Supplemental Materials Submitted in Support of the Application to the North Dakota Public Service Commission for a Certificate of Corridor Compatibility and an Energy Transmission Facility Route Permit for the COLT Connector Pipeline Project

By
Rangeland Pipeline, LLC

July 2011

Commission Case No. PU-10-637

Rangeland Energy, LLC

BARR

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BARR

4700 West 77th Street
Minneapolis, MN 55435-4803
Phone: (952) 832-2600
Fax: (952) 832-2601

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Abbreviations and Acronyms

CRP	Conservation Reserve Program
ESA	Endangered Species Act
MP	Milepost
NDDH	North Dakota Department of Health
NDDOT	North Dakota Department of Transportation
NDGFD	North Dakota Game and Fish Department
NDPRD	North Dakota Parks and Recreation Department
NDPSC	North Dakota Public Service Commission
NDSLD	North Dakota State Lands Department
NDSWC	North Dakota State Water Commission
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places
NWP	Nationwide Permit
PCN	Preconstruction Notification
SHPO	State Historic Preservation Office
USACE	United Sates Army Corps of Engineers
USDA	United States Department of Agriculture
USDOT	United States Department of Transportation
USFWS	United States Fish and Wildlife Service
WTI	West Texas Intermediate

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

IN THE MATTER OF THE APPLICATION OF RANGELAND PIPELINE, LLC FOR A CERTIFICATE OF CORRIDOR COMPATIBILITY AND ROUTE PERMIT FOR THE CONSTRUCTION OF AN APPROXIMATELY 20-MILE-LONG CRUDE OIL PIPELINE AND ASSOCIATED FACILITIES IN WILLIAMS COUNTY, NORTH DAKOTA	CASE NO. PU-10-637

Amended Application of Rangeland Pipeline, LLC, for Waiver or Reduction of Procedures and Time Schedules

In connection with its submission of a consolidated application for a Certificate of Corridor Compatibility and Route Permit for an approximately 20.7-mile-long, 10-inch crude oil pipeline project to be located in Williams County, North Dakota (the Project), Rangeland Pipeline, LLC (Rangeland Pipeline), submits to the North Dakota Public Service Commission (Commission) this amended application for a waiver or reduction of procedures and time schedules set forth in Chapter 49-22 of the North Dakota Century Code (Siting Act) and Article 69-06 of the North Dakota Administrative Code (Siting Rules). In accordance with Section 49-22-07.2 of the North Dakota Century Code and Chapter 69-06-06 of the North Dakota Administrative Code, Rangeland Pipeline requests that the Commission waive the following requirements:

1. That the Commission hold a separate hearing on a waiver request, a Certificate of Corridor Compatibility application and a Route Permit application, as may be required by Sections 49-22-07.2, 49-22-08, 49-22-08.1 and 49-22-13 of the North Dakota Century Code and Chapter 69-06-01-02 of the North Dakota Administrative Code. Rangeland Pipeline requests that the Commission hold a

single consolidated hearing on this waiver request and its consolidated application for a Certificate of Corridor Compatibility and a Route Permit. Rangeland Pipeline also requests that the Commission shorten the three-month period specified in Section 49-22-08(5) of the North Dakota Century Code and Section 69-06-06-02(2) of the North Dakota Administrative Code, and the six-month period specified in Section 49-22-08.1(5) of the North Dakota Century Code.

2. That the Commission waive the requirements of Sections 49-22-08 and 49-22-08.1 of the North Dakota Century Code insofar as these sections may require the separate filing of applications for a Certificate of Corridor Compatibility and a Route Permit, and insofar as they require separate publication of notices of filing said applications.

3. That the Commission waive requirements for mylar maps and stereo-pair aerial photographs as set forth in the Commission's Energy Conversion and Transmission Facility Siting Guidelines for Certificate of Corridor Compatibility and Route Permit Applications. Geographic Information System (GIS) maps that meet the intent of the Commission's requirements are provided in the consolidated application for a Certificate of Corridor Compatibility and a Route Permit.

Consistent with the Commission's Energy and Transmission Facility Siting Guidelines (Siting Guidelines), Rangeland Pipeline provides the following information in support of its waiver requests:

A. Description of Proposed Project.

1. **Type**: The Project will consist of approximately 20.7 miles of 10-inch pipeline, a pump and meter station within the fenced area of Rangeland Terminals, LLC's (Rangeland Terminals) COLT Hub, a pump and meter station and a 120,000-barrel tank on a 16-acre site at Beaver Lodge (the Beaver Lodge Meter Station Site), "pig" launching and receiving stations, a block valve, in-line valves, and pipeline markers.

2. **Product**: The Project will transport crude oil.

3. **Size and Design**: The Project will require the installation of a 10-inch nominal diameter pipeline with a minimum nominal wall thickness of 0.219 inches and minimum grade X-52. Heavier wall pipe, likely 0.250-inch wall thickness or greater, will be installed at most road and railroad crossings. The Project will be bi-directional. The maximum operating pressure will be 1480 pounds of pressure per square inch gauge (psig), the maximum temperature will be 100 degrees Fahrenheit and the initial maximum design flow rate will be 75,000 barrels per day. Aboveground facilities will include pump and meter stations, pig launchers and receivers, a 120,000-barrel tank, a block valve, and in-line valves. Pipeline markers will also be installed. Design, construction and operation of the pipeline and related facilities will be in accordance with U.S. Department of Transportation regulations governing the transportation of hazardous liquids. These regulations are prescribed under Part 195 of Title 49 of the Code of Federal Regulations, Transportation of Hazardous Liquids by Pipelines.

4. **Location**: The entire Project will be located in Williams County, North Dakota. The Project will extend between Rangeland Terminals' COLT Hub near Epping, North Dakota, and the Project's 120,000-barrel tank at the Beaver Lodge Meter Station Site, which will be located approximately eight miles south of Tioga, North Dakota. From there, connections will

be provided to the Enbridge and Tesoro transmission pipelines. A map of the proposed Project is attached hereto as Exhibit A.

5. **Geographical Service Area**: As noted above, the proposed Project will transport crude oil between Rangeland Terminals' COLT Hub near Epping, North Dakota, and nearby transmission pipelines owned and operated by Enbridge and Tesoro. The immediate area served by the proposed Project will be northwestern North Dakota. However, the crude oil transported by the Project will ultimately be delivered to various areas served by the Enbridge and Tesoro transmission pipelines (as well as any future transmission pipelines constructed in the area), and by the Rangeland Terminals' rail loading facility, located adjacent to the Rangeland Terminals' COLT Hub.

6. **Time Schedule**: Rangeland Pipeline has a target completion date for the Project of November, 2011. Rangeland Pipeline proposes to develop the Project on the following schedule:

- February, 2011 – Rangeland Pipeline filed with the Commission a consolidated application for a Certificate of Corridor Compatibility and Route Permit (Consolidated Application).
- On or Before September 1, 2011 – The Commission issues a Certificate of Corridor Compatibility and Route Permit for the Project.
- September, 2011 – Rangeland Pipeline will have completed right-of-way acquisition and detailed engineering, and will begin construction of the Project.
- Late October, 2011 or Early November, 2011 – Rangeland Pipeline will have completed construction of the Project.
- November, 2011 – The Project will be placed in service.

7. **Future Plans**: Rangeland Pipeline plans to construct connections, as necessary and appropriate, between the Project and any future transmission pipelines constructed near the

Project. However, at this time, Rangeland Pipeline has no specific plans for additions to or modifications of the Project.

B. Need for Facility.

The existing pipeline infrastructure in North Dakota, Montana, and Wyoming is at capacity. Average individual well production in both North Dakota and Montana has increased as a result of advances in drilling technology and overall production has grown exponentially since 2005. Rangeland Pipeline's proposed Project will provide a means for crude oil production in Williams and surrounding counties to access the Enbridge and Tesoro transmission pipelines near Tioga, North Dakota, and the Rangeland Terminals' COLT Hub near Epping, North Dakota. Small to medium sized producers will be provided with additional outlets for getting crude oil to market, and producers who are faced with longer truck hauls to the upstream Enbridge pipeline entry point at Trenton could avail themselves of reduced haul distances and lowered costs by utilizing the proposed Project to deliver their volumes either to the Rangeland Terminals' COLT Hub and, from there, to the Rangeland Terminals' rail loading facility, or to the Enbridge and Tesoro transmission pipelines (and any future transmission pipelines).

Additional information regarding the need for the proposed Project, including the alternatives considered, is provided in Section C of the Certificate of Corridor Compatibility portion of the Consolidated Application.

C. Cost.

The total capital cost of developing the proposed Project is estimated to be $24.5 million.

D. Waiver Request.

Rangeland Pipeline requests that the Commission grant it the waivers requested because said waivers are needed in order to prevent potentially significant delays to the Project. As noted

above, the Project is needed in order to provide an economical and efficient means of transporting crude oil between Rangeland Terminals' COLT Hub and the Enbridge and Tesoro transmission pipelines. Without the waivers of time schedules and procedures requested, completion of Rangeland Pipeline's proposed Project will be delayed and the Project will not be able to provide a safe, economical means of transporting crude oil between Rangeland Terminals' COLT Hub and the Enbridge and Tesoro transmission pipelines in a timely manner.

Section 49-22-07.2 of the North Dakota Century Code provides that the Commission may waive procedures and time schedules upon a finding that "the proposed facility is of such length, design, location, or purpose that it will produce minimal adverse effects." Based upon the investigation and analysis set forth in Rangeland Pipeline's Consolidated Application, filed February 11, 2011, and the Supplemental Materials provided herewith, granting the waivers requested is appropriate because the proposed facility will produce minimal adverse effects due to its short length (only approximately 20.7 miles), its design (an underground, small-diameter pipeline with few above-ground appurtenances), its location (crossing pasture and farmland in rural Williams County within a previously-approved transmission corridor, and avoiding Exclusion and Avoidance Areas, as set forth in Section 69-06-08-02 of the North Dakota Administrative Code), and its purpose (underground pipeline transportation of crude oil between Rangeland Terminals' COLT Hub and nearby transmission pipelines).

In determining whether the proposed facility will result in adverse impacts on the environment, Rangeland Pipeline evaluated the Project using the criteria set forth in the Siting Act, the Siting Rules, and the Siting Guidelines. More specifically, Rangeland Pipeline evaluated the impacts of the Project considering the siting criteria set forth in Section 69-06-08-02 of the North Dakota Administrative Code and the factors set forth in Section 49-22-09 of the

North Dakota Century Code. Impacts associated with the Project, and mitigation measures that will be taken with respect to said impacts, are summarized in Sections D.4 and D.5 of the Certificate of Corridor Compatibility portion of Rangeland Pipeline's Consolidated Application, and in Section D.4 of the Certificate of Corridor Compatibility Application portion of the Supplemental Materials provided herewith. As discussed in Rangeland Pipeline's Consolidated Application and Supplemental Materials, the proposed Project will comply with the Exclusion and Avoidance Area criteria, and mitigation measures will be taken to minimize Project impacts.

In addition, the majority of Rangeland Pipeline's proposed Project will be located adjacent and parallel to the existing Enbridge 10-inch crude oil pipeline, for which the Commission issued Certificate of Corridor Compatibility for Transmission Facility Certificate Number 94 (Corridor Certificate No. 94) and Route Permit for the Construction of a Transmission Facility Number 104 (Route Permit No. 104) on September 20, 2006 in Case No. PU-06-330. In Corridor Certificate No. 94, the Commission approved "a corridor one mile wide and 52 miles long centered approximately 25 feet adjacent and parallel to the existing Enbridge Pipelines (North Dakota) LLC [8-inch] crude petroleum pipeline from the existing Trenton Station to the Existing Beaver Lodge Station." In its Consolidated Application and Supplemental Materials, Rangeland Pipeline utilized the same one-mile-wide corridor that the Commission approved in Corridor Certificate No. 94. Thus, the combination of Rangeland Pipeline's own evaluation of the proposed Project utilizing the factors set forth in the Siting Act, the Siting Rules, and the Commission's Guidelines, and the fact that the proposed Project will be located within a previously-approved corridor, supports the determination that the proposed Project will have minimal adverse effects. Accordingly, Rangeland Pipeline respectfully requests that the Commission grant the requested waivers.

E. Corridor Width Request.

In its initial waiver application filed with its Consolidated Application, Rangeland Pipeline requested that the Commission waive the requirement of Section 69-06-04-02(1)(b) of the North Dakota Administrative Code insofar as it requires that the corridor width be at least ten percent of its length, and requested that the Commission approve a one-mile-wide corridor for the Project. Following submission of the Rangeland Pipeline's waiver application, PSC Commission Staff determined that a waiver of the corridor width requirement was not necessary, since Section 69-06-04-02(1)(b) of the North Dakota Administrative Code specifically provides that the Commission may designate a corridor of a different width than is set forth in said provision. Therefore, rather than requesting a waiver of the corridor width requirement, Rangeland Pipeline simply requests that the Commission approve the one-mile-wide corridor set forth in Rangeland's Consolidated Application.

The proposed one-mile-wide corridor is appropriate because Rangeland Pipeline proposes to utilize the same corridor previously approved by the Commission for the Enbridge 10-inch crude oil pipeline. Considering that the proposed one-mile-wide corridor was sufficient for the Enbridge 10-inch crude oil pipeline, it would seem similarly appropriate to utilize and approve that one-mile-wide corridor for Rangeland Pipeline's proposed 10-inch crude oil pipeline Project. Moreover, since Rangeland Pipeline's route will parallel, to the extent possible, the route approved by the Commission for Enbridge in Route Permit No. 104, and will be located within 1,000 feet of the existing Enbridge pipeline route for the majority of the route, the proposed Project corridor should be more than sufficient to encompass any route deviations that may arise during the permitting process.

Dated this 19th day of July, 2011.

Fredrikson & Byron, P.A.

By _____
MOLLIE M. SMITH, ND Bar #06714
Attorneys for Rangeland Pipeline, LLC
200 North 3rd Street, Suite 150
P. O. Box 1855
Bismarck, ND 58501-1855
(701) 221-4020

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

MOLLIE M. SMITH, of lawful age, being first duly sworn, on oath deposes and says:

That she is the duly elected and qualified attorney for Applicant in the foregoing application; that she executed the foregoing application for and on behalf of said Applicant and as its said attorney that she has read said application and knows the contents thereof, and that the statements made and contained therein are, to the best of her knowledge and belief, true and correct.

_____
MOLLIE M. SMITH

Subscribed and sworn to before me this 19th day of July, 2011.

_____
Notary Public
My Commission Expires:

SHEILA A. LARSON
Notary Public
State of North Dakota
My Commission Expires April 3, 2012

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SUPPLEMENTAL MATERIALS

CERTIFICATE OF CORRIDOR COMPATIBILITY

Commission Case No. PU-10-637

Introduction

In February of 2011, Rangeland Pipeline, LLC (Rangeland Pipeline), a Delaware limited liability company authorized to do business in the State of North Dakota, submitted to the North Dakota Public Service Commission (Commission) a combined application for a Certificate of Corridor Compatibility and Route Permit (Consolidated Application) for a crude oil pipeline project, the COLT Connector Pipeline Project (COLT Connector or Project), in Williams County, North Dakota, pursuant to Chapter 49-22 of the North Dakota Century Code and Article 69-06 of the North Dakota Administrative Code. The proposed Project will transport crude oil between Rangeland Terminals, LLC's (Rangeland Terminals) proposed crude oil loading terminal (COLT Hub) located near Epping, North Dakota, and a delivery facility that will be located approximately eight miles south of Tioga, North Dakota. From the delivery facility, connections will be provided to the Enbridge and Tesoro transmission pipelines at their respective Beaver Lodge and Ramberg Stations, as well as to future pipelines constructed in the area, which will facilitate the transportation of North Dakota crude oil to various markets. Rangeland Pipeline has retained Barr Engineering Co. (Barr) to assist with the environmental review and permitting process for the Project. Rangeland Pipeline anticipates that the Project will be operational by November 30, 2011.

The following supplemental filing describes proposed changes to the Project description and route from that provided to the Commission in the Consolidated Application filed in February, 2011. **Proposed changes are in bold**.

A summary of the proposed amendments to the Consolidated Application are as follows:

1. Pipeline Diameter: Rangeland Pipeline now plans to use 10-inch diameter pipe, rather than 8-inch diameter pipe. Increasing the pipe diameter will increase the Project's crude oil transportation capacity, which, in turn, will increase the Project's ability to meet anticipated crude oil transportation needs. With the increased pipe diameter, the Project is anticipated to have a maximum initial design flow rate of 75,000 barrels per day. The change in the pipe diameter will not impact the right-of-way width, or change any other aspect of Project design or construction, other than increasing Project costs, as discussed further below.

2. Bi-directional Capability: Rangeland Pipeline has determined that it will construct the Project to be bi-directional. As such, the Project will facilitate transportation of crude oil both from Rangeland Terminals' COLT Hub to the Enbridge and Tesoro transmission pipelines at their respective Beaver Lodge and Ramberg Stations (and future pipelines constructed in the area), and initially from the Tesoro pipeline to Rangeland Terminals' COLT Hub and associated rail loading facility. Making the Project bi-directional will

enable producers to utilize the Project to get their crude oil to market via either a transmission pipeline or the rail loading facility.

