

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Thunder Butte Pipeline, LLC
Thunder Butte Pipeline Project
Siting Application**

Case No. PU-24-086

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

May 8, 2025

Appearances

Commissioners Randy Christmann, Sheri Haugen-Hoffart, and Jill Kringstad.

Peter J. Breuer, Fredericks Law Firm, 601 S Washington, Stillwater, Oklahoma 74074 on behalf of Thunder Butte Pipeline.

Mitchell D. Armstrong, Special Assistant Attorney General, 122 East Broadway Ave., Bismarck, North Dakota 58501, North Dakota Public Service Commission.

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 January 8, 2024, Thunder Butte Pipeline, LLC (Thunder Butte), filed with the North Dakota Public Service Commission (Commission) a combined application for a certificate of corridor compatibility and route permit concerning the construction of a 3.84-mile-long pipeline and the conversion of an approximately 30.8-mile-long crude oil pipeline, located in Ward and Mountrail Counties, North Dakota.

On February 20, 2024, Thunder Butte filed with the Commission an amended combined application for certificate of corridor compatibility and route permit.

On March 26, 2024, 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.

On June 25, 2024, Thunder Butte filed with the Commission a second amended combined application for certificate of corridor compatibility and route permit.

On October 28, 2024, Thunder Butte filed with the Commission a third amended combined application for certificate of corridor compatibility and route permit (Application).

On January 22, 2025, Thunder Butte filed a response to a request for information.

On February 19, 2025, the Commission deemed the Application complete and issued a Notice of Filing and Notice of Public Hearing scheduling a public hearing for April 2, 2025, at 10:00 a.m. Central Time, at the American Legion Post 0121, 16 Main Street, Parshall, North Dakota 58770 (Notice).

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

1. Will the location and operation of the proposed facility produce minimal adverse effects on the environment and upon the welfare of citizens of North Dakota?
2. Is the proposed facility compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility 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?

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 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?

On April 2, 2025, the hearing was held as scheduled allowing any interested parties to present testimony in person. Thunder Butte submitted Exhibits 1 through 5 and Late-filed Exhibit 6, which 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. Thunder Butte is a limited liability company formed under the laws of the Three Affiliated Tribes of the Fort Berthold Indian Reservation, Thunder Butte is authorized to do business in the State of North Dakota as evidenced by the corporate papers filed in Case No. PU-24-085.

Size, Type, and Preferred Location of Facility

2. Thunder Butte intends to construct a 3.84-mile-long crude oil pipeline and convert an existing 30.8-mile-long crude oil gathering pipeline into a crude oil transmission line and associated facilities in Ward and Mountrail Counties, North Dakota (Project). The Project will transport crude oil from the existing Thunder Butte Petroleum Services Crude Storage and Loading Facility within the Fort Berthold Indian Reservation of Ward County, North Dakota, to the existing Enbridge Stanley Pump Station and Terminal in Stanley, North Dakota, for further marketing and transportation to national markets.

3. The newly proposed pipeline will be a 6.625-inch outside diameter carbon steel pipe with a wall thickness of 0.188 inches with fusion bond epoxy coating. The existing pipeline is comprised of 6.625-inch outside diameter pipe with a wall thickness of 0.156 inches. Where the existing pipeline meets or encounters any railway or roadway crossings, natural drainage, ponds, sloughs, or other wetlands, and on either side of the existing two aboveground block valve stations it has a wall thickness of 0.250 inches. The pipeline is designed to operate at a maximum pressure of 1,400 per square inch gauge. The maximum operating temperature of the Project will be 100 degrees Fahrenheit.

4. The Project will have a maximum design capacity of 24,000 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 four existing mainline block valves. Two pumps and a launcher will be installed at the existing Thunder Butte Petroleum Services Facility. Two pumps, a launcher, and receiver will be installed at the proposed Midline Pump Station with automated valves and controls.

