

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

**Bear Paw Energy, LLC**  
**Garden Creek Plant – Gas Processing – McKenzie Cty**  
**Siting Application**

**Case No. PU-10-568**

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

I am Craig A. Forsandera representative of Bear Paw Energy, LLC (Bear Paw) with authority to bind Bear Paw to requirements to be set forth by the Commission in its Order and I certify the following:

1. Bear Paw 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 Bear Paw will be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Bear Paw agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Bear Paw representative, its construction supervisor, and a representative of Commission Staff, to ensure that Bear Paw fully understands the conditions set forth in the Commission's order.
3. Bear Paw agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed energy conversion facility/expansion including all city, township, and county zoning regulations.
4. Bear Paw agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the energy conversion facility/expansion that requires said license or permit.
5. Bear Paw understands and agrees that the Certificate of Site Compatibility is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
6. Bear Paw agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order and the Certificate of Site Compatibility, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.

7. Bear Paw agrees to inform the Commission of its intent to start construction on the energy conversion facility/expansion prior to the commencement of construction. Once construction has started, Bear Paw shall keep the Commission updated of construction activities on a weekly basis.
8. Bear Paw agrees to construct and operate the energy conversion facility/expansion in the manner described in Bear Paw's application, in any late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.
9. Bear Paw 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 Bear Paw becomes aware of and which were not previously reported to the Commission.
10. Bear Paw understands that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area.
11. Bear Paw understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made by the State Historical Society, a report of such examination is filed with the Commission, and clearance to proceed is given by the Commission.
12. Bear Paw understands and agrees that any underground piping or electric line crossings of graded roads shall be bored unless the responsible governing agency specifically permits Bear Paw to open cut the road.
13. Bear Paw understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the energy conversion facility/expansion and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.
14. Bear Paw 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.
15. During construction, at least 12 inches of topsoil, where available (or topsoil to the depth of cultivation, whichever is greater), over and along areas where facilities will be placed must be stripped and segregated from subsoil. Any area on which

excavated subsoil will be placed must first be stripped of topsoil. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must not be placed within the footprint of the facilities, and must be placed over areas containing topsoil.

16. Bear Paw 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.
17. Bear Paw understands and agrees that its obligation for reclamation and maintenance of the energy conversion facility site, associated facilities, and roadways will continue throughout the life of the energy conversion facility.
18. Attached is a document titled Tree and Mitigation Specifications. Bear Paw 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.
19. Bear Paw agrees that staging areas or equipment shall not be located on land owned by somebody other than Bear Paw unless otherwise negotiated with landowners.
20. Bear Paw 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.
21. Bear Paw agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility/expansion.
22. Bear Paw agrees that it shall advise the Commission of any extraordinary events which take place at the site of the energy conversion facility/expansion, 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.
23. Bear Paw agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility/expansion will be handled by Bear Paw.
24. Bear Paw 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 energy conversion facility/expansion.

25. Bear Paw agrees to provide the Commission with both an electronic and a paper copy of the design specifications for the construction of the energy conversion facility showing the location of the energy conversion facility as built, and will provide this information within three months of the completion of the construction. Bear Paw 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.
26. Bear Paw understands and agrees that the authorizations granted by the Certificate of Site Compatibility for the energy conversion facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.
27. Bear Paw agrees to inform the Commission in writing of any modifications to the energy conversion facility or of any plans to modify the site plan for the energy conversion facility. Any additions or modifications to the site plan for the energy conversion facility must be approved in writing by the Commission or Commission staff. Approval may be granted after notice and opportunity for hearing.

Dated this 19<sup>th</sup> day of October, 2010.

BEAR PAW ENERGY, LLC

By Craig A. Forsander  
Craig A. Forsander

Its Vice President

