

FISCAL NOTE
Requested by Legislative Council
12/19/2014

Amendment to: SB 2034

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(10,300,000)	\$(1,000,000)		
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2034 provides a sales and use tax exemption for oil gathering material and pipeline.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Industry experts indicate that there could be between 500 and 2000 miles of gathering lines installed during the biennium that may qualify for this exemption. Based on the cost of materials subject to the exemption - estimated to be between \$100,000 and \$200,000 per mile, the estimated cost of this exemption is between -\$2.5 million and -\$20 million for the 2015-17 biennium. The midpoint of this range (-\$11,250,000) is shown 1A above.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

If enacted, SB 2034 will reduce state general fund and state aid distribution fund revenues.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/15/2015

FISCAL NOTE
Requested by Legislative Council
12/19/2014

Bill/Resolution No.: SB 2034

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Cities			
School Districts			
Townships			

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SB 2034 provides a sales and use tax exemption for oil gathering material and pipeline.

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Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/15/2015

2015 SENATE FINANCE AND TAXATION

SB 2034

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2034
1/19/2015
Job Number 22110

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to a sales and use tax exemption for materials used in transmission of oil through gathering lines; and to provide an effective date.

Minutes:

Attachment #1

Chairman Cook opened the hearing on SB2034.

Tim Dawson, Legislative Council, EDTC, Empower disclaimer.

Review the bill. This creates a sales and use tax exemption for materials used to construct an oil gathering pipeline. (meter :48)

Senator Dotzenrod -- Is there a difference in the law between gathering pipelines for oil or gathering lines for gas. It looks like they use oil and gas interchangeably here. This language in this bill is oil and gas, right?

Tim Dawson -- It says to transmit oil from an oil or gas well. So it is oil. (meter 1:56)

Chairman Cook -- On the fiscal note, \$10.3 million to the state; \$1 million to local governments, I assume, for the state aid distribution. This shows a negative fiscal note. I question this: I don't know how this money that they are showing isn't coming in is looked at as potential income already.

Tim Dawson -- I don't have an answer.

Senator Bekkedahl -- It says on line 15, page 1, unless the replacement creates an expansion of the system or the system's capacity, I'm assuming that's related to the fact that early on in this process when we were drilling 1 well per 1280 they put in the infrastructure, and now we are drilling 7 to 14 to 28 wells for 1280 and that's an expansion which will require bigger or more pipe in the ground? That's what it's relating to?

Tim Dawson -- I think that is a good example. I don't think that's the sole reason.

Alan Anderson, Commissioner, North Dakota Department of Commerce, and chairman of EmPower. (Attachment #1)

Senator Bekkedahl -- The 53% figure on trucking right now. That changes county by county, doesn't it? Some have much higher rates than that.

Justin Kringstad, Director of North Dakota Pipeline -- County by county, correct.

Senator Bekkedahl -- So, maybe fair to say that 53%, while it is the average, could also be the minimum and there will be other counties that would be more favorably impacted by this bill than some of the older counties.

Justin Kringstad -- Correct.

Senator Triplett -- I appreciate the work that the EmPower Commission has done, but I also believe that it is a relatively closed group of industry people who are looking out for industry. (meter 7:00) If we put an incentive like this, does it flip the decision on some of those in a way that just causes more damage to the environment and really doesn't have any appreciable effect on reducing truck traffic in the overall. I'm not sure this is the right tool to accomplish what you're trying to accomplish.

Alan Anderson -- Environmentally, I would still say that pipeline are the best method. They are underground. They are there for multiple years. Whether to accept truck traffic, and we will have some truck traffic, for well lives of 25-30 years, particularly if its gravel roads and things like that, or even if one of the comments that was made in McKenzie County was that it's the highest fatality rate of any county in the state.

Senator Triplett -- I think there is an argument for some both. It may be better to just let them flare. I am a fan of gathering lines. I appreciate getting truck traffic off the road and I don't want us to be flaring more than we have to. If this tips the balance then we've made a wrong choice again.

Alan Anderson -- Flaring? None of the oil companies are flaring any oil. These are for only oil gathering lines. For those that are remote enough and small enough volumes on the gas flaring, then the question is: whether it justifies putting in pipelines for oil, and in some cases it probably won't. This is a good incentive. It won't result in us going from 53% down to zero percent on truck traffic.

Senator Dotzenrod -- This only applies to gathering pipelines and your arguments about getting it in pipelines rather than on the road or other bigger pipelines on the railroads, you chose in this bill just to be gathering but not other pipelines. Not the big pipelines. Not that I would want to push you into trying to get more of a tax exemption that you're asking for in this bill, but wouldn't it just follow, if this is a good thing, that we should not be having any sales tax on any pipeline?

Alan Anderson -- I don't know what the larger pipelines incentives are but I know their economics more easily justify their installation. That is why, even with this 53% by truck

often times they are going to a tank battery that ties into pipelines that exists. This is more, from the well, to either a pipeline or some other facility.

Ron Ness, North Dakota Petroleum Council

A couple of points of qualification or, for the record, this was part of the EmPower discussion. I was Chair of the infrastructure committee. This actually came out of a different committee which I was not part of, for the record. When we were looking at what do we do about things Al talked about, local trucks and local communities, the fact that we will just continue to pour money back into these local roads. It's a safety issue. It's a dust issue. But most of these are going to be the midstream folks that put in place these short gathering lines that can take hundreds of trucks off the road forever in and around farm houses and things like that. Average cost today of an oil gathering mile is about \$300,000.00. Ultimately, we get back to the economics question and as the cost of easements and everything else has gone up, what we are talking about here is this a way to incentivize them to continue. (meter 15:27)

Senator Dotzenrod -- The \$300,000.00 per mile, is that the part that is subject to the sales tax or is that the easements. The cost of getting easements signed together with the material, the material that would be covered by this bill, that would be exempt from sales tax. If \$300,000.00 is everything that what part of that is for the material?

Ron Ness -- I do not have the fiscal note in front of me but I believe I was asked to contact...

Chairman Cook -- Fiscal note says that \$100,000.00 to \$200,000.00 per mile is material cost.

Ron Ness -- My number from the largest gatherer was about \$130,000.00 per mile in taxable sales information. (meter 17:33)

Chairman Cook -- Any idea how many miles of gathering lines were put in last year?

Ron Ness -- I believe it says 500.

Chairman Cook -- This fiscal note says between 500 and 2000 miles during this next biennium. Just curious what our history has been. Do you have that, Justin?

Justin Kringstad -- I don't have the fiscal note.

Chairman Cook -- Do you have the history of how many miles of gathering pipeline have been put in in the last few years? Do we track that?

Justin Kringstad -- We track the number. My best guess for last year alone was right around 500 miles. It's been increasing as production has gone up.

