

March 28, 2017

U.S. EPA Region 8 Air Program, 8P-AR
Attn: Ms. Claudia Smith
1595 Wynkoop Street
Denver, CO 80202

Re:



*Fort Berthold Indian Reservation (FBIR)
Dunn County, North Dakota
Evaluation of Threatened and Endangered Species and Historic Properties*

Dear Ms. Smith:

[REDACTED] is proposing to construct a [REDACTED] at a site located on the Fort Berthold Indian Reservation in Dunn County, North Dakota. [REDACTED] plans to register this project under the Federal Implementation Plan (FIP) for True Minor Sources in Indian Country, and is submitting this letter to request written confirmation that it has met the screening procedures for threatened and endangered species and historic properties, pursuant to 40 CFR §49.104(a)(2).

Proposed Project

[REDACTED] is proposing to install a [REDACTED] on an existing pad to as a short-term solution (approximately 6 months) to recover natural gas liquids (NGLs) from natural gas until additional pipeline takeaway capacity becomes available. Without this project, additional gas may be flared at upstream producer well pads. The [REDACTED] separates NGLs (150-250 bbl/day) from the inlet gas into pressurized bullet tanks. The NGLs are transported off-site via tanker trucks, and the residue gas is flared. The [REDACTED] will consist of an inlet separator, natural gas compressor, a refrigeration system, NGL stabilizer, flare, tanks for separator liquids and NGLs, and a portable generator.

The existing pad is located on [REDACTED] approximately [REDACTED] miles to the east of Mandaree, ND, as show in in Attachment 1. It is currently being used as a methanol injection point for the underground natural gas pipeline.

Evaluation of Threatened and Endangered Species

The signed Evaluation of Threatened and Endangered Species and Historic Properties Form is provided in Attachment 2, indicates that Criterion A has been used for this action. The existing pad was originally constructed as part of a project to [REDACTED], deemed the "[REDACTED] Project" at the time. An Environmental Assessment (EA) was conducted for the [REDACTED] Project that resulted in a Finding of No Significant Impact (FONSI) by the Bureau of Indian Affairs (BIA) on February 24, 2010(see Attachment 3). Page 5 in that EA specifically addresses the one acre existing pad which was called a Staging Area in the EA. Additionally, a FONSI was issued on February 23, 2012, by the BIA for the construction of [REDACTED] which in the vicinity (<0.5 miles) of the existing pad.

The EA for the [REDACTED] Project reviewed impacts to the following threatened or endangered species and found no adverse impacts: whooping crane, interior least tern, pallid sturgeon, black-footed ferret, gray wolf, piping plover, and Dakota skipper. As that EA is seven years old, [REDACTED] reviewed these



species for new impacts and also considered additional species below that are now designated. Since the proposed project is a temporary installation of equipment on an existing pad and will be a true minor source for NSR permitting, no impacts to threatened or endangered species are expected.

1. **Whooping Crane (Endangered):** Suitable whooping crane habitat primarily includes wetland habitats that support breeding and nesting, as well as feeding and roosting during their fall and spring migration (Canadian Wildlife Service and USFWS 2007). Since the proposed project would occur on an existing pad, not located near a wetland, the whooping crane is not expected to be impacted.
2. **Interior Least Tern (Endangered):** This bird is the smallest member of the gull and tern family, measuring approximately 9 inches in length. Terns remain near flowing water, where they feed by hovering over and diving into standing or flowing water to catch small fish (USFWS 2013d). Since the proposed project would occur on an existing pad, not located near flowing water, the interior least tern is not expected to be impacted.
3. **Pallid Sturgeon (Endangered):** The fundamental elements of pallid sturgeon habitat are defined as the bottom of swift waters of large, turbid, free-flowing rivers with braided channels, dynamic flow patterns, flooding of terrestrial habitats, and extensive microhabitat diversity (USFWS 1990b). None of these elements exist on the existing pad; therefore, the pallid sturgeon is not expected to be impacted.
4. **Black-footed ferret (Endangered):** Black-footed ferrets are nocturnal, solitary carnivores of the weasel family that have been largely extirpated from the wild primarily due to range-wide decimation of the prairie dog (*Cynomys* sp.) ecosystem (Kotliar et al. 1999). Ferrets inhabit extensive prairie dog complexes of the Great Plains, typically composed of several smaller colonies in proximity to one another that provide a sustainable prey base. Such complexes were not found in the vicinity during the EA for [REDACTED] Project and since the proposed project would occur on an existing pad, the Black-footed ferret is not expected to be impacted.
5. **Gray wolf (Endangered):** The presence of wolves in most of North Dakota consists of occasional dispersing animals from Minnesota and Manitoba (Licht and Fritts 1994; Licht and Huffman 1996). The gray wolf uses a variety of habitats that support a large prey base, including montane and low-elevation forests, grasslands, and desert scrub (USFWS 2013a). Due to a lack of forested habitat and the distance from Minnesota and Manitoba populations, the gray wolf is not expected to be impacted by the proposed project.
6. **Piping plover (Threatened):** The piping plover is a small shorebird which breeds only in three geographic regions of North America: the Atlantic Coast, the Northern Great Plains, and the Great Lakes. Plovers in the Great Plains make their nests on open, sparsely vegetated sand or gravel beaches adjacent to alkali wetlands, and on beaches, sand bars, and dredged material islands of major river systems (USFWS 2002, 2012b). Since the proposed project would occur on an existing pad, not located near a beach, the piping plover is not expected to be impacted.
7. **Dakota skipper (Threatened):** The Dakota skipper is a small butterfly with a 1-inch wingspan. The EA for the East Mandaree Project determined that project area did not contain suitable habitat for the Dakota skipper and did not observe any individuals during a field surveys. Since the proposed project would occur on an existing pad, the Dakota skipper is not expected to be impacted.

