

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

**Whiting Oil and Gas Corporation  
Crude Oil Pipeline- Billings and Stark Counties  
Siting Application**

**Case No. PU-11-102**

**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 **19<sup>th</sup>** day of **October, 2011**, 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:

**Order**

and originals of:

**Certificate of Corridor Compatibility Number 124**

**Route Permit Number 133**

The envelope was addressed as follows:

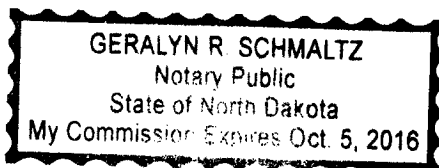
John Morrison  
Crowley Fleck, Ltd.  
PO Box 2798  
Bismarck ND 58502

**Cert. No. 7010 3090 0002 4629 4270**

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

Subscribed and sworn to before me  
this **19<sup>th</sup>** day of **October, 2011**.

SEAL



*Cara DeSaye*  
\_\_\_\_\_  
*Geralyn R. Schmaltz*  
\_\_\_\_\_  
Notary Public

**40** **PU-11-102** Filed: 10/19/2011 Pages: 25  
**Affidavit of Service cert. mail - Order**

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Whiting Oil and Gas Corporation  
Crude Oil Pipeline - Billings and Stark Counties  
Siting Application**

**Case No. PU-11-102**

**ORDER**

**October 19, 2011**


The evidence of record has been considered and appraised.

The Commission Orders:

1. The Hearing Officer's October 18, 2011 Recommended Findings of Fact, Conclusions of Law and Recommended Order, a copy of which is attached to this Order and made a part of this Order, is ADOPTED as the Public Service Commission's Findings of Fact, Conclusions of Law and Order.
2. Whiting Oil and Gas Corporation's application for a waiver of procedures and time schedules is granted.
3. Certificate of Corridor Compatibility No. 124 is issued to Whiting Oil and Gas Corporation for the construction, operation and maintenance of the transmission facilities. For purposes of the Certificate, the Corridor consists of an 80-foot wide area centered on the pipeline route for the length of the route. For purposes of the Certificate, the route is defined by Whiting Oil and Gas Corporation's July 11, 2011 application and amendments filed September 20, 2011.
4. Route Permit No. 133 is issued to Whiting Oil and Gas Corporation for the construction, operation and maintenance of a 6.8-mile 8-inch diameter crude oil pipeline. The route that is approved is the route identified on Exhibit 3 at the hearing.
5. Whiting's permit to construct the initial and final 0.2 mile segments of the Pipeline is conditioned on filing the supplemental Class III survey and SHPO concurrence that no historic properties or sites will be affected as discussed in the Hearing Officer's October 18, 2011 Recommended Findings of Fact, Conclusions of Law and Recommended Order, Conclusion of Law number 8.
6. The October 10, 2011 Certification Relating to Order Provisions – Transmission Facility Siting (Certification), with accompanying Tree and Shrub Mitigation Specifications, is incorporated by reference and attached to this Order.

7. To the extent there are any conflicts or inconsistencies between Whiting Oil and Gas Corporation's Application and the October 10, 2011 Certification, the Certification provisions control.

**PUBLIC SERVICE COMMISSION**



**Kevin Cramer**  
Commissioner

**Tony Clark**  
Chairman

**Brian P. Kalk**  
Commissioner

**RECEIVED**

OCT 18 2011

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

**PUBLIC SERVICE COMMISSION**

Whiting Oil and Gas Corporation  
Crude Oil Pipeline –Billings and Stark Counties  
Siting Application

Case No. PU-11-102  
OAH File No. 20110326

**RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER**

October 18, 2011

**Appearances**

**Appearances:** John W. Morrison, Attorney at Law, Crowley Fleck, PLLP, 400 East Broadway, Suite 600, Bismarck, North Dakota 58501, on behalf of the Applicant, Whiting Oil and Gas Corporation.

Mitchell D. Armstrong, Special Assistant Attorney General, on behalf of the Public Service Commission.

Patrick Fahn, Director – Compliance and Competitive Markets Division, North Dakota Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505.