Senator Dotzenrod -- Is there any way for us to know whether the sales tax has that much effect on whether this work gets done or not. Evidently there was maybe 500 miles last

year and there's going to be some this year whether we pass the bill or not. Do we have any sense that this bill, and taking the sales tax off, is going to change anything?

Justin Kringstad -- I have had discussions with various companies. Crude oil gathering is a tough economic endeavor when you look at, say, natural gas. That pipelines needs to be there long term. Crude oil. Salt water. They have the option if they are going to truck that or if they're going to put in an infrastructure from a third party. As easement costs have gone up, as other related costs and workforce have been challenges, crude oil gathering is a tough thing and I've had companies say we're reconsidering whether we want to even continue in this line of our company.

Chairman Cook -- Isn't the biggest obstacle the easements?

Justin Kringstad -- Easements is one of the challenges. Everything else with workforce and all the other challenges that the whole industry also faces, that midstream sector, but I do know that with the flexibility that trucking does offer, there's pros and cons to that as well.

Chairman Cook -- Do I dare ask what a typical easement is nowadays?

Justin Kringstad -- It varies so much, depending on the number of pipelines. The type of pipe, distance being crossed. There are starting points, depending if it's a single line easement, multiple lines, transmission or gathering. It's real tough to just nail down a starting point.

Senator Bekkedahl -- Is the operator and, ultimately, the royalty owner, as well as the state of North Dakota, beneficiaries of the pipelines from the aspect that on the wells that I'm familiar with, the ones that are already in oil gathering systems are paid out at a higher sales rate than the ones that are trucked. It's not because of the trucking costs. The others are better price when averaged out over the month when it's going into the line every day versus a truck coming every two or three days to release that oil. Do you know if that makes a difference. Is there a side benefit here?

Justin Kringstad -- Yes, the royalties, the taxable income is based on the wellhead price for the crude oil. That wellhead price is impacted by transportation cost, market conditions. But transportation is one of the biggest things when we look at that hit to that discount off WTI. Any transportation costs that can be eliminated or minimized is going to help that wellhead for not the royalty owner, the operator, but the state itself as well.

Chairman Cook closed the hearing on SB2034.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2034
2/10/2015
Job #23592

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes:

Chairman Cook opened the committee work on SB2034.

Sales and use tax exemptions for materials used in the transmission of oil through the gathering pipeline. It will take trucks off the road, 63% by truck right now.

What are your thoughts, Senator Unruh?

Senator Unruh -- Nothing like putting me on the spot there. I do like the bill. I think it would be appropriate, however, to add a sunset clause to the concept, possibly 2 years.

Chairman Cook -- Amend subsection 3? Cole can do this to make it effective, only, for the next 2 years of the biennium?

Senator Unruh -- Yes. I will move that amendment.

Senator Laffen seconded.

Senator Dotzenrod -- The exemption provided in this bill is on the sales tax on gathering lines and I am wondering about the argument that you would make to do that, would it be any different argument than you would make for pipelines of all kind? Pipelines of all kind are serving up public service and they are getting vehicles off the road

Senator Bekkedahl -- If I could answer the question of Senator Dotzenrod's, this is a natural progression as the field expands and matures and they start to figure out the economics of their well programs. The longevity of the wells promotes the development of the pipelines over the trucks, which, over time, becomes more expensive; as well as the issue of the road reconstruction because a lot of these roads, the industry owns or maintains as well. It's in their best interest to do this. From the public standpoint, it's really in our best interests to get the trucks off the road. I like the 2 year review of this because if this is successful we will see more trucks coming off the road and we will see more gathering lines being placed into service and we will see a better management of the field

as it matures. It's just the production of the number of wells and the maturation of the drilling programs and development of production.

Senator Laffen -- If I could add to that, the big pipelines, the big major ones, really aren't taking a lot of trucks off the road. The only way of getting the oil out of here is either through them or rail. It's the gathering lines that are really taking the trucks off the road.

Chairman Cook -- I would hope that the sunset sends a message that do it in the next 2 years and do as much as you can because it's probably going to go away.

Senator Triplett -- Senator Bekkedahl said, if this works, as though if gathering lines get built that will be proof that this worked. The same question that we've had on all of these things is, how are we going to measure whether it worked because we hear from everybody that they are working as fast as they can right now. Whether we need this, or not, is an open question in my mind. I think the sunset is a good move and I certainly can support that amendment. I do think that having the gas capture plant in place changes the playing field.

Chairman Cook -- You served on energy, didn't you? This came out of there. Did they have that discussion in energy development?

Senator Triplett -- This is one of the EmPower bills that I voted against, on principal, because we didn't discuss them. They were presented to us by the EmPower as a done deal. We didn't hold hearings on them at all. We just voted them out, over my objections that it was bad policy.

Senator Unruh -- I do notice that we have a couple of EmPower Commission members in the room, if maybe they would care to speak as to their thoughts.

Chairman Cook -- I don't care to listen to them. No offense whatsoever. We have a motion to amend on the table.

Roll call vote 7-0-0.

We have before us SB2034, as amended.

Senator Unruh -- I would move a do pass on SB2034, as amended, and rerefer to Appropriations.

Seconded by Senator Laffen

Chairman Cook -- It looks like an \$11,300,000 fiscal note. Industry experts expect between 500 and 2000 miles in the next biennium. Discussion?

Senator Triplett -- Just to elaborate on my comments a minute ago about why I voted against all of the EmPower bills in the energy development & transmission committee. As I said, it was the first interim that I had served on that committee and I didn't realize, apparently, that the established practice in that committee is just to receive

recommendations from the EmPower Commission and rubber stamp them, and that was what was done. I did object rather strenuously as each one came through. (meter 8:25 to 10:20)

Roll call vote on do pass, as amended, SB2034, and rerefer to Appropriations. 7-0-0

Carrier: Senator Bekkedahl.

15.0187.01001
Title.02000

Adopted by the Finance and Taxation
Committee

February 10, 2015

M
2/10/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2034

Page 1, line 4, replace "effective" with "expiration"

Page 2, replace lines 24 and 25 with:

"SECTION 3. EXPIRATION DATE. This Act is effective through May 30, 2017,
and after that date is ineffective."

Renumber accordingly

Date: 2.10.15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 203A

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0187.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Unruh Seconded By Sen. Laffen

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-10-15

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2034

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0187.01001 Title.02000

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen Unruh Seconded By Sen. Laffen

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Bekkedahl

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2034: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2034 was placed on the Sixth order on the calendar.

Page 1, line 4, replace "effective" with "expiration"

Page 2, replace lines 24 and 25 with:

"SECTION 3. EXPIRATION DATE. This Act is effective through May 30, 2017, and after that date is ineffective."

