

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Sequoia Energy US Inc.  
150MW Border Winds Energy Project-  
Rolette County  
Siting Application**

**Case No. PU-08-797**

**AFFIDAVIT OF SERVICE BY CERTIFIED MAIL**

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Cara DeSaye** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the 6<sup>th</sup> day of **May, 2011**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

**Findings of Fact, Conclusions of Law and Order**

and an original of:

**Certificate of Site Compatibility for Energy Conversion Facility  
Certificate Number 21**



The envelope was addressed as follows:

John Morrison  
Crowley Fleck PLLP  
PO Box 2798  
Bismarck ND 58502-2798

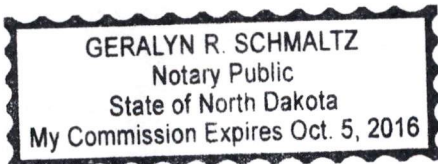
**Cert. No. 7009 2820 0002 9238 4802**

The address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this 6<sup>th</sup> day of **May, 2011**.

  
\_\_\_\_\_  
  
\_\_\_\_\_  
Notary Public

SEAL



**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Sequoia Energy US Inc.  
150 MW Border Winds Energy Project – Rolette County  
Siting Application**

**Case No. PU-08-797**

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER  
May 5, 2011**

**Appearances**

Commissioners Tony Clark, Kevin Cramer and Brian P. Kalk.

John W. Morrison, Attorney-at-Law, Crowley Fleck PLLP., 400 East Broadway, Suite 600, Bismarck, North Dakota 58501, on behalf of the Applicant, Sequoia Energy US, Inc.

Annette Bendish, Legal Counsel (November 3, 2009), Public Service Commission, State Capitol, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Mark Gruman, Legal Counsel (January 24, 2011), Public Service Commission, State Capitol, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Allen C. Hoberg, Administrative Law Judge (November 3, 2009), Office of Administrative Hearings, 1701 North Ninth Street, Bismarck, North Dakota 58501-1882, as Procedural Hearing Officer.

Al Wahl, Administrative Law Judge (January 24, 2011), Office of Administrative Hearings, 1701 North Ninth Street, Bismarck, North Dakota 58801-1882 as Procedural Hearing Officer.

**Preliminary Statement**

On September 25, 2008, Sequoia Energy US, Inc. (Sequoia) filed a Letter of Intent (LOI) to submit an application for a Certificate of Site Compatibility to construct a 150 MW Border Winds Energy Project, consisting of up to 66 wind turbine generators and associated facilities in Rolette and Towner Counties, North Dakota. On October 13, 2008, Sequoia filed an Updated Letter of Intent and Request for Reduction of Waiting Period, requesting that the Commission shorten the prescribed one-year notice period between when the LOI is filed and when the application for a Certificate of Site Compatibility is filed.

On October 22, 2008, the Commission shortened the one-year waiting period to one day and assessed a filing fee of \$100,000.00.

On October 24, 2008, Sequoia filed its application for a Certificate of Site Compatibility authorizing construction of its Border Winds Energy Project, consisting of up to 66 wind turbine generators totaling approximately 150 MW of nameplate generating capability and associated facilities in Rolette and Towner Counties of North Dakota. On April 23, 2009 Sequoia requested the hearing on the application be delayed until November, 2009.

On September 25, 2009, Sequoia filed a Supplement to the application, which provided that the entire project would be located in Rolette County, North Dakota.

On September 29, 2009, the Commission, on the condition that the final wind turbine locations be filed with the Commission on or before October 29, 2009, deemed the Application complete and issued a Notice of Filing and Notice of Hearing scheduling a public hearing to begin November 3, 2009, at 10:30 a.m. CDT in the City Commission Hearing Room, 14 1<sup>st</sup> Street SE, Rolla, North Dakota. 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 impacts while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On November 3, 2009, the hearing was held as scheduled.

On September 29, 2010, Sequoia filed a revised site plan changing the location of several turbines and associated facilities along with proposed project area boundaries.

