

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Oliver Wind III, LLC
230 kV Transmission Line – Oliver & Morton
Siting Application

Case No. PU-09-724

AFFIDAVIT OF SERVICE REGULAR, INSIDE, OR ELECTRONIC 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 **21st** day of **April, 2011**, she deposited in the United States Mail, Bismarck, North Dakota, 9 envelopes by first class mail, fully prepaid, 7 envelopes by inside mail, all securely sealed and each containing a photocopy, and 14 addressees electronically mailed a copy of:

Findings of Fact, Conclusions of Law and Order

The envelopes and electronic mails respectively were addressed as follows:

See attached list.

Each post office address shown is the respective addressee's last reasonably ascertainable post office address and each email address is the respective addressee's last reasonably ascertainable electronic mailing address.

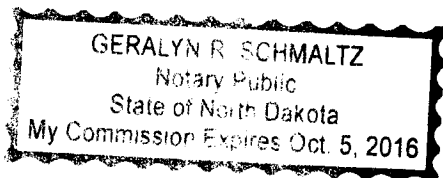


Subscribed and sworn to before me
this **21st** day of **April 2011**.



Notary Public

SEAL



ndaero@nd.gov
Melinda Weninger
Aeronautics Commission
PO Box 5020
Bismarck ND 58502-5020

bbjella@crowleyfleck.com
Brian R. Bjella
Crowley Fleck PLLP
PO Box 2798
Bismarck ND 58502-2798

colson@nd.gov
Carol Olson
Department of Human Services
State Capitol
Bismarck ND 58505

ndquarter@nd.gov
John Hoeven
Governor's Office
State Capitol
Bismarck ND 58505

jpaczkowski@nd.gov
John Paczkowski
N D Water Commission
900 E Boulevard
Bismarck ND 58505

tsteinwa@nd.gov
Terry Steinwand
ND GAME & FISH DEPT
INSIDE MAIL

lmcevers@nd.gov
Lisa K Fair-McEvers
ND Labor Dept
600 E Blvd Ave
Bismarck ND

goehring@nd.gov
Doug Goehring
Agriculture Department
State Capitol
Bismarck ND 58505

jmittleider@nd.gov
John Mittleider
Department of Commerce
600 East Blvd
Bismarck ND 58505

jengleso@nd.gov
Jeff Engleson
Energy Development Impact Office
1707 N 9th St
Bismarck ND 58501

ckulas@nd.gov
Cheryl Kulas
Indian Affairs Commission
State Capitol - 1st Floor J Wing INSID
Bismarck ND 58505

fziegler@nd.gov
Francis Ziegler, P.E.
ND Department of Transportation
State Highway Building
Bismarck ND 58505

mdaley@nd.gov
Maren Daley
ND Job Service
P.O. Box 5507 INSIDE MAIL
Bismarck ND 58506-5507

markzimmerman@nd.gov
Mark Zimmerman
North Dakota Parks & Rec
1600 E Century Ave, Ste. 3 INSIDE MAIL
Bismarck ND 58503-0649

Attorney General's Office
Inside Mail

Dept of Career and Technical Education
State Capitol
Bismarck ND 58505

Merlan Paaverud, Jr.
Historical Society
North Dakota Heritage Center
Bismarck ND 58505

COUNTY AUDITOR
MORTON COUNTY
210 2ND AVE NW
MANDAN ND 58554

CHAIR COUNTY COMMISSION
MORTON COUNTY
210 2ND AVE NW
MANDAN ND 58554

Thomas Hanson
ND Assoc of Soil Conservation Dist
3310 University Drive
Bismarck ND 58504-7564

MR LARRY KOTCHMAN
ND FOREST SERVICE
MOLBERG CENTER 307 1ST STREET EAST
BOTTINEAU ND 58318

MR ED MURPHY
ND GEOLOGICAL SURVEY
INSIDE MAIL

Mike Haupt
ND Land Department
1707 N 9th St
Bismarck ND 58501

COUNTY AUDITOR
OLIVER COUNTY
PO BOX 188
CENTER ND 58530-0188

CHAIR COUNTY COMMISSION
OLIVER COUNTY
PO BOX 188
CENTER ND 58530-0188

Dale Frink
State Engineer
ND Water Commission 900 East Boulevard
Bismarck ND 58505

State Health Department
State Capitol
Bismarck ND 58505

BRENDA HELLER
STATE REPRESENTATIVE DIST 33
1661 60TH AVE SW
BEULAH ND 58523-9170

GARY KREIDT
STATE REPRESENTATIVE DIST 33
3892 COUNTY RD 86
NEW SALEM ND 58563-9406

RANDEL CHRISTMANN
STATE SENATOR DIST 33
401 3RD AVE NE
HAZEN ND 58545-4429

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Oliver Wind III, LLC
230 kV Transmission Line – Oliver & Morton
Siting Application**

Case No. PU-09-724

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

April 20, 2011

Appearances

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

Brian R. Bjella, Attorney, Crowley Fleck PLLP, 400 East Broadway, Suite 600, Bismarck, North Dakota 58501, on behalf of the Applicant, Oliver Wind III, LLC.

