

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Bridger Pipeline LLC
16-inch Crude Oil Pipeline–McKenzie/Golden Valley
Siting Application

Case No. PU-21-048

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

May __, 2022

Appearances

Commissioners Julie Fedorchak, Randy Christmann, and Sheri Haugen-Hoffart.

Casey A. Furey, Attorney at Law, Crowley Fleck PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58501, on behalf of Bridger Pipeline LLC.

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

Preliminary Statement

On January 27, 2021, Bridger Pipeline LLC (Bridger), filed with the North Dakota Public Service Commission (Commission) a combined application for a certificate of corridor compatibility and route permit concerning the location of an approximately 80-mile-long crude oil pipeline, located in McKenzie and Golden Valley Counties, North Dakota (Project).

On March 10, 2022, Bridger filed with the Commission an amended combined application for certificate of corridor compatibility and route permit for the Project (Application) as supplemented by subsequent additional filings.

On March 16, 2022, the Commission provided notification of the Application to McKenzie and Golden Valley Counties, the only counties in which the Project is located.

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Proposed Findings of Fact, Conclusions of Law and Order
Bridger Pipeline LLC
Casey Furey, Crowley Fleck, PLLP

On April 7, 2022, the Commission approved a motion deeming the Application complete and issued a Notice of Filing and Public Hearing scheduling a public hearing for May 5, 2022, at 9:00 a.m. Central Time, at Teddy's Residential Suites, 113 9th Avenue SE, Watford City, North Dakota 58854 (Notice). Hearing scheduling was made contingent upon Bridger's submittal of responses to Commission staff's March 17, 2022 information request at least 14 days prior to hearing.

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?

Between March 15, 2022 and April 20, 2022, Bridger filed documents with the Commission to supplement the Application.

On May 5, 2022, the hearing was held as scheduled allowing any interested parties to present testimony in person. Bridger submitted Exhibits 1 through 9 which were admitted at the hearing.

On May 27, 2022, Late-Filed Exhibits 11 and 12 were filed with the Commission.

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. Bridger Pipeline LLC is a Wyoming 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 29, 2021, in Case No. PU-15-098.

Size, Type, and Preferred Location of Facility

2. Bridger intends to construct an approximately 145-mile steel crude oil transmission pipeline, 80-miles of which will be located in McKenzie and Golden Valley Counties, North Dakota (Project). The Project will transport crude oil from the existing Johnson's Corner Terminal in McKenzie County, North Dakota to Bridger's existing Sandstone Station, approximately 8.5 miles west of Baker, Montana for further marketing and transportation to national markets.
3. The Project will be 16-inch diameter steel pipe with a wall thickness of 0.312 to 0.375-inches. The Project is designed to operate at a maximum 1,440 psig, which would have an associated approximate temperature not reaching over 100 degrees.
4. The Project will have an installed capacity of 105,000 barrels per day (bpd). The maximum design flow rate of the Project is up to 250,000 barrels per day.
5. Aboveground facilities for the Project will be limited to pipeline markers, rectifier sites, pig launchers and receivers, power and communication control systems, and eight midline remote actuated block valves. Two pumps and a launcher will be installed at the existing Johnson's Corner Station and two pumps, a launcher, and receiver will be installed at the existing Bicentennial Station.
6. The proposed Project corridor is generally 300-feet in width (Project Corridor).
7. Bridger has acquired all necessary easements for Project construction.
8. The estimated installed cost of the Project is approximately \$61 million.