3. Additional Facilities: In conjunction with making the Project bi-directional, Rangeland Pipeline plans to construct a storage tank, a pump station, and a meter station at an approximately 16-acre site near Beaver Lodge at the eastern end of the Project, (Rangeland Pipeline's Beaver Lodge Meter Station Site). Information regarding the additional facilities is provided below.

4. Route Modifications and Minor Route Variations: Rangeland Pipeline proposes two modifications and several minor variations to the original proposed route in order to address landowner requests and concerns. At no point does the proposed Project route fall outside of the proposed one-mile-wide corridor identified in the Consolidated Application. The route changes include the following:

    a. One proposed route modification, Route Modification 1, occurs on the western end of the proposed route where the pipeline will leave Rangeland Terminals' COLT Hub in an easterly direction, roughly paralleling the original proposed route and 60th Street NW (County Highway 8), but on the south side of 60th Street, for approximately 2.5 miles (see Exhibit B, Route Modification 1). At approximately milepost (MP) 2.4 the route modification would trend north, cross 60th Street and the Enbridge pipeline, and rejoin the previously proposed route at MP 2.5. The purpose of the proposed Route Modification 1 is to address landowner concerns and requests related to routing on private lands.

    b. The second route modification, Route Modification 2, occurs at approximately MP 11.4, where the route would deviate from the original proposed route to the north by approximately one-quarter mile for a distance of approximately one (1) mile, rejoining the original route at MP 12.8 (see Exhibit C, Route Modification 2). The purpose of the proposed Route Modification 2 is to address a request from the North Dakota State Lands Commission regarding the crossing of a state-owned parcel.

    c. Rangeland Pipeline also proposes one minor route variation, and is using this opportunity to address three previous minor route variations that were proposed in the Consolidated Application but had not been surveyed for natural and cultural resources at the time the Consolidated Application was filed (see Exhibit D). In the aggregate, these minor route variations have little or no effect on pipeline length or resource impacts. The new proposed minor route variation will occur at approximately MP 17.9 to MP 18.2 and addresses a landowner request for a straighter alignment on the landowner's parcel. The three minor route variations that were included in the Consolidated Application but not surveyed at that time occur at MP 11.3 to MP 11.4, at MP 15.4, and at MP 20.5 to MP 20.7 and address a request by Enbridge Pipelines to remain, where feasible, a minimum of 100 feet from the closest existing Enbridge pipeline.

5. Project Cost: The changes to the Project noted above will increase the Project's total cost. With the changes, the total anticipated cost of the Project is $24.5 million, rather than $15 million.

Section A: Description of Transmission Facility

1. Type

The **10-inch-diameter pipeline** will be approximately 20.7 miles long and will generally parallel an existing Enbridge pipeline between the town of Epping and the Beaver Lodge/Ramberg Station. The proposed pipeline **will be bi-directional** and will transport crude oil **between** Rangeland Terminals' COLT Hub located near Epping **and** a delivery facility to be located approximately eight miles south of Tioga. From the delivery facility, connections will be provided to the Enbridge and Tesoro transmission pipelines at their respective terminal facilities. The proposed Project will add needed capacity to existing transmission pipeline systems while providing a year-round safe and reliable alternative to trucking.

2. Product

No change.

3. Size and Design

Design, construction and operation of the pipeline and related facilities will be in accordance with U.S. Department of Transportation regulations governing the transportation of hazardous liquids. These regulations are prescribed under Part 195 of Title 49 of the Code of Federal Regulations, Transportation of Hazardous Liquids by Pipelines.

a. Pipeline Facility

1. Width of Right-of-Way and Route

No change.

2. Estimated Distance between Surface Structures

Rangeland Pipeline is proposing to construct the following types of surface structures on this Project:

Pump and Meter Station: Rangeland Pipeline will construct a pump and meter station within the fenced area of Rangeland Terminals' COLT Hub. **Rangeland Pipeline will also construct a pump station, a meter station, and a 120,000-barrel tank at Rangeland Pipeline's Beaver Lodge Meter Station Site, which will encompass an**

area approximately 16 acres in size (see Exhibit E, Beaver Lodge Meter Station Site).

Launcher and Receiver Traps: A pig launching station will be located at Rangeland Terminals' COLT Hub near Epping, and a pig receiving and receipt meter station will be located approximately **20.7** miles away at the Beaver Lodge Station at the end of the proposed pipeline, eight miles south of Tioga, North Dakota.

Block Valve: One block valve will be installed just west of Beaver Creek at approximately MP **13.8**, approximately **13.8** miles east of Rangeland Terminals' COLT Hub and **6.9** miles west of Beaver Lodge Station. **In-line valves may also be installed at the block valve site.**

In addition, Rangeland Pipeline will install pipeline markers at every public road crossing.

3. Pipe Size

The proposed pipeline will have a **10-inch** nominal pipe size diameter with minimum nominal wall thickness of 0.219-inches and minimum grade X-52. Heavier wall pipe, likely 0.250 or greater nominal wall thickness, will be used at most road and railroad crossings.

4. Approximate Length of Facility

The approximate length of the pipeline will be **20.7 miles**.

5. Maximum Design Operating Pressure and Temperature

Maximum Operating Pressure: No change.

Maximum Temperature: No change.

6. Maximum Design Flow Rate

Maximum Design Flowrate: The maximum initial design flow rate will be approximately **75,000 barrels per day**.

7. Number and General Location of Compressor or Pumping Stations

Rangeland Pipeline is proposing to construct a new pump and meter station at Rangeland Terminals' COLT Hub near Epping, North Dakota, **and a new pump and meter station at Rangeland Pipelines' Beaver Lodge Meter Station Site**.

4. Time Schedule

a. Certificate of Corridor Compatibility

Rangeland Pipeline is seeking a Certificate of Corridor Compatibility on or before **September 1, 2011**.

b. Route Application

No change.

c. Route Permit

Rangeland Pipeline is seeking a Route Permit on or before **September 1, 2011**.

d. Construction Start Date

Rangeland Pipeline is proposing to start construction in **early September, 2011**.

e. Construction Complete

Rangeland Pipeline is proposing to complete construction in **late October to early November, 2011**.

f. In-Service Date

No change.

Section B: Studies

Rangeland Pipeline has consulted with several federal, state, and local agencies to identify environmental resources in the Project area and determine what, if any, environmental studies or assessments would be required for the proposed Project.

1. Cultural Resource Investigations

In October, 2010, Rangeland Pipeline commissioned a cultural resource study of the Project corridor and route. Barr directed a Class I literature search of the Project corridor and a Class III cultural resource inventory of the Project route. The results of the Class I literature search and Class III inventory are documented in:

> Smith, N. and J. Cooper. January 2011. A Class I and III Cultural Resource Inventory of the Rangeland Energy COLT Connector Pipeline, Williams County, North Dakota. SWCA Environmental Consultants. Bismarck, North Dakota.

A copy of the report is included in Appendix D **to the Consolidated Application**. On January 26, 2011, SWCA Environmental Consultants, on behalf of Barr and Rangeland Pipeline, provided the report to the State Historical Society of North Dakota, State Historic Preservation Office (SHPO). On January 27, 2011, the SHPO notified SWCA that it concurred with the report's determinations of "no significant sites affected" and "no historic properties affected," "provided the project is of the nature stated, it takes place in the plotted and mapped location, and that site 32WI961 is avoided from impacts as recommended…in the report." A full discussion of the cultural resource investigations and the report's findings can be found in Section D.4.a.iii of **this application and Section D.4.a.iii of the February, 2011 application for a Certificate of Corridor Compatibility**. Rangeland Pipeline's route will avoid all impacts to site 32WI961 and Rangeland Pipeline will maintain a 50-foot buffer from the site during construction activities.

In February, 2011, Rangeland Pipeline modified the Project route to address landowner concerns, to maintain a minimum 100-foot buffer to the nearest Enbridge pipeline, and to improve the configuration at the Beaver Lodge delivery point. These minor changes resulted in three areas where the proposed route was outside of the October, 2010 cultural resource survey corridor: from MP 11.3 to 11.5; at MP 15.0; and from MP 20.4 to 20.6.

In addition to the February, 2011 Project route changes discussed above (which were incorporated into the route proposed in the Consolidated Application), Rangeland Pipeline also modified the Project route in June, 2011 in order to address additional landowner concerns. Together, the February, 2011 route changes and the June, 2011 route changes resulted in six areas in which the route was outside of the area surveyed in October, 2010. Those six areas are: from MP 0.0 to MP 2.5 (Route Modification 1); from MP 11.4 to 12.8 (Route Modification 2); from MP 11.3 to 11.4; at MP 15.4; from MP 17.9 to 18.2; and from MP 20.5 to 20.7. SWCA, on behalf of Rangeland Pipeline, reviewed the Class I literature search and consulted with the SHPO to determine whether additional Class III surveys were required for these areas. In the spring and summer of 2011, Rangeland Pipeline commissioned additional cultural resource studies of proposed Route Modification 1 in addition to the minor route variations noted above. SWCA performed a Class III cultural resource inventory of the route changes and will perform the required inventory of Route Modification 2 in July, 2011. The results of the Class I literature search and Class III inventory will be documented in a report to be submitted to the SHPO in July, 2011, with concurrence from SHPO expected in late July, 2011. The report and documentation of the SHPO's concurrence will be filed separately with the Commission upon receipt. Based on the results of the Class III inventory, SWCA's determination for Route Modification 1 and the four minor route variations is that, so long as noted avoidance and mitigation measures are followed, no eligible or potentially-eligible cultural, historic, or architectural sites will be adversely affected.

2. Wetland Assessment

In October, 2010, Rangeland Pipeline commissioned a wetland assessment of the Project route. Barr directed a field-based determination of wetlands within the proposed corridor. The results are documented in:

> Binstock, L. and M. Cook. January 2011. Natural Resources and Wetland Determination Report for the COLT Connector Pipeline, Williams County, North Dakota. SWCA Environmental Consultants. Bismarck, North Dakota.

A copy of the report is included in Appendix E **to the Consolidated Application**. **Rangeland Pipeline received a March 30, 2011 Project Authorization letter from the North Dakota Regulatory Office of the U.S. Army Corps of Engineers (USACE), Omaha District, stating that the proposed Project qualifies for coverage under USACE Nationwide Permit (NWP)**

12 – Utility Line Activities – of Section 404 of the Clean Water Act (see Exhibit I, Supplemental Agency Correspondence). Because the Project occurs in an area where favorable habitat for species listed under Section 7 of the Endangered Species Act (ESA) could occur (although the Project is not likely to adversely affect listed species), Rangeland Pipeline must submit a Preconstruction Notification (PCN) to the USACE to recognize the Project's qualification under NWP 12. The submittal of the PCN will facilitate consultation with the United States Fish and Wildlife Service (USFWS) in support of a finding that the proposed action is not likely to affect federally-listed threatened and endangered species. A full discussion of the wetlands assessment and the report's findings can be found in Section D.4.a.iii of **February, 2011 application for a Certificate of Corridor Compatibility.**

In spring and summer of 2011, Rangeland Pipeline commissioned additional wetland determinations of proposed Route Modification 1, in addition to both the February, 2011, and June, 2011 minor route variations. Wetland determinations for Route Modification 2 will be performed in July, 2011. The results of the field studies will be documented in a report to be submitted to the Commission in July, 2011. The results of the wetland determination field studies for Route Modification 1 and the four minor route variations are that there will be no permanent impacts (i.e., no permanent dredge, fill, or conversion of type) as a result of the route changes. The Project's qualification for coverage under NWP 12 is not affected by the route changes.

3. Protected Species

In October, 2010, Barr directed a habitat assessment for threatened and endangered species in the Project corridor on behalf of Rangeland Pipeline. The results are documented in:

> Binstock, L. and M. Cook. January 2011. Natural Resources and Wetland Determination Report for the COLT Connector Pipeline, Williams County, North Dakota. SWCA Environmental Consultants. Bismarck, North Dakota.

A copy of the report is included in Appendix E **to the Consolidated Application**. Barr, on behalf of Rangeland Pipeline, is consulting with the USFWS regarding federally-listed threatened and endangered species. **Rangeland Pipeline received a letter dated March 8, 2011, from the USFWS with comments regarding the proposed Project (see Section B.2.k of the July, 2011 Supplemental Materials to the Application for a Route Permit for further details). Consultations with the USFWS are ongoing.**

In spring and summer of 2011, Rangeland Pipeline commissioned additional habitat assessments for threatened and endangered species along proposed Route Modification 1, in addition to both the February, 2011, and June, 2011 minor route variations. Habitat assessments for Route Modification 2 will be performed in July, 2011. The results of the field studies will be documented in a report to be submitted to the Commission in July, 2011. The results of the habitat assessment field studies for Route Modification 1 and the four minor route variations are that no threatened or endangered species were identified or are likely to be harmed as a result of the route variations. The route changes made are not expected to materially change the results of the Natural Resources Report regarding threatened and endangered resources.

4. Woody Vegetation

In October, 2010, Barr directed a survey of the trees, saplings, and shrubs within the Project route on behalf of Rangeland Pipeline. The results are documented in:

> Binstock, L. and M. Cook. January 2011. Natural Resources and Wetland Determination Report for the COLT Connector Pipeline, Williams County, North Dakota. SWCA Environmental Consultants. Bismarck, North Dakota.

A copy of the report is included in Appendix E **to the Consolidated Application**. Rangeland Pipeline intends to use the information in the report to determine mitigation for trees and shrubs according to Commission requirements.

In spring and summer of 2011, Rangeland Pipeline commissioned additional surveys for trees, saplings, and shrubs for proposed Route Modification 1, in addition to both the February, 2011, and June, 2011 minor route variations. Tree, sapling and shrub surveys for Route Modification 2 will be performed in July, 2011. The results of the field studies for all route modifications will be documented in a report to be submitted to the Commission in July, 2011.

Section C: Need for Facility

1. Analysis of Need Based on Present and Projected Demand, Including System Studies

No change.

2. Description of Feasible Alternative Methods of Serving the Need

No change.

3. Statement Justifying Deviations from the Most Recent Ten-Year Plan

Rangeland Pipeline's parent company, Rangeland Energy, LLC (Rangeland Energy), filed its Ten-Year Plan for 2011-2021 with the Commission on January 18, 2011 (see Case No. PU-11-042). **The proposed Project is consistent with Rangeland Energy's Ten-Year Plan, except that the proposed Project will be bi-directional and will utilize 10-inch pipe. The rationale for these deviations are discussed in the Introduction to the July, 2011 Supplemental Materials to the application for the Certificate of Corridor Compatibility.**

Section D: Location

1. Study Area

Rangeland Pipeline defined its study area as the certificated corridor of the existing Enbridge Trenton to Beaver Lodge 10-inch-diameter pipeline. Rangeland Pipeline has identified a few locations where environmental or constructability issues appear to warrant variations from paralleling the route utilized by Enbridge. These variations are limited in number and scope, and most are within 50 to 1,000 feet of the existing Enbridge pipeline. **All of the proposed route variations are within the certificated corridor of the existing Enbridge Trenton to Beaver Lodge 10-inch-diameter pipeline (Certificate of Corridor Compatibility for Transmission Facility Certificate Number 94 issued in Case No. PU-06-330).**

2. Criteria to be Evaluated

The criteria to be evaluated shall include at a minimum all of the following:

a. Exclusion Areas

No change.

b. Avoidance Areas

No change.

c. Selection Criteria

No change.

d. Policy Criteria

No change.

e. Design and Construction Limitations

No change

f. Economic Considerations

No change.

3. Identify and Map Criteria

Maps illustrating the location of exclusion and avoidance areas along the proposed route changes are included in Exhibit F. Maps addressing other selection and siting criteria, such as land use, are located in Exhibits G and H.

