



North Dakota Department of Transportation

David A. Sprynczynatyk, P.E.
Director

John Hoeven
Governor

August 16, 2005

Tom Meland
Central Power Electric Coop.
525 20th Ave. SW
Minot, ND 58701



UTILITY PERMIT #11975, HIGHWAY 83

One copy of your requested utility permit is enclosed.

Installation and maintenance provisions have been included with the permit and must be adhered to. A copy of the permit is required at the work site for reference by the work crew or contractor.

As per previous discussions with John Wergin, FPL Energy, the poles and hardware must be located outside the highway right-of-way. Any vehicles or equipment must be outside the clear zone which is a minimum of 42 feet from the edge of the driving lane.

Please submit payment of \$25 for the permit.

If you have any questions please call. Thanks!

A handwritten signature in cursive script that reads "Renee Seibel".

RENEE SEIBEL - ADMINISTRATIVE ASSISTANT III

rs
enclosure

UTILITY OCCUPANCY APPLICATION AND PERMIT

North Dakota Department of Transportation, Design Division
SFN 7995 (Rev. 05-2004)

Document No. 11975 (FOR STATE USE ONLY) Permit No. 1-83-108.5780

APPLICANT INFORMATION

| | | | | |
|---|---------------|---------------|-------------------|----------------------------------|
| Owner of Facility Central Electric Cooperative | | City Minot | State ND | Zip Code 58701 |
| Mailing Address 525 20th Ave. SW | | | | Telephone Number 701-852-4407 |
| Owner's Agent Tom Meland | City Minot | State ND | Zip Code 58701 | Telephone Number 701-852-4407 |
| Owner's Contractor | | City | State | Telephone Number |

LOCATION NO. 1 (FOR STATE USE ONLY) Begin Ref. Point _____ End Ref. Point _____

Highway No. 83 Along or Across Lanes of traffic 2 4

Direction N S E W Begin 3052 feet from reference marker 108

Direction N S E W End 3052 feet from reference marker 108

N S E W from city of _____ or _____ miles from junction highway _____

TYPE OF FACILITY (Complete appropriate spaces only.)

Description of Proposed Facility
230 KV Transmission Pole Line Crossing

| | | |
|---------------------------------|---------------------------|---------------------|
| Size of Facility 230 KV | Number of Cables 4 | Length of Down Guys |
| Pipeline Pressure | Size of Casing | Length of Casing |
| Location of Pole(s) SEE DWG. | Location of Appurtenances | Location - Others |

TERMS AND CONDITIONS: Installation and maintenance of said facilities on highway right of way shall be subject to the North Dakota Department of Transportation's (NDDOT's) "A Policy for Accommodation of Utilities on State Highway Right of Way", current edition, and the following terms and conditions, attached hereto and made a part hereof.

- (A) Installation/maintenance of said facilities shall be done in a manner satisfactory to the NDDOT district engineer,
- (B) Owner shall notify the NDDOT district engineer forty-eight (48) hours prior to installing, maintaining, relocating, or removing said facilities. All disturbed areas shall be restored to their original condition in a manner satisfactory to the NDDOT district engineer.
- (C) The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
- (D) Owner shall repair or replace highway structures and appurtenances, and any existing facilities located on, over, or under highway right of way, which may be damaged as a result of the installation and maintenance of said facilities on highway right of way.
- (E) Owner shall promptly remove said facilities from highway right of way, or shall relocate or adjust said facilities, at its sole cost and expense when requested to do so by NDDOT.
- (F) NDDOT specifically reserves the right to revoke, or change the terms and conditions of, this Permit with or without cause and upon notice to the Owner.
- (G) The installation shall be completed on or before December 4, 20 05

7/22/05
DATE

Thomas T. Meland
OWNER'S SIGNATURE

The Owner is hereby granted permission to install and maintain the facilities applied for, as shown on the plans attached hereto and made a part hereof. Approved by NDDOT this 16 day of August, 2005.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

Kevin J. Levi
DISTRICT ENGINEER (TYPE OR PRINT)

K-J. L.
SIGNATURE

VMP

Risk Management Appendix

Permits and Licenses with Private Individuals, Companies, Corporations, Etc. (referred to as Recipient):

Recipient agrees to indemnify, save and hold harmless the state of North Dakota, its agencies, officers and employees (State), from claims resulting from the performance of the Recipient or its agent, including all costs, expenses and attorneys' fees, which may in any manner result from or arise out of this agreement (i.e., permit or license). Recipient also agrees to indemnify, save and hold the State harmless for all costs, expenses and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein.

Recipient shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverages covering the Recipient for any an all claims of any nature which may in any manner arise out of or result from this agreement:

- 1) **Commercial general liability and automobile liability** insurance – minimum limits of liability required are **\$250,000 per person** and **\$1,000,000 per occurrence**.
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The State of North Dakota and its agencies, officers, and employees (State) shall be endorsed as an **additional** insured on the commercial general liability and automobile liability policies.
- 4) Said endorsements shall contain a **"Waiver of Subrogation"** in favor of the state of North Dakota.
- 5) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.



Recipient shall furnish a certificate of insurance evidencing the requirements in 1, 3, 4, and 5 above to the undersigned State representative prior to commencement of this agreement.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time. If Recipient's insurance will expire prior to the term of this agreement, Recipient shall renew the above requirements and furnish a certificate of insurance evidencing the renewal to the undersigned State representative prior to the expiration of the insurance. Any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08.

When a portion of a Contract is sublet, the Recipient shall obtain insurance protection (as outlined above) to provide liability coverage to protect the Recipient and the State as a result of work undertaken by the Subcontractor. In addition, the Recipient shall ensure that any and all parties performing work under the Contract are covered by public liability insurance as outlined above. All Subcontractors performing work under the Contract are required to maintain the same scope of insurance required of the Recipient. The Recipient shall be held responsible for ensuring compliance with those requirements by all Subcontractors.

Recipient's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the State. Any insurance, self-insurance or self-retention maintained by the State shall be excess of the Recipient's insurance and shall not contribute with it. Any deductible amount or other obligations under the policy(ies) shall be the sole responsibility of the Recipient. This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A" or better by A.M. Best Company, Inc. The State will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Recipient in excess of the minimum requirements set forth above.

NOTICE: The Recipient must comply with ALL applicable Federal, State and local laws, rules, regulations, codes, ordinances, etc., including, but not limited to North Dakota Century Code, Chapter 49-23. (ONE-CALL EXCAVATION NOTICE SYSTEM)

INSTALLATION AND MAINTENANCE: Installation and maintenance of said facilities on highway right of way shall conform to the following provisions:

Within thirty (30) days after construction, maintenance, relocation, or removal of said facilities, any right of way scars shall be removed and disturbed areas restored to original condition. Existing topsoil shall be removed prior to excavation and stockpiled until all disturbed areas are restored to original grade. The stockpiled topsoil shall be evenly and smoothly replaced over the areas disturbed by the trenches or pits.

Vehicles and other work equipment used to install or maintain said facilities within highway right of way shall, where possible, use established access points, service roads, driveways and approaches to enter or leave the outer portion of the right of way for the performance of necessary work operations. Such vehicles and work equipment shall not be parked on the through-traffic lanes or shoulders of the highway during installation or maintenance of said facilities.

Protection to the free and safe flow of the highway traffic shall be as required in accordance with the "Manual on Uniform Traffic Control Devices", current edition.

The Recipient will notify the District Engineer of the Department of Transportation forty-eight (48) hours prior to beginning this installation. Immediately following the final clean up of the area, the Recipient shall again notify the District Engineer of the Department of Transportation.

The Department of Transportation may not be the total fee owner and does not warrant the title to the highway right of way covered by the terms of this permit. The Recipient shall be responsible for reviewing the public records to determine ownerships and any encumbrances to the title of the properties covered by the terms of this permit.

The minimum vertical clearance above ground of said facilities within highway right of way, and the lateral clearance from highway bridges, shall conform to provisions of the latest edition of the National Electrical Safety Code.

If installation of said facilities across the highway necessitates temporary interruption of the flow of highway traffic, work operations shall be confined to daylight hours and flagpersons shall be provided to stop traffic on each approach to the work site. Interruption of the flow of highway traffic may not exceed five (5) minutes except by special permission from the Department of Transportation or the State Highway Patrol.

CERTIFICATE OF INSURANCE



THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON YOU THE CERTIFICATE HOLDER. THIS CERTIFICATE IS NOT AN INSURANCE POLICY AND DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGE AFFORDED BY THE POLICIES LISTED BELOW.

This is to Certify that Central Power Electric Co-op

(Name and address of insured) 525 20th Ave. S.W.
Minot, ND 58701-6436

is, at the issue date of this certificate, insured by the Company under the policy(ies) listed below. The insurance afforded by the listed policy(ies) is subject to all their terms, exclusions and conditions and is not altered by any requirements, term or condition of any contract or other document with respect to which this certificate may be issued.

