

Public Notices

STATE OF MINNESOTA
COUNTY OF CARVER

DISTRICT COURT
FIRST JUDICIAL DISTRICT

In re: Minnesota Pipeline Condemnation Litigation

PETITION
File No. 10-CV-08-578
Case Type: Condemnation

Minnesota Pipe Line Company, LLC,
by its Board of Managers,
Petitioner,

vs.

Joseph Ferguson; Unknown heirs of Anna Ferguson, deceased; Twin Cities & Western Railroad Company, a Minnesota corporation; Bank of America, National Association, successor in interest to The First National Bank of Boston; Soo Line Railroad Company, a Minnesota corporation; and Carver County,
Respondents.

IN THE MATTER OF THE CONDEMNATION OF CERTAIN REAL ESTATE

IN THE COUNTY OF CARVER, STATE OF MINNESOTA, FOR CRUDE OIL PIPELINE PURPOSES TO THE ABOVE-NAMED COURT AND THE HONORABLE STEVEN E. DRANGE OF THE EIGHTH JUDICIAL DISTRICT:

Petitioner respectfully represents and alleges as follows:

1. Petitioner Minnesota Pipe Line Company, LLC, is a limited liability company duly organized and existing under the laws of the state of Delaware. This proceeding is taken in Petitioner's company name by its Board of Managers, its governing body.

2. Petitioner is a public service corporation engaged in the business of transporting crude oil by pipeline in Minnesota. *See Minnesota Statutes*, Section 117.025, subd. 10 (2007). Petitioner is qualified to do business in the state of Minnesota.

3. In the conduct of its business, Petitioner has undertaken a project (the "MinnCan Project") to construct an approximately 304-mile long crude oil pipeline from Clearbrook, Minnesota to Rosemount, Minnesota.

4. On April 13, 2007, the Minnesota Public Utilities Commission ("MPUC") issued a certificate of need to Petitioner for the MinnCan Project, pursuant to *Minnesota Statutes*, Section 216B.243 (2007). *See* MPUC Docket No. PL-5/CN-06-2.

5. On April 13, 2007, the MPUC issued a pipeline routing permit to Petitioner for the MinnCan Project, pursuant to *Minnesota Statutes*, Section 216G.02 (2007).¹ *See* MPUC Docket No. PL-5/PPL-05-2003.

6. On June 15, 2007, the MPUC issued its Order Denying Reconsideration in Docket No. PL5/CN-06-2, and its Order Denying Reconsideration in Docket No. PL5/PPL-05-2003. The certificate of need and the routing permit thus became final on June 25, 2007. *Minnesota Statutes*, Section 216B.27, subd. 3 (2007).

7. *Minnesota Statutes*, Section 117.48 (2007) [Crude Oil Pipeline Companies, Eminent Domain], provides as follows:

The business of transporting crude petroleum, oil, their related products and derivatives including liquefied hydrocarbons, or natural gas by pipeline as a common carrier, is declared to be in the public interest and necessary to the public welfare, and the taking of private property therefor is declared to be for a public use and purpose. Any corporation or association qualified to do business in the state of Minnesota engaged in or preparing to engage in the business of transporting crude petroleum, oil, their related products and derivatives including liquefied hydrocarbons, or natural gas by pipeline as a common carrier, is authorized to acquire, for the purpose of such business, easements or rights-of-way, over, through, under or across any lands, not owned by the state or devoted to a public purpose for the construction, erection, laying, maintaining, operating, altering, repairing, renewing and removing in whole or in part, a pipeline for the transportation of crude petroleum, oil, their related products and derivatives including liquefied hydrocarbons, or natural gas. To such end it shall have and enjoy the power of eminent domain to be exercised in accordance with this chapter, and acts amendatory thereof, all of which provisions shall govern insofar as they may be applicable hereto. Nothing herein shall be construed as authorizing the taking of any property owned by the state, or any municipal subdivision thereof, or the acquisition of any rights in public waters except after permit, lease, license or authorization issued pursuant to law.