8. **Rufa Red Knot (Threatened):** The rufa red knot was not considered during the EA for the East Mandaree Project since it was not listed as a threatened species until January 12, 2015 (79 Federal Register 73705). It is a medium-sized shorebird approximately 9 to 11 inches in height with breeding plumage consisting of red around the face and a prominent stripe above the eye, breast, and upper belly, and non-breeding plumage a dusky gray and white (USFWS 2013e). The primary reason for decline of this species includes reduced food supplies in Delaware Bay due to commercial harvest of horseshoe crabs, but also includes areas of range loss due to rising sea levels, shorelines project, and development (USFWS 2013e). The rufa red knot breeds in the Canadian Arctic and migrates 19,000 miles to winter on the U.S. Gulf Coast and in South America. The species generally occurs along the ocean coasts during migration, but a small number have been reported across the interior United States. The closest potentially suitable habitat is along Lake Sakakawea is approximately [REDACTED] miles northeast from the project area. The rufa red knot is not expected to be impacted by the proposed project due to the existing pad and the distance to Lake Sakakawea.
9. **Northern Long-eared Bat (Threatened):** The northern long-eared bat was not considered during the EA for the East Mandaree Project since it was not listed as a threatened species until May 4, 2015 (USFWS 2015c). This medium-sized bat ranges across the eastern and north-central United States and all of the Canadian provinces (USFWS 2015d). Throughout most of this species' range, populations are patchily distributed. They emerge at dusk to fly through the understory of forested hillsides and ridges, feeding on moths, flies, leafhoppers, caddisflies, and beetles. Most records of northern long-eared bats are from winter hibernacula surveys, with more than 780 hibernacula identified within the United States. No known hibernacula are located in North Dakota, due to either no suitable hibernacula present or a lack of survey effort (USFWS 2013f). This bat species occupies a wide range of rocky and forested habitats. Suitable winter habitat includes large caves and mines (USFWS 2015d). Summer day roosts include abandoned buildings, bridges, hollow trees, stumps, under loose bark, and rock fissures (Jones and Choate 1978). No suitable habitat exists on the existing pad; therefore, the northern long-eared bat is not expected to be impacted by the proposed project.

Therefore, [REDACTED] concludes that there is no potential to adversely impact threatened or endangered species by the proposed [REDACTED] Project.

Evaluation of Historic Properties

The form provided in Attachment 2 indicates that no historic properties are affected by this proposed action. The previous EA found that no historic properties were likely to be impacted by the [REDACTED] Project, and received concurrence from the BIA and the Tribal Historic Preservation Officer (see page 15 of the EA). Since the proposed [REDACTED] project will occur within the existing footprint and on top of an existing pipeline right-of-way (ROW), [REDACTED] concludes that no historic properties will be affected.

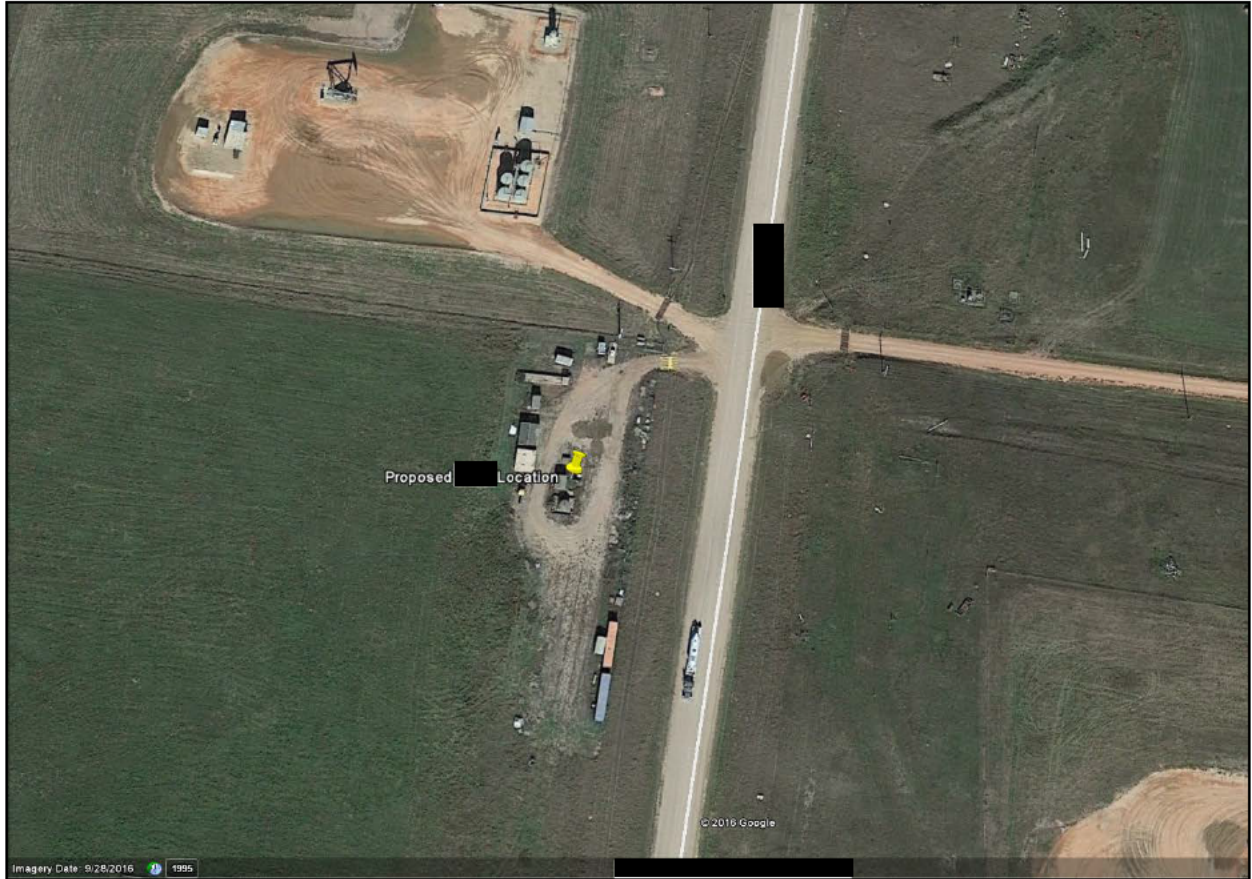
Thank you for your consideration of this request. Please feel free to contact me at [REDACTED] [REDACTED] should you have any questions or if you require additional information.



