

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

**Hiland Operating, LLC  
6-Inch Natural Gas Liquids Pipeline  
Siting Application**

**Case No. PU-10-554**

**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 4<sup>th</sup> day of **November, 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:

**Order**

and an original of:

**Certificate of Corridor Compatibility Number 125  
Route Permit Number 134**

The envelope was addressed as follows:

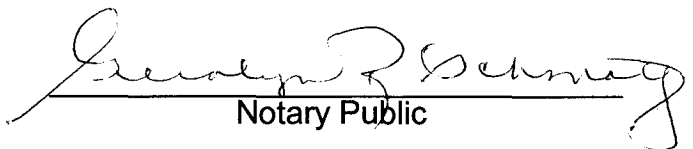
Mollie Smith  
Fredrikson & Byron  
200 North Third Street, Suite 150  
Bismarck ND 58501

**Cert. No. 7010 3090 0002 4629 4096**

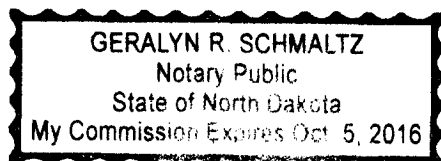
Each address shown is the respective addressee's last reasonably ascertainable post office address.



Subscribed and sworn to before me  
this 4<sup>th</sup> day of **November, 2011**.

  
Notary Public

SEAL



**47** **PU-10-554** Filed: 11/4/2011 Pages: 20  
**Affidavit of Service cert. mail - Order**

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Hiland Operating, LLC  
6-Inch Natural Gas Liquids Pipeline  
Siting Application**

**Case No. PU-10-554**

**ORDER**

**November 2, 2011**

The evidence of record has been considered and appraised.

The Commission Orders:

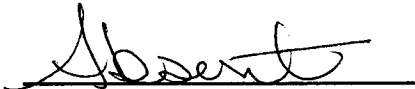
1. The Hearing Officer's October 31, 2011 Recommended Findings of Fact, Conclusions of Law and Recommended Order, a copy of which is attached to this Order and made a part of this Order, is ADOPTED as the Public Service Commission's Findings of Fact, Conclusions of Law and Order.
1. Hiland Operating, LLC's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility No. 125 is issued to Hiland Operating, LLC for the construction, operation and maintenance of the transmission facilities. For purposes of the Certificate, the designated Corridor consists of a 200-foot wide area centered on the pipeline route for the length of the route.
3. Route Permit No. 134 is issued to Hiland Operating, LLC for the construction, operation and maintenance of a 14.1 mile, 6-inch natural gas liquids pipeline and associated facilities in McKenzie County, North Dakota.
4. The October 16, 2011 Certification Relating to Order Provisions – Transmission Facility Siting (Certification), with accompanying Tree and Shrub Mitigation Specifications, is incorporated by reference and attached to this Order.

5. To the extent there are any conflicts or inconsistencies between Hiland Operating, LLC's Application and the October 16, 2011 Certification, the Certification provisions control.

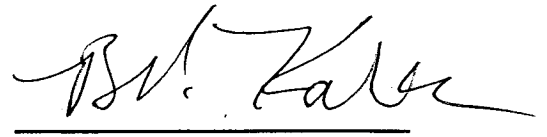
**PUBLIC SERVICE COMMISSION**



**Kevin Cramer  
Commissioner**



**Tony Clark  
Chairman**



**Brian P. Kalk  
Commissioner**

**RECEIVED**

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

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**PUBLIC SERVICE COMMISSION**

**Hiland Operating, LLC  
Natural Gas Liquids Pipeline – McKenzie County  
Siting Application**

**Case No. PU-10-554  
OAH File No. 20110324**

**RECOMMENDED FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND RECOMMENDED ORDER**

**October 31, 2011**

**Appearances**

Allen C. Hoberg, Administrative Law Judge, Substantive Hearing Officer, Office of Administrative Hearings, 2911 North 14th Street – Suite 303, Bismarck, ND 58503.