Study of Preferred Location

9. Bridger initiated correspondence seeking comments from the following federal, state, and local agencies regarding the Project:
 - a. Federal: (1) Federal Aviation Administration; (2) U.S. Army Corps of Engineers; (3) U.S. Air Force; (4) Military Aviation & Installation Assurance Siting Clearing House; (5) Grand Forks Airforce Base; (6) 20th Airforce 91st Missile Wing; (7) U.S. Forest Service; (8) U.S. Fish and Wildlife Service; (9) National Resource Conservation Service; (10) Lake Ilo National Wildlife Refuge; (11) Federal Bureau of Land Management; (12) Minot Air Force Base.
 - b. State: (1) North Dakota Attorney General; (2) North Dakota Department of Agriculture; (3) North Dakota Department of Career and Technical Education; (4) North Dakota Department of Commerce; (5) North Dakota

Department of Environmental Quality; (6) North Dakota Aeronautics Commission; (7) North Dakota Department of Human Services; (8) North Dakota Department of Transportation, Williston and Dickinson Districts; (9) North Dakota Department of Trust Lands; (10) North Dakota Energy Development Impact Office; (11) North Dakota Game and Fish Department; (12) North Dakota Geological Survey; (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) Job Service of North Dakota; (21) North Dakota State Historic Preservation Office; (22) Office of the Governor; (23) North Dakota Transmission Authority; (24) North Dakota Department of Health; (25) North Dakota Forest Service.

- c. Local: (1) McKenzie County Commission; (2) McKenzie County Planning and Zoning Department; (3) McKenzie County Weed Board; (4) Golden Valley County Commission; (5) Golden Valley County Planning and Zoning Department; (6) Golden Valley County Weed Board; (7) Grail Township.

10. Bridger conducted a Class I cultural resource literature review and a wildlife and habitat desktop analysis across a one-mile-wide area centered on the Project route (Study Area).

11. Field surveys were conducted across the Study Area for wildlife and wildlife habitat including threatened and endangered species. Bridger also conducted a desktop review and field surveys for wetlands and waterbodies, field surveys for noxious weeds, and trees/saplings/shrubs across the 300-foot Project Corridor.

12. No sensitive, threatened, or endangered plant species and no threatened or endangered species were identified in the Project Corridor. One Dakota skipper (DASK) that was identified on U.S. Forest Service lands within the Study Area. No federally designated critical habitat is located within Study Area.

13. As part of the wildlife and habitat survey completed for the Project, the entire Project Corridor was surveyed for suitable Type B Dakota skipper habitat. Suitable Type B was identified on U.S. Forest Service lands. Impacts have been avoided through Project routing or horizontal directional drilling of suitable habitat in consultation with the U.S. Forest Service and U.S. Fish and Wildlife Service.

14. Bridger conducted an aerial raptor nest survey on a two-mile-wide area generally centered on the pipeline route. No occupied nests were observed during the raptor survey. Three unoccupied raptor nests and one unoccupied golden eagle nest were recorded within the two-mile-wide survey area. No raptor species of concern or eagles were observed during the survey. Bridger testified that prior to construction, nests will be

surveyed for occupancy. If an occupied nest is spotted during construction from February 1 – July 31, a construction buffer zone will be implemented of one-half mile per U.S. Forest Service recommendation.

15. Bridger testified the U.S. Forest Service provided data regarding four known sharp tailed grouse lek locations. These locations were surveyed as part of Bridger’s wildlife surveys and leks were observed at three locations. For these three locations, no construction will occur within one-mile of the lek location from March 1 – June 15 as recommended by consultation with the U.S. Fish and Wildlife Service and U.S. Forest Service.

16. Bridger conducted a Class III cultural resources inventory across the Project Corridor. The Class III report was submitted to the North Dakota State Historic Preservation Office (SHPO). In responses dated June 16, 2021, June 22, 2021, and October 27, 2021, SHPO found the Class III report acceptable and concurred with a determination of “No Historic Properties Affected” for the Project provided it takes place in the location and manner presented.

Siting Criteria

17. 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.

18. Bridger evaluated the Project Corridor for the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria of the Commission.

19. 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.

20. Bridger’s studies and surveys did not record any Exclusion Areas within the Project Corridor.

21. 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. An Avoidance 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. 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.

22. The Project crosses approximately 19 miles of the Little Missouri National Grasslands. Bridger consulted with the U.S. Forest Service and the U.S. Fish and Wildlife Service regarding Project routing and a biological assessment was completed for the Project in consultation with both agencies. The U.S. Forest Service issued an Environmental Assessment, Decision Notice, and Finding of No Significant Impact for the Project and subsequently issued Bridger a utility occupancy permit authorizing the Project's location and construction.