Attachments

ATTACHMENT 1: PROPOSED LOCATION

Approximate Coordinates: [REDACTED]



**ATTACHMENT 2: EVALUATION OF THREATENED AND ENDANGERED SPECIES AND
HISTORIC PROPERTIES FORM**

Procedures to Address Threatened and Endangered Species and Historic Properties for the Federal Implementation Plan for True Minor Sources in Indian Country in the Oil and Natural Gas Production and Natural Gas Processing Segments of the Oil and Natural Gas Sector

Section 1: Contact Information

Business name: [REDACTED]	Site address: Approximate Coordinates: [REDACTED]
Send all correspondence regarding this evaluation to (mailing address): [REDACTED]	Contact for this notification: Name: [REDACTED] Phone: [REDACTED] Email: [REDACTED]

Section 2: Evaluation of Threatened and Endangered Species and Historic Properties

1. Threatened or Endangered Species

Please indicate under which criterion in Appendix A you satisfy after evaluating the effects on threatened or endangered species as a result of your construction, modification or operation of your new or modified minor source of air pollutants. Be sure to include all documentation identified in Appendix A with this evaluation.

A B C D E

2. Historic Properties

Please indicate under which criterion in Appendix B you satisfy after evaluating the effects to historic properties as a result of your construction, modification or operation of your new or modified minor source of air pollutants? Be sure to include all documentation identified in Appendix B with this evaluation.

No historic properties affected No adverse effects Adverse effects

Section 3: Signature

Name: [REDACTED]	Name: [REDACTED] (Print or Type)
Title: [REDACTED]	Date: [REDACTED]

ATTACHMENT 3: ENVIRONMENTAL ASSESSMENT FOR THE



PROJECT





United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Great Plains Regional Office
115 Fourth Avenue S.E.
Aberdeen, South Dakota 57401




IN REPLY REFER TO:
DESCRM
MC-208

FEB 24 2010

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: Regional Director, Great Plains Region 

SUBJECT: Environmental Assessment and Finding of No Significant Impact

In compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended, for the proposed [REDACTED] by [REDACTED] [REDACTED] on the Fort Berthold Reservation, an Environmental Assessment (EA) has been completed and a Finding of No Significant Impact (FONSI) has been issued.

All the necessary requirements of the National Environmental Policy Act have been completed. Attached for your files is a copy of the EA, FONSI and Notice of Availability. The Council on Environmental Quality (CEQ) regulations requires that there be a public notice of availability of the FONSI (1506.6(b)). Please post the attached notice of availability at the Agency and Tribal buildings for 30 days.

If you have any questions, please call Marilyn Bercier, Regional Environmental Scientist, Division of Environment, Safety and Cultural Resources Management, at (605) 226-7656.

Attachment

cc: Marcus Levings, Chairman, Three Affiliated Tribes (with attachment)
Perry "No Tears" Brady, THPO (with attachment)
Roy Swalling, BLM, Dickenson, ND (with attachment)
John Shelman, US Army Corps of Engineers

Finding of No Significant Impact

[REDACTED]

The U.S. Bureau of Indian Affairs (BIA) received a proposal for construction of [REDACTED]

[REDACTED]

Dunn County, North Dakota. Associated federal actions by BIA include determinations of effect regarding cultural resources and approvals of leases, rights-of-way and easements.

Potential of the proposed action to impact the human environment is analyzed in the attached Environmental Assessment (EA), as required by the National Environmental Policy Act. Based on the recently completed EA, I have determined the proposed project will not significantly affect the quality of the human environment. No Environmental Impact Statement is required for any portion of the proposed activities. This determination is based on the following factors:

1. Agency and public involvement was solicited and environmental issues related to the proposal were identified.
2. Protective and prudent measures were designed to minimize impacts to air, water, soil, vegetation, wetlands, wildlife, water resources, and cultural resources. The potential for impacts was disclosed for both the proposed action and the No Action alternative.
3. Guidance from the U.S. Fish and Wildlife Service was fully considered.
4. The proposed action was designed to avoid adverse effects to historic, archaeological, cultural, and traditional properties, sites, and practices. The Tribal Historic Preservation Officer has concurred with BIA's determination that no historic properties will be affected.
5. Environmental justice was fully considered.
6. Cumulative effects to the environment are either mitigated or minimal.
7. No regulatory requirements have been waived or require compensatory mitigation measures.
8. The proposed project will improve the socioeconomic condition of the affected Indian community.


Regional Director – Great Plains Regional Office

2/24/10
Date

Environmental Assessment

United States Bureau of Indian Affairs

**Great Plains Regional Office
Aberdeen, South Dakota**



Fort Berthold Indian Reservation

February 2010

For information contact:
Bureau of Indian Affairs, Great Plains Regional Office
Division of Energy and Environment
115 4th Avenue SE
Aberdeen, South Dakota 57401
(605) 226-7656

Notice of Availability and Appeal Rights

Arrow Midstream Holdings: East Mandaree

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to installation of the [REDACTED] [REDACTED] as shown on the attached map. Construction by [REDACTED] is expected to begin in 2010.