Mollie M. Smith, Attorney-at-Law, Fredrikson & Byron, P.A., 200 North Third Street, Suite 150, Bismarck, North Dakota 58501, on behalf of Hiland Operating, LLC.

Mitchell D. Armstrong, Special Assistant Attorney General, Legal Counsel for the North Dakota Public Service Commission.

Patrick Fahn, Director – Compliance and Competitive Markets Division, Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505.

**Preliminary Statement**

Under North Dakota Century Code, Section 49-22-07, a utility may not begin construction of a transmission facility in the state without first having obtained a route permit. The facility must be constructed, operated, and maintained in conformity with the permit and any terms, conditions, or modifications of the permit.

On July 12, 2011, Hiland Operating, LLC (“Hiland Operating”), filed with the North Dakota Public Service Commission (“Commission”) a consolidated application for a Certificate of Corridor Compatibility and Route Permit (“Application”) to authorize construction of a natural gas liquids (“NGLs”) pipeline project (“Project”) in McKenzie County, North Dakota. Hiland Operating also filed an application requesting waiver of the following procedures and time schedules: (1) separate hearings on Hiland Operating’s waiver request, Certificate of Corridor Compatibility application and Route Permit application; (2) separately filed applications for a Corridor Certificate and a Route Permit, and separate publication of notices of

filing the applications; and (3) the submission of mylar maps and stereo-pair aerial photographs, per the Commission's Application Guidelines for a Corridor Certificate and a Route Permit.

On August 10, 2011, the Commission approved a motion to request appointment of an Administrative Law Judge to preside as a substantive hearing officer ("Hearing Officer"). On August 17, 2011, Administrative Law Judge Allen C. Hoberg was designated as Hearing Officer.

On September 1, 2011, the Hearing Officer issued a Notice of Filings and Notice of Hearing stating that the Application was deemed complete and scheduling a public hearing for November 21, 2011, at 10:00 a.m. CST (9:00 a.m. MST) at the McKenzie County Court House, 201 5th Street NW, Watford City, North Dakota.

On September 20, 2011, the Hearing Officer issued a Notice of Filings and Notice of Rescheduled Hearing rescheduling the public hearing for October 24, 2011, at 10:00 a.m. CST (9:00 a.m. MST) at the McKenzie County Court House, 201 5<sup>th</sup> Street NW, Watford City, North Dakota.

The Notice of Filings and Notice of Rescheduled Hearing identified the following issues to be considered with respect to the application for waiver of procedures and time schedules:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects and that adherence to applicable procedures and time schedules may be waived?
2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

The Notice of Filings and Notice of Rescheduled Hearing identified the following issues to be considered with respect to the applications for a certificate of corridor compatibility and route permit:

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?

On October 24, 2011, 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 Hearing Officer makes the following:

## Findings of Fact

1. Hiland Operating is a Delaware limited liability company, that is headquartered in Enid, Oklahoma.
2. Hiland Operating has been authorized to do business in the State of North Dakota since January 5, 2005, as evidenced by the Certificate of Good Standing issued by the North Dakota Secretary of State on October 26, 2010, and the testimony presented by Hiland Operating at the public hearing.

### Size, Type, and Preferred Location of Facility

3. The Project will consist of an approximately 14.1-mile long underground pipeline that will transport NGLs.
4. The Project will extend from the Hiland Operating Watford City natural gas processing plant ("Hiland Operating Plant") to the Hiland Operating rail loading facility ("Hiland Operating Rail Terminal") located next to the Yellowstone Valley Railroad line. The Project will be located entirely in McKenzie County, North Dakota. The estimated cost of the project is \$4,000,000.
5. The Project will use a 6-inch steel pipe and the maximum allowable operating pressure will be 740 pounds per square inch gauge. The pipeline will have a maximum capacity of 600 gallons per minute or 864,000 gallons per day.
6. Surface facilities installed as part of the Project will include: product pumps; a "pig" launcher and receiver; block valves; pressure and flow controllers; isolation valves; main line valve settings; rectifiers and test stations associated with the cathodic protection system; and pipeline markers.
7. The eastern 5.1 miles of the Project will be located adjacent to Hiland Operating's existing 8-inch natural gas pipeline permitted by the Commission in Case No. PU-10-555.

