

**STATE OF MINNESOTA
ENVIRONMENTAL QUALITY BOARD**

In the Matter of the Application of the City of Hutchinson (Hutchinson Utilities Commission) for a Pipeline Routing Permit and for a Partial Exemption from Pipeline Route Selection Procedures Pursuant to Minnesota Rules Chapter 4415

**FINDINGS OF FACT,
CONCLUSIONS, AND ORDER**

**MEQB DOCKET NO.
02-33-PRP-HUC**

The above-captioned matter came before the Minnesota Environmental Quality Board (EQB) at a regularly scheduled meeting pursuant to the Application of the City of Hutchinson (Hutchinson Utilities Commission) (hereinafter the “City”) to construct, own, and operate an 90 mile natural gas pipeline between Trimont, Minnesota (in Martin County), and Hutchinson, Minnesota (in McLeod County). The proposed pipeline will transport natural gas to the City for distribution as heating fuel and will provide fuel for electrical generation. The proposed pipeline will traverse portions of Martin, Watonwan, Brown, Nicollet, Sibley and McLeod Counties.

STATEMENT OF ISSUE

Construction of a pipeline designed to be operated at a pressure of more than 275 pounds per square inch and to carry natural gas requires a Pipeline Routing Permit from the Minnesota Environmental Quality Board. Minnesota Statutes § 116I.015 prescribes applicable requirements and assigns authority to designate a route to the EQB. The review procedures are contained in Minnesota Rules Chapter 4415. In this instance, review is taking place under the requirements set forth in Minnesota Rules part 4415.0035 [Partial Exemption from Pipeline Route Selection Procedures].

Based on information in the Application, the comments at the public information meetings, written comments received, and other documents compiled as part of this proceeding relating to pipeline construction impacts and mitigation procedures, the EQB makes the following Findings of Fact.

FINDINGS OF FACT

Background and Procedure

1. In March, 2002, the City of Hutchinson (Hutchinson Utilities Commission) filed an Application for a pipeline routing permit and for a partial exemption from pipeline route selection procedures for a proposed 90 mile long natural gas pipeline between Trimont, Minnesota, and Hutchinson, Minnesota. The pipeline will follow new right-of-way and traverse the counties of Martin, Watonwan, Brown, Nicollet, Sibley, and McLeod. (Exhibit 1).

2. EQB staff reviewed the application for compliance with the requirements of Minnesota Rules parts 4415.0115 through 4415.0165, and determined that the Application contained all of the necessary information. On April 2, 2002, the EQB Chair accepted the City's Application for a pipeline routing permit and for a partial exemption from pipeline route selection procedures. The Chair notified the City of his decision to accept the Application in a letter dated April 3, 2002 (Exhibit 3). The EQB staff notified EQB members and technical representatives of his decision to accept the Application in a memorandum dated April 3, 2002 (Exhibit 4).
3. Shortly after acceptance of the Application by the Chair, the City published notice of the acceptance in area newspapers (Exhibit 5). The notice announced the EQB's public information meeting schedule for each county. The City's notice was published the week of April 8, 2002, in the following newspapers:

Newspaper	County	Date Published
<i>The Sentinel</i>	Martin	April 10, 2002
<i>St. James Plaindealer</i>	Watonwan	April 11, 2002
<i>St. Peter Harold</i>	Nicollet	April 11, 2002
<i>The Journal</i>	Brown	April 11, 2002
<i>Gaylord Hub</i>	Sibley	April 11, 2002
<i>Hutchinson Leader</i>	McLeod	April 11, 2002
<i>Minneapolis Star Tribune</i>	Hennepin	April 12, 2002
<i>St. Paul Pioneer Press</i>	Ramsey	April 11, 2002

4. The notice as published also included: 1) a description of the proposed project; 2) a map of the proposed pipeline route; and 3) a description of the procedures that must be followed for commenting on the application (Exhibit 6). The notice contained the information required by Minnesota Rules part 4415.0035, Subp. 2.A.
5. The EQB also published Notice of Application Acceptance and the EQB public information schedule in the *EQB Monitor* on April 15, 2002. *Monitor*, Volume 26, Number 8. (Exhibit 7).
6. During April 2002, Hutchinson mailed a copy of the Application and a description of the procedures for commenting on the Application to 307 affected landowners and 67 governmental units in the areas that would be crossed by the pipeline along the City's preferred route in accordance with Minnesota Rules parts 4415.0035, subp. 2. B. and C. (Exhibits 8 and 9). The mailing also advised the recipient of the EQB's public information meetings and the Public Utilities Commission's schedule for considering a certificate of need application.
7. The EQB held public information meetings in each county crossed by the proposed pipeline, as required by Minnesota Rules part 4415.0035 subp. 4. The information meetings were held as follows:

City	Date	County
Trimont	April 24, 2002	Martin County
St. James	April 24, 2002	Watonwan County
Lafayette	April 25, 2002	Nicollet County
New Ulm	April 25, 2002	Brown County
Winthrop	May 1, 2002	Sibley County
Brownton	May 2, 2002	McLeod County
Hutchinson	May 2, 2002	McLeod County

Certificate of Need Requirement

8. Over On December 13, 2001, the City filed a Certificate of Need application with the Minnesota Public Utilities Commission (Commission) pursuant to Minnesota Statutes §§ 216B.2421, subd. 4 and 216B.243 (2001). Under the statutes, the City’s proposed pipeline is a large energy facility, and as such requires a Certificate of Need prior to construction. On January 30, 2002, the Commission issued its order accepting the application as substantially complete upon the receipt of certain information.
9. On November 26, 2002, the Commission issued an order granting the Certificate of Need for the City’s proposed pipeline and associated facilities. PUC Docket No. G-252/CN-01-1826.

