

MINUTES
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
Monday, October 19, 2015, at 9:00 a.m.
State Capitol, Room 303
Helena, MT

Please note: *The Land Board has adopted the audio recording of its meetings as the official record, as allowed by [2-3-212, MCA](#). These minutes provide an abbreviated summary of the Land Board discussion, public testimony, action taken, and other activities. The time designations listed are approximate and may be used to locate the referenced discussion on the audio recording of this meeting. Access to an electronic copy of these minutes and the audio recording is provided from the Land Board webpage at <http://dnrc.mt.gov/LandBoard>. The written minutes summary, along with the audio recordings, are listed by meeting date on the Land Board Archive webpage.*

Members Present

Governor Steve Bullock
Attorney General Tim Fox
Commissioner of Securities and Insurance Monica Lindeen
Secretary of State Linda McCulloch
Superintendent of Public Instruction Denise Juneau

Members Absent

None

Testifying Staff

John Tubbs, DNRC Director
Tim Baker, Governor's Office Natural Resources Policy Advisor
Shawn Thomas, DNRC Trust Land Management Division (TLMD) Administrator
Tommy Butler, DNRC Legal Counsel
Sonya Germann, Trust Land Management Division (TLMD) Forest Management Bureau Chief

Attachments

Related Materials, Attachment 1 – sign-in sheet
Related Materials, Attachment 2 – submitted by Mr. Baker for item 1015-1
Related Materials, Attachment 3 – submitted by Rose Lockwood (item 1015-4 and general public comment)
Related Materials, Attachment 4 – submitted by Rion Miles (general public comment)

Call to Order

00:00:01 Governor Bullock called the meeting to order.
00:00:08 Ms. Lindeen moved to approve the September 21, 2015, minutes. The motion was seconded by Ms. Juneau and carried unanimously.

Business Considered

1015-1 Implementation of Montana Sage Grouse Conservation Strategy:

Executive Order 12-2015

00:00:18 Mr. Tubbs gave an overview of the item.
00:01:15 Mr. Baker

Board Discussion/Comments

00:10:45 Governor Bullock
00:11:54 Dave Galt, Montana Petroleum Association Executive Director

- 00:12:31 Mr. Fox moved to: (1) authorize DNRC to seek grant and credits for the benefit of affected trust beneficiaries for the implementation of protective measures; and (2) postpone adoption of the sage grouse management strategy until the November 2015 Land Board meeting. The motion was seconded by Ms. McCulloch.
- 00:13:00 Mr. Fox
- 00:13:07 Governor Bullock
- 00:13:16 Mr. Fox
- 00:14:48 The motion to approve item 1015-1 as moved carried unanimously.

1015-2 Communitization Agreements

- A. Audrey Federal HSL Well**
- B. Blackjack Hanna 1-36HSU Well**
- C. Cara 1-21H Well**
- D. Dodger 1-36H Well**
- E. Mulholland Federal 1-32H Well**
- F. Osborn 1-34H Well**
- G. Weber 24-30-1H Well**

- 00:15:01 Mr. Tubbs gave an overview of items 1015-2A through 1015-2G.
- 00:15:39 Ms. Lindeen moved to approve items 1015-2A through 1015-2G. The motion was seconded by Mr. Fox and carried unanimously.

1015-3 Land Banking Parcels: Set Minimum Bid for Sale

- A. Granite County**
- B. Valley County**
- C. Yellowstone County**

- 00:16:17 Mr. Tubbs gave an overview of items 1015-3A through 1015-3C.
- 00:16:41 Mr. Fox moved to approve items 1015-3A through 1015-3C. The motion was seconded by Ms. Juneau.
- 00:16:54 Mr. Tubbs
- 00:18:09 The motion to approve items 1015-3A through 1015-3C carried unanimously.

1015-4 Sale of Cabin and Home Sites: Set Minimum Bid for Sale – Sales 767, 768, 769

- 00:18:25 Mr. Tubbs gave an overview of the item

Public Comment

- 00:19:16 Rose Lockwood

Board Discussion/Public Comment

- 00:21:31 Ms. McCulloch moved to approve item 1015-4. The motion was seconded by Ms. Juneau.
- 00:21:44 Mr. Fox
- 00:21:56 Mr. Thomas
- 00:23:11 Governor Bullock
- 00:23:18 Mr. Thomas
- 00:23:21 Mr. Fox
- 00:23:26 Mr. Thomas
- 00:23:37 Mr. Fox
- 00:23:01 Governor Bullock
- 00:24:19 Samuel Bolton
- 00:26:07 The motion to approve item 1015-4 carried unanimously.

1015-5 Proposed Settlement Agreement: *MONTRUST v State of Montana et al.*, BDV-12-39, 1st Judicial District

00:26:16 Mr. Tubbs gave an overview of the item

Public Comment

00:27:16 Margaret Morgan, Montana State Leaseholders Association (MSLA)

00:29:48 Lisa Owens

00:36:46 Jeff Cunniff

00:39:58 Ms. McCulloch moved to approve item 1015-5. The motion was seconded by Ms. Juneau.

Board Discussion/Comments

00:40:09 Ms. Lindeen

00:41:33 Ms. McCulloch

00:42:05 Mr. Butler

00:42:44 Ms. McCulloch

00:43:30 Governor Bullock

00:45:29 Mr. Fox

00:45:44 The motion to approve item 1015-5 carried unanimously.

1015-6 Easements

A. Easements

B. Reciprocal Access Agreement: Cadenhead

C. Reciprocal Access Agreement: Wood Trust

00:45:57 Mr. Tubbs gave an overview of items 1015-6A through 1015-6C.

00:48:41 Ms. McCulloch moved to approve items 1015-6A through 1015-6C. The motion was seconded by Ms. Lindeen and carried unanimously.

General Public Comment

00:49:10 Randall Knowles

00:49:21 Governor Bullock

00:49:33 Mr. Knowles

00:54:10 Rion Miles

01:00:45 Mr. Bolton

01:05:02 Ms. Lockwood

01:11:36 Governor Bullock

Fire Season 2015 Update by DNRC

01:11:46 Mr. Tubbs

01:12:30 Governor Bullock

01:12:37 Ms. McCulloch

01:12:42 Ms. Germann

01:15:11 Ms. Lindeen

01:15:20 Ms. Germann

01:15:29 Mr. Tubbs

01:15:56 Ms. McCulloch

01:16:11 Mr. Tubbs

01:16:22 Governor Bullock

Adjournment

01:16:29 Adjournment

PRESIDENT

ATTEST

/s/ Steve Bullock
Steve Bullock, Governor

/s/ John E. Tubbs
John E. Tubbs, DNRC Director

**Sage Grouse – Montana State Land Board
October 19, 2015
Agenda Item 1015-X
Tim Baker, Governor's Office**

Background

What is the issue?

