

Casey A. Furey  
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P.O. Box 2798  
Bismarck, ND 58502-2798  
701.223.6585  
cfurey@crowleyfleck.com

October 15, 2021

*Via Electronic Mail*

Mr. Steve Kahl  
Executive Director  
North Dakota Public Service Commission  
600 E. Boulevard, Dept. 408  
Bismarck, ND 58505-0480  
[ndpsc@nd.gov](mailto:ndpsc@nd.gov)

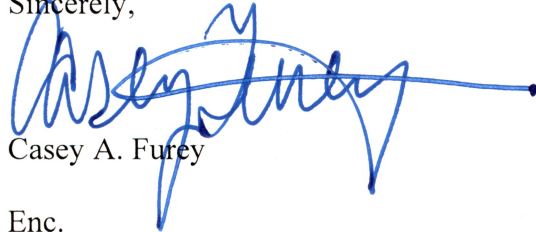
**In re: Caliber North Dakota LLC  
(d/b/a Caliber Midstream North Dakota LLC)  
N.D.C.C. § 49-22.1-23 Filing  
Our File No. 019931-000001**

Dear Mr. Kahl:

Enclosed please find Caliber North Dakota LLC's Request for Approval of Temporary Facility Operations pursuant to N.D.C.C. § 49-22.1-23 with accompanying Exhibits A-F.

Please feel free to contact me if you have any questions. Thank you.

Sincerely,



Casey A. Furey

Enc.

cc: John Schuh (via email)  
Brian Johnson (via email)  
Patrick Fahn (via email)

1 PU-21-406 Filed 10/15/2021 Pages: 14  
Application for temporary operation of facilities under section N.D.C.C. 49-22.1-23  
Caliber North Dakota LLC  
Casey Furey, Crowley Fleck, PLLP

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

**Caliber North Dakota LLC  
8-inch Residue Gas Line – McKenzie County  
N.D.C.C. § 49-22.1-23**

**Case No. PU-21-\_\_\_**

**CALIBER NORTH DAKOTA LLC'S  
REQUEST FOR APPROVAL OF TEMPORARY FACILITY OPERATIONS**

Pursuant to North Dakota Century Code section 49-22.1-23, Caliber North Dakota LLC d/b/a Caliber Midstream North Dakota LLC (“Caliber”), through its undersigned counsel, hereby submits this Request for Approval of Temporary Facility Operations (“Request”) seeking Commission approval for temporary facility operations and modifications as more particularly discussed herein.

1. Background

Caliber is a limited liability company formed under the laws of Delaware with its principal office located at 950 17<sup>th</sup> St., Ste 1000, Denver, Colorado 80202. Caliber is authorized to do business in the state of North Dakota and is in good standing with the North Dakota Secretary of State. Caliber’s corporate paperwork is provided as Attachments A to D hereto, and includes copies of the following documents:

- Exhibit A: Caliber North Dakota LLC’s Certificate of Formation filed with the Delaware Secretary of State;
- Exhibit B: Caliber North Dakota LLC’s Certificate of Good Standing issued by the Delaware Secretary of State;
- Exhibit C: Caliber North Dakota LLC ‘s Trade Name Renewal (Caliber Midstream North Dakota LLC) filed with the North Dakota Secretary of State; and,

- Exhibit D: Caliber Midstream North Dakota LLC's Certificate of Good Standing issued by the North Dakota Secretary of State.

Caliber is engaged in the business of crude oil and natural gas gathering, transportation, treating and processing, and also provides produced water transportation and disposal by pipeline.

## 2. Description of Facility

Caliber owns and operates an existing 2.62-mile long, eight-inch diameter pipeline located in Township 150 North, Range 101 West, Section 36 and Township 150 North, Range 100 West, Sections 29 and 32, McKenzie County, North Dakota (the "Project"). The Project was constructed in August of 2014 and does not currently have a Commission issued siting certificate or permit. The Project provides a connection from Caliber's mechanical refrigeration natural gas processing Hay Butte Plant<sup>1</sup> for delivery to the Northern Border Pipeline ("Northern Border"). Natural gas is delivered to the Hay Butte Plant for processing through Caliber's low-pressure gas gathering system, which is connected to various Bakken producers in McKenzie County. The Project currently delivers intermittent flows between two and eight million cubic feet per day ("mcf/d") of treated natural gas from the Hay Butte Plant to Northern Border. A map providing additional information regarding the Project's location and interconnection is attached hereto as Exhibit E. An existing compressed natural gas ("CNG") truck fueling facility is located adjacent to Caliber's Hay Butte Plant. In addition to supplying Northern Border, residue gas from the Hay Butte Plant also flows directly to the truck fueling facility via a separate non-jurisdictional facility piping connection.