The Applicant

10. The City of Hutchinson is located approximately 55 miles west of Minneapolis, and has a population of approximately 13,050 individuals. The City provides a retail and professional base for the surrounding rural community. From 1990 through 2000, the number of households in the City increased by approximately 18.95%. The State Demographer projects that the area will continue to grow through at least 2020. The growth is attributable to the close proximity of the area to Minneapolis/Saint Paul, and to the City being a manufacturing and retail center.
11. The City of Hutchinson uses natural gas for electrical generation and heating, and its commercial/industrial customers use natural gas in their production processes. The Hutchinson Utilities Commission was established in 1936 by the City of Hutchinson as a municipal public utilities commission under Minn. Stat. §§ 412.321 et seq., and added the municipal natural gas operation in 1960. From 1960 to the present, Hutchinson Utilities Commission has used the Willmar branch line of Northern Natural Gas Company to transport natural gas to the City of Hutchinson.
12. The City of New Ulm (New Ulm Public Utilities) uses natural gas for electrical generation and heating, and its commercial/industrial customers use natural gas in their production processes. New Ulm Public Utilities (“NUPU”) also maintains a district energy system in which back pressure steam off the steam turbine is used in heating the

downtown area, and higher pressure steam is offered for sale to its industrial customers. The City of New Ulm (New Ulm Public Utilities), while not a co-applicant for a route permit for this pipeline, has signed a Letter of Intent that it expects to contract with the City of Hutchinson for natural gas transportation services utilizing the proposed pipeline. A separate permit will be required when an extension of the pipeline to the City of New Ulm is proposed.

The Project

13. The proposed pipeline will connect with the Northern Border Pipeline Company pipeline near Trimont, Minnesota. Approximately 34 miles of the pipeline from Trimont to south of New Ulm will consist of 16-inch outside diameter pipe, and the remaining portion of the pipeline from south of New Ulm to Hutchinson will consist of 12.75-inch outside diameter pipe. The pipeline will terminate at Border Station 1 in the City of Hutchinson at approximately milepost 90 as measured along the City's preferred route. The pipeline will be buried underground along its entire route.
14. The estimated total cost of the pipeline is approximately \$26.5 million.
15. The proposed natural gas pipeline is designed for a capacity of 60,000 MCF per day through the initial 34 miles of 16-inch outside diameter pipe from Trimont to south of New Ulm, and 40,000 MCF per day through the remaining 55 miles of 12.75-inch outside diameter pipe to the City of Hutchinson. The gas delivery pressure to the City of Hutchinson will be 800 pounds per square inch.

Facility Description

16. The facilities proposed by Hutchinson specify 12.75-inch and 16-inch (outside diameter) steel pipe and related materials that include valves, flanges, pipe fittings, coating and wrapping materials, casing, pipe supports, caution signs for crossings and other miscellaneous materials.
17. The 12.75-inch pipe will have a nominal pipe wall thickness of 0.330 inches. The 16-inch pipe will have a nominal pipe wall thickness of 0.357 inches. The type of pipe used will be American Petroleum Institute 5L, PSL-2, ERW. ERW has one (1) longitudinal seam, which is formed by electric resistance welding during the manufacturing process. The maximum allowable operating pressure of the proposed pipeline is 1,480 pounds per square inch.
18. In addition to the steel pipe, there will be three (3) below grade block valves with above ground by-pass arrangements along the line to comply with 49 CFR part 192, transmission line valves. Near New Ulm, Minnesota there will also be a side valve facility to provide service to the City. There will also be launcher and receiver facilities located at approximately the 34 milepost. Launcher and receiver facilities are valve and piping arrangements that allow the introduction and retrieval of internal mechanical or electronic devices to clean or monitor conditions inside the pipe.

19. Cathodic protection will be provided on the pipeline to stop galvanic corrosion and will comply with all requirements of the U.S. Department of Transportation Pipeline Safety Regulations, 49 CFR Part 192. As part of the cathodic protection system, rectifiers and anode ground beds are located along side the right-of-way at approximately three (3) locations.

Land Requirements

20. Hutchinson proposes to obtain from landowners permanent right-of-way fifty (50) feet in width. Based on a pipeline 90 miles in length along Hutchinson's preferred route, approximately 539 acres of new right-of-way would be acquired.
21. Hutchinson also proposes to obtain from landowners an additional twenty-five (25) feet of temporary workspace. It is anticipated that this space would not be fully utilized, but would give the construction crews approximately 75 feet of right-of-way for workspace if needed. Approximately 270 acres of temporary workspace will be acquired. Temporary right-of-way or workspace will revert to landowners upon completion of construction. Additional temporary workspace adjacent to the construction right-of-way may be necessary during construction in areas such as steep slopes and staging areas for stream, wetland, and road crossings, for safety reasons, to provide an area for prefabrication of sections of pipeline, or storage of spoil materials. The City will acquire additional workspace from the landowner where necessary; however in all cases, the size of extra workspace will be kept to the minimum required to safely conduct the work.

