

June 28, 2021

VIA E-MAIL AND FEDERAL EXPRESS

Mr. Steven Kahl
Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

**RE: NuStar Pipeline Operating Partnership L.P.
10" North System Pipeline Relocation – Cass County
Siting Application
Case No. PU-20-381**

Dear Mr. Kahl:

In accordance with Provision No. 3 of the Certification Relating to Order Provisions incorporated into the North Dakota Public Service Commission's ("Commission") January 6, 2021 Findings of Fact, Conclusions of Law and Order issuing a Certificate of Corridor Compatibility and Route Permit for the North System Pipeline Relocation Project, NuStar Pipeline Operating Partnership L.P. submits two (2) copies of Temporary Water Permit Number ND2021-20600. Electronic copies of this letter and the enclosed permit were filed with the Commission today via e-mail.

57 PU-20-381 Filed 06/28/2021 Pages: 8
Temporary Water Permit
NuStar Pipeline Operating Partnership L.P.
Mollie Smith, Fredrikson&Byron, P.A.

Attorneys & Advisors
Main 612.492.7000
Fax 612.492.7077

Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, Minnesota 55402-1425

USA / China / Mexico
Minnesota, Iowa, North Dakota
fredlaw.com

Mr. Steven Kahl
June 28, 2021
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If you have any questions, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Mollie M. Smith".

MOLLIE M. SMITH

MMS/ms/73285862
Enclosures

cc: Adam Renfandt (*via e-mail, w/ encl.*)
Andrew Unbehaun (*via e-mail, w/ encl.*)
Chris Jimenez (*via e-mail, w/ encl.*)
Matt McGee (*via e-mail, w/ encl.*)

Permit Number - ND2021-20600

**State of North Dakota
Temporary Water Permit
SWC Project No. 1400A**

In response to an application for a temporary water permit dated 5/10/21 as received in this office 5/10/21, authority is hereby granted to:

NuStar Energy
19003 Ih-10 West

San Antonio, TX 78247

Contact Person: Jim Dawson

Telephone: 701-595-2081

A Temporary Water Permit as follows:

Source: Unnamed Source - Ground Water

Point of Diversion: SW1/4 SE1/4 Sec. 09 Twp. 139 Rng. 050

Nature of Use: Pipeline Construction

Total Quantity of Water: 10.0 Acre-Feet

Maximum Withdrawal Rate: 100 gpm

Period of authorized usage: 06/01/21 through 09/01/21

This temporary water permit does not authorize the construction of any dam or crossing. Future water use from this source for this purpose may require a conditional water permit. Temporary water permits are not a water right, are non-transferrable, cannot be modified, and water must only be used for the specified nature of use. This temporary water permit is granted subject to water use by senior appropriators. Withdrawals authorized by this temporary water permit must cease upon order of the State Engineer. Noncompliance with permit conditions may result in possible civil or criminal penalties. Development of a water project with a temporary water permit is at the permitholder's risk.

Conditions

1. A weather-protected copy of this temporary water permit must be present and on display at the equipment withdrawing water at all times.
2. The permitholder must complete every enclosed Annual Water Use Report, even if no water is withdrawn based on the following:
 - a. For temporary water permits that are inclusive to one (1) calendar year:
 - i. One (1) Annual Water Use Report must be submitted to the Office of the State

Dated: 6/24/21

John Paczkowski, P.E.
Interim State Engineer
ND State Water Commission
900 East Boulevard
Bismarck, ND 58505



Christopher D. Bader
Director, Water Appropriations Division

cc: Cass WRD

Permit Number - ND2021-20600

**State of North Dakota
Temporary Water Permit
SWC Project No. 1400A**

Engineer within thirty (30) days after the expiration date of the permit.