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<sup>1</sup> Caliber's Hay Butte Plant is a non-jurisdictional facility under the Commission's regulations because the plant is not designed for or capable of manufacture or refinement of 100 mcf/d of gas or more. See N.D.C.C. § 49.-22.1-01(6)(a).

### 3. Scope of Request

Caliber submits this Request in compliance with the provisions of N.D.C.C. ch. 49-22.1. Section 49-22.1-23, N.D.C.C., permits the temporary operation of facilities upon Commission approval. Specifically,

[t]he commission may approve temporary operation of facilities or a temporary variance form approved construction, operation, or maintenance of facilities upon a showing of good cause and a utility certification that the activities will have no adverse impacts upon the welfare of the citizens of this state or the environment. The commission may a temporary approval or variance without the necessity of notice, publication, or public hearing . . . .

N.D.C.C. § 49-22.1-23. In accordance with the foregoing, Caliber respectfully requests the Commission issue interim approval authorizing the existing Project's continued operation and minor modifications to the Project at the existing interconnection with Northern Border to allow gas to flow bi-directionally on the Project (the "Modification").

Bidirectional flow capability will enhance the Project by allowing it to transport gas received from Northern Border for delivery to the trucking facility adjacent to the Hay Butte Plant. Gas flows from Northern Border to the Project would be on an intermittent and seasonal basis with minimal volumes ranging between approximately 0.1 and 5 mcf/d. Caliber anticipates these volumes will be delivered by actual flows of gas, and by displacement. Upon delivery to the trucking facility, gas from the Project would be loaded into trucks and CNG would be delivered to production facilities for use as fuel in hydraulic fracturing operations and consumed wholly within North Dakota. Caliber does not own the CNG trucking facility and would not take title to any gas flowed from Northern Border. The facilities are anticipated to be placed in-service by November 1, 2021.

Reconfiguration of the Project to support bi-directional gas flows from Northern Border to the CNG trucking facility does not require construction of a new pipeline. Modification and

reconfiguration will require only minor activities. Activities to install the Modification will take place on land owned by Caliber, thus there will be no impact to landowners. Caliber will not be taking customers from any other pipeline or replacing pipeline capacity that customers are currently using on another pipeline. To facilitate the Modification, Caliber estimates it will need to install approximately 10 to 20-feet of above-ground piping at the Northern Border interconnect, and approximately three connection valves including one pressure regulator. Northern Border operates the interconnect and Caliber owns some of the equipment there. Northern Border will need to install a tee, valving, and meter to allow the buyback at the interconnection, and Caliber will need to install a regulator, a tee, and valving to connect the buyback.

#### 4. Demonstration of Good Cause

Approval of Caliber's request is in the public interest. The Project's continued operation and Modification support operations in the Bakken. The Project minimizes flaring from the state's oil and gas production in support of meeting the gas capture goals of the North Dakota Industrial Commission. Additionally, the Project's operation and Modification will permit clean burning CNG to be used as fuel for hydraulic fracturing equipment in North Dakota, replacing diesel fuel. The Project Modification will also facilitate additional operational flexibility on Northern Border. Interim approval is necessary to meet in-service dates and to implement the Modification in advance of the approaching winter season to utilize North Dakota's limited remaining 2021 construction window. For the above reasons, Caliber respectfully requests interim approval be granted as soon as possible.

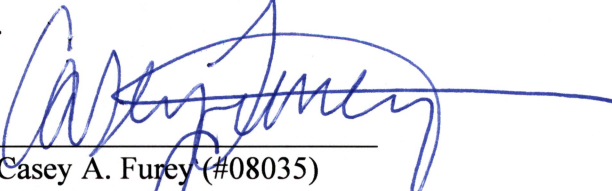
In accordance with N.D.C.C. § 49-22.1-23(a), a utility certification in support of this Request is attached hereto as Exhibit F. The Project and Modification are not anticipated to adversely affect the environment or the citizens of North Dakota. Activities are minor in nature, include installation of above-ground infrastructure, and will occur entirely within land owned by

Caliber. Thus, installation activities for the Project Modification will have negligible impact. Furthermore, the Project is comprised of existing infrastructure that has been operating without incident since 2014. The Project has no history of releases and is inspected annually by Commission pipeline safety personnel which began in 2016.