Sage grouse have experienced a decline in populations across eleven western states – there are numerous reasons for the decline which I won't go into in the interest of time, but can provide more background if necessary.

There have been several lawsuits to force the US Fish and Wildlife Service (USFWS) to list the species as threatened or endangered. Last month the Service found that the sage grouse was not warranted for listing under the ESA.

Prior to that, the last official finding by the USFWS was that the bird was "warranted for listing but precluded by other priorities." This is important because it means that if the western states had done nothing, there was a high likelihood that the bird would have been listed.

Western states aggressively worked to develop their own plans for managing sage grouse, and the Service relied on those plans to find that conditions have changed and the bird does not need to be listed.

In Montana:

- Sage grouse habitat makes up 36% of the state. Of this, 64% is private ownership and state ownership is over 7%.
- Core habitat, the best habitat, is 10% of the state. Of core habitat, private ownership is 54%, and state ownership is 9%.

Montana differs from the other western states in that we have a very high percentage of sage grouse habitat on private land, reflecting the reality that Montana's private landowners are doing a good job.

You have the background as to how we've gotten to this point, in terms of the advisory council's good work and the legislative efforts and support.

Why Have a State Plan?

There are a number of reasons for having a state plan, but the overall objective is to control our destiny and keep management of the state's wildlife in state hands, protecting our economy, jobs, and outdoor heritage.

Other reasons include:

1. Successfully protecting and managing sage grouse will best be achieved through local efforts, not from Washington DC.
2. Montana's private landowners have done a great job of managing their lands in a way that conserves sage grouse habitat. State management will provide stronger accountability to those landowners, and better ensure the recognition and protection of their private property rights.
3. Almost 900,000 acres of state trust land is in Core Habitat, and another 1.6 million acres are in General Habitat.

In addition, it's worth noting that there are certain realities associated with no action by the State. It would have most certainly resulted in the sage grouse being listed.

In our Plan we've chosen the habitat areas that are necessary to protect sage grouse – if the bird is listed those decisions will be made in Washington DC and could go well beyond the landscapes that we have focused on, extending to historic range. (Map)

There are other potentially serious consequences from a listing:

- Every bird – not populations or groups of birds
- Critical habitat is all suitable habitat
- Consultation required for all federal nexus
- More restrictive stipulations applied from farther away

- “Take” applies on all lands – private included
- “Take” = “harm” or “harass” ...
- Five years before review of status

Montana’s Program

There are three parts that make up the state’s plan that are necessary to keep management of Montana’s sage grouse in state hands;

- Program stipulations and directives governing activities in sage grouse country, such as those found in the Governor’s Executive Orders;
- Habitat conservation -- providing a mechanism for private landowners to maintain, restore, expand and enhance sage grouse habitat on their own property. The Stewardship Fund, created by the Legislature at the Governor’s request, will provide Montana’s private landowners with more options and incentives, should they choose to participate. It’s strictly voluntary.
- Assist with creating mitigation options for projects – such as a potential coal development – when those projects cannot meet the Program’s stipulations and therefore require some kind of mitigation to proceed. Again, the Stewardship Fund will serve this need, and will likely involve a banking system.

A few details:

1. The Governor’s most recent Executive Order, this last September 8, made a few adjustments to the Program and its requirements, and directed that the Program be complete and operational by January 1, 2016.
2. Modeled after the very successful program in Wyoming, which has balanced development with protecting habitat;
3. The Montana Sage Grouse Oversight Team consists of key Department directors and other state agency members, as well as two legislative members, to oversee the Program;
4. The regulatory part of the Program goes well beyond state lands, and attaches to every permit and authorization that the Governor’s agencies issue in sage grouse country;

5. Generally the regulatory program is a pre-permit review process, the Program has its own staff and will work with permitting agencies to make sure all projects and activities are in compliance;
6. In addition to general requirements which are outlined in your materials, there are specific requirements relating to pipelines, power lines, oil and gas, mining and coal mining, and wind development.

Conclusion

The USFWS determination of not warranted for sage grouse is sure to be challenged in court, and even if that decision is upheld by the courts, a few years out the USFWS will again be petitioned to determine whether the sage grouse should be listed under the Endangered Species Act. It is important that Montana promptly stand up its Program and start to build a track record of success on the ground.

Montana's state lands are an important piece of the pie of land ownership in sage grouse country, and how you manage those lands will be a critical part of our Program's future success.

The Governor's approach, which is contained in his Executive Orders and SB 261 from last session, charts a steady course to keeping management of sage grouse in state hands, and:

- Builds upon the successful efforts of diverse Montanans who are working together,
- Promotes a working landscape, local engagement, and a transparent science-driven process, and
- Is the best path to ensure a healthy sage grouse population for the benefit of future generations.

Thank you and I'm happy to answer questions.

Rose Lockwood Statement to Montana Land Board meeting October 19th 2015

I live on a state-lease lot in Dogtown, Seeley Lake. I would like to address two issues on your agenda for today that affect Seeley Lake: Home Site sales in Morrell Flats, and the question of road-access easements, in this case in Dogtown.

Home Site Sales in Morrell Flats, Seeley Lake

On the first issue I have a question: Why is vacant Lot 9 in Morrell Flats (proposed for sale by DNRC) appraised at half the value of Lot 11 (proposed for sale by the lessee) even though vacant Lot 9 is nearly an acre (60%) larger than Lot 11?

Leased lots in Morrell Flats are being appraised for sale at around \$30-40k/acre while vacant lots are being appraised at around \$9-11k/acre.

Lot	Acres	Land Tax Appraisal	Appraised value for sale	Variance Tax vs Sale Appraisal	% variance
Morrell Flats - Seeley Lake, Missoula County					
13 - sold to lessee 2014	1.337	35,548	50,000	14,452	41%
11 - proposed by lessee 2015	1.67	37,219	50,000	12,781	34%
9 - proposed by DNRC 2015	2.73	42,536	25,000	(17,536)	-41%
12 - proposed by DNRC 2015	1.28	35,262	15,000	(20,262)	-57%

For a reality check: **Land Tax** appraisals on Morrell Flats lots value them at similar levels (varying only with size). By contrast, **Sales** appraisals value leased lots **35-40% higher** than Tax appraisal, but value vacant lots **40-60% lower** than Tax appraisals. (Land Tax Property Record Cards for lots 9 & 11 attached.)