Mitchell D. Armstrong, Special Assistant Attorney General, 122 E. Broadway Avenue, Bismarck, North Dakota 58501, on behalf of the Public Service Commission.

Al Wahl, Administrative Law Judge, Office of Administrative Hearings, 1701 North Ninth Street, Bismarck, North Dakota 58501-1882, as Procedural Hearing Officer.

Preliminary Statement

On November 16, 2009, NextEra Energy Resources, LLC (NextEra) filed a Letter of Intent (LOI) to submit a siting application for a 230 kV transmission line in Oliver and Morton Counties, North Dakota. NextEra requested in its LOI that the Commission shorten the one-year waiting period required between the filing of the LOI and the filing of an application.

On December 10, 2009, the Commission shortened the one-year waiting period to thirty days, and assessed a filing fee of \$17,500.

On March 19, 2010, NextEra filed an Application for a Certificate of Corridor Compatibility and Route Permit for construction of approximately 11 miles of 230 kV electric transmission line and associated facilities extending from the Oliver Wind III Energy Center in Morton County, North Dakota, to its existing Square Butte substation in Oliver County, North Dakota (Application).

On May 12, 2010, NextEra filed a letter requesting that Oliver Wind III, LLC (Oliver Wind III), be substituted as applicant.

On May 12, 2010, the Commission deemed the Application complete conditioned upon filing of final transmission structure locations one week prior to the hearing and issued a Notice of Filing and Notice of Hearing, dated May 12, 2010, scheduling a public hearing for June 24, 2010, in Center, North Dakota.

On June 9, 2010, Oliver Wind III filed a motion for continuance of the hearing. On June 11, 2010, by Order Granting Continuance, the Honorable Allen C. Hoberg, Administrative Law Judge, granted the continuance indicating that the hearing scheduled for June 24, 2010, was continued indefinitely.

On June 16, 2010, the Commission issued a Notice of Rescheduled Hearing scheduling the public hearing for September 16, 2010, at 10:00 a.m. in the Oliver County Courthouse.

On September 10, 2010, the Commission cancelled the public hearing set for September 16, 2010 due to a publication error and issued a Notice of Rescheduled Hearing, rescheduling the public hearing for October 22, 2010, at 9:00 a.m. in the Oliver County Courthouse. The notice identified the following issues to be considered:

1. Will the location, construction, and operation of the proposed facilities produce minimal adverse effects upon 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's location 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?
4. Is it appropriate for the Commission to waive procedures and time schedules as requested, including the request for a single consolidated application for a corridor certificate and route permit?

On September 8, 2010, and on October 15, 2010, Oliver Wind III filed with the Commission documentation evidencing the transmission line route, substation upgrades, transmission structure locations and route revisions.

On October 22, 2010, at 9:00 a.m. (CDT) at the Oliver County Courthouse, the public hearing was held as scheduled. 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. Oliver Wind III is a Delaware limited liability company headquartered in Juno Beach, Florida. Oliver Wind III is a subsidiary of NextEra, also of Juno Beach, Florida.
2. Oliver Wind III's proposed 230 kV transmission line will be an alternating current transmission line originating at the collection substation within the Oliver Wind III Energy Center, and terminating with upgrades to be constructed at the existing Oliver I and II substation in Oliver County, North Dakota. The transmission line has an expected operating capacity of 120 MVA.
3. In Case Nos. PU-06-312 and PU-08-241, Certificate of Site Compatibility for Transmission Facility Corridor No. 92 was issued and transferred to FPL Energy Oliver County Wind 1, LLC, designating a circular ½ mile radius transmission corridor around the Oliver I and II substation and an associated 542 foot 230 kV transmission line.
4. From the Oliver Wind III Energy Center in Morton County, in Section 3 of Township 140 North, Range 83 West, the line will extend approximately 9.5 miles, terminating at the Oliver I and II substation in Section 33, Township 142 North, Range 83 West, Oliver County, North Dakota.
5. In its Application, Oliver Wind III proposed a transmission line approximately 11 miles in length with a total of 98 pole structures. However, at the request of an area landowner, Oliver Wind III agreed to move its collection substation from Section 15 of Township 140 North, Range 83 West, to Section 3 of Township 140 North, Range 83 West. As a result, approximately 1.5 miles of the transmission line will not be constructed. The northernmost 84 structures as depicted in Oliver Wind III's hearing Exhibit #2 represent the pole structures to be constructed.
6. Oliver Wind III estimates the cost of the transmission line and associated facilities to be \$3.5 million.
7. Oliver Wind III stated it has obtained all easements or agreements necessary for the construction of the transmission line, with the exception of anchor line easements. The upgrades to the existing Oliver I and II substation will be constructed on land already under easement by a subsidiary of NextEra.
8. Construction and operation of the transmission line will conform to requirements of the National Electric Safety Code.

