

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
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In the Matter of the Application of Magellan Pipeline Co., L.P. for a Routing Permit for the Pipestone Reroute Project in Pipestone County, Minnesota

ISSUE DATE: October 22, 2024

DOCKET NO. IP-7109/PPL-23-109

ORDER ADOPTING
ADMINISTRATIVE LAW JUDGE
REPORT AS MODIFIED, ISSUING
ROUTING PERMIT, AND REQUIRING
CULTURAL AND
ARCHAEOLOGICAL SURVEY

PROCEDURAL HISTORY

On April 10, 2023, Magellan Pipeline Co., L.P. (Magellan or the Applicant) filed a routing permit application (the Application) to reroute an existing 8-inch refined petroleum pipeline in Pipestone County (the Project).

On July 11 and 12, 2024 the Commission and the Department of Commerce Energy Environmental Review and Analysis Unit (the Department) held an in-person and online information and environmental scoping meeting, respectively. A comment period on the project and the scope of environmental review was also established.

On August 7, 2023, the Commission issued its order finding the Application complete and referring the matter to the Office of Administrative Hearings for contested-case proceedings by an Administrative Law Judge (ALJ).¹

On October 17, 2023, the Commission issued its order accepting the four proposed route alternatives and approving the scope of the comparative environmental analysis (CEA) proposed by the Department.

On March 4, 2024, the Department filed the CEA and established a public comment period on the CEA.

¹ Order Finding Application Complete and Granting Variance; Notice of and Order for Hearing (August 7, 2023).

On March 19, 2024, two public meetings were held in Pipestone, Minnesota, to receive comments on the CEA. An online public meeting was held on March 20.

On April 8, 2024, the Commission issued a Notice of Public/Evidentiary Hearings announcing two hearings in Pipestone, Minnesota, on April 23, 2024, and a remote hearing via Webex on April 24. The notice also established a comment period on whether the Commission should issue a routing permit for the Project and what additional conditions or requirements should be included in the routing permit.

On April 23, 2024, ALJ Joseph C. Meyer held two joint evidentiary and public hearings in Pipestone and one remote hearing on April 24.

On July 17, 2024, the ALJ issued his Findings of Fact, Conclusions of Law, and Recommendation (ALJ Report).

By August 1, 2024, the Department, the Brave Heart Society,² and Magellan filed exceptions to the ALJ Report. On August 6, the Department filed a letter concurring with one of Magellan's exceptions.

On September 12, 2024, the Commission met to consider the Application, and the record closed under Minn. Stat. § 14.61, subd. 2.

FINDINGS AND CONCLUSIONS

I. Background

A. Pipestone National Monument

American Indian tribes have gathered at the southwest Minnesota site that is now Pipestone National Monument (the Monument) for thousands of years. The site contains the unique mineral catlinite, or pipestone, that is prized for its softness and durability, making it ideal for carving ceremonial calumet pipes used in American Indian religious ceremonies and rituals.

In 1893, the federal Bureau of Indian Affairs established the Pipestone Indian Training School in an area now encompassed by the Monument, the Northern Tallgrass Prairie National Wildlife Refuge – Pipestone Creek Unit, and Minnesota West Community and Technical College campus. Many American Indians opposed these boarding schools due to their express goal of assimilating American Indian youth into white culture.³ The Yankton Sioux Tribe successfully challenged the legality of the school's location on reservation land in the U.S. Supreme Court's 1926 decision *Yankton Sioux Tribe v. United States*, which found that the building of the school

² Brave Heart Society describes itself as follows: "Brave Heart Society, Cante Ohitika Okodakiciye, is a revived Traditional Governance System of Grandmothers and their families who existed before contact with the U.S. Government. We are an important part of the Ihanktonwan Tribe as our Tribe is historically matrilineal and guided by grandmothers." Brave Heart Society Petition to Intervene (April 24, 2024).

³ CEA at 86.

violated the 1858 Treaty of Washington.⁴ The Yankton Sioux Tribe was paid \$328,558 in compensation, though they were required to cede control of the pipestone quarry to the National Park Service.

The Monument was established by Congress in 1937 to protect the pipestone quarries and preserve the tradition of quarrying on the property, along with the native tallgrass prairie ecosystem. In further recognition of the site's cultural importance and archaeological resources, the Monument was listed on the National Register of Historic Places in 1966. The Monument is identified in the National Register as a significant ethnographic landscape due to the following features: it is inscribed with over several thousands of years of quarrying and various types of archaeological localities and expressions; it contains areas used for rituals associated with quarrying and native plant communities from where important plants used for rituals and healing were gathered; and it has prominent geological features central to American Indian religious practices. Today, the Monument is affiliated with 23 tribal nations and Indigenous people across the country.

B. The Project

The Project is a rerouting of approximately 0.74 miles of an existing 8-inch pipeline that currently runs through the Monument and the Northern Tallgrass Prairie National Wildlife Refuge. In 2019, the U.S. Department of Interior declined to renew the right-of-way permit to cross these federal lands, and the segment of the pipeline on federal lands was shut down in 2022.

Magellan considered permanently shutting down the pipeline, but recent rulemaking by the U.S. Environmental Protection Agency (EPA) has mandated the availability of two special grades of gasoline that are not currently available for use in Minnesota.⁵ If the pipeline is not restored to service, it could exacerbate fuel shortages and increase gasoline and diesel prices in this region. The pipeline has an average annual capacity of 22,500 barrels per day and would deliver refined petroleum products including diesel, gasoline, and jet fuel to communities in eastern North Dakota, eastern South Dakota, and western Minnesota.

Associated facilities for the Project include access roads and cathodic protection equipment. The Project would require one permanent and five temporary access roads, the majority of which are proposed on private property. Magellan plans to upgrade an existing manually operated valve site to be operated remotely to enable greater operational control in the event of a release of refined petroleum.

⁴ 272 U.S. 351 (1926).

⁵ Gasoline RVP standards, 40 C.F.R. § 1090.215.

C. Relevant Law

1. Routing Permit

Pipeline routing permits are governed by Minn. Stat. § 216G.02 and Minn. R. ch. 7852.⁶ In determining the route of a proposed pipeline, the Commission considers the characteristics, potential impacts, and methods to minimize or mitigate the potential impacts of all proposed routes so that it may select a route that minimizes human and environmental impact.⁷

When selecting a route, the Commission considers the impacts on the following:

- A. human settlement, existence and density of populated areas, existing and planned future land use, and management plans;
- B. the natural environment, public and designated lands, including but not limited to natural areas, wildlife habitat, water, and recreational lands;
- C. lands of historical, archaeological, and cultural significance;
- D. economies within the route, including agricultural, commercial or industrial, forestry, recreational, and mining operations;
- E. pipeline cost and accessibility;
- F. use of existing rights-of-way and right-of-way sharing or paralleling;
- G. natural resources and features;
- H. the extent to which human or environmental effects are subject to mitigation by regulatory control and by application of the permit conditions contained in part 7852.3400 for pipeline right-of-way preparation, construction, cleanup, and restoration practices;
- I. cumulative potential effects of related or anticipated future pipeline construction; and
- J. the relevant applicable policies, rules, and regulations of other state and federal agencies, and local government land use laws including ordinances adopted under Minnesota Statutes, section 299J.05, relating to the location, design, construction, or operation of the proposed pipeline and associated facilities.⁸

A CEA must be prepared for all the pipeline routes accepted for consideration at public hearings.⁹

⁶ Magellan is not required to obtain a certificate of need because the Project does not qualify as a “large petroleum pipeline” under Minn. R. 7853.0010, subp. 14.

⁷ Minn. R. 7852.1900, subp. 2.

⁸ *Id.*, subp. 3.

⁹ Minn. R. 7852.1500.

2. Tribal Engagement and Consultation

Consistent with Minn. Stat. § 10.65, the Commission has a Tribal Engagement/Consultation Policy that aims to “encourage and ensure meaningful engagement of Tribal Nations in the Commission’s regulatory process and procedures through clear communication, including notification on matters that may affect Tribal Nations and their members.”¹⁰ To that end, the Commission consults with each Tribal Nation in Minnesota each year and also consults on specific issues when requested by a Tribal Nation in Minnesota or by the Commission.

The Commission’s Tribal Engagement/Consultation Policy also discusses the Commission’s commitment to improve its overall engagement with Tribal Nations through an enhanced effort on behalf of Commission staff, managers, and Commissioners, to ensure Tribal Nations are given timely notification of dockets and issues being reviewed and considered by the Commission that could affect Tribal Nations and/or their members. The Commission’s Tribal Liaison coordinates these efforts.

II. ALJ Report

A. Route Alternatives

The ALJ evaluated four route alternatives that were studied in the CEA.¹¹ Magellan proposed the Applicant’s preferred route (APR) in the Application. The APR would be 1.3 miles long and cross nearly 18 acres of land, following a greenfield path through private lands outside the City of Pipestone and adjacent to the Pipestone Wildlife Management Area northwest of the Monument.

The Mille Lacs Band of Ojibwe proposed route alternative 1 (RA-01). RA-01 would be 13.1 miles long and cross approximately 200 acres of land. RA-01 would follow existing road rights-of-way through portions of Sweet, Troy, and Grange Townships in Pipestone County, northwest of the Monument.

Magellan proposed route alternative 2 (RA-02). RA-02 would be 3.4 miles long and cross approximately 54 acres of land. RA-02 generally follows an existing transmission line through portions of Troy and Sweet Townships in Pipestone County, northwest of the Monument.

The Upper Sioux Community Tribal Historic Preservation Office (THPO) proposed route alternative 3 (RA-03). RA-03 would be 18.7 miles long and cross approximately 285 acres of land, following existing road rights-of-way through portions of Sweet, Gray, and Grange Townships in Pipestone County, southeast of the Monument.

¹⁰ The Commission’s Tribal Engagement/Consultation Policy is available at <https://mn.gov/puc/about-us/tribal-relations/>.

¹¹ A map of the route alternatives is on page 14 of the ALJ Report.

B. Public and Government Participation

1. Public Comments

The ALJ report summarized the approximately 5,500 public comments received during the comment period on the Project. The ALJ noted that many public comments opposed the Project due to concerns about the spiritual connection that many tribal nations have with the Monument and the importance of protecting pipestone, with some commenters requesting a five-mile buffer zone around the Monument.

Other commenters raised concerns about the environmental consequences from the Project and questioned the need for a fossil fuel pipeline as renewable energy becomes more prevalent. Some property owners expressed concerns about the presence of a pipeline on their property or its proximity to their houses.

Supporters of the Project, including the trade unions LIUNA Minnesota and North Dakota and International Union of Operating Engineers Local 49, touted the jobs that the Project could produce and argued that pipelines are the safest and most efficient way to transport fuel.

2. Tribal Nation Comments

The following Tribal Nations submitted comments opposing the Project: Ihanktonwan Dakota Oyate Treaty Steering Committee; Northern Arapaho Tribe Tribal Historic Preservation Office; Great Plains Tribal Chairmen's Association, Inc.; Mille Lacs Band of Ojibwe; Flandreau Santee Sioux Tribe; and Yankton Sioux Tribe. These comments raised concerns about potential impacts to cultural and natural resources, including the Monument and Pipestone Indian School, native vegetation, and wildlife.

