



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
North Dakota Field Office  
99 23<sup>rd</sup> Avenue West – Suite A  
Dickinson, North Dakota 58601-2619  
www.blm.gov/mt

In Reply Refer To:

NDM 103935  
NDM 81496

July 23, 2015

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

## DECISION

Hess Corporation  
1501 McKinney Street  
Houston, Texas 77010

: Right-of-Way Grant  
: Serial No. NDM 103935  
:  
: Right-of-Way Amendment  
: Serial No. NDM 81496

**Right-of-Way Grant NDM 103935 Issued**  
**Rental Determined**  
**Right-of-Way Grant NDM 81496 Amended**

Enclosed is a copy of your right-of-way (ROW) grant, serial number NDM 103935, which allows the use of public land for a Crude Oil pipeline, a High Pressure (HP) Gas pipeline, and associated Fiber Optic lines. It was approved by the BLM on July 23, 2015.

Also enclosed is a copy of your amended ROW grant, serial number NDM 81496 (originally identified erroneously as NDM 79191), which allows the use of public land for a repurposed Natural Gas pipeline into a Natural Gas Liquids (NGL) pipeline. It was approved by the BLM on July 23, 2015.

The advance rental for ROW Grant NDM 103935 is determined to be \$6,704.61 for the period from July 2015 to December 31, 2045, the full length of the term. The BLM has received your advance rental for this period.

No additional rental was determined for ROW Amendment NDM 81496.

All monitoring fees associated with ROW Grant NDM 103935 and ROW Amendment NDM 81496 were previously identified through a Cost Recovery Agreement (CRA). The BLM has received all current fees associated with the CRA.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from

63 PU-15-32 Filed 07/24/2015 Pages: 21  
Permits  
Hess North Dakota Pipelines LLC  
63 PU-15-31 Filed 07/24/2015 Pages: 21  
Permits  
Hess North Dakota Pipelines LLC

receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulations 43 CFR 2801.10 or 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

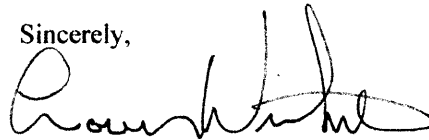
#### **Standards for Obtaining a Stay**

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If you have any questions, please contact Seth Jackson, Realty Specialist, at (701) 227-7711.

Sincerely,



Loren C. Wickstrom  
Field Manager

#### Enclosures:

- Right-of-Way Grant NDM 103935
- Right-of-Way Amendment NDM 81496
- BLM Form 1842-1

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
RIGHT-OF-WAY AMENDMENT

SERIAL NUMBER NDM 81496  
(ORIGINALLY IDENTIFIED ERRONEOUSLY AS NDM 79191)

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1. A right-of-way (ROW) is hereby amended pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185).

2. Nature of Interest:

a. By this instrument, the holder,

Hess Corporation  
1501 McKinney Street  
Houston, Texas 77010

receives a right to repurpose, operate, maintain, and terminate an 8"/10.75" variable diameter natural gas pipeline to natural gas liquids (NGL), and add an associated fiber optic line, on Federal lands administered by the United States Army Corps of Engineers (USACE) and the United States Forest Service (USFS).

The area encompassed by this ROW Grant remains the same as authorized under NDM 81496, dated August 12, 1992.

Connected with this amendment is the ROW Grant of NDM 103935, executed separately.

Furthermore, as a connected action is the repurposing of a natural gas pipeline to a crude oil pipeline, and the repurposing of a natural gas pipeline to a fiber optic conduit. The current facilities, as authorized for natural gas, was authorized by the USACE through DACW45-2-07-8002, dated June 29, 2007. The holder will work with USACE to acquire the appropriate amendment to DACW45-2-07-8002 for the repurposing of those facilities.

- b. This instrument shall terminate on July 31, 2022, unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- c. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized

officer deems necessary to protect the public interest.

- d. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. **Rental:**

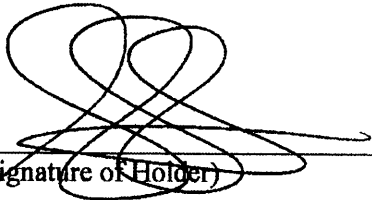
For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. **Terms and Conditions:**

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the Federal lands within 90 days, or otherwise decommissioned as provided in paragraph (4)(e) or as directed by the authorized officer.
- c. Each grant issued for a term of 20 years or more, shall at a minimum be reviewed by the authorized officer at the end of the 20<sup>th</sup> year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. This ROW Grant does not authorize construction or any other actions on lands administered by the United States Army Corps of Engineers (USACE). USACE will conduct a Section 408 review under its authority and therein may require additional mitigation measures on USACE managed surface. If USACE approves the action under Section 408, then USACE shall issue a Decision Letter to the holder/applicant. Upon notification of the issuance of the USACE Decision Letter, the BLM shall subsequently incorporate the Decision Letter into the BLM Notice to Proceed and authorize the holder to construct on USACE administered lands.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. Decommissioning shall be completed in accordance with all current and applicable regulations of the United States' Pipeline and Hazardous Materials Safety Administration (PHMSA).

