

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Oasis Midstream Services LLC
Wild Basin Gas Plant – McKenzie County
Siting Application

Case No. PU-17-181

AFFIDAVIT OF SERVICE BY CERTIFIED 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 **27th** day of **July, 2017**, 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 Site Compatibility Number 52**


The envelope was addressed as follows:

Wade C. Mann
Crowley Fleck PLLP
PO Box 2798
Bismarck, ND 58502-2798
Cert. No. 7015 0640 0006 6993 9270

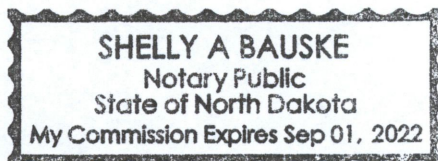
The address shown is the respective addressee's last reasonably ascertainable post office address.



Subscribed and sworn to before me
this **27th** day of **July, 2017**.



Notary Public



SEAL

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Oasis Midstream Services LLC
Wild Basin Gas Plant – McKenzie County
Siting Application**

Case No. PU-17-181

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

July 26, 2017

Appearances

Commissioners Randy Christmann and Brian Kroshus.

Wade C. Mann, Attorney at Law, Crowley Fleck, PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58501, on behalf of Oasis Midstream Services LLC.

Brian Schmidt, Special Assistant Attorney General, 122 East Broadway Avenue, Bismarck, North Dakota 58501, on behalf of the North Dakota Public Service Commission.

Patrick J. Ward, Administrative Law Judge, Office of Administrative Hearings, 316 North 5th Street, Bismarck, North Dakota 58502, as Procedural Hearing Officer.

Preliminary Statement

On May 4, 2017, Oasis Midstream Services LLC (Oasis) filed an application for a certificate of site compatibility authorizing construction of an addition to its existing Wild Basin Gas Plant located in McKenzie County, North Dakota.

On May 31, 2017, the Commission found the application for a Certificate of Site Compatibility complete and issued a Notice of Filing and Public Hearing (Notice) scheduling a hearing for July 14, 2017, at 9:00 a.m. Central Time at Teddy's Residential Suites, 113 9th Avenue SE, Watford City, North Dakota 58854.

The Notice identified the following issues to be considered in this matter:

1. Will the location, construction, 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 facilities location 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 July 13, 2017, Commissioner Julie Fedorchak filed with the Commission a letter of recusal from the decision in Case No. PU-17-181, due to a potential conflict.

On July 14, 2017, the hearing was held as scheduled.

On July 18, 2017, Oasis filed the following late-filed exhibits: Late-Filed Exhibit 3a: Emergency Response Plan, Late-Filed Exhibit 3b: Facility Response Plan and Late-Filed Exhibit 4: Facility Property Boundary map.

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. Oasis is a Delaware limited liability company authorized to do business in the State of North Dakota since May 2, 2013, as evidenced by the corporate papers filed with the Commission on November 11, 2015 (see Case No. PU-15-741).

Size, Type, and Preferred Location of Facility

2. Oasis owns and operates the Wild Basin Gas Plant and Crude Handling Facility (Plant) located approximately 6 miles northeast of Watford City in the NW¼ of Section 35, Township 151 North, Range 98 West, McKenzie County.
3. The Plant is capable of processing 80 million standard cubic feet per day (MMSCFD) of gas and stabilizing up to 60,000 barrels of crude per day (BPD). Oasis plans to increase the capacity of the Plant to process 280 MMSCFD of gas and stabilize up to 80,000 barrels of crude oil per day and to add an additional 150,000 barrel crude oil storage tank to accommodate additional oil gathering efforts. The plant uses Mechanical Refrigeration Units (MRUs) to liquefy natural gas for storage and truck offload capabilities. The modular Mechanical Refrigeration Units (MRUs) will be increased by 65 MMCFD. The total cost of increasing the plant capacity is estimated to be \$150 million.

