

June 12, 2025

Via Electronic Mail & Hand Delivery

Mr. Steve Kahl
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480
ndpsc@nd.gov

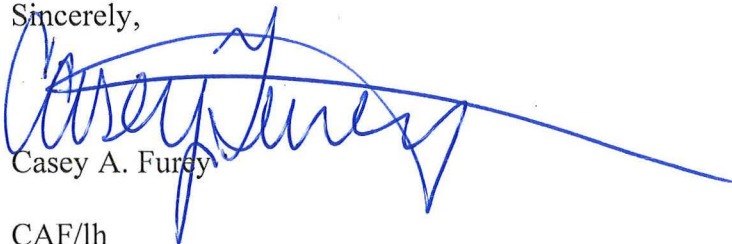
In re: Cenex Pipeline, LLC
10" Refined Fuels Pipeline
Case No. PU-17-097
Our File No. 020836-000001

Dear Mr. Kahl:

Enclosed for filing on behalf of Cenex Pipeline, LLC, please find eight copies of the Tree and Shrub Mitigation Report in the above-referenced matter.

Please feel free to contact me if you have any questions. Thank you.

Sincerely,



Casey A. Furey

CAF/lh
Enc.

cc: Robb Schwend (via email)
Zain Hassan (via email)



Memorandum

Date: 06/05/2025

To: North Dakota Public Service Commission
(Submitted via Casey Furey - Crowley Fleck Attorneys)

Copy to: Robb Schwend, Zain Hassan - Cenex Pipeline, LLC
Travis Jones - KLJ

From: Derek Bendickson - KLJ

RE: Summary of Tree and Shrub Mitigation Efforts
Cenex Pipeline, LLC. Liquid Petroleum Pipeline (Case No. PU-17-97)



INTRODUCTION:

Cenex Pipeline, LLC (Cenex) submitted a consolidated application for a Certificate of Corridor Compatibility and a Route Permit to the ND Public Service Commission (PSC) in March 2017 for 149.7 miles of pipeline that would occur in ND. The PSC issued a Findings of Fact, Conclusions of Law and Order (Order) for the project (Case No. PU-17-97) on March 14th, 2018, and as subsequently amended on September 26th, 2018.

An updated tree and shrub sampling plan was submitted to the PSC October 4, 2019 (Docket No. 184). The location, number, and species of trees and shrubs cleared were documented prior to cutting, as outlined in the Order, during the topsoil removal along the Right of Way (ROW) and throughout construction of the pipeline. A total of 3,288 trees and shrubs were removed.

The Order included the March 14, 2018 Tree and Shrub Mitigation Specifications which required trees and shrubs to be replaced at a 2:1 ratio in addition to annual inspections for three years. On March 13, 2019 the PSC revised its Tree and Shrub Mitigation Specifications and had later suggested that Cenex comply with this version which required the same mitigation ratio and a summary of how the plantings achieved their intended purpose after two years. Cenex chose to follow the March 13, 2019 version of the Tree and Shrub Mitigation Specifications, as approved by the PSC on September 1, 2021.

MITIGATION PLAN:

To stay within the requirements outlined in the Order, Cenex proposed to mitigate trees and shrubs removed during construction at a 2:1 ratio per the PSC Tree and Shrub Mitigation Specification. A total of 3,288 trees and shrubs were removed, indicating a minimum replacement of 6,576 individuals. Therefore, in 2022, 6,600 trees and shrubs were replanted for mitigation purposes.

Cenex partnered with KC Harvey to facilitate the planting of trees and shrubs. Trees and shrubs were originally scheduled for planting in 2021, but drought conditions made that schedule impractical. As a result, on May 5, 2021, the PSC approved a one-year extension to plant trees in

2022. KC Harvey conducted mitigation plantings in the spring of 2022 and followed the *USDA-NRCS North Dakota Field Office Technical Guide: Windbreak and Woodland Tree Care and Management* guidelines for the replacement trees.

