

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Allete, Inc.
230 kV Transmission Line – Mercer, Morton, Oliver
Counties
Siting Application

Case No. PU-11-620

AFFIDAVIT OF SERVICE REGULAR, INSIDE, OR ELECTRONIC 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 31st day of **May, 2012**, she deposited in the United States Mail, Bismarck, North Dakota, 11 envelopes by first class mail, fully prepaid, 7 envelopes by inside mail, all securely sealed and each containing a photocopy, and 12 addressees electronically mailed a copy of:

Order

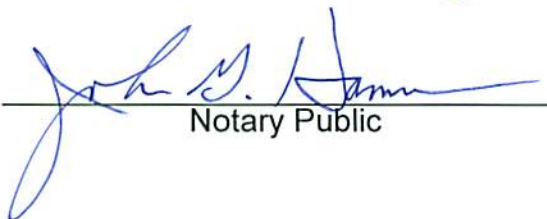
The envelopes and electronic mails respectively were addressed as follows:

See attached list.

Each post office address shown is the respective addressee's last reasonably ascertainable post office address and each email address is the respective addressee's last reasonably ascertainable electronic mailing address.

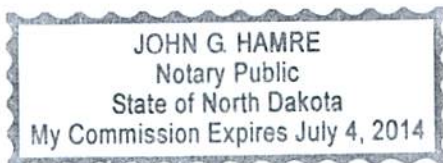


Subscribed and sworn to before me
this 31st day of **May, 2012**.



Notary Public

SEAL



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Attorney General's Office
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Bismarck ND 58505

Merlan Paaverud, Jr.
Historical Society
North Dakota Heritage Center
Bismarck ND 58505

Mercer County
County Commissioners
Stanton ND 58571

County Auditor
Mercer County

Stanton ND 58571

COUNTY AUDITOR
MORTON COUNTY
210 2ND AVE NW
MANDAN ND 58554

CHAIR COUNTY COMMISSION
MORTON COUNTY
210 2ND AVE NW
MANDAN ND 58554

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ND Assoc of Soil Conservation Dist
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ND FOREST SERVICE
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MR ED MURPHY
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NEW SALEM ND 58563-9406

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401 3RD AVE NE
HAZEN ND 58545-4429

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**ALLETE, Inc.
230 kV Transmission Line – Mercer, Morton, Oliver Cty,
Siting Application**

Case No. PU-11-620

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

May 30, 2012

Appearances

Commissioners Tony Clark, Brian P. Kalk and Kevin Cramer.

David R. Moeller, Attorney at Law, Minnesota Power, 30 West Superior Street, Duluth, MN 55802, on behalf of the Applicant.

Mitchell D. Armstrong, Special Assistant Attorney General, PO Box 460, Bismarck, ND 58502, on behalf of the Public Service Commission.

Allen C. Hoberg, Administrative Law Judge, Office of Administrative Hearings, 2911 N. 14th St- Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

Preliminary Statement

On September 14, 2011, Minnesota Power., an operation division of ALLETE, Inc. (Minnesota Power), filed a Letter of Intent (LOI) to construct approximately 11 miles of 230 kV transmission line and associated facilities from its existing Bison Wind Project substation in Morton County, North Dakota to a new substation located in Mercer County, North Dakota (Project). Minnesota Power also requested the Commission shorten the one-year waiting period between filing a Letter of Intent and the filing of an Application for a Certificate of Corridor Compatibility and Route Permit.

On October 12, 2011, the Commission acknowledged the LOI, shortened the one-year waiting period between filing a Letter of Intent and a Siting Application to 30 days, and assessed a filing fee of \$50,000.

On November 9, 2011, Minnesota Power filed Applications for a Waiver of Procedures and Time Schedules, Certificate of Corridor Compatibility, and a Route Permit for construction of the Southwest Oliver 230 kV Transmission Line Project (Applications).

On January 18, 2012, the Public Service Commission issued a Notice of Filing and Notice of Hearing on the Applications to be held March 5, 2012, at 10:00 a.m at the Oliver County Courthouse in Center, North Dakota. The Notice of Hearing identified the following issues to be considered:

1. 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?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. 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?
4. Is it appropriate for the Commission to waive procedures and time schedules as requested, including the request for a single consolidated application for corridor certificate and route permit?

On February 29, 2012, Minnesota Power filed an executed Certification Relating to Order Provisions – Transmission Facility Siting.

On March 5, 2012, at 10:00 a.m. CST, a public hearing was held as scheduled in Center, North Dakota. No members of the public offered comment at the hearing.

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

Findings of Fact

1. Minnesota Power, an operating division of ALLETE, Inc., is a Minnesota corporation and Minnesota public utility as defined under Minn. Stat. § 216B.02, subd. 4. ALLETE Clean Energy is a wholly owned subsidiary of ALLETE and was established in August 2011 to develop, acquire, and manage clean and renewable energy projects.
2. ALLETE, Inc. is registered to conduct business in the State of North Dakota, as evidenced by a Certificate of Good Standing issued by the North Dakota Secretary of State on May 13, 2011 and submitted in Case No. PU-11-57.
3. Minnesota Power proposes to construct, own, and operate an approximately 11 mile, 230,000 volt (230 kV), three phase alternating current electric transmission line on wood H-frame tangent structures from the existing 34.5/230 kV Bison Substation to the proposed Tri-County 34.5/230 kV Substation site.