Allen C. Hoberg, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Substantive Hearing Officer.

**Preliminary Statement**

Under North Dakota Century Code § 49-22-07, a utility may not begin construction of a transmission facility in the state without first having obtained a route permit. The facility must be constructed, operated, and maintained in conformity with the permit and any terms, conditions, or modifications of the permit.

On March 31, 2011, Whiting Oil and Gas Corporation (“Whiting”) filed a Letter of Intent with the Public Service Commission (“Commission”). Whiting proposes to construct

approximately 6.8 miles of 8 inch diameter pipeline from a location in Stark County to an interconnection with the Skunk Hill Pipeline Station, operated by Bridger Pipeline LLC (“Bridger”) in Billings County, North Dakota (the “Pipeline”). The Pipeline is intended to transport oil produced in Stark and Billings Counties from a central storage location to the Skunk Hill Pipeline Station for further transport.

On April 20, 2011, the Commission acknowledged Whiting’s Letter of Intent, shortened the waiting period for filing the siting application to thirty days, and assessed a filing fee of \$16,800.00

On July 11, 2011, Whiting filed a combined application for a certificate of corridor compatibility and route permit authorizing the construction of the Pipeline. As part of its application, Whiting requests that the Commission waive the procedures set forth in North Dakota Century Code §§ 49-22-08 and 49-22-08.1 to allow a single consolidated application, notice, and hearing for a corridor certificate, and a route permit for this project.

On August 10, 2011, the Commission requested the Director of the Office of Administrative Hearings to appoint an Administrative Law Judge to preside as a substantive hearing officer in this case. On August 17, 2011, Allen C. Hoberg was designated as administrative law judge to conduct the hearing, make recommended findings of fact and conclusions of law, and issue a recommended order.

On August 30, 2011, the application was deemed complete and a Notice of Filing and Notice of Hearing was issued for a public hearing on October 10, 2011, at 10:00 a.m. CDT at the Belfield City Hall, 107 Second Avenue Northeast, Belfield, North Dakota. The issues to be considered in this matter include:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects and that adherence to applicable procedures and time schedules may be waived?
2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?
3. 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?
4. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
5. 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 September 20, 2011, Whiting filed an amendment to its application. The amendment consisted of three pipeline route realignments.

On October 10, 2011, the public hearing was held as scheduled.

On October 10, 2011, Whiting filed a Certification Relating to Order Provisions - Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed, and considered all testimony and evidence presented, the Hearing Officer makes the following:

### **Findings of Fact**

1. Whiting is a Delaware corporation with its principal place of business located at 1700 Broadway, Suite 2300, Denver Colorado.
2. Whiting is an energy company that owns and operates oil and gas properties in various regions of the United States, including the Williston Basin.

#### **Size, Type, and Preferred Location of Facility**

3. The Pipeline will be an 8-inch steel line approximately 6.8 miles in length. The initial capacity of the Pipeline will be 60,000 barrels per day. The first 4.8 miles of the route is adjacent to existing county road right-of-ways and the final two miles of the route is adjacent to an existing pipeline owned and operated by Bridger.
4. There will be block valves at both the beginning of the Pipeline at the Belfield Oil Terminal and at its terminus at the Skunk Hill Pipeline Station; there will be no block valves along the route. A pump station will be located at the Belfield Oil Terminal but there will be no new or additional pumping stations for the Pipeline. A telemetry system will provide 24-hour monitoring of the Pipeline operations, including pressures, temperatures and flow rates.
5. Whiting's September 20, 2011, filing amended its original proposed corridor and original proposed route with three route realignments. The first reroute moves the first .2 miles of the route slightly to the south to accommodate the final design of the Belfield Oil Station. The second reroute moves the route between mileposts 0.25 and 2.6, ten feet to the west to result in a 100 foot setback between the centerline of the county road and the centerline of the route. The third re-route moves the final .2 miles of the route to enter the Skunk

Hill Pipeline Station facilities from the west, thereby avoiding crossing of other pipeline facilities.

