

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  HOMELAND ENERGY SOLUTIONS, LLC	DOCKET NO. P-879
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**PROPOSED DECISION AND ORDER GRANTING PERMIT**

(Issued December 10, 2008)

**APPEARANCES:**

MR. PAUL E. HORVATH, Attorney at Law, Dickinson, Mackaman, Tyler & Hagen, P.C., 699 Walnut Street, Suite 1600, Des Moines, Iowa 50309, appearing on behalf of Homeland Energy Solutions, LLC.

MR. JOHN F. DWYER, Attorney at Law, 310 Maple Street, Des Moines, Iowa 50319, appearing on behalf of the Iowa Department of Justice, Office of Consumer Advocate.

**STATEMENT OF THE CASE**

On August 27, 2008, Homeland Energy Solutions, LLC (Homeland) filed a petition and exhibits for a pipeline permit with the Utilities Board (Board). (petition for permit.) Homeland proposes to construct, operate, and maintain a new 6<sup>5</sup>/<sub>8</sub>-inch diameter steel natural gas pipeline approximately 8 miles long in Chickasaw County, Iowa. (petition for permit; testimony of Mr. Yexley; O'Neal report.) Homeland filed amendments to its petition and exhibits and provided additional information on October 24 and November 21, 2008. (petition for permit; O'Neal report.) The proposed pipeline will transport natural gas from a connection with a Northern Natural

Gas Company (NNG) transmission pipeline west of New Hampton, Iowa, to the Homeland Energy Solutions Ethanol Plant currently under construction east of New Hampton. (petition for permit; testimony of Mr. Yexley; O'Neal report.)

On October 28, 2008, Mr. Jeffrey L. O'Neal, regulatory engineer for the Board, filed a report regarding the petition and proposed pipeline (O'Neal report). On November 3, 2008, the Board assigned this case to the undersigned administrative law judge. On November 5, 2008, the undersigned issued an order establishing a procedural schedule, proposing to take official notice, and providing notice of the hearing.

Homeland filed the prepared direct testimony of Mr. David P. Yexley on November 21, 2008. Homeland filed proof of publication of notice on December 1, 2008. On December 5, 2008, Homeland filed the Chickasaw County road crossing permit and the Iowa Department of Natural Resources NPDES Construction Storm Water Discharge Permit authorization that are required for the proposed pipeline. On December 9, 2008, Homeland filed a letter of no impact from the Iowa Department of Natural Resources.

The hearing in this case was held on December 9, 2008. The hearing was originally scheduled to be held in the City Council Chambers, New Hampton Community Center, 112 East Spring Street, New Hampton, Iowa. However, due to extreme winter weather, it was necessary to hold the hearing by telephone conference call. The Board posted notice of the change on its Web site on

December 8, 2008. Notice of the change was also posted in the New Hampton Community Center. Board staff, the attorneys for Homeland and the Consumer Advocate Division of the Department of Justice (Consumer Advocate), Mr. Walter Wendland, CEO of Homeland, the court reporter, and the undersigned administrative law judge were in Board Conference Room 3, 350 Maple Street, Des Moines, Iowa 50319. The witnesses for Homeland were connected to the hearing by telephone conference call. A number of individuals and Homeland witness Mr. David Yexley were present at the New Hampton Community Center and connected to the hearing by telephone conference call.

At the hearing, Homeland was represented by its attorney, Mr. Paul E. Horvath. Mr. Yexley and Mr. Steve Eastman testified on behalf of Homeland. Mr. Yexley is employed by Montana-Dakota Utilities Company (Montana-Dakota) as Senior Staff Engineer and Manager over pipeline projects and assets. (testimony of Mr. Yexley.) Mr. Eastman is the Chairman of the Board of Homeland. (testimony of Mr. Eastman.) Montana-Dakota is the authorized agent of Homeland to construct the proposed pipeline and sign on behalf of Homeland with regard to pipeline matters. (testimony of Mr. Yexley.) Homeland Exhibits B-1 and B-2 were admitted. The Consumer Advocate was represented by its attorney, Mr. John F. Dwyer. Mr. O'Neal testified as the engineer selected by the Board to examine the proposed route and permit application pursuant to Iowa Code § 479.11 (2007). At the hearing, Homeland agreed to file the following documents with the Board once they are received: a)

road crossing permits from the Iowa Department of Transportation for two highway crossings; b) a permit from the U.S. Army Corps of Engineers; c) evidence that Homeland has received the remaining five easements needed for the project; and d) revised Petition Exhibits A and B once the final route is established. Mr. Yexley testified that the pipeline's final route will be established once all permits and easements have been obtained. Mr. Yexley testified that Homeland expects to receive these permits and easements within two weeks of the date of the hearing. Homeland also agreed to file ten copies of Homeland Exhibits B-1 and B-2 with the Board.

