

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Dakota Gasification Company  
10" Natural Gas Pipeline- Mercer County  
Siting Application

Case No. PU-13-22

AFFIDAVIT OF SERVICE BY REGULAR 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 16<sup>th</sup> day of July, 2013, she deposited in the United States Mail, Bismarck, North Dakota, 3 envelopes by first class mail, fully prepaid, securely sealed and each containing a photocopy, securely sealed and each containing a photocopy, and 23 addressees electronically mailed a copy of:

Order

The envelopes were addressed as follows:

See attached list.

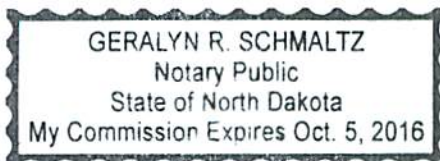
Each post office address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this 16<sup>th</sup> day of July, 2013.

  
\_\_\_\_\_

  
\_\_\_\_\_  
Notary Public

SEAL



ndaero@nd.gov  
Melinda Weninger  
Aeronautics Commission  
PO Box 5020  
Bismarck ND 58502-5020

ndag@nd.gov  
Attorney General's Office

cte@nd.gov  
Dept of Career and Technical Education  
State Capitol  
Bismarck ND 58505

mpaaverud@nd.gov  
Merlan Paaverud, Jr.  
Historical Society

jpaczkowski@nd.gov  
John Paczkowski  
N D Water Commission  
900 E Boulevard  
Bismarck ND 58505

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

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

mdaley@nd.gov  
Maren Daley  
ND Job Service  
P.O. Box 5507 INSIDE MAIL  
Bismarck ND 58506-5507

mhaupt@nd.gov  
Mike Haupt  
ND Land Department

tsando@nd.gov  
Todd Sando  
State Engineer  
ND Water Commission

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

jmittleider@nd.gov  
John Mittleider  
Department of Commerce  
600 East Blvd  
Bismarck ND 58505

ndquarter@nd.gov  
Jack Dalrymple  
Governor's Office  
State Capitol  
Bismarck ND 58505

ckulas@nd.gov  
Cheryl Kulas  
Indian Affairs Commission  
State Capitol - 1st Floor J Wing INSIDE  
Bismarck ND 58505

ndascd@lincolnoakes.com  
ND Assoc of Soil Conservation Dist  
3310 University Drive  
Bismarck ND 58504-7564

Larry.kotchman@ndsu.edu  
MR LARRY KOTCHMAN  
ND FOREST SERVICE  
MOLBERG CENTER 307 1ST STREET EAST  
BOTTINEAU ND 58318

emurphy@nd.gov  
MR ED MURPHY  
ND GEOLOGICAL SURVEY

labor@nd.gov  
Tony Weiler  
ND Labor Dept  
600 E Blvd Ave  
Bismarck ND 58505

markzimmerman@nd.gov  
Mark Zimmerman  
North Dakota Parks & Rec  
1600 E Century Ave, Ste. 3 INSIDE MAIL  
Bismarck ND 58503-0649

dglatt@nd.gov  
Dave Glatt  
State Health Department

bheller@nd.gov  
BRENDA HELLER  
STATE REPRESENTATIVE DIST 33  
1661 60TH AVE SW  
BEULAH ND 58523-9170

gkreidt@nd.gov  
GARY KREIDT  
STATE REPRESENTATIVE DIST 33  
3892 COUNTY RD 86  
NEW SALEM ND 58563-9406

jkunruh@nd.gov  
Jessica Unruh  
STATE SENATOR DIST 33  
213 10th Street NE  
Beulah ND 58523

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

**Dakota Gasification Company  
10" Natural Gas Pipeline- Mercer County  
Siting Application**

**Case No. PU-13-22**

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

**July 10, 2013**

**Appearances**

Commissioners: Brian P. Kalk, Randy Christmann and Julie Fedorchak.