6. The proposed corridor for the Project is a 200-foot-wide area centered on the pipeline route of the newly proposed pipeline, a 50-foot-wide area centered on the pipeline route of the existing pipeline, and a 2-acre area around the Midline Pump Station (Project Corridor). The proposed location of the Project Corridor and Project route is depicted on the "Route Selection Criteria Considered" map set in Exhibit 1, **Appendix A**.

7. Thunder Butte testified that construction will take approximately three months to complete with an expected Project in-service date of November 2025.

8. The estimated installed cost of the Project is approximately \$19.6 million. The cost includes construction of the proposed new pipeline, conversion of the existing pipeline, and construction of the proposed Midline Pump Station.

Study of Preferred Location

9. Thunder Butte conducted a Class I cultural resource literature review (Exhibit 1, **Appendix E**); desktop analyses for wetlands and waterbodies (Exhibit 1, **Appendix F**), wildlife and potential habitats for sensitive plants and animals (Exhibit 1, **Appendix G**), and geological hazards (Exhibit 1, **Appendix H**) across a one-mile-wide area centered on the Project route (Study Area).

10. Thunder Butte conducted a Class III cultural resource inventory across the Project Corridor (Exhibit 1, **Appendix E**) (Survey Area). Thunder Butte also conducted wildlife and habitat surveys for sensitive, threatened and endangered plant and wildlife species, critical habitat, trees/saplings/shrubs, cropland/land cover, noxious weeds (Exhibit 1, **Appendix G**), and geological hazards (Exhibit 1, **Appendix H**) across the Survey Area.

11. During the Class III cultural resource surveys, no cultural resources were identified. In response letters dated January 2, 2024, and March 5, 2025, the State Historical Society of North Dakota issued concurrences for the Project not located on the Fort Berthold Indian Reservation that “there are no significant sites affected by the project provided it takes place in the manner described in the documentation and all borrow comes from an approved source”. In a letter dated March 26, 2025, the Tribal Historic Preservation Office provided a determination of “No Historic Properties Affected” for the portion of the Project located on the Fort Berthold Indian Reservation.

12. Surveys were also conducted for raptor species and raptor nests within 0.5 mile line-of-sight of the Project route. During the field survey, one bald eagle nest was located 375 feet from the existing pipeline centerline and outside the Project Corridor. No raptor species or additional raptor nests were observed within the 0.5-mile line-of-sight of the Project route.

13. The United States Fish and Wildlife Service (USFWS) provided a letter dated November 6, 2024, (Exhibit 2) concurring with Thunder Butte’s determination that the Project “May Affect, Not Likely to Adversely Affect” the endangered Whooping crane, the threatened Red Knot and the Dakota skipper. Thunder Butte testified they will implement USFWS’ recommended mitigation and monitoring as follows:

- The period of concern for Dakota skipper is June 10 to July 25. Based on Thunder Butte’s field surveys, less than 2 acres of suitable habitat is present within the Project Corridor for the newly proposed pipeline. Avoidance of suitable habitat within it will be achieved by the use of horizontal directional drilling construction techniques at the crossings of suitable habitat, including a 250 to 500-meter buffer around the locations.

If construction occurs between June 10 to July 25, occupancy surveys will be conducted by a qualified biologist.

- The period of concern for piping plover is April 15 to August 15. If construction occurs between April 15 to August 15, including equipment mobilization within the Project Corridor for the newly proposed pipeline, a piping plover survey will be conducted seven consecutive days prior to the start of construction. Piping plover survey results will be immediately reported to the USFWS.
- The period of concern for eagles and other migratory birds is February 1 to July 15. As recommended by the North Dakota Parks and Recreation Department (NDPRD), an aerial survey of raptor nests will be conducted prior to construction regardless of when construction occurs. If an occupied nest is spotted during construction between February 1 and July 31, a construction buffer zone will be implemented of 0.5 mile.