### Need for the Facility

8. Hiland Operating has concluded that there is a need for the facility because large quantities of natural gas produced in northwestern North Dakota are being flared due to insufficient infrastructure to facilitate transportation of marketable natural gas by-products, such as NGLs, to market. The Project will provide a safe, efficient means of transporting NGLs from the Hiland Operating Plant to the Hiland Operating Rail Terminal, which will facilitate transportation of the NGLs to markets served by the rail system both within and outside of North Dakota.

### Study of Preferred Route(s)

9. In its Application, Hiland Operating conducted record searches and database reviews for a two-mile wide study area. Hiland Operating then conducted field surveys for Federal and State parks, protected and sensitive plant and animal species, and civil and social structures (e.g.,

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recreational areas, rural homes, farmsteads) within a one-mile wide survey area. For the purpose of conducting cultural resource field surveys, Hiland Operating identified an approximately 250-foot wide survey corridor.

10. Hiland Operating analyzed a number of alternatives and factors, including engineering, economic, and environmental factors to determine the most feasible route. The potential alternatives considered included a no action alternative, an alternative pipeline design and size, and an alternative destination.

11. Hiland Operating consulted with the following governmental agencies and entities: United States Army Corps of Engineers ("USACE"); United States Fish and Wildlife Service ("USFWS"); North Dakota Department of Transportation; North Dakota Game and Fish Department; North Dakota State Water Commission; North Dakota Parks & Recreation Department; North Dakota Department of Health; State Historical Society of North Dakota, State Historic Preservation Office ("SHPO"); Lower Yellowstone Project Board of Control; and McKenzie County.

12. Hiland Operating conducted Class I literature searches on a two-mile wide study area, and Class III cultural resource inventories were completed on a 250-foot wide survey corridor. Additionally, environmental data collected included information on soils, land use, wetlands and waterbody crossings, trees and shrubs and protected species.

13. The SHPO has concurred with the determination that no historic properties will be affected by the Project provided the Project remains in the surveyed area identified in the Class III Cultural Resources Inventory reports and Hiland Operating follows the recommendations set forth in the June, 2011 Class III Cultural Resources Inventory report and attached to the SHPO's July 28, 2011, concurrence letter provided as Exhibit 5.

14. The Commission has established criteria pursuant to North Dakota Century Code Section 49-22-05.1 to guide the Commission in evaluating the suitability of granting an application for a Certificate of Corridor Compatibility and Route Permit. The criteria, as set forth in North Dakota Administrative Code Section 69-06-08-02, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria.

15. A transmission facility route must not be sited within an Exclusion Area. One type of Exclusion Area, federally protected plant species known as *Townsendia exscapa* and *Townsendia hookeri*, is located within the study area; however, the protected plant species will not be crossed by the route. One area of the plant species is within the proposed construction zone, but the area will be marked and will be bored under to avoid impacts to the plant species.

16. A transmission facility route must not be sited within an Avoidance Area unless the applicant shows that under the circumstances there are no reasonable alternatives. In determining whether an Avoidance Area shall be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. Three types of Avoidance Areas are located within the study area: cultural resources; designated or registered state management areas; and residences.

17. Seven cultural resource sites were identified within the 250-foot wide survey corridor. One of the cultural resource sites was determined not to be eligible for the National Register of Historic Places ("NRHP"), and no avoidance or mitigation is necessary. With respect to two of the cultural resource sites, a Route was selected that avoids the sites, the construction right-of-way ("ROW") will be narrowed to 25 feet in order to avoid the areas by approximately 100 feet, the site boundaries will be fenced, and the sites will be monitored by an archaeologist during construction. One site is recommended ineligible for NRHP-listing and is avoided by the Route. One cultural resource site has already been disturbed and the Route will stay within the inventoried area north of Hiland Operating's existing 8-inch natural gas pipeline to avoid impacting the site. The two remaining cultural resource sites (the Northern Pacific Railroad and the Lower Yellowstone Irrigation Canal System) will be bored under so as to avoid impacting the sites.

