

July 18, 2019

Via Electronic Filing

Mr. Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

**RE: In the Matter of the Information Book for Owners and Tenants of Property along the
Wescott Liquefied Petroleum Gas Pipeline Route in Dakota County, Minnesota
Docket No. IP-2/LR-19-228**

Dear Mr. Wolf:

Attached are the comments and recommendations of the Department of Commerce, Energy Environmental Review and Analysis (EERA) staff in the above referenced matter.

Flint Hills Resources Pine Bend, LLC has submitted an "Information Book" for Commission approval pursuant to the requirements of Minnesota Statutes Chapter 216G for distribution to property owners and tenants so they have a clear understanding of the proposed Wescott Liquefied Petroleum Gas Pipeline Project in the cities of Rosemount and Inver Grove Heights in Dakota County, Minnesota.

The Information Book was efiled on June 26, 201 by:

Holli VanOverbeke
Flint Hills Resources
P.O. Box 64596
Saint Paul, Minnesota
Tel: 651-438-5669
Email: Holli.VanOverbeke@fhr.com

EERA staff recommends Commission approval of the information book in the above matter. Staff is available to answer any questions the Commission may have.

Sincerely,

/s/ Larry B. Hartman
DOC EERA staff
Tel: 651-539-1839
Email: larry.hartman@state.mn.us

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**Energy Environmental Review and Analysis
Comments and Recommendations**

Docket No. IP-2/LR-19-228

Date: July 18, 2019

Staff: Larry Hartman | (651) 539-1839 | larry.hartmean@state.mn.us

In the Matter of the Information Book for Owners and Tenants of Property along the Wescott Liquefied Petroleum Gas Pipeline Route in Dakota County, Minnesota

Issues Addressed: These comments and recommendations address the following questions:

- Does the Information Book contain the information required under Minnesota Statutes, Chapter 216G?
- Should the Commission approve of the Information Book that authorizes Flint Hills Resources Pine Bend, LLC to proceed with the requirements of Minn. Stat. 216 for an Information Book?
- Are there other issues or concerns related to this matter?

Additional documents and information, including the Information Book is available on eDockets by searching “19” for year and “228” for number:

<https://www.edockets.state.mn.us/EFiling/search.jsp>.

This document can be made available in alternative formats, that is, large print or audio, by calling (651) 539-1530 (voice).

Introduction and Background

On March 13, 2019, Flint Hills Resources provided notice to the Minnesota Public Utilities Commission (Commission) and Dakota County Board of Commissioners of its proposed Wescott Pipeline Project pursuant to Minn. Stat. 216G.03 Subd 2.¹

¹ Notice provided by Flint Hills Resources’, See eDockets at: [20194-151883-01](https://www.edockets.state.mn.us/EFiling/search.jsp).

Flint Hills Resources' proposed pipeline is a hazardous liquid pipeline with a nominal diameter of less than six inches. Therefore it does not meet the definition of a "pipeline" pursuant to Minn. Stat. 216G.02 and does not require a routing permit from the Commission; but does require Commission approval of an "Information Book" for distribution to owners and tenants of property along the Wescott Liquefied Petroleum Gas (LPG) Pipeline Route in Dakota County, Minnesota.

Flint Hills Resources Pine Bend, LLC (FH) is requesting Commission approval of an Information Book pursuant to the requirements of Minnesota Statutes 216G.03-216G.04 to construct the proposed Wescott Liquefied Petroleum Gas Pipeline in Dakota County, an approximately 5.0-mile-long 4.5-inch outside diameter, welded steel, fusion bond epoxy coated pipe with a wall thickness of 0.237 inches and a maximum allowable operating pressure (MAOP) of 740 pounds per square inch gauge (psig) ²

Flint Hills' representatives and EERA staff have worked together in development of and revisions to the "Information Book" prior to Flint Hills' filing on June 26, 2019. ³

EERA staff has also held discussions with representatives of Dakota County on May 13, 2019 to explain the Information Book requirements and procedures of Minn. Stat. 216G. EERA staff will continue to advise Dakota County and other units of government if there are any additional questions regarding their role in complying with the requirements of Minn. Stat. 216G.