- b. For temporary water permits that span two (2) calendar years:
 - i. The first Annual Water Use Report must be submitted to the Office of the State Engineer within thirty (30) days after the close of the first calendar year, which must report the total water withdrawn in the first calendar year, and
 - ii. The second Annual Water Use Report must be submitted to the Office of the State Engineer within thirty (30) days after the expiration date of the permit, which must report the total water withdrawn in the second calendar year.
3. Any works associated with this temporary water permit are subject to inspection at any time by representatives of the Office of the State Engineer. Refusal to allow inspection is grounds for temporary water permit cancellation.
4. Failure to comply with any order of the State Engineer may result in temporary water permit forfeiture.

Dated: 6/24/21

cc: Cass WRD

John Paczkowski, P.E.
Interim State Engineer
ND State Water Commission
900 East Boulevard
Bismarck, ND 58505



Christopher D. Bader
Director, Water Appropriations Division

**Office of the State Engineer
Recommended Decision**

To: John Paczkowski, P.E., Interim State Engineer
 Approved by: Chris Bader, Director, Water Appropriation Division
 Reviewed by: Andrew Nygren, Hydrologist Manager
 From: Rex Honeyman, Hydrologist
 Subject: Temporary Water Permit Application No. ND2021-20600
 Date: June 25, 2021

Temporary Water Permit Application No. ND2021-20600

A temporary water permit application was received on May 10, 2021 from NuStar Energy and requests a total quantity of 10.0 acre-feet of groundwater at a pumping rate of 100 gallons per minute (gpm) from the SW1/4 of the SE1/4 of Section 9, Township 139 North, Range 50 West, (T139N, R50W) Cass County for the purpose of dewatering to facilitate pipeline construction (Figure 1). The proposed dewatering project does not overlie any defined aquifers, but is likely for dewatering a high-water table in the area of the pipeline construction.