Caliber has retained an environmental consultant to evaluate and study the Project and draft a siting application pursuant to the Commission's siting criteria and applicable regulations and rules set forth in N.D.C.C. ch. 49-22.1 and N.D. Admin. Code art. 69-06. Caliber is diligently working with its consultant to complete studies, surveys, and agency consultations, which are underway, and a siting application will be submitted in a timely and expeditious manner. The Commission's interim approval is requested in advance of the Project's forthcoming siting application, which is anticipated to be finalized and filed with the Commission on or before November 30, 2021.

For the reasons set forth herein, approval of Caliber's request is warranted. Therefore, Caliber respectfully requests the Commission approve this Request for Approval of Temporary Facility Operations and authorize: (i) the 2.62-mile Project's continued operations; (ii) the referenced Project Modification and associated installation activities to facilitate bi-directional flow; and (iii) any such other relief as the Commission deems just and proper.

Signed this 15th day of October 2021.



Casey A. Furey (#08035)  
CROWLEY FLECK PLLP  
Attorneys for Caliber North Dakota LLC  
100 West Broadway Ave., Suite 250  
P.O. Box 2798  
Bismarck, North Dakota 58502-2798  
Phone: (701) 223-6585  
cfurey@crowleyfleck.com



# Delaware

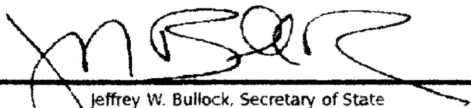
PAGE 1

*The First State*

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "CALIBER NORTH DAKOTA LLC", FILED IN THIS OFFICE ON THE TWENTY-FIFTH DAY OF SEPTEMBER, A.D. 2012, AT 1:21 O'CLOCK P.M.



5217976 8100  
121065336

  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 9871275  
DATE: 09-25-12

You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

**CERTIFICATE OF FORMATION  
OF  
CALIBER NORTH DAKOTA LLC**

This Certificate of Formation for Caliber North Dakota LLC is being duly executed and filed by the undersigned, as an authorized person, to form a limited liability company under the Delaware Limited Liability Company Act (6 Del.C. §18-101, et seq.).


1. Name. The name of the limited liability company formed hereby is Caliber North Dakota LLC.

2. Registered Office. The address of the initial registered office of the Company in the State of Delaware is c/o Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware, 19808.

3. Registered Agent. The name and address of the registered agent of the Company is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware, 19808.

The name of the sole organizer is L. M. Wilson and the address of the organizer is Andrews Kurth LLP, 600 Travis, Suite 4200, Houston, Texas 77002.

IN WITNESS WHEREOF, I have hereunder set my hand this 25th day of September, 2012.



\_\_\_\_\_  
L. M. Wilson, Organizer

# Delaware

The First State



I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "CALIBER NORTH DAKOTA LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE FOURTEENTH DAY OF APRIL, A.D. 2021.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN PAID TO DATE.



5217976 8300

SR# 20211299127

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

A handwritten signature in dark ink, appearing to read "JWBULLOCK". Below the signature is a horizontal line, and underneath that line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

Authentication: 202969500

Date: 04-14-21



STATE OF NORTH DAKOTA

Alvin A. Jaeger  
Secretary of State

600 E Boulevard Avenue Dept 108  
Bismarck, ND 58505-0500

LISA HERBERHOLZ  
STE 500  
490 N 31ST ST  
BILLINGS, MT 59101

**Request Type: Copy Requests**

Certificate #: 0005601250

Issuance Date: 09/10/2021

Copies Requested: 1

The undersigned, as Secretary of State of the state of North Dakota, hereby certifies that **CALIBER MIDSTREAM NORTH DAKOTA LLC**, SOS Control ID# 251421 was formed or qualified to do business in the State of North Dakota on March 5, 2013. CALIBER MIDSTREAM NORTH DAKOTA LLC has a home jurisdiction of DELAWARE and is currently in an Active status.

A handwritten signature in cursive script that reads "Alvin A. Jaeger".

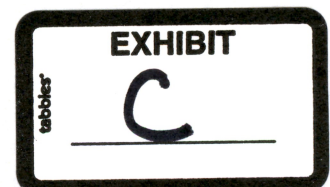
Alvin A. Jaeger  
Secretary of State

**Image ID**

A0458-5460

**Filing Description**

Renewal





**RENEWAL OF TRADE NAME OR  
FRANCHISE NAME DISCLOSURE**  
SECRETARY OF STATE  
SFN 19484 (10-2015)

**RECEIVED**

**JAN 19 2018**

**SEC. OF STATE**

For Office Use Only

ID Number: <b>33,504,600</b>	
WO Number: <b>16005367</b>	
Filed: <b>1-23-18</b>	By: <b>SK</b>
Expiration Date: <b>3-5-23</b>	

**CALIBER NORTH DAKOTA LLC**  
1200 17TH ST STE 2100  
DENVER, CO 80202-5821

**1. EXPIRATION DATE OF  
CURRENT REGISTRATION**

03/05/2018

**2. FILING FEE: \$25.00**  
**Five Year Registration**

If the renewal application is not received in the Office of the Secretary of State before the expiration date, the application will be treated as a "new" registration rather than a renewal.