On November 2, 2010, the Commission issued a Notice of Hearing on the revised site plan scheduling a public hearing to begin December 16, 2010, at 10:00 a.m. CT in the City Commission Hearing Room, 14 1<sup>st</sup> Street SE, Rolla, North Dakota. 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 impacts while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On December 16, 2010, the hearing was cancelled due to inclement weather.

On December 20, 2010, the Commission issued a Notice of Rescheduled Hearing rescheduling the public hearing to begin January 24, 2011 at 10:30 a.m. CT in the City Commission Hearing Room, 14 1<sup>st</sup> Street SE, Rolla, North Dakota. The same issues set forth in the Notice of Hearing were set forth in the Notice of Rescheduled Hearing.

On January 24, 2011, the rescheduled hearing was held.

Having allowed all interested persons an opportunity to be heard, and having heard, reviewed and considered all testimony and evidence presented, the Commission makes the following:

### **Findings of Fact**

1. Sequoia is a Delaware corporation registered to conduct business in the State of North Dakota.
2. Sequoia proposes to construct the Border Winds Energy Project, consisting of up to 66 wind turbines totaling approximately 150 MW of generating capacity and associated facilities in Rolette County, North Dakota.
3. Sequoia estimates construction of the project will take seven to twelve months at a cost of \$360,000,000.00.
4. The project site is located 3 miles north of Rolla, North Dakota. It encompasses 52.5 square miles, although the layout will occupy only about 2% of the total project area.
5. Associated facilities to be constructed within the project area include access roads, underground collection and feeder lines, a project substation, and an operations and maintenance building.
6. North Dakota Century Code §49-22-16 provides that no energy conversion facility site shall be designated if it violates any county or city land use, zoning, building rules, regulations or ordinances. Rolette County has adopted a zoning resolution which

does not expressly address wind towers or projects, but does require a conditional use permit for all towers exceeding fifty feet in height. Sequoia filed for and obtained the conditional use permit on December 29, 2009. Sequoia is in the process of obtaining an extension that makes the conditional use permit valid through the 2011 construction season.

### Project Design

7. The project will have a name plate (gross) capacity of approximately 150 MW. Assuming net capacity factors are between 37% and 40%, the projected average annual output is estimated between 487,000 to 526,000 MW hours.
8. Sequoia plans to use Siemens 2.3 MW turbines. These are utility grade wind turbines with a nominal name plate rating of 2300 kW. Each turbine will have an 80 meter (262.5 foot) hub height and a 101 meter (331.4 foot) rotor diameter. The turbines begin operations at wind speeds of 4.0 meters per second (8.9 miles per hour) and reach a rated capacity of 2.3 MW at a wind speed of 13 to 14 meters per second (29.1 to 31.3 miles per hour).
9. Each turbine is designed to operate at wind speeds of up to 25 meters per second (55.9 miles per hour) and can withstand wind speeds of over 55 meters per second (123.0 miles per hour).
10. Each turbine is secured by a concrete foundation. Turbine lighting is limited to warning lights required by the Federal Aviation Administration. The control panel inside the base of each turbine tower houses communication and electronic circuitry. Each turbine is equipped with a wind speed and direction sensor that communicates with the turbine's control system to signal when sufficient winds are present for operation. Electricity generated by each turbine is brought to a pad-mounted transformer where the voltage is stepped up to a power collection line voltage of 34.5 kV. This electricity is collected by sets of underground power collection lines.
11. An underground feeder system delivers electricity to the project collection substation. At the project collection substation, the power will be transformed to 230 kV for transmission to the regional electric transmission grid.
12. Wind data was collected by three meteorological towers within the project site. The wind data was used to predict spatial wind variations at the project site.
13. Sequoia will construct the project in compliance with the National Electric Safety Code.
14. Sequoia contemplates commencing construction in May 2011. Construction is expected to take seven to twelve months to complete. Sequoia anticipates testing and operations to begin in September 2011 with commercial operation in December 2011.

15. Sequoia reports it has obtained all easements and other property rights necessary to construct the project including wind easements, buffer easements, access roads, and underground collection and feeder line easements.

16. Safety factors will be incorporated into the wind turbines. Each turbine will be equipped with Supervisory Control and Data Acquisitions (SCADA) communication technology to control and monitor the turbine. In addition, each turbine is equipped with a lightning protection system and is grounded and shielded to protect against lightning.

