



Public Service Commission
State of North Dakota

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November 24, 2010

Lawrence Bender
Fredrickson & Byron, P.A.
200 North Third Street, Suite 150
Bismarck, North Dakota 58501-3879

Re: Case No. PU-10-555, Hiland Operating LLC
8-inch Natural Gas Main & Lateral Pipeline, McKenzie County

Mr. Bender,

As I am sure you are aware, a public hearing concerning the above-mentioned combined application is scheduled for Friday, December 10, 2010 at 10 a.m. CST in Watford City, North Dakota. Enclosed with this correspondence is a proposed five page "Certification Relating to Order Provisions – Facility Siting" for your review. Also enclosed is a three page document titled "Tree and Shrub Mitigation Specifications", which is referenced in the Certification. If acceptable please have the Certification signed by the appropriate Hiland representative and present it as an exhibit at the December 10th hearing.

I will be representing the North Dakota Public Service Commission at the December 10th public hearing. Please let me know if you have any questions.

Sincerely,

Mark Gruman
Legal Counsel
North Dakota Public Service Commission

Enc. Proposed Certification Relating to Order Provisions – Facility Siting
Tree and Shrub Mitigation Specifications

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Hiland Operating, LLC
8-in. Nat. Gas Main & Lateral Pipeline – McKenzie Cty
Siting Application

Case No. PU-10-555

CERTIFICATION RELATING TO ORDER PROVISIONS - FACILITY SITING

I am _____, 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 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 Hiland will 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 proposed transmission facility including all city, township, and county zoning regulations.
4. Hiland 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 of construction activities on a weekly basis.
6. Hiland 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 rangeland, 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 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.

8. Hiland 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.
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 that Hiland becomes aware of and which were not previously reported to the Commission.
11. Hiland 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.
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 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 its obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the pipeline.
18. Hiland understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise approved by the Commission.
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. Attached is a document titled Tree and Shrub Mitigation Specifications. Hiland 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. Hiland agrees that staging areas or equipment shall not be located on land owned by somebody other than Hiland unless otherwise negotiated with landowners.
22. Hiland 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.
23. Hiland agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.
24. Hiland agrees that it shall advise the Commission of any extraordinary events which take place at the site of the transmission facility, including but not limited to injured workers or private individuals, 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.

25. Hiland agrees that it shall implement a procedure for how complaints concerning the proposed transmission facility will be handled by Hiland.
26. Hiland agrees to provide the Commission with engineering design drawings showing surveyed structure 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 transmission facility.
27. 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.
28. Hiland understands and agrees that the authorizations granted by the Certificate of Site Compatibility for the transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

29. Hiland agrees to 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. Any additions or modifications to the site plan for the transmission facility must be approved in writing by the Commission or Commission staff. Approval may be granted after notice and opportunity for hearing.

Dated this ____ day of _____, 2010.

HILAND ENERGY, LLC

By _____

Its _____

State of North Dakota

Public Service Commission

**Hiland Operating, LLC
8-In. Nat. Gas Main & Lateral Pipeline – McKenzie Cty
Siting Application**

Case No. PU-10-555

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).