Renumber accordingly

2015 SENATE APPROPRIATIONS

SB 2034

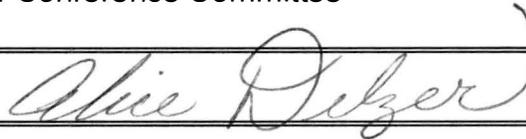
2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2034
2/16/2015
Job # 23908

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an ACT relating to sales and use tax exemption for materials used in transmission of oil through gathering lines (DO PASS)

Minutes:

Attachments # 1 - Dept. of Commerce Testimony

Chairman Holmberg called the committee to order on Monday, February 16, 2015 at 11:00 am in regards to SB 2034. All committee members were present. Chris Kadrmas, Legislative Council and Nick Creamer, OMB were also present.

Tim Dawson, Legislative Council (neutral) explained the bill to the committee. (2.49)

Senator Robinson stated the vote was a 7 to 0 do pass out of Finance and Tax Committee.

Senator Bekkedahl testified in favor of SB 2034 and stated this is a bill that will get trucks off the highway.

Senator Kilzer: Do we know what the revenue to the state is from present taxes. He was told no.

Alan Anderson, Commissioner ND Dept of Commerce testified in favor of SB 2034 and provided written Testimony Attached # 1 - A favorable consideration for SB 2034.

V.Chairman Bowman: How do they monitor what pipes will be used for this?

Mr. Anderson: This is actually a sales tax incentive already in existence, they are keeping track the same thing that was done for gas since 2009.

Senator Gary Lee: It has a sunset in 2017, what kind of truck traffic do you think will come off the road by that time? He was told by Mr. Anderson that he can get that information to him.

Senator Carlisle: Why wouldn't we put an emergency clause on this? The idea is to get trucks off the road.

Mr. Anderson: I am sure EMPOWR would support that being on an emergency clause.

Chairman Holmberg: Was the policy committee given discussion about the emergency clause?

Senator Bekkadahl: We were not given any information nor a request for that in testimony.

Senator Mathern: Do you have a list of companies that would actually do this? Do we have any assurance that pipe lines will be put out there?

Mr. Anderson: The companies that are making decisions whether they put pipe in the ground or move the product by truck, they're doing it on an economic basis. Is this enough to make a difference? Not totally. With the price of oil being lower today, it is a more important part than it would be if oil was at a higher price from that decision process.

Senator Mathern: We had a bill that put \$600,000 into Department of Ag because the farmers don't like the oil companies so it would be a little help to try to talk the farmer into working with these pipeline companies. Is there enough support amongst the landowners to actually let them put out the pipes. If it is why do we have that other bill?

Mr. Anderson: (13.14) There is some landowner fatigue, with so many pipes going underground. That's actually one of the reasons why the governor's office and Commerce has supported having pipeline summits in the past and that's to educate why pipelines are the best way to move products, the safest, to get trucks off the road. It is an education process. I am not up to speed on the previous bill on the ag dept.

Senator Gary Lee: it looks like you have to apply for a refund to get your tax back is that correct? You can buy the pipe today, but there is no incentive to put it in the ground except at a time when you feel as a company to do it.

Senator Bekkadahl: What that section is attempting to do before you are eligible for the sales and use tax credit it's saying you have to apply for a certificate first through the tax commissioner's office, and that qualifies you for the exemption. if you do not do that, that's the claw back in there that says you can apply for it after the fact and get the refund if it falls within the window of this bill's entry date and expiration date. So Section 3 says you must receive the certificate from tax commissioner before you start your project to purchase. (15.15)

Senator Gary Lee Section 4 is the refund portion of it. Is that related to just purchasing the pipe but not necessarily putting it in the ground?

Senator Bekkadahl: that did not come up in our meeting.

Senator O'Connell: What's the estimated payback time versus pipeline or truck traffic?

Mr. Anderson: it varies so much by the wells production, so I can't make a case on the timing.

Senator O'Connell; There are a lot of people employed by them trucks, they pay a lot of road tax, you're anti-truck, anti-rail.

Mr. Anderson: I wouldn't say we are anti truck or anti rail. We believed the best way is the pipeline. We'd like to get most of the trucks off the road.

V. Chairman Krebsbach: Are there certificates pending at this time? And why the sunset of May of 2017 if this is a good idea?

Senator Bekkadahl: it's my understanding since this is new legislation there would not be any pending applications for the certification until the bill becomes become active. The expiration date was discussed and added at the recommendation of the Finance and Tax Committee solely for the purpose of measuring the amount of activity related to the exemption.

Senator Carlisle moved a do pass on SB 2034. 2nd by Senator Wanzek.

Chairman Holmberg: Call the roll on a Do Pass on SB 2034.

A Roll Call vote was taken. Yea: 12; Nay: 1; Absent: 0.

Senator Bekkadahl will carry the bill.

V.Chairman Bowman: Why do the oil companies need this when they should be doing the pipelines anyway? Why do we have to give them an incentive to do what they should be doing? I need a good answer on that because I might change my mind on the floor.

Senator Bekkadahl: The discussion in committee that we received from the professional affiliations on this was that as long as there is a balance between trucking and gathering lines, the companies would tend to go towards trucks versus gathering lines because they're not putting out the expenditure for the gathering lines. That is one issue. The other issue was there are literally where there are some areas where the pipelines don't make economic sense without an incentive and so it will just continue to be trucked, where the production levels are not very high or the expanding drilling in that area is not going to occur anyway. There will always be trucking involved in this industry and it just has a matter to do with economics of every well and every field area that they deal with. Without the incentive there are areas that produce so much oil that they would pipe it. This is for the in-between areas where the incentive makes it cost effective for them to actually get it in the ground versus on a truck.

The hearing was closed on SB 2034.

Date: 2-16-15
 Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2034**

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By *Carlisle* ~~*Wanzek*~~ Seconded By *Wanzek*

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Heckaman	✓	
Senator Bowman	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator O'Connell	✓	
Senator Carlisle	✓		Senator Robinson	✓	
Senator Sorvaag	✓				
Senator G. Lee	✓				
Senator Kilzer	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 12 No 1

Absent 0

Floor Assignment *Berkdahl*

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2034, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (12 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2034 was placed on the Eleventh order on the calendar.

2015 HOUSE FINANCE AND TAXATION

SB 2034

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2034
3/4/2015
Job # 24314

- Subcommittee
 Conference Committee

Committee Clerk Signature

Kenneth M. Torheim

Explanation or reason for introduction of bill/resolution:

A bill relating to a sales and use tax exemption for materials used in transmission of oil through gathering lines.

Minutes:

Attachment #1, 2

Chairman Headland: Opened hearing.

