

October 28, 2011

**VIA HAND DELIVERY**

Mr. Darrell Nitschke  
Executive Secretary  
North Dakota Public Service Commission  
600 E. Boulevard, Dept. 408  
Bismarck, ND 58505-0480

**RE: PLAINS PIPELINE, L.P.  
CRUDE OIL PIPELINE – WILLIAMS  
COUNTY  
CASE NUMBER PU-10-630**

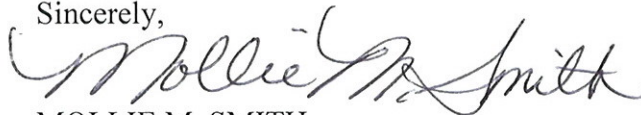
Dear Mr. Nitschke:

Enclosed for filing in connection with the above-referenced matter are the original and ten (10) copies an Amendment of Application for Route Permit. Also enclosed herewith is a CD containing this letter and the above-noted document in electronic format.

By copy of this letter, the Williams County Auditor is being served with a copy of the enclosed document.

If you have questions regarding this matter, please advise.

Sincerely,



MOLLIE M. SMITH

MMS/ms  
Enclosures

cc: Beth Innis, Williams County Auditor (*w/ enclosure – via Federal Express*)  
John Kyles (*w/o enclosure – via E-mail*)

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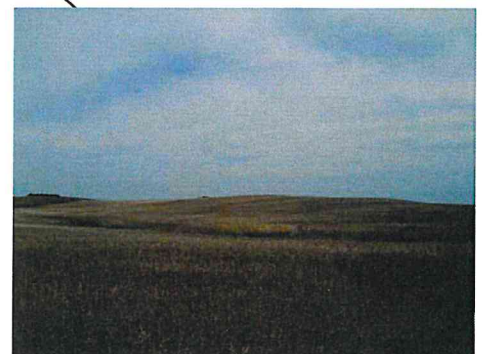
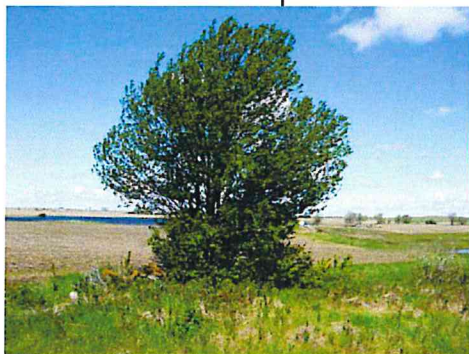
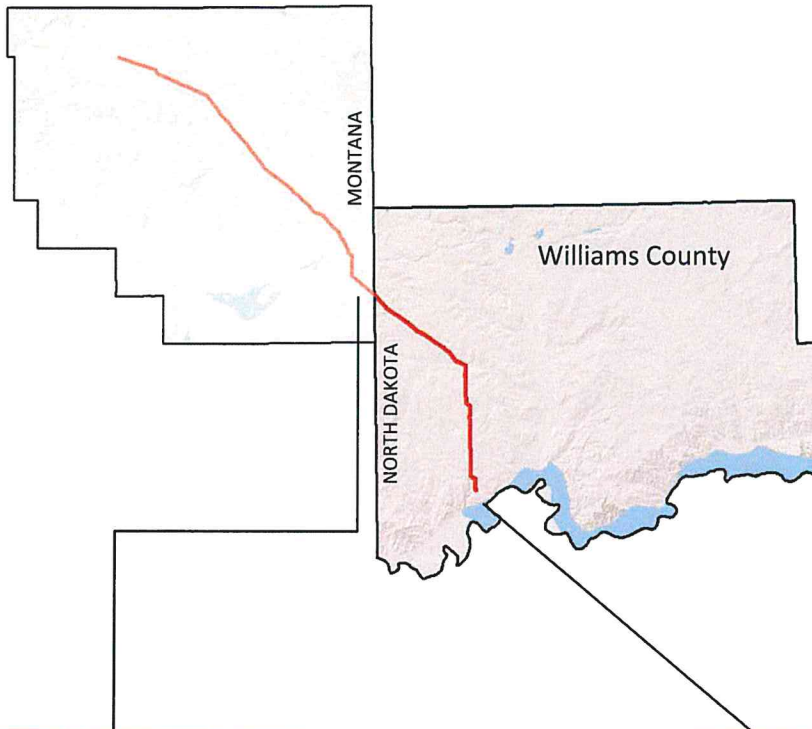
OCTOBER 2011

