

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

**NuStar Pipeline Operating Partnership L.P.  
10" North System Pipeline Relocation – Cass County  
Siting Application**

**Case No. PU-20-381**

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

**January 6, 2021**

**Appearances**

Commissioners Julie Fedorchak, Randy Christmann, and Brian Kroshus

Mollie M. Smith, Attorney at Law, Fredrikson & Byron, P.A., 200 South Sixth Street, Suite 4000, Minneapolis, Minnesota 55402, on behalf of NuStar Pipeline Operating Partnership L.P.

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 August 28, 2020, NuStar Pipeline Operating Partnership L.P. (NuStar) filed with the North Dakota Public Service Commission (Commission) a combined application for a certificate of corridor compatibility and route permit (Application) concerning the relocation of approximately 2.21 miles of 10.25-inch inside diameter refined petroleum products pipeline in Cass County, North Dakota.

On September 18, 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 is located.

On September 17, 2020, September 24, 2020, September 29, 2020, and October 6, 2020, NuStar filed documents with the Commission to supplement the Application.

On October 7, 2020, the Commission deemed the Application complete and issued a Notice of Filing and Public Hearing (Notice) scheduling a remote hearing for November 23, 2020 starting at 9:00 a.m. Central Time.

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

1. Will construction, operation, and maintenance of the facilities at the proposed locations produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. Will construction, operation, and maintenance of the facilities at the proposed locations 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 October 8, 2020, the City of West Fargo Planning and Zoning Department filed a letter providing weblinks to a listing of all local land use, zoning and building rules and regulations, and city ordinances.

On October 22, 2020, NuStar filed an additional document to supplement the Application.

On November 10, 2020, the North Dakota Department of Environmental Quality filed comments.

On November 23, 2020, the North Dakota Parks & Recreation Department filed comments.

On November 23, 2020, the hearing was held as scheduled via live, remote communication, allowing any interested party to present testimony via telephone. Hearing Exhibits 1 through 12 were admitted at the hearing.

The opportunity for public comment remained open until November 30, 2020, and no comments were filed.

Having allowed all interested parties an opportunity to be heard, and having heard, reviewed and considered all testimony and evidence presented, the Commission makes its:

## Findings of Fact

1. NuStar Pipeline Operating Partnership L.P. is a Delaware limited partnership authorized to do business in the State of North Dakota, as evidenced by the corporate papers filed with the Commission on August 28, 2020, in Case No. PU-15-673.

### Size, Type, and Preferred Location of Facility

2. NuStar intends to relocate approximately 2.21 miles of 10.25-inch inside diameter steel refined petroleum products pipeline in Cass County, North Dakota (Project). The Project involves relocating the portion of NuStar's existing North System Pipeline that will be impacted by construction of the Fargo-Moorhead Diversion Channel in Cass County, North Dakota. The Project will allow continued transport of refined petroleum products from the existing Tesoro Refinery in Mandan, North Dakota, to terminals in Jamestown, North Dakota, Moorhead, Minnesota, and locations further east. The proposed facility corridor and the proposed pipeline route are approximated on Hearing Exhibit 4 and identified by the associated GIS map data.

3. The pipe will be 10.25-inch in inside diameter (10.75-inch in outside diameter) with wall thickness of 0.25 inches, a maximum operating pressure of 1,440 pounds per square inch, and a maximum operating temperature of 100 degrees Fahrenheit.

4. The pipeline will have a maximum design flow rate of 3,000 barrels per hour.

5. Aboveground facilities for the Project will be limited to installation of pipeline markers. No new pump stations are required for the Project. The existing Sheyenne block valve will be modified to provide for remote monitoring and operations from NuStar's Pipeline Control Center.

6. The estimated cost of the Project is \$4.1 million.

7. The estimated in-service date is the third quarter of 2021.

### Study of Preferred Location

8. NuStar conducted a Class I background search of archaeological and historical literature and records and a desktop review for wetlands, woodlands, waterbodies, and wooded areas across a one-mile-wide area centered on the pipeline route (Study Area).

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

weeds, and trees/saplings/shrubs. NuStar also conducted a 0.5-mile line-of-sight survey for raptor nests.

10. NuStar 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 (SHPO). In a response dated July 23, 2020, SHPO concurred with a determination of “no significant sites in the area” for the Project.