Tim Dawson, Legislative Management: This bill relates to a sales and use tax exemption for materials used to construct an oil gathering pipeline. This is the same language that's used for every other tax exemption relating to construction of other energy facilities. If you look at the law itself, all these read exactly the same: personal property used to construct or expand a gathering pipeline is exempt from taxes under this chapter. Personal property used to replace an existing system does not qualify for an exemption unless the replacement creates an expansion of the system. Subsection 2 defines what a gathering pipeline is. And on three and four, there's two ways to get the exemption. You go get a certificate and then you get it. Or you go and ask for a refund in four. Section 2 of the bill relates to the use tax, and this was a Senate bill, and the Senate changed the interim committee's effective date to an expiration date. Now it expires on May 30, 2017.

Chairman Headland: Is there any testimony in support?

Alan Anderson, Commerce Commissioner, Chairman for Empower North Dakota Commission: Distributed testimony in support. (See attachment #1.)

Representative Klein: Why is there a drop dead date of 2017?

Alan Anderson: I think it would be a review date. My suggestion would be to use July 31. That way, it gets you to the next session essentially. And you don't have that gap in there, which would require an emergency or something like that, if you find it beneficial after that review.

Representative Froseth: Was there any reason why they made a May expiration date? That's not very usual with most expiration dates.

Alan Anderson: I wasn't aware of the date until we looked at the bill before we came here. Ron Ness could probably shed some light on that.

Representative Schneider: Is there any impact on rail traffic?

Alan Anderson: There could be. Typically it's getting the crude to a rail station. You could pipe it there as opposed to truck. I think most of the time it's to another pipeline station that you're first trucking it to.

Representative Froseth: These pipelines are also taxed as personal property, the same way as any other centrally pipelines are taxed in the counties, I'm sure. But I'm not sure, when do they come on line as being taxed. I suppose it would vary what times of year the tax would go into effect.

Alan Anderson: I'll let the industry folks talk about this.

Ron Ness, North Dakota Petroleum Council: I support SB 2034. I also served as the chair of the infrastructure committee under the Empower Commission. When we looked at all of the issues relating to infrastructure and roads and impacts and issues related to the surge, we essentially came up with one solution, and that's to get more trucks off those roads or else you're going to continue to have to put more money back into those roads time after time. As the commissioner said, 53 percent of the oil, this is the oil in the field, these pipelines are gathering lines. They are not subject to property tax. They are part of the production system. So they are moving the product from either a wellhead to a collection system, where it would either go into a major pipeline to come to a Tesoro or go somewhere else, or it would go into a rail loading facility. These are the pipelines that connect to rail facilities, really have no impact on rail facilities. The other question that was asked was, why the May 30? I talked to Sen. Cook this morning, and he said that was an error. It makes no sense to end anything May 30. It should be June 30. As you know, all tax issues are effective July 1, so it should be June 30th or however that's properly written. Crude oil gathering lines generally, currently about \$300,000 per mile, to put in place and get in the ground a crude oil gathering line. So the economics around the folks who do crude oil gathering lines, with the rising cost of easements and all of the different things, I think there's a belief in the Senate, let's get these pipelines, let's try to push these folks maybe while things slow down a little bit here, to try and encourage them to get some of this pipeline in the ground. They put a two-year, there was no limiter on it. This same sales tax exemption exists for natural gas gathering systems. So if you're putting a natural gas line in the system, I believe the state did that in 2009 session, you put a natural gas gathering system in place, you do not pay the sales tax on it. So Empower felt this was an opportunity to get trucks off the road. We know that the best way to move that product, that helps the landowners, increases safety, it's the most safe and efficient way of transporting oil. Yes, leaks and spills do occur, but that doesn't mean you have deaths on the road, you have dust on your crops, you have other things. But, clearly, the best process to get this oil into pipelines and get it to the area where it's going to be shipped to market. So the two-year timeframe, I think the Senate felt we could take a look at it. If that's the wishes of this committee, we would support that, as well. Everything has a two-year time limit around here to some extent, but we understand how it goes. And we don't know how many miles

are going to be built. The fiscal note, the Tax Department worked on that fiscal note because, if things slow down and there's not as many pipelines going in many directions, there won't be as many pipelines built. Every one helps, and there's a significant reduction in truck traffic when you just take every individual well and pad off of the docket in terms of reducing trucks, Each one helps. I think this is a good step forward.

Chairman Headland: Does industry build pipelines or gathering lines to wells that are already in production? Or would this be more for new wells?

Ron Ness: You're always trying to go back into your system and increase efficiency and reduce your costs, so if you can get to a well that's maybe going to have additional wells put on it, I think the sizing of the pipe and all of those things would matter, so some of both, I would say.

Representative Haak: You mentioned that natural gas has this exemption. Do they have an expiration date as well?

Ron Ness: They do not. So if you were so inclined to put an amendment on to remove that exemption, I'm sure I could...

Representative Steiner: On the gathering lines, do you know, have there been additional rules or costs placed on the industry as they've been looking at trying to track more of the pipelines?

Ron Ness: I think HB 1358 is going to be the vehicle to do that this session. Of course, last session, North Dakota was the first state to begin a regulatory process of gathering lines, which included crude oil gathering lines. So I guess it would be an expansion of that is likely coming this session, in terms of what they have to use for monitoring, leak detection, construction standards, third-party inspections. Those things are all in that bill.

Representative Froseth: Are all the gathering lines charted?

Ron Ness: I believe the legislature in 2011 passed, as part of the one-call bill, that all of these gathering lines now have to be put into a GIS database at the Department of Mineral Resources. And there's some clarifying language for that in HB 1358 this year, as well. Going back to August 1, 2011, they all have to be in there.

Chairman Headland: Is there further testimony in support?

Allan Nygard, MHA Nation Three Affiliated Tribes: We are in favor of this bill but with a caveat. That caveat is, although we encourage the laying of pipe on our reservation, we don't receive any of the tax dollars that are generated on that particular process. So it is our intent as a nation to begin to tax all pipe within the exterior boundaries of our reservation on trust land. So, just as a point of clarification and in full disclosure, and as a partner in this energy development with the State of North Dakota, we feel it's important for you to understand that, and to know that, although we do not necessarily object to this particular bill, and as a matter of fact, we think it's a good step forward. If we can get more pipe, and

get the trucks off the road, that's to our benefit as well. But just to let you know that we will be instituting a pipeline tax in the very near future.

Chairman Headland: That's interesting. It seems contrary to what we're trying to accomplish, so I have a hard time trying to understand why you would do that, but I imagine it has to do with needs on your nation. That's a debate for another day.

Representative Haak: Do you have any idea what that tax would be?