14. Thunder Butte surveyed for geologically unstable areas within the Project Corridor and testified that it identified no geological hazards (Exhibit 1, **Appendix H**).

15. Thunder Butte conducted a depth of cover (DOC) analysis across the existing pipeline route at select locations. Based on this analysis, Thunder Butte testified none of the DOC measurements for the existing pipeline were less than 48 inches. A table of all the DOC measurements and a map set showing the locations of all DOC measurements are provided in Exhibit 2, **Attachment 2**. Thunder Butte testified that once construction of the newly proposed pipeline is complete, a licensed survey contractor will perform an as-built survey on the existing pipeline to determine the DOC. If any areas are less than 48 inches, Thunder Butte will take appropriate action to ensure at least 48 inches of DOC prior to the pipeline going into service.

16. Thunder Butte sent correspondence seeking comments from the following federal, state, and local agencies regarding the Project (Exhibit 1, **Appendix D**):

- Energy Infrastructure and Impact Office
- Grand Forks Air Force Base
- Job Service of North Dakota
- Military Aviation and Installation Assurance Siting Clearinghouse
- Minot Air Force Base
- Mountrail County Commission
- North Dakota Aeronautics Commission
- North Dakota Career and Technical Education
- North Dakota Department of Agriculture
- North Dakota Department of Commerce
- North Dakota Department of Environmental Quality
- North Dakota Department of Health
- North Dakota Department of Human Services

- North Dakota Department of Labor and Human Services
- North Dakota Department of Transportation
- North Dakota Department of Trust Lands
- North Dakota Department of Vocational Education
- North Dakota Department of Water Resources
- North Dakota Forest Service
- North Dakota Game and Fish Department
- North Dakota Geological Survey
- North Dakota Indian Affairs Commission
- North Dakota Industrial Commission
- North Dakota Office of Attorney General
- North Dakota Parks and Recreation Department
- North Dakota Pipeline Authority
- North Dakota Soil Conservation Committee
- North Dakota State Water Commission and Western Area Water Supply
- North Dakota Transmission Authority
- Office of Governor
- State Historical Society of North Dakota
- MHA Nation/Three Affiliated Tribes
- Tribal Historic Preservation Office
- Twentieth Air Force Ninety-first Missile Wing
- U.S. Department of Interior, Bureau of Land Management
- United States Department of Agriculture
- North Dakota Natural Resources Conservation Service
- United States Army Corps of Engineers
- United States Department of Defense
- United States Department of Transportation, Federal Aviation Administration
- United States Fish and Wildlife Service
- Ward County Commission

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. Thunder Butte evaluated the Project 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 width unless there is no reasonable alternative. A transmission facility route must not be sited within an Exclusion Area.

20. Areas within 1,200 feet of the geographic center of an intercontinental ballistic missile (ICBM) launch or launch control facility are considered exclusion areas. The Existing Pipeline Project Corridor is within 1,200 feet of the geographic center of one ICBM launch or launch control facility (Exhibit 1, **Appendix A**). This Exclusion Area constitutes more than 50 percent of the Corridor width. The existing pipeline was built in the 1960s as a gathering line. The United States Air Force has indicated there are no launch facilities or missile alert facilities that will be affected by the Project, and conversion of the existing pipeline will not require any construction within 1,200 feet of these features. Re-routing the existing pipeline to shift the corridor outside this exclusion area would result in additional impacts. Therefore, there is no reasonable alternative to avoid such features in the Existing Pipeline Project Corridor. The Project route is within this exclusion area. North Dakota Administrative Code Section 69-06-08-02, provides these areas must be excluded in the consideration of a route. However, the portion of the proposed route that is within 1,200 feet of the geographic center of an ICBM launch facility was constructed before April 9, 1975, the effective date of the siting law, and no "construction" (as defined in N.D.C.C. § 49-22.1-01(3)) will occur on this portion of the route. If any construction will occur on the portions of the route that are within this exclusion area in the future, Thunder Butte must comply with the requirements of N.D.C.C. § 49-22.1-01(3) and any other applicable provisions of the siting laws and rules.