#### Need for Facility

6. Whiting is currently developing new fields in Stark and Billings Counties, North Dakota.
7. Whiting is installing a gathering system which will gather the crude oil from producing wells to the Belfield Oil Terminal near Belfield, North Dakota, which will include a 20,000 barrel oil storage tank and a truck transport loading and unloading facility. In order to market the crude oil produced in this area, Whiting proposes to construct the Pipeline to transport oil from the Belfield Oil Terminal to an interconnect with Bridger's Skunk Hill Pipeline Station. This interconnection will allow Whiting to market crude oil (1) at Guernsey, Wyoming via Bridger's Little Missouri and Heart River systems and the Butte pipeline system; (2) at Clearbrook, Minnesota, through Enbridge Pipelines (North Dakota), LLC's pipeline using Belle Fourche Pipeline Company's connection at Alexander; and (3) at the Mandan Refinery through Tesoro High Plains Pipeline Company, LLC's pipeline via Belle Fourche Pipeline Company's existing connection at Tree Top.
8. Alternatives to construction of the Pipeline consist of trucking or shipping the oil by rail to the Terminal. Trucking would require approximately 273 truck runs per day. This level of trucking activity would result in an additional burden on infrastructure, and would impact area residents.

### Study of Preferred Route(s)

9. Whiting evaluated a one-mile wide area centered on the original proposed route (“study area”) for the exclusion, avoidance, selection and policy criteria of the Commission. Within the study area, Whiting identified a 120-foot wide corridor centered on the original pipeline route for the purpose of conducting cultural resource field surveys, biological and wetland/waterbody field surveys and environmental assessments (“survey corridor”).
10. Whiting will use an 80-foot construction right-of-way centered on the route. All construction work will occur within the construction right-of-way.
11. North Dakota Administrative Code chapter 69-06-08 sets forth certain criteria to guide the Commission in evaluating the suitability of granting an application for a certificate of corridor compatibility and route permit. The criteria, as set forth in North Dakota Administrative Code § 69-06-08-02, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria. A transmission facility route must not be sited within an Exclusion Area. A transmission facility route must not be sited within an Avoidance Area unless the applicant demonstrates that under the circumstances there are no reasonable alternatives. In determining whether an Avoidance Area shall be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. In accordance with the Commission’s Selection Criteria, a transmission route shall be approved if it is demonstrated that no significant adverse impacts will result from the location,

construction, and maintenance of the transmission facility. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility.

12. Whiting conducted a Class I cultural resource survey of the study area and a Class III cultural resource survey of the survey corridor that identified three previously recorded sites and one newly recorded historic site. The original proposed route and its 80-foot construction right-of-way will not impact the sites. The State Historic Preservation Office's (SHPO's) June 13, 2011, letter concurred that no historic properties and no significant sites will be affected by Whiting's project provided the project area remains as depicted in the Class I and Class III cultural resource inventory. The SHPO concurrence and Whiting's Class I and Class III cultural resource inventory took place prior to Whiting's September 20, 2011, filing amending its original proposed corridor and original proposed route with three route realignments.
13. The second reroute is entirely located within the area covered by the Class III survey and will not impact any historic, scenic, archeological, or paleontological properties or sites. The first and third re-routes are located outside the area covered by the Class III survey.
14. Whiting conducted a Natural Resources and Wetland Determination in the survey corridor.
15. The construction right-of-way will cross several small wetlands and Whiting will either bore under the wetlands or avoid them in construction activities.
16. Whiting conducted investigations to determine the potential impact of the Pipeline upon vegetation and plant species, including consultations with the North Dakota Game and

Fish Department, the United States Fish and Wildlife Service, and the North Dakota Parks and Recreation Department. Botany and wildlife surveys were conducted in the survey corridor.

