

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

AFFIDAVIT OF SERVICE BY REGULAR AND ELECTRONIC MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **20th** day of **August 2021**, she deposited in the United States Mail, Bismarck, North Dakota, **4** envelopes by first class mail, fully prepaid, securely sealed each containing a photocopy of:

- **Order on Tree and Shrub Mitigation Specifications**

The envelopes were addressed as follows:

See attached list

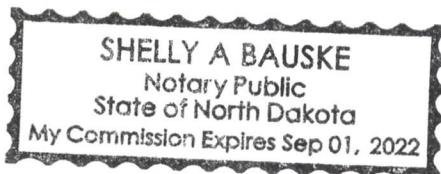
Geralyn R. Schmaltz further deposes and says that on the **20th day of August 2021**, she sent an electronic message to **46** addressees, each including an electronic copy in portable document format of the same document.

The electronic mails were addressed as follows:

See attached list

The addresses shown are the respective addressee's last reasonably ascertainable post office and electronic mail addresses.

Subscribed and sworn to before me
this **20th day of August 2021**.



(SEAL)



Notary Public

Federal Aviation Administration
2301 University Avenue Building 23B
Bismarck ND 58504

County Auditor
McHenry County
407 S Main
Towner ND 58788

City of Voltaire
Mayor

Voltaire ND 58792

County Commissioners
McHenry County
407 S Main
Towner ND 58788

ndaero@nd.gov
Gaye Niemiller
Aeronautics Commission
PO Box 5020
Bismarck ND 58502-5020

masagsve@nd.gov
Matt Sagsveen
Attorney General's Office

todd.j.lindquist@usace.army.mil
Todd Lindquist
Corp of Engineers
PO Box 527
Riverdale ND 58565-0527

cte@nd.gov

Dept of Career and Technical Education
State Capitol
Bismarck ND 58505

governor@nd.gov
Doug Burgum
Governor's Office
State Capitol
Bismarck ND 58505

trev.albright@us.af.mil
Trev Albright
Minot AFB

Minot ND

bruce.johnson.25@us.af.mil
Bruce Johnson
Minot AFB

Minot ND

stevebest@nd.gov
Steve Best
N D Water Commission
900 E Boulevard
Bismarck ND 58505

christi.fisher@nd.usda.gov
Christi Fisher
NATURAL RESOURCE CONSERVATION SVC
PO BOX 1458
BISMARCK ND 58502-1458

commerce@nd.gov
ND Commerce Department

goehring@nd.gov
Doug Goehring
Agriculture Department
State Capitol
Bismarck ND 58505

BLM MT North Dakota FO@blm.gov
Bureau of Land Management
North Dakota Field Office

dhseo@nd.gov

Department of Human Services

energyimpact@nd.gov

Energy Infrastructure and Impact Office

nathan.davis@nd.gov
Nathan Davis
Indian Affairs Commission
State Capitol - 1st Floor J Wing INSIDE
Bismarck ND 58505

joey.specht@us.af.mil
Joey Specht
Minot AFB

Minot ND

lauren.kinker@us.af.mil
Lauren Kinker
Minot AFB

Minot ND

gheiser@nd.gov
Gerald Heiser
N D Water Commission
900 E Boulevard
Bismarck ND 58505

ndascd@lincolnoakes.com

ND Assoc of Soil Conservation Dist
3310 University Drive
Bismarck ND 58504-7564

ksonsalla@nd.gov
Kevin Sonsalla
ND Department of Commerce

mdockter@nd.gov
Monte Dockter
ND Department of Transportation
State Highway Building
Bismarck ND 58505

dtlRequest@nd.gov
Jodi Smith
ND Dept. of Trust Lands

caboyd@nd.gov
Clint Boyd
ND Geological Survey

sjarntson@nd.gov
Sara Arntson
ND Job Service
P.O. Box 5507 INSIDE MAIL
Bismarck ND 58506-5507

mhumann@nd.gov
Mike Humann
ND Land Department

ndicin@nd.gov
North Dakota Industrial Commission

thomas.claeys@ndsu.edu
Thomas Claeys
NSDU North Dakota State Forest Service

pwax@nd.gov
Peter Wax
State Health Department

lbmeidinger@nd.gov
Lorna Meidinger
State Historical Society

dickanderson@nd.gov
Dick Anderson
State Representative
1187 77th Street NE
Willow City ND 58384

dglatt@nd.gov
David Glatt
ND Dept. of Environmental Quality

tsteinwa@nd.gov
Terry Steinwand
ND GAME & FISH DEPT
INSIDE MAIL

emurphy@nd.gov
MR ED MURPHY
ND GEOLOGICAL SURVEY

labor@nd.gov
ND Labor Department

jjkringstad@ndpipelines.com
ND Pipeline Authority

atravnicek@nd.gov
Andrea Travnicek
North Dakota Parks & Rec
1600 E Century Ave, Ste. 3 INSIDE MAIL
Bismarck ND 58503-0649

krockema@nd.gov
Karl Rockeman
State Health Department

dglatt@nd.gov
Dave Glatt
State Health Department

craigjohnson@nd.gov
Craig A. Johnson
State Representative
8080 17th Avenue NW
Maxbass ND 58760-9769

svedaa@nd.gov
Shawn Vedaa
State Senator
PO Box 550
Velva ND 58790-0550

wendy ross@nps.gov
Wendy Ross
Theodore Roosevelt Nat'l Park
PO Box 7
Medora ND 58645

gjwiche@usgs.gov
District Chief
U S Geological Survey
821 E Interstate Ave
Bismarck ND 58501

jessica n johnson@fws.gov
Jessica Johnson
US Fish & Wildlife Service
3425 Miriam Ave
Bismarck ND 58501

sschwenke@fs.fed.us
Sherri Schwenke
U S Forest Service
240 W Century Ave
Bismarck ND 58501-1494

cenwo-de@usace.army.mil
District Engineer
US Army Engineer District Omaha
1616 Capitol Ave
Omaha NE 68102

ndfieldoffice@fws.gov
US FISH & WILDLIFE SERVICE
3425 MIRIAM AVE
BISMARCK ND 58501-7926

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

**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

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.