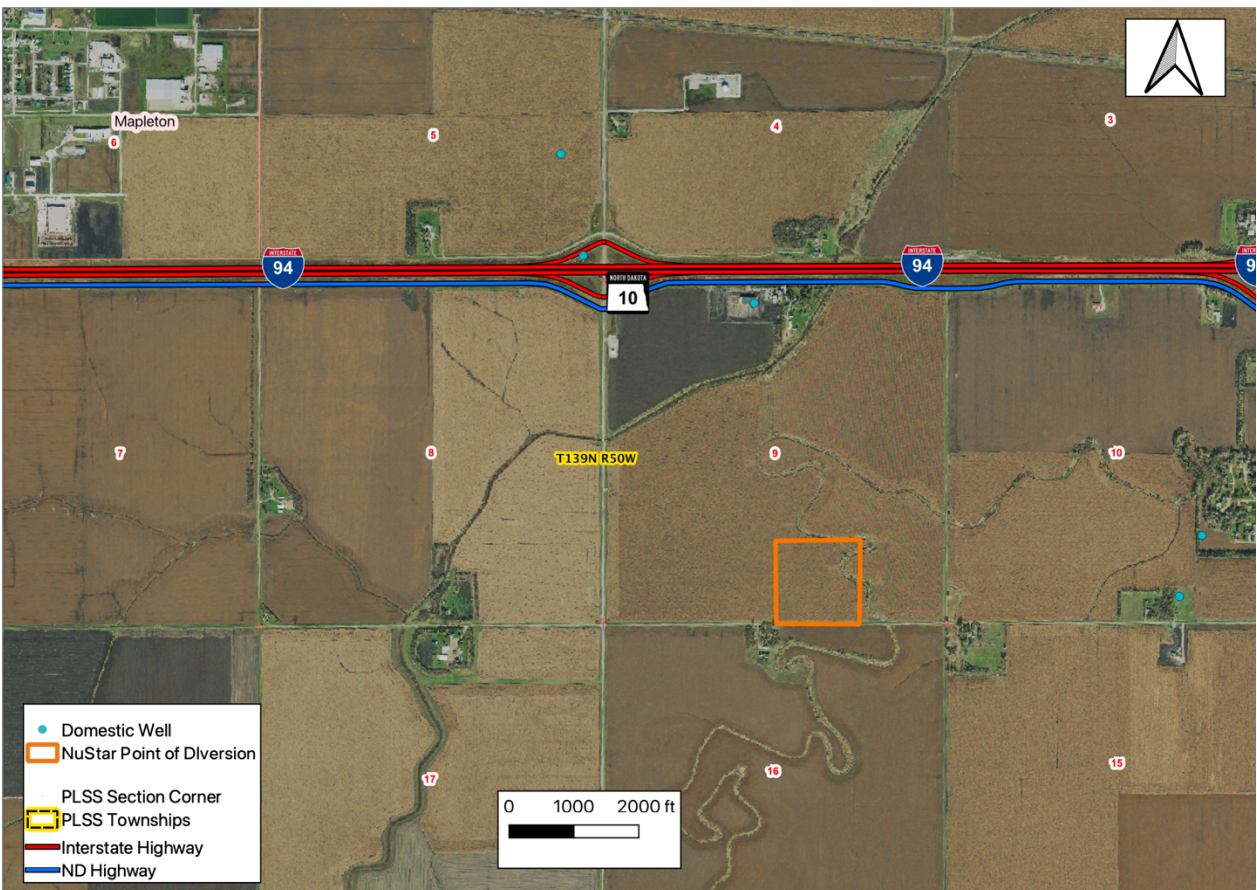


Figure 1. – Location of Temporary Water Permit Application No. ND2021-20600.

The nature of use is dewatering for pipeline construction which will have minimal impact on any prior appropriators in the area of the proposed point of diversion. Typical pipeline construction requires excavation of a trench less than 20 feet below land surface. Based on the Well Completion Reports submitted to the Board of Water Well Contractors for domestic wells in this area, the upper 20 feet consists of clay deposits. Typically, water supply wells in this area are screened in coarse deposits of sand and/or gravel, not clay. Dewatering of a shallow trench will not have an undue impact on any senior water right holders.

Issuance of a Temporary Water Permit

North Dakota Century Code 61-04-02.1 provides guidance on issuing temporary water permits.

61-04-02.1. Emergency or temporary authorization

The state engineer may authorize emergency or temporary use of water for periods not to exceed twelve months if the state engineer determines such use will not be to the detriment of existing rights. The state engineer shall establish by rule a separate procedure for the processing of applications for emergency or temporary use. No prescriptive or other rights to the use of water shall be acquired by use of water as authorized herein.

North Dakota Administrative Code 89-03-01-10 states the following.

89-03-01-10. Emergency or temporary authorization.

Application for a temporary appropriation must be made on the form provided by the state engineer. In that request, the applicant must indicate the purpose for which water will be used, quantity of water needed, proposed point of diversion, type of use, place of use, rate of withdrawal, source of water, dates of proposed use, and applicant's address. The state engineer will evaluate the request, and if it is granted, the state engineer will list on the temporary authorization conditions that govern the appropriation.

An applicant for emergency use of water, if the situation warrants, may call the office of the state engineer requesting immediate use of water. Following an oral request and oral approval by the state engineer for authorization, a temporary application form must be submitted.

The applicant for temporary or emergency appropriations is responsible for all damages that may be caused to other appropriators or any other individual because of the emergency or temporary use of water.

Recommendation

It is recommended that the State Engineer issue a temporary water permit to NuStar Energy authorizing:

Total Quantity of Groundwater: 10.0 acre-feet

Maximum Withdrawal Rate: 100 gallons per minute

Point of Diversion: SW1/4SE1/4 Section 9, Township 139 North, Range 50 West, Cass County

Period of Usage: June 1, 2021 through September 1, 2021



Rex Honeyman, Hydrologist



APPLICATION FOR A TEMPORARY WATER PERMIT
NORTH DAKOTA STATE WATER COMMISSION
WATER APPROPRIATIONS
 SFN 60158

MAIL THE COMPLETED APPLICATION TO:

State Engineer • ND State Water Commission • State Office Building • 900 East Boulevard • Bismarck, ND 58505-0850
 BY FAX - (701) 328-3696 • BY EMAIL - waterpermits@nd.gov

(SIGNATURE MUST BE PROVIDED)

NOTE: Use one application for each type of source (surface water or ground water). Use one application for each different surface water source. Complete all lines. If this application is not satisfactorily completed, it will be returned, If more space is necessary, attach additional sheets Please type or print in ink. No map is required.