17. Three Wildlife Management Areas ("WMAs") are located within the study corridor: the Overlook WMA, the Trenton WMA and the Sullivan WMA. None of the WMAs will be crossed by the proposed route.

18. Six occupied residences and two abandoned residences are within 500 feet of the route. Hiland Operating has obtained written waivers of the avoidance area criterion from the owners of each of the occupied residences that are within 500 feet of the route. Hiland Operating provided evidence demonstrating that the abandoned residences are not occupied.

19. In accordance with the Commission's Selection Criteria, a transmission route shall be approved if it is demonstrated that any significant adverse impacts that will result from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum or managed and maintained at an acceptable minimum. Hiland Operating has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria. The Project will have no significant adverse impacts on the Commission's Selection Criteria.

20. Wetland surveys were completed along the proposed route. Wetlands are present within the corridor, but wetlands and waterbodies will be avoided by the route to the extent practicable. If avoidance is not possible, Hiland Operating will take steps to protect wetlands and waterbodies. Small amounts of woodlands, generally shelter belts, are present within the corridor, and have been avoided by the route to the extent practicable. An inventory of trees and shrubs that would be affected by the Project has been completed, and trees and shrubs will be replaced in accordance with the Commission's tree and shrub mitigation specifications.

21. The Project may result in temporary displacement of wildlife, due to clearing and construction, but impacts are expected to be temporary and minimal. The Project will have no

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significant impact on fish and wildlife resources and no impacts are anticipated to endangered, threatened or sensitive plant or animal species.

22. The USFWS comments focused on threatened and endangered species, candidate species, migratory birds, bald and golden eagles, and high value habitat avoidance. With the exception of the USFWS's recommendation to obtain an Incidental Take Permit, Hiland Operating testified that it will comply with the USFWS's recommendations found in Exhibit 6. Hiland Operating also testified that an incidental take is not anticipated.

23. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility. Hiland Operating has analyzed the relevant Policy Criteria and has expressly committed to designing, constructing and operating the pipeline in accordance with all applicable federal, state and local laws and regulations; energy conservation through the facility's location, process and design; training and utilizing available labor in the state; constructing the Project to take advantage of economies of scale; achieving transmission capacity in the most minimally intrusive and most efficient way possible; and coordinating with state and local officials. Hiland Operating submitted evidence to demonstrate commitment to maximize the benefits of the proposed transmission facility as far as is possible so as to meet the Policy Criteria.

24. It is appropriate to authorize a corridor only for the area for which Hiland Operating performed the more thorough cultural resource study.

#### Measures to Minimize Impact

25. Hiland Operating has agreed to a number of steps to mitigate the impact of the Project, as indicated by the October 16, 2011 Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications.

26. The Project's temporary construction ROW will be 125 feet wide. The construction ROW will be reduced to 50 feet wide in wooded areas. Hiland Operating will use existing public roads to access the ROW, so no permanent road modifications or construction is anticipated. Temporary access roads may be required. The Project's permanent ROW will be 100 feet wide.

27. The design, construction and operation of the pipeline will be in accordance with the United States Department of Transportation ("DOT") regulations governing the transportation of NGLs, as prescribed under 49 CFR Parts 194 and 195.

28. Hiland Operating will use environmental inspectors during construction.

29. Hiland Operating testified it has prepared an Emergency Response Plan, and the plan has been submitted to and approved by the DOT Pipeline and Hazardous Materials Safety Administration.