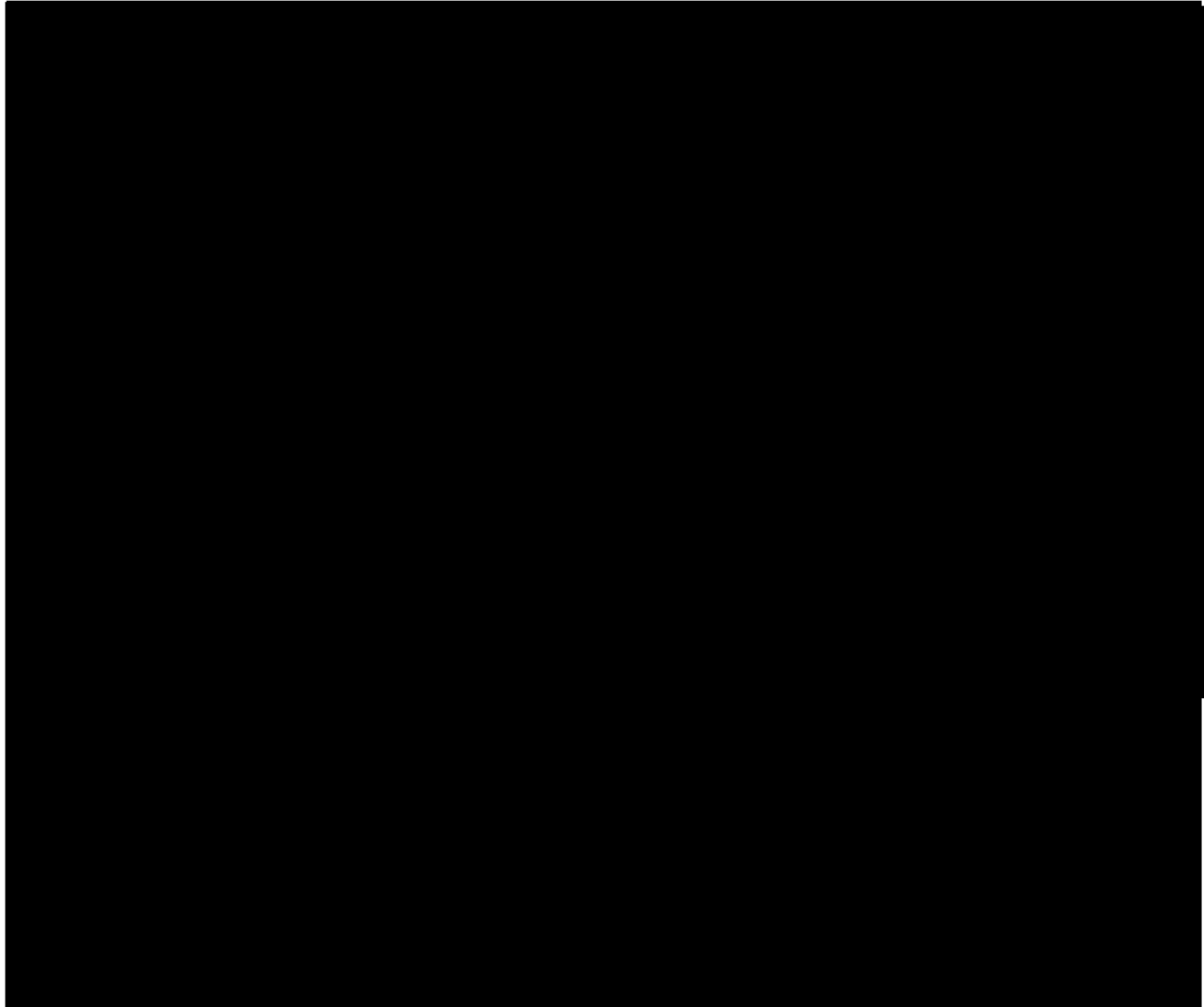
An environmental assessment (EA) determined that proposed activities will not cause significant impacts to the human environment. An environmental impact statement is not required. Contact Howard Bemer, Superintendent at 701-627-4707 for more information and/or copies of the EA and the Finding of No Significant Impact (FONSI).

The FONSI is only a finding on environmental impacts – it is not a decision to proceed with an action and *cannot* be appealed. BIA's decision to proceed with administrative actions *can* be appealed until March 24, 2010, by contacting:

United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Indian Appeals
801 N. Quincy Street, Suite 300, Arlington, Va 22203.

Procedural details are available from the BIA Fort Berthold Agency at 701-627-4707.

Proposed [REDACTED] Project Location



Environmental Assessment

United States Bureau of Indian Affairs

**Great Plains Regional Office
Aberdeen, South Dakota**



Fort Berthold Indian Reservation

December 2009

For information contact:
Bureau of Indian Affairs, Great Plains Regional Office
Division of Energy and Environment
115 4th Avenue SE
Aberdeen, South Dakota 57401
(605) 226-7413

Finding of No Significant Impact

[REDACTED]

The U.S. Bureau of Indian Affairs (BIA) received a proposal for construction of [REDACTED] in [REDACTED] Dunn County, North Dakota. Associated federal actions by BIA include determinations of effect regarding cultural resources and approvals of leases, rights-of-way and easements.

Potential of the proposed action to impact the human environment is analyzed in the attached Environmental Assessment (EA), as required by the National Environmental Policy Act. Based on the recently completed EA, I have determined the proposed project will not significantly affect the quality of the human environment. No Environmental Impact Statement is required for any portion of the proposed activities. This determination is based on the following factors:

1. Agency and public involvement was solicited and environmental issues related to the proposal were identified.
2. Protective and prudent measures were designed to minimize impacts to air, water, soil, vegetation, wetlands, wildlife, water resources, and cultural resources. The potential for impacts was disclosed for both the proposed action and the No Action alternative.
3. Guidance from the U.S. Fish and Wildlife Service was fully considered.
4. The proposed action was designed to avoid adverse effects to historic, archaeological, cultural, and traditional properties, sites, and practices. The Tribal Historic Preservation Officer has concurred with BIA's determination that no historic properties will be affected.
5. Environmental justice was fully considered.
6. Cumulative effects to the environment are either mitigated or minimal.
7. No regulatory requirements have been waived or require compensatory mitigation measures.
8. The proposed project will improve the socioeconomic condition of the affected Indian community.

Regional Director – Great Plains Regional Office

Date

tracts owned by currently non-benefiting allottees. The absence of lease and royalty income does not, moreover, preclude other benefits. Exploration and development may provide many relatively high-paying jobs, with oversight from the Tribal Employment Rights Office.

The owners of allotted surface within project areas may not hold mineral rights. In such cases, surface owners do not receive oil and gas lease or royalty income and their only related income would be compensatory for productive acreage temporarily lost to the pipeline corridor. Tribal members without either surface or mineral rights would not receive any direct benefits whatsoever. Indirect benefits of employment and general tribal gains would be the only offset to negative impacts.

Potential impacts to tribes and tribal members include disturbance of cultural resources. There is potential for disproportionate impacts, especially if the impacted tribes and members do not reside within the Reservation and therefore do not share in direct or indirect benefits. This potential is significantly reduced following surveys of the proposed pipeline route and access road routes and determination by the BIA that there will be no effect to historic properties. Nothing is known to be present, furthermore, that qualifies as a traditional cultural property or for protection under the American Indian Religious Freedom Act. Potential for disproportionate impacts is further mitigated by requirements for immediate work stoppage following an unexpected discovery of cultural resources of any type. Mandatory consultations will take place during any such work stoppage, affording an opportunity for all affected parties to assert their interests and contribute to an appropriate resolution, regardless of their home location or tribal affiliation.

The proposed project has not been found to pose significant impacts to any other critical element—air, public health and safety, water, wetlands, wildlife, soils or vegetation— within the human environment. Avoiding or minimizing such impacts generally also makes unlikely specific and disproportionate impacts to low-income or minority populations. The proposed action offers many positive consequences for tribal members, while recognizing environmental justice concerns. Procedures summarized in this document are binding and sufficient. No laws, regulations or other requirements have been waived; no compensatory mitigation measures are required.

3.6 Cultural Resources

Cultural resources is a broad term encompassing sites, objects, or practices of archeological, historical, cultural or religious significance. Cultural resources on federal or tribal lands are protected by many laws, regulations, and agreements. The *National Historic Preservation Act* of 1966 requires a cultural resources survey of the Area of Potential Effect (APE) prior to undertaking a federal action. Resources identified are evaluated for eligibility as historic properties on the National Register of Historic Places (NRHP). Eligibility criteria (36 CFR 60.4) include association with important events or people, distinctive construction or artistic characteristics, and either a record of yielding or a potential to yield at least locally important information. Properties are generally not eligible for listing on the NRHP if they lack diagnostic artifacts, subsurface remains, or structural features, but those considered eligible are treated as though they were listed on the NRHP, even when no formal nomination has been filed.

The APE of any federal undertaking must also be evaluated for significance to Native Americans from a cultural and religious standpoint. Sites and practices may be eligible for protection under the *American Indian Religious Freedom Act* of 1978 (42 USC 1996). Sacred sites may be identified by a tribe or an authoritative individual (Executive Order 13007). Special protections are afforded to human remains, funerary objects and objects of cultural patrimony under the *Native American Graves Protection and Repatriation Act* of 1990 (NAGPRA, 25 USC 3001, *et seq.*).

Traditional cultural properties (TCPs) of the MHA Nation can take the form of earthlodge villages, eagle trapping pits, natural springs, or sites used for hunting/gathering, gardens, fasting, prayer, human burial, or other ceremonial purposes. Landforms—such as buttes, ridges, valleys, and hills—can constitute TCPs with specific purposes for the MHA Nation, as can whole landscapes where boulders placed on hilltops or hillsides serve as trailmarkers to sacred and cultural places. Various rock constructions—including cairns, circles, lines, alignments, and effigies—are also critical to the continuity and revitalization of spiritual and cultural lifeways. Hundreds of such places are woven into origin stories, oral histories, and continuing practices. BIA relies upon tribal elders and TCP practitioners for advice on the presence of TCPs and proper avoidance or buffer zones. Depending on the nature of the site, identified TCPs may be protected under several regulations, conventions, and traditions.

Whatever the nature of a cultural resource addressed by a particular statute or tradition, implementing procedures invariably include consultation requirements at various stages of a federal undertaking. The MHA Nation has designated a Tribal Historic Preservation Officer (THPO) by Tribal Council resolution. Within the exterior boundaries of the reservation, the THPO operates with the same authority exercised in most of the rest of North Dakota by the State Historic Preservation Officer (SHPO). As a result, BIA consults and corresponds with the THPO on all projects proposed within the Fort Berthold Reservation. The SHPO may have useful information, but has no official role regarding proposed federal actions on trust land. The MHA Nation has designated responsible parties for consultations and actions under NAGPRA and cultural resources generally.

For the entire length of the proposed corridor, a Class I literature search identified earlier fieldwork (22 surveys) and previously recorded sites within one mile (43 sites or isolated find with NRHP recommendations of unevaluated Potentially Eligible or Not Eligible). On August 4, August 6, October 1, October 12, and November 2, 2009, SWCA Environmental Consultants (SWCA) conducted Class III surface inspections that examined a 100-foot wide pipeline corridor and rerouted segments totally 10.55 miles long (SWCA 2009a). A total of 123.83 acres were surveyed for the original and rerouted pipeline routes. The inventoried area is situated on the [REDACTED], North Dakota (1970) U.S. Geological Survey topographic quadrants and includes parcels in Sections [REDACTED]. No subsurface testing was conducted.

According to the SWCA report on file with the BIA (SWCA 2009a), five resources were newly recorded during the 2009 inventories; three are prehistoric stone circle sites, one is a prehistoric stone circle and cultural material scatter site, and one is a stone cairn site of unknown age. All remain unevaluated for the National Register of Historic Places (NRHP) under Criteria A and D. Three previously recorded sites were revisited for the project: a stone circle site; a stone circle, stone cairn, and stone alignment site (both remain unevaluated for the NRHP under Criteria A and D); and a cultural material scatter (which could not be relocated during the revised centerline inventory and is recommended as not eligible for the NRHP). Four of the eight sites have been avoided through pipeline reroutes so that no historic properties are likely to be affected (SWCA 2009a). To ensure site avoidance of the other four sites within the temporary ROW, SWCA recommends fencing along the edge of the temporary ROW and that a qualified archaeological monitor is present during all ground disturbing activities to ensure site avoidance during project construction.

BIA determined that no historic properties would be affected in official correspondence mailed to the THPO on November 6, 2009. The THPO concurred with this determination on November 18, 2009. Related correspondence is included in Section 4 of this EA. No effects to cultural resources are expected from the proposed project. If cultural resources are discovered during construction or operation, the operator must immediately stop work, secure the affected site, and notify both BIA and THPO. Unexpected or inadvertent discoveries of cultural resources or human remains trigger mandatory federal procedures that include work stoppage and BIA consultation with all appropriate parties. Following any such discovery, the operator would not resume construction or operations until written authorization to proceed was received from the BIA. **Project personnel are prohibited from collecting artifacts or disturbing cultural resources or practices under any circumstances.** No laws, rules, regulations, or other requirements have been waived; no compensatory mitigation measures are required. The presence of qualified cultural resource monitors during construction activities is encouraged.