The Tribal Nations also criticized Magellan for a lack of communication with Tribal Nations and questioned Magellan's level of cultural knowledge and awareness. They argued that the Project is unnecessary considering new environmental laws and electric vehicles. The Northern Arapaho Tribe Tribal Historic Preservation Office filed comments asking to be contacted if traditional cultural properties, rock features, or human remains are found during excavation.

3. Agency and Local Government Comments

The Department of Natural Resources filed comments identifying state-listed plants and animals in the vicinity of the APR and RA-02. DNR indicated that its preferred route was RA-03 and requested special permit conditions regarding dust abatement and erosion control.

The National Park Service comments characterized the CEA as dismissive of American Indian values and described the importance of the Monument to American Indians. The comments recommended measures to be included in the spill prevention strategy to avoid impacts to the Monument, as well as more coordination with Tribal Nations and cultural practitioners.

The City of Pipestone filed comments opposing the Project, particularly the APR and RA-02 due to their proximity to nearby cemeteries that the City may want to expand in the future. The City

cited the potential for cultural and environmental impacts and noted that the pipeline has leaked in the past.

C. ALJ Recommendation

The ALJ concluded that all four route alternatives meet the requirements of Minn. Stat. §§ 216G.01–.12 and the Project is consistent with and reasonably required for the promotion of public health and welfare in light of the state’s concern for the protection of its air, water, land, and other natural resources as expressed in the Minnesota Environmental Rights Act.

The ALJ further concluded that considering all the factors in Minn. R. 7852.1900, RA-02 is the best route for the Project. In explaining his decision, the ALJ made the following findings:

Many of the drawbacks to RA-02 have been mitigated. Magellan has presented credible evidence that the Monument and the catline resources will not be at risk from a potential spill, that this route will still accommodate the City’s potential cemetery expansion, and that it has a protocol in place to address any unanticipated discoveries of cultural resources or human remains.¹²

The ALJ recommended that the Commission issue a routing permit for RA-02 and include appropriate conditions in the routing permit.

D. Exceptions to the ALJ Report

1. Brave Heart Society

In its exceptions to the ALJ Report, Brave Heart Society argued that all proposed routes risk severe harm and loss to Indigenous communities, the environment, and the public. Brave Heart Society urged the Commission to heed the concerns of numerous tribal nations, the City of Pipestone, and members of the public and deny Magellan a permit for the Project on any of the proposed routes. Brave Heart Society emphasized that tribal nations are marginalized communities, and the Project area is ancestral land with which at least 23 tribal nations are affiliated.

Brave Heart Society echoed the National Park Service’s statement that the CEA was dismissive of American Indian values and argued that the ALJ Report minimizes the risk of a pipeline spill and does not address the potential impacts of a spill on medicinal plants, wildlife, or other cultural resources. Brave Heart Society emphasized the importance of the region to Indigenous peoples due to the cultural and spiritual significance of the pipestone quarries and the likelihood of the area containing cultural resources, including burials. Brave Heart Society warned that if a cultural resource or burial is contaminated by a pipeline spill, the damage would be irreparable.

Brave Heart Society argued that a decision in favor of RA-02 is premature because cultural surveys have not been completed for the full length of the route and a spill response plan is not yet available, so the Commission does not have enough information to adequately weigh the

¹² ALJ Report, finding 381.

risks of the alternate routes. Brave Heart Society noted that the ALJ found that RA-02 is not favored with respect to impacts on geology, natural resources, the Monument, natural systems and features, burials and cemeteries, and impacts to lands of historical, archaeological, and cultural significance.

Brave Heart Society argued that if the Commission issues a permit for the Project, it should impose the following conditions:

- Applicant shall sponsor a cultural and archaeological resources survey and inventory of the designated route. Applicant shall employ a tribal archaeologist from each of the tribal nations affiliated with the area to conduct such survey and inventory. In the event an unanticipated discovery of cultural resources or a burial is suspected or encountered, Applicant shall comply with its Unanticipated Discoveries Plan. Further, Applicant must immediately contact the governing bodies and Tribal Historic Preservation Offices of all 23 tribal nations affiliated with the area. Construction shall not resume until after the resource or burial has been adequately protected or avoided and impacted tribal nations agree with the treatment plan for the resource or burial. The contact list in the Unanticipated Discoveries Plan shall be updated to include current contact information for the governing bodies and Tribal Historic Preservation Officers of all 23 tribal nations affiliated with the area.
- Applicant shall hire monitors to monitor construction of the pipeline from each of the 23 tribal nations that are affiliated with the area and that desire to monitor construction.
- Applicant shall provide all 23 tribal nations affiliated with the area bi-weekly updates regarding the status of construction, impacted travel routes, and the anticipated date of completion.
- Applicant shall immediately notify all 23 tribal nations affiliated with the area of any release of hazardous or toxic material during the construction process or any leak or spill from the pipeline during operations. Such notification shall include the location of the release, the volume of the release, the material(s) released, the status of repairs and remediation/clean-up, and any anticipated impacts to cultural resources including catlinite, waterbodies, medicinal plants, and wildlife.
- Applicant shall avoid all wetlands during construction.

2. Magellan

Magellan proposed clarifications and corrections to the ALJ Report. Magellan suggested revising finding 242 to better reflect DNR's recommendation to avoid in-stream work between May 15 and August 15 to protect Topeka Shiner spawning habitat. Magellan also recommended clarifying findings 350 and 376 to note that a release on RA-03 into Pipestone Creek could eventually flow into Pipestone National Monument. Magellan proposed corrections to typos in findings 53, 140, 359, 360, conclusion 8, and footnote 46.

E. Adoption of the ALJ Report

The ALJ Report is well reasoned, comprehensive, and thorough. The ALJ held three joint evidentiary and public hearings and reviewed numerous comments, the CEA, and party briefs. He made 390 findings of fact, 10 conclusions of law, and recommended that the Commission issue a routing permit for RA-02 and include appropriate conditions in the routing permit.

Having itself examined the record and having considered the ALJ Report, the Commission concurs in most of his findings and conclusions. But the Commission disagrees with the ALJ's recommendation to issue a routing permit for RA-02 and instead will select RA-01 for the reasons explained further below.

The Commission will correct findings 339, 350, and 376 as explained further below and will adopt Magellan's proposed corrections to the following findings as outlined in its letter dated August 1, 2024: Findings 53, 140, 242, 350, 359, 360, 376, Footnote 46, and Conclusion 8.

Unless otherwise indicated below, the Commission accepts, adopts, and incorporates the ALJ's findings and conclusions.

III. Consideration of Route Criteria

Minn. R. 7852.1900, subp. 1, requires the Commission to make a specific written finding with respect to each of the factors in subpart 3 of the rule. To satisfy this requirement, the Commission summarizes the key findings of the ALJ for each factor in Minn. R. 7852.1900, subp. 3, and adopts the ALJ's findings, as modified where indicated.

A. Human Settlement

The Commission's consideration of potential Project impacts to human settlement includes the existence and density of populated areas, existing and planned future land use, and management plans.¹³ As part of the CEA, the Department evaluated impacts to the following: 1) population and employment; 2) displacement; 3) existing land use and zoning; 4) planned and future land use; 5) cultural values; 6) transportation; 7) public services; 8) noise and vibration; 9) aesthetics; 10) environmental justice; and 11) other impacts on human settlement.

The ALJ found that "the impacts to population and employment for all four route alternatives are anticipated to be minimal and positive in both the short- and long-term. Analysis of the impact on population and employment does not significantly favor or disfavor any of the route alternatives relative to each other."¹⁴

Specifically, the ALJ found that impacts to human settlement would primarily involve temporary construction activities and that none of the route alternatives would materially interfere with the City of Pipestone's future expansion of its cemeteries.

¹³ Minn. R. 7852.1900, subp. 3(A).

¹⁴ ALJ Report, finding 134.

The Commission agrees with and adopts the ALJ's findings regarding human settlement.

B. Natural Environment

The Commission considers potential Project impacts to the natural environment by examining factors such as public and designated lands, including but not limited to natural areas, wildlife habitat, water, and recreational lands.¹⁵ As part of the CEA, the Department evaluated impacts to the following: 1) geology; 2) soil; 3) wetlands; 4) vegetation; 5) wildlife and wildlife habitat; and 6) threatened, endangered, and other special status species.

The ALJ found that minimal to moderate impacts to geology could occur on the APR and RA-02 because they cross the Sioux Quartzite Ridge outcrop, and therefore consideration of impacts to geology favored RA-01 and RA-03. The ALJ found that these potential impacts could be mitigated using horizontal directional drilling (HDD).¹⁶

The ALJ found that 65–75 percent of each of the four route alternatives was made up of prime farmland, which is classified as the best combination of physical and chemical characteristics to produce agricultural crops. The ALJ found that direct and indirect impacts to soils are anticipated to be minimal. The ALJ found that RA-01 and RA-03 will impact substantially more agricultural land due to their greater length, and therefore consideration of the impact on soils favors the APR and RA-02.

The ALJ found that direct impacts to wetlands are anticipated to be short-term and minimal, unique resources will not be affected, and Magellan intended to use the HDD method to minimize impacts to wetlands. The ALJ found that consideration of impacts to wetlands does not favor or disfavor any route alternative.

The ALJ found that all route alternatives impact similar vegetation types, and that sites with notable biodiversity range from 11.4 acres for RA-03 to 33.1 acres for the APR. The ALJ found that areas with moderate to outstanding biodiversity will be avoided through HDD, and that impacts to vegetation are anticipated to be minimal with the use of general and special-use permit conditions, construction techniques, avoidance within the route width, and best management practices.

The ALJ found that impacts to general wildlife species and wildlife habitat are anticipated to be minimal, and all four route alternatives will have similar impacts.

The ALJ found that the following special status species have critical habitat on all four route alternatives: tricolored bat, northern long-eared bat, monarch butterfly, Topeka shiner, Dakota

¹⁵ Minn. R. 7852.1900, subp 3(B).

¹⁶ In finding 91, the ALJ explained HDD: “The HDD method is a process that allows for trenchless construction by drilling a hole beneath a surface feature (waterbody, road, or other unique resource) and installing a prefabricated segment of pipeline through the hole. The method avoids disturbance to the ROW surface between the drill’s entry and exit points and is sometimes used to install pipelines underneath sensitive resources or areas that present difficulties using typical installation methods. HDDs provide certain advantages over typical construction methods, such as avoidance of surface disturbance, riparian tree clearing, or in-stream construction.”

skipper, and western prairie fringe orchid. The western harvest mouse has critical habitat in the project area for RA-01. Henslow's sparrows have been documented in the vicinity of the APR and RA-02. The APR and RA-02 have a variety of state-listed endangered, threatened, and special concern vascular plants in their vicinity. The ALJ found that "no short- or long-term direct impacts to federally listed threatened or endangered species are anticipated if preconstruction surveys are completed. All four route alternatives will have similar impacts as they all cross similar habitats that may be used by federally listed species."¹⁷

The ALJ found that "effects on the natural environment favor RA-01 and RA-03 over the APR and RA-02 because of the number of state special status species occurring within the vicinity of the APR and RA-02."¹⁸ The Commission agrees with and adopts the ALJ's findings regarding Project impacts to the natural environment.