Leaseholders who propose their lots for sale would like to be assured that appraisers are being properly briefed about the "hypothetical" condition in which our leased lots should be viewed in the appraisal process. According to the rules, leased lots should be appraised exactly the same as vacant lots, as if there were no improvements of any sort - excluding utilities, driveways, landscaping, etc, all of which have been paid for by the lessee and are therefore "improvements". The appraisals cited above are implausible if this principle is being applied.

Also, is the fact that the state reserves mineral rights on residential lots included in the brief for appraisers? It is not clear that appraisers have been advised of this variation from normal "fee simple" ownership interest, which would affect value in an open-market transaction. The published appraisals for lots sold in 2014 do not mention this issue at all.

Road-Access Easements in Dogtown, Seeley Lake

On Sept 25th I hand-delivered a petition, signed by 80% of Dogtown residents, to the Governor, asking that it be circulated to all members of the Land Board and included in the agenda for this meeting. It addresses the question raised by my neighbor Sam Bolton, regarding who is supposed to pay for the

maintenance of our roads. I was disappointed that no member of the Land Board saw fit to acknowledge receipt of our petition. I attach a copy in case you haven't seen it.

As I said, I live on a state-lease lot in Dogtown. My lease, initiated in March 2003, included a Certificate of Survey stating that access to my lot is via a county maintained road. Turns out, that's not the case, and now – 12 years into the lease – DNRC says I'm on my own when it comes to road access. By proposing and signing this lease, backed by this survey, without verifying the status of road access, DNRC at a minimum failed to exercise due diligence. From my point of view, as a perhaps naïve citizen who didn't think the state would lie to me, it feels vaguely fraudulent. DNRC likes to boast that it is a hard-nosed outfit that's run like a business, to make money. Anyone with any experience of business knows that if a private company signed dozens of leases based on factually incorrect information, there would be serious consequences, both legal and financial.

Disregarding the fact that DNRC has signed at least 41 leases based on factually incorrect information, no one in Dogtown disputes the fact that DNRC must – under law and its mandate – receive payment for granting access easements. Here I will talk only about road access to residential lots in Dogtown, not about easements in general.

Our petition made the case that the cost of easements that would create rights-of-way to our lots is factored into our lease fees. Our lease fees are based on tax appraisals; the assessor (who I have spoken with) views our lots as if they were fee-simple lots in order to establish tax-appraised value, even though no tax is actually levied on state land. Assessors do this by using "comparables" which in Seeley Lake are residential lots in developed neighborhoods, all of which have legally established access rights. Without access rights a residential lot is literally unmarketable, so lots in private ownership always have proper easements...otherwise they could not be bought and sold. (For an in-depth discussion of how the tax appraisers have viewed Dogtown lots, I attach the text of my appeal of my tax appraisal, omitting exhibits for brevity.)

Our point is simple: if our lots are being appraised as if they had legal access rights, then the level of our lease fees includes the value of those access rights. It really isn't an issue of how much those rights are worth, but rather that the value of the easements is built into the appraisal process itself. So if DNRC is demanding that someone else pays for those access rights (in this case Missoula County), then **by definition** our tax appraisals...and our lease fees...are incorrect.

As I have said repeatedly in my frustratingly unsuccessful attempts to communicate with the Land Board and with DNRC, the state can't have it both ways: either our fees are correctly calculated to include right-of-way easements (in which case Missoula County has nothing to pay), or the easements are not being paid for through fees (in which case our fees are wrong). This is why we say that DNRC has a duty to its beneficiaries to grant the easements that have been paid for. If they don't, they reduce the value of the land in their trust, and they reduce the income to beneficiaries.

I would add another point that I think is highly relevant to the alleged "impasse" between DNRC and Missoula County. For many decades the county has been providing a service to DNRC by maintaining Dogtown roads, originally for the benefit of mill workers (in case you don't know, we are the "Milltown")

of Seeley Lake). Under MCA Title 77, DNRC is clearly permitted to accept those services in lieu of payment for easements on state trust land (77.2.106(2)). Yet DNRC continues to insist that the county pays – again – for the Dogtown easements. To the residents of Dogtown this doesn't look so much like an impasse, but more like simple intransigence on the part of DNRC.

I would like to make one final point regarding the position DNRC has taken in its non-negotiation with Dogtown lessees. We are repeatedly told that the "Lassen" decision makes it impossible for DNRC to come to any arrangement for maintenance of our roads. I don't know if any of you has ever bothered to read this decision, but if you did you would see that it in no way pertains to the circumstances in Dogtown. In Lassen the Supreme Court struck down the Arizona court's conclusion that *no* road easement needs to be paid for because *any* road built across trust lands enhances the value of *all* trust lands.

Nobody - except DNRC - has ever tried to apply this principle to Dogtown roads. **We acknowledge without reservation that easements must be paid for.** We are simply asking DNRC to acknowledge that the easements in Dogtown have already been paid for twice – through lease fees (which is ongoing and achieves full market value through tax appraisals), and through services provided by Missoula County (the cost of which, over the decades, would far exceed the value of the easements). If any leased lot in Dogtown is ever sold, the easement will be paid for a third time through the fee-simple value of the land.

Dogtown has a 32% ...and rising...vacancy rate (attached map shows abandonments, plus lots added that DNRC can't find lessees for). In other words, a third of the land in DNRC's trust is costing the beneficiaries money. To preserve the value of this asset DNRC has a duty to the beneficiaries to clean up the mess they have made of the Dogtown leases. Besides which, the safety and well-being of 41 households is at stake.

We have been asking for help on this for three months, starting well before the threat of being snowed-in (no ambulance, no fire trucks, no MEC to fix the inevitable downed power lines, no school buses... not to mention no driving to our homes) that faces us imminently. So far all we have from DNRC (implicitly validated by the Land Board) is boiler-plate answers that do not address our points, even less addressing the actual problem. My understanding is that the Land Board has a duty to oversee the actions of the DNRC. Dogtown residents are asking you to exercise that duty by directing the management of DNRC to look at the issue of our roads and come to a reasonable settlement based on the FACTS.