**THE NORTH DAKOTA PUBLIC SERVICE COMMISSION**

**AMENDMENT OF APPLICATION**

**FOR ROUTE PERMIT**

**BAKKEN NORTH PIPELINE**



**PLAINS**  
**ALL AMERICAN**  
**PIPELINE, L.P.**

NORTH DAKOTA PUBLIC SERVICE COMMISSION

# Amendment of Application for Route Permit

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Plains Pipeline, L.P.  
Bakken North Pipeline Project

PU-11-0630

Prepared by E3 Environmental, LLC

October 2011

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## **INTRODUCTION**

Plains Pipeline, L.P. (Plains) submitted to the North Dakota Public Service Commission's (Commission) a Consolidated Application for Certificate of Corridor Compatibility and Route Permit for the Bakken North Pipeline (BNP or Project) on August 12, 2011. Since this original submittal Plains has identified the need to alter the proposed pipeline route at eight (8) separate locations. Plains has prepared this Amendment of Application in support of these route modifications.

The eight route modifications fall entirely within the original 1-mile corridor described in the initial application for the BNP Application for a Certificate of Corridor Compatibility. The BNP Application for a Certificate of Corridor Compatibility remains unchanged, as such, is not part of this Amendment of Application request.

This Amendment of Application for Route Permit provides the requisite information as stipulated by:

- North Dakota Century Code, Energy Conversion and Transmission Facility Siting Act, Chapter 49-22-08; and,
- PCS Administrative Code, Chapter 69-06-05, Transmission Facility Permit.

The information presented in this amendment is organized according to the format prescribed in the Commission's Application Guidelines for an Application for a Route Permit, which divides the information into the following categories:

- SECTION 1: Type, Size and Design
- SECTION 2: Route Analysis and Findings
- SECTION 3: Evaluation of the Proposed Route in Regard to Applicable Considerations in Section 49-22-09 and Criteria Established in Section 49-22-05.1
- SECTION 4: Mitigative Measures
- SECTION 5: Description of Right-of-Way Preparation and Reclamation Procedures
- SECTION 6: Utility's Easement Acquisition, Landowner Notification, and Easement Compensation Plan
- SECTION 7: List of Preparers

## **SECTION 1: TYPE, SIZE AND DESIGN**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

### **1.1 ABOVEGROUND FACILITIES**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

### **1.2 LOCATION**

The total length of the proposed BNP, as currently configured, is approximately 79 miles, of which approximately 32.1 miles are located entirely within Williams County, North Dakota.

The table below provides the length and approximate location of each proposed route modification. Refer to Appendix B of this amendment for Project location maps.

<b>Route Modification</b>	<b>Starting MP</b>	<b>Ending MP</b>	<b>Approximate Length (miles)</b>
Re-route No. 1	1.99	2.31	0.33
Re-route No. 2	4.43	4.54	0.13
Re-route No. 3	7.38	8.05	0.67
Re-route No. 4	15.49	16.24	0.8
Re-route No. 5	20.69	22.63	2.0
Re-route No. 6	22.63	24.52	1.88
Re-route No. 7	25.76	28.87	3.26
Re-route No. 8	9.5	9.67	0.24

### **1.3 PROJECT SCHEDULE**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

## **SECTION 2: ROUTE ANALYSIS AND FINDINGS**

### **2.1 PIPELINE RE-ROUTES**

**Re-route #1:** Re-route No. 1 is approximately 0.33 miles (1,742-feet) in length and deviates from the original route at MP 1.99 and returns to the original alignment at approximately MP 2.31. This re-route has been developed to address the landowner, Mr. Brad Olson's request. Mr. Olson requested Plains to locate the pipeline right-of way (ROW) closer to Highway 2 and the existing Bear Paw pipeline, thus minimizing impacts to his property. Refer to Appendix B for Project maps.

**Re-route #2:** Re-route No. 2 is approximately 0.13 miles (686-feet) in length and deviates from the original route at MP 4.43 and returns to the original alignment at approximately MP 4.54. This re-route has been developed to avoid cultural site 32WI1184. Refer to Appendix B for Project maps.

**Re-route #3:** Re-route No. 3 is approximately 0.67 miles (3,538-feet) in length and deviates from the original route at MP 7.38 and returns to the original alignment at approximately MP 8.05. This re-route has been chosen to avoid the new well pad. Refer to Appendix B for Project maps.

