

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

North Dakota Pipeline Company, LLC
24-Inch Crude Oil Pipeline – Sandpiper Project
Siting Application

Case No. PU-13-848

ORDER ON TREE AND SHRUB MITIGATION SPECIFICATIONS

September 22, 2021

Preliminary Statement

The Commission's June 25, 2014 Findings of Fact, Conclusions of Law and Order issued Certificate of Site Compatibility No. 153 and Route Permit No. 165 to North Dakota Pipeline Company LLC (fka Enbridge Pipelines (North Dakota) LLC) for 300 miles of 24-inch diameter crude oil pipeline in Williams, Mountrail, Ward, McHenry, Pierce, Towner, Ramsey, Nelson, and Grand Forks Counties in North Dakota. Attached to the June 25, 2014 Order was the Tree and Shrub Mitigation Specifications for the Project. Partial construction of three terminals is the Project's status.

On March 13, 2019, the Commission revised its Tree and Shrub Mitigation Specifications to update the process for mitigation reporting.

On August 14, 2014, the Commission approved North Dakota Pipeline Company's (NDPC) Tree and Shrub Inventory Plan. On April 11, 2019, the Commission approved NDPC's Tree and Shrub Mitigation Plan and Addendum and on August 7, 2019, North Dakota Pipeline Company filed its first Planting Report.

On August 11, 2021, Commission Staff sent a letter to NDPC suggesting that NDPC may wish to consider complying instead with the March 13, 2019, version of the Tree and Shrub Mitigation Specifications.

On September 7, 2021, NDPC responded to the August 11, 2021 Commission Staff letter.

Discussion

The Tree and Shrub Mitigation Specifications (Specifications) attached to and made part of the Commission's June 25, 2014 Order required that two trees be planted for every one tree removed, and that two shrubs be planted for one shrub removed. The Specifications required that tree and shrub replacements be inspected annually, in September, for three years, with the first annual inspection at least one year from the anniversary date of the original plantings. The Specifications further required that a report of each annual inspection 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.

As a result of the partial Project construction, 45 trees and shrubs were removed.

The Commission's March 13, 2019 Specifications were conceived to be goal or purpose oriented to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefits to landowners, farmers and ranchers, the community, wildlife and the environment. In lieu of annual reporting for three years, the Commission's March 13, 2019 Specifications requires one final report filed by the company after two years that details the company's tree and shrub mitigation efforts and describes how the company's mitigation achieved the purpose stated above.

Since NDPC's tree and shrub mitigation plan is only in year two, Commission Staff suggested that NDPC consider complying instead with the March 13, 2019 version of the Tree and Shrub Mitigation Specifications.

NDPC has indicated a desire to comply with the March 13, 2019 version of the Tree and Shrub Mitigation Specifications instead of the June 25, 2014 Tree and Shrub Mitigation Specifications.

Having considered this matter, the Commission issues the following:

Order

The Commission Orders that its June 25, 2014 Order in Case No. PU-13-848 is amended to replace the Tree and Shrub Mitigation Specifications adopted in that Order with the March 13, 2019 version of the Tree and Shrub Mitigation Specifications, attached to and made part of this Order.

PUBLIC SERVICE COMMISSION


Randy Christmann
Commissioner


Julie Fedorchak
Chair


Brian Kroshus
Commissioner

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Tree and Shrub Mitigation Specifications

Inventory

Prior to cutting or clearing trees or shrubs for construction:

- All trees one-inch or greater in diameter at breast height must be inventoried to record the location, number, and species.
- All shrubs and all coniferous trees of any diameter must be inventoried to record the location, number, and species.

Clearing

The maximum width of tree and shrub removal is 50 feet, unless otherwise approved by the Commission.

Replacement

1. Landowners must be given the option to have trees and shrubs that are removed from their property replaced on their property. The landowner may waive this option in writing. If the landowner waives this option, the company shall plant replacement trees and shrubs in an alternate location in the same region, if practical.
2. Trees and shrubs must be replaced on a minimum two-to-one basis. The company shall develop a Tree and Shrub Mitigation Plan (Plan) in consultation with landowners who are seeking replacement trees and shrubs and in accordance with USDA-NRCS-North Dakota Field Office Technical Guide: Windbreak and Woodland Tree Care and Management. The guidelines outlined in the Technical Guide shall be followed until filing of the Plan summary outlined in number 5 below.
3. The purpose of the company's Tree and Shrub Mitigation Plan is to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefit to landowners, farmers and ranchers, the community, wildlife and the environment.
4. The Plan, including the proposed number, variety, type, location, and approximate date for plantings, shall be filed with and approved by the Commission.
5. Two years after completion of the plan, the company must file a summary documenting how the plan achieved the purpose outlined in number 3 above. The summary must also report the number of surviving replacement trees and shrubs.

6. The Commission will consider, on a limited basis as conditions warrant, mitigation plans that provide long-term wildlife habitat and conservation benefits but do not involve the replanting of trees and shrubs.