



September 7, 2009

Mr. Scott Davis
Executive Director
North Dakota Indian Affairs Commission
600 East Boulevard Avenue
1st Floor – Judicial Wing, Room #117
Bismarck, North Dakota 58505

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Davis:

Tetra Tech is conducting an investigation of property in Morton and Oliver counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Indian Affairs Commission for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

County	Township	Range	Sections
Morton	140N	83W	4-6
Oliver	141N	83W	3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33, 34
	142N	83W	33, 34

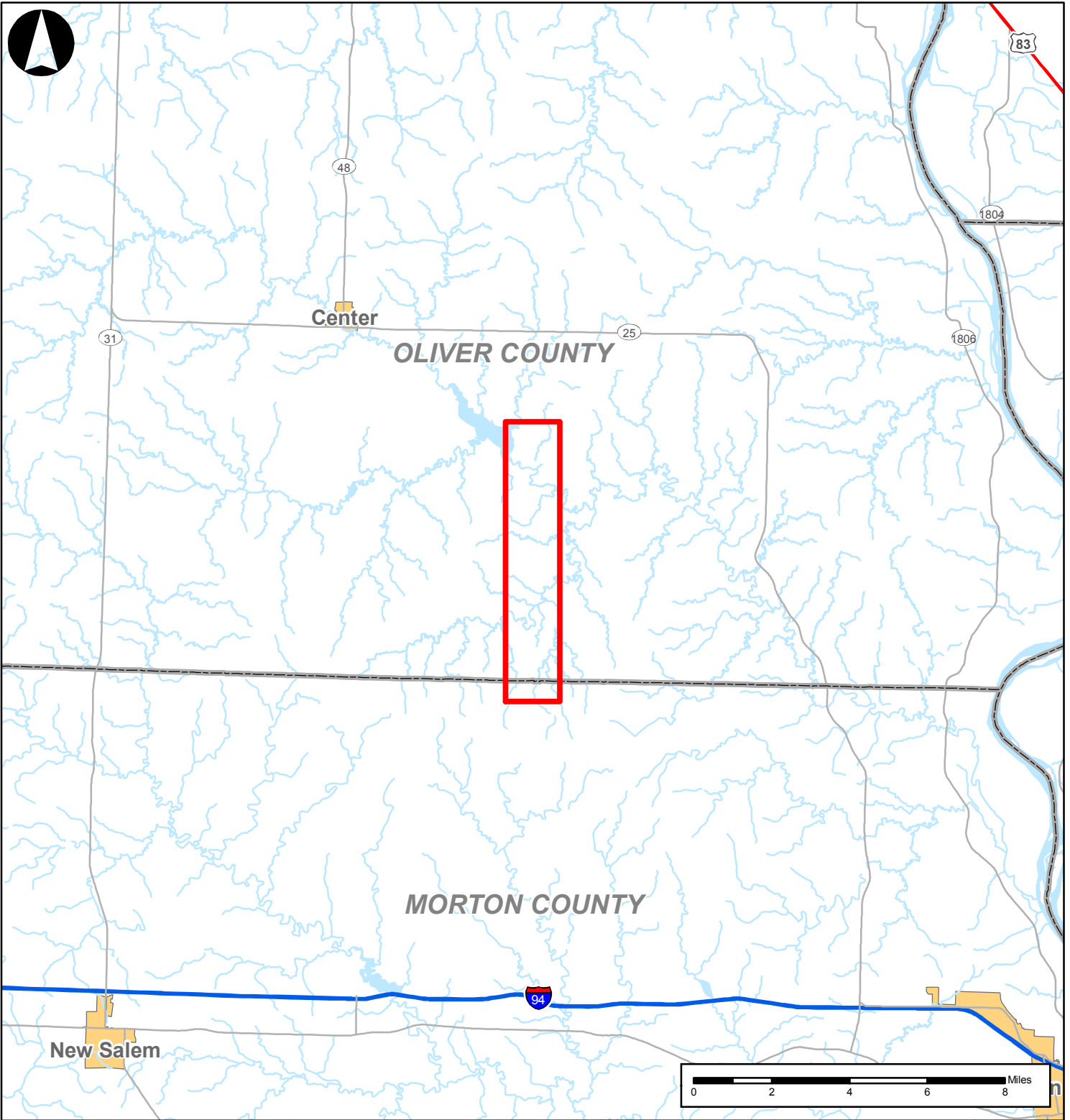
This information will be used as an initial step to help guide project development in a manner that identifies and avoids impacts to sensitive resources where practicable. We have sent similar query letters to other agencies including, but not limited to, the US Fish and Wildlife Service, US Army Corps of Engineers, and North Dakota Game and Fish Department.

We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



TETRA TECH EC, INC.

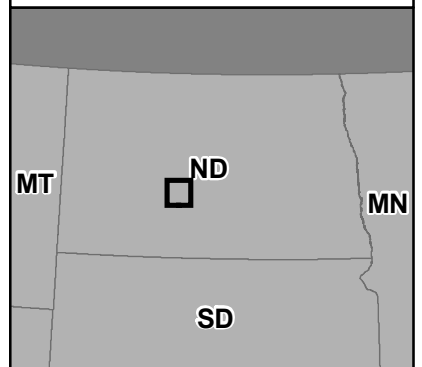
FIGURE 1
PROJECT LOCATION MAP
 OLIVER AND MORTON COUNTIES
 NORTH DAKOTA

SEPTEMBER 2009

Legend

- Proposed Project Area
- River
- Lake
- Primary Limited Access or Interstate Highway
- Primary US or State Highway
- Secondary State or County Highway
- City
- County Boundary

OVERVIEW MAP





September 7, 2009

Mr. Lance Gartner
Chair
Morton County Soil Conservation District
2540 Overlook Lane
Mandan, ND 58554

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Gartner:

Tetra Tech is conducting an investigation of property in Morton and Oliver Counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the Morton County Soil Conservation District for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

County	Township	Range	Sections
Morton	140N	83W	4-6
Oliver	141N	83W	3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33, 34
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Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Mr. Larry Taborsky
Director
North Dakota Aeronautics Commission
P. O. Box 5020
Bismarck, North Dakota 58502-5020

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Taborsky:

Tetra Tech is conducting an investigation of property in Morton and Oliver Counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Aeronautics Commission for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

County	Township	Range	Sections
Morton	140N	83W	4-6
Oliver	141N	83W	3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33, 34
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We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Mr. Paul Govig
Director
North Dakota Department of Commerce, Division of Community Services
1600 East Century Avenue, Suite 2
PO Box 2057
Bismarck, ND 58502-2057

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Govig:

Tetra Tech is conducting an investigation of property in Morton and Oliver counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Department of Commerce, Division of Community Services for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

County	Township	Range	Sections
Morton	140N	83W	4-6
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We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc.
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Mr. Doug Goehring
Agriculture Commissioner
North Dakota Department of Agriculture
600 East Boulevard Avenue, Department 602
Bismarck, North Dakota 58505-0020

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Goehring:

Tetra Tech is conducting an investigation of property in Morton and Oliver Counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Department of Agriculture for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

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Morton	140N	83W	4-6
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Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Mr. Wayne Kutzer
Director
North Dakota Department of Career and Technical Education
State Capitol 15th Floor
600 East Boulevard Avenue, Department 270
Bismarck, North Dakota 58505-0610

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Kutzer:

Tetra Tech is conducting an investigation of property in Morton and Oliver Counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Department of Career and Technical Education for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land.

The transmission line mile-wide corridor includes portions of the following tracts:

County	Township	Range	Sections
Morton	140N	83W	4-6
Oliver	141N	83W	3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33, 34
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We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Paul Lucy
Director
North Dakota Department of Commerce
Economic Development & Finance Division
P.O. Box 2057
Bismarck, North Dakota 58502-2057

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Lucy:

Tetra Tech is conducting an investigation of property in Morton and Oliver Counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Department of Commerce for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

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Morton	140N	83W	4-6
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We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Dr. Terry Dwelle, M.D., M.P.H.T.M.
State Health Officer
North Dakota Department of Health
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0200

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Dr. Dwelle:

Tetra Tech is conducting an investigation of property in Morton and Oliver Counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Department of Health for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

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Morton	140N	83W	4-6
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We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Ms. Carol K. Olson
Executive Director
North Dakota Department of Human Services
600 East Boulevard Avenue, Department 325
Bismarck, North Dakota 58505-0250

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Ms. Olson:

Tetra Tech is conducting an investigation of property in Morton and Oliver Counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Department of Human Services for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

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Morton	140N	83W	4-6
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We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

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Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Ms. Lisa Fair McEvers
Commissioner of Labor
North Dakota Department of Labor
600 East Boulevard Avenue, Department 406
Bismarck, North Dakota 58505-0340

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Ms. McEvers:

Tetra Tech is conducting an investigation of property in Morton and Oliver Counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Department of Labor for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

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Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Mr. Terry Steinwand
Director
North Dakota Game and Fish Department
100 N. Bismarck Expressway
Bismarck, North Dakota 58501-5095

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Steinwand:

Tetra Tech is conducting an investigation of property in Morton and Oliver counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Game and Fish Department for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

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We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc.
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Mr. Douglass A. Prchal
Director
North Dakota Parks and Recreation Department
1600 E. Century Ave, Suite 3
Bismarck, North Dakota 58503

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Prchal:

Tetra Tech is conducting an investigation of property in Morton and Oliver counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Parks and Recreation Department for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

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Anne-Marie Griger, AICP
Tetra Tech, EC Inc.
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Mr. Kevin Levi
District Engineer
North Dakota Department of Transportation, Bismarck District
218 South Airport Road
Bismarck, ND 58504-6003

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Levi:

Tetra Tech is conducting an investigation of property in Morton and Oliver Counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Department of Transportation for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

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Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Mr. Edward C. Murphy
State Geologist
North Dakota Geological Survey
1016 East Calgary Ave
Bismarck, North Dakota 58503

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Murphy:

Tetra Tech is conducting an investigation of property in Morton and Oliver counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota Geological Survey for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

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Thank you for your assistance.

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Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Ms. LeAnn Harner
Chair
Oliver County Soil Conservation District
345 Center Avenue South, Box 87
Center, ND 58530-0087

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Ms. Harner:

Tetra Tech is conducting an investigation of property in Morton and Oliver Counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the Oliver County Soil Conservation District for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

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Morton	140N	83W	4-6
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We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



TETRA TECH EC, INC.

September 11, 2009

Mr. Terry Ellsworth
USFWS North Dakota Field Office
3425 Miriam Avenue
Bismarck, North Dakota 58501-7926

**RE: Request for Information
Morton and Oliver Counties, North Dakota**

Dear Mr. Ellsworth:

Tetra Tech is conducting an investigation of property in Morton and Oliver counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the USFWS for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office. We are requesting this information for the purposes of filing applications for a Certificate of Corridor Compatibility and a Route Permit with the North Dakota Public Services Commission (PSC).

The transmission line mile-wide corridor includes portions of the following tracts:

County	Township	Range	Sections
Morton	140N	83W	4-6
Oliver	141N	83W	3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33, 34
	142N	83W	33, 34

This information will be used as an initial step to help guide project development in a manner that identifies and avoids impacts to sensitive resources where practicable. We have sent similar query letters to other agencies including, but not limited to, the State Historical Society of North Dakota, US Army Corps of Engineers, and North Dakota Game and Fish Department.

We have already been in communication with the USFWS Habitat and Population Evaluation Team (HAPET) to identify waterfowl production areas (WPAs) and grassland, wetland, and conservation easements within the Project boundary. NextEra Energy plans to avoid all grassland easements and will avoid direct impacts to wetland basins within wetland easements. We understand that any impacts to grassland easements and any impacts other than directional drilling beneath wetland easements would require a permit from the USFWS.

Tetra Tech has completed numerous biological surveys in or near this Project area (see Appendix 1). Those studies include the following:

- Critical Issues Analysis
- Spring Avian Point Count Survey
- Native Prairie Survey
- Fall Avian Point Count Survey
- Whooping Crane Likelihood Assessment
- Bat Likelihood Assessment

We would appreciate a response by October 12, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc.
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757

Appendix 1: Summary of Surveys Conducted to Date

Critical Issues Analysis

Tetra Tech conducted a critical issues analysis (CIA) for the Oliver Expansion Project in May 2008. The purpose of the CIA was to 1) characterize biological and cultural resources within the Project area, 2) determine whether additional biological and/or cultural resources studies are warranted, and 3) identify community issues and land development constraints which include existing land use and permit applications.

The CIA was conducted on an approximately 167-square mile (107,159-acre) area in Oliver and Morton counties. The Project area is located within the Northwestern Great Plains ecoregion. Landscape components within this ecoregion include western mixed-grass/short-grass prairie, planted or tame grassland, upland deciduous forest, and associated wetlands. This semiarid, unglaciated region of North Dakota has a topography characterized by level to rolling plains with isolated sandstone buttes or badlands formations. Native grasslands persist in areas of steep or broken topography, but they have been largely replaced by spring wheat and alfalfa over most of the ecoregion. Land use within the rural Project area consists primarily of farming, livestock grazing, and related agricultural operations. Residences and abandoned farmsteads are scattered throughout the Project area. The area is located in the mixed and short-grass prairie region, which contains numerous small wetlands that vary from shallow, vegetated depressions to deeper, open water communities. Patches of trees and shrubs exist throughout the Project area, located primarily between agricultural fields, in drainages, and as shelter belts around homesteads and between agricultural fields.

The USFWS North Dakota Ecological Services office lists one federally threatened plant species within the state, the western prairie fringed orchid (*Platanthera praeclara*). This species is found in moist tall-grass prairies and sedge meadows located in the far eastern portion of North Dakota. Because the western prairie fringed orchid is confined to tall-grass prairie, it is unlikely to occur within the Oliver Expansion Project area. No federally endangered plant species are known to occur within North Dakota. The North Dakota State Comprehensive Wildlife Conservation Strategy (CWCS) lists three priority habitats for conservation that may occur within the Oliver Expansion Project area: Conservation Reserve Program (CRP) grasslands, the Missouri River Breaks, and wetland habitats. The North Dakota Parks and Recreation Department has no records of Species of Concern or Significant Ecological Communities within the Project area.

A substantial number of streams and wetlands are present within and in the vicinity of the Project area. The majority of these wetlands are freshwater emergent wetlands, freshwater forested/shrub wetland, and wetland depressions.

Eight wildlife species are listed as federally threatened, endangered, or candidate species in the state of North Dakota. Of these, five endangered (whooping crane, interior least tern, black-footed ferret, gray wolf, and pallid sturgeon), one threatened (piping plover), and one candidate species (Dakota skipper) are reported to occur in Oliver and/or Morton Counties.

Spring Avian Point Count Survey

Tetra Tech was contracted by NextEra Energy to undertake spring avian use surveys for the proposed Oliver Expansion (Phases III, IV, and V) Project area in Oliver and Morton Counties, North Dakota. The studies were conducted to identify potential avian impacts associated with building and operating the wind conversion facility. Birds have been identified as a group potentially at risk because of collisions with wind turbines and power lines and displacement due to the presence of the associated structures. Weekly spring surveys were performed at the

Oliver Expansion Project area from March 28 to June 11, 2008. Fixed point count surveys (800-meter radius) were conducted at 36 points distributed throughout the Oliver Expansion Project area. The results of these surveys are relevant to the spring season only, and the conclusions drawn from these data may not be applicable to other times of year.

A total of 68 identified species and 1 unidentified species group, consisting of 4,581 birds were observed within the Oliver Expansion Project area. Overall mean bird use within the Oliver Expansion Project area was 10.60 birds/20 minutes, ranging from 0 to 505 birds per 20-minute point count. Comparing bird use rates to publicly available studies conducted in the spring for existing wind energy facilities throughout the country, the Oliver Expansion Project area ranked thirty-second out of 34 for raptor use, and ninth out of 23 for non-raptor use.

Songbirds had the highest mean use out of all species groups observed (7.40 birds/20 minutes). The most commonly observed species, the western meadowlark (1.78 birds/20 minutes), red-winged blackbird (1.31 birds/20 minutes), ring-necked pheasant (1.24 birds/20 minutes), and horned lark (0.99 birds/ 20 minutes) are all widespread species and have relatively stable populations (Sauer et al. 2007). Thus, local mortality is not expected to have population-level consequences for the most commonly observed species.

Red-tailed hawks and northern harriers were the most commonly observed raptors in the Oliver Expansion Project area (0.07 birds/20 minutes); however, these species were not regularly encountered and were observed only in 5.8 percent and 6.3 percent, of all surveys, respectively. Red-tailed hawks have a propensity to fly within the rotor swept area (RSA) and, as a result, are at risk of being killed by turbines. However, red-tailed hawks are widespread throughout North America, and populations appear to be relatively stable and mortalities are not anticipated to have population-level impacts. Northern harriers have a propensity to fly low to the ground and below the RSA. Northern harriers are also widespread and relatively stable, therefore, this species is not expected to experience population-level impacts.

There were no federally listed species observed during the Spring 2008 point count surveys in the Oliver Expansion Project area. North Dakota does not have a state list of threatened and endangered species; however, it lists 100 Species of Conservation Priority. These species are ranked in three priority levels based on such factors as known status, funding availability, and presence of breeding habitat within North Dakota. There were 13 of these species observed during the point count surveys. The chestnut-collared longspur (Level I), grasshopper sparrow (Level I), lark bunting (Level I), Sprague's pipit (Level I), Swainson's hawk (Level I), upland sandpiper (Level I), marbled godwit (Level I), bobolink (Level II), loggerhead shrike (Level II), northern harrier (Level II), northern pintail (Level II), sharp-tailed grouse (Level II), and peregrine falcon (Level III) were all observed during surveys.

Native Prairie Survey

NextEra Energy contracted Tetra Tech to 1) conduct a survey for native prairie habitat, 2) to identify suitable habitat for the Dakota skipper, a candidate species for listing by the USFWS, and 3) to identify the locations of any lands within the Project area as being protected under conservation programs.

A total of 38,252 acres (35.7% of the total Project area) were classified as native prairie including 235 acres classified as tame grasslands (croplands that are replanted as pastures and hayfields). The largest area of native prairie was found near the north and west-central regions of the Project area. At the time of this survey and report preparation, two different turbine types were being considered for use within the Oliver Expansion Project area: the 2.3-megawatt (MW) Siemens (up to 261 turbines) and the 1.5-MW GE'sle (up to 400 turbines). Overall, 52 percent of the Siemens turbines and 49 percent of the GE'sle turbine locations in the Oliver expansion

project are in native prairie.

The Dakota skipper, a species of butterfly which is currently classified as a federal candidate species, likely occurs within the Project area. Of the 38,252 acres of land classified as native prairie, 86.6 percent is classified as either good or excellent habitat for the Dakota skipper; therefore, the probability of the Dakota skipper occurring within the Project area is very high. There was a total of 9,690 acres of grassland habitat classified as excellent within the Project area, which is approximately 25 percent of native prairie. Good habitat made up 61 percent (23,447 acres) of the native prairie. Fair/poor habitat made up 14 percent (5,350 acres) of the total grassland habitat classified as native prairie.

With the assistance of the United States department of Agriculture (USDA) – Farm Services Agency (FSA), 1,093 acres (1%) within the Oliver Expansion Project area was identified as lands that are currently protected under the conservation reserve program (CRP). Four of the Siemens and seven of the GE turbines proposed locations would fall within CRP lands. CRP is a voluntary program for agricultural landowners designed to protect millions of acres of American topsoil from erosion. Acreage enrolled in the CRP is planted to native vegetation associated with the area, making the program a major contributor to increased wildlife populations in many parts of the country. CRP lands cannot be hayed, tilled, seeded, or otherwise disturbed (including disturbance associated with powerline or other project construction) without authorization from the USDA.

Fall Avian Point Count Survey

Tetra Tech completed fall avian use surveys for the proposed Oliver Expansion (Phases III, IV, and V) Project area in Oliver and Morton Counties, North Dakota. The studies were conducted to identify potential avian impacts associated with building and operating the wind conversion facility. Weekly surveys were performed at the Oliver Expansion Project area between August 14 and November 4, 2008, which included the late-summer through mid-fall seasons. Fixed point count surveys (800-meter [m] radius) were conducted at 36 points distributed throughout the Oliver Expansion Project area.