21. Thunder Butte also identified areas critical to the life stages of threatened or endangered animals or plant species as an exclusion area crossed by the route and within the project corridor in its Application. However, the areas identified do not meet the criteria of an exclusion area under North Dakota Administrative Code Section 69-06-08-02 and are further addressed below.

22. Thunder Butte's studies and surveys did not identify any other Exclusion Areas within the Survey Area.

23. 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. Avoidance Areas may be located within a corridor, but cannot encompass more than fifty percent of the corridor width unless there is no reasonable alternative.

24. Areas within 500 feet of a residence, school, or business are Avoidance Areas. There is one occupied structure within 500 feet of the Project route. Thunder Butte has obtained a waiver for this structure.

25. Areas of recreational significance which are not designated as Exclusion Areas are Avoidance Areas. There is one NDPRD-designated snowmobile trail within the Project Corridor. However, this is located within the Project Corridor of the existing pipeline. In a letter dated October 18, 2023, the NDPRD stated that “[t]he project does not appear to affect properties NDPRD owns, leases, or manages”.

26. Designated or registered national historic districts; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands are Avoidance Areas. Several USFWS-managed Waterfowl Production Areas on private land are located within the Project Corridor of the existing pipeline and encompass more than fifty percent of the corridor width. In a letter dated November 6, 2024, the USFWS stated that the Project is not likely to adversely affect federally-listed species. Re-routing the existing pipeline to shift the corridor outside this Exclusion Area would result in unnecessary additional impacts. Therefore, there is no reasonable alternative to avoid such features in the Existing Pipeline Project Corridor.

27. Thunder Butte’s studies and surveys did not identify any other Avoidance Areas within the Survey Area.

28. 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. Thunder Butte has analyzed the impacts of the Project in relation to all relevant Selection Criteria.

29. Construction of the Project will not result in the permanent drainage or filling of wetlands or waterbodies. The U.S. Army Corps of Engineers provided an Approved Jurisdictional Determination dated April 22, 2024 (Exhibit 1, **Appendix D**), determining that the Project associated with the new pipeline crosses five waters of the United States: East Fork of Shell Creek and four wetlands (W-1, W-6, W-7, and W-9) as shown on the “Route Selection Criteria Considered” map set (Exhibit 1, **Appendix A**). Thunder Butte testified that it will employ horizontal directional drilling technique to cross any wetlands and waterbodies to avoid impacts to those features.

30. In the unlikely event that streams, swales, ditches, or other natural drains are altered during the Project, Thunder Butte will restore them as best as practical to pre-construction conditions.

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

Additional Measures to Minimize Impact

32. Thunder Butte 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 and the Certification Relating to Order Provisions – Transmission Facility Siting – Gathering Line Conversion to Transmission Line with accompanying Tree and Shrub Mitigation Specifications, which are incorporated by reference and attached to this Order.

33. Thunder Butte identified certain locations where the route will cross Hardened Intersite Cable Systems (HCIS) that connect launch control facilities as Exclusion Areas in the Application. However, the HCIS identified do not meet the definition of an Exclusion Area under North Dakota Administrative Code Section 69-06-08-02. Regardless, the presence of HCIS is relevant to the siting criteria and Thunder Butte has expressly certified that it will comply with the United States Air Force criteria and protocols when constructing any areas of the route that cross HCIS.

34. Thunder Butte will implement a Weed Management Plan (Exhibit 1, **Appendix J**) for controlling noxious weeds.

35. Thunder Butte testified a Storm Water Pollution Prevention Plan will be completed prior to the start of construction in accordance with North Dakota Department of Environmental Quality requirements pertaining to North Dakota Pollutant Discharge Elimination System General Construction Stormwater Permit requirements.