- g. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- h. All other terms, condition, and stipulations specified on the August 12, 1992 ROW Grant for NDM 81496 remain in effect.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.



(Signature of Holder)

VP Balh

(Title)

7-23-2015

(Date)



(Signature of Authorized Officer)

Field Manager

(Title)

JUL 23 2015

(Effective Date of Grant)

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

SERIAL NUMBER NDM 103935

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1. A right-of-way (ROW) is hereby granted pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185).

2. Nature of Interest:

a. By this instrument, the holder,

Hess Corporation  
1501 McKinney Street  
Houston, Texas 77010

receives a right to construct , operate, maintain, and terminate the following new facilities, to be constructed in the same trench, on Federal lands administered by the United States Army Corps of Engineers (USACE) and the United States Forest Service (USFS):

i) A new 12" diameter crude oil pipeline with two (2) associated 24-strand fiber optic cables; and

ii) A new 12" diameter high pressure (HP) gas pipeline with two (2) associated 24-strand fiber optic cables;

Connected with this action is the amendment of ROW Grant NDM 81496 (originally identified erroneously as NDM 79191) to repurpose an 8"/10.75" variable diameter natural gas pipeline to a natural gas liquids (NGL) pipeline. This action is executed separately.

Furthermore, as a connected action is the repurposing of a natural gas pipeline to a crude oil pipeline, and the repurposing of a natural gas pipeline to a fiber optic conduit. The current facilities, as authorized for natural gas, were authorized by the USACE through DACW45-2-07-8002, dated June 29, 2007. The holder will work with USACE to acquire the appropriate amendment to DACW45-2-07-8002 for the repurposing of those facilities.

The area encompassed by this new ROW Grant is described as follows:

United States Army Corps of Engineers

Fifth Principal Meridian, North Dakota

T. 154 N., R. 95 W.,  
sec. 21, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
sec. 22, NW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
sec. 34, SE $\frac{1}{4}$ NW $\frac{1}{4}$  and E $\frac{1}{2}$ SW $\frac{1}{4}$ .

USACE Linear ROW = 3,107.85 feet

United States Forest Service

Fifth Principal Meridian, North Dakota

T. 153 N., R. 95 W.,  
sec. 3, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , and NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
sec. 4, E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
sec. 9, E $\frac{1}{2}$ NE $\frac{1}{4}$  and E $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
sec. 10, W $\frac{1}{2}$ SW $\frac{1}{4}$ .

T. 154 N., R. 95 W.,  
sec. 34, SW $\frac{1}{4}$ SE $\frac{1}{4}$  and SE $\frac{1}{4}$ SW $\frac{1}{4}$ .

USFS Linear ROW = 13,971.20 feet

Total Federal Linear ROW = 17,079.06 feet

- b. The pipeline right-of-way area granted herein is 50 feet wide and 3,107.85 feet long, across the aforementioned USACE-managed lands, containing 3.57 acres, more or less, and 20 feet wide and 13,971.20 feet long, across the aforementioned USFS-managed lands, containing 6.41 acres, more or less, for a total ROW acreage of 9.98 acres, more or less.

This grant also includes the following Temporary Use Permits (TUP) for a three year term from the effective date of this right-of-way grant for the following activities:

1. A TUP for an additional 50 feet of extra construction width and identified additional temporary workspace (ATWS), along the aforementioned USACE-managed lands, a length of 3,107.85 feet, containing an additional 3.57 acres.
2. A TUP for an additional 30 feet of extra construction width and identified additional temporary workspace (ATWS), along the aforementioned USFS-managed lands, a length of 13,971.20 feet, containing an additional 9.62 acres.