8. *Minnesota Statutes*, Section 216G.02, subd. 2 (2007),² provides as follows:

A person may not construct a pipeline without a pipeline routing permit issued by the [Minnesota] Public Utilities Commission unless the pipeline is exempted from the commission's routing authority under this section or rules adopted under this section. A pipeline requiring a permit may only be constructed on a route designated by the commission.

9. *Minnesota Statutes*, Section 216G.02, subd. 4 (2007),³ provides as follows:

The issuance of a pipeline routing permit under this section and subsequent purchase and use of the route locations is the only site approval required to be obtained by the person owning or constructing the pipeline. The pipeline routing permit supersedes and preempts all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local, and special purpose governments.

10. The purposes for which Petitioner seeks to acquire the interests in the lands hereinafter described are public uses and purposes. *Minnesota Statutes*, Section 117.48 (2007).

11. With the exception of a permanent easement across the lands described in Exhibit A to this Petition, Petitioner has already acquired title to and possession of all the easements and rights-of-way required for construction of the MinnCan Project through direct purchase or exercise of the power of eminent domain. Therefore, it is reasonably necessary and convenient for Petitioner to acquire, for the purpose of transporting crude oil by pipeline, a permanent easement and right-of-way for the construction, erection, laying, maintaining, operating, altering, repairing, renewing and removing, in whole or in part, over, through, under, and across the lands described in Exhibit A, attached hereto and made a part hereof as though fully set forth at this point. The easement rights to be acquired are specifically described in Exhibit B, attached hereto and made a part hereof as though fully set forth at this point. The route of Petitioner's pipeline over, through, under, and across the lands described in Exhibit A is entirely within the route designated by the MPUC.

12. The owners and occupants of the lands described in Exhibit A shall have the full use and enjoyment of the easement area not inconsistent with Petitioner's rights as set forth herein, provided, however, that the owners or occupants shall not erect thereon any structures or other objects, permanent or temporary, nor shall the owners or occupants perform any act that will interfere with or endanger Petitioner's pipeline.

13. Petitioner may encounter during construction physical conditions that give rise to the need for additional temporary workspace adjacent to the easement areas described in Exhibit A to enable Petitioner to safely and efficiently construct its pipeline. Such additional temporary workspace will be taken only if and when Petitioner encounters heretofore unknown underground obstacles, such as drain tiles or foreign utilities, that necessitate deeper excavation and thus the need for additional temporary workspace for storage of additional spoil material. *See* Routing Permit at III. C.

14. Having been issued a certificate of need and a pipeline routing permit by the MPUC, Petitioner is authorized by law to condemn the lands described in Exhibit A for the purposes described above. Minn. R. 7852.3200, subp. 3 (2007).⁴ Accordingly, Petitioner may proceed with its exercise of eminent domain in the manner prescribed by *Minnesota Statutes*, Chapter 117 (2007).

15. On April 16, 2008, Petitioner, by resolution of its governing body, authorized the acquisition of the real estate interests described in Exhibit A by eminent domain proceedings, including the use of the "Quick-Take" provision of *Minnesota Statutes*, Chapter 117.

16. The real estate to be acquired through this proceeding is located in Carver County, Minnesota.

17. The legal description of the lands to be taken and the names of those appearing of record or known to Petitioner to be the owners of said lands or interested therein, including all whom Petitioner has, by investigation and inquiry, been able to discover, together with the nature of the ownership of each as can be ascertained, are set forth as shown on Exhibit A hereto.

18. On July 24, 2007, Chief Justice Russell A. Anderson issued an Order granting Petitioner's motion pursuant to Minn. R. Gen. Prac. Rule 113.03 and assigning the honorable Steven E. Drange of the Eighth Judicial District to hear and decide legal issues presented by the Minnesota Pipeline Condemnation Litigation.