Allan Nygard: Our ordinance is in place. We are trying to work with the state in sharing the revenue that is currently being generated on pipelines. It's a difficult situation because the state doesn't collect that; the counties collect that. So it would require; it's going to require a lot more modification than just entering into an MOU of revenue sharing agreement. So, exactly what level that would be, we're not exactly sure. We're going through the number crunching process right now. It will probably be different than what you see with the state. The state does an assessed value on the pipeline, and then the counties assess mills based on that assessed value by the state. We are more looking toward volume; the volume that comes through those pipelines.

Chairman Headland: Does your nation want pipelines to be put in the ground and take trucks off the road?

Allan Nygard: Absolutely. However, when a spill happens, when a leak happens, because we have no mechanism to address that, it comes out of our hide, so to speak. That's our issue. We want to get trucks off the road, but if we have no mechanism, and we bare all the cost, it's counter-productive on our side.

Chairman Headland: So you're saying that if a spill has occurred on tribal lands, the state has not done anything to help the tribes in dealing with the spill.

Allan Nygard: For the most part that is correct. We just spent over \$400,000 dealing with two spills on our reservation. We bared the entire cost.

Chairman Headland: Is there further testimony in support? Is there any opposition?

Representative Nelson: Distributed testimony in opposition. (See attachment #2.)

Chairman Headland: Are there different regulatory standards that apply to gathering lines and transmission lines?

Representative Nelson: Under Federal standards, an oil gathering line would be limited to eight inches, but a natural gas gathering line is not. So I think the largest that I know of for gas is 14 inches, but you'll see that most of these lines being converted are eight-inch lines. But that is actually Federal standards and not North Dakota standards. The Feds do not have a good definition either. The idea was that gathering lines probably ran in that 100-pound 200 psi. There are some differences as far as percentage of their rated capacity of the pipeline. As near as I can tell, those standards are not being followed.

Chairman Headland: So you're saying that current practice is to convert a gathering line that wouldn't meet the standards of a transmission line to a transmission line?

Representative Nelson: Yes. Although at those points, what's happening is they are adding the things to make it a transmission line, and often the things that they add actually make it safer than it was as a gathering line. For instance, a lot of times the difference is in the mind of the beholders. They'll put tanks in for storage, and basically they'll use it more like a tank farm, where it comes in and you have a non-pressurized tank, and it's stored there for a while and it's pumped out the other end. They go through the same siting process, and I know the Public Service Commission has really been grappling with this for the last year or so, trying to figure out how to actually do this. They go through the same siting process, but it's actually impossible to do the same siting process. If you look at the Highland one, it talks about the buildings that are within 500 feet. Well, they had 15 of them sign off, and five hadn't signed off, and the only way a company with a transmission line can go within 500 feet is either they get the signature or they show that it's impractical to go somewhere else. Well, with a gathering line, you don't have to show that it's impractical. You can just go through. So, I suspect what happened is 15 of those people were probably landowners or mineral owners they couldn't get very easily without their signatures, but if you happen to be on the other side of the road, or if you just happen to have a small plot of land or something, I've had people tell me that literally the pipelines are running within a couple hundred feet of their house, and they never even talked to them about it because they don't have to. The PSC is trying to get these things, but if you look, say, like these Hess Hawkeyes, I'm not sure how they were put in, but I believe they were done with skid sleds, and you wouldn't even be allowed to put in a pipeline today, I don't believe, with a skid sled. So they're 30 years old, we're running 12-inch pipelines up to 8-inch pipelines, and it's right in the drinking water for the whole state. It's really kind of a nerve-wracking process. This is the problem and part of the reason, as we go down the road, we don't want to create incentives to just call everything a gathering pipeline, and put a system in, and then just convert it as you need to.

Representative Haak: Who approves the companies that are seeking to convert the gathering line to the transmission line? And who would check that standard to make sure that they have indeed done all the things to be a transmission line? And who enforces that? And have we in North Dakota had any companies that are cited that have been in violation of this?

Representative Nelson: I don't know of anyone being cited. Basically, the Public Service Commission would be in charge of that. If it goes through sovereign land, it would require a new sovereign land permit, but it doesn't seem that that's happening. Mostly it's the Public Service commission.

Chairman Headland: Any other questions? Any other opposition?

Representative Haak: If we keep this expiration date on here and if they were to replace something five years down the road, they would no longer qualify for that sales tax exemption, or they would because it was part of the original project?

Myles Vosberg, Tax Commissioner's Office: The sales tax, as it's written, applies to those materials that are. So, if it's considered a gathering line when it's put in the ground, it would qualify for the exemption. If it were converted later, there would be no requirement to repay or change. So if you had an extension later of and it was converted to a transmission line, then it would no longer qualify.

Representative Haak: If it stays a gathering line and they need to replace the pipe in like five or ten years for maintenance purposes or whatever, would they still qualify for the exemption?

Myles Vosberg: The replacement will qualify for an exemption only if it increases the capacity of the system. So, maybe if there's new wells out there, and now they put larger pipe in so that they can increase that, that would still qualify, but a simple replacement for repair would not.

Representative Schneider: Have you had a chance to think about or analyze in the past the suggestion that Rep. Marvin Nelson just made about having to repay the tax in this exemption if the company converted to a transmission line from a gathering line?

Myles Vosberg: We haven't considered that. It's not in the language so it wouldn't apply.

Representative Schneider: Do you have any opinion as a possible solution to using a gathering line to create a transmission line if that is or might occur?

Myles Vosberg: I really don't have an opinion on that.

Chairman Headland: It seems to me that if we're trying to incent pipelines and get trucks off the roads, it doesn't really matter for the purposes of this bill whether it's a gathering line or a line. So, I think, as far as taxation, we just need to worry about whether we can do without the tax or not. And we really do believe it provides an incentive.

Chairman Headland: Any other questions for the Tax Department? Seeing none, we'll close the hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2034
3/11/2015
24681

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to a sales and use tax exemption for materials used in transmission of oil through gathering lines.

Minutes:

No attachments.

Representative Steiner: Made a motion for a do not pass.

Vice Chairman Owens: Seconded.

Representative Steiner: This bill does have value but if we were in a different financial situation for certain of what the price of oil would be I would definitely support it because it will take trucks off the road; it has a good intent to it. I have a concern about just giving the tax exemption on gathering lines and not on transmission lines. You can take three four inch gathering lines and put them in the ground then call it a transmission line. I think we should do the whole thing at once but the fiscal note would probably be a problem.

Chairman Headland: Agreed.

Representative Hatlestad: This is a safety issue; we're looking at trucks and the increasing number of accidents in our area. I would hate to see this thing go down.

Chairman Headland: I understand your concerns. It would be my hope these lines go in regardless of whether we provide the tax exemption or not.

Representative Klein: We give them the credit for gathering lines then they move it into a transmission line so we've really opened the door completely.