4. Plant Infrastructure includes underground piping, above ground piping, above ground gas processing and crude stabilization facilities, mechanical refrigeration units, crude and gas liquids storage tanks, and a control building.
5. The Plant processes well-head associated natural gas from oil production wells connected to Oasis's gathering system in the Wild Basin area. Natural gas liquids (NGLs) are stored and delivered to outside facilities. Residue gas is delivered to a pipeline owned and operated by Northern Border Pipeline Company.
6. Oasis owns the property on which the current plant and expansion will be located.

Study of Preferred Location

7. Oasis conducted a Class I Cultural Resource Literature Search of an area consisting of a 1-mile wide buffer area centered upon the Project Parcel as depicted on the Overview Map in Appendix B of Hearing Exhibit No. 1. Oasis conducted a Class III Cultural Resource Inventory as depicted on the Fieldwork Results Map in Appendix E of Hearing Exhibit No. 1.
8. The following agencies were contacted by Oasis and provided comments regarding the Plant: US Fish and Wildlife Service (USFWS); North Dakota Game and Fish Department; North Dakota Parks and Recreation Department; North Dakota State Historical Preservation Office (SHPO); North Dakota Department of Trust Lands – Surface Management and Minerals Management; North Dakota State Water Commission; Western Area Water Supply Authority; McKenzie County Water Resource Board; and McKenzie County Weed Board.
9. In its April 6, 2017 response, the State Water Commission referenced the potential requirement for a water permit if there is diversion of surface water or groundwater for industrial use associated with the Plant.
10. Oasis testified that it has received a conditional use permit from McKenzie County for the Plant.
11. The North Dakota Department of Health provided comments on June 15, 2017 stating that an Air Pollution Control Permit would be needed to construct and operate the expansion.
12. There is no evidence of any other agency responses expressing any concerns on the Company's proposal.

Siting Criteria

13. The Commission has developed criteria pursuant to North Dakota Century Code section 49-22.1-03 to guide in evaluating the suitability of granting an application for a certificate of site compatibility. The criteria, as set forth in North Dakota Administrative Code section 69-06-08-01, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

14. Oasis evaluated the expansion project with respect to the Exclusion, Avoidance, Selection and Policy criteria of the Commission.

15. With the exception of prime and unique farmland as stated in North Dakota Administrative Code Section 69-06-08-01(1)(d), an energy conversion facility must not be sited within an Exclusion Area. The existing plant and proposed expansion plant areas are not within an Exclusion Area.

16. An energy conversion facility must not be sited within an Avoidance Area unless the applicant demonstrates that under the circumstances there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a 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 sites.

17. The existing plant and proposed expansion plant areas are not within any Avoidance Area.

18. In accordance with the Commission's Selection Criteria, a site 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. Oasis analyzed the effects that may result from the location, construction, and operation of the Plant. No significant adverse effects will result.

19. In accordance with the Commission's Policy Criteria, preference may be given to an application demonstrating certain benefits of the energy conversion facility. Oasis has committed to maximizing the benefits of the plant expansion so as to meet the Policy Criteria.

Measures to Minimize Impact

20. Oasis has made other representations and covenants as indicated by the Certification Relating to Order Provisions – Energy Conversion Facility Siting, with accompanying Tree and Shrub Specifications.

21. The additional processing capacity and crude handling facilities will minimize environmental disturbance by utilizing existing infrastructure, including access roads, utilities, gathering systems and delivery pipelines.
22. Oasis will coordinate with local authorities and emergency managers regarding emergency response measures. Oasis's current emergency response plan utilized for the existing Wild Basin Plant will be amended to include the entire Plant.
23. Oasis's administrative building and other occupied structures on-site are located in a manner that they will not be impacted by a catastrophic incident at the facility.
24. Oasis will continue to work with the State Water Commission to address whether or not there will be a need for any water permits for the Plant.
25. No trees or shrubs exist in the existing or expansion plant areas.
26. The expansion construction is not expected to adversely impact any of WAWSA's infrastructure. Oasis will coordinate with WAWSA if any construction activities could potentially affect its infrastructure.
27. Oasis testified that it will perform pressure and function testing before putting new facilities into service, and will comply with all applicable safety laws and standards.
28. Oasis will fence off the existing operations from the construction site and no construction personnel will be able to enter the existing plant area.
29. Oasis currently uses a Supervisory Control and Data Acquisition System (SCADA) to monitor the operations and will do the same with the expansion.
30. Oasis will utilize the ND One Call system during construction.
31. Oasis does not expect an impact on surface drainage because of the expansion as much of the facilities do not require a significant amount of concrete leaving soils below gravel surfaces for moisture absorption.
32. Oasis filed a three year Weed Control Plan with McKenzie County that will minimize weed propagation.

