



## **Potential Waters of the United States Assessment**

**Targa Keene to Charlson Station Project – 7.35 Miles  
McKenzie County, North Dakota**

Apex Project No. 7010815N031

Prepared for:

**Wood Group Mustang, Inc.**  
16001 Park Ten Place  
Houston, Texas 77084

June 2015

## Table of Contents

1.0	Introduction .....	1
1.1	Regulatory Background .....	1
1.2	Nationwide Permit 12 .....	2
2.0	Project Description .....	2
3.0	Project Summary and Setting .....	2
3.1	Topography .....	3
3.2	Hydrology .....	3
3.3	Vegetation .....	3
3.4	Soils.....	4
4.0	Methodology.....	5
5.0	Results .....	5
6.0	Non-jurisdictional Areas .....	21
7.0	Requirements for Preconstruction Notification.....	22
8.0	Summary.....	23
9.0	References.....	24

## Appendices

### Appendix A – Figures

Figure 1: Project Location

Figure 2: Topography (USGS 7.5')

Figure 3: Results

## POTENTIAL WATERS OF THE U.S. ASSESSMENT

### Targa Keene to Charlson Station Project – 7.35 Miles McKenzie County, North Dakota

#### Apex Project No. 7010815N031

## 1.0 INTRODUCTION

The purpose of this assessment is to review the proposed 7.35-mile Keene to Charlson Station Pipeline located within McKenzie County, North Dakota, hereafter referred to as the proposed Project, for waters of the United States (U.S.) and to determine if preconstruction notification (PCN) to the U.S. Army Corps of Engineers (USACE) may be required in accordance with Nationwide Permit (NWP) 12 reporting conditions at any crossings.

### 1.1 Regulatory Background

Under Section 404 of the Clean Water Act, the USACE has the authority to permit the discharge of dredged or fill material into waters of the U.S. The term “waters of the U.S.” is defined as:

- All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- All interstate waters including interstate wetlands;
- All impoundments of waters otherwise defined as waters of the U.S. under the definition;
- All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters: (i) which are or could be used by interstate or foreign travelers for recreational or other purposes; or (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (iii) which are used or could be used for industrial purpose by industries in interstate commerce; and
- The territorial seas.

In 2006, *Rapanos v. United States* clarified that waters of the U.S. are also defined as: Traditional Navigable Waters (TNW) and their adjacent wetlands; non-navigable tributaries of TNWs that are relatively permanent; and wetlands that directly abut such tributaries. In addition, the *Rapanos* decision clarified that the USACE asserts jurisdiction over every water body that is not a relatively permanent water (RPW) if that water body is determined to have a significant nexus with a TNW. A significant nexus exists if the tributary, in combinations with all of its adjacent wetlands, has more than a speculative or an insubstantial effect on the chemical, physical, or biological integrity of a TNW.

The limit of USACE jurisdiction for non-tidal waters of the U.S. in the absence of adjacent wetlands is the ordinary high water mark (OHWM). “Ordinary high water mark” is defined as that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Wetlands are defined as those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (USACE 1987). To be considered a wetland, an area must have: (1) a prevalence of hydrophytic vegetation, (2) hydric soils, and (3) appropriate wetland hydrology. The feature must have a hydric connection or significant nexus to a waters of the U.S. in order to be considered jurisdictional under Section 404.

Certain geographic features are generally not considered waters of the U.S. by the Environmental Protection Agency (EPA) and USACE. These geographic features include swales, erosional features, and small washes characterized by low volume, infrequent and short duration flow; ditches draining wholly uplands and that do not carry a relatively permanent flow of water; and upland transporting of overland flow generated from precipitation. In addition, isolated features that do not have a significant nexus or connection to a water of the U.S. are not considered waters of the U.S. and are not federally regulated.

### **1.2 Nationwide Permit 12**

The USACE utilizes a Nationwide Permit program to authorize discharge and fill into waters of the U.S. Under the Nationwide Permit program, Nationwide Permit (NWP) 12 - Utility Line Activities, would be most applicable to the proposed Project. NWP 12 authorizes activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the U.S., provided the activity does not result in the loss of greater than 1/2-acre of waters of the U.S. for each single and complete crossing.