BUTTE PIPE LINE COMPANY

**BUTTE PIPE LINE REACTIVATION
PLAN OF DEVELOPMENT**

For

**Montana State Lands
Baker, Montana to Wyoming State Line**

Prepared For:

Butte Pipe Line Company

455 N. Poplar
PO Drawer 2360
Casper, WY 82602
307-237-9301

Prepared By:



WESTERN LAND SERVICES

1662 South Sheridan Ave.
Sheridan, Wyoming 82801
(307) 673-1817

September 3, 2015

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List of Attachments

- Attachment A** **Montana State Land Pipeline Repair Disturbance by Greater Sage Grouse Habitat Areas**
- Attachment B** **Site Maps of Butte Pipeline Route on Montana State Lands**
- Attachment C** **Ecological Site Descriptions and Seed Mixes**
- Attachment D** **Monitoring and Methodology**

Introduction

The rapid development of oil production in the Bakken Formation of North Dakota has resulted in a tremendous need for safe, efficient, and reliable methods of transporting that oil to refineries and market centers. Two companies, relevant for this proposal, include Belle Fourche Pipeline Company (Belle Fourche), in operation since 1957; and Butte Pipeline Company (Butte), in operation since 1955. Both companies are controlled by the same organization.

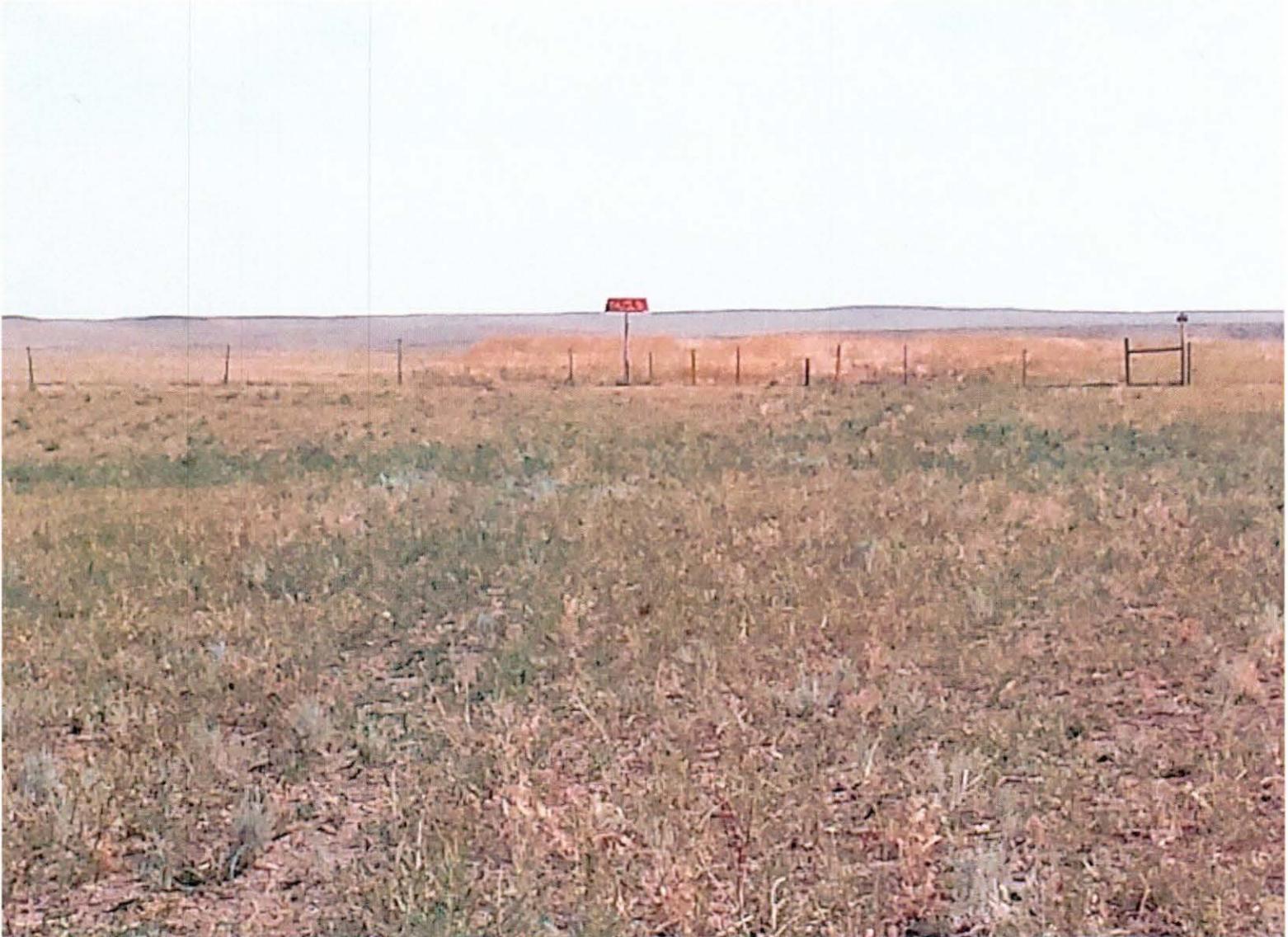
In 2012, Belle Fourche applied to the Bureau of Land Management (BLM) for a right of way for a proposed 16" crude oil pipeline (i.e. Thunderbird Pipeline), which would transport crude oil from Baker, Montana to Hulett, Wyoming. This right of way would parallel an existing pipeline owned by Butte (i.e. Butte Pipeline). In discussions with Belle Fourche and the State of Montana, efforts to progress on the environmental review process for the Thunderbird Pipeline were suspended due to the pending Miles City Field Office Resource Management Plan Revision. This application is still pending before the BLM.

The Butte Pipeline (see Figure 1) was originally constructed in the late 1950's under the authority of the Mineral Leasing Act of February 25, 1920, as amended. The right of way issued under this Act, provided the company the ability to completely replace the Butte Pipeline as a maintenance action in late summer of 2014. The original Butte Pipeline was purged and removed from service in 2014, since the right of way only provided for one pipeline to be in operation.

In lieu of greater sage-grouse habitat conservation (see Figure 2) and in addressing the need of greater capacity for oil delivery, Butte believes that the Original Butte Pipeline could be safely restored to service in full compliance with all applicable laws, standards and regulations; thus eliminating the need for construction of the Thunderbird Pipeline. In eliminating the need to build a new 122-mile pipeline, the reactivation proposal *would reduce surface disturbance on Montana State lands to a total of only 0.67 acres with a total disturbance on all ownership of 11.43 acres (Attachment A).*

Accordingly, Butte proposes to acquire a new Montana State lands right of way *within the corridor of the Existing Montana State lands Right of Way* for the purpose of repairing, re-activating, and restoring the Original Butte Pipeline to service. In the event that the Montana DNRC agrees to grant such a right of way, Butte and Belle Fourche would enter into contracts designed to eliminate the need for construction of the Thunderbird Pipeline, and Belle Fourche would withdraw its pending right of way application.