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. The pipeline will be under cathodic protection to prevent corrosion, and Thunder Butte will hydrotest the entire pipeline prior to commencing operations to validate pipeline integrity. All welds on the newly constructed pipeline will be x-rayed and inspected to ensure weld integrity and compliance with welding codes.

38. Thunder Butte will conduct regular pipeline monitoring, periodic inspection, internal inspections, and foot patrol inspections as required by PHMSA regulations. Thunder Butte testified this includes weekly aerial patrol inspections. The Project is incorporated in Thunder Butte's Spill Response Control Plan, which has been approved by PHMSA.

39. 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 system will allow Thunder Butte to monitor the flow and pressure of the system that triggers an alarm for anything outside normal operating conditions 24 hours a day, 7 days a week, and 365 days a year. Thunder Butte will have employees located near the route to respond in the event of an emergency.

40. Thunder Butte testified it will collaborate with local emergency response officials and meet with them on an annual basis to discuss their Emergency Response Plan. Thunder Butte will also coordinate with local emergency response officials to develop an appropriate Emergency Response Plan.

41. Thunder Butte participates in the North Dakota One-Call notification system.

42. Thunder Butte 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, Thunder Butte Pipeline, LLC, and the subject matter of the Application under Chapter 49-22.1 of the North Dakota Century Code.

2. Thunder Butte Pipeline, LLC is a utility as defined in North Dakota Century Code Section 49-22.1-01(13).

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.

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. Thunder Butte Pipeline, LLC's application for a waiver of procedures and time schedules is granted.
2. Thunder Butte Pipeline, LLC shall construct, operate, and maintain the pipeline in accordance with the Commission's Findings of Fact.
3. Certificate of Corridor Compatibility No. 238 is issued to Thunder Butte Pipeline, LLC designating the construction, operation, and maintenance of approximately 35 miles of 6.625-inch diameter crude oil pipeline and associated facilities in Mountrail and Ward Counties, North Dakota. The corridor consists of a 200-foot-wide corridor for the approximately 3.84-mile-long proposed pipeline, a 50-foot-wide corridor for the approximately 30.8-mile-long existing pipeline, and an approximately 2-acre area around the Midline Pump Station as shown on the "Route Selection Criteria Considered" map set in Exhibit 1, **Appendix A**. The designated corridor is depicted as the "Project Corridor existing Pipeline 50-foot-wide (25 feet on either side of the pipeline centerline)", "Project Corridor Proposed Pipeline 200-foot-wide (100 feet on either side of the pipeline)", and "Proposed Midline Pump Station – 2.0 acres" and identified precisely by the associated GIS map data.
4. Route Permit No. 249 is issued to Thunder Butte Pipeline, LLC designating a route for the construction, operation, and maintenance of approximately 35 miles of 6.625-inch diameter crude oil pipeline and associated facilities in Ward and Mountrail Counties, North Dakota, as identified on the "Route Selection Criteria Considered" map set in Exhibit 1 **Appendix A**. The designated route includes a route construction buffer of 20 feet on each side of the designated route of the 3.84-mile proposed pipeline, contingent upon not impacting an Avoidance Area unless Thunder Butte Pipeline, LLC 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 March 26, 2025, is incorporated by reference and attached to this Order.
6. The Certification Relating to Order Provisions – Transmission Facility Siting Gathering Line Conversion to Transmission Line (Conversion Certification) executed March 26, 2025, is incorporated by reference and attached to this Order.

7. To the extent there are any conflicts or inconsistencies between Thunder Butte Pipeline, LLC's Application and the Certification or the Conversion Certification, the Certification and Conversion Certification provisions control.

8. Thunder Butte Pipeline, LLC 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.

9. If a spill by Thunder Butte Pipeline, LLC requires notification to any other state or federal agency, Thunder Butte will also inform the Commission of such spill within 24 hours of occurrence by leaving a message at the Commission's Toll Free Number, with a follow-up email to the Commission's Executive Secretary.

