

May 11, 2021

Via Electronic Filing

Mr. Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101

Re: *In the Matter of the Application of Petroleum Fuels Company (PFC) for a Route Permit for the Pine Bend Pipeline Project in Dakota County, Docket No. IP-7042/PPL-20-872*

Dear Mr. Seuffert:

To facilitate the decision-making process, Petroleum Fuels Company (“PFC”) respectfully files its Proposed Findings of Fact, Conclusions of Law and Recommendations in the above-referenced matter.

Thank you for your attention to this Filing. Please do not hesitate to contact me with any questions or concerns.

Respectfully Submitted,

Stinson LLP

/s/ Brian M. Meloy

Brian M. Meloy

**STATE OF MINNESOTA
MINNESOTA PUBLIC UTILITIES COMMISSION**

In the Matter of the Application of Petroleum
Fuels Company for a Gas Pipeline Routing
Permit for the Pine Bend Pipeline Project in
Dakota County

Docket No. IP-7042/PPL-20-872

**PETROLEUM FUELS COMPANY'S
PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

May 11, 2021

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On Behalf of
Petroleum Fuels Company

**STATE OF MINNESOTA
MINNESOTA PUBLIC UTILITIES COMMISSION**

In the Matter of the Application of Petroleum
Fuels Company for a Gas Pipeline Routing
Permit for the Pine Bend Pipeline Project in
Dakota County

Docket No. IP-7042/PPL-20-872

**FINDINGS OF FACT, CONCLUSIONS OF
LAW,
AND RECOMMENDATIONS**

A public hearing was held on March 25, 2021 at 6:00 p.m. via a remote-access meeting (WebEx and phone) due to the ongoing COVID-19 pandemic.

Tim Johnston PE, WBS, Brooks Young, Vice-President PFC Midstream and Brian Meloy, Stinson LLP, appeared on behalf of Petroleum Fuels Company (“PFC” or the “Company”) in this matter.

Larry Hartman and Raymond Kirsch, Environmental Review Managers, appeared on behalf of the Department of Commerce, Energy Environmental Review and Analysis (“EERA”).

Cezar Panait, Project Manager, and Michael Kaluzniak, Public Adviser, Minnesota Public Utilities Commission (“Commission”) Staff, appeared on behalf of the Commission.

STATEMENT OF ISSUES

1. Has PFC met the criteria for the granting of a Route Permit under the partial exemption pipeline route selection procedures set forth in Minnesota Statutes section 216G.02, subdivision 3 and Minnesota Rule 7852.0700, Subpart 3 for the Pine Bend Pipeline Project in Dakota County (“Project”)?

PFC has met the criteria for the granting of a partial exemption as the Project will not have a significant impact on human or the natural environment. A Route Permit should be issued as specified below.

Based on information in the Route Permit Application for the Project (“Application”) submitted to the Commission and other evidence in the hearing record, the Commission makes the following:

FINDINGS OF FACT

I. PARTIES AND PARTICIPANTS

1. PFC provides wholesale energy and midstream services to producers and end users of natural gas, natural gas liquids and crude oil. PFC and its affiliate companies own and operate over 800 miles of infrastructure including pipelines and processing facilities, primarily in Texas.

2. EERA is authorized by the Commission to hold public information meetings, to collect and analyze PFC's Application, and to provide a summary, analysis, and recommendation for the Commission's review.

II. PROCEDURAL SUMMARY AND COMMENTS

3. A Certificate of Need is not required for the Project because it is not classified as a large energy facility under Minn. Stat. § 216B.2421, subd. 2 or a large pipeline under Minn. R. 7851.0010 Subp. 13. Therefore the Project is exempt from the Certificate of Need requirements.

4. On December 30, 2020, PFC filed a Route Permit Application under the partial exemption procedures (Minn. R. 7852.0600) to construct and operate an approximately 5,600-foot-long, 4.5 inch-outside diameter, high pressure gas pipeline. The Project will transport gas from a Renewable Natural Gas Processing Facility to be constructed to process the landfill gas extracted from the Republic Services Pine Bend Landfill to a delivery point into the Northern States Power Company Minnesota ("NSPM") high-pressure gas system. The Project is in the City of Inver Grove Heights in Dakota County. The Application was filed pursuant to Minn. Stat. § 216G.02, subd. 3 and Minnesota Rules chapter 7852.

5. On January 6, 2021, the Commission issued a Notice of Comment Period on Completeness of the Application.

6. On January 15, 2021, EERA filed its comments and recommendations regarding the completeness of the Application, noting that the Application was substantially complete but that Figure 10 had been omitted from the Application. EERA recommended that the Application be amended to include Figure 10.

7. On January 19 2021, LIUNA Minnesota & North Dakota filed comments in support of PFC's Application, emphasizing the quality of pipeline construction jobs and the environmental advantages of renewable natural gas as reasons to support this Project.