4. Discussion of the Relative Value of Each Criteria and Corridor Selection

a. Exclusion Areas

Exclusion areas are geographical areas that shall be excluded in the consideration of a route for a transmission facility. The following table identifies exclusion areas within the proposed corridor and crossed by the proposed route. **Maps illustrating the location of exclusion areas along the proposed route are included in Appendix F.**

Table 1 Exclusion Areas

Exclusion Area	Within Proposed Corridor	Crossed by Proposed Route
a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; monuments; and wilderness areas.	No	No
b. Designated or registered state: parks; historic sites; monuments; historical markers; archaeological sites; and nature preserves.	No	No
c. County parks and recreational areas; municipal parks; and parks owned or administered by other governmental subdivisions.	Yes	No
d. Areas critical to the lifestages of threatened or endangered animal or plant species.	No	No
e. Areas where animals or plant species that are unique or rare to this state would be irreversibly damaged.	No	No

i. Designated or Registered National: Parks, Memorial Parks, Historic Sites and Landmarks; Natural Landmarks; Monuments; and Wilderness Areas

No change.

ii. Designated or Registered State: Parks; Historic Sites; Monuments; Historical Markers; Archaeological Sites; and Nature Preserves

No change.

iii. County Parks and Recreational Areas; Municipal Parks; and Parks Owned or Administered by Other Governmental Subdivisions

No change.

iv. Areas Critical to the Life Stages of Threatened and Endangered Animal or Plant Species

No change.

v. Areas Where Animals or Plant Species that are Unique or Rare to this State would be Irreversibly Damaged

No change.

b. Avoidance Areas

Avoidance areas are geographic areas that shall not be considered in the routing of a transmission facility unless the applicant shows that under the circumstances there is no reasonable alternative. The following table identifies avoidance areas within the proposed corridor and crossed by the proposed route. **Maps illustrating the locations of avoidance areas within the proposed corridor and along the proposed route are included in Appendix F.**

Table 2 Avoidance Areas

Avoidance Area	Within Proposed Corridor	Crossed by Proposed Route
a. Designated or registered national: historic districts; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.	No	No
b. Designated or registered state: wild, scenic, or recreational rivers; game refuges; game management areas; management areas; forests; forest management lands; and grasslands.	No	No

Avoidance Area	Within Proposed Corridor	Crossed by Proposed Route
c. Historical resources which are not specifically designated as exclusion or avoidance areas.	**Yes**	**Yes**
d. Areas which are geologically unstable.	No	No
e. Within five hundred feet [152.4 meters] of a residence, school, or place of business.	Yes	Yes
f. Reservoirs and municipal water supplies.	Yes	No
g. Water sources for organized rural water districts.	No	No
h. (Irrigated land – does not apply to an underground transmission facility.)	No	No
i. Areas of recreational significance which are not designated as exclusion areas.	No	No

i. Designated or Registered National: Historic Districts; Wildlife Areas; Wild, Scenic, or Recreational Rivers; Wildlife Refuges; and Grasslands

No change.

ii. Designated or Registered State; Wild, Scenic, or Recreational Rivers; Game Refuges; Game Management Areas; Management Areas; Forests; Forest Management Lands; and Grasslands

No change.

iii. Historical Resources that are not Specifically Designated as Exclusion or Avoidance Area

A review of the Project study area identified several potential historical resources, which are not specifically designated as exclusion or avoidance areas, within the proposed corridor. There are numerous archaeological sites in Williams County. In 2010, SWCA on behalf of Barr and Rangeland Pipeline completed a Class I literature search of the proposed corridor and, based on the results of this search, conducted a Class III inventory on those segments of the proposed route likely to contain cultural resources. Rangeland Pipeline did not complete a Class III reconnaissance inventory of the entire 1-mile-wide corridor because there are no plans to disturb areas beyond the proposed construction right-of-way.

Based on the Class I literature search of the proposed corridor, there are 112 previously recorded cultural resources within the 1-mile corridor. The **October, 2010** Class III inventory identified one previously-recorded site and one newly recorded site within the route, **as proposed at that time**. Neither of these two sites has been formally evaluated by the SHPO to determine eligibility for listing on the National Register of Historic Places (NRHP).

The newly identified site is recommended as not eligible for NRHP listing, meaning the site is not significant to the history or pre-history of the state or community. In any event, this site will be avoided by construction activities if the proposed route is approved. Rangeland Pipeline is consulting with the SHPO on these recommendations and its proposed approach for constructing near this site and the SHPO's concurrence is expected prior to construction.

No eligibility recommendation was made regarding the previously-identified site, and further investigation is also not recommended. The significance of this site and its value to the history and pre-history of the state and community have not yet been established. Therefore, Rangeland Pipeline's proposed route and construction work areas have been configured to avoid this site. Rangeland Pipeline will also maintain a 50-foot buffer zone around the site to minimize the risk of inadvertent disturbance during construction. On January 26, 2011, SWCA Environmental Consultants on behalf of Barr and Rangeland Pipeline provided the report to the SHPO. On January 27, 2011, the SHPO notified SWCA that it concurred in the report's determinations of "no significant sites affected" and "no historic properties affected," "provided the project is of the nature stated, it takes place in the plotted and mapped location, and that site 32WI961 is avoided from impacts as recommended…in the report."

In the spring and summer of 2011, Rangeland Pipeline commissioned additional cultural resource studies of proposed Route Modification 1, in addition to the February, 2011 and June, 2011 minor route variations noted above. SWCA performed a Class III cultural resource inventory of the route changes and will perform the required inventory of Route Modification 2 in July, 2011. The results of the Class I literature search and Class III inventory will be documented in a report to be submitted to the SHPO in July, 2011, with concurrence from SHPO expected in late July, 2011. The report and documentation of the SHPO's concurrence will be filed separately with the Commission upon receipt. Based on the results of the Class III inventory, SWCA's determination for Route Modification 1 and the four minor route variations is that, so long as noted avoidance and mitigation measures are followed, no eligible or potentially-eligible cultural, historic, or architectural sites will be adversely affected.

Cultural resource site S-AL-4-COLTCON is an active, yet eligible railroad near MP 0.4 that will be crossed by the Project route. The railroad will be bored in such a way as to not have an adverse effect on its eligibility for listing on the National Register of Historic Places (NRHP).

There is always potential during construction to encounter previously unknown cultural resources or human remains. Rangeland Pipeline **has developed** an Unanticipated Discoveries Plan, **which was reviewed and approved by the SHPO and will be implemented during Project construction (see Appendix A)**. Among other things, the Unanticipated Discoveries Plan **includes** mitigation measures that would minimize the potential impacts on unanticipated discoveries. For instance, Rangeland Pipeline would:

- immediately stop work in the vicinity of an unanticipated discovery of cultural resources or human remains and notify appropriate personnel at the SHPO, North Dakota State Health Department (NDDH), and/or law enforcement; and
- prohibit work in the vicinity of the unanticipated discovery until all appropriate contacts, consultations, evaluations, disposition, treatments, and authorizations have been obtained.

iv. Areas that are Geologically Unstable

No change.

v. Areas where the Pipeline would be within Five Hundred Feet of a Residence, School, or Place of Business

No schools, one place of business, and 11 occupied (not abandoned) residences were identified within the proposed corridor. Of these structures, no schools, one business, and **four** residences are within 500 feet of the proposed route.

Schools

No schools are within 500 feet of the proposed route or within the corridor.

Business

Rangeland Pipeline is proposing to construct the proposed Project within 500 feet of one business: a feed lot which is located about 300 feet south of the proposed route in Section 5, Township 155 North, Range 96 West. The feed lot is on the opposite side of 60th Street Northwest and would be buffered from construction by the road. Rangeland Pipeline **obtained a waiver** from the owner of this business in accordance with Chapter 69-06-08-02(2)(e) of the North Dakota Administrative Code.

Residences

Rangeland Pipeline is also proposing to construct its pipeline within 500 feet of **four** residences:

- Residence 1: Located in Section 2, Township 155N, Range 98W, about 380 feet south of the proposed route on the opposite side of 60th Street Northwest;
- Residence 2: Located in Section 1, Township 155N, Range 97W, about 340 feet south of the proposed route on the opposite side of 60th Street Northwest;
- Residence 3: Located in Section 32, Township 156N, Range 96W, about 420 feet north of the proposed route; and
- Residence 4: Located in Section 5, Township 155N, Range 95W, about 260 feet south of the proposed route.

Rangeland Pipeline is proposing to keep the proposed pipeline adjacent and parallel to the existing Enbridge pipeline to the extent possible. Landowners along the route have generally expressed a preference for keeping the lines close together because doing so would minimize the total amount of land burdened by a pipeline easement, and pipeline easements limit a landowner's full use of the land by restricting activities such as erecting structures and/or planting trees within the easement area. Rangeland Pipeline's proposed route will avoid direct impacts to these residences. In each case where a residence is within 500 feet of the proposed pipeline route, Rangeland Pipeline **obtained a waiver from Residences 2, 3, and 4, and continues to seek a waiver from the landowner of Residence 1** in accordance with Section 49-22-05.1 of the North Dakota Century Code and Chapter 69-06-08-02(2)(e) of the North Dakota Administrative Code.

vi. Reservoirs and Municipal Water Supplies

No change.

vii. Water Sources for Organized Rural Water Districts

No change.

viii. Irrigated Land

No change.

ix. Areas of Recreational Significance that are not Designated as Exclusion Areas

No change.

c. Selection Criteria

Selection criteria are those environmental resources on which the Project must have an acceptable minimum amount of impact, as determined by the Commission. **The impacts of the proposed Project, as modified, on selection criteria are expected to be both minimal and not materially different from those of the original proposed route.**

i. The impact upon Agriculture

No change.

ii. The impact upon:

a. Noise Sensitive Land Uses

No change.

b. The Visual Effect on the Adjacent Area

No change.

c. Extractive and Storage Resources

No change.

d. Wetlands, Woodlands, and Wooded Area

No change.

e. Radio and Television Reception and other Communications or Electronic Control Facilities

No change.

f. Human Health and Safety

No change.

g. Animal Health and Safety

No change.

h. Plant life

No change.

d. Policy Criteria

Policy criteria are those factors positively affected by a project that may lead the Commission to give preference to an applicant. **The route changes that are addressed in this supplemental filing have been made in order to address landowner requests while continuing to avoid exclusion and avoidance areas and minimize impacts to cultural and natural resources.**

i. Location and Design

No change.

ii. Training and Utilization of Available Labor in this State for the General and Specialized Skills Required

No change.

iii. Economies of Construction and Operation

No change.

iv. Use of Citizen Coordinating Committees

No change.

v. A commitment of a Portion of the Transmitted Product for Use in this State

No change.

vi. Labor Relations

No change.

vii. The Coordination of Facilities

No change.

viii. Monitoring Impacts

No change.

ix. Utilization of Existing and Proposed Rights-of-Way and Corridors

No change.

x. Other Existing or Proposed Transmission Facilities

No change.

e. Design and Construction Limitations

No change.

f. Economic Considerations

No change.

5. Mitigative Measures

No change.

6. List of Preparers

No change.

7. Maps

a. Criteria Maps

Revised maps identifying the criteria along the proposed route modifications and minor route variations are included as Exhibits A through H, and have also been provided to the Commission in an electronic format as Portable Document Format (PDF) files.

b. Mylar Maps

The following maps are included as exhibits in support of this supplemental filing:

Exhibit A **Project Overview Map**
Exhibit B **Route Modification 1**
Exhibit C **Route Modification 2**
Exhibit D **Minor Route Variations**
Exhibit E **Beaver Lodge Meter Station Site**

Exhibit F **Exclusion and Avoidance Area Maps**

Exhibit G **Selection Criteria Maps (Land Use)**

Exhibit H **Selection Criteria Maps (Other)**

SUPPLEMENTAL MATERIALS

APPLICATION FOR A ROUTE PERMIT

Commission Case No. PU-10-637

Introduction

The information required for the Route permit application is nearly the same as that required for the Certificate of Corridor Compatibility application, except the application for a Route Permit also requires a discussion of the factors listed in Sections 49-22-08.1(e) and (f) and 49-22-09 of the North Dakota Century Code. Therefore, to make this filing more user-friendly, nearly all the information required for the Route Permit application has been included in the Certificate of Corridor Compatibility application, with applicable section references to the Certificate application included in the Route Permit application. The only information in the Route Permit application that is not included in the Certificate application is a discussion of factors listed in Sections 49-22-08.1(e) and (f) and 49-22-09 of the North Dakota Century Code.

Section A: Description of Transmission Facility

1. Type

No change.

2. Product

No change.

3. Size and Design

No change.

4. Time Schedule

a. Route Permit

Rangeland Pipeline is seeking a Route Permit on or before **September 1, 2011**.

b. Right-of-Way Acquisition Complete

Rangeland Pipeline expects right-of-way acquisition to be complete before **July 15, 2011**.

c. Construction Start Date

Rangeland Pipeline is proposing to start construction in **early September, 2011**.

d. Construction Complete

Rangeland Pipeline is proposing to complete construction in **late October to early November, 2011**.

e. Test Operations

No change.

f. In-Service Date

No change.

Section B: Location

1. Minimizing Environmental Impacts

No change.

2. Factors Listed in Section 49-22-09 of the North Dakota Century Code

a. Available research and investigations relating to the effects of the location, construction, and operation of the proposed facility on public health and welfare, natural resources, and the environment.

Please refer to Section B of the February, 2011 Application for a Certificate of Corridor Compatibility and Section B of the July, 2011 Supplemental Materials to the Application for a Certificate of Corridor Compatibility.

b. The effects of new energy conversion and transmission technologies and systems designed to minimize adverse environmental effects.

No change.

c. The potential for beneficial uses of waste energy from a proposed energy conversion facility.

No change.

d. Adverse direct and indirect environmental effects which cannot be avoided should the proposed site or route be designated.

Please refer to Section D of the February, 2011 Application for a Certificate of Corridor Compatibility and Section D of the July, 2011 Supplemental Materials to the Application for a Certificate of Corridor Compatibility.

e. Alternatives to the proposed site, corridor, or route which are developed during the hearing process and which minimize adverse effects.

No change.

f. Irreversible and irretrievable commitments of natural resources should the proposed site, corridor, or route be designated.

No change.

g. The direct and indirect economic impacts of the proposed facility.

No change.

h. Existing plans of the state, local government, and private entities for other developments at or in the vicinity of the proposed site, corridor, or route.

No change.

i. The effect of the proposed site or route on existing scenic areas, historic sites and structures, and paleontological or archaeological sites.

Please refer to Sections B.1, D.2, and D.4 of the February, 2011 Application for a Certificate of Corridor Compatibility and Sections B.1, D.2 and D.4 of the July, 2011 Supplemental Materials to the Application for a Certificate of Corridor Compatibility.

j. The effect of the proposed site or route on areas which are unique because of biological wealth or because they are habitats for rare and endangered species.

Please refer to Sections B.2, B.3, D.2 and D.4 of the February, 2011 Application for a Certificate of Corridor Compatibility and Sections B.2, B.3, D.2 and D.4 of the July, 2011 Supplemental Materials to the Application for a Certificate of Corridor Compatibility.

k. Problems raised by federal agencies, other state agencies, and local entities.

No problems were raised by federal agencies, state agencies or local entities as a result of the proposed and surveyed route changes. However, as a supplement to the agency correspondence discussed in the Consolidated Application, Rangeland Pipeline notes receipt of the following additional correspondence:

In a letter dated March 8, 2011 (attached in Exhibit I, Supplemental Agency Correspondence), the USFWS responded to Rangeland Pipeline's request for comments regarding the proposed Project.

The USFWS made several construction-related comments. They recommended that Rangeland Pipeline cease all work if a whooping crane is sighted within one mile of the proposed project area, and that the USFWS be contacted immediately. Upon approval from USFWS, work may resume after the bird(s) leave the area. The Sprague's pipit is protected under the Migratory Bird Treaty Act (MBTA), and USFWS requested that Rangeland Pipeline document and report steps taken to avoid and minimize disturbance of its habitat, should it be present within the

proposed route. USFWS also recommended avoiding all impacts to the Dakota skipper's habitat, due to the difficulty of surveying. To the extent practicable, the USFWS recommended scheduling construction for late summer or fall/early winter, so as not to disrupt migratory birds during their breeding season (February 1 – July 15). The USFWS also recommended avoiding impacts to high value habitat including: native prairie, stream channels, and wetlands.

The USFWS comments have been addressed by performing the protected species habitat surveys referred to above and determining that no protected species occur within the proposed route or are likely to be harmed by the proposed Project. In addition, construction is scheduled for late summer and fall, 2011, which will avoid impacts to migratory birds during the stated breeding season of February 1 to July 15.

In a letter dated March 17, 2011 (see Exhibit I, Supplemental Agency Correspondence), the State Historical Society of North Dakota, State Historic Preservation Officer, informed SWCA, on behalf of Rangeland Pipeline, that the Project's Unanticipated Discoveries Plan was acceptable. A copy of the Unanticipated Discoveries Plan is provided in Appendix A.

In a letter dated March 30, 2011 (see Exhibit I, Supplemental Agency Correspondence), the Project received a Project Authorization letter from the North Dakota Regulatory Office of the USACE, Omaha District, stating that the Project qualifies for NWP 12 authorization.

3. Routing Criteria

No change.

4. Discussion of the Relative Value of Each Criteria

Please refer to Section D.4 of the February, 2011 Application for a Certificate of Corridor Compatibility and Section D.4 of the July, 2011 Supplemental Materials to the Application for a Certificate of Corridor Compatibility.

5. Criteria to be Evaluated

a. Exclusion Areas

Please refer to Section D.4.a of the February, 2011 Application for a Certificate of Corridor Compatibility and Section D.4.a of the July, 2011 Supplemental Materials to the Application for a Certificate of Corridor Compatibility.

b. Avoidance Areas

Please refer to Section D.4.b of the February, 2011 Application for a Certificate of Corridor Compatibility and Section D.4.b of the July, 2011 Supplemental Materials to the Application for a Certificate of Corridor Compatibility.

c. Selection Criteria

No change.

d. Policy Criteria

No change.

e. Design and Construction Limitations

No change.

f. Economic Considerations

No change.

6. Mitigative Measures

No change.

7. List of Preparers

No change.

