

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

IN RE EXPLORER )  
PIPELINE COMPANY )  
)  
PETITION PURSUANT TO SECTIONS ) Docket No. 13-0433  
8-503 AND 8-509 OF THE PUBLIC )  
UTILITIES ACT FOR AUTHORITY )  
TO CONSTRUCT AND OPERATE AN )  
EXTENSION TO EXISTING FACILITIES )  
AND WHEN NECESSARY TO TAKE )  
PRIVATE PROPERTY AS PROVIDED )  
BY THE LAW OF EMINENT DOMAIN )

**NOTICE OF FILING**

**PLEASE TAKE NOTICE** that on this date we have filed with the Clerk of the Illinois Commerce Commission, the Responses to Staff Data Requests ENG 1.1 – 1.32 (Ex. 5) and the Verifications of Terry V. Biehl (Ex. 6) and Neil K. Earnest (Ex. 7) on behalf of Explorer Pipeline Company, in the above-captioned matter.

EXPLORER PIPELINE COMPANY

By:  /s/ G. Darryl Reed  
One of Its Attorneys

Dated: March 4, 2014

Gerald A. Ambrose  
G. Darryl Reed  
Sidley Austin LLP  
One South Dearborn  
Chicago, IL 60603  
(312) 853-7000

**CERTIFICATE OF SERVICE**

I, G. Darryl Reed, an attorney, certify that I caused copies of the Responses to Staff Data Requests ENG 1.1 – 1.32 (Ex. 5) and the Verifications of Terry V. Biehl (Ex. 6) and Neil K. Earnest (Ex. 7) on behalf of Explorer Pipeline Company to be served on each of the parties listed on the service list via electronic or regular mail, this 4<sup>th</sup> day of March, 2014.

\_\_\_\_\_  
/s/ G. Darryl Reed

One of Its Attorneys

**EXPLORER PIPELINE COMPANY**

Gerald A. Ambrose  
G. Darryl Reed  
Sidley Austin LLP  
One South Dearborn  
Chicago, Illinois 60603  
(312) 853-7000

# **EXPLORER PIPELINE EX. 5**



ICC Staff Data Request

ENG 1.1 Does the Company plan on using any non-industry standard construction practices in the building of the proposed pipeline? If yes, describe the location of all such instances, how it deviates from the industry standard, and explain why a non-industry standard construction practice is being used.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Explorer has no plans to use non-industry standard construction practices in the construction of its 24-inch petroleum products line, and is not planning on seeking any waivers from federal pipeline safety regulations. Explorer plans to employ proven practices and techniques aimed at minimizing impacts from pipeline construction. This applies to all types of terrain along the proposed pipeline route.

More specifically, Explorer plans to use conventional construction practices and also plans to employ the following other types of standard construction procedures and practices:

- Use of automatic welding and ultrasonic non-destructive testing
- Use of horizontal directional drills when driven by the crossing, allowed by geology and deemed appropriate by permitting agencies;
- Use of weights in wet areas when pipe can be laid; and
- Installation of road bores and drain tile as required.

Additionally, Explorer recognizes that a majority of the proposed pipeline right-of-way will be located in agricultural lands, and for that reason, it is working diligently with the Illinois Department of Agriculture and other interested federal, state and local agencies to develop a plan that will ensure protection of future crop productivity in areas affected by pipeline construction.

ICC Staff Data Request

ENG 1.2 Provide a list of all federal, state and local permits, licenses, and other similar type of documents which Explorer will be required to obtain in order to construct its proposed pipeline. Include as part of the list the identity of each entity from which a permit, license or other similar document must be obtained, and indicate whether or not the permit, license or other similar document has already been obtained. For all permits, licenses, and other similar documents which Explorer has already obtained, provide a copy of each or a reference to their location if they have been previously provided. For all permits, licenses, and other similar documents that have not been obtained, provide the status of Explorer's efforts to obtain the permit, license or other similar document, including a history of Explorer's actions to date to obtain the permit, license or other similar document to date, and an estimate of when Explorer believes it will obtain the permit license or other similar document. This response should be updated with copies of permits as they are obtained.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Attached hereto is a list of the federal, state and local permitting agencies that Explorer is presently working with to secure the permits required to construct the proposed pipeline. This was also included as Exhibit L in the Application filed with the Commission on July 3, 2013. Efforts are currently under way to obtain all such permits. It is expected that they will be received in time for construction to begin in late 2014. Explorer will advise the Commission as these permitting processes go forward on their status.