8. On January 20, 2021, the Minnesota Department of Natural Resources ("DNR") filed comments on the Application, concurring with PFC's Natural Heritage Information System ("NHIS") review. DNR confirmed the records of a state listed endangered species (Loggerhead shrike) and two species of special concern (lark sparrow and Bell's vireo) within a 1-mile search radius of the Project and noted that, if vegetation clearing of the 50-foot right-of-way will occur during the nesting season (from April through July), then avian surveys may be required, which should be coordinated with DNR. DNR also recommended the use of BWSR approved native weed-free seed mixes for restoration.

9. On January 25, 2021 PFC filed brief reply comments. In response to EERA it attached Figure 10 to its reply comments, noting that Figure 10 was inadvertently omitted from the Application. The reply comments also clarified that the Renewable Natural Gas Processing Facility that would process landfill gas to PFC's proposed pipeline for transport ("Processing Facility") should not be considered an "associated facility" of the pipeline because it is (1) owned and operated by a separate entity, FORTISTAR Methane Group, (2) subject to separate state and local permitting, and (3) not part of the Project before the Commission in this proceeding. PFC also responded to DNR's comments, agreeing to adhere to its recommendations regarding timing of tree removal relative to avian nesting season or, if that is not feasible, acknowledging it will work with MDNR to perform a study/survey of those areas to determine if nesting would be impacted by planned activities. PFC indicated it will ensure that only seed mixes meeting the MDNR recommendations are used for the restoration phase of the Project. Finally, PFC acknowledged the comments of LIUNA, thanking it for its support.

10. On February 9, 2021, EERA filed a Sample Route Permit for the Project.

11. On February 10, 2021, PFC filed a letter correcting an administrative error that referenced "Premium Fuels Company" in its January 25, 2021 reply comments, and clarifying that the applicant is Petroleum Fuels Company, a subsidiary of PFC Midstream, a diversified midstream services company involved in the construction and acquisition of natural gas pipelines.

12. On February 18, 2021, PUC Staff filed Staff Briefing Papers addressing whether the Project Application should be deemed complete. PUC Staff recommended that the Application be accepted as complete. It also noted that no disputed issues of fact had been identified and recommended review under the partial exemption procedures.

13. On February 23, 2021, the Commission issued an Order accepting PFC's Application as complete and authorizing review under the partial exemption process for pipeline ("February 23 Order"). In its February 23 Order, the Commission also (1) delegated authority to the Executive Secretary for approval of schedules for reviewing the application and directed staff to consult with the applicant and the EERA to determine the appropriate date and venue for the public meeting, (2) designated Michael Kaluzniak as the public advisor for the project, and (3) approved the estimated \$30,000 budget proposed by EERA for the review process. The Order also adopted and incorporated the January 15, 2021 comments and recommendations of EERA.

14. On March 9, 2021, the Commission issued its Notice of Public Information Meeting to the Project Service List, the agency technical representatives list, local units of government, and the landowner mailing list.

15. On March 16, 2021, PFC submitted confirmation that it provided copies of its Application to affected landowners, agencies, and local units of government in the Project area. In addition, PFC filed (1) an affidavit of publication and copies of the public notice printed in the Pioneer Press as required under Minn. R. 7852.0600, Subp. 2 and Minn. R. 7852.1300 Subp. 2; and (2) confirmation that PFC delivered a copy of its Application to the Inver Glen Library in Inver Grove Heights to be available for public review.

16. Also on March 16, 2021, the Commission filed proof that Notice of the Public Information Meeting had been published in Volume 45, Number 11, of *The EQB Monitor*.

17. On March 25, 2021, pursuant to Minn. R. 7852.0600, Subp. 4, a public information meeting was held at 6:00 p.m. via remote-access meeting, due to the ongoing COVID-19 pandemic. No members of the public provided oral or written comments at the meeting.

18. On April 9, 2021, the City of Inver Grove Heights (“City”) submitted comments on the Project to the Public Advisor, in light of preliminary development plans of the City and Dakota County. The City commented that the Project should: (1) avoid a proposed box culvert along the Project route, (2) take into account future City right-of-way needs along the proposed route, and (3) carefully plan and install the Project to avoid slope stability and erosion issues on the step hill near 11280 Rich Valley Blvd. Those comments were filed on the Project docket on April 12, 2021.

19. On April 13, 2021, the Minnesota Pollution Control Agency (“MPCA”) emailed the Public Advisor, thanking the Commission for the opportunity to review and comment on the Project and stating that after review of the Application it had no comments. That correspondence was filed on the Project docket on April 14, 2021.

20. On April 16, 2021, the Minnesota Department of Transportation (“DOT”) filed comments on the Project stating that the Project “does not directly affect the State of Minnesota Trunk Highway System,” but noting that movement of any oversize/overweight loads related to the Project would require appropriate permits from and coordination with DOT.

