



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

COPY

February 12, 2013

North Dakota Regulatory Office

[NWO-2012-2432-BIS]

Mr. Dan S. Ackerman  
Wenck Associates, Inc.  
301 - 1<sup>st</sup> Street NE, Suite 202  
Mandan, North Dakota 58554

Dear Mr. Ackerman:

We have completed a Department of the Army, US Army Corps of Engineers (Corps), jurisdictional determination (JD) for the Zap Pipeline Project. The proposed route runs through Sections 19 and 30 of Township 144 North, Range 88 West; Sections 24, 25, 26 and 35, Township 144 North, Range 89 West; and Sections 1 and 2, Township 143 North, Range 89 West, all in Mercer County, North Dakota.

We have determined that Wetlands 1, 5 and 5B are generally not considered Waters of the United States (WOUS) by definition. Reference is made to the categories described in both the Preamble and the Final Rule sections of the November 13, 1986 Federal Register (51 FR 41206), Corps of Engineers, Department of the Army, 33 CFR Parts 320 through 330, Regulatory Programs of the Corps of Engineers; Final Rule.

It has been determined that Wetlands 2, 3 and 4 are jurisdictional. Therefore, should the proposed project result in the placement of dredge or fill material in this waters, a Corps permit, pursuant to Section 404 of the Clean Water Act, will be required prior to construction activities.

An approved (JD) has been completed for the wetland areas identified in your request and is enclosed for your information. The JD may also be viewed at our website located at: <http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/NorthDakota.aspx>. The JD will be available on the website within 30 days. You may also request copies of the supporting materials the Corps used in determining this JD. If you are not in agreement with the JD, you may request an administrative appeal under Corps regulations found at 33 CFR 331. The request for appeal must be received within 60 days from the date of this correspondence. If you would like more information on the jurisdictional appeal process, contact this office. It is not necessary to submit a Request for Appeal if you do not object to the JD. The JD will be valid for a period of 5 years from the date of this letter.

This determination was conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenants are USDA program participants, or anticipate participation in the USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

A copy of this letter is being sent to Ms. Crystal Kuntz, Electrical Consultants, Inc., 3521 Gabel Road, Billings, Montana 59102.



The Omaha District, Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our 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.

If you have any questions concerning this determination or jurisdiction, please feel free to contact Ms. Toni R. Erhardt of this office at (701) 255-0015 and reference project number **NWO-2012-2432-BIS**.

Sincerely,

Daniel E. Cimarosti  
State Program Manager  
North Dakota Regulatory Office

Enclosures