

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Arrow Field Services, LLC  
4 Bears to CDP Connect Project – McKenzie County  
Siting Application**

**Case No. PU-11-99**

**Hiland Crude, LLC / Banner Transportation Company  
Name Change  
Siting Application**

**Case No. PU-16-405**

**ORDER ON TREE AND SHRUB MITIGATION SPECIFICATIONS**

**December 1, 2021**

**Preliminary Statement**

In Case No. PU-11-99, the Commission's November 2, 2011, Order Adopting Hearing Officer's Recommended Order issued Certificate of Corridor Compatibility No. 126 and Route Permit No. 135 to Arrow Field Services, LLC for the location of a 1.5-mile crude oil pipeline in McKenzie County, North Dakota. On April 11, 2012, in Case No. PU-12-47, Certificate 126 and Permit 135 were transferred from Arrow Field Services, LLC to Banner Transportation Company, LLC.

On July 20, 2016, in Case No. PU-16-405, Certificate 126 and Permit 135 were transferred from Banner Transportation Company, LLC to Hiland Crude, LLC (Hiland).

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 Hiland suggesting that, since Hiland is proposing to restart a tree and shrub replacement plan, Hiland may wish to consider complying instead with the March 13, 2019, version of the Tree and Shrub Mitigation Specifications.

On November 11, 2021, Hiland responded to the October 26, 2021, Commission Staff letter.

**Discussion**

As a result of the transfer of Certificate 126 and Permit 135 from Banner Transportation Company, LLC to Hiland Crude, LLC in Case No. PU-16-405, Hiland has assumed the rights and obligations of Certificate 126 and Permit 135 including the conditions and limitations set forth in the Commission's November 2, 2011, Order, and any other conditions set forth in subsequent orders of the Commission with respect to the

certificate and route permit. Hiland is bound by the Commission's November 2, 2011, Order, including the Tree and Shrub Mitigation Specifications attached to and made part of the Order.

The Tree and Shrub Mitigation Specifications (Specifications) attached to and made part of the Commission's November 2, 2011, 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 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, 221 trees/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.

Hiland has indicated a desire to comply with the March 13, 2019, version of the Tree and Shrub Mitigation Specifications instead of the November 2, 2011, Tree and Shrub Mitigation Specifications.

Having considered this matter, the Commission issues the following:

### Order

The Commission Orders that its November 2, 2011, Order Adopting Hearing Officer's Recommended Order 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.