21. The comment period on the Application closed April 16, 2021.

III. DESCRIPTION OF THE PROJECT

22. The Project consists of an approximately 5,600-foot long, 4.5-inch outside-diameter, renewable natural gas transmission pipeline. The Project will transport gas from a Renewable Natural Gas Processing Facility to be constructed to process the landfill gas extracted from the Republic Services Pine Bend Landfill to a delivery point into the NSPM high-pressure gas system.¹

23. The Project is in the City of Inver Grove Heights in Dakota County. The pipeline will begin at a new Renewable Natural Gas facility to be built in the Northwest ¼ of Section 33, Township 27N, Range 22W. The pipeline will proceed north approximately 400 feet, then west approximately west approximately 900 feet, then north for 130 feet, the west again for 540 feet, then northwest for 450 feet to a point on the east side of Rich Valley Blvd. The pipeline will then cross Rich Valley Blvd in a southwesterly direction for approximately 120 feet, and the proceed north-northwest for along the west side of Rich Valley Blvd and Blaine Ave for a distance of 2200 feet, crossing under 110th St E. The pipeline then crosses Blaine Avenue to the northeast and proceeds NNE parallel to an existing pipeline owned by NSPM for a distance of 1170 feet to a

¹ Application at p. 3–4.

pipeline facility owned by NSPM which is located on the south side of 105th St E approximately 550 feet west of Blaine Ave E (“Project Route”). The pipeline will extend through portions of the NW ¼ of Section 33, the NE ¼ of Section 32 and the SE ¼ of Section 29, all in T27N, R22W. A map of the Project Route is included as Exhibit B to the Application.²

24. The Project is designed to meet a Class 2 location designation. Natural gas pipelines are designed to comply with a “class location designation” as required by 49 CFR § 192.5. Class location refers to a regulatory designation for natural gas transmission lines that indicates the level of human population within a certain distance on either side of the pipeline. The class location of a pipeline is a factor in determining the maximum allowable pressure of the pipeline and is based on the number and type of buildings intended for human occupancy that are situated in an area that extends 220 yards on either side of the centerline of any continuous 1.0-mile length of a gas pipeline.³

25. The proposed pipeline will have a maximum capacity, with a 10-psi pressure drop, of 4,000 MCFD and no minimum capacity. The design maximum throughput is expected to be 2,850 MCFD.⁴

26. The proposed pipeline will operate at a pressure of 670 pounds per square inch gauge (“psig”). The maximum operating pressure (“MAOP”) will be 1,440 psig, established by a hydrostatic pressure test to 2,160 psig. The gas to be transported will primarily consist of methane (approximately 98 percent) with a small amount of carbon dioxide and trace amounts of other components. The gas will conform to NSPM’s specifications for injection into its system.⁵

27. PFC will install associated facilities as part of the proposed Project, including a meter station and odorizing facility at the south end of the pipeline, within the boundaries of the Processing Facility. Those associated facilities are depicted on Exhibit B to the Application. No above-ground facilities will be constructed along the pipeline right-of-way. Alternating current mitigation and other cathodic protection facilities will be installed at a future date as warranted by a cathodic protection study to be conducted after construction. Pipeline markers will be installed at various locations (e.g., road crossings) in accordance with applicable federal and state regulations.⁶ The Processing Facility that would process landfill gas to PFC’s proposed pipeline for transport is not an “associated facility” of the pipeline because it is (1) owned and operated by a separate entity, (2) subject to separate state and local permitting, and (3) not part of the Project before the Commission in this proceeding.⁷

² Application at p. 2; Exhibit B.

³ Application at p. 4.

⁴ Application at p. 5.

⁵ Application at p. 5; Exhibit C.

⁶ Application at p. 5; Exhibit B.

⁷ January 25, 2021 Reply Comments of PFC at pp. 1–2.

28. PFC will obtain a right-of-way in the form of permanent easements for the Project. The entirety of the land crossed by the proposed pipeline is owned by a single private landowner.⁸

29. PFC will begin construction of the Project once the Project receives a Route Permit, submits required compliance filings and is authorized to proceed with construction.

IV. FACTORS FOR A ROUTE PERMIT

30. Minn. R. 7852.0700 sets forth the criteria that the Commission considers in determining whether a proposed pipeline and associated facilities qualify for partial exemption and issuance of a Route Permit.

31. Minn. R. 7852.0700, Subp. 3 requires that the Commission consider the impact of the pipeline 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;
- H. cumulative potential effects of related or anticipated future pipeline construction; and
- I. 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 Application at p. 24; Figure 8.

32. Furthermore, in deciding whether to grant or deny the partial exemption, the Commission considers any comments that are filed, the record of the public information meeting(s), and the information contained in the application relevant to the criteria for partial exemption in Minn. R. 7852.0700.

