



Public Service Commission

State of North Dakota

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April 1, 2016

Lawrence Bender, Attorney at Law
Fredrikson & Byron, P.A.
1133 College Drive, Suite 1000
Bismarck, ND 58501-1215

Dear Mr. Bender,

I have reviewed the tree and shrub mitigation plan filed on March 2, 2016, in Case No. PU-13-825, Bakken Oil Express, LLC, 16-Inch Crude Oil Pipeline/Dunn & Stark Counties.

The Tree and Shrub Mitigation Specifications of the Certification to Order Provisions, executed by Bakken Oil Express on December 4, 2013, were incorporated into and made a part of the Commission's Order in this case, a copy of which may be viewed through the following link:
<https://psc43.psc.state.nd.us:8443/casedoc/2013/13-0825/020-010.pdf>

The Specifications require documentation identifying the number and variety of shrubs removed, as well as the mitigation plan for the proposed number, variety, type, location, and date of replacement plantings to be filed with the Commission for approval prior to replacement. The Specifications further indicate that in native growth areas, trees to be cleared that are one inch in diameter at breast height or greater and all shrubs to be cleared in the permanent right-of-way must be inventoried for replacement. Two 2-year-old saplings must be planted for every one tree removed, and two shrubs (stem cuttings) must be planted for every one shrub removed.

The plan filed includes a table specifying the number of trees and shrubs impacted by construction of the pipeline, as well as the number of intended replacement plantings. However, the number of plantings proposed does not appear to conform to the required 2:1 replacement ratio, nor does the plan contain information as to the location and intended date of replacement plantings. Additionally, the plan contains language that seems to indicate shrub mitigation will only include those shrubs greater than one inch in diameter at breast height, rather than all native growth shrubs within the right-of-way.

Please have Bakken Oil Express provide an updated plan that contains the information required by the Specifications for approval by the Commission prior to mitigation plantings. You may contact me at 328-4188 with any questions concerning this correspondence.

Sincerely,

Julie Prescott
Compliance and Competitive Markets Division

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Request for updated tree and shrub replacement plan

Public Service Commission

Julie Prescott