4. The total cost of the Project is estimated to be approximately \$10,000,000. ALLETE Clean Energy will be responsible for all costs related to the extension and will pay Minnesota Power for use of the line once it is in-service.
5. The proposed transmission line and associated facilities will be designed and constructed to meet or surpass all relevant state codes and standards, as well as the codes and standards of the National Electric Safety Code and the Minnesota Power company standards.
6. The transmission line will be constructed using wooden H-Frame structures. The typical structure height will be approximately 70-110 feet with span lengths of approximately 500 to 900 feet. Each pole will be directly embedded and will require excavating a hole that is approximately 9 to 12 feet deep and 3 feet in diameter.
7. The transmission line structures will support three-phase transmission circuits and two shield wires. The line will require approximately seven to ten structures per mile, depending on terrain and other design factors. The right-of-way will be 130 feet wide.
8. N.D.C.C. §49-22-16.3 provides that an applicant for a route permit from the Commission shall obtain all permits that may be required to construct and operate the transmission facility.
9. Minnesota Power stated that the Project complies with all local land use and planning ordinances.
10. Minnesota Power contacted various local, state, and federal agencies for input into the Project.
11. N.D.A.C. 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 a Route Permit for a transmission facility. The criteria as set forth in N.D.A.C. §69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria.
12. Minnesota Power submitted information in its Application and testimony at the March 5, 2012 hearing, concerning compliance with the Exclusion and Avoidance Area Criteria, set forth in N.D.A.C. §69-06-08-02(1) and §69-06-08-02(2) as applied to the proposed Corridor.
13. Minnesota Power evaluated a proposed 1.1-mile-wide corridor.
14. No Exclusion Areas have been identified within the proposed corridor.

15. N.D.A.C. §69-06-08-02 provides that Exclusion and Avoidance Areas may be located within a corridor, but at no given point shall such an area encompass more than 50 percent of the corridor width, unless there is no reasonable alternative.

16. N.D.A.C. §69-06-08-02 provides that a transmission facility route must not be sited within an Exclusion Area. A transmission facility route must also not be sited within an Avoidance Area unless the Applicant shows under the circumstances there are no reasonable alternatives.

17. The proposed route does not cross any identified Exclusion Areas.

18. The proposed route does not cross any identified Avoidance Areas.

19. Minnesota Power consulted with the United State Fish and Wildlife Service (USFWS) and agreed that within the whooping crane migration corridor, any above ground transmission or distribution facilities built will be equipped with bird-flight diverters; along with an equal length of preexisting line. For Minnesota Power this will mean its DC Line.

20. Minnesota Power has performed a Class I Cultural Resource Literature Search and a Class III Pedestrian Resource Inventory of the entire route. This inventory has resulted in a recommendation that there are no significant historic properties that would be affected by this project.

21. The North Dakota State Historic Preservation Office (SHPO) concurred with the Class III Resource Inventory recommendation of "no historic properties affected".

22. A wetland delineation was conducted along the proposed route. No permanent impacts to wetlands are anticipated as a result of transmission line structure placement. Wetlands will be avoided by spanning and placing structures in upland areas.

23. In accordance with the Commission's Selection Criteria, a corridor or route may be approved if it is demonstrated that any significant adverse impacts that will result from the location, construction, and maintenance of the transmission facility will be of an acceptable minimum or managed at an acceptable minimum.

24. Minnesota Power submitted information in its Application and through testimony that any significant adverse effects from the location, construction and maintenance of the transmission facility as they relate to the Selection Criteria listed at N.D.A.C. §69-06-08-02(3) will be at an acceptable minimum or will be managed and maintained at an acceptable minimum.

25. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits from the adoption of certain policies and practices.

26. Minnesota Power submitted information in its Application and through testimony demonstrating its commitment to maximize the benefits of the proposed transmission facility to meet the Policy Criteria set forth in N.D.A.C. §69-06-08-02(4).

27. It is appropriate to designate a corridor only for the area on which the Class III Cultural Resource Surveys were performed.

28. Minnesota Power made other representations and agreements as contained in the Certification Relating to Order Provisions – Electric Transmission Line Siting executed by Minnesota Power on February 29, 2012 and filed with the Commission (Minnesota Power Exhibit 3), which is incorporated in these Findings of Fact.

Conclusions of Law

1. The Commission has jurisdiction over this proceeding under N.D.C.C. Chapter 49-22.

2. The 230 kV transmission line and associated facilities proposed by Minnesota Power are transmission facilities as defined in N.D.C.C. §49-22-03(12).

3. The location, construction, and operation of the proposed transmission facilities will produce only minimal adverse effects of the environment and upon the welfare of the citizens of North Dakota.

4. The Application submitted by Minnesota Power meets the corridor and route evaluation criteria required by Chapter 49-22 of the North Dakota Century Code.