3.7 Wildlife

The USFWS has identified six federally listed threatened and endangered species occurring in Dunn County, in addition to one species that is a candidate for listing under the *Endangered Species Act* (ESA) (USFWS 2008a). None of these species were observed during field reconnaissance of the proposed site. The state of North Dakota (North Dakota Game and Fish Department, NDGFD), BIA, Bureau of Land Management (BLM), and Fort Berthold Reservation do not have a list of threatened or endangered species different from the federal government. Tribes and states may recognize additional species of concern; such lists are taken under advisement by federal agencies, but are not legally binding in the manner of the ESA.

Whooping crane (*Grus Americana*)

Status: Endangered.

Potential Effect: May affect, but is not likely to adversely affect

Whooping cranes historically nested in North Dakota, but the whooping crane is currently only a migrant through North Dakota in the spring and fall. During spring and fall whooping crane migration, preferred roost habitat consist of large shallow marshes with a minimal to nonexistent emergent zones and preferred foraging habitat consists of upland cropland and pastures adjacent to and usually within one kilometer (0.62 mile) of roosts (Howe 1989). The lack of a cropland/wetland matrix habitat makes migratory stopovers by whooping cranes unlikely. The proposed project will not affect this species.

Interior least tern (*Sterna antillarum*)

Status: Endangered

Potential Effect: May affect, but is not likely to adversely affect

Natural habitat for interior least terns in North Dakota includes islands, beaches and sandbars of the Missouri and Yellowstone Rivers and along the shorelines of Lake Sakakawea and Oahe (USFWS 2006). Interior least terns are generally restricted to larger meandering rivers with a broad floodplain, slow currents and greater sedimentation rates, which allow for the formation of suitable habitat. Interior least terns experience the greatest nesting success on sand or gravel bar islands because predation by terrestrial predators is reduced (USFWS 2006). Lake Sakakawea and the Little Missouri River contain suitable nesting sites for the piping plover. As the project area is composed primarily of grassland habitat, suitable nesting/foraging habitats within the project area for interior least tern is unlikely.

Pallid sturgeon (*Scaphirhynchus albus*)

Status: Endangered.

Potential Effect: May affect, but is not likely to adversely affect

The pallid sturgeon is known to occur in North Dakota primarily at the confluence of the Missouri and Yellowstone Rivers (USFWS 2006). There is no existing or potential aquatic habitat within or near the project area that would be suitable for this species. The proposed project would not affect this species.

Black-footed ferret (*Mustela nigripes*)

Status: Endangered.

Potential Effect: Not likely to affect

Black-footed ferrets historically occurred in this region of North Dakota, but mostly in the extreme southwest part of the state (USFWS 2006). Suitable habitat includes large black-tailed prairie dog (*Cynomys ssp.*) colonies or complexes of colonies. The ferret's primary food source is the black-tailed prairie dog and ferret's also inhabit black-tailed prairie dog burrows. The proposed project area does not contain active black-tailed prairie dog colonies. The black-footed ferret is not expected to be present given the paucity of food and habitat on the project area. The proposed project would not affect this species.

Gray wolf (*Canis lupus*)

Status: Endangered.

Potential Effect: Not likely to affect

The most suitable habitat for the gray wolf in North Dakota is in the dense and contiguous forested areas in the north central and northeast parts of the state. There have been documented occurrences of gray wolves in south-central North Dakota (1985, 1990, and 1991) and confirmed reports of gray wolves in the Turtle Mountains of North Dakota (NDGFD 2006). The project area does not contain dense, contiguous forested areas required by the gray wolf and there have been no historical wolf sightings within or near the project area (USFWS 2006). The proposed project would not affect this species.

Piping plover (*Charadrius melodus*)

Status: Threatened.

Potential Effect: May affect, but is no likely to adversely affect

Critical habitat for the piping plover includes sparsely vegetated shoreline beaches, peninsulas, islands composed of sand, gravel, or shale, and their interface with the water bodies (USFWS 2006). Nearby Lake Sakakawea and the Little Missouri River contain suitable nesting sites for the piping plover. However, as the project area is composed primarily of grassland habitat, suitable nesting/foraging habitats for piping plovers is unlikely.

Dakota skipper (*Hesperia dacotae*)

Status: Candidate.

Potential Effect: May affect, but is not likely to adversely affect

North Dakota has a large and stable population of Dakota skippers. In the western part of the state, its habitat includes ungrazed native prairie with little bluestem (*Schizachyrium scoparium*), needle and thread (*Stipa viridula*), purple coneflower (*Echinacea spp.*) and a high forb and grass diversity (USFWS 2006). The Dakota skipper has been documented within both McKenzie and Dunn Counties in the NESW and NWSE Section 28, T149N, R94W and the NENW of Section 33, T149N, R94W (USFWS 2008a). The project area does contain suitable habitat for the Dakota skipper. No individuals were observed during the survey.

SWCA conducted wildlife surveys between August 4 and November, 2, 2009 and determined that construction and operation of the proposed pipeline is not likely to adversely affect the seven federally listed threatened, endangered, or candidate species that have ranges that include the project area (SWCA 2009b). No effects are expected for the black-footed ferret and gray wolf because these species do not occupy the project area. Habitat for the remaining species is potentially found in the project area, but their occurrence is considered unlikely, other than as occasional transients. As such, only indirect effects, such as temporary displacement caused by noise or presence of humans would be likely. These potential effects are not likely to adversely affect these species or their habitats.

Bird and mammal species potentially present in the vicinity of the project area based on potential habitat, queries of state and federal natural resource related databases, and interviews with state (NDGFD 2008) and federal management personnel (USFWS 2008b) are listed in **Table 3-5**. Eighteen resident birds are known from Dunn Counties and at least 71 migratory birds could potentially occur in the vicinity of the project. Based on a lack of suitable waterfowl nesting habitat present within the project area, only limited use of the area (except staging on Lake Sakakawea, 10 miles from the project area) by migrating waterfowl species would be expected. A review of the NDGFD annual game bird reports for central and western North Dakota indicates that populations are healthy and stable-to-increasing in this region. In addition to avian species, 21 species of mammals could occupy the project area both continually and intermittently throughout the year. A review of NDGFD winter aerial survey data indicates that white-tailed deer density within Dunn County is excellent and suggests a healthy and stable-to increasing deer population.