A. Effects on Human Settlement

33. Minn. R. 7852.0700, Subp. 3(A) states that in determining whether a proposed pipeline and associated facilities qualify for partial exemption and issuance of a Route Permit, the Commission shall consider the impact of the pipeline as it relates to human settlement, the existence and density of populated areas, existing and planned future land use, and management plans.

34. The Dakota County population levels in 2010 and 2019 were 398,552 and 433,302, respectively, with a growth rate of 7.6 percent (as compared to the statewide growth rate of 6.3 percent). Population levels within Inver Grove Heights for years 2010 and 2019 were 33,880 and 35,321, respectively, with a growth rate of 5 percent.⁹

35. The project area includes land that has incurred historic disturbances from vegetation clearing and agricultural practices. The built environment surrounding the Project is primarily agricultural land use, nearby county highways 71 and 32, a few nearby homes and/or small businesses, powerline right-of-way, natural gas pipeline right-of-way, and the nearby railroad and landfill to the east.¹⁰

36. PFC will construct the pipeline across paved roadways using boring or Horizontal Directional Drilling (“HDD”) methods to avoid disruptions to vehicular traffic and physical impacts on roadbeds. Movement of workers, equipment, and materials from contractor and pipe storage yards to the work sites also could result in short-term impacts on transportation systems. Locations for storage yards have not been identified; PFC will work with local road authorities to identify sites that minimize impacts. Road congestion associated with construction will be minimal and is not expected to be significant.¹¹

37. Construction activities and equipment will generate short-term and intermittent noise, up to 90 db(A) at 50 feet from the equipment but further attenuated by increased distance, affecting nearby residences on a short-term basis while construction equipment is operating. The minimum distance from the construction activities to any residences or commercial buildings is 150 feet.¹² Additionally, temporary impacts to the visual environment will occur during construction when residents and travelers view large construction equipment, tree and vegetation clearing, and exposed soil areas. The temporary increase in traffic from construction equipment and employees, potential dust and soil on the roads from construction, and noise levels from

⁹ Application at p. 11.

¹⁰ Application at pp. 11, 13.

¹¹ Application at p. 20.

¹² Application at p. 20.

construction will result in some increased risk to the public on the roads. Best Management Practices (“BMPs”) will be implemented to minimize noise, and dust and soil on the roads.¹³

38. Land within the construction right-of-way will be impacted during construction. The construction is expected to last about 3 months. The primary permanent impact of construction will be the removal of trees and shrubs from the construction right-of-way. Trees and shrubs within construction areas will regenerate over time. The permanent right-of-way will generally be maintained in an herbaceous land cover. Some of the land cover types in the permanent right-of-way will be permanently altered, whereas others will be only temporarily affected. Pipeline construction will temporarily disturb about 1.84 acres of agricultural lands, or 27 percent of the total land affected. Impacts to agriculture are discussed in the Agriculture Mitigation Plan included in Exhibit D to the Application. Following construction and restoration, agricultural activities will be allowed to resume along the permanent right-of-way, therefore the impacts on the agricultural land use will be temporary.¹⁴

39. Approximately 1.87 acres of artificial surfaces and associated areas (roads) will be crossed by the Project. Construction will avoid direct impact on roads by using boring or HDD construction methods. Both short-term and long-term impacts on residences may result from construction and operation of the Project. These include temporary disturbances associated with construction, and encumbrance of property for future uses within the permanent right-of-way. Temporary construction impacts on residences and buildings could result from increased noise levels or dust generated by construction equipment and personnel. Every effort will be made to bore or HDD roadways and driveways to minimize construction impacts. New permanent structures will be precluded from the permanent right-of-way during operation of the proposed Project. A total of five properties, both residences and commercial properties, proximate to the proposed Project may be impacted. Those residences and Commercial buildings are shown in Figure 8 to the Application.¹⁵

40. Dakota County and the City of Inver Grove Heights each have land use plans. The County 2040 Comprehensive Plan was adopted by the County Board on June 18, 2019, with an amendment being adopted in 2020. The City’s plan is currently being revised. Both plans provide the framework for identifying future growth and development within greater County and City limits and including the project area.¹⁶ The Project is not anticipated to impact or be impacted by those land use plans.

41. The Dakota County Planned Use map depicts land within the Project Route as zoned Industrial Open Space and Rural Density Residential. The City of Inver Grove Heights Zoning map depicts land within the Project Route as Zone A – Agricultural. The Minnesota Land Cover Classification System cover types within the Project Route include Planted or Cultivated

¹³ Application at p. 20.

¹⁴ Application at p. 20.

¹⁵ Application at p. 21; Figure 8.

¹⁶ Application at p. 13.