#### **FINDINGS OF FACT**

1. Homeland is a pipeline company within the meaning of Iowa Code § 479.2. (petition for permit; testimony of Mr. Yexley; O'Neal report.)
2. On August 27, 2008, Homeland filed a petition and exhibits for a pipeline permit with the Board. (petition for permit.) Homeland proposes to construct, operate, and maintain a new 6<sup>5</sup>/<sub>8</sub>-inch diameter steel natural gas pipeline approximately 8 miles long in Chickasaw County, Iowa, with a maximum allowable operating pressure of 960 pounds per square inch gauge (psig). (petition for permit; testimony of Mr. Yexley; O'Neal report.) Homeland filed amendments to its petition and exhibits and provided additional information on October 24 and November 21, 2008. (petition for permit; testimony of Mr. Yexley; O'Neal report.)

3. The proposed pipeline must have a permit from the Board because it will operate at a pressure greater than 150 psig and because it will meet the definition of a transmission line. 199 IAC 10.16; 49 CFR 192.3. (petition for permit; testimony of Mr. Yexley; O'Neal report.) It is a transmission line because it will transport natural gas from a transmission line to a large volume customer that is not downstream from a distribution center, and because it will operate at a hoop stress of more than 20 percent of specified minimum yield strength (SMYS). 49 C.F.R. 192.3. (petition for permit; testimony of Mr. Yexley; O'Neal report.)

4. Homeland caused notice of the hearing to be published in Chickasaw County in the New Hampton Tribune, a newspaper of general circulation in the county, on November 18 and 25, 2008. (proof of publication.)

5. The proposed pipeline will follow a route described in Exhibit A and shown on Exhibit B attached to the petition for a permit. (petition Exhibits A and B; testimony of Mr. Yexley; O'Neal report.) However, there are two locations on the route where minor revisions to the route are still being made. (testimony of Mr. Yexley; Homeland Exs. B-1 and B-2.) Homeland will file revised petition Exhibits A and B showing the final route once it has been established. (testimony of Mr. Yexley.) Assuming Homeland files all remaining permits, letters, and easements, there are no problems with the location and route of the proposed pipeline and no further terms, conditions, or restrictions regarding them need to be imposed pursuant

to Iowa Code § 479.12. (petition for permit; testimony of Mr. Yexley; Homeland Exs. B-1 and B-2; O'Neal report.)

6. Homeland has received required permits and authorizations from Chickasaw County and the Iowa Department of Natural Resources. (testimony of Mr. Yexley; Homeland filings.) Homeland still needs to obtain approvals for two highway crossings from the Iowa Department of Transportation and an approval from the U.S. Army Corps of Engineers for the proposed pipeline. (testimony of Mr. Yexley; Homeland Exs. B-1 and B-2; petition for permit; O'Neal report.)

7. The proposed pipeline will transport natural gas from a connection with an existing NNG transmission pipeline west of New Hampton, Iowa, to the Homeland Energy Solutions Ethanol Plant currently under construction east of New Hampton. (petition for permit; testimony of Mr. Yexley; O'Neal report.) The proposed pipeline is necessary to provide natural gas to the new ethanol plant. (petition for permit; testimony of Mr. Yexley; O'Neal report.) The ethanol plant is expected to produce up to approximately 100 million gallons of ethanol per year, will provide a new delivery point for area corn producers, and is expected to increase the price of corn in the area. (testimony of Mr. Yexley; petition for permit.) Approximately 40 new jobs will be created at the ethanol plant, and the construction phase of the project will have a significant positive economic impact on the local economy. (testimony of Mr. Yexley.) Therefore, the proposed pipeline will promote the public convenience and necessity. (petition for permit; testimony of Mr. Yexley; O'Neal report.)

8. The proposed pipeline will comply with the design, construction, and safety requirements of Iowa Code chapter 479, 199 IAC § 10.12, and 49 CFR Part 192. (petition for permit; testimony of Mr. Yexley, Mr. O'Neal; O'Neal report.) Homeland and Cornerstone Energy, LLC (Cornerstone) entered into an agreement that provides for the construction of the proposed pipeline. (testimony of Mr. Yexley.) Cornerstone has contracted with Montana-Dakota to construct the proposed pipeline. (testimony of Mr. Yexley; petition for permit.) Montana-Dakota will oversee the construction and has contracted with Infrasource Underground Construction to construct the pipeline. (testimony of Mr. Yexley.) Homeland has awarded a contract for the operation and maintenance of the proposed pipeline to the Black Hills Corporation, f/k/a Aquila, Inc. (Black Hills). (testimony of Mr. Yexley.) Mr. Yexley testified that Homeland will file a signed copy of the operation and maintenance contract with the Board prior to placing the pipeline in service and that Homeland will not place the pipeline in service without having the required documents properly prepared. (testimony of Mr. Yexley.) If the contract for operation and maintenance expires or is significantly changed, Homeland must file notice with the Board at least 30 days prior to expiration, or within ten days of the effective date of the change. Prior to operation of the proposed pipeline, Homeland must: a) file an operation, maintenance, and emergency plan as required by federal pipeline safety standards with the Board; and b) ensure that personnel who are qualified under applicable federal pipeline safety standards, including local personnel, are available for

operation and maintenance of the pipeline; and c) file a copy of the signed contract for operation and maintenance of the pipeline with the Board. No further safety-related terms, conditions, or restrictions need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; testimony of Mr. Yexley, Mr. O'Neal; O'Neal report.)