From the foregoing Findings of Fact, the Commission makes the following conclusions of law:

Conclusions of Law

1. The Commission has jurisdiction over the applicant, Oasis Midstream Services LLC, and over the subject matter of this application under North Dakota Century Code Chapter 49-22.1.
2. Oasis is a utility as defined in North Dakota Century Code Section 49-22.1-01(12).
3. The existing plant and expansion is an energy conversion facility as defined in North Dakota Century Code Section 49-22.1-01(5).
4. The location, construction, operation, and maintenance of the Plant will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The Plant is compatible with the environmental preservation and the efficient use of resources.
6. The Plant 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.

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

Order

The Commission orders:

1. Certificate of Site Compatibility No. 52 is issued to Oasis Midstream Services LLC designating a site for the construction, operation, and maintenance of the Wild Basin Gas Plant. For purposes of this Certificate, the designated site is the "Existing Gas Plant" and "Proposed Expansion Area" as identified on the Facility Property Boundary map located in Late Filed Exhibit 4.
2. The Certification Relating to Order Provisions – Energy Conversion Facility Siting with attached Tree and Shrub Mitigation Specifications executed July 13, 2017, is incorporated by reference and attached to this Order.
3. To the extent there are any conflicts or inconsistencies between Oasis's application and the Certification, the Certification provisions control.

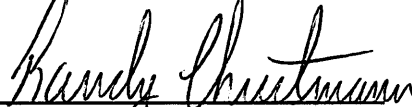
4. Oasis is required to comply with all applicable laws, rules, and/or regulations in the event it desires to construct another or a different energy conversion facility than was specified in the application in this proceeding.

5. Oasis will provide the Commission with copies of its air permits as soon as received from the Department of Health.

PUBLIC SERVICE COMMISSION



**Brian Kroshus
Commissioner**



**Randy Christmann
Chairman**

(recused)

**Julie Fedorchak
Commissioner**

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Site Compatibility Number 52

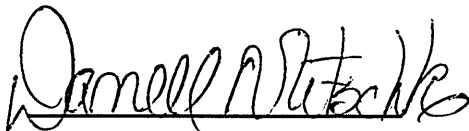
This is to certify that the Commission has designated an energy conversion facility site for Oasis Midstream Services LLC, for the construction, operation, and maintenance of a natural gas processing plant and crude handling facilities in McKenzie County, North Dakota.

This certificate is issued in accordance with the Order of the Commission dated July 26, 2017, in Case No. PU-17-181, and is subject to the conditions and limitations noted in the Order.

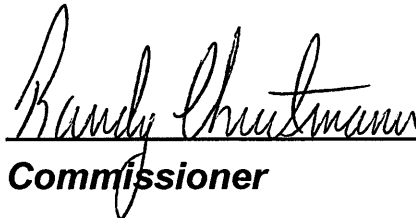
Bismarck, North Dakota, July 26, 2017.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Oasis Midstream Services LLC
Wild Basin Gas Plant – McKenzie County
Siting Application**