## **2.0 PROJECT DESCRIPTION**

Tesoro High Plains Pipeline Company, LLC is proposing to construct and operate approximately 7.35 miles of transmission pipeline in McKenzie County, North Dakota.

The southern terminus of the proposed Project is located at an existing station approximately 0.30 mile east of the intersection of 34<sup>th</sup> Avenue NW (Highway 12) and 107<sup>th</sup> Avenue NW (County Road 1806). The alignment generally travels north for approximately 7.35 miles to its northern terminus in an undeveloped agricultural field located approximately 0.95 mile southwest of the intersection of 42<sup>th</sup> Street NW and 107<sup>th</sup> Avenue NW.

The proposed Project includes the installation of a gathering pipeline within an assumed 50-foot-wide permanent easement. It is assumed a 50-foot wide temporary workspace easement will be utilized during construction.

A map of the proposed Project is included as Appendix A, Figure 1.

## **3.0 PROJECT SUMMARY AND SETTING**

Topography, hydrology, vegetation, and soils within the proposed Project alignment are detailed below.

### 3.1 Topography

Elevation of the proposed Project ranges from 2,535 feet above mean sea level (msl) in disturbed rangeland approximately 2 miles north of the southern terminus of the alignment to 2,273 feet above msl approximately 0.40 mile south of the southern terminus of the alignment. The overall topographic relief of the proposed Project alignment is generally rolling plains with drops in elevation when in proximity to drainages.

A topographic map of the proposed Project is included as Appendix A, Figure 2.

### 3.2 Hydrology

The proposed Project is located within three subwatersheds (HUC 12): Upper Sand Creek (101101011001), Upper Clear Creek (101101010806), and Clarks Creek (101101011904). These three subwatersheds are all located with the Lake Sakakawea major watershed (HUC 8 10110101) (EPA 2014).

According to United States Geological Survey (USGS) topographic maps, eleven blue-line tributaries are intersected by the proposed Project (Appendix A, Figure 3). No additional potential tributaries not delineated as USGS blue-lines were identified on aerial imagery. These eleven potential tributaries belong to two drainage systems, Sand Creek and Tobacco Garden Creek, which eventually flow into the Missouri River/Lake Sakakawea, a TNW.

The majority of the crossings are associated with Sand Creek (CL 001 and TAK 009) and unnamed tributaries of Sand Creek (CL 001, TAK 004, TAK 005, TAK 006, TAK 007, and TAK 008). Sand Creek, a RPW, generally flows to the northwest and enters the Missouri River/Lake Sakakawea approximately 11 aerial miles northwest of the proposed Project. The remaining four tributary crossings are of North Branch Clear Creek (TAK 012), an unnamed tributary of North Branch Clear Creek (TAK 011), and two unnamed tributaries of Clear Creek (TAK 014 and TAK 017). North Branch Clear Creek generally flows to the west into Clear Creek, a RPW, and Clear Creek drains to the northwest into Tobacco Garden Creek, also a RPW, approximately 13 aerial miles northwest of the proposed Project. Tobacco Garden Creek flows to the north into the Missouri River/Lake Sakakawea.

According to the National Wetlands Inventory (NWI) (USFWS 2014), four freshwater emergent wetlands are delineated within the proposed Project boundaries. One freshwater emergent wetland is isolated [CL 002 (0.93 acre)] and the rest are associated with blue-line tributaries – CL 001 (1.13 acres), TAK 009 (0.62 acre), and TAK 013 (4.04 acres) that bisects North Branch Clear Creek (TAK 012). During field investigations, three freshwater emergent wetlands not delineated by the NWI were identified – TAK 010 (1.47 acres), TAK 015 (0.67 acre), and TAK 016 (0.41 acre).

### 3.3 Vegetation

The northern portion of the proposed Project is within the Cultivated Crops land cover designation, according to the National Land Cover Database (NLCD) (Fry et al. 2011). Small amounts of Herbaceous, Scrub/Shrub, and Deciduous Forest land cover designations are intersected near drainages and Developed, Open Space land cover designation is along paved and dirt roads. The land cover designations follow the same pattern for the remainder of the proposed Project, with the exception that both Cultivated Crops and Herbaceous are the dominant land cover

designations. Field investigations identified the vegetation type within the proposed alignment is primarily disturbed agricultural land.

### 3.4 Soils

Twenty-seven soil units are intersected by the proposed Project alignment. Table 1 lists the soil units within a 100-foot corridor along the proposed Project (NRCS 2013).

**Table 1: Soil Units within the Proposed Project Corridor**

Map Unit Symbol	Map Unit Name
E1865B	Tally-Parshall fine sandy loams, 2 to 6 percent slopes
E3523A	Tansem-Roseglen silt loams, 0 to 2 percent slopes
E3567F	Zahl-Max loams, dissected, 15 to 45 percent slopes
E0447B	Daglun-Belfield complex, 0 to 6 percent slopes
E0515B	Rhoades-Daglun complex, 0 to 6 percent slopes
E0559B	Dogtooth-Janesburg silt loams, 0 to 6 percent slopes
E0605A	Belfield-Grail clay loams, 0 to 2 percent slopes
E0701F	Dogtooth-Janesburg-Cabba complex, 6 to 35 percent slopes
E1355D	Vebar-Flasher-Tally complex, 9 to 15 percent slopes
E2120A	Farnuf loam, 0 to 2 percent slopes
E2617F	Cabba-Chama-Shambo loams, 9 to 50 percent slopes
E2641C	Reeder-Werner loams, 6 to 9 percent slopes
E2737C	Chama-Cabba-Sen silt loams, 6 to 9 percent slopes
E2803B	Amor-Shambo loams, 3 to 6 percent slopes
E2913B	Chama-Sen-Cabba silt loams, 3 to 6 percent slopes
E3513A	Niobell-Williams loams, 0 to 3 percent slopes
E3513B	Niobell-Williams loams, 3 to 6 percent slopes
E3527A	Williams-Bowbells loams, 0 to 3 percent slopes
E3527B	Williams-Bowbells loams, 3 to 6 percent slopes
E3541B	Williams-Zahl loams, 3 to 6 percent slopes
E3541C	Williams-Zahl loams, 6 to 9 percent slopes
E3555D	Zahl-Williams loams, 9 to 15 percent slopes
E3559E	Zahl-Max loams, 15 to 25 percent slopes
E3609F	Zahl-Cabba-Maschetah complex, 6 to 70 percent slopes
E3639C	Zahl-Williams-Cabba complex, 6 to 9 percent slopes

Map Unit Symbol	Map Unit Name
E3641D	Zahl-Cabba-Williams complex, 9 to 15 percent slopes
E4715A	Dimmick silty clay loam, 0 to 1 percent slopes

Six soil units are listed as hydric in McKenzie County: E0701F, E3513A, E3513B, E3527A, E3527B, and E4715A (NRCS 2014). Hydric soils are defined as soils that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part.

#### 4.0 METHODOLOGY

Prior to the field investigation, a detailed desktop Geographic Information System (GIS) analysis was conducted to determine the locations of potential tributary crossings that required field inspection. USGS topographic maps were used to identify the locations of potential tributaries and wetlands that may be intersected by the proposed Project, as well as to identify the flow regime of the proposed Project to determine downstream connectivity to a TNW. Aerial imagery of the proposed Project was reviewed for evidence of channel characteristics including inundation, sparsely vegetated surfaces, changes in vegetation type, clearly defined channels, and manmade disturbances.

Eleven potential linear features and two potential freshwater emergent wetlands were identified as requiring field inspection.

Following the GIS study, pedestrian field reconnaissance was performed by Apex biologists on October 21, 2014. Field investigations were done to compare background data to existing conditions and to determine the current extent of waters of the U.S. within the proposed Project.

#### 5.0 RESULTS

Four potential waters of the U.S. delineated as USGS blue-lines and six freshwater emergent wetlands (three of which are associated with blue-line tributaries) were identified during field survey. Table 2 summarizes the results of the field reconnaissance; a description of each potential waters of the U.S. follows Table 2.

Please note the final authority in determining jurisdiction of a water feature, including significant nexus decisions, rests with USACE.

A map of the results of the investigation is included in Appendix A, Figure 3. A digital kml file of the boundaries of the delineated waters of the U.S. has been prepared to accompany this report.