10. Thunder Butte Pipeline, LLC 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.

11. Thunder Butte Pipeline, LLC shall conduct a study providing the depth of cover from the top of the pipeline to the ground level along the entire length of the existing pipeline route. The study must identify all location(s) where the pipeline was not buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in range land, 48 inches for cultivated land, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines. Thunder Butte Pipeline, LLC shall file the study, deficiency assessment and proposed mitigation plan to the Commission for approval prior to operation. Thunder Butte Pipeline, LLC shall provide an updated Avoidance Areas map set in Exhibit 1, **Appendix A**, identifying any deficient areas.

PUBLIC SERVICE COMMISSION

		
<u>Sheri Haugen-Hoffart</u> Commissioner	<u>Randy Christmann</u> Chair	<u>Jill Kringstad</u> Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Certificate of Corridor Compatibility 238

This is to certify that the Commission has designated a transmission facility corridor for Thunder Butte Pipeline, LLC designating a corridor generally 200-foot-wide for the construction, operation, and maintenance of approximately 3.84 miles of 6.625-inch diameter crude oil pipeline along with a connecting 50-foot-wide area for 30.8 miles of existing 6.625-inch diameter crude oil pipeline, an adjacent 50-acre area, and associated facilities in Mountrail and Ward Counties, North Dakota.

This certificate is issued in accordance with the Commission's May 8, 2025, Order in Case No. PU-24-86, and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, May 8, 2025.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Route Permit Number 249

This is to certify that the Commission has designated a transmission facility route for Thunder Butte Pipeline, LLC for the construction, operation, and maintenance of approximately 3.84 miles of 6.625-inch diameter crude oil pipeline and a connecting 30.8 miles of an existing 6.625-inch diameter crude oil pipeline.

This permit is issued in accordance with the Commission's May 8, 2025, Order in Case No. PU-24-86, and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, May 8, 2025.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

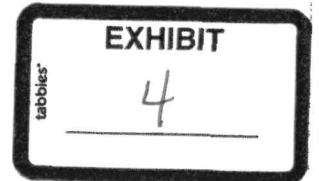
Thunder Butte Pipeline, LLC
Thunder Butte Pipeline Project
Siting Application

Case No. PU-24-86

CERTIFICATION RELATING TO ORDER PROVISIONS
TRANSMISSION FACILITY SITING

I am Bernard A Fox, a representative of Thunder Butte Pipeline, LLC ("Company") with authority to bind Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22.1 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
3. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the transmission facility that requires said license or permit.
4. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
5. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
6. Company understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for the



transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

Construction:

7. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.
8. Company understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area.
9. Company understands and agrees that topsoil removal will begin when the Commission's third-party construction inspector is present at the Project site to observe that topsoil is properly removed and kept segregated from subsoil until replacement occurs. Company shall establish the date and time for the Commission's third-party construction inspector's topsoil removal oversight in the preconstruction conference.
10. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated on construction activities on a monthly basis.
11. Company understands and agrees that the pipeline will be buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in range land, 48 inches for cultivated land, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines.
12. Company understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must also be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.

13. Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road.
14. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
15. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made and a report of such examination is filed with the Commission and the State Historical Society.
16. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures are taken by Company.
17. Company understands and agrees that the Commission has authority to stop Project construction activities in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm.

Restoration and Maintenance:

18. Company understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
19. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the transmission facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.
20. Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.

21. Company will fulfill its obligation for reclamation and maintenance of the approved transmission facility right-of-way, transmission facility, and associated facilities continuing throughout the life of the transmission facility.
22. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
23. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.
24. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
25. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
26. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.