Project Purpose

According to Flint Hills the proposed Project will help manage its liquefied petroleum gas (LPG) supply and storage capability, to better meet seasonal demand for liquefied petroleum gas. The pipeline will connect the Flint Hill Resources' Pine Bend Refinery, where liquefied petroleum gas is produced to Flint Hills Resources' Wescott Terminal, where liquefied petroleum gas will be stored. Demand for liquefied petroleum gas varies seasonally, with higher demand in the winter months. The pipeline will support efficient distribution of liquefied petroleum gas when needed in the market place.

Project Location

Flint Hills proposes to install a liquefied petroleum gas pipeline approximately 5-miles in length in Inver Grove Heights and Rosemount Townships. The pipeline originates at Flint Hills Resources' Pine Bend Refinery. The pipeline passes through Sections 11, 12, 13 and 14 in Township (T) 115 North (N) Range (R) 19 West (W) in the city of Rosemount, and Sections 29, 30, 32 and 33 Township (T) 27 North (N) Range 22 West (W) in the city of Inver Grove Heights both in Dakota County, Minnesota.

²Liquefied Petroleum Gas (LPG) - a liquid mixture of light gaseous hydrocarbons (ethane, propane, butane, etc.) used as fuel in heating appliances, cooking equipment, and vehicles.

³ Information Book, see eDockets at: [20196-153880-01](https://www.dockets.org/docDetail.aspx?dt=20196-153880-01).

Project Description

The proposed Project, approximately five miles in length, includes installation of a four and a half-inch (4.5-inch) outside diameter (O.D., welded steel, fusion bond epoxy coated pipe with a wall thickness of 0.237 inches. The pipeline will have a maximum allowable pressure of 740 pounds per square inch gauge (psig), with typical operating pressures ranging between 50 to 740 psig. The pipeline will be bi-directional, with an anticipated flow rate of 120 to 580 barrels per hour (bph) when transferring liquefied petroleum gas between the Flint Hills Resources' Pine Bend Refinery and Wescott Terminal.

The pipeline will be installed with a typical depth of cover of 4-1/2 feet (or 54-inches) including where the pipeline will cross a county, town, or municipal street or highway; where the pipeline will cross cultivated agricultural land; or where the pipeline will cross a drainage ditch. A landowner may waive depth of cover requirements (See Minn. Stat. 216G.07).

In addition to the pipeline, associated facilities, will include installation of valves and a cathodic protection system. The valves will be located in accordance with applicable federal and state pipeline regulations. Cathodic protection systems needs are being evaluated and will be installed as necessary to provide anti-corrosion protection. Any other component placements will be determined upon final configuration of the pipeline and operation needs.

FH is proposing to acquire a permanent easement (right-of-way) 50 feet in width. The easement will be limited to installation of a single pipeline within the permanent right-of-way. Additional temporary workspace may be required to facilitate the boring or horizontal directional drilling (HDD) activities at roadway and rail bed crossings. These additional temporary workspace areas will be approximately 50 feet wide by 200 feet long.

High Consequences Areas

The pipeline route crosses through three types of high consequence areas as defined by the regulations contained in 49 CFR 195.450, High Population Area, Other Populated Area and Unusually Sensitive Area-Drinking Water Resources. Flint Hills' Integrity Management Program defines the processes and methods used to comply with the pipeline integrity management requirements of 49 CFR 195 for those resource features. These HCA's are illustrated in Appendix B of the Information Book.

Route Features and Impacts

The Project will cross parcels of property consisting of lands used for agricultural (farmland), recreational (bike path), industrial (Flint Hills Resources' Pine Bend Refinery and Wescott Terminal and transportation (i.e., county road right-of-way) purposes. The agricultural land the pipeline will cross is owned by Flint Hills and is leased to farmers. The pipeline will parallel a bike path within the City of Inver Grove Heights existing right-of-way and will cross a storm

water pond in the City of Inver Grove Heights existing right-of-way. The pipeline will cross six county roads: County Road 71/Rich Valley Boulevard, 120th ST. E, County Road 32/Cliff Road, County Road 73/Akron Ave, Alameda Avenue and Alameda Path.

Based on Flint Hills' review of site files maintained by the Minnesota State Historic Preservation Office and files maintained by the National Register of Historic Places, no previously recorded archaeological features or historic properties are located within the proposed pipeline route and temporary workspace.