**Table 2: Potential Waters of the U.S. Summary Table**

ID	Lat/Long (dd)	Resource Type	OHWM (ft)	Linear Feet in Proposed Project Area	Impact Type	Sq. Feet of Impact	Acres of Impact	PCN Required?	Reason
CL 001	48.006038, 102.883393	PS	25.0	184.1	D/T	7,187.4	0.165	N	
TAK 006	47.979864, 102.884136	PS/NFW	87.6	152.5	D/T	6,490.4	0.149	N	
TAK 010	47.960641, 102.884676	NFW	-	-	D/T	3,446.3	0.079	N	
TAK 011	47.947395, 102.886162	IS/NFW	15	122.1	D/T	4,393.5	0.100	N	
TAK 015	47.924005, 102.885398	NFW	-	-	D/T	13,048.6	0.300	N	
TAK 016	47.923036, 102.885249	NFW	-	-	D/T	14,458.7	0.332	N	
TAK 017	47.914334, 102.884040	IS/NFW	5	113.2	D/T	2,075.2	0.0476	N	

**Resource Type**

NFW – Non-forested wetland, FW – Forested Wetland, PS – Perennial Stream, IS – Intermittent Stream, ES – Ephemeral Stream, I – Impoundment

**Impact Types**

D/P – Direct and Permanent, D/T – Direct and Temporary, I/P – Indirect and Permanent, I/T – Indirect and Temporary

**Reason**

- A – Mechanized Land Clearing
- B – Requires a Section 10 Permit
- C – Utility line exceeds 500 feet in waters of the US, excluding overhead lines
- D – Utility line is within a jurisdictional area and the utility line runs parallel to a stream bed that is within that jurisdictional area
- E – The loss of waters exceeds 0.10 acre
- F – Permanent access roads are constructed above grade in waters of the US for a distance of more than 500 feet
- G – Permanent access roads are constructed in waters of the US with impervious materials
- H – Potential endangered species
- I – Potential historic resources
- J – Other

### CL 001

This crossing occurs at the confluence of Sand Creek and a primary tributary of Sand Creek. Each of these blue-line tributaries is a flat-bottomed, perennial stream. Water approximately four feet deep was present at the time of field investigations; the primary tributary was filled with backwater from Sand Creek. According to the NWI, a 1.13-acre freshwater emergent wetland is associated with this crossing. Indicators of this freshwater emergent wetland, which includes hydrophytic vegetation, hydric soils, and wetland hydrology, were not observed during field investigations. Vegetation at CL 001 included Canada thistle (*Cirsium arvense*) and meadow fescue (*Schedonorus pratensis*) and canopy riparian vegetation was lacking at this crossing.

Sand Creek and its primary tributary appear to transmit flow downstream, may carry pollutants and/or floodwaters, and may have the ability to maintain water quality. The unnamed blue-line tributary flows east into Sand Creek and Sand Creek generally flows northwest, entering the Missouri River/Lake Sakakawea approximately 10.5 aerial miles to the northwest.



CL 001 facing west



CL 001 facing east

**TAK 006**

This perennial stream is a tributary to Sand Creek and an OHWM was not visible due to the extensive freshwater emergent wetland surrounding the drainage. At the time of field investigations, there was approximately three inches of standing water in the wetland. There was a noticeable change in vegetation patterns between areas adjacent to the drainage and uplands; canopy riparian vegetation was lacking at this crossing. Vegetation included broadleaf cattail, common reed (*Phragmites australis*), smooth brome, and Canada thistle.

This blue-line tributary may transmit flow downstream, carry pollutants and/or floodwaters, and have the ability to maintain water quality. Generally draining to the northeast, this feature is a primary tributary to Sand Creek, which is located approximately 1.53 river miles downstream of the proposed Project crossing.



TAK 006 facing downstream



TAK 006 facing north

**TAK 010**

This 1.47-acre freshwater emergent wetland is not delineated as an NWI wetland and is located in a low-lying area associated with Sand Creek. Standing water approximately four inches deep was observed at the time of field investigations. There was a noticeable difference between plant communities which aided in delineating the wetland; prairie cordgrass and blunt spikerush (*Eleocharis obtusa*) were present. Canopy riparian vegetation was lacking at this crossing.

Since TAK 010 may be hydrologically connected to Sand Creek, this feature could potentially transmit flow downstream to the Missouri River/Lake Sakakawea, may carry pollutants and/or floodwaters, and may have the ability to maintain water quality.