A total of 59 identified species consisting of 4,806 birds were observed within the Oliver Expansion Project area. Overall mean bird use within the Oliver Expansion Project area was 10.27 birds/20 minutes (min) and ranged from 0 to 409 birds per 20-min point count. Comparing bird use rates in fall from existing wind energy facilities throughout the country with publicly available data, the Oliver Expansion Project area ranked 11th out of 21 surveys for non-raptor use and 21st out of 31 surveys for raptor use. Mean use for non-raptors very similar in the spring (10.35 birds/20 min) as in the fall (9.78 birds/20 min); in contrast, mean use for raptors was nearly twice as high in the fall (0.49 birds/20min) as it was in the spring (0.26 birds/20 min).

Songbirds had the highest mean use out of all species groups observed (8.28 birds/20 min). The most commonly observed species were the European starling (1.63 birds/20 min), Brewer's blackbird (1.18 birds/20 min), and horned lark (0.91 birds/20 min). The European starling is a widespread non-native species and has a relatively stable population; as a result, local mortality may not have population-level consequences. The European starling is considered a pest species and not protected under the Migratory Bird Treaty Act. In contrast, the Brewer's blackbird is concentrated in the western portion of the United States; however, this species also has a relatively stable population and local mortality may not have population-level consequences. The horned lark is the most common species found dead at wind farms, and the population is declining in the United States and North Dakota; however, local mortality may not have population-level consequences.

Red-tailed hawks were the most commonly observed raptor in the Oliver Expansion Project

area (0.23 birds/20 min). Red-tailed hawks are vulnerable to mortality from turbine collisions. The relatively low mean use of red-tailed hawks within the Project area coupled with a stable to increasing population makes it unlikely that mortality of red-tailed hawks will have population-level impacts.

During both spring and fall surveys, songbirds had the highest mean use of all species groups, followed by game birds; waterfowl ranked third in the spring and raptors ranked third in the fall.

There were no federally listed species observed during the fall 2008 point count surveys in the Oliver Expansion Project area. However, all native and migratory birds are protected under the Migratory Bird Treaty Act. North Dakota does not have a state list of threatened and endangered species; however, it lists 100 Species of Conservation Priority. These species are ranked in three priority levels, Level I being the most in need of conservation efforts, based on such factors as known status, funding availability, and presence of breeding habitat within North Dakota. There were 13 of these species observed during the point count surveys. The chestnut-collared longspur (Level I), grasshopper sparrow (Level I), Franklin's gull (Level I), Sprague's pipit (Level I), Swainson's hawk (Level I), ferruginous hawk (Level I), upland sandpiper (Level I), bobolink (Level II), loggerhead shrike (Level II), northern harrier (Level II), prairie falcon (Level II), short-eared owl (Level II), and sharp-tailed grouse (Level II) were all observed during surveys.

A total of four sandhill crane surveys were conducted at weekly intervals from October 16 to November 6, 2004 within the Oliver Expansion Project area. There were no sandhill or whooping cranes observed during these surveys.

Whooping Crane Likelihood of Occurrence

Tetra Tech was contracted by NextEra Energy in August 2009 to assess the potential likelihood of occurrence of whooping cranes within Phases III, IV, and V of the Oliver Wind Energy Center (Oliver Expansion) in Oliver and Morton Counties, North Dakota. The likelihood of whooping cranes occurring in the Oliver Expansion Project area is low to moderate. The major factor that contributed to this assessment was the lower proportion of suitable wetland habitat within the Project Area than the surrounding area. There were no recorded observations of whooping cranes within the Oliver Expansion. A total of 89 observations occurred within the 35-mile buffer area around Oliver Expansion. Three observations occurred within 10 miles of Phase III. Of these three observations, the oldest record occurred in 1964 in Burleigh County during the fall migration (October 25 - flock of two adults and one juvenile). The other two that occurred in Oliver County were in 2000 fall migration (November 3 - flock of eight adults and one juvenile) and 2006 spring migration (April 13 - flock of three adults). Both of the Oliver County observations were noted to be with a flock of sandhill cranes. The whooping crane observations should be used for general inference regarding use of an area and cannot be used for micro-siting features away from whooping crane sightings because some of the observations may lack precise locations.

Bat Likelihood of Occurrence

Tetra Tech was contracted by NextEra Energy in August 2009 to assess the potential likelihood of occurrence of bats within Phases III, IV, and V of the Oliver Wind Energy Center (Oliver Expansion) in Oliver and Morton Counties, North Dakota. The objective of this likelihood of occurrence analysis was to evaluate the biological and landscape features of the Project area to determine the potential for bats to occur. Thus, Tetra Tech developed a likelihood index based on habitat-based variables and species-based variables. Habitat-based variables include the amount of suitable foraging and roosting habitat, the number of natural areas, number of perennial streams, and number of human developments. Species-based variables included bat species known to occur in the region and behavioral characteristics. The likelihood index does

not predict how many bats will occur or the anticipated bat mortality level, rather it scores a site based on a suite of variables that are related to bats. Bat presence is more likely to occur over the life of a project at a project with a higher score, thus indicating higher likelihood of occurrence and, thus, potential for turbine-related fatalities given the patterns of bat fatalities at other wind farms in the United States.

Of the 46 bat species in the United States, 10 occur in North Dakota. Of these 10 species, 6 potentially occur within the Oliver Expansion Project area based on current known distribution ranges. None of these species are federally listed as threatened or endangered or listed as a state species of conservation concern. Limited suitable roosting and foraging habitat exists within the project area that may provide a marginal attractiveness for migrating bats. Overall, Tetra Tech calculates a low likelihood of occurrence for bat species for the entire Oliver Expansion Project area and a moderate likelihood of occurrence for the Phase III Project area. When viewed as one large project, the Oliver Expansion Project area contains less suitable bat habitat than the surrounding landscape. In contrast, the Phase III Project area contains more suitable habitat than the surrounding landscape, much of which is located within the two transmission corridors. Although bats are not known to be a risk of collision with transmission lines, construction of the transmission lines could result in the direct loss of bat foraging and roosting habitat.



September 7, 2009

Merlan E. Paaverud, Jr.
Director
State Historical Society of North Dakota
612 East Boulevard Avenue
Bismarck, ND 58505

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Paaverud:

Tetra Tech is conducting an investigation of property in Morton and Oliver counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the State Historical Society of North Dakota for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

County	Township	Range	Sections
Morton	140N	83W	4-6
Oliver	141N	83W	3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33, 34
	142N	83W	33, 34

This information will be used as an initial step to help guide project development in a manner that identifies and avoids impacts to sensitive resources where practicable. We have sent similar query letters to other agencies including, but not limited to, the US Fish and Wildlife Service, US Army Corps of Engineers, and North Dakota Game and Fish Department.

We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc.
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Mr. Gary D. Preszler
Commissioner
North Dakota State Land Department
P. O. Box 5523
Bismarck, North Dakota 58506-5523

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Preszler:

Tetra Tech is conducting an investigation of property in Morton and Oliver counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota State Land Department for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

County	Township	Range	Sections
Morton	140N	83W	4-6
Oliver	141N	83W	3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33, 34
	142N	83W	33, 34

This information will be used as an initial step to help guide project development in a manner that identifies and avoids impacts to sensitive resources where practicable. We have sent similar query letters to other agencies including, but not limited to, the US Fish and Wildlife Service, US Army Corps of Engineers, and North Dakota Game and Fish Department.

We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Mr. Dale Frink
State Engineer
North Dakota State Water Commission
900 East Boulevard, Dept. 770
Bismarck, North Dakota 58505-0850

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Frink:

Tetra Tech is conducting an investigation of property in Morton and Oliver counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the North Dakota State Water Commission for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

County	Township	Range	Sections
Morton	140N	83W	4-6
Oliver	141N	83W	3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33, 34
	142N	83W	33, 34

This information will be used as an initial step to help guide project development in a manner that identifies and avoids impacts to sensitive resources where practicable. We have sent similar query letters to other agencies including, but not limited to, the US Fish and Wildlife Service, US Army Corps of Engineers, and North Dakota Game and Fish Department.

We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc.
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757



September 7, 2009

Mr. Daniel Cimarosti
Regulatory Program Manager
U.S. Army Corps of Engineers Omaha District, North Dakota Regulatory Office
1513 South 12th Street
Bismarck, ND 58504

**RE: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota**

Dear Mr. Cimarosti:

Tetra Tech is conducting an investigation of property in Morton and Oliver counties, northwest of Bismarck, North Dakota as a potential location for development of a six-mile long transmission line. The area shown in the attached figure is the primary focus of our investigation.

We are consulting the Corps of Engineers for assistance in identifying concerns or issues within the boundaries of the tracts listed below that would influence a decision regarding the use of the land, and applicable permits that may be required from your office.

The transmission line mile-wide corridor includes portions of the following tracts:

County	Township	Range	Sections
Morton	140N	83W	4-6
Oliver	141N	83W	3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33, 34
	142N	83W	33, 34

This information will be used as an initial step to help guide project development in a manner that identifies and avoids impacts to sensitive resources where practicable. We have sent similar query letters to other agencies including, but not limited to, the US Fish and Wildlife Service, State Historical Society of North Dakota, and North Dakota Game and Fish Department.

We would appreciate a response by October 9, 2009. Please contact me at (512) 338-1667 if you have any questions.

Thank you for your assistance.

Respectfully submitted,

Anne-Marie Griger, AICP
Tetra Tech, EC Inc.
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757

September 15, 2009

Anne-Marie Griger
Tetra Tech EC, Inc.
7800 Shoal Creek Blvd.
Suite 253 East
Austin, TX 78757

RE: Project Area Environmental Scan-Morton and Oliver Counties, North Dakota

Dear Ms. Griger:

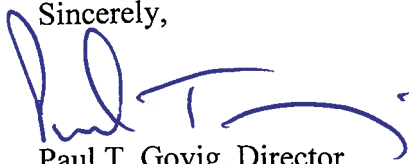
This office supports the development of the proposed transmission line for the above referenced project.

While we are not aware of any environmental property, concerns, or issues within the boundaries of the proposed project, we would defer to the North Dakota Game & Fish Department, the North Dakota Parks & Recreation Department, the State Historical Society of North Dakota, and the North Dakota Health Department for their input. According to your letter it appears you have already initiated this process.

The North Dakota Public Service Commission is the authority which issues permits for locating power plant and transmission lines within the state.

With regards to land use, approvals are granted by the local land use/zoning authorities.

Sincerely,



Paul T. Govig, Director
ND Division of Community Services

sk



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

John Hoeven
Governor of North Dakota

September 15, 2009

North Dakota
State Historical Board

Ms. Anne-Marie Griger, AICP
Tetra-Tech, EC Inc.
7800 Shoal Creek Blvd, Suite 253 East
Austin TX 78757

Chester E. Nelson, Jr.
Bismarck - President

Gereld Gerntholz
Valley City - Vice President

Richard Kloubec
Fargo - Secretary

ND SHPO REF: 09-1694 Six-mile long transmission line in Morton and Oliver Counties in portions of [T140N R83W Sections 4-6; T141N R83W Sections 3,4,9,10,15,16,21,22,27,28,33,34; T142N R83W Sections 33,34] Morton and Oliver Counties, North Dakota

Albert I. Berger
Grand Forks

Calvin Grinnell
New Town

Dear Mr. Griger,

Diane K. Larson
Bismarck

We reviewed ND SHPO REF: 09-1694 Six-mile long transmission line in Morton and Oliver Counties in portions of [T140N R83W Sections 4-6; T141N R83W Sections 3,4,9,10,15,16,21,22,27,28,33,34; T142N R83W Sections 33,34] Morton and Oliver Counties, North Dakota. We recommend a Class I (file search) of the project areas followed by a Class III (pedestrian) survey, following review by this office.

A. Ruric Todd III
Jamestown

Sara Otte Coleman
*Director
Tourism Division*

Kelly Schmidt
State Treasurer

Thank you very much for the opportunity to review this project to date. We look forward to further review of the Class I and Class III reports. If you have any questions please contact Susan Quinnell, Review and Compliance Coordinator at (701) 328-3576, e-mail squinnell@nd.gov

Alvin A. Jaeger
Secretary of State

Douglass Prchal
*Director
Parks and Recreation
Department*

Sincerely,

Merlan E. Paaverud, Jr.
State Historic Preservation Officer (North Dakota)
and
Director
State Historical Society of North Dakota

Francis Ziegler
*Director
Department of Transportation*

Merlan E. Paaverud, Jr.
Director

*Accredited by the
American Association
of Museums*

John Hoeven
Governor

Lisa K. Fair McEvers
Commissioner



State Capitol - 13th Floor
600 E Boulevard Ave Dept 406
Bismarck, ND 58505-0340

nd.gov/labor
nd.gov/humanrights

September 14, 2009

Ms. Anne-Marie Griger, AICP
Tetra Tech, EC Inc.
7800 Shoal Creek Blvd. Suite 253 East
Austin, TX 78757

Re: Project Area Environmental Scan
Morton and Oliver Counties, North Dakota

Dear Ms. Griger,

Thank you for your letter of September 7, 2009, inquiring about permits required by the North Dakota Department of Labor for your project in Morton and Oliver Counties. The Department of Labor enforces wage and hours laws, investigates allegations of discrimination in employment, housing, public services, public accommodations and credit transactions.

The Department of Labor has no authority to issue any permits regarding land or environmental concerns. Your questions may more appropriately be addressed to the North Dakota Public Service Commission, located at 600 E. Boulevard Avenue, Dept. 408, Bismarck, ND 58505-0480. It is my understanding that inquiries of this type may be brought to either Jerry Lien or Pat Fahn at the aforementioned address or by telephone at (701) 328-2400.

Sincerely yours,

A handwritten signature in blue ink that reads "Lisa K. Fair McEvers".

Lisa K. Fair McEvers
Commissioner



REPLY TO
ATTENTION OF

North Dakota Regulatory Office

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
1513 SOUTH 12TH STREET
BISMARCK ND 58504-6640
September 15, 2009

[NWO-2009-2266-BIS]

Ms. Anne-Marie Griger
Tetra Tech, EC Inc.
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757

Dear Ms. Griger:

This is in response to your September 7, 2009 request for comments on behalf of Tetra Tech for their proposed construction of a six-mile long transmission in Morton and Oliver Counties, North Dakota. We have assigned Project Number (NWO-2009-2266-BIS) to your request. Please reference this number when you write or call us regarding your proposal.

The Corps of Engineers regulates the discharge of dredged or fill material into waters of the United States under Section 404 of the Clean Water Act. If the work would include a discharge of dredged or fill material in waters of the U.S., even temporarily, a permit would be required. Nationwide Permit No.12 may cover the work proposed provided all the terms and conditions of the nationwide permit, including water quality certification, are met. In certain instances, the current nationwide permit does not require notification to the Corps. Please review the attached Fact Sheet to see if your project requires notification.

If you believe this project will result in a discharge of fill material in waters of the U.S. please fill out the enclosed application and return to our office.

If you have any questions regarding this letter or our program, please do not hesitate to write me at the above address, or call this office at (701) 255-0015.

Sincerely,

Patsy Crooke
Project Manager
North Dakota Regulatory Office

Enclosure

FACT SHEET
NATIONWIDE PERMIT 12
(2007)

COPY

UTILITY LINE ACTIVITIES. Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2 acre of waters of the United States.

Utility lines: This NWP authorizes 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 pre-construction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, 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. The term "utility line" does not include activities that drain a water of the United States, such as drainage tile or french drains, but it does apply to pipes conveying drainage from another area.

Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, 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 for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

Utility line substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2 acre of waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for overhead utility line towers, poles, and anchors: This NWP authorizes 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.

Access roads: This NWP authorizes 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, provided the total discharge from a single and complete project does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

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). 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.

This NWP also authorizes temporary structures, fills, and work necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if any of the following criteria are met: (1) the activity involves mechanized land clearing in a forested wetland for the utility line right-of-way; (2) a section 10 permit is required; (3) the utility line in waters of the United States, excluding overhead lines, exceeds 500 feet; (4) the utility line is placed within a jurisdictional area (i.e., water of the United States), and it runs parallel to a stream bed that is within that jurisdictional area; (5) discharges that result in the loss of greater than 1/10-acre of waters of the United States; (6) permanent access roads are constructed above grade in waters of the United States for a distance of more than 500 feet; or (7) permanent access roads are constructed in waters of the United States with impervious materials. (Sections 10 and 404)

Note 1: Where the proposed utility line is constructed or installed in navigable waters of the United States (i.e., section 10 waters), copies of the pre-construction notification and NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

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, accordance with the requirements for temporary fills.

Note 3: Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States 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 into waters of the United States associated with such pipelines will require a section 404 permit (see NWP 15).

General Conditions: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. 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.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

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

12. 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.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

15. 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).

16. 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.

17. Endangered Species. (a) No activity is authorized under any NWP 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 (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) 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 if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction 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. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical

habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, 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) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, 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 losses that exceed 1/10 acre and require pre-construction 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. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(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., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address

documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas 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 losses.

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

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality. *Specifically in North Dakota, the North Dakota Department of Health has denied certification for projects under this Nationwide Permit proposed to cross **all classified rivers, tributaries and 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 Disturbance Requirements are followed.*

22. Coastal Zone Management. *Not Applicable.*

23. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that 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, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

24. 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. For example, 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.

25. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:
"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

26. Compliance Certification. Each permittee who received a NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP 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.

27. Pre-Construction Notification. *See attached pages.*

28. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an 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 27. Pre-Construction Notification.

(a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will 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 PCN 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 until either:

(1) He or she is 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) Forty five calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN 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) A 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. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. 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) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland 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 sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants 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. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) 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.

(2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring pre-construction 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 immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, 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 pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

(5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) 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. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. 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. The compensatory mitigation proposal may be either conceptual or detailed. 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 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 calendar days of receiving a complete PCN and determine whether the 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 plan 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 plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

**2007 NATIONWIDE PERMITS
REGIONAL CONDITIONS
STATE OF NORTH DAKOTA
OMAHA DISTRICT – CORPS OF ENGINEERS**

The U.S. Army Corps of Engineers has adopted the following regional conditions for activities authorized by nationwide permits within the State of North Dakota. However, the pre-construction notification requirements defined below are not applicable to Nationwide Permit 47.

1. Wetlands Classified as Fens

All Nationwide Permits, with the exception of 3, 5, 20, 32, 38, 45, and 47, are revoked for use in fens in North Dakota. For nationwide permits 3, 5, 20, 32, 38, and 45 permittees must notify the Corps in accordance with General Condition 27 (Notification) prior to initiating any regulated activity impacting fens in North Dakota.

Fens are wetlands that develop where a relatively constant supply of ground water to the plant rooting zone maintains saturated conditions most of the time. The water chemistry of fens reflects the mineralogy of the surrounding and underlying soils and geological materials. The substrate is carbon-accumulating, ranging from muck to peat to carbonates. These wetlands may be acidic to alkaline, have pH ranging from 3.5 to 8.4 and support a range of vegetation types. Fens may occur on slopes, in depressions, or on flats (i.e., in different hydrogeomorphic classes; after: Brinson 1993).

2. Waters Adjacent to Natural Springs

For all Nationwide Permits permittees must notify the Corps in accordance with General Condition No. 27 (Notification) for regulated activities located within 100 feet of the water source in natural spring areas in North Dakota. For purposes of this condition, a spring source is defined as any location where there is artesian flow emanating from a distinct point at any time during the growing season. Springs do not include seeps and other groundwater discharge areas where there is no distinct point source.

3. Missouri River, including Lake Sakakawea and Lake Oahe within the State of North Dakota

For all Nationwide Permits permittees must notify the Corps in accordance with General Condition No. 27 (Notification) prior to initiating any regulated activity in the Missouri River, including Lake Sakakawea and Lake Oahe, within the State of North Dakota.

