

December 20, 2024

Via Hand Delivery & Electronic Mail

Mr. Steve Kahl
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480
ndpsc@nd.gov

In re: Grayson Mill Operating, LLC
Siting Application
Missouri River Crossing Pipeline Project
Williams & McKenzie Counties
Case No. PU-24-311
Our File No. 411104-000031

Dear Mr. Kahl:

Enclosed for filing please find the Proposed Findings of Fact, Conclusions of Law and Order in the above-referenced matter.

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

Sincerely,



Wade C. Mann

WCM/lh
Enc.

cc: ALJ Tim Dawson (via email)
Adam Novelli (via email)
Kerry Morgan (via email)
Danny Margarit (via email)

25 PU-24-311 Filed 12/20/2024 Pages: 9
Proposed Findings of Fact, Conclusions of Law and Order

Grayson Mill Operating, LLC
Wade C. Mann, Crowley Fleck, PLLP

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Grayson Mill Operating, LLC
Missouri River Crossing Pipeline – Williams & McKenzie
Siting Application**

Case No. PU-24-311

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

December __, 2024

Appearances

Wade Mann, Attorney at Law, Crowley Fleck PLLP, 100 West Broadway Avenue, Suite 250, Bismarck, North Dakota 58501, on behalf of Grayson Mill Operating, LLC.

Brian Johnson, Special Assistant Attorney General for the North Dakota Public Service Commission, 600 East Boulevard Avenue, Dept. 408, Bismarck, North Dakota 58505.

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

Preliminary Statement

On August 15, 2024, Grayson Mill Operating, LLC (“Grayson Mill”), filed with the North Dakota Public Service Commission (“Commission”), a consolidated application for a Certificate of Corridor Compatibility and Route Permit (“Application”) concerning an approximately 14.72-mile long, 8-inch diameter crude oil pipeline, and associated facilities in Williams and McKenzie Counties, North Dakota (“Project”).

On November 7, 2024, the Commission deemed Grayson Mill’s Application complete and issued a Notice of Filing and Public Hearing (“Notice”) scheduling a public hearing for December 10, 2024, at 9:00 a.m. Central Time at the Little Missouri Inn & Suites, 109 9th Avenue SE, Watford City, North Dakota 58854.

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 the 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?

On December 10, 2024, the public hearing was held as scheduled. Exhibits 1 through 8 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 the following:

Findings of Fact

1. Grayson Mill is a Delaware limited liability company. Grayson Mill has been authorized to do business in the State of North Dakota, as evidenced by the corporate papers filed with the Commission in Case No. PU-24-218.

Size, Type, and Preferred Location of Facility

2. The Project consists of approximately 14.72 miles of existing 8-inch diameter steel pipeline in Williams and McKenzie Counties, North Dakota. The Project originates at the Aune Oil Terminal in Williams County and terminates at the Alexander Oil Terminal in McKenzie County. The Project is returning to service an existing pipeline that has been inactive since 2018 and acquired by Grayson Mill in 2021 for use as a crude oil transmission pipeline. The Project will provide additional markets for crude oil produced in the State of North Dakota without requiring construction of a new pipeline.

3. The Project will include upgrading the existing pipeline with additional safety features including the installation of an isolation valve on the west side of the Missouri River and replacement of the existing isolation valve on the east side of the river.

4. The Project utilizes an existing 8-inch diameter steel pipeline with a wall thickness ranging from 0.219-inch to 0.500-inch. The Project will have a normal operating pressure of 365 pounds per square inch with a maximum operating pressure of 1,480 pounds per square inch and a normal throughput of approximately 20,000 barrels per day with a maximum throughput of approximately 50,000 barrels per day.

5. The proposed Project corridor and route are identified in Appendix B of the Application.

6. The estimated cost of the Project is approximately \$1 million dollars.

7. Grayson Mill anticipates a third quarter 2025 in-service date for the facility.

Study of Preferred Location

8. Grayson Mill conducted a Class I cultural resource literature review and a desktop analysis for wetlands, waterbodies, woodlands, and other sensitive environmental resources across a one-mile wide area centered on the proposed Project route (“Study Corridor”).

9. Grayson Mill conducted several studies and field surveys across the proposed Project corridor consisting of an approximately 250-foot-wide area generally centered on the Project route (“Survey Corridor”). Grayson Mill conducted a natural resources survey, which included a wetland and waterbody survey, a noxious weed survey, a threatened and endangered species habitat assessment, a tree and shrub inventory, an eagle nest survey, and a biological survey.

10. Grayson Mill conducted a Class III cultural resource inventory across the Survey Area. The Class III reports were submitted to the North Dakota State Historic Preservation Office.