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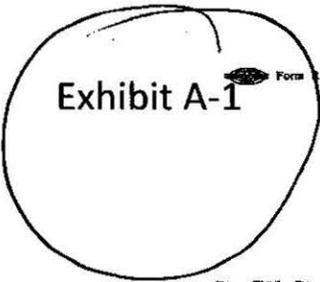


Exhibit A-1

Form 1-48-1M-7-54

No. D-3760

RIGHT OF WAY DEED

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF MONTANA

To All To Whom These Presents Shall Come:

Know ye that the State of Montana, in consideration of the sum of -----
----- TWO HUNDRED FIFTY AND NO/100 ----- Dollars

now paid, grants to ----- BUTTE PIPE LINE COMPANY, A CORPORATION -----
----- Shell Bldg., Houston 1, Texas -----
a right of way for a ----- PIPE LINE -----

upon and across state lands, as follows:

A strip of land 50 feet wide over and across the W&W, Section 36, Township 2 North, Range 57 East, Carter County, Montana, said 50 feet strip being 25 feet on each side of the following described centerline:

Beginning at a point on the North line of said Section 36, being located 951 feet East from the Northwest corner of said Section 36; thence South 3°25' West 5301 feet to a point on the South line of said Section 36, being located 450 feet East from the Southwest corner of said Section 36, containing 6.04 acres, more or less.

The grantee herein specifically agrees that the said pipe line shall be buried below plow depth so as not to interfere with the use and cultivation of the land. It is also understood and agreed that the State and its lessees and purchasers shall have the right to occupy, use and fully enjoy the surface of the right of way hereby granted, to seed, cultivate and harvest crops thereon; and that the said grantee and its successors and assigns shall pay any damages which may result to the crops, fences and other property or interests of the lessees and purchasers from the State by reason of the laying, maintaining, operating or removing of the said pipe line, and that the amount of such damages if not mutually agreed upon, shall be ascertained and determined by three disinterested persons, one of whom shall be appointed by the lessee or purchaser of the land, his heirs or assigns, one by the grantee herein, its successors or assigns, and the third by the two so appointed. The award of such three persons shall be final and conclusive on both parties.

It is also understood and agreed by and between the parties hereto that if any conflict should arise, this easement shall be inferior and subject to any easement heretofore or hereafter granted in the said lands for public highways.

item-1

item-2

Item 1 is specific easement language addressing only a single pipeline.

Item 2, the easement makes no allowance for the replacement or abandoning in place of the pipeline.

Language is consistent among all the 1956 easements.

It is further Provided that whenever said lands herein granted as a right of way shall cease to be used for such purpose, the same shall revert to the state upon notice to that effect being given to the said grantee named herein.

IN TESTIMONY WHEREOF, the State of Montana has caused these presents to be executed by the Governor, and to be attested by the Secretary of State, and countersigned by the Commissioner of State Lands and Investments, and the Great Seal of the State, and the Seal of the State Board of Land Commissioners to be hereunto affixed this
 -NINTH day of JANUARY A. D. 19 56.



.....
J. Hugo Aronson
Governor of the State of Montana
ATTEST:
.....
S. G. Arnold
Secretary of State
Countersigned by
.....
Lou E. Bretzke
Commissioner of State Lands and Investments

Exhibit A-2

Form R. 42-1M-7-54

No. D-3774

6326
Sch
1-9-56

RIGHT OF WAY DEED

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF MONTANA

To All To Whom These Presents Shall Come :

Know ye that the State of Montana, in consideration of the sum of -----
----- TWO HUNDRED FIFTY AND NO/100 ----- Dollars
now paid, grants to ----- BUTTE PIPE LINE COMPANY, A CORPORATION -----
a right of way for a ----- SHELL BLDG., HOUSTON, TEXAS -----
----- PIPE LINE -----

upon and across state lands, as follows:

A strip of land 50 feet wide over and across the E1/4, Section 16, Township 9 South, Range 57 East, Carter County, Montana, said 50 feet strip being 25 feet on each side of the following described centerline:
Beginning at a point on the North line of said Section 16, being located 590 feet West from the Northeast corner of said Section 16; thence South 4°26' West 534.2 feet to a point on the South line of said Section 16, being located 950 feet West from the Southeast corner of said Section 16, and containing 0.28 acres, more or less.
The grantee herein specifically agrees that the said pipe line shall be buried below plow depth so as not to interfere with the use and cultivation of the land. It is also understood and agreed that the State and its lessees and purchasers shall have the right to occupy, use and fully enjoy the surface of the right of way hereby granted, to seed, cultivate and harvest crops thereon; and that the said grantee and its successors and assigns shall pay any damages which may result to the crops, fences and other property or interests of the lessees and purchasers from the State by reason of the laying, maintaining, operating or removing of the said pipe line, and that the amount of such damages if not mutually agreed upon, shall be ascertained and determined by three disinterested persons, one of whom shall be appointed by the lessee or purchaser of the land, his heirs or assigns, one by the grantee herein, its successors or assigns, and the third by the two so appointed. The award of such three persons shall be final and conclusive on both parties.
It is also understood and agreed by and between the parties hereto that if any conflict should arise, this easement shall be inferior and subject to any easement heretofore or hereafter granted in the said lands for public highways.

It is further Provided that whenever said lands herein granted as a right of way shall cease to be used for such purpose, the same shall revert to the state upon notice to that effect being given to the said grantee named herein.