17. There are no areas critical to the life stages of threatened or endangered animal or plant species or areas where animal or plant species that are unique or rare to North Dakota would be irreversibly damaged by the Pipeline project.
18. A number of sites related to sensitive animal and plant species, or species of concern, are located within the survey corridor. The proposed route is within the migration corridor of the whooping crane and contains suitable foraging and stopover habitat for the whooping crane. Whiting has agreed to cease construction activities within one mile of an area where a whooping crane is sited until the birds leave the area. Whiting's construction schedule will avoid any impact on the other sensitive animal and plant species.
19. Any impact on vegetation and wildlife from construction of the Pipeline will be temporary.
20. There are no residences, schools or places of business within 500 feet of the proposed route.
21. One parcel of Conservation Reserve Program ("CRP") land is located within the study area but is not crossed by the construction right-of-way and will not be impacted.
22. The route will cross or impact trees in three locations, including one windbreak tree row and two small clusters of trees. Whiting intends to bore under the tree row and replant trees in the two clusters at the ratio of 2:1 for each tree removed.

23. Agriculture is the predominant land use within the study corridor but the effects of construction would be minor and short term. Construction will occur after crop harvest and will have no impact on the current growing season. After construction, agricultural lands will be returned to preconstruction uses. There is one CRP parcel within the study area but it will not be impacted by the Pipeline project.
24. Any impact to family farm operations due to construction of the Pipeline will be temporary.
25. Any impact the Pipeline will have on surface drainage and groundwater flow patterns, will be temporary resulting from construction activities.
26. Other than temporary noise associated with construction and the short-term visual effects resulting from construction, the Pipeline project will have no impact on noise sensitive land uses or visual effects on the adjacent area.
27. At the peak of construction the Pipeline will use a labor force of up to 30 construction laborers, including up to 10 local workers. Those workers will impact the local economy. After construction is complete, the Pipeline will add to the tax base of Billings and Stark Counties.

#### Measures to Minimize Impact

28. Whiting has agreed to a number of steps to mitigate the impact of the Pipeline project, as indicated by the October 10, 2011, Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications.

29. Whiting will use an 80-foot construction right-of-way centered on the route. All construction work will occur within the construction right-of-way. After completion of construction, the right-of-way will be reduced to 60 feet centered on the route.
30. The design, construction, and operation of the Pipeline for the transmission of crude oil will conform to the pipeline safety regulations contained in 49 CFR Parts 194 and 195-Transportation of Hazardous Liquids by Pipeline under the jurisdiction of the Department of Transportation – Pipeline and Hazardous Materials Safety Administration.

From the foregoing Findings of Fact, the Hearing Officer makes the following:

#### **Conclusions of Law**

1. The Commission has jurisdiction over the applicant, Whiting, and over the subject matter of this application under North Dakota Century Code chapter 49-22.
2. Whiting is a utility as defined in North Dakota Century Code § 49-22-03(13).
3. The Pipeline proposed by Whiting is a transmission facility as defined in North Dakota Century Code § 49-22-03(12).
4. The location, construction, and operation of the Pipeline will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The location, construction, and operation of the Pipeline are compatible with the environmental preservation and the efficient use of resources.
6. The location, construction, and operation of the Pipeline 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 Pipeline project is of such length, design, and location that it will produce minimal adverse effects, as defined under North Dakota Century Code § 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 § 49-22-07.2.
9. To insure that the first and third reroutes, located at the north and south ends of the Pipeline, do not impact any historic, scenic, archeological, or paleontological properties or sites, Whiting is not permitted to commence construction activities on the first .2 miles or the final .2 miles of the Pipeline until it files a supplemental Class III survey at least 80-feet wide centered on the reroutes and evidence of concurrence in the results of the supplemental survey by SHPO. If any historic properties or significant sites are discovered by the supplemental survey and SHPO does not concur with any protective or remediation measures that are proposed by Whiting or its consultant to prevent any impact to such properties or sites, the Commission may reopen this matter and hold a further hearing.

From the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer makes the following:

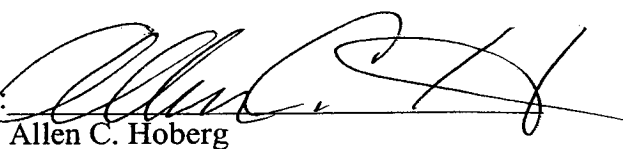
#### **Recommended Order**

1. That Whiting's application for waiver of procedures and time schedules be granted.
2. That Certificate of Corridor Compatibility \_\_\_\_\_ be issued to Whiting designating a corridor for the construction, operation, and maintenance of the Pipeline.