11. Section 49-22.1-13(4) of the North Dakota Century Code provides that a site shall not be designated that violates the rules of any state agency, and that compliance with an agency’s rules shall be presumed if the agency fails to present its position at the public hearing with respect to the proposed facility.

12. Grayson Mill initiated correspondence with federal, state and local departments, agencies, and entities including the following:

- a. Federal: U.S. Fish and Wildlife Service (“USFWS”); U.S. Army Corps of Engineers – Regulatory Office Omaha District; and, U.S. Army Corps of Engineers – Garrison Project
- b. State: North Dakota State Historical Preservation Office (“NDSHPO”); North Dakota Department of Parks and Recreation; North Dakota Department of Trust Lands; North Dakota Department of Environmental Quality; North Dakota Geological Survey (“NDGS”); North Dakota Department of Water Resources; North Dakota Indian Affairs Commission; North Dakota Industrial Commission – Pipeline Authority; North Dakota Game and Fish Department; North Dakota Attorney General’s Office; North Dakota Department of Agriculture; North Dakota Department of Commerce; North Dakota Governor’s Office; and, North Dakota Department of Transportation
- c. Local: Western Area Water Supply Authority; Williams County Board of Commissioners; Williams County Water Resource District; Williams County Weed Control Board; Williams County Planning and Zoning; McKenzie County Water Resource District; McKenzie County Weed Control Board; McKenzie County Board of Commissioners; McKenzie County Planning and Zoning; McKenzie County Emergency Management

Siting Criteria

13. The Commission has developed 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 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

14. Grayson Mill evaluated the Survey Area and route regarding the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

15. 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.

16. Class I and Class III inventories identified archaeological sites within the Corridor. The Project includes an existing, in the ground pipeline and improvements for the Project require only one location, approximately 50 feet by 75 feet, to have any surface disturbance. Archaeological resources will be avoided and will not be impacted by the Project.

17. Areas critical to the life stages of threatened or endangered animal or plant species are classified as an exclusion area. The pipeline crosses beneath the Missouri River which is designated critical habitat for the piping plover and pallid sturgeon. However, the Project involves the return to service of an existing pipeline beneath the bed of the Missouri River and no construction will occur near the river. No critical habitat will be impacted by the Project.

18. 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 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. Economic considerations alone will not justify approval of these areas.

19. Areas that are geologically unstable are an Avoidance Area. Potential areas of geologic instability were identified in the Corridor but are not crossed by the pipeline route. The project involves the return to service of an existing pipeline and no additional construction near any area of geologic instability will be required. With the Project involving a return to service of an existing pipeline and no impacts from areas of geologic instability, there is no other reasonable alternative for the route.

20. Grayson Mill's surveys did not identify any other known Avoidance Areas within the Survey Area.

21. The Commission's Selection Criteria is set forth in North Dakota Administrative Code section 69-06-08-02(3). A corridor or route 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. Grayson Mill analyzed the effects that may result from the location, construction, and operation of the Project.

22. The Project will not have any measurable impact to agricultural land, family farms or ranches, land suitable for irrigation, surface drainage patterns, groundwater disturbance, noise sensitive resources, extractive and storage resources, communication facilities, plant life or human

or animal life and safety as it involves the return to service of an existing pipeline and requires only one minimal area of surface disturbance for the installation of an isolation valve.

23. The Project will not involve any ground disturbing construction activities within wetlands or waterbodies. No trees or shrubs will be removed as part of the Project. Grayson Mill has agreed to comply with the Tree and Shrub Mitigation Specifications for any future construction impacting trees or shrubs.

24. The Commission's Policy Criteria is set forth in North Dakota Administrative Code section 69-06-08-02(4). The Commission may give preference to an applicant demonstrating certain benefits from the proposed transmission facility. Grayson Mill testified it has maximized the benefits that result from implementing various policies and practices set forth in the Policy Criteria applicable to the Project.

25. Grayson Mill testified it has obtained all necessary easement and right-of-way agreements for the Project. A Grayson Mill subsidiary secured a transfer of USACE NOW-2011-2353 BIS and Consent to Easement DACW45-9-12-8007 from the U.S. Army Corps. of Engineers ("USACE"). USACE indicated that USACE NOW-2011-2353 BIS would not be impacted because no construction will be performed in or under the Missouri River. USACE's Consent to Easement DACW45-9-12-8007 will allow ongoing maintenance work within the USACE easement. Additionally, North Dakota Sovereign Land Permit S-1749 originally issued to Brigham prior to construction of the pipeline and subsequently transferred to Equinor for crossing the Missouri River has been transferred to Grayson Mill. By letter dated April 17, 2024, the North Dakota Department of Water Resources ("DWR") confirmed that Grayson Mill does not require any additional approvals from DWR for the Project improvements at the valve sites on either side of the Missouri River.

