

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Oliver Wind III, LLC
48 MW Wind Energy Center – Morton County
Siting Application

Case No. PU-11-561

**CERTIFICATION RELATING TO ORDER PROVISIONS - ENERGY CONVERSION
FACILITY SITING**

I am John DiDonato, a representative of Oliver Wind III, LLC ("Oliver III") with authority to bind Oliver III to requirements to be set forth by the Commission in its Order and I certify the following:

1. Oliver III 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 Oliver III shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Oliver III agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Oliver III representative, its construction supervisor, and a representative of Commission Staff, to ensure that Oliver III fully understands the conditions set forth in the Commission's order.
3. Oliver III agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed energy conversion facility including all city, township, and county zoning regulations.
4. Oliver III 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 energy conversion facility that requires said license or permit.
5. Oliver III agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the energy conversion facility prior to the commencement of construction. Once construction has started, Oliver III shall keep the Commission and the Commission's third-party construction inspector updated of construction activities on a weekly basis.
6. Oliver III 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.

7. Oliver III 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.
8. Oliver III agrees to construct and operate the energy conversion facility in accordance with all applicable safety requirements.
9. Oliver III agrees to construct and operate the energy conversion facility in the manner described in Oliver III's application, in any late filed exhibits, and supplemental materials (Application). To the extent there are any conflicts or inconsistencies between Oliver III's Application and the provisions in this Certification Relating to Order Provisions, the Certification provisions control.
10. Oliver III agrees to report promptly to the Commission the presence in the permit area of any critical habitat of threatened species, endangered species, bald eagles, or golden eagles that Oliver III becomes aware of and which were not previously reported to the Commission.
11. Oliver III 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. Oliver III 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.
13. Oliver III understands and agrees that all buried facility crossings of graded roads shall be bored unless the responsible governing agency specifically permits Oliver III to open cut the road.
14. Oliver III 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 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. Oliver III 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. Oliver III understands and agrees that where available, at least 12 inches of topsoil over and along trench areas, roadways, tower locations, and locations of associated facilities shall be stripped and shall be segregated from the subsoil and be replaced only after the subsoil is replaced.
17. Oliver III understands and agrees that it shall bury all underground collection and feeder lines to a depth of at least 48 inches to the top of the lines.
18. Oliver III 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.
19. Oliver III understands and agrees that its obligation for reclamation and maintenance of energy conversion facility tower locations, associated facilities, roadways and rights-of-way will continue throughout the life of the energy conversion facility.
20. Oliver III is aware that North Dakota law requires that all companies that own or operate electric generation of any size for the primary purpose of resale must comply with the standards of the National Electrical Safety Code in effect at the time of construction of the generation facility, and agrees to comply with that requirement.
21. Oliver III agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
22. Oliver III 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 proposed energy conversion facility.
23. Oliver III understands and agrees that it shall repair or replace all broken or damaged drainage tile during all phases of construction and operation of the proposed energy conversion facility.
24. Oliver III 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 energy conversion facility.

25. Oliver III understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Oliver III unless otherwise negotiated with landowners.
26. Oliver III 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.
27. Oliver III agrees that it shall, as soon as practicable upon the completion of the construction of each wind turbine, 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.
28. Oliver III agrees that it shall provide, if requested, educational material for landowners within the site boundaries about the proposed energy conversion facility and any restriction or danger concerning the proposed energy conversion facility.
29. Oliver III understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.
30. Oliver III understands and agrees that it shall advise the Commission of any extraordinary events which take place at the site of the energy conversion facility, including injuries to any person, the death of any threatened or endangered species, a tower collapse, or a catastrophic turbine failure, within five business days of such event.
31. Oliver III understands and agrees that it shall advise the Commission of the discovery of a large number of dead birds or bats on the site within five business days of such event.
32. Oliver III understands and agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Oliver III.
33. Oliver III agrees to provide the Commission with engineering design drawings showing surveyed structure and collection substation locations prior to construction.
34. Oliver III understands and agrees that it shall inform the Commission in writing of any plans to modify the energy conversion facility, or of any plans to modify the site plan for the energy conversion facility. Oliver III understands and agrees to obtain written approval from the Commission prior to any modifications to the site plan or


the energy conversion facility, associated facilities, and roadway locations. Approval may be granted after notice and opportunity for hearing.

35. Oliver III 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 3 months of the completion of the construction. Oliver III 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.
36. Oliver III is aware that under North Dakota Century Code section 49-02-27 the Commission has rules for decommissioning of wind energy conversion facilities. Oliver III agrees to comply with all decommissioning rules adopted by the Commission.
37. Oliver III 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.
38. Oliver III understands and agrees that in the event Oliver III desires to construct, within any site granted by a Certificate of Site Compatibility in this proceeding, an energy conversion facility that was not requested in Oliver III's application in this proceeding, Oliver III shall apply for a Certificate of Site Compatibility for the facility.
39. Oliver III 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, Oliver III 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.
40. The certificate of site compatibility is 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 ____ day of December, 2011.

Oliver Wind III, LLC

By  _____
John DiDonato
Vice President
Its _____

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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*), must be inventoried before cutting. The inventory must 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, must 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 must be inventoried for replacement.
4. In native growth areas, shrubs anticipated to be cleared in the permanent right-of-way must be inventoried for replacement.
5. In native growth areas outside the permanent right-of-way, shrubs must 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 must be preserved and replaced after construction. Shrubs must 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 must be inventoried for replacement.
6. In native growth areas, trees and shrubs may be inventoried by actual count or by a 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 must define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots must 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 must be selectively cleared, leaving mature trees and shrubs intact where practical.
8. The maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas is 50 feet, 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 must be noted on the inventory.

Replacement

10. Prior to tree and shrub replacement, documentation identifying the number and variety of trees and shrubs removed, as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings, must be filed with the Commission for approval.
11. Two 2-year-old saplings must be planted for every one tree removed. Two shrubs (stem cuttings) must be planted for every one shrub removed.
12. Except in the case of invasive or noxious species, trees and shrubs must be replaced by the same species or similar species, suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service. Invasive or noxious species must be replaced by similar non-invasive or non-noxious species suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.
13. Landowners must be given the option of having replacement trees and shrubs planted on the landowner's property, either on or off the right-of-way. The landowner must also be given the opportunity to waive those options in writing in order to have replacement trees and shrubs planted off the landowner's property.
14. At the conclusion of the project, documentation identifying the actual number, variety, type, location and date of the replacement plantings must be filed with the Commission.
15. Tree and shrub replacements must be inspected annually, in September, for three years. The first annual inspection must be at least one year from the anniversary date of the original plantings. A report of each annual inspection must 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. If after the third annual report the survival rate is less than 75%, the Commission may order additional planting(s).