9. Single pole or H-pole, wood, concrete, or steel structures, will be used for construction of the transmission line. A total of 84 structures will be installed, with 78 being single pole, and 6 being H-pole structures. The span between structures will be approximately 600-700 feet.

10. Oliver Wind III's hearing Exhibit #2 indicates the preferred transmission line route as depicted in yellow. However, Oliver Wind III has requested approval of two alternate line route segments depicted in red and blue on Exhibit #2. Oliver Wind III may have to construct one of the alternate routes around an existing power line owned by Roughrider Electric Cooperative, Inc. ("Roughrider Electric"). Should Roughrider Electric not allow its line to be spanned over, then Oliver Wind III will have to construct on either the red or blue alternate. In this event, Oliver Wind III will choose either the red or blue alternate dependent upon landowner approval of structure locations.

11. Oliver Wind III has completed both a Class I record search and a Class III pedestrian survey for archeological and cultural resources over a width of 150 feet along the proposed route, as well as for the lands being added to the Oliver I and II substation site. While the Class I and Class III searches did reveal potentially significant sites, Oliver Wind III shifted structure locations to avoid impacts to the sites.

12. No exclusion areas have been identified along the proposed route, and all potentially significant cultural resources identified will be protected by an appropriate buffer. No impacts are anticipated to any rare or unique plant species located within the corridor.

13. Nelson Lake is an avoidance Area of recreational significance along the northern terminus of the proposed route. The transmission line structure locations have been sited to avoid surface waters and no significant impact is expected.

14. Oliver Wind III has completed a wetlands survey. Based on the investigation and the project layout dated November 1, 2010, there will be no permanent impacts to jurisdictional waters. No transmission line structures will be placed within jurisdictional areas along the proposed transmission line route. Potential temporary impacts up to 0.67 acres may result from crossing wetland features with construction equipment. Impacts may be less due to field conditions, site access and decisions made by construction engineers at the time of construction. Any temporary impacts will be restored and re-vegetated as soon as construction has ended. Oliver Wind III states that, as currently designed, the project is eligible under Nationwide Permit #12 for Utility Line Activities and does not require a pre-construction notification to the U.S. Army Corps of Engineers.

15. Oliver Wind III has completed an avian survey. Avian impacts are believed to be minimal. Oliver Wind III will implement measures to avoid and minimize effects on wildlife by setting facilities away from wetlands and woodlands where possible. Bird safe designs pursuant to Avian Power Line Interaction Committee recommendations will be used. In addition, standard best management practices will be implemented, which include marking the transmission line with bird diverter devices.

16. Section 49-22-16(3) of the North Dakota Century Code provides that an applicant for a route permit from the Commission shall obtain all permits that may be required to construct and operate the transmission facility.

17. Oliver Wind III states that it has complied with all local land use zoning and planning ordinances.

18. 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 Corridor Compatibility and a Route Permit for a transmission facility. The criteria set forth in § 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria.

19. North Dakota Administrative Code, Chapter 69-06-08, provides that Exclusion and Avoidance Areas may be located within a corridor, but at no given point shall such an area encompass more than 50% of the corridor width, unless there is no reasonable alternative.

20. North Dakota Administrative Code, § 69-06-08-02, provides that a transmission facility route must not be sited within an Exclusion Area. A transmission facility route must not be sited within an Avoidance Area unless the applicant shows under the circumstances there are no reasonable alternatives.

21. In accordance with the Commission's Selection Criteria, a corridor or route may be approved if it is demonstrated that any adverse impacts that will result from the location, construction and maintenance of the transmission facility will be at an acceptable minimum or managed at an exceptional minimum.

22. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits from the adoption of certain policies and practices.

23. Oliver Wind III evaluated a proposed corridor width of 1.1 miles. Pedestrian surveys for wetlands and cultural resources were performed over a 150-ft wide area centered on the preferred route.

24. Oliver Wind III submitted information in its Application and testimony at the hearing, concerning compliance with the Commission's Exclusion and Avoidance Area Criteria as applied to the proposed corridor.
25. At no point within the proposed corridor does an Exclusion or Avoidance Area encompass more than 50% of the corridor width.
26. Oliver Wind III submitted information in its Application and at the hearing concerning compliance with the Commission's Exclusion and Avoidance Area Criteria has applied to the proposed route.
27. Oliver Wind III submitted information in its Application and at the hearing that any adverse affects from the location, construction and maintenance of the transmission facility as it relates to the Selection Criteria listed at § 69-06-08-1(3), North Dakota Administrative Code, will be at an acceptable minimum or will be managed and maintained at an acceptable minimum.
28. Oliver Wind III submitted information in its Application and through its testimony at the hearing to demonstrate its commitment to maximize the benefits of the proposed transmission facility to meet the Policy Criteria set forth in § 69-06-08-1(4), North Dakota Administrative Code.
29. 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 Oliver Wind III 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 revocation, after hearing, for failure to comply with the requirements of North Dakota Century Code Chapter 49-23.
30. Oliver Wind III made other representations and agreements as contained in the Certification Relating to Order Provisions – Electric Transmission Line Siting executed by Oliver Wind III on October 21, 2010 and filed with the Commission, which is incorporated in these Findings of Fact.

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 transmission line and associated substation upgrades proposed by Oliver Wind III are transmission facilities as defined in North Dakota Century Code § 49-22-03(11).
3. The proposed project is of such design, length, 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 Oliver Wind III meets the corridor and route evaluation criteria required by North Dakota Century Code Chapter 49-22.
5. The location, construction, and operation of the proposed transmission line and associated facilities will produce only minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
6. The proposed transmission line and associated facilities are compatible with environmental preservation and the efficient use of resources.
7. The proposed transmission corridor and route 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 requested waivers of procedures and time schedules are justified based upon: the relatively short length of the transmission line; minimal impacts on the environment and the welfare of the citizens of North Dakota; the lack of objection to the proposed corridor and route by federal, state and local governmental bodies and agencies, and by area landowners.

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

Order

The Commission orders:

1. Oliver Wind III's Application for Waiver of Procedures and Time Schedules is granted.

2. Certificate of Site Compatibility for Transmission Facility Corridor No. 117 is issued to Oliver Wind III. For purposes of the certificate, the corridor consists of a 150 foot-wide area centered on the preferred transmission line route and each alternative route presented in Hearing Exhibit 2.
3. Route Permit for construction of a Transmission Facility No. 127 is issued to Oliver Wind III, granting authority to construct the proposed transmission line and associated facilities.
4. The October 21, 2010 Certification Relating to Order Provisions – Electric Transmission Line Siting is incorporated by reference and attached to this order.
5. Prior to commencing construction, Oliver Wind III shall inform the Commission whether it is constructing the transmission line on its preferred route as depicted in yellow on hearing Exhibit #2, or in the blue or red alternate route segment. If either of the alternate segments is selected, Oliver Wind III shall complete the requested shovel tests as recommended by the North Dakota State Historic Preservation Office, and submit the results to SHPO for review and concurrence of the selected route segment prior to construction of the segment.
6. Oliver Wind III shall comply with the Commission's Tree and Shrub Mitigation specifications attached to this Order except that the width of clear cuts through windbreaks, shelterbelts and all other wooded areas shall be limited to 125 feet rather than 50 feet.
8. Oliver Wind III shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the proposed transmission facilities.
9. Oliver Wind III shall inform the Commission in writing of any modifications to the transmission facility or of any plans to modify the site plan for the transmission facility. Oliver Wind III shall obtain approval from the Commission or from Commission *staff prior to any additions or modifications to the site plan including changes in structure locations.*
10. In the event Oliver Wind III desires to construct, within any corridor granted by a Certificate of Corridor Compatibility in this proceeding, a new transmission facility that was not included in Oliver Wind III's application in this proceeding, Oliver Wind III shall apply to the Commission for a Route Permit.
11. Oliver Wind III 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, Oliver

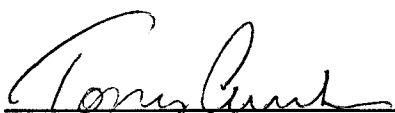
Wind III shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined and clearance to proceed has been given by the Commission or Commission staff.