**Re-route #4:** Re-route No. 4 is approximately 0.8 miles (4,224-feet) in length and deviates from the original route at MP 15.49 and returns to the original alignment at approximately MP 16.24. This re-route was developed to avoid a North Dakota State Lands (NDSL) School Trust tract as well as to avoid cultural site 32WI1151. This re-route has been accepted by both the SHPO and NDSL. Refer to Appendix B for Project maps and Appendix C for a record of this communication.

**Re-route #5:** Re-route No. 5 is approximately 2.0 miles (10,560-feet) in length and deviates from the original route at MP 20.69 and returns to the original alignment at approximately MP 22.63. This re-route has been developed to avoid landowner tracts for which easement agreements were not obtained during the landowner negotiation process. Refer to Appendix B for Project maps.

**Re-route #6:** Re-route No. 6 is approximately 1.88 miles (9,926-feet) in length and deviates from the original route at MP 22.63 and returns to the original alignment at approximately MP 24.52. This re-route has been chosen to avoid a new production well pad located in Section 10 on the Gordon Strand property. Refer to Appendix B for Project maps.

**Re-route #7:** Re-route No. 7 is approximately 3.26 miles (17,213-feet) in length and deviates from the original route at MP 25.76 and returns to the original alignment at approximately MP 28.87. This re-route was developed by Plains in conjunction with the NDSL to address the agency's concerns and to avoid portions of a mineral trust

tract. This re-route was developed through consultations with the NDSL. Refer to Appendix B for Project maps and Appendix C for a record of this communication.

**Re-route #8:** Re-route No. 8 is approximately 0.24 miles (1,241-feet) in length and deviates from the original route at MP 9.5 and returns to the original alignment at approximately MP 9.67. This re-route has been developed to address the landowner's request to maintain as great of distance away from their residence as possible. A portion of this re-route remains within 500-feet of the residence; Plains has obtained a landowner waiver for this portion, refer to Appendix F. Refer to Appendix B for Project maps.

## **2.2 RE-ROUTE ANALYSIS AND FINDINGS**

Plains commissioned field studies along the entire length of each of the re-routes. The studies were conducted by trained natural and cultural resource specialists. The field standard study corridor was a 140-foot wide corridor centered upon the original route alignment; subsequent surveys at each of the re-route locations utilized a minimum of a 70-foot corridor centered upon the proposed re-route centerline. The purpose of these field studies was to verify the presence or absence of resource (e.g., wetlands, waterbodies, protected species, critical habitats, or cultural resources) that may intersect the proposed pipeline alignments.

The natural resource field surveys were conducted August 16-19<sup>th</sup>, September 28-30<sup>th</sup>, 2011, and on October 20<sup>th</sup> and 25<sup>th</sup> of 2011. Cultural resource surveys were conducted on August 16-19<sup>th</sup>, September 19<sup>th</sup>, 2011 and October 20<sup>th</sup> and 25<sup>th</sup> of 2011 to supplement this request of amendment of application. The results of these field surveys are discussed in the following sections. The full Addendum to the Natural Resources and Wetland Determination Report (Natural Resource Report) and the Addendum to the Class I and Class III Cultural Resource Inventory Report (Cultural Resource Report) can be found in Appendices D and E respectively.

### **2.2.1 ENVIRONMENTAL SURVEY**

All field surveys were conducted based upon a minimum 70-foot wide survey corridor, centered upon the proposed route modifications' centerline.

### **2.2.2 TREE/SAPLING/SHRUB SURVEY**

Field studies to inventory the trees and shrubs along the requested route modifications were conducted and the results of this effort can be found in Appendix D of this amendment.

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

### **2.2.3 WETLAND AND WATERBODIES SURVEY**

The proposed route modifications were inventoried for wetland and waterbody features. Field crews identified features, characterized the feature as wetland or waterbody and recorded feature boundaries relative to the proposed centerline.

#### **2.2.3.1 WETLAND SURVEY**

A total of six wetlands were recorded (wetlands were identified along re-routes 6 and 7), totaling approximately 1.1 acres, of which 0.4 acres may be directly impacted by construction of the proposed Project. Plains will implement appropriate mitigation at each of these features, which may include avoidance (*e.g.*, workspace modification), construction mats, topsoil segregation, vegetation preservation and other Best Management Practices (BMPs) to minimize impacts when working in or around wetlands.

Please see Appendix B for the mapped location of each feature and Appendix D for a detailed survey report.