All trees and shrubs removed due to construction were replaced by the same or similar species. Non-native and invasive species were mitigated with a native species appropriate for the site location and conditions as determined by KC Harvey and the landowner. Through correspondence with the North Dakota Forest Service (NDFS) it was determined that bur oak, hackberry, or ponderosa pine were acceptable substitutes where applicable. Additionally, the NDFS recommended planting substitute species for green ash, indicating concerns for the Emerald Ash Borer and that species diversity is preferred for plantings. Please refer to **Figure 1, Proposed Tree and Shrub Removals and Replacements** for a table of trees that were removed and proposed for replacement.

Figure 1, Proposed Tree and Shrub Removals and Replacements

| TREES REMOVED DURING CONSTRUCTION | | ANTICIPATED TREE REPLACEMENT (2:1) | |
|-----------------------------------|----------|------------------------------------|----------|
| SPECIES | QUANTITY | SPECIES | QUANTITY |
| WILLIAMS COUNTY | | | |
| American Elm | 1 | American Elm | 2 |
| Boxelder | 3 | Boxelder | 6 |
| Buffalo berry | 755 | Buffalo berry | 1510 |
| Caragana | 313 | NDSF approved replacement | 626 |
| Chokecherry | 730 | Chokecherry | 1460 |
| Eastern red cedar | 50 | Eastern red cedar | 100 |
| Elm | 66 | Elm | 132 |
| Green Ash | 153 | Green Ash | 306 |
| Hawthorn | 380 | Hawthorn | 760 |
| Honeysuckle | 18 | Honeysuckle | 36 |
| Juniper | 2 | Juniper | 4 |
| Ponderosa pine | 23 | Ponderosa pine | 46 |
| Russian olive | 21 | NDSF approved replacement | 42 |
| Serviceberry | 4 | Serviceberry | 8 |
| Siberian elm | 59 | NDSF approved replacement | 118 |
| Spruce | 1 | Spruce | 2 |
| MOUNTRAIL COUNTY | | | |
| Buffalo berry | 330 | Buffalo berry | 660 |
| Chokecherry | 105 | Chokecherry | 210 |
| Hawthorn | 50 | Hawthorn | 100 |

| WARD COUNTY | | | |
|--------------|--------------|--------------|--------------|
| Chokecherry | 115 | Chokecherry | 230 |
| Green ash | 9 | Green ash | 18 |
| Hawthorn | 50 | Hawthorn | 100 |
| Silverberry | 50 | Silverberry | 100 |
| TOTAL | 3,288 | TOTAL | 6,576 |

LANDOWNERS AND OFFSITE MITIGATION:

A total of 32 landowners had trees or shrubs removed from their property as a result of construction. Of those landowners affected by tree or shrub removal, 20 agreed to have them mitigated for on their property, while 12 landowners opted to have the trees and shrubs planted elsewhere. Mitigation plantings occurred as close to the location of impact as possible while adhering to the requirements outlined in the Order. When trees or shrubs were unable to be planted near the original location, KC Harvey coordinated with the landowner to find suitable locations for plantings.

Landowners who did not want trees and shrubs replaced on their property signed a waiver. All trees and shrubs not mitigated on affected landowner property were planted at locations determined by Cenex and KC Harvey. Refer to the attached *Landowner Tree Mitigation List* for information regarding species, location, and desired mitigation.

MONITORING RESULTS:

KC Harvey completed monitoring of the 6,600 replacement trees and shrubs September 9-12, 2024, recording a survival rate of 22% (1,457 trees and shrubs). Please see *Figure 2, Tree and Shrub Monitoring Scores* for the system KC Harvey used to assess survival rates.