**EXHIBIT L**

**Manhattan Extension Project  
Environmental Permits and Approvals—Illinois**

<b>Federal Permit/Approval</b>	<b>Agency</b>	<b>Comments</b>
Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act	U.S. Army Corps of Engineers (COE)	COE is lead Federal agency for National Environmental Protection Act (NEPA) compliance. Section 10 Permit required for crossings of navigable rivers. Section 404 Permit required for work in wetlands. Tribal consultation is also required by the COE as part of the NEPA process.
Endangered Species Act Compliance	U.S. Fish and Wildlife Service	Permit condition for COE authorization
Right-of-way grant and Archeological Resources Protection Act permit	Bureau of Indian Affairs	Applies to portions of the project within the proclamation boundaries of Reservations (if applicable).
<b>State Permit/Approval</b>	<b>Agency</b>	<b>Comments</b>
Section 401 Water Quality Certification	Illinois EPA	Federal water quality certification required for Clean Water Act Permits (COE and NPDES Permits). Certification issued by Ill. EPA
National Historic Preservation Act Consultation	Illinois Historic Preservation Agency	NHPA compliance a condition of COE permits
State Threatened and Endangered Species Review	Illinois Department of Natural Resources (DNR)	Identification of potential effects to state-listed threatened or endangered species. Required for Illinois DNR permits.
Stream/Wetland Crossing Permits	Illinois DNR	Required for crossings of waterways within designated floodways.
Construction Stormwater Discharge Permit	Illinois EPA	National Pollution Discharge Elimination System (NPDES) permit required for discharge of hydrostatic test water to surface waters. Certification issued by Illinois EPA.
Agricultural Impact Mitigation Agreement	Illinois Department of Agriculture	Agreement concerning construction practices designed to minimize adverse effects to agricultural lands.
Construction Dewatering	Illinois EPA	No permit required for water appropriation for construction dewatering. NPDES discharge permit required for discharges of contaminated dewatering water only.

ICC Staff Data Request

ENG 1.3      What percentage of the proposed pipeline capacity has been subscribed, and what is the average length of the subscription commitment?

Response prepared by:

Name:            Karen L. Kennedy  
Title:            Manager, Project Engineering  
Address:        Explorer Pipeline  
                    P.O. Box 2650  
                    Tulsa, OK 74101

Shippers obtain transportation service from Explorer pursuant to its tariffs filed and effective with the Federal Energy Regulatory Commission (FERC), as they need and demand service. Tariffs for the Manhattan Extension Pipeline have not yet been submitted to FERC but Explorer has received sufficient indications of demand, with open-seasons and other means, to warrant the decision to build the new line and offer service pursuant to FERC tariffs.

ICC Staff Data Request

- ENG 1.4 Please provide the following construction related information:
- a. all companies which will be involved in the construction;
  - b. all prior projects or experience that each company has had constructing similar projects; and
  - c. any other information that is relevant to demonstrate the expertise of each company.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

- a. Explorer plans to staff its construction work force with qualified third-party contractors including all necessary construction crews, survey workers and pipeline inspectors. Presently, Explorer is in the process of evaluating contractors for the construction work, therefore no definitive selection has been made at this time. Evaluation of various proposals will determine who will perform the construction work for the proposed 24-inch petroleum products pipeline. Since Explorer has not completed its selection process, Explorer is unable to provide, at this time, a list of companies that will be involved in the construction of the proposed pipeline facilities. Explorer will provide the requested information when the selection process has been completed and the information becomes available.
- b. This information is not available for the reasons stated above. However, Explorer is very diligent in its selection process and views prior experience as one of the measures used to qualify contractors during the bidding process. Moreover, contractors bidding on Explorer projects are prequalified in a number of areas including but not limited to, overall experience, safety performance, safety programs in place, drug and alcohol programs, construction experience with the pipe size being installed and constructed, construction conditions expected for this project i.e. winter, wetland, agriculture drain tile, etc. All of the aforementioned attributes are weighted as applicable and used in the qualification and project award evaluation.

- c. Within the bid package, Explorer requires that all contractors submit their work plan to accomplish the timely and compliant construction of the proposed pipeline facilities. Those applicants who effectively communicate their work plan by:
  1. Identifying construction procedures to perform all work activities within established pipeline right-of-ways and temporary work space areas, and
  2. Describing contractor company policy on work ethics and practices for complying with all issued permits and any mandated requirements under federal, state and local laws and regulations will generally score high on evaluation. These factors, along with quoted pricing, are all considered. Explorer does not automatically award the project to the lowest bidder.

ICC Staff Data Request

ENG 1.5 For each project listed in response to Staff DR ENG 1.4. b., please provide the dates of construction of those pipelines, indicate whether the project was completed within budget, the number of complaints received regarding the construction of each pipeline and the safety record (number of leaks, etc.) for each pipeline project.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

As stated in ENG 1.4, Explorer has not selected its third-party contractors and is therefore unable to provide the information requested in the data request. However, even if Explorer had selected its contractors, such information would not be publicly available to Explorer. Most contractors and their clients consider information relative to cost performance and number of complaints received on an individual project as propriety information and not information that could be readily retrieved from a public domain. No information is available within the public domain that shows, by contractor, subsequent leaks on pipeline segments that a contractor was involved in constructing. Publicly available data on website of U.S. DOT, PHMSA does not list the contractor who originally constructed the pipeline, but does provide trends for the limited number of spills from liquid petroleum pipelines, showing the majority are related to external corrosion, external force or excavation damage or operator error. The work safety performance of a contractor, typically measured in terms of Total Recordable Incident Frequency (TRIF), is public record as regulated by the Occupational Health and Safety Administration (OSHA). For reference purposes, Explorer's three-year TRIF value from 2010 through 2012 is 0.49, far better than average construction industry ratings.

Explorer requires third-party contractors electing to submit a bid for a proposed construction project to include their worker safety record as part of their bid package. Their safety record is reviewed by Explorer as part of the pre-qualifying conditions for which an applicant will be further considered as a potential candidate in the bidding process. Additionally, Explorer further requires its third-party contractors to submit its safety program to a third-party manager used in consortium with pipeline operators within the industry for evaluation and monitoring. Explorer also reviews and monitors the safety record of its third-party contractors through the Occupational Safety & Health Administration's "Accident Frequency Reports," which compile data on occupational accidents and are of public record.

ICC Staff Data Request

ENG 1.6 Describe the benefits that the proposed pipeline will provide to the landowners whose property is being used for the construction of this line.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Landowners receive compensation comparable to market value of the length and width of the permanent work area. As most of the route for the portion of the project in Illinois crosses agricultural land, farming will resume soon after construction is completed, thus the landowner of cultivated lands receives compensation but experiences little, if any, impact to the current use of the land. While not an incremental "benefit", landowners are also compensated for temporary or other damages that cannot be avoided, including compensation for the temporary use of working space next to the permanent easement, loss of marketable trees, and compensation for crops along the work and easement area. Any repairs to agricultural operations may assist in agricultural operations, e.g. documentation of unknown tile lines and other improvements.

As part of the wider consuming public, landowners will receive the benefits that are described in Explorer's filing, and afforded by refinery access to continuing and growing supplies of their raw feed stock, that in turn supplies consumers and regional farmers with petro-chemical products such as transportation fuels, fertilizers, and asphalt roads. Communities along the Manhattan Extension Project route will benefit from construction-related jobs and expenditures, as well as tax revenues over the life of the pipeline.

ICC Staff Data Request

ENG 1.7 Will the proposed pipelines include the necessary equipment or facilities to allow for the withdrawal or injection of products from interested parties at various points along the route? If no, explain why not and describe what steps would have to be taken to allow an entity to interconnect with the proposed line. If yes, provide the location and describe the nature of the interconnection(s).

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

The proposed pipeline will originate at Explorer's facility near Peotone and terminate at Enbridge Pipelines facility near Manhattan. Withdrawal or injection between those points is not contemplated and no connections are planned between those points. Should interconnections ever be needed, facilities therefore could be added at the Peotone facility. The nature and extent thereof would depend upon the request and situation but would involve equipment standard in the industry. Explorer has a process that allows consideration of third-party access to a pipeline.

ICC Staff Data Request

ENG 1.8 Provide a list of every proposed take point along the proposed pipeline. For each take point, list any refineries close by that could potentially be served by the pipelines. Additionally, provide a map that shows the location of each take point.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

See response to ENG 1.7.

ICC Staff Data Request

ENG 1.9 Describe the type of equipment (safety equipment, pigs, etc.) that will be needed in conjunction with the proposed pipeline that will allow the Company to meet the long-term needs of its customers, while also maintaining compliance with applicable statutes and regulations.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

The construction of the pipeline will include the installation of necessary equipment to monitor and control the pipeline flow. Once construction is completed and the proposed pipeline facilities are ready to be placed in service, Explorer will connect its "Supervisory Control and Data Acquisition" (SCADA) system to the new pipeline facilities. The pipeline control system is operated from an Explorer Control Center, located in Tulsa, Oklahoma and includes the systems and practices that meet new Control Room Management rules in 49 CFR 195. This pipeline control system will be used to continuously monitor and control the efficient and safe operations of the new pipeline facilities, and thus provide customers with long-term dependability in the operation of these systems. This type of equipment includes but is not limited to pressure control and monitoring, flow monitoring for leak detection, remote valve control, and start and stop operation of pumping stations and complies with new federal pipeline safety rules issued with 49 CFR Part 195.

The valves along the pipeline will be remotely controlled from Explorer's 24-hour Pipeline Control Center located in Tulsa, Oklahoma to provide quick isolation of the pipeline segments if predetermined suction or discharge pressures at station pumps are exceeded or if the operation observes abnormal conditions or a leak is suspected.

The pipeline facilities will be constructed to accommodate internal inspection instruments, such as in-line inspection devices also referred to as "smart pigs" in light of the computer instruments and GPS tracking of these internal inspection devices. Such inspections are required periodically under 49 CFR Part 195 regulations. Explorer performs such assessments at intervals to meet or exceed what is required by regulation. See the Application re loading and receiving facilities.

During construction, Explorer will employ safety and security equipment including but not limited to manual and/or automatic fire suppression equipment, traffic control barriers, and fencing. These will be included as required by federal, state, local and

Explorer standards and requirements. Line markers will be installed along the pipeline route as required by 49 CFR Part 195 regulations and Explorer Operating and Maintenance Procedures. The pipeline and its facilities will be protected against corrosion by an induced current cathodic protection system in accordance with 49 CFR Part 195 regulations and Explorer Operating and Maintenance Procedures. This equipment includes but is not limited to rectifiers, anode ground beds, cathodic protection test stations and reference cells.

ICC Staff Data Request

ENG 1.10 Does the Company currently have the equipment listed in its response to Staff Data Request ENG 1.9? If no, when does the Company foresee obtaining this equipment?

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Explorer will utilize its existing Pipeline Control Center and SCADA system that is currently used to control its existing liquid petroleum pipelines. Prior to placing the proposed pipeline facilities in-service, Explorer will make certain modifications to its SCADA equipment to incorporate the subject facilities into this operational management system.

Explorer is in the process of procuring the necessary valves, internal inspection launching equipment, systems control and monitoring equipment, safety and security equipment, line markers and cathodic protection equipment as part of the overall procurement of materials and equipment for construction. The design of such equipment must meet the operating parameters of the pipeline and PHMSA regulatory requirements. Explorer currently owns and/or has identified third party contracted resources for emergency response equipment.

Explorer does not currently own some types of internal inspection devices, but rather contracts with specialized contractors for the type of internal inspection tool or tools that are appropriate for the size, inspection type and technology needed at the time of our periodic internal inspections.

ICC Staff Data Request

ENG 1.11 Assuming the proposed pipeline is approved and constructed, will there be any impact upon the economy (breakout Illinois and national separately) as a result of, for example, additional jobs, new businesses locating along the proposed routes, etc. If yes, please detail out the impact, explain how this impact was determined and include any studies and reports which support the Company's claims.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

The contributions of the Manhattan Extension Project to the satisfaction of the public need of Illinois, the Midwest, and the nation are discussed in the Application and in the testimony being submitted in support of Explorer's Application. Explorer's testimony will address various aspects of the Project's contributions and the value of providing more secure, stable, safe, and sufficient supply sources such as Western Canada and the Williston Basin for American refiners in the PADD I and II market areas and eastern Canadian refineries.

ICC Staff Data Request

ENG 1.12 Provide any relevant studies or analyses that show why building the proposed pipeline is in the public's best interest as opposed to acquiring supplies for the region from some other source.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

See response to ENG 1.11.