Regulatory Process and Procedures

Minnesota Statutes 216G.01 through 216G.12 [Pipelines] provides for Commission review and regulation of pipelines as defined in this chapter. Commission review of a proposed pipeline project is determined by several factors. These factors include: pipeline diameter, pressure threshold, liquid or natural gas, interstate or intrastate, franchise utility or not, public land or private land. In this instance the proposed project is subject to the Information Book requirements of Minn. Stat., Chapter 216G.

Information Book Requirements

The Information Book requirements of Minn. Stat 216G date back to 1979 and are in statute only, not rules. The statutory requirement for a pipeline route permit (see 216G.02) did not exist until 1987. The information book and route permit requirements do not have any procedural overlap; therefore Commission review of pipelines is tiered, but dependent on the factors described above. However, other requirements for pipelines, such as depth of burial, the county inspector and other requirements are common to all pipelines, irrespective of the applicable Commission review process.

For an information book approved by the Commission, EERA staff provides an overview of the statutory requirements for: a) notice, procedure, fees and restrictions; b) preparation, content and distribution; and c) public meeting(s).

Minn. Stat. 216G.03, Subd. 2. [Notice, Procedure, Fees, Route Modifications and Right-of-Way Acquisition Restrictions]

Requires that any person proposing to construct or operate a pipeline for which a pipeline routing permit is not required to notify the Public Utilities Commission and the county board of each county through which the pipeline will be constructed.

The notice is to include: "a description of the route on which the pipeline is proposed to be located, the size and type of pipeline to be constructed, the types of commodities to be carried and the construction and operational characteristics of the pipeline. The proposed route shall be described in sufficient detail so that the owners or lessees of property on which the route is located can be identified."

As noted above, this subdivision also addresses two other provisions: one is fees and the other a route modification, and the requirements are as follows:

Notice to the Public Utilities Commission shall be accompanied by a fee of \$25,000 for preparation of an information book as provided in section [216G.04](#) and for expenses incurred by state agencies to participate in public meetings as provided in section [216G.05](#). All fees received are appropriated to the Public Utilities Commission for its own use and for distribution to state agencies for these purposes. The Public Utilities Commission shall refund any amount that exceeds the actual cost to the commission of preparing the information book, including necessary revisions, and to state agencies for participating in the public meetings.

If the pipeline route described in the notice is changed to the extent that, in any county, 20 percent or more of the owners or lessees of property on which the new route is located were not owners or lessees of property on which the other route was located, the person proposing to construct and operate the pipeline shall notify the Public Utilities Commission and the county board of that county of the change in the proposed route. No additional fee shall be required for a notice of change of a proposed route.

When an information book is required, the requirements of Minn. Stat. 216G.03 Subd. 3., limit a pipeline proposer from acquiring or negotiating for rights-of-way until:

- (a) ... a person may not negotiate or acquire an easement or right-of-way agreement for the purpose of constructing and operating a pipeline until 30 days after:
 - (1) a public meeting has been held as provided in section 216G.05 in the county in which the right-of-way in question is located; and
 - (2) that person has provided to the owner or lessee from whom the easement or agreement is acquired a copy of the information book prepared pursuant to section 216G.04.
- (b) If the original information book is revised pursuant to section 216G.04, each owner or lessee of property which the original route did not affect shall be provided with a copy of the revised book.

Information Book [Minn. Stat. 216G.04]

The preparation of and the content requirements of an Information Book are covered in Minn. Stat. 216G.04 [Information Book] and are as follows:

(a) Within 45 days after receiving notification, the Commission shall prepare and make available to the person proposing to construct the pipeline sufficient copies of an information book for owners and lessees of property along the pipeline. The other provision of this requirement may be satisfied the person proposing the pipeline to prepare the book at that person's expense subject to approval of the book by the Commission.

(b) The information book shall contain at least the following information:

(1) A description of the pipeline proposed for construction, including the proposed route, types of commodities to be carried, size of the line and construction and operation characteristics;

(2) explanation of the steps which must be taken to acquire right-of-way for the pipeline and of the rights and alternatives of the owner;

(3) explanation of the legal requirements that must be met in constructing the pipeline

(4) explanation of the county inspection procedures and instructions for contacting the inspector in the event of noncompliance with legal requirements.