Figure 2, Tree and Shrub Monitoring Scores

| TREE AND SHRUB SURVIVAL | |
|---|----------|
| Tree Score | QUANTITY |
| Score 0 (The tree appeared to be dead) | 5,143 |
| Score 1 (The tree was in poor condition: Few leaves, most leaves discolored, severe insect damage etc.) | 61 |
| Score 2 (The trees that showed some signs of damage but still retain some healthy foliage) | 306 |
| Score 3 (The trees are in perfect or nearly perfect health) | 1,090 |

FACTORS THAT MAY HAVE INFLUENCED SURVIVAL RATES:

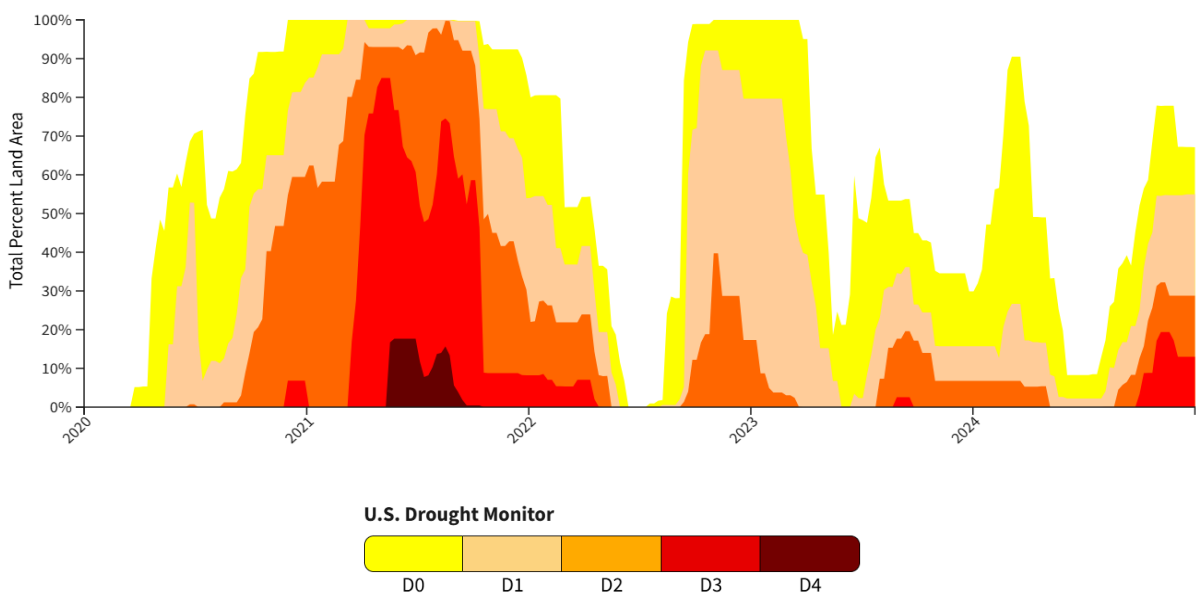
Despite Cenex and KC Harvey putting forth their best faith efforts while following NRCS guidelines to ensure tree survivability, many factors were out of their control. The following environmental factors likely influenced the low survival rates that the trees and shrubs experienced.

Extreme Weather Patterns

North Dakota was experiencing severe (D2), extreme (D3), and exceptional (D4) drought

conditions mid-2020 through mid-2022. Drought conditions continued into 2023 and 2024, with severe and extreme conditions re-emerging both years (NOAA 2025). Please see **Figure 3, 2020-2024 North Dakota Drought Conditions** below for a visual representation of the drought conditions. Temperature extremes in 2023, including a cold, snowy winter and hot, dry periods in the summer likely stressed the young trees/shrubs. The year of 2023 broke numerous records for snowfall, cold temperatures, and wildfire smoke, with one storm blanketing North Dakota with 8-12 inches of snow in October. Canada experienced historic wildfires in 2023 and heavy smoke from those wildfires persisted for most of the summer and into the fall for much of North Dakota (KFYR 2023). The smoke from these wildfires may have affected the young tree and shrub's ability to photosynthesize effectively, further impacting survival rates (Calder et. al. 2010). In 2024, freeze/thaw cycles, such as rare frost advisories in August and freezing rain in December, likely damaged or stressed the young trees and shrubs by preventing proper dormancy (KFYR 2024). From 2022-2024, severe thunderstorms, with some producing damaging hail, occurred throughout North Dakota (NDSCO. 2022. 2023. 2024). The young trees and shrubs may have been impacted by the high winds, heavy rainfall, and hail associated with these storms.