23. Historic landslide data from the North Dakota Geological Survey was analyzed across the Study Area. This analysis identified eight areas (Areas A-H) with historic data points near or within the Project Corridor. Bridger's engineering consultant assessed data from these locations and concluded Areas C and H do not pose a threat to the Project. Areas A, B, D, E, F, G were submitted to geotechnical specialist Tetra Tech for further assessment.

- a. Area A: The Project route does not cross Area A. Tetra Tech recommended the area adjacent to Area A be regraded and revegetated and undergo periodic assessment.
- b. Area B: The Project route does not cross Area B. Tetra Tech recommended Area B undergo periodic assessment.
- c. Area D: Specific mitigative action was not recommended for Area D however Bridger will avoid impacts to Area D through horizontal directional drilling (HDD).
- d. Area E: The Project route does not cross Area E. Tetra Tech recommended the area adjacent to Area E be regraded and revegetated and undergo periodic assessment. Bridger will avoid Area E through HDD.
- e. Area F: The Project route does not cross Area F. Specific mitigative action was not recommended for Area F.
- f. Area G: The Project route does not cross Area G. Tetra Tech recommended the area adjacent to Area G undergo periodic assessment.

24. Impacts to Areas A-H are avoided through routing or HDD. Bridger has committed to implement Tetra Tech's mitigation recommendations. Bridger testified as part of its annual system monitoring, all pipeline infrastructure rights-of-way are reviewed for erosion and slumping. Additionally, periodic geotechnical evaluations are conducted along various points of Bridger's utility corridors in McKenzie County as part of Bridger's annual monitoring efforts and if otherwise necessary following observations from rights-of-way inspections. In addition to routine inspections conducted by Bridger, Bridger has voluntarily agreed to conduct an annual inspection specific to Areas A-H utilizing a geotechnical specialist.

25. Bridger's surveys identified ten cultural resource sites, which are not specifically designated as Exclusion or Avoidance Areas, that were recommended for avoidance or mitigation within the Project Corridor. Bridger testified it will implement the avoidance and mitigation measures recommend by SHPO and the Project will not impact the cultural sites identified.

26. Bridger's studies and surveys did not record any other Avoidance Areas within the Project Corridor.

27. In accordance with the Commission's Selection Criteria set forth in North Dakota Administrative Code section 69-06-08-02(3), a transmission facility corridor or route shall be approved only 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 that those effects will be managed and maintained at an acceptable minimum. Bridger has analyzed the impacts of the Project in relation to all relevant Selection Criteria.

28. Construction of the Project will not result in the permanent drainage or filling of wetlands or waterbodies. Bridger will avoid impacts to wetlands and waterbodies by utilizing the HDD technique. The Project crosses twelve named creeks, all of which will be avoided through HDD.

29. The Project will have no significant adverse effects on the Commission's Selection Criteria.

30. Bridger analyzed all of the relevant Policy Criteria set forth in Section 69-06-08-02(4) of the North Dakota Administrative Code and Bridger has maximized the benefits set forth therein. The Project utilizes existing infrastructure and its location and design provide for maximum efficiency of Bridger's interconnected facilities.

Additional Measures to Minimize Impact

31. Bridger 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.

32. The Project is co-located with existing infrastructure and utility corridors and is co-located to the extent practicable with pipeline infrastructure sited in Case Nos. PU-20-430 and PU-18-404.

33. Bridger has executed a Weed Management Plan with McKenzie County for controlling noxious weeds.

34. Bridger testified a Storm Water Pollution Prevention Plan will be completed prior to the start of construction in accordance with North Dakota Dept. of Environmental Quality requirements pertaining to North Dakota Pollutant Discharge Elimination System (NDPDES) General Construction Stormwater Permit requirements. A copy of Bridger's NDPDES General Permit will be filed with the Commission when obtained.