#### **2.2.3.2 WATERBODIES SURVEY**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

### **2.2.4 WILDLIFE INVENTORY**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

#### **2.2.4.1 FEDERALLY PROTECTED SPECIES SURVEY**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

### **2.2.5 NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICE**

Plains commissioned, SWCA, Inc. (SWCA), to conduct Class III Cultural Resource Inventory of the modified routes. This was completed on August 16-19<sup>th</sup>, September 19<sup>th</sup>, 2011 and on October 24<sup>th</sup>, 2011. The inventory recorded two (2) new stone features. On October 17, 2011, the ND SHPO concluded that these materials are not eligible for listing in the National Register of Historic Places (NRHP), and issued a “No Historic Properties Affected” and “No Significant Sites Affected” determination of the route modifications. Please refer to Appendix C for comprehensive documentation of agency consultations and Appendix E for the complete survey report.

A Class I inventory identified cultural site (32Wix367) which intersected the proposed re-route alignment. A subsequent Class III field study was completed of the area and confirmed the absence of cultural materials within the surveyed area; refer to Appendix B for survey maps and Appendix E for a full Cultural Resource Report. On October 27, 2011, SWCA provided their report to the ND SHPO requesting

concurrence with their findings and recommendation of no further work and no mitigation for this site, response is pending.

**2.2.6 NORTH DAKOTA STATE LANDS DEPARTMENT**

Re-route No. 4 and No. 7 were developed by Plains in conjunction with the NDSLDD to address the agency's concerns regarding a school trust and mineral trust tract respectively. These concerns were raised during the initial consultation process. Refer to Appendix C for a complete record of this communication.

**SECTION 3: EVALUATION OF THE PROPOSED ROUTE IN REGARD TO APPLICABLE CONSIDERATIONS IN SECTION 49-22-09 AND CRITERIA ESTABLISHED IN SECTION 49-22-05.1**

**3.1 EXCLUSION AREAS**

The modified route does not cross any exclusion areas.

<b>Exclusion Area</b>	<b>Crossed by Proposed Route</b>
<b>Federal</b>	
National Parks or Memorial Parks	No
Historic Sites or Landmarks	No
Natural Landmarks or Monuments	No
Wilderness Areas	No
<b>State</b>	
Historic Sites, Monuments, or Historical Markers;	No
Archaeological Sites	Yes
Parks	No
Nature Preserves	No
<b>County</b>	
Parks	No
Recreation Areas	No
Municipal Parks	No
<b>Other</b>	
Areas Critical to the Life Stages of Threatened and Endangered Animal or Plant Species	No
Areas where Animal or Plant Species that are Unique or Rare to this State would be Irreversibly Damaged	No

**3.1.1 STATE RESOURCE REVIEW**

Plains has confirmed, through a combination of agency consultations, review of publicly available information and field studies, that no state parks, historic sites, monuments, historical markers, or nature preserves are crossed by the proposed Route. Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

Plains commissioned a Class I Cultural Resource Inventory and a Class III Cultural Resource Inventory of the proposed route modifications. The results of the Class III effort are summarized in Section 2.2.5 and Appendix E. Plains has developed site-specific mitigation plans for culturally sensitive areas that are affected by the proposed re-routes. On October 17, 2011, Plains received concurrence of *No Historic Properties Affected* and *No Significant Sites Affected* for Re-routes No. 1-7, provided the proposed avoidance and mitigation measures are implemented. SHPO response to SWCA's

request regarding the findings of field study of Re-route No. 8 is pending. Please see Appendix C for related consultations, Appendix E for the Cultural Resource Inventory Report and Section 4: Mitigative Measures for a detailed discussion of proposed mitigation at the archaeological sites identified during the Class III survey.

### 3.2 AVOIDANCE AREA INVENTORY AND ANALYSIS

The modified route does not cross any avoidance areas.

Avoidance Area	Crossed by Proposed Route
<b>Federal</b>	
Historic Districts	No
Wildlife Areas	No
Wild, Scenic or Recreational Rivers	No
Wildlife Refuges	No
Grasslands	No
<b>State</b>	
Wild, Scenic or Recreational Rivers	No
Game Refuges or Game Management Areas	No
Forests or Forest Management Areas	No
Grasslands	No
<b>Other</b>	
Historic Resources not meeting Exclusion Areas criteria	No
Areas of Known Geologic Instability	No
Areas within 500-Feet of a Residence, School, or Place of Business	Yes
Reservoirs and Municipal Water Supplies	No
Water Sources for Organized Rural Water Districts	No
Irrigated Land (Does not apply to underground facilities)	NA
Areas of Recreational Significance which are not designated as Exclusion Areas	No

#### 3.2.1 AREAS WITHIN 500-FEET OF A RESIDENCE, SCHOOL, OR PLACE OF BUSINESS

Plains utilized aerial photography and field studies to identify structures within 500-feet of Re-route No. 8. Plains has identified one (1) residence within 500-feet of the re-route. Plains has obtained a landowner waiver for this location which can be found in Appendix F. Maps depicting the location of this property and re-route can be found in Appendix B.

**3.3 FACTORS TO BE CONSIDERED IN EVALUATING APPLICATIONS AND DESIGNATIONS OF SITES, CORRIDORS AND ROUTES (49-22-09)**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

**3.4 SELECTION CRITERIA**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

**3.5 POLICY CRITERIA**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

**3.5.1 LOCATION AND DESIGN**

Refer to Sections 1.3 and 1.6 of this amendment.

## **SECTION 4: MITIGATIVE MEASURES**

### **4.1 LOCATION**

The proposed route modifications have been chosen to minimize landowner, environmental and cultural impacts to the maximum extent possible. Plains has commissioned field surveys of the re-routes to assess the environmental resources that may be impacted as well as to confirm that the modified alignment conforms to the siting requirements established by the state of North Dakota.

**Trees and shrubs:** A tree and shrub inventory was completed of the route modifications; refer to the BNP application as filed; no changes have resulted from the requested route modifications.

**Wetlands and waterbodies:** No waterbodies will be impacted by the proposed re-routes. Six (6) wetlands will be crossed by the proposed route modifications; Plains will implement the following mitigation measures.

Wetland Mitigation: To minimize impacts on wetlands, Plains will implement the following procedures and adhere to USACE permit conditions for construction mitigation in wetlands. The primary means to minimize impacts to wetlands during construction are:

- Limiting the amount of equipment and use of additional extra work areas in and adjacent to wetlands;
- Using equipment stabilization methods such as timber mats within wetlands with saturated soils;
- Limiting grading in wetlands; and,
- Preserving the topsoil layer removed from the trench line in unsaturated wetlands with its seed source, roots, and rhizomes and replacing that soil over the trench as final backfill to promote natural revegetation.

Trench spoil excavated in wetlands will be stored in the construction corridor adjacent to where it was removed. Where there is the possibility of excavated trench spoil flowing into undisturbed areas outside of the wetland, silt fences and/or hay bales will be installed at the edges of the construction right-of-way to prevent sediment migration.

If the pipeline trench contains water, trench plugs may be left in the trench where the trench enters and exits the wetland until immediately before the pipe is installed and the trench is dewatered. Following installation of the pipe segment, permanent trench breakers will be installed at those same locations, if necessary, to maintain the hydrologic integrity of the wetland.

If dewatering the trench is necessary, it will be conducted in a manner to prevent heavily silt-laden water from entering the wetland. Trench water will be discharged into temporary sediment containment structures or filter bags, as appropriate. These filtering structures are typically placed immediately adjacent to the right-of-way in upland areas.

Following pipeline installation, the trench will be backfilled with the material excavated and, to the maximum extent possible, restored to pre-construction contours. Replacing the wetland soil and restoring pre-construction hydrology will promote the rapid re-establishment of hydrophilic vegetation.

Plains will also take precautionary measures outside wetland boundaries to prevent construction in uplands from having an impact on wetlands. These measures include:

- Installing sediment barriers across the entire construction right-of-way immediately upslope of the wetland boundary where necessary to prevent sediment flow into the wetlands.
- Installing sediment barriers along the edge of the construction work area where wetlands are adjacent to the construction right-of-way and the ground surface slopes toward the wetland.

**Migratory Bird Treaty Act:** Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

**Cultural Resources:** On October 17, 2011, SHPO concurred with Plains' mitigation plan, describe below, for the two (2) stone features identified during re-route field studies.

32WI1151: This is an unevaluated stone circle which was identified during the original BNP field studies, at this time the proposed alignment passed immediately west of the site and fencing and monitoring were recommended. Plains has developed Re-route No. 4 which passes approximately 91-feet to the east of the site thus adequately avoiding impacts, as such no further mitigation is required.