Communication with Landowners and PSC:

27. Company understands and agrees that, prior to beginning construction of the transmission facility at a location, it shall send a letter to each landowner with whom an easement was executed for that location specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the easement.
28. Company understands and agrees that it will file with the commission the name and phone number of the current company representative who is responsible for receiving and resolving landowner issues for the transmission facility. The company will update this information whenever there is a change to the current company representative for the life of all easements for the transmission facility.
29. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
30. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the transmission facility, including injuries to any person.
31. Company agrees to report to the Commission, as soon as reasonably possible, the presence in the permit area of any critical habitat or threatened or endangered

species of which Company becomes aware and which were not previously reported to the Commission.

32. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility.
33. Company agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
34. Company shall notify the Commission as soon as reasonably possible if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined.

Route Adjustments Before or During Construction:

35. Company agrees to utilize the following procedures if Company seeks a route adjustment before or during construction of the pipeline, pursuant under N.D.C.C. §49-22.1-15.
36. Company will specifically identify which subsection of NDCC 49-22.1-15 it is requesting the adjustment under. Company will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application.
37. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before conducting any construction activities for any adjustment

to the designated route within the designated corridor under NDCC 49-22.1-15(1), the Company will file:

- a. Certification and supporting documentation affirming that construction activities will be within the designated corridor, will not affect any known exclusion or avoidance areas within the designated corridor;
- b. Certification and supporting documentation, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, route and the route adjustment;
- c. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

38. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22.1-15(2), within the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route within the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
 - i. the designated corridor, route and the route adjustment;
 - ii. all exclusion and avoidance areas within the portion of the designated corridor containing the route adjustment
- b. Certification and supporting documentation affirming:
 - i. That construction activities will be within the designated corridor
 - ii. That construction activities will not affect any known exclusion area
- c. All field studies performed on the portion of the designated corridor containing the route adjustment;
- d. Specific information about any mitigation measures Company will take within the adjustment area;
- e. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- f. Certification that unless the Commission previously authorized the impact to the same avoidance area, that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist;
- g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

Company acknowledges and agrees that:

1. Written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity unless the Commission fails to act within ten working days of receipt of filing a complete adjustment application, in which case the adjustment is deemed approved.
2. The initiation of the ten working days begins upon receipt of a complete filing, to include Company's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Company, in the person of the key contact referenced above, is informed of the reason additional time is necessary for extension and has no objection to an extension.

39. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22.1-15(3), outside the designated corridor and not affecting any exclusion and avoidance area, before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:

- a. Certification and supporting documentation affirming that construction activities will not affect any known exclusion or avoidance areas,
- b. Certification and supporting documents stating the length of the proposed route outside of the corridor and a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, corridor adjustment, designated route and the route adjustment;
- c. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment; and
- d. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
- e. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

40. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22.1-15(4), outside the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
 - i. the designated corridor, corridor adjustment, route and the route adjustment;

- ii. all exclusion and avoidance areas within the adjustment area
- b. Certification that construction activities will not affect any known exclusion area;
- c. Certification that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist within the designated corridor and route;
- d. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- e. Provide specific information about any mitigation measures Company will take within the adjustment area;
- f. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
- g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

Company acknowledges and agrees that:

1. Written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity unless the Commission fails to act within ten working days of receipt of filing a complete adjustment application, in which case the adjustment is deemed approved.
2. The initiation of the ten working days begins upon receipt of a complete filing, to include Company's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Company, in the person of the key contact referenced above, is informed of the reason additional time is necessary for extension and has no objection to an extension.

41. When applicable, Company may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.

Dated this 26 day of March, 2025.