9. Homeland owns property subject to execution within this state, other than pipelines, of a value in excess of \$250,000, and thus meets the requirements of Iowa Code § 479.26 and 199 IAC 10.2(1)"d." (petition Exhibit D; testimony of Mr. Yexley, Mr. Eastman.)

10. One written objection to the proposed pipeline was filed with the Board, but the objection was withdrawn prior to the hearing. (Blatti objection and withdrawal; testimony of Mr. Yexley.) No other written objections were filed and no objectors appeared at the hearing. (testimony of Mr. Yexley; Docket No. P-879 file.) Homeland does not request the right of eminent domain. (testimony of Mr. Yexley; petition for permit.) Homeland has obtained all but five of the voluntary easements needed for the proposed pipeline. (testimony of Mr. Yexley; petition for permit.) Mr. Yexley testified there are no issues with obtaining the remaining easements. Homeland expects to obtain the remaining signed easements within approximately two weeks of the hearing date, and will file evidence that it has these easements once they are obtained. (testimony of Mr. Yexley.)

### **CONCLUSIONS OF LAW**

1. The Board has the authority to grant, amend, and renew permits for the construction, operation, and maintenance of pipelines for the intrastate transportation of natural gas. Iowa Code §§ 479.1, 479.3, 479.4, 479.12, 479.18, and 479.29; 199 IAC 10.

2. The Board has jurisdiction over Homeland and over the petition for a natural gas pipeline permit it has filed. Iowa Code §§ 479.2, 479.3, 479.5, 479.6, 479.12, 479.18, and 479.29; 199 IAC 9 and 10.

3. The petition of Homeland for issuance of a permit for the natural gas pipeline in this docket should be granted. Iowa Code §§ 479.11, 479.12, 479.26 and 479.29; 199 IAC 9 and 10.

4. The land restoration plan filed by Homeland complies with the requirements of Iowa Code § 479.29 and 199 IAC 9. (petition for permit; O'Neal report; testimony of Mr. Yexley, Mr. O'Neal.)

#### **IT IS THEREFORE ORDERED:**

1. Official notice is taken of the report dated October 28, 2008, filed in this docket by Mr. Jeffrey O'Neal, utility regulatory engineer for the Board.

2. Pursuant to Iowa Code chapter 479, the petition for a pipeline permit filed by Homeland in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.

3. Homeland must provide timely notice to the Board before beginning construction of the pipeline and must also file weekly progress reports with the Board during construction of the pipeline.

4. After Homeland completes construction of the new pipeline, it must file a construction completion report with the Board. This report must include information regarding any unusual construction problems or occurrences and a copy of the pressure test procedures used and the results obtained.

5. If the contract that Homeland has with Black Hills for operation and maintenance of the proposed pipeline expires or is significantly changed, Homeland must file notice with the Board at least 30 days prior to expiration, or within ten days of the effective date of the change.

6. Within 180 days after completion of the construction of the new pipeline, Homeland must file a map that accurately shows the location of the pipeline route as constructed. The map will be a part of the record in this case and will represent the final route as authorized by the permit.

7. Homeland must file copies of the remaining permits, evidence of remaining easements, and the other documents discussed in the body of this order as soon as it obtains them.

8. Prior to operation of the proposed pipeline, Homeland must:

a. File an operation, maintenance, and emergency plan as required by federal pipeline safety standards with the Board;

b. Ensure that personnel who are qualified under applicable federal pipeline safety standards, including local personnel, are available for operation and maintenance of the pipeline; and

c. File a copy of the signed contract for operation and maintenance of the pipeline with the Board.

9. The Board retains jurisdiction of the subject matter in this docket.

10. This proposed decision will become the final decision of the Board unless, within five (5) days after the proposed decision is issued, a party files written notice of appeal with the Board or the Board votes to review the proposed decision on its own motion. Iowa Code § 17A.15(3); 199 IAC 7.26(2).

**UTILITIES BOARD**

/s/ Amy L. Christensen  
Amy L. Christensen  
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

Dated at Des Moines, Iowa, this 10<sup>th</sup> day of December, 2008.