8. Maps

a. Proposed Route and New Associated Facilities

Please refer to Section D.7 of the February, 2011 Application for a Certificate of Corridor Compatibility and Section D.7 of the July, 2011 Supplemental Materials to the Application for a Certificate of Corridor Compatibility.

b. Mylar Maps

Please refer to Section D.7.b of the February, 2011 Application for a Certificate of Corridor Compatibility and Section D.7.b of the July, 2011 Supplemental Materials to the Application for a Certificate of Corridor Compatibility.

c. Aerial Photographs

Please refer to Section D.7.a of the February, 2011 Application for a Certificate of Corridor Compatibility and Section D.7.a of the July, 2011 Supplemental Materials to the Application for a Certificate of Corridor Compatibility.

9. Other Permits and Approvals

No additional permits or approvals are necessary as a result of the proposed route changes. However, as an update to the permit and approval information provided in the Consolidated Application, Rangeland Pipeline notes that, in a letter dated March 30, 2011 (see Exhibit I, Supplemental Agency Correspondence), the Project received a Project Authorization letter from the North Dakota Regulatory Office of the USACE, Omaha District, stating that the project qualifies for NWP 12 authorization.

10. Right-of-Way Preparation and Construction and Reclamation Procedures (as Required by Section 49-22-08.1(e) of the North Dakota Century Code)

No change.

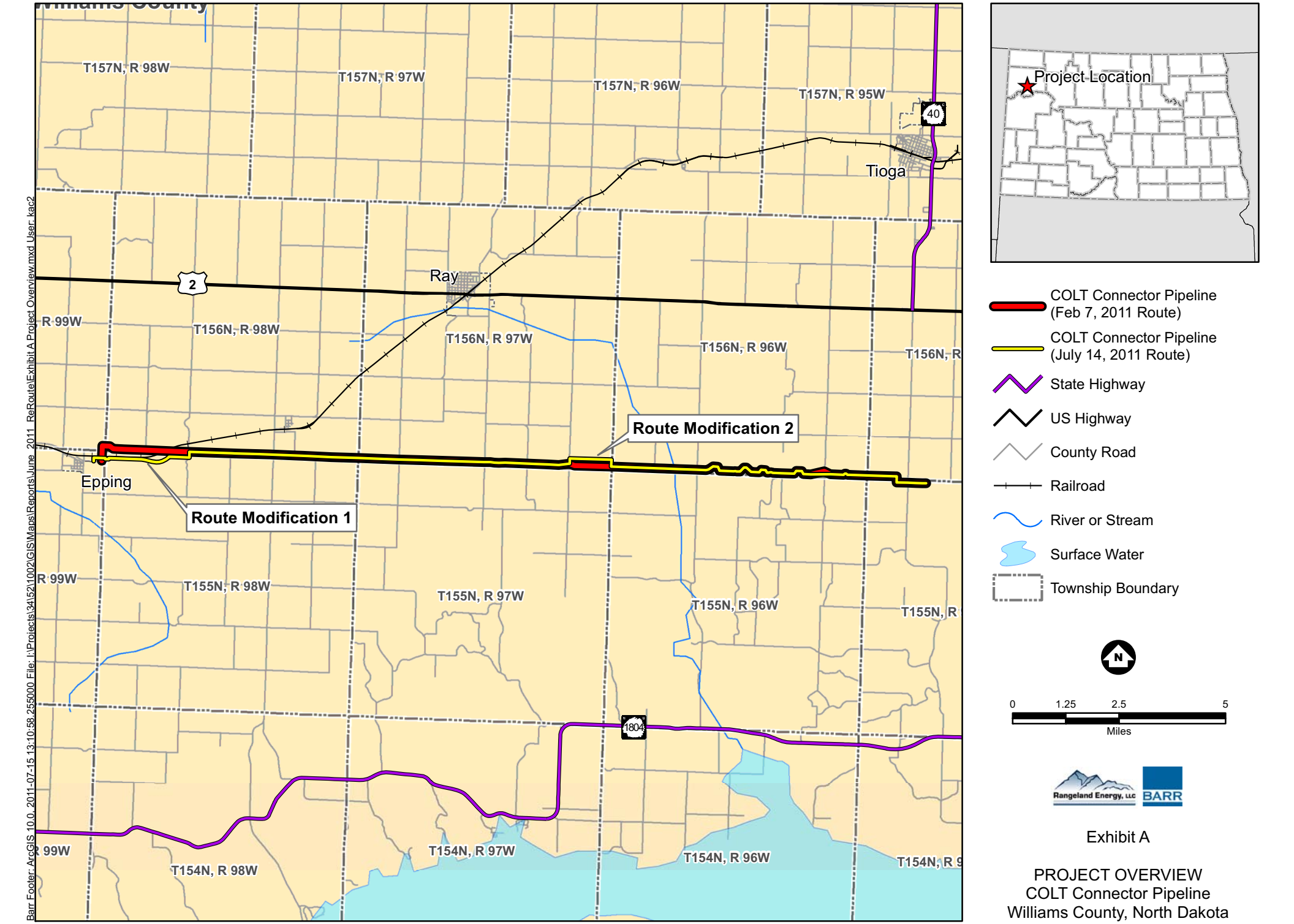
11. Discussion of the Manner in Which the Utility will Inform Affected Landowners of Easement Acquisition, and Necessary Easement Conditions and Restrictions (as Required by Section 49-22-08.1(f)(1) of the North Dakota Century Code)

No change.

12. Discussion of the Manner in Which the Utility will Compensate Landowners for Easements, Without Reference to the Actual Consideration to be Paid (as Required by Section 49-22-08.1(f)(2) of the North Dakota Century Code)

No change.

Map Exhibits



COLT Connector Pipeline (Feb 7, 2011 Route)

COLT Connector Pipeline (July 14, 2011 Route)

State Highway

US Highway

County Road

Railroad

River or Stream

Surface Water

Township Boundary

N

0 1.25 2.5 5

Miles

Rangeland Energy, LLC

BARR

Exhibit A

PROJECT OVERVIEW
COLT Connector Pipeline
Williams County, North Dakota

Barr Footer: ArcGIS 10.0, 2011-07-15 13:10:58.255000 File: I:\Projects\34\52\1002\GIS\Maps\Reports\June 2011 ReRoute\Exhibit A Project Overview.mxd User: kac2

T156N, R99W S35
T156N, R99W S36
T156N, R98W S31
T156N, R98W S32
T156N, R98W S33
T156N, R98W S34
T156N, R98W S28
T156N, R98W S27
Epping
1
2
3
T155N, R99W S2
T155N, R99W S1
T155N, R98W S6
T155N, R98W S5
T155N, R98W S4
T155N, R98W S3
T155N, R99W S11
T155N, R99W S12
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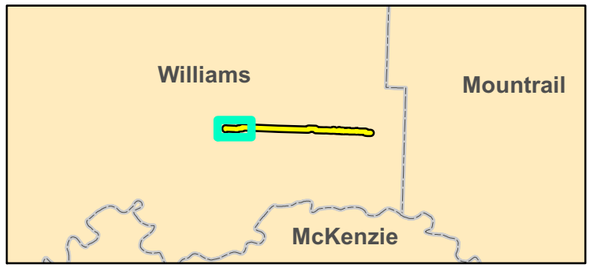
T155N, R98W S8
T155N, R98W S9
T155N, R98W S10

Image: ESRI Image Server, 2009, 1.0 Meter Resolution



- COLT Connector Pipeline (Feb 7, 2011 Route)
- COLT Connector Pipeline (July 14, 2011 Route)
- Existing Pipeline
- Milepost
- Public Land Survey Sections
- Municipal Boundaries
- Waterbodies
- Watercourses

1 inch = 1,500 feet

0 0.2 0.4 0.8
Miles

Rangeland Energy, LLC
BARR

Exhibit B

ROUTE MODIFICATION 1
COLT Connector Pipeline
Williams County, North Dakota

Barr Footer: ArcGIS 10.0, 2011-07-15 13:56:42.181000 File: I:\Projects\34\52\1002\GIS\Maps\Reports\June_2011_ReRoute\Exhibit C Route Modification 2.mxd User: kac2

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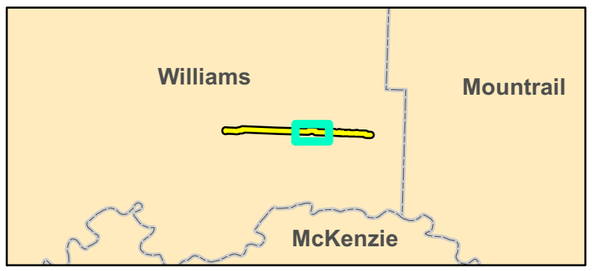


- COLT Connector Pipeline (Feb 7, 2011 Route)
- COLT Connector Pipeline (July 14, 2011 Route)
- Existing Pipeline
- Milepost
- Public Land Survey Sections
- Municipal Boundaries
- Waterbodies
- Watercourses

N

1 inch = 1,500 feet

0 0.2 0.4 0.8

Miles

Rangeland Energy, LLC BARR

Exhibit C

ROUTE MODIFICATION 2
COLT Connector Pipeline
Williams County, North Dakota

T156N, R97W
S35

T156N, R97W
S36

T156N, R96W
S31

T155N, R97W
S2

T155N, R97W
S1

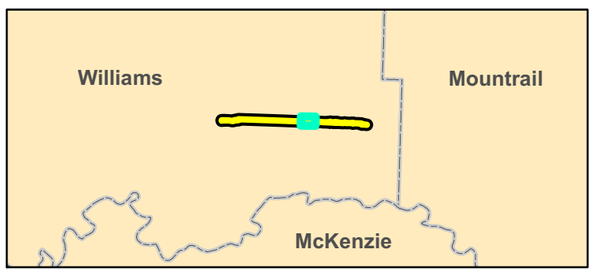
T155N, R96W
S6

11

12

13

Image: ESRI Image Server, 2009, 1.0 Meter Resolution



- COLT Connector Pipeline (July 14, 2011 Route)
- COLT Connector Pipeline (Feb 7, 2011 Route)
- Existing Pipeline
- Milepost
- 100 Foot Survey Corridor (October 2010)
- Public Land Survey Sections
- Municipal Boundaries
- Waterbodies
- Watercourses

N

1 inch = 850 feet

0 0.1 0.2 0.4

Miles

Rangeland Energy, LLC

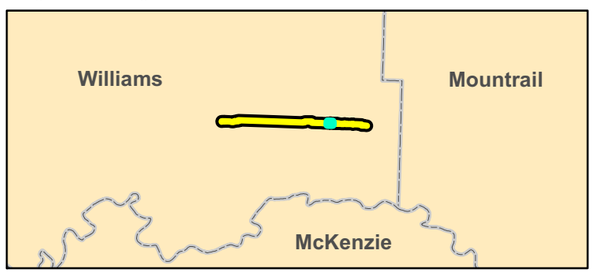
BARR

Exhibit D - Page 1 of 4

MINOR ROUTE VARIATIONS
COLT Connector Pipeline
Williams County, North Dakota

T156N, R96W S32
T156N, R96W S33
T156N, R96W S34
T155N, R96W S5
T155N, R96W S4
T155N, R96W S3
14
15
16

Image: ESRI Image Server, 2009, 1.0 Meter Resolution



- COLT Connector Pipeline (July 14, 2011 Route)
- COLT Connector Pipeline (Feb 7, 2011 Route)
- Existing Pipeline
- Milepost
- 100 Foot Survey Corridor (October 2010)
- Public Land Survey Sections
- Municipal Boundaries
- Waterbodies
- Watercourses

N

1 inch = 850 feet

0 0.1 0.2 0.4
Miles

Rangeland Energy, LLC
BARR

MINOR ROUTE VARIATIONS
COLT Connector Pipeline
Williams County, North Dakota

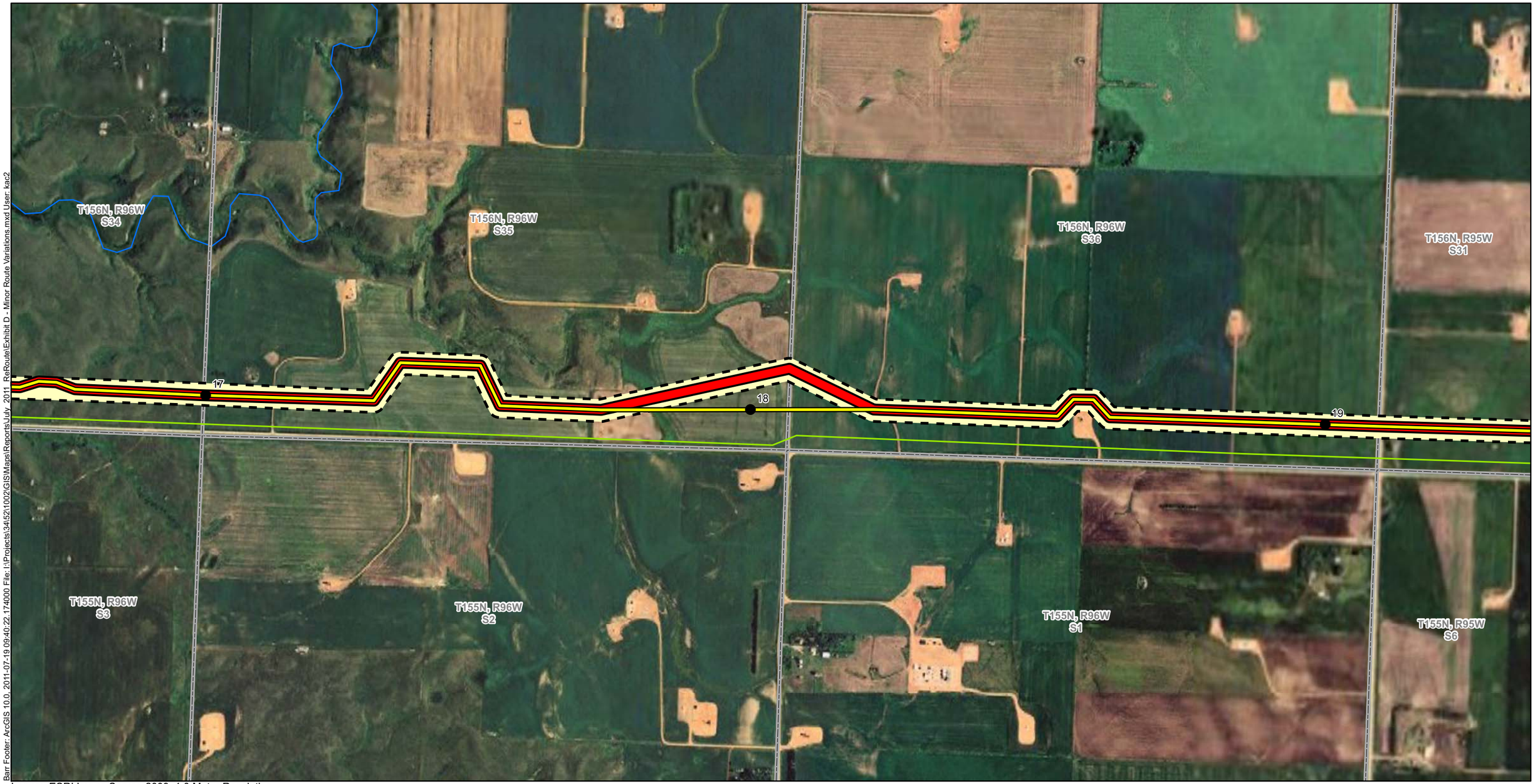
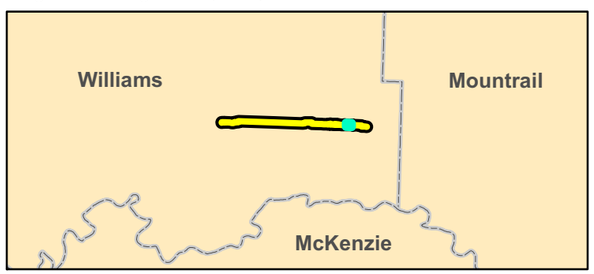


Image: ESRI Image Server, 2009, 1.0 Meter Resolution



- COLT Connector Pipeline (July 14, 2011 Route)
- COLT Connector Pipeline (Feb 7, 2011 Route)
- Existing Pipeline
- Milepost
- 100 Foot Survey Corridor (October 2010)
- Public Land Survey Sections
- Municipal Boundaries
- Waterbodies
- Watercourses

N

1 inch = 850 feet

0 0.1 0.2 0.4

Miles

Rangeland Energy, LLC

BARR

Exhibit D - Page 3 of 4

MINOR ROUTE VARIATIONS
COLT Connector Pipeline
Williams County, North Dakota

T156N, R95W
S31

T156N, R95W
S32

T156N, R95W
S33

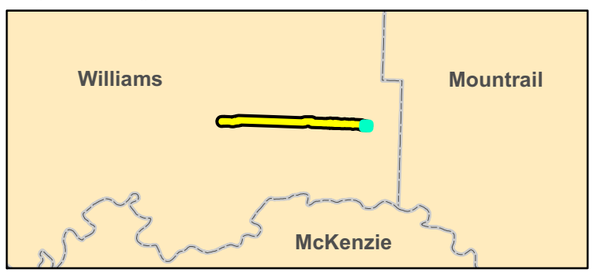
20

T155N, R95W
S6

T155N, R95W
S5

T155N, R95W
S4

Image: ESRI Image Server, 2009, 1.0 Meter Resolution



- COLT Connector Pipeline (July 14, 2011 Route)
- COLT Connector Pipeline (Feb 7, 2011 Route)
- Existing Pipeline
- Milepost
- 100 Foot Survey Corridor (October 2010)
- Public Land Survey Sections
- Municipal Boundaries
- Waterbodies
- Watercourses

