

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

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 **22nd** day of **November, 2010**, 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:

Findings of Fact, Conclusions of Law and Order

an original of:

**Certificate of Site Compatibility for Energy Conversion Facility
Certificate Number 19**

The envelope was addressed as follows:

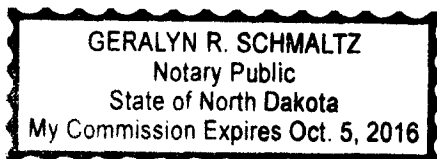
William Delmore
Kelsch Kelsch Ruff & Kranda
PO Box 1266
Mandan ND 58554-7266

Cert. No. 7009 2820 0002 9238 0286

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

Subscribed and sworn to before me
this **22nd** day of **November, 2010**.

SEAL



Cara DeSaye

Geraldine R. Schmaltz
Notary Public

47 **PU-10-568** Filed: 11/22/2010 Pages: 15
**Affidavit of Service Cert. Mail - Findings of Fact,
Conclusions of Law and Order**

**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

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

November 19, 2010

Appearances

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

William J. Delmore, Attorney at Law, Kelsch Kelsch Ruff & Kranda, 103 Collins Avenue, PO Box 1266, Mandan, North Dakota 58554-7266, on behalf of the Applicant, Bear Paw Energy, LLC.

Matthew A. Sagsveen, Assistant Attorney General, 600 East Boulevard, Dept. 125, 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.

Allen C. Hoberg, Office of Administrative Hearings, 1701 North Ninth Street, Bismarck, North Dakota 58501-1882, as Administrative Law Judge.

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 September 10, 2010, Bear Paw Energy, LLC (Bear Paw) filed with the Public Service Commission (Commission) an application for a certificate of site compatibility to authorize construction of a 100 million cubic feet per day gas processing plant (Garden Creek Gas Plant or Plant) located in eastern McKenzie County near Watford City, North Dakota.

On September 22, 2010, the Commission determined the application was complete and issued a Notice of Filing and Notice of Hearing scheduling a public hearing for October 21, 2010 at 10:00 a.m. CDT, in the Watford City Civic Center, 213

2nd Street Northeast, Watford City, North Dakota. The Notice 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 October 21, 2010, Bear Paw filed its Certification Relating to Order Provisions binding Bear Paw to requirements to be set forth by the Commission in its Order.

On October 21, 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. Bear Paw is a Delaware corporation headquartered in Tulsa, Oklahoma. Bear Paw is an indirect, fully-owned subsidiary of ONEOK Partners, L.P., a publicly traded master of limited partnership.
2. Bear Paw has been authorized to do business in the State of North Dakota since January 14, 2000, as evidenced by a Certificate of Good Standing issued by the North Dakota Secretary of State on August 30, 2010.

Size and Type of Facility

3. The Plant will be a 100 million cubic feet per day cryogenic gas processing plant, designed to process Bakken gas currently produced in eastern McKenzie County and southwestern Mountrail County. Raw gas will be gathered through Bear Paw's low pressure gathering system, will be compressed at field compressor stations, and delivered to the Plant at approximately 600 psig. At the Plant, approximately 25,000 barrel per day natural gas liquids (NGLs) will be extracted. The NGLs will be delivered by pipeline to Bear Paw's Riverview Rail Terminal near Sydney, Montana, where the product will be transported by railcar or pipeline to various fractionation facilities. The residue gas vapor will be delivered via Williston Basin Interstate Pipeline to the Northern

Border Pipeline. The Plant will consist of 23,000 horsepower of compression (electric driven), one turbo-expander, two fractionation towers, a hot oil system, three mol sieve dehydration vessels, and other related equipment.

Need for the Facility

4. Bear Paw has concluded there is a need for the facility because the development of hydrocarbon production from the Williston Basin has dramatically increased due to advances in drilling and completion technology for horizontal wells in the Bakken Shale and Three Forks formations in the Williston Basin. While oil production from these wells can be trucked to market, the associated natural gas production must be collected via a gas gathering system. And, even when collected by a gathering system, the gas produced from the Bakken and Three Forks formations does not meet the quality specifications of the major interstate gas pipelines that transport gas from North Dakota to market; instead, in order to move the gas to market the gas must be processed for removal of natural gas liquids (NGLS) prior to delivering the residue gas production into interstate markets. Since June 2009, when the number of rigs operating in North Dakota was less than 40, the number of operating rigs have increased to 142 as of August 2010. The rapid increase in gas production from Bakken and Three Forks wells has exceeded the limited processing capacity available at existing facilities in the region. Absent the construction of additional processing capacity, gas produced in association with oil from these wells must be flared, which is a loss of revenue to the producers, royalty owners, and the state of North Dakota. Gas gathering and processing is a non-discretionary service that is required for the marketing and sale of natural gas produced in association with oil from these wells. As a result the construction of additional processing capacity is required to meet the demand of area producers.

Location and Study of Preferred Site(s)

5. The preferred site is an 80-acre plot located in the S1/2SE1/4, Section 35, Township 151 North, Range 98 West, in McKenzie County.

6. The preferred site is near Watford City but outside of its zoning authority and McKenzie County has no zoning ordinances.