From the foregoing Findings of Fact, the Hearing Officer issues the following:

## **Conclusions of Law**

1. The Commission has jurisdiction over the applicant, Hiland Operating, LLC, and over the subject matter of this application under North Dakota Century Code Chapter 49-22.
2. Hiland Operating is a utility as defined in North Dakota Century Code Section 49-22-03(13).
3. The proposed pipeline is a transmission facility as defined in North Dakota Century Code Section 49-22-03(12).
4. The location, construction, and operation of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The location, construction and operation of the Project are compatible with environmental preservation and the efficient use of resources.
6. The Project 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.
7. The Project is of such design and location that it will produce minimal adverse effects, in accordance with North Dakota Century Code Section 49-22-07.2.
8. It is appropriate for the Commission to waive those certain procedures and time schedules as requested in the Application and provided under North Dakota Century Code Section 49-22-07.2.

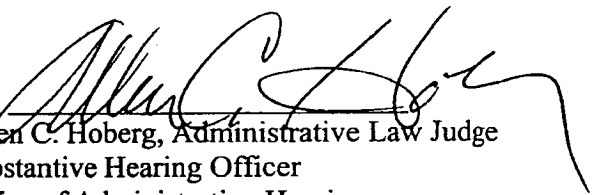
From the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer issues the following:

### **Order**

1. That Hiland Operating, LLC's application for a waiver of procedures and time schedules be granted.
2. That a Certificate of Corridor Compatibility be issued to Hiland Operating, LLC, designating a corridor for the construction, operation, and maintenance of the proposed pipeline. For purposes of the Certificate, the Corridor will consist of a 200-foot wide area centered on the pipeline route for the length of the route.
3. That a Route Permit be issued to Hiland Operating, LLC, granting authority to construct and operate a 6-inch natural gas liquids pipeline and associated facilities in McKenzie County, North Dakota.
4. That the October 16, 2011, Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, be incorporated by reference and attached to the Order issued by the Commission.

5. That, to the extent there are any conflicts or inconsistencies between the Application and the certification provisions, the certification provisions control.

State of North Dakota  
Public Service Commission

By:   
Allen C. Hoberg, Administrative Law Judge  
Substantive Hearing Officer  
Office of Administrative Hearings  
2911 North 14th Street — Suite 303  
Bismarck, North Dakota 58503  
Telephone: (701) 328-3200

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

**Certificate of Corridor Compatibility Number 125**

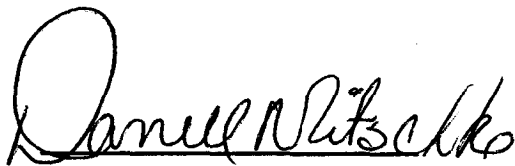
*This is to certify that the Commission has designated a transmission facility corridor for Hiland Operating, LLC, for the construction of a 14.1 mile, 6-inch pipeline and associated facilities in McKenzie County, North Dakota, for the transmission of natural gas liquids.*

*This certificate is issued in accordance with the Order of this Commission dated November 2, 2011 in Case No. PU-10-554 and is subject to the conditions and limitations noted in the Order.*

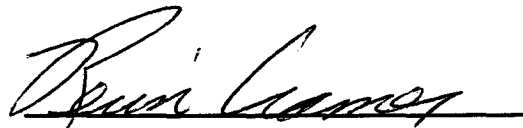
*Bismarck, North Dakota, November 2, 2011.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**



**Executive Secretary**



**Commissioner**

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Route Permit Number 134**

*This is to certify that the Commission has designated a transmission facility route for Hiland Operating, LLC for the construction of a 14.1 mile, 6-inch pipeline and associated facilities in McKenzie County, North Dakota, for the transmission of natural gas liquids.*

*This certificate is issued in accordance with the Order of this Commission dated November 2, 2011 in Case No. PU-10-554 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, November 2, 2011.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