Representative Froseth: I have a note that says gathering lines are not subject to property tax so they get a pretty good tax break right there. Most other pipelines are centrally assessed and pay property taxes.

Chairman Headland: In the Department of Commerce's testimony they were asked to prioritize and I don't believe this was on the top of their list. When we have to look at the overall picture for revenues this is the place to start. I agree with the do not pass.

Representative Hatlestad: If we're concerned about them converting it from a gathering line to a transmission line then we should put a claw back provision on it that if they make the transition we get our money back.

Chairman Headland: Are there any other comments?

Roll call vote: 10 yes 2 no 2 absent

Motion carried for a do not pass.

Vice Chairman Owens will carry this bill.

Date: 3-11-15

Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2034

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Rep. Steiner Seconded By Rep. Owens

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN HEADLAND	✓		REP HAAK	✓	
VICE CHAIRMAN OWENS	✓		REP STRINDEN	✓	
REP DOCKTER	✓		REP MITSKOG	AB	
REP TOMAN	✓		REP SCHNEIDER		✓
REP FROSETH	✓				
REP STEINER	✓				
REP HATLESTAD		✓			
REP KLEIN	✓				
REP KADING	AB				
REP TROTTIER	✓				

Total (Yes) 10 No 2

Absent 2

Floor Assignment Rep. Steiner Owens

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2034, as engrossed: Finance and Taxation Committee (Rep. Headland, Chairman)
recommends **DO NOT PASS** (10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING).
Engrossed SB 2034 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2034

**DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2034
JANUARY 19, 2015, 10:45 A.M.
SENATE FINANCE AND TAXATION COMMITTEE
LEWIS AND CLARK ROOM
SENATOR DWIGHT COOK, CHAIRMAN**

ALAN ANDERSON – COMMISSIONER, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee, my name is Alan Anderson and I serve as the Commissioner for the North Dakota Department of Commerce, as well as chairman of the EmPower North Dakota Commission.

On behalf of the EmPower ND Commission, I am here today to speak in favor of Senate Bill 2034. This is a bill that was recommended by the Commission and approved by the interim Energy Development and Transmission committee. A complete list of bills recommended and supported by the Commission is below:

- Senate Bill No. 2032 – Oil and Gas Development Strategic Planning Authority.
- Senate Bill No. 2033 – Oil & Gas Tax Trigger Mechanism.
- Senate Bill No. 2034 – Oil Gathering Pipelines Sales Tax Exemption.
- Senate Bill No. 2035 – Value-Added Energy Facility Sales Tax Exemption.
- Senate Bill No. 2036 – Coal Beneficiation.
- Senate Bill No. 2037 – Wind Energy Incentives & New Coal Mine Sales Tax Exemption.

Senate Bill 2034 provides a sales tax exemption to oil gathering pipelines. This exemption would provide an incentive to companies to develop and use oil gathering systems as an alternative to hauling the product via trucks on the road. This reduces truck traffic, as well as wear and tear on the road.

Mr. Chairman and members of the Finance and Taxation Committee, I respectfully request your favorable consideration of Senate Bill 2034. That concludes my testimony and I am happy to entertain any questions.



#1
2-16-15

DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2034

FEBRUARY 16, 2015, 11:00 A.M.

SENATE APPROPRIATIONS COMMITTEE

SENATOR RAY HOLMBERG, CHAIRMAN

ALAN ANDERSON – COMMISSION, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee, my name is Alan Anderson and I serve as the Commissioner for the North Dakota Department of Commerce, as well as chairman of the EmPower North Dakota Commission.

On behalf of the EmPower ND Commission, I am here today to speak in favor of Senate Bill 2034. This is a bill that was recommended by the Commission and approved by the interim Energy Development and Transmission committee. A complete list of bills recommended and supported by the Commission is below:

- Senate Bill No. 2032 – Oil and Gas Development Strategic Planning Authority.
- Senate Bill No. 2033 – Oil & Gas Tax Trigger Mechanism.
- Senate Bill No. 2034 – Oil Gathering Pipelines Sales Tax Exemption.
- Senate Bill No. 2035 – Value-Added Energy Facility Sales Tax Exemption.
- Senate Bill No. 2036 – Coal Beneficiation.
- Senate Bill No. 2037 – Wind Energy Incentives & New Coal Mine Sales Tax Exemption.
- Senate Bill No. 2318 – Carbon Dioxide Capture Equipment Used for Enhanced Oil Recovery.

Senate Bill 2034 provides a sales tax exemption to oil gathering pipelines. This exemption would provide an incentive to companies to develop and use oil gathering systems as an alternative to hauling the product via trucks on the road. This reduces truck traffic, as well as wear and tear on the roads.

Mr. Chairman and members of the Appropriations Committee, I respectfully request your favorable consideration of Senate Bill 2034. That concludes my testimony and I am happy to entertain any questions.

#1



SB 2034
3-4-15
#1

DEPARTMENT OF COMMERCE TESTIMONY ON SENATE BILL 2034

MARCH 4, 2015, 9:15 A.M.

HOUSE FINANCE AND TAXATION COMMITTEE

REPRESENTATIVE CRAIG HEADLAND, CHAIRMAN

ALAN ANDERSON – COMMISSION, ND DEPARTMENT OF COMMERCE

Good morning, Mr. Chairman and members of the committee, my name is Alan Anderson and I serve as the Commissioner for the North Dakota Department of Commerce, as well as chairman of the EmPower North Dakota Commission.

On behalf of the EmPower ND Commission, I am here today to speak in favor of Senate Bill 2034. This is a bill that was recommended by the Commission and approved by the interim Energy Development and Transmission committee. A list of the bills the House of Representatives will be seeing that has been recommended and supported by the Commission is below:

- Senate Bill No. 2034 – Oil Gathering Pipelines Sales Tax Exemption.
- Senate Bill No. 2035 – Value-Added Energy Facility Sales Tax Exemption.
- Senate Bill No. 2036 – Coal Beneficiation.
- Senate Bill No. 2037 – Wind Energy Incentives.
- Senate Bill No. 2318 – Carbon Dioxide Capture Equipment Used for Enhanced Oil Recovery.

Senate Bill 2034 provides a sales tax exemption to oil gathering pipelines. This exemption would provide an incentive to companies to develop and use oil gathering systems as an alternative to hauling the product via trucks on the road. This reduces truck traffic, as well as wear and tear on the roads.

The Senate added an expiration date to this bill to prompt a review of this incentive during the next legislative session. We do not have a problem with an expiration date. However, an expiration date of July 31, 2017, may be a better option to allow for the exemption to continue without a break, if the legislature decides to continue it in 2017.

Mr. Chairman and members of the Finance and Taxation Committee, I respectfully request your favorable consideration of Senate Bill 2034. That concludes my testimony and I am happy to entertain any questions.