Case No. PU-17-181

**CERTIFICATION RELATING TO ORDER PROVISIONS
ENERGY CONVERSION FACILITY SITING**

I am James R Doss, a representative of Oasis Midstream Services 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 the Certificate of Site Compatibility will be issued by the Commission 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 proposed energy conversion 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 energy conversion facility that requires said license or permit.
4. Company understands and agrees that the Certificate of Site Compatibility 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 and the Certificate of Site Compatibility, 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 the Certificate of Site Compatibility for the energy conversion 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 approved by the North Dakota State Historic Preservation Office 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 energy conversion 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 of construction activities on a monthly basis.
11. (For electric energy facility) Company is aware that North Dakota law requires that all companies that own or operate electric generation of any size for the primary purpose of resale must comply with the standards of the National Electrical Safety Code in effect at the time of construction of the generation facility, and agrees to comply with that requirement.
12. Company agrees to construct and operate the energy conversion facility in accordance with all applicable safety requirements.
13. Company understands and agrees that it shall bury all underground lines to a depth of at least 48 inches to the top of the lines.
14. Company understands and agrees that topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas, roadways, and locations of associated facilities must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must first 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.

15. Company understands and agrees that all buried facility crossings of graded roads shall be bored unless the responsible governing agency specifically permits Company to open cut the road.
16. 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.
17. 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 by the State Historical Society, a report of such examination is filed with the Commission.
18. 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.
19. 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:

20. Company agrees that it shall, as soon as practicable upon the completion of the construction of the energy conversion 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.
21. 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 energy conversion 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.

22. 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.
23. Company will fulfil its obligation for reclamation and maintenance of the approved site continuing throughout the life of the energy conversion facility.
24. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the proposed energy conversion facility.
25. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the proposed energy conversion facility.
26. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
27. 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 energy conversion facility.
28. 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.
29. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.

Communication with Landowners and PSC:

30. Company agrees to provide the Commission with engineering design drawings showing surveyed structure and collection substation locations prior to construction.
31. 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 energy conversion facility, including injuries to any person.
32. Company agrees to report to the Commission, as soon as reasonably possible, the presence in or near the approved site of any critical habitat of threatened or endangered species that Company becomes aware of and which were not previously reported to the Commission.

33. Company agrees to provide the Commission with both an electronic and a paper copy of the site approved by the Commission and the facility design specifications for the construction of the energy conversion facility showing the location of the energy conversion 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 site approved by the Commission and the facility design specifications for the construction of the energy conversion facility showing the location of the energy conversion 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.
35. Company agrees that it shall provide, if requested, educational material for landowners within the site boundaries about the proposed energy conversion facility and any restriction or danger concerning the proposed energy conversion facility.
36. Company understands and agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Company

Modification of Energy Conversion Facility or Energy Conversion Site Plan:

37. Before conducting any construction activities for any modification within the designated site, the Company will file the name and contact information for a key contact person for the purposes of notice and communication during the site modification application and will use the following procedures:
- A. Before conducting any construction activities for any modification within the designated site, and such **construction activities will not affect any known exclusion or avoidance areas** within the designated site, the Company will file certification and supporting documentation:
1. Affirming that construction activities will not affect any known exclusion or avoidance areas within the designated site;
 2. Including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated site and site modification(s); and

3. Affirming that Company will comply with the Commission's order, law and rules designating the site.
- B. Before conducting any construction activities for any modification within the designated site, and such construction activities will not affect any known exclusion but **may affect an avoidance area** within the designated site, the Company will file:
1. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
 - a. the designated site and the site modification;
 - b. all exclusion and avoidance areas within the portion of the designated site containing the site modification.
 2. Certification and supporting documentation affirming that construction activities will not affect any known exclusion area.
 3. All field studies performed on the portion of the designated site containing the site modification;
 4. Specific information about any mitigation measures Company will take within the modification area;
 5. Certification that each owner of real property on which the modification is to be located and any applicable governmental entity with an interest in the same modification area do not oppose the modification;
 6. Certification that unless the Commission previously authorized the impact to the same avoidance area, that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist;
 7. Certification that Company will comply with the Commission's order, law and rules designating the site.
38. Company acknowledges and agrees that written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity.

Dated this 13th day of July, 2017.

Oasis Midstream Services LLC

By James R. Doss

Its General Manager

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Oasis Midstream Services LLC
Wild Basin Gas Plant – McKenzie County
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Case No. PU-17-181

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 and approved by the Commission.
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).