- c. This instrument shall terminate on December 31, 2045, unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

**3. Rental:**

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

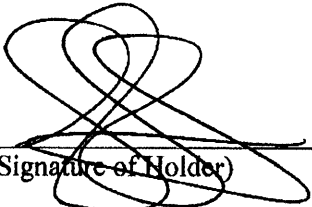
**4. Terms and Conditions:**

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the Federal lands within 90 days, or otherwise decommissioned as provided in paragraph (4)(f) or as directed by the authorized officer.
- c. Each grant issued for a term of 20 years or more, shall at a minimum be reviewed by the authorized officer at the end of the 20<sup>th</sup> year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Attachments 1 and 2, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. This ROW Grant does not authorize construction or any other actions on lands administered by the United States Army Corps of Engineers (USACE). USACE will conduct a Section 408 review under its authority and therein may require additional mitigation measures on USACE managed surface. If USACE approves the action under Section 408, then USACE shall issue a Decision

Letter to the holder/applicant. Upon notification of the issuance of the USACE Decision Letter, the BLM shall subsequently incorporate the Decision Letter into the BLM Notice to Proceed and authorize the holder to construct on USACE administered lands.

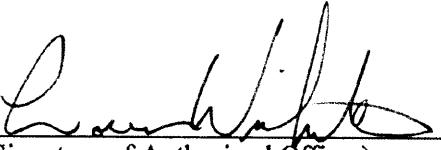
- f. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- g. Decommissioning shall be completed in accordance with all current and applicable regulations of the United States' Pipeline and Hazardous Materials Safety Administration (PHMSA).
- h. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

  
\_\_\_\_\_  
(Signature of Holder)

VP Bahler  
\_\_\_\_\_  
(Title)

7-23-2015  
\_\_\_\_\_  
(Date)

  
\_\_\_\_\_  
(Signature of Authorized Officer)

Field Manager  
\_\_\_\_\_  
(Title)

JUL 23 2015  
\_\_\_\_\_  
(Effective Date of Grant)

Attachment 1 – Hess ROW Grant, SERIAL NUMBER NDM 103935;  
 Mitigation Measures and Stipulations

<b>Resource</b>	<b>Environmental Protection Measures As Design Features</b>
<b>Air Quality</b>	Water or chemical soil binders will be used to control dust along the right-of-way (ROW) and access roads during construction in accordance with federal, state, and local requirements.
	Construction will be performed using methods and equipment to minimize the discharge of smoke, dust, or other contaminants to the atmosphere in accordance with federal, state, and local requirements.
<b>Geology and Minerals</b>	The horizontal direction drill (HDD) construction method will be used to avoid impacts to landslide areas associated with the bluffs on the north and south sides of Lake Sakakawea. Where needed, geotechnical investigations will be used to ensure protection from underground coal mines during construction of the proposed pipeline.
<b>Soils</b>	Soil erosion will be minimized by implementing procedures described in the Storm Water Pollution Prevention Plan (SWPPP) (POD, Appendix I), and Construction, Mitigation, and Reclamation Plan (CMRP) (POD, Appendix C).
	For storm water events during construction, vehicle traffic and equipment will be restricted to prevent rutting in areas where topsoil is intact (excluding areas where topsoil has been removed/segregated).
	Use of temporary roads across agricultural lands may result in some compaction and seasonal loss of crops. When necessary, compacted soils will be disked following project completion and landowners will be compensated for crop loss per their easement agreement.
	During construction, topsoil and subsoil will be segregated. Topsoil will be stripped and stored separately from the subsoil, which will be replaced with minimum handling. In rocky areas, an assessment of the soil handling requirements will be made by Hess.
	On agricultural land, subsoil will be chisel-plowed, rock-picked, and leveled prior to the replacement of topsoil.