C. Lands of Historical, Archaeological, and Cultural Significance

The Commission considers potential Project impacts to lands of historical, archaeological, and cultural significance.¹⁹ As part of the CEA, the Department analyzed the potential impacts from the Project to cultural resources, which include the locations of human activity that contain materials, structures, or landscapes that have been used, built, or modified by people.²⁰ Cultural resources also include the institutions that form and maintain communities and link them to their surroundings, as well as usufructuary rights of American Indians to use land for traditional practices.²¹

The CEA examined potential Project impacts on the following aspects of lands of historical, archaeological, and cultural significance: 1) the Monument; 2) natural systems and features; 3) the Pipestone Indian School; 4) archaeological resources; 5) historical resources; 6) cemeteries and burials; and 7) tribal resources.²²

The ALJ discussed the significance of the Monument as a sacred site for American Indian religious practices and cultural activities. The ALJ found that the catlinite used to craft calumet pipes is important to the cultural identity of Native peoples, an important part of the continuing traditional practices, and imbued with a living force that plays a central part in American Indian

¹⁷ ALJ Report, finding 249.

¹⁸ ALJ Report, finding 374.

¹⁹ Minn. R. 7852.1900, subp. 3(C).

²⁰ ALJ Report, finding 257; CEA at 75.

²¹ *Id.*

²² "The CEA was based on archaeological and historical resources recorded as part of cultural resource inventories and recorded in databases maintained by the Minnesota State Historic Preservation Office (MnSHPO), Minnesota Office of the State Archaeologist (MnOSA), [National Park Service], and the cultural resource investigations sponsored by Magellan in 2022 and 2023 along portions of the APR and RA-02." ALJ Report, finding 258.

religious traditions.²³ Other important aspects of the surrounding ethnographic landscape²⁴ include the Pipestone Indian School, the Civilian Conservation Corps–Indian Division, archaeological resources, and the protected native tallgrass prairie ecosystem used by traditional Dakota spiritual practitioners.

The ALJ noted the concern over potential risks to catlinite resources in the event of a leak or spill on the pipeline during operation. The ALJ found that Magellan’s initial geotechnical review suggested that catlinite resources would not be directly impacted by either the APR or RA-02. But the ALJ also found that consideration of the impact on natural systems and features favors RA-01 and RA-03 over the APR and RA-02 due to the potential impact on catlinite resources.²⁵

The ALJ found that construction of the APR and RA-02 could disrupt ceremonies and traditional use of the Monument due to the close proximity of these routes to the Monument. The ALJ found that Magellan had agreed to pause construction activities during ceremonial use of the Monument and to coordinate with Monument staff regarding potential traffic disruptions during periods of increased use.

The ALJ found that direct impacts to historical structures, buildings, or objects associated with the Pipestone Indian School are not anticipated because the Project will be located to avoid those types of resources, but extenuating circumstances such as a spill or leak could impact cultural resources.

The ALJ found that the presence of archaeological resources along most of the alternative routes is unknown because of insufficient information. Magellan has conducted preliminary surveys on the APR and RA-02 and identified one prehistoric archaeological flaked stone tool along RA-02. The ALJ found that if archaeological materials are identified during ground disturbing activities, Magellan’s Plan for Unanticipated Discovery of Cultural Resources and/or Human Remains requires Magellan to work with applicable representatives and authorities to establish a mitigation strategy for pipeline construction and operation.

The ALJ noted the City of Pipestone’s opposition to the APR and RA-02 due to their close proximity to two cemeteries and concerns about spills and leaks impacting the cemeteries, as well as possible future plans to expand the cemeteries. The ALJ found that Magellan’s spill modeling suggests that a leak in the pipeline would not impact either the existing or any planned expansions to the cemeteries. The ALJ found that consideration of burials and cemeteries disfavors the APR and RA-02.

The ALJ found that tribal cultural specialists identified one tribal cultural resource along RA-02, and Magellan will avoid this resource using fencing or other barriers to protect the resource. The ALJ found that no other tribal resources are known within RA-01, RA-02, or RA-03.

²³ ALJ Report, finding 269.

²⁴ The CEA defines ethnographic landscape as “a landscape containing a variety of natural and cultural resources associated with people define as heritage resources.” CEA at 83.

²⁵ ALJ Report, findings 275–276.

The ALJ found that “consideration of overall impacts on lands of historical, archaeological, and cultural significance favors RA-01 and RA-03 over the APR and RA-02 because of the APR and RA-02’s proximity to the Monument, the catlinite resources, and cemeteries, as well as the APR’s proximity to an archaeological site.”²⁶ The Commission agrees with and adopts the ALJ’s findings regarding lands of historical, archaeological, and cultural significance.

D. Economies Within the Route

The Commission considers potential Project impacts to economies within the route, including agricultural, commercial, industrial, forestry, recreational, and mining operations.²⁷

The ALJ found that, “while selecting a shorter route alternative would have a slightly smaller impact on agricultural land, consideration of land-based economies does not significantly favor or disfavor any of the four route alternatives with respect to each other.”²⁸ The Commission agrees with and adopts the ALJ’s findings regarding economies within the route.

E. Pipeline Cost and Accessibility

The Commission considers pipeline cost and accessibility in determining a Project route.²⁹ The ALJ found the total estimated costs of each route as follows:

- APR: \$6,000,000.³⁰
- RA-01: \$25,000,000.³¹
- RA-02: \$8,000,000.³²
- RA-03: \$34,000,000.³³

The ALJ found that “consideration of pipeline cost and accessibility favors the APR and RA-02 over RA-01 and RA-03.”³⁴ The Commission agrees with and adopts the ALJ’s findings regarding pipeline cost and accessibility.

²⁶ ALJ Report, finding 314.

²⁷ Minn. R. 7852.1900, subp. 3(D).

²⁸ ALJ Report, finding 326.

²⁹ Minn. R. 7852.1900, subp. 3(E).

³⁰ ALJ Report, finding 329.

³¹ *Id.*, finding 330.

³² *Id.*, finding 331.

³³ *Id.*, finding 332.

³⁴ *Id.*, finding 335.

F. Existing Rights-of-Way

The Commission considers use of existing rights-of-way and right-of-way sharing or paralleling for each route alternative.³⁵ Selecting a route that parallels an existing right-of-way consolidates development and reduces human and environmental impacts, and therefore the Commission generally favors routes that parallel existing rights-of-way.

The ALJ found that “the APR does not parallel any existing right-of-way and is following a greenfield path, RA-01 and RA-03 are entirely adjacent to existing right-of-way, and RA-02 is 97 percent adjacent to existing right-of-way.”³⁶

Upon review, however, RA-02 is only 76 percent adjacent to existing rights-of-way. The CEA stated that 3 percent of RA-02 does not follow existing right-of-way at the highway crossing near the intersection of Highway 75 and 131st Street, where the route will connect into the existing pipeline at the northeast terminus of RA-02. But in addition, the southwest portion of the route between the existing pipeline and the existing transmission line also does not follow an existing right-of-way.

The Commission will therefore modify finding 339 of the ALJ Report as follows:

339. As shown in the following table, the APR does not parallel any existing right-of-way and is following a greenfield path, RA-01 and RA-03 are entirely adjacent to existing right-of-way, and RA-02 is ~~97~~ 76 percent adjacent to existing right-of-way with ~~the other~~ 3 percent being highway crossing and near the intersection of Highway 75 and 131st Street, where the route will connect into the existing pipeline, and 21 percent being the southwest portion of the route between the existing pipeline and the existing transmission line which also does not follow existing right-of-way.

The Commission otherwise agrees with and adopts the ALJ’s findings regarding existing right-of-way.

G. Natural Resources and Features

The Commission considers potential Project impacts to natural resources and features.³⁷ The CEA considered the impact of the Project on groundwater and surface water resources.

The ALJ found that all four route alternatives travel through areas with very high sensitivity to groundwater pollution, and Project impacts could occur from a spill or leak of fuels or hazardous materials associated with construction or maintenance equipment if not cleaned up immediately. The ALJ noted Magellan’s commitment to develop and implement a spill response plan to immediately clean up spills, and that construction contract documents will specify requirements

³⁵ Minn. R. 7852.1900, subp. 3(F).

³⁶ ALJ Report, finding 339.

³⁷ Minn. R. 7852.1900, subp. 3(G).

for construction crews to report and to respond to fuel spills and other accidents.³⁸ The ALJ found that Project impacts to groundwater resources are anticipated to be minimal and short-term.³⁹

The ALJ found that a leak on RA-03 could end up draining into Pipestone Creek. In its exceptions, Magellan noted that a comment submitted by Pipestone County Administrator Steve Ewing stated that not only could a leak on RA-03 contaminate Pipestone Creek, but the direction of the water flow and ditch system means that this contamination could eventually flow to the Monument.⁴⁰ Magellan recommended modifying findings 350 and 376 to reflect this additional potential impact as follows:

350. Consideration of the impact on groundwater disfavors RA-03 with respect to the other route alternatives because of the possibility that a leak could flow into the ditch system and eventually contaminate Pipestone Creek and flow into the Monument.

376. Effects on natural resources disfavor RA-03 because of the possibility of a leak flowing into the ditch system, contaminating Pipestone Creek, and eventually flowing into the Monument.

The Commission adopts these modifications to the ALJ Report.

The ALJ found that direct impacts to surface water resources are anticipated to be short-term and minimal with the use of general permit conditions, proposed construction practices, and best management practices. The ALJ found that surface waters would be crossed using HDD, resulting in similar impacts for each alternative, though RA-01 and the APR will cross Pipestone Creek in an area not previously impacted by adjacent infrastructure. The ALJ found that Magellan will develop an inadvertent release response plan that will detail the actions necessary for monitoring, containment, and clean up from an inadvertent release.

The Commission agrees with and adopts the ALJ's findings regarding natural resources and features.

H. Mitigation

The Commission considers the extent to which human or environmental effects are subject to mitigation by regulatory control and by application of the permit conditions contained in part 7852.3400 for pipeline right-of-way preparation, construction, cleanup, and restoration practices.⁴¹

³⁸ ALJ Report, finding 347.

³⁹ ALJ Report, finding 349.

⁴⁰ Public Comment by Steve Ewing (May 1, 2024).

⁴¹ Minn. R. 7852.1900, subp. 3(H).

The ALJ found that impacts to cultural resources would be mitigated by the adoption of special permit conditions recommended in the ALJ Report, and human and environmental effects would be mitigated by measures Magellan had agreed to incorporate.⁴²

The Commission agrees with and adopts the ALJ's recommended mitigation measures.

