

Appendix C

Consultations



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May 25, 2011

Mr. Jeffrey Towner, Field Supervisor
U.S. Fish and Wildlife Service
North Dakota Field Office
3425 Miriam Avenue
Bismark, ND 58501-7926

RE: Plains All-American Pipeline- Bakken North Pipeline
Federally Listed Species, USFWS Managed Lands, and Migratory Bird Treaty Act.

Plains All-American Pipeline (Plains) has proposed the construction of the Bakken North Pipeline. The proposed Bakken North Pipeline Project will provide firm crude oil transportation service from its origin at the connection of Plains Trenton Gathering System in west central Williams County and extend to an interconnect with an existing pipeline, near Outpost Montana. The proposed project covers a total distance of 79 miles with approximately 32 miles located in Williams County, North Dakota.

Legal Descriptions for North Dakota:

- Sections 30,31,32, T158N, R103W
- Sections 4,5,9,10,11,13,14, 24, T157, R103W
- Sections 19,28,29,30,33,34, T157N, R102W
- Sections 5,6,8,9,16,21,28,33,34, T156N, R102W
- Sections 3,10,22,15,26,27,35, T154N, R102W
- Sections 3,10,15,22,27,34, T155N, R102W

The project is currently scheduled to begin construction on or about August 22, 2011 and will continue for approximately 3 to 6 months, with restoration to immediately follow.

The purpose of this request is to compile U.S. Fish and Wildlife Service's (USFWS) comments on environmental topics that are relevant to the North Dakota Public Service Commission's (PSC) siting requirements for proposed pipelines.

E3 Environmental, LLC (E3) has been retained by Plains to provide environmental consulting support for this project.

Federally Listed Species Analysis:

On May 24, 2011, E3 reviewed USFWS's web site and conducted a protected species review. The results of the search found the following:

Whooping crane (*Grus americana*) – Endangered
Arctic peregrine falcon (*Falco peregrines tundrius*) – Recovery
Mountain plover (*Charadrius montanus*) – Proposed threatened
Piping plover (*Charadrius melodus*) – Threatened
Least tern (*Sterna antillarum*) – Endangered
Pallid sturgeon (*Scaphirhynchus albus*) – Endangered
Gray wolf (*Canis lupus*) – Endangered

E3 has reviewed the available data describing the life history, critical habitat, and conservation measures associated with each species to evaluate the potential effects of the project on these resources. The results of this analysis are as follows:

Whooping crane: The whooping crane is a large bodied marsh species that breeds primarily in Canada and winters in the Gulf of Mexico. This species has been closely studied and monitored in recent years due to its small population. North Dakota provides migratory habitat for the species, providing roosting and feeding opportunities during migration. This species prefers larger wetland complexes for roosting habitat, typically using adjacent uplands for foraging opportunities. The proposed project will not result in a loss of crane habitat. Construction activities would likely serve as a deterrent, and once constructed the disturbed area will be restored to their previous condition.

Piping plover: The piping plover is associated with shorelines along small alkaline lakes, large reservoir beaches, and river islands and adjacent sand pits. Breeding birds select wide beaches with highly clumped vegetation covering less than 25% of the area. No impact to this species or its preferred habitat is anticipated.

Least tern: The interior population(s) of the least tern has historically been associated with large river systems for breeding and migratory habitats. Breeding birds are known to breed in colonies, utilizing sandbar habitat common to larger rivers. No impact to this species or its preferred habitat is anticipated.

Pallid sturgeon: The pallid sturgeon preferred habitat includes the benthic environment associated with swift waters of large turbid, free-flowing rivers with braided channels, dynamic flow patterns, periodic flooding of terrestrial habitats, and requiring extensive micro habitat diversity.

Gray wolf: The gray wolf is a large carnivore that through conservation measures has experienced strong population recovery, particularly in the Great Lakes states of the upper Midwest. As populations rebound, individuals may break from packs to explore opportunities to establish packs in unoccupied territory. Roaming individuals can cover great distances without establishing viable breeding populations in previously unoccupied habitat(s). This species is not tolerant of human disturbance and will tend to avoid interaction with humans. The activities associated with construction and later plant operations would likely serve as a deterrent to this species.

Based upon this analysis it is concluded that the proposed project will not result in the taking of or adverse impact to these listed species. Species that USFWS has listed as “candidate” or populations identified as “Experimental” are not yet considered threatened or endangered and were not included in this study. Plains request your comments regarding this analysis.

USFWS Managed Lands:

Conservation programs such as Waterfowl Production Areas and wetland and grassland easements represent an important tool used by USFWS to identify and manage high quality wildlife habitat. A review of public records failed to identify any of these USFWS managed lands in the project study area. Plains requests confirmation regarding the presence or absence of USFWS managed lands within the proposed study area.

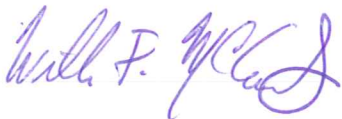
Migratory Bird Consultation:

USFWS administers various wildlife related mandates of national concern including the Migratory Bird Treaty Act (MBTA). Plains understands that unlike the Endangered Species Act, the MBTA has no provisions for the allowance of a take and therefore compliance may best be achieved by avoiding or minimizing the potential to interact with migratory species during the active breeding season. Plains also understands that in North Dakota, the breeding season is typically defined as occurring annually from February 1 through July 15; with the earliest dates typically associated with raptor nesting. In recognition of these facts, Plains proposes to initiate construction on or about August 22, 2011 and maintain an active construction site through pipeline commissioning and final restoration which is anticipated to occur immediately after pipeline commissioning. The proposed schedule would avoid the 2011 breeding season and migrants returning to the area would encounter a restored pipeline right of way in 2012. These efforts are intended to avoid direct impacts to breeding birds. Plains will seek confirmation that the proposed measures adequately avoid and mitigate potential impacts to migratory birds.

E3 Environmental, LLC has been retained by Plains to provide environmental consulting support for this project. Should you have any questions or require additional information, please contact me at 651.282.0650 or wmccarthy@go2e3.com

Sincerely,

William F. McCarthy
Project Manager
E3 Environmental, LLC



Enclosures:

Project map – USGS topographic
Project aerial photograph maps
Project Overview