(c) Within 45 days after receiving notification of a change in a proposed route, the commission shall prepare and make available or shall approve a revision of the original information book so that a description of the new route and any other required information relevant to the new route is incorporated in the book.

Public Meetings Required [Minn. Stat. 216G.05]

(a) Within 60 days of receiving notification as provided in section 216G.03, the county board of each county in which the pipeline route is proposed to be located shall hold a public meeting as provided in this section. If a county board receives a required notification of a change in the proposed pipeline route in that county, the board shall hold an additional public meeting as provided in this section within 30 days after receiving notification. The purpose of a public meeting held pursuant to this section shall be to provide information to the public concerning:

(1) the pipeline proposed for construction, including the proposed route, the size of the pipeline, types of commodities to be carried and construction and operating characteristics; and

- (2) the legal requirements which must be met in acquiring easements and in construction and operating the pipeline.

(b) Notice and agenda of the public meeting shall be given by the county board at least ten days, but no earlier than 45 days before the meeting. Notice shall be by publication in a legal newspaper of the county and a newspaper of general circulation in the area in which the public meeting is to be held and written notice to the clerk of each town and incorporated municipality in the county.

(c) State agencies authorized to issue permits required for construction or operation of the pipeline shall participate in the public meetings in each county. The agencies shall explain the procedures for issuing the permits and the manner in which the public may participate in those procedures.

Other Applicable Provisions of Minn. Stat. 216G

Besides the procedural statutory requirements reviewed above, the proposed Wescott Liquefied Petroleum Gas Pipeline Project is subject to the requirements of Minn. Stat. 216G.07, Subd 1. Depth of Cover, Subd. 2 Waiver of depth requirements, Subd. Waiver of rules of political subdivisions, Subd. 5 Agricultural protection standards, Subd. 6 Inspection Fee, Subd. 7 County Inspector, Subd. 8 Equitable relief, Subd. 9 Criminal Penalty and Subd. 10 Civil Penalty.

EERA Staff Analysis and Comments

Flint Hills Resources' has complied with the requirements of Minn. Stat. 216G.03 by providing notice to the Minnesota Public Utilities Commission and Dakota County Board of Commissioners.⁴ The notice provides the information required by Minn. Stat 216G.03 Subd 2.⁵ Flint Hill Resources' also provided payment as required by Minn. Stat. 216G.03 Subd. 2.

DOC EERA staff has reviewed the information book for compliance with the requirements of Minnesota Statute 216G.04 (b) that include:

- (1) a description of the pipeline proposed for construction, including the proposed route, types of commodities to be carried, size of the line and construction and operation characteristics;
- (2) explanation of the steps which must be taken to acquire right-of-way for the pipeline and of the rights and alternatives of the owners;

⁴ See eDockets at: [20194-151883-01](https://www.dockets.org/doc.aspx?docketid=20194-151883-01).

⁵ Ibid.

- (3) explanation of the legal requirements that must be met in constructing the pipeline; and
- (4) explanation of the county inspections procedure and instructions for contacting the inspector in the event of noncompliance with legal requirements.

DOC EERA staff concludes that the revised Information Book submitted by Flint Hills Resources Pine Bend, LLC on June 26, 2019, meets the requirements of Minnesota Statute 216G.04 for Commission approval. EERA recommends a modification to the Information Book by changing the spelling of “liquified” to “liquefied” throughout the Information Book.

Dakota County is prepared to implement the requirements of Minn. Stat. 216G.05 [Public Meetings Required] upon Commission approval of the Information Book filed on June 26, 2019.

EERA Staff Recommendations

- A. Approve the Flint Hills Resources Pine Bend, LLC “Information Book for Owners and Tenants of Property along the Wescott Liquefied Petroleum Gas Pipeline in Dakota County, Minnesota” prepared in compliance with Minnesota Statute 216GF.04 [Information Book].
- B. Amend the proposed information book as deemed appropriate.
- C. Deny approval of the information book.
- D. Make some other decision deemed more appropriate.

DOC EFP Staff Recommendation. The staff recommends Option A.