Figure 3, 2020-2024 North Dakota Drought Conditions



Weed Competition

Most new tree plantings involve tilling the soil before planting to create a smooth, firm seedbed. This usually leads to unintentional planting of noxious or invasive weed species if a seed bank exists in the soil. Unlike most native plant species, weeds will continue to grow, survive, and produce seeds under drought conditions (Singh et. al. 2022). Therefore, weed competition from 2022-2024 may have been higher than normal due to the periods of drought that North Dakota experienced.

Livestock

Some of the tree and shrub plantings occur in areas that are not secluded from livestock. In these

areas, cattle likely impacted the trees by trampling them, which further reduced the survival rate.

Pesticide Spray Drift

In the plantings that occur adjacent to crop fields, unintentional pesticide spray drift may have caused detrimental effects to the trees and shrubs. During hot weather with low humidity and/or windy weather, the potential for spray drift increases (MSU 2022). The on-and-off drought conditions North Dakota experienced from 2022-2024 contributed to a higher probability for pesticide spray drift that may have reached select plantings.

LONG TERM BENEFITS:

As discussed above, the Project's replanting effort faced numerous environmental challenges which ultimately impacted survivability rates. However, surviving trees and shrubs have demonstrated resiliency despite these hardships and will bring long-term benefits to landowners, farmers and ranchers, the community, wildlife and the environment fulfilling the goals of the PSC's Tree and Shrub Mitigation Specifications. Trees and shrubs offer a range of benefits that impact the environment, economy, and quality of life. The surviving trees and shrubs act as natural filters by absorbing carbon dioxide and releasing oxygen, which improves the air quality. In a state where agriculture dominates, they can also help to reduce soil erosion by reducing wind speeds across crop fields or other disturbed landscapes. Because of the reduction of wind speeds, topsoil can be conserved, which in turn can boost crop yields, reduce fertilizer inputs, and decrease sedimentation to off-site resources like streams or wetlands.

The surviving trees and shrubs will provide shade in the summer and windbreaks in the winter which may cut energy costs for the adjacent dwellings. They can create a natural "snow fence" to provide protection and limit the stress on both wildlife and livestock. The natural snow fence can also benefit commuters and snowplow operators by limiting snow and ice buildup on roadways. Additionally, trees and shrubs can provide critical habitat for a wide variety of wildlife by increasing nesting habitat, food resources, and shelter from the elements. In a region typically dominated by open landscapes and commonly referred to as "The Great Plains", the trees and shrubs can add to the landscape diversity of the region.

Attachments:

Landowner Tree Mitigation List

Order on Tree and Shrub Mitigation Specifications - Docket #225 - Case No. PU-17-97

References

Calder, W. John, Lifferth, Greg, Moritz, Max A., Clair, Samuel B. St. 2010. Physiological Effects of Smoke Exposure on Deciduous and Conifer Tree Species. *International Journal of Forestry Research*. 438930. 7 pages. <https://doi.org/10.1155/2010/438930>

KFYR. 2023. Snow records, wildfire smoke and temperature extremes: 2023 North Dakota weather recap. <https://www.kfyrtv.com/2024/01/01/snow-records-wildfire-smoke-temperature-extremes-2023-north-dakota-weather-recap/>

KFYR. 2024. From frigid to flames to floods: 2024 North Dakota weather recap. <https://www.kfyrtv.com/2024/12/31/2024-weather-recap/>

Montana State University (MSU). 2022. Understanding Pesticide Drift and Drift Reduction Strategies. EB0233. <https://www.montana.edu/extension/pesticides/reference/drift.html>