Resource	Environmental Protection Measures As Design Features
<b>Water Resources and Wetlands</b>	The SWPPP and Best Management Practices (BMPs) will be implemented to minimize storm water transport of sediment from disturbed areas to streams and wetlands. All project-related storm water discharges will be in compliance with a National Pollutant Elimination Discharge System (NPDES) permit.
	Wetland and riparian areas will be identified and signs posted at the edges of the wetland/waterbody features prior to construction to indicate to crews the limits of these areas so that specific BMPs and work practices are adhered to.
	No aboveground facilities or staging areas will be constructed within wetlands, riparian areas, or other waters of the U.S.
	Additional temporary workspace will be located a minimum of 50 feet outside wetland boundaries. Protection measures (including installation of erosion control devices) will be utilized at wetland and waterbody crossings to minimize sedimentation. For areas where additional setbacks are deemed necessary to protect the resource, the applicability of the appropriate setback will be determined in consultation with agencies on a site-specific basis.
	No refueling or lubricating will occur within 100 feet of wetlands and/or perennial/intermittent/ephemeral waterbodies. Hazardous materials, chemicals, fuels, etc., will not be stored within 100 feet of wetlands or perennial/intermittent waterbodies.
	Hydraulic, fuel, and lubricating systems on operating equipment will be kept in good repair to avoid leakage of petroleum products into watercourses.
	No debris will be placed or left where it will enter a river or stream. Earthen material will not be dumped into rivers or waterways.
	Depositing harmful substances in or adjacent to wetlands or waterbodies is prohibited.
	Application of herbicides or pesticides within the vicinity of wetlands and waterbodies will follow pesticide use protocol and restrictions outlined in the Noxious Weed and Invasive Weeds and Aquatic Nuisance Species Control Plan (POD, Appendix F).
	To control Aquatic Invasive Species (AIS), equipment will be washed to remove all vegetation matter and AIS prior to arrival at the construction site and after constructing through stream water, where water is evident within the channel.
<b>Water Resources and</b>	Where crossings of riparian or wetland areas cannot be reasonably avoided, HDD methodology will be utilized for the crossings.

Resource	Environmental Protection Measures As Design Features
Wetlands (continued)	The HDD/bore crossing method will be used at a total of 45 locations to avoid sensitive areas such as waterbodies (14), steep topography (3), county roads (23), two combined cultural features/steep terrain and construction constraints, and three combined roads/waterbodies.
	Water used for hydrostatic testing, dust control during construction, etc., will be obtained from a licensed contractor. The installation or abandonment of wells is not anticipated. Surface water or groundwater appropriation is not anticipated. All water that needs to be discharged will be handled in accordance with an NPDES permit.
	Based on coordination with the U.S. Army Corps of Engineers (USACE), a Section 404 permit is not required. However, if a Section 404 permit is obtained and mitigation is required, mitigation areas will be monitored for a minimum of 5 years. Annual reports will be submitted to the North Dakota Corps of Engineers regulatory office. Successful performance criteria will be developed in a Mitigation and Monitoring Plan that will be submitted with the 404 permit application.
Vegetation	The USFS-approved revegetation seed mixes for native prairie will be applied on federal lands. The USFS-approved seed mix will be applied on state and private lands unless state and private landowners request a different seed mix. The CMRP outlines the procedures to be followed for returning the land to pre-existing vegetative cover and land uses.
	Trees and shrubs will be replaced in accordance with the Tree and Shrub Sampling Plan (POD, Appendix O). Hess will coordinate with the appropriate agencies to identify efficient restoration and mitigation measures following construction.
	<p>Reclamation monitoring will be conducted for 3 to 5 years after the first growing season, depending on land ownership, to determine the success of revegetation focusing on vegetative cover and noxious weeds and invasive species cover. On private lands, if revegetation is successful after the third growing season, no additional monitoring will be conducted. On USFS, state, and USACE managed lands, if revegetation is successful after the fifth growing season, no additional monitoring will be conducted. Areas which have not been successfully re-established will be revegetated by Hess or by compensation of the landowner to reseed the area.</p> <p>Reclamation success will be based on the revegetation to at least 70 percent of the background cover, as stipulated in the SWPPP and the applicable permits obtained.</p>

Resource	Environmental Protection Measures As Design Features
<b>Vegetation (continued)</b>	<p>In grasslands identified as native and native-invaded Dakota skipper habitat, post-construction monitoring inspections will be conducted for 5 years following the first growing season to determine the success of revegetation focusing on vegetative cover and noxious weeds and invasive species establishment. The monitoring period may be shortened to 3 years upon request if located on private land.</p> <p>If 2 consecutive years of successful revegetation is not documented, additional mitigation measures (e.g. reseeding) and extended monitoring may be required. Additional mitigation measures will be determined by discussions between the appropriate entity involved (BLM, landowner/manager, or USFWS).</p> <p>Reclamation success will be based on the revegetation to at least 70 percent of the background cover, with no more than 30 percent of the total vegetative cover as non-native species, as stipulated in the SWPPP and the applicable permits obtained.</p>
<b>Noxious Weeds</b>	<p>The Noxious Weed and Invasive Weeds and Aquatic Nuisance Species Control Plan (POD, Appendix F) will be implemented to minimize the spread of noxious weeds. A Pesticide Use Proposal will be included in the Plan in the event pesticides are used.</p> <p>Reclamation monitoring for noxious weeds post-construction will be conducted in conjunction with ROW monitoring of reclamation success.</p>
<b>Wildlife and Fisheries</b>	<p>No firearms, dogs, or pets will be brought onto the ROW by anyone involved with the Project and that no harassment or depredation of any wildlife species or livestock takes place.</p> <p>Hess will construct escape ramps every 0.5 mile to reduce the potential for livestock and wildlife becoming trapped in the pipeline trench.</p> <p>Construction activities will not be conducted during the migratory bird breeding season (between February 1 and July 15). If construction occurs during the bird breeding season, Hess will either: 1) mow and maintain vegetation within the Project disturbance area prior to and during the breeding season to deter migratory birds from nesting in the Project area until construction is underway; or 2) conduct a breeding bird survey within 5 days of construction activities. If evidence of breeding is identified, Hess will coordinate with the Bureau of Land Management (BLM) and applicable federal agencies to determine appropriate actions to protect breeding birds.</p> <p>Any open posts (1.5-inch-diameter or greater), which may be utilized in pipeline construction or operation (such as markers, signs, stacks, etc.) will be permanently covered or filled with sand or gravel. This is necessary to prevent wildlife mortalities by entrapment.</p>