ICC Staff Data Request

- ENG 1.13 Provide a list identifying all pipeline leaks or losses of structural integrity which have occurred since 2010 on any pipeline owned or operated by Explorer or an Explorer affiliate. Include only incidents where the damage or value of product lost exceeded \$10,000. For each occurrence identified, provide the following:
- a. cause of the leak or loss of structural integrity;
  - b. name and location of party who caused the leak or loss of structural integrity;
  - c. magnitude/size of the leak or loss of structural integrity;
  - d. date on which the leak or loss of structural integrity was detected;
  - e. date on which repair work was begun;
  - f. date on which repair work was completed;
  - g. type of product which was leaked;
  - h. estimate number of barrels (or gallons) of product which was leaked;
  - i. whether the leak caused damage to property other than Explorer's property;
  - j. extent to which property, other than Explorer's property, was damaged include a description of what was damaged, how it was damaged and the dollar value associated with the damage;
  - k. whether Explorer reimbursed any parties for damage to those parties' property including the amount of any reimbursement paid; and
  - l. extent of damage that occurred to the environment, including a description of what was damaged, how it was damaged and the dollar value associated with the damage.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Explorer has had only two (2) reportable leaks since 2010 that meet the criteria specified. Both occurred in 2013 at Company facilities in Illinois and in Texas, one on April 7, 2013 on Explorer's 24-inch line at a mainline block valve located in Macon County, Illinois (mile-post 492.34) when thirty (30) barrels of gasoline were released due to the failure of some valve packing and a Bonnet-type O-ring, and the other on July 10, 2013 inside the Port Arthur, Texas station when a dripping girth weld was observed as

having leaked two (2) barrels of gasoline before discovery and repair.

Other DOT reportable releases occurred in 2010 (and were reported) but all (seven) occurred inside Explorer station facilities. No DOT-reportable leaks occurred in 2011, but nine (9) occurred in 2012, all again occurring inside Company station facilities. Through July 2013, only two (2) such releases have occurred at station sites (one in Texas, one in Oklahoma). Details are available at the DOT website or can be provided subsequently if desired.

ICC Staff Data Request

ENG 1.14 Please provide a list of complaints lodged against Explorer and/or any of its affiliates by property owners adjacent to or within half a mile of any pipeline which it owns or operates for the period beginning January 1, 2010 and continuing through to the date of this request. Also, include as part of your response the name and location of the party lodging the complaint, the date on which the complaint was lodged, the nature of the complaint and what steps were taken to resolve the complaint.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

No complaints by landowners have been filed in the specified timeframe.

ICC Staff Data Request

- ENG 1.15 Has Explorer or an Explorer affiliate ever been charged with violating any Federal or State laws, rules or regulations related to the construction or operation of its pipeline system? If yes, please provide the following:
- a. citation to the specific law, rule or regulation violated;
  - b. short synopsis of the facts alleged which formed the basis for the charge;
  - c. the outcome of the charge;
  - d. time period covered by the charge; and
  - e. location of the pipeline system where the violation is alleged to have occurred.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

See response to ENG 1.13; otherwise none.

ICC Staff Data Request

ENG 1.16 Does the Company foresee using the proposed pipeline for any purpose other than the use specified in the petition? If yes, please identify what other substances are being considered for transport and detail what permits, licenses, etc. that must be obtained in order to transport these other substances.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Explorer does not foresee using the Manhattan Extension pipeline or facilities for any other purpose than that of transporting petroleum products from the Explorer facility located in Peotone to the Enbridge facility near Manhattan, Illinois. As a common carrier liquid petroleum pipeline, Explorer will transport all petroleum liquids on its pipeline that meets its tariff conditions, posted and approval by FERC.

ICC Staff Data Request

ENG 1.17 Explain how the Company plans on fulfilling the requirements of Section 15-601 of the Public Utilities Act during the construction and operation of the proposed pipeline.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Explorer has a comprehensive environment, health and safety (EH&S) program that covers both the construction and the operation of any pipeline it owns and/or operates. This EH&S program complies with the federal statutes and regulations (49 C.F.R. Chapter 195), or exceeds the regulatory requirements. In addition, Explorer is in compliance with the federally required operator qualification ("OQ") (see 49 CFR Part 195) program that sets minimum qualifications for all personnel completing safety-related pipeline tasks during the design, testing and operation of the pipeline.