SEE PAGES 3 AND 4 FOR FEE, FILING, AND MAILING INSTRUCTIONS

TYPE OR PRINT LEGIBLY

For reference, see North Dakota Century Code, Section 47-25-04.

3. Trade name or franchise name as registered with the Secretary of State (NOTE: A trade name or franchise name cannot be altered on this form. If you want to make a change, see instructions.) CALIBER MIDSTREAM NORTH DAKOTA LLC							
4. Address of principal place of business (Street/RR, PO Box, City, State, ZIP+4) <del>1660 WYNNKOP ST STE 900 DENVER CO 80202-1154</del> 1200 17th St Ste 2100 Denver, CO 80202							
5. If the name in number 3 is a franchise name that has been licensed to franchisee(s) listed in number 6, provide the name, address, and telephone number of the franchiser.							
Franchiser Name		Street/Rural Route		Post Office Box		City State ZIP+4 Telephone Number	
6. Owner(s) of the trade name or franchisee(s) of the franchise name as registered with the Secretary of State. NOTE: Make any necessary changes in the following pre-printed information <u>except for</u> the names of owners and the Secretary of State ID Numbers. See instructions if you want to change the owner(s), and for privacy information regarding social security and federal ID numbers.							
Secretary of State ID Number		Name		Federal ID/Social Security Number		COMPLETE ADDRESS Street/Rural Route Post Office Box City State ZIP+4	
32,752,800		CALIBER NORTH DAKOTA LLC		[REDACTED]		1200 17TH ST STE 2100 DENVER CO 80202-5821	
7. Telephone Number of Owner (correct if necessary or complete if blank) 303-628-1410							
8. Provide in detail, the nature of business transacted (correct if necessary or complete if blank). "General purposes" is not allowed. MIDSTREAM OIL & GAS							
9. "I (We), the (an) owner(s), say that I (we) have read the foregoing renewal, know the contents thereof, and believe the statements made to be true. I (We) authorize the Secretary of State to treat the application as a "new" application if received after the expiration date in number 1."							
Signature						Date 1/18/18	
Signature						Date	
10. Name of Person to Contact About This Document Scott Gruber				Email Address [REDACTED]		Daytime Telephone Number [REDACTED]	

# State of North Dakota

## SECRETARY OF STATE



### Certificate of Good Standing of CALIBER MIDSTREAM NORTH DAKOTA LLC

SOS Control ID#: 0000121929

Certificate #: 020594325

The undersigned, as Secretary of State of the state of North Dakota, hereby certifies that, according to the records of this office,

