

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Sacagawea Pipeline Company, LLC
16-Inch Crude Oil Pipeline – McKenzie & Mountrail
Siting Application**

Case No. PU-15-114

**Sacagawea Pipeline Company, LLC
16-Inch Crude Oil Pipeline – McKenzie County
Siting Application**

Case No. PU-15-744

ORDER ON TREE AND SHRUB MITIGATION SPECIFICATIONS

November 17, 2021

Preliminary Statement

In Case No. PU-15-114, the Commission's January 5, 2016, Findings of Fact, Conclusions of Law and Order issued Certificate of Corridor Compatibility No. 177 and Route Permit No. 189 to Sacagawea Pipeline Company, LLC for the location of a 70 mile, 16-inch crude oil pipeline in McKenzie and Mountrail Counties, North Dakota.

In Case No. PU-15-744, the Commission's May 24, 2016, Findings of Fact, Conclusions of Law and Order issued Certificate of Corridor Compatibility No. 186 and Route Permit No. 198 to Sacagawea Pipeline Company, LLC for the location of a 15 mile, 16-inch crude oil pipeline in McKenzie County, North Dakota.

On November 30, 2016, the Commission approved the Tree and Shrub Mitigation Plan filed by Savage Bakken in Case Nos. PU-15-114 and PU-15-744.

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

On October 26, 2021, Commission Staff sent a letter to Sacagawea Pipeline Company, LLC (Sacagawea Pipeline) suggesting that Sacagawea Pipeline may wish to consider complying instead with the March 13, 2019, version of the Tree and Shrub Mitigation Specifications.

On November 2, 2021, Sacagawea Pipeline responded to the October 26, 2021, Commission Staff letter.

Discussion

The Tree and Shrub Mitigation Specifications (Specifications) attached to and made part of the Commission's January 5, 2016, and May 24, 2016, Orders 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 report 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.

During construction of the project in Case No. PU-15-114, 595 trees/shrubs were removed. During construction of the project in Case No. PU-15-744, 519 trees/shrubs were removed.

For purposes of mitigation, Sacagawea Pipeline combined the mitigation requirements from Case No. PU-15-114 and Case No. PU-15-744 into one tree and shrub mitigation plan.

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.

Sacagawea Pipeline has indicated a desire to comply with the March 13, 2019, version of the Tree and Shrub Mitigation Specifications instead of the January 5, 2016, and May 24, 2016, Tree and Shrub Mitigation Specifications.

Having considered this matter, the Commission issues the following:

Order

The Commission Orders that its January 5, 2016, Order in Case No. PU-15-114, and its May 24, 2016, Order in Case No. PU-15-744 are amended to replace the Tree and Shrub Mitigation Specifications adopted in those Orders 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.