SB 2034
3-4-15
#2 p. 1

SB 2034

Chairman Headland and members of the House Finance and Taxation Committee. I am Representative Marvin Nelson of District 9.

I have to stand opposed to SB 2034 as written.

A major concern is that it creates an incentive to build a pipeline as a gathering line and then later convert it to a transmission line. While this at one time was quite unusual, it is no longer unusual. I include a couple of examples. Hiland Crude converted almost 200 miles of gathering pipelines in one project to transmission. I would note they said that they were not running any higher pressures nor more product through the pipeline, but were adding storage and doing other things that actually made it safer than it was as a gathering system. I'm not certain how many cases of conversion there were last year, but I personally know of three.

The other case I bring to your attention is the Hess Hawkeye Project. I include a letter from the ND PSC where they lay out that the way they take it, there is a difference between an NGL line and an oil gathering line. The definition of oil under the Industrial Commission and in Tax Dept. Rules seem to me to include NGL. However, under the PSC rules, a NGL pipeline is not an oil pipeline and so has no exemption from siting like natural gas and oil gathering pipelines do.

The Hawkeye pipelines were I believe put in as natural gas pipelines 30 years or so ago and have been changed to be used for other things. Oil gathering pipelines are limited under federal rules to 8 inches but there no limit on natural gas pipelines. I am pretty sure we have gas gathering pipelines of at least 14 inches in diameter.

In any case, one big concern is creating incentives to build pipelines as gathering lines and then convert. The idea was that gathering lines were small and low pressure. I don't know that that is really true anymore, but what still applies is the company puts them where they want and now tells the state after the fact. Converting them later then has the problem the installation cannot be inspected. Depth must largely be taken on faith. Other problems are the proximity to living quarters, wells and areas of exclusion.

Gathering pipelines have easier siting, one case would be the US Fish and Wildlife. They comment on new transmission lines but do not comment on existing lines. A company can gain an advantage converting from a gathering line.

So too would an exemption from sales tax be an incentive to put the line in as gathering and then convert. Because of that I must oppose SB 2034. I would suggest that the sales tax refund, if done, should come directly from the Tax Commissioner, and then, if converted, the company should pay the sales tax back.

This also makes it easier. How is a pipe depot really supposed to know what the use of a pipe is going to be? They aren't marked gathering or transmission. Giving companies a certificate makes it very difficult

#2 p.2

to track and puts the burden on the merchant. If audited, it is very possible a merchant would need to pay a lot of money for tax the merchant never collected.

One of the other problems is actually the definition of gathering lines. You'd think that is well worked out but it really isn't. The definition generally used uses storage tanks and pumps, but if you look at where the wells are, they have tanks, they have pumps, but they aren't treated the same as later tanks and pumps. I would suggest that the bill really needs a good definition of what is and what is not a gathering line.



NEWS RELEASE
Oct. 8, 2014

For Immediate Release, Contact:
Julie Fedorchak, (701) 391-1140
Brian Kalk, (701) 261-0373
Randy Christmann, (701) 328-4091

**Commission Approves Permit for Conversion of Existing Pipeline into a Transmission Line
*Order Includes Requirement for Waivers from those Residing within 500 Feet***

BISMARCK, ND – The North Dakota Public Service Commission (PSC) today approved, with conditions, a siting permit for Hiland Crude, LLC, to convert an existing crude oil gathering pipeline into a transmission line. The approximately 197-mile long existing pipeline spans three counties: Williams, McKenzie and Mountrail. Hiland Crude plans to add storage tanks and pumping facilities to the existing line, which will then convert the gathering pipeline system into a transmission line.

The order issued today contains a requirement that Hiland obtain waivers from the owners of five residences that are located within 500 feet of the pipeline, or move the pipeline route. North Dakota Century Code requires that transmission pipelines placed within 500 feet of a residence should be avoided, unless the owner of the residence signs a waiver or the company shows that there is no other reasonable alternative. For this project, it was determined there were 20 rural residences within 500 feet of the existing pipeline; all but five have signed waivers. During the public hearing, Hiland testified that they have not explored alternative routes; therefore, the Commission found Hiland failed to show no other reasonable alternative existed.

“The Commission is receiving more applications from companies seeking to convert gathering lines to transmission lines shortly after construction,” Commissioner Julie Fedorchak said. “This is a legitimate way to maximize the capacity of existing infrastructure. However, companies need to plan ahead for this likelihood and, when appropriate, build pipelines to comply with the North Dakota requirements of transmission lines, especially when it comes to setbacks from residences and other exclusion and avoidance areas.”

The Commission held a public hearing on the project June 17 in Williston during which community leaders and citizens were able to learn more about the proposed project and offer public comment for consideration.

