STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Oliver Wind III, LLC
230 kV Transmission Line – Oliver & Morton
Siting Application

Case No. PU-16-122

AFFIDAVIT OF SERVICE BY CERTIFIED AND REGULAR MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **24th day of June, 2016,** she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Findings Of Fact, Conclusions Of Law And Order**

And Original Of:

- **Certificate of Corridor Compatibility No. 189**

And Original Of:

- **Route Permit No. 201**

The envelope was addressed as follows:

Wade C. Mann Attorney at Law
Crowley Fleck PLLP
PO Box 2798
Bismarck, ND 58502-2798
Cert. No. 7015 3010 0000 6559 5670

Geralyn R. Schmaltz further deposes and says that on the **24th day of June, 2016**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelope by

89 **PU-16-122** Filed: 6/24/2016 Pages: 20
Affidavit of Service, Cert. & Reg. Mail – Findings of Fact, Conclusions of Law and Order

Public Service Commission

regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.

The envelope was addressed as follows:

Casey Furey, Attorney at Law
Crowley Fleck, PLLP
100 West Broadway Suite 250
PO Box 2798
Bismarck, ND 58502-2798

The address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **24th day of June, 2016.**

Shelly A Bauske
Notary Public

SEAL

SHELLY A. BAUSKE
Notary Public
State of North Dakota
My Commission Expires July 22, 2016

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Oliver Wind III, LLC
230 kV Transmission Line – Oliver & Morton
Siting Application

Case No. PU-16-122

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

June 22, 2016

Appearances

Commissioners Julie Fedorchak, Randy Christmann, and Brian P. Kalk.

Wade C. Mann and Casey A. Furey, Attorneys at Law, Crowley Fleck, PLLP, 100 West Broadway, Suite 250, Bismarck, ND 58502 on behalf of the Applicant, Oliver Wind III, LLC.

Brian D. Schmidt, Special Assistant Attorney General, as counsel for the North Dakota Public Service Commission (Commission), 600 East Boulevard Avenue, Bismarck, North Dakota 58505.

Patrick J. Ward, Administrative Law Judge, Office of Administrative Hearings, PO Box 1695, Bismarck, ND 58502-1695, as Procedural Hearing Officer.

Preliminary Statement

On March 4, 2016, Oliver Wind III, LLC (Oliver Wind III) filed applications for a certificate of corridor compatibility and route permit concerning approximately 4.5 miles of 230 kV electric transmission line and associated facilities (Project) to be located in Morton and Oliver Counties, North Dakota.

Also on March 4, 2016, the Company filed an application for waivers of procedures and time schedules established under North Dakota Century Code sections 49-22-07.2, 49-22-08, 49-22-08.1, and 49-22-13, and North Dakota Administrative Code chapter 69-06-06 and section 69-06-01-02, requiring separate filings, separate notices, separate hearings and certain time schedules.

On April 5, 2016 the Commission consolidated Case Nos. PU-16-123 and PU-16-122 for hearing, and deemed the applications complete conditioned upon filing 1) final turbine locations with detail on residence locations and participating and nonparticipating landowners, 2) cultural resource studies, and 3) natural resource studies, at least 30 days

prior to the hearing and issued a Notice of Filings and Consolidated Hearing, and scheduled a public hearing for June 1, 2016, at 9:00 a.m. CDST, at Mandan City Hall, 205 Second Avenue, NW Mandan, North Dakota 58554. The Notice identified the following issues to be considered in the application for waiver of procedures and time schedules in Case No. PU-16-122:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects and that adherence to applicable procedures and time schedules may be waived?

2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

The Notice also identified the following issues to be considered in the application for certificate of site compatibility in Case No. PU-16-123 and the applications for certificate of corridor compatibility and route permit in Case No. PU-16-122:

1. Will the location and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?

2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?

3. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On June 1, 2016, the public hearing was held as scheduled.

Having allowed all interested persons an opportunity to be heard, and having heard, reviewed, and considered all testimony and evidence presented, the Commission makes the following findings of fact:

Findings of Fact

1. Oliver Wind III is a Delaware limited liability company and is a wholly owned, indirect subsidiary of NextEra Energy Resources, LLC.

2. Oliver Wind III is authorized to transact business in the State of North Dakota, as evidenced by the corporate papers filed with the Commission on April 18, 2011 and a Certificate of Good Standing filed on March 16, 2016, in Case No. PU-16-93.