32WI1183: This site consists of two (2) stone circles and two (2) stone cairns. Avoidance is recommended for this site. The temporary construction right-of-way will avoid the site by approximately 124-feet, as such, this site will be adequately avoided, and no further work is required. Please see Appendix C for related agency correspondence and Appendix E for survey results.

32WI1184: This site is a stone cairn; avoidance is recommended. This site is located approximately 54-feet from the construction ROW, as such access to the area will be restricted for a linear distance of 150-feet. The site will be fenced and a qualified archaeological monitor will be present during all ground-disturbing activities adjacent

to this site. Please see Appendix C for related agency correspondence and Appendix E for survey results.

#### **4.2 CONSTRUCTION**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

#### **4.3 OPERATION**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

**SECTION 5: DESCRIPTION OF RIGHT-OF-WAY PREPARATION AND RECLAMATION PROCEDURES**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

**SECTION 6: UTILITY'S EASEMENT ACQUISITION, LANDOWNER NOTIFICATION  
AND EASEMENT COMPENSATION PLAN**

Refer to the BNP application as filed; no changes have resulted from the requested route modifications.

## **SECTION 7: LIST OF PREPARERS**

### **Mark Bordelon, P.E.**

Senior Project Engineer

Plains All American Pipeline, L.P., 333 Clay Street, Suite 1600, Houston, TX 77002

M.S. Business Administration, University of Houston; and B.S. Civil Engineering, Louisiana State University – Baton Rouge. Mr. Bordelon is Senior Project Engineer with 27 years of experience in the pipeline industry. As a Senior Project Engineer he has managed various natural gas and crude oil pipeline construction projects. His experience and technical expertise includes 10 years of experience with Williams Gas Pipeline divided between Pipeline Design and Operations Technical Support; three years experience as a consultant in pipeline engineering and construction management; four years experience in terminal project engineering design, construction and project management; one year experience managing environmental, health and safety; and ten years experience in pipeline project engineering.

### **William McCarthy, C.W.B.**

Senior Environmental Compliance Analyst

E3 Environmental, LLC, 817 Vandalia Street, St. Paul, MN 55114

M.S. Wildlife Biology, University of Minnesota – Twin Cities; and B.S. Wildlife Biology, Michigan State University. Mr. McCarthy is an environmental compliance analyst with 15 years of environmental consulting experience working with various energy assets and regulatory agencies. As a compliance analyst he has managed the environmental requirements for facility siting, pipeline routing, federal licensing, and various federal, state and local permits. Mr. McCarthy is a certified wildlife biologist and in this role conducts and coordinates field studies, agency consultations, mitigation and avoidance plans.

**Katie Schmidt, EIT**

Environmental Engineer and Compliance Analyst  
E3 Environmental, LLC, 817 Vandalia Street, St. Paul, MN 55114

B.S. Civil Engineering with an emphasis in Environmental Engineering-Iowa State University. Ms. Schmidt has pursued a career focused on regulatory compliance. Her experience includes providing permitting and compliance support associated with maintaining assets for safe and reliable distribution and transmission of energy throughout the continent. Ms. Schmidt has developed a broad working knowledge of NPDES construction stormwater compliance by working with distribution systems located in MN, OK, TX, LA and AR. Ms Schmidt also has extensive experience working with transmission assets involving COE permitting, ESA and SHPO consultations.

**Scott Slessman, M.A., RPA**

Principal In Charge/Principal Investigator  
SWCA, Inc., 116 North 4th Street, Suite 200, Bismarck, ND 58501

M.A. Anthropology, Colorado State University and B.A. Anthropology, Purdue University. Mr. Slessman has over 18 years of experience in North American archaeology and has been both directly involved and supervised as a Principal Investigator for survey, testing, and excavation projects in the Midwest, Great Plains, Southeast and Rocky Mountains. Mr. Slessman is well versed in all federal and state cultural resources laws and regulations, including NAGPRA and Section 106 of the National Historic Preservation Act. Mr. Slessman is a Registered Professional Archaeologist (RPA) and is permitted as a Principal Investigator for the BLM and for State permits in North Dakota, South Dakota, Minnesota, Montana, Wyoming, Colorado, Utah, Iowa, and Nebraska. He has strong relationships with SHPO and THPO in these same states and is an expert in Tribal Consultation laws and process. As the Principal Investigator and Office Director for the Bismarck, North Dakota SWCA office, Mr. Slessman provides direct oversight and quality assurance/quality control for all cultural resources projects and deliverable