CALIBER MIDSTREAM NORTH DAKOTA LLC

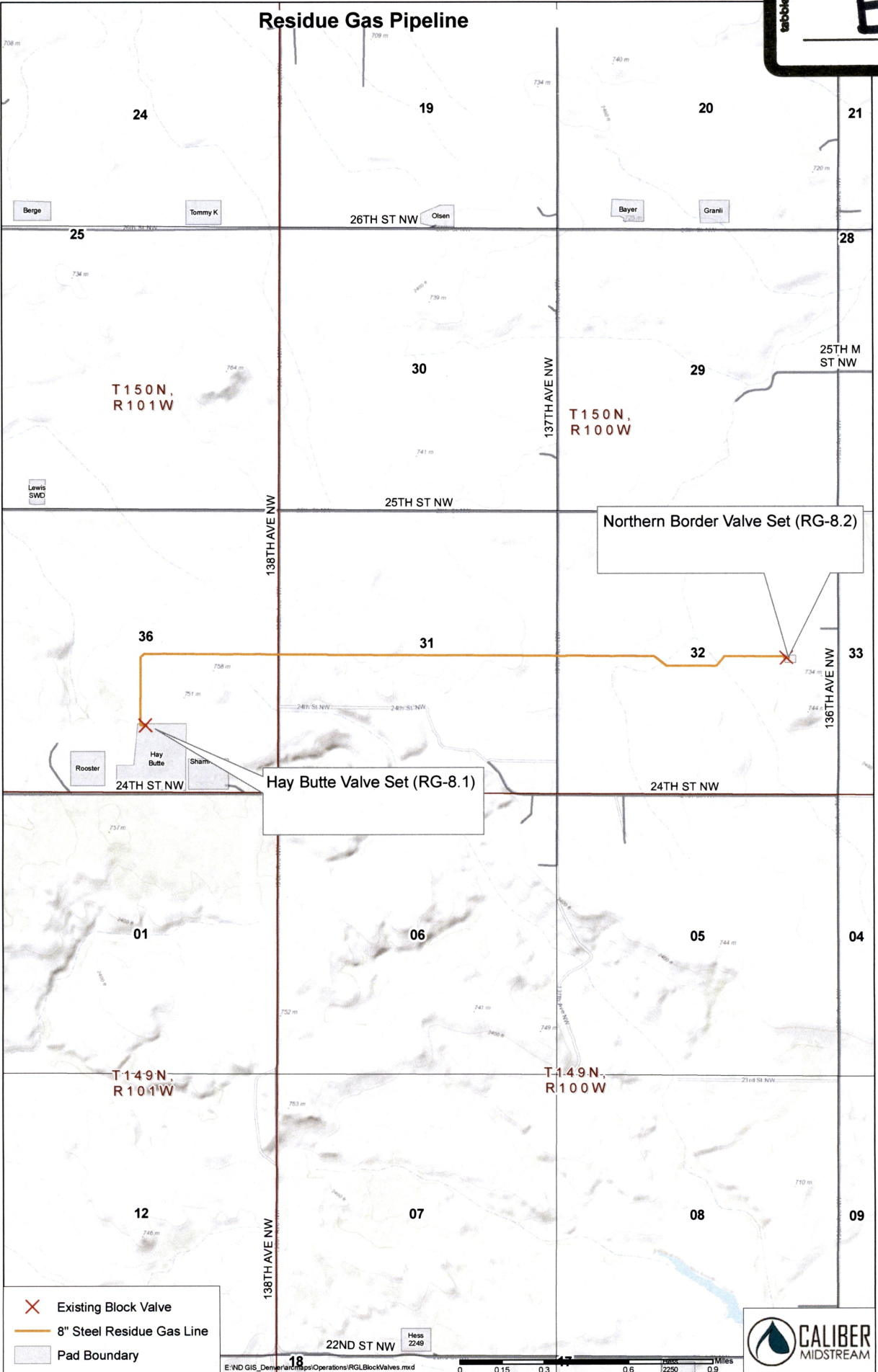
a Limited Liability Company - Business - Foreign was formed under the laws of DELAWARE and filed with this office effective March 5, 2013. This entity has, as of the date set forth below, complied with all applicable North Dakota laws.

**ACCORDINGLY**, the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Certificate of Good Standing.

**DATE:** August 27, 2021

A handwritten signature in black ink, appearing to read "Alvin A. Jaeger".

Alvin A. Jaeger  
Secretary of State



- Existing Block Valve
- 8" Steel Residue Gas Line
- Pad Boundary





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

**Caliber North Dakota LLC  
8-inch Residue Gas Line – McKenzie County**

Case No. PU-21-\_\_\_

**DECLARATION OF DANIEL WERTH IN SUPPORT OF REQUEST  
FOR APPROVAL OF TEMPORARY FACILITY OPERATIONS  
AND CERTIFICATION PURSUANT TO N.D.C.C. § 49-22.1-23**

I, Daniel Werth, pursuant to N.D.C.C. § 49-22.1-23 hereby declare as follows:

1. I am the President for Caliber North Dakota LLC d/b/a Caliber Midstream North Dakota LLC (“Caliber”). I am authorized to make this Declaration on behalf of Caliber, and hereby certify the below information.
2. This Declaration is submitted in support of Caliber’s accompanying Request for Approval of Temporary Facility Operations (“Request”). The Request was prepared under my direction and supervision and good cause exists for its approval.
3. Pursuant to N.D.C.C. § 49-22.1-23(1), the reasons outlined in the Request demonstrate that the activities will have no adverse impacts upon the welfare of the citizens of North Dakota or the environment.
4. I declare, under the penalty of perjury under the law of North Dakota, that the foregoing information and the contents of the Request are true and correct to the best of my knowledge, information, and belief.

Signed on the 14<sup>th</sup> day of October 2021, at Adams County, Colorado, United States of America.

A handwritten signature in black ink, appearing to read "Daniel Werth", written over a horizontal line.

Daniel Werth  
President  
Caliber North Dakota LLC