Prior to placing the pipeline into service, an internal inspection tool is run to test for dents; pipeline coatings, including the coating at field welds, are tested for coverage; and the pipeline is subjected to a hydrostatic pressure test. These, among a number of other inspections and tests are subject to regulatory oversight of the PHMSA for compliance with federal pipeline construction and operation laws and regulations.

ICC Staff Data Request

ENG 1.18 Please provide a list of all of the other applicable statutes and regulations with which the Company must comply with during the construction of the proposed pipeline, besides 8 or 15 of the PUA. Provide a copy of each applicable statute and regulation, and explain how the Company plans on fulfilling each of these requirements during the construction and operation of the proposed pipeline.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

As stated in the response to ENG 1.17, Explorer has a comprehensive environment, health and safety (EH&S) program that covers both the construction and the operation of any pipeline it owns and/or operates. This EH&S program complies with the federal statutes and regulations (49 C.F.R. Chapter 195), or exceeds the regulatory requirements. Additionally, Explorer must comply with multiple environmental regulatory requirements during pipeline construction and operational activities. Explorer plans on fulfilling those requirements by meeting all permit conditions, having outside inspectors and PHMSA inspectors monitor construction and comply with DOT regulations. All relevant statutes and regulations are available on-line.

ICC Staff Data Request

ENG 1.19 Explain the criteria Explorer will use when selecting contractors for the construction of the pipeline. In particular, explain how Explorer will evaluate a contractor's safety record. Include any RFP forms, decision matrices, or other evaluation tools that Explorer will use.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

All bidding contractors will have to pass certain minimum qualifications to be considered for the construction contract. Explorer will ensure each bidding contractor meets the following pre-bid criteria and these criteria are included when sending requests for bids to the list of contractors:

- Worker drug testing plan and results of drug and alcohol testing audits as required and posted in the management systems for pipeline contractors and as required by 49 CFR Part 199;
- Safety Training verified through ISNetworkd RAVS (review and verification service). Contractor must achieve 100% compliance with tasks and sub tasks being bid;
- Acceptable worker safety record as evidenced by Lost time accident rate verified by current EMR, typically under 1.00;
- Detailed explanation required if over 1.00;
- Operator Qualification (OQ) certification for covered work (as required under 49 CFR Part 195 for federal regulation of pipelines) as listed through ISNetworkd;
- Adequate financial strength to fund that portion of the project being bid as demonstrated by D&B reports and/or Audited Financial Reports and/or Bonding ability;
- Bidding contractors (and/or supervisory and executive personnel) must have experience in the construction of large diameter pipelines, have a demonstrated record of and commitment to safety, high quality workmanship, and adherence to schedules; and
- Assessment of bidding company access to sufficient resources to complete the portion of the project being bid.

Once bids are received, Explorer examines the various bids and awards the project work to those contractors that best meet Explorer's needs with respect to workmanship, safety, schedule, and cost. Explorer has not yet awarded contracts for the Manhattan Extension Project work.

ICC Staff Data Request

ENG 1.20 Does the Company consider a potential contractor's violations and complaint record when selecting the winning bidder? If so, explain the criteria and weighting of these considerations against other factors. If not, explain why the Company does not consider these issues.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

As stated in Explorer's response to ENG 1.19, Explorer ensures that each bidding contractor meets pre-bid criteria. Once the bids are received, Explorer examines the various bids and awards the project work to those contractors that best meet the needs of Explorer with respect to workmanship, safety, schedule and cost. To date, Explorer does not have the ability to trace incident history on facilities to the contractor, although it does take OSHA incident history into consideration when selecting a contractor. Any complaints from agencies during a project would be directed to the sponsoring pipeline company, and not directly to the contractor as it is the operating company that usually obtains and is responsible for compliance with construction, building and environmental permits. Most contractors and their clients consider information relative to cost performance and complaints received on an individual project as proprietary information and this information is not readily retrievable from a public domain. However, we perform reference checks on all contractors (both internally at Explorer and externally with other pipeline operators) to ensure their performance on all levels will meet our standards and expectations.

ICC Staff Data Request

ENG 1.21 Has the informational packet been sent to all landowners along the proposed construction route? If so, please provide the date that it was sent. If not, explain why this has not been done and the expected date that it will be sent.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

As required under Part 300, Section 300.30 of the Illinois Commerce Commission's Rules and Practice of Procedures, Explorer sent on July 8, 2013, by U.S. certified mail return receipt requested, the ICC Informational Packet to all landowners of tax record along its proposed pipeline route. Explorer further states that as new landowners, or changes in landowner contact information are identified along the proposed pipeline route, a copy of the same ICC Informational Packet is sent by U.S. certified mail return receipt requested to such landowner(s) of tax record.