Vegetation, Artificial Surfaces and Associated Areas, Herbaceous, and Woodland. None of the agricultural land crossed by the Project is listed as organic farmland.¹⁷

42. The principal long-term impact of the pipeline will allow for beneficial use of landfill gas, which will be captured at the nearby Republic Services Pine Bend landfill, treated, and transferred into commercial uses.¹⁸ The Project will not have a significant impact on human settlement.

B. Natural Environment

43. Minn. R. 7852.0700, Subp. 3(B) states that in determining whether a proposed pipeline and associated facilities qualify for partial exemption and issuance of a Route Permit, the Commission shall consider the impact of the pipeline as it relates to the natural environment, public lands, and designated lands, including but not limited to natural areas, wildlife habitat, water, and recreational lands.

44. Minn. R. 7852.0700, Subp. 3(G) states that in determining whether a proposed pipeline and associated facilities qualify for partial exemption and issuance of a Route Permit, the Commission shall consider the impact of the pipeline as it relates to natural resources and features.

i. Geology and Soils

45. Construction of the Project will have minimal to no impact on the geology of the area. Construction of the Project is unlikely to encounter shallow bedrock. Depth to bedrock is mapped as being over 200 feet below ground surface throughout the proposed Project area. Impacts on the underlying bedrock are not anticipated. Karst features are documented within Dakota County, however, the Minnesota Karst Lands map depicts the site is near covered karst, which includes areas underlain by carbonate bedrock but with more than 100 feet of sediment cover. Although near, the site is outside of mapped karst lands, and thus karst (nor sinkholes) is not expected to be encountered during construction.¹⁹

46. Any impacts on soils resulting from the construction will be temporary, and may include soil compaction, soil erosion, introduction of rock into the topsoil, poor vegetative regrowth following construction, and loss of soil productivity resulting from the mixing of topsoil. PFC will minimize these potential impacts through the implementation of BMPs. Erosion control plans will be developed in compliance with the MPCA Construction Stormwater Discharge Permit. Mitigation measures will include but are not limited to: temporary and permanent erosion controls, topsoil segregation, compaction alleviation, removal of excess rock from topsoil, and restoration of agricultural drainage systems. These measures will address the April 9, 2021 comments of the City related to slope stability and erosion issues on the step hill near 11280 Rich Valley Blvd.²⁰

¹⁷ Application at p. 13.

¹⁸ Application at p. 20.

¹⁹ Application at pp. 13, 21.

²⁰ Application at pp. 21–22.

47. Following construction, PFC will, to the extent possible, revegetate uncultivated areas disturbed by the Project to their preconstruction condition in accordance with applicable permit requirements and landowner agreements.²¹

ii. Vegetation

48. In most instances, permanent impacts on vegetation will be minimized or completely avoided by locating the anticipated alignment in existing agricultural fields. Permanent impacts on vegetation will mostly be restricted to the woodland edge, volunteer trees, and degraded grassland portions of the anticipated alignment. Permanent impacts on the wooded portion of the anticipated alignment will result from tree clearing and conversion to an open habitat type. The potential for tree clearing impacts has been minimized by locating the anticipated alignment along existing rights-of-way and generally avoiding wooded areas by locating the Project Route south of most of the existing woodland stand. After construction, newly established woody vegetation will be periodically cleared from the permanent right-of-way as part of regular maintenance activities. Because naturally occurring vegetation (native or invasive) in agricultural fields is removed for crop cultivation, there will be no impacts on such vegetation as a result of locating the anticipated alignment in existing agricultural fields. Impacts on naturally occurring vegetation in grassland habitats will be temporary in nature.

49. Consistent with DNR's January 20, 2021 comments and PFC's January 25, 2020 reply comments, PFC will reseed disturbed areas upon completion of construction using BWSR approved, weed-free native seed mixes. If vegetation is disturbed in a wetland or other regulated habitat, then the revegetation seed mix will be approved by the appropriate agency.²²

iii. Wildlife Habitat

50. Wildlife habitat along the Project Route is divided into three categories: aquatic, woodland, and grassland. These categories are defined by the land cover classifications. Aquatic wildlife habitat consists of the open water and wetland land cover classifications. Woodland wildlife habitat consists of the woodland and shrub land cover classifications. Grassland wildlife habitat consists of the maintained tall grasses, old field and dry tall grasses land cover classifications. Both agricultural land and impervious lands were not included as wildlife habitat as both provide limited habitat for wildlife.²³

51. Minimal permanent impacts to wildlife habitat will result from tree clearing and the loss of woodland wildlife habitat. Impacts to aquatic and grassland wildlife habitats will be the result of construction activities and temporary in nature. The Project Route does not cross aquatic habitat for fish, mollusks, crayfish, and other aquatic invertebrates. Documentation of fish species within the County is not applicable.²⁴ The Project will have minimal impact on wildlife habitat.