Name of Applicant Gary Koegeboehn						
Mailing Address 19003 lh-10 West						
City San Antonio		State TX	Zip Code 78247			
Home Telephone Number 2109182000		Work Phone Number				
Cell Phone Number		E-Mail jdawson@swca.com				
Contact Person (if applicant is not individual) Jim Dawson		Contact Person Phone Number 7015952081				
Source of Water Ground Water						
Name of Source (if surface water):		County Cass				
1/4 1/4 (if needed) SW SE	Section 9	Township 139	Range 50			
Purpose for Which Water Will be Used: Facilitate pipeline construction						
Total Quantity of Water Requested: 10 Acre-Feet						
Fees: <table style="width:100%; border:none;"> <tr> <td style="width:33%; text-align:center;">< 1 Acre-Feet (\$75)</td> <td style="width:33%; text-align:center;">X 1 - 10 Acre-Feet (\$125)</td> <td style="width:33%; text-align:center;">> 10 Acre-Feet (\$200)</td> </tr> </table>				< 1 Acre-Feet (\$75)	X 1 - 10 Acre-Feet (\$125)	> 10 Acre-Feet (\$200)
< 1 Acre-Feet (\$75)	X 1 - 10 Acre-Feet (\$125)	> 10 Acre-Feet (\$200)				
Withdrawal rate at which water is proposed to be diverted at the location listed above:		GPM : 100				
Period of Usage: (up to 12 months)		From 06/01/2021	Through 09/01/2021			
Signature:						
Printed Name: Jim Dawson						



Upon receipt of this form, the State Engineer will forward a written response to the applicant within approximately 30 days. If the application is approved, the granting of temporary water permit does not create a water right. If you have any questions, call (701) 328-2754.

2021 Temporary Permit Annual Water Use Report
(Return all pages of this form even if no water was used)

ND2021-20600

Permit Number:ND2021-20600

Make Name and/or Address corrections below:

NuStar Energy
19003 Ih-10 West

San Antonio, TX 78247

Phone: (210) 918-2000

Report the total in: Gallons or Barrels or Acre-Feet. Please circle the units used (gallons, barrels, acre-feet)

Report the total amount of water per month if applicable:

JANUARY	_____	JULY	_____
FEBRUARY	_____	AUGUST	_____
MARCH	_____	SEPTEMBER	_____
APRIL	_____	OCTOBER	_____
MAY	_____	NOVEMBER	_____
JUNE	_____	DECEMBER	_____

TOTAL ANNUAL USE _____

I. INFORMATION ABOUT WELLS, PUMPS, OR POINTS OF DIVERSION

Report the following information for the Point of Diversion SW1/4 SE1/4 Sec. 09 Twp. 139 Rng. 050

Water Source: Ground Water or Surface Water (Circle one)

Pumping Rate: _____ (Circle: Barrels, Acre-Feet, Gallons) PER (Circle : Second, Minute, Hour, Day)

Total Water Use from this Point of Diversion : _____ (Circle: Barrels, Acre-Feet, Gallons)

WATER PERMIT CRITERIA:

Source:

Nature of Use: Pipeline Construction

Total Quantity of Water: 10.0 Acre-Feet

Maximum Withdrawal Rate: 100 gpm

Period of Authorized Useage: 06/01/21 through 09/01/21

II. MAKE ANY ADDITIONAL REMARKS BELOW:

Note: 1 Acre-Foot = 325,851 gallons.

E-Mail: depotreporting@nd.gov

Please return to:

North Dakota Office of the State Engineer
State Office Building
900 East Boulevard
Bismarck, ND 58505
Phone (701) 328-2754

Signature _____

Date : _____