R. Russell Mather, Staff Attorney, Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, North Dakota 58503, on behalf of Dakota Gasification Company.

Mitchell D. Armstrong, Special Assistant Attorney General for the Public Service Commission; Smith Bakke Porsberg Schweigert & Armstrong, 122 E. Broadway Avenue, Bismarck, North Dakota 58501.

Sara Cardwell, Public Utility Analyst, Public Service Commission, State Capitol, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Bonny M. Fetch, Office of Administrative Hearings, 1707 North Ninth Street, Bismarck, North Dakota 58501-1882, as Administrative Law Judge.

**Preliminary Statement**

On January 2, 2013, Basin Electric Power Cooperative (Basin Electric) filed with the North Dakota Public Service Commission (Commission) a Letter of Intent to construct a 3.5-mile, ten-inch diameter natural gas pipeline (Pipeline) from Basin Electric's Antelope Valley Station (AVS) to an interconnection with Dakota Gasification Company's (DGC) gas pipeline on the DGC plant site in Mercer County.

On January 16, 2013 the Commission acknowledged the Letter of Intent, and shorted the one-year waiting period between the filing of the Letter of Intent and the Application to thirty days and assessed a filing fee of \$45,000.

On February 28, 2013, Basin Electric filed its Application for waiver of

procedures and time schedules and Applications for a Certificate of Corridor Compatibility and Route Permit to construct the Pipeline.

On April 19, 2013, Basin Electric submitted an amendment to the Certificate of Corridor Compatibility and Route Permit Applications identifying DGC as the owner/operator of the proposed pipeline and stating that Basin Electric staff and contractors would continue to participate in the construction of the Project. The amendment also described certain minor changes to the proposed route to better accommodate existing infra-structure along the route and to ensure that the Project would not interfere with the Coteau Properties Company's plans for future development of the Freedom Mine.

On April 24, 2013, the Commission deemed the Applications complete and issued a Notice of Filing and Notice of Hearing scheduling a hearing for June 13, 2013, at 1:00 p.m. CDT in the Mercer County Courthouse, 1021 Arthur Street, Stanton, North Dakota.

The issues to be considered in the application for waiver of procedures and time schedules 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?

The issues to be considered in the applications for certificate of corridor compatibility and route permit include:

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?

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

## **Findings of Fact**

- 1. DGC is a North Dakota corporation headquartered in Bismarck, North Dakota. DGC owns and operates the Great Plains Synfuels Plant (Synfuels Plant). DGC is a wholly-owned subsidiary of Basin Electric Power Cooperative, a North Dakota not-for-profit electric cooperative corporation headquartered in Bismarck, North Dakota.**
- 2. The Synfuels Plant produces synthetic natural gas and associated by-products and co-products related to the coal gasification process employed to make synthetic natural gas.**
- 3. In connection with the operation of the Synfuels Plant, DGC has constructed, owns and operates a 205-mile pipeline that transports carbon dioxide and a natural gas pipeline that transports synthetic natural gas (SNG) from the Synfuels Plant for a distance of 34 miles.**
- 4. The pipeline will be a ten-inch nominal size diameter API 5L X52 steel natural gas pipeline with a minimum 0.365 inch wall thickness. The maximum operating pressure will be 1440 pounds per square inch. The maximum design flow rate will be 125 million cubic feet per day. In addition to the pipeline itself, DGC will also construct various valves and instrumentation, a pig launcher and receiver for use while performing pipeline inspections, a filter/separator vessel for capturing debris or liquids present in the gas stream, and two meters for measuring gas flow.**
- 5. Construction is planned to start in early August 2013 and be complete by the end of September 2013. The total estimated cost of the project is \$6.5 million.**
- 6. DGC affirms that the design, construction and operation of the pipeline will be in all respects compliant with the United States Department of Transportation regulations governing the transportation of natural gas as prescribed under 49 CFR Part 192 -Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards.**
- 7. The purpose of the proposed pipeline is to provide Basin Electric with access to natural gas for use in periodic start-up activities at the AVS electric generating facility to achieve compliance with the Electric Generating Units Mercury and Air Toxics Standards (EGU MATS) Rule promulgated by the Environmental Protection Agency (EPA) in February, 2012. The proposed pipeline is the most efficient, cost-effective method to enable AVS to achieve compliance with the EPA rule and will have the least impact reasonably possible upon the environment, future development and use of the area and human health and welfare in the vicinity of the proposed route.**
- 8. The direct and indirect economic impacts of the proposed pipeline are positive. To the extent that local contractors are used for portions of the construction, total wages**