Trench and Depth of Cover Requirements

22. Minnesota Statutes § 116I.06, subd. 1 (2000) requires pipelines to be buried with a minimum level cover of not less than 54 inches, in all areas where the pipeline crosses the right-of-way of any public drainage facility or any county, town or municipal street or highway and where the pipeline crosses cultivated agricultural land. As provided by Minnesota Statutes § 116I.06, subd. 2, the landowner may waive the depth of cover requirements. Any political subdivision authorized by law to approve the use of the right-of-way of any public drainage facility or any public street or highway for a pipeline may waive the minimum depth of cover requirement or adopt and enforce by resolution or ordinance rules or regulations establishing a greater depth than the minimum required and other measures for protection of public roads and drainage facilities under its jurisdiction. Hutchinson may ask individual landowners to sign a waiver of the 54-inch depth requirement. If landowners do not grant the waiver, Hutchinson has committed to burying the pipeline 54 inches deep in accordance with state requirements.
23. The trench in which the pipe is placed will have a minimum depth of 74 inches to allow for a minimum of 54 inches of ground cover to the top of the pipe. The pipe will be placed below drain tiles. The trench will have a minimum width of 24 inches for the 12.75-inch pipe, and 28 inches for the 16-inch pipe. The top and bottom widths are determined by soil conditions. In sandy soils, a wider trench will be necessary for sidewall stability. The trench required for the proposed pipeline will result in a minimum excavation volume of 228,280 cubic yards of soil.

Pipeline Safety

24. Pipeline safety is a matter of paramount concern to all interested parties. Hutchinson, as noted in its Application and in these findings, is subject to the U.S. Department of Transportation, Pipeline Safety Regulations (Title 49, C.F.R., Part 192).
25. The Minnesota Office of Pipeline Safety is responsible for enforcement of the pipeline safety regulations. The Office of Pipeline Safety intends to monitor construction of the proposed pipeline for compliance with the regulations. The Office of Pipeline Safety also has an ongoing responsibility for monitoring Hutchinson's pipeline facilities for compliance with the safety regulations.

EQB Public Information Meetings

26. The EQB held seven (7) public information meetings, two in McLeod County and one in each other county, to receive public comment on Hutchinson's Application as noted in Finding 7. Total attendance at the public information meetings exceeded three hundred. At each meeting the EQB staff presented an overview of the requirements for a pipeline routing permit and for a partial exemption from pipeline route selection procedures.
27. Questions and comments raised at the meetings fell into the following categories: location of the pipeline, separation of topsoil and subsoil, soil settling, ditches, depth of burial, drain tile, soil compaction, damages for crop losses, fencing, the construction process, clearing of vegetation, tree removal, construction schedule, road repair and driveway access. The EQB staff and the City's representatives responded to questions and comments raised by affected landowners and other interested persons.

Comment Letters (Exhibits 10- through 15)

28. The EQB staff announced at each of the public meetings that the EQB would accept public comments about the proposed project and the Application for a partial exemption and routing permit until May 29, 2002. Five (5) comment letters were received on Hutchinson's proposed pipeline by the end of this period. The comment letters came from Ms Debra Koch of Hanska, Minnesota, Ms. Juliette Springer of Bismarck Township in Sibley County, John and Mavis Renner of Winthrop, Ben Brown, the general manager of Heartland Corn Products in Winthrop, and the Department of Natural Resources.
29. Ms. Springer commented that she thought the project avoided her property and she wanted to see the project stay on track. Mr. Brown commented that the project would provide Heartland with an alternative natural gas supply and the company supported the City's effort to build the pipeline.
30. Ms. Koch was concerned that the pipeline, which would pass near the Koch family century farm, might cause disruption of family farming activities. She asked whether standing water might affect the pipeline because there was standing water in the area. She also wanted to know whether the pipeline would affect an area known as "Indian Hill" near the Lake Hanska County Park, where native grasses are found and walking trails are located. She also raised the concern that the pipeline might cause disruption for

the members of the Lake Hanska Lutheran Church. The Church is located between mileposts 29 and 30 along the City's preferred route.

31. Standing water will not affect the pipeline. The pipeline will not cross the Indian Hill area near the Lake Hanska County Park. Pipeline construction activities generate noise and that can be a problem when activities are taking place at the church. Hutchinson can schedule pipeline construction activities around known church activities to minimize disruption to church related activities. Hutchinson will have to meet with the Koch family when it comes time to construct the pipeline across their property, as Hutchinson must do with all landowners whose property will be crossed, in order to address the landowners' concerns about location of the pipeline on their property.
32. The Renners commented that their property would be crossed by the proposed pipeline. They expressed opposition to the route and suggested an alternative route on their property that would cause less disruption. Hutchinson will be able to discuss with the Renners their preferred location for the pipeline on their property prior to actually constructing on the Renners' property.
33. The Minnesota Department of Natural Resources has no objection to the granting of the partial exemption or the issuance of a routing permit but the DNR raised a number of concerns about protecting public waters during construction. All of the concerns raised by DNR can be addressed in the DNR permits that will be required to cross public lands and waters. In addition, the EQB routing permit will contain a condition requiring Hutchinson to comply with the DNR permits.

Alternatives to the Proposed Pipeline Route

34. A number of people in attendance at the public meetings in April and May commented that Hutchinson should consider other routes for its pipeline that utilized more highway, railroad, and other types of existing rights-of-way than did the proposed route. EQB staff and staff of the Department of Agriculture also believed that other alternatives to the proposed pipeline should be evaluated by the City. On May 29, 2002, the EQB staff wrote to the City and requested that the City describe what other system alternatives or routes the City considered prior to selection of the preferred route and the reasons for rejecting these other alternatives. The City responded with information in this regard on several occasions, including a report submitted in early November 2002. (Exhibit 14).
35. One system alternative and three alternative pipeline routes were investigated by Hutchinson. They include the following:
 - Highway 15 Alternate – The Highway 15 Alternate connects to the Northern Border Pipeline further down stream (south of Fairmount) than the Hutchinson preferred route, and generally follows State Highway 15 to Hutchinson. The Highway 15 route is approximately 99 miles long.
 - Highway 15 Alternate Trimont Variant – The Highway 15 Alternate Trimont Variant connects to the Northern Border Pipeline approximately 2 miles down

stream from the Hutchinson preferred route then follows an existing products pipeline before connecting with the Highway 15 Alternate south of Lewisville at approximately milepost 21.25. This route is approximately 96 miles long.