I. Cumulative Effects

The Commission considers cumulative potential effects of related or anticipated future pipeline construction.⁴³ The ALJ explained that cumulative potential effects are environmental effects that result from the proposed project in conjunction with other proposed projects in the environmentally relevant area. The effects from any one project may be small, but the incremental effects from all projects together may be significant.⁴⁴

The ALJ found that “future projects in the environmentally relevant area that contribute to cumulative potential effects include a residential planned unit development; a new gas station; a solar garden; and a DOT project on HWY 23 that includes resurfacing the highway, culvert lining along the corridor, and a bridge replacement in the City of Pipestone.”⁴⁵

The ALJ found that “cumulative potential effects vary among the four route alternatives, given the differences in route lengths. Best management practices and other mitigation measures will reduce cumulative potential effects for all four route alternatives. The cumulative potential effects are mostly short-term and minimal for all four route alternatives.”⁴⁶ The Commission agrees with and adopts the ALJ's findings regarding cumulative potential effects.

J. Relevant Laws and Policies

The Commission considers the relevant applicable policies, rules, and regulations of other state and federal agencies, and local government land-use laws including ordinances adopted under Minn. Stat. § 299J.05,⁴⁷ relating to the location, design, construction, or operation of the proposed pipeline and associated facilities.⁴⁸

The ALJ noted that the U.S. Fish and Wildlife Service raised a concern about the need for a federal environmental review under the National Environmental Policy Act (NEPA). The ALJ found that “the draft route permit requires Magellan to obtain all necessary permits and comply with the conditions of those permits. Accordingly, if one of those permits establishes a federal nexus and a review under NEPA is required, Magellan's permit will require it to undergo such a

⁴² ALJ Report, findings 359–360.

⁴³ Minn. R. 7852.1900, subp. 3(I).

⁴⁴ ALJ Report, finding 363.

⁴⁵ *Id.*, finding 364.

⁴⁶ *Id.*, finding 365.

⁴⁷ Minn. Stat. § 299J.05 requires each municipality to adopt a pipeline setback ordinance.

⁴⁸ Minn. R. 7852.1900, subp. 3(J).

review.”⁴⁹ The Commission agrees with and will adopt the ALJ’s findings regarding relevant laws and policies.

IV. Routing Permit Decision

A. Route Selection

Because Magellan is not required to obtain a certificate of need for the Project, the task before the Commission is consideration of the route for the Project based on the potential impacts of each route alternative and possible mitigation to minimize human and environmental impact.⁵⁰

The Commission agrees with the ALJ that all four route alternatives meet the requirements of Minn. Stat. §§ 216G.01–.12 and are eligible for consideration and evaluation under the routing permit criteria in Minn. R. 7852.1900. Except for several modifications described above and in Magellan’s exceptions to the ALJ Report dated August 1, 2024, the Commission adopts and incorporates the ALJ’s findings of fact into its decision and order.

However, the Commission weighs the significance of those findings differently than the ALJ and has therefore come to a different conclusion for the best route for the Project. The ALJ recommended RA-02 for the Project route, but the Commission is persuaded that RA-01 is preferable for several reasons.

The comments of the Brave Heart Society and several Tribal Nations raised strong concerns about potential Project impacts to cultural and archaeological resources, particularly catlinite quarries and the broader Monument ethnographic landscape. Because of the importance of the Monument and catlinite resources to American Indians, avoidance of impacts to those resources is a main priority of the Commission’s route selection.

The ALJ found that “consideration of overall impacts on lands of historical, archaeological, and cultural significance favors RA-01 and RA-03 over the APR and RA-02 because of the APR and RA-02’s proximity to the Monument, the catlinite resources, and cemeteries, as well as the APR’s proximity to an archaeological site.”⁵¹ The Commission places significant weight on this finding, because it means that selecting RA-01 will have the lowest impact on the Monument and resources of importance to American Indians, including catlinite.⁵²

RA-01 will also have the lowest impact on the natural environment, and it parallels existing rights-of-way for the entirety of the route, further reducing human and environmental impacts. RA-01 does cost over three times as much as RA-02, but the Commission considers this additional cost to be justified to avoid potential impacts to the Monument and cultural resources. The Commission will therefore issue a routing permit to Magellan for the Project specifying a

⁴⁹ ALJ Report, finding 371.

⁵⁰ Minn. R. 7852.1900, subp. 2.

⁵¹ ALJ Report, finding 314.

⁵² The Commission eliminates RA-03 from consideration because of the potential for a leak on that route to contaminate the Monument.

200-foot-wide route along route RA-01, including a route width up to 1,000 feet along County Road 7 between 40th Ave. and 60th Ave. to allow for more options to address landowner concerns.

To further mitigate potential impacts, the Commission will adopt the special permit conditions recommended by ALJ as modified to conform to permit language. The Commission will authorize Commission staff to modify the route permit as necessary to correct typographic and formatting errors and ensure agreement with this order.

B. Cultural and Archaeological Survey

The Commission appreciates the Brave Heart Society's proposal for a cultural and archaeological survey prior to construction and believes this survey is necessary to further prevent impacts to cultural resources and ensure engagement with the Tribal Nations who have expressed concerns with the Project.

The Commission will therefore require Magellan to complete a full cultural and archaeological survey for route RA-01 in coordination with the following tribal historic preservation offices (THPOs): 1) Mille Lacs Band of Ojibwe; 2) Upper Sioux Community; 3) Yankton Sioux Tribe; and 4) Flandreau Santee Sioux Tribe. Magellan shall prepare a cultural and archaeological resources inventory of the route including any additional workspaces, such as temporary workspace, laydown/pipe yards, access roads, valve sites, and bore holes, to identify and avoid impacts to cultural, archaeological, and historic resources including pipestone/catlinite deposits.

The inventory shall be developed in accordance with standards established by relevant THPOs, Minnesota State Historic Preservation Office (MnSHPO), Minnesota Office of the State Archaeologist (MnOSA), and Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation. The inventory shall include specific mitigation and avoidance procedures for archaeological, cultural, and historic resources identified and must be filed with the Commission upon completion including comments from MnSHPO, MnOSA, and the Secretary of the Interior.

After completion of the survey, Magellan must send the results of the survey to the 23 tribes affiliated with the Monument and engage in additional consultation with the following tribal nations: 1) Mille Lacs Band of Ojibwe; 2) Upper Sioux Community; 3) Yankton Sioux Tribe and 4) Flandreau Santee Sioux Tribe. At a minimum, this consultation shall consist of at least one in-person meeting with tribal representatives to occur no later than 30 days after completion of the full cultural and archaeological survey. Magellan shall provide the opportunity for feedback to affiliated tribal nations on the survey. Magellan shall also confer with MnSHPO, the relevant THPO representatives, and MnOSA regarding the results of the survey.

Magellan shall file a compliance filing providing the results of the full survey, any feedback received and certifying that consultation with the above tribal nations has been attempted and/or completed. In the compliance filing, Magellan will recommend the appropriate number and names of tribal construction monitors informed by the results of the survey and in consultation with the affiliated tribes. After receipt of the compliance filing, the Commission will schedule the matter for approval of the compliance filing prior to construction.

ORDER

1. The Commission adopts the administrative law judge's findings of fact, conclusions of law, and recommendations to the extent consistent with the decisions below.
2. The Commission adopts a correction and clarification of the administrative law judge's report at finding 339 along with correcting Table 6-5 of the CEA Volume I at page 42 to recognize that RA-02 is approximately 76 percent adjacent to existing rights-of-way as opposed to the 97 percent noted in the finding and the table. This correction recognizes that in addition to the 3 percent that does not follow existing rights-of-way at the highway crossing near the intersection of Highway 75 and 131st Street, where the route will connect into the existing pipeline at the northeast terminus of RA-02, the southwest portion of the route between the existing pipeline and the existing transmission line also does not follow existing right-of-way.
3. The Commission adopts the corrections and clarifications suggested by Magellan in its letter dated August 1, 2024, regarding the following parts of the administrative law judge's report:
 - a. Finding 53
 - b. Finding 140
 - c. Finding 242
 - d. Finding 350
 - e. Finding 359, Finding 360, and Conclusion 8
 - f. Finding 376
 - g. Footnote 46
4. The Commission issues a pipeline route permit to Magellan for the Pipestone Reroute Project specifying a 200-foot-wide route along route RA-01. The Commission increases the route width to 1000 feet along County Road 7 between 40th Ave. and 60th Ave. to allow for more options to address landowner concerns in areas where the route passes near structures. At the time the plan and profile are filed, the permittee shall document efforts to minimize impacts to affected landowners along this portion of the route.
5. The Commission incorporates the special permit conditions recommended by the administrative law judge.
6. Magellan shall complete a full cultural and archaeological survey for route RA-01 in coordination with the following tribal historic preservation offices (THPOs): 1) Mille Lacs Band of Ojibwe; 2) Upper Sioux Community; 3) Yankton Sioux Tribe; and 4) Flandreau Santee Sioux Tribe. Magellan shall prepare a cultural and archaeological resources inventory of the route including any additional workspaces, such as temporary workspace, laydown/pipe yards, access roads, valve sites, and bore holes, to identify and avoid impacts to cultural, archaeological, and historic resources including pipestone/catlinite deposits. The inventory shall be developed in accordance with standards established by relevant THPOs, Minnesota State Historic Preservation Office (MnSHPO), Minnesota Office of the State Archaeologist (MnOSA), and Secretary of

Interior's Standards and Guidelines for Archaeology and Historic Preservation. The inventory shall include specific mitigation and avoidance procedures for archaeological, cultural, and historic resources identified and must be filed with the Commission upon completion including comments from MnSHPO, MnOSA, and the Secretary of Interior.

After completion of the survey, the permittee shall send the results of the survey to the affiliated Tribes and engage in additional consultation with the following tribal nations: 1) Mille Lacs Band of Ojibwe; 2) Upper Sioux Community; 3) Yankton Sioux Tribe and 4) Flandreau Santee Sioux Tribe. At a minimum, this consultation shall consist of at least one in-person meeting with tribal representatives to occur no later than 30 days after completion of the full cultural and archaeological survey. The permittee shall provide the opportunity for feedback to affiliated tribal nations on the survey. The permittee shall also confer with MnSHPO, the relevant THPO representatives, and MnOSA regarding the results of the survey. The permittee shall file a compliance filing providing the results of the full survey, any feedback received and certifying that consultation with the above tribal nations has been attempted and/or completed. In the compliance filing, the permittee will recommend the appropriate number and names of tribal construction monitors informed by the results of the survey and in consultation with the affiliated tribes. After receipt of the compliance filing the Commission shall schedule the matter for approval of the compliance filing prior to construction.

7. The Commission authorizes Commission staff to modify the route permit as necessary to correct typographic and formatting errors and ensure agreement with this order.
8. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Will Seuffert
Executive Secretary



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STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

**ROUTE PERMIT FOR
CONSTRUCTION OF A LARGE REFINED PRODUCTS PIPELINE
AND ASSOCIATED FACILITIES**

**IN
PIPESTONE COUNTY**

**ISSUED TO
MAGELLAN PIPELINE COMPANY, L.P.**

PUC DOCKET NO. IP-7109/PPL-23-109

In accordance with the requirements of Minnesota Statutes Chapter 216G and Minnesota Rules Chapter 7852 this route permit is hereby issued to:

Magellan Pipeline Company, L.P.