ICC Staff Data Request

ENG 1.22 Provide, by Illinois county, the number of acres of cropland, pastureland, forestland, and other land that will be permanently converted to non-agricultural use by the proposed pipeline.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Agricultural land, including cropland and pastureland, that will be impacted during construction of the Manhattan Extension Project will revert back to prior use after construction and restoration activities.

The exception is where land will be required for aboveground facilities such as valve sites and connection facilities at the Enbridge station near Manhattan. Final design work on such facilities has not been completed, however, it is expected that in total less than ten (10) areas will be converted, exclusively in Will County. Exact acreage will be provided as soon as determined. Land required for these facilities will be permanently converted from the current land use to industrial/commercial land use.

ICC Staff Data Request

ENG 1.23 Will any of the products that are shipped on the proposed pipeline end up being exported out of the United States? If so, provide all relevant details including the purchasing company, importing country, type of product, port of export, and quantity anticipated to be exported, and explain why this is in the best interest of the citizens of Illinois and the United States.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Currently, there are no pipeline transportation networks interconnected to the Explorer pipelines that would allow for further transport to ports allowing exports from eastern Canada or United States. Explorer is a common-carrier by pipeline. It is neither responsible for nor in control of the disposition of liquid petroleum transported by it pursuant to its FERC tariffs or the Interstate Commerce Act. Accordingly, Explorer lacks the means to provide any additional certainty beyond the statement just made regarding the details sought by this request. Additionally, while some refined products are shipped from the United States (such as into eastern Canada), the refineries currently connected to the Explorer system and linked to the Manhattan Extension do not currently have major pipeline transportation networks that would facilitate any significant overseas export of the refined products. Nevertheless, should some volume of refined products ultimately be exported outside North America, such activity from U.S.-based refineries would host the jobs and economic benefits that refineries provide and would have a positive effect on the public in Illinois or on refineries serving Illinois and is consistent with the national interest in a strong and growing economy.

CC Staff Data Request

ENG 1.24 Provide the percentage of tracts for which you have permission to survey, and explain what is being done to secure permission on the remaining tracts. Also, explain what action the Company will take if it is unable to get survey permission for a given land tract.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Efforts to acquire survey permission have only recently begun, but are proceeding well. It is estimated that as of August 23, 2013, about 67% of landowners on the route have granted survey access. Contacts are ongoing. If access should be refused, Explorer would determine if adequate data can be determined otherwise, as by viewing from public roads, etc., or if survey access should be sought under the PUA.

ICC Staff Data Request

ENG 1.25 Does Explorer have a written non-discriminatory procedure for acquiring easements, rights-of-way, or other estates or interests in real property prior to seeking condemnation authority from the Commission? If yes, please provide a copy.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Explorer does not have a formal written non-discriminatory procedure for acquiring easements, rights-of-way, or other estates or interests. Explorer understands and encourages a proactive, open and transparent, professional, and respectful approach in acquiring easements. This approach is discussed in the testimony Explorer is filing in support of its Application. Explorer's right-of-way agents and supervisory staff received public outreach training as well as safety training. As new agents join the project, they also receive the above-mentioned training. All agents are provided project business cards, and are instructed to provide appropriate notice and contact information to landowners.

Explorer negotiates land rights by working with the landowners through a multi-stage negotiation process, with a goal to secure land rights for the most practical pipeline routing location and to pay a fair compensation for such land rights. Explorer believes that this multi-stage process of discussions, bargaining, and negotiating with its landowners provides the platform necessary to demonstrate good faith negotiations throughout the entire process with its landowners. Explorer's approach and procedures are applied without discrimination among landowners.

ICC Staff Data Request

- ENG 1.26 If Explorer has a non-discriminatory procedure; does it include the following provisions:
- a. A requirement that utility personnel and agents must follow the requirements of the Commission's administrative rules including the Commission's Rules of Practice, Section 200.150 [83 Ill. Adm. Code 200.150] and the Guidelines for Right-of-Way Acquisitions, Section 300.30 [83 Ill. Adm. Code 300.30].
  - b. A requirement that utility personnel and agents attempting to acquire easements, rights-of-way, or other estates or interests in real property document each contact with landowners.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

See Explorer's response to ENG 1.25. Further, Explorer requires its agent to follow Commission rules and guidelines and to document landowner contacts that are not *de minimis* in nature (e.g., confirming an appointment).

