

FPL Energy Burleigh County Wind, LLC
FPL Energy Oliver Wind, LLC
Langdon Wind, LLC
Baldwin Wind, LLC
Ashtabula Wind III, LLC

October 19, 2015

Mr. Jerry Lein
Public Utility Analyst
North Dakota Public Service Commission
600 East Boulevard, Dept 408
Bismarck, ND 58505-0408

UPS Overnight Mail

RE: Case Nos. PU-05-205, PU-06-312, PU-07-722, PU-09-668 and PU-10-147 Compliance Issues

Dear Mr. Lein:

Please find responses below from FPL Energy Burleigh County Wind, LLC ("Burleigh Wind"), FPL Energy Oliver Wind, LLC ("Oliver Wind"), Langdon Wind, LLC ("Langdon Wind"), Baldwin Wind, LLC ("Baldwin Wind") and Ashtabula Wind III, LLC ("Ashtabula III") to your letter dated September 18, 2015. The following list provides responses to your inquiries and references to requested documentation. These documents can be found attached to this letter.

Burleigh Wind: PU-05-205.

- **Request:** Provide an update as to whether or not at the end of 2009 the Company experienced a 75 percent survival rate and if not, the Commission requests that the Company report as to the additional efforts the Company has undertaken to meet this requirement
 - Ordering Paragraph 17 states: "Trees and other wooded vegetation must be replaced at a rate of two for everyone removed along the route. Landowners shall be given the option of having replacement trees/shrubs planted off the right-of-way on the landowners property or waiving that requirement in writing and allowing replacement plantings of trees/shrubs elsewhere. FPL/Central Power shall inspect tree replacements once a year for three years and send a report on or shortly before October 1 of 2006, 2007 and 2008 to the Commission documenting work completion and condition of woodlands planting. The Commission may order additional plantings if survival rates are less than 75% of the required ratio of two for one."
 - **Response:** The 2007 and 2008 inspection reports filed in PU-05-205, shows that a 75% survival rate was surpassed per all requirements in the order. Burleigh Wind has been unable to locate the 2006 inspection report, but believes that the

2008 report demonstrates that Burleigh Wind has met the 75% survival rate requirement in the order.

Oliver Wind: PU-06-312

- **Request:** Provide an update as to whether or not at the end of 2015 the Company experienced a 75 percent survival rate and if not, the Commission requests that the Company report as to the additional efforts the Company has undertaken to meet this requirement
 - Ordering Paragraph 15: “Trees and other wooded vegetation must be replaced with saplings that are two or more years old at a rate of two for every one removed along the route. The landowner shall be given the option of having replacement trees/shrubs planted off the right-of-way on the landowner's property or waiving that requirement in writing and allowing replacement plantings of trees/shrubs elsewhere. Oliver Wind shall inspect tree replacements once a year for three years and send a report on or shortly before November 1 of 2007, 2008 and 2009 to the Commission documenting work completion and condition of woodlands planting. The Commission may order additional plantings if survival rates are less than 75% of the required ratio of two for one.”
 - **Response:** Oliver Wind filed a tree mitigation plan and the plan was approved by the Commission in April, 2011. Oliver Wind then filed tree and shrub survival in November 2011, October 2012, October 2013 and September 2014. Oliver Wind notes that the replantings performed in 2011 and 2012 were done proactively after a heavy rainstorm and not because survival rates were below 75%. In the final report in 2014 the survival rate was above the required 75%, which demonstrates that Oliver Wind has met the survival rate requirement in Ordering Paragraph 15.

Langdon Wind: PU-07-722

- **Request:** “The Commission finds no record of tree and shrub mitigation efforts for the Langdon expansion project.”
 - **Response:** The attached letter from June 2010, which states that there were no trees removed during construction. Therefore we are not required to provide any tree and shrub mitigation efforts and are in compliance of this requirement.