7. Bear Paw analyzed a number of alternatives and factors, including engineering, economic, and environmental factors to determine the most feasible site location. The factors considered a no action alternative, expansion of existing processing facilities, and different locations.

8. Bear Paw conducted studies of the preferred 80-acre project site and a buffer area approximately one (1) mile wide centered on the site. Bear Paw consulted with various governmental entities as follows:

- a. A Wetland Delineation Report and Endangered Species Review and a Class I and Class III Cultural Resource Inventory for the 80 acre site designated for the

Garden Creek Gas Plan, was prepared for Bear Paw by E3 Environmental, LLC, and SWCA Environmental Consultants.

b. Consultations were initiated with the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, U.S. Farm Service Agency, North Dakota Game and Fish Department, Parks and Recreation Department, State Historic Preservation Office, Land Department, and Department of Health.

9. The State Historic Preservation Officer has concurred with the determination that no historic properties will be affected by the Project.

10. The United States Fish and Wildlife Service ("USFWS") has determined that the Project is not likely to result in the taking of any federally listed species and that no further consultation is needed. The North Dakota Game and Fish Department has indicated that it foresees no identifiable conflict with wildlife or wildlife habitat as a result of the Project.

11. 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.

12. 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. There are no exclusion areas within the project area.

13. 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. Bear Paw has indicated that there is an Avoidance Area, a 0.127 acre wetland, within the project site. Bear Paw indicated that the wetland feature exhibited characteristics consistent with a wetland. The site retained evidence of previous re-grading of soil to form a berm at a natural outlet thereby enhancing water retention and creating conditions commonly associated with a wetland. Bear Paw assessed this feature to be an isolated feature and non-jurisdiction to the U.S. Corps of Engineers and below the "de minim" threshold of the State Water Commission. Bear Paw has confirmed this conclusion with the relevant regulatory agencies.

14. 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. Bear Paw 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.

15. 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. Bear Paw 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

16. Bear Paw has agreed to a number of steps to mitigate the impact of the project as indicated in Attachment 1: Certification Relating to Order Provisions – Facility Siting, October 19, 2010.

17. Although there may be some temporary impacts on infrastructure resulting from construction of the Project, those temporary impacts will be offset by the benefits of the construction activities on the local economy. No significant adverse impact is anticipated on the ability of the affected area to provide community services, such as housing, health care, schools, police and fire protection, water and sewer, solid waste management, transportation or public safety.

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

Conclusions of Law

1. The Commission has jurisdiction over Bear Paw Energy, LLC and over the subject matter of this application under North Dakota Century Code Chapter 49-22.
2. Bear Paw Energy, LLC is a utility as defined in North Dakota Century Code Section 49-22-03(13).
3. The energy conversion facility proposed by Bear Paw Energy, LLC is an energy conversion facility as defined in North Dakota Century Code § 49-22-03(5).
4. The location, construction, and operation of the proposed energy conversion 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 energy conversion facility is compatible with environmental preservation and the efficient use of resources.
6. The proposed energy conversion 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 project 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.

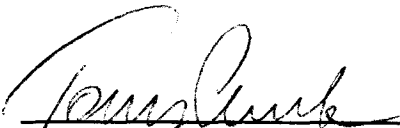
From the foregoing Findings of Fact and Conclusions of Law, the Commission now issues its:

Order

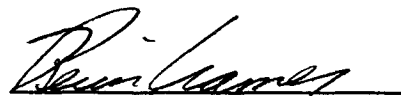
The Commission orders:

1. Bear Paw Energy, LLC's application for a waiver of procedures and time schedules is granted.
2. Certificate of Site Compatibility for Energy Conversion Facility No. 19 is issued to Bear Paw Energy, LLC for the construction, operation and maintenance of the Garden Creek Gas Processing Plant. For purposes of the Certificate, the Site consists of the 80-acre project site.
3. The October 19, 2010 Certification Relating to Order Provisions – Facility Siting is incorporated by reference and attached to this order.

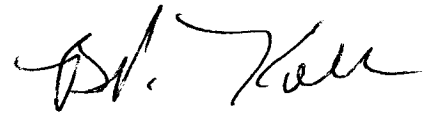
PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner



Kevin Cramer
Chairman



Brian P. Kalk
Commissioner

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 19th day of October, 2010.

BEAR PAW ENERGY, LLC

By Craig A. Forsander
Craig A. Forsander

Its Vice President



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

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).

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Site Compatibility for Energy Conversion Facility

Certificate Number 19

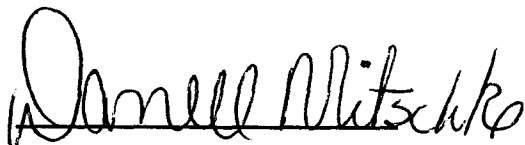
This is to certify that the Commission has designated an energy conversion facility site for Bear Paw Energy, LLC, for the construction of a 100 million cubic feet per day gas processing plant (the Garden Creek Gas Plant) in McKenzie County, North Dakota.

The facility may be sited in this designated location in compliance with the energy conversion facility siting criteria. This certificate is issued in accordance with the Findings of Fact, Conclusion of Law and Order of the Commission in Case No. PU-10-568 dated November 19, 2010 and is subject to the conditions and limitations noted in the order.

Bismarck, North Dakota, November 19, 2010.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner