application for waiver of procedures and time schedules and pursuant to North Dakota Century Code Section 49-22.1-05 and North Dakota Administrative Code Chapter 69-06-06.

From the foregoing Findings of Fact and Conclusions of Law, the Commission makes the following order:

Order

1. Liberty's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility No. 216 is issued to Liberty Midstream Solutions, LLC designating a corridor for the construction, operation, and maintenance of approximately 4.7 miles of a new 8-inch diameter natural gas pipeline in Mountrail and Williams Counties, North Dakota. For purposes of this certificate, the corridor is 200-foot-wide for the length of the pipeline, centered on the pipeline route.
3. Route Permit No. 226 is issued to Liberty Midstream Solutions, LLC designating a route for the construction, operation, and maintenance of approximately 4.7 miles of a

new 8-inch diameter natural gas pipeline in Mountrail and Williams Counties, North Dakota, as depicted on Figure 1, Appendix A, Hearing Exhibit 1.

4. The Certification Relating to Order Provisions – Transmission Facility Siting (“Certification”), with accompanying Tree and Shrub Mitigation Specifications, executed April 13, 2020 is incorporated by reference and attached to this Order.

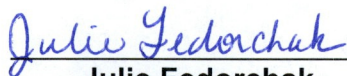
5. To the extent there are any conflicts or inconsistencies between Liberty’s Application and the Certification, the Certification provisions control.

6. Liberty 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 of such licenses and permits to the Commission prior to construction.

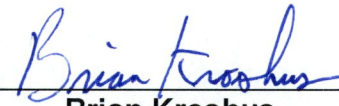
7. Liberty is required to comply with all applicable laws, rules, and/or regulations in the event it desires to construct another or a different transmission facility than was specified in the Application within the corridor designated in this proceeding.

8. Liberty shall file a copy of its Damage Prevention Program plan with the Commission prior to construction.

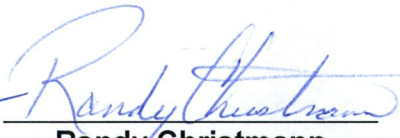
PUBLIC SERVICE COMMISSION



Julie Fedorchak
Commissioner



Brian Kroshus
Chairman



Randy Christmann
Commissioner

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Route Permit Number 226

This is to certify that the Commission has designated a transmission facility route for Liberty Midstream Solutions, LLC for the construction, operation, and maintenance of approximately 4.7 miles of 8-inch diameter natural gas pipeline in Mountrail and Williams Counties, North Dakota.

This permit is issued in accordance with the Order of this Commission dated May 13, 2020, in Case No. PU-20-022 and is subject to the conditions and limitations noted in the Order.

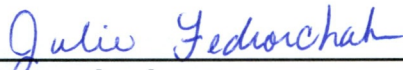
Bismarck, North Dakota, May 13, 2020.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Certificate of Corridor Compatibility Number 216

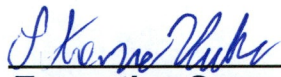
This is to certify that the Commission has designated a transmission facility corridor for Liberty Midstream Solutions, LLC for the construction, operation, and maintenance of approximately 4.7 miles of 8-inch diameter natural gas pipeline in Mountrail and Williams Counties, North Dakota.

This certificate is issued in accordance with the Order of the Commission dated May 13, 2020 in Case No. PU-20-022 and is subject to the conditions and limitations noted in the Order.

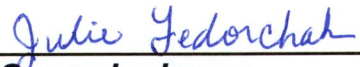
Bismarck, North Dakota, May 13, 2020.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Liberty Midstream Solutions LLC
8 inch Residue Gas Pipeline – Mountrail & Williams
Siting Application**

Case No. PU-20-22

**CERTIFICATION RELATING TO ORDER PROVISIONS
TRANSMISSION FACILITY SITING**

I am Eric Bengtson, a representative of Liberty Midstream Solutions, LLC (“Liberty”) with authority to bind Liberty to requirements to be set forth by the Commission in its Order and I certify the following:

1. Liberty 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 Liberty shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Liberty 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. Liberty 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. Liberty 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. Liberty 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. Liberty 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. Liberty agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Liberty representative, its construction supervisor, and a representative of Commission Staff, to ensure that Liberty fully understands the conditions set forth in the Commission's order.
8. Liberty 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. Liberty 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. Liberty shall establish the date and time for the Commission's third-party construction inspector's topsoil removal oversight in the preconstruction conference.
10. Liberty 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, Liberty shall keep the Commission and the Commission's third-party construction inspector updated on construction activities on a monthly basis.
11. Liberty 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. Liberty 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. Liberty understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Liberty to open cut the road.

14. Liberty understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Liberty unless otherwise negotiated with landowners.
15. Liberty 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. Liberty 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 Liberty.
17. Liberty 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. Liberty 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. Liberty 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. Liberty 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. Liberty 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. Liberty will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.

23. Liberty will repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.
24. Liberty agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
25. Liberty 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. Liberty 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. Liberty 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 Liberty representative who is responsible for receiving and resolving landowner issues for the life of the easement.
28. Liberty understands and agrees that it will file with the commission the name and phone number of the current Liberty representative who is responsible for receiving and resolving landowner issues for the transmission facility. The Liberty will update this information whenever there is a change to the current Liberty representative for the life of all easements for the transmission facility.
29. Upon request, Liberty agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
30. Liberty 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. Liberty 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 Liberty becomes aware and which were not previously reported to the Commission.
32. Liberty 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. Liberty 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. Liberty 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. Liberty 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, Liberty 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. Liberty agrees to utilize the following procedures if Liberty seeks a route adjustment before or during construction of the pipeline, pursuant under N.D.C.C. §49-22.1-15.
36. Liberty will specifically identify which subsection of NDCC 49-22.1-15 it is requesting the adjustment under. Liberty 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 Liberty 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 Liberty 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 Liberty 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 Liberty 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 Liberty will comply with the Commission's order, law and rules designating the corridor and route.

Liberty 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 Liberty's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Liberty, 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 Liberty 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 Liberty 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 Liberty 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 Liberty will take within the adjustment area;
- f. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
- g. Certification that Liberty will comply with the Commission's order, law and rules designating the corridor and route.

Liberty 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 Liberty's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Liberty, 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, Liberty may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.

Dated this 13th day of April, 2020.

LIBERTY MIDSTREAM SOLUTIONS, LLC

By:  _____

Eric Bengtson

Its: Vice President, Operations and Engineering

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Liberty Midstream Solutions LLC
8 inch Residue Gas Pipeline – Mountrail & Williams
Siting Application**

Case No. PU-20-22

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.