Baldwin Wind: PU-09-668

- **Request:** Please confirm that “reclamation, fertilization and reseeding” has occurred.
 - Ordering paragraph 16: “Reclamation, fertilization and reseeding shall be completed by Baldwin Wind according to the Natural Resource Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.”
 - Baldwin Wind has confirmed via visual inspection that reclamation, fertilization, and reseeding has occurred. Baldwin Wind has not located additional documentation responsive to the request. Baldwin Wind notes that it is the company’s standard practice to bring the land back to its natural state after construction, unless otherwise specified by the landowner and approved by the Commission, and the condition of the land is consistent with this standard.

- **Request:** Staff requests further information on Finding of Fact 37 regarding shadow flicker.
 - Ordering paragraph 32: “Baldwin Wind shall work with landowners and residents in the area to mitigate any adverse effects that results from the construction of the energy conversion facility.”
 - Finding of Fact 37: “While though there are no established standards, the siting recommendation of the American Wind Energy Association for allowable shadow flicker is 30-40 hours per year. There are currently three occupied residences that exceed 30 hours per year and Baldwin Wind is working cooperatively with these owners to secure participation agreements. If such agreements cannot be secured, Baldwin Wind will utilize alternative turbine locations to avoid shadow impacts on these three residences. Should shadow flicker occur and result in complaints from occupants of residences, Baldwin Wind, at its expense, will work with the owner to promptly undertake measures, such as tree planting or installation of awnings to mitigate shadow flicker.”
 - **Response:** In the “Shadow Flicker Impact Analysis for the Baldwin Wind Energy Center” report prepared by Tetra Tech and filed on June 3, 2010, Table 1B shows three receptors that predicted shadow flicker greater than 30 hours per year. As mentioned in the order, the siting recommendation of the American Wind Energy Association for allowable shadow flicker is 30-40 hours per year. Of the three receptors that predicted shadow flicker greater than 30 hours, only one is occupied, receptor ID 40039. Baldwin Wind has a participation agreement in place with the resident near receptor ID 40039. Receptor ID 2027 is unoccupied and receptor ID 40074a is a non-residential building. Baldwin Wind therefore met the shadow flicker requirements in the Commission’s order. Baldwin Wind has not received any complaints regarding shadow flicker since commercial operation of the site.
- **Request:** Staff requests further information on Finding of Fact 38 regarding noise levels.
 - Ordering paragraph number 32: “Baldwin Wind shall work with landowners and residents in the area to mitigate any adverse effects that results from the construction of the energy conversion facility.”
 - Finding of Fact 38: “No turbines will be placed within 1400 feet of an occupied residence. The average noise levels at such residences should not exceed 48.6 decibels.”
 - In the attached “Baldwin Wind Energy Center Acoustic Assessment Burleigh County, North Dakota” report prepared by Tetra Tech in October 2009, Table 7 shows two unoccupied residence IDs with a noise level that exceeds the 48.6 decibel requirement. Consistent with Finding of Fact 38, Baldwin Wind did not locate turbines within 1400 feet of an occupied residence and average noise levels at occupied residences did not exceed 48.6 decibels. Although residence ID number 2027 is now occupied, at the time the site was built, both residences were unoccupied. Baldwin Wind has not received any complaints regarding noise levels since commercial operation of the site.
- **Request:** Staff requests further information on Tree and Shrub Mitigation Specifications
 - Ordering Paragraph 15: “Tree and shrub replacements shall be inspected once a year for three years, on about the anniversary of the plantings, and, on or shortly

before October 1 of each year, a report shall be submitted to the Commission documenting the condition of replacement planting and any woodlands work completed. If after three years from the anniversary of the plantings the survival rate is less than 75%, the Commission may order additional planting(s).”

- **Response:** Baldwin Wind filed three years of survival reports in October 2012, October 2013 and September 2014. Baldwin Wind notes that the replantings performed in 2013 and 2014 were done proactively after a heavy rainstorm and not because survival rates were below 75%. In the final report in 2014, notwithstanding the replantings, the survival rate was above the required 75%.