²¹ Application at pp. 21–22.

²² Application at p. 22.

²³ Application at p. 15–16; 22.

²⁴ Application at p. 15–16; 22.

iv. Wildlife and Fisheries

52. Impacts on wildlife and fisheries will be associated with construction activities and mostly temporary in nature. The Project has minimized those impacts by locating the Project Route along existing rights-of-way and/or in agricultural fields. Permanent impacts on wildlife will be associated with limited tree removal. Permanent impacts on wildlife will be restricted to individual members of a species and not cause a trend towards state or federal listing of the species. Impacts on fisheries and other aquatic species will be avoided by using HDD in conjunction with erosion and sediment control BMPs to prevent sediment from reaching waterbodies.²⁵

53. The Project will avoid any impacts to any threatened or endangered species. Four federally listed species are documented as occurring in Dakota County: northern long-eared bat, Higgins eye pearl mussel; rusty patched bumble bee, and prairie bush clover. PFC has represented that it will consult with the United States Fish and Wildlife Service on appropriate construction mitigation measures for the species once the Route Permit is issued.²⁶

54. The NHIS data contains records of a state listed endangered species (Loggerhead shrike) and two species of special concern (lark sparrow and Bell's vireo) within a 1-mile search radius of the Project.²⁷ On January 20, 2021, DNR filed comments on the Application, concurring with PFC's NHIS review, noting that, if vegetation clearing of the 50-foot right-of-way will occur during the nesting season (from April through July), avian surveys may be required, which should be coordinated with DNR. On January 25, 2021 PFC filed brief reply comments, agreeing to adhere to DNR's recommendations regarding timing of tree removal relative to avian nesting season or, if that is not feasible, acknowledging it will work with DNR to perform a study/survey of those areas to determine if nesting would be impacted by planned activities.

v. Water Resources

55. No impact to groundwater is anticipated by the Project. The anticipated alignment is in areas classified as having moderate sensitivity to groundwater pollution. Travel times for surface contaminants to reach a drinking water aquifer may range from one week to multiple weeks. Spills or leaks of fuels or hazardous materials associated with construction or maintenance equipment are more likely to impact the groundwater due to these faster travel times. The Project will implement a Spill Prevention, Containment, and Countermeasures Plan to prevent spills and minimize impacts in the event of a spill.²⁸

56. No surface waters or wetlands will be impacted. There are no mapped public waters or wetlands within the Project Route. The DNR's public waters inventory indicates that there is one freshwater emergent seasonally flooded wetland located approximately 300 feet north of the route, but it will be avoided. Any wet ditches along and within the county highways ROW will be

²⁵ Application at p. 22.

²⁶ Application at p. 16.

²⁷ Application at pp. 16–17.

²⁸ Application at pp. 17, 23.

crossed via HDD, and the HDD stations will be outside of the low wet ditch areas. No Federal, State, and County Recreational Areas Water Resources will be affected by the Project.²⁹

vi. Air Quality

57. The Project area is entirely within Dakota County, which is designated as in attainment with National Ambient Air Quality Standards (“NAAQS”). Air quality related to construction activities and pipeline operation will not adversely affect NAAQS attainment.³⁰

58. During the construction phase there will be intermittent and scattered exhaust emissions from construction equipment, both on-road and non-road. PFC will mitigate the potential for any windblown fugitive dust emissions generated during excavation, trenching, and other earthmoving operations, by watering exposed soils, especially unpaved driving surfaces, on an as-needed basis. During operation of the pipeline, only minor emissions will occur due to exhaust from vehicles used during occasional routine inspections and maintenance activities. An air quality permit is not required for the Project.³¹

59. The proposed Project will not have significant impact on air quality during construction or operation.

C. Lands of Historical, Archaeological, and Cultural Significance

60. Minn. R. 7852.0700, Subp. 3(C) states that in determining whether a proposed pipeline and associated facilities qualify for partial exemption and issuance of a Route Permit, the Commission shall consider the impact of the pipeline as it relates to lands of historical, archaeological, and cultural significance.

61. The Minnesota State Historic Preservation Office (“SHPO”) database search of archaeological and architectural records for the four sections (for which this project is located) was completed. Results of the desktop database search for records within Sections 28, 29, 32,33 T27N, R22W indicated no records within the project site. SHPO database search results were received on October 20, 2020.³²

62. No impacts to archaeological or historic sites are expected; no sites were identified by the SHPO database search of parcels along the proposed pipeline.

D. Land Use Economies

63. Minn. R. 7852.1900, Subp. 3(D) states that in determining whether a proposed pipeline and associated facilities qualify for partial exemption and issuance of a Route Permit, the

²⁹ Application at pp. 18, 23; Figure 7.

³⁰ Application at p. 18.

³¹ Application at p. 24.

³² Application at p. 14.