4. Historic Properties

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(s) to complete the work authorized herein, shall cease work 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. Work shall not resume until the permittee is notified by the North Dakota Regulatory Office.

5. Spawning Condition

That no regulated activity within waters of the United States listed as Class III or higher on the 1978 Stream Evaluation Map for the State of North Dakota or on the North Dakota Game and Fish Department's website as a North Dakota Public Fishing Water shall occur between 15 April and 1 June. No regulated activity within the Red River of the North shall occur between 15 April and 1 July.

Additional Information

Permittees are reminded that General Condition No. 6 prohibits the use of unsuitable material. In addition, organic debris, some building waste, and materials excessive in fines are not suitable material.

Specific verbiage on prohibited materials and the 1978 Stream Evaluation Map for the State of North Dakota can be accessed on the North Dakota Regulatory Office's website at:
<https://www.nwo.usace.army.mil/html/od-rnd/ndhome.htm>



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.



North Dakota Department of Transportation

Francis G. Ziegler, P.E.
Director

John Hoeven
Governor

September 28, 2009

Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, TX 78757

PROJECT AREA ENVIRONMENTAL SCAN
MORTON AND OLIVER COUNTIES, NORTH DAKOTA

The proposed six-mile long transmission line does not affect any North Dakota Department of Transportation property.

Kevin J. Levi (rs)

KEVIN J. LEVI – BISMARCK DISTRICT ENGINEER

rs



STATE OF NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
600 E BOULEVARD AVE, DEPT 602
BISMARCK, ND 58505-0020

DOUG GOEHRING
COMMISSIONER

October 6, 2009

Anne-Marie Griger
Tetra Tech, EC Inc.
7800 Shoal Creek Blvd, Suite 253 East
Austin, TX 78757

RE: Project Area Environmental Scan, Morton and Oliver Counties

Dear Ms. Griger:

Thank you for the opportunity to comment on the proposed transmission line development in Morton and Oliver Counties. The North Dakota Department of Agriculture doesn't issue any permits in connection with transmission line development. My comments are confined to the control of noxious weeds within the transmission line construction corridor referenced in your September 7 letter.

According to North Dakota Century Code (NDCC) § 4.1-47-02, each person shall do all things necessary and proper to control the spread of noxious weeds. As this project recovers vegetation in disturbed areas, please pay special attention to noxious weed control.

The primary jurisdiction regarding noxious weed law resides with the counties. The jurisdiction of each county weed board extends to all land within the county, but does not include any land within the jurisdictional limits of a city having a population of three thousand or more if that city has its own noxious weed control program (NDCC § 4.1-47-17). I'm enclosing a list of county weed board contact information. Please contact the weed control officers in Morton and Oliver Counties to discuss weed control issues that may be unique to each county and schedule a time with them to inspect the land potentially impacted by transmission line construction. Cooperation with the county weed control boards will ensure that the disturbed land does not create a future noxious weed control concern.

I am enclosing a copy of North Dakota's noxious weed law and regulations. If you have any questions, please contact Judy Carlson of my staff at 701-328-4997.

Sincerely,

Doug Goehring
Agriculture Commissioner

Enc.

NORTH DAKOTA'S

NOXIOUS WEED LAW & REGULATIONS



NORTH DAKOTA

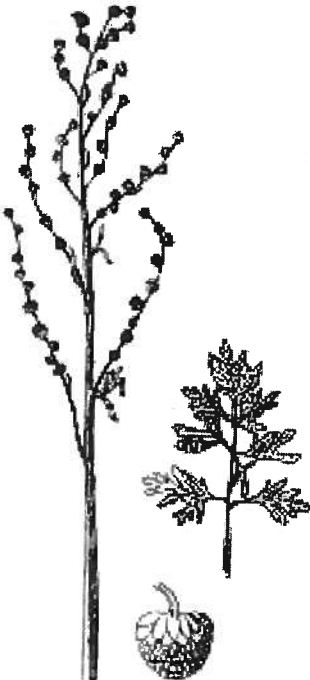
DEPARTMENT OF AGRICULTURE

DOUG GOEHRING, COMMISSIONER

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ON THE COVER: Absinth wormwood (*Artemisia absinthium*), one of North Dakota's 12 noxious weeds, appears to be spreading in the state.



Also known as American wormwood, common wormwood, mugwort, madderwort and wormwood sage, absinth wormwood was first brought to this country in the early 19th century from Europe where it is cultivated for medicinal purposes, as an ornamental plant and as a flavoring. It is an ingredient and gives its name to the once-notorious alcoholic beverage, absinthe, until recently banned in this country because of its supposed narcotic properties.

A perennial, flowering plant with a strong sage odor, absinth wormwood is covered with small, inconspicuous hairs that give it a grayish appearance. It usually grows to about 3 feet in height but can be as tall as 5 feet. Its leaves are light green to olive-colored, 2 to 5 inches long and divided into two or three deeply lobed leaflets. Small, inconspicuous yellow flowers appear in July and August. Each plant produces several thousand seeds and can also reproduce by its roots.

It rapidly infests pasture and rangeland as well as disturbed sites and roadsides, reducing available forage. It is also found in cities, especially in abandoned lots that are not regularly mowed. Absinthe wormwood taints the milk of cows that eat the plant. Some people are allergic to the plant.

Absinth wormwood has been on North Dakota's noxious weed list since at least 1971. The state reported 554,175 acres infested with absinth wormwood in 2008.

A Message from the Commissioner

Noxious weeds cause millions of dollars in damage to North Dakota crops and forage. Much more is spent in both public and private efforts to control these weeds. In addition to their economic impact, noxious weeds adversely affect rural and urban land values, tax revenues, recreational opportunities and wildlife habitat.

Noxious weeds are not just a “farm problem.” They can be found virtually everywhere in North Dakota, even in our largest cities. It is not unusual to see leafy spurge, Canada thistle and other noxious weeds growing along city streets and in vacant lots. Some communities have found it necessary to levy additional taxes to hire weed control officers to conduct control programs.

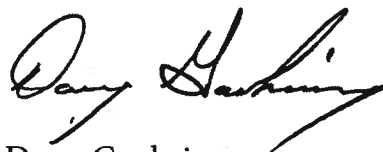
The North Dakota Department of Agriculture publishes this edition of the Noxious Weed Law to help weed boards, weed officers, landowners, public land managers and others understand the legal basis for the efforts to control noxious weeds.

This book also includes a noxious weed enforcement guide for county and city weed control officials and a summary of North Dakota’s open meeting and open records laws.

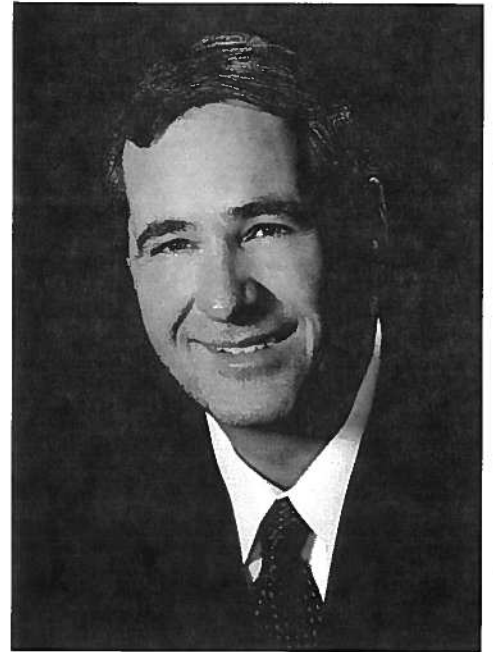
The 2009 Legislature substantially rewrote North Dakota’s noxious weed laws, so please discard previous editions of this book.

The war on noxious weeds will be long and costly, but it is one that I believe we can ultimately win by working together.

Sincerely,



Doug Goehring
Agriculture Commissioner



Chapter 4.1-47 – Noxious Weed Control

4.1-47-01. Definitions. As used in this chapter:

1. “Board member area” means a geographical area within the county from which a member of the weed board is appointed.
2. “City weed control officer” means an individual designated by a city weed board to be responsible for the operation and enforcement of this chapter within the city.
3. “Commissioner” means the agriculture commissioner or the commissioner’s designee.
4. “Control” means to prevent a noxious weed from spreading by:
 - a. Suppressing its seeds or propagating parts; or
 - b. Destroying either the entire plant or its propagating parts.
5. “County weed control officer” means an individual designated by the county weed board to be responsible for the operation and enforcement of this chapter within each county.
6. “Noxious weed” means a plant propagated by either seed or vegetative parts and determined to be injurious to public health, crops, livestock, land, or other property by:
 - a. The commissioner in accordance with section 4.1-47-05;
 - b. A county weed board in accordance with section 4.1-47-10; or
 - c. A city weed board in accordance with section 4.1-47-21.
7. “Township road” means an improved public road that is:
 - a. Located outside of an incorporated city;
 - b. Not designated as part of a county, state, or federal-aid road system; and
 - c. Constructed, maintained, graded, and drained by the township, or by the county if the township is unorganized.

4.1-47-02. Control of noxious weeds - Responsibility. Each person shall do all things necessary and proper to control the spread of noxious weeds.

4.1-47-03. Noxious weed control - Agriculture commissioner - Powers. The commissioner may enter upon any land in the state to perform duties and to exercise powers under this chapter, including taking specimens of weeds or other materials, without the consent of the landowner or other person responsible for the land and without being subject to any action for trespass or damages, provided reasonable care is exercised.

4.1-47-04. Noxious weed control - Agriculture commissioner - Duties. The commissioner shall:

1. Maintain a state noxious weed list;
2. Direct the removal of a noxious weed from a county or city noxious weed list if the commissioner, after consultation with the respective weed board and the North Dakota state university extension service, determines there is insufficient justification for the continued inclusion of that particular noxious weed;

3. Except as otherwise provided, forward all signed complaints to the proper weed control authority; and
4. Call an annual meeting of all weed control officers to review noxious weed control efforts in this state.

4.1-47-05. State noxious weed list - Compilation.

1. Before the commissioner may add a weed to or remove a weed from the state noxious weed list, the commissioner shall consult with the North Dakota state university extension service.
2. Before January 1, 2010, and at least every five years thereafter, the commissioner shall review the state noxious weed list. The commissioner shall provide each county and city weed board with at least fourteen days' notice of the time and place at which the list will be reviewed and, no later than fourteen days after conclusion of the review, shall provide each county and city weed board with written notice of any changes to the state noxious weed list.

4.1-47-06. County weed board - Members - Terms - Compensation.

1. Each board of county commissioners shall:
 - a. Establish contiguous county weed board member areas; or
 - b. Determine that county weed board members must be appointed at large.
2. The board of county commissioners shall appoint a county weed board consisting of three, five, or seven members. Members shall serve for a term of four years or until their successors are appointed and qualified. The terms must be staggered so that no more than two expire each year.
3. If the board of county commissioners has established county weed board member areas as provided for in subsection 1, any qualified elector residing in the county weed board member area is eligible to represent that area on the board. If the board of county commissioners has determined that county weed board members must be appointed at large as provided for in subsection 1, any qualified elector residing in the county is eligible to serve on the county weed board.
4. A board member shall assume office at the first regular meeting of the county weed board following that member's appointment.
5. The board of county commissioners shall remove a member of the county weed board for repeated unexcused failures to attend meetings, for refusal to act as a board member, or for incapacity. If a vacancy occurs on a county weed board, the board of county commissioners, at its next regular meeting, shall appoint an individual who possesses the necessary qualifications to fill the unexpired term.
6.
 - a. The county weed board shall elect a chairman and a vice chairman from among its members.
 - b. The county weed board shall appoint a secretary and a treasurer. The secretary and treasurer need not be members of the board.
7. The board of county commissioners shall establish the rate of compensation for county weed board members.

4.1-47-07. County weed board - Jurisdiction. The jurisdiction of a county weed board extends to all land within the county but does not include any land within the corporate limits of a city if that city has its own noxious weed control program under this chapter.

4.1-47-08. County weed board - Powers. A county weed board may:

1. Expend funds from all available sources if it determines that the extent of noxious weed infestation on certain land is so severe that control efforts would place an extreme financial burden on the landowner.
2. Employ and compensate additional personnel to assist with noxious weed control efforts.

4.1-47-09. County weed board - Duties. Each county weed board shall:

1. Implement a program for the control of noxious weeds;
2. Provide for the control of noxious weeds along county and township roads and along county highways;
3. Establish the time and place of regular board meetings;
4. Meet at least once each year;
5. Keep minutes of its board meetings and a complete record of all official acts;
6. Control and disburse all moneys received by the county from any source for noxious weed control;
7.
 - a. Provide for the compensation of its members and its secretary and treasurer;
 - b. Reimburse its members and its secretary and treasurer for actual and necessary expenses; and
 - c. Provide a mileage allowance at the same rate as that established for state employees; and
8.
 - a. Employ and provide for the compensation of a weed control officer;
 - b. Reimburse the weed control officer for actual and necessary expenses; and
 - c. Provide a mileage allowance at the same rate as that established for state employees.

4.1-47-10. County weed board - Development of county weed list.

1. A county weed board may designate as noxious certain weeds that are not on the state noxious weed list, provided the county weed board consults with the North Dakota state university extension service and that the designation is approved by the commissioner.
2. Before January 1, 2010, and at least every five years thereafter, each county weed board shall review its noxious weed list and, by majority vote, may remove any weed from its list. The county weed board shall provide the commissioner with at least fourteen days' notice of the time and place at which its list will be reviewed and, no later than fourteen days after conclusion of the review, shall provide the commissioner with written notice of any changes to the county list.
3. A county weed board shall immediately remove any noxious weed from its list when directed to do so by the commissioner in accordance with section 4.1-47-04.

4.1-47-11. County weed control officer - Membership on county weed board - Employment.

1. A county weed control officer may serve as a member of the weed control board by which the officer is employed if the officer is otherwise qualified to do so.
2. An individual may be employed as a weed control officer by several weed boards simultaneously.

4.1-47-12. County weed control officer - Powers. A county weed control officer may enter upon any land within the jurisdiction of the officer to perform duties and to exercise powers under sections 4.1-47-01 through 4.1-47-30, including taking specimens of weeds or other materials, without the consent of the landowner or other person responsible for the land and without being subject to any action for trespass or damages, provided reasonable care is exercised.

4.1-47-13. County weed control officer - Duties. The county weed control officer shall:

1. Cooperate with the board and be responsible for the operation and enforcement of this chapter within the county;
2. Become acquainted with the location of noxious weeds within the county;
3. Meet the pesticide certification requirements set forth in chapter 4-35;
4. Encourage noxious weed control by all landowners and land occupants within the county;
5. Investigate all signed complaints received by the officer regarding noxious weeds;
6. Post or publish in the official newspaper of the county any notices the commissioner deems necessary to further noxious weed control under this chapter;
7. Prepare reports as requested by the commissioner; and
8. Attend meetings called by the commissioner to further noxious weed control under this chapter.

4.1-47-14. County noxious weed control program - Payment of expenses - Mill levy authorization.

1. The board of county commissioners may pay the expenses of a county noxious weed control program authorized under this chapter from the county general fund, the noxious weed control fund, or both.
2.
 - a. The county weed board may annually certify to the board of county commissioners a tax, not to exceed two mills on the taxable valuation of all property in the county, other than that which lies within the boundaries of a city having a noxious weed control program under this chapter.
 - b. In addition to the levy authorized in subdivision a, the board of county commissioners may levy an amount not to exceed two mills per dollar on the taxable valuation of all property in the county, other than that which lies within the boundaries of a city having a noxious weed control program under this chapter.
 - c. The board of county commissioners shall levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the noxious weed control fund, which is used to pay the expenses of a county noxious weed control program.
 - d. The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.
3. For purposes of this section, the expenses of a county noxious weed control program include compensation for and the reimbursement of expenses incurred by the county weed board, the county weed control officer, and other employees of the board, and expenses incurred in the provision of noxious weed control, as authorized by this chapter.

4.1-47-15. State appropriations for noxious weed control - Distribution -Determination.

1. The commissioner shall consult with the county and city weed boards and develop a method for the distribution to county and city weed boards of all moneys appropriated by the state for noxious weed control, other than the landowner assistance grants provided for in section 4.1-47-16.
2. The method must:
 - a. Limit the amount that any county or city weed board is entitled to receive under this section to seventy-five percent of the board's actual expenditures under this section; and
 - b. Allow the commissioner to waive the limit provided for in this subsection if the commissioner determines that a noxious weed is seriously endangering areas of a county, a city, or the state.

4.1-47-16. State appropriations for noxious weed control - Landowner assistance program.

1. The commissioner shall consult with representatives of county and city weed boards and develop a formula for the distribution to eligible county weed boards and eligible city weed boards of all moneys appropriated by the state for the landowner assistance program.
2.
 - a. The formula must require that county officials budget, from county sources, an amount equal to the revenue that could be raised by a levy of at least three mills for noxious weed control; provided, however, that this amount does not apply to property that lies within the boundaries of a city having a noxious weed control program under this chapter.
 - b. The formula must require that city officials budget, from city sources, an amount equal to the revenue that could be raised by a levy of at least three mills for noxious weed control.
3. The formula must require that the landowner contribute an amount equal to at least twenty percent of the cost to be expended on behalf of the landowner. The formula may include payment-in-kind criteria by which the landowner's contribution may be realized.

4.1-47-17. Control of noxious weeds within cities. The governing body of any city having a population of three thousand or more may establish a program for the control of noxious weeds within the jurisdictional limits of the city. If a program is not established, the county weed board shall administer a program for the city.

4.1-47-18. City weed board members - Terms - Compensation.

1. If the governing body of a city elects to establish a noxious weed control program, as authorized by section 4.1-47-17, the governing body shall appoint a weed board consisting of three, five, or seven members.
2. The term of office for a board member is four years or until a successor is appointed and qualified. The terms must be staggered so that no more than two expire each year.
3. Any qualified elector residing within the city is eligible to serve on the board.
4. A board member shall assume office at the first regular meeting of the city weed board following the member's appointment.
5. The governing body of the city shall remove a member of the city weed board for repeated unexcused failures to attend meetings, for refusal to act as a board member, or for incapac-

ity. If a vacancy occurs on a city weed board, the governing body of the city, at its next regular meeting, shall appoint an individual who possesses the necessary qualifications to fill the unexpired term.

6. The city weed board shall elect a chairman and a vice chairman from among its members.
7. The city weed board shall appoint a secretary and a treasurer. The secretary and treasurer need not be members of the board.
8. The governing body of the city shall establish the rate of compensation for city weed board members.

4.1-47-19. City weed board - Powers. A city weed board may:

1. Expend funds from all available sources if it determines that the extent of noxious weed infestation on certain land is so severe that undertaking control efforts would place an extreme financial burden on the landowner.
2. Employ and compensate additional personnel to assist with noxious weed control efforts.

4.1-47-20. City weed board - Duties. Each city weed board shall:

1. Implement a program for the control of noxious weeds;
2. Establish the time and place of regular board meetings;
3. Meet at least once each year;
4. Keep minutes of its meetings and a complete record of all official acts;
5. Control and disburse all moneys received by the city from any source for noxious weed control;
6.
 - a. Provide for the compensation of its members and its secretary and treasurer;
 - b. Reimburse its members and its secretary and treasurer for actual and necessary expenses; and
 - c. Provide a mileage allowance at the same rate as that established for state employees; and
7.
 - a. Employ and provide for the compensation of a weed control officer;
 - b. Reimburse the weed control officer for actual and necessary expenses; and
 - c. Provide a mileage allowance at the same rate as that established for state employees.

4.1-47-21. City weed board - Development of city weed list - Review - Removal.

1. A city weed board may designate as noxious certain weeds that are not on the state or county noxious weed list, provided the city weed board first consults with the North Dakota state university extension service and that the designation is approved by the commissioner.
2. Before January 1, 2010, and at least every five years thereafter, each city weed board shall review its noxious weed list and, by majority vote, may remove any weed from its list. The city weed board shall provide the commissioner with at least fourteen days' notice of the time and place at which its list will be reviewed and, within fourteen days of the review, shall provide the commissioner with written notice of any changes to the city list.
3. A city weed board immediately shall remove any noxious weed from the board's list when directed to do so by the commissioner in accordance with section 4.1-47-04.