Resource	Environmental Protection Measures As Design Features
<b>Wildlife and Fisheries (continued)</b>	<p>To avoid/minimize impacts to nesting bald eagles from construction activities, Hess will: 1) maintain a minimum 0.5-mile buffer between the activity and any bald eagle nest if no landscape buffer exists; 2) maintain a minimum 660-foot buffer and landscape buffer or natural area between the activity and around the nest tree; and 3) avoid activities during the bald eagle nesting season (February 1 to July 15).</p>
	<p>To avoid/minimize impacts to golden eagles, Hess will conduct surveys prior to any on-the-ground activities to determine the extent of any golden eagle breeding territories in the area that may be impacted by the Project. Hess will conduct an aerial nest survey (preferably by helicopter) within 1 mile of the Project ROW to identify any occupied and unoccupied golden eagle nest sites in proximity to the Project area. Aerial surveys will be conducted between March 1 and May 15, before leaf-out, so that nests are visible and their status (active or inactive) can be determined. A nesting territory or inventoried habitat will be designated as unoccupied by golden eagles only after at least two complete aerial surveys in a single breeding season. Aerial surveys will include the following:</p> <ol style="list-style-type: none"> <li>1. Due to the ability to hover and facilitate observations of the ground, helicopters are preferred over fixed-wing aircraft, although small aircraft also may be used. Hess will report any golden eagle nests, as well as other nests of any other raptors found during the survey. Where possible, Hess will utilize two observers to conduct the surveys.</li> <li>2. Hess will record any observations of golden eagle nest sites using a global positioning system. The date, location, nest condition, activity status, and habitat will be recorded for each sighting.</li> <li>3. Hess will share the qualifications of the biologist(s) conducting the survey, method of survey, and results of the survey with the U.S. Fish and Wildlife Service (USFWS).</li> </ol>
	<p>Alternatively, Hess may conduct ground surveys to identify golden eagle nests within 1 mile of the Project ROW between March 1 and May 15. However, ground surveys are much less reliable than aerial surveys, even during leaf-off conditions, and 75 percent of golden eagle nests present may be missed. Hess will conduct at least 2 ground observation periods lasting at least 4 hours or more per linear mile to designate inventoried habitat or territory as unoccupied as long as all potential nest sites and alternate nests are visible and monitored. If a golden eagle nest is observed, Hess will contact the USFWS for further consultation to determine appropriate protection measures and possible "take" permit implications.</p>

<b>Resource</b>	<b>Environmental Protection Measures As Design Features</b>
<b>Special Status Species</b>	Prior to the initiation of construction, applicable biological surveys will be conducted through areas of suitable habitat for specific species during the appropriate season, as determined by the jurisdictional agencies (e.g., BLM and USFWS) and survey results reported in compliance with Section 7 of the Endangered Species Act.
	If threatened, endangered, candidate, or sensitive plant species are identified in proposed disturbance areas prior to construction, appropriate protection measures will be determined in consultation with agencies.
	Surface use is prohibited from March 1 through June 15 within 1 mile (line of sight) of a sharp-tailed grouse display ground.
	If construction were to occur during the interior least tern or piping plover breeding season (April 1 through August 31), Hess will conduct surveys in suitable habitat within 0.5 mile of the Lake Sakakawea crossing location. Surveys will be conducted by a qualified wildlife biologist who is able to identify these species and will occur daily, before and after construction activities. Surveys will last for at least 2 hours prior to the start of construction each day and continue for at least 1 hour after construction has finished each day. If interior least terns or piping plovers are observed within line-of-sight of the Project area, no work will begin or continue and the BLM and USFWS will be contacted within 24 hours. Appropriate protection measures, such as seasonal constraints and the establishment of a spatial buffer area, may be implemented on a site-specific basis in coordination with the USFWS. Similar constraints and/or mitigation measures may apply to pipeline maintenance activities if conducted within 0.5 mile of suitable habitat.
	If construction occurs during spring (March to May) or fall (September to November) migration, Hess will provide whooping crane monitors in suitable habitat along the ROW. If a whooping crane is sighted within 1 mile of a pipeline or associated facilities during construction, all work will cease within 1 mile of the area and the USFWS will be contacted immediately. In coordination with the USFWS, work will resume after the bird(s) leave the area.