For purposes of the Certificate, the corridor will consist of an 80-foot wide area centered on the Pipeline route for the length of the route.

3. That Route Permit \_\_\_\_\_ be issued to Whiting granting authority to construct and operate the Pipeline. The route that is approved is the route identified on Exhibit 3 at the hearing.
4. That Whiting's permit to construct the initial and final .2 mile segments of the Pipeline be conditioned on filing the supplemental Class III survey and SHPO concurrence that no historic properties or sites will be affected as discussed in Conclusion of Law number 9.
5. That the October 10, 2011, Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, be incorporated by reference and attached to the Order issued by the Commission.
6. That to the extent there are any conflicts or inconsistencies between the application and the October 10, 2011, Certification provisions, the Certification provisions control.

**PUBLIC SERVICE COMMISSION**

By: 

Allen C. Hoberg  
Administrative Law Judge  
Substantive Hearing Officer  
Office of Administrative Hearings  
2911 North 14th Street - Suite 303  
Bismarck, North Dakota 58503  
Telephone: (701) 328-3200

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

**Whiting Oil and Gas Corporation  
Crude Oil Pipeline –Billings and Stark Counties  
Siting Application**

**Case No. PU-11-102  
OAH File No. 20110326**

**CERTIFICATE OF SERVICE**

The undersigned certifies that the original of the **RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW AND RECOMMENDED ORDER** was hand-delivered at the State Capitol on the 18 day of October 2011, to:

Illona Jeffcoat-Sacco  
General Counsel  
Public Service Commission  
600 East Boulevard Avenue  
Bismarck, ND 58505-0480

and that true and correct copies of the above document were mailed, regular mail, on the 18 day of October 2011, to:

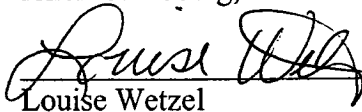
John W. Morrison  
Crowley Fleck  
P O Box 2798  
Bismarck, ND 58502-2798

Mitchell Armstrong  
Smith Bakke  
P O Box 460  
Bismarck, ND 58502-0460

and that a true and correct copy of the above document was hand-delivered at the State Capitol on the 18 day of October 2011, to:

Patrick Fahn  
Public Service Commission  
600 East Boulevard Avenue  
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS  
Allen C. Hoberg, Administrative Law Judge

  
\_\_\_\_\_  
Louise Wetzel

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

**Certificate of Corridor Compatibility Number 124**

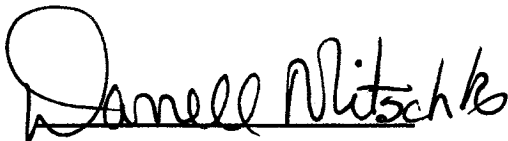
*This is to certify that the Commission has designated a transmission facility corridor for Whiting Oil and Gas Corporation, for the construction of a 6.8-mile, 8-inch pipeline in Billings and Stark Counties, North Dakota for the transmission of crude oil.*

*This certificate is issued in accordance with the Order of this Commission dated October 19, 2011 in Case No. PU-11-102 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, October 19, 2011.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**



**Executive Secretary**



**Commissioner**

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Route Permit Number 133**

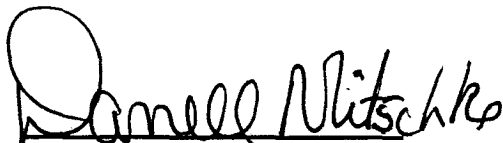
*This is to certify that the Commission has designated a transmission facility route for Whiting Oil and Gas Corporation, for the construction of a 6.8-mile, 8-inch pipeline in Billings and Stark Counties, North Dakota for the transmission of crude oil.*


*This permit is issued in accordance with the Order of this Commission dated October 19, 2011 in Case No. PU-11-102 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, October 19, 2011.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**



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

**Whiting Oil and Gas Corporation  
Crude Oil Pipeline – Billings and Stark Counties  
Siting Application**

**Case No. PU-11-102**

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

I am Rick Ross, ~~operator~~ a representative of Whiting Oil and Gas Corporation ("Whiting") with authority to bind Whiting to requirements to be set forth by the Commission in its Order and I certify the following:

1. Whiting understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be 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 Whiting shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Whiting agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Whiting representative, its construction supervisor, and a representative of Commission Staff, to ensure that Whiting fully understands the conditions set forth in the Commission's order.
3. Whiting agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
4. Whiting understands and 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 transmission facility that requires said license or permit.
5. Whiting agrees to inform the Commission of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Whiting shall keep the Commission updated on construction activities on a weekly basis.
6. Whiting understands and agrees that the pipeline will be buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in range land Whiting, 48 inches for cultivated land, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines.
7. Whiting understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission 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.

8. Whiting agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
9. Whiting agrees to construct and operate the transmission facility in the manner described in Whiting's application, in any late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.
10. Whiting 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 of which Whiting becomes aware and which were not previously reported to the Commission.
11. Whiting understands and agrees 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.
12. Whiting 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 and a report of such examination is filed with the Commission and the State Historical Society and clearance to proceed is given by the Commission.
13. Whiting understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Whiting to open cut the road.
14. Whiting 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 transmission facility 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.
15. Whiting 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.
16. Whiting understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be stripped and segregated from the subsoil. Except along segments of the line using the double ditching method, any area on which excavated subsoil will be placed must also be stripped of topsoil. After backfilling is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.

17. Whiting understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
18. Whiting understands and agrees that its obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission facility.
19. Whiting understands and agrees that its obligation for reclamation and maintenance of the transmission facility, associated facilities, and roadways will continue throughout the life of the transmission facility.
20. Whiting agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
21. Whiting understands and agrees that it shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the construction of the transmission facility.
22. Whiting understands and agrees that it shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
23. Whiting understands and agrees that it shall repair or replace all broken or damaged drainage tile during all phases of construction and operation of the transmission facility.
24. Whiting understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Whiting unless otherwise negotiated with landowners.
25. Whiting understands and 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.
26. Whiting understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
27. Whiting understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.
28. Whiting understands and agrees that it shall advise the Commission of any extraordinary events which take place at the site of the transmission facility, including injuries to any person, or the death of any threatened or endangered species on the site within five business days of such event.
29. Whiting understands and agrees that it shall implement a procedure for how complaints concerning the transmission facility will be handled by Whiting
30. Upon request, Whiting agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.

31. Whiting understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility. Whiting understands and agrees to obtain written approval from the Commission prior to any modifications to the site plan or the transmission facility. Approval may be granted after notice and opportunity for hearing.
32. Whiting agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission, and will provide this information within three months of the Commission order approving the corridor. Whiting also agrees to provide an electronic version of the approved corridor 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.
33. Whiting agrees to provide the Commission with both an electronic and a paper copy of the design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within three months of the completion of the construction. Whiting 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.
34. Whiting understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for the transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.
35. Whiting understands and agrees that in the event Whiting desires to construct, within any corridor granted by a Certificate of Corridor Compatibility in this proceeding, a transmission facility or energy conversion facility that was not included in Whiting's application in this proceeding, Whiting shall apply to the Commission for a Route Permit or Site Certificate for the facility.
36. Whiting shall notify the Commission, as soon as reasonably possible, if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Whiting shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined and clearance to proceed has been given by the Commission or Commission staff.

37. Whiting understands and agrees that the corridor certificate and route permit are subject to suspension or revocation and may, after hearing, be suspended or revoked for failure to comply with the Commission's order, requirements of the One-Call Excavation Notice System under North Dakota Century Code Chapter 49-23, the conditions and criteria of the certificate or permit or subsequent modification, or failure to comply with applicable statutes, or rules, regulations, standards, and permits of other state or federal agencies.

Dated this 10 day of OCTOBER, 2011.

WHITING OIL AND GAS CORPORATION

By 

Its Rick Ross

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

**Whiting Oil and Gas Corporation  
Crude Oil Pipeline – Billings and Stark Counties  
Siting Application**

**Case No. PU-11-102**

**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).