4.1-47-22. City weed control officer - Membership on city weed board - Employment.

1. A city weed control officer may serve as a member of the weed control board by which the officer is employed if the officer is otherwise qualified to do so.
2. An individual may be employed as a weed control officer by several weed boards simultaneously.

4.1-47-23. City weed control officer - Powers. A city weed control officer may enter upon any land within the jurisdiction of the officer to perform duties and to exercise powers under this chapter, including taking specimens of weeds or other materials, without the consent of the landowner or other person responsible for the land and without being subject to any action for trespass or damages, provided reasonable care is exercised.

4.1-47-24. City weed control officer - Duties. The city weed control officer shall:

1. Cooperate with the board and be responsible for the operation and enforcement of this chapter within the city;
2. Become acquainted with the location of noxious weeds within the city;
3. Meet the pesticide certification requirements set forth in chapter 4-35;
4. Encourage noxious weed control by all landowners and land occupants within the city;
5. Investigate all signed complaints received by the officer regarding noxious weeds within the city;
6. Post or publish in the official newspaper of the city any notices the commissioner deems necessary to further noxious weed control under this chapter;
7. Prepare reports as requested by the commissioner; and
8. Attend meetings called by the commissioner to further noxious weed control under this chapter.

4.1-47-25. City noxious weed control program - Payment of expenses - Mill levy authorization.

1. The governing body of a city may pay the expenses of a city noxious weed control program authorized under this chapter from the city general fund, the noxious weed control fund, or both.
2.
 - a. The city weed board may annually certify to the governing body of a city a tax, not to exceed two mills on the taxable valuation of all property in the city.
 - b. In addition to the levy authorized in subdivision a, the governing body of a city may levy an amount not to exceed two mills per dollar on the taxable valuation of all property in the city.
 - c. The governing body of a city shall levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the noxious weed control fund, which is used to pay the expenses of a city noxious weed control program.
 - d. The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.
3. For purposes of this section, the expenses of a city noxious weed control program include compensation for and the reimbursement of expenses incurred by the city weed board, the city weed control officer, and other employees of the board, and expenses incurred in the provision of noxious weed control, as authorized by this chapter.

4.1-47-26. Publicly owned land - Noxious weed control. Each state agency shall provide for the control of noxious weeds on land within its jurisdiction. If a state agency fails to control noxious weeds on land under its jurisdiction, the county weed board, upon approval of the commissioner, may enter upon the land to control the noxious weeds. The state agency shall reimburse the county weed board for expenses incurred in controlling the noxious weeds, within thirty days after the agency receives the bill.

4.1-47-27. Noxious weed control - Enforcement responsibilities of other agencies. Law enforcement agents shall cooperate with the commissioner, a weed control board, and a weed control officer for the purpose of enforcing this chapter.

4.1-47-28. Entry upon land for noxious weed control purposes - Notices - Landowner rights - Remedial requirements - Liens.

1. a. If a county weed officer determines that any land other than that referenced in subsection 2 contains noxious weeds, the county weed control officer may serve upon the land owner written notice, either personally or by certified mail, requiring the landowner to control the noxious weeds within the time period prescribed by the county weed control officer.
- b. The notice must:
 - (1) Specify the minimal remedial requirements;
 - (2) Specify the time within which the landowner must meet the minimum remedial requirements;
 - (3) Specify that the landowner may be subject to penalties provided under this chapter if the landowner fails to comply with the remedial requirements;
 - (4) Include a statement of costs if the landowner fails to control the noxious weeds and the county weed officer must provide for control of the weeds; and
 - (5) Provide that the landowner may stay any efforts by the county weed officer to control noxious weeds on the land by requesting in writing that the county weed board hold a hearing on the matter.
- c. The county weed officer shall deliver a copy of the notice personally or forward a copy of the notice by certified mail to any tenant, lessee, or operator of the land on which the noxious weeds are located.
- d. If the landowner does not meet the minimum remedial requirements within the time specified in the notice and does not request a hearing on the matter by the county weed board, the county weed control officer may cause the noxious weeds to be controlled and the expenses charged against the land of the landowner. These expenses are part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes.
- e. If after holding a hearing on the matter, the county weed board directs that the noxious weeds be controlled by the county weed officer, the landowner may appeal the decision to the board of county commissioners. A decision by the board of county commissioners is final.
- f. If the landowner does not appeal the decision to the board of county commissioners, or if the board of county commissioners upholds the decision of the county weed board, the

county weed control officer may cause the noxious weeds to be controlled and any expenses incurred by the county weed officer in controlling the weeds must be charged against the land of the landowner. These expenses are part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes.

2. a. If a city weed control officer determines that land within the officer's jurisdiction contains noxious weeds, the officer may serve upon the landowner written notice either personally or by certified mail, requiring the landowner to control the noxious weeds within the time period prescribed by the city weed control officer.
- b. The notice must:
 - (1) Specify the minimal remedial requirements;
 - (2) Specify the time within which the landowner must meet the minimum remedial requirements;
 - (3) Specify that the landowner may be subject to penalties provided under this chapter if the landowner fails to comply with the remedial requirement;
 - (4) Include a statement of costs if the landowner fails to control the noxious weeds and the city weed officer must provide for control of the weeds; and
 - (5) Provide that the landowner may stay any efforts by the city weed officer to control noxious weeds on the land, by requesting in writing that the city weed board hold a hearing on the matter.
- c. The city weed officer shall deliver a copy of the notice personally or forward a copy of the notice by certified mail to any tenant, lessee, or operator of the land on which the noxious weeds are located.
- d. If the landowner does not meet the minimum remedial requirements within the time specified in the notice and does not request a hearing on the matter by the city weed board, the city weed control officer may cause the noxious weeds to be controlled and the expenses charged against the land of the landowner. These expenses are part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes.
- e. If after holding a hearing on the matter the city weed board directs that the noxious weeds be controlled by the city weed officer, the landowner may appeal the decision to the governing body of the city. A decision by the governing body is final.
- f. If the landowner does not appeal the decision to the governing body of the city, or if the governing body of the city upholds the decision of the city weed board, the city weed control officer may cause the noxious weeds to be controlled and any expenses incurred by the city weed officer in controlling the weeds must be charged against the land of the landowner. These expenses are part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes.

4.1-47-29. Quarantine - Declaration - Hearing - Penalty.

1. If the commissioner determines that a quarantine of this state or any portion thereof may be necessary to prevent the spread of noxious weeds, the commissioner shall schedule a public

hearing on the matter and provide notice of the hearing by publishing its time, place, and date in the official newspaper of each county having land within the area of the proposed quarantine. If after the hearing the commissioner orders the imposition of a quarantine, the order must include the date by which or the circumstances under which the commissioner shall lift the quarantine order.

2. If the commissioner determines that the imposition of an emergency quarantine is necessary to prevent the spread of noxious weeds, the commissioner may impose such an order for a period not to exceed fourteen days. Within the fourteen-day period, the commissioner shall hold a public hearing as provided for in subsection 1 and determine whether a quarantine order under subsection 1 should be imposed.
3. Following the establishment of a quarantine, the movement of any product or material described in the quarantine order is subject to the order.
4. Any person who violates a quarantine order issued under this section is guilty of a class B misdemeanor.

4.1-47-30. Preventing the dissemination of noxious weeds - Penalty.

1. a. A person may not willfully transport any material that contains noxious weed seeds or propagating parts, on a public road, in a manner that allows for the dissemination of noxious weeds.
b. A person may not willfully drive or transport any equipment, on a public road, in a manner that allows for the dissemination of noxious weeds.
c. A person may not willfully dispose of any material that contains noxious weed seeds or propagating parts in a manner that allows for the dissemination of noxious weeds.
2. Any person who violates this section is guilty of a class B misdemeanor.

4.1-47-31. Civil penalty.

1. a. In addition to any other penalties provided for in this chapter, a person who violates this chapter or any rules adopted under this chapter is subject to a civil penalty in an amount not to exceed eighty dollars per day for each day of violation, subject to a maximum penalty of four thousand dollars per year.
b. Penalties imposed upon a landowner for failing to comply with the remedial requirements, as set forth in section 4.1-47-28, are a lien against the property of the landowner from the day the notice is delivered to the landowner under section 4.1-47-28.
2. All penalties collected under this section must be credited to the noxious weed control fund of:
 - a. The city in which the violation occurred if the city has a noxious weed control program under this chapter; or
 - b. The county in which the violation occurred.
3. Any penalties provided for under this section may be adjudicated by a court, a county weed board, or a city weed board after a hearing.
4. An aggrieved person may appeal the imposition of a penalty by a county weed board to the board of county commissioners. An aggrieved person may appeal the imposition of a penalty by a city weed board to the governing body of the city.

4.1-47-32. Action on complaint - Request for hearing.

1. a. If an individual filed a signed complaint with a county weed board or the county weed control officer and if the individual believes that the complaint has not been addressed satisfactorily within twenty-one days from the date of the complaint, the individual may file a written request for a hearing with the board of county commissioners.
- b. Upon receiving a request for a hearing, the board of county commissioners shall schedule a public hearing within twenty-one days and shall provide notice of the hearing by publishing its time, place, and date in the official newspaper of the county.
- c. Within fourteen days after the hearing, the board of county commissioners shall issue a determination regarding the matter and shall issue appropriate directives to the county weed board.
- d. A decision by the board of county commissioners under this section is final.
2. a. If an individual filed a signed complaint with a city weed board or the city weed control officer and if the individual believes that the complaint has not been addressed satisfactorily within twenty-one days from the date of the complaint, the individual may file a written request for a hearing with the governing body of the city.
- b. Upon receiving a request for a hearing, the governing body of the city shall schedule a public hearing and shall provide notice of the hearing by publishing its time, place, and date in the official newspaper of the county.
- c. Within fourteen days after the hearing, the governing body of the city shall issue a determination regarding the matter and shall issue appropriate directives to the city weed board.
- d. A decision by the governing body of the city under this section is final.

4.1-47-33. County and city weed boards - Control of invasive species - Acceptance of funds.

1. If a county or a city weed board determines that an invasive species is present within its jurisdiction, the weed board shall notify the commissioner.
2. a. If funds for the control of invasive species are available to the commissioner, the commissioner may forward the funds to a weed board for the purpose of controlling the invasive species on public land and assisting private landowners in their efforts to voluntarily control the invasive species provided:
 - (1) The commissioner determines that, without intervention, the invasive species is likely to become a noxious weed during the ensuing five-year period; and
 - (2) The weed board files a plan with the commissioner detailing the manner in which and the time within which the funds are to be expended.
- b. Notwithstanding any other law, a county or a city weed board may accept funds under this subsection and implement a plan, approved by the commissioner, for the control of invasive species within its jurisdiction.
3. In addition to any funds available from the commissioner, a county or a city weed board may accept funds from any other source to control invasive species within its jurisdiction.

4. For purposes of this section, an invasive species means a plant species that has been introduced into this state and which the North Dakota state university extension service determines has caused or is likely to cause:
 - a. Economic harm;
 - b. Environmental harm; or
 - c. Harm to human health.

Chapter 4.1-14 – Forage Certification

4.1-14-01. Certification of forage - Compliance with other standards.

1. To obtain certification that weeds prohibited according to the standards of the North American weed management association are not cut when producing viable seeds and included in baled forage, the owner of the forage shall request that the agriculture commissioner conduct a certification inspection.
2. Upon receiving the request, the agriculture commissioner shall:
 - a. Inspect the forage acreage within ten days before harvest to verify that weeds prohibited according to the standards of the North American weed management association are not present and producing viable seeds; and
 - b. (1) Ascertain that the scheduled harvest has occurred;
(2) Determine the number of bales for which certification tags must be issued; and
(3) Verify that the baled forage is stored or will be stored only in an area where weeds prohibited according to the standards of the North American weed management association are not present and producing viable seeds.
3. If the agriculture commissioner determines that the conditions of subsection 2 have been met, the commissioner shall issue and affix or cause to be affixed on each bale of forage one dated certification tag.

4.1-14-02. Agents of the commissioner - Designation - Training. The agriculture commissioner may designate individuals to serve as agents of the commissioner for the purpose of conducting the inspections permitted by this Act. To be designated as an agent, an individual must:

1. Be a weed control officer;
2. Be a member of a county or a city weed board;
3. Be determined by the commissioner to have a level of education and experience sufficient to accurately perform the requested certifications; or
4. At least once every thirty-six months, successfully complete a training program conducted by the commissioner.

4.1-14-03. Reciprocal recognition of certification. The agriculture commissioner may contract with any governmental entity that is responsible for the certification of forage in another state or province and provide for the reciprocal recognition of such certifications.

4.1-14-04. Fees - Continuing appropriation. The agriculture commissioner may set and charge fees for certifying forage in accordance with this chapter. The commissioner shall deposit moneys collected under this chapter in the environment and rangeland protection fund.

4-01-27. Publicly owned land - Noxious weed control or eradication.

1. The commissioner shall attempt to arrange a noxious weed control or eradication program with all state and federal agencies owning, controlling, or having jurisdiction over land within the state.
2. Each weed control officer shall attempt to arrange a noxious weed control or eradication program with political subdivisions owning or controlling public land within the weed control officer's jurisdiction.
3. If a federal agency does not control or eradicate noxious weeds on land under the jurisdiction of the agency and does not develop a management plan for controlling or eradicating the noxious weeds, the appropriate weed control office shall notify the agency of the failure to control or eradicate the noxious weeds. The federal agency shall provide a report to the weed control authorities detailing the methods used by the federal agency and showing cause why the federal agency is not controlling or eradicating the noxious weeds. The commissioner may specify the forms on which the federal agency report must be submitted.
4. Upon being notified by a weed board of the federal agency's failure to control or eradicate noxious weeds, the commissioner may hold a public hearing to determine the reason for the failure.

Editor's Note: The following sections from Title 57 of the North Dakota Century Code relate to weed control:

Chapter 57-01 - Tax Commissioner

57-15-06.7. Additional levies - Exceptions to tax levy limitations in counties.

The tax levy limitations specified in section 57-15-06 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the county:

24. A county levying a tax for the destruction of weeds along highways as provided in section 57-15-56 may levy a tax not exceeding two mills.

57-15-54. Destruction of weeds along highways - Elections to be held on questions - tax levy.

Upon resolution by the board of county commissioners, or upon petition by ten percent of the number of qualified electors residing in the county or a county commissioner district who voted for governor at the last general election, the board of county commissioners shall submit the questions of a tax levy to cover all costs of cutting or otherwise destroying all weeds, plants or grass growing along all county or township roads in the county or county commissioner district to the qualified electors of the county or county commissioner district at the next countywide general or special election. If a majority of the qualified electors voting thereon approve, a tax must be levied not exceeding the limitation in subsection 24 of section 57-15-06.7.

Regulations

Chapter 7-06-01

7-06-01-01 Weed control officer's certification

A weed control officer shall be certified upon completion of certification in two categories under the North Dakota Century Code chapter 4-35. The two categories are agricultural pest control and right of way. A temporary certification may be issued for a period of one year to a weed control officer.

History: Amended effective February 1, 1982.

General Authority: NDCC 28-32-02, 63-01.1-03.

Law Implemented: NDCC 63-01.1-05.1.

Editor's Note: The following section, the Noxious Weed List, is currently under review by the North Dakota Department of Agriculture, as authorized by the 2009 Legislature:

7-06-01-02. Noxious weeds listed.

Weeds declared noxious shall be confined to weeds that are difficult to control, easily spread, and injurious to public health, crops, livestock, land, or other property. The following weeds have been declared noxious for the purpose of North Dakota Century Code chapter 63-01.1.

1. Absinth wormwood (*Artemisia absinthium* L.)
2. Canada thistle (*Cirsium arvense* (L.) Scop.)
3. Dalmatian toadflax (*Linaria genistifolia* spp. *dalmatica*)
4. Diffuse knapweed (*Centaurea diffusa* Lam.)
5. Field bindweed (*Convolvulus arvensis* L.)
6. Leafy spurge (*Euphorbia esula* L.)
7. Musk thistle (*Carduus nutans* L.)
8. Purple loosestrife (*Lythrum salicaria* L., *Lythrum virgatum* L. and all cultivars)
9. Russian knapweed (*Centaurea repens* L.)
10. Saltcedar (*Tamarisk* spp.)
11. Spotted knapweed (*Centaurea maculosa* Lam.)
12. Yellow starthistle (*Centaurea solstitialis* L.)

History: Amended effective June 1, 1985; February 1, 2000.

General Authority: NDCC 28-32-02, 63-0 1. 1-03

Law Implemented: NDCC 63-01.1-03

A Public Official's Guide to North Dakota's Open Records & Open Meetings Laws

North Dakota's "sunshine laws" provide that all government records and meetings must be open to the public unless a specific statute authorizes a meeting or record to be closed. The best protection for public officials is a good working knowledge of the laws and the exceptions that apply.

Public access

All "public entities" are subject to the Open Records and Open Meetings laws, including: state agencies; political subdivisions; private organizations or non-profit organizations that are supported by public funds or are expending public funds; and contractors, if the contractor is providing services in place of a public entity rather than simply providing services to that entity.

The terms "record" and "meeting" are defined broadly. To deny public access to a record or a meeting, the public entity first has to identify the law that closes the record or the meeting. Then the entity must explain that law to the person requesting access.

- To deny access to records, the public entity must explain within a reasonable time the legal authority for denying the request. If requested, the denial and explanation must be in writing.
- To deny access to a meeting, the public entity must identify the topics to be considered and the legal authority for closing a meeting before asking the public to leave the meeting room.

Violations

Any member of the public may ask the Attorney General to issue an advisory opinion regarding an alleged violation of the open records or meetings laws. If the Attorney General finds that there was a violation, the entity has seven days to take corrective action. Criminal prosecution also may result if the public entity or employee knowingly violated the law.

Quick tips

- A statute may declare certain records to be exempt or confidential. If a record is exempt, a public entity may release it at its discretion. If a record is confidential, the public entity either cannot release it or must cross out the confidential information first.
- Anyone has the right to attend meetings of a public entity or access and obtain copies of the entity's records, regardless of where they live.
- A governing body can close a meeting to talk with its attorney if the discussion pertains to the attorney's advice regarding a pending or reasonably predictable lawsuit involving the public entity.
- Economic development information identifying the name, nature, and potential location of a business considering relocating or expanding within the state can be closed until the business announces its intentions.
- Public employee salary and job performance information is open, but certain personal information may be exempt or confidential.
- Confidentiality clauses in a settlement agreement involving a public entity are against public policy and are declared void by state law.

- The definition of “record” includes all recorded information, regardless of physical form (paper, email, computer file, photographs, audiotape, or videotape) that has a connection with how public funds are spent or with a public entity’s performance of its governmental functions.
- Public officials and employees generally should know what records under their control must be disclosed. A delay to seek legal advice is reasonable only if there is a legitimate legal or factual question on what may be disclosed. It is not reasonable to delay responding to a request until the next meeting of the governing body.

Open meetings

“Meeting” means any gathering of a quorum of the members of a governing body of a public entity regarding public business. These include committees and subcommittees, informal gatherings or work sessions, and discussions where a quorum of members are participating by phone, either at the same time or in a series of individual phone conversations. If a governing body delegates any authority to two or more people, the new committee is also subject to open records and meetings laws.

- The only time a gathering of a quorum of members is not a meeting is if it is a purely social gathering— as soon as public business is discussed, it becomes a “meeting.”
- A member of the public does not have the right to speak to the governing body at an open meeting. However, other statutes may require a hearing for public comment.

Meeting notices

Prior written notice is required for all open meetings. The notice must include the date, time and location of the meeting and the agenda topics the governing body expects to address during the meeting. Regular meeting agendas may be altered at the time of the meeting. For special or emergency meetings, only the specific topics included in the notice may be discussed.