N

1 inch = 850 feet

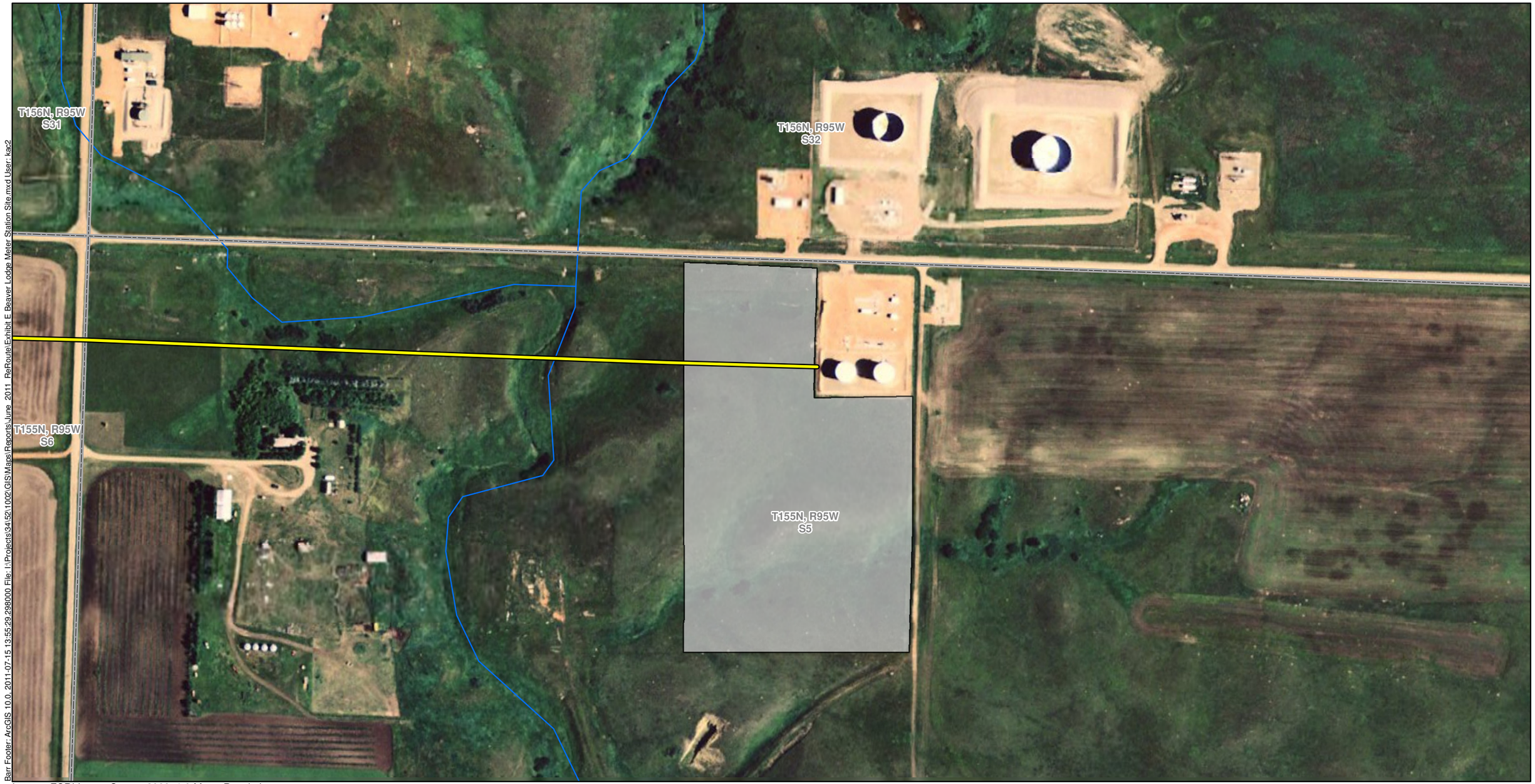
0 0.1 0.2 0.4

Miles

Rangeland Energy, LLC

BARR

MINOR ROUTE VARIATIONS
COLT Connector Pipeline
Williams County, North Dakota



Barr Footer: ArcGIS 10.0, 2011-07-15 13:55:29.298000 File: I:\Projects\34152\1002\GIS\Maps\Reports\June_2011_ReRoute\Exhibit E Beaver Lodge Meter Station Site.mxd User: kac2

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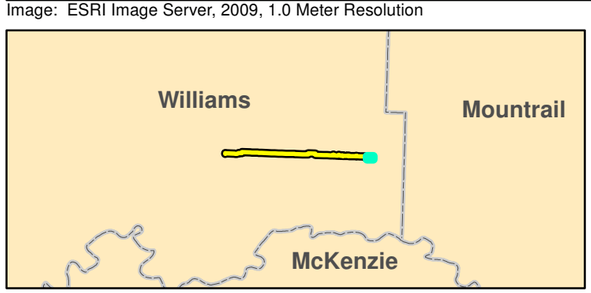


- COLT Connector Pipeline (July 14, 2011 Route)
- Milepost
- Beaver Lodge Meter Station
- Public Land Survey Sections
- Municipal Boundaries
- Waterbodies
- Watercourses

N

1 inch = 300 feet

0 0.04 0.08 0.16

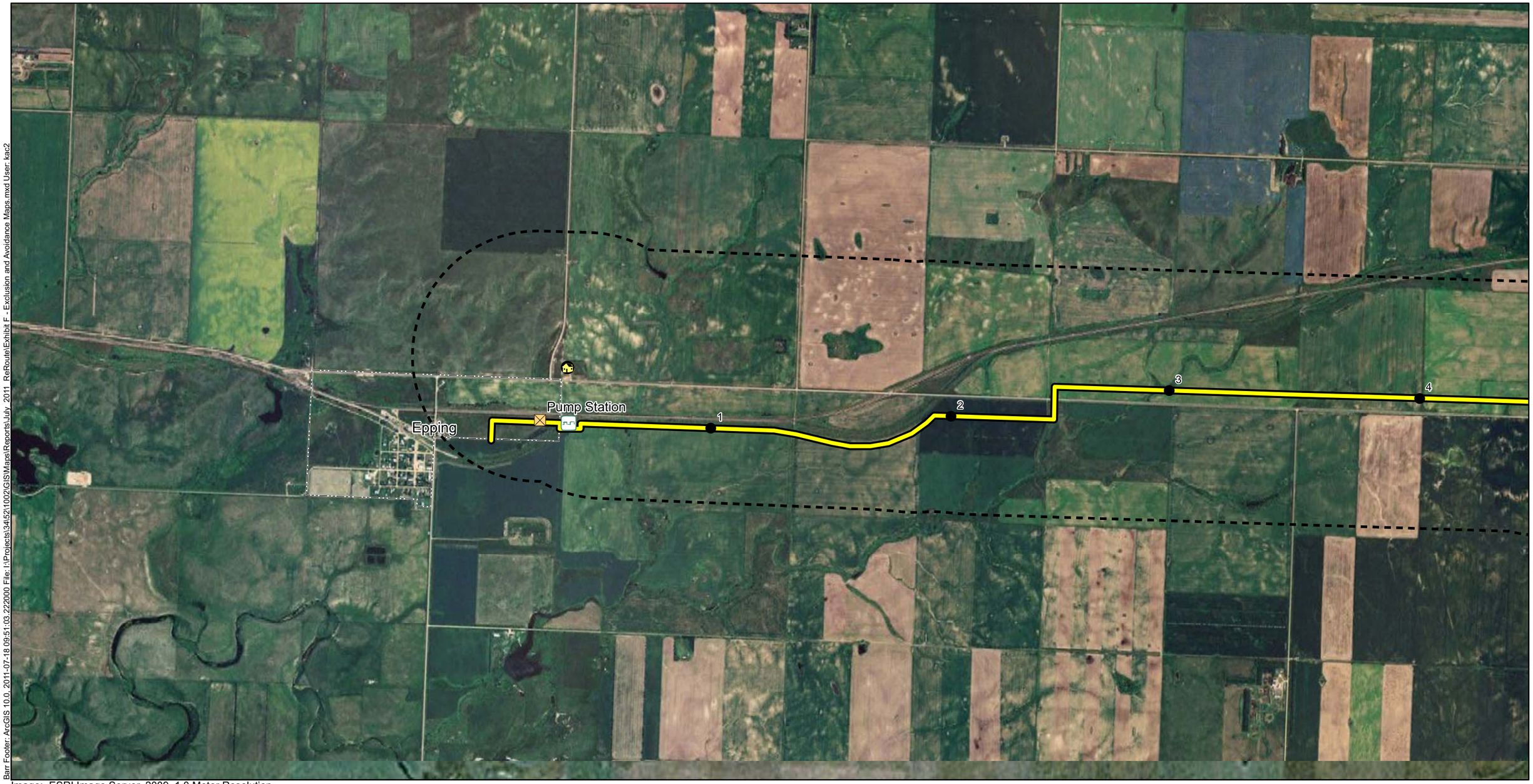
Miles

Rangeland Energy, LLC

BARR

Exhibit E

BEAVER LODGE METER STATION SITE
COLT Connector Pipeline
Williams County, North Dakota



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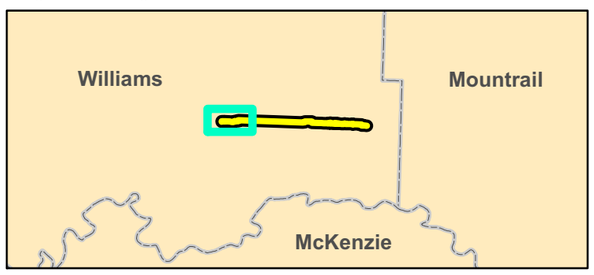


- COLT Connector Pipeline (June 29, 2011 Route)
- Milepost
- Block Valve
- Pump Station
- Businesses
- Cemetery
- Residence
- Cultural Sites
- 1-Mile Evaluation Corridor
- Municipal Boundaries

N

1 inch = 2,000 feet

0 0.25 0.5 1

Miles

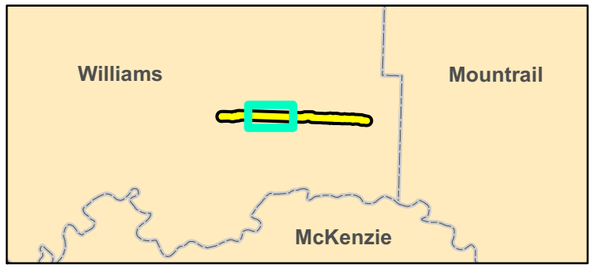
Rangeland Energy, LLC BARR

Exhibit F - Page 1 of 4

EXCLUSION AND AVOIDANCE MAPS
COLT Connector Pipeline
Williams County, North Dakota

4 5 6 7 8 9

Image: ESRI Image Server, 2009, 1.0 Meter Resolution



- COLT Connector Pipeline (June 29, 2011 Route)
- Milepost
- Block Valve
- Pump Station
- Businesses
- Cemetery
- Residence
- Cultural Sites
- 1-Mile Evaluation Corridor
- Municipal Boundaries

N

1 inch = 2,000 feet

0 0.25 0.5 1

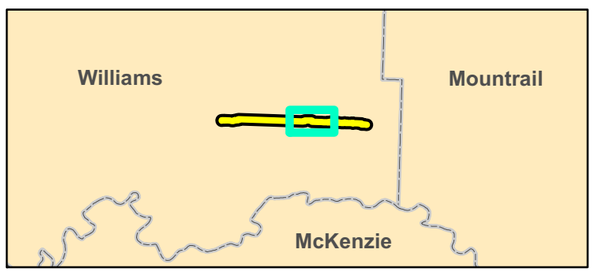
Miles

Rangeland Energy, LLC BARR

EXCLUSION AND AVOIDANCE MAPS
COLT Connector Pipeline
Williams County, North Dakota

10
11
12
13
Block Valve
14
15

Image: ESRI Image Server, 2009, 1.0 Meter Resolution



- COLT Connector Pipeline (June 29, 2011 Route)
- Milepost
- Block Valve
- Pump Station
- Businesses
- Cemetery
- Residence
- Cultural Sites
- 1-Mile Evaluation Corridor
- Municipal Boundaries

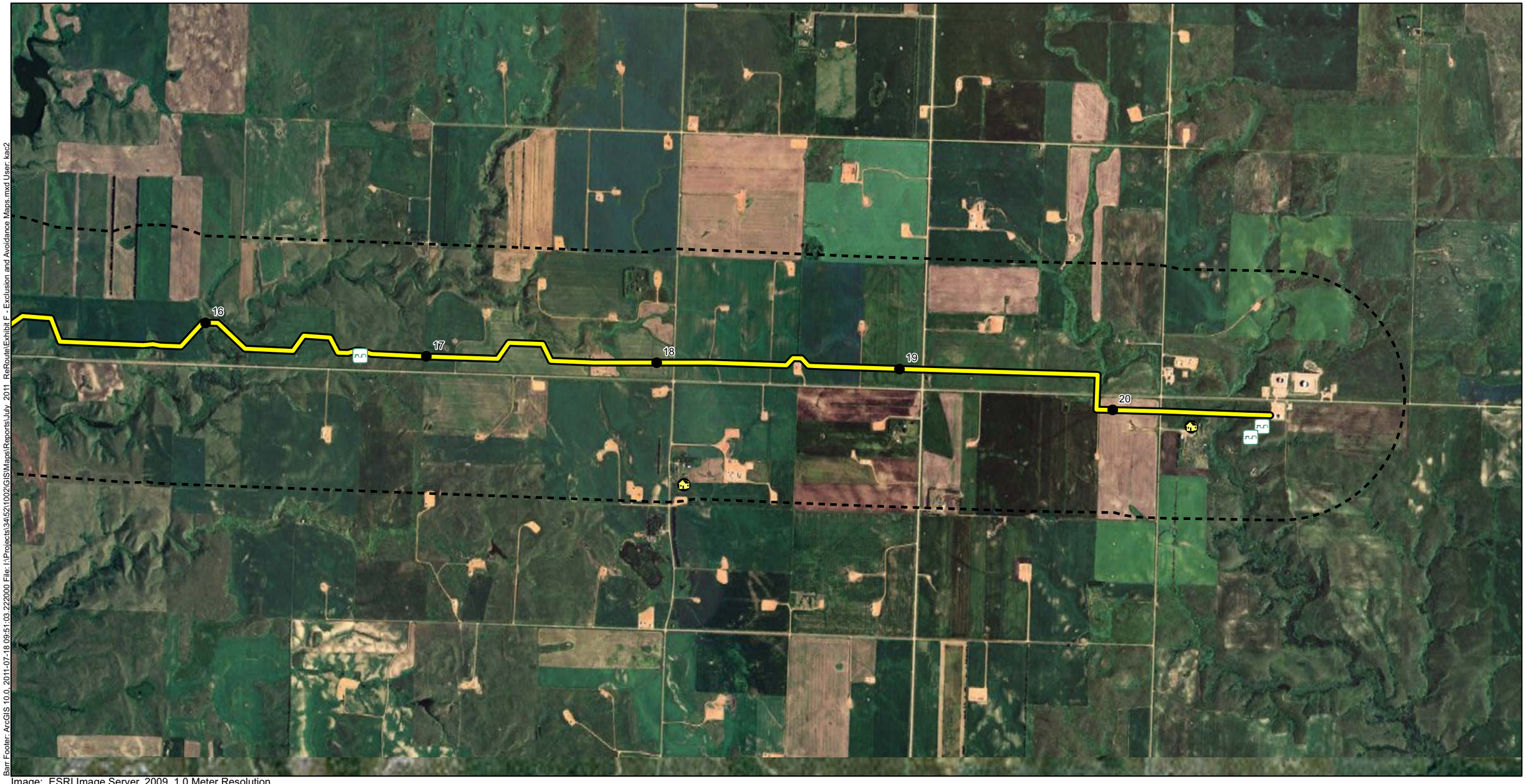
N

1 inch = 2,000 feet

0 0.25 0.5 1
Miles

Rangeland Energy, LLC
BARR

EXCLUSION AND AVOIDANCE MAPS
COLT Connector Pipeline
Williams County, North Dakota



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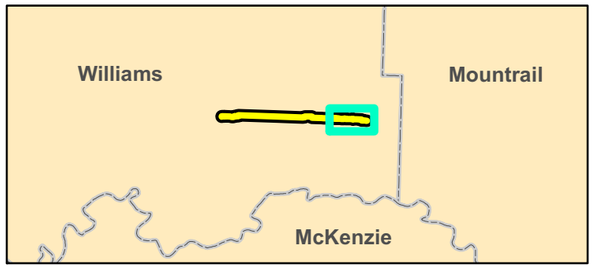