Resource	Environmental Protection Measures As Design Features
<b>Special Status Species (continued)</b>	<p>If construction were to occur during the rufa red knot migration period (Fall: July 15 through November 15; Spring: March 15 through June 15), Hess will conduct surveys in suitable habitat within 0.5 mile of the Lake Sakakawea crossing location. Surveys will be conducted by a qualified wildlife biologist who is able to identify rufa red knots and will occur daily before and after construction activities. Surveys will last for at least 2 hours prior to the start of construction each day and continue for at least 1 hour after construction has finished each day. If rufa red knots are observed within line-of-sight of the Project area, no work will begin or continue and the BLM and USFWS will be contacted within 24 hours. In coordination with the USFWS, work may resume after the bird(s) leave the area. Similar constraints may apply to pipeline maintenance activities if conducted within 0.5 mile of suitable habitat.</p>
	<p>In order to reduce impacts to the Dakota skipper, Ottoe skipper, regal fritillary, and tawny crescent, disturbance to native prairie will be reclaimed to its original condition using the USFS-approved native seed mix. The objective is for no net loss of native prairie habitat to occur. In addition, the following protection measures will be implemented to minimize impacts to the special status butterfly species:</p> <ul style="list-style-type: none"> <li>• Restrict workspaces where the ROW crosses native prairie habitat;</li> <li>• Salvage and segregate topsoil in native prairie to maintain the native seed sources for revegetation of the ROW in native prairie;</li> <li>• Control noxious and invasive plant species as addressed in the Noxious Weed and Invasive Weeds and Aquatic Nuisance Species Control Plan (POD, Appendix F); and</li> <li>• Prohibit herbicide and pesticide use where special status butterfly species are found.</li> </ul>
	<p>The loss of special status plant species individuals or populations may occur as a result of adjacent noxious weed-related herbicide application treatments. To effectively mitigate this impact, consultation between the special status plant species jurisdictional agency and the weed control specialists will be completed prior to treatments. The location of known special status plant species and noxious weed species individuals and populations will be confirmed prior to treatments. In addition, techniques for special status plant species avoidance via direct and indirect applications will be developed.</p>

<b>Resource</b>	<b>Environmental Protection Measures As Design Features</b>
<b>Special Status Species (continued)</b>	To prevent the spread of aquatic nuisance species during construction and operation, Hess will remove aquatic plants and animals from equipment prior to entering and before leaving any waterbody. Project staff will spray/wash equipment with high pressure hot water when leaving a wetland/waterbody, or will dry equipment for at least 5 days before use at a different wetland/waterbody.
	The revegetation plan will include a commitment to reseed disturbed native prairie with a comparable native grass/forb seed mixture and planting a diverse mixture of native cool- and warm-season grasses and forbs. The approved USFS-approved seed mix to be used for reclamation meets these commitments.
	Hess will obtain a seed source that is as local as possible to ensure the particular cultivars are well adapted to the local climate.
<b>Land Use</b>	Any range improvements such as fences, gates, cattle guards, and developed water sources that are damaged during construction and are located within the Project's disturbance area or access roads will be repaired to the satisfaction of the agency or private landowner.
	If construction disturbs or destroys a natural barrier used for livestock control, the opening will be temporarily closed during construction and permanently closed following construction, as required by the agency or private landowner.
	Hess will coordinate with landowners to minimize impacts to their lands. Lands will be restored to original use following the construction phase of the Project.
	Construction personnel will be directed to stay within the approved ROW or will follow designated access roads to prevent disturbance beyond the ROW and approved access routes.
<b>Recreation and Visual Resources</b>	Measures will be implemented to minimize the visual effects of construction on high value road, river, and trail crossings as identified by the BLM, USFS, or USACE.
	To prevent unauthorized use of the ROW by off-road vehicles and subsequent potential impacts to soil, vegetation, and wildlife resources, access will be blocked at locations specified by agencies and /or private landowners.
<b>Transportation</b>	All major highway crossings will be bored to limit traffic interruptions.
	All roads, including unpaved roads, will be bored subject to approval of local road authorities.