#### Siting Criteria

17. North Dakota Administrative Code Chapter 69-06-08, sets forth certain criteria to guide the Commission in evaluating the suitability of granting an application for a certificate of site compatibility. The criteria set forth in North Dakota Administrative Code § 69-06-08-01, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria. With the exception of prime and unique farmland, an energy conversion facility must not be sited within an Exclusion Area. The exception for prime and unique farmland is if the Commission finds that the prime and unique farmland that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural production, then such exclusion shall not apply. An energy conversion facility must not be sited within an Avoidance Area unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting facilities; system reliability and integrity; efficient use of resources; and alternative sites. In accordance with the Commission's Selection Criteria, an energy conversion facility shall be approved only if it is demonstrated that no significant adverse impacts will result from the location, construction, and operation of the facility. In accordance with the Commission's policy criteria, preference may be given to an applicant demonstrating certain benefits of the energy conversion facility.

18. Approximately 51% of the project area is comprised of prime farmland, with an additional 6.25% considered prime farmland when drained, with the prime farmland distributed throughout the project area. Even assuming that all of the turbines and associated facilities are placed within prime farmland areas, only 132 acres, or about 0.69% of the total prime farmland in the project area will be affected. The Commission finds that the unique and prime farmland to be disturbed by this energy conversion facility is of such small acreage as to be of negligible impact on agricultural production.

19. Sequoia submitted evidence to demonstrate that the proposed energy conversion facility would not have any significant impact on the Selection Criteria set forth in North Dakota Administrative Code § 69-06-08-01(3).

20. Sequoia submitted evidence to demonstrate its commitment to maximize the benefits of the proposed energy conversion facility as far as is possible so as to meet the Policy Criteria set forth in North Dakota Administrative Code § 69-06-08-01(4).

21. The proposed project is not expected to have significant adverse economic or social consequences. No significant adverse impact is foreseen on the ability of the affected area to provide community services, such as housing, health care, schools, police and fire protection, water and sewer, solid waste management, transportation, or public safety. The proposed project is expected to be of economic benefit to the affected area.

22. Avoidance Areas identified within the project area include historical resources not designated as exclusion areas, woodlands, and wetlands. Woodland impacts are anticipated only where roads and electrical collection cables need to cross shelterbelts and tree lines.

### Cultural Resources

23. A class I cultural resources file search identified the Coghlan Castle as an architectural site that is listed on the National Register of Historic Places and the St. John Border Station as an architectural property that has been nominated for the National Register of Historic Places.

24. A Coghlan Castle photo-simulation submitted to the North Dakota Historical Society indicated negligible visual effects. Eleven turbines are 1.7 to 3.7 miles from the castle and concealed by farm buildings and trees.

25. The St. John Border Station has been nominated for the National Register of Historic Places. The view from the St. John Border Station is screened by trees and the nearest turbine site is approximately 0.9 miles from the border station.

26. With respect to historical resources that are not designated as Exclusion Areas, Sequoia has consulted with the North Dakota State Historic Preservation Office (SHPO). Class I and III surveys, including a search of SHPO's site and managed files, were conducted by Westwood Professional Services for the project area. The Class III cultural resource inventory identified seven areas containing prehistoric archaeological isolated finds and three historic archaeological sites. None of these were judged potentially eligible for the National Register of Historic Places and therefore they do not need to be avoided. SHPO has accepted Westwood's unanticipated discovery plan that describes how construction will be curtailed and managed if archaeological resources are found during construction.

27. Two archaeological sites are located near the project construction area. One is near an access road to Turbine L1, which was realigned to avoid Site 32RO67, a low-density lithic scatter.

28. The other archaeological site is the Burlington Northern Railroad grade (Site 32RO65), which will be crossed by an access road to Turbines Alt-P3 and Alt-P4. There is no reasonable alternative location for an access road to Turbines Alt-P3 and Alt-P4 that would avoid the railroad grade. The railroad grade runs continuously along the east side of the roadway from which access to Turbines Alt-P3 and Alt-P4 can be gained. The linear nature of the railroad grade and the access roads render the railroad grade unavoidable. The railroad grade has diminished integrity and was evaluated as not contributing to the National Register of Historic Places. Avoidance of the railroad grade crossing was not recommended by SHPO.