- COLT Connector Pipeline (June 29, 2011 Route)
- Milepost
- Block Valve
- Pump Station
- Businesses
- Cemetery
- Residence
- Cultural Sites
- 1-Mile Evaluation Corridor
- Municipal Boundaries

N

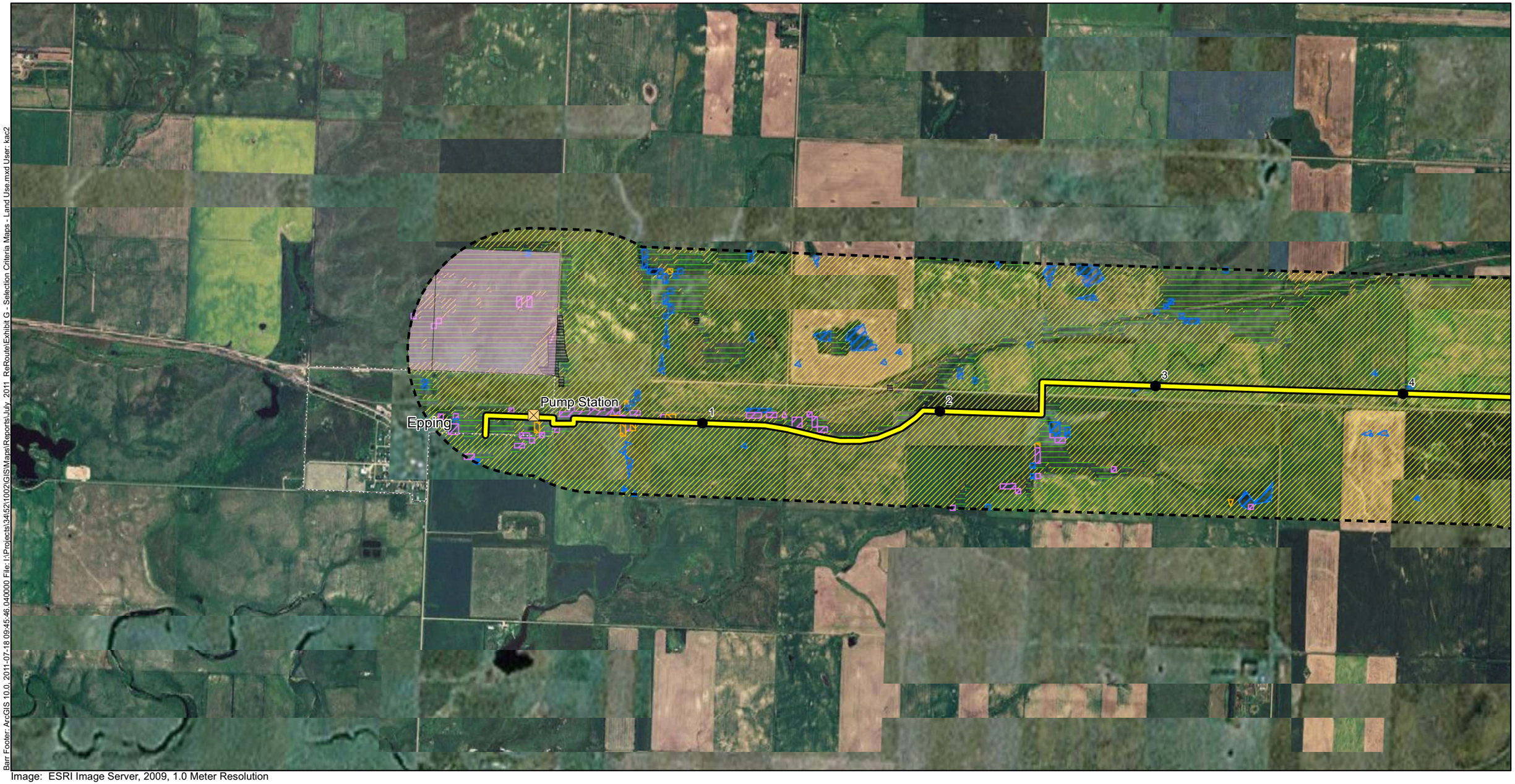
1 inch = 2,000 feet

0 0.25 0.5 1

Miles

Rangeland Energy, LLC BARR

EXCLUSION AND AVOIDANCE MAPS
COLT Connector Pipeline
Williams County, North Dakota



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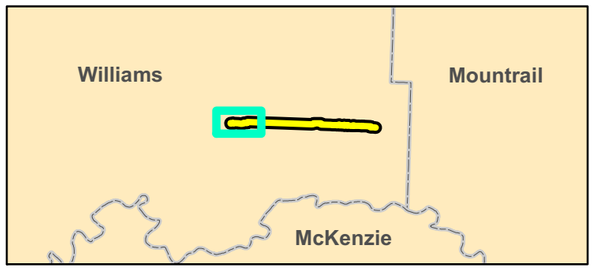


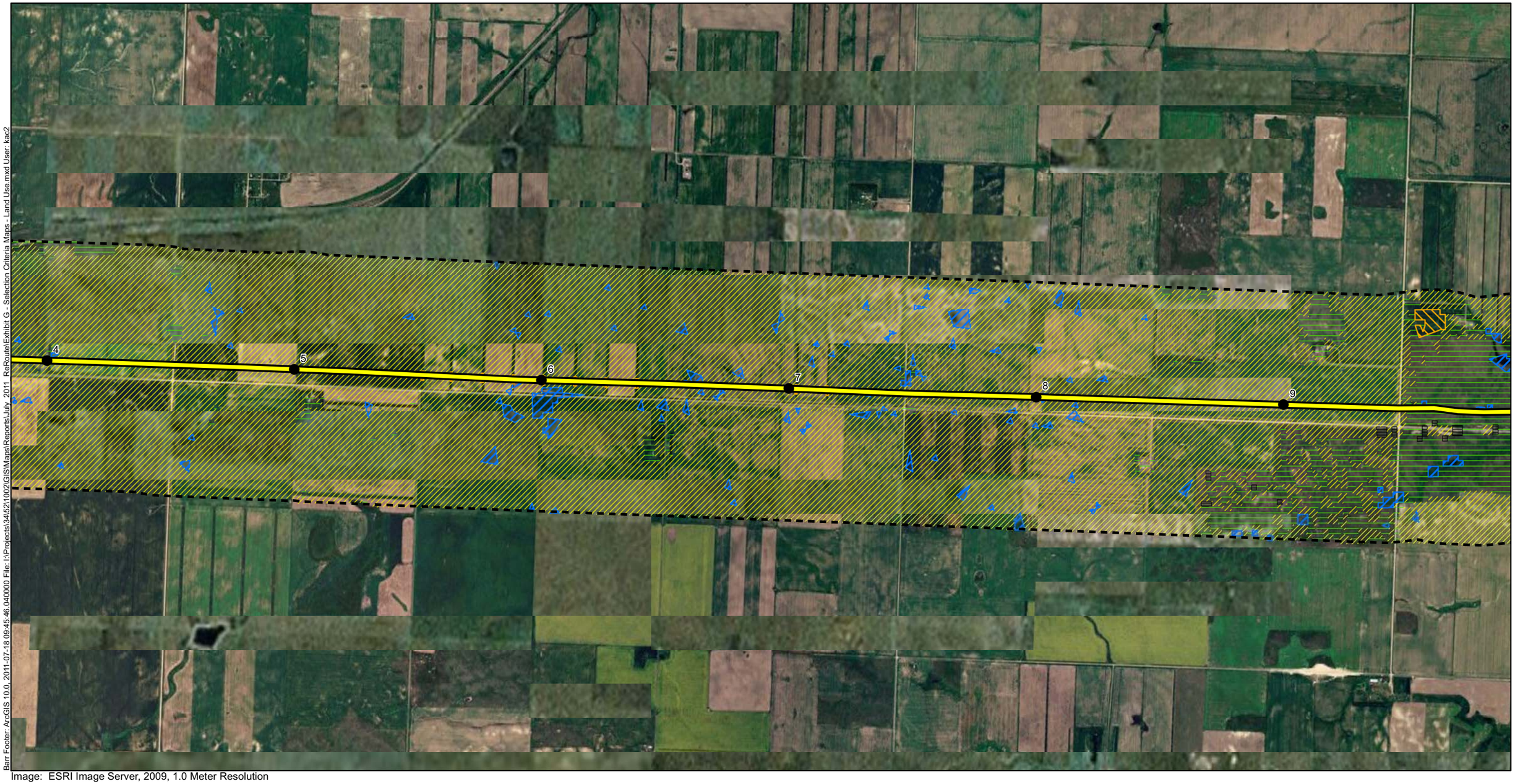
COLT Connector Pipeline (July 14, 2011 Route)
Milepost
Block Valve
Pump Station
1-Mile Evaluation Corridor
School Trust Land
Barren
Cropland
Grassland
Shrubland
Wetland/Water
Woodland

1 inch = 2,000 feet

0 0.25 0.5 1
Miles

Rangeland Energy, LLC
BARR

SELECTION CRITERIA MAPS
(LAND USE)
COLT Connector Pipeline
Williams County, North Dakota



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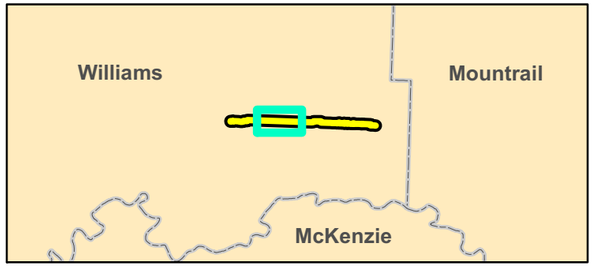


- COLT Connector Pipeline (July 14, 2011 Route)
- Milepost
- Block Valve
- Pump Station
- 1-Mile Evaluation Corridor
- School Trust Land
- Barren
- Cropland
- Grassland
- Shrubland
- Wetland/Water
- Woodland

1 inch = 2,000 feet

0 0.25 0.5 1

Miles

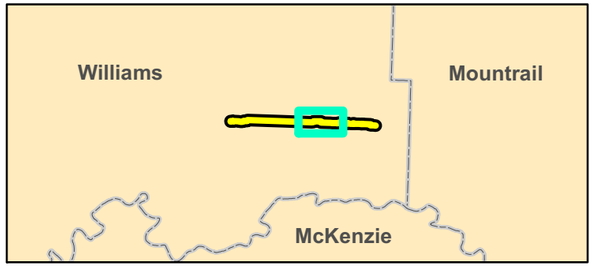
Rangeland Energy, LLC BARR

Exhibit G - Page 2 of 4

SELECTION CRITERIA MAPS
(LAND USE)
COLT Connector Pipeline
Williams County, North Dakota

10 11 12 13 Block Valve 14 15

Image: ESRI Image Server, 2009, 1.0 Meter Resolution



- COLT Connector Pipeline (July 14, 2011 Route)
- Milepost
- Block Valve
- Pump Station
- 1-Mile Evaluation Corridor
- School Trust Land
- Barren
- Cropland
- Grassland
- Shrubland
- Wetland/Water
- Woodland

1 inch = 2,000 feet

0 0.25 0.5 1

Miles

Rangeland Energy, LLC BARR

Exhibit G - Page 3 of 4

SELECTION CRITERIA MAPS
(LAND USE)
COLT Connector Pipeline
Williams County, North Dakota

Barr Footer: ArcGIS 10.0, 2011-07-18 09:45:46.040000 File: I:\Projects\34\52\11002\GIS\Maps\Reports\July_2011_ReRoute\Exhibit G - Selection Criteria Maps - Land Use.mxd User: kac2

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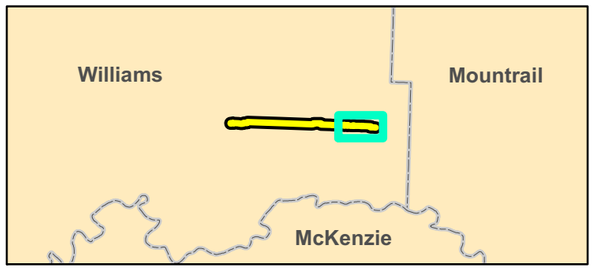


COLT Connector Pipeline (July 14, 2011 Route)
Milepost
Block Valve
Pump Station
1-Mile Evaluation Corridor
School Trust Land
Barren
Cropland
Grassland
Shrubland
Wetland/Water
Woodland

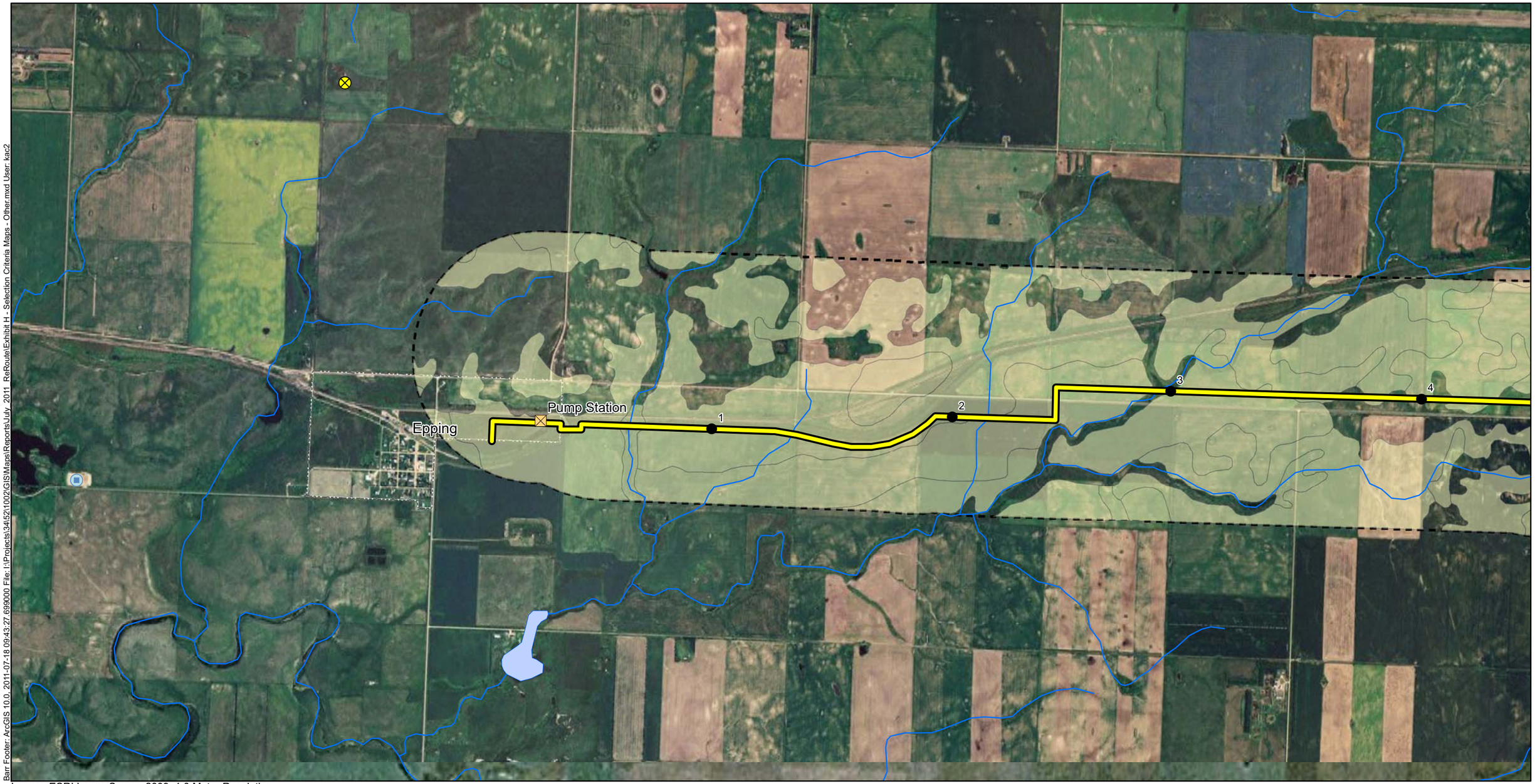
1 inch = 2,000 feet

0 0.25 0.5 1
Miles

Rangeland Energy, LLC
BARR

Exhibit G - Page 4 of 4

SELECTION CRITERIA MAPS
(LAND USE)
COLT Connector Pipeline
Williams County, North Dakota



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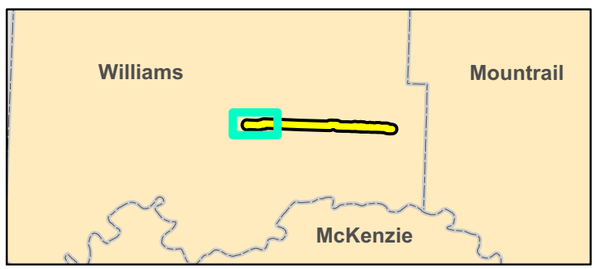