Meeting notices must be filed with the secretary of state for state agencies, the city auditor for city-level entities, and the county auditor for all other entities. Notices must be posted in the entity’s main office, if it has one, and at the location of the meeting (if the meeting is held elsewhere). Notice of special or emergency meetings must be given to the entity’s official newspaper and any media representatives who have asked for notice of special or emergency meetings. Copies of meeting notices can be obtained from the appropriate office. If requested, a public entity must provide personal notice of all its meetings during a specified time to a citizen.

As a general rule, there is no mandatory advance notice period for public meetings. Notice must be posted, filed at the central location, and given to anyone who has requested it, at the same time the members of the governing body are notified of the meeting.

Open records

Citizens have a right to open records, regardless of the reason. However, a request must reasonably identify existing records. A request for public records can be made in any manner - in person, by mail, e-mail, fax, or by phone. The entity must respond to the request within a reasonable time, either by providing the requested record or by explaining the legal authority for denying all or part of the request.

Depending on the amount of records requested, a “reasonable” time could be a couple of hours or a few days, but not several days or weeks. If the entity cannot fulfill the request immediately, it should give the requester an estimate of when the record will be available.

A public entity can only deny access to information for which there is a specific statute closing that information. The remaining information must be open to the public. The entity can supervise access to an original record to prevent its alteration or destruction. If a request for records is denied, the entity must explain what specific federal or state law makes the requested record confidential or closed to the public. If asked, the entity must put the reason for the denial in writing.

- A public entity cannot ask why the records are requested, ask for identification, require a request be made in writing (or in person). The entity does not have to respond to questions about the record. It does not have to create or compile a record that does not exist.

Costs

Access to records is generally free. An entity may charge up to 25¢ per page for copies on 8½ x 11” or 8 ½ x 14” paper. For any other kind of copy (including photos, maps, computer records, etc.) the entity can charge the actual cost of making the copy, including labor, materials and equipment. Other statutes may authorize a different fee. The entity may require the requester to pay the charge before making or sending the copy. If the requester wants the records mailed, actual postage costs may be included in the charge. The first hour of locating the records is free. After the first hour, you can charge up to \$25 per hour for locating the records. You can also charge up to \$25 per hour for the time it takes to review the records and cross out exempt or confidential information from open records; however, the first hour is free.

Closed meetings

Before a governing body can close a portion of its meeting, it first must convene in a properly noticed open meeting. Next, it has to announce the legal authority to close the meeting and the topics to be considered during the closed portion of the meeting. After that, unless the law requires a closed meeting, the governing body must vote on whether to close the meeting. Any executive session must be tape recorded. All substantive votes must be recorded by roll call.

For more information, please contact:

The Office of Attorney General
600 E. Boulevard Avenue, Dept. 125
Bismarck, ND 58505
Tel: (701) 328-2210
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Website: www.ag.nd.gov(Sept. 1, 2009)

2009 NDWCA BOARD OF DIRECTORS AND COUNTY/CITY WEED BOARD DIRECTORY

REV. 3 Feb 2009

ND WEED CONTROL ASSOCIATION BOARD OF DIRECTORS

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 Chairman Roger Edland 460 91st Ave NE McHenry 58464 785-2242
 Leroy Butts 6285 Main St Carrington 58421 652-3420
 Thomas Thurlow 240 Faith Road Carrington 58421 652-1548
 George Topp 8031 8th St NE Grace City 58445 674-3184
 Wendy Bengochea 1000 5th St N Carrington 58421 652-2581 wbengoch@ndsuext.nodak.edu

GOLDEN VALLEY**FAX NUMBER 872-3028, 872-3936**

Weed Officer/Sec/Bio *Brad Ross 15840 23rd St SW Sentinel Butte 58654-9591 872-4736 badger@midstate.net
 Chairman Amy Northrop PO Box 174 Golva 58632-0174 623-2729
 Robert Schmelling PO Box 700 Beach 58621 872-4761
 Mike VanHorn 3645 158th Ave SW Sentinel Butte 58654 872-3250 mikevh@midstate.net
 Pete Wirtzfeld 15603 Twin Butte Road Sentinel Butte 58654 872-4123, 872-4956 (H) gvshop@midstate.net

GRAND FORKS

Secretary *Pam Aaker PO Box 14776 Grand Forks 58208-4776 780-8312
 Weed Officer/Bio Joel Anderson 415 Westbend Lane Alvarado, MN 56710 741-9333
 Chairman David Staveteig 1083 10th Ave NE Thompson 58278 772-0705
 Vice Chairman Robert Leake 1091 23rd St NE Emerado 58228 594-2933
 Herbert (Bud) Welte 624 46th St Aneta 58212 326-4588
 David Middleton 2146 29th Ave Manvel 58256 696-2346
 Ralph McCanna 2096 39th St McCanna 58253 397-5741

GRANT

Weed Officer/Bio/Treas *Merlin Leithold 6135 Hwy 49 Elgin 58533-9226 584-3204, 220-7908 (C) leithold@westriv.com
 Chairman Morris Haase 7705 63rd St SW New Leipzig 58562 584-2095
 Vice Chairman Dave Skjoldal 6570 56th St Glen Ullin 58631 348-3264
 Secretary Marie Ackerman 7265 58th St SW Elgin 58533 584-2493
 Pete Hette 6425 84th St SW Elgin 58533 584-2365
 Ervin Ternes 3500 78th St SW Shields 58569 597-3604
 Jeff Dahners 5320 64th St SW Carson 58529 622-3476
 Duane Woodbury 5560 66th St SW Carson 58529 622-3575

GRIGGS**FAX NUMBER 797-3587**

Secretary *Cynthia Anton PO Box 511 Cooperstown 58425-0511 797-3117 cindy.anton@griggsnd.com
 Chairman Lyle Pfeifer 11451 Hwy 200 Cooperstown 58425-9172 797-2251
 Weed Officer John Swenson PO Box 511 Cooperstown 58425-0511 797-3312 griggs@ndsuent.nodak.edu
 Ronnie Edland 371 109th Ave NE Cooperstown 58425-9240 797-3156
 Kent Anderson 191 97 Ave NE Sutton 58484 797-3117, 797-3156 (H)
 Robert Johnson 450 96 Ave SE Sutton 58484 797-3117, 797-2519 (H)
 Dennis Halvorson 203 11th St SE Cooperstown 58425 797-3117, 797-3292 (H)

HETTINGER**FAX NUMBER 824-2717**

Weed Officer	*Paul Schwartz	9405 Hwy 21 Mott 58646	824-2552	maryandpaul@ndgateway.com
Chairman/Bio	Dwain Barondeau	PO Box 608 Mott 58646-0608	824-2095, 223-6506 (H)	dbaronde@ndsnext.nodak.edu
Secretary	Roy Steiner	PO Box 668 Mott 58646-0668	824-2515, 824-3170 (H)	rsteiner@state.nd.us
	David Schauer	Box 47 Regent 58650	563-4344	
	Wade Hoherz	RR 1 Box 11 Bentley 58562	824-2026	
	Gary Witte	Rt 1 Box 24 Regent 58650	563-4461	
	Rex Kelsch	PO Box 263 Mott 58646	824-2030	
	Bradley Steiner	RR 3 Box 25A Mott 58646	824-2108	
	Harvey Herberholz	5825 113th Ave SW New England 58647	579-4219	

KIDDER**FAX NUMBER (630) 839-8901**

Weed Officer/Sec/Bio	*Neil Fanta	410 Hwy 3 N Dawson 58428	391-0501, 320-7777 (C)	fanta.farms@plantpioneer.com
Chairman	Dan Keily	3676 37th Ave SE Tappen 58487	327-8254	
Vice Chairman	Kenny Fischer	1975 40th St SE Driscoll 58532	475-2734	
Treasurer	Michelle Keily	PO Box 167 Steele 58482	475-2672	
Bio	Bobby Steichen	2440 Hwy 3 Tuttle 58488	867-2813, 220-2238 (C)	
	Israel Mittleder	4175 40th Ave SE Tappen 58487	327-4429	
	Christ Gerr	1726 27th Ave SE Tuttle 58488	867-2899	
	Greg Marquardt	1999 44th Ave S Pettibone 58475	273-4183	

LaMOURE**FAX NUMBER 883-5304**

Sec/Treas	*Ralph Evert	PO Box 128 LaMoure 58458-0128	883-5301, 883-5920 (H)	
Chairman	Robert Bubach	10624 Co Hwy 35 SE Litchville 58461	762-4223	
Weed Officer/Bio	James Riddle	10340 76th St SE LaMoure 58458	883-4431	
	Bruce Klein	9944 76th Ave SE LaMoure 58458	883-4213	
	Ken Jolin	PO Box 351 Edgeley 58433-0351	493-2466	
	Bruce Lindgren	7174 Highway 13 Kulm 58456	647-2830	
	Steve Buckeye	6230 8th Ave SE Edgeley 58433-9750	685-2448	

LOGAN**FAX NUMBER 754-2986**

Secretary	*Neil Essig	301 Broadway Napoleon 58561	754-2504	neelda.essig@ndsu.edu
Chairman/Weed Officer	Bobby Buchholz	PO Box 53 Lehr 58460-0053	378-2512	
Weed Officer	Chuck Fettig	3792 68th St SE Wishek 58495	452-2813, 471-1662 (C)	scfettig@bektel.com
	Charles Rau	5812 38th Ave SE Napoleon 58561	754-2403	
	Adam Schumacher	2752 Highway 34 Napoleon 58561	332-6322	
	Elmer Schlecht	6722 62nd Ave SE Gackle 58442	485-3203	
	Robert Ziebart	5961 74th St SE Fredonia 58440	698-2241	

McHENRY**FAX NUMBER 754-2986**

Secretary/Treas	*Lorinda Haman	PO Box 175 Towner 58788-0175	537-5458, 537-5422 (H)	lorinda.haman@nd.nacdnet.net
Weed Officer				
Chairman/Bio	Jerome Peerboom	102 Ave G W Anamoose 58710	465-3681	
Vice Chairman	Marlow Kitzman	8377 2nd Ave NE Willow City 58384	768-2946	
	Robert Chilson	3718 13th Ave N Velva 58790	626-7581	
	George Lerner	781 46th St NE Drake 58736	465-3376	
	Jo Ashley	4893 7th Ave N Voltaire 58792	338-2144	
	Larry Haman	6107 8th Ave NE Towner 58788	537-5836	
	Joe Haman	1246 48th St NE Rugby 58368	537-5340	

McINTOSH**FAX NUMBER 754-2986**

Chairman	*Dean Blumhardt	423 1st Ave NE Ashley 58413-7006	288-3793	dblum@drtel.net
Weed Officer	Jeffrey Klipfel	5455 Hwy 11 E Ashley 58413	374-7841	
	Kenneth Wolf	6135 85th St SE Fredonia 58440-9650	698-2677	
	Kirby Haupt	408 3rd St Ventura 58413	684-7491	
	Lyle Bettenhausen	3395 Highway 13 Wishek 58413	452-2615	lyle@bektel.com

McKENZIE

Weed Officer/Bio	*Cherri Weyrauch	PO Box 930 Watford City 58854	842-4131, 570-7498 (C)	mcweed@restel.net
Chairman	Tim Cayko	15951 Highway 200 Fairview MT 59221	744-5440, (406) 480-5444	caykot@midrivers.com
Vice Chairman	Sharleen Thompson	10682 43rd St NW New Town 58763	675-2392	patshar@ruggedwest.com
Secretary	Norine Jorgenson	11011 28th St NW Watford City 58854	842-4131, 675-2361 (H)	lnjorg@restel.net
	Gene Pojorlie	652 128th Ave NW Grassy Butte 58634-9308	863-6833	
	Jay Lewis	2731 138th Ave NW Alexander 58831	828-3329 (H), 570-3387 (C)	
	Paul Linseth	PO Box 1002 Watford City 58854	444-3032	

McLEAN**FAX NUMBER 462-3542**

Weed Officer/Bio	*Vance Tomlinson	PO Box 1108 Washburn 58577-1108	462-8542, 679-2465 (H)	vtomlinson@state.nd.us
Chairman	Michael Thyberg	2912 8th St SW Washburn 58577	462-8358	
Vice Chairman	Larry Schulz	PO Box 484 Washburn 58577	462-3407	
Sec/Treas	Patrick Carpenter	PO Box 1108 Washburn 58577	462-8541	pcarpent@ndsuxt.nodak.edu
	Herb Schafer	2480 58th Ave NW Roseglen 58775	743-4286	
	David Bergquist	1787 13th St NW Turtle Lake 58575	448-2899	foxden@westriv.com
	Paul Jacobson	PO Box 302 Max 58759	679-2246	

MERCER

Weed Officer/Bio	*Brid Seifert	PO Box 550 Beulah 58523-0550	873-5154, 870-0595 (C)	
Chairman	Melvin Schlender	334 County 11 Golden Valley 58541	948-2294	
Vice Chairman	Willis Wiedrich	70 42nd Ave SW Stanton 58571	748-2185	wie@westriv.com
Sec/Treas	Mike Connolly	1771 Co Rd 5 Golden Valley 58541	983-4634	
	Ivan Keller	6249 2nd St SW Beulah 58523	873-5535	
	Robert Berger	1090 Hwy 200 A Stanton 58571	794-3134	
	Ryan Flemmer	1961 Hwy 49 S Beulah 58523	873-5316	weflemmer@westriv.com
	Richard Scheid	931 County Rd 20 Hazen 58545	748-5679	

MORTON**FAX NUMBER 667-3362**

Weed Officer/Bio	*Wayne Carter	2916 37th St NW Mandan 58554	667-3389, 391-8006 (C)	mcwc39@hotmail.com
Chairman	Roger Griffin	4805 27th Ave Mandan 58554	663-8784	
Vice Chairman	Kevin Schmidt	5105 Hwy 1806 Mandan 58554	663-2024 (H)	
Sec/Treas	Paul Trauger	2395 Hwy 10 Mandan 58554	667-3300	
	Richard Tokach	3609 46th Ave SE Mandan 58554	667-1858	
	James Wanner	7425 35th St Hebron 58638	878-4933	
	James Bahn	4420 32nd Ave New Salem ND 58563	843-8212	
	Ruben Kover	5515 40th Ave Flasher 58535	597-3788	

MOUNTRAIL**FAX NUMBER 628-1676**

Weed Officer/Bio	*Jim Hennessy	PO Box 40 Stanley 58784-0040	628-2835, 628-2768 (H)	jhenness@ndsuxt.nodak.edu
Chairman	Brian Hollinger	8340 66th St NW Stanley 58784	755-3331	
	Jim Pennington	3489 92nd Ave NW New Town 58763		
	Jim Moen	5331 67th Ave NW Plaza 58771	497-3854	
	Kelly Hanson	PO Box 841 Stanley 58784-0841	628-3937	
	Dustin Roise	6940 89th Ave NW Powers Lake 58773	464-5887	

NELSON**FAX NUMBER 322-5615**

Secretary	*Debbie Trostiad	PO Box 407 McVile 58254-0407	322-4433	nchd@stellarnet.com
Chairman	Elvin Johnson	4821 103rd Ave NE, Lakota, ND 58344-9212	247-2253	
Vice Chairman	Marvin Narum	3950 Hwy 35 Michigan	259-2452	
Weed Officer/Bio	Richard Urvand	PO Box 407 McVile ND 58254-0407	322-4433, 322-4449 (H)	
	Kevon Gillet	3610 98th Ave NE Tolna ND 58380-9772	262-4986	
	Charles Gehrke	12258 28th St NE Aneta 58212-9242	326-4205	
	Mark Landeis	5045 124th Ave NE Dahlen 58224	384-6259	

OLIVER**FAX NUMBER 794-3476**

Weed Officer	*Richard Schmidt	PO Box 166 Center 58530-0166	794-8748, 794-3118 (H)	rschmidt@ndsuent.nodak.edu
Vice Chairman	Greg Maier	2743 46th Ave SW New Salem 58563	843-8010	
Secretary	Barbara Fleming	PO Box 188 Center 58530	794-8721	
	Robert Weisgarber	2751 Hwy 200a Hensler 58530-9433	794-3449	
	Ken Riedeman	5445 21st St SW Hazen 58545	748-2123	
	Darrell Schulte	1680 40th Ave SW Center 58530	794-3565	
Chairman	Linda Nelson	2360 22nd St SW Center 58530	794-3727	
	Eldon Hintz	4351 22nd St SW Hannover 58563	794-3355	
	Gene Grosz	1489 53rd Ave SW Hazen 58545	748-5540	

PEMBINA**FAX NUMBER 265-4876**

Weed Officer	*Katie Herseth	1194 140th Ave Drayton 58225	(218) 455-6378, 520-0076 (C)	herseth@polarcomm.com
Chairman	Corene Vaughn	306 Boundary Rd E Cavalier 58220-4218	265-8655	vaughn@polarcomm.com
Vice Chairman	Andy Adamson	408 S 4th St Drayton 58225	454-6322	andy@gra.midco.net
Bio	Lesley Lubenow	301 Dakota St W #7 Cavalier 58220	265-8411	lesley.lubenow@ndsu.edu
	Hugh Ralston	13328 86th St NE Crystal 58222	657-2283	
	Hetty Walker	PO Box 525 Pembina 58271	825-6205	hwalker@polarcomm.com
	Dorothy Robinson	301 Dakota St W #1 Cavalier 58220-4111	265-4231, 265-4762 (H)	drobinso@pioneer.state.nd.us
	Gary Nilsson	PO Box 1 Walhalla 58282	265-4231, 549-3443	

PIERCE**FAX NUMBER 776-6942**

Weed Officer/Bio Control ***B. R. Hornstein** 205 3rd St SE Rugby 58368 776-5225, 776-6227 (H) kfursath@state.nd.us
 Jason Marchus 7671 42nd Ave NE Wolford 58385 583-2811
 Karin Fursather 240 2nd St SE Rugby 58368 776-5225
 David Misler 2290 56th St NE Rugby 58368 776-2223
 Richard Eckhart 3210 26th Ave NE Martin 58758 776-5225, 693-2345 (H)
 Mark Koenig 1970 61st St NE Rugby 58368 776-5160
 Mike Christenson 2851 70th St NE Rugby 58368 776-6474
 Dwayne Brossart 2690 78th St NE Barton 58384 776-2324
 Richard Heilman 3251 56th St NE Rugby 58368 776-5842

RAMSEY

Weed Officer/Secretary ***Roger Gunderson** 413 14th St Devils Lake 58301 662-7330 gunde@dvl.midco.net
 Chairman Kenneth Paulson 6438 88th Ave NE Webster 58382 395-4346 paulsonbros@stellar.net
 Dale Fisk PO Box 28 Doyon 58328 398-3535
 Todd Erickstad 8640 70th St NE Starkweather 58377 292-4891
 Stuart Gessner 5399 70th Ave NE Penn 58362 393-4416
 Lee Werner 7505 90th Ave NE Starkweather 58377 868-3787

RANSOM**FAX NUMBER 683-5827**

Secretary Marie Heath PO Box 371 Lisbon 58054 683-5823 ext 7
 Chairman Keenan Lund 5690 125th Ave SE Nome 58062 924-8641
 Weed Officer ***Marty Haugen** 7450 141st Ave SE Milnor 58060 427-5534 bhaugen@drtel.net
 Dan Bartholomay 14440 57th St SE Sheldon 58068 882-3349
 Ron Sveum 6881 149 Ave SE McLeod 58057
 Al Fugl 11659 73rd St SE Verona 58490 432-5623
 Jerome Thompson 306 2nd Ave Englevale 58033
 Mike Bunn 13865 57th St SE Sheldon 58068 882-3309

RENVILLE**FAX NUMBER 756-7158**

Secretary	*Loayne Voigt	PO Box 487 Mohall 58761-0487	756-6392, 756-6184 (H)	loayne.voigt@nds.u.edu
Chairman	Curtis Peterson	5635 92nd St NW Kenmare 58746-9680	467-3336	
Weed Officer/Bio	Dan Dew	PO Box 172 Mohall 58761-0172	756-6320	ndsef@srt.com
	Bruce Nett	108 Oakley Dr Glenburn 58740-7241	784-5819	
	Greg Hanson	10850 River Rd Sherwood 58782	459-2755	
	Mike Limke	PO Box 114 Carpio 58725	468-5954	
	Dan Gilbraith	202 2nd Ave S Mohall 58761	756-6297	
	Mitch Preskey	2485 Glenburn Rd Glenburn 58740	362-7520	