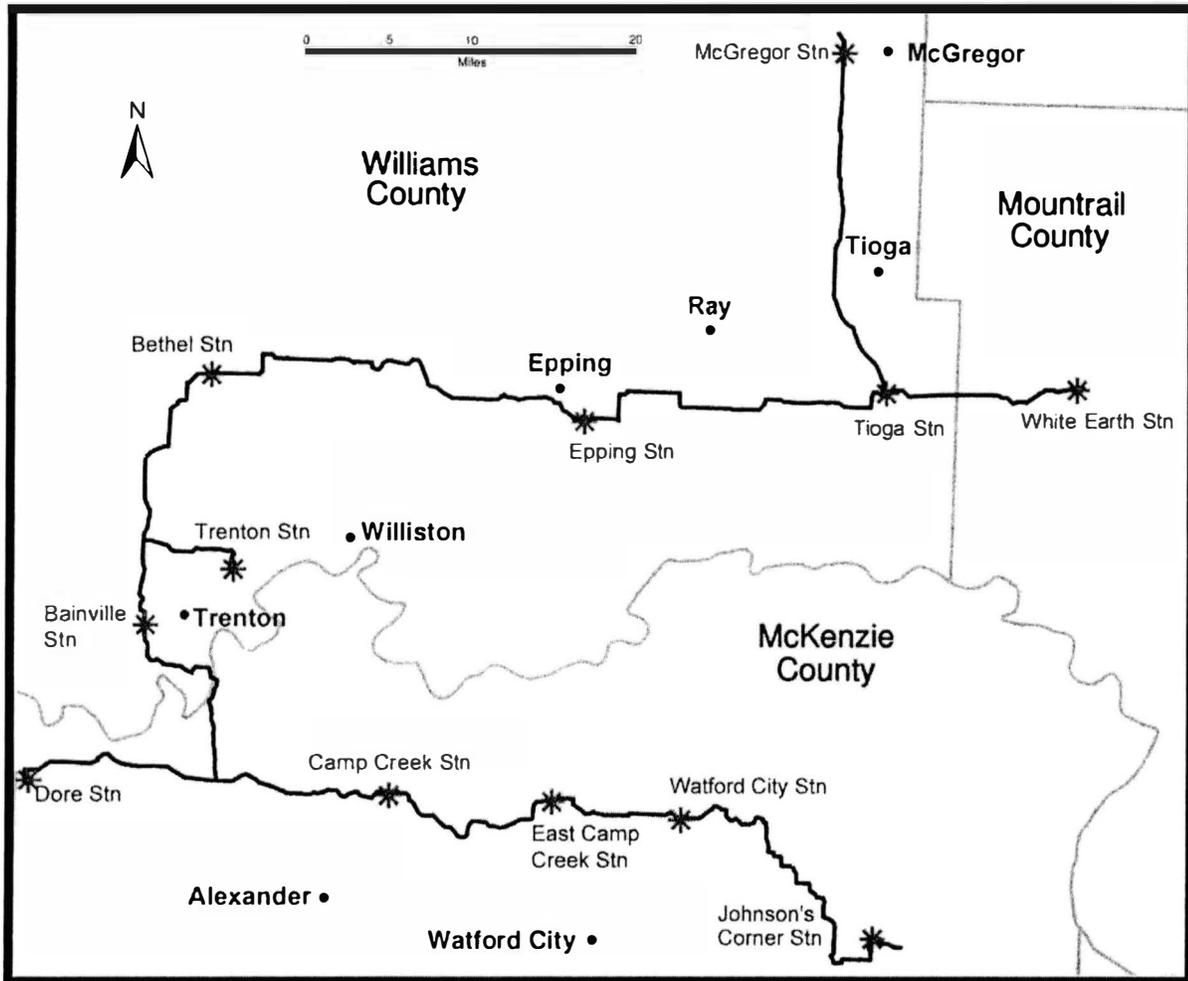
“Our permitting process is focused on environmental review, not construction standards, which are controlled by federal regulations. During the public hearing, I asked numerous questions about what standards were used during the construction of the gathering lines,” said Commissioner Brian Kalk. “The Commission verified that the pipeline was built to meet the federal code of regulations for hazardous liquids pipelines Part 195. Essentially, this line was built to meet the construction standards of a transmission line.”

The pipeline will be used to transport crude oil from smaller gathering systems and truck facilities to existing rail and pipeline network destinations connecting to multiple shipping points for out-of-state sale. Estimated cost of the project is \$55.3 million. The pipeline will have a maximum capacity of 65,000 barrels per day.

The North Dakota Public Service Commission is a constitutionally created state agency with authority to permit, site and regulate certain business activities in the state including electric and gas utilities, telecommunications companies, power plants, electric transmission lines, pipelines, railroads, grain elevators, auctioneers, commercial weighing devices, pipeline safety and coal mine reclamation. For more information, contact the Public Service Commission at (701) 328-2400 or www.psc.nd.gov.

###

Find us on Twitter: twitter.com/ndpsc or [@NDPSC](https://twitter.com/NDPSC)





Public Service Commission

State of North Dakota

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COMMISSIONERS

Brian P. Kalk
Randy Christmann
Julie Fedorchak

Executive Secretary
Darrell Nitschke

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15 July 2014

Mr. Murray Jackson
Hess Corporation
1501 McKinney Street
Houston, TX 77010

RE: Hess Corporation
Crude Oil and NGL Pipelines - Hawkeye Pipeline Project
Jurisdictional Determination

PSC Case No. 14-33

Dear Mr. Jackson,

Thank you for your letter of 13 January 2014 requesting a jurisdictional determination on three proposed new pipeline segments, as specified in your letter.

On July 10, 2014, the Public Service Commission discussed your request at the administrative matters portion of its regular meeting, and asked me to respond to you. The Commission concluded that, based on the information you have provided, two of the proposed lines will be jurisdictional, and one would not be jurisdictional.

Our understanding is that one of the new pipelines will be a natural gas pipeline, one will be a crude oil pipeline, and the third will be a natural gas liquids pipeline. The Commission has concluded that the natural gas pipeline would not be jurisdictional. However, both the crude oil pipeline and the natural gas liquids pipeline would be jurisdictional.

The proposed new 12-inch natural gas pipeline would transport natural gas (maximum area operating pressure of 1250 psi) from the existing Hawkeye Compressor, near Charlson, to the south side of Lake Sakakawea, and would connect to an existing 8-inch pipeline that traverses Lake Sakakawea, on the north side of Lake Sakakawea, as well as connect to a new 12-inch pipeline to transport the crude oil to the Hess Tioga Gas Plant in Tioga. According to a letter from Hess dated March 12, 2014, the natural gas would be processed at the Tioga Gas Plant. Therefore, (as we understand it) upstream of the Tioga Gas Plant, the gas has not yet been processed or fully processed. If the gas in this line requires processing to produce end-use consumer-quality gas, then this line would be defined as gathering under North Dakota Century Code section 49-22-03 (12)(b) and the pipeline would not be subject to siting jurisdiction.

The second pipeline inquired about is a new crude oil pipeline. The proposed new 12-inch pipeline would transport crude oil (maximum area operating pressure of 1000 psi) from storage tanks located at a new proposed Hawkeye Central Oil Facility near Keene to the south side of Lake Sakakawea, would connect to an existing 8-inch line that traverses Lake

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Sakakawea, and on the north side of Lake Sakakawea, connect to a new 12-inch pipeline (mentioned above) to transport the natural gas to the existing Ramberg Truck Facility near Tioga. The Hawkeye Central Oil Facility would be a storage site where pressure is increased for further transport. This pipeline would be subject to siting jurisdiction.

The final pipeline in question is a proposed natural gas liquids pipeline. An existing 8-inch pipeline would be converted to transport natural gas liquids (maximum area operating pressure of 1200 psi) from the existing Hawkeye Compressor, south of the Lake near Charlson, to the North Hofflund facility, north of Lake Sakakawea, where it connects to an existing 10-inch pipeline for further transport to the Silurian Compressor Station near Tioga. Under North Dakota Century Code section 49-22-03 (12)(b), a transmission facility includes a liquid transmission line and assorted facilities designed for or capable of transporting liquid hydrocarbons, whether the line is transmission or gathering. The exclusion for gathering (North Dakota Century Code section 49-22-03 (12)(b)(1)) applies to *oil or gas gathering lines*, it does not apply to liquid hydrocarbon gathering lines. Consequently, the natural gas liquids pipeline would be subject to siting jurisdiction.

We thank you again for contacting us with your questions. If there is any further assistance you need, or questions you may have, please do not hesitate to contact us.

Best regards,



Illona Jeffcoat-Sacco
General Counsel