- COLT Connector Pipeline (July 14, 2011 Route)
- Milepost
- Block Valve
- Pump Station
- Oil or Gas Well
- Gravel Pit
- 1-Mile Evaluation Corridor
- Aquifers
- Prime and Important Farmland
- Waterbodies
- Watercourses

1 inch = 2,000 feet

0 0.25 0.5 1

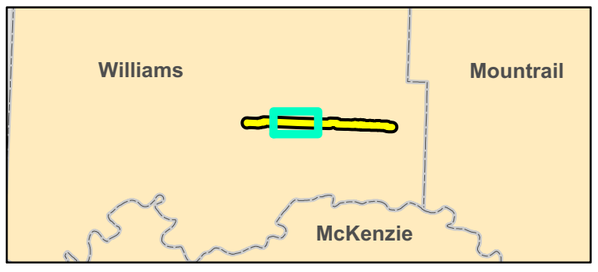
Miles

Rangeland Energy, LLC BARR

SELECTION CRITERIA MAPS (OTHER)
COLT Connector Pipeline
Williams County, North Dakota

4 5 6 7 8 9

Image: ESRI Image Server, 2009, 1.0 Meter Resolution



- COLT Connector Pipeline (July 14, 2011 Route)
- Milepost
- Block Valve
- Pump Station
- Oil or Gas Well
- Gravel Pit
- 1-Mile Evaluation Corridor
- Aquifers
- Prime and Important Farmland
- Waterbodies
- Watercourses

1 inch = 2,000 feet

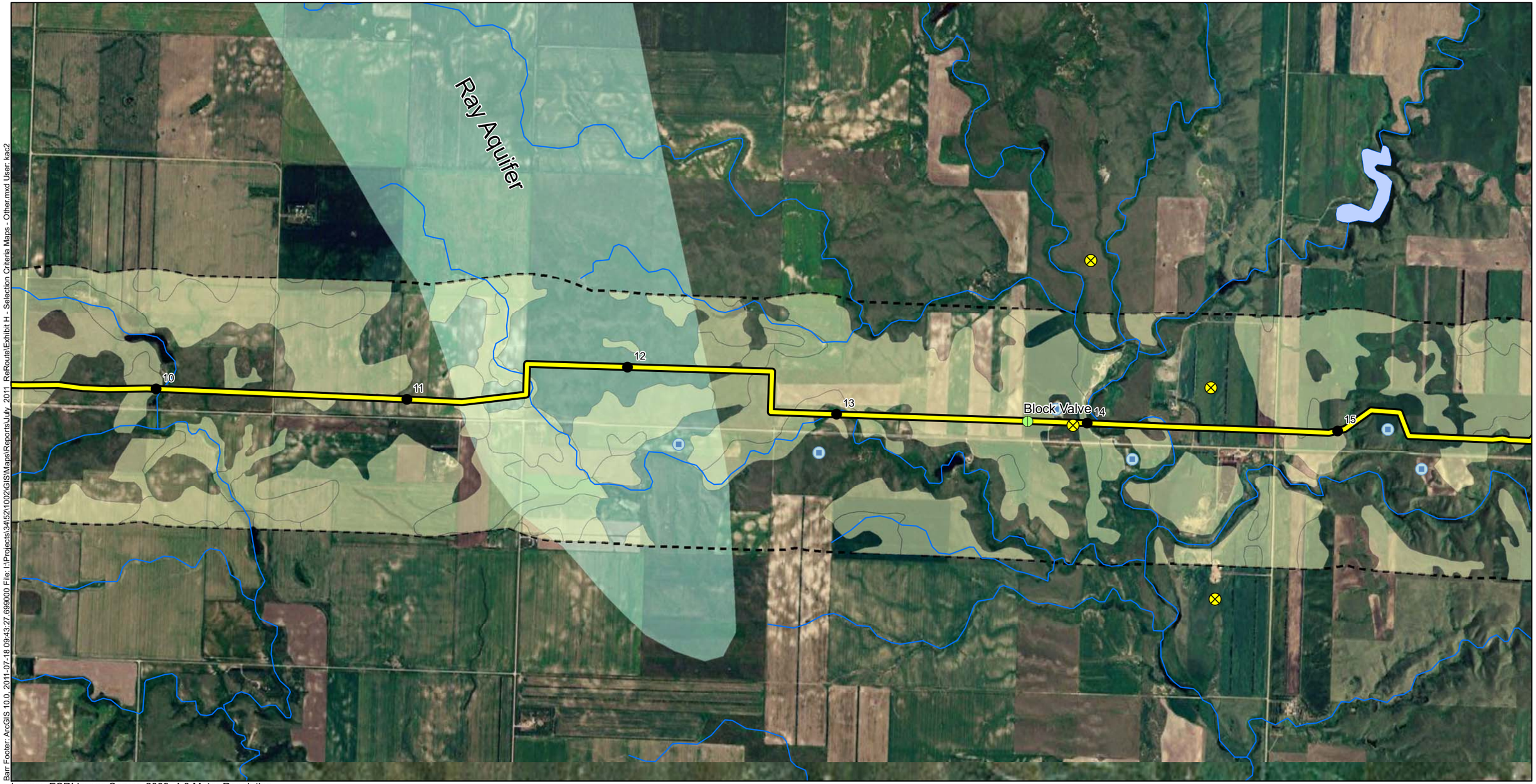
0 0.25 0.5 1

Miles

Rangeland Energy, LLC BARR

Appendix H - Page 2 of 4

SELECTION CRITERIA MAPS (OTHER)
COLT Connector Pipeline
Williams County, North Dakota



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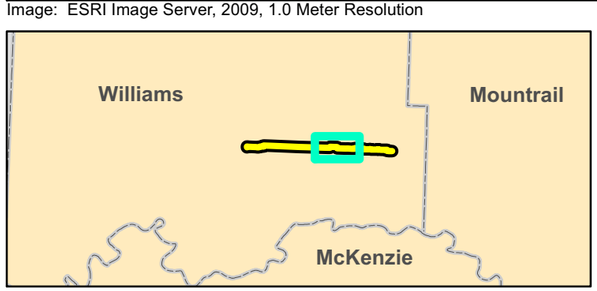


- COLT Connector Pipeline (July 14, 2011 Route)
- Milepost
- Block Valve
- Pump Station
- Oil or Gas Well
- Gravel Pit
- 1-Mile Evaluation Corridor
- Aquifers
- Prime and Important Farmland
- Waterbodies
- Watercourses

1 inch = 2,000 feet

0 0.25 0.5 1

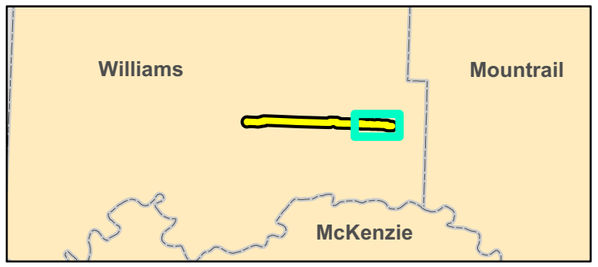
Miles

Rangeland Energy, LLC BARR

SELECTION CRITERIA MAPS (OTHER)
COLT Connector Pipeline
Williams County, North Dakota

16 17 18 19 20

Image: ESRI Image Server, 2009, 1.0 Meter Resolution



- COLT Connector Pipeline (July 14, 2011 Route)
- Milepost
- Block Valve
- Pump Station
- Oil or Gas Well
- Gravel Pit
- 1-Mile Evaluation Corridor
- Aquifers
- Prime and Important Farmland
- Waterbodies
- Watercourses

1 inch = 2,000 feet

0 0.25 0.5 1

Miles

Rangeland Energy, LLC BARR

Appendix H - Page 4 of 4

SELECTION CRITERIA MAPS (OTHER)
COLT Connector Pipeline
Williams County, North Dakota

Exhibit I

Supplemental Agency Correspondence

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
3425 Miriam Avenue
Bismarck, North Dakota 58501

MAR 8 2011

Mr. Dan Flo
Environmental Scientist
Barr Engineering Co.
4700 West 77th Street, Suite 200
Minneapolis, Minnesota 55435

Re: Rangeland Energy-Colt Connector Pipeline Project

Dear Mr. Flo:

The U.S. Fish and Wildlife Service (Service) has reviewed the proposed Rangeland Energy-Colt Connector Pipeline Project, described in a letter dated December 20, 2010. Rangeland Energy, LCC (Rangeland Energy) is proposing to construct an 8-inch-diameter pipeline 20-miles long that will generally parallel the existing Enbridge pipeline between the town of Epping and Beaver Lodge/Ramberg Station. The proposed pipeline will transport crude oil from near Epping to a delivery facility to be located approximately eight miles south of Tioga. 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.), the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), and the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668-668d, 54 Stat. 250).

Below are recommendations to assist in complying with each of these authorities. Your plans should integrate these recommendations to maximize compliance. Recommendations addressing the trust resources under Service authorities are tailored to address protective measures for a variety of species.

Threatened, and Endangered Species

Section 10(a)(1)(B) of the ESA allows non-Federal parties planning activities that have no Federal nexus, but which could result in the incidental taking of listed animals, to apply for an incidental take permit. (A Federal nexus exists whenever an activity is conducted, funded, or licensed or permitted by a Federal agency). The application must include a habitat conservation plan (HCP) laying out the proposed actions, determining the effects of those actions on federally-listed plant and wildlife species and their habitats (and may include proposed or candidate species), and defining measures to minimize and mitigate adverse effects.

A list of federally endangered and threatened species that may be present within the proposed project's area of influence is enclosed. This list fulfills requirements of the Service under Section 7 of the Endangered Species Act. This list remains valid for 90 days.

The Aransas Wood Buffalo Population (AWBP) of endangered 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. They make numerous stops along their migration route to feed and roost before moving on.

Whooping cranes are unlikely to spend more than a few days in any one spot during migration. The Service suggests that Rangeland Energy include a requirement that if a whooping crane is sighted within one mile of the proposed project area during construction, that all work cease within one mile of that part of the project and the Service be contacted immediately. In coordination with the Service, work may resume after the bird(s) leave the area.

Candidate Species

Sprague's pipit was added to the candidate species list in 2010. Migratory bird species, such as the Sprague's pipit, that are candidates are not protected under the ESA, but are still protected under the MBTA. Sprague's pipits require large patches of grassland habitat for breeding, with preferred grass height between 4 and 12 inches. The species prefers to breed in well-drained, open grasslands and avoids grasslands with excessive shrubs. They can be found in lightly to heavily grazed areas. They avoid intrusive human features on the landscape, so the impact of a development can be much larger than the actual footprint of the feature. If Sprague's pipit habitat is present within your proposed project area, the Service requests that you document any steps taken to avoid and minimize disturbance of this habitat, and that you share this information with our office.

The Dakota skipper is a small to medium-sized hesperiine butterfly associated with high quality prairie ranging from wet-mesic tallgrass prairie to dry-mesic mixed grass prairie. The first type of habitat is relatively flat and moist native bluestem prairie. Three species of wildflowers are usually present: wood lily (*Lilium philadelphicum*), harebell (*Campanula rotundifolia*), and smooth camas (*Zygadenus elegans*). The second habitat type is upland (dry) prairie that is often on ridges and hillsides. Bluestem grasses and needlegrasses dominate these habitats. On this habitat type, three wildflowers are typically present in high quality sites that are suitable for Dakota skipper: pale purple (*Echinacea pallida*) and upright (*E. angustifolia*) coneflowers and blanketflower (*Gaillardia sp.*). Because of the difficulty of surveying for Dakota skippers and a short survey window, we recommend that the project avoid any impacts to potential Dakota skipper habitat.

For candidate species such as the Dakota skipper and Sprague's pipit, non-Federal project proponents have the ability to take advantage of the additional management flexibility afforded to candidate species by facilitating development and implementation of a Candidate Conservation Agreements with Assurances (CCAA). This is a formal, voluntary agreement between the Service and one or more parties to address the conservation needs of one or more candidate species. Participants voluntarily commit to implement specific actions designed to remove or reduce threats to the covered species. These agreements can involve both Federal and non-Federal lands and in some cases have been so successful that listing the species proved to be unnecessary.

Migratory Birds

The MBTA prohibits the taking, killing, possession, and transportation, (among other actions) of migratory birds, their eggs, parts, and nests, except when specifically permitted by regulations. While the MBTA has no provision for allowing unauthorized take, the Service realizes that some birds may be killed during project construction and operation even if all known reasonable and effective measures to protect birds are used. The Service 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 avoid take of migratory birds, and by encouraging others to implement measures to avoid take of migratory birds. It is not possible to absolve individuals, companies, or agencies from liability even if they implement bird mortality avoidance or other similar protective measures. However, the Office of Law Enforcement focuses its resources on investigating and prosecuting individuals and companies that take migratory birds without identifying and implementing all reasonable, prudent, and effective measures to avoid that take. Companies are encouraged to work closely with Service biologists to identify available protective measures when developing project plans and/or avian protection plans, and to implement those measures prior to/during construction or similar activities.

To the extent practicable, schedule construction for late summer or fall/early winter so as not to disrupt migratory birds during the breeding season (February 1 to July 15). 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, their eggs, or active nests, the Service recommends that the project proponent implement all practicable measures to avoid all take, such as suspending construction where necessary, and/or maintaining adequate buffers to protect the birds until the young have fledged. The Right of Way (ROW) where the proposed pipeline will be placed can be mowed or cleared and grubbed prior to the nesting season to make it unsuitable for most nesting bird species. The Service further recommends that if you choose to conduct field surveys for nesting birds with the intent of avoiding take, that you maintain any documentation of the presence of migratory birds, eggs, and active nests, along with information regarding the qualifications of the biologist(s) performing the survey(s), and any avoidance measures implemented at the project site. Should surveys or other available information indicate a potential for take of migratory birds, their eggs, or active nests, the Service requests that you contact this office for further coordination on the

extent of the impact and the long-term implications of the intended use of the project on migratory bird populations.

Even if all measures are taken to avoid take of migratory birds during the construction phase, there is likely to be some migratory bird take associated with the ongoing operation and maintenance of the proposed pipeline. The Service recommends that the project proponent develop a Conservation Plan in cooperation with the Service to identify potential impacts to migratory birds during all phases of the proposed project. This Conservation Plan should evaluate impacts both from the immediate footprint of the project as well as from the larger impacts from ongoing disturbance. We recommend that this plan include a Habitat Equivalency Analysis or other appropriate habitat evaluation method which may include funding to allow for conservation actions to be directed towards the greatest needs of migratory birds in the proposed pipeline project area.

Bald and Golden Eagles

The BGEPA prohibits anyone without a permit issued by the Secretary of the Interior from taking bald or golden eagles, including their parts, nests, or eggs. The Act provides criminal and civil penalties for persons who take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald or golden eagle, alive or dead, or any part, nest, or egg thereof. The Act defines take as pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb. "Disturb means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior." In addition to immediate impacts, this definition also covers impacts that result from human-induced alterations initiated around a previously used nest site during a time when eagles are not present, if, upon the eagles return, such alterations agitate or bother an eagle to a degree that injures an eagle or substantially interferes with normal breeding, feeding, or sheltering habits and causes, or is likely to cause, a loss of productivity or nest abandonment.

While the Service is not currently aware of any bald or golden eagle nests in the vicinity of the project area, there are numerous documented bald eagle nests in Williams County. The Service recommends surveying ½ mile out from the proposed project to determine the presence of any undocumented eagle nests. If an eagle nest is observed within ½ mile of the proposed project areas, the Service requests that the location be documented and the Service be contacted for further coordination. A permit is required for any take of bald or golden eagles or their nests. Permits to take bald eagles or their nests are available only for legitimate emergencies and as part of a program to protect bald eagles.

High Value Habitat Avoidance

- Avoid construction in native prairie, if possible, and reseed disturbed native prairie with a comparable native grass/forb seed mixture. The Service recommends planting a diverse mixture of native cool and warm season grasses and forbs. Recent research has suggested that a more diverse mix, including numerous forb species, is not only ecologically beneficial, but is also more weed resistant, allowing for less intensive management and chemical use. In essence, the more species included in a mixture, the higher the probability of providing competition to resist invasion by non-native plants. The seed source should be as local as possible, preferably collected from the nearby native prairie. Obtain seed stock from nurseries within 250 miles of the project area to insure the particular cultivars are well adapted to the local climate. The Natural Resources Conservation Service (NRCS) compiles a list of vendors in North Dakota that supply conservation seed and plants (http://www.plant-materials.nrcs.usda.gov/pubs/ndpmcmt8152.pdf). Additional information on native grasses and forbs may be found at the NRCS Bismarck Plant Materials Center (http://www.plant-materials.nrcs.usda.gov/ndpmc/).

- Make no stream channel alterations or changes in drainage patterns. Directionally bore under wetlands and intermittent and perennial streams.

- Locate construction to avoid placement of fill in wetlands along the route.

- Replace unavoidable loss of wetland habitat with functionally equivalent wetlands.

- Install and maintain appropriate erosion control measures to reduce sediment transport to adjacent wetlands and stream channels.

- Keep the disturbed area along the ROW as narrow as possible, especially in or near sensitive resources such as native prairie, wetlands, or streams.