35. To assess pipeline integrity, prior to and during construction Bridger will review pipe mill and coating plant records against the physical pipe, to ensure quality specifications are met. All welds on the pipeline will be x-ray/phased array tested to ensure weld integrity and compliance with welding codes. The pipeline coating will be 100% field inspected (electrically) prior to lowering and backfilling. Bridger will hydrotest the entire pipeline prior to commencing operations to validate pipeline integrity.

36. The Project will be designed, constructed, and operated in accordance with U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations utilizing industry standards.

37. Within 12 months of operation, cathodic potentials along the pipeline will be tested. Impressed current will be connected and set at appropriate levels to keep the pipeline under cathodic protection to prevent corrosion.

38. Bridger conducts regular pipeline monitoring, periodic inspection, internal inspections, and foot patrol inspections as required by PHMSA regulations. These inspections include aerial patrols 26 times per calendar year at intervals no longer than 3 weeks, internal inspections using inline inspections tools at no longer than 5 year intervals, and periodic foot patrols. The Project is incorporated in Bridger's Spill Response Control Plan which has been approved by PHMSA.

39. The Project has a two-part leak detection system. The Project will have a leak detection system comprised of a line balancing system with transmitters capable of relaying temperature, pressure, and density information among other things. A Supervisory Control and Data Acquisition (SCADA) system will allow Bridger to monitor the Project from its control room which is staffed 24 hours a day, 7 days a week, and 365 days a year by trained and qualified control personnel in Casper, Wyoming. The system

will monitor the flow and pressure of the system, and the system will allow Bridger to identify and respond to situations outside normal operating conditions and emergencies in accordance with 49 CFR Part 195. Bridger has employees located throughout western North Dakota available to respond in the event of an emergency.

40. The second leak detection system utilizes artificial intelligence and machine learning to improve the system's ability to detect abnormalities in flow and pressure data that could be indicative of a leak.

41. Bridger is a member of the North Dakota Pipeline Association, a consortium of pipeline operators that coordinate on pipeline safety and spill response training and community outreach. Through the pipeline association Bridger coordinates with local emergency response officials to discuss emergency response and testified it conducts tabletop and emergency deployment drills several times each calendar year.

42. Bridger participates in the North Dakota One-Call notification system.

43. Bridger will comply with all applicable safety laws and standards.

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

Conclusions of Law

1. The Commission has jurisdiction over the applicant, Bridger Pipeline LLC, and the subject matter of the Application under Chapter 49-22.1 of the North Dakota Century Code.

2. Bridger is a utility as defined in Section 49-22.1-01(13) of the North Dakota Century Code.

3. The Project is a 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

1. Certificate of Corridor Compatibility No. ___ is issued to Bridger Pipeline LLC designating a corridor generally 300-feet-wide for the construction, operation, and maintenance of approximately 80 miles of 16-inch diameter crude oil pipeline and associated facilities in McKenzie and Golden Valley Counties, North Dakota, as approximated in Docket No. 12.
2. Route Permit No. ___ is issued to Bridger Pipeline LLC designating a route for the construction, operation, and maintenance of approximately 80 miles of 16-inch diameter crude oil pipeline and associated facilities in McKenzie and Golden Valley Counties, North Dakota, as approximated in Docket No. 12. The designated route includes a route construction buffer of 20 feet on each side of the designated route, contingent upon not impacting an avoidance area unless such impact is approved by the Commission in writing or authorized under law. Construction activities must not impact an exclusion area.
3. The Certification Relating to Order Provisions – Transmission Facility Siting (Certification), with accompanying Tree and Shrub Mitigation Specifications, executed April 28, 2022, is incorporated by reference and attached to this Order.
4. To the extent there are any conflicts or inconsistencies between Bridger’s Application and the Certification, the Certification provisions control.
5. Bridger 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.
6. Bridger 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

Randy Christmann
Commissioner

Julie Fedorchak
Chair

Sheri Haugen-Hoffart
Commissioner