11875 W. 85th Street P.O. Box 15147 Lenexa, KS 66285-5147 (913) 541-0150 (800) 356-8360 Facsimile (913) 541-9004

| TYPE OF INSURANCE | POLICY NUMBER | POLICY EXPIRATION DATE | Limits of Liability in Thousands (000's) | | |
|--|---------------|------------------------|--|-------------------------------|-----|
| | | | EACH OCCURRENCE | AGGREGATE | |
| GENERAL LIABILITY <input checked="" type="checkbox"/> COMPREHENSIVE FORM <input checked="" type="checkbox"/> PREMISES - OPERATIONS <input checked="" type="checkbox"/> EXPLOSION AND COLLAPSE HAZARD <input checked="" type="checkbox"/> UNDERGROUND HAZARD <input checked="" type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS HAZARD <input checked="" type="checkbox"/> CONTRACTUAL INSURANCE <input checked="" type="checkbox"/> BROAD FORM PROPERTY DAMAGE <input checked="" type="checkbox"/> INDEPENDENT CONTRACTORS <input checked="" type="checkbox"/> PERSONAL INJURY | 33 ARB 012-04 | 10/01/2006 | BODILY INJURY AND PROPERTY DAMAGE COMBINED | \$2,000 | N/A |
| AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> COMPREHENSIVE FORM <input checked="" type="checkbox"/> OWNED <input checked="" type="checkbox"/> HIRED <input checked="" type="checkbox"/> NON-OWNED | 33 ARB 012-04 | 10/01/2006 | BODILY INJURY AND PROPERTY DAMAGE COMBINED | \$2,000 | N/A |
| <input checked="" type="checkbox"/> ALL RISK PROPERTY INCLUDING PHYSICAL DAMAGE ON VEHICLES | 33 ARB 012-04 | 10/01/2006 | Deductibles \$600 Property \$0 Comp \$500 Collision | Property Limit \$9,004,900 | |
| | | | | | |

DESCRIPTION OF OPERATIONS

The State of North Dakota, its agencies, officers and employees are included as Additional Insured. "Waiver of Subrogation" waiving any right of recovery Federated Rural Electric Insurance Exchange may have against the State North Dakota.

DATE ISSUED: 09/27/2004

NAME AND ADDRESS OF CERTIFICATE HOLDER

N.D.D.O.T.
608 E. Boulevard Avenue
Bismarck, ND 58505-0700

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER, BUT FAILURE TO MAIL SUCH NOTICE SHALL

IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

Thomas A. Ketcher

Authorized Representative



*This endorsement changes the policy.
Please read it carefully.*

Miscellaneous Endorsement

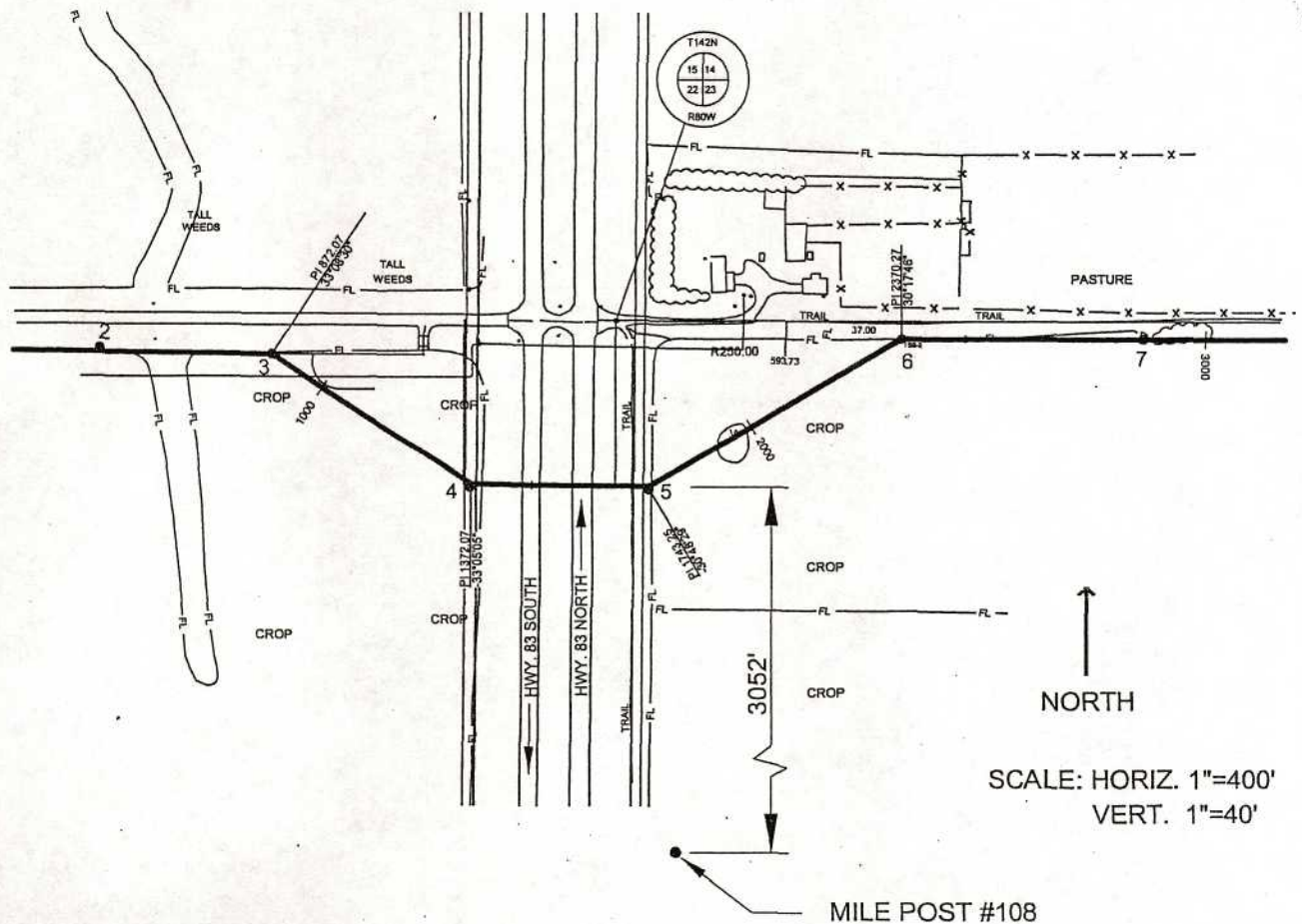
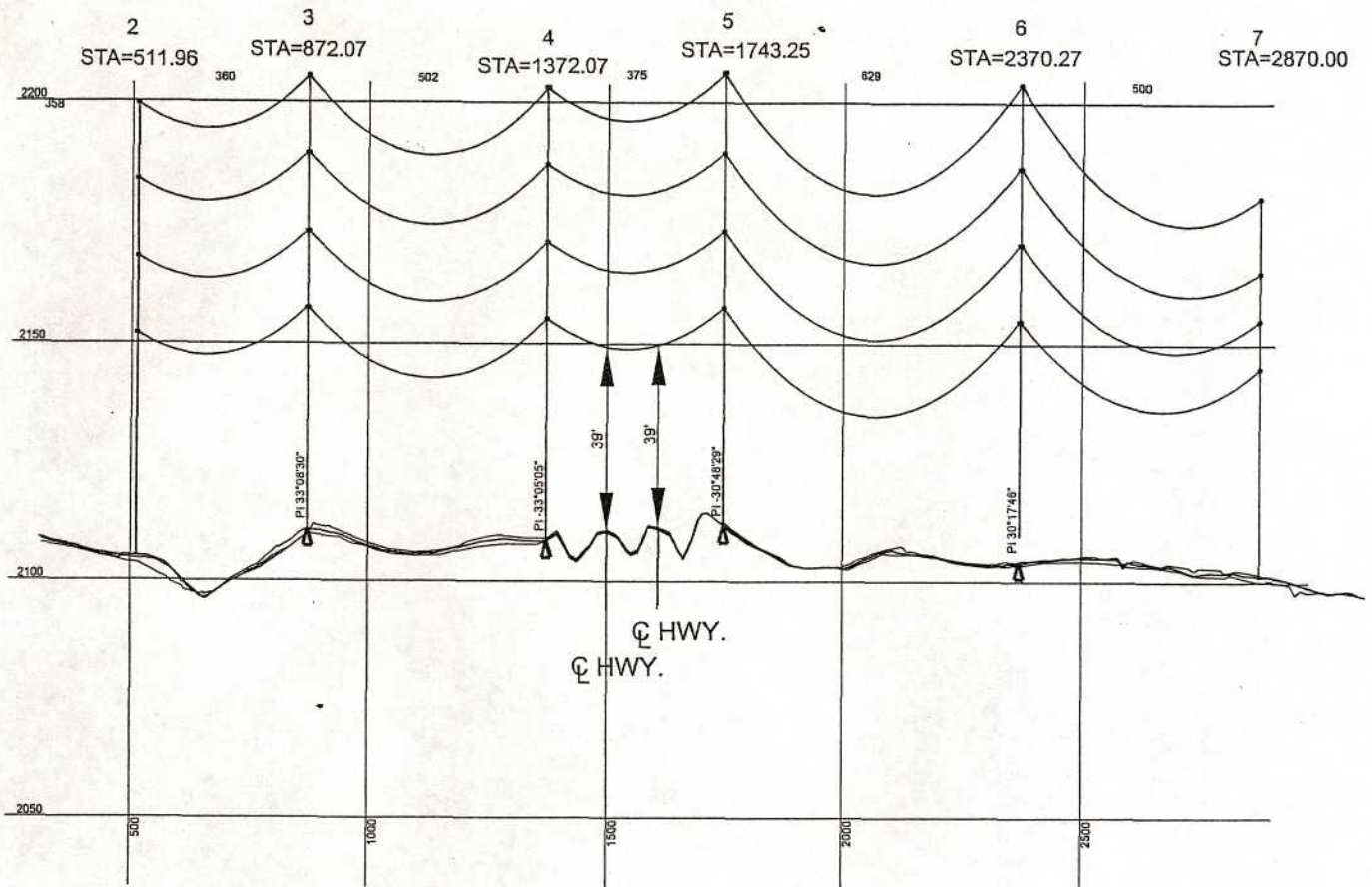
Effective 10/01/2004 12:01 a.m. standard time, this endorsement forms a part of
Policy No. 33 ARB 012-04 issued by Federated Rural Electric Insurance Exchange to
Central Power Electric Co-op