Commission shall consider the impact of the pipeline as it relates to economies within the route, including agricultural, commercial or industrial, forestry, recreational, and mining operations.

64. Economic benefits to the local economy will be realized during construction resulting from the modest labor workforce. These benefits include material expenditures, workforce lodging, fuel sales, grocery sales and restaurant expenditures. Demand for housing and public services from the non-local workers will be incremental and small. Additional local benefits include easement payments, permit fees, and property tax revenues. Construction will create temporary jobs for both local and non-local workers.³³

65. Agricultural land will be temporarily impacted by the proposed Project. No organic farms will be crossed. Land along the right-of-way and construction workspace will not be able to be cultivated during construction. PFC has negotiated easements with affected landowners along the anticipated alignment to mitigate any temporary impacts on agricultural production. All agricultural land within the project is owned by one landowner. Following construction, agricultural land can resume cultivation along the right-of-way and no permanent impacts are expected. The draft Agricultural Mitigation Plan is included in Exhibit D to the Application. The proposed Project is not expected to have negative impacts on other portions of the local economy.³⁴

E. Pipeline Cost and Accessibility

66. Minn. R. 7852.1900, Subp. 3(E) states that in determining whether a proposed pipeline and associated facilities qualify for partial exemption and issuance of a Route Permit, the Commission shall consider the impact of the pipeline as it relates to pipeline cost and accessibility.

67. PFC estimates that the total cost of the Project will be approximately \$1.6 million. Operation and maintenance costs for the Project will be nominal for several years, as the pipeline will be new and minimal vegetation maintenance will be required. The annual operating and maintenance cost for the Project is expected initially to be approximately \$60,000 per year. Pipeline access will be required for typical operation and maintenance activities, which will include pipeline patrols, cathodic protection reads, and location requests through Gopher State One-Call system. PFC will use existing roads to access the right-of-way during construction and operation of the pipeline.³⁵

68. PFC considered one other route in addition to the Project Route, which is 500 feet greater in length and lies parallel to a 69 KV power line for approximately 2000 feet, requiring installation of additional corrosion mitigation and personnel safety equipment not required for the preferred Project Route.³⁶

³³ Application at p. 24.

³⁴ Application at p. 24.

³⁵ Application at p. 25.

³⁶ Application at p. 11; Exhibit B; Figure 4.

F. Use of Existing Rights-of-Way and Right-of-Way Sharing or Paralleling

69. Minn. R. 7852.0700, Subp. 3(F) states that in determining whether a proposed pipeline and associated facilities qualify for partial exemption and issuance of a Route Permit, the Commission shall consider the impact of the pipeline as it relates to the use of existing rights-of-way and right-of-way sharing or paralleling.

70. Existing rights-of-way will be paralleled, but not utilized. The pipeline will be near but not within the existing road and pipeline right-of-way.³⁷

G. Extent Human or Environmental Effects are Subject to Mitigation by Regulatory Control and Permit Conditions

71. Minn. R. 7852.0700, Subp. 3(H) states that in determining whether a proposed pipeline and associated facilities qualify for partial exemption and issuance of a Route Permit, the Commission shall consider the impact of the pipeline as it relates to 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 7852.3600 for pipeline right-of-way preparation, construction, cleanup, and restoration practices.

72. On February 9, 2021, EERA filed a Sample Route Permit for the Project. The Sample Route Permit contains standard compliance filing requirements for the Project, including the Construction Environmental Control Plan (“CECP”). The CECP includes significant mitigation measures against any human or environmental impacts, including requirements for (1) an Agricultural Impact Mitigation Plan, (2) a Vegetation Management Plan, and (3) site sediment and erosion control measures.³⁸ PFC also has already prepared a Draft Agricultural Impact Mitigation Plan.³⁹

73. Right-of-way preparation, construction, cleanup, and restoration for the Project have been designed in accordance with the requirements outlined in Minnesota Rule 7852.3600, and with the Sample Route Permit issued by EERA. Those procedures are outlined at pages 8–10 and 26 of the Application and explicitly incorporated into the Sample Route Permit.

74. The proposed construction and operation methods, along with the regulatory oversight of the Commission through its Route Permit for the Project, as well as requirements of the local, state, and federal agencies listed in Table 10 of the Application, will mitigate the effects of the proposed Project on the human and natural environments.

³⁷ Application at pp. 18, 25.

³⁸ Sample Route Permit at p. 6–9.

³⁹ Application at p. 26; Exhibit D.

H. Cumulative Potential Effects of Related or Anticipated Future Pipeline Construction

75. Minn. R. 7852.1900, Subp. 3(I) states that in determining whether a proposed pipeline and associated facilities qualify for partial exemption and issuance of a Route Permit, the Commission shall consider the impact of the pipeline as it relates to cumulative potential effects of related or anticipated future pipeline construction.

