

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

**Continental Resources, Inc.**  
**8-inch NG Buddy Domindgo Pipeline – Williams Cnty.**  
**Siting Application**

**Case No. PU-22-141**

**[PROPOSED] FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

**June \_\_\_\_, 2022**

**Appearances**

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

Lawrence Bender, Attorney at Law, Fredrikson & Byron, P.A., 1133 College Drive, Suite 1000, Bismarck, North Dakota 58501, on behalf of Continental Resources, Inc.

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.

Adam Renfandt, Public Utility Analyst, North Dakota Public Service Commission, 600 E. Boulevard Avenue, Dept. 408, Bismarck, North Dakota 58505.

Hope L. Hogan, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

**Preliminary Statement**

On March 3, 2022, Continental Resources, Inc. (Continental), 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 3.1-mile long natural gas pipeline, located in Williams County, North Dakota (Application).

Also on March 3, 2022, Continental filed with the Commission an application for waiver or reduction of procedures and time schedules established under North Dakota Century Code chapter 49-22.1 and North Dakota Administrative Code section 69-06-01-02 and chapter 69-06-06, regarding separate notices and separate hearings on such applications and North Dakota Administrative Code section 69-06-06-01(2)(f) requiring a corridor width of ten percent of the corridor's length with a maximum width of six miles.

On March 8, 2022, 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.

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Proposed Findings of Fact, Conclusions of Law and Order  
Continental Resources, Inc.  
Lawrence Bender, Fredrikson&Byron, P.A.

On March 18, 2022, May 10, 2022 and May 20, 2022, Continental filed documents with the Commission to supplement the Application.

On May 4, 2022, the Commission deemed the Application complete and issued a Notice of Filing and Public Hearing (Notice) scheduling a public hearing for June 6, 2022, at 9:00 a.m. Central Time, at the Williston City Hall, John Kautzman Chamber Room, 22 East Broadway, Williston, North Dakota 58801.

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

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

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

1. Will construction, operation, and maintenance of the facility at the proposed location produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Is the proposed facility compatible with the environmental preservation and the efficient use of resources?
3. Will construction, operation, and maintenance of the facility at the proposed location minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On June 6, 2022, the public hearing was held at the time and place set forth in the Notice, allowing any interested parties to present testimony in person or via telephone. Exhibits 1 and 2 were admitted at the hearing.

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. Continental Resources, Inc. is an Oklahoma corporation authorized to do business in the State of North Dakota, as evidenced by the corporate papers filed with the Commission on March 3, 2022.

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

2. Continental intends to construct an approximately 3.1-mile steel natural gas transmission line located in Williams County, North Dakota (Project). The Project will transport natural gas from an existing natural gas transmission line to Continental's Buddy Domindgo well pad where the gas will be compressed and injected downhole for enhanced oil recovery purposes.
3. The Project will be 8-inch diameter steel pipe with a wall thickness of 0.250-inches (0.322-inches for bored locations) and a maximum operating pressure of 1,440 pounds per square inch. The maximum operating temperature of the Project will be 120 degrees Fahrenheit.
4. The Project will have a flow rate capacity of up to 30 million standard cubic feet per day (MMSCFD).
5. Aboveground facilities for the Project will be limited to pipeline markers, cathodic test stations and two (2) mainline block valve sites.
6. The estimated cost of the Project is \$3.55 million.

### Study of Preferred Location

7. Continental initiated correspondence seeking comments from following federal, state and local agencies regarding the Project:
  - a. Federal: (1) Federal Aviation Commission; (2) U.S. Army Corps of Engineers; (3) U.S. Fish and Wildlife Service; (4) U.S. Department of Defense-Cable Affairs; (5) U.S. Department of Agriculture-Natural Resources of Conservation Service; (6) U.S. Department of Agriculture-North Dakota Farm Service Agency; (7) Federal Bureau of Land Management; (8) Grand Forks Air Force Base; (9) Twentieth Airforce Ninety-First Missile Wing; and (10) U.S. Department of Defense.
  - b. State: (1) North Dakota Attorney General; (2) North Dakota Department of Career and Technical Education; (3) North Dakota Department of Commerce; (4) North Dakota Department of Environmental Quality; (5) North Dakota Department of Human Services; (6) North Dakota Department of Transportation; (7) North Dakota Department of Trust Lands; (8) North Dakota Energy Development Impact Office; (9) North Dakota Game and Fish Department; (10) North Dakota Geological Survey; (11) North Dakota Indian Affairs Commission; (12) North Dakota Industrial Commission-Pipeline Authority; (13) North Dakota Labor Department; (14) North Dakota Parks and Recreation Department; (15) North Dakota Soil Conservation Committee; (16) North Dakota State Water Commission; (17) Job Service of North Dakota; (18) SHPO; (19) Office of the Governor; (20) North Dakota Aeronautics Commission; (21) Western Area Water Supply Authority; and (22) North Dakota Forest Service.

- c. Local: (1) Williams County Commission; (2) Williams County Planning & Zoning Department; (3) Williams County Water Resources Board; (4) Williams County Weed Board

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

9. Continental conducted surveys across an approximately 250-foot-wide area centered on the Project route (Survey Area). Continental conducted surveys for wetlands, waterbodies, threatened and endangered species, critical habitats, noxious weeds, and trees/saplings/shrubs. Continental also conducted a 0.5-mile line-of-sight binocular survey for raptor nests.

10. Continental conducted a Class III cultural resources inventory across the Survey Area. The Class III report was submitted to the North Dakota State Historic Preservation Office (SHPO). In its response dated December 28, 2021, SHPO concurred with the avoidance and mitigation measures outlined in the report.

#### Siting Criteria

11. 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.

12. Continental evaluated the Project for the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria of the Commission.

13. 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.

14. Archaeological sites are Exclusion Areas. Continental testified that the Project route does not cross any archaeological sites and that Project construction activities will not impact any archaeological sites identified within the Survey Area.

15. 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.

16. Areas of known geologic instability are Avoidance Areas. Continental testified that the horizontal directional drilling (HDD) technique will be utilized to cross all known areas of geologic instability.

17. 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. Continental has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria.

18. Wetlands are a Selection Criteria. Continental testified that impacts to wetlands will be avoided by using the HDD technique.

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

20. Continental analyzed the relevant Policy Criteria set forth in Section 69-06-08-02(4) of the North Dakota Administrative Code. There is no need for the Commission to give preference to the applicant in this proceeding.

#### Additional Measures to Minimize Impact

21. Continental 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.

22. 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.

23. Continental testified that it will follow a written manual of procedures for conducting normal operations and maintenance activities and for handling abnormal operations and emergencies. Continental will monitor pipeline inlet pressure at the interconnection with the existing natural gas transmission line and at Continental's Buddy Domindgo well pad. Continental will utilize relief valves and pressure shutdowns to protect the pipeline from overpressure. A leak detection and monitoring system will be employed for the Project.

24. Continental will coordinate with local emergency response officials to discuss emergency response coordination and will conduct emergency deployment drills on an annual basis.

25. Continental has developed several project control documents that will be utilized in connection with the construction and operation of the Project including a Spill Prevention and Countermeasure Plan, Corporate Emergency Response Plan, Erosion

and Sediment Control Plan, Damage Prevention Plan, Unanticipated Discovery and Treatment Plan, Noxious Weed Control Plan, Fugitive Dust Control Plan and Horizontal Directional Drilling Inadvertent Release Control and Mitigation Contingency Plan.

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

27. Continental will participate in the North Dakota One-Call notification system.

28. Continental 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, Continental Resources, Inc., and the subject matter of the Application under Chapter 49-22.1 of the North Dakota Century Code.

2. Continental 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 NDCC Section 49-22.1-01(7).

4. The construction, operation, and maintenance of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

5. The Project is compatible with environmental preservation and the efficient use of resources.

6. The construction, operation, and maintenance of the Project minimizes adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

7. The proposed facility at the proposed location will produce minimal adverse effects, and it is appropriate for the Commission to waive applicable procedures and time schedules as requested in the application for waiver of procedures and time schedules pursuant to North Dakota Century Code Section 49-22.1-05 and North Dakota Administrative Code Chapter 69-06-06.

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

## Order

1. Continental's application for a waiver of procedures and time schedules is granted.
2. Continental shall construct, operate, and maintain the pipeline in accordance with the Commission's Findings of Fact.
3. Certificate of Corridor Compatibility No. \_\_\_\_ is issued to Continental Resources, Inc. designating a corridor for the construction, operation, and maintenance of approximately 3.1 miles of 8-inch diameter natural gas pipeline and associated facilities in Williams County, North Dakota, as identified in Appendix A of the Application and identified precisely by the associated GIS map data.
4. Route Permit No. \_\_\_\_ is issued to Continental Resources, Inc. designating a route for the construction, operation, and maintenance of approximately 3.1 miles of 8-inch diameter natural gas pipeline and associated facilities in Williams County, North Dakota, as identified in Appendix A of the Application and identified precisely by the associated GIS map data. 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 Continental receives written authorization from the Commission before conducting any associated construction activities. Construction activities must not impact an exclusion area.
5. The Certification Relating to Order Provisions – Transmission Facility Siting (Certification), with accompanying Tree and Shrub Mitigation Specifications, executed June \_\_, 2022 is incorporated by reference and attached to this Order.
6. To the extent there are any conflicts or inconsistencies between Continental's Application and the Certification, the Certification provisions control.
7. Continental 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.
8. Continental 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**

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**Sheri Haugen-Hoffart  
Commissioner**

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