In consideration of the premium charged, Federated and the Insured agree, subject to all provisions
of the policy except as modified herein, as follows:

It is agreed that the State of North Dakota and its agencies, officers and employees are named as an
Additional Insured under Section II, Automobiles and General Liability Insurance for the period
beginning 10-1-04 and ending 10-1-06, for any loss arising from or as a result of the operation of
this insured, but only as their interest may appear.

Paragraph E. Subrogation, under General Liability is hereby deleted only with respect to any right of
recovery Federated may have against the State of North Dakota.

Paragraph E. remains applicable to any right of subrogation Federated may have against any other
person or organization.



CENTRAL POWER ELECTRIC COOPERATIVE
MINOT, NORTH DAKOTA

LOCATION NO. 1



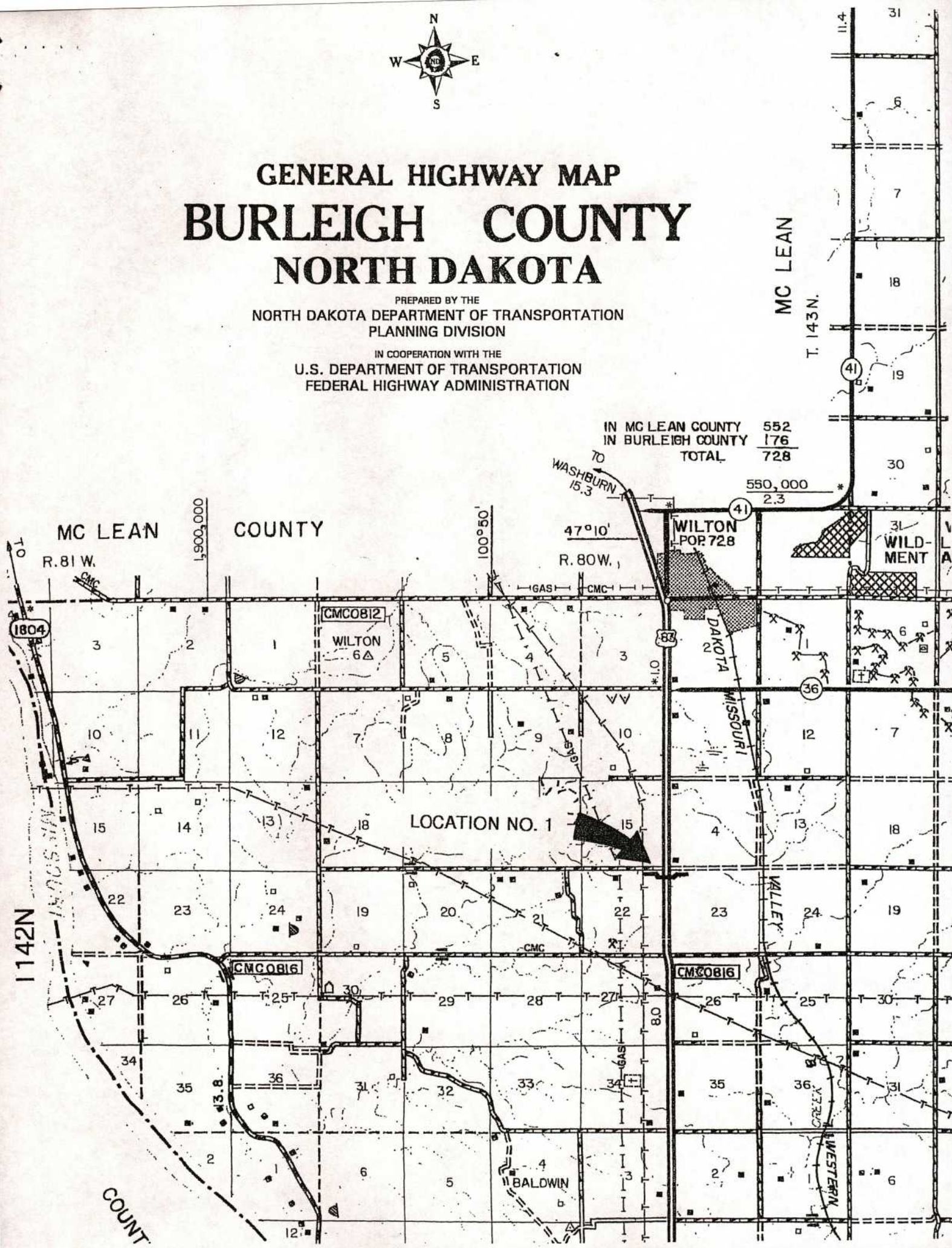
GENERAL HIGHWAY MAP BURLEIGH COUNTY NORTH DAKOTA

PREPARED BY THE
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
PLANNING DIVISION

IN COOPERATION WITH THE
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

| | |
|--------------------|-----|
| IN MC LEAN COUNTY | 552 |
| IN BURLEIGH COUNTY | 176 |
| TOTAL | 728 |

550,000
2.3



1142N

COUNT

MC LEAN

T. 143N.

MC LEAN COUNTY

COUNTY

R. 81 W.

R. 80 W.

LOCATION NO. 1

WILTON
POP 728

WILSON
WILD-MENT

83

36

VALLEY

BALDWIN

WESTERN

CMC0816

CMC0816

CMC0812

WILTON
6Δ

1804

1,900,000

100°50'

GAS

TO WASHBURN
15.3

47°10'

41

30

31

32

33

34

35

36

37

38

39

40

41

42

31

6

7

18

19

30

31

32

33

34

35

36

37

38

39

40

41

42



NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
1200 Missouri Avenue, Bismarck, ND 58504-5264
P.O. Box 5520, Bismarck, ND 58506-5520
701.328.5200 (fax)
www.ndhealth.gov



August 15, 2005

Mark Sherman
Central Power Electric Cooperative, Inc.
525 20th Ave. SW
Minot, ND 58702

RE: Notice of Coverage under Storm Water General Permit – **NDR10-1313**

Dear Mr. Sherman:

We have reviewed your application for coverage under a North Dakota Pollutant Discharge Elimination System (NDPDES) general permit for storm water discharges from sites involving Small Construction Activity. Your application has been assigned the following permit number:

| | |
|-------------------|---------------------------------------|
| <u>Permit #</u> | <u>Site name</u> |
| NDR10-1313 | ND Small Construction Activity |

Small construction activity involves land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb equal to or greater than one and less than five acres.

The Small Construction Activity permit remains active throughout the life of the general construction permit which is scheduled to expire September 30, 2009. This means that the Small Construction Activity permit does not require a new application or have to be terminated at the end of each year. The permit requires owners/operators of small construction activity to develop, implement, and maintain Storm Water Pollution Prevention (SWPP) Plans for their sites. Also, at the end of each year, the owner/operator must submit a list of the small construction sites operated during the year to the Department. The Annual Location Record (ALR) Form can be used for submitting this information. The forms and permit information can also be found at the following webpage:

<http://www.health.state.nd.us/wq/Storm/Construction/ConstructionHome.htm>

Cities or counties may impose additional requirements and/or specific BMPs for construction affecting their storm drainage systems. Please check with the local officials to be sure any local storm water management considerations are addressed. Please remember to inspect, maintain and adjust the Best Management Practices (BMPs) and temporary structures until the sites are stabilized following construction activities. If you have any questions, please contact me at (701) 328-5242 or at dgrossma@state.nd.us.

Sincerely,

Dallas J. Grossman
Environmental Engineer
Division of Water Quality

Environmental Health
Section Chief's Office
701.328.5150

Air
Quality
701.328.5188

Municipal
Facilities
701.328.5211

Waste
Management
701.328.5166

Water
Quality
701.328.5210



**CANADIAN
PACIFIC
RAILWAY**

Engineering Services

521 Marquette Avenue
Minneapolis, Minnesota 55402

Fax (612) 904-6010

received
7-11-05

COPY

July 11, 2005

Engineering File: RWO127 Wilton, North Dakota
MW0789

"IMPORTANT NOTICE"
A copy of this document must be
available for field review by CPR personnel

Mr. John Wergin
Project Coordinator
FPL Energy
402 Main Street, P.O. Box 67
Edgeley, North Dakota 58433

Dear Mr. Wergin,

RE: OVERHEAD ELECTRICAL POWER LINE
279TH AVE. N.E.
MILE POST 536.18
ECKLUND TOWNSHIP, NORTH DAKOTA

This will acknowledge receipt of your application dated May 11, 2005 regarding the above described overhead electrical power line installation. This is to advise that Canadian Pacific Railway (CPR) has reviewed your application and has no objections to its installation as proposed.

