

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Hiland Operating, LLC
8-Inch Natural Gas Main & Lateral Pipeline
Siting Application**

Case No. PU-10-555

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

December 30, 2010

Appearances

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

Lawrence Bender, Attorney-at-Law, Fredrikson & Byron, P.A., 200 North Third Street, Suite 150, Bismarck, North Dakota 58501, on behalf of Hiland Operating, LLC (Hiland Operating).

Mark Gruman, Legal Counsel, Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Patrick Fahn, Director - Compliance and Competitive Markets Division, Public Service Commission, State Capitol, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

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

Preliminary Statement

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

On October 13, 2010, Hiland Operating filed with the Public Service Commission (Commission) an application for a certificate of corridor compatibility and an application for a route permit to authorize construction of a natural gas pipeline (Project) approximately five miles north of Cartwright, North Dakota, all in McKenzie County, North Dakota.

Hiland Operating also requests that the Commission waive the following requirements: (1) that the Commission hold a separate hearing on Hiland Operating's waiver request, Certificate of Corridor Compatibility application and Route Permit

application; and (2) separately filed applications for a Corridor Certificate and a Route Permit, and separate publication of notices of filing the applications.

On November 2, 2010, the Commission deemed the application of Hiland Operating complete and issued a Notice of Filing and Notice of Hearing scheduling a hearing for December 10, 2010, at 10:00 am at the McKenzie County Court House, 201 5th Street NW, Watford City, North Dakota.

The Notice of Hearing identified the following issues to be considered:

1. Will the location, construction, and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On December 10, 2010, Hiland Operating filed its Certification Relating to Order Provisions binding Hiland Operating to requirements to be set forth by the Commission in its Order.

On December 10, 2010, 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. 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 a Certificate of Good Standing issued by the North Dakota Secretary of State on October 26, 2010.

Size, Type, and Preferred Location of Facility

3. The Project will consist of an approximately 5.1-mile lone underground main line and 1,500-foot lateral line that will transport pipeline quality natural gas. Pipeline quality gas was specified on the record to be end-use consumer-quality natural gas.

4. The approximately 5.1-mile-long main line will originate at the Hiland Operating Plant four miles north and eight miles east of Cartwright, North Dakota, and will terminate at and interconnect to Northern Border's transmission pipeline at the Hiland Partners-Northern Border Tap Site, approximately five miles north of Cartwright, North Dakota. The approximately 1,500-foot-long lateral line will extend off of the Project main line and interconnect to the Williston Basin Interstate Pipeline (WBI) transmission pipeline at a point approximately one-half mile from the Project main line's point of termination at the Northern Border transmission pipeline.

5. Both the main line and the lateral line will utilize 8-inch steel pipe and the maximum allowable operating pressure will be 1625 pounds per square inch. The pipeline will have a maximum capacity of 70 million standard cubic feet per stream day with a typical operating flow of volume of 10 to 50 million standard cubic feet per day.

6. Surface facilities installed as part of the Project will include pipeline markers, rectifiers, pig launchers and receivers, and block valves. Some small fenced-in enclosures to house associated power and control systems may be installed to allow valves to be operated remotely.

Need for the Facility

7. Hiland Operating has concluded there is a need for the facility because large quantities of natural gas produced in northwestern North Dakota must be flared due to insufficient natural gas processing and transmission facilities. The Project will provide needed capacity to transport increased production of Bakken and Three Forks natural gas, processed by the soon to be completed Hiland Operating Plant, to two markets: (1) local markets via interconnection with WBI's transmission system; and (2) markets in eastern Illinois and western Indiana via interconnection with Northern Border's transmission system.

Study of Preferred Location(s)

8. The Project right-of-way ("ROW") will generally be 125 feet wide.

9. Hiland Operating analyzed a number of alternatives and factors, including engineering, economic, and environmental factors to determine the most feasible site location. The factors considered an alternative destination, alternative routing, alternative pipeline capacity.

