

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

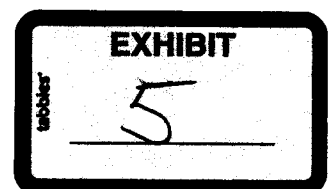
CPV Ashley Renewable Energy Company, LLC  
Ashley Wind Power – Power Project – McIntosh Cty  
Siting Application

Case No. PU-09-370

CERTIFICATION RELATING TO ORDER PROVISIONS - WIND ENERGY  
CONVERSION FACILITY SITING

I am Sean J. Finnerty, a representative of CPV Ashley Renewable Energy Company, LLC (CPV Ashley) with authority to bind CPV Ashley to requirements to be set forth by the Commission in its Order and I certify the following:

1. CPV Ashley 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 CPV Ashley will be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. CPV Ashley agrees to hold a preconstruction conference prior to commencement of any construction, which must include a CPV Ashley representative, its construction supervisor, and a representative of Commission Staff, to ensure that CPV Ashley fully understands the conditions set forth in the Commission's order.
3. CPV Ashley 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. CPV Ashley 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. CPV Ashley 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. CPV Ashley agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order and the Certificate of Site



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

7. CPV Ashley 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, CPV Ashley shall keep the Commission updated of construction activities on a weekly basis.
8. CPV Ashley agrees to construct and operate the energy conversion facility in the manner described in CPV Ashley's application, in any late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.
9. CPV Ashley 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 CPV Ashley becomes aware of and which were not previously reported to the Commission.
10. CPV Ashley 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. CPV Ashley 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. CPV Ashley understands and agrees that all underground electric line crossings of graded roads shall be bored unless the responsible governing agency specifically permits CPV Ashley to open cut the road.
13. CPV Ashley 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. CPV Ashley 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. CPV Ashley 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. CPV Ashley 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. CPV Ashley 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. CPV Ashley understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
19. CPV Ashley 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. CPV Ashley 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. CPV Ashley 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. CPV Ashley 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. CPV Ashley agrees that staging areas or equipment shall not be located on cultivated land unless otherwise negotiated with landowners.
24. CPV Ashley 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.

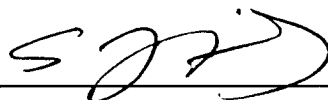
25. CPV Ashley agrees that it shall, as soon as practicable upon the completion of the construction of each wind turbine, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
26. CPV Ashley agrees that it shall 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. CPV Ashley agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.
28. CPV Ashley 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. CPV Ashley agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by CPV Ashley.
30. CPV Ashley 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. CPV Ashley is aware that under North Dakota Century Code section 49-02-27 the Commission has rules for decommissioning of wind energy conversion facilities. CPV Ashley agrees to comply with all decommissioning rules adopted by the Commission.
32. CPV Ashley 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. CPV Ashley 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. CPV Ashley 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. CPV Ashley 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 13<sup>th</sup> day of August, 2010.

CPV Ashley Renewable Energy Company, LLC

By 

Its Senior Vice President

**STATE OF NORTH DAKOTA**

**PUBLIC SERVICE COMMISSION**

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**Tree and Shrub Mitigation Specifications**

**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).