

September 29, 2020

VIA HAND-DELIVERY

Mr. Steve Kahl
Interim Executive Director
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

**Re: BOE Pipeline, LLC
Tree Mitigation Monitoring
Case No. PU-13-825**

Dear Mr. Kahl:

Please find enclosed for filing in the above-referenced matter an original and five (5) copies of the BOE Tree Mitigation Monitoring Memorandum for 2020, submitted on behalf of BOE Pipeline, LLC.

A disk containing the above-referenced document and this letter in PDF format is also provided.

Should you have any questions, please advise.

Sincerely,



LAWRENCE BENDER

LB/kl
Enclosures

71063793.1

Attorneys & Advisors
main 701.221.8700
fax 701.221.8750
fredlaw.com

Fredrikson & Byron, P.A.
1133 College Drive, Suite 1000
Bismarck, North Dakota 58501-1215

120 PU-13-825 Filed 09/29/2020 Pages: 3
Tree Mitigation Monitoring Memorandum
Bakken Oil Express, LLC
Lawrence Bender, Fredrikson & Byron, P.A.



728 East Beaton Drive, Suite 101
West Fargo, ND 58078-2650
701 232 5353
KLJENG.COM

Memorandum

Date: 8/28/2020
To: Patrick Fahn – ND PSC
Copy to: John Wadsworth – BOE and Scott Besmer - KLJ
From: Nick Anderson - KLJ
RE: BOE I Tree Mitigation Monitoring (Case No. PU-13-825)

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 were 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. 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. A revised plan was submitted to the PSC in February 2017, which included tree and shrub replacement on both private lands and on ND state lands in cooperation with the North Dakota Game and Fish Department (NDGF). An agreement with NDGF was finalized in 2018, with BOE responsible for the purchase of trees and shrubs, associated landscaping fabric, and Stark County SCD labor to plant the trees.

During the 2015 growing season, trees and shrubs were planted on private lands, as agreed upon by eight landowners. In 2017, the monitoring survey determined that no trees or shrubs had survived on three of the landowner's properties; therefore, those properties were excluded from the 2018 monitoring survey. The remaining landowners were contacted to obtain survey permission in 2018; however, only two of the remaining five landowners were able to be reached. Due to the poor survivability and limited landowner access of trees planted in 2015, further monitoring of those plantings was suspended in 2019.



The tree planting conducted in coordination with the NDGF was completed on May 13, 2019, with BOE planting 484 rocky mountain junipers (*Juniperus scopulorum*). The planting was conducted on the Raab Wildlife Management Area, located in Section 24, T138N, R95W in Stark County.

MONITORING:

Per the mitigation plan, tree and shrub plantings are to be inspected annually 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 woodland work completed. 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. The 2017 mitigation plan determined that 578 trees would be replaced; therefore, the project would need to have 433 trees surviving at the end of the third year in order to reach a 75% survival rate.

Nute Bishop (KLJ) conducted a field survey to determine the health and recruitment of the NDGF planting on August 24, 2020.

RESULTS:

The 2020 field survey determined that 447 of the trees were surviving; therefore, the current survivability rate is 77%. This currently exceeds the 75% survivability rate agreed to within the Tree and Shrub Mitigation Plan.

No remedial actions or additional plantings are proposed for the 2021 growing season.

BOE will monitor the trees planted on private lands again in 2021 and provide a follow up report by October 1, 2021. If there are any questions or concerns regarding this report, feel free to contact me at 701-271-4884 or Nick.Anderson@kljeng.com.

Thanks,

Nick Anderson - KLJ

Environmental Planner