and salaries paid to contractors and workers will contribute to the region's income. Expenditures made for equipment, energy, fuel, operating supplies, and other products and services also benefit businesses in the county and the state. Most importantly, the Project facilitates compliance with the EGU-MATS Rule thereby allowing the continued operation of AVS.

9. DGC has made other representations and covenants as contained in the Certification Relating to Order Provisions – Transmission Facility Siting executed by DGC and filed with the Commission on June 13, 2013, and which is incorporated into this Order.

#### Siting Criteria

10. 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 set forth in North Dakota Administrative Code § 69-06-08-02 is classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria. A transmission route must not be sited within an exclusion area. A transmission facility route must be not sited within an avoidance area unless the applicant shows under the circumstances there are no reasonable alternatives. In determining whether an avoidance area should be designed 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.

11. DGC/Basin Electric staff sent letters requesting review and comment on the Project to the designated state agencies and officers listed in NDAC 69-06-01-05, as well as to the various federal and county agencies and officials. The following county, state and federal agencies provided written comments regarding the Project: United States Army Corps of Engineers, U.S. Fish and Wildlife Service, Natural Resources Conservation Service, North Dakota State Historical Society, North Dakota Game and Fish Department, North Dakota State Health Department, North Dakota State Water Commission, North Dakota Parks and Recreation Department and Mercer County. No objections to the corridor or route were raised by the Agencies providing comments.

12. No exclusion areas were identified.

13. No avoidance areas were identified.

14. No residences or schools are located within 500 feet of the proposed route.

15. DGC submitted substantial information in its Application and through its 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 Section 69-06-08-2(3) North Dakota Administrative Code, will be at an acceptable minimum or will be managed and maintained at an acceptable minimum.
16. DGC submitted substantial information in its Application and through its testimony to demonstrate its commitment to maximize the benefits of the proposed transmission facility to meet the Policy Criteria set forth in Section 69-06-08-2(4), North Dakota Administrative Code.
17. DGC will participate in the North Dakota One-Call Excavation System.
18. All crossings of graded roads will be bored.
19. Construction will take place in late summer and early fall, thereby avoiding any impacts to nesting migratory birds.
20. An Unanticipated Discovery Plan (UDP) detailing the procedures to be implemented if cultural resources or human remains are discovered during construction has been prepared for the project.
21. There will be no significant long-term irreversible effects to environmental or cultural resources by construction of this pipeline.

#### Cultural Resources

22. Metcalf Archeological Consultants was retained to conduct a Class I Literature Review, as well as a Class III (pedestrian) cultural resource surveys along the proposed route and corridor. The survey area consisted of a 100 foot wide corridor approximately centered on the proposed route centerline. In addition, areas identified for pipe string out and material laydown were also surveyed. No new prehistoric or historic sites were identified during the Class III surveys. An abandoned farmstead was previously recorded as site 32ME767. The ND SHPO, in a letter dated December 21, 2012, recommended no avoidance of the site and issued a *No Historic Properties Affected* determination for the Project. Further, it is unlikely that paleontological resources will be affected by the project.

#### Wetlands and Wildlife

23. A wetland and waterbody survey was conducted along the proposed corridor. Three wetlands and three waterbodies (stream crossings) were mapped. Waterbodies included a concrete lined canal as well as two other drainages. All wetland and waterbodies crossed by the proposed route will be avoided by using the Horizontal

Directional Drilling (HDD) construction method. As a result, no impacts to the wetlands are anticipated as a result of project construction. DGC will also provide a 50 foot buffer zone around wetlands, whenever feasible. DGC will implement mitigation measures to minimize indirect impacts to surface water and wetland resources, such as erosion and sedimentation control Best Management Practices. DGC will require its contractor to secure required storm water permits for the project from the North Dakota Department of Health.

24. The project will have no significant impact on fish and wildlife resources and no endangered or threatened plant or animal species are known to occupy the proposed route.

#### Future Mitigative Measures

25. A tree and shrub inventory was completed in the proposed corridor. A total of 157 trees and shrubs were counted within the boundary of the corridor. It is recognized that this inventory area represents an area larger than will be impacted by construction (e.g., HDD bore areas are included, survey corridor wider than construction corridor, etc.). DGC agreed to comply with the Tree and Shrub Mitigation Specifications attached to this Order and will refine the tree and shrub inventory once construction has been completed.

26. The pipeline will be included and managed in accordance with DGC's existing Emergency Response Plan.

#### Other

27. The Commission finds 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.

28. The Commission finds the proposed project compatible with environmental preservation and the efficient use of resources.

29. The Commission finds that the proposed project minimizes 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.

30. The Commission finds the proposed project is of such length, design, location and purpose that it will produce minimal adverse effects, so that procedures and time schedules may be waived.

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

## **Conclusions of Law**

1. The Commission has jurisdiction over the applicant, DGC and over the subject matter of this application under North Dakota Century Code Chapter 49-22.
2. The proposed pipeline is a transmission facility as defined in North Dakota Century Code Section 49-22-03(12).
3. 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.
4. The location, construction and operation of the pipeline are compatible with environmental preservation and the efficient use of resources.
5. 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.
6. The project is of such design and location that it will produce minimal adverse effects, as defined under North Dakota Century Code Section 49-22-07.2.
7. 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 Section 49-22-07.2.

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

### **Order**

The Commission orders:

1. DGC's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility Number 142 is issued to DGC, designating a corridor for its proposed pipeline project.
3. Route Permit Number 155 is issued to DGC, granting authority to construct and operate a 10-inch natural gas pipeline in Mercer County.
4. The Certificate of Corridor Compatibility Number 142 and Route Permit Number 155 are effective for the life of the pipeline, but are subject to modification by order of the Commission if deemed necessary to further protect the

public or the environment.

5. DGC must comply with the appropriate provisions of the new section to Chapter 49-22 of the North Dakota Century Code that became effective on April 1, 2013 if any changes to the corridor or route are needed after the certificate of corridor compatibility or route permit have been issued.

6. DGC shall comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed pipeline, shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission.

7. DGC shall conduct a preconstruction conference with the Commission prior to the commencement of construction. The conference must include a DGC representative, its construction supervisor, and a representative of Commission staff to ensure that DGC fully understands the conditions set forth in the Commission's order.

8. DGC shall inform the Commission of its intent to start construction on the pipeline prior to the commencement of construction, report to the Commission on the date construction has started, and once construction has started, it shall keep the Commission updated on construction activities on a weekly basis.

9. DGC shall construct and operate the pipeline in the manner described in its application, in any late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.

10. The pipeline shall be buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in rangeland and 48 inches at the bottom of the ditch for road crossings.

11. All crossings of graded roads shall be bored unless the responsible governing agency specifically permits DGC to open cut the road.

12. The width of clear cuts through any wooded areas and shelterbelts shall be kept at a maximum of 50 feet where possible.

13. DGC shall promptly report to the Commission the presence in the permit area of any critical habitat of threatened species, endangered species, bald eagles, or golden eagles that DGC becomes aware of and which were not previously reported to the Commission.