Since this crossing is within right-of-way limits of a public thoroughfare, no CPR license agreement will be required. If check for \$200 to cover processing review fee was not submitted with your application, please arrange to submit at this time. Check should be made payable to Canadian Pacific Railway c/o J.H. Krieger at the above address.

Please note any cost (flagging, repair work, inspections, etc.) incurred by the railroad in connection with this project will be submitted to your company for payment. The estimated cost for railroad flagging service is currently \$500 per eight (8) day.

Since this rail line is leased by Dakota Missouri Valley & Western Railroad, please arrange to contact Mr. Roger C. Wood of Bismarck, North Dakota at least three (3) working days in advance of any work near or under the tracks. Mr. Wood's direct telephone number is 701-223-9282 office or 701-471-0872 cell.

A copy of this document must be made available for field review by field personnel. While on railroad property DMV & W requires all personnel to wear four forms of Personal Protective Equipment: hardhat, safety glasses or prescription glasses w/sideshields, hi-vis-vest and steel toe boots.

Sincerely,

J.H. Krieger / DCU

J.H. Krieger
Engineer Public Works

DCU/rjt

cc: Mr. Roger C. Wood
Roadmaster
Dakota Missouri Valley & Western Railroad
3501 East Rosser St.
Bismarck, North Dakota 58501

**U.S. Army Corps of Engineers
North Dakota Regulatory Office
1513 South 12th Street
Bismarck, North Dakota 58504
Telephone (701) 255-0015 Fax (701) 255-4917**

IMPORTANT INSTRUCTIONS FOR OUR PERMIT CUSTOMERS

On January 15, 2002 Nationwide General Permits were published in the Federal Register [Vol. 67, No. 10, Part II]¹. Project compliance certification is required by General Condition 14. The following instructions are provided to clarify the information contained within the nationwide permit authorization letter and attachments.

STEP 1

Review the permit authorization and be sure you understand the terms and conditions for the authorization to remain valid. If you do not understand, or have any questions, please do not hesitate to contact this office at the above address.

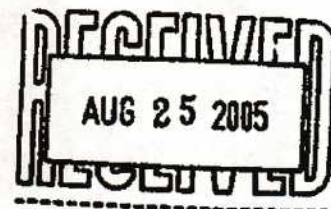
STEP 2

Complete your project in accordance with the permit terms and conditions. [Remember that any deviation from the original plans and specifications of your project could require additional authorization from this office.]

STEP 3

Within thirty (30) days of project completion, please complete the permit compliance certification contained within your permit authorization letter. A photocopy of the first page (marked with a colored COPY stamp) has been provided for this purpose. Mark the applicable statements, sign and date where indicated, and forward the COPY to this office at the above address.

¹There is no charge associated with any aspect of this nationwide authorization or the follow-up compliance certification.





DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
1513 SOUTH 12TH STREET
BISMARCK ND 58504-8840

August 22, 2005

COPY

[200560356]

Mr. Judd Stark
Tetra Tech, Inc.
618 South 25th Street
Billings, Montana 59101

Dear Mr. Stark:

1. Project Authorization. We have reviewed your request for Department of the Army (DA) authorization, on behalf of **Central Power Cooperative, Inc.**, for the proposed construction of approximately 4-miles of 230kV overhead electrical transmission line. It is the Corps understanding that the unavoidable losses to trees during project construction will be replaced at a 2:1 basis using native species. This would apply to trees that are greater than 6 inches diameter at breast height. Please submit the tree mitigation plan to this office for review and approval within 30-days from the date of this authorization letter. Based on the information that you provided to this office, it has been determined that this project is authorized by the Department of the Army Permit No. 12 found in the January 15, 2002 Federal Register, (Vol. 67, No.10, Part II), Issuance of Nationwide Permits. The enclosed fact sheet fully describes this nationwide permit and lists the General Conditions and the Section 401 Water Quality Certification Requirements that must be adhered to for this DA authorization to remain valid.

This verification is valid until the nationwide permit is modified, reissued or revoked. The nationwide permit is scheduled to be modified, reissued or revoked prior to March 18, 2007. It is incumbent upon you to remain informed of changes to the nationwide permit. We will issue a public notice announcing the changes when they occur. Furthermore, if you commence or are under contract to commence this activity before the date the nationwide permit is modified or revoked, you will have twelve (12 months) from the date of the modification or revocation to complete the activity under the present terms and conditions of this nationwide permit.

2. Project Location. This project is located in the S½ of Section 17, the N½ 19, Range 79 West, and the N½ of Sections 22, 23, and 24, Range 80 West, Township 142 North, Burleigh County, North Dakota.

3. Project Compliance Certification. *In compliance with General Condition 14, the attached Compliance Certification form must be signed and returned to the address listed upon completion of the authorized work and mitigation, if required. [Please check all applicable statements.]*

- a. I certify that I have completed the project as permitted.
- b. I certify that I have completed a modified version of the project.
- c. I certify that I have completed all required mitigation.

Permittee's Signature: _____

Date: _____



DEPARTMENT OF THE ARMY
 CORPS OF ENGINEERS, OMAHA DISTRICT
 NORTH DAKOTA REGULATORY OFFICE
 1513 SOUTH 12TH STREET
 BISMARCK ND 58504-8640

August 22, 2005

[200560356]

Mr. Judd Stark
 Tetra Tech, Inc.
 618 South 25th Street
 Billings, Montana 59101

Dear Mr. Stark:

1. Project Authorization. We have reviewed your request for Department of the Army (DA) authorization, on behalf of **Central Power Cooperative, Inc.**, for the proposed construction of approximately 4-miles of 230kV overhead electrical transmission line. It is the Corps understanding that the unavoidable losses to trees during project construction will be replaced at a 2:1 basis using native species. This would apply to trees that are greater than 6 inches diameter at breast height. Please submit the tree mitigation plan to this office for review and approval within 30-days from the date of this authorization letter. Based on the information that you provided to this office, it has been determined that this project is authorized by the Department of the Army Permit No. 12 found in the January 15, 2002 Federal Register, (Vol. 67, No.10, Part II), Issuance of Nationwide Permits. The enclosed fact sheet fully describes this nationwide permit and lists the General Conditions and the Section 401 Water Quality Certification Requirements that must be adhered to for this DA authorization to remain valid.

This verification is valid until the nationwide permit is modified, reissued or revoked. The nationwide permit is scheduled to be modified, reissued or revoked prior to March 18, 2007. It is incumbent upon you to remain informed of changes to the nationwide permit. We will issue a public notice announcing the changes when they occur. Furthermore, if you commence or are under contract to commence this activity before the date the nationwide permit is modified or revoked, you will have twelve (12 months) from the date of the modification or revocation to complete the activity under the present terms and conditions of this nationwide permit.

2. Project Location. This project is located in the S½ of Section 17, the N½ 19, Range 79 West, and the N½ of Sections 22, 23, and 24, Range 80 West, Township 142 North, Burleigh County, North Dakota.

3. Project Compliance Certification. *In compliance with General Condition 14, the attached Compliance Certification form must be signed and returned to the address listed upon completion of the authorized work and mitigation, if required. [Please check all applicable statements.]*

- a. I certify that I have completed the project as permitted.
- b. I certify that I have completed a modified version of the project.
- c. I certify that I have completed all required mitigation.

Permittee's Signature: _____ **Date:** _____

4. Other Authorizations. Although an Individual Department of the Army permit will not be required for this project, this does not eliminate the requirement that you obtain any other applicable Federal, State, Tribal and local permits as required. Please note that any deviations from the original plans and specifications of this project could require additional authorization from this office.

5. Responsibility. Central Power Electric Cooperative, Inc. is responsible for all work accomplished in accordance with the terms and conditions of this nationwide permit. If a contractor or other authorized representative will be accomplishing the work authorized by this nationwide permit on their behalf, they shall be provided a copy of this letter and the attached conditions so that they are aware of the requirements of the nationwide permit. Failure to comply with all of the terms and conditions of this authorization may result in an enforcement action.

6. Other Special Conditions.

Endangered Species

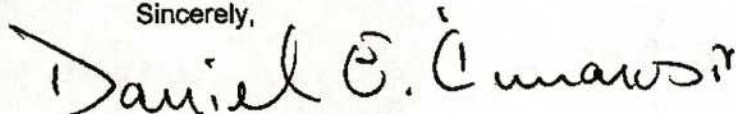
That the permittee shall report any threatened or endangered species at the project site. Notification shall be made to the North Dakota Regulatory Office by the telephone or fax within 24 hours. Written confirmation shall be provided within 48 hours if deemed necessary by the North Dakota Regulatory Office.