Magellan Pipeline Company, L.P., is authorized by this route permit to construct approximately 13.1 miles of 8-inch diameter pipeline designed to carry refined petroleum products and associated facilities in Pipestone County, Minnesota.

The pipeline and associated facilities shall be built within the route identified in this permit and as portrayed on the official route maps and in compliance with the conditions specified in this permit.

Approved and adopted this 22nd day of October, 2024

BY ORDER OF THE COMMISSION



Will Seuffert,
Executive Secretary

CONTENTS

1	ROUTE PERMIT	1
1.1	Pre-emption.....	1
1.2	Definitions	1
2	PIPELINE SAFETY	2
3	PROJECT DESCRIPTION.....	2
3.1	Project Location.....	2
3.2	Associated Facilities.....	3
4	DESIGNATED ROUTE	3
4.1	Permanent Right-of-Way.....	3
4.2	Temporary Right-of-Way or Workspace.....	4
4.3	Right-of-Way Conformance	4
4.4	Route Width Variations	4
5	STATE AND FEDERAL MINIMUM DEPTH OF COVER REQUIREMENTS	5
6	PRE-CONSTRUCTION CONDITIONS	5
6.1	Permit Distribution	5
6.2	Plan and Profile.....	6
6.3	Status Reports	6
7	CONSTRUCTION CONDITIONS	6
7.1	Notification	7
7.2	Access to Property for Construction.....	7
7.3	Field Representative	7
7.4	Agricultural Monitor and County Inspector Notification Requirements	8
7.5	Employee Training and Education of Route Permit Terms and Conditions.....	8
7.6	Public Services, Public Utilities, and Existing Easements.....	8
7.7	Noise.....	8
7.8	Site Sediment and Erosion Control.....	8
7.9	Topsoil Protection.....	9
7.10	Soil Compaction.....	9
7.11	Landscape Preservation.....	9
7.12	Sensitive Areas.....	9
7.13	Wetlands and Water Resources	9
7.14	Vegetation Management.....	10

7.15	Application of Pesticides.....	10
7.16	Invasive Species	11
7.17	Noxious Weeds	11
7.18	Roads	11
7.19	Archaeological and Historic Resources.....	12
7.20	Livestock	12
7.21	Security	12
7.22	Pollution and Hazardous Wastes.....	12
7.23	Cleanup.....	12
7.24	Restoration	13
7.25	Damages	13
8	OTHER PERMITS AND REGULATIONS	13
9	SPECIAL CONDITIONS.....	13
9.1	Cultural and Archaeological Resources Inventory	13
9.2	Unanticipated Discovery Plan.....	14
9.3	Pipestone National Monument Coordination	15
9.4	Environmental Inspector	15
9.5	Wetland Delineation.....	15
9.6	Horizontal Directional Drill Requirements	15
9.7	Threatened, Endangered, and Other Special Status Species.....	15
9.8	Topeka Shiner	16
9.9	Minnesota Biological Survey Sites	16
9.10	Emergency Preparedness	16
9.11	Accidents and Spills	16
9.12	Well Protection	16
9.13	Environmental Site Assessment	17
9.14	Pipeline Markers.....	17
9.15	Dust Control.....	17
9.16	Wildlife-Friendly Erosion Control	17
9.17	Post-Construction Landowner Approval.....	17
10	DELAY IN CONSTRUCTION.....	18
11	COMPLAINT PROCEDURES	18
12	POST-CONSTRUCTION CONDITIONS.....	18

12.1	In-Service Date.....	18
12.2	As-Built.....	18
12.3	GPS Data	19
13	RIGHT OF ENTRY	19
14	PERMIT AMENDMENT	19
15	PERMIT MODIFICATION OR SUSPENSION.....	19
16	PIPELINE CONSTRUCTION COMPLETION CERTIFICATE	19

ATTACHMENTS

Attachment 1 – Complaint Handling Procedures for Permitted Energy Facilities

Attachment 2 – Route Maps

1 ROUTE PERMIT

The Minnesota Public Utilities Commission (Commission) hereby issues this route permit to Magellan Pipeline Company, L.P. (Permittee), pursuant to Minnesota Statutes Chapter 216G and Minnesota Rules Chapter 7852. This route permit authorizes the Permittee to construct approximately 13.1 miles of 8-inch diameter pipeline designed to carry refined petroleum products and associated facilities in Pipestone County, Minnesota (Project), as identified in the attached route maps, hereby incorporated into this document.

1.1 Pre-emption

Pursuant to Minn. Stat. § 216G.02, subd. 4, this route permit shall be the sole route approval required to be obtained by the Permittee for construction of the pipeline facilities. This route permit shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose government.

1.2 Definitions

Affected landowner, as defined in Minn. R. 7852.0100, subp. 3, means an owner or lessee of record of real property, any part of which is within the proposed pipeline route.

Associated Facilities, as defined in Minn. R. 7852.0100, subp. 7, means all parts of those physical facilities through which hazardous liquids or gas moves in transportation, including but not limited to pipe, valves, and other appurtenances connected or attached to pipe, pumping and compressor units, fabricated assemblies associated with pumping and compressor units, metering and delivery stations, regulation stations, holders, breakout tanks, fabricated assemblies, cathodic protection equipment, telemetering equipment, and communication instrumentation located on the right-of-way.

Construction, as defined in Minn. R. 7852.0100, subp. 11, means any clearing of land, excavation, or other action for the purpose of constructing new pipeline that would adversely affect the natural environment of a pipeline route. Construction does not include changes needed for temporary use of a route for purposes of maintenance, repair, or replacement of an existing pipeline and associated facilities within existing rights-of-way, or for the minor relocation of less than three-quarters of a mile of an existing pipeline or for securing survey or geological data, including necessary borings to ascertain soil conditions.

2 PIPELINE SAFETY

Pursuant to Minn. Stat. § 216G.02, subd. 3(a) this pipeline route permit may not set safety standards for the construction of the pipeline. Pipeline safety regulations are promulgated by the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration in the Federal Code of Federal Regulations Part 195 – Transportation of Hazardous Liquids by Pipeline (49 CFR 195).

3 PROJECT DESCRIPTION

The Project entails the construction of approximately 13.1 miles of 8-inch diameter pipeline designed to carry refined petroleum products and associated facilities in Pipestone County, Minnesota. The table below identifies the components and specifications of the pipeline.

Components	Specifications
Length	13.1 miles
Pipe Size	8-inch outside diameter
Pipe Type	X52 carbon steel pipe manufactured according to API Specification 5L PS2
Operating Pressure	820 to 860 psig
Maximum Allowable Operating Pressure	1,440 psig
Nominal Wall Thickness	0.332 inch
Pipe Design Factor	0.6
Longitudinal or Seam Joint Factor	1.0
Coating	Fusion bond epoxy (14 mils) and abrasion-resistant overcoat (35 mils)
Specified Minimum Yield Strength	52,000 psi
Tensile Strength	66,000 psi

3.1 Project Location

The Project will be located in the counties and townships identified below and as identified in the attached route maps.

County	Township Name	Township	Range	Section
Pipestone	Sweet	106 N	46 W	29, 28, 21, 20, 17, 16, 9, 8, 5, 4
Pipestone	Troy	107 N	46 W	33, 32, 29, 28, 24, 23, 22, 21, 20, 17, 16, 15, 14, 13
Pipestone	Grange	107 N	45 W	17, 18, 19, 20

3.2 Associated Facilities

The Project includes, and this route permit authorizes, the following associated facilities:

- Temporary and permanent access roads.
- A new cathodic protection system with additional monitoring/test points and additional ground beds.
- Pipeline markers placed at property lines to mark the pipeline easement.
- Two aboveground valve sites.

4 DESIGNATED ROUTE

The route designated by the Commission in this route permit is the route described below and shown on the route maps attached to this route permit. The designated route for the Project is 200 feet wide with the exception of the area along 151st Street (County Road 7) between 40th Avenue and 60th Avenue, where the route width is 1,000 feet centered on 151st Street. The designated route is generally described as follows:

The route interconnects with the existing Magellan pipeline approximately 1,900 feet south of the intersection of 81st Street and 40th Avenue. It will run in a general north/south direction for approximately 7.38 miles adjacent to and immediately east or west of the public right-of-way along 40th Avenue to the intersection of 151st Street and 40th Avenue. From this point, the route will be placed adjacent to and immediately north or south of the public right-of-way along 151st Street for approximately 5.74 miles in a general east/west direction. It will interconnect with the Magellan Pipeline approximately 3,450 feet east of the intersection of 151st Street and 90th Avenue.

The final alignment must be located within this designated route. The identified route widths on the attached route maps provide the Permittee with flexibility for minor adjustments of the alignment or right-of-way to accommodate landowner requests and unforeseen conditions. The final alignment (*i.e.*, permanent and maintained rights-of-way) will be located within this designated route unless otherwise authorized by this route permit or the Commission.

4.1 Permanent Right-of-Way

This route permit authorizes the Permittee to obtain a new permanent right-of-way for the pipeline facility up to 40 feet in width. The permanent right-of-way is typically 20 feet on both sides of the pipeline measured from its centerline.

4.2 Temporary Right-of-Way or Workspace

The Permittee is authorized by this route permit to acquire a 35-foot-wide temporary construction right-of-way in wetland areas and a 45-foot-wide temporary construction right-of-way in upland areas. The Permittee shall limit temporary workspace to special construction access needs required outside of the authorized permanent right-of-way. Temporary right-of-way shall be selected to limit the removal and impacts to vegetation. Temporary easements outside of the authorized route will be obtained from affected landowners through rental agreements.

4.3 Right-of-Way Conformance

The Project's anticipated alignment is intended to minimize potential impacts relative to criteria identified in Minn. R. 7852.1900. The actual right-of-way will generally conform to the anticipated alignment identified on the route maps, unless changes are requested by individual landowners and agreed to by the Permittee or for unforeseen conditions that are encountered or as otherwise provided for by this route permit.

Any right-of-way modifications within the designated route shall be located so as to have comparable overall impacts relative to the factors in Minn. R. 7852.1900, as does the right-of-way identified in this route permit, and shall be specifically identified and documented in and approved as part of the plan and profile submitted pursuant to Section 6.2 of this route permit.

4.4 Route Width Variations

Route width variations may be allowed to accommodate the potential site-specific constraints listed below. These constraints may arise from any of the following:

1. Unforeseen circumstances encountered during the detailed engineering and design process.
2. Federal or state agency requirements.
3. Existing infrastructure within the pipeline route, including but not limited to railroads, natural gas and liquid pipelines, high voltage electric transmission lines, or sewer and water lines.

Any alignment modifications arising from these site-specific constraints that would result in right-of-way placement outside of the designated route shall be specifically reviewed by the Commission under Minn. R. 7852.3400.