10. Hiland Operating conducted studies of a buffer area approximately one (1) mile wide centered on the preferred Project route. Hiland Operating consulted with various governmental entities as follows:

- a. A Class I Literature Search was completed in a 1-mile wide study area centered on the preferred pipeline route, and a Class III Cultural Resource Inventory was completed across a 200 foot wide area centered on the preferred pipeline route.
 - b. Consultations were made with the State Historical Society of North Dakota, State Historic Preservation Office (SHPO); the North Dakota Parks & Recreation Department; the North Dakota Game and Fish Department; the North Dakota Department of Health; and the U.S. Fish and Wildlife Service (USFWS).
 - c. Other environmental data that was collected included information on soils, land use, wetland and water body crossings, and protected species.
11. The State Historic Preservation Officer has concurred with the determination that no historic properties will be affected by the Project.
 12. The North Dakota Department of Health indicated that it believes the environmental impacts from the Project will be minor.
 13. United States Fish and Wildlife Service comments focused on threatened and endangered species, migratory birds, bald and golden eagles, and high value habitat avoidance.
 14. The Commission has established criteria pursuant to North Dakota Century Code section 49-22-05.1, to be used in identifying exclusion and avoidance areas and to guide the site, corridor, and route suitability evaluation and designation process. In addition, inhabited rural residences must be designated avoidance areas. The Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria are set forth in North Dakota Administrative Code section 69-06-08-01.
 15. With the exception of prime and unique farm land, an energy conversion facility must not be sited within an Exclusion Area. The exception for prime and unique farm land under North Dakota Administrative Code section 69-06-08-01 (d) is if the Commission finds that the prime farm and unique farm land that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural production, then such exclusion shall not apply. One exclusion area was identified within the corridor, i.e., a previously identified archeological site registered with the SHPO located at the very edge of the corridor. The site is not within the route and will not be impacted by construction activities.
 16. An energy conversion facility must not be sited within an Avoidance Area unless the applicant shows that under the circumstances there is no reasonable alternative. Three avoidance areas are located within the corridor: residences; a new, unregistered historical resource; and irrigated land. Residences are present within the corridor; however, none of the residences, nor any schools or businesses, are within 500 feet of the route. One new, unregistered archeological find, a stone scraper, was identified within the corridor and adjacent to the route. The archeological find is classified as

insignificant and the site has been determined not to be eligible for listing with the National Register of Historic Places.

17. Wetlands are not present within the corridor and will not be crossed by the route. Wooded draws are present within the corridor, but have been avoided by the route. A few shrubs and trees may be removed, and an inventory of shrubs and small trees that would be affected by the Project has been completed.

18. The Project may result in wildlife habitat removal, due to clearing and construction. The Project will have no significant impact on fish and wildlife resources and no impacts are anticipated to endangered, threatened or sensitive plant or animal species.

19. In accordance with the Commission's Selection Criteria, an energy conversion facility shall be approved only if it is demonstrated that no significant adverse impacts will result from the location, construction, and operation of the facility. 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. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the energy conversion facility. Bear Paw has analyzed the relevant policy criteria and expressly committed to conducting its business in compliance with all applicable environmental laws and regulations; committing to energy conservation through the plant's location, process, and design; training and utilizing available labor in the state; constructing the project to take advantage of economies of scale; achieving production 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 energy conversion facility as far as is possible so as to meet the Policy Criteria.

Measures to Minimize Impact

21. Hiland Operating has agreed to a number of steps to mitigate the impact of the project as indicated by the December 9, 2010 Certification Relating to Order Provisions – Facility Siting with accompanying Tree and Shrub Mitigation Specifications, which is attached to this order.

22. The 125 feet wide Project ROW will provide room for topsoil separation, work equipment and pipe stringing. This ROW will consist of both a permanent easement and temporary workspace that will be utilized only during construction and includes material staging areas and temporary access roads. Hiland Operating will temporarily use property at the Hiland Operating Plant location as a contractor staging and pipe storage area.

23. Hiland Operating will utilize the double ditching method of trenching when installing the pipeline.
24. 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 natural gas, as prescribed under 49 CFR Part 192.
25. Hiland Operating will implement a preventative maintenance program that meets or exceeds the minimum federal safety standards set by the DOT Pipeline and Hazardous Materials Safety Administration.
26. One parcel of irrigated land is present within the corridor and is crossed by the route. While irrigated land is not considered an exclusion area for underground transmission facilities, such as the Project, Hiland Operating has taken steps to avoid impacts to the irrigation system on the parcel, such as placing the route along the edge of the parcel.
27. It is appropriate to authorize a corridor only for the area for which Hiland Operating performed the more thorough cultural resource study.