RICHLAND**FAX NUMBER 642-7824**

Secretary	*Darlene Hion	418 2nd Ave N Wahpeton 58075	642-7810	dirion@co.richland.nd.us
Weed Officer/Chairman	Steve Ginsbach	16290 - 91 St SE Hankinson 58041	242-7291, 899-2096	sginsbach@yahoo.com
	Bryan Flaa	7179 County RD 81 Wahpeton 58075	553-9156	
	Larry Wold	17050 - 72nd St SE Wahpeton 58075	372-3846	lcwold@rrt.net
	Mark Stenson	10140 - 151st Ave SE Lidgerwood 58053	538-7488	
	Brian Anderson	8855 156th Ave SE Lidgerwood 58053	538-4453	
	Dan Thompson	820 Birch Ave Wymdmer 58081	640-4857 (C)	
	Jim Anderson	15870 Co Road 4 Wymdmer 58081	372-3885	

ROLETTE**FAX NUMBER 477-5453**

Sec/Treas/Weed Officer	*Mark Miller	PO Box 430 Rolla 58367-0430	477-5671	mamiller@nds.suext.nodak.edu
	David Hill	2889 84th St NE Willow City 58384	246-3789 (H)	
	Fred Lassonde	PO Box 1104 Rolla 58367	477-5234	
	Terry Karnopp	RR 2 Box 51 Rolla 58367	477-3990	
	David Armstrong	RR 2 Box 84 Rolette 58366	246-3408	
	Eldon Moors	RR 1 Box 169E Dunseith 58329	263-3141	

SARGENT**FAX NUMBER 724-6244**

Secretary *Pam Maloney 355 Main St S, Suite 1 Forman 58032-4149 724-6241ext108, 724-3439 (H) pam.maloney@co.sargent.nd.us
 Chairman Ronald Narum PO Box 81 Rutland 58067-0081 724-3908
 Vice Chairman Wayne Sebens 14351 83rd St SE Milnor 58060-9774 427-5804
 Weed Officer Richard Anderson 14069 91st St SE Rutland 58067-9422 724-3617, 680-1819 (C) bbanders@drtel.net
 George Bishoff 12550 100 St SE Cogswell 58017-9726 724-3881
 Nancy Glarum 9676 141st Ave SE Rutland 58067-9456 724-6204
 Chris Mathias 12507 83rd St SE Stirum 58069 678-2374
 Maurice Orn 12355 83rd St SE Stirum 58069 678-2738

SHERIDAN**FAX NUMBER 363-2953**

Secretary/Treasurer *Janice Erdmann PO Box 452 McClusky 58463-0452 363-2206, 884-2566 jerdmann@state.nd.us
 Weed Officer
 Chairman James Haux 1690 2nd Ave NE McClusky 58463 363-2206, 363-2346
 Vice Chairman Jerome Sauter 860 21st Ave NE Goodrich 58444 363-2206, 884-2794
 Myron Dieterle 661 22nd St NE Kief 58723 626-7470
 Donald Hausauer 31 5th St NE McClusky 58463 363-2206, 363-2681
 Clifford Kahler 2051 2nd St SE Goodrich 58444 884-2659

SIOUX**FAX NUMBER 854-7324**

Chairman/Weed Officer *Victor Kraft PO Box 81 Selfridge 58568 422-3732
 Treasurer Ron Gross PO Box 943 Shields 58569 422-3784
 Layne Schoon 9721 Hwy 49 N Lemon SD 57638 376-3213
 Raymond (Sandy) Luger PO Box G Fort Yates 58538 854-3423, 854-7282
 Dusty Kraft 9645 25th Ave Selfridge 58568 422-3623

SLOPE**FAX NUMBER 879-6278**

Weed Officer/Secretary *Joan Lorge 6503 150th Ave SW Amidon 58620-8912 879-6316, 523-6675 (C) jolorge@nd.gov
 Chairman Dale Klug 7404 139th Ave SW Bowman 58623 523-5562
 Vice Chairman Gene Davis 5808 160th Ave SW Rhame 58651-9671 279-5769
 Tim Oberfoell PO Box 718 Bowman 58623-0718 523-4287, 523-6296 (C)
 Hope Mastel PO Box 96 Marmarth 58643-0096 279-5427, 440-5562 (C)
 Mike Teske 12607 75th St SW Scranton 58653 275-8769 (H)

STARK**FAX NUMBER 456-7670**

Secretary	*Kaye Jessen	1340 W Villard Dickinson 58601-4646	456-7665	kaye.jessen@nds.u.edu
Weed Officer/Bio	Diane Allmendinger	868 79th Ave SW Dodge 58625	846-7374 (H), 290-8987 C	diallmendinger@nd.gov
Chairman	Phillip Messer	8510 52nd St SW Richardton 58652-9437	974-3384	
Vice Chairman	Duane Wolf	558 4th Ave SW Dickinson 58601	225-5882	
	Ronald Hauck	3040 88th Ave SW Richardton 58652-9722	974-3523	
	Leland Brand	9511 39th St SW Taylor 58656-6624	974-3578	
	Daryl Zarak	12548 Hwy 10 W South Heart 58655	575-8116	
	JoAnn Hoff	10591 43rd St SW Dickinson 58601	290-2899 (C), 225-9420 (H)	
	Arthur Decker	4850 122nd Ave SW South Heart 58655	677-5367	

STEELE**FAX NUMBER 524-1715**

Secretary	*Linda Leadbetter	PO Box 275 Finley 58230	524-2110	lleadbet@nd.gov
Weed Officer	Keith Jacobson	RR1 Box 26 Hope 58046	945-2480	
	Dennis Lindstrom	303 7th St E Finley 58230	524-1135	
	Jane Amundson	PO Box 64 Sharon 58277	524-1088	
	Lance Fugleberg	RR1 Box 49 Portland 58274	786-4129, 361-0330 (C)	
	Randy Richards	RR 1 Box 84 Hope 58046	945-2572	

STUTSMAN**FAX NUMBER 251-1603**

Weed Officer/Sec.Treas	*Ron Manson	511 2nd Ave SE Jamestown 58401-0040	251-1261, 320-4512 (C)	rmanson@nd.gov
Chairman	David Deutscher	5555 40th St SE Medina 58467	486-3354	
Vice Chairman	Bob Martin	606 4th Ave SE Jamestown 58401	252-7666, 252-7485	
	Clarice Leichty	102 3rd Ave SE Jamestown 58401	252-5900	
	Ray Albrecht	PO Box 1444 Jamestown 58402	253-7860, 252-4845 (H)	
	Mark Klose	8021 34R St SE Jamestown 58401	252-8723	
	Dale Reimers	1504 9th Ave SE Jamestown 58401	252-5332	
	Kim Lees	108 3rd Ave Buchanan 58420	269-2539 (C), 252-9584	kleees@daktel.com

TOWNER

Chairman	*Roger Copeland	7383 67th St NE Starkweather 58377-9639	968-3680, 739-5683 (C)	jcrosmal@stellarnet.com
Vice Chairman	Richard Rham	7070 102nd St NE Rock Lake 58365	266-5508	
Secretary	Duane Haugen	119 1st St Cando 58324	968-3680	
Weed Officer/Bio	George Freund	PO Box 744 Cando 58324-0744	968-3440	
	William Harkness	6974 57th Ave NE Leeds 58346	466-2579	
	Scott Boe	5457 94th St NE Perth 58363	477-5555	

TRAILL

FAX NUMBER 636-5666				
Co Ext Agent	*Ken Nicholls	PO Box 730 Hillsboro 58045	636-5665, 877-843-6383	traill@ndsuet.nodak.edu
Chairman	LeRoy Brenna	1467 4th St SE Clifford 58016	488-2701	
Secretary	LeAnn Beck	PO Box 730 Hillsboro 58045	636-5665, 877-843-6383	
Weed Officer	Ronald Peterson	1519 172nd Ave NE Buxton 58218	856-3311	
Bio Control	Earle Spillum	218 Niell St Buxton 58218	847-2718	
	Wendell Berg	225 158th Ave NE Hillsboro 58045	786-2436	
	Donald Rye	16869 14th St NE Buxton 58218	847-2071	
	Thomas Eblen	508 4th St SE Hillsboro 58045	636-4011	
	David Holter	14759 15th St NE Hatton 58240	543-3172	

WALSH

FAX NUMBER 352-5072				
Weed Officer/Bio	*Brent Nelson	638 Cooper Ave Grafton 58237	352-2311, 284-6645 (H)	banelson@state.nd.us
Chairman	Bruce Fagerholt	7591 Hwy 18 Hoople ND 58243	894-6292	
Vice Chairman	Mike Houska	PO Box 578 Grafton 58237	352-1630	
Secretary	Katie Dietz	638 Cooper Ave Grafton 58237	352-2311	kdietz@nd.gov
	Brad Aune	11545 76th St NE Fairdale 58229	966-2539	
	Daniel Kasprick	1331 Lawler Ave Grafton 58237	352-3653	
	Allen Ruzicka	12344 57th St NE Fordville 58231	593-6298	
	Albin Jallo	5531 122nd Ave NE Fordville 58231	384-6252	

WARD**FAX NUMBER 838-3801**

Weed Officer/Bio	*Derrill Fick	PO Box 5005 Minot 58702-5005	852-1970, 720-2436 (C)	wcweeds@ndak.net
Chairman	Jerome Behm	15500 11th Ave SW Burlington 58722	725-4951	
Vice Chairman	Chuck Weiser	1820 104th St SE Minot 58701	838-6835	
Secretary	Nancy Ali	PO Box 5005 Minot 58701-5005	852-1970	
	Leonard Lehman	43601 Hwy 52 N Kenmare 58746	848-2488	
	Arvid Carlson	1000 114th Ave NW Minot 58703	725-4465	
	Howard Anderson	2200 62nd St SW Minot 58701	852-4138, 720-7902 (C)	

WELLS**FAX NUMBER 547-3283**

Sec/Treas	*Donna Rau	PO Box 2 Fessenden 58438-0002	547-3158	drweedboard@gondtc.com
Chairman	Dale Schmitz	1923 40 Ave NE Manfred 58341	547-3406	
Vice Chairman	Doug Hoff	PO Box 426 Bowdon 58418	962-3697 (H)	
Weed Officer/Bio	Steve Eckart	505 Clark Ave Harvey 58341	324-2978	seckart@gondtc.com
	Kenneth Muscha	2583 34th Ave NE Harvey 58341	324-2001	
	Joe Risovi	2454 52nd Ave NE Fessenden 58438	547-3545	
	Don Nichols	89 57th Ave SE Sykeston 58486	984-2506, 653-5380 (C)	

WILLIAMS

Weed Officer/Bio	*Jim Basaraba	109 Main St Williston 58801	572-4883, 770-5252 (C)	jboss109@nemont.net
Chairman	Robert Arnson	150884 68th St NW Williston 58801	826-3931	
Secretary	Warren Froelich	PO Box 1109 Williston 58801	572-1717	warrenf@co.williams.nd.us
	Roger Baker	11001 Hwy 1804 Ray 58849	568-3883	
	Lew Holland	8183 119th Ave NW Wildrose 58795	539-2188	
	Dennis Rehak	222 5th St NW Tioga 58852	664-2505	
	Martin Hanson	7783 141st Ave NW Zahl 58856	694-4621	
	Dennis Johnsrud	6121 125th Ave NW Epping 58843	859-5155	
	Doug Lalim	1011 18th St W Williston 58801	572-8165, 572-3621 (H)	

BISMARCK**FAX NUMBER 222-6524**

Chairman	*Mel Fischer	1020 E Central Ave Bismarck 58501-1936	221-3529, 220-3860 (C)	mfischer@state.nd.us
Weed Officer	John Warford	800 Prospect Point Bismarck 58503	222-6471, 223-9763	
City Administrator	John Arlien	1020 E Central Ave Bismarck 58501-1936	250-7671, 220-0365 (C)	jarlien@state.nd.us
	William Wocken	211 N 5th St Bismarck 58501	222-6471	
	Connie Sprynczynatyk	225 Juniper Dr Bismarck 58501	255-3497	
	Dave Jensen	1400 S 3rd Bismarck 58502	223-6456	
	Sandi Tabor	902 W Ave B Bismarck 58501	223-4927	
	Steve Schwab	1700 Houston Dr Bismarck 58504	258-9927	
	Joel Boespflug	1020 E Central Ave Bismarck 58501-1936	250-7671, 220-4006 (C)	jboespfl@state.nd.us

DEVILS LAKE**FAX NUMBER 662-7625**

Chairman/Weed Officer	*Myron Astleson	PO Box 1048 Devils Lake 58301-1048	662-7605, 351-4725 (C)	myrona@dvind.com
Vice Chairman	Leroy Axdahl	PO Box 1048 Devils Lake 58301-1048	662-7619, 662-7127	
	Mike Grafsgaard	PO Box 1048 Devils Lake 58301	662-7614, 662-8457 (H)	mikeg@dvind.com
	Rick Morse	603 14th Ave NE Devils Lake 58301	662-2131, 662-8332 (H)	

DICKINSON**FAX NUMBER 456-6700**

Weed Officer	*Dennis Smith	99 Second Street East Dickinson 58601	456-7744, 260-3731 (C)	djohnson@tmisystems.com
Chairman	Dennis Johnson	50 South 3rd Ave W Dickinson 58601	456-6301, ext. 5	frj@mail.ctctel.com
Vice Chairman	Joe Frenzel	PO Box 1036 Dickinson 58601	225-8183, 225-3112 (H)	
	Bill Reitzeimer	1639 West High St Dickinson 58601	227-7104, 227-1159 (H)	
	Rhonda Dukart	953 10th Ave W Dickinson 58601	483-7322, 483-0703 (H)	
	Carson Steiner	906 17th St W Dickinson 58601	483-3444, 225-1102 (H)	

FARGO**FAX NUMBER 241-8100**

Chairman	*Lee Anderson	402 23rd St N Fargo 58102	241-1452, 730-8811 (C)	laanderson@cityoffargo.com
Vice Chairman	Scott Liudahl	402 23rd St N Fargo 58102	241-1466, 730-8801 (C)	SLiudahl@cityoffargo.com
Weed Officer	Mike Stulz	402 23rd St N Fargo 58102	241-1453, 361-8852	MStulz@cityoffargo.com
Weed Officer	Randy Schmidt	402 23rd St N Fargo 58102	241-1453	
Secretary	Allen Lee	402 23rd St N Fargo 58102	461-8496, 730-8803	ALee@cityoffargo.com
	Al Weigel	402 23rd St N Fargo 58102	241-1463, 730-8662 (C)	AWeigel@cityoffargo.com
	Grant Larson	2301 8th Ave N Fargo 58102	241-1364, 730-8803 (C)	GLarson@cityoffargo.com

GRAND FORKS**FAX NUMBER 787-8145**

Weed Officer	*Wallace Helland	151 S 4th St #301 Grand Forks 58201-4735	787-8100	whelland@grandforksgov.com
Chairman	Michael Brown	PO Box 5200 Grand Forks 58206	746-2607, 775-0930 (H)	
Vice Chairman	Hal Gershman	517 Reeves Drive Grand Forks 58201	780-0902, 775-9732 (H)	
	Eliot Glassheim	619 N 3rd St Grand Forks 58203	772-8840	
	Art Bakken	1963 Prairie Rose CT Grand Forks 58201	746-6079	
	Doug Christensen	19 Inland Hills Ct Grand Forks 58201	775-0521, 772-8923 (H)	
	Curt Kreun	1401 S 35th St Grand Forks 58201-3701	746-7287, 795-8829 (H)	
	Mike McNamara	1503 University Ave Grand Forks 58203	775-9472	

MANDAN**FAX NUMBER 667-3289**

Weed Officer/Sec.	*Robert King	110 Collins Ave Mandan 58554	667-3288	ffemtking@yahoo.com
	Steve Nandello	110 Collins Ave Mandan 58554	667-3288	snandello@state.nd.us
	Andy Beck	110 Collins Ave Mandan 58554	667-3288	
	Ken LaMont	205 2nd Ave NW Mandan 58554	224-5583	
	Jeff Wright	411 6th Ave SW Mandan 58554	667-3240	
	Serabae Hurst	205 2nd Ave Mandan 58554	667-3225	



September 24, 2009

Anne-Marie Griger, AICP
Environmental Planner
Tetra Tech EC, Inc.
7800 Shoal Creek Blvd., Ste 253 East
Austin, TX 78757

Re: Potential Location for 6-mile Long Transmission Line
Morton and Oliver Counties

Dear Ms. Griger:

This department has reviewed the information concerning the above-referenced project submitted under date of September 7, 2009, with respect to possible environmental impacts.

This department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. With respect to construction, we have the following comments:

1. All necessary measures must be taken to minimize fugitive dust emissions created during construction activities. Any complaints that may arise are to be dealt with in an efficient and effective manner.
2. Care is to be taken during construction activity near any water of the state to minimize adverse effects on a water body. This includes minimal disturbance of stream beds and banks to prevent excess siltation, and the replacement and revegetation of any disturbed area as soon as possible after work has been completed. Caution must also be taken to prevent spills of oil and grease that may reach the receiving water from equipment maintenance, and/or the handling of fuels on the site. Guidelines for minimizing degradation to waterways during construction are attached.
3. Projects disturbing one or more acres are required to have a permit to discharge storm water runoff until the site is stabilized by the reestablishment of vegetation or other permanent cover. Further information on the storm water permit may be obtained from the Department's website or by calling the Division of Water Quality (701-328-5210). Also, cities or counties may impose additional requirements and/or specific best management practices for construction affecting their storm drainage system. Check with the local officials to be sure any local storm water management considerations are addressed.

4. Noise from construction activities may have adverse effects on persons who live near the construction area. Noise levels can be minimized by ensuring that construction equipment is equipped with a recommended muffler in good working order. Noise effects can also be minimized by ensuring that construction activities are not conducted during early morning or late evening hours.

The department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

These comments are based on the information provided about the project in the above-referenced submittal. The U.S. Army Corps of Engineers may require a water quality certification from this department for the project if the project is subject to their Section 404 permitting process. Any additional information which may be required by the U.S. Army Corps of Engineers under the process will be considered by this department in our determination regarding the issuance of such a certification.

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,



L. David Glatt, R.E., Chief
Environmental Health Section

LDG:cc
Attach.



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

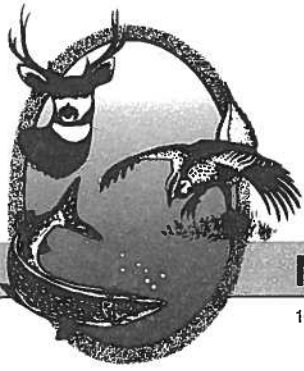
Prevent the erosion of exposed soil surfaces and trapping sediments being transported. Examples include, but are not restricted to, sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap, mesh or burlap blankets to hold soil during construction, and immediately establishing vegetative 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.



"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

October 2, 2009

Anne-Marie Griger, AICP
Tetra Tech, EC Inc.
7800 Shoal Creek Blvd, Suite 253 East
Austin, TX 78757

Dear Ms. Griger:

RE: Project Area Environmental Scan – Six-Mile Long Transmission Line
Morton and Oliver Counties, North Dakota

The North Dakota Game and Fish Department has reviewed this project for wildlife concerns. Our primary concern is the possible disturbance of native prairie and wetland areas during construction of the transmission line. We ask that work within these areas be avoided to the extent possible, above-ground appurtenances not be placed in wetland areas, and disturbed areas be reclaimed to pre-project conditions.

The department manages the Wilbur Boldt Wildlife Management Area in section 32 NE, T142N, R83W. A special use permit would be required to cross these lands. For additional information on permit requirements, Mr. Jeb Williams, Wildlife Resource Management Supervisor, can be contacted at 701-328-6686.