12. 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

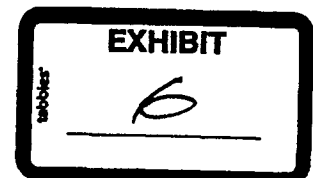
OLIVER WIND III, LLC
230 kV Transmission Line – Oliver & Morton Counties
Siting Application

Case No. PU-09-724

CERTIFICATION RELATING TO ORDER PROVISIONS – ELECTRIC
TRANSMISSION LINE SITING

I am John DiDonato a representative of Oliver Wind III, LLC (Oliver Wind) with authority to bind Oliver Wind to requirements to be set forth by the Commission in its Order and I certify the following:

1. Oliver Wind agrees to hold 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 the Commission's order.
2. Oliver Wind agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed transmission line, will obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction of the transmission line.
3. Oliver Wind agrees to inform the Commission of its intent to start construction on the transmission line prior to the commencement of construction, and once construction has started, it shall keep the Commission updated on construction activities on a weekly basis.
4. Oliver Wind agrees to construct and operate the transmission line in the manner described in its application, in any late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.
5. Oliver Wind agrees to promptly report to the Commission the presence in the permit area of any critical habitat of threatened species, endangered species, bald eagles, or golden eagles of which Oliver Wind becomes aware and which were not previously reported to the Commission.
6. Oliver Wind understands that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office for approval prior to the start of any fieldwork or construction activity.
7. Oliver Wind 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 and a report of such examination is filed with the Commission and the State Historical Society and clearance to proceed is given by the Commission.

8. Oliver Wind understands and agrees that 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 must be restored to their original condition.
9. Oliver Wind understands and agrees that 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.
10. Oliver Wind understands and agrees that reclamation and clean up along the right-of-way must be continuous and coordinated with construction.
11. Oliver Wind 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.
12. Oliver Wind understands and agrees that its obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission line.
13. Attached is a document entitled Tree and Shrub Mitigation Specifications. Oliver Wind agrees to comply with the Tree and Shrub Mitigation Specifications from this attachment that the Commission requires in its Order.
14. Oliver Wind agrees to work with landowners and residents to mitigate any increase in television and residential radio interference that results from the route of the transmission line.
15. Oliver Wind understands and agrees that it must obtain approval from the Commission prior to any changes in the facility route or structure locations.
16. Oliver Wind agrees to provide the Commission, within 3 months of the Commission's order approving a corridor, a map of the corridor as approved (in both paper and electronic form) and an electronic version of the corridor as approved that can be imported into ESRI GIS mapping software.

17. Oliver Wind agrees to provide the Commission, within 3 months of the completion of the construction, a copy of the facility alignment drawings with alignment data showing the facility as built (in both paper and electronic form) and an electronic version of the as-built facility that can be imported into ESRI GIS mapping software. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
18. Oliver Wind understands and agrees that the authorizations granted by the corridor certificate and route permit are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

Dated this 21st day of October, 2010.

Oliver Wind III, LLC

By 
Its Vice President

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

OLIVER WIND III, LLC
230 kV Transmission Line – Oliver & Morton Counties
Siting Application

Case No. PU-09-724

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).

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Certificate of Site Compatibility for a Transmission Facility Corridor

Certificate Number 117

This is to certify that the Commission has designated a transmission facility corridor for Oliver Wind III, LLC, for the construction of approximately 9.5 miles of 230 kV electric transmission line and associated facilities in Oliver and Morton Counties of North Dakota.

This certificate is issued in accordance with the Order of this Commission dated April 20, 2011 in Case No. PU-09-724 and is subject to the conditions and limitations noted in the Order.

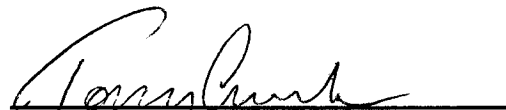
Bismarck, North Dakota, April 20, 2011.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Route Permit

Permit Number 127

This is to certify that the Commission has designated a transmission facility route for Oliver Wind III, LLC for the construction of approximately 9.5 miles of 230 kV electric transmission line and associated facilities in Oliver and Morton Counties of North Dakota.


This certificate is issued in accordance with the Order of this Commission dated April 20, 2011 in Case No. PU-09-724 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, April 20, 2011.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner