

STAFF RECOMMENDATION
TO
THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE FILING BY NORTHWESTERN CORPORATION, D/B/A
NORTHWESTERN ENERGY, FOR APPROVAL OF WAIVER

DOCKET PS09 – 003

On July 7, 2009, NorthWestern Energy (NWE) filed a request for a permanent waiver of 49 CFR, Part 192.625(a). The specific request is for a permanent waiver of 49 CFR, Part 192.625(a) to allow about 450 feet of natural gas pipeline to be an unodorized distribution pipeline (*please note: there is a typographical error in the first paragraph on page one of the waiver request, the reference to 49 CFR, Part 192.265(a) is incorrect and should read 49 CFR, Part 192.625(a).*) The location of the pipeline under review for a waiver is in Edmunds county with the legal location NE ¼, NE ¼, Section 28, T124N, R66W (see attached map). Currently, 49 CFR, Part 192.625(a) requires all natural gas distribution pipelines to be odorized so the gas is readily detectable by a person with a normal sense of smell. The waiver would allow NWE to maintain 450 feet of unodorized gas distribution pipeline line.

Northern Border Pipeline delivers gas to NWE's four inch steel pipeline, which is buried more than 30 inches below ground and has a Maximum Allowable Operating Pressure (MAOP) of 1,440 pounds per square inch. This pipeline delivers natural gas to the Glacial Lakes Mina Ethanol Plant. NWE is requesting the waiver for the following reasons:

- NWE was unable to obtain permission from Northern Border Pipeline to locate odorization facilities or a regulation station on Northern Border Pipeline's property; and
- NWE was unable to secure or purchase property immediately adjacent to the Northern Border Pipeline property.

Based on a review of the pipeline safety regulations, it is my recommendation that the permanent waiver be approved with the following conditions imposed on the 450 feet of unodorized distribution gas pipeline:

1. Patrolling must be conducted on a quarterly basis with the maximum interval between patrols: once every 4 ½ months, but at least four times each calendar year. NWE proposed this condition, which is more stringent than the current pipeline safety regulations that require patrols two times each calendar year.
2. Leak surveys must be conducted on a quarterly basis using leak detector equipment with the maximum interval between leak surveys: once every 4 ½ months, but at least four times each calendar year. NWE proposed this condition, which is more stringent than the current pipeline safety regulations that require leak surveys once every calendar year.
3. The property owners who retain ownership of the easement and also the owners and/or tenants of the nearest residence (shown in the attached map) must be notified on an annual basis of the following information:
 - a. The pipeline's purpose and reliability,

- b. Awareness of hazards and prevention measures undertaken,
- c. Damage prevention awareness,
- d. Leak recognition and response,
- e. Pipeline location information, and
- f. The characteristics of natural gas.

The suggested delivery method for notification of the property owners and tenants may be conducted as outlined within NWE's public awareness plan. NWE proposed the notification condition, which I modified slightly to match up with the pipeline safety regulations in 49 CFR, Part 192.616 for the company's public awareness plan. NWE proposed sending only the pipeline location and the characteristics of natural gas information.

- 4. Line markers that meet the requirements of 49 CFR, Part 192.707(d) must be installed at the origin of the unodorized pipeline on Northern Border Pipeline's property and at the end point on NWE's property. NWE proposed this condition, which is more stringent than the current pipeline safety regulations since line markers are not required on property that is not accessible to the public (49 CFR, Part 192.707(c)).
- 5. Records of each patrol and leakage survey must be maintained for a period of at least five years. I propose this condition since the pipeline safety regulations in 49 CFR, Part 192.709(c) require transmission pipelines to retain patrol and leakage survey records for at least five years. The current pipeline safety regulations are silent on the amount of time required to retain patrol and leakage survey records for distribution pipelines.
- 6. The patrolling and leakage survey requirements for the 450 feet of unodorized pipeline must be included within NWE's Operations and Maintenance (O&M) manual. I propose this condition to ensure current and future pipeline safety inspectors are aware of the increased patrolling and leakage survey requirements.
- 7. The notification of property owners of the easement and also owners and/or tenants of the nearest residence requirements must be included within NWE's Public Awareness plan. I propose this condition to match up with the requirements within the pipeline safety regulations in 49 CFR, Part 192.616. Currently the pipeline safety regulation in 49 CFR, Part 192.616 does require notification of property owners along the right-of-way easement, however, it does not necessarily require notification of owners and/or tenants of the property in question for this waiver (if the owners of the right-of-way easement are not the same as the owners and/or tenants of the nearest residence for this waiver).

It is my opinion that the proposed permanent waiver request with the above conditions imposed would not be inconsistent with pipeline safety according to South Dakota Codified Law 49-34B-24.

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South Dakota Public Utilities Commission

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