- Farmers Route – The Farmers Route was suggested by a number of landowners in the Sibley County area. The route deviates from the Hutchinson preferred route at approximately milepost 49, and generally follows field lines, half section and section lines, and road right-of-way to rejoin the preferred route at approximately milepost 84.8. The Farmers Route is approximately 41 miles long, adding approximately four miles to the Hutchinson route.
 - Viking Interconnection - A system alternative that was investigated was a new pipeline connecting to the Viking Gas Transmission Company interstate pipeline. A precise interconnection point has not been identified but since the Viking pipeline is north of St. Cloud, the pipeline mileage from the interconnection to the City of Hutchinson would be approximately the same as the proposed pipeline. In addition, the line would have to be extended another 46 miles in order to serve the City of New Ulm. Also, the pressure available on the Viking pipeline is not sufficient to provide the required pressure at Hutchinson.
36. Hutchinson and several residents of the Sibley County area who suggested the northern alternative both investigated the possibility of identifying an alternative route in the southern half of the proposed pipeline, south of the Minnesota River, that followed more existing rights-of-way and section or half section lines than does the Hutchinson route. No alternative routes were readily identified. Natural features such as lakes and streams interfered with the use of existing rights-of-way and section and half section lines. Also, no landowners in the southern portion of the pipeline raised any particular concerns or objections to the City's preferred route.

Standard For Partial Exemption From Pipeline Route Selection Procedures [Minnesota Rules, Part 4415.0040]

37. In determining whether to grant or deny a partial exemption from pipeline route selection procedures, the EQB must apply the requirements of Minnesota Rules part 4415.0040 [Criteria for Partial Exemption from Pipeline Route Selection Procedures]. This part contains the standard and criteria that the Board must apply in determining whether to grant or deny the partial exemption
38. Minnesota Rules part 4415.0040, subp. 2, [Standard], requires the Board to determine that the proposed pipeline will not have a significant impact on humans or the environment in order to grant the partial exemption. In conducting this evaluation, the Board must consider a number of criteria set forth in subpart 3 of the rule.
39. The major difference between the partial exemption process and the full routing process is that under the full routing process a more comprehensive evaluation of alternatives is conducted and a contested case hearing presided over by an administrative law judge is required. Both processes require the publication of notice in local newspapers

announcing the holding of public meetings at an early stage of the process. Both processes result in the designation of a route and the imposition of conditions to minimize human and environmental impacts from the pipeline.

Standard For Pipeline Route Selection [Minnesota Rules, Part 4415.0100]

40. Minn. Rules part 4415.0100, subp. 2 [Standard] provides that the Board shall consider the characteristics, the potential impacts, and mitigation measures associated with the proposed pipeline so that the Board may designate a route that minimizes human and environmental impacts. Regardless of the procedures followed, the Board attempts to minimize the impacts from any new pipeline.
41. In designating a route, subpart 3 requires the Board to take into account the same criteria set forth in part 4415.0040, subp. 3 for determining the appropriateness of a partial exemption.
42. “Route” has been defined by the EQB in Minn. Rules part 4415.0010, subp. 32, to include “a variable width from the minimum required for the pipeline right-of-way up to 1.25 miles.” In other pipeline routing permits issued by the Board, the Board has included widths up to 1.25 miles and allowed the permittee to determine the actual location of the pipeline after discussions with the landowners and consideration of the actual features of the land. Designating a width swath within which the actual route is chosen allows the permittee to minimize the impacts on the environment and on individual landowners.
43. Pipeline routing permits are subject to reasonable conditions imposed by the EQB. Conditions are intended to protect the environment and landowners from adverse effects from construction of the pipeline.

Consideration of Pipeline Routing Criteria

44. In determining whether to grant a partial exemption request and which route to actually approve, the EQB considers the same criteria set forth in the rules. The following findings discuss the specific impacts on humans and the environment of a pipeline between Trimont and Hutchinson regardless of route, and compares the relative impacts of the various alternative routes under review.
45. In many respects, the impacts of building a new pipeline along any of the possible routes under review are similar. For nearly the entire distance for each route, the major impact of concern is the impact on agricultural land and farming operations. Regardless of route, certain mitigation procedures and construction practices will be followed. Permit conditions will be imposed regardless of which route is approved.

Criterion A. Impact on human settlement, existence and density of populated areas, existing and planned future land use, and management plans.

46. The pipeline will be installed in rural areas of Martin, Watonwan, Brown, Nicollet, and Sibley, and McLeod counties in south central Minnesota. The pipeline does not cross any incorporated areas. The area along each of the routes is sparsely populated and is used almost exclusively for agricultural purposes.
47. The preferred route will cross approximately 250 parcels of property along its entire length. The Farmers Route will cross about 115 parcels of property over its 41 miles. There are only about four buildings within 300 feet of the City's preferred route and about 24 buildings within 300 feet of the Farmers Route. The Highway 15 Alternate Route crosses about 250 parcels of land along its length; the Trimont Variant Route crosses about 240 parcels of land along its entire length.
48. Neither Hutchinson's preferred route, nor any of the alternative routes, passes through any population centers. However, the Highway 15 Alternate Route passes within one (1) mile of nine (9) incorporated municipalities: Fairmont, Truman, Lewisville, Madelia, New Ulm, Lafayette, Winthrop, Brownton and Hutchinson. The Highway 15 Trimont Variant passes within one (1) mile of eight incorporated municipalities: Trimont, Lewisville, Madelia, New Ulm, Lafayette, Winthrop, Brownton and Hutchinson.
49. Future development is much more likely along the Highway 15 corridor so conflict with future use would be increased greatly in following these alternative routes. If the pipeline were inside the road right-of-way, it would have to be moved if the roadway is widened or otherwise modified. Additionally, the possibility of damage to the line from careless excavations and other activity along the road right-of-way is increased.
50. Future development along the pipeline right-of-way is regulated by ordinance setbacks established pursuant to the requirements of Minnesota Statutes § 299J.05 [Pipeline Setback Ordinance] (2001). This ordinance requires that no development occur within the right-of-way. The proposed pipeline alignment is not in conflict with any existing or planned residential, commercial or industrial development in the area.
51. A pipeline along the City's route or the Farmers Route would not adversely affect population patterns or the density of future development, except possibly south of the City of Hutchinson. In general though, the City's route and the Farmers route will not significantly affect human settlement areas, planned future land uses, or any local management plans.