Cultural Resources

That the permittee and/or the permittee's contractor, or any of the employees, subcontractors or other persons working in the performance of a contract or contract(s) to complete the work authorized herein, shall cease work immediately and report the discovery of any previously unknown historic or archeological remains to the North Dakota Regulatory Office. Notification shall be by telephone or fax within 24 hours of the discovery and in writing within 48 hours. The North Dakota Regulatory Office will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. Work shall not resume until notified by the North Dakota Regulatory Office.

7. Points-of-Contact. If you have any questions concerning this determination, please contact Jason Renschler of this office by letter or telephone at 701-255-0015 and reference Authorization Number **200560356**.

Sincerely,



Daniel E. Cimarosti
Regulatory Program Manager
North Dakota

Enclosures

**FACT SHEET
NATIONWIDE PERMIT 12**

UTILITY LINE ACTIVITIES: Activities required for the construction, maintenance, and repair of utility lines and associated facilities in waters of the United States as follows:

(i) **Utility lines:** The construction, maintenance, or repair of utility lines, including outfall and intake structures and the associated excavation, backfill, or bedding for the utility lines, in all waters of the United States, provided there is no change in preconstruction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefiable, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication (see Note 1, below). Material resulting from trench excavation may be temporarily sidecast (up to three months) into waters of the United States, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The District Engineer may extend the period of temporary side casting not to exceed a total of 180 days, where appropriate. In wetlands, the top 6" to 12" of the trench should normally be backfilled with topsoil from the trench. Furthermore, the trench cannot be constructed in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). For example, utility line trenches can be backfilled with clay blocks to ensure that the trench does not drain the waters of the United States through which the utility line is installed. Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

(ii) **Utility line substations:** The construction, maintenance, or expansion of a substation facility associated with a powerline or utility line in non-tidal waters of the United States, excluding non-tidal wetlands adjacent to tidal waters, provided the activity does not result in the loss of greater than 1/2 acre of non-tidal waters of the United States.

(iii) **Foundations for overhead utility line towers, poles, and anchors:** The construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

(iv) **Access roads:** The construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the United States, excluding non-tidal wetlands adjacent to tidal waters, provided the discharge does not cause the loss of greater than 1/2 acre of non-tidal waters of the United States. Access roads must be constructed so that the length of the road minimizes the adverse effects on waters of the United States and as near as possible to preconstruction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above preconstruction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

The term "utility line" does not include activities which drain a water of the United States, such as drainage tile or french drains; however, it does apply to pipes conveying drainage from another area. For the purposes of this NWP, the loss of waters of the United States includes the filled area plus waters of the United States that are adversely affected by flooding, excavation, or drainage as a result of the project. Activities authorized by paragraphs (i) through (iv) may not exceed a total of 1/2 acre loss of waters of the United States. Waters of the United States temporarily affected by filling, flooding, excavation, or drainage, where the project area is restored to preconstruction contours and elevations, are not included in the calculation of permanent loss of waters of the United States. This includes temporary construction mats (e.g., timber, steel, geotextile) used during construction and removed upon completion of the work. Where certain functions and values of waters of the United States are permanently adversely affected, such as the conversion of a forested wetland to a herbaceous

wetland in the permanently maintained utility line right-of-way, mitigation will be required to reduce the adverse effects of the project to the minimal level.

Mechanized land clearing necessary for the construction, maintenance, or repair of utility lines and the construction, maintenance, and expansion of utility line substations, foundations for overhead utility lines, and access roads is authorized, provided the cleared area is kept to the minimum necessary and preconstruction contours are maintained as near as possible. The area of waters of the United States that is filled, excavated, or flooded must be limited to the minimum necessary to construct the utility line, substations, foundations, and access roads. Excess material must be removed to upland areas immediately upon completion of construction. This NWP may authorize utility lines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (See 33 CFR Part 322). (Sections 10 and 404)

Notification: The permittee must notify the District Engineer if any of the following criteria are met:

- (a) Mechanized land clearing in a forested wetland for the utility line right-of-way;
- (b) A Section 10 permit is required;
- (c) The utility line in waters of the United States, excluding overhead lines exceeds 500 feet;
- (d) The utility line is placed within a jurisdictional area (i.e., a water of the United States), and it runs parallel to a streambed that is within that jurisdictional area;
- (e) Discharges associated with the construction of utility line substations that result in the loss of greater than 1/10 acre of waters of the United States;
- (f) Permanent access roads constructed above grade in waters of the United States for a distance of more than 500 feet; or
- (g) Permanent access roads constructed in waters of the United States with impervious materials.

Note 1: Overhead utility lines constructed over Section 10 waters and utility lines that are routed in or under Section 10 waters without a discharge of dredged or fill material require a Section 10 permit; except for pipes or pipelines used to transport gaseous, liquid, liquefiable, or slurry substances over navigable waters of the United States, which are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to Section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material associated with such pipelines will require a Corps permit under Section 404.

Note 2: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work and the area restored to preconstruction contours, elevations, and wetland conditions. Temporary access roads for construction may be authorized by NWP 33.

Note 3: Where the proposed utility line is constructed or installed in navigable waters of the United States (i.e., Section 10 waters), copies of the PCN and NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration, National Ocean Service, for charting the utility line to protect navigation.

General Conditions: The following general conditions must be followed in order for any authorization by a NWP to be valid:

- 1. Navigation:** No activity may cause more than a minimal adverse effect on navigation.
- 2. Proper Maintenance:** Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

3. Soil Erosion and Sediment Controls: Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

4. Aquatic Life Movements: No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

5. Equipment: Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

6. Regional and Case-By-Case Conditions: The activity must comply with any regional conditions which may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the State or tribe in its Section 401 water quality certification.

7. Wild and Scenic Rivers: No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

8. Tribal Rights: No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

9. Water Quality:

(a) In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)).

(b) For NWP 12, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWPs).

This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

Specifically in North Dakota, the North Dakota Department of Health has denied certification for projects under this Nationwide Permit proposed to cross Class I or Class 1A rivers, or classified

lakes; individual certification for project in these waterways must be obtained by the project proponent prior to authorization under this Nationwide Permit. For utility line crossings of all other waters, the Department of Health has issued water quality certification provided the attached Construction and Environmental Compliance Requirements are followed. On American Indian Lands in North Dakota, the U.S. Environmental Protection Agency, Region 8, has denied certification for projects under this Nationwide Permit proposed to cross perennial drainages and wetlands or for water intake structures; individual certification must be obtained by the project proponent prior to authorization under this Nationwide Permit. For projects proposed to cross ephemeral and intermittent drainages the attached General Conditions for Nationwide Permits, dated March 11, 2002, must be followed in addition to the following conditions: 1) Crossings must be placed as close to perpendicular to the water course as possible and 2) Affected streambanks must be sloped such that the stream bottom width is not reduced and bottom elevations are restored to original elevations. Disturbed stream banks must be reconfigured to mimic a stable, naturally vegetated, portion of the same stream within 1/2-mile in either direction of the project and not reduce the bottom width of the stream. If a natural/native stream reach is not available within the adjacent 1-mile reach, other natural portions of the drainage can serve as a reference condition. For all other projects and locations, certification has been issued provided the attached General Conditions for Nationwide Permits, dated March 11, 2002, are followed.

10. Coast Zone Management: Not applicable.

11. Endangered Species: (a) No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), the District Engineer may add species-specific regional endangered species conditions to the NWP.

(b) Authorization of any activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/r9endspp/endspp.html> and http://www.nfms.noaa.gov/prot_res/overview/es.html respectively.

12. Historic Properties: No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until

notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. Notification: See attached sheets.

14. Compliance Certification: Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter. The certification will be forwarded by the Corps with the authorization letter and will include: (a) A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions; (b) A statement that any required mitigation was completed in accordance with the permit conditions; and (c) The signature of the permittee certifying the completion of the work and mitigation.

15. Use of Multiple Nationwide Permits: The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3 acre).

16. Water Supply Intakes: No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds: No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material: No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

19. Mitigation: The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

(a) The project must be designed and constructed to avoid and minimize adverse effects to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring notification, unless the District Engineer determines in writing that

some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

(d) Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWP's. For example, 1/4-acre of wetlands cannot be created to change a 3/4-acre loss of wetlands to a 1/2-acre loss associated with NWP 39 verification. However, 1/2-acre of created wetlands can be used to reduce the impacts of a 1/2-acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWP's.

(e) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purpose. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineer may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where vegetated buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts.

(g) Compensatory mitigation proposals submitted with the notification may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the United States.

(h) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

20. Spawning Areas: Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows: To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from

the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelization will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

This condition is only applicable to projects that have the potential to affect water flows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. Adverse Effects From Impoundments: If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restriction of its flow, shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the United States, or discharges of dredged or fill material.

23. Waterfowl Breeding Areas: Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills: Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resources Waters: Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, State natural heritage sites, and outstanding national resource waters or other waters officially designated by a State as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Except as noted below, discharges of dredged or fill material into waters of the United States are not authorized by NWP 12 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the United States may be authorized in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11, and the U.S. Fish and Wildlife Service has concurred in a determination of compliance with this condition.

26. Fills Within 100-Year Floodplains: The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

27. Construction Period: For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12 months after such date (including any modification that affects the project).

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date may be requested. This request must be submitted at least one month before the previously approved completion date.