North Dakota State Climate Office (NDSCO). 2022. North Dakota Annual Climate Summary. 2022. Volume 16, No. 13. <https://www.ndsu.edu/fileadmin/ndsco/ndsco/summary/2022/2022.pdf>

North Dakota State Climate Office (NDSCO). 2023. North Dakota Monthly Climate Summary. August 2023. Volume 17, No. 8. https://www.ndsu.edu/fileadmin/ndsco/ndsco/August23climate_final.pdf

North Dakota State Climate Office (NDSCO). 2024. North Dakota Annual Climate Summary. 2024. Volume 18, No. 13. https://www.ndsu.edu/fileadmin/ndsco/2024_Monthly/2024_Annual_Climate_Summary.pdf

NOAA. 2025. Historical Drought Conditions for North Dakota. <https://www.drought.gov/states/north-dakota>

Singh, M., Thapa, R., Kukal, M. S., Irmak, S., Mirsky, S., & Jhala, A. J. 2022. Effect of water stress on weed germination, growth characteristics, and seed production: a global meta-analysis. *Weed Science*, 70(6), 621-640.

Landowner Tree Mitigation List

| Landowner | Type | # Trees | Sec/T/R | County | Replant |
|---------------------------|----------------|---------|--------------|-----------|---------|
| Anderson, Douglas B | Chokecherry | 5 | 34/156N/99W | Williams | Yes |
| Brathovde LP | Green Ash | 8 | 7/153N/103W | Williams | Yes |
| Brathovde LP | Green Ash | 7 | 7/153N/103W | Williams | Yes |
| Brose, Gene | Caragana | 2 | 33/156N/98W | Williams | Yes |
| Brose, Gene | Caragana | 3 | 33/156N/98W | Williams | Yes |
| Brose, Gene | Caragana | 100 | 33/156N/98W | Williams | Yes |
| Brose, Gene | Caragana | 200 | 33/156N/98W | Williams | Yes |
| Brose, Gene | Siberian Elm | 2 | 33/156N/98W | Williams | Yes |
| Cornell Jr, Herbert R | Green Ash | 10 | 1/155N/101W | Williams | Yes |
| Cornell Jr, Herbert R | Green Ash | 4 | 1/155N/101W | Williams | Yes |
| Cornell Jr, Herbert R | Green Ash | 6 | 1/155N/101W | Williams | Yes |
| Cornell Jr, Herbert R | Ponderosa Pine | 5 | 1/155N/101W | Williams | Yes |
| Cornell Jr, Herbert R | Siberian Elm | 1 | 1/155N/101W | Williams | Yes |
| Cornell Jr, Herbert R | Siberian Elm | 2 | 1/155N/101W | Williams | Yes |
| Durnel Properties | Chokecherry | 100 | 9/154N/86W | Ward | Yes |
| Durnel Properties | Hawthorn | 50 | 9/154N/86W | Ward | Yes |
| Durnel Properties | Silverberry | 50 | 9/154N/86W | Ward | Yes |
| Frisinger family trust | Buffalo berry | 5 | 10/155N/95W | Williams | No |
| Frisinger family trust | Buffalo berry | 150 | 10/155N/95W | Williams | No |
| Frisinger family trust | Chokecherry | 25 | 9/155N/95W | Williams | No |
| Frisinger family trust | Chokecherry | 70 | 10/155N/95W | Williams | No |
| Frisinger family trust | Chokecherry | 50 | 10/155N/95W | Williams | No |
| Frisinger family trust | Green Ash | 15 | 10/155N/95W | Williams | No |
| Frisinger family trust | Hawthorn | 50 | 9/155N/95W | Williams | No |
| Frisinger family trust | Hawthorn | 20 | 9/155N/95W | Williams | No |
| Frisinger family trust | Hawthorn | 15 | 10/155N/95W | Williams | No |
| Frisinger family trust | Hawthorn | 30 | 10/155N/95W | Williams | No |
| Greenlee, Glenn & Cindy L | Buffalo berry | 50 | 10/155N/95W | Williams | No |
| Greenlee, Glenn & Cindy L | Buffalo berry | 50 | 10/155N/95W | Williams | No |
| Greenlee, Glenn & Cindy L | Buffalo berry | 25 | 10/155N/95W | Williams | No |
| Greenlee, Glenn & Cindy L | Chokecherry | 20 | 10/155N/95W | Williams | No |
| Greenlee, Glenn & Cindy L | Chokecherry | 10 | 10/155N/95W | Williams | No |
| Greenlee, Glenn & Cindy L | Hawthorn | 15 | 10/155N/95W | Williams | No |
| Harstad, Roger & Michelle | Chokecherry | 5 | 28/155N/91W | Mountrail | Yes |
| Harstad, Roger & Michelle | Chokecherry | 15 | 28/155N/91W | Mountrail | Yes |
| Hautveit, Thomas & Donna | Chokecherry | 20 | 12/155N/95W | Williams | No |
| Hautveit, Thomas & Donna | Russian Olive | 5 | 12/155N/95W | Williams | No |
| Hexom family trust | Green Ash | 2 | 11/153N/104W | Williams | Yes |
| Iverson, Deon | Buffalo berry | 1 | 2/155N/96W | Williams | No |
| Marshall, Jeanette | Green Ash | 1 | 33/155N/84W | Ward | No |