WHEREFORE, Petitioner prays for an order from the Court as follows:

1. Adjudging that said taking is for a public use and purpose, is necessary, and is such as is authorized by law;

2. Appointing three disinterested persons, and at least two alternates, to ascertain and report the amount of damages, other than those construction-related damages provided for in the Agricultural Impact Mitigation Plan (which is part of the pipeline routing permit issued to Petitioner), that will be sustained by the several owners on account of the taking; fixing the time and place of the first meeting of the three commissioners; prescribing their compensation; and requiring the commissioners to file their report with the District Court Administrator within 365 days from the date of the order appointing the commissioners, unless said time be extended by further order of the Court; and

3. For such other and further relief as may be proper and pursuant to law.

Respectfully submitted,

/s/ Mollie M. Smith
John E. Drawz (# 24326)
James E. Dorsey (# 137893)
Steven J. Quam (# 250673)
Mollie M. Smith (# 338965)
FREDRIKSON & BYRON, P.A.
200 South Sixth Street,
Suite 4000
Minneapolis, Minnesota 55402-1425
Telephone: (612) 492-7000
Toll Free Number:
1-888-881-2552
Fax: (612) 492-7077
Attorneys for Petitioner

ACKNOWLEDGMENT

The undersigned acknowledges that sanctions may be awarded pursuant to *Minnesota Statutes*, Section 549.211 (2007).

/s/ Mollie M. Smith
Mollie M. Smith

EXHIBIT A

Minnesota Pipe Line Company, LLC vs. Joseph Ferguson, et al.
Parcel MN-CA-002.010 (PID #11.9990100 and PID #11.9990200):

Description of Parcel Affected:

Parcel 1:

A strip of land 100 feet in width across the Northwest Quarter of Section 18, Township 115, Range 26, to have its center in the center of the mail railway track on the line that is now located and on which said Railway is to be constructed, according to the United States Government Survey thereof and situate in Carver County, Minnesota.

Parcel 2:

A strip of land 50 feet wide lying Southerly of, parallel to, and adjoining the Right-of-Way of said railway as the same is now located and operated over and across the Northwest Quarter of Section 18, Township 115, Range 26, and extending from the East side to the West side of said premises, according to the United States Government Survey thereof and situate in Carver County, Minnesota.

Abstract Property.

Description of Interest to be Acquired:

Permanent Easement

A 50.00 FOOT WIDE PERMANENT EASEMENT, OVER, UNDER, AND ACROSS THAT PART OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 115 NORTH, RANGE 26 WEST, CARVER COUNTY, MINNESOTA, SAID PERMANENT EASEMENT BEING 15.00 FEET EASTERLY AND 35.00 FEET WESTERLY OF THE FOLLOWING DESCRIBED REFERENCE LINE:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 18; THENCE NORTH 88 DEGREES 41 MINUTES 20 SECONDS EAST (BEARINGS BASED ON THE CARVER COUNTY COORDINATE SYSTEM OF NAD 83, 1996 ADJUSTMENT) ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 18, A DISTANCE OF 139.03 FEET; THENCE SOUTH 56 DEGREES 47 MINUTES 20 SECONDS EAST, A DISTANCE OF 1546.57 FEET; THENCE SOUTH 07 DEGREES 14 MINUTES 31 SECONDS EAST, A DISTANCE OF 25.27 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF THE TWIN CITIES AND WESTERN RAILROAD, ALSO BEING THE POINT OF BEGINNING OF THE REFERENCE LINE; THENCE CONTINUING SOUTH 07 DEGREES 14 MINUTES 31 SECONDS EAST, A DISTANCE OF 150.09 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF THE TWIN CITIES AND WESTERN RAILROAD AND THERE TERMINATING. THE SIDELINES OF THE 50.00 FOOT WIDE PERMANENT EASEMENT ARE EXTENDED OR SHORTENED TO TERMINATE ON THE NORTHERLY AND SOUTHERLY RIGHT-OF-WAY LINES OF THE TWIN CITIES AND WESTERN RAILROAD.
SAID PERMANENT EASEMENT CONTAINS 0.17 ACRES OF LAND.

Name	Nature of Interest
Joseph Ferguson	Fee Owner of Parcel 1
Unknown heirs of Anna Ferguson, deceased	Fee Owner of Parcel 1
Twin Cities & Western Railroad Company, a Minnesota corporation	Fee Owner of Parcel 2 Easement interest in Parcel 1
Bank of America, National Association, successor in interest to The First National Bank of Boston	Mortgagee
Soo Line Railroad Company, a Minnesota corporation	Easement
Carver County	Real Estate Taxes and Roadway Easements

EXHIBIT B

1. Easement Rights To Be Acquired:

A permanent easement over, through, under, or across Respondents' Lands, as defined below, for the following purposes:

a. The right to enter, from time-to-time, on Respondents' Lands for purposes of surveying Respondents' Lands in connection with determining the location of the Easement Area, as defined below;

b. The right to enter, from time-to-time, on Respondents' Lands, along routes reasonably convenient to Petitioner, for purposes of access to and from the Easement Area, by persons, vehicles, machinery, equipment, devices and materials in connection with performing any of the acts described in subparagraph a, above, or c, below;

c. The right to enter, from time-to-time, over, through, under, or across the Easement Area for purposes of locating, laying-out, constructing, reconstructing, inspecting, maintaining, repairing, replacing, operating, updating, altering, removing and abandoning in-place a pipeline, together with all fittings, cathodic protection equipment, pipeline markers, and all other equipment and appurtenances thereto, for the transportation of crude oil and associated liquids or substances (cumulatively, the "Pipeline");

d. The right to operate, use, and enjoy the Pipeline within the Easement Area.

2. Definitions:

For purposes of this Exhibit B, the following terms shall be defined as follows:

a. *Respondents' Lands* shall mean those lands described in Exhibit A to the Petition under the heading "Description of Parcel Affected."

b. *Easement Area* shall mean that portion of Respondents' Lands described in said Exhibit A as the "Permanent Easement."

3. *Future Roads, Drives, and Utility Crossings:*

There is reserved to the Owner of each parcel affected the right to construct future roads, drives, and private utilities that cross the Permanent Easement at no less than a 45° angle, provided that: (1) the crossing is constructed and maintained such that it does not pose a risk to the safe operation and the efficient maintenance and repair of Petitioner's pipeline; (2) not less than 60 days prior to commencement of any work that may affect the permanent easement area, the pipeline, or appurtenances, Owner shall provide to Petitioner two sets of Owner's final plans for Petitioner's review. If approved, Petitioner will issue its Encroachment Permit for the planned crossing (such approval shall not be unreasonably withheld); (3) Owner shall notify or cause its representative to notify the appropriate Minnesota One-Call notification center as required by law, but in no event less than 48 hours, prior to the commencement of excavation or other construction work in or near the easement area; (4) no work shall take place without Petitioner's staff being given reasonable opportunity to be present at the specified work site; (5) if Petitioner determines that any proposed work may potentially cause an unsafe condition or damage to Petitioner's pipeline, Petitioner shall have the authority to prevent such work from being done and will work with Owner to suggest engineering changes to allow for a safe crossing; (6) all work in the vicinity of the permanent easement area, pipeline, or appurtenances shall be done in accordance with generally accepted engineering practices and safety procedures then in effect and the requirements of this Exhibit "B"; (7) Petitioner will be responsible for any repairs to the future roads, drives, or utilities caused by Petitioner's operations or maintenance activities; and (8) all utility lines are to be buried below Petitioner's pipeline, provided, however, that if there is more than 4.5 feet of cover over the pipeline in the particular crossing location, the parties shall reasonably determine under the circumstances whether the utility lines should be buried over or under the pipeline.

4. *Indemnification:*

To the fullest extent permitted by law, Petitioner agrees to release, defend, indemnify, and hold the Owner of each parcel affected harmless from and against any liability, loss, damage, cause of action, penalty, fine, cost (including but not limited to reasonable attorneys' fees), claim, or strict liability claim (collectively "Liabilities") arising out of or in any way incident to the activities performed by Petitioner or its contractors or subcontractors hereunder including, without limitation, any leak, release, spill, or discharge from Petitioner's pipeline installed pursuant hereto, on account of personal injuries, death, damage to property, or damage to the environment, regardless of whether such harm is to Petitioner, Owner, or any other person or entity, and regardless of how such injury/death/damage is caused, but excluding Liabilities to the extent caused by the fault of Owner.

¹Formerly numbered Minnesota Statutes, Section 116I.015.

²Formerly numbered Minnesota Statutes, Section 116I.015, subd. 2.

