



Public Service Commission  
State of North Dakota

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August 3, 2021

Lawrence Bender  
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**NOTICE OF NONCOMPLIANCE**

**Re: Project: 4 Bears to CDP Connect – McKenzie County  
Case No.: PU-16-405**

The Commission's November 2, 2011 Order in Case No. PU-11-99 issued Certificate of Corridor Compatibility No. 126 and Route Permit No. 135 to Arrow Field Services, LLC for the location of a 1.5-mile crude oil pipeline in McKenzie County, North Dakota. On April 11, 2012, in Case No. PU-12-47, Certificate 126 and Permit 35 were transferred from Arrow Field Services, LLC to Banner Transportation Company, LLC.

On July 20, 2016, in Case No. PU-16-405, Certificate 126 and Permit 35 were transferred from Banner Transportation Company, LLC to Hiland Crude, LLC (Hiland). Hiland agreed to assume the rights and obligations of Certificate 126 and Permit 35, including the conditions and limitations set forth in the Commission's November 2, 2011 Order, and any other conditions set forth in subsequent orders of the Commission with respect to the certificate and route permit. Accordingly, Hiland is now bound by the Commission's November 2, 2011 Order, including the Tree and Shrub Mitigation Specifications attached to and made part of the Order.

The Tree and Shrub Mitigation Specifications (Specifications) require that two trees be planted for every one tree removed, and that two shrubs be planted for one shrub removed. The Specifications require 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 require that a report of each annual report be submitted to the Commission by October 1 of each year,

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documenting the condition of plantings and any woodlands work completed as of September of each year.

On July 5, 2016, Arrow Field Services, LLC responded to staff's inquiry concerning the status of the tree and shrub mitigation for the Project. The response indicates that trees and shrubs may have been planted in 2014.

From a review of case records, it is unclear that Hiland Crude, LLC has met the tree and shrub mitigation requirements.

Staff requests the Company provide a tree and shrub replacement inspection report documenting the condition of plantings by 30 days after receipt of this Notice of Noncompliance to avoid further action due to noncompliance.

N.D.C.C. 49-22.1-20(3) states:

3. Any person who willfully engages in any of the following conduct is subject to a civil penalty of not to exceed ten thousand dollars for each such violation for each day the violations persist, except that the maximum penalty may not exceed two hundred thousand dollars for any related series of violations:
  - a. Begins construction of an electric energy conversion facility or an electric transmission facility without having been issued a certificate or permit pursuant to this chapter.
  - b. Constructs, operates, or maintains an electric energy conversion facility or an electric transmission facility other than in compliance with the certificate or permit and any terms, conditions, or modifications contained therein.
  - c. Violates any provision of this chapter or any rule adopted by the commission pursuant to this chapter.
  - d. Falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained pursuant to a certificate or permit issued pursuant to this chapter.

The civil penalty provided for in this subsection may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise must be deposited in the general fund and, if not paid, may be recovered in a civil action in the courts of the state.

In addition to the civil penalty the Commission may impose, the Site Certificate for the Project could be suspended or revoked for operation in violation of N.D.A.C.

Please feel free to contact me with any questions.

Best regards,



Patrick Fahn  
Director, Public Utilities Division