| | | | | | |
|-------------------------------|----------------|-----|--------------|-----------|-----|
| Marshall, Keith | Green Ash | 3 | 35/155N/84W | Ward | No |
| Mcnamara, David | Buffalo berry | 250 | 29/155N/91W | Mountrail | Yes |
| Metzger/Robinson partner. | Siberian Elm | 2 | 34/156N/100W | Williams | No |
| Meyer, Curt & Summer | Buffalo berry | 25 | 21/155N/94W | Mountrail | No |
| Meyer, Curt & Summer | Buffalo berry | 30 | 21/155N/94W | Mountrail | No |
| Meyer, Curt & Summer | Chokecherry | 60 | 21/155N/94W | Mountrail | No |
| Meyer, Curt & Summer | Hawthorn | 25 | 21/155N/94W | Mountrail | No |
| Moe, Leon G | Buffalo berry | 100 | 9/155N/95W | Williams | No |
| Moe, Leon G | Buffalo berry | 50 | 8/155N/95W | Williams | No |
| Moe, Leon G | Buffalo berry | 200 | 8&9/155N/95W | Williams | No |
| Moe, Leon G | Chokecherry | 100 | 9/155N/95W | Williams | No |
| Moe, Leon G | Green Ash | 10 | 9/155N/95W | Williams | No |
| Moe, Leon G | Hawthorn | 125 | 9/155N/95W | Williams | No |
| Mortenson, Dorothy (Life Est) | Chokecherry | 12 | 32/156N/99W | Williams | Yes |
| Mortenson, Dorothy (Life Est) | Elm | 28 | 32/156N/99W | Williams | Yes |
| Mortenson, Dorothy (Life Est) | Green Ash | 4 | 32/156N/99W | Williams | Yes |
| Mortenson, Dorothy (Life Est) | Pine | 10 | 32/156N/99W | Williams | Yes |
| Mortenson, Dorothy (Life Est) | Siberian Elm | 6 | 32/156N/99W | Williams | Yes |
| Nehring, Dennis & Ce'dale | American Elm | 1 | 33/154N/103W | Williams | Yes |
| Nehring, Dennis & Ce'dale | Buffalo berry | 27 | 33/154N/103W | Williams | Yes |
| Nehring, Dennis & Ce'dale | Chokecherry | 10 | 33/154N/103W | Williams | Yes |
| Nehring, Dennis & Ce'dale | Honeysuckle | 12 | 33/154N/103W | Williams | Yes |
| Nehring, Dennis & Ce'dale | Juniper | 2 | 33/154N/103W | Williams | Yes |
| Nehring, Dennis & Ce'dale | service berry | 4 | 33/154N/103W | Williams | Yes |
| Nelson, Richard L | Buffalo berry | 35 | 3/155N/96W | Williams | Yes |
| Nelson, Richard L | Chokecherry | 150 | 3/155N/96W | Williams | Yes |
| Nelson, Richard L | Chokecherry | 50 | 3/155N/96W | Williams | Yes |
| Nelson, Richard L | Chokecherry | 2 | 3/155N/96W | Williams | Yes |
| Nelson, Richard L | Hawthorne | 100 | 3/155N/96W | Williams | Yes |
| Oen, Myron | Boxelder | 3 | 29/156N/97W | Williams | No |
| Oen, Myron | Green Ash | 28 | 29/156N/97W | Williams | No |
| Oen, Myron | Honeysuckle | 6 | 29/156N/97W | Williams | No |
| Oen, Myron | Spruce | 1 | 29/156N/97W | Williams | No |
| OK Ranch LLLP | Buffalo berry | 25 | 11/155N/95W | Williams | Yes |
| OK Ranch LLLP | Chokecherry | 50 | 11/155N/95W | Williams | Yes |
| OK Ranch LLLP | Chokecherry | 35 | 11/155N/95W | Williams | Yes |
| OK Ranch LLLP | East red cedar | 50 | 11/155N/95W | Williams | Yes |
| Olsen, Randall | Buffalo berry | 6 | 32/156N/96W | Williams | Yes |
| Olsen, Randall | Buffalo berry | 30 | 32/156N/96W | Williams | Yes |
| Olsen, Randall | Chokecherry | 7 | 33/156N/96W | Williams | Yes |
| Olsen, Randall | Chokecherry | 25 | 33/156N/96W | Williams | Yes |