11. NuStar initiated correspondence seeking comments from the following federal, state and local agencies, and entities regarding the Project:

- a. Federal: (1) Federal Aviation Administration; (2) U.S. Army Corps of Engineers; (3) U.S. Department of Defense; (4) U.S. Fish and Wildlife Service; (5) U.S. National Park Service; and (6) U.S. Bureau of Reclamation, Great Plains Region;
- 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 Human Services; (8) North Dakota Department of Transportation; (9) North Dakota Department of Trust Lands; (10) North Dakota Energy Infrastructure and Impact Office; (11) North Dakota Game and Fish Department; (12) North Dakota Indian Affairs Commission; (13) North Dakota Industrial Commission; (14) North Dakota Department of Labor; (15) North Dakota Parks and Recreation Department; (16) North Dakota Pipeline Authority; (17) North Dakota Soil Conservation Committee; (18) North Dakota State Water Commission; (19) North Dakota Transmission Authority; (20) North Dakota Geological Survey; (21) SHPO; (22) North Dakota Department of Commerce; and (23) North Dakota Office of the Governor
- c. Local: (1) City of West Fargo Planning and Zoning Commission; (2) West Fargo City Commission; (3) Maple River Water District; (4) Cass County Board of County Commissioners; (5) Mapleton Township Board of Supervisors; (6) Mapleton Township Zoning Administrator; and (7) Cass County Joint Water Resource District.

### Siting Criteria

12. The Commission has established criteria pursuant to North Dakota Century Code Section 49-22.1-03 to guide the 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. NuStar evaluated the Project for the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria of the Commission.

14. 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.

15. NuStar's 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. NuStar's 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. NuStar has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria.

19. Wetlands are Selection Criteria. Two palustrine emergent wetlands were identified within the Survey Area. Both will be crossed using the horizontal directional drilling technique. Additionally, silt fence will be installed along the right-of-way adjacent to wetlands and waterbodies.

20. Agricultural production is a Selection Criterion. Post-construction restoration will return the land to its prior agricultural use.

21. Family farms and ranches are Selection Criteria. A total of three family farms or ranches are crossed by the route. Post-construction restoration will return the right-of-way to pre-construction contours, and landowners will be compensated in accordance with the terms of their easements.

22. NuStar analyzed all of the relevant Policy Criteria set forth in Section 69-06-08-02(4) of the North Dakota Administrative Code. Approximately four million barrels per year of refined petroleum products are delivered from the Moorhead terminal to points within North Dakota.

### Additional Measures to Minimize Impact

23. NuStar has agreed to several measures to mitigate the impact of the Project, as indicated by the executed Certification Relating to Order Provisions – Transmission Facility Siting, which is incorporated by reference and attached to this Order.
24. The Project will not impact any trees, saplings, or shrubs.
25. The Project will be designed, constructed, maintained, inspected, 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 195.
26. During operation, pipeline pressure, temperature, and flow rate data will be continuously monitored from the Pipeline Control Center in NuStar's corporate office. Where changes in the data occur that indicate a potential issue with the pipeline or facilities, alarms will be triggered, notifying operations personnel of the potential issue. NuStar will amend the current North System Pipeline Integrity Management Plan to incorporate the relocation pipeline segment. This plan complies with applicable federal regulations (49 CFR 195.400) and outlines preventive maintenance, inspection, line patrol, leak detection systems, and other pipeline integrity procedures that are implemented to ensure the safe operation of the pipeline. In the event of an emergency, NuStar will implement emergency response measures to address the situation. Furthermore, as required by 49 CFR 194, NuStar will amend the existing North System Pipeline Emergency Response Plan to include the relocation pipeline segment.
27. NuStar will have a construction inspector on site during construction who will confirm contractor compliance with mitigation measures, landowner agreements, and applicable permits. The inspector will have the authority to stop construction activities and order corrective mitigation.
28. NuStar conducts annual emergency response exercises with local emergency responders.
29. Approximately 100 feet of the Project is co-located with the existing North System Pipeline corridor.
30. NuStar 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, Environmental Mitigation Plan (which includes NuStar's erosion control plan, revegetation plan, weed management plan, construction plan, and dust control plan), Frac-Out Contingency Plan, and an Unanticipated Discovery Plan. The

Project will be integrated into NuStar's existing Pipeline Integrity Management Plan and Emergency Response Plan.