Construction activities that remove vegetation and disturb soil may cause direct mortality, displacement, or increased exposure to predators for of less mobile wildlife species (i.e. small mammals, amphibians, reptiles, ground-nesting birds). More mobile species (i.e. medium to large mammals and birds) would be expected to disperse from the project area during construction and re-enter the area following completion of construction activities. Long-term habitat loss would be minimal and restricted to the localized area of permanently altered vegetation. Disturbance to wildlife due to noise, increased traffic, and human presence may temporarily displace individuals during the construction period. However, due to the migratory and transient behavior of wildlife species, these effects are not likely to cause long term declines in populations. Interim reclamation and the use of BMPs over the life of the project would reduce long-term impacts to all wildlife. Monitoring of species in the area would occur as part of the normal construction, production, and reclamation process.

Table 3-5 Potential Wildlife Species in Dunn Counties, North Dakota

Resident Birds	Migratory Birds		Mammals
American Crow	American Coot	Turkey Vulture	Pronghorn Antelope
Black-billed Magpie	Marbled Godwit	Brewer's Blackbird	Badger
Black-capped Chickadee	American Goldfinch	Cooper's hawk	Beaver
Blue Jay	Franklin's Gull	Brown Thrasher	Big Brown Bat
Short-eared Owl	American Kestrel	Northern Harrier	Coyote
Downy Woodpecker	Loggerhead Shrike	Brown-headed Cowbird	Eastern Chipmunk
Eastern Screech Owl	American Robin	American Avocet	Fox Squirrel
European Starling	Long-billed Dowitcher	Bufflehead	Franklin's Ground Squirrel
Gray Partridge	American Tree Sparrow	Greater Yellowlegs	Little Brown Bat
Great Horned Owl	Mallard	Cedar Waxwing	Long-tailed Weasel

Hairy Woodpecker	Bank Swallow	Chipping Sparrow	Meadow Vole
House Finch	Marsh Wren	Rough-legged hawk	Mink
House Sparrow	Gray Catbird	Common Yellowthroat	Muskrat
Ring-necked Pheasant	Mountain Bluebird	Ruby-throated Hummingbird	Raccoon
Sharp-tailed Grouse	Mourning Dove	Eastern Wood-Pewee	Red Fox
White-breasted Nuthatch	Killdeer	Savannah Sparrow	Red Squirrel
Wild Turkey	Northern Flicker	Semi-palmated Plover	Silver-haired Bat
Homed Lark	Least Flycatcher	Short-billed Dowitcher	Thirteen-lined Ground Squirrel
	Western Meadowlark	Snow Bunting	White-tailed Deer
	Lesser Yellowlegs	Snow Goose	Mule Deer
	Common Nighthawk	Solitary Sandpiper	White-tailed Jackrabbit
	Great Blue Heron	Song Sparrow	
	Willet	Sora	
	Black-crowned Night Heron	Spotted Sandpiper	
	Yellow Warbler	Horned Grebe	
	Canada Goose	Eared Grebe	
	Barn Swallow	Swainson's Hawk	
	Blue-winged Teal	Tree Swallow	
	Belted Kingfisher	Upland Sandpiper	
	Gadwall	Vesper Sparrow	
	Red-Headed woodpecker	Double-crested Cormorant	
	Northern Shoveler	White-fronted goose	
	Black Tern	Wood Duck	
	American Wigeon	Lesser Scaup	
	Black-bellied Plover		
	Ruddy Duck		
	Bonaparte's Gull		

3.8 Soils

Physiographically, the project area is part of the Missouri Plateau, a relatively high plain that slopes to the east and northeast. Soils within the project area have developed over till plains and uplands. Till plains soils are found on ridges, swales, knolls, rises, and hills with slopes ranging between 0 and 60 percent and were developed in fine-loamy till from glacial deposition. Soils of the uplands developed from a variety of parent materials ranging from clayey residuum and loamy and clayey alluvium weathered from sedimentary rock to loamy residuum and colluvium derived from mudstone. Upland soils are found on ridges, pediments, hills, alluvial fans, flats, and swales with gentle to steep slopes (0–70 percent).

Soils are categorized and described as soil mapping units. Published soil surveys are available online for Dunn County (NRCS 2009). Databases were reviewed and soils in the East Mandaree corridor were surveyed by SWCA between August 4 and November, 2, 2009 (SWCA 2009b). Their report indicates 16 soil mapping units are present in the project area. These soil units and their respective acreages in the project area are listed in **Table 3-6**. Soil permeability ranges from very slow to moderately rapid. All components are known to support native mixed grass prairie species.

Table 3-6 Soil Map Units within the Project Area

Map Unit #	Soil Map Unit	Acres	% Project Area
4B	Arnegard loam, 2 to 6 percent slopes	0.47	1.16
9D	Amor-Cabba loams, 9 to 15 percent slopes	1.06	2.62

4. Consultation and Coordination

The project notice reproduced below was posted at the BIA Fort Berthold Agency and direct-mailed to the recipients listed in **Table 4-1** on November 20, 2009. Six comment letters were returned during the 30-day comment period. A summary of the comments is provided in Table 4-1.

November 20, 2009

Dear Interested Party:

The Bureau of Indian Affairs (BIA) is preparing an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA), in cooperation with the Bureau of Land Management (BLM). BIA and BLM are considering approval of [REDACTED] in one 100 foot Right-of-Way (ROW) on the Ft. Berthold Reservation by [REDACTED].

The proposed route of the ROW is shown on the enclosed map and described in the following paragraph:
The ROW will start in the [REDACTED]. The pipeline route will roughly follow BIA Road [REDACTED].