Criterion B. Impact on the natural environment, public and designated lands, including but not limited to natural areas, wildlife habitat, water, and recreational lands.

52. Twenty (20) water bodies have been identified along the Hutchinson route and will have to be crossed. Seventeen (17) of the water bodies crossed by Hutchinson's preferred route are designated as protected by the Minnesota DNR Division of Waters (DNR) as shown in Section 4415.0140, page 7 of the Application. There is no change in the water bodies that will have to be crossed if the Farmers Route is followed. Permits to cross

these water bodies will be obtained from the MN Department of Natural Resources, and the crossing methods will be dictated by the permit conditions.

53. Hutchinson proposes to cross the Cottonwood River and Minnesota River using the directional drill technique. Any inadvertent releases of drilling fluids would be contained by hay bales or other appropriate materials. Vacuum or sump pumps would then be used to clean up and transfer the drilling fluids back to the entry or exit points of the drilling mud pits for either reprocessing or disposal. If the directional drill cannot be completed, the borehole would be sealed by mixing a commercially available grout additive into the drilling fluid as the drill pipe is withdrawn.
54. While directional drilling may be used to avoid construction in the stream, directional drilling is not always technically feasible and unforeseen circumstances could cause the crossing attempt to fail. In the event that a directional drill is infeasible, Hutchinson would open-cut these water bodies. Trenching of the Cottonwood and Minnesota Rivers would be by dragline or dredge and would be completed in 48 hours. Staging and spoil areas would be placed in accordance with procedures included in the City of Hutchinson's Pollution Control and Spill Prevention Plan that is on file with the EQB.
55. All streams that would not be directionally drilled would be crossed using the conventional open-cut method. The primary impact resulting from open-cut construction would occur during in stream activities, and would include increased turbidity and sedimentation, and disruption of stream bottom communities in the vicinity of the trenching location. These impacts would be temporary and short term since in-stream construction would be completed within 24 hours at minor water bodies (less than 10 feet wide) and within 48 hours at intermediate water bodies (between 10 and 100 feet wide).
56. The Highway 15 Alternate and the Highway 15 Trimont Variant would require an extra crossing of the Minnesota River because the New Ulm interconnection would otherwise be located on the opposite side of the city.
57. The Minnesota DNR reviewed the Natural Heritage database to determine if any rare plant or animal species or other significant natural feature might be impacted by the proposed project. There are three portions of the Hutchinson preferred pipeline route which could impact native prairie natural communities. Sullivant's Milkweed (*Asclepias sullivantii*), a state-listed threatened species has been associated with all of the remnants, and Eared False Foxglove (*Agalinis auriculata*), a state-listed endangered species, has been associated with one of the remnants. Each of these prairie remnants occurs within a railroad right-of-way. Underground boring methods will be utilized to pass underneath the railroad right-of-way so that construction within the right-of-way is avoided. Disturbed non-cultivated soil adjacent to these areas will be revegetated with native species suitable to the local habitat as soon as possible after construction, to prevent the invasion of unwanted species in the area. The Farmers Route is close enough to the City's route that it is likely that the same amount of impact would occur along this route. Similar impacts are likely along the other alternative routes also.

58. No compression facilities are to be installed on the proposed pipeline so there would not be any exhaust or other noise from these facilities. The pipeline does not generate any noise under normal operations. During construction, the machinery generates noise between 75-90 decibels within 50 feet of the equipment. The noise is typical of the machinery that is used in tilling, harvesting and other agriculture operations. Equipment noise impact would be short-term as the construction process moves continuously along the right-of-way.
59. A hydrostatic test of the pipeline, regardless of location, is required prior to it being placed in service. Hutchinson estimates that it will have to withdraw approximately 2.1 million gallons from the Minnesota River for this purpose. During the testing, Hutchinson will screen water intakes to prevent entrapment of fish and debris and will neither withdraw nor discharge water during critical fish spawning periods. No chemicals would be added to the hydrostatic test water. The water would be tested during withdrawal, after the pipeline is filled, and during discharge. The hydrostatic test water will be discharged into a holding tank with a progressive weir arrangement to trap rust, mill scale or other undesirable items. The discharge rate would be regulated and splash plates or other similar devices installed to disperse the discharge in order to prevent erosion, stream scour, suspension of sediments, or excessive stream flow. An appropriation permit for the hydrostatic test water would be obtained from the Minnesota DNR and a discharge permit from the Minnesota Pollution Control Agency is required to return the water to the river. Impacts from this testing should be minimal and short term.

Criterion C. Impact on lands of historical, archaeological and cultural significance.

60. A literature search was conducted for listed sites along Hutchinson's preferred route. The preferred route does not cross any listed sites of historical, archaeological or cultural significance.
61. No specific search was conducted for sites along the other possible routes. However, the alternative routes have the same general potential for impacting historical, archaeological, or cultural impact as the preferred route. This part of Minnesota is intensively farmed and tilled. These agricultural practices over many years damaged or destroyed many of the existing archaeological resources. While no impacts on such resources are anticipated, the pipeline routing permit addresses preservation of archeological sites should any be discovered during construction.