#### Wetlands and Wildlife

29. Sequoia consulted with numerous local, state and federal agencies which are listed on pages 82 and 83 of its Application. Two agencies providing significant input are the North Dakota Game and Fish Department and the U.S. Fish and Wildlife Service. The North Dakota Game and Fish Department indicated that its primary concern is with the disturbance of native prairie. The project will disturb minimal to no native prairie. Concerns of the U.S. Fish and Wildlife Service focused on migratory birds, wetlands, native grasslands, woodland resources, and threatened and endangered species. No significant impacts to any of these resources are anticipated. Sequoia conducted a pre-construction avian survey and risk assessment based on avian point counts completed in the spring of 2009. Results were submitted to the Commission and the U.S. Fish and Wildlife Service. Neither the North Dakota Game and Fish Department nor the U.S. Fish and Wildlife Service have objected to construction of the project.

30. Waterfowl Production Areas administered by the United States Fish and Wildlife Service are located near the project area. Sequoia proposed a buffer of 0.25 miles from each Waterfowl Production Area. Sequoia's revised site plan maintains a minimum spacing between turbines and Waterfowl Production Areas of approximately 1.5 miles. Although the U.S. Fish and Wildlife Service has no formal guidance or policy on this matter, a 0.25-mile buffer has been used on previous wind projects approved by the Commission.

31. Sequoia is in the process of obtaining authorization under a Nationwide Permit from the U.S. Army Corps of Engineers, and appropriate wetland mitigation will be provided. Wetlands protected by the U.S. Fish and Wildlife Service on wetland easement lands will be avoided. Other wetland resources will be avoided to the extent practicable. No impacts are expected to animal health or safety, other than the potential for small numbers of avian and bat species collisions with turbines.

32. Although preliminary information indicated the historical occurrences of some species of concern or significant ecological communities within the project area, a subsequent Rare Species and Natural Community Assessment prepared on behalf of

Sequoia indicates that the project is not expected to adversely affect any of these communities.

33. Minor indirect effects on wildlife will result from limited disturbance of grassland and wetland habitat. Impacts are expected to be minimal. Sequoia will implement measures to avoid and minimize effects to wildlife at the proposed site by siting facilities away from wetlands and woodlands wherever possible.

#### Further Mitigative Measures

34. No turbines will be placed within 1,640 feet of an occupied residence. One alternate turbine site is located 1,514 feet from a structure that is likely used as a hunting cabin. As a result, average noise levels at such residences should not exceed a generally accepted 45 dBA standard.

35. Sequoia has proposed setbacks of at least 471 feet from existing transmission lines, road right-of-ways and railroads.

36. Sequoia has a legal obligation to decommission the wind energy facilities.

37. Sequoia made other representations and agreements as contained in the Certification Relating to Order Provisions – Wind Energy Conversion Facility Siting executed by Sequoia and filed with the Commission on October 15, 2009, which is incorporated in these Findings of Fact.

38. North Dakota Century Code Chapter 49-23, the One-Call Excavation Notice System, sets forth requirements for excavators as well as operators of underground facilities for the avoidance of damage to underground facilities including requirements that excavators contact the one-call notification center and provide an excavation or location notice at least 48 hours before beginning any excavation, and that the excavator notify the operator as soon as reasonably possible if any damage occurs to an underground facility or its protective covering. The Commission believes that Sequoia should notify the Commission, as soon as reasonably possible, of such damage to an underground facility during construction conducted under the certificate or permit issued in this proceeding. A certificate or permit granted under North Dakota Century Code Chapter ND 49-22 is subject to suspension, modification or revocation, after hearing, for failure to comply with the requirements of North Dakota Century Code Chapter 49-23.