TAK 010 facing east



TAK 010 facing north

### TAK 011

This intermittent stream is a tributary to North Branch Clear Creek and had an OHWM of approximately 15 feet. A freshwater emergent wetland surrounded this drainage, creating a mosaic of open water and emergent wetland. At the time of field investigations, there was approximately six inches of standing water in the wetland. There was a noticeable change in vegetation patterns between areas adjacent to the drainage and uplands; canopy riparian vegetation was lacking at this crossing. Vegetation included broadleaf cattail, blunt spikerush, prairie cordgrass, hardstem bulrush (*Schoenoplectus acutus*), and common rush (*Juncus effusus*).

This blue-line tributary may transmit flow downstream, carry pollutants and/or floodwaters, and have the ability to maintain water quality. Generally draining to the southeast, this feature is a primary tributary to North Branch Clear Creek, which is located approximately 0.27 river mile downstream of the proposed Project crossing.



TAK 011 facing upstream



TAK 011 facing downstream

**TAK 015**

This 0.67-acre freshwater emergent wetland is not delineated as an NWI wetland and is located in a low-lying area associated with Clear Creek. Standing water approximately one foot deep was observed at the time of field investigations. There was a noticeable difference between plant communities which aided in delineating the wetland; prairie cordgrass was the dominant hydrophytic plant species. Canopy riparian vegetation was lacking at this crossing.

Since TAK 015 may be hydrologically connected to Clear Creek, this feature could potentially transmit flow downstream to the Missouri River/Lake Sakakawea, may carry pollutants and/or floodwaters, and may have the ability to maintain water quality.



TAK 015 facing east



TAK 015 facing west

**TAK 016**

This 0.41-acre freshwater emergent wetland is not delineated as an NWI wetland and is located in a low-lying area associated with Clear Creek. Standing water approximately four inches deep was observed at the time of field investigations. There was a noticeable difference between plant communities which aided in delineating the wetland; prairie cordgrass, hardstem bulrush, and common rush were present. Canopy riparian vegetation was lacking at this crossing.

Since TAK 016 may be hydrologically connected to Clear Creek, this feature could potentially transmit flow downstream to the Missouri River/Lake Sakakawea, may carry pollutants and/or floodwaters, and may have the ability to maintain water quality.



TAK 016 facing east



TAK 016 facing west

**TAK 017**

This intermittent stream is a tributary to Clear Creek and had an OHWM of approximately four feet. A freshwater emergent wetland surrounded this drainage and at the time of field investigations, there was approximately two inches of standing water in the wetland. There was a noticeable change in vegetation patterns between areas adjacent to the drainage and uplands; canopy riparian vegetation was lacking at this crossing. Vegetation included broadleaf cattail and prairie cordgrass.

This blue-line tributary may transmit flow downstream, carry pollutants and/or floodwaters, and have the ability to maintain water quality. Generally draining to the southwest, this feature is a secondary tributary to Clear Creek, which is located approximately 3.75 river mile downstream of the proposed Project crossing.



TAK 017 facing east



TAK 017 facing west

## 6.0 NON-JURISDICTIONAL AREAS

Nine crossings, including seven linear features and two NWI-delineated freshwater emergent wetlands, identified during desktop analysis as potential features were observed as unlikely to be waters of the U.S. during field reconnaissance. A description of each potentially non-jurisdictional crossing is included below. Please note the final authority in determining jurisdiction of a water feature, including significant nexus decisions, rests with USACE.

CL 002 – This feature is an isolated NWI 0.93-acre freshwater emergent wetland that has been impacted by agricultural practices. This feature does not exhibit a downstream connection; therefore, this feature does not contribute more than a speculative or insubstantial effect on the chemical, physical, and biological integrity of any downstream TNW. This feature is not likely to be considered a water of the U.S. (no photograph available)

TAK 004 – This blue-line crossing has been impacted by agricultural practices. This feature does not exhibit an OHWM or downstream connection; therefore, this feature does not contribute more than a speculative or insubstantial effect on the chemical, physical, and biological integrity of any downstream TNW. This feature is not likely to be considered a water of the U.S. (no photograph available)

TAK 005 – This blue-line crossing has been impacted by agricultural practices. This feature does not exhibit an OHWM or downstream connection; therefore, this feature does not contribute more than a speculative or insubstantial effect on the chemical, physical, and biological integrity of any downstream TNW. This feature is not likely to be considered a water of the U.S. (no photograph available)

