

February 24, 2017

VIA HAND DELIVERY

Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480



**RE: BAKKEN OIL EXPRESS, LLC
CASE NUMBER PU-13-825**

Dear Mr. Nitschke:

Enclosed for filing, please find an original and ten (10) copies of the Tree and Shrub Mitigation Plan for Bakken Oil Express, LLC in the above-referenced matter.

Also enclosed is a CD containing the above-referenced document in PDF format. If you should have any questions, please advise.

Sincerely,

A handwritten signature in blue ink, appearing to read "L. Bender".

LAWRENCE BENDER

LB/dmk
Enclosures

cc: Sara Cardwell (*via e-mail*)
Nick Anderson (*via e-mail*)

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111 PU-13-825 Filed: 2/24/2017 Pages: 5
Tree and Shrub Mitigation Plan

**Bakken Oil Express Pipeline, LLC
16-Inch Crude Oil Pipeline Project (PU-13-825)
Dunn and Stark County, North Dakota**

Introduction

BOE Pipeline, LLC (BOE) received the Public Service Commission Route Permit (Permit # 161) on December 30, 2013, to construct a 38 mile, sixteen-inch diameter, crude oil pipeline from Killdeer to Dickinson, North Dakota (Case No. PU-13-825). Construction of the proposed project commenced on January 13, 2014, with final ROW clean-up occurring on September 13, 2014. Upon completion of construction, reclamation efforts along the pipeline corridor commenced. Between October and November 2014, the reclamation efforts included final grading, seeding and miscellaneous reclamation activities. These activities were completed in 2015.

As part of the reclamation activities, impacts to trees and shrubs would be mitigated. A tree and shrub count was completed along the corridor prior to and after construction activities to determine the number and species of trees and shrubs removed, as well as the location/landowner where the trees and shrubs were removed. ***Please refer to Table 1, Impacts and Mitigation.*** Once impacts were identified, a Tree and Shrub Mitigation Plan was designed to describe how tree and shrub impacts would be mitigated. The original plan was submitted to the North Dakota Public Service Commission (PSC) in March 2016. At that time, only a portion of the impacted species were proposed to be mitigated, since some of the landowners did not want trees and/or shrubs replanted on their property. The PSC reviewed the plan and determined that all the trees and shrubs, including excess species, would need to be mitigated.

Since that time KLJ has coordinated with multiple agencies, including the Natural Resources Conservation Service, Dunn County Soil Conservation District, City of Killdeer, US Fish and Wildlife Service Lake Ilo National Wildlife Refuge, and Stark County Soil Conservation District, regarding the planting of excess trees and shrubs on property they own or manage. Some of the agencies expressed interest in a cooperative effort on the plantings; however, those agencies were not interested in the species proposed to be mitigated. It was not until late 2016 that we were informed of a North Dakota Game and Fish Department (NDGFD) habitat improvement project located in Stark County, ND. A cooperative agreement between the NDGFD and BOE for planting of the excess trees and shrubs is ongoing.

Mitigation Plan Methodology

The following strategy has been, and will continue to be, used for mitigation and monitoring for tree and shrub replacements:

- Once the project was complete and final tree and shrub impacts were known, each landowner was contacted regarding trees and shrubs removed from their property. They were informed of mitigation requirements and offered options for potential mitigation.
- Mitigation for trees and shrubs is proposed at a 2:1 ratio (two individuals replaced for every individual removed) for each tree/shrub removed.
- Landowners were given the option of having replacement trees and shrubs planted on their property, either on or off the right-of-way; however, tree and shrub plantings would not be conducted within a 20 to 30-foot wide path over the pipeline per regulations set forth by the

U.S. Department of Transportation. The landowners were also given the opportunity to waive those options.

- If landowners waived the option to have trees or shrubs planted on their property, the remaining trees and/or shrubs would be planted on lands managed by the North Dakota Game and Fish Department (NDGFD).
 - The plantings would be utilized as part of a habitat improvement project in Stark County. Project preparation is anticipated to commence in fall 2017, with tree and shrub plantings to take place in spring 2018.
 - The number of individuals and species type requiring mitigation would be provided to the NDGFD, and their specialists would determine suitable replacement species to complement their habitat improvement plan.
- Tree and shrub replacements will be inspected annually, in September, for three years. A report of each annual inspection would 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 mitigation plan will be reviewed and additional plantings may be required.
 - In 2015, trees and shrubs were planted on private lands as requested by the landowners; however, monitoring of those plantings has not occurred due to delays in the identification and planning of excess tree and shrub plantings. Monitoring of the trees and shrubs planting in 2015 will occur in September 2017.

Table 1, Impacts and Mitigation identifies the type and number of species requiring mitigation to achieve a 2:1 ratio and where those species would be mitigated to achieve the required ratio.

Table 1, Impacts and Mitigation

Tree and Shrub Impacts				Mitigation		
Species	Inventory (Number of Individuals)	Impacts (Number of Individuals)	Mitigation Required (2:1 Ratio)	Number of Individuals Replaced on Private Lands	Number of Individuals Replaced on NDGFD Property	Total individuals Replaced (2:1 Ratio)
American Elm (<i>Ulmus americana</i>)	21	4	8	4 (Replaced with Siberian Elm)	4 (Species to be determined (TBD))	8
Black Willow (<i>Salix nigra</i>)	1	0	0	0	0	0
Boxelder (<i>Acer negundo</i>)	2	0	0	0	0	0
Choke Cherry (<i>Prunus virginiana</i>)	196	19	38	38	0	38
Peachleaf Willow (<i>Salix amygdaloides</i>)	4	2	4	4	0	4
Green Ash (<i>Fraxinus pennsylvanica</i>)	159	13	26	26	0	26
Japanese Elm (<i>Ulmus davidiana</i>)	6	0	0	0	0	0
Juneberry (<i>Amelanchier alnifolia</i>)	155	12	24	12	12 (Species TBD)	24
Prairie Rose (<i>Rosa arkansana</i>)	1,174	156	312	156 (Replaced with Hansen's Hedge Rose)	156 (Species TBD)	312
Roundleaf Hawthorn (<i>Crataegus lumaria</i>)	29	29	58	44 (Replaced with Arnold Hawthorn)	14 (Species TBD)	58
Russian Olive (<i>Elaeagnus angustifolia</i>)	396	24	48	48	0	48
Scotch Pine (<i>Pinus sylvestris</i>)	1	0	0	0	0	0
Siberian Peashrub – AKA Caragana (<i>Caragana arborescens</i>)	44	30	60	58	2 (Species TBD)	60