From the foregoing Findings of Fact, the Commission now makes its:

#### Conclusions of Law

1. The Commission has jurisdiction over this proceeding under North Dakota Century Code Chapter 49-22.

2. The energy conversion facility proposed by Sequoia is an energy conversion facility as defined in North Dakota Century Code, § 49-22-03(11).
3. The proposed project is of such design, location and purpose that it will produce minimal adverse effects, as defined in North Dakota Century Code § 49-22-05.2.
4. The application submitted by Sequoia meets the site evaluation criteria required by North Dakota Century Code Chapter 49-22.
5. The location, construction, and operation of the proposed energy conversion facility will produce only minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
6. The proposed energy conversion facility is compatible with environmental preservation and the efficient use of resources.
7. The proposed energy conversion facility will 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.
8. The Commission has jurisdiction to ensure compliance with National Electric Safety Code Standards in the construction and operation of the proposed energy conversion facility.

From the foregoing Findings of Fact and Conclusions of Law, the Commission now makes its:

### **Order**

The Commission orders:

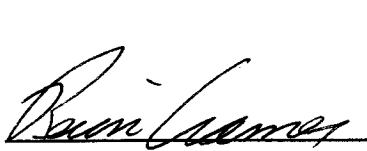
1. Certificate of Site Compatibility No. 21 for an energy conversion facility is issued to Sequoia Energy US, Inc. authorizing the construction, operation and maintenance of a wind energy facility known as the Border Winds Energy Project.
2. The site as described in the application is located north of the City of Rolla, North Dakota, and is designated as the site for construction of the Energy Conversion Facility.
3. Within the permitted area, Sequoia is authorized to site and construct up to 66 wind turbines totaling approximately 150 MW of generating capacity in proposed and alternative locations, along with electric collection and communication lines, a project substation, project operations and maintenance building, meteorological towers, access roads, and other associated facilities as identified in the application.

4. The October 15, 2009 Certification Relating to Order Provisions – Wind Energy Conversion Facility Siting is incorporated by reference and attached to this order.

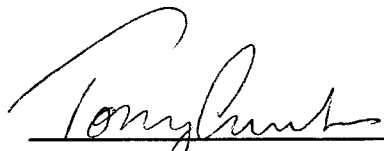
5. Sequoia shall notify the Commission, as soon as reasonably possible, if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Sequoia shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined and clearance to proceed has been given by the Commission or Commission staff.

6. The corridor certificate and route permit are subject to suspension or revocation and may, after hearing, be suspended or revoked for failure to comply with the Commission's order, requirements of the One-Call Excavation Notice System under North Dakota Century Code Chapter 49-23, the conditions and criteria of the certificate or permit or subsequent modification, or failure to comply with applicable statutes, or rules, regulations, standards, and permits of other state or federal agencies.


**PUBLIC SERVICE COMMISSION**



**Kevin Cramer**  
Commissioner



**Tony Clark**  
Chairman



**Brian P. Kalk**  
Commissioner

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Sequoia Energy US, Inc.  
150 MW Border Winds Energy Project – Rolette County  
Siting Application

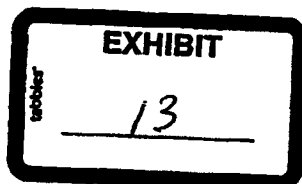
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Case No. PU-08-797  
OCT 15 2009

**PUBLIC SERVICE COMMISSION**

**CERTIFICATION RELATING TO ORDER PROVISIONS - WIND ENERGY  
CONVERSION FACILITY SITING**

I am Ron Diduch a representative of Sequoia Energy US, Inc. (Sequoia) with authority to bind Sequoia to requirements to be set forth by the Commission in its Order and I certify the following:

1. Sequoia understands and agrees that the Certificate of Site Compatibility will be issued by the Commission subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Sequoia will be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Sequoia agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Sequoia representative, its construction supervisor, and a representative of Commission Staff, to ensure that Sequoia fully understands the conditions set forth in the Commission's order.
3. Sequoia agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed energy conversion facility including all city, township, and county zoning regulations.
4. Sequoia agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the energy conversion facility that requires said license or permit.
5. Sequoia understands and agrees that the Certificate of Site Compatibility is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
6. Sequoia agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order and the Certificate of Site



71 PU-08-797 Filed: 1/27/2011 Pages: 7  
Exhibit 13

Sequoia Energy US Inc.

Compatibility, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.