14. Construction must be suspended when weather conditions are such that construction activities will cause irreparable damage, unless adequate protection measures approved by the Commission are taken.

15. 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 SHPO and the Commission.

16. At least six inches of topsoil (where available) over and along trench areas where cuts will be made must be stripped and segregated from the subsoil. 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. Reclamation and clean up along the right-of-way must be continuous and coordinated with construction.

18. All pre-existing roads and lanes used during any further construction must be restored to a condition that will accommodate their previous use, and areas used as temporary roads or working areas during construction must be restored to their original condition.

19. Reclamation, fertilization, and reseeding are to be done by DGC according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.

20. DGC shall comply with the Tree and Mitigation Specifications attached to this order.


21. DGC shall work to mitigate any increase in television and residential radio interference that results from the route of the pipeline.

22. DGC shall provide the Commission with a hard copy of the facility alignment drawings with alignment data showing the facility as built (hardcopy and electronic versions), and an electronic version of the as-built facility that can be imported into ESRI GIS mapping software within six months of the completion of construction. All 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.

23. DGC's obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the pipeline.

24. The authorizations granted by the corridor certificate and route permit are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

**PUBLIC SERVICE COMMISSION**

  
Randy Christmann  
Commissioner

  
Brian P. Kalk  
Chairman

  
Julie Fedorchak  
Commissioner

**STATE OF NORTH DAKOTA**

**PUBLIC SERVICE COMMISSION**

**Dakota Gasification Company  
10" Natural Gas Pipeline – Mercer County  
Siting Application**

**Case No. PU-13-22**

**CERTIFICATION RELATING TO HOUSE BILL NO. 1147**

The undersigned, David J. Sauer, Vice President of Dakota Gasification Company (the "Company"), with authority to bind the Company to requirements to be set forth by the Commission in its Order, hereby certifies that the Company agrees to utilize the following procedures pursuant to House Bill No. 1147 if the Company seeks a route adjustment before or during construction of its 10-inch natural gas pipeline:


1. The Company will specifically identify the subsection of House Bill No. 1147 under which it is requesting the adjustment.
2. Before conducting any construction activities for any adjustment to the designated route within the designated corridor, the Company will file with the Commission maps meeting the requirement of N.D. Admin. Code § 69-06-04-01(n) and identifying:
  - a. the designated route and the route adjustment;
  - b. the designated corridor;
  - c. all exclusion and avoidance areas within the designated corridor;
  - d. all landowners and their associated property within the designated corridor; and
  - e. all government entities with an interest in the designated corridor.
3. If the Company is filing a route adjustment with construction activities outside the designated corridor, the maps will include the following additional information:
  - a. the length of the route outside the designated corridor;
  - b. the corridor adjustment;
  - c. the width of the revised corridor;
  - d. identification of all exclusion and avoidance areas within the revised corridor;
  - e. identification of all landowners and their associated property within the revised corridor; and
  - f. identification of all government entities with an interest in the revised corridor.
4. The Company will provide the name and contact information for each landowner and for each governmental entity with an interest in the designated corridor and any revised corridor; and will provide a description of the nature of each entity's interest sufficient for the Commission and Commission staff to evaluate potential impacts.