To ensure that social, economic, and environmental effects are analyzed accurately, we solicit your views and comments on the proposed action, pursuant to Section 102(2) (D) (IV) of NEPA, as amended. We are interested in developments proposed or underway that should be considered in connection with the proposed project. We also ask your assistance in identifying any property or resources that you own, manage, oversee or otherwise value that might be adversely impacted. Please send your replies and requests for additional project information to:

Pearl, LLC
Attn: Christi Haswell
PO Box 783
Sheridan, WY 82801

Questions for the BIA can be directed to Marilyn Bercier, Great Plains Regional Office in Aberdeen, SD at (605) 226-7656.

Sincerely,

Regional Director

Table 4-1 Public Comments

Organization	Name	Comment
Barnes County Municipal Airport	Larry Lindemann	No Comments
Christi Haswell	Pearl	No Comments
Dunn County	Reinhard Hauck	No Comments
FAA	Steve Obernauer	No Comments
FEMA	Insurance & Hazard Director	FEMA's concern is if the property is located within a mapped Special Flood Hazard Area. FEMA recommends contact with the local Floodplain Manager, Cliff Whitman, to receive guidelines regarding the impact that pipelines might have relative to the regulations and policies of the National Flood Insurance Program.
Fort Berthold Rural Water	Marvin Danks	No Comments
Ft. Berthold Allottee Land & Minerals Association	Tex Hall	No Comments
Garrison Project Office Corps of Engineer's, Omaha District	P.O. Box 527	No Comments
Indian Affairs Commission	Cheryl Kulas	No Comments
Killdeer, Weydahl Field	Warren Hoffman	No Comments
Marilyn Bercier	BIA Great Plains Regional Office	No Comments
McKenzie County	Frances Olson	No Comments
McKenzie County	Richard Cayko	No Comments
McKenzie Electric Cooperative	Gary Thorson	No Comments
McLean County	Julie Hudson-Schenfisch	No Comments
McLean Electric Coop., Inc.	Reginald Rudolph	No Comments
Mercer County	County Courthouse	No Comments
Mid-continent Cable Company	Bill Boyd	No Comments
Minot Air Force Base	Chief Missile Engineer	No Comments
Montana Dakota Utilities	Doug Dixon	No Comments
Mountrail County	David Hynek	No Comments
ND Department of Health	David Glatt	Minimize fugitive dust emissions. Minimize adverse affects to waterbodies. Obtain a permit to discharge storm water runoff from the U.S. EPA if needed. Check with local officials for local storm water management considerations. Minimize noise levels. ND Dept of Health owns no land in or adjacent to the proposed improvement nor does it have projects scheduled in the area. Minimal requirements to ensure minimal environmental degradation included. All projects will be desinged and implemented to restrict the losses or

		disturbances of soil, vegetation cover, and pollutants from a site.
ND Department of Transportation	Walter Peterson	No Comments
ND Game & Fish Department	Mike McKenna	No Comments
ND Parks & Recreation Dept.	Doug Prchal	No Comments
NoDak Electric Coop., Inc.	George Berg	No Comments
Northern Border Pipeline Company	Sandy Roth	No Comments
Reservation Telephone Coop.	Roger Hovda	No Comments
Sioux Tribe	Chairman, Sisston-Wahpeton	No Comments
Southwest Water Authority	Ray Christenson	No Comments
Spirit Lake Sioux Tribe	Myra Pearson	No Comments
Standing Rock Sioux Tribe	Ron His Horse is Thunder	No Comments
State Historical Society	Merlan Paaverud	NDSHPO requests a copy of cultural resouces site forms and report be sent to their office.
THPO, Three Affiliated Tribes	Perry Brady	No Comments
Three Affiliated Tribes	NAGRPA Office	No Comments
Three Affiliated Tribes	Natural Resource Department	No Comments
Three Affiliated Tribes	Mervin Packineau	No Comments
Three Affiliated Tribes	Fred Poitra	No Comments
Three Affiliated Tribes	Mandaree Segment Rep.	No Comments
Three Affiliated Tribes	Frank Whitcalf	No Comments
Three Affiliated Tribes	Damon Williams	No Comments
Three Affiliated Tribes	Malcom Wolf	No Comments
Three Affiliated Tribes	Barry Benson	No Comments
Three Affiliated Tribes	V. Judy Brugh	No Comments
Three Affiliated Tribes	Fred Fox	No Comments
Three Affiliated Tribes	Todd Hall	No Comments
Three Affiliated Tribes, Chairman	Marcus Wells	No Comments
Turtle Mountain Band of Chippewa, Chairman	David Brien	No Comments
US Army Corps of Engineers	Charles Sorenson	No Comments
US Army Corps of Engineers	Dan Cimarosti	No Comments
US Army Corps of Engineers	Brad Thompson	Since the project does not appear to be located within Corps owed or operated lands, we are providing no floodplain or flood risk information. To determine if the project may impact areas designated as a Federal Emergency Management Agency special flood hazard area, contact ND State Water Commission. Coordinate plans with U.S. EPA, USFWS, NDGFD, and SHPO. Any proposed placement of dredged or fill material inot waters of the

		U.S. requires authorization under Section 404.
US Bureau of Indian Affairs	Mike Black	No Comments
US Bureau of Land Management	Mike Nash	No Comments
US Bureau of Land Management	Lonny Bagley	No Comments
US Bureau of Reclamation	Richard Nelson	Proposed pipelines could potentially affect Reclamation facilities in the form of the rural water piepipelines of the Fort Berthold Rural Water system. We request that any work planned be coordinated with Mr. Marvin Danks, Fort Berthold Rural Water Director.
US Department of Agriculture, NRCS	John Glover	It appears that your project is not supported by federal funding or actions; therefore, FPPA, does not apply and no further action is needed. NRCS recommends impacts to wetlands be avoided and provides guidelines if installation of permanent structure in wetland will occur.
US Environmental Protection Agency	Joyce Dhieux	No Comments
US Environmental Protection Agency	Larry Svoboda	No Comments
US Forest Service	Frank Guzman	No Comments
WAPA	Gerald Paulson	No Comments
Ward County	Carroll Erickson	No Comments
West Plains Electric Coop., Inc.	David Schelkoph	No Comments
Xcel Energy	Manager	No Comments