7. Sequoia agrees to inform the Commission of its intent to start construction on the energy conversion facility prior to the commencement of construction. Once construction has started, Sequoia shall keep the Commission updated of construction activities on a weekly basis.
8. Sequoia agrees to construct and operate the energy conversion facility in the manner described in Sequoia's application, in any late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.
9. Sequoia agrees to report promptly to the Commission the presence in the permit area of any critical habitat of threatened species, endangered species, bald eagles, or golden eagles that Sequoia becomes aware of and which were not previously reported to the Commission.
10. Sequoia understands that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area.
11. Sequoia understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, 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.
12. Sequoia understands and agrees that all underground electric line crossings of graded roads shall be bored unless the responsible governing agency specifically permits Sequoia to open cut the road.
13. Sequoia understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the energy conversion facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.
14. Sequoia is aware that North Dakota law requires that all companies that own or operate electric generation of any size for the primary purpose of resale must comply with the standards of the National Electrical Safety Code in effect at the time of construction of the generation facility, and agrees to comply with that requirement.

15. Sequoia understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures approved by the Commission are taken.
16. Sequoia understands and agrees that where available, at least 12 inches of topsoil over and along trench areas, roadways, tower locations, and locations of associated facilities shall be stripped and shall be segregated from the subsoil and be replaced only after the subsoil is replaced.
17. Sequoia agrees that it shall bury all underground collection and feeder lines to a depth of at least 48 inches to the top of the lines.
18. Sequoia understands and agrees that reclamation, fertilization, and reseeded is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
19. Sequoia understands and agrees that its obligation for reclamation and maintenance of energy conversion facility tower locations, associated facilities, roadways and rights-of-way will continue throughout the life of the energy conversion facility.
20. Attached is a document titled Tree and Mitigation Specifications. Sequoia agrees to comply with these specifications if the Commission chooses to include all or a portion of the requirements and conditions contained in this attachment in its Order.
21. Sequoia agrees that it shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the proposed energy conversion facility.
22. Sequoia agrees that it shall repair or replace all broken or damaged drainage tile during all phases of construction and operation of the proposed energy conversion facility.
23. Sequoia agrees that staging areas or equipment shall not be located on cultivated land unless otherwise negotiated with landowners.
24. Sequoia agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.

25. Sequoia agrees that it shall, as soon as practicable upon the completion of the construction of each wind turbine, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
26. Sequoia agrees that it shall provide, if requested, educational material for landowners within the site boundaries about the proposed energy conversion facility and any restriction or danger concerning the proposed energy conversion facility.
27. Sequoia agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.
28. Sequoia agrees that it shall advise the Commission of any extraordinary events which take place at the site of the energy conversion facility, such as a tower collapse, catastrophic turbine failure, injured worker or private individual, the death of any threatened or endangered species, or the discovery of a large number of dead birds or bats on the site within five business days of such event.
29. Sequoia agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Sequoia.
30. Sequoia agrees that it shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the construction of the energy conversion facility.
31. Sequoia is aware that under North Dakota Century Code section 49-02-27 the Commission has rules for decommissioning of wind energy conversion facilities. Sequoia agrees to comply with all decommissioning rules adopted by the Commission.
32. Sequoia agrees to provide the Commission with engineering design drawings showing surveyed structure and collection substation locations prior to construction, and understands and agrees that it must obtain approval from the Commission or from Commission Staff prior to any changes in the energy conversion facility tower, associated facility, and roadway locations.
33. Sequoia agrees to provide the Commission with a copy of the design specifications for the construction of the energy conversion facility showing the location of the energy conversion facility as built, and will provide this information within three months of the completion of the construction.
34. Sequoia understands and agrees that the authorizations granted by the Certificate of Site Compatibility for the energy conversion facility are subject to modification by

order of the Commission if deemed necessary to protect further the public or the environment.

35. Sequoia wind agrees to inform the Commission in writing of any plans to add additional turbines to the energy conversion facility or of any plans to modify the site plan for the energy conversion facility. Any additions or modifications to the site plan for the energy conversion facility must be approved in writing by the Commission or Commission staff. Approval may be granted after notice and opportunity for hearing.