3. The Project will be owned and operated by NextEra Energy Resources, LLC.

Size, Type, and Preferred Location of Facility

4. The Project will originate at the Oliver Wind III Wind Energy Facility collector substation and terminate at the interconnection to the existing Minnkota Power Cooperative, Inc. Center to Mandan 230kV overhead transmission line. The Project will consist of a switchyard and single circuit, alternating current 230 kV transmission line constructed using 28 steel monopole structures. The average height of the single-pole structures will range from 110 to 130 feet, depending on the final engineering design. The maximum span between structures will be 1,100 feet and will vary depending on geological or engineering design.

5. The transmission line will include a shield wire, which will be strung at the top of the monopoles to provide lightning protection. The shield wire will contain a fiber-optic core that forms a part of the communication system for the transmission line, allowing for monitoring and remote control of substation and interconnection facility components.

6. The Project will be constructed pursuant to National Electric Safety Code requirements.

7. The total anticipated cost of the Project is $11.4 million.

Study of Preferred Location

8. Oliver Wind III performed a desk top evaluation centered on the proposed route for soils, land use, wetlands and waterbodies, trees and shrubs and protected species and critical habitats.

9. Oliver Wind III conducted a Class I cultural resource literature search within a 1-mile buffer on the Study Area.

10. Oliver Wind III conducted a Class III cultural resource survey and a natural resource field survey on a 150-foot wide area centered on the proposed route (Survey Area). The natural resource field survey gathered information on soils, land use, vegetation, wetlands and waterbodies, noxious weeds, trees and shrubs, and wildlife, including protected species and critical habitats.

11. The following agencies were contacted by Oliver Wind III:

a. Federal – United States Fish and Wildlife Service (USFWS); U.S. Army Corps of Engineers (USACE), Federal Aviation Administration (FAA) and National Oceanic and Atmospheric Administration (NOAA);
b. State – North Dakota Aeronautics Commission; State Historical Society of North Dakota (NDSHPO); North Dakota Game and Fish Department (NDGF);

North Dakota Parks and Recreation Department; North Dakota Department of Health; North Dakota State Water Commission;

c. Local – Morton and Oliver Counties.

12. In its response dated May 4, 2016, the NDSHPO stated that it concurred with a determination of "no significant sites affected" provided the transmission line corridor remains as described and mapped in the Company's report. No other agency expressed concern with the Project.

13. Oliver Wind III represented that all easements and other land rights necessary to build and operate the Project have been obtained, including the purchase of the land for the switchyard.

Siting Criteria

14. The Commission has established criteria pursuant to North Dakota Century Code section 49-22-05.1 to guide the Commission in evaluating the suitability of granting a certificate of corridor compatibility and route permit. The criteria, as set forth in North Dakota Administrative Code section 69-06-08-02 are classified as Exclusion Areas, Avoidance areas, Selection Criteria, and Policy criteria.

15. Oliver Wind III evaluated the Project with respect to the Exclusion, Avoidance, Selection and Policy criteria of the Commission.

16. A transmission facility route must not be sited within an Exclusion Area. Exclusion Areas may be located within the corridor, but at no given point may such an area or areas encompass more than 50 percent of the corridor unless there is no reasonable alternative.

17. There are no exclusion areas present within the route.

18. An Avoidance Area is a geographical area that may not be considered in the routing of a transmission facility unless the applicant shows that, under the circumstances, there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a transmission facility, the Commission may consider, among other things, the proposed management of adverse impacts, the orderly siting of facilities, system reliability and integrity, the efficient use of resources, and alternative routes.

19. No Avoidance Areas will be impacted by the Project.

20. In accordance with the Commission's Selection Criteria, a transmission facility shall be approved only if it is determined that any significant adverse effects that will result from the location, construction and operation of the facility as they relate to the Selection Criteria will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum.

21. Oliver Wind III has analyzed the impacts of the Project in relation to all relevant Selection Criteria. No significant adverse impact will result from the location, construction and operation of the Project.

Mitigation to Minimize Impact

22. Oliver Wind III will utilize best management practices to minimize impacts on ground and surface water, and to prevent soil erosion. Erosion control measures required under the National Pollution Discharge Elimination System permit and the associated Stormwater Pollution Prevention Plan will be implemented. Construction of the Project is not anticipated to have a significant adverse impact on surface or ground water resources or soils. Temporarily disturbed areas will be restored and reseeded.

23. Oliver Wind III will participate in the North Dakota One-Call Excavation Notice System.

From the foregoing Findings of Fact, the Commission now makes the following:

Conclusions of Law

1. The Commission has jurisdiction over Oliver Wind III, LLC and the subject matter of these applications under North Dakota Century Code chapter 49-22.

2. Oliver Wind III is a utility as defined in North Dakota Century Code section 49-22-03(13).

3. The Project is a transmission facility as defined in North Dakota Century Code section 49-22-03(12).

4. The location, construction, and operation of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

5. The location, construction, and operation of the Project are compatible with the environmental preservation and the efficient use of resources.