31. NuStar will clean construction-related equipment prior to moving equipment to construction sites to limit the spread of noxious weeds, insects and soil-borne pests. Furthermore, only certified weed free vegetative components (e.g., mulch, straw/hay bales, seed mixes) will be used for the Project.

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

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

### **Conclusions of Law**

1. The Commission has jurisdiction over the applicant, NuStar Pipeline Operating Partnership L.P., and the subject matter of the Application under Chapter 49-22.1 of the North Dakota Century Code.

2. NuStar is a utility as defined in Section 49-22.1-01(13) 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.

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

### **Order**

The Commission Orders:

1. Certificate of Corridor Compatibility No. 220 is issued to NuStar Pipeline Operating Partnership L.P. designating a corridor for the construction, operation, and maintenance of approximately 2.21 miles of 10.25-inch inside diameter refined petroleum products

pipeline in Cass County, North Dakota. The corridor will consist of the 200-foot-wide area centered on the pipeline route are approximated on Hearing Exhibit 4 and identified by the associated GIS map data.

2. Route Permit No. 230 is issued to NuStar Pipeline Operating Partnership L.P. designating a route for the construction, operation, and maintenance of approximately 2.21 miles of 10.25-inch inside diameter refined petroleum products pipeline in Cass County, North Dakota, as approximated on Hearing Exhibit 4 and identified by the associated GIS map data.

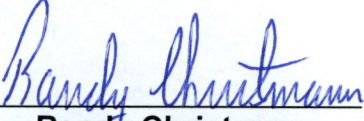
3. The Certification Relating to Order Provisions – Transmission Facility Siting (Certification), executed November 16, 2020, is incorporated by reference and attached to this Order.

4. To the extent there are any conflicts or inconsistencies between NuStar's Application and the Certification, the Certification provisions control.

5. NuStar 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 said construction.

6. NuStar 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.

#### **PUBLIC SERVICE COMMISSION**

  
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**Randy Christmann**  
Commissioner

  
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**Julie Fedorchak**  
Chair

  
\_\_\_\_\_  
**Brian Kroshus**  
Commissioner

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility Number 220**

*This is to certify that the Commission has designated a transmission facility corridor for NuStar Pipeline Operating Partnership, L.P. for the construction, operation, and maintenance of approximately 2.21 miles of 10.25-inch inside diameter refined petroleum products pipeline in Cass County, North Dakota.*

*This certificate is issued in accordance with the Order of the Commission dated January 6, 2021, in Case No. PU-20-381 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, January 6, 2021*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
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**Executive Secretary**

  
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**Commissioner**

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Route Permit Number 230**

*This is to certify that the Commission has designated a transmission facility route for NuStar Pipeline Operating Partnership L.P. for the construction, operation, and maintenance of approximately 2.21 miles of 10.25-inch inside diameter refined petroleum products pipeline in Cass County, North Dakota.*

*This permit is issued in accordance with the Order of this Commission dated January 6, 2021, in Case No. PU-20-381 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, January 6, 2021.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
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**Executive Secretary**

  
\_\_\_\_\_  
**Commissioner**

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

NuStar Pipeline Operating Partnership L.P.  
10" North System Pipeline Relocation – Cass County  
Siting Application

Case No. PU-20-381

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

I am Gerald R. Koegeboehn, a representative of NuStar Pipeline Operating Partnership L.P. ("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 ~~may has authority to stop~~ Project construction activities to prevent an imminent hazard from occurring before the Commission can take formal action with respect to said activities. For purposes of this provision, "imminent hazard" means a condition that presents a substantial likelihood of death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment. Other Project construction activities would be allowed to continue 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 reseedling 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 Company's ownership 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.

~~Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.~~

24. 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.
25. 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:**

26. 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.
27. 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.
28. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
29. 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.
30. 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.

31. 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.
32. 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.
33. 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:**

34. 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.
35. 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.
36. **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.

37. **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.

38. **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.

39. **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.

40. 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 16 day of November, 2020.

NUSTAR PIPELINE OPERATING PARTNERSHIP L.P.  
BY ITS GENERAL PARTNER, NUSTAR PIPELINE  
COMPANY, LLC

By 

Gerald R. Koegeboehn

Its Vice President