Ashtabula Wind III: PU-10-147

- **Request:** Please confirm that “reclamation, fertilization and reseeded” has occurred.
 - Ordering paragraph 14: “Reclamation, fertilization and reseeded will be completed by Ashtabula III according to the Natural Resource Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.”
 - **Response:** Ashtabula Wind III has confirmed via visual inspection that reclamation, fertilization, and reseeded has occurred. Ashtabula Wind III has not located additional documentation responsive to the request. Ashtabula Wind III notes that it is the company’s standard practice to bring the land back to its natural state after construction, unless otherwise specified by the landowner and approved by the Commission, and the condition of the land is consistent with this standard.

Thank you for your attention to this matter. Please feel free to contact me at (561) 304-5641 should you have any questions.

Sincerely,



Brian Duncan

Director

Business Management – Midwest Region

Attachments for PU-06-312

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**FPL Energy Oliver County Wind, LLC
230 kV Transmission Line - Oliver County
Siting Application**

Case No. PU-06-312

ORDER

August 23, 2006

On July 17, 2006 FPL Energy Oliver County Wind, LLC (Oliver Wind) filed a Letter of Intent to construct approximately 542 feet of radial 230 kV electric transmission line and associated substation facilities in Oliver County, North Dakota. On July 26th the Commission acknowledged the Letter of Intent, shortened the waiting period between filing of a Letter of Intent and a siting application to one day and assessed a filing fee of \$22,500.

On July 25, 2006 Oliver Wind filed consolidated applications for a waiver of procedures and time schedules, a certificate of corridor compatibility and a route permit authorizing construction. Oliver Wind asserts in its application that the proposed electric transmission facilities will produce minimal adverse effects and requests that the Commission (1) waive provisions of law and rule that require filing of separate applications, separate hearings and certain time schedules; (2) not hold a public hearing, but instead publish a notice of opportunity for hearing; (3) find that the proposed facilities are of such length, design, location and purpose that it will produce minimal adverse effects; (4) provide in the notice of opportunity for hearing that requests for hearing be made in not more than ten days under N.D.C.C. section 49-22-13(4); and (5) designate and approve the requested facilities and issue the appropriate corridor certificate and route permit.

On July 28, 2006 the Commission found Oliver Wind's consolidated applications complete and issued a Notice of Filing and Notice of Opportunity for Hearing. The notice provided until August 22, 2006 for receiving written comments and requests for hearings. The notice stated that the Commission can determine the matter without a hearing and no requests for hearing have been received. The notice identified the following issues to be considered:

1. Will the location, construction, and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?

3. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?
4. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects so that procedures and time schedules may be waived?
5. Does a demonstrable emergency exist, which requires immediate construction so that adherence to procedures and time schedules would jeopardize the utility's system?
6. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

Oliver Wind proposes to construct approximately 542 feet of 230 kV electric transmission line and associated substation facilities to interconnect Oliver Wind's proposed wind energy generating project to Square Butte Electric Cooperative's existing Center Substation in Oliver County, North Dakota.

The associated substation facilities include a new collection substation and interconnection modifications at the Center Substation where the electricity generated will be inverted to direct current (DC) for transmission to retail loads in Minnesota.

Oliver Wind proposes a circular transmission corridor with a radius of approximately one-half mile around its proposed transmission line route located in the SE ¼ of Section 33, T 142N, R 83W. The corridor is located entirely within Oliver County in Sections 3 & 4 of T 141N, R 83W, and Sections 33 & 34 of T 142N, R 83W.

Construction of the electric transmission line and associated substation facilities is expected to begin in August 2006 with completion on or about November 1, 2006.

The estimated cost of the transmission line and associated substation facilities is approximately \$4.5 million.

The proposed transmission line and associated substation facilities would be constructed entirely on utility property surrounding the existing Milton R. Young electric generating station.