We recommend that overhead lines be marked when placed over perennial streams or sited in close proximity to large wetland complexes to minimize possible avian impacts. The publication "Mitigating Bird Collisions with Power Lines: the State of the Art in 1994" provides a range of management options which can be used to reduce avian collisions.

Sincerely,

(for)

Michael G. McKenna
Chief
Conservation & Communication Division

js



John Hoeven, Governor
Douglass A. Prchal, Director

1600 East Century Avenue, Suite 3
Bismarck, ND 58503-0649
Phone 701-328-5357
Fax 701-328-5363
E-mail parkrec@nd.gov
www.parkrec.nd.gov

September 24, 2009

Anne-Marie Griger
Tetra Tech, EC Inc.
7800 Shoal Creek Blvd, Suite 253 East
Austin, TX 78757

Re: Possible Transmission Line Location

Dear Ms. Griger:

The North Dakota Parks and Recreation Department (the Department) has reviewed the above referenced project proposal to scan an area for a transmission line route located in Sections 4, 5, and 6, T140N, R83W, Morton County; Sections 3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33, and 34, T141N, R83W; and Sections 33 and 34, T142N, R83W, Oliver County.

Our agency scope of authority and expertise covers recreation and biological resources (in particular rare plants and ecological communities). The project as defined does not affect state park lands that we manage or Land and Water Conservation Fund recreation projects that we coordinate.

The North Dakota Natural Heritage biological conservation database has been reviewed to determine if any plant or animal species of concern or other significant ecological communities are known to occur within an approximate one-mile radius of the project area. Based on this review, we have records indicating that habitat may exist for *Potamogeton vaginatus* (sheathed pondweed) and *Potamogeton amplifolius* (large-leaved pondweed) within the project area. Please see attached spreadsheet and map for more specific information on these species. We defer further comments regarding animal species to the North Dakota Game and Fish Department and the United States Fish and Wildlife Service.

Because this information is not based on a comprehensive inventory, there may be species of concern or otherwise significant ecological communities in the area that are not represented in the database. The lack of data for any project area cannot be construed to mean that no significant features are present. The absence of data may indicate that the project area has not been surveyed, rather than confirm that the area lacks natural heritage resources.

The Department recommends that the project be accomplished with minimal impacts and that all efforts be made to ensure that critical habitats not be disturbed in the project area to help secure rare species conservation in North Dakota. Regarding any reclamation efforts, we recommend that any impacted areas be revegetated with species native to the project area.

It is our policy to charge out-of-state requests for data services including data retrieval, data analysis, manual and computer searches, packaging and collection of data. An invoice for services provided has been enclosed.

Thank you for the opportunity to comment on this project. Please contact Kathy Duttonhefner (701-328-5370 or kgduttonhefner@nd.gov) of our staff if additional information is needed.

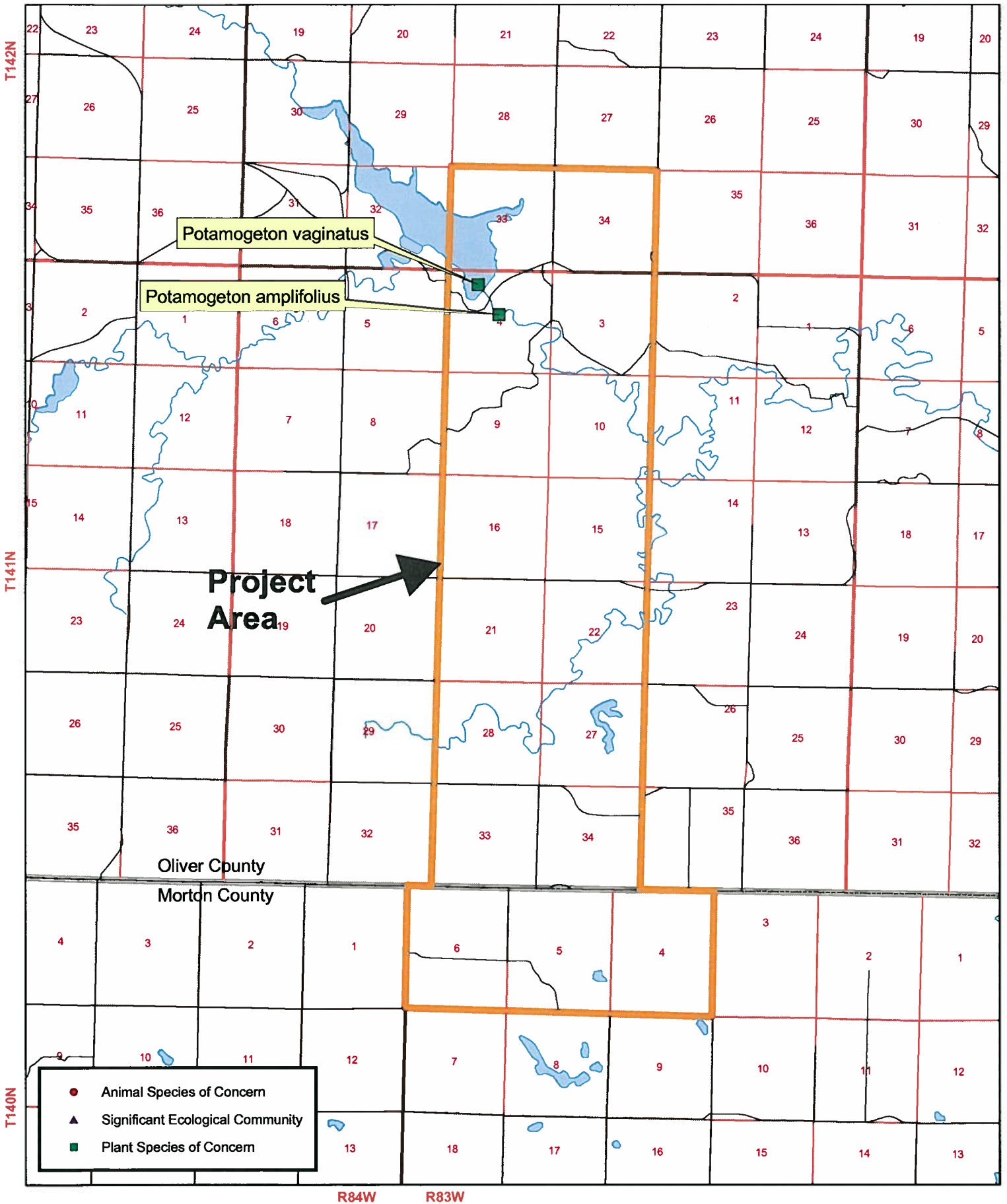
Sincerely,

Jesse Hanson, Coordinator
Planning and Natural Resources Division

R.USNDNHI*2009-250

.....
Play in our backyard!

North Dakota Natural Heritage Inventory Species of Concern and Significant Ecological Communities



North Dakota Natural Heritage Inventory
Rare Animal and Plant Species and Significant Ecological Communities

State Scientific Name	State Common Name	Township Range Section	State Rank	Global Rank	Federal Status	Last Observation	Estimated Representation Accuracy	Precision	County
Potamogeton vaginatus	Sheathed Pondweed	141N083W - 04; 141N083W - 03; 141N083W - 10; 141N083W - 08; 141N083W - 05; 142N083W - 28; 142N083W - 34; 142N083W - 29; 141N083W - 09; 142N083W - 32; 142N083W - 33	S3	G5		7/31/1978		M	Oliver
Potamogeton amplifolius	Large-leaved Pondweed	141N083W - 04; 141N083W - 05; 141N083W - 03; 141N083W - 10; 141N083W - 08; 141N083W - 09; 142N083W - 32; 142N083W - 33; 142N083W - 34	S2S3	G5		7/29/1974		M	Oliver

North Dakota Natural Heritage Inventory Biological and Conservation Data Disclaimer

The quantity and quality of data collected by the North Dakota Natural Heritage Inventory are dependent on the research and observations of many individuals and organizations. In most cases, this information is not the result of comprehensive or site-specific field surveys; many natural areas in North Dakota have never been thoroughly surveyed, and new species are still being discovered. For these reasons, the Natural Heritage Inventory cannot provide a definite statement on the presence, absence, or condition of biological elements in any part of North Dakota. Natural Heritage data summarize the existing information known at the time of the request. Our data are continually upgraded and information is continually being added to the database. This data should never be regarded as final statements on the elements or areas that are being considered, nor should they be substituted for on-site surveys.

Estimated Representation Accuracy

Value that indicates the approximate percentage of the Element Occurrence Representation (EO Rep) that was observed to be occupied by the species or community (versus buffer area added for locational uncertainty). Use of estimated representation accuracy provides a common index for the consistent comparison of EO reps, thus helping to ensure that aggregated data are correctly analyzed and interpreted.

Very high (>95%)

High (>80%, <= 95%)

Medium (>20%, <= 80%)

Low (>0%, <= 20%)

Unknown

(null) - Not assessed

Precision

A single-letter code for the precision used to map the Element Occurrence (EO) on a U.S. Geological Survey (USGS) 7.5' (or 15') topographic quadrangle map, based on the previous Heritage methodology in which EOs were located on paper maps using dots.

S - Seconds: accuracy of locality mappable within a three-second radius; 100 meters from the centerpoint

M - Minute: accuracy of locality mappable within a one-minute radius; 2 km from the centerpoint

G - General: accuracy of locality mappable to map or place name precision only; 8 km from centerpoint

U - Unmappable



Natural Resources Conservation Service
P.O. Box 2096
Jamestown, ND 58402-2096

September 25, 2009

Anne-Marie Griger, AICP
Tetra Tech, EC Inc
7800 Shoal Creek Blvd, Suite 253 East
Austin, Texas 78757

RE: Project Area Environmental Scan Morton and Oliver Counties, North Dakota

Dear Ms. Griger,

Recently David Pfiliger the District Conservationist in Center contacted me about your office requesting comments about how the development of a six-mile long transmission line in parcels of land in Oliver and Morton Counties affect land use and applicable permits that maybe required from his office. The Natural Resources Conservation Service (NRCS) concerns are in regards to prime farmlands, wetlands, and soil erosion in Oliver and Morton Counties. NRCS policy regarding prime farmlands and wetlands is as follows.

Farmland Protection Policy Act (FPPA) – NRCS has a major responsibility with FPPA in documenting conversion of farmland (i.e., prime, statewide, and local importance) to non-agricultural use. If your proposed project does not include any federal funds FPPA does not apply; therefore, no further action is needed. If your project includes, any federal funds, FPPA may apply, and the form AD-1006 must be completed. Please follow the instructions below and complete the enclosed Farmland Conversion Impact Rating Form AD-1006 for all permanent structures. A fill-able, web based form Farmland Conversion Impact Rating Form AD-1006 is available at http://www.nrcs.usda.gov/Programs/fppa/pdf_files/AD1006.PDF to record the following information. Please complete Part I and Part III and return to me. I will also need a map of the sites at an appropriate scale so I can accurately assess the area (e.g., 1:20,000 or 1:24,000). If the farmland (i.e., prime, statewide, and local importance) is determined to be subject to the FPPA, I will then complete Parts II and IV. NRCS will measure the relative value of the site as farmland on a scale of 0 to 100, according to the information sources listed in CFR 658.5(a). If FPPA applies to this site, Form AD- 1006 will be returned to your agency for completion of Part VI, Site Assessment Criteria.

For the past year, NRCS has been monitoring Farmland Conversion Impact Ratings (Form AD-1006 and Form AD-106). Over this period of time, we have become concerned with how the forms are being completed, particularly Part IV – Site Assessment Criteria, which is consistently being scored below 60 points.

Ms. Griger

Page 2

As a general rule, if FPPA applies and the site is in agricultural production, rarely would it be appropriate for it to have a score of less than 60 points. According to CFR 658.4(g), your agency is requested to return a copy of the Form AD-1006, which Page 2 indicates, the final decision, to NRCS so we can meet our reporting requirements and for data collection process.

Wetlands - The Wetland Conservation Provisions of the 1985 Food Security Act, as amended, provide that if a USDA participant converts a wetland for the purpose of, or to have the effect of, making agricultural production possible, loss of USDA benefits could occur.

NRCS has developed the following guidelines for the installation of permanent structures where wetlands occur. If these guidelines are followed, the impacts to the wetland(s) will be considered minimal allowing USDA participants to continue to receive USDA benefits. Following are the requirements: 1) Disturbance to the wetland(s) must be temporary, 2) no drainage of the wetland(s) is allowed (temporary or permanent), 3) mechanized landscaping necessary for installation is kept to a minimum and preconstruction contours are maintained, 4) temporary side cast material must be placed in such a manner not to be dispersed in the wetland, and 5) all trenches must be backfilled to the original wetland bottom elevation.

NRCS would recommend that impacts to wetland(s) be avoided. If the alignment of the permanent structure requires construction in a wetland, NRCS can complete a certified wetland determination, if requested by the landowner/operator. In addition, care should be taken during the construction of the proposed project to minimize soil blowing and water erosion as these may cause negative impacts to adjacent farmlands.

If you have additional questions pertaining to FPPA, please contact me, at (701) 252-1460 EXT 115

Sincerely,



FREDERICK P. AZIZ

Area Resource Soil Scientist

Enclosure

Cc: w/o encl.

David D. Pfliger, DC, NRCS, Center, ND

Michele R. Doyle, DC, NRCS, Mandan, ND

Mike Collins, ASTC (FO), NRCS, Jamestown, ND

Steven J. Sieler, SSL, NRCS, Bismarck, ND

1707 North 9th Street
PO Box 5523
Bismarck, ND 58506-5523
Phone: (701) 328-2800
Fax: (701) 328-3650



Gary D. Preszler, Commissioner

www.land.nd.gov
www.nd.gov

September 25, 2009

ANNE-MARIE GRIGER AICP
TETRA TECH EC INC
7800 SHOAL CREEK BLVD STE 253 EAST
AUSTIN TX 78757

Re: Project Area Environmental Scan, Morton and Oliver Counties, North Dakota

Dear Anne-Marie,

The ND State Land Department manages School Trust surface and mineral acreage within the proposed electric transmission line corridor and reviews projects on an individual basis as to their impact to these assets. Should School Trust lands be proposed for inclusion in the project you can submit an on-line application for review at <http://www.land.nd.gov/surface/row/>. Attached is a copy of the boiler plate linear easement form used by the Land Department if an easement request is approved. Let me know if you have questions. Thanks.

Sincerely,

A handwritten signature in blue ink that reads 'Michael L. Haupt'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael L. Haupt, CPRM
Land Management Professional

Enclosure

MLH/jfs
g:\support\ltrs\ltrs - jfs\hpltrs jfs.doc

STATE OF NORTH DAKOTA
BOARD OF UNIVERSITY AND SCHOOL LANDS

The State of North Dakota acting through the Board of University and School Lands (GRANTOR), in consideration of \$(\$), which has been received, conveys to (Name & Address) (GRANTEE), an easement to construct, operate, maintain and remove (number, type of structure, diameter, voltage, overhead, underground, etc.) with the right of ingress and egress, over certain land in the (qtr) of Section (#), T(#N, R(#W, (County) County, North Dakota, hereafter referred to as the "easement area", which is a strip of land (ft) feet wide, (ft) feet on each side of the following described centerline:

(narrative)

The centerline is (ft) feet or (rods) rods long, and the easement area contains (acres) acres, more or less. The easement area is further described and illustrated in Exhibit "(exhibit letter)" which is attached to and is a part of this easement.

1. GRANTEE may also temporarily use an additional (#) feet of temporary right of way on the working side of the (type of structure) as a construction right of way. This construction right of way shall be subject to the topsoil reservation and reclamation provisions of this easement and must be abandoned upon the completion of construction and reclamation.
2. GRANTEE agrees that there will be no surface disturbance or surface occupancy of the (# of segment(s)) segment(s) of the easement area that are designated for (type of structure) installation by horizontal boring as specifically shown on Exhibit "A" without written permission from GRANTOR
3. (OPTIONAL) The top of the (type of structure) must be buried at least 36 inches below the ground's surface.
4. GRANTEE may install the following described equipment or appurtenances upon the surface or at a depth less than 36 inches: (N/A or list equipment). For this additional equipment, GRANTEE has paid (N/A or dollar amount of additional compensation) as further consideration. GRANTEE shall, when necessary, protect all above ground equipment or appurtenances with a fence adequate to prevent livestock access and shall paint all above ground structures; except wire fences, anchors, guy wires, steel towers, and wood poles; with earth tone colors.
5. If construction of the (type of structure) is not completed within one year after GRANTOR signs this easement, this easement automatically terminates.
6. GRANTEE shall make a satisfactory settlement with the surface tenant for damage to seeded annual crops, fences or other improvements owned by the tenant, caused by construction, operation, maintenance or removal of the (type of structure) and shall notify the surface tenant of the construction schedule at least one week before construction.
7. GRANTEE, or its agent, shall have a legible copy of this easement with them on site for reference during construction, operation, maintenance or reclamation and shall present the copy upon GRANTOR's request.
8. This easement is subject to all of the GRANTOR's existing rights and privileges.
9. If, prior to or during construction, archeological or paleontological items are discovered or such items are disturbed, GRANTEE shall cease construction activities immediately. GRANTEE shall then promptly notify GRANTOR and must not resume construction until written approval is given by GRANTOR.
10. GRANTEE shall, prior to construction, maintenance or removal, reserve the top 12 inches of soil from areas subject to topsoil and subsoil mixing. The reserved soil must be stockpiled to minimize wind and water erosion. Upon completion of construction, and maintenance or removal, GRANTEE shall promptly reclaim the disturbed area. It must be recontoured to conform to the adjacent natural topography, rocks exposed by excavation must

EASEMENT: (type of structure)

ROW #(#) (Pg 2)

be hauled off or reburied on the property, the reserved soil must be evenly respread over the disturbed area, and the entire disturbed area must be revegetated with a mixture of native perennial grasses as shown in **Exhibit "(exhibit letter)"**. Reclamation is not complete until rocks are removed from the surface, erosion is controlled and the surface is revegetated with a mixture of native perennial grasses.

11. GRANTEE shall implement reasonable measures to prevent accelerated erosion. If an erosion problem develops, GRANTEE shall promptly take the necessary actions to correct it and shall repair any erosion damage.
 12. GRANTEE shall not discharge oil, gas liquids, salt water, or any other hazardous liquids or toxic substances onto the right-of-way or land adjacent to the right-of-way. All discharges of oil, gas liquids, salt water, or other hazardous liquids or toxic substances shall be stopped as soon as possible after discovery and acted upon immediately to halt movement of such discharges. Any such discharges shall be reported immediately to the GRANTOR. The GRANTEE shall then restore the affected area as closely as possible to its original condition.
 13. GRANTEE shall control all noxious weeds in the easement area.
 14. GRANTEE may cut or trim trees and shrubs, but only to the extent they interfere with or endanger the operation or maintenance of the **(type of structure)**.
 15. GRANTEE shall maintain the natural water flow and drainage.
 16. GRANTEE shall take necessary precautions to prevent fires. In the event of a fire caused by the GRANTEE or its agent, GRANTEE shall compensate the GRANTOR's surface lessee(s) for their losses including forage, crop and any other losses; and shall compensate GRANTOR for any loss it suffers due to the fire.
 17. GRANTEE shall conduct all activities associated with the **(type of structure)** in a manner that avoids the degradation of air, land, and water quality and that protects the area's visual resources.
 18. GRANTOR reserves the right to use the easement area and to allow others to use the easement area for purposes compatible with GRANTEE's use. If someone other than GRANTOR uses the easement area in a manner inconsistent with GRANTEE's use, GRANTOR is not liable or responsible.
 19. **(Option 1/ Section line road - always include with option three)** Through this easement, GRANTEE is not acquiring any subsurface interest. Subsurface interests include, but are not limited to oil, gas, coal, cement materials, sodium sulfate, sand and gravel, scoria, road material, building stone, chemical substances, metallic ores, uranium ores, or colloidal or other clays.
- (Option 2/ Non section line, movable structures)** Through this easement, GRANTEE is not acquiring any subsurface interest. Subsurface interests include, but are not limited to oil, gas, coal, cement materials, sodium sulfate, sand and gravel, scoria, road material, building stone, chemical substances, metallic ores, uranium ores, or colloidal or other clays. If any subsurface interest is or will likely be excluded from mining or development because of the presence of this easement or the **(type of structure)** allowed by this easement, or if the location of the **(type of structure)** interferes or will likely interfere with the mining or development of subsurface interests outside of the easement area, this easement will terminate. GRANTOR will give GRANTEE at least sixty (60) days prior written notice of this easement's termination under this paragraph. If GRANTEE wishes to have the **(type of structure)** relocated within the tract and if GRANTOR determines that a suitable location exists within the tract, GRANTOR agrees to grant a new easement for such relocated **(type of structure)** without additional compensation, but GRANTEE shall bear all relocation costs.
- (Option 3/ Non section line, non-movable structures)** If any subsurface interest is or will likely be excluded from mining or development because of the presence of this easement or the **(type of structure)** allowed by this easement, or if the location of the **(type of structure)** interferes or will likely interfere with the mining or development of subsurface interests outside of the easement area, GRANTEE will compensate GRANTOR for

EASEMENT: (type of structure)

ROW #(#) (Pg 3)

the damages suffered because of GRANTOR's inability to develop or benefit from the development of subsurface interests.