IN TESTIMONY WHEREOF, the State of Montana has caused these presents to be executed by the Governor, and to be attested by the Secretary of State, and countersigned by the Commissioner of State Lands and Investments, and the Great Seal of the State, and the Seal of the State Board of Land Commissioners to be hereunto affixed this

- NINTH - - - day of - JANUARY - - - - A. D. 19⁵⁶

J. Hugo Aronson

Governor of the State of Montana

ATTEST:

S. C. Arnold

Secretary of State

Countersigned by

Lou E. Bretzke

Commissioner of State Lands and Investments



6326
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1-9-56

Exhibit A-3

Form R. 42-1M-7-54

No. D-3773

RIGHT OF WAY DEED

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF MONTANA

To All To Whom These Presents Shall Come:

Know ye that the State of Montana, in consideration of the sum of 22 -----
----- TWO HUNDRED FIFTY AND NO/100 ----- Dollars

now paid, grants to SUPRE PIPE LINE COMPANY, A CORPORATION -----
----- Shell Bldg., Houston, Texas -----
a right of way for a PIPE LINE -----

upon and across state lands, as follows:

A strip of land 50 feet wide over and across the W&W, SECTION 36, TOWNSHIP 6 South, Range 57 East, Carter County, Montana, said strip being 25 feet on each side of the following described center line: Beginning at a point on the North line of said Section 36, being located 1204 feet East of the Northwest corner of said Section 36; thence South 1°53' West 5283 feet to a point on the South line of said Section 36, being located 1030.4 feet East of the Southwest corner of said Section 36, and containing 6.08 acres, more or less.

The grantee herein specifically agrees that the said pipe line shall be buried below plow depth so as not to interfere with the use and cultivation of the land. It is also understood and agreed that the State and its lessees and purchasers shall have the right to occupy, use and fully enjoy the surface of the right of way hereby granted, to seed, cultivate and harvest crops thereon; and that the said grantee and its successors and assigns shall pay any damages which may result to the crops, fences and other property or interests of the lessees and purchasers from the State by reason of the laying, maintaining, operating or removing of the said pipe line, and that the amount of such damages if not mutually agreed upon, shall be ascertained and determined by three disinterested persons, one of whom shall be appointed by the lessee or purchaser of the land, his heirs or assigns, one by the grantee herein, its successors or assigns, and the third by the two so appointed. The award of such three persons shall be final and conclusive on both parties.

It is also understood and agreed by and between the parties hereto that if any conflict should arise, this easement shall be inferior and subject to any easement heretofore or hereafter granted in the said lands for public highways.

It is further Provided that whenever said lands herein granted as a right of way shall cease to be used for such purpose, the same shall revert to the state upon notice to that effect being given to the said grantee named herein.

IN TESTIMONY WHEREOF, the State of Montana has caused these presents to be executed by the Governor, and to be attested by the Secretary of State, and countersigned by the Commissioner of State Lands and Investments, and the Great Seal of the State, and the Seal of the State Board of Land Commissioners to be hereunto affixed this -----
--NINTH-- day of --JANUARY-- A. D. 19⁵⁶.

J. Hugo Aronson

Governor of the State of Montana

ATTEST:

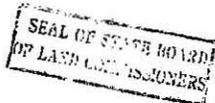
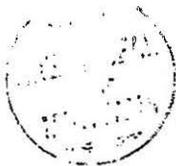
S. C. Arnold

Secretary of State

Countersigned by

Lou E. Bretzke

Commissioner of State Lands and Investments



44
4
Exhibit A-4

Form R. 48-1M-7-54

No. D-3772

6326
Ich
1-9-56

RIGHT OF WAY DEED

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF MONTANA

To All To Whom These Presents Shall Come:

Know ye that the State of Montana, in consideration of the sum of -----

-----TWO HUNDRED FIFTY AND NO/100-----Dollars

now paid, grants to -----SHELL PIPE LINE COMPANY, A CORPORATION-----

-----Shell Bldg., Houston 1, Texas-----

a right of way for a -----PIPE LINE-----

upon and across state lands, as follows:

A strip of land 50 feet wide over and across the NW 1/4, SE 1/4, E 1/2 SW 1/4, Section 36, Township 1 South, Range 57 East, Carter County, Montana, said 50 feet being 25 feet on each side of the following described centerline:

Beginning at a point on the North line of said Section 36, being located 392 feet East from the Northwest corner of the NW 1/4 of said Section 36; thence South 16°18' West 5463.9 feet to a point on the South line of said Section 36, being located 1586 feet East from the Southwest corner of said Section 36, and containing 6.24 acres, more or less.

The grantee herein specifically agrees that the said pipe line shall be buried below plow depth so as not to interfere with the use and cultivation of the land. It is also understood and agreed that the State and its lessees and purchasers shall have the right to occupy, use and fully enjoy the surface of the right of way hereby granted, to seed, cultivate and harvest crops thereon; and that the said grantee and its successors and assigns shall pay any damages which may result to the crops, fences and other property or interests of the lessees and purchasers from the State by reason of the laying, maintaining, operating or removing of the said pipe line, and that the amount of such damages if not mutually agreed upon, shall be ascertained and determined by three disinterested persons, one of whom shall be appointed by the lessee or purchaser of the land, his heirs or assigns, one by the grantee herein, its successors or assigns, and the third by the two so appointed. The award of such three persons shall be final and conclusive on both parties.

It is also understood and agreed by and between the parties hereto that if any conflict should arise, this easement shall be inferior and subject to any easement heretofore or hereafter granted in the said lands for public highways.

NW

It is further Provided that whenever said lands herein granted as a right of way shall cease to be used for such purpose, the same shall revert to the state upon notice to that effect being given to the said grantee named herein.

IN TESTIMONY WHEREOF, the State of Montana has caused these presents to be executed by the Governor, and to be attested by the Secretary of State, and countersigned by the Commissioner of State Lands and Investments, and the Great Seal of the State, and the Seal of the State Board of Land Commissioners to be hereunto affixed this - - - -
- NINTH - - - - day of - JANUARY - - - - A. D. 1956 -

J. Hugo Aronson

Governor of the State of Montana

ATTEST:

S. C. Arnold

Secretary of State

Countersigned by

Lou E. Bretzke

Commissioner of State Lands and Investments



Exhibit B-1

Rights of Way Applications

January 20, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Belle Fourche Pipeline Company
PO Drawer 2360
Casper WY 82602

Application No.: 16787
R/W Purpose: a buried 16" crude oil pipeline
Lessee Agreement: needed
Acreage: 6.28
Compensation: \$16,589.00
Legal Description: 50-foot strip through NW4NE4, E2W2,
Sec. 36, Twp. 1S, Rge. 57E,
Carter County
Trust Beneficiary: Common Schools

Item Summary

Montana Withdrawn

(Without Montana's approval or a second easement, a new 16 inch line was in the final stages of construction and activation on state lands exhibit B - 1 through B - 4 before these were submitted to the state of Montana's for consideration.)