Oliver Wind conducted a Class I review of historic and archeological records and a Class III cultural resource pedestrian survey of the project area. The State Historical Society of North Dakota found these studies acceptable and concurred with Oliver Wind's determination of no significant impact on cultural resources.

Nelson Lake along the western edge of the proposed corridor is an area of recreational significance listed on the U.S. Fish and Wildlife National Wetlands Inventory (NWI). Nelson Lake offers boating, fishing and other recreational opportunities. Nelson Lake is located approximately 0.3 miles west of the proposed route and will be avoided.

The Pioneer Riparian community, *Potamogeton vaginatus* (sheathed pondweed) has been identified by the North Dakota Heritage Program as a sensitive plant species found within the Nelson Lake wetlands in the southwestern portion of the proposed corridor. Disturbance of this plant and associated wetland and riparian communities will be avoided.

The U.S. Fish and Wildlife Service has reviewed the project and concluded no significant impact on fish and wildlife resources. The service reports no endangered or threatened species are known to occupy the project area.

Oliver Wind estimates approximately 13.74 acres of woodlands and shelterbelts within the proposed corridor. This includes one small area of trees and shrubs previously planted to act as windscreen along the southeast corner of the proposed facility that will be impacted by construction.

The Commission finds the location, construction, and operation of the proposed transmission line will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

The Commission finds the proposed transmission line compatible with the environmental preservation and the efficient use of resources.

The Commission finds the proposed transmission line route minimizes adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

The Commission finds the proposed transmission line is of such length, design, location, or purpose that it will produce minimal adverse effects.

The Commission does not find that a demonstrable emergency exists.

The Commission finds it appropriate to waive procedures and time schedules as requested in the application.

Order

The Commission Orders:

1. Oliver Wind's application for waiver of procedures and time schedules is granted.

2. Certificate of Site Compatibility for a Transmission Facility Corridor No. 92 is issued to Oliver Wind, designating a corridor for its proposed transmission line and associated substation facilities as shown on the attached map.
3. Route Permit for Construction of a Transmission Facility No. 102 is issued to Oliver Wind, granting authority to construct the transmission line and associated substation facilities in the location shown on the attached map.
4. Oliver Wind shall conduct a preconstruction conference prior to commencement of any construction, which must include an Oliver Wind representative, its construction supervisor and a representative of Commission staff to ensure that Oliver Wind fully understands the conditions set forth in this Order.
5. Oliver Wind shall comply with the rules and regulations of all other agencies having jurisdiction over any phase of the project, and shall provide copies of all licenses and permits to the Commission prior to construction of the transmission lines.
6. Oliver Wind shall inform the Commission of its intent to start construction prior to commencement of construction and, once construction has started, shall keep the Commission updated on construction activities on a weekly basis.
7. Oliver Wind shall construct and operate the transmission line and associated substation facilities in the manner described in its application and in accordance with the National Electric Safety Code and all applicable safety requirements.
8. Oliver Wind shall promptly report to the Commission the presence in the permit area of any critical habitat of threatened or endangered species, or of bald or golden eagles which Oliver Wind becomes aware of and which were not previously reported to the Commission.
9. If any cultural resource, paleontological, archeological, historical, or grave site is discovered during construction, it must be marked, preserved, and protected from further disturbances until a professional examination can be made by the State Historical Society, a report of such examination is filed with the Commission and clearance to proceed is given by the Commission.
10. All pre-existing roads and lanes used during construction must be restored to a condition that will accommodate their previous use and areas used as temporary roads or working areas during construction shall be restored to their original condition.
11. Construction must be suspended when weather conditions are such that construction activities will cause irreparable damage, unless adequate protection measures approved by the Commission are taken.
12. Reclamation and clean-up along the right-of-way must be continuous and coordinated with construction.