5 STATE AND FEDERAL MINIMUM DEPTH OF COVER REQUIREMENTS

Minn. Stat. § 216G.07, subd. 1, requires the pipeline trench to be excavated to a depth of at least 54 inches (4.5 feet) of backfill from ground surface to the top of pipeline in all areas where the pipeline crosses the right-of-way of any public drainage facility or any county, town, or municipal street or highway and where the pipeline crosses cultivated agricultural land. This depth requirement may be waived in the manner provided in Minn. Stat. § 216G.07, subd. 2 and 3. Even if waivers are procured pursuant to Minn. Stat. § 216G.07, subd. 2, the Permittee must bury the pipeline to a minimum depth that complies with U.S. Department of Transportation regulations (49 CFR 195.248) and in agricultural areas to a depth below cultivation.

6 PRE-CONSTRUCTION CONDITIONS

The following pre-construction conditions require submissions to the Commission. All submissions must be made by electronic filing.

6.1 Permit Distribution

Within 30 days of route permit issuance, the Permittee shall send a copy of the route permit to the office of each regional development commission, soil and water conservation district, watershed district, watershed management district, office of the auditor of each county, and the clerk of each city and township crossed by the Designated Route.

Within 30 days of route permit issuance, the Permittee shall provide all affected landowners with a copy of this route permit and the complaint procedures. In no case shall the landowner receive this route permit and complaint procedures less than five days prior to the start of construction on their property. An affected landowner is any landowner or designee that is within or adjacent to the permitted route.

The Permittee shall provide all affected landowners with complete information about the Project keeping them informed throughout the initial survey, right-of-way acquisition, right-of-way preparation, construction, restoration, and future operation and maintenance. As provided by applicable laws and regulations the Permittee shall provide educational materials about the Project and any restrictions or dangers associated with the Project to landowners within the route whose land is crossed by the pipeline and, upon request, to any interested persons.

6.2 Plan and Profile

At least 30 days before right-of-way preparation for construction begins on any segment or portion of the Project, the Permittee shall provide the Commission with a plan and profile of the right-of-way and the specifications and drawings for right-of-way preparation, construction, cleanup, and restoration for the segment of pipeline for which construction is scheduled. The documentation shall include maps depicting the plan and profile including the designated route, right-of-way, and pipeline alignment approved per this route permit.

The Permittee may not commence construction until the 30 days has expired or until the Commission has advised the Permittee in writing that it has completed its review of the plan and profile documents and determined that the planned construction is consistent with this route permit. If the Permittee intends to make any significant changes in its plan and profile or the specifications and drawings after submission to the Commission the Permittee shall notify the Commission at least five days before implementing the changes. No changes shall be made that would be in violation of any of the terms of this route permit.

The Permittee shall also provide the Minnesota Office of Pipeline Safety with the same information provided to the Commission. The Permittee's plan and profile and specifications and drawings shall become a condition of this route permit and shall be complied with by the Permittee in accordance with Minn. R. 7852.3500.

6.3 Status Reports

The Permittee shall report to the Commission on progress during finalization of the route and construction of the pipeline. The Permittee shall report weekly. Reports shall begin with the submittal of the plan and profile for the Project and continue until completion of restoration.

7 CONSTRUCTION CONDITIONS

The Permittee shall comply with the following conditions during pipeline right-of-way preparation, construction, cleanup, and restoration over the life of this route permit, and as outlined under Minn. R. 7852.3600. The Permittee shall follow those specific construction practices and material specifications described in the route permit application, the comparative environmental analysis (CEA), and the record of the proceedings unless this route permit establishes a different requirement in which case this route permit shall prevail.

7.1 Notification

The Permittee shall notify landowners or their designee at least 14 days in advance but not greater than 60 days in advance of entering the property.

7.2 Access to Property for Construction

The Permittee shall obtain all necessary permits authorizing access to public rights-of-way prior to any construction. The Permittee shall obtain approval of the landowners for access to private property prior to any construction. The Permittee shall consult with property owners to identify and address any special problems the landowners may have that are associated with the pipeline prior to any construction.

The Permittee shall work with landowners to provide access to their property, to locate the pipeline on their property to minimize the loss of agricultural land, forest, and wetlands, with due regard for proximity to homes and water supplies, even if the deviations will increase the cost of the pipeline, so long as the landowner's requested relocation does not adversely affect environmentally sensitive areas.

The Permittee shall negotiate agreements with landowners that will give the landowners access to their property; minimize the impact on planned future development of the property; and to assume any additional costs for such development that may be the result of installing roads, driveways and utilities that must cross the right-of-way. The Permittee shall not unreasonably deny a landowner's request to cross the easement to access the landowner's property.

7.3 Field Representative

The Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this route permit during construction of the Project. This person shall be accessible by telephone or other means during normal business hours throughout site preparation, construction, cleanup, and restoration.

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the field representative 14 days prior to commencing construction. The Permittee shall provide the field representative's contact information to affected landowners, residents, local government units and other interested persons 14 days prior to commencing construction. The Permittee may change the site manager at any time upon notice to the Commission, affected landowners, residents, local government units and other interested persons.

7.4 Agricultural Monitor and County Inspector Notification Requirements

The Permittee shall at least 14 days prior to the start of construction provide notice to all landowners affected by construction with the name, telephone number and email address of the Agricultural Monitor and County inspector designated by the County, if appointed.

7.5 Employee Training and Education of Route Permit Terms and Conditions

The Permittee shall inform all employees, contractors, and other persons involved in construction of the terms and conditions of this route permit.

7.6 Public Services, Public Utilities, and Existing Easements

During construction, the Permittee shall minimize any disruption to public services or public utilities. To the extent disruptions to public services or public utilities occur these would be temporary, and the Permittee will restore service promptly. Where any impacts to utilities have the potential to occur the Permittee will work with both landowners and local agencies to determine the most appropriate mitigation measures if not already considered as part of this route permit.

The Permittee shall cooperate with all entities that have existing easements or infrastructure within the pipeline route to ensure minimal disturbance to existing or planned developments.

7.7 Noise

The Permittee shall comply with noise standards established under Minn. R. 7030.0100 to 7030.0080, at all times at all appropriate locations during operation of the facility. Construction and maintenance activities shall be limited to daytime working hours to the extent practicable to ensure nighttime noise level standards will not be exceeded.

7.8 Site Sediment and Erosion Control

The Permittee shall implement those erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency (MPCA) Construction Stormwater Program. If construction of the facility disturbs more than one acre of land or is sited in an area designated by the MPCA as having potential for impacts to water resources, the Permittee shall obtain a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Construction Stormwater Permit from the MPCA that provides for the development of a Stormwater Pollution Prevention Plan (SWPPP) that describes methods to control erosion and runoff.

The Permittee shall implement reasonable measures to minimize erosion and sedimentation during construction and shall employ perimeter sediment controls, protect exposed soil by promptly planting, seeding, using erosion control blankets and turf reinforcement mats, stabilizing slopes, protecting storm drain inlets, protecting soil stockpiles, and controlling vehicle tracking. Contours shall be graded as required so that all surfaces provide for proper drainage, blend with the natural terrain, and are left in a condition that will facilitate re-vegetation and prevent erosion. All areas disturbed during construction of the facilities shall be returned to pre-construction conditions.

7.9 Topsoil Protection

The Permittee shall take precautions to minimize mixing of topsoil and subsoil during excavation of the trench for the pipe unless otherwise negotiated with the affected landowner.

7.10 Soil Compaction

Compaction of agricultural lands by the Permittee must be kept to a minimum.

7.11 Landscape Preservation

Care shall be used to preserve the natural landscape, minimize tree removal, and prevent any unnecessary destruction of the natural surroundings in the vicinity of all pipeline construction and restoration activities.

7.12 Sensitive Areas

The Permittee shall stabilize stream banks and other sensitive areas disturbed by pipeline construction in accordance with the requirements of applicable state or federal permits.

7.13 Wetlands and Water Resources

Wetlands and riparian areas shall be accessed using the shortest route possible in order to minimize travel through wetland areas and prevent unnecessary impacts. No temporary workspace areas shall be placed within or adjacent to wetlands or water resources, as practicable. To minimize impacts, construction in wetland areas shall occur during frozen ground conditions where practicable and shall be according to permit requirements by the applicable permitting authority. When construction during winter is not possible, wooden or composite mats shall be used to protect wetland vegetation. Soil excavated from the wetlands and riparian areas shall be contained and not placed back into the wetland or riparian area.

Dewatering during periods of excessive precipitation or in areas where the natural groundwater table intersects the pipeline trench will not be directed into wetlands or water bodies.

Dewatering discharges will be directed toward well vegetated upland areas. Should discharge activities need to be directed off the right-of-way landowner consent will be obtained, and locations will be chosen to minimize impacts. All discharge activities will comply with applicable agency permits or approvals.

Areas disturbed by construction activities shall be restored to pre-construction conditions.

Restoration of the wetlands will be performed by Permittee in accordance with the requirements of applicable state and federal permits or laws and landowner agreements.

Wetland and water resource areas disturbed by construction activities shall be restored to pre-construction conditions in accordance with the requirements of applicable state and federal permits or laws and landowner agreements. All requirements of the U.S. Army Corps of Engineers (USACE), Minnesota Department of Natural Resources (DNR), and local units of government shall be met.

7.14 Vegetation Management

The Permittee shall clear the permanent right-of-way and temporary right-of-way preserving to the maximum extent practicable windbreaks, shelterbelts, living snow fences, and vegetation in areas such as trail and stream crossings where vegetative screening may minimize aesthetic impacts, to the extent that such actions do not impact the safe operation, maintenance, and inspection of the pipeline and are in compliance with all applicable laws and regulations.

Tree stumps will be removed at the landowner's request or when necessitated due to trench location. The Permittee will dispose of all debris created by clearing at a licensed disposal facility.

7.15 Application of Pesticides

The Permittee shall restrict pesticide use to those pesticides and methods of application approved by the Minnesota Department of Agriculture, DNR, and the U.S. Environmental Protection Agency. Selective foliage or basal application shall be used when practicable. All pesticides shall be applied in a safe and cautious manner so as not to damage adjacent properties including crops, orchards, tree farms, apiaries, or gardens. The Permittee shall contact the landowner or designee to obtain approval for the use of pesticide at least 14 days prior to any application on their property. The landowner may request that there be no application of pesticides on any part of the site within the landowner's property. The Permittee shall provide notice of pesticide application to affected landowners and known beekeepers

operating apiaries within three miles of the Project site at least 14 days prior to such application.

7.16 Invasive Species

The Permittee shall employ best management practices to avoid the potential spread of invasive species on lands disturbed by Project construction activities, including inspection and cleaning of all construction related vehicles.

7.17 Noxious Weeds

The Permittee shall take all reasonable precautions against the spread of noxious weeds during all phases of construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil the Permittee shall select site appropriate seed certified to be free of noxious weeds, specifically seed mixes that do not include birdsfoot trefoil (*Lotus corniculatus*) and crown vetch (*Coronilla varia*); two invasive species that are sold commercially and are problematic in prairies and disturbed open areas, such as roadsides. To the extent possible, the Permittee shall use native seed mixes. The Permittee shall consult with the DNR and landowners on the selection and use of seed for replanting.