5. The Company will provide sufficient supporting documentation indicating that no landowner or interested government entity opposes the adjustment. If a landowner or interested government entity is opposed to the route adjustment, the Company will provide documentation from the landowner or government entity stating its objection. If no documentation exists, the Company will provide a description of its understanding of the nature of any landowner or government entity objection.
6. If the construction activity associated with the adjustment will not affect any known exclusion or avoidance area, the Company will certify in its filing that construction activities will not affect any known exclusion or avoidance areas and will provide all field studies performed to conclude that exclusion or avoidance areas will not be impacted within the revised corridor.
7. If the construction activity associated with the adjustment will impact an avoidance area, the Company will provide, before any construction activities are undertaken:
  - a. Specific information describing avoidance areas expected to be impacted;
  - b. All field studies performed to conclude that exclusion or avoidance areas will be impacted;
  - c. Specific information describing why the Company asserts there is no reasonable alternative to impacting the avoidance area;
  - d. Specific information describing why the Company asserts there is good cause to impact the avoidance area; and
  - e. Specific information about any mitigation measures the Company will take.
8. If the Company is seeking an adjustment under subsection (2) or (4) of House Bill No. 1147, the Company agrees the initiation of the 10 working days from receipt of the Company's filing, certification and supporting documentation will not start until all of the information required by law and this Certification has been received by the Commission. The Company further acknowledges that the Commission may delegate to staff the authority to determine if the Company has established good cause to impact an avoidance area. However, if it is Commission staff's determination that full Commission involvement is necessary to evaluate whether authorization to impact the avoidance area should be authorized, staff's written notice to the Company that the staff is bringing the question to the full Commission constitutes action by the Commission within 10 working days and authorization is not granted until the Commission acts.
9. If a route adjustment is granted within the original designated corridor or in an adjusted corridor, the Company agrees to incorporate and follow all provisions of the Commission's Order designating the original route and corridor unless the Company specifically requests relief from a specific provision, and the requested relief is specifically granted.

10. The Company certifies that it will comply with the Commission's Order and all applicable laws, rules, and regulations designating the corridor and route with respect to any adjustment.

Dated this 27th day of June, 2013.

**DAKOTA GASIFICATION COMPANY**

By:   
David J. Sauer

Title: Vice President

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

**Dakota Gasification Company**  
**10" Natural Gas Pipeline- Mercer County**  
**Siting Application**

**Case No. PU-13-22**

**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 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 must 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 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.

PU-13-22

Tree and Shrub Mitigation

Page 1

## **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 must be noted on the inventory.

## **Replacement**

10. Prior to tree and shrub 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. Two 2-year-old saplings must be planted for every one tree removed. Two shrubs must be planted with stem cuttings 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. Tree and shrub replacement shall not be conducted within a 20 to 30 foot wide path over the pipeline to facilitate visual inspections of the right-of-way in accordance with U.S. Department of Transportation safety regulations.
14. Landowners shall 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 these options in writing in order to have replacement trees and shrubs planted at alternative locations.
15. 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.
16. 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. An annual report must be submitted to the Commission by October 1 of each year, documenting the condition of replacement 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).

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility Number 142**

*This is to certify that the Commission has designated a transmission facility corridor for Dakota Gasification Company's 3.5 mile, ten-inch diameter natural gas pipeline from Basin Electric's Antelope Valley Station to an interconnection with Dakota Gasification Company's gas pipeline on the Dakota Gasification Company's plant site in Mercer County, North Dakota.*

*This certificate is issued in accordance with the Order of this Commission dated July 10, 2013 in Case No. PU-13-22 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, July 10, 2013.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

# **PUBLIC SERVICE COMMISSION**

## **STATE OF NORTH DAKOTA**

### **Route Permit Number 155**

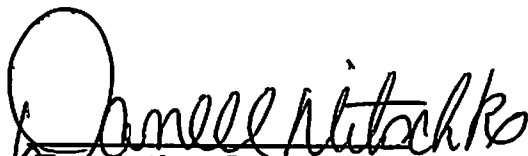
*This is to certify that the Commission has designated a transmission facility route for Dakota Gasification Company's 3.5 mile, ten-inch diameter natural gas pipeline from Basin Electric's Antelope Valley Station to an interconnection with Dakota Gasification Company's gas pipeline on the Dakota Gasification Company's plant site in Mercer County, North Dakota.*

*This permit is issued in accordance with the Order of this Commission dated July 10, 2013 in Case No. PU-13-22 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, July 10, 2013.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**