13. Reclamation, fertilization, and reseeding is to be done by Oliver Wind according to the National Resources Conservation Service and County Farm Service Agency recommendations for CRP, native prairie and other lands, unless otherwise specified by the landowners and approved by the Commission.

14. Oliver Wind's obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission lines.

15. Trees and other wooded vegetation must be replaced with saplings that are two or more years old at a rate of two for every one removed along the route. The landowner shall be given the option of having replacement trees/shrubs planted off the right-of-way on the landowner's property or waiving that requirement in writing and allowing replacement plantings of trees/shrubs elsewhere. Oliver Wind shall inspect tree replacements once a year for three years and send a report on or shortly before November 1 of 2007, 2008 and 2009 to the Commission documenting work completion and condition of woodlands planting. The Commission may order additional plantings if survival rates are less than 75% of the required ratio of two for one.

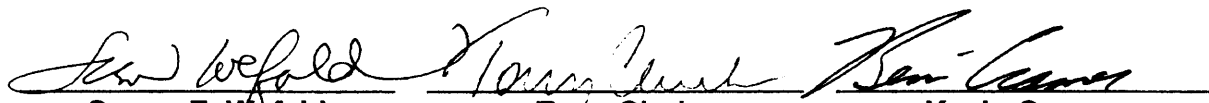
16. Oliver Wind shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the project.

17. Oliver Wind shall obtain approval from the Commission or from Commission staff prior to any changes in structure locations.

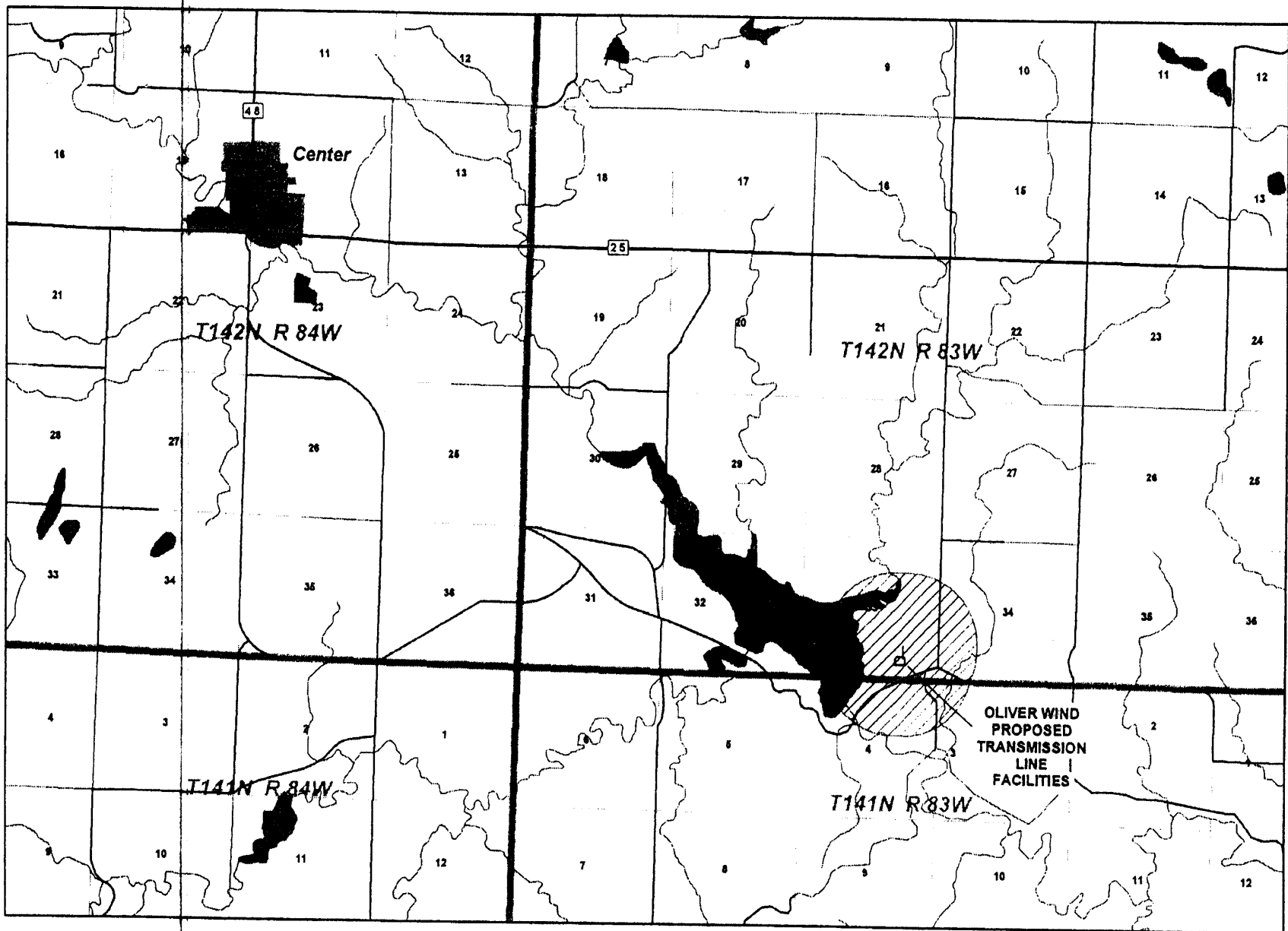
18. Oliver Wind shall provide the Commission with a copy of the design specifications for construction showing the location of the transmission line and associated substation facilities as built. Oliver Wind shall provide this information within three months of the completion of construction.