Further Information:

1. District Engineers have authority to determine if any activity complies with the terms and conditions of a NWP.
2. NWPs do not obviate the need to obtain other Federal, State, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

General Condition 13. Notification:

(a) Timing: Where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the notification is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity:

(1) Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or

(2) If notified in writing by the District or Division Engineer that an individual permit is required; or

(3) Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Notification: The notification must be in writing and include the following information:

(1) Name, address, and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (sketches usually clarify the project and when provided result in a quicker decision);

(4) For NWP 12, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));

(5) thru (16) **Not applicable to NWP 12.**

(17) For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work.

(18) For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

(c) Form of Notification: The standard individual permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b)(1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

(d) District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP

and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the United States will occur until the District Engineer has approved a specific mitigation plan.

(e) Agency Coordination: The District Engineer will consider any comments from Federal and State agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

For activities requiring notification to the District Engineer that result in the loss of greater than 1/2 acre of waters of the United States, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, State natural resource or water quality agency, EPA, and State Historic Preservation Officer (SHPO), and if appropriate, the NMFS). These agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

(f) Wetlands Delineations: Wetlands delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.



NORTH DAKOTA DEPARTMENT OF HEALTH
Environmental Health Section

Location:
1200 Missouri Avenue
Bismarck, ND 58504-5264

Fax #:
701-328-5200

Mailing Address:
P.O. Box 5520
Bismarck, ND 58506-5520

December 2000

Construction and Environmental Disturbance Requirements

These represent the minimum requirements of the North Dakota Department of Health. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect the waters of the State of North Dakota. All projects will be designed and implemented to restrict the losses or disturbances of soil, vegetative cover, and pollutants (chemical or biological) from a site.

Soils

Prevent the erosion of exposed soil surfaces and trapping sediments being transported. Examples include, but are not restricted to, sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap, mesh or burlap blankets to hold soil during construction, and immediately establishing vegetative cover on disturbed areas after construction is completed. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, or land resources will be protected against compaction, vegetation loss, and unnecessary damage.

Surface Waters

All construction which directly or indirectly impacts aquatic systems will be managed to minimize impacts. All attempts will be made to prevent the contamination of water at construction sites from fuel spillage, lubricants, and chemicals, by following safe storage and handling procedures. Stream bank and stream bed disturbances will be controlled to minimize and/or prevent silt movement, nutrient upsurges, plant dislocation, and any physical, chemical, or biological disruption. The use of pesticides or herbicides in or near these systems is forbidden without approval from this Department.

Fill Material

Any fill material placed below the high water mark must be free of top soils, decomposable materials, and persistent synthetic organic compounds (in toxic concentrations). This includes, but is not limited to, asphalt, tires, treated lumber, and construction debris. The Department may require testing of fill materials. All temporary fills must be removed. Debris and solid wastes will be removed from the site and the impacted areas restored as nearly as possible to the original condition.

Environmental Health
Section Chief's Office
701-328-5150

Environmental
Engineering
701-328-5188

Municipal
Facilities
701-328-5211

Waste
Management
701-328-5166

Water
Quality
701-328-5210

Mark Sherman

From: Kenneth_Stein@fpl.com
Sent: Tuesday, August 30, 2005 2:58 PM
To: 'Mark Sherman'; melandtl@centralpwr.com
Cc: jstark@maximusa.com; matthew.kearns@tteci.com; Kurt_Beichel@fpl.com;
Joe_Marchese@fpl.com; John_DiDonato@fpl.com
Subject: Arm Corps permit and env requirements table



U.S. ARMY CORPS Construction
OF ENGINEERS.p...Requirements_revi..

Mark:

Attached is your (Central's) Army Corps wetlands permit. Judd received it on your behalf -- if you or Tom don't already have the original, I've left directions for Judd to mail it to you (he has been out in the field for several days).

The tree mitigation plan requirement is on the second page. I recommend you call Jason R at the Corps to make sure you know what he wants -- I'm tracking down his number and will e-mail it later. I've also attached a table we put together that attempts to compile all key environmental requirements applicable to the entire wind farm project (by project component). While I hope that this is helpful in ensuring that Central complies with all requirements (in particular all commitments made in Western's EA), this is merely a tool and should not be relied on as a complete list of all environmental requirements.

Please call with any questions.

Kenny Stein

(See attached file: U.S. ARMY CORPS OF ENGINEERS.pdf) (See attached file:
Construction Requirements_revised 1.xls)

Kenneth Stein, Principal Environmental Specialist FPL, 700 Universe Blvd., MS JES/JB, Juno Beach FL, 33408
561-691-2216 (office); 561-762-5875 (cell); 561-691-7049 (fax)

United States Government

Department of Energy
Western Area Power Administration

memorandum

DATE:

REPLY TO
ATTN OF: B0400.BL

SUBJECT: Burleigh County Wind Energy Center, North Dakota.

TO: R. Harris, B0000.BL, Billings, MT

Attached, for your review and approval, are the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the Burleigh County Wind Energy Project, North Dakota (DOE/EA-1542).

The EA was prepared by FPL Energy Burleigh County Wind, LLC. Based upon our participation in the EA and our verification that all of our interests have been addressed and incorporated into this EA, we believe that the EA meets the requirements of the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR parts 1500-1508) and the U.S. Department of Energy NEPA Implementing Procedures (10 CFR part 1021). We also believe that all pertinent issues raised by interested parties, including Tribes, have been addressed.

Therefore, based on your responsibilities delegated to you for this project per section 5.c. of DOE Order 451.1B, NEPA Compliance Program, we recommend you approve the EA for the Burleigh County Wind Energy Project and issue the accompanying FONSI. We have coordinated with the Office of General Counsel and they concur with my recommendations.

Nicholas J. Stas
Nicholas J. Stas
Environmental Manager

Attachments

APPROVED:

Robert J. Harris

DISAPPROVED:

DATE:

8/26/05

cc:

Director, Office of NEPA Policy and Compliance, EH-42, Washington, DC
(w/copy of FONSI)

August 2005
DOE/EA-1542

DEPARTMENT OF ENERGY
Western Area Power Administration
Finding of No Significant Impact
FPL Energy Burleigh County Wind, LLC, North Dakota

Summary – Basin Electric Power Cooperative (Basin), on behalf of FPL Energy Burleigh County Wind, LLC (Burleigh County Wind), applied to the Department of Energy (DOE), Western Area Power Administration (Western) to interconnect the Burleigh County Wind Energy Center in Burleigh County, North Dakota, to Western's Garrison-Bismarck 230-kilovolt (kV) Transmission Line. Burleigh County Wind proposes to build a wind energy center consisting of wind turbines, collection sub-transmission lines, and a collection substation. Western would construct facilities to support the interconnection at the Garrison-Bismarck 230-kV Transmission Line. Central Power Electric Cooperative (Central Power), a Basin member, would construct a 230-kV, high voltage transmission line between the proposed wind energy center and Western's interconnection facility.

The environmental assessment (EA) entitled "Burleigh County Wind Energy Center, North Dakota (DOE/EA-1542)" was distributed for pre-approval review by agencies, tribes, and interested parties on July 25, 2005. As a result, the EA was revised to clarify and correct information in the EA. The EA was approved concurrently with this finding of no significant impact (FONSI).

Based on findings and analysis in the EA, Western has determined that with the proposed mitigation, Phase I of the Burleigh County Wind Energy Center and associated facilities (Proposed Action) would not result in any significant environmental impacts. Therefore, the preparation of an environmental impact statement (EIS) will not be required. The basis for this determination is described in this FONSI.

Additional information and copies of the EA and FONSI are available to all interested persons and the public through the following contact:

Ted Anderson
Upper Great Plains Customer Service Region
Western Area Power Administration
P.O. Box 35800
Billings, MT 59107-5800
Phone: (406) 247-7385
Fax: (406) 247-7408
E-mail: tanderso@wapa.gov

For general information on DOE National Environmental Policy Act (NEPA) activities contact:

Carol M. Borgstrom
Director, Office of NEPA Policy and Compliance, EH-42
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585
Phone: (202) 586-4600 or (800) 472-2756

Purpose and Need – Basin has applied to interconnect with Western's Garrison-Bismarck 230-kV Transmission Line. In response to this request, Western would provide an interconnection and transmission service under its Open Access Transmission Service Tariff (Tariff), protect transmission system reliability and service to existing customers, and consider the proposed project's objectives. Western's action is to decide if Phase I of the proposed Wind Energy Center can be interconnected with Western's transmission system and to construct, operate, and maintain the interconnecting switchyard.

Project Description – DOE's NEPA Implementing Procedures require an EIS to be prepared for the addition of new generation resources greater than 50 average MW. Western has determined that the average output from both phases of the Burleigh County Wind Energy Center would be less than 50 average MW. Therefore, an EA was prepared in response to the interconnection request.

Western's action for the Burleigh County Wind Energy Center would involve modifying existing Western facilities to accommodate the interconnection of the proposed Wind Energy Center with Western's existing Garrison-Bismarck 230-kV Transmission Line. The determination associated with this FONSI applies only to Phase I of the Proposed Action. Western's activities would include the following:

1. Constructing a tap to temporarily connect the proposed 230-kV high voltage transmission line into the existing Bismarck-Garrison 230-kV Transmission Line.
2. Constructing a switching station to provide a permanent point of interconnection between the 230-kV high voltage transmission line and the existing Bismarck-Garrison 230-kV Transmission Line.
3. Removing the temporary tap once the permanent switching station is built.

