

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

**Meadowlark Wind I LLC  
New Frontier Wind Energy Project – McHenry County  
Siting Application**

**Case No. PU-11-69**

**ORDER ON TREE AND SHRUB MITIGATION SPECIFICATIONS**

**August 18, 2021**

**Preliminary Statement**

The Commission's April 25, 2012 Findings of Fact, Conclusions of Law and Order (Order) issued Certificate of Site Compatibility No. 29 to Meadowlark Wind I LLC (Meadowlark) for the 102 MW New Frontier Wind Energy Project in McHenry County of North Dakota. Attached to and made part of the Order was a Certification Relating to Order Provisions – Energy Conversion Facility Siting dated December 8, 2011. Attached to the Certification Relating to Order Provisions was the Tree and Shrub Mitigation Specifications for the Project.

On May 10, 2017, the Commission issued its Order of Continuing Suitability for the Project. Attached to and made part of the May 10 Order of Continuing Suitability was the Tree and Shrub Mitigation Specifications for the Project.

On March 13, 2019, the Commission revised its Tree and Shrub Mitigation Specifications to update the process for mitigation reporting.

On March 20, 2020, Meadowlark filed with the Commission its Tree and Shrub Inventory and Mitigation – Replacement Plan.

On April 15, 2020, the Commission approved Meadowlark's Tree and Shrub Inventory and Mitigation – Replacement Plan.

On June 22, 2021, Commission Staff sent a letter to Meadowlark suggesting that Meadowlark Wind may wish to consider complying instead with the March 13, 2019, version of the Tree and Shrub Mitigation Specifications.

On July 21, 2021, Meadowlark responded to the June 22, 2021 Commission Staff letter.

**Discussion**

The Tree and Shrub Mitigation Specifications (Specifications) attached to and made part of the Commission's May 10, 2017 Order of Continuing Suitability required that

two trees be planted for every one tree removed, and that two shrubs be planted for one shrub removed. The Specifications required that tree and shrub replacements be inspected annually, in September, for three years, with the first annual inspection at least one year from the anniversary date of the original plantings. The Specifications further required that a report of each annual inspection be submitted to the Commission by October 1 of each year, documenting the condition of plantings and any woodlands work completed as of September of each year.

As a result of Project construction, 335 trees and 671 shrubs were removed. Meadowlark's Tree and Shrub Inventory and Mitigation – Replacement Plan indicated that 2,595 replacement trees and shrubs would be planted beginning in spring or early summer 2020. Replacement plantings would be inspected annually each year for 3 years in September of 2021, 2022, and 2023. The number and type of each surviving tree or shrub would be recorded.

The Commission's March 13, 2019 Specifications were conceived to be goal or purpose oriented to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefits to landowners, farmers and ranchers, the community, wildlife and the environment. In lieu of annual reporting for three years, the Commission's March 13, 2019 Specifications requires one final report filed by the company after two years that details the company's tree and shrub mitigation efforts and describes how the company's mitigation achieved the purpose stated above.

Since Meadowlark's tree and shrub mitigation plan is only in year 1, Commission Staff suggested that Meadowlark may wish to consider complying instead with the March 13, 2019 version of the Tree and Shrub Mitigation Specifications.

Meadowlark has indicated a desire to comply with the March 13, 2019 version of the Tree and Shrub Mitigation Specifications instead of the May 10, 2017 Tree and Shrub Mitigation Specifications.

Having considered this matter, the Commission issues the following:

### Order

The Commission Orders that its May 10, 2017 Order of Continuing Suitability in Case No. PU-11-69 is amended to replace the Tree and Shrub Mitigation Specifications adopted in that Order with the March 13, 2019 version of the Tree and Shrub Mitigation Specifications, attached to and made part of this Order.

### PUBLIC SERVICE COMMISSION

  
Randy Christmann  
Commissioner

  
Julie Fedorchak  
Chair

  
Brian Kroshus  
Commissioner

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**Tree and Shrub Mitigation Specifications**

**Inventory**

Prior to cutting or clearing trees or shrubs for construction:

- All trees one-inch or greater in diameter at breast height must be inventoried to record the location, number, and species.
- All shrubs and all coniferous trees of any diameter must be inventoried to record the location, number, and species.

**Clearing**

The maximum width of tree and shrub removal is 50 feet, unless otherwise approved by the Commission.

**Replacement**

1. Landowners must be given the option to have trees and shrubs that are removed from their property replaced on their property. The landowner may waive this option in writing. If the landowner waives this option, the company shall plant replacement trees and shrubs in an alternate location in the same region, if practical.
2. Trees and shrubs must be replaced on a minimum two-to-one basis. The company shall develop a Tree and Shrub Mitigation Plan (Plan) in consultation with landowners who are seeking replacement trees and shrubs and in accordance with USDA-NRCS-North Dakota Field Office Technical Guide: Windbreak and Woodland Tree Care and Management. The guidelines outlined in the Technical Guide shall be followed until filing of the Plan summary outlined in number 5 below.
3. The purpose of the company's Tree and Shrub Mitigation Plan is to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefit to landowners, farmers and ranchers, the community, wildlife and the environment.
4. The Plan, including the proposed number, variety, type, location, and approximate date for plantings, shall be filed with and approved by the Commission.

5. Two years after completion of the plan, the company must file a summary documenting how the plan achieved the purpose outlined in number 3 above. The summary must also report the number of surviving replacement trees and shrubs.
6. The Commission will consider, on a limited basis as conditions warrant, mitigation plans that provide long-term wildlife habitat and conservation benefits but do not involve the replanting of trees and shrubs.