ICC Staff Data Request

ENG 1.27 If Explorer has a non-discriminatory procedure as described in ENG 1.25, has Explorer verified that each of its employees and agents followed the procedure for negotiating with landowners who have not accepted purchase offers for easements, rights-of-way, or other estates or interests in real property? If yes, explain how Explorer performed its verification and provide all documentation of Explorer's verification activities.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

See Explorer's responses to ENG 1.25 and ENG 1.26. Explorer's right-of-way function ensures that field agents are in compliance with policies and procedures by direct and active supervision of all ROW personnel and contractors. Ultimately, Explorer's ROW Manager Michael Hayden is responsible; he and his staff routinely review the work of all ROW staff. "Documentation" consists of directions issued to the staff re particular tracts. Tract files are expected to be voluminous but could be summarized if necessary as work progresses.

ICC Staff Data Request

ENG 1.28 If the response to Staff DR ENG 1.26 a. and/or b. is in the affirmative, please identify where within the policy the relevant provision can be found.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

See Explorer's responses to ENG 1.25, ENG 1.26, and ENG 1.27.

ICC Staff Data Request

ENG 1.29 Please provide documentation demonstrating how Explorer has employed each step of the right-of-way acquisition policy and written procedures for negotiating with landowners who have not accepted purchase offers for easements, rights-of-way, or other estates or interests in real property.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Explorer has not yet made offers to landowners as survey and preliminary work is still underway. Explorer will update the Commission as its efforts progress.

ICC Staff Data Request

ENG 1.30 Please provide a spreadsheet identifying each contact i.e., mailings, telephone calls, in person contact, Explorer has had with each landowner; the date of the contact; and the result of that contact, i.e., whether information was provided, whether compromises were proposed, whether purchase offers were made, etc. Provide monthly updates to Staff through the duration of the discovery phase of this docket.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

Explorer does not have a central repository depicting the specific number of contacts for each landowner or the date of the most recent contact for this project.

As previously noted, Explorer has not yet commenced detailed discussions and negotiations for compensation offers for land rights with landowners. As these land negotiations progress, Explorer will provide the ICC Staff with monthly updates.

ICC Staff Data Request

ENG 1.31 Has Explorer made a purchase offer for the easements, rights-of-way, or other estates or interests in real property to every landowner for all parcels along the route of the project?

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

See responses to ENG 1.29 and 1.30.

ICC Staff Data Request

ENG 1.32 If Explorer has not made a purchase offer for the easements, access to rights-of-way, or other estates or interests in real property to landowners along the project route, please describe any efforts Explorer made to provide a purchase offer. Also, provide a narrative explanation of the current status of the negotiations.

Response prepared by:

Name: Karen L. Kennedy  
Title: Manager, Project Engineering  
Address: Explorer Pipeline  
P.O. Box 2650  
Tulsa, OK 74101

See Responses to ENG 1.29, 1.30, and 1.31.

# **EXPLORER PIPELINE EX. 6**



# **EXPLORER PIPELINE EX. 7**

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

IN RE EXPLORER PIPELINE COMPANY	)	
	)	
PETITION PURSUANT TO SECTIONS	)	Docket No. 13-0433
8-503 AND 8-509 OF THE PUBLIC	)	
UTILITIES ACT FOR AUTHORITY	)	
TO CONSTRUCT AND OPERATE AN	)	
EXTENSION TO EXISTING FACILITIES	)	
AND WHEN NECESSARY TO TAKE	)	
PRIVATE PROPERTY AS PROVIDED	)	
BY THE LAW OF EMINENT DOMAIN	)	

**VERIFICATION OF NEIL K. EARNEST**

I, Neil K. Earnest, being first duly sworn declare under oath as follows:

1. I am President and Director at Muse, Stancil & Co. (“Muse”).
2. I submitted Testimony, identified as Explorer Pipeline Ex. 3 on behalf of Explorer in this proceeding. This testimony was filed on e-Docket on September 12, 2013. This piece of testimony was prepared by me or under my direction and control. I have personal knowledge of the facts contained therein or the facts therein are based on business records of Explorer.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

  
\_\_\_\_\_  
Neil K. Earnest