Criterion D. Impact on economies within the route, including agricultural, commercial or industrial, forestry, recreational and mining operations.

62. Agricultural cropland accounts for approximately 90 percent of the land that the pipeline would cross. The majority of the cropland is planted in corn or soybeans. There is a small amount of pastureland and some small wooded areas. Farmsteads and rural residences include the adjoining farmyard areas and any livestock holding and feeding areas associated with the farmyard area.

63. Approximately 850 acres of agricultural land will be temporarily disturbed during construction of the pipeline following Hutchinson's preferred route. The Farmers Route will require a slightly larger area of land along its portion of the route simply because it is a few miles longer.
64. Construction activities will temporarily utilize active cropland within construction work areas. Construction activities may also interfere with planting or harvesting, depending on the construction season. Locating the pipeline right-of-way in less productive farm land, such as headlands, will further reduce impact on agricultural land. After construction is completed, agricultural activities will be allowed to resume in the pipeline right-of-way. Landowners will be compensated for crop losses and other damages caused by construction activities.
65. A concern of landowners along any of the possible routes is damage to drain tile. Hutchinson will be responsible to repair all drain tiles that are damaged as a result of pipeline construction. Impact on drain tile can be minimized by following public rights-of-way if possible, rather than constructing the pipeline diagonally across agricultural land, and by following section and half-section lines.
66. The Farmers Route follows existing rights-of-way and section and half-section lines for more distance than does the City's preferred route. The Farmers Route follows over 30 miles of roads and over 6 miles of field lines and only calls for about one mile of diagonal installation across fields. The Hutchinson route in the northern reaches follows only about 6 miles of field lines and has most of the line crossing fields diagonally.
67. Farmers are also concerned about compaction of soils from passage of heavy equipment during construction. In areas where soil compaction is of concern, chisel plowing, disk harrowing, right-of-way stripping, or other techniques may be necessary to minimize compaction of the soils.
68. The City has proposed to implement double ditching as a means to minimize mixing of topsoil and subsoil during excavation of the trench for the pipe. Double ditching is a technique whereby the topsoil and the subsoils are placed in separate areas. Other techniques can be investigated with the landowner at the time construction is to take place.
69. Another concern to farmers is the impact of construction activities during wet weather. Under some wet weather conditions, construction may have to be temporarily delayed until weather permits.
70. Pipeline routing permit conditions and construction specifications specifically address soil compaction, erosion control and right-of-way restoration. In addition, the City of Hutchinson has been meeting with local landowners to discuss any particular concerns they may have. Hutchinson has committed to develop and implement an agricultural impact mitigation plan establishing reasonable construction practices and mitigation measures to minimize the impact of the pipeline on landowners. The permit will require compliance with an agricultural impact mitigation plan.

71. During construction of the pipeline, several hundred workers from pipeline contractors, local laborers, equipment contractors, suppliers and regional testing firms will be involved with the project. In addition, construction inspectors as well as county inspectors will be employed during the project. During the months of preparation, construction, testing and restoration, these workers will contribute to the local economy, regardless of the route designated.
72. No industrial sites are located along any of the possible routes.

Criterion E. Impact on pipeline cost and accessibility.

73. Hutchinson has estimated that the pipeline will cost approximately \$26.5 to construct along the preferred route. The City has estimated that following any one of the three alternative routes would be more costly (\$1.7 to \$3.3 million) because the routes are longer than Hutchinson's preferred route. The City has estimated that the Farmers Route will cost approximately \$1.7 million more than the City's preferred route.
74. Part of the cost of constructing the pipeline depends on factors that are unknown at this time, such as how much drain tile will be damaged and whether directional drilling under some of the rivers is feasible. To the extent that the pipeline can follow existing rights-of-way and less drain tile needs to be repaired or replaced, the costs will be less.
75. With respect to the two Highway 15 Routes, construction costs are expected to be higher because more of the route is in public rights-of-way and around populated areas along those routes. Operation of the pipeline in the future is also likely to be more costly due to the increased number of line locates that could be required due to increased activity along the roadway.
76. Construction following the Highway 15 Alternate Trimont Variant would also require a hot tap to the Northern Border pipeline facilities as no connection exists at the interconnect location. Infrastructure such as electrical service, telephone service and roadways would also have to be installed. No estimate of the cost of these facilities has been made but these costs will add to the total.

Criterion F. Impact on use of existing rights-of-way and right-of-way sharing or paralleling.

77. Construction of the pipeline will generally require a 75-foot-wide construction right-of-way to allow for temporary storage of topsoil and spoil to accommodate safe operation of construction equipment. During construction, Hutchinson will temporarily use off right-of-way areas for pipe and materials storage. In addition, construction contractors will require off right-of-way areas to park equipment and stage construction activities. At this time those areas have not been identified.
78. Additional temporary work space adjacent to the construction right-of-way may be necessary during construction in areas such as steep slopes and staging areas for stream, wetland and road crossing, for safety reasons, to provide an area for prefabrication of section of pipeline or storage of spoil material. In all cases, the size of extra work spaces

will be kept to the minimum required to safely conduct work. Temporary right-of-way will revert to landowners upon completion of construction.