Additional Measures to Minimize Impact

26. Grayson Mill has agreed to a number of measures to mitigate potential Project impacts, as indicated by the attached Certification Relating to Order Provisions – Transmission Facility Siting Gathering Line Conversion to Transmission Line, with accompanying Tree and Shrub Mitigation Specifications.

27. Grayson Mill is reducing the Project's environmental disturbance by utilizing existing pipeline infrastructure. The Project will require only one area of surface disturbance for the installation of a new isolation valve to enhance the safety of the Project in operation. The single area of surface disturbance is limited to an areas approximately 50 feet by 75 feet.

28. The Project will have a leak detection system. Volumes leaving the Alexander terminal will have a Coriolis meter at the booster skid to measure crude oil shipped in the pipeline. There will also be an inlet Coriolis meter to measure the received barrels from the pipeline to the Aune terminal. If the received barrel versus shipped barrel percentage difference is outside the acceptable limits, automated valves at Alexander and Aune oil terminals will close. In addition to the automated valves, manual isolation valves on each side of the river will be closed to further

isolate the river crossing segment. The isolation valves will have the ability to be closed within one hour after the automated close at each oil terminal.

29. Grayson Mill has a Facility Response Plan in place to address emergency situations and will conduct emergency response training annually. A PHMSA Report will be prepared annually, no later than June 15th. Submission of any changes to the National Pipeline Mapping System will be submitted annually, no later than March 15th. An O&M Plan review, and Emergency Preparedness Plan review and a Public Awareness Plan review will each be conducted annually.

30. Grayson Mill testified that it will comply with all applicable safety laws and standards. Additionally, training to recognize safety related conditions, emergency response training and a review of FRP and site-specific information will each be conducted annually. The pipeline will be patrolled at intervals not exceeding three weeks, but at least 26 times each calendar year, including inspection of the surface conditions on or adjacent to the pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way. At intervals not exceeding 15 months, but at least once each calendar year, over pressure safety devices and overfill protection systems will be inspected and tested, including each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used. Break out tanks will be inspected monthly. At intervals not exceeding seven and a half months, but at least twice each calendar year, each mainline valve will be inspected to determine that it is functioning properly. An annual cathodic protection survey will be conducted. Non-critical bonds and monitor isolation devices will be inspected each calendar year, and not to exceed 15 months. A rectifier and critical bonds survey will be conducted six times each calendar year but with intervals not exceeding two and a half months and an atmospheric inspection will be conducted every three years not to exceed 39 months.

31. Grayson Mill will participate in the North Dakota One-Call Excavation Notice System.

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

Conclusions of Law

1. The Commission has jurisdiction over Grayson Mill and over the subject matter of the Application under North Dakota Century Code chapter 49-22.1.
2. Grayson Mill is a utility as defined in North Dakota Century Code section 49-22.1-01(12).
3. The Project is a 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 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.

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

Order

The Commission orders:

1. Certificate of Corridor Compatibility No. ___ is issued to Grayson Mill Operating, LLC, designating a corridor for the construction, operation, and maintenance of approximately 14.72 miles of existing 8-inch diameter crude oil pipeline and associated facilities in Williams County and McKenzie County, North Dakota. For purposes of this Certificate, the designated corridor consists of an approximately 250-foot-wide-area generally centered on the designated route as depicted in Appendix B of the Application, Hearing Exhibit 1.
2. Route Permit No. ___ is issued to Grayson Mill Operating, LLC, designating a route for the construction, operation, and maintenance of approximately 14.72 miles of existing 8-inch diameter crude oil pipeline and associated facilities in Williams County and McKenzie County, North Dakota. For purposes of this Permit, the designated route is the route of the Project as depicted in Appendix B, Hearing Exhibit 1.
3. The Certification Relating to Order Provisions – Transmission Facility Siting Gathering Line Conversion to Transmission Line with accompanying Tree and Shrub Mitigation Specifications executed December 19, 2024, is incorporated by reference and attached to this Order.
4. To the extent there are any conflicts or inconsistencies between Grayson Mill’s Application and the Certification, the Certification provisions control.
5. Grayson Mill 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 to the Commission prior to beginning construction in said areas.
6. Grayson Mill is required to comply with all applicable laws, rules, and regulations in the event it desires to construct another or a different transmission pipeline facility than was specified in the Application within the corridor designated in this proceeding.

PUBLIC SERVICE COMMISSION

Timothy J. Dawson
Substantive Administrative Law Judge