6. The Project will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

7. The Project is of such design and location that it will produce minimal adverse effects, as defined under North Dakota Century Code section 49-22-07.2.

8. The Project is of such design and location that it will produce minimal adverse effects and, therefore, it is appropriate for the Commission to waive those certain

procedures and time schedules as requested in the waiver application pursuant to North Dakota Century Code section 49-22-07.2.

From the foregoing Findings of Fact and Conclusions of Law, the Commission makes the following:

Order

The Commission orders:

1. Oliver Wind III, LLC's application for waiver of procedures and time schedules is granted.

2. Certificate of Corridor Compatibility No. 189 is issued to Oliver Wind III, LLC designating a corridor for the construction, operation, and maintenance of the proposed 230 kV transmission line, switchyard and associated facilities in Morton and Oliver Counties, North Dakota, as identified in Figure 2 of Hearing Exhibit No. 2. For purposes of the Certificate, the Corridor is an area 150-foot wide centered on the route designated in this order.

3. Route Permit No. 201 is issued to Oliver Wind III, LLC designating a route in Morton and Oliver Counties, North Dakota, for the construction and operation of a 230 kV approximate 4.5-mile transmission line, switchyard and associated facilities. The designated route for this purpose is as identified in Figure 2 of Hearing Exhibit No. 2

4. The May 27, 2016 Certification Relating to Order Provisions – Transmission Facility Siting with accompanying Tree and Shrub Mitigation Specifications is incorporated by reference and attached to this Order.

5. To the extent there are any conflicts or inconsistencies between Oliver Wind III's Application and the Certification, the Certification provisions control.

6. Oliver Wind III is required to comply with the applicable laws, rules and, or regulations in the event it desires to construct another or a different transmission facility than was specified in the application within the corridor granted in this proceeding.

7. Oliver Wind III is required to comply with all applicable laws, rules and regulations of all other agencies having jurisdiction over any phase of the proposed Project.

8. Prior to commencing construction of any phase of the proposed Project, Oliver Wind III shall obtain all other necessary licenses and permits for construction of such phase, and provide copies to the Commission prior to construction of each phase.

PUBLIC SERVICE COMMISSION

Randy Christmann **Commissioner**	**Julie Fedorchak** **Chairman**	**Brian P. Kalk** **Commissioner**

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Corridor Compatibility Number 189

This is to certify that the Commission has designated a transmission facility corridor for Oliver Wind III, LLC for the construction, operation, and maintenance of approximately 4.5 miles of 230 kV electric transmission line and associated facilities extending from the Oliver Wind III Wind Project collector substation to the Minnkota switchyard in Morton and Oliver Counties, North Dakota.

This certificate is issued in accordance with the Order of the Commission dated June 22, 2016 in Case No. PU-16-122 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, June 22, 2016.

ATTEST:

Darrell Nitschke

Executive Secretary

PUBLIC SERVICE COMMISSION

Commissioner

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Route Permit Number 201

This is to certify that the Commission has designated a transmission facility route for Oliver Wind III, LLC for the construction of approximately 4.5 miles of 230 kV electric transmission line and associated facilities in Morton and Oliver Counties, North Dakota

This permit is issued in accordance with the Order of this Commission dated June 22, 2016 in Case No. PU-16-122 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, June 22, 2016.

ATTEST: ***PUBLIC SERVICE COMMISSION***

Danielle Litschko
Executive Secretary

Commissioner

EXHIBIT
5

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Oliver Wind III, LLC
230 kV Transmission Line – Oliver & Morton
Siting Application

Case No. PU-16-122

CERTIFICATION RELATING TO ORDER PROVISIONS
TRANSMISSION FACILITY SITING

I am Brian Tobin, a representative of Oliver Wind III, LLC ("Company") with authority to bind Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.

2. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.

3. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the transmission facility that requires said license or permit.

4. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.

5. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.

6. Company understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for the

transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

Construction:

7. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.

8. Company understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area.

9. Company understands and agrees that topsoil removal will begin when the Commission's third-party construction inspector is present at the Project site to observe that topsoil is properly removed and kept segregated from subsoil until replacement occurs. Company shall establish the date and time for the Commission's third-party construction inspector's topsoil removal oversight in the preconstruction conference.

10. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated on construction activities on a monthly basis.

11. Company understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must also be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/ early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.

12. Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road.

13. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.

14. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made and a report of such examination is filed with the Commission and the State Historical Society.

15. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures are taken by Company.

16. Company understands and agrees that the Commission has authority to stop Project construction activities in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm.

Restoration and Maintenance:

17. Company understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.

18. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the transmission facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.

19. Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.

20. Company will fulfil its obligation for reclamation and maintenance of the approved transmission facility right-of-way, transmission facility, and associated facilities continuing throughout the life of the transmission facility.

21. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.

22. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.

23. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.

24. Company understands and agrees that it shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the construction of the transmission facility.

25. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.

26. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.

Communication with Landowners and PSC:

27. Company understands and agrees that, prior to beginning construction of the transmission facility at a location, it shall send a letter to each landowner with whom an easement was executed for that location specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the easement.

28. Company understands and agrees that it will file with the commission the name and phone number of the current company representative who is responsible for receiving and resolving landowner issues for the transmission facility. The company will update this information whenever there is a change to the current company representative for the life of all easements for the transmission facility.

29. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.

30. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the transmission facility, including injuries to any person.

31. Company agrees to report to the Commission, as soon as reasonably possible, the presence in the permit area of any critical habitat or threatened or endangered species of which Company becomes aware and which were not previously reported to the Commission.

32. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility.

33. Company agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.

34. Company shall notify the Commission as soon as reasonably possible if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined.

Dated this 27 day of May, 2016.

OLIVER WIND III, LLC

By _____
Brian Tesh

Its Vice President

EXHIBIT 6

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Oliver Wind III, LLC
230 kV Transmission Line – Oliver & Morton
Siting Application

Case No. PU-16-122

Tree and Shrub Mitigation Specifications

Inventory

1. Trees and shrubs anticipated to be cleared, including those that are considered invasive species or noxious weeds (*e.g., Caragana arborescens, Elaeagnus angustifolia, Rhamnus cathartica, Tamarix chinensis, T. parviflora, T. ramosissima, Ulmus pumila*), must be inventoried before cutting. The inventory must record the location, number, and species of trees and shrubs.

2. In windbreaks, shelterbelts and other planted areas, trees or shrubs anticipated to be cleared, regardless of size, must be inventoried for replacement.

3. In native growth areas, trees anticipated to be cleared that are 1 inch diameter at breast height (dbh) or greater must be inventoried for replacement.

4. In native growth areas, shrubs anticipated to be cleared in the permanent right-of-way must be inventoried for replacement.

5. In native growth areas outside the permanent right-of-way, shrubs must be cut flush with the surface of the ground, taking care to leave the naturally occurring seed bank and root stock intact. If soil disturbance is necessary, the native topsoil must be preserved and replaced after construction. Shrubs must be allowed to regenerate naturally where native topsoil is preserved and replaced. Where native topsoil is not preserved and replaced, shrubs anticipated to be cleared must be inventoried for replacement.

6. In native growth areas, trees and shrubs may be inventoried by actual count or by a sampling method that will properly represent the woody vegetation

population. A sampling plan developed by the company, filed with the North Dakota Public Service Commission (Commission) and approved prior to the start of construction must define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots must be extrapolated to the total acreage of the wooded area to be cleared to determine the species and quantity of trees and shrubs to be replaced.

Clearing for Construction

7. Trees and shrubs must be selectively cleared, leaving mature trees and shrubs intact where practical.

8. The maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas is 50 feet, unless otherwise approved by the Commission.

9. If the area of trees or shrubs actually cleared differs from the area inventoried, the difference in number of trees and shrubs to be replaced must be noted on the inventory.

Replacement

10. Prior to tree and shrub replacement, documentation identifying the number and variety of trees and shrubs removed, as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings, must be filed with the Commission for approval.

11. Two 2-year-old saplings must be planted for every one tree removed. Two shrubs (stem cuttings) must be planted for every one shrub removed.

12. Except in the case of invasive or noxious species, trees and shrubs must be replaced by the same species or similar species, suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service. Invasive or noxious species must be replaced by similar non-invasive or non-

noxious species suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.

13. Tree and shrub replacement must not be conducted within a 20 to 30 foot wide path over the pipeline to facilitate visual inspections of the right-of-way in accordance with U.S. Department of Transportation safety regulations.

14. Landowners must be given the option of having replacement trees and shrubs planted on the landowner's property, either on or off the right-of-way. The landowner must also be given the opportunity to waive those options in writing in order to have replacement trees and shrubs planted off the landowner's property.

15. At the conclusion of the project, documentation identifying the actual number, variety, type, location and date of the replacement plantings must be filed with the Commission.

16. Tree and shrub replacements must be inspected annually, in September, for three years. The first annual inspection must be at least one year from the anniversary date of the original plantings. A report of each annual inspection must 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 Commission may order additional planting(s).