Western has considered the environmental impacts associated with the connected actions of Phase I of the Proposed Action. The connected actions include the following:

1. Constructing up to 33, three-blade, 1.5-megawatt (MW) turbines for Phase I of the Proposed Action. The average annual output would not exceed 50 average MW. Each turbine would be approximately 360 feet tall from the top of the swept

area to the ground surface and sit on an operational footprint of about 50 feet by 50 feet.

2. Constructing gravel access roads to provide access to each turbine for Phase I of the Proposed Action and the area along the proposed new 230-kV high voltage transmission line to allow for construction, operation, and maintenance activities.
3. Constructing an electrical collection system consisting of both underground and overhead, 34.5-kV sub-transmission lines to transmit electricity from each of the wind turbine transformers for Phase I of the Proposed Action to the electrical collection substation.
4. Constructing an electrical collection substation to transfer electricity from the turbines and collection system to a 230-kV high voltage transmission line.
5. Constructing a new, 4.4-mile, 230-kV high voltage transmission line to connect the electrical collection substation to the point of interconnection at Western's existing Garrison-Bismarck 230-kV Transmission Line.
6. Constructing a laydown yard to store construction and maintenance materials and equipment.

Agency Consultation and Public Preparation Process – On July 8, 2005, a newsletter was distributed to landowners in the project area, and tribes and agencies having an interest in the project. The newsletter included a Notice of Floodplain Involvement to comply with DOE's requirements under 10 CFR part 1022. On July 15, 2005, Western sent a letter to Federal and state agencies with an invitation to be cooperating agencies for the EA. On July 25, 2005, the EA for pre-approval review was distributed to interested parties and Tribes as well as Federal, state, and local agencies that have jurisdiction or permitting authority for the proposed project. All substantive comments have been considered and incorporated into the EA where warranted.

The USFWS sent an e-mail to Western on July 1, 2005 regarding sightings of whooping cranes in the project area. Western sent letters to the U.S. Fish and Wildlife Service on June 23 and July 6, 2005, to request species lists and initiate informal consultation, on August 12, 2005, requesting USFWS concurrence with Western's determination of effects to listed species, and on August 22 providing a revised biological assessment. The USFWS concurred with Western's determination on August 24, 2005. With the USFWS concurrence, Western has met its obligations under the Endangered Species Act (7 U.S.C. 460 et seq.).

Western consulted with interested tribes, the North Dakota Intertribal Reinterment Committee (NDIRC) and the North Dakota State Historic Preservation Office (SHPO) to meet its obligation under the National Historic Preservation Act (NHPA, 16.U.S.C. 470 et seq.). The SHPO concurred with Western's determination of "no effect" for Phase I in a letter dated August 18, 2005. Western will continue nation-to-nation consultations with interested Native American Tribes.

Alternatives – DOE's NEPA regulations require that an EA include a discussion of the No Action alternative (10 CFR 1021.362 (c)). Under the No Action alternative, the project would not be built and site-specific and direct impacts would not occur.

Another project alternative was originally considered. This alternative would have required 28 miles of transmission line and would have crossed the Missouri River. Because these issues made the project infeasible, planners evaluated other options, including the Proposed Action. The Missouri River crossing was dismissed from full evaluation in the EA.

Environmental Impacts – Western's conclusions about the first phase of the Proposed Action's environmental impacts are based on information contained in the EA. The EA is available upon request. In reaching conclusions about the proposed project's environmental impacts, Western considered environmental protection measures as defined in the EA and mitigation measures proposed by Western, Burleigh County Wind, Basin, and Central Power with the project. In addition, Western completed consultations with tribes, and SHPO before authorizing construction activities for the Phase I of the Proposed Action. In some cases, design considerations may require project facilities to be moved within the project area but to locations not subjected to detailed surveys. In these cases, surveys would be conducted and appropriate consultations and approvals would be completed prior to construction in these areas.

The existing environmental and potential environmental impacts were identified and evaluated for the following resources:

- Geology and Soil;
- Air Resources;
- Water Resources;
- Vegetation;
- Wildlife;
- Endangered, Threatened, Proposed, and Candidate Species, as well as Designated Critical Habitat;
- Socioeconomics;
- Environmental Justice;
- Land Use;
- Visual Resources;
- Noise;
- Transportation;
- Safety and Health Issues;
- Cultural Resources; and
- Native American Religious Concerns.

Western concluded that, with the environmental protection measures implemented, the Proposed Action would not require mitigation beyond that already proposed. The basis for these conclusions is summarized below.

Geology and Soil. There are no known metallic mineral deposits or oil fields in the project area. Sand and gravel deposits are of variable quality. Some small open

aggregate pits exist within the project area, but are limited in extent and are not immediately adjacent to any proposed facilities. Potential adverse impacts to soil include increased erosion from runoff and wind due to compaction of soil and loss of vegetation as well as possible impacts caused by fuel spilling from construction equipment. Soils within the project area are only moderately susceptible to water erosion on sloping topography and it has been determined that 90 percent of the project location has a low to moderate susceptibility to wind erosion. Erosion from the Proposed Action would be minimal and erosion control measures would be implemented on sloped ground and near ephemeral drainage crossings. Thus, the Proposed Action would not result in irreversible impacts to other resources. Furthermore, Phase I of the Proposed Action would not result in loss of mineral resources because of the lack of known mineral deposits in the area. Western has concluded that the Phase I of the Proposed Action would not cause direct, indirect, or cumulative significant impact to geology and soil based on the environmental protection measures.

Air Resources. The construction of the proposed Wind Energy Center and associated facilities has potential to adversely affect air resources due to fugitive dust generation and the operation of construction equipment. The limited duration of construction, along with implementation of environmental protection measures are expected to ensure compliance with Federal and state standards. In addition, Western would ensure that any complaints about fugitive dust emissions would be addressed in an efficient and effective manner and dust would be controlled on roads with watering. As a result, Western has concluded that no direct, indirect, or cumulative significant impacts to air resources would occur from the construction and operation of Phase I of the Proposed Action.

Water Resources. Construction of the Proposed Action, Phase I has the potential to degrade water resources due to erosion and fuel spills. Phase I of the Proposed Action would be designed and implemented to avoid water resources, including wetlands and comply with U.S. Army Corps of Engineers Nationwide Permit 33 and North Dakota Department of Health stormwater runoff permits.

A Notice of Floodplain/Wetlands Involvement for the Burleigh County Wind Energy Project was issued locally in a newsletter distributed to agencies, tribes, and interested persons. The newsletter was distributed July 15, 2005. The EA includes a wetland assessment, as required by DOE's Floodplain/Wetlands Environmental Review Requirements (10 CFR part 1022). The assessment is included as analysis under the *Water Resources* section describing existing conditions and environmental consequences.

Comments from the North Dakota Department of Health requested that care be taken to minimize impacts to waters of the state. The state recommended several measures to ensure the protection of water resources. Western determined that the suggested measures were already incorporated into the environmental protection measures and project description as proposed.

Design of the Proposed Action, Phase I minimizes disturbances to surface waters. The project area is approximately 10 miles east of the Missouri River. Project components would cross various drainages, including Burnt Creek and the west branch of Apple Creek. Most construction activities would be done outside of ephemeral channels and the depression cone of wetlands. Temporary or permanent disturbances would be permitted and restored as required by the U.S. Army Corps of Engineers. No changes would occur to the drainage patterns. In addition, the project would comply with other environmental protection measures, including proper fuel handling and storage, and appropriate spill contingencies. Therefore, Western has determined that no direct, indirect, or cumulative significant impacts to surface water and wetland resources would occur from the construction and operation of the Proposed Action.

Vegetation. Construction of project facilities and access roads for Phase I of the Proposed Action would cause temporary and permanent losses of vegetation. Project facilities would be sited to avoid and/or minimize impacts to native grasslands and other vegetation. This loss would not result in the listing or jeopardizing the continued existence of plant or animal species. The introduction of noxious weeds in areas of project disturbances would be mitigated through prompt revegetation with regionally native species or restoration of prior land use and adherence with the environmental protection measures. Western has concluded that Phase I of the Proposed Action would not result in direct, indirect or cumulative significant impacts to vegetation.

Wildlife. Both temporary and permanent habitat loss could lead to some loss in wildlife populations. Construction activities that remove vegetation and disturb soil may cause direct impacts to individuals of less-mobile species through direct mortality or displacement and exposure to predators. Construction-related impacts would be minimized by employing environmental protection measures that require reseeding of disturbed areas and management of waste materials that could attract predators. Construction-related wildlife losses would not cause a decline in wildlife populations.

The presence of proposed turbines, 230-kV transmission line and overhead, 34.5-kV collection, sub-transmission lines would increase the potential for avian mortalities due to collisions and electrocutions from exposed electrical connections. Phase I of the Proposed Action is proposed in an area with a low density of wetlands. Individual turbine towers would be located on ridgelines and hilltops, away from low passes and wetlands, where shorebirds and waterfowl are more likely to fly. This reduces the likelihood of avian collisions. In addition, advanced wind turbine design and strobe lights, which promote avoidance by night-flying birds, would further reduce avian collisions.