(Option 4/ Wind Tower option) Through this easement GRANTTEE is not acquiring any subsurface interest. Subsurface interests include, but are not limited to oil, gas, coal, cement materials, sodium sulfate, sand and gravel, scoria, road material, building stone, chemical substances, metallic ores, uranium ores, or colloidal clays or other clays. If any subsurface interest is or will likely be excluded from mining or development because of the presence of this easement or the (type of structure) allowed by this easement, or if the location of the easement and (type of structure) interferes or will likely interfere with the mining or development of subsurface interests outside of the easement area, GRANTOR will give GRANTTEE at least sixty days written notice of the conflict between this easement and GRANTOR's right to mine and develop subsurface interests. At the end of the sixty day period GRANTTEE must either pay GRANTOR the amount of lost royalties as determined by GRANTOR for the damages suffered because of GRANTOR's inability to mine or develop subsurface interests, or to benefit from their mining or development, or GRANTTEE must agree to relocate the easement and the (type of structure) to another location within the tract, provided GRANTOR determines that a suitable substitute location exists on the tract. If GRANTTEE selects relocation and if GRANTOR agrees that a suitable substitute location exists, this easement will be revised to describe the easement's new location and GRANTTEE will move all structures and other physical features of the easement to the new location. Relocation does not entitle GRANTOR to additional compensation but GRANTTEE must bear all relocation costs. GRANTTEE must promptly complete relocation.

20. If GRANTOR determines at any time during the existence of the easement, that the easement negatively interferes with or affects in any manner and to any extent the marketability, market value, development, or the value for development of state-owned land in **Section (#), T(#)N, R(#)W, (County) County**, GRANTOR may take any one of the following actions. One, terminate this easement. Two, require GRANTTEE at GRANTTEE'S expense to move the **(type of structure)** to another location within the affected tract, if it is determined by the GRANTOR that a suitable location exists within the tract. Three, require GRANTTEE to compensate GRANTOR, at the amount set by the GRANTOR, for the loss GRANTOR incurs because of the easement's presence. The rights given in this paragraph are personal to the GRANTOR and only the GRANTOR may exercise them.
21. GRANTTEE agrees to defend, indemnify and hold harmless GRANTOR from any claims by any person that are in any way related to GRANTTEE's use of the easement area, including all costs, expenses, and attorney fees that in any manner result from or arise out of this agreement. **(Optional sentence in the event there is a structure involved) It is GRANTTEE's exclusive right and responsibility to construct, maintain, and remove the (type of structure).** GRANTTEE further accepts liability and indemnifies GRANTOR, and its officers and employees, from all costs, expenses and attorneys fees incurred in establishing and litigating the indemnification coverage provided above. The legal defense provided by GRANTTEE to the GRANTOR under this paragraph must be free of any conflicts of interest, even if this requires GRANTTEE to retain separate legal counsel for GRANTOR. The obligations of this paragraph shall continue after this agreement terminates.
22. Any fixtures, structures, installations or facilities constructed or installed by GRANTTEE, are the property of GRANTTEE and may be removed by GRANTTEE at any time.
23. GRANTTEE shall remove all improvements, both above ground and underground, from the easement area when the easement is abandoned or in any other way terminated, unless authorized to do otherwise in writing by GRANTOR.
24. This easement shall be a covenant running with the land and shall be binding on the heirs, successors, and assigns of the parties hereto.
25. This easement is subject to all existing easements and nothing in this easement supercedes any rights previously granted.
26. GRANTOR neither warrants nor agrees to defend title to the easement area.

EASEMENT: (type of structure)

ROW #(#) (Pg 4)

27. This easement is also subject to the conditions in **Exhibits "(list exhibits)"** which are attached and made a part of this easement.

EASEMENT: (type of structure)

ROW #(#)
Exhibit "(LTR)"

**NORTH DAKOTA
BOARD OF UNIVERSITY & SCHOOL LANDS
State Land Department**

Native Grass Seeding Specifications

<u>Species</u>	<u>lbs. PLS*/acre</u>	<u>% of Mixture</u>
Western wheatgrass	8	42%
Slender wheatgrass	5	26%
Green needlegrass	4	21%
Side-oats grama	<u>2</u>	<u>11%</u>
	19	100%

*PLS - Pure Live Seed (based on 50 PLS/sq. feet)

1. The seed bed should be firmly packed (footprints left in the soil should be less than 1/2 inch deep).
2. An early spring seeding (before May 24th) is preferred. A dormant fall seeding (after October 20th) is acceptable.
3. A cover crop of oats at 10 lbs. PLS/acre must be seeded on the disturbed area.
4. A drill designed specifically for native grass seeding will give the best seeding results. The seed should be planted at a depth of 1/2 to 1 inch. Precaution must be taken not to plant the seed too deeply in the soil or poor germination will result.
5. On areas where equipment cannot be used, broadcast seed and rake or drag to cover seed. Where seed is broadcast, double the seeding rate.
6. Use only North Dakota certified seed.



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Ecological Services
3425 Miriam Avenue
Bismarck, North Dakota 58501

OCT 20 2009

Ms. Anne-Marie Griger
Tetra Tech, EC Inc.
7800 Shoal Creek Boulevard, Suite 253 East
Austin, Texas 7 8757

Dear Ms. Griger:

This is in response to your September 11, 2009, request for environmental information relating to a proposed north-south six mile electric transmission line by NextEra Energy in connection with wind energy development in Morton and Oliver Counties, North Dakota. The northern terminus of the proposed transmission line is approximately 5 miles southeast of Center, North Dakota. The proposed transmission line corridor includes portions of:

T. 140 N., R. 83 W., Sections 4-6

T. 141 N., R. 83 W., Sections 3, 4, 9, 10, 15, 16, 21, 22, 27, 28, 33, and 34

T. 142 N., R. 83 W., Sections 33 and 34

We offer the following comments under the authority of and in accordance with the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 et seq.), Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668-668d, 54 Stat. 250), Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), and the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57).

The information provided in your letter (Appendix 1: Summary of Surveys Conducted to Date) indicates that the proposed project would be constructed to serve the planned Oliver Expansion Project (Oliver Wind Energy Center Phases III, IV, and V) which could include up to 400, 1.5 Megawatt (MW) wind turbines and 261, 2.5 MW wind turbines located in a 167-square mile area of Morton and Oliver Counties. No additional information is provided regarding the construction and operation of the Oliver County Expansion Project. Although the project proponents may consider the transmission line and the wind farm expansion as separate, these projects would each appear to be dependent on the other. The potential impacts of these efforts should be assessed together. The U.S. Fish and Wildlife Service (Service) recommends that the project proponent contact the North Dakota Field Office to discuss the details of the Oliver County Expansion Project at their earliest opportunity.

The Service holds certain resources in trust and manages them for the benefit of the American people. These resources include migratory birds, inter-jurisdictional fish, federally-listed threatened and endangered species of plants and animals and their habitats, and units of the

National Wildlife Refuge system. One goal of Service policy is that conservation of fish and wildlife resources receive equal consideration with other features of resource development, and that conservation actions are coordinated with those other forms of development. Another goal is to conserve, protect, and enhance fish and wildlife and their habitats, and to facilitate the balanced development of the Nation's natural resources. When planning an activity, project proponents should give careful consideration to potential impacts to these trust resources and compliance with the laws mentioned above. Additional information is provided below.

Migratory Birds

The Service has coordinated with the Avian Power Line Interaction Committee (APLIC) to develop guidelines to assist companies in formulating Avian Protection Plans (APP). These plans are utility-specific and designed to provide a structured way for a company to reduce avian mortality resulting from interactions with electric utility facilities (e.g. collisions and electrocutions). The APP can be tailored to each utility's industry-specific and site specific wildlife needs, while in the process furthering avian conservation and improved reliability and customer service. A utility that implements the principles contained in these APP guidelines will greatly reduce avian risk as well its own risk of enforcement under the Migratory Bird Treaty Act (MBTA). The guidelines can be accessed from the Service's website at <http://www.fws.gov/migratorybirds/>. We strongly encourage the project developer of the proposed wind energy facility to investigate the formulation of an APP or if bats may also be affected by the project, an Avian and Bat Protection Plan (ABPP). An example of a completed ABPP can be found at Iberdrola Renewables' website at http://www.iberdrolarenewables.us/pdf/Signed_ABPP_10-28-08.pdf.

To minimize the electrocution hazard to birds, the Service, with support from the Rural Utilities Service, recommends that new or updated overhead power lines be constructed in accordance with the current guidelines for preventing raptor electrocutions. The recommended guidelines can be found in "[2006 Suggested Practices for Avian Protection on Power Lines](#)". To increase power line visibility and reduce bird fatalities resulting from collisions with power lines, the Service recommends all new power lines that cross or run adjacent to rivers or large wetlands be modified according to "[Mitigating Bird Collisions with Power Lines: The State of the Art in 1994](#)". Both publications can be obtained by writing or calling the Edison Electric Institute, P.O. Box 266, Waldorf, Maryland 20604-0266, (1-800-334-5453) or visiting their website at www.eei.org. Marking of overhead lines can also reduce the hazard of line strikes to whooping cranes (see below).

The Migratory Bird Treaty Act (Act) prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Department of the Interior. While the Act has no provision for allowing unintentional take, the Service realizes that some birds may be killed by power lines even if all reasonable measures to protect them are used. The Service's Office of Law Enforcement carries out its mission to protect migratory birds through investigations and enforcement, as well as by fostering relationships with individuals, companies, and industries that have taken effective steps

to minimize their impacts on migratory birds, and by encouraging others to enact such programs. It is not possible to absolve individuals, companies, or agencies from liability even if they implement avian mortality avoidance or similar conservation measures. However, the Office of Law Enforcement focuses its resources on investigating and recommending prosecution of persons that take migratory birds without regard for their actions or without following recommendations such as this to avoid take. The Service cooperates with developers to minimize impacts to migratory birds and to bald and golden eagles. Parties who wish to demonstrate they have taken all reasonable steps to protect migratory birds and bald and golden eagles are advised to incorporate the Service's recommendations into their project plans, sharing those plans with this office, and making any necessary modifications.

To avoid impacts to migratory birds or other wildlife during the breeding season (February 1 to July 15), schedule construction for late summer or fall/early winter. If work is proposed to take place during the breeding season or at any other time which may result in the take of migratory birds or active nests, the Service recommends that the project proponent arrange to have a qualified biologist conduct a field survey of the affected habitats to determine the absence or presence of nesting migratory birds. If nesting migratory birds are found, we request you contact this office, suspend construction, or take other measures, such as maintaining adequate buffers, to protect the birds until the young have fledged. The Service further recommends that field surveys for nesting birds, along with information regarding the qualification of the biologist(s) performing the surveys, and any avoidance measures implemented at the project site, be thoroughly documented and that such documentation be shared with the Service and maintained on file by the project proponent until such time as construction on the proposed project has been completed.

Threatened and Endangered Species

A list of Federally threatened and endangered species that may occur within the proposed project's area of influence is enclosed (enclosure 1). This list fulfills requirements of the Fish and Wildlife Service under the Endangered Species Act.

Section 10(a)(1)(B) of the ESA allows non-Federal parties planning activities that have no Federal nexus, but which are likely to result in the incidental taking of listed animals, to apply for an incidental take permit. The application must include a habitat conservation plan (HCP) laying out the proposed actions, determining the effects of those actions on affected federally-listed fish and wildlife species and their habitats (often including proposed or candidate species), and defining measures to minimize and mitigate adverse effects.

The Aransas Wood Buffalo Population (AWBP) of whooping cranes is the only self-sustaining migratory population of whooping cranes remaining in the wild. These birds breed in the wetlands of Wood Buffalo National Park in Alberta and the Northwest Territories of northern Canada, and overwinter on the Texas coast. Whooping cranes in the AWBP annually migrate through North Dakota during their spring and fall migrations.

Endangered whooping cranes have been documented using stopover habitat in the vicinity of this proposed transmission line project. The proposed project area is located within that portion of the whooping crane migration corridor that includes 75 % of all confirmed whooping crane sightings in North Dakota (enclosure 2). The presence of suitable roosting and feeding habitat for whooping cranes, and location within the whooping crane migration corridor, document the potential for whooping crane presence in the proposed project area. Currently, collisions with power lines are the greatest known source of mortality for fledged whooping cranes, and have accounted for the death or serious injury of at least 46 whooping cranes since 1956.

Due to the proposed transmission line route within the whooping crane migration corridor, the Service recommends that conservation measures be included in the project and that the project description include those measures. Conservation measures to avoid or reduce potential impacts to whooping cranes include, but are not limited to, burying all new electrical transmission lines; if new transmission lines cannot be buried, mark all new overhead transmission lines and an equal length of existing transmission/distribution lines within the 75% migration corridor with visual marking devices such as aviation marker balls, swinging plates, spiral vibration dampeners, or swan flight diverters and maintain the marking devices to reduce the potential for whooping crane collision. If the recommendations above are implemented for the proposed transmission line project, the Service believes that the potential for adverse effects to the endangered whooping crane would not be likely. However, as stated above, we encourage the project proponent to discuss with the Service coordinating the review and assessment of the proposed transmission line project together with the proposed Oliver Wind Energy Center Expansion Project.

Fish and Wildlife Service Property Interests

The Service administers Waterfowl Production Areas owned in fee title as well as wetland and grassland easements throughout North Dakota. A review of Service realty records indicates no Service property interests are located in the planning area.

High Value Habitat Avoidance

Our review of NWI maps indicates that wetland areas are located within the project area. NWI data can be accessed directly by visiting their website at (wetlands.fws.gov). The Service recommends that impacts to wetlands in the project area be avoided to the extent practicable and that all unavoidable loss of wetland habitat be replaced through restoration or creation of functionally equivalent wetland habitat. Section 404 of the Clean Water Act regulates placement of fill materials in certain wetlands. A Corps of Engineers' (Corps) 404 permit may be required if fill material will be placed in aquatic sites, including wetlands. Contact Mr. Dan Cimarosti, Regulatory Office, Corps of Engineers, 1513 South 12th Street, Bismarck, North Dakota 58504 (701-255-0015), to determine their permit requirements. If a 404 permit is required, the Service will provide recommendations on this project to the Corps.

The proposed project area is located in the Missouri Slope Upland region of North Dakota and includes areas of native mixed-grass prairie. Since the 1800s, North Dakota has lost approximately 75 percent of its native grasslands, primarily due to crop production. Other high value wildlife habitat types in North Dakota include wooded draws and riparian forests. We recommend that you avoid construction of transmission lines and appurtenant facilities in the above habitat types whenever possible.

Construction activities should be conducted in a manner that will minimize impacts to the wildlife and the existing habitat in the project area. To help avoid impacts, we recommend that you:

- Avoid construction in native prairie, if possible, and reseed disturbed native prairie with a comparable native grass/forb seed mixture. Obtain seed stock from nurseries within 250 miles of the project area to insure the particular cultivars are well adapted to the local climate.
- Locate appurtenant facilities to avoid placement of fill in wetlands along the route.
- Install and maintain appropriate erosion control measures to reduce sedimentation and water quality degradation of wetlands and streams near the project area.

Given the Service requirements and recommendations above, as well as possible unforeseen issues that may arise, we encourage you to build sufficient planning time for coordination with the Service into your project time line. Please inform our office in writing of how project impacts to Service trust resources will be avoided, minimized, or mitigated. Thank you for the opportunity to comment. If you require further information as project planning proceeds, please contact Terry Ellsworth of my staff, or contact me directly, at (701) 250-4481, or at the letterhead address.

Sincerely,



Jeffrey K. Towner
Field Supervisor
North Dakota Field Office

Enclosures (2)

cc: Regulatory Office, Army Corps of Engineers, Bismarck
(Attn: D. Cimarosti)
ND Public Service Commission, Bismarck
Director, ND Game & Fish Department, Bismarck
(Attn: M. McKenna)

FEDERAL THREATENED AND ENDANGERED SPECIES
AND DESIGNATED CRITICAL HABITAT FOUND IN
MORTON COUNTY, NORTH DAKOTA
October 2009

ENDANGERED SPECIES

Birds

Interior least tern (*Sterna antillarum*): Nests along midstream sandbars of the Missouri and Yellowstone Rivers.

Whooping crane (*Grus Americana*): Migrates through west and central counties during spring and fall. Prefers to roost on wetlands and stockdams with good visibility. Young adult summered in North Dakota in 1989, 1990, and 1993. Total population 140-150 birds.

Fish

Pallid sturgeon (*Scaphirhynchus albus*): Known only from the Missouri and Yellowstone Rivers. No reproduction has been documented in 15 years.

Mammals

Black-footed ferret (*Mustela nigripes*): Exclusively associated with prairie dog towns. No records of occurrence in recent years, although there is potential for reintroduction in the future.

Gray wolf (*Canis lupus*): Occasional visitor in North Dakota. Most frequently observed in the Turtle Mountains area.

THREATENED SPECIES

Birds

Piping plover (*Charadrius melodus*): Nests on midstream sandbars of the Missouri and Yellowstone Rivers and along shorelines of saline wetlands. More nest in North Dakota than any other state.

DESIGNATED CRITICAL HABITAT

Birds

Piping Plover - Lake Oahe - Critical habitat includes sparsely vegetated shoreline beaches, peninsulas, islands composed of sand, gravel, or shale, and their interface with the water bodies.

CANDIDATE SPECIES

Invertebrates

Dakota skipper (Hesperia dacotae): Found in native prairie containing a high diversity of wildflowers and grasses. Habitat includes two prairie types: 1) low (wet) prairie dominated by bluestem grasses, wood lily, harebell, and smooth camas; 2) upland (dry) prairie on ridges and hillsides dominated by bluestem grasses, needlegrass, pale purple and upright coneflowers and blanketflower.

DESIGNATED CRITICAL HABITAT

Birds

Piping Plover - Missouri River - Critical habitat includes sparsely vegetated channel sandbars, sand and gravel beaches on islands, temporary pools on sandbars and islands, and the interface with the river.



North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850
701-328-2750 • TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: <http://swc.nd.gov>

October 22, 2009

Anne Marie Griger
Tetra Tech
7800 Shoal Creek Blvd, STE 253 East
Austin, TX 78757

Dear Ms. Griger:

This is in response to your request for review of environmental impacts associated with the property in Morton and Oliver counties – a six-mile long transmission line.

The proposed project have been reviewed by State Water Commission staff and the following comments are provided:

- The property is not located in an identified floodplain and it is believed the project will not affect an identified floodplain.
- Project sponsor should contact the county's water resource district.
- All waste material associated with the project must be disposed of properly and not placed in identified floodway areas.
- No sole-source aquifers have been designated in ND.

There are no other concerns associated with this project that affect State Water Commission or State Engineer regulatory responsibilities.

Thank you for the opportunity to provide review comments. If you have any questions, please call me at 328-4969.

Sincerely,

Larry Knudtson
Research Analyst

LJK:ds/1570