THUNDER BUTTE PIPELINE, LLC

By *Bernard G Fox*

Its _____

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Thunder Butte Pipeline, LLC
Thunder Butte Pipeline Project
Siting Application**

Case No. PU-24-86

**CERTIFICATION RELATING TO ORDER PROVISIONS
TRANSMISSION FACILITY SITING
GATHERING LINE CONVERSION TO TRANSMISSION LINE**

I am Bernard A. Fox, a representative of Thunder Butte Pipeline, LLC ("Company") with authority to bind Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22.1 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
3. Company understands and agrees that it shall obtain all necessary licenses and permits and shall provide copies of all licenses and permits to the Commission prior to initiating operation of the transmission facility that requires said license or permit.
4. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
5. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
6. Company understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for

the transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

Construction:

7. Company agrees to hold a construction conference prior to initiating operation of the facility as a transmission facility, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.
8. Company understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior initiating operation of the facility as a transmission facility.
9. Company agrees to inform the Commission and the Commission's third-party construction inspector immediately prior to the Company initiating operation of the facility as a transmission facility.
10. Company certifies that the pipeline has been buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in range land, 48 inches for cultivated land, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines.
11. Company certifies that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts were made, was stripped and segregated from the subsoil. Any area on which excavated subsoil was placed was also stripped of topsoil. After backfilling was completed, any excess subsoil was placed over the excavation area, blending the grade into existing topography. Topsoil was replaced over areas from which it was stripped only after the subsoil was replaced.
12. Company certifies that all buried facility crossings of graded roads were bored unless the responsible governing agency permitted Company to open cut the road.
13. Company certifies that staging areas or equipment were not located on land owned by a person other than Company unless otherwise negotiated with landowners.
14. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site discovered during construction, was marked, preserved and protected from further disturbances until a professional examination could be made and a report of such examination was filed with the Commission and the State Historical Society and clearance to proceed was given by the North Dakota State Historic Preservation Office.

15. Company certifies that construction was suspended when weather conditions were such that construction activities would cause irreparable damage to roads or land, unless adequate protection measures were taken by Company.

Restoration and Maintenance:

16. Company certifies that upon completion of the construction of the facility, Company restored the area affected by the activities to as near as was practicable to the condition as it existed prior to the beginning of construction.
17. Company certifies that all pre-existing township and county roads and lanes used during construction were, or are being, repaired to a condition that is equal to or better than the condition prior to the construction of the transmission facility and accommodates their previous use, and that areas used as temporary roads or working areas during construction were, or are being, restored to their original condition.
18. Company certifies that reclamation, fertilization, and reseeding was, or is being done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
19. Company understands and agrees that its obligation for reclamation and maintenance of the transmission facility right-of-way, transmission facility, associated facilities, fences and gates, drainage tile, and roadways will continue throughout the life of the transmission facility.
20. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
21. Company certifies that it has removed all waste that was a product of construction and has properly disposed of it. Company understands and agrees that it shall remove all waste that is a product of operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
22. Company certifies that it provided any necessary safety measures for traffic control or to restrict public access to the transmission facility during construction.

Communication with Landowners and PSC:

23. Company understands and agrees that, prior to operating its facility as a transmission facility, it shall send a letter to each landowner with whom an easement was executed for that location specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the easement.

24. Company understands and agrees that it will file with the Commission the name and phone number of the current company representative who is responsible for receiving and resolving landowner issues for the transmission facility. The Company will update this information whenever there is a change to the current company representative for the life of all easements for the transmission facility.
25. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to initiating operation of the facility as a transmission facility.
26. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the transmission facility, including injuries to any person.
27. Company agrees to report to the Commission, as soon as reasonably possible, the presence in the permit area of any critical habitat or threatened or endangered species of which Company becomes aware and which were not previously reported to the Commission.
28. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility.
29. Company agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within 3 months of commencement of operation of the facility as a transmission facility. Company also agrees to provide an electronic version of the corridor approved by the Commission and the facility design specifications of the transmission facility showing the location of the transmission facility as built that can be imported into ESRI GIS mapping software within 3 months of commencement of operation of the facility as a transmission facility. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
30. Company shall notify the Commission as soon as reasonably possible if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during activities conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities,

Company shall suspend activities in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined.

31. When applicable, Company may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.

Dated this 24 day of March, 2025.

THUNDER BUTTE PIPELINE, LLC

By Edward A Fox
COO

Its _____