Resource	Environmental Protection Measures As Design Features
<b>Transportation (continued)</b>	Temporary access areas will avoid sensitive features such as wetlands. Areas used for temporary roads or staging areas during construction will be restored to their original condition to the extent practicable.
<b>Cultural and Paleontological Resources</b>	<p>Prior to Project construction, cultural and paleontological resource inventories will be conducted on all proposed disturbance areas not previously inventoried. All cultural resources recorded during the inventories will be evaluated for eligibility to the National Register of Historic Places (NRHP). Avoidance is recommended for cultural resources listed on the NRHP, evaluated as eligible for listing on the NRHP, or unevaluated. If avoidance is not possible, a treatment plan will be developed by the BLM in consultation with the North Dakota State Historic Preservation Office, USFS/USACE (if on their lands), and interested tribes. The treatment plan will be implemented prior to Project construction.</p> <p>Twenty-three cultural resources (32MZ773, 32MZ796, 32MZ2164, 32MZ2168, 32MZ2599, 32MZ2764, 32MZ2766, 32MZ2767, 32MZ2768, 32MZ2769, 32MZ2770, 32WI414, 32WI1522, 32WI1575, 32WI1576, 32WI1577, 32WI1579, 32WI1580, 32WI1581, 32WI1632, 32WI1633, 32WI1634, and 32WI1635) have been identified in the project area and all of these cultural resources have been avoided by the Project through redesign of the Project ROW. On February 17, 2015, the SHPO concurred with the BLM's findings that the Project will not have an adverse effect on these cultural resources. Archaeological monitoring and protective fencing will be utilized during construction near 17 of the cultural resources (32MZ0773, 32MZ0796, 32MZ2168, 32MZ2599, 32MZ2766, 32MZ2767, 32MZ2769, 32MZ2770, 32WI1575, 32WI1577, 32WI1579, 32WI1580, 32WI1581, 32WI1632, 32WI1633, 32WI1634, and 32WI1635) and six areas near the Project ROW will be monitored due to the possibility of encountering buried archaeological resources and/or paleosols.</p>

<b>Resource</b>	<b>Environmental Protection Measures As Design Features</b>
<b>Cultural and Paleontological Resources (continued)</b>	<p>If cultural resources, including human remains, are discovered during Project construction, all work will stop in the area of the discovery and the procedures outlined in the Unanticipated Discoveries Plan for Cultural Resources (POD, Appendix K) will be followed. If the cultural resource is determined to be a historic property and cannot be avoided, then appropriate mitigation measures will be developed in consultation with the applicable federal land managing agency, Tribes, and SHPO. Written permission stating that work in this area no longer presents a hazard to cultural resources will be required from the BLM before work can resume in the area of the discovery. If human remains are discovered, the Environmental Inspector will immediately stop construction in a 300-foot radius and notify the BLM. If human remains are determined to be Native American and found on federal lands, BLM will follow the requirements under the Native American Graves Protection and Repatriation Act (NAGPRA). BLM will provide written notice to Hess indicating they can proceed with construction once the remains have been fully evaluated and appropriate treatment of the discovery has been completed.</p> <p>Paleontological monitoring is required during ground-disturbing activities in areas identified with PFYC Class 4 bedrock. If paleontological resources are discovered during Project-related construction activities, all construction activity will cease within 100 feet of the discovery and will be reported to the construction supervisor and a qualified BLM-permitted paleontologist for assessment and recommended actions. The discovery will be handled as stipulated in the Unanticipated Discoveries Plan for Paleontological Resources (POD, Appendix L). Construction activities will not resume until the BLM Project Manager has issued a Notice to Proceed.</p>
<b>Tribal Treaty Rights and Interests</b>	<p>Several areas of tribal concern have been identified in the Project ROW. These areas of tribal concern will be avoided by the Project by realignment or narrowing of the Project ROW.</p>
<b>Public Safety and Environmental Protection</b>	<p>The Project will be located a minimum distance of 300 feet from residences to minimize hazards to human health and safety. Also, isolation valves will be installed along the pipeline in accordance with federal regulations to isolate the pipeline during a potential leak to minimize the release. At Lake Sakakawea, isolation valves will: 1) be remotely operated to reduce potential spill volume; 2) have pressure sensors that are capable of detecting leaks with slow release rates; and 3) have pressure detectors equipped with acoustic detection capabilities, capable of identifying the location of a release within 6 feet of its actual location, thereby reducing environmental disturbance.</p> <p>A Spill Risk Assessment has been completed to identify High Consequence Areas and potential impacts as a result of an accidental release of crude oil, NGL, and natural gas during pipeline operation.</p>