³Formerly numbered Minnesota Statutes, Section 116I.015, subd. 4.

⁴Formerly numbered Minn. R. 4415.0175, subp. 3.

(Published in the Chanhassen Villager on Thursday, May 1, 8 and 15, 2008; No. 4048)

STATE OF MINNESOTA
COUNTY OF CARVER

vs.

DISTRICT COURT
FIRST JUDICIAL DISTRICT

In re: Minnesota Pipeline

Condemnation Litigation

NOTICE OF INTENTION
TO TAKE TITLE AND
POSSESSION

File No. 10-CV-08-578

Case Type: Condemnation

Minnesota Pipe Line Company,

LLC,

by its Board of Managers,

Petitioner,

IN THE COUNTY OF CARVER,
STATE OF MINNESOTA, FOR
CRUDE OIL PIPELINE

PURPOSES

TO THE RESPONDENTS

HEREIN:

YOU WILL PLEASE TAKE NOTICE that Petitioner requires title to and possession of that portion of your property that is the subject of the above-entitled condemnation action prior to the filing of the award therefor by the court-appointed condemnation commissioners. The complete description of said property is contained in the condemnation Petition, which is on file with the Carver County Court Administrator and which will be separately served on you. Therefore, you are hereby notified that Petitioner intends to possess said property on July 18, 2008, pursuant to Minnesota Statutes, Section 117.042 (2007).

Before taking title to and possession of said property, Petitioner will pay to the owner thereof, or deposit with the Court, an amount equal to Petitioner's approved appraisal of value of said property.

Dated: April 18, 2008.

/s/ Mollie M. Smith
John E. Drawz (# 24326)
James E. Dorsey (# 137893)
Steven J. Quam (# 250673)
Mollie M. Smith (# 338965)
FREDRIKSON & BYRON, P.A.
200 South Sixth Street,
Suite 4000
Minneapolis, Minnesota
55402-1425
Telephone:
(612) 492-7074/7183/7269
Fax: (612) 492-7077
Attorneys for Petitioner

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STATE OF MINNESOTA
SECRETARY OF STATE

CERTIFICATE OF
ASSUMED NAME

Minnesota Statutes Chapter 333

File Number:

Date Filed: April 24, 2008

The filing of an assumed name does not provide a user with exclusive rights to that name. The filing is required as a consumer protection, in order to enable consumers to be able to identify the true owner of a business.

1. State the exact assumed name under which the business is or will be conducted: Still Livin'

2. State the address of the principal place of business. A complete street address or rural route and rural route box number is required; the address cannot be a P.O. Box. 8850 Audubon Road, Chanhassen, MN 55317

3. List the name and complete address of all persons conducting business under the above Assumed Name or if the business owner is a corporation, provide the legal corporate name and registered office address of the corporation: Mike Monson - 8850 Audubon Road, Chanhassen, MN 55317

4. I certify that I am authorized to sign this certificate and I further certify that I understand that by signing this certificate, I am subject to the penalties of perjury as set forth in Minnesota Statutes section 609.48 as if I had signed this certificate under oath.

Signature:
Mike Monson, Sole Proprietor
612-309-2252

Date: 04/23/08

(Published in the Chanhassen Villager on Thursday, May 8 and 15, 2008; No. 4052)

SUMMARY PUBLICATION
CITY OF VICTORIA
ORDINANCE NO. 361
AN ORDINANCE AMENDING
CHAPTER 13, ARTICLE II, NOISE
SECTION 13-22 ~ 13-33

OF THE VICTORIA CITY CODE

That the Code of Ordinances, City of Victoria, Minnesota, is hereby amended to read as follows:

ARTICLE II. NOISE*
Sec. 13-22. Purpose and intent of article.

(a) To provide standards, regulations, and interpretations consistent with Minnesota State Statute 116.07, as it may be amended, and those set for in the Minnesota Noise Pollution Control Rules Chapter 7030 by the Minnesota Pollution Control Agency, as it may be amended, that apply to all land use districts.

(b) To provide exceptions to this article for community events as determined by the City Council and approved on an annual basis through a temporary noise permit and a public hearing process to which the residents of the City may provide input.