19. The authorization granted by the corridor certificate and route permit is subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

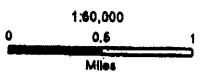
PUBLIC SERVICE COMMISSION



Susan E. Wefald Tony Clark Kevin Cramer
Commissioner President Commissioner



Tc TETRA TECH, INC.

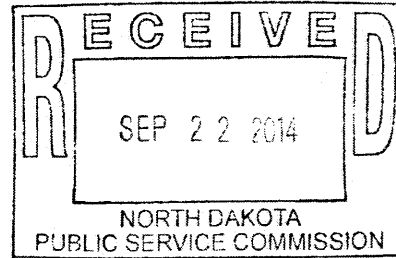


Corridor (0.5 mile offset)

**OLIVER WIND PROPOSED
TRANSMISSION LINE FACILITIES
OLIVER COUNTY, NORTH DAKOTA**



TETRA TECH



September 22, 2014

Mr. Darrell Nitschke
North Dakota Public Service Commission
600 E. Blvd. Dept. 408
Bismarck, ND 58505-0480

SUBJECT: Tree and Shrub Survival Report, 3 of 3 for Six Projects

Dear Mr. Nitschke,

On behalf of NextEra Energy Resources, Inc., Tetra Tech is pleased to provide the third of three annual tree and shrub survival reports for the following six projects:

- Ashtabula (Case No. PU-08-32)
- Ashtabula II (Case No. PU-09-221)
- Ashtabula III (Case No. PU-10-147)
- Baldwin (Case No. PU-09-668)
- Langdon (Case No. PU-07-26)
- Oliver II (Case No. PU-06-312)

All six projects have met the 75% survival requirement. Please add these reports to the respective case files. An electronic copy of the six reports was submitted to ndpsc@nd.gov.

Please feel free to contact me at (512) 338-2855 or Anne-Marie.Griger@TetraTech.com if you have any questions.

Sincerely,

TETRA TECH, INC.