<b>Resource</b>	<b>Environmental Protection Measures As Design Features</b>
<b>Public Safety and Environmental Protection (continued)</b>	Equipment will be maintained on-site to contain, capture, and clean up any accidental release of harmful chemicals, pollutants or other materials into the environment. Spills will be cleaned up immediately. Spills on water that cause a sheen on the water require notification to the U.S. Environmental Protection Agency and will be removed by the appropriate containment and cleanup technologies. Spills will be cleaned up using an absorbent material, vacuum trucks, and other equipment, and the contaminated material either drummed in marked 55-gallon drums or hauled to an authorized disposal area.
	The use of hazardous materials will be carefully controlled. Such materials will be clearly labeled and used only by authorized personnel trained in the transportation, handling, use and storage of the specific hazardous materials. Storage sites for fuels and hazardous materials will be located a minimum distance of 500 yards from wetlands and waterbodies and shall be selected to ensure that risk of contamination of waterbodies or other sensitive environments resulting from an accidental spill at the site is reduced, and that leakage will be readily detected and contained.
	Storage sites of fuels or chemicals designed to hold in excess of 300 barrels will be surrounded by an impermeable berm, which will be of sufficient capacity to contain 150 percent of the volume of liquid stored. All hazardous chemicals, regardless of volume (including pesticides) will be stored on or in a secondary containment vessel capable of containing 150 percent of the volume of liquid stored.
	Hess will be responsible (or have contracts with companies with equipment and capabilities) for maintaining a sufficient supply of spill containment and clean-up equipment, including suitable commercial absorbent material on the work site with the responsibility to adequately respond to a loss of containment event.
	Hess will implement fire prevention and control measures including, but not limited to: 1) ensuring that sufficient suppression equipment and qualified personnel are present during hot work jobs; 2) requiring construction crews to carry fire extinguishers in their vehicles and/or equipment; 3) training construction crews in the proper use of fire extinguishers; and 4) coordinating with the local fire district to provide fire response services.
<b>USFS Specific Mitigation Measures</b>	Keep disturbance to a minimum to reduce impacts to suitable sensitive species habitat and native vegetation communities in general, and also to reduce spread of invasive species.
	Where the disturbance area will intersect noxious weeds or patches of invasive species, treat the noxious weeds or invasive species at least 2 weeks prior to construction, or salvage and stockpile the topsoil from these sites separately to isolate the vegetative propagules and seed. These areas shall be identified to ensure they are monitored after reclamation.

<b>Resource</b>	<b>Environmental Protection Measures As Design Features</b>
<b>USFS Specific Mitigation Measures (continued)</b>	Use a USFS-approved native seed mix for reclamation; monitor to ensure proper establishment. Monitor annually for 5 years following reclamation to ensure reclamation success and to identify noxious weeds and invasive species establishment. If, at any time during the 5-year monitoring period, revegetation is deemed successful by the USFS, no additional monitoring will be conducted.
	If invasive species are found on reclaimed sites that are in areas mostly dominated by native species, treat the invasive species sites and reseed if necessary.
	If noxious weeds are found on reclaimed sites, treat the weeds and reseed if necessary.
	Clean vehicles and equipment used for construction at approved water or air wash stations (monitored by an environmental inspector) prior to entering the Little Missouri National Grasslands to remove all seeds and plant propagules (seeds and vegetative parts that may sprout) in order to prevent the potential spread of noxious weeds and invasive species. Approved wash stations will include commercial car washes and on-site locations. This mitigation will be applied when moving equipment from an area containing invasive species to an area that does not contain invasive species.
	Clearly mark (stake/fence/flag) sensitive plant populations within or very near the ROW prior to construction and note them on alignment sheets to ensure that they are avoided. Ensure that such marking is still visible prior to reclamation activities.
	Any discovery of sensitive or watch plants within the Project area shall be reported to the McKenzie Ranger District Office. Sensitive plant populations discovered after Project approval shall be protected; therefore, last-minute alterations of the Project design or access route may be requested in order to avoid negative impacts to such populations.