79. Typically, public roads will be used to gain access to the construction right-of-way. In areas where public roads are limited, and to minimize repeated travel on portions of the right-of-way, existing privately owned roads might be used to provide access to the construction right-of-way. If either public or privately owned roads are present, Hutchinson may need to construct new access roads. Use of private access roads and construction of any new access roads would require obtaining landowner permission prior to use. No private or new access roads have been identified at this time.
80. Traffic flows will temporarily increase during the construction period due to materials, equipment and laborer movements where roadways are crossed. Hutchinson will implement measures to minimize disruption to traffic pattern and to protect the public. Access to the right-of-way will be properly coordinated with county and city officials and affected property owners.
81. Damage to surfaced roadways resulting from the crossing of construction equipment will be minimized by the use of protective planking or other appropriate material. Any road damages will be repaired to the satisfaction of the landowner or appropriate permitting authority.

Criterion G. Impact on natural resources and features.

82. Regardless of route, the impacts of the pipeline on water crossings will be minimized as the water crossings will be either bored or constructed in compliance with MDNR requirements for crossing public lands and waters. Hutchinson's restoration plan and other permit requirements will minimize impacts.
83. At ditch crossings, grasses and other vegetation will be removed, but reseeded of any disrupted areas along banks is part of Hutchinson's restoration plan.
84. Wildlife species will be temporarily disrupted and may relocate to adjacent areas and reroute their travel in the area during construction of the pipeline.
85. Immediately following construction, disturbed areas will be restored to original contours and reseeded. Once vegetation is reestablished, there should be no further disturbance.
86. Where clearing is required on the right-of-way, soil from tree or shrub roots will be retained on the right-of-way. Rock, roots and stumps that are uprooted will be properly disposed of.
87. Exposed soils are also subject to wind and water erosion. However, the potential for erosion is not excessive due to the low relief of the area crossed and the fact that the trench will be open only for a relatively short time. Hutchinson will specify the special placement of berms or other specific erosion control measures and practices in areas where the potential for erosion exists.

88. A coalition of farmers, state and county agency personnel, and the University of Minnesota extension faculty, has been conducting a paired watershed study in Nicollet County since 2001. Researchers are monitoring flow, sediment, phosphorus, and nitrate at the mouth of the watershed and are attempting to evaluate the effect of farm conservation and nutrient management strategies on water quality. Farmers on one side of the paired watershed implemented certain best management practices in the fall of 2002, while farmers on the control side made no changes. The watershed study is scheduled to continue for three years. The study is being federally funded in an amount exceeding \$500,000.
89. The pipeline traverses the watershed study area from milepost 49 to milepost 53. Construction of the pipeline, particularly at sensitive periods in the spring, could interfere with the study and jeopardize the results. The City of Hutchinson has agreed to meet with the people conducting the study and establish reasonable construction practices that will minimize the impact of construction on the study.

Criterion H. The extent to which human or environmental effects are subject to mitigation by regulatory control and by application of the permit conditions contained in part 4415.0185 for pipeline right-of-way preparation, construction, cleanup and restoration practices.

90. Human and environmental impacts will occur as a result of pipeline construction. Many of the impacts associated with pipeline construction will cause only a temporary disturbance or disruption. Many of the impacts will be mitigated through compliance with regulatory control, strict adherence to the construction specifications, compliance with the pipeline routing permit condition, and compliance with the agricultural impact mitigation agreement developed by Hutchinson with input from local officials and residents. Permits from other federal and state agencies and units of government are also designed to reduce or mitigate the impact of pipeline construction.
91. Following completion of construction operations, the right-of-way and all premises on which construction activities were conducted will be cleaned up. This will include removal of debris, fence repair, removal of temporary road and ditch crossings, additional grading to correct for soil settling and seeding of the right-of-way as required by EQB permit conditions and other federal and state agency permits.

Criterion I. Impact on cumulative potential effects of related or anticipated future pipeline construction.

92. There is no evidence in the record to indicate that cumulative adverse effects will occur that cannot be mitigated by compliance with appropriate permitting requirements and conditions. Compliance with applicable permits, regulations and agreements and strict adherence to the construction specifications will reduce the adverse effects of the project.
93. The capacity of the proposed pipeline is believed to be adequate to serve the foreseeable future needs of the Cities of Hutchinson and New Ulm and communities adjacent to the pipeline. The need for capacity expansion will be driven by the need to obtain additional

natural gas for electricity generation and home heating. For this reason, Hutchinson cannot accurately predict the timing of additional facility expansion phases. Any future projects will require review pursuant to the applicable statutes and rules.

Criterion J. Impact on relevant policies, rules, and regulations of the state and federal agencies and local government land use laws including ordinances adopted under Minnesota Statutes, section 299J.05, relating to the location, design, construction, or operation of the proposed pipeline and associated facilities.

94. There is no evidence in the record indicating that the proposed pipeline would be inconsistent with any relevant policies, rules and regulations of any known state or federal agencies or local land use laws.
95. Hutchinson provided in the Application a list of the known permits that must be obtained.
96. All appropriate permits will be acquired prior to undertaking the activity for which a permit is required. The City must comply with the terms and conditions of all necessary permits.
97. Minnesota Rules part 4415.0200 and the pipeline routing permit provide a procedure to report complaints concerning violation of the pipeline routing rule requirements and pipeline routing permit conditions.
98. Minnesota Rules part 4415.0205 provides procedures for permit modification or suspension for violation of the terms and conditions of a pipeline routing permit or of Minnesota Rules parts 4415.0010 to 4415.0215.