5. The proposed transmission facility corridor and route 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.

6. The proposed transmission facilities are compatible with the environmental preservation and the efficient use of resources.

7. The requested waivers of procedures is justified based upon: the minimal impacts on the environment and the welfare of the citizens of North Dakota; the lack of objection to the proposed transmission facility by federal, state and local government bodies and agencies, or by the majority of landowners along the route; and the objective to have a reliable integrated transmission system in North Dakota.

8. The proposed transmission facilities are of such length, design, location, and purpose that it will produce minimal adverse effects.

9. The Commission has jurisdiction pursuant to Chapter 49-22 of the North Dakota Century Code to ensure compliance with this order through construction and post-construction monitoring.

From the foregoing Findings of Fact and Conclusions of Law, the Commission now makes its:

Order

The Commission orders:

1. Minnesota Power's Application for a Waiver of Procedures and Time Schedules is granted.
2. Certificate of Corridor Compatibility for Transmission Facility Corridor No. 136 is issued to Minnesota Power, designating a Corridor for its proposed transmission facility. For purposes of the certificate, the corridor consists of the proposed interconnection substation area plus a 130 foot-wide area centered on the preferred transmission line route as described in Minnesota Power's Application and presented at the hearing.
3. Route Permit No. 147 is issued to Minnesota Power granting authority to construct the proposed transmission line and associated facilities as described in the Application and presented at the hearing.
4. The February 29, 2012 Certification Relating to Order Provisions – Electric Transmission Line Siting with accompanying Tree and Shrub Mitigation Specifications is incorporated by reference and attached to this order except that Minnesota Power may clear cut the entire width of the right-of-way through windbreaks, shelterbelts and all other wooded areas.

PUBLIC SERVICE COMMISSION


Kevin Cramer
Commissioner


Tony Clark
Chairman


Brian P. Kalk
Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Certificate of Corridor Compatibility Number 136

This is to certify that the Commission has designated a transmission facility corridor for Allete Inc. for the construction of approximately 11 miles of 230 kV Electric Transmission Line and associated facilities from its existing Bison Wind Project substation in Morton County to a new substation in Mercer County, North Dakota.

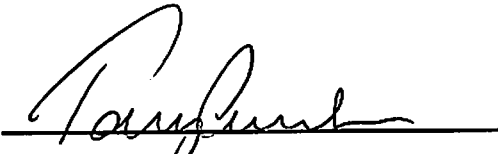
This certificate is issued in accordance with the Order of this Commission dated May 30, 2012 in Case No. PU-11-620 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, May 30, 2012.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Route Permit Number 147

This is to certify that the Commission has designated a transmission facility route for Allete, Inc. for the construction of approximately 11 miles of 230 kV Electric Transmission Line and associated facilities from its existing Bison Wind Project substation in Morton County to a new substation in Mercer County, North Dakota.

This certificate is issued in accordance with the Order of this Commission dated May 30, 2012 in Case No. PU-11-620 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, May 30, 2012.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

ALLETE, Inc.
230 kV Transmission Line Extension – Oliver County
Siting Application

Case No. PU-11-620

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

I am Bradley W. Oachs, a representative of ALLETE, Inc. (“Company”) with authority to bind it to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company 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 Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission’s order.
3. Company 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. Company 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. Company agrees to inform the Commission and the Commission’s third-party construction inspector of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission’s third-party construction inspector updated on construction activities on a weekly basis.
6. Company 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.

7. Company 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.
8. Company agrees to construct and operate the energy conversion facility in accordance with all applicable safety requirements.
9. Company agrees to construct and operate the transmission facility in the manner described in Company's application, in any late filed exhibits, and supplemental materials (Application). To the extent there are any conflicts or inconsistencies between Company's Application and the provisions in this Certification Relating to Order Provisions, the Certification provisions control.
10. Company 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 Company becomes aware and which were not previously reported to the Commission.
11. Company 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. Company 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. Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road.
14. Company 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. Company 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. Company 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. Company 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. Company 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. Company 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. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
 21. Company 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. Company 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. Company understands and agrees that it shall repair or replace all drainage tile broken or damaged drainage tile as a result of construction and operation of the transmission facility.

24. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
25. Company 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. Company 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. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.
28. Company 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. Company 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.
30. Company understands and agrees that it shall implement a procedure for how complaints concerning the transmission facility will be handled by Company
31. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
32. Company 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. Company 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.
33. Company 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 3 months of the Commission order approving the corridor. Company 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 Commission order

approving the corridor. 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. Company 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 3 months of the completion of the construction. Company 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.
35. Company 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.
36. Company understands and agrees that in the event Company 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 Company's application in this proceeding, Company shall apply to the Commission for a Route Permit or Site Certificate for the facility.
37. Company 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, Company 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.
38. Company 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 27th day of February, 2012.

ALLETE, INC.

By Bradley W. Oachs
Bradley W. Oachs

Its Chief Operating Officer

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

ALLETE, Inc.
230 kV Transmission Line Extension – Oliver
County
Siting Application

Case No. PU-11-620

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).