| | | | | | |
|-----------------------------|----------------|----|--------------|-----------|-----|
| Olsen, Randall | Chokecherry | 15 | 33/156N/96W | Williams | Yes |
| Olsen, Randall | Chokecherry | 5 | 33/156N/96W | Williams | Yes |
| Olsen, Randall | Green Ash | 2 | 33/156N/96W | Williams | Yes |
| Olsen, Randall | Green Ash | 3 | 33/156N/96W | Williams | Yes |
| Olsen, Randall | Ponderosa Pine | 3 | 33/156N/96W | Williams | Yes |
| Olsen, Randall | Ponderosa Pine | 3 | 33/156N/96W | Williams | Yes |
| Olsen, Randall | Ponderosa Pine | 2 | 33/156N/96W | Williams | Yes |
| Owan, Michael | Elm | 38 | 28/154N/103W | Williams | No |
| Parabar, LLP | Caragana | 4 | 36/156N/98W | Williams | Yes |
| Parabar, LLP | Caragana | 4 | 36/156N/98W | Williams | Yes |
| Parabar, LLP | Chokecherry | 9 | 36/156N/98W | Williams | Yes |
| Parabar, LLP | Green Ash | 2 | 36/156N/98W | Williams | Yes |
| Parabar, LLP | Green Ash | 6 | 36/156N/98W | Williams | Yes |
| Parabar, LLP | Green Ash | 3 | 36/156N/98W | Williams | Yes |
| Parabar, LLP | Siberian Elm | 4 | 36/156N/98W | Williams | Yes |
| Price, Virginia | Chokecherry | 15 | 30/155N/83W | Ward | No |
| Price, Virginia | Green Ash | 5 | 30/155N/83W | Ward | No |
| Rajkowski, James & Cornelia | Chokecherry | 20 | 33/156N/97W | Williams | Yes |
| Reum, Ronald L | Chokecherry | 25 | 32/155N/91W | Mountrail | Yes |
| Reum, Ronald L | Hawthorn | 25 | 32/155N/91W | Mountrail | Yes |
| Roger, Olsen | Buffalo berry | 1 | 28/154N/103W | Williams | Yes |
| Sally Iverson Living Trust | Chokecherry | 25 | 7/155N/95W | Williams | Yes |
| Sally Iverson Living Trust | Chokecherry | 15 | 7/155N/95W | Williams | Yes |
| Sally Iverson Living Trust | Hawthorn | 25 | 7/155N/95W | Williams | Yes |
| Sally Iverson Living Trust | Siberian Elm | 15 | 7/155N/95W | Williams | Yes |
| Thompson, Larry & Beverly | Buffalo berry | 25 | 7/155N/94W | Mountrail | Yes |
| Viall, Ronald | Green Ash | 3 | 25/156N/98W | Williams | Yes |
| Viall, Ronald | Green Ash | 5 | 25/156N/98W | Williams | Yes |
| Viall, Ronald | Green Ash | 9 | 30/156N/97W | Williams | Yes |
| Viall, Ronald | Green Ash | 7 | 30/156N/97W | Williams | Yes |
| Viall, Ronald | Green Ash | 19 | 30/156N/97W | Williams | Yes |
| Viall, Ronald | Russian Olive | 2 | 30/156N/97W | Williams | Yes |
| Viall, Ronald | Russian Olive | 14 | 30/156N/97W | Williams | Yes |
| Viall, Ronald | Siberian Elm | 7 | 25/156N/98W | Williams | Yes |
| Viall, Ronald | Siberian Elm | 2 | 30/156N/97W | Williams | Yes |
| Viall, Ronald | Siberian Elm | 10 | 25/156N/98W | Williams | Yes |
| Viall, Ronald | Siberian Elm | 2 | 30/156N/97W | Williams | Yes |
| Viall, Ronald | Siberian Elm | 5 | 30/156N/97W | Williams | Yes |
| Viall, Ronald | Siberian Elm | 1 | 30/156N/97W | Williams | Yes |

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Cenex Pipeline, LLC
10" Refined Fuels Pipeline Williams, Mountrail, Ward
Siting Application

Case No. PU-17-97

ORDER ON TREE AND SHRUB MITIGATION SPECIFICATIONS

September 1, 2021

Preliminary Statement

The Commission's March 14, 2018 Findings of Fact, Conclusions of Law and Order (Order) issued Certificate of Corridor Compatibility No. 202 and Route Permit No. 212 to Cenex Pipeline, LLC for 149.7 miles of 10-inch diameter refined petroleum products pipeline in Williams, Mountrail, and Ward Counties, North Dakota. Attached to the Order was the Tree and Shrub Mitigation Specifications for the Project.

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

On December 16, 2020, the Commission approved the Tree and Shrub Mitigation Plan filed by Cenex. On May 5, 2021, the Commission approved a one-year extension in the Tree and Shrub Mitigation Plan based on drought conditions.

On June 22, 2021, Commission Staff sent a letter to Cenex suggesting that Cenex may wish to consider complying instead with the March 13, 2019, version of the Tree and Shrub Mitigation Specifications.

On July 30, 2021, Cenex responded to the June 22, 2021 Commission Staff letter.

Discussion

The Tree and Shrub Mitigation Specifications (Specifications) attached to and made part of the Commission's March 14, 2018 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 Project construction, 3,288 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 trees and shrubs may not have been planted to date or may have been planted very recently, Commission Staff suggested that Cenex consider complying instead with the March 13, 2019 version of the Tree and Shrub Mitigation Specifications.

Cenex has indicated a desire to comply with the March 13, 2019 version of the Tree and Shrub Mitigation Specifications instead of the March 14, 2018 Tree and Shrub Mitigation Specifications.

Having considered this matter, the Commission issues the following:

Order

The Commission Orders that its March 14, 2018 Order in Case No. PU-17-97 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

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Cenex Pipeline, LLC
10" Refined Fuels Pipeline Williams, Mountrail, Ward
Siting Application**

Case No. PU-17-97

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.