Dated this 6<sup>th</sup> day of October, 2009.

Sequoia 

By Ron Diduch

Its President and Chief Executive Officer

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Sequoia Energy US, Inc.**  
**150 MW Border Winds Energy Project – Rolette County**  
**Siting Application**

**Case No. PU-08-797**

**Inventory**

1. Trees and shrubs anticipated to be cleared, including those that are considered invasive species or noxious weeds (*e.g.*, *Caragana arborescens*, *Elaeagnus angustifolia*, *Rhamnus cathartica*, *Tamarix chinensis*, *T. parviflora*, *T. ramosissima*, *Ulmus pumila*), shall be inventoried before cutting. The inventory shall record the location, number, and species of trees and shrubs.
2. In windbreaks, shelterbelts, and other planted areas, trees or shrubs anticipated to be cleared, regardless of size, shall be inventoried for replacement.
3. In native growth areas, trees anticipated to be cleared that are 1-inch diameter at breast height (dbh) or greater shall be inventoried for replacement.
4. In native growth areas, shrubs anticipated to be cleared in the permanent right-of-way shall be inventoried for replacement.
5. In native growth areas outside the permanent right-of-way, shrubs shall be cut flush with the surface of the ground, taking care to leave the naturally occurring seed bank and root stock intact. If soil disturbance is necessary, the native topsoil shall be preserved and replaced after construction. Shrubs shall be allowed to regenerate naturally where native topsoil is preserved and replaced. Where native topsoil is not preserved and replaced, shrubs anticipated to be cleared shall be inventoried for replacement.
6. In native growth areas, trees and shrubs may be inventoried by actual count or by sampling method that will properly represent the woody vegetation population. A sampling plan developed by the company, filed with the North Dakota Public Service Commission (Commission), and approved prior to the start of construction shall define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots shall be extrapolated to the total acreage of the wooded area to be cleared to determine the species and quantity of trees and shrubs to be replaced.

**Clearing for Construction**

7. Trees and shrubs shall be selectively cleared, leaving mature trees and shrubs intact where practical.

8. The width of clear cuts through windbreaks, shelterbelts and all other wooded areas shall be limited to 50 feet or less unless otherwise approved by the Commission.

9. If the area of trees or shrubs actually cleared differs from the area inventoried, the difference in number of trees and shrubs to be replaced shall be noted on the inventory.

### **Replacement**

10. Prior to replacement, documentation identifying the number and variety of trees removed as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings shall be filed with the Commission for approval.

11. Tree replacement shall be on a 2 to 1 basis with 2-year-old saplings. Shrub replacement shall be on a 2 to 1 basis with stem cuttings.

12. Trees and shrubs shall be replaced by the same species or similar species, except in the case of invasive species or noxious weeds, suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.

13. Landowners shall be given the option of having replacement trees or shrubs planted off the right-of-way on the landowner's property or waiving that requirement in writing and allowing those replacement trees or shrubs to be planted at alternative locations.

14. At the conclusion of the project, documentation identifying the actual number, variety, type, location, and date of the replacement plantings shall be filed with the Commission.

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).

**PUBLIC SERVICE COMMISSION**

**STATE OF NORTH DAKOTA**

**Certificate of Site Compatibility for Energy Conversion Facility**

**Certificate Number 21**

*This is to certify that the Commission has designated an energy conversion facility site for Sequoia Energy US Inc.'s Border Winds Energy Project consisting of approximately 150 MW of total wind turbine generating capacity and associated facilities in Rolette County, North Dakota.*

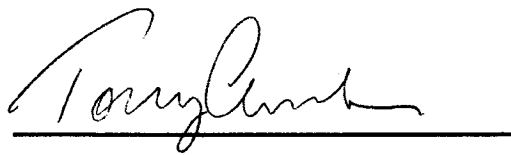
*The facility may be sited in this designated location in compliance with the energy conversion facility siting criteria. This certificate is issued in accordance with the Finding of Fact, Conclusion of Law and Order of the Commission in Case No. PU-08-797 dated May 5, 2011 and is subject to the conditions and limitations noted in the order.*

*Bismarck, North Dakota, May 5, 2011.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**