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

**Hiland Operating, LLC**  
**6-Inch Natural Gas Liquids Pipeline**  
**Siting Application**

**Case No. PU-10-554**

**CERTIFICATION RELATING TO ORDER PROVISIONS**  
**TRANSMISSION FACILITY SITING**

I am MIKE HIGGINS, a representative of Hiland Operating, LLC ("Hiland") with authority to bind Hiland to requirements to be set forth by the Commission in its Order and I certify the following:

1. Hiland understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be 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 Hiland shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Hiland agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Hiland representative, its construction supervisor, and a representative of Commission Staff, to ensure that Hiland fully understands the conditions set forth in the Commission's order.
3. Hiland agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
4. Hiland understands and 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 transmission facility that requires said license or permit.
5. Hiland agrees to inform the Commission of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Hiland shall keep the Commission updated on construction activities on a weekly basis.
6. Hiland understands and agrees that the pipeline will be buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in range land, 48 inches for cultivated land, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines.
7. Hiland understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission 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.

8. Hiland agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
9. Hiland agrees to construct and operate the transmission facility in the manner described in Hiland's application, in any late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.
10. Hiland agrees to report promptly to the Commission the presence in the permit area of any critical habitat or threatened species, endangered species, bald eagles, or golden eagles of which Hiland becomes aware and which were not previously reported to the Commission.
11. Hiland understands and agrees 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.
12. Hiland 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.
13. Hiland understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Hiland to open cut the road.
14. Hiland 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 transmission 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.
15. Hiland 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. Hiland understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be stripped and segregated from the subsoil. Except along segments of the line using the double ditching method, any area on which excavated subsoil will be placed must also be stripped of topsoil. After backfilling is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.

17. Hiland 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.
18. Hiland understands and agrees that its obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission facility.
19. Hiland understands and agrees that its obligation for reclamation and maintenance of the transmission facility, associated facilities, and roadways will continue throughout the life of the transmission facility.
20. Hiland agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
21. Hiland understands and 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 transmission facility.
22. Hiland understands and agrees that it shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
23. Hiland understands and agrees that it shall repair or replace all broken or damaged drainage tile during all phases of construction and operation of the transmission facility.
24. Hiland understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Hiland unless otherwise negotiated with landowners.
25. Hiland understands and 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.
26. Hiland understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission facility, 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.
27. Hiland understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.
28. Hiland understands and agrees that it shall advise the Commission of any extraordinary events which take place at the site of the transmission facility, including injuries to any person, or the death of any threatened or endangered species on the site within five business days of such event.
29. Hiland understands and agrees that it shall implement a procedure for how complaints concerning the transmission facility will be handled by Hiland.
30. Upon request, Hiland agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.

31. Hiland understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility. Hiland understands and agrees to obtain written approval from the Commission prior to any modifications to the site plan or the transmission facility. Approval may be granted after notice and opportunity for hearing.
32. Hiland agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission, and will provide this information within three months of the Commission order approving the corridor. Hiland also agrees to provide an electronic version of the approved corridor that can be imported into ESRI GIS mapping software within 3 months of the Order. 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.
33. Hiland agrees to provide the Commission with both an electronic and a paper copy of the design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within three months of the completion of the construction. Hiland also agrees to provide an electronic version of the as-built facility design specifications that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. 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.
34. Hiland understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for the transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.
35. Hiland understands and agrees that in the event Hiland desires to construct, within any corridor granted by a Certificate of Corridor Compatibility in this proceeding, a transmission facility or energy conversion facility that was not included in Hiland's application in this proceeding, Hiland shall apply to the Commission for a Route Permit or Site Certificate for the facility.
36. Hiland 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, Hiland 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.

37. Hiland understands and agrees that 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.

Dated this 16<sup>th</sup> day of OCTOBER, 2011.

HILAND OPERATING, LLC

By



Its DIVISION OPERATIONS DIRECTOR - BAKKEU

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

**Hiland Operating, LLC**  
**6-Inch Natural Gas Liquids Pipeline**  
**Siting Application**

**Case No. PU-10-554**

**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 or 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).