

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

**Tesoro Great Plains Gathering & Marketing LLC
2.4-mile Renewable Diesel Pipeline – Stark County
Siting Application**

Case No. PU-23-255

ORDER

October __, 2023

Preliminary Statement

On July 21, 2022, in Case No. PU-22-328, Tesoro Great Plains Gathering & Marketing LLC (“Tesoro Great Plains”) filed with the Commission, an application for temporary operation of facilities and facility modifications pursuant to North Dakota Century Code Section 49-22.1-23, for the temporary operations of facilities and facility modifications of an existing approximately 2.4-mile, 6.625-inch diameter pipeline located in Stark County, North Dakota to allow transportation of renewable diesel.

On July 27, 2022, the Commission issued an Order in Case No. PU-22-328 granting Tesoro Great Plains temporary authorization to operate the pipeline and to make minor modifications. The Commission ordered Tesoro Great Plains to submit a siting application by August 1, 2023.

On June 29, 2023, Tesoro Great Plains filed with the Commission a Consolidated Application for a Certificate of Corridor Compatibility and Route Permit and an Application for Waiver or Reduction of Procedures and Time Schedules seeking a waiver of certain 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 (collectively, the “Application”) concerning the location of the 2.4-mile, 6.625-inch diameter renewable diesel pipeline, located in Stark County.

On August 2, 2023, the Commission deemed issued a Notice of Filings and Notice of Opportunity for Hearing (“Notice”) that provided until September 15, 2023, for comments and requests for hearing.

The Notice identified the following issues to be considered in Tesoro Great Plains’ request for a Waiver or Reduction of Procedures and Time Schedules:

1. Are the proposed facilities of such length, design, location, or purpose that they 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 in Tesoro Great Plains' Application for a Certificate of Corridor Compatibility and Route Permit:

1. Will the location and operation of the proposed facilities 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 the proposed facility 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 August 21, 2023, comments from the North Dakota Department of Environmental Quality relating to the Project were docketed in PU-23-255.

No other comments or requests for hearing were docketed in response to the Notice.

On September 25, 2023, an informal hearing was held on the Application.

Findings of Fact

Size, Type and Preferred Location of Facility

1. Tesoro Great Plains owns and operates an existing 2.4-mile long, 6.625-inch diameter pipeline previously decommissioned from transporting crude oil and subsequently converted to transporting renewable diesel located in Stark County, North Dakota (the "Project"). The Project was constructed as three separate segments between 1995 and 2014 and was subsequently acquired by Tesoro Great Plains in July 2022.

2. The Project originates at the Dickinson Renewable Fuels Facility and terminates at the Tesoro Great Plains Patterson Rail Terminal. The purpose of the Project is to transport renewable diesel fuel in a more efficient manner to the Patterson Rail Terminal for delivery to United States markets.

3. Prior to the Project's operation, renewable diesel was transported via a separate pipeline from the Dickinson Renewable Fuels Facility to the Dickinson Rail Terminal. Renewable diesel was then loaded on to rail cars and moved (switched) north to the Patterson Rail Terminal to connect to a larger car unit train. The switching would occur via Burlington Northern Santa Fe and would include crossing 115th Ave SW and 116th Ave SW public roadways in Dickinson. Utilization of the Project eliminates the switching of rail cars across public roadways and creates

a more direct path for renewable diesel to reach the Patterson Rail Terminal by utilizing existing pipeline infrastructure.

4. To facilitate Project operations, Tesoro Great Plains purged the decommissioned pipeline of nitrogen, ran multiple cleaning/brush pigs through the pipeline, and subsequently dried the line utilizing foam pigs. To operate the Project, minor facility modifications were required. This included modifying an existing meter skid within the existing disturbance footprint of the Dickinson Renewable Fuels Facility to include heat trace and insulation, controls and communication, and electrical equipment installation. Tesoro Great Plains also relocated and installed a new meter skid within the existing disturbance footprint of the Patterson Rail Terminal. Tesoro Great Plains installed a pig launcher within the existing disturbance footprint of the Dickinson Renewable Fuels Facility and a receiver within the existing disturbance footprint of the Patterson Rail Terminal along with 50 feet of in-facility piping to connect the receiver. Additionally, one block valve was also replated at the Project terminus within the Patterson Rail Terminal.

5. The Project currently transports approximately 12,000 barrels per day of renewable diesel and has a maximum design flow rate of 24,000 barrels per day.

6. The Project is in Township 139 North, Range 97 West, Sections 15, 14, and 11, within Stark County, North Dakota.

7. The Project is located on land entirely owned by Tesoro Great Plains and affiliate Dakota Prairie Refining, LLC and crosses one county roadway and railroad right-of-way.

8. Tesoro Great Plains estimates constructing a new pipeline similar to the Project may cost up to approximately \$4,000,000.00.

9. Tesoro Great Plains commissioned the Project to begin transporting renewable diesel in September 2022.

Study of Preferred Location

10. Tesoro Great Plains collected environmental data using both desktop resources and information collected during October 2022 field reconnaissance efforts. The data was collected for general land use, cultural resources, wetland and waterbodies, existing vegetation, wildlife, and protected species. The study area included the 100-foot-wide Corridor and extended to one mile to inform the cultural resource review.

11. A Class I Literature Review was conducted for the Corridor and a one-mile buffer around it. The Class I included a review of previous Class III survey reports of the Corridor. The cultural resources investigation concluded a recommended finding of No Historic Properties Affected and the report was provided to the North Dakota State Historic Preservation Office (SHPO) for review. On January 20, 2023, SHPO issued a “no significant sites affected” determination for the Project.

12. To review potential impacts to wetlands and waterbodies, a wetland delineation was conducted for the Project. Three waterways, including Heart River, an unnamed tributary to Heart River and a culvert were identified. One wetland, adjacent to the unnamed tributary to Heart River was also delineated. Based on evaluation of historical Google Earth, the Project is believed to have likely been installed across the Heart River via horizontal directional drilling. Based on observations noted during the field reconnaissance, permanent impacts to wetlands or waterbodies during original construction activities are not anticipated to have occurred.

13. Most of the Corridor does not contain trees or shrubs. Construction of the Project may have required clearing of some woody vegetation existing at the time of construction activities. Given the total length of pipeline, the industrial nature of the immediate proximity of the Project, and the Project's location on land owned by Tesoro Great Plains and its affiliate, no adverse impacts to wooded areas are anticipated.

14. No adverse effects are expected to occur to terrestrial wildlife, or aquatic species as a result of the Project's operation. The Project consists of existing infrastructure located within a previously disturbed and industrial area. Minor temporary impacts during construction may have included the temporary displacement of wildlife as a result of the noise and equipment use, however these impacts are anticipated to have been minor.

15. No eagles, raptors, or nests were observed during the natural resources field surveys of the study area. Correspondence from the North Dakota Game and Fish Department dated September 29, 2022, indicated there were no known eagle nests identified within two miles of the Project.

16. No current federally listed threatened or endangered species were observed within the Corridor or within a one-mile radius during the field reconnaissance site visit. No designated critical habitat for threatened or endangered species is located within the Corridor.

17. Tesoro Great Plains 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, Cable Affairs Officer; (4) U.S. Fish and Wildlife Service; (5) U.S. Department of Agriculture, Natural Resources Conservation Service; (6) Bureau of Land Management; (7) Military Aviation and Installation Assurance Siting Clearing House; (8) Minot Air Force Base, Twentieth Airforce Ninety-First Missile Wing; (9) Grand Forks Air Force Base; and, (10) U.S. Forest Service.
- 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 Infrastructure and Impact Office;

- (9) North Dakota Game and Fish Department; (10) North Dakota Indian Affairs Commission; (11) North Dakota Industrial Commission; (12) North Dakota Pipeline Authority; (13) North Dakota Department of Labor and Human Rights; (14) North Dakota Parks and Recreation Department; (15) North Dakota Department of Water Resources; (16) Job Service of North Dakota; (17) North Dakota State Historic Preservation Office; (18) North Dakota Governor's Office; (19) North Dakota Geological Survey; (20) North Dakota Aeronautics Commission; (21) North Dakota Transmission Authority; (22) North Dakota Department of Agriculture; (23) North Dakota Soil Conservation Committee; and, (24) North Dakota State University Extension.
- c. Local: (1) Stark County Board of Commissioners; (2) Stark County Planning and Zoning Department; (3) Stark and Billings Soil Conservation District; and, (4) Stark County Weed Control Board.

Siting Criteria

18. 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 set forth in North Dakota Administrative Code Section 69-06-08-02 include Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

19. Tesoro Great Plains evaluated the Project with respect to the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

20. 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 may not be sited within an Exclusion Area.

21. No known Exclusion Areas will be impacted by the Project.

22. An Avoidance Area is a geographical area that may not be considered in the routing of a transmission facility unless the applicant demonstrates that under the circumstances, there is no reasonable alternative. In determining whether the Avoidance Area should be designated for a 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.

23. Except for industrial buildings within 500 feet of the Project route, which are all owned by Tesoro Great Plains and its affiliated companies, there are no known Avoidance Areas within the Corridor that will be impacted by the Project.

24. In accordance with the Commission’s Selection Criteria, a transmission facility shall be approved only if it is determined that any significant adverse effects that will result from the location, construction, and operation of the facility as they relate to the Selection Criteria will be at an acceptable minimum or will be managed and maintained at an acceptable minimum. Tesoro Great Plains has analyzed the impacts of the Project in relation to all relevant Selection Criteria. No significant adverse impact will result from the location, construction, and operation of the Project.

25. In accordance with the Commission’s Policy Criteria, the Commission may give preference to an applicant that will maximize the benefits that result from the adoption of certain policies and practices. Tesoro Great Plains has sited the Project in a manner to utilize and coordinate with existing facilities, and the Project will be co-located with other pipelines and associated infrastructure.

Mitigation to Minimize Impact

26. In May 24, 2023 correspondence, the U.S. Fish and Wildlife Service concluded it had no comments or concerns regarding the Project. Similarly, in June 5, 2023 correspondence, the North Dakota Game and Fish Department concluded that based on its review of the Project, the Project will not have significant adverse effects on wildlife or wildlife habitat.

27. The Project does not require additional ground disturbing activities associated with the construction of a new pipeline. The Project is co-located with existing infrastructure in a previously disturbed industrial and developed area.

28. The Project reduces train-crossing traffic at public roadways (115th Ave SW and 116th Ave SW) by providing a more direct connection to Patterson Rail Terminal rail cars, reduces redundancies associated with switching rail cars between the Dickinson Rail Terminal and the Patterson Rail Terminal, and it eliminates emissions associated with the prior rail locomotive switching.

29. The Project is controlled and monitored 24 hours a day, 7 days a week, and 365 days a year by trained control room personnel. The Project is equipped with a monitoring and alarm system that continuously monitors the flow and pressure and readily signifies anything outside normal operating conditions. If a spill were to occur, Tesoro Great Plains would implement a response in accordance with its parent company’s (MPLX) Northern Great Plains Pipeline Oil Spill Response Plan. The Northern Great Plains Pipeline Oil Spill Response Plan was drafted in accordance with Pipeline and Hazardous Materials Safety Administration (“PHMSA”) regulations and reviewed and approved by PHMSA.

30. The Project will continue to have a supervisory control and data acquisition (SCADA) system to monitor operations as described above and use a balancing system for leak detection. Implementation of this technology will minimize the potential for adverse effects.

31. Tesoro Great Plains will use best management practices as appropriate to control noxious weeds within the Corridor by utilizing control treatments as necessary.

32. Tesoro Great Plains will complete appropriate consultation and permitting for future maintenance activities that may require impacts to wetlands or waterbodies. If disturbance within the wetlands and waterbodies cannot be avoided, BMPs, such as topsoil stripping to preserve the native seed bank, would be used.

From the foregoing Findings of Fact, the Commission makes the following:

Conclusions of Law

1. The Commission has jurisdiction over this proceeding under North Dakota Century Code Chapter 49-22.1.

2. Tesoro Great Plains is a utility as defined in North Dakota Century Code Section 49-22.1-01(13).

3. The Project is a transmission facility as defined in North Dakota Century Code Section 49-22.1-01(7).

4. The location, 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 the 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 Project is of such design and location that it will produce minimal adverse effects, as defined under North Dakota Century Code Section 49-22.1-05 and it is appropriate for the Commission to waive those certain procedures and time schedules as requested in the Application pursuant to North Dakota Century Code Section 49-22.1-05.

Therefore, the Commission issues its:

Order

1. Tesoro Great Plains' Application for Waiver or Reduction of Procedures and Time Schedules is granted.

2. Certificate of Corridor Compatibility No. ___ is issued to Tesoro Great Plains Gathering & Marketing LLC designating a corridor generally 100-feet-wide for the construction,

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Proposed Order

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operation, and maintenance of the Project and associated facilities as identified and illustrated in the maps marked as Figures A2-1, A2-2, and A2-3 of Tesoro Great Plains' Application.

3. Route Permit No. ____ is issued to Tesoro Great Plains Gathering & Marketing LLC designating a route for the construction, operation, and maintenance of the Project as identified and illustrated in the maps marked as Figures A2-1, A2-2, and A2-3 of Tesoro Great Plains' Application.

4. The Certification relating to Order Provisions – Transmission Facility Siting (Certification), executed on _____, 2023, is incorporated by reference and attached to this Order.

5. To the extent there are any conflicts or inconsistencies between Tesoro Great Plains' Application and the Certification, the Certification provisions control.

6. Tesoro Great Plains is required to comply with the 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 granted in this proceeding.

7. Tesoro Great Plains shall comply with all the rules and regulations of all other agencies having jurisdiction over any phase of the proposed Project.

PUBLIC SERVICE COMMISSION

Sheri Haugen-Hoffart
Commissioner

Randy Christmann
Chair

Julie Fedorchak
Commissioner