Exhibit B-2

Rights of Way Applications

January 20, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Belle Fourche Pipeline Company
PO Drawer 2360
Casper WY 82602

Application No.: 16786
R/W Purpose: a buried 16" crude oil pipeline
Lessee Agreement: needed
Acreage: 6.08
Compensation: \$16,058.00
Legal Description: 50-foot strip through W2W2, Sec. 36, Twp. 2N, Rge. 57E,
Carter County
Trust Beneficiary: Common Schools

Item Summary

Belle Fourche Pipeline Company has made application for the installation of a buried 16-inch crude oil transmission pipeline. This pipeline is affiliated with the Butte Pipeline which was installed in 1955 which currently operates in the same area as being proposed for this line. This project is referred to as the Thunderbird Pipeline and these portions of the pipeline are Phases II & III of the project. The line will be capable of transporting approximately 80,000 barrels per day of crude oil. This project crosses through sage grouse core habitat areas. Pursuant to *Sage Grouse Executive Order No. 10-2014*, special stipulations will be placed in the easement document to address mitigation measures, such as restrictions related to construction time periods. The easement will be a 30-year term easement with compensation of \$50/rod, which is consistent with other installations in this area.

DNRC Recommendation

The director recommends approval of a 30-year term easement for this crude oil transmission line.

Exhibit B-3

Rights of Way Applications

January 20, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Belle Fourche Pipeline Company
PO Drawer 2360
Casper WY 82602

Application No.: 16788
R/W Purpose: a buried 16" crude oil pipeline
Lessee Agreement: needed
Acreage: 6.08
Compensation: \$16,021.00
Legal Description: 50-foot strip through W2W2, Sec. 36, Twp. 6S, Rge. 57E,
Carter County
Trust Beneficiary: Common Schools

Item Summary

See page 24

DNRC Recommendation

See page 24

Exhibit B-4

115-4

Rights of Way Applications

January 20, 2015

APPLICANTS AND RIGHTS OF WAY INFORMATION

Applicant: Belle Fourche Pipeline Company
PO Drawer 2360
Casper WY 82602

Application No.: 16789
R/W Purpose: a buried 16" crude oil pipeline
Lessee Agreement: needed
Acreage: 6.08
Compensation: \$16,065.00
Legal Description: 50-foot strip through E2E2, Sec. 16, Twp. 9S, Rge. 57E,
Carter County
Trust Beneficiary: Common Schools

Item Summary

See page 24

DNRC Recommendation

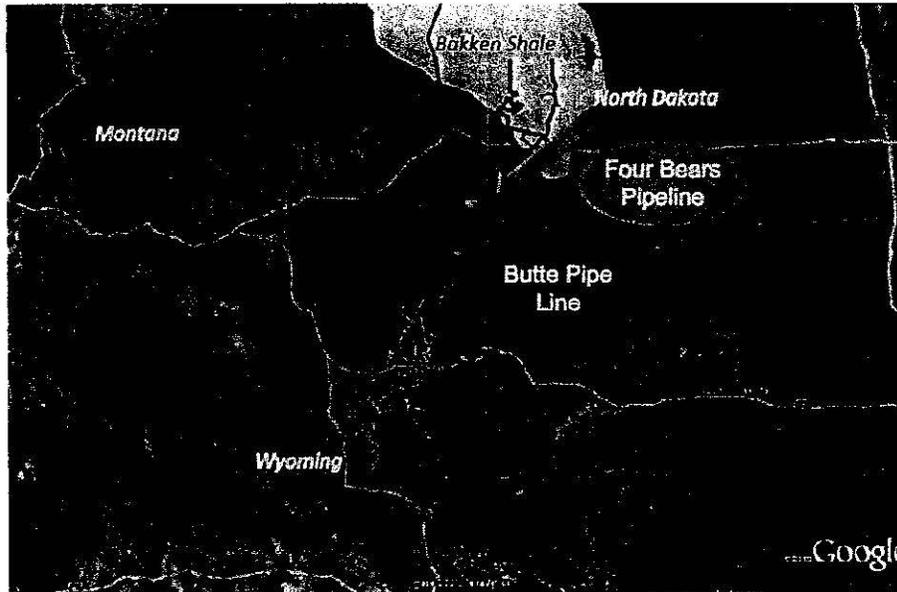
See page 24

**Testimony of Tad True
Vice President, Belle Fourche & Bridger Pipelines
Casper, WY
before the U.S. Department of Energy Quadrennial Energy Review
Hearing in Permitting and Siting, Cheyenne, WY
August 21, 2014**

Good morning, my name is Tad True and I am the Vice President of Belle Fourche and Bridger Pipeline. I appreciate the opportunity to testify today. As background, our pipelines are part of a collection of family owned companies that we refer to as the True Companies. My grandfather, H.A. "Dave" True, started the True Companies in 1954 as a one-rig drilling company. Since that time, the companies expanded into exploration, pipe supply, pipelines, trucking, trading and logistics and other industries. We are headquartered in Casper, WY and have approximately 1,300 employees that work in 12 different states from North Dakota to Texas to Pennsylvania. My focus is running the pipeline operations of True companies. Our pipeline operations consist of gathering and mainline systems in North Dakota, Montana and Wyoming. We have approximately 3,800 miles of pipe in the ground and service only crude oil. Over the past several years, most of our effort and construction has been focused on supporting the development of the Bakken in the Williston Basin.

Meat

Exhibit C
Page 3, first paragraph and beyond, Tad True expresses their frustration and their timeline for construction which they have accomplished by not acquiring easements and what we see as misleading statements and or testimonies.



From these points, Bakken crude can travel our Butte Pipe Line to major interstate pipeline connections at Ft. Laramie and Guernsey, WY, or by rail to customers across the country. With a capacity of 110,000 barrels per day, we estimate that construction of the Four Bears Pipeline took over 300 trucks per day off of US Highway 85 and ND Highway 22. This translates to over 25 million truck miles off the roads in North Dakota.

Federal Permitting Frustrations

Unfortunately, reproducing the success of the Four Bears Pipeline is becoming more difficult. At a time when we need more energy transportation infrastructure to take away growing energy production, federal permitting decision are taking longer, growing more complicated, and resulting in more unnecessary delays. We do not necessarily blame this on local officials here in the regions. We know that our local federal workers are hard-working public servants trying to fulfill the missions of their agencies. And yet, the process is becoming worse, not better.