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

Conclusions of Law

1. The Commission has jurisdiction over Hiland Operating, LLC and over the subject matter of this application under North Dakota Century Code Chapter 49-22.
2. Hiland Operating, LLC is a utility as defined in North Dakota Century Code Section 49-22-03(13).
3. The pipeline facility proposed by Hiland Operating, LLC is a transmission facility as defined in North Dakota Century Code § 49-22-03(5).
4. The location, construction, and operation of the proposed transmission facility will produce only minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The location, construction and operation of the proposed transmission facility is compatible with environmental preservation and the efficient use of resources.
6. The proposed transmission facility will minimize adverse human and environmental impact, while ensuring continuing system reliability and integrity, and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

7. The proposed transmission facility is of such design and location that it will produce minimal adverse effects, as defined under 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 Commission now issues its:

Order

The Commission orders:

1. Hiland Operating, LLC's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility Number 116 is 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 consists of a 200 foot wide area centered on the pipeline route for the length of the route.
3. Route Permit Number 126 is issued to Hiland Operating, LLC granting authority to construct and operate an 8-inch natural gas pipeline in McKenzie County.
3. The December 9, 2010 Certification Relating to Order Provisions – Facility Siting is incorporated by reference and attached to this order.

PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner



Kevin Cramer
Chairman



Brian P. Kalk
Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Certificate of Corridor Compatibility

Certificate Number 116

This is to certify that the Commission has designated a transmission facility corridor for Hiland Operating, LLC for the construction of an 8-inch pipeline in McKenzie County, North Dakota for the transmission of end-use consumer-quality gas.

This certificate is issued in accordance with the Order of this Commission dated December 30, 2010 in Case No. PU-10-555 and is subject to the conditions and limitations noted in the Order.

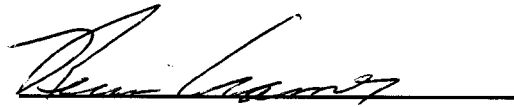
Bismarck, North Dakota, December 30, 2010.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Route Permit

Permit Number 126

This is to certify that the Commission has designated a transmission facility route for Hiland Operating, LLC for the construction of an 8-inch pipeline in McKenzie County, North Dakota for the transmission of end-use consumer-quality gas.

This certificate is issued in accordance with the Order of this Commission dated December 30, 2010 in Case No. PU-10-555 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, December 30, 2010.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

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

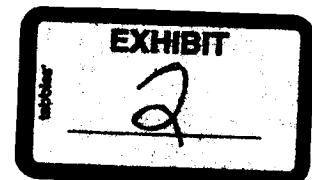
CERTIFICATION RELATING TO ORDER PROVISIONS - FACILITY SITING

I am Kent Christopher, son 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

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Exhibit 2

Hiland Operating, LLC



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 by the State Historical Society, a report of such examination is filed with the Commission, 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 specified by the landowner and 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 to work with landowners and residents to mitigate any increase in television and residential radio interference that results from the route of the pipeline.
22. Hiland agrees that staging areas or equipment shall not be located on land owned by somebody other than Hiland unless otherwise negotiated with landowners.
23. 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.
24. Hiland agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.
25. 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

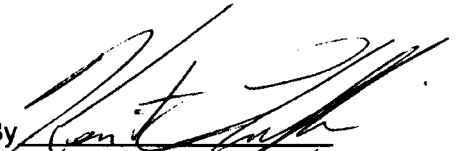
workers or private individuals, the death of any threatened or endangered species, or the discovery of a large number of dead birds or bats on the site within five business days of such event.

26. Hiland agrees that it shall implement a procedure for how complaints concerning the proposed transmission facility will be handled by Hiland.
27. 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.
28. 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.
29. 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.

30. 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 9th day of December, 2010.

HILAND OPERATING, LLC

By 
Kent Christopherson

Its Vice President, Chief Operating Officer

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).