76. The proposed Project has been designed for a maximum design capacity of 4680 MCFD. No future expansion of this capacity is planned. The pipeline will be constructed, and pressure tested for operation at the maximum design capacity. Except for the low pressure pipeline to be constructed by others from the landfill to the gas processing facility, there is no other known pipeline work planned for the area within a mile of the Project.⁴⁰

77. This Project will ultimately have beneficial effects through the production of renewable natural gas from a landfill gas feedstock rather than the landfill gas being combusted in a flare. The project will not have significant cumulative effects.⁴¹

I. Other Local, State, or Federal Rules and Regulations

78. Minn. R. 7852.0700, Subp. 3(J) states that in determining whether a proposed pipeline and associated facilities qualify for partial exemption and issuance of a Route Permit, the Commission shall consider the impact of the pipeline as it relates to 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.

79. A list of known federal, state, and local approvals for construction of the proposed Project is presented in Section 10 of the Application.⁴²

80. PFC has committed to working with regulatory agencies with permitting authority over the proposed Project, and will satisfy the permit requirements of those agencies. PFC has acknowledged that compliance with those permits will be a condition of any permit issued by the Commission.⁴³

81. PFC has discussed the City of Inver Grove Heights' comments on the Project with EERA, including the City's request that the Project (1) avoid a proposed box culvert along the Project route, (2) take into account future City right-of-way needs along the proposed route, and (3) carefully plan and install the Project to avoid slope stability and erosion issues on the step hill

⁴⁰ Application at p. 25.

⁴¹ Application at p. 25.

⁴² Application at p. 28.

⁴³ Application at p. 25.

near 11280 Rich Valley Blvd. PFC agrees with the addition of the following special permit condition proposed by EERA to address the City's concerns:

Section 6.1 The Permittee shall coordinate with the City of Inver Grove Heights to ensure that the pipeline is placed, to the extent practicable, in a manner consistent with the City's plans for the Veteran's Memorial Greenway Trail and the potential expansion of Rich Valley Blvd. Further the Permittee shall coordinate with the City regarding slope stability and potential erosion impacts in areas along the pipeline route identified by the city. The Permittee shall file documentation of this coordination and the results of the coordination with the plan and profile for the Project.

CONCLUSIONS

1. Any of the foregoing Findings of Fact more properly designated as Conclusions of Law are hereby adopted as such.

2. The Commission has jurisdiction over the Application pursuant to Minn. Stat. § 216G.02.

3. The Project qualifies for review under the partial exemption process of Minnesota Stat. § 216G.02 and Minn. R. 7852.0600.

4. The Applicant, EERA, and the Commission have complied with the procedural requirements for a partial exemption from pipeline route selection procedures as set forth in Minn. R. 7852.0600, including publication of application notice in a newspaper in the county where the pipeline will be located, and mailing the notice and application to required parties, including affected landowners, and holding a public informational meeting and comment period.

5. The Commission has considered all the pertinent standards and criteria in accordance with Minn. R.7852.0700 relative to its determination for a partial exemption from pipeline route selection procedures and issuance of a pipeline routing permit.

6. The Commission concludes that a route permit for the new pipeline should be conditioned in a number of respects, including imposition of those conditions specified in Minn. R. 7852.3600, the Draft Route Permit presented by EERA and conditions agreed to by the Applicant, including the addition of special condition at Section 6.1.

Based on the Findings of Fact and Conclusions contained herein and the entire record of this proceeding, the Minnesota Public Utilities Commission hereby makes the following:

ORDER

The Minnesota Public Utilities Commission hereby grants PFC a partial exemption from the pipeline route selection procedures of Minnesota Rules, Chapter 7852.

The Minnesota Public Utilities Commission hereby issues a pipeline routing permit to PFC for construction of an approximately 5,900-foot long, 4.5-inch outside-diameter, renewable natural gas transmission pipeline from a Renewable Natural Gas Processing Facility to be constructed to

process the landfill gas extracted from the Republic Services Pine Bend Landfill to a delivery point into the NSPM high-pressure gas system. The pipeline routing permit is attached hereto with a map showing the approved route, including the description of the route with a variable width as shown in the map, and the inclusion of conditions and any special conditions.

**STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

In the Matter of the Application of PFC) Docket No. IP-7042/PPL-20-872
Midstream for a Pipeline Route Permit for the)
Pine Bend Landfill Gas project) **CERTIFICATE OF SERVICE**
)

The undersigned hereby certifies that a true and correct copy of **Petroleum Fuels Company’s Proposed Findings of Fact, Conclusions of Law and Recommendations**, has been served today by e-mail and/or U.S. Mail to the following:

Name	Email/Address	Delivery Method
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Dated this 11th day of May, 2021

/s/ Tammy J. Krause
 Tammy J. Krause