Comparison of Alternative Routes

99. EQB rules provide that in determining the route of a proposed pipeline, the Board shall designate a route that minimizes human and environmental impact. Minn. Rules part 4415.0100, subp. 2. There is no overriding consideration to promote or eliminate any of the routes from consideration. None of the routes evaluated will impact any unique natural resources. Because the land along the route of this pipeline is primarily agricultural, the most important consideration is minimizing the impact of construction of the pipeline on individual landowners and their farming operations.
100. The implementation of careful construction practices and mitigation practices will minimize the impact of the pipeline on the environment and on individual landowners. Making specific arrangements with individual landowners is the best way to address the concerns of those whose property will be crossed by the pipeline.
101. The Highway 15 Alternative and the Highway 15 Trimont Variant Alternative are more expensive than either the City's preferred route or the Farmers Route and no environmental benefit is realized from either of these routes.
102. The Farmers Route is likely to cost more than the City's route because the Farmers Route is slightly longer than the City's preferred route. However, the portions of the Farmers

Route that add the most length to the pipeline are at the southern end of the line and the northern end of the line, where the Farmers Route most deviates from the City's route. Between mileposts 55 and 80, the Farmers Route and the City's route are within a mile or so of each other. Also, while it is impossible to estimate at this time, it is anticipated that the savings from impacting less drain tile and avoiding more productive agricultural land by utilizing headlands along the Farmers Route will mitigate the difference in costs. Also, the benefit of obtaining the cooperation and agreement of the landowner whose land is to be crossed by the pipeline does have a monetary savings, although it cannot be calculated.

103. Following existing rights-of-way and section and half section lines will minimize the potential for damage to agricultural land and drain tile. The Farmers Route offers the opportunity to follow more rights-of-way and section and half section lines than does the City's preferred route. The landowners along the Farmers Route prefer that route to the City's route.
104. There is not as much opportunity to follow rights-of-way and section and half section lines in the southern portion of the pipeline because of various natural features such as lakes and streams. Also, no landowners in the southern portion have identified any suggested routes for the pipeline.

Based on the foregoing Findings of Fact, the Board makes the following:

CONCLUSIONS

1. The Minnesota Environmental Quality Board has fulfilled all relevant procedural requirements of law or rule applicable to the consideration of an application for a partial exemption from pipeline route selection procedures, and has the authority to grant a partial exemption from pipeline route selection procedures and to issue a pipeline routing permit.
2. The City of Hutchinson has complied with the procedural requirements for a partial exemption from pipeline route selection procedures as set forth in Minnesota Rules part 4415.0035, including publication of notice in several local newspapers in the counties where the pipeline will be located.
3. The EQB has established in Minnesota Rules part 4415.0040 a standard and criteria for a partial exemption from pipeline route selection procedures. The Board has considered the potential impacts of a natural gas pipeline from Trimont, Minnesota, to Hutchinson, Minnesota in each of the areas specified in the rule, including the natural environment and human settlement. The Board concludes that with implementation of proper construction practices and mitigation measures, and compliance with appropriate permit conditions, and negotiation of specific accommodations with individual landowners, such a pipeline will not have a significant impact on humans or the environment and that a partial exemption from full routing procedures can be granted.
4. The City's preferred route and the alternative routes investigated all cross agricultural land along nearly their entire lengths. The primary impact of concern is the impact of the

pipeline on farming operations, particularly damage to drain tile and compaction of soil. A route that follows existing rights-of-way and section and half section lines will minimize the impacts on farming operations. Moreover, designation of a route that meets with the satisfaction of landowners whose property will be crossed and construction methods that address landowners' concerns will allow this pipeline to be constructed in the most expeditious and economic manner.

5. Based on its consideration of the criteria for granting a routing permit for a new natural gas pipeline, the Board concludes that a permit for construction of a natural gas pipeline of approximately 90 miles between Trimont, Minnesota, and Hutchinson, Minnesota, along the following route will minimize human and environmental impacts:
 - a. From the point of connection with the Northern Border Pipeline at Trimont, Minnesota (milepost 0) to milepost 55.5 north of the Minnesota River, the City's preferred route described in the City of Hutchinson's Application for a Pipeline Routing Permit dated March 2002.
 - b. From milepost 55.5 to the point where the Farmers Route intersects with the City's preferred route at approximately milepost 80.5, the Farmers Route depicted on aerial photos on file with the EQB that are a part of the administrative record in this proceeding.
 - c. From milepost 80.5 to the termination of the pipeline at Border Station 1 in the City of Hutchinson (approximately milepost 90), the City's preferred route.
6. The Board concludes that it makes sense to designate the maximum width provided for a pipeline route under EQB rules, which is up to 1.25 miles. Designating a route with a width of up to 1.25 miles will give the City flexibility to adjust the designated route to accommodate requests by individual landowners to avoid certain areas and to minimize the impact of construction on drain tile and other features.
7. A routing permit for the new pipeline should be conditioned in a number of respects, including imposition of those conditions specified in Minn. Rules part 4415.0195, conditions for negotiating of an agricultural impact mitigation plan, and conditions agreed to by the applicant.
8. Any Finding of Fact more properly considered a Conclusion, or any Conclusion more properly considered a Finding of Fact, is hereby expressly adopted as such.

Based on the Findings of Fact and Conclusions contained herein and the entire record of this proceeding, the Environmental Quality Board hereby makes the following

ORDER

1. The Minnesota Environmental Quality Board hereby grants the City of Hutchinson (Hutchinson Utilities Commission) a partial exemption from the pipeline route selection procedures of Minn. Rules chapter 4415.
2. The Minnesota Environmental Quality Board hereby issues a pipeline routing permit to the City of Hutchinson (Hutchinson Utilities Commission) for construction of approximately 90 miles of natural gas pipeline and associated facilities along the route described in Conclusion No. 5 above. The routing permit shall be issued in the form attached hereto, including the description of the route, a width of up to 1.25 miles, and the inclusion of conditions.

Dated this 19th day of December, 2002

STATE OF MINNESOTA
ENVIRONMENTAL QUALITY BOARD

Gene Hugoson, Chair