The proposed 230-kV high voltage transmission line is not expected to bisect daily movement patterns of avian species to the small amount of suitable habitat located within and adjacent to the proposed transmission line corridor. However, approved state-of-the-art line marking devices would be installed according the manufacturer's recommendations on the overhead ground wire. Electrocutions on the overhead 34.5

kV sub-transmission lines would be minimized by covering the overhead groundwire and eliminating the amount that would extend beyond the top of the poles. Pole mounted insulators would be rated for 69-kV, increasing the distance between conductors.

Western would involve the USFWS to discuss and/or mitigate any incidence of take that would occur as a part of the Proposed Action. Western has concluded that construction and maintenance of Phase I of the Proposed Action would not result in decline, which could lead to the listing or jeopardization, of the continued existence of any wildlife species. Therefore, Phase I of the Proposed Action would not result in a direct, indirect, or cumulative significant impact to wildlife.

Endangered, Threatened, Proposed, and Candidate Species. Of the Federally-listed species known to occur in North Dakota, the bald eagle (*Haliaeetus leucocephalus*), whooping crane (*Grus Americanus*), interior least tern (*Sterna antillarum*), and piping plover (*Charadrius melodus*) are all known to occasionally or frequently occur near the project area, primarily in the Missouri River corridor. Other species may be present but are either infrequently observed or have only historic range in the project area. Migrating whooping cranes could use wetlands or uplands in the vicinity of the proposed project for feeding or roosting.

While it is possible that these species could collide with turbines or overhead lines, such collisions would be unlikely because the birds tend to fly at altitudes well above the height of wind turbines. Also, since bald eagles tend to migrate along river corridors, they are unlikely to migrate through the proposed project area. Suitable nesting habitat for piping plovers or interior least terns does not exist within the project area.

Based on the above, the Proposed Action would not result in the loss of individuals of a population leading to a jeopardy opinion from the U.S. Fish and Wildlife Service or the loss of individuals leading to the Federal listing of that species. Western has determined the Proposed Action would not affect the pallid sturgeon, the piping plover or Critical Habitat for the piping plover, or the interior least tern. Western has determined the Proposed Action may affect, but is not likely to adversely affect the whooping crane and bald eagle. The Proposed Action, however, would not cause a significant direct, indirect, or cumulative impact to any endangered, threatened, proposed, candidate, or other sensitive species.

Socioeconomics. Considering the short duration proposed for construction, Phase I of the Proposed Action would not result in the degradation or commitment of existing goods and services to an extent that would limit the sustainability of existing communities. Western has determined that Phase I of the Proposed Action would not result in a significant impact on socioeconomic resources.

Environmental Justice. The Standing Rock Sioux Reservation and Fort Berhold Indian Reservation are approximately 50 miles from the proposed project and are the

closest minority and low-income populations in the region. Therefore, discrimination of or disproportionate impacts to low-income, minority, and subsistence populations are not anticipated and a significant impact would not occur.

Land Use. Land uses would be affected by the Phase I of the Proposed Action, primarily by causing interferences to agricultural uses from the proposed Wind Energy Center and related facilities. Western, Burleigh County Wind, and Central Power would fairly compensate landowners for purchased and leased land. Impacts to land uses and agricultural practices would be reduced by siting structures in previously-disturbed areas or in areas where agricultural practices are already limited (e.g., along existing roads etc). Farming and grazing could continue around facilities and except in areas, for which landowners are compensated, foreclose of future land uses would not occur. ~~Based on the compensation proposed for landowners, the implementation of environmental protection measures, and no foreclosure of future land uses, Western~~ has concluded that Phase I of the Proposed Action would not cause a direct, indirect, or cumulative significant impact to land use.

Visual Resources. The area contains no highly distinctive or important landscape features, registered cultural resources, or unique viewsheds. Therefore, Phase I of the Proposed Action would not significantly impact visual resources.

Noise. The project area for Phase I of the Proposed Action is located in a rural, predominantly agricultural area. The wind turbines would be expected to produce higher noise levels than any other component of the proposed project. The noise level for the wind turbines is expected to range between 45 and 50 A-weighted decibels (dBA) at 1,000 feet distance around the proposed wind turbines. Baseline noise levels for the area are between 38 to 48 dBA. Winds in the area would likely mask the noise generated by the turbines and would not exceed noise level standards. Furthermore, no sensitive noise receptors are located within 1,000 feet of any proposed turbine location. Western has concluded that no direct, indirect, or cumulative noise impacts would occur as a result of the proposed project.

Transportation. The proposed project is located in the vicinity of two major highways (U.S. Highway 83 to the west and State Highway 36 to the north). Other local roads in the vicinity of the project area consist of gravel roads that receive a low volume of traffic. Construction activities associated with the proposed project would use existing roads whenever possible and would likely only cause a minor, temporary increase in the flow of local traffic or disruption to traffic flow. In addition, various local roads would be improved for the purpose of transporting materials and equipment and would remain in place after construction. Western has determined that Phase I of the Proposed Action would result in no direct, indirect, or cumulative impacts to transportation.

Safety and Health Issues. Construction work plans and specifications for Phase I of the Proposed Action would be prepared to address both public and worker safety during construction. The preparation of these documents would include appropriate

performance provisions for worker protection as is required under the Occupational Safety and Health Act. Compliance with these work plans and specifications would ensure that workers and the public are optimally protected from injury.

Long-term, magnetic exposure at the root of the present health concern would be minimal for the proposed transmission line, given the distances of residences from the proposed transmission line. Exposure to magnetic fields of short duration and current design standards are not known to pose a health hazard to humans or animals. Nuisance shocks would be minimized through grounding and other measures, consistent with common industry practices. The use of low-corona line design and appropriate corona-minimizing construction practices would minimize the potential for corona noise and its related interference with radio-frequency communication.

All handling, transport, and containment of hazardous materials would be conducted in compliance with Federal, state, and local regulations. Motor vehicle traffic near the proposed project and near the planned transmission right-of-way would increase due to motorists traveling in these areas and contractors working to construct the new power generation system. Traffic management and control of the local roadways would be considered in the forward planning and implementation of the project. With these measures, the potential for a traffic fatality is low, resulting in no significant impact.

These effects would be minimized by implementation of Western's environmental protection measures. Western has concluded that Phase I of the Proposed Action would not cause significant adverse impacts related to safety, radio-frequency interference, audible noise, nuisance shocks, hazardous shocks, or electric and magnetic field exposure.

Cultural Resources. Initial research and Class III pedestrian surveys completed to date have identified several archaeological and historic sites within the project area. These sites include three prehistoric sites, one historic site, and three isolated finds. The prehistoric sites were sparse, lithic scatters. The isolates include three flakes found in a 25 square meter area, the distal end of a biface, and a single secondary flake. According to the *Summary of Results from Burleigh County Wind Energy Center: A Class III Cultural Resource Inventory in Burleigh County, North Dakota*, the prehistoric sites have not been formally evaluated for National Register of Historic Places (NRHP) eligibility because they will all be avoided by the project. However, given their sparse nature, none of the sites are likely eligible. -The historic site within the survey area is the previously recorded 32BL541. Site 32BL541 is an active railroad that was formerly part of the Soo Line built in the early 1900s. The site was recommended as not eligible for NRHP.

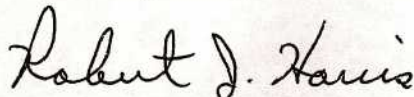
All facilities and activities associated with Phase I of the Proposed Action would avoid cultural resource sites. If any facility requires a change in location or disturbance area not already included in intensive pedestrian surveys, these areas would be surveyed and Western would consult with the SHPO and interested tribes. If historic or

prehistoric artifacts or features are discovered during construction or maintenance activities, work would be halted within 200 feet of the find. Western would be notified immediately to initiate procedures outlined in 36 CFR part 800. These procedures include evaluating the find for eligibility and determining appropriate treatment with the NDIRC, interested tribes, and the North Dakota SHPO. Based on these findings and commitments, no significant direct, indirect or cumulative impacts to cultural resources is expected as a result of construction, maintenance, or operation of Phase I of the Proposed Action.

Native American Religious Concerns. All project facilities and activities for Phase I of the Proposed Action would avoid sacred sites and traditional cultural properties (TCPs). Western would comply with state laws to notify the appropriate tribes, individuals, agencies, and authorities in the event that important cultural or historic resources are discovered during construction activities. In addition, Western would comply with the Memorandum of Agreement with the NDIRC to address any concerns expressed by the NDIRC during the course of consultation, planning, and construction. If burial or cultural sites with Native American religious values are identified prior to or during the proposed construction, interested tribes will be notified and consulted about mitigation measures. No significant impacts to Native American religious concerns, sacred sites, or TCPs are expected.

Determination – The analyses contained in the EA indicate that the Phase I of the Proposed Action is not a major Federal action significantly affecting the quality of the human environment. Western has determined that preparation of an EIS is not required.

Issued: August 26, 2005



Robert J. Harris
Regional Manager