An example of our frustration with increasingly slow and unpredictable federal permitting is our proposed Butte Loop project. Originally conceived and commercially contracted in 2010, we proposed to build a new crude oil pipeline along an existing corridor established by a recently completed natural gas pipeline. The route crossed federal land, so we knew we would need to obtain federal land-crossing easements from the Bureau of Land Management. By utilizing an existing route and using existing federal environmental review studies completed for the existing pipeline, we estimated the time necessary to obtain federal permit approval at 6 months, with a construction time of 1 ½ years and startup date in 2012. Unfortunately, after 2 years of federal permitting delays, we are still not operating here in 2014.

When we first approached federal officials, they shared our thoughts that the project could be covered under a categorical exclusion because it followed an existing pipeline corridor. However, given national sensitivities arising from the unrelated Keystone XL project, they asked us to conduct an initial Environmental Assessment to dispel any worries. We complied with this request and submitted a Plan of Development in the fall of 2011 utilizing federal resource information from the existing corridor.

However, while this work was based on the federal government's own data, the federal government rejected it and requested a new analysis of the same route. We completed this additional analysis in the summer of 2012. By this time, the federal government issued additional instructional information regarding the Sage Grouse. Because of that, we would now be required to conduct a full Environmental Impact Statement. So, we went from a simple project using an existing corridor and recently completed federal analysis expected to take 6 months for approval to a full-blown environmental impact analysis and a 2 ½ year delay.

These federal permitting delays and additional requirements forced us to abandon this new pipeline project and shift instead to a simpler project replacing our existing Butte pipeline with a larger capacity line. The revised project involves our existing permit. We hope to have the Butte Expansion project online later this year, two years after the original Butte Loop project was expected to come on line with less operational capabilities than originally designed to serve our customers.

Unnecessary federal permitting delays are not unique to our region. In California, another pipeline operator is facing delays from the US Forest Service. Assessment of a line passing through Forest Service land highlighted maintenance issues needed to ensure the integrity of the pipeline. Such maintenance is routine and can involve going out to the site, digging up the area immediately around the pipeline at that location, applying a sleeve or patch around the pipe, and then refilling the area around the pipeline. However, the simple permit needed for these repairs, which does not require a NEPA review, has been delayed many months and that operator is not yet able to make the repairs.

Another pipeline operator discovered issues requiring repair in a pipeline in northern California. Under PHMSA's repair classification system, these were the type of issues that should be addressed within 90 days. However, it took state agencies and the Corps of Engineers over 15 months to issue the necessary permits. That same operator seeking to replace a 1,500-foot line in the California Bay Area faced a 10 month wait by the US Fish and Wildlife Service.

Recommendations for Improved Federal Infrastructure Permitting

1- Additional Resources for Federal Permit Review - A lack of federal resources for

infrastructure permitting review is a fundamental problem across multiple federal agencies in multiple regions of the country. We appreciate that regional staff is working hard to address the backlog, but they are simply overwhelmed with the workload and the limited resources they are receiving from Washington.

This is not a new problem. The General Accounting Office in 2013 criticized the federal government for not processing oil and gas production permits in a timely manner. Congress responded with bipartisan legislation passed into law to provide additional resources to the North Dakota Bakken area. However, federal permit approval delays are a national problem and a single example of help for one location will not address the multi-agency and multi-region scope of this issue. If the federal government is serious about spurring the energy transportation infrastructure this country needs, it will devote the relatively modest amount of additional resources needed for increased federal permit reviews.

2 - Common Sense Decision-Making - federal permitting delays in areas with established corridors, recent environmental review, or required maintenance point to a need for more common sense in federal permitting decisions. Complicated projects in new or sensitive areas will naturally require more extensive review. However, lengthy decision-making on simple or routine projects does not make sense. It also brings more unnecessary work and cost to the Federal government. These are areas where approvals should be streamlined, not delayed.

The solution is more leadership from senior and political leaders in Washington. Regional staff wanting to process routine issues in a timely manner may not feel they have the latitude or support from more senior managers. The safest route for them is usually more study or decision-making higher up the chain command, requiring more time-consuming review.

Improved federal permitting requires senior government leaders to do more to support and empower their organizations to make timely, common-sense decision.

3 - Certainty in Decision-Making - Not knowing when a federal permitting decision will be made is just as bad as delayed federal permit decision-making. Energy transportation infrastructure projects are complex, logistically challenging and financially expensive efforts. Major pipelines can cost billions of dollars and require the organization of thousands of workers across multiple states. All of this requires planning logistics, establishing schedules and spending money on construction materials and worker salaries. American entrepreneurs are ready and willing to take on these big, complex challenges for the benefit of their companies and American consumers. However, federal permitting processes that do not stick to schedules, impose unforeseen delays, or include unknown decision dates wreck havoc on our ability to build infrastructure. Most companies are not large enough to withstand indefinite delays. Inevitably, projects are scrapped, or not even proposed, because of the prospect of federal delays. A more predictable and certain federal permitting process will encourage the energy transportation infrastructure America needs.

Nationwide Permit Program

One area of success where we are thankful for federal government support is the Nationwide Permit program. The federal Clean Water Act requires what we all know of as a wetlands permit for dig and fill activities affecting waters of the United States. Shortly after passing this law, Congress realized the volume of permit requests would quickly overwhelm federal permit reviewers, so they amended the Clean Water Act to provide an exemption for de minimis activities with minimal impact to the environment. The Corps of Engineers administers

the Nationwide Permit program allowing thousands of activities with minimal environmental impact to go forward each year on an expedited basis as Congress intended. The program is used not only to approve pipeline projects, but other infrastructure such as electricity lines.

However, in recent years, national environmental groups have sued the Corps of Engineers over its administration of the program and its application to projects such as the southern leg of the Keystone XL pipeline from Oklahoma to Texas and the Flanagan South pipeline from Illinois to Oklahoma. U.S. federal courts have repeatedly rejected the lawsuits and reaffirmed Congressional intent and the program. Along with the project sponsors and a coalition of related trade associations, the federal government through the Department of Justice has vigorously defended this program. Indeed, without it, thousands of infrastructure projects from pipelines to renewable electricity transmission lines would grind to a halt. We want to publicly thank the DOJ, the Corps and its federal partners for their work to preserve this program.

Conclusion

In conclusion, thank you for inviting me to testify today. Energy infrastructure is providing the benefits of America's energy renaissance to consumers and workers across the country. Even smaller-sized companies such as Bridger pipeline can provide good-paying jobs in rural regions. Additional resources for more timely federal permit processing, common-sense decision-making, and more certainty for the federal permitting process will all encourage additional energy infrastructure that is built safely with respect for our natural resources.

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