7.18 Roads

The Permittee shall advise the appropriate governing bodies having jurisdiction over all state, county, city or township roads that will be used during the construction phase of the Project. Where practical, existing roadways shall be used for all activities associated with construction of the facility. Oversize or overweight loads associated with the facility shall not be hauled across public roads without required permits and approvals.

The Permittee shall construct the least number of site access roads it can. Access roads shall not be constructed across streams and drainage ways without the required permits and approvals. Access roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.

The Permittee shall promptly repair private roads or lanes damaged when moving equipment or when accessing construction workspace, unless otherwise negotiated with the affected landowner.

7.19 Archaeological and Historic Resources

The Permittee shall make every effort to avoid impacts to identified archaeological and historic resources when constructing the pipeline facility. In the event that a resource is encountered, the Permittee shall contact and consult with the State Historic Preservation Office (SHPO) and the Office of the State Archaeologist (OSA). Where feasible, avoidance of the resource is required. Where not feasible, mitigation must include an effort to minimize Project impacts on the resource consistent with SHPO and OSA requirements.

Prior to construction, workers shall be trained about the need to avoid cultural properties, how to identify cultural properties, and procedures to follow if undocumented cultural properties, including gravesites, are found during construction. If human remains are encountered during construction, the Permittee shall immediately halt construction and promptly notify local law enforcement and the OSA. Construction at such location shall not proceed until authorized by local law enforcement or the OSA.

Additional requirements concerning archaeological and historic resources is outlined in the Special Conditions section of this route permit.

7.20 Livestock

Precautions to protect livestock must be taken by the Permittee unless otherwise negotiated with the affected landowner.

7.21 Security

The Permittee will install temporary gates or similar barriers, as needed, to prohibit public access to the right-of-way during construction.

7.22 Pollution and Hazardous Wastes

All appropriate precautions to protect against pollution of the environment must be taken by the Permittee. The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean up and disposal of all wastes generated during pipeline construction and restoration of the right-of-way.

7.23 Cleanup

All waste and scrap that is the product of construction shall be removed from the right-of-way and all premises on which construction activities were conducted and properly disposed of

upon completion of each task. Personal litter, including bottles, cans, and paper from construction activities shall be removed on a daily basis.

7.24 Restoration

The Permittee shall restore the right-of-way, temporary workspaces, access roads, abandoned right-of-way, and other public or private lands affected by construction of the pipeline to the natural conditions that existed immediately before construction of the pipeline and as required by other federal and state agency permits. Restoration must be compatible with the safe operation, maintenance, and inspection of the pipeline. Within 60 days after completion of all restoration activities the Permittee shall advise the Commission in writing of the completion of such activities.

7.25 Damages

The Permittee shall fairly restore or compensate landowners for damage to crops, fences, private roads and lanes, landscaping, drain tile, or other damages sustained during construction.

8 OTHER PERMITS AND REGULATIONS

The Permittee shall comply with all applicable state rules and statutes. The Permittee shall obtain all required permits for the Project and comply with the conditions of those permits unless those permits conflict with or are preempted by federal or state permits and regulations. A list of the permits known to be required is included in the route permit application. The Permittee shall submit a copy of such permits to the Commission upon request.

9 SPECIAL CONDITIONS

The special conditions shall take precedence over other conditions of this route permit should there be a conflict.

9.1 Cultural and Archaeological Resources Inventory

The Permittee shall complete a full cultural and archaeological resources inventory (Inventory) for the Designated Route in coordination with the following Tribal Historic Preservation Offices (THPOs): Mille Lacs Band of Ojibwe, Upper Sioux Community, Yankton Sioux Tribe, and Flandreau Santee Sioux Tribe. The Inventory shall include the Designated Route including any additional workspaces, such as temporary workspace, laydown/pipe yards, access roads, valve

sites, and bore holes, to identify and avoid impacts to cultural, archaeological, and historic resources including pipestone/catlinite deposits.

The Inventory shall be developed in accordance with standards established by relevant THPOs, SHPO, OSA, and Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation. The Inventory shall include specific mitigation and avoidance procedures for archaeological, cultural, and historic resources identified and must be filed with the Commission upon completion including comments from SHPO, OSA, and the Secretary of Interior.

After completion of the Inventory, the Permittee shall send the results of the Inventory to the affiliated Tribes and engage in additional consultation with the following tribal nations: Mille Lacs Band of Ojibwe, Upper Sioux Community, Yankton Sioux Tribe, and Flandreau Santee Sioux Tribe. At a minimum, this consultation shall consist of at least one in-person meeting with tribal representatives to occur no later than 30 days after completion of the full Inventory. The Permittee shall provide the opportunity for feedback to affiliated tribal nations on the Inventory. The Permittee shall also confer with SHPO, the relevant THPO representatives, and OSA regarding the results of the Inventory. The Permittee shall make a compliance filing with the Commission providing the results of the full Inventory, any feedback received and certifying that consultation with the above tribal nations has been attempted and/or completed. In the compliance filing, the Permittee will recommend the appropriate number and names of tribal construction monitors informed by the results of the Inventory and in consultation with the affiliated tribes. After receipt of the compliance filing the Commission shall schedule the matter for approval of the compliance filing prior to construction.

9.2 Unanticipated Discovery Plan

The Permittee shall update the Plan for the Unanticipated Discovery of Cultural Resources and/or Human Remains (Unanticipated Discovery Plan or UDP) provided as Appendix D to the Route Permit Application dated April 10, 2024, to include protocols specifically related to the identification, recovery, and culturally appropriate re-interment/repatriation of potential burials of students from the Pipestone Indian School who may be interred outside the defined boundaries of the St. Leo and New Woodlawn cemeteries.

The Permittee shall submit the updated UDP to SHPO, OSA, and Minnesota Indian Affairs Council (MIAC) for review and comment. The Permittee shall file with the Commission an updated UDP, including comments from SHPO, OSA, and MIAC, with the plan and profile submittal required by Section 6.2. The Permittee shall follow the protocols established in the UDP during construction.

9.3 Pipestone National Monument Coordination

Prior to construction activities, the Permittee will coordinate with Pipestone National Monument staff and tribal nations affiliated with the area regarding potential traffic disruption during periods of increased visitor use, including during ceremonial use of the Pipestone National Monument during the annual Sundance Ceremony and other occasions. Construction activities shall be suspended during ceremonial use of the Monument.

9.4 Environmental Inspector

The Permittee shall employ an Environmental Inspector to ensure that construction is conducted in accordance with the conditions of this route permit, the Best Management Practice Plan (Appendix C to Route Permit Application), and all applicable federal, state, and local permits during construction and restoration. The Environmental Inspector shall maintain appropriate records to document compliance with the route permit conditions. The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the Environmental Inspector 14 days prior to commencing construction and upon any change that may occur during the construction of the pipeline.

9.5 Wetland Delineation

Prior to starting construction, the Permittee shall complete a Routine Level 2 Wetland Delineation to confirm wetland locations and finalize the Project design.

9.6 Horizontal Directional Drill Requirements

When constructing the pipeline beneath roads, rights-of-way, surface waters, stream crossings, native plant communities, areas of outstanding to moderate biodiversity, Minnesota Biological Survey (MBS) sites, and wetlands where practical, horizontal directional drilling methods and related best management practices as described in the Route Permit Application and the CEA shall be employed.

9.7 Threatened, Endangered, and Other Special Status Species

The Permittee shall confer with the U.S. Fish and Wildlife Service (USFWS) and the DNR to determine the need for, and the extent of, any species surveys prior to construction. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

9.8 Topeka Shiner

The Permittee shall follow USFWS's Recommendations for Construction Projects Affecting Waters Inhabited by Topeka Shiners in Minnesota. In-stream construction near Topeka shiner spawning habitat shall be avoided between May 15 and August 15. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

9.9 Minnesota Biological Survey Sites

When construction of the pipeline happens near MBS sites, the Permittee shall retain a buffer around the MBS site, including confining construction activities to the opposite side of the road from native plant communities, where possible; operate to the greatest extent possible in previously disturbed areas; prohibit disturbance of uncultivated and unmowed areas between May 15th and July 15th; minimize vehicular disturbance; utilize effective erosion prevention and sediment control measures; and if possible, conduct construction during frozen ground conditions. MBS sites shall not be used for stockpiling construction equipment and supplies, the parking of vehicles, or the placement of excavated spoils or other material.

9.10 Emergency Preparedness

The Permittee shall conduct emergency preparedness in collaboration with local first responders and practice drills for live incidents. The Permittee shall follow the federal and state regulatory requirements of its Northern District Operation Safety Response Plan (OSRP) – Pipeline and Hazardous Material Administration (PHMSA), dated August 17, 2023, which meets the requirements of the Oil Pollution Act of 1990 and was prepared in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and applicable Area Contingency Plans (ACP) which include EPA Region V and VII Regional Contingency Plans, and Minneapolis/St. Paul Inland Zone Sub-Area Incident Action Plans.

9.11 Accidents and Spills

Prior to construction, the Permittee shall develop and implement a spill response plan for the immediate clean-up of spills and the specific requirements for reporting and responding to spills.

9.12 Well Protection

Prior to construction, the Permittee shall identify all drinking water receptors such as municipal water intakes and private water wells used for drinking water. In accordance with Minn. R.

4725.4450, subp. 1(C)(8), the pipeline must be located more than 100 feet from known water-supply wells.

If a spill were to occur, all nearby water wells shall be identified as potential receptors and monitored until the extent of groundwater contamination is known. Drinking water receptors such as municipal water intakes and private water wells used for drinking water should take priority with protective measures beginning with the downgradient wells nearest the point of release.

9.13 Environmental Site Assessment

Prior to construction, the Permittee shall conduct a Phase I Environmental Site Assessment and Phase II Environmental Site Assessment (if required) to identify hazardous waste and regulated material sites.

9.14 Pipeline Markers

The Permittee shall install pipeline markers at various locations (*e.g.*, road crossings) within the Project right-of-way in accordance with applicable federal and state regulations.

9.15 Dust Control

The Permittee shall minimize and avoid, if possible, the use of chloride-based dust control chemicals (*i.e.*, calcium chloride, magnesium chloride).

9.16 Wildlife-Friendly Erosion Control

The Permittee shall use only bio-netting or natural netting types of erosion control materials and mulch products without synthetic (plastic) fiber additives.

9.17 Post-Construction Landowner Approval

The Permittee shall work with affected landowners to obtain their signature(s) on a final written release within one year from restoration completion that indicates the affected landowner(s) is/are satisfied by the post-construction restoration of their properties to conditions that comply with the terms and conditions of this route permit and any specific agreements between the landowner(s) and Permittee. All signed releases must be available prior to filing of the Pipeline Construction Completion Certificate as required in Section 16 of this route permit.