Thank you for the opportunity to comment on this project. If additional information is required, please contact Carol Aron of my staff, or contact me directly at (701) 250-4481 or at the letterhead address.

Sincerely,

Jeffrey K. Towner

Jeffrey K. Towner
Field Supervisor
North Dakota Field Office

Enclosure

cc: Regulatory Office, Army Corps of Engineers, Bismarck
(Attn: D. Cimarosti)

FEDERAL THREATENED, ENDANGERED, AND CANDIDATE SPECIES
AND DESIGNATED CRITICAL HABITAT FOUND IN
WILLIAMS COUNTY, NORTH DAKOTA
March 2011

ENDANGERED SPECIES

Birds

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

Whooping crane (*Grus Americana*): Aransas-Wood Buffalo Population (264 birds) occurs in North Dakota counties during spring and fall migration between breeding and wintering areas. Whooping cranes prefer to roost overnight in shallow open water wetland habitat with good visibility during migration stopovers.

Fish

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

Mammals

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.

CANDIDATE SPECIES

Birds

Sprague's Pipit (*Anthus spragueii*): Endemic to the Northern Great Plains native short-to-mixed grass prairie. Sensitive to fragmentation and conversion of grassland habitat. Sprague's pipits prefer relatively large prairie patches of at least approximately 72 acres, with larger patches of at least 360 acres preferred.

DESIGNATED CRITICAL HABITAT

Birds

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

STATE HISTORICAL SOCIETY OF NORTH DAKOTA

March 17, 2011

Judith R. Cooper
Principal Investigator
SWCA Environmental Consultants
116 North 4th Street, Suite 200
Bismarck, North Dakota 58501

NDSHPO REF.: 11-0446b PSC Rangeland Energy COLT Connector Pipeline, Williams County, North Dakota
Unanticipated Discovery Plan

Dear Judy:

We have reviewed correspondence and project document for: **11-0446b PSC** "Unanticipated Discovery Plan for Cultural Resources Identified During Construction of the Rangeland Pipeline COLT Connector Pipeline, Williams County, North Dakota," by Judith R. Cooper (SWCA, March 2011), and find it acceptable.

Thank you for the opportunity to review this project. If you have questions please contact either Paul Picha at ppicha@nd.gov or (701) 328-3574 or Susan Quinnell at squinnell@nd.gov or (701) 328-3576.

Sincerely,

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

c: Patrick Fahn, ND PSC
c: Daniel Flo, Barr Engineering

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

March 30, 2011

[NWO-2011-111-BIS]

Barr Engineering Co.
Attn: Daniel Flo
4700 West 77th Street, Suite 200
Minneapolis, MN 55435

Dear Mr. Flo:

1. Project Authorization. We have reviewed your request for Department of the Army (DA) authorization, on behalf of Rangeland Pipeline, LLC, for the proposed construction of an approximate 20.3-mile long 8-inch diameter crude oil pipeline. We have prepared a preliminary jurisdictional determination (JD) for the site(s) which is a written indication that the waterway(s) within the project area may be a jurisdictional Waters of the United States. Such waters have been treated as jurisdictional Waters of the U.S. for purposes of computation of impacts and compensatory mitigation requirements. If you concur with the findings of the enclosed preliminary JD, please sign it and return it to the letterhead address.

If you believe the preliminary JD is inaccurate, you may request this office complete an approved JD prior to your commencement of any work in a Water of the U.S. An approved JD is an official determination regarding the presence or absence of Waters of the U.S. Completion of an approved JD may require coordination with the U.S. Environmental Protection Agency.

If you do not want the Corps to complete an approved JD, you may proceed with the proposed pipeline project in accordance with the terms and conditions of Department of the Army Nationwide Permit No. 12 found in the March 12, 2007 Federal Register (72 FR 11092), Reissuance of Nationwide Permits. Enclosed is a fact sheet that fully describes this Nationwide Permit and lists the General and Regional Conditions that must be complied with. Please note that any deviations from the original plans and specifications submitted to this office could require additional authorization from this office.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this NWP.

2. Project Location. The COLT Connector Pipeline Project is located within several Sections, Townships 155 and 156 North, Ranges 95, 96, 97, 98 and 99 West, Williams County, North Dakota.

3. Project Compliance Certification. In compliance with General Condition 26, you are required to submit the following project compliance certification within thirty (30) days of project completion. [Please check all applicable statements.]

[ ] I certify that I have completed the project as permitted.
[ ] I certify that I have completed a modified version of the project.
[ ] I certify that I have completed all required mitigation.

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

4. Other Authorizations. This determination is applicable only to the permit program administered by the US Army Corps of Engineers. It does not eliminate the need to obtain other applicable Federal, Tribal, State and local permits as required.

5. Responsibility. Rangeland Pipeline, LLC is responsible for all work accomplished in accordance with the terms and conditions of this nationwide permit. If a contractor or other authorized representative will be accomplishing the work authorized by this nationwide permit, it is recommended that they be provided a copy of this letter and the attached conditions so that they are aware of the limitations of the nationwide permit. Failure to comply with all the terms and conditions of this authorization may result in an enforcement action.

6. Other Special Conditions.

Endangered Species

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

Cultural Resources

That the permittee and/or the permittee's contractor, or any of the employees, subcontractors or other persons working in the performance of a contract or contract(s) to complete the work authorized herein, shall cease work immediately and report the discovery of any previously unknown historic or archeological remains to the North Dakota Regulatory Office. Notification shall be by telephone within 24 hours of the discovery and in writing within 48 hours. Work shall not resume until notified by the North Dakota Regulatory Office.

7. Additional Information. 1978 Stream Evaluation Map and Suitable Material. 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: http://www.nwo.usace.army.mil/html/od-rnd/ndhome.htm

8. Customer Survey. The Omaha District, North Dakota Regulatory Office is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete out Customer Service Survey found on our website at http://per2.nwp.usace.army.mil/survey.html. If you do not have Internet access, you may call and request a paper copy of the survey that you can complete and return to us by mail or fax.

9. Point of Contact. If you have any questions concerning this determination, please contact Mr. Jason Renschler of this office by letter or telephone at 701-255-0015 and reference Authorization Number **NWO-2011-111-BIS**.

Sincerely,

Daniel E. Cimarosti
Regulatory Program Manager
North Dakota

Enclosure
- Fact Sheets #12

FACT SHEET
NATIONWIDE PERMIT 12
(2007)

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 NWPs 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 NWPs 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

NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
Gold Seal Center, 918 E. Divide Ave.
Bismarck, ND 58501-1947
701.328.5200 (fax)
www.ndhealth.gov

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.

Appendix A

Unanticipated Discovery Plan

Unanticipated Discovery Plan for Cultural Resources Identified During Construction of the Rangeland Pipeline COLT Connector Pipeline, Williams County, North Dakota

Agency

State Historical Society of North Dakota

Prepared for

Barr Engineering Company

Prepared by

SWCA Environmental Consultants

March 16, 2011

Unanticipated Discovery Plan for Cultural Resources Identified During Construction of the Rangeland Pipeline COLT Connector Pipeline, Williams County, North Dakota

Prepared for

Barr Engineering Company
234 West Century Avenue
Bismarck, ND 58503

Prepared by

Judith R. Cooper

Submitted by

SWCA Environmental Consultants
116 North 4th Street, Suite 200
Bismarck, North Dakota 58501
Voice: 701-258-6622 or Fax: 701-258-5957
www.swca.com

Principal Investigator: Judith R. Cooper

Agency

State Historical Society of North Dakota

March 16, 2011

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INTRODUCTION

This Unanticipated Discovery Plan documents the procedures to be implemented in the event that cultural resources are inadvertently discovered during construction of the Rangeland Pipeline COLT Connector Pipeline in Williams County, North Dakota. Rangeland Pipeline, LLC (Rangeland Pipeline) proposes to construct an approximately 20.35-mile-long crude oil pipeline in Williams County, North Dakota. The proposed pipeline will be constructed within a 100-foot-wide temporary construction right-of-way (ROW) (hereafter, the project route), and a 30-foot-wide permanent ROW will be maintained after construction is complete. The project falls under the jurisdiction of the North Dakota Public Service Commission.

A Class I and Class III cultural resource inventory was performed by SWCA Environmental Consultants for the COLT Connector Pipeline project, during which two cultural resources were identified (Smith 2011). One site (32WI961) has been left unevaluated regarding its National Register of Historic Places (NRHP) eligibility and will be avoided through route redesign. The second site (32WI1109) is recommended not eligible for the NRHP and no further work is required. Upon review, on January 27, 2010, the State Historical Society of North Dakota (SHSND) concurred with the findings of the report (NDSHPO Ref. 11-0446a). During their review, the SHSND recommended that an Unanticipated Discovery Plan for Cultural Resources be prepared for the project, as the potential for exposure of previously unidentified or buried cultural material within the project route during mechanical excavation exists.

Significant historical or archaeological artifacts or sites located on lands under the jurisdiction of the State of North Dakota or its political subdivisions are protected under Section 55-02-07 of the North Dakota Century Code (NDCC). Furthermore, NDCC Section 23-06-27 and North Dakota Administrative Code (NDAC) Section 40-02-03 provide special protection of human burial sites, human remains, and burial goods. In accordance with applicable North Dakota laws and regulations, this plan contains procedures for addressing cultural resource discoveries identified by construction personnel during construction of the COLT Connector Pipeline, including procedures for the initial treatment of discoveries, the evaluation and treatment of discoveries, and the treatment of human remains.

TRAINING

Training is necessary in order to recognize potential archaeological resources. The Rangeland Pipeline Construction Manager and construction supervisors will meet with Rangeland Pipeline representatives for basic training prior to participating in construction. This training will provide orientation regarding recognition of cultural resources as well as a general overview of the culture history of the region so that construction personnel are familiar with the types of archaeological resources that may be encountered during construction. The training will also outline the steps to be followed in the event of a significant archaeological discovery during construction (e.g., the discovery of human remains). The following items will be reviewed within the program:

- definition of a discovery and examples of discoveries;

- steps towards discovery protection until such time as they can be properly evaluated by a qualified archaeologist;
- proper notification of the appropriate Rangeland Pipeline personnel;
- the necessity of reporting discoveries in a timely manner and complying with the other stipulations provided in this plan;
- the need to treat any human skeletal remains that are encountered with dignity and respect; and
- penalties for failure to report discoveries or to comply with the procedures outlined in this plan.

DISCOVERY DEFINITION

Archaeological discoveries consist of evidence of human activity that is more than 50 years old with potential to yield data pertinent to regional history and prehistory. Prehistoric discoveries include, but are not limited to, features (small hearth features, housepit features, storage features, etc.), artifact concentrations, and activity areas. Historic discoveries include, but are not limited to, features (historic hearths, trash deposits, structures, old canals, roads, etc.), artifact concentrations, and activity areas. Isolated historic artifacts or small concentrations of non-human bone will not be considered discoveries.

PROCEDURES FOR ADDRESSING DISCOVERIES IDENTIFIED BY CONSTRUCTION PERSONNEL

The following procedures will be initiated in the event unanticipated cultural resources are discovered. When a discovery is encountered, the construction activity that resulted in the exposure of the discovery will be immediately halted and the construction manager will be notified. In turn the construction manager will notify the Rangeland Pipeline project manager.

Rangeland Pipeline's Construction Manager will order construction contractors to suspend ground-disturbing activities adjacent to discovery. Cessation of ground-disturbing activity will encompass a sufficient area to protect the discovery and provide a buffer zone for adequate and safe investigation of the discovery and any associated features or artifacts. A recommended guideline for the buffer zone is at least 100 feet (30 meters [m]) around the discovery, but its size can be adjusted to protect the discovery adequately without unnecessary hindrance to construction. Visual barriers such as temporary fencing will be placed around the discovery area to protect it from further disturbance. Vehicle traffic within the vicinity may need to be limited or halted until the discovery is inspected.

Rangeland Pipeline's responsible party will then notify and consult an archaeologist qualified under NDAC Section 40-02-02 to review the discovery. In the event a qualified archaeologist is not immediately available, photographs of the discovery may be transmitted to the archaeologist for review, at which time the archaeologist will determine if a field visit is needed. During the review phase, suspension of all work and vehicle traffic in the buffered area is required. If the archaeologist determines that the discovery is non-cultural, Rangeland Pipeline will be notified and the halted construction activity can resume.

If the discovery is deemed cultural and a field visit is required, the archaeologist will be scheduled for an on-site visit as soon as possible. In the meantime, Rangeland Pipeline's responsible party will notify the construction manager to suspend work within the buffered discovery area until the field visit by the archaeologist occurs. During the field visit, the archaeologist will determine whether the discovery is potentially significant.

TREATMENT OF DISCOVERIES BY ARCHAEOLOGICAL PERSONNEL

When a discovery is reviewed by an archaeologist, the discovery will be fully recorded according to approved standards. The initial treatment of any discovery will consist of recording the location of the discovery; recording summary data concerning feature(s) (including dimensions, qualitative characteristics, and associated material); photographing the discovery and the overall context of the exposed material; and profiling trench walls containing cultural features or strata (where safe and prudent). The feature(s) will then be excavated and a sample or all feature fill will be collected for laboratory analysis including pollen studies, flotation, and carbon dating as appropriate. Feature plans and profiles will be drawn. Features will be photographed. Uncollected feature fill will be screened using 0.25-inch mesh. If necessary, additional horizontal exposure of sediments/deposits around the feature may be investigated to evaluate the feature context.

When appropriate, the location around the discovered cultural material will be tested to determine the extent of the cultural material. Testing may include excavation of controlled units over and around the feature area or placement of test units and/or augur probes. Testing will be designed to identify the nature and extent of the discovery and any associated activity area(s) or other features, if present.

AGENCY NOTIFICATION AND REPORTING

If the discovery is deemed potentially significant, Rangeland Pipeline and the archaeologist will consult and coordinate with the SHSND to propose procedures for further treatment of the discovery, while minimizing impacts to the construction schedule to the extent possible. Suspended construction activities in the discovery area may not proceed until approval has been obtained from the SHSND and other involved agencies and parties.

A report detailing all cultural resources identified, recorded, tested, and/or excavated during the construction phase of the COLT Connector Pipeline project, regardless of significance, will be prepared by the archaeologist and submitted to the SHSND for review within six months of project completion.

SPECIAL PROCEDURES FOR DISCOVERIES OF HUMAN REMAINS

Should human remains be encountered during construction of the COLT Connector Pipeline, per the protocol outlined above, all work will be immediately halted at the general location of the discovery. This location will be immediately secured, including a buffer zone of 100 feet (30 m) surrounding the discovery. Construction personnel and vehicles will promptly vacate the buffer zone. Vehicle traffic within the buffer zone will be limited to that necessary to remove vehicles and equipment from the buffer zone. Care will be taken to prevent any

disturbance of the potential human remains during removal of vehicles and equipment. Until appropriate consultation has occurred, the discovery shall remain protected from any disturbance through temporary fencing and/or temporary covering, such that no remains or associated artifacts are touched, moved, or collected.

Following notification of the construction manager and Rangeland Pipeline project manager, Rangeland Pipeline will immediately notify local law enforcement, the county coroner, and the SHSND. Contact information for relevant parties is listed in Table 1.

Table 1. Contact Information.

Contact/Agency	Phone	Address
County Sherriff's Office (Scott Busching), Williams County, North Dakota	701-577-7700	223 East Broadway, Suite 301 Williston, North Dakota 58801
Coroner (Franklin McCoy, Jr.), Williams County, North Dakota	701-774-7400	Mercy Medical Center 1301 15th Avenue West Williston, North Dakota 58801
Chief Archaeologist (Paul Picha), Archaeology and Historic Preservation Division, North Dakota State Historical Society	701-328-3574	North Dakota State Historical Society 612 East Boulevard Ave. Bismarck, North Dakota 58505

The coroner and local law enforcement will make the official ruling on the nature of the remains, being either forensic or archaeological. The subsequent treatment of the discovery, including custody of the remains, will follow guidelines set forth in the NDCC Chapter 23-06 and NDAC Section 40-02-03, as follows.

- If the remains are deemed forensic (non-archaeological), the county coroner will retain custody of the remains and determine the plan of action.
- If the remains are deemed to be archaeological (historic or prehistoric) in nature, within 24 hours of notification, the SHSND will send a staff member to evaluate the remains and determine the race and age of the remains, if possible. The subsequent plan of action will depend on the race of the burial.
    - If human remains are determined to be non-Native American, the SHSND will retain custody of the burial and, following consultation with appropriate parties, determine a plan of action.
    - If the human remains are determined to be Native American or of unknown race, the remains will be left in place and protected from any form of disturbance by placing temporary fencing and/or temporary covering until a plan for their protection or removal can be generated. The SHSND will contact and consult with the North Dakota Intertribal Reinterment Committee to determine the subsequent plan of action.

REFERENCES CITED

Smith, Nicholas

2011 *A Class I and Class III Cultural Resource Inventory of the Rangeland Energy COLT Connector Pipeline, Williams County, North Dakota*. An unpublished report prepared by SWCA Environmental Consultants on behalf of Barr Engineering and submitted to the State Historical Society of North Dakota.