(c) To enable appropriate enforcement consistent with available public resources.

Sec. 13-23. Definitions.

Sec. 13-24. Noises prohibited.

Sec. 13-25. Hourly restriction on certain operations.

Sec. 13-26. Receiving land use standards.

Sec. 13-27. Exception for emergency work.

Sec. 13-28. Measurement methodology for non-impulsive noise.

Sec. 13-29. Temporary noise permit.

Sec. 13-30. Enforcement.

Sec. 13-31. Severability.

A copy of the entire text of the ordinance which is available to the public is on file at the Office of the City Clerk. This ordinance shall become effective upon its passage and publication in accordance with the law.

Passed and adopted this 24th day of April, 2008 by the Victoria City Council.

ATTEST:
Tim Amundsen, Mayor Pro Tem

Jennifer Kretsch, City Clerk
(Published in the Chanhassen Villager on Thursday, May 8, 2008; No. 4051)

CITY OF CHANHASSEN
CARVER & HENNEPIN
COUNTIES

NOTICE OF PUBLIC HEARING
PLANNING CASE NO. 08-06

NOTICE IS HEREBY GIVEN

that the Chanhassen Planning Commission will hold a public hearing on Tuesday, May 20, 2008, at 7:00 p.m. in the Council Chambers in Chanhassen City Hall, 7700 Market Blvd. The purpose of this hearing is to consider a request for Variance to expand a legal non-conforming pylon sign on property zoned Highway Business (BH) located at 335 West 79th Street - Applicant: Valvoline Instant Oil Change.

A plan showing the location of the proposal is available for public review on the City's web site at www.ci.chanhassen.mn.us/serv/plan/08-06.html or at City Hall during regular business hours. All interested persons are invited to attend this public hearing and express their opinions with respect to this proposal.

Angie Ausetth, Planner I
Email:

aausetth@ci.chanhassen.mn.us
Phone: 952-227-1132

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CITY OF CHANHASSEN
CARVER & HENNEPIN
COUNTIES

NOTICE OF PUBLIC HEARING
PLANNING CASE NO. 08-10

NOTICE IS HEREBY GIVEN

that the Chanhassen Planning Commission will hold a public hearing on Tuesday, May 20, 2008, at 7:00 p.m. in the Council Chambers in Chanhassen City Hall, 7700 Market Blvd. The purpose of this hearing is to consider a request for Amendment to Conditional Use Permit No. 87-2 to allow 60 outdoor storage stalls; and Variance Requests for Hard Surface Coverage and Signage on property zoned Fringe Business District (BF), located at 1900 Stoughton Avenue - Applicant: Jacques Gibbs.

A plan showing the location of the proposal is available for public review on the City's web site at www.ci.chanhassen.mn.us/serv/plan/08-10.html or at City Hall during regular business hours. All interested persons are invited to attend this public hearing and express their opinions with respect to this proposal.

Angie Ausetth, Planner I
Email:

aausetth@ci.chanhassen.mn.us
Phone: 952-227-1132

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CITY OF CHANHASSEN
CARVER & HENNEPIN
COUNTIES

NOTICE OF PUBLIC HEARING
PLANNING CASE NO. 08-11

NOTICE IS HEREBY GIVEN

that the Chanhassen Planning Commission will hold a public hearing on Tuesday, May 20, 2008, at 7:00 p.m. in the Council Chambers in Chanhassen City Hall, 7700 Market Blvd. The purpose of this hearing is to consider a request for a Planned Unit Development (PUD) Amendment to permit a kennel/veterinary clinic, and Site Plan Approval for a 21,000 square-foot one-story veterinary clinic and kennel on property located at 2910 82nd Street (Lot 2, Block 1, Arboretum Business Park 3rd Addition). Applicant: Karen Jackson/Chaska Gateway Partners LLP.

A plan showing the location of the proposal is available for public review on the City's web site at www.ci.chanhassen.mn.us/serv/plan/08-11.html or at City Hall during regular business hours. All interested persons are invited to attend this public hearing and express their opinions with respect to this proposal.

Robert Generous,
Senior Planner
Email:

bgener