10 DELAY IN CONSTRUCTION

If the Permittee has not commenced construction or improvement of the route within four years after the date of issuance of this route permit the Commission shall suspend the route permit in accordance with Minn. R. 7852.3300. If at the time of suspension, or at a later time, the Permittee decides to construct the pipeline, it shall certify to the Commission that there have been no significant changes in any material aspects of the conditions or circumstances existing when the route permit was issued. If the Commission determines that there are no significant changes, it shall reinstate the route permit. If the Commission determines that there is a significant change, it may order public information meetings or a new hearing and consider the matter further, or it may require the Permittee to submit a new application.

11 COMPLAINT PROCEDURES

Prior to the start of construction, the Permittee shall submit to the Commission the procedures that will be used to receive and respond to complaints. The procedures shall be in accordance with the requirements of Minn. R. 7829.1500 or Minn. R. 7829.1700, and as set forth in the complaint procedures attached to this route permit.

Upon request, the Permittee shall assist the Commission with the disposition of unresolved or longstanding complaints. This assistance shall include, but is not limited to, the submittal of complaint correspondence and complaint resolution efforts.

12 POST-CONSTRUCTION REQUIREMENTS

Failure to timely and properly make compliance filings required by this route permit is a failure to comply with the conditions of this route permit. Compliance filings must be electronically filed with the Commission.

12.1 In-Service Date

At least three days before the pipeline is to be placed into service, the Permittee shall notify the Commission of the date on which the pipeline will be placed into service and the date on which construction was complete.

12.2 As-Builts

Within 90 days after completion of construction, the Permittee shall submit copies of all final as-built plans and specifications developed during the Project.

12.3 GPS Data

Within 90 days after completion of construction, the Permittee shall submit to the Commission, in the format requested by the Commission, geo-spatial information (e.g., ArcGIS compatible map files, GPS coordinates, associated database of characteristics) for the pipeline and associated facilities.

13 RIGHT OF ENTRY

The Permittee shall allow Commission designated representatives to perform the following, upon reasonable notice, upon presentation of credentials and at all times in compliance with the Permittee's site safety standards:

- a. To enter upon the facilities easement of the property for the purpose of obtaining information, examining records, and conducting surveys or investigations.
- b. To bring such equipment upon the facilities easement of the property as is necessary to conduct such surveys and investigations.
- c. To sample and monitor upon the facilities easement of the property.
- d. To examine and copy any documents pertaining to compliance with the conditions of this route permit.

14 PERMIT AMENDMENT

The Permittee may apply to the Commission for an amendment of the route designation or to conditions specified in the route permit in accordance with the requirements and procedures of Minn. R. 7852.3400.

15 PERMIT MODIFICATION OR SUSPENSION

If the Commission determines that substantial evidence supports a finding that a violation of the terms or conditions of this pipeline route permit has occurred or is likely to occur, it may take action to modify or suspend this route permit in accordance with Minn. R. 7852.3800. The Commission may at any time re-consider modification or suspension of this route permit if the Permittee has undertaken effective measures to correct the violations.

16 PIPELINE CONSTRUCTION COMPLETION CERTIFICATE

In accordance with Minn. R. 7852.3900, the Permittee shall file with the Commission a written certification that the construction and remediation of the permitted pipeline has been completed in compliance with all route permit conditions and landowner agreements. The

certification shall be considered by the Commission within 60 days of its filing. The Commission shall accept or reject the certification of completion and make a final determination regarding cost or reimbursements due. If the certification is rejected, the Commission shall inform the Permittee in writing which deficiencies, if corrected, will allow the certification to be accepted. When corrections to the deficiencies are completed, the Permittee shall notify the Commission, and the certification shall be reconsidered as soon as possible. After acceptance of the certification, the Commission's jurisdiction over the Permittee's pipeline route permit shall be terminated.

ATTACHMENT 1

Complaint Handling Procedures for Permitted Energy Facilities

**MINNESOTA PUBLIC UTILITIES COMMISSION
COMPLAINT HANDLING PROCEDURES FOR
PERMITTED ENERGY FACILITIES**

A. Purpose

To establish a uniform and timely method of reporting and resolving complaints received by the permittee concerning permit conditions for site or route preparation, construction, cleanup, restoration, operation, and maintenance.

B. Scope

This document describes complaint reporting procedures and frequency.

C. Applicability

The procedures shall be used for all complaints received by the permittee and all complaints received by the Minnesota Public Utilities Commission (Commission) under Minn. R. 7829.1500 or Minn. R. 7829.1700 relevant to this permit.

D. Definitions

Complaint: A verbal or written statement presented to the permittee by a person expressing dissatisfaction or concern regarding site or route preparation, cleanup or restoration, or other permit conditions. Complaints do not include requests, inquiries, questions or general comments.

Substantial Complaint: A written complaint alleging a violation of a specific permit condition that, if substantiated, could result in permit modification or suspension pursuant to the applicable regulations.

Unresolved Complaint: A complaint which, despite the good faith efforts of the permittee and a person, remains unresolved or unsatisfactorily resolved to one or both of the parties.

Person: An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private; however organized.

E. Complaint Documentation and Processing

1. The permittee shall designate a representative responsible for filing complaints to the Commission's eDocket system. This person's name, phone number and email address shall accompany all complaint submittals. The name and contact information for the representative shall be kept current in eDockets.
2. A person presenting the complaint should, to the extent possible, include the following information in their communications:
 - a. name, address, phone number, and email address;
 - b. initial date of the complaint;
 - c. tract, parcel number, or address of the complaint;
 - d. a summary of the complaint; and
 - e. whether the complaint relates to a permit violation, a construction practice issue, or other type of complaint.
3. The permittee shall document all complaints by maintaining a record of all applicable information concerning the complaint, including the following:
 - a. docket number and project name;
 - b. name of complainant, address, phone number and email address;
 - c. precise description of property or parcel number;
 - d. name of permittee representative receiving complaint and date of receipt;
 - e. nature of complaint and the applicable permit condition(s);
 - f. summary of activities undertaken to resolve the complaint; and
 - g. a statement on the final disposition of the complaint.

F. Reporting Requirements

The permittee shall commence complaint reporting at the beginning of project construction and continue through the term of the permit, unless otherwise required below. The permittee shall report all complaints to the Commission according to the following schedule:

Immediate Reports: All substantial complaints shall be reported to the Commission the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to the Commission's Public Advisor at 1-800-657-3782 (voice messages are acceptable) or publicadvisor.puc@state.mn.us. For e-mail reporting, the email

subject line should read “PUC EFP Complaint” and include the appropriate project docket number.

Monthly Reports: During project construction, restoration, and operation, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be filed by the 15th of each month to Will Seuffert, Executive Secretary, Public Utilities Commission, using the eDockets system. The eDockets system is located at: <https://www.edockets.state.mn.us/EFiling/home.jsp>. If no complaints were received during the preceding month, the permittee shall file a summary indicating that no complaints were received.

If a project has submitted twelve consecutive months of complaint reports with no complaints, monthly reports can terminate by a letter to eDockets notifying the Commission of such action. If a substantial complaint is received (by the company or the Commission) following termination of the monthly complaint report, as noted above, the monthly reporting should commence for a period of six months following the most recent complaint or upon resolution of all pending complaints.

If a permittee is found to be in violation of this section, the Commission may reinstate monthly complaint reporting for the remaining permit term or enact some other commensurate requirement via notification by the Executive Secretary or some other action as decided by the Commission.

G. Complaints Received by the Commission

Complaints received directly by the Commission from aggrieved persons regarding the permit or issues related to site or route preparation, construction, cleanup, restoration, or operation and maintenance will be promptly sent to the permittee.

The permittee shall notify the Commission when the issue has been resolved. The permittee will add the complaint to the monthly reports of all complaints. If the permittee is unable to find resolution, the Commission will use the process outlined in the Unresolved Complaints Section to process the issue.

H. Commission Process for Unresolved Complaints

Complaints raising substantial and unresolved permit issues will be investigated by the Commission. Staff will notify the permittee and appropriate people if it determines that the

complaint is a substantial complaint. With respect to such complaints, the permittee and complainant shall be required to submit a written summary of the complaint and its current position on the issues to the Commission. Staff will set a deadline for comments. As necessary, the complaint will be presented to the Commission for consideration.

I. Permittee Contacts for Complaints and Complaint Reporting

Complaints may be filed by mail or email to the permittee's designated complaint representative, or to the Commission's Public Advisor at 1-800-657-3782 or publicadvisor.puc@state.mn.us. The name and contact information for the permittee's designated complaint representative shall be kept current in the Commission's eDocket system.

CERTIFICATE OF SERVICE

I, Mai Choua Xiong, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

Minnesota Public Utilities Commission

**ORDER ADOPTING ALJ REPORT AS MODIFIED, ISSUING ROUTING
PERMIT, AND REQUIRING CULTURAL AND ARCHAEOLOGICAL SURVEY**

Docket Number **IP-7109/PPL-23-109**

Dated this 22nd day of October, 2024

/s/ Mai Choua Xiong

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Christina	Brusven	cbrusven@fredlaw.com	Fredrikson Byron	60 S 6th St Ste 1500 Minneapolis, MN 55402-4400	Electronic Service	No	OFF_SL_23-109_Official
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_23-109_Official
Brandon	Cox	brandon.cox@magellanlp.com	Magellan Pipeline Company, L.P.	6160 Summit Dr N, Suite 205 Brooklyn Center, MN 55430	Electronic Service	No	OFF_SL_23-109_Official
Ross	Crutchfield	Ross.Crutchfield@magellanlp.com	Magellan Pipeline Company, L.P.	One Williams Center Tulsa, OK 74172	Electronic Service	No	OFF_SL_23-109_Official
Richard	Dornfeld	Richard.Dornfeld@ag.state.mn.us	Office of the Attorney General-DOC	Minnesota Attorney General's Office 445 Minnesota Street, Suite 1800 Saint Paul, MN 55101	Electronic Service	No	OFF_SL_23-109_Official
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_23-109_Official
James	LaFave	james.lafave@state.mn.us	Office of Administrative Hearings	600 N Robert Street St. Paul, MN 55164-0620	Electronic Service	No	OFF_SL_23-109_Official
Patrick	Mahlberg	pmahlberg@fredlaw.com	Fredrikson & Byron, P.A.	60 S Sixth St Ste 1500 Minneapolis, MN 55402-4400	Electronic Service	No	OFF_SL_23-109_Official
Joseph	Meyer	joseph.c.meyer@state.mn.us	Office of Administrative Hearings	PO Box 64620 St. Paul, MN 55164	Electronic Service	Yes	OFF_SL_23-109_Official
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_23-109_Official

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_23-109_Official
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	7400 Lyndale Ave S Ste 190 Richfield, MN 55423	Electronic Service	Yes	OFF_SL_23-109_Official
Faith	Spotted Eagle	eagletrax@hotmail.com		PO BOX 667 Lake Andes, SD 557356	Electronic Service	No	OFF_SL_23-109_Official
Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, MN 55155-4040	Electronic Service	No	OFF_SL_23-109_Official