Anne-Marie Griger, AICP
Deputy Project Manager/Environmental Planner

- 112 PU-10-147 Filed 09/22/2014 Pages: 22
Tree and shrub survival report
- 132 PU-09-668 Filed 09/22/2014 Pages: 22
Tree and shrub survival report
- 37 PU-09-221 Filed 09/22/2014 Pages: 22
Tree and shrub survival report
- 329 PU-08-32 Filed 09/22/2014 Pages: 22
Tree and shrub survival report
- 184 PU-07-26 Filed 09/22/2014 Pages: 22
Tree and shrub survival report
- 100 PU-06-312 Filed 09/22/2014 Pages: 22
Tree and shrub survival report



Tree & Shrub Survival Report

Oliver II Wind Project Transmission Line

Annual Report 3 of 3

Prepared for:

NEXTERA ENERGY RESOURCES

OLIVER COUNTY WIND, LLC

ND PSC Case Number: PU-06-312 (Transmission Line)

Prepared by:

WENCK ASSOCIATES, INC.

301 1st Street NE, Suite 202

Mandan, ND 58554

(701) 751-3370

On Behalf of:

TETRA TECH, INC.

160 Federal Street, 3rd Floor

Boston, MA 02110

(617) 443-7500

1.0 Introduction & Background

In 2007, Oliver County Wind, LLC (Oliver Wind), a subsidiary of NextEra Energy Resources, LLC, constructed a 542-foot long, 230 kV electric transmission line and associated substation facility in Section 33 of Township 142N, Range 83W in Oliver County, North Dakota. The transmission line was built to connect the Oliver II Wind Energy Center to the existing Square Butte Electric Cooperative Center Substation, owned by Minnkota Power Cooperative, Inc. (Minnkota). Its construction required the removal of trees and shrubs within Project rights-of-way. At the time of permitting and construction of the Project, there were no length thresholds for jurisdiction of transmission lines, so this Project is considered to be under the jurisdiction of the PSC (Case No. PU-06-312).

A Tree and Shrub Replacement Plan for this Project, which discussed the approach that Oliver Wind would follow, was submitted in 2011 and the PSC approved the plan April 2011. The plan was implemented in June 2011. This survival report documents the number of trees and shrubs surviving in the summer of 2014. This is the third and final year of three years of survival monitoring.

Oliver Wind retained Tetra Tech, Inc. (Tetra Tech) and Wenck Associates, Inc. (Wenck) to assist in field checks and documentation of tree and shrub survival.

2.0 Survival Report

2.1 SURVIVAL REQUIREMENTS

The total number of trees and shrubs removed for the Project in 2007 was 103; the total number to be replaced is 206 based on the 2:1 replacement requirement. At the end of three years, 75% of these planted trees, or 155, will be required to have survived to meet the obligations of the PSC.

2.2 PLANTING REVIEW

Minnkota requested tree replacement on their property. The plantings were installed in early June 2011 by the Oliver County SCD in the SW¼ of Section 32, Township 142N, Range 83W on the upland along Nelson Lake. A total of 224 trees were planted.

Within a month after the trees were planted, a heavy rainstorm washed out a large portion of the planting. An interim survival count in fall 2011 concluded 92 trees remained, which was below the required 75% survival rate.

A second planting was installed in May 2012 of 99 additional trees: 8 Black Hills Spruce, 8 Blue Spruce, 20 Siberian Crabapple, 21 Midwest Crabapple, 21 Plum, and 21 Apricot.

2.3 2014 SURVIVAL

The planting was visited in June 2014. Trees or shrubs which had any portion of living plant material were considered alive. Of the 323 trees planted for this Project, including both 2011 and 2012 plantings, 159 were alive in June 2014 (Table 2-1). The current survival rate is above the required 75% at 77%.

Table 2-1: Survival Counts

Landowner	Number of Trees/Shrubs Planted	2012 Count	2013 Count	2014 Count	Comments
Minnkota Power Cooperative, Inc.	224 original in 2011 99 additional in 2012	186	178	159	Survival counts based on combined 2011 surviving trees/shrubs and 2012 replacement planting which totalled 323 trees/shrubs.
TOTAL	323	186	178	159	This count exceeds the required 155.