TAK 007 – This blue-line crossing has been impacted by agricultural practices. This feature does not exhibit an OHWM or downstream connection; therefore, this feature does not contribute more than a speculative or insubstantial effect on the chemical, physical, and biological integrity of any downstream TNW. This feature is not likely to be considered a water of the U.S. (no photograph available)

TAK 008 – This blue-line crossing has been impacted by agricultural practices. This feature does not exhibit an OHWM or downstream connection; therefore, this feature does not contribute more than a speculative or insubstantial effect on the chemical, physical, and biological integrity of any downstream TNW. This feature is not likely to be considered a water of the U.S. (no photograph available)

TAK 009 – This blue-line crossing is of the upper extent of Sand Creek. No NWI 0.62-acre freshwater emergent wetland, OHWM, or downstream connection was observed during field investigations. Therefore, this feature does not contribute more than a speculative or insubstantial effect on the chemical, physical, and biological integrity of any downstream TNW. This feature is not likely to be considered a water of the U.S. (no photograph available)

TAK 012 – This blue-line crossing is near the upper extent of North Branch Clear Creek. No OHWM or downstream connection was observed during field investigations. Therefore, this feature does not contribute more than a speculative or insubstantial effect on the chemical,

physical, and biological integrity of any downstream TNW. This feature is not likely to be considered a water of the U.S. (no photograph available)

TAK 013 – This feature is an NWI 4.04-acre freshwater emergent wetland that has been impacted by agricultural practices. This feature does not exhibit a downstream connection; therefore, this feature does not contribute more than a speculative or insubstantial effect on the chemical, physical, and biological integrity of any downstream TNW. This feature is not likely to be considered a water of the U.S. (no photograph available)

TAK 014 – This crossing is located near the upper extent of the blue-line and has been impacted by agricultural practices. This feature does not exhibit an OHWM or downstream connection; therefore, this feature does not contribute more than a speculative or insubstantial effect on the chemical, physical, and biological integrity of any downstream TNW. This feature is not likely to be considered a water of the U.S. (no photograph available)

## 7.0 REQUIREMENTS FOR PRECONSTRUCTION NOTIFICATION

Four potential waters of the U.S. delineated as USGS blue-lines and six freshwater emergent wetlands (three of which are associated with blue-line tributaries) that are intersected by the proposed Project were identified during desktop analysis and field reconnaissance.

Under NWP 12, the construction, maintenance, or repair of utility lines and the associated excavation, backfill, or bedding for the utility line is typically authorized by the USACE, without pre-construction notification (PCN) to the USACE, provided there is no change in pre-construction contours and the proposed Project meets all general conditions. A PCN to and written authorization from the USACE would be required for the proposed Project, if any of the following criteria are met at a single and complete crossing:

Mechanized land clearing in a forested wetland for the utility line right-of-way is required

No forested wetlands were identified within the proposed Project boundaries.

A Rivers and Harbors Section 10 permit is required

No waters subject to Section 10 of the Clean Water Act were identified in the proposed Project boundaries.

The utility line in waters of the United States, excluding overhead lines, exceeds 500 feet

The proposed Project does not exceed 500 feet within waters of the U.S.

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

The proposed Project alignment does not run parallel to any stream bed within a jurisdictional area.

Discharges that result in the loss of greater than 1/10-acre of waters of the United States

Impacts to waters of the U.S. that would result from the proposed pipeline construction are generally considered temporary, provided all construction is temporary in nature and the tributaries are restored to preconstruction contours, such that no net loss of waters occurs. For the proposed Project, open-cut trenching activities would be consistent with this designation of

temporary impacts. No permanent losses are anticipated; therefore, the proposed Project will not trigger PCN from this criterion.

Permanent access roads are constructed above grade in waters of the United States for a distance of more than 500 feet, and/or permanent access roads are constructed in waters of the United States with impervious materials (Sections 10 and 404)

No permanent access roads are proposed for the proposed Project at any of the crossings.

It is important to note that though a PCN may not be required under the above conditions, the activities affecting the waters of the U.S. are still authorized by NWP 12 and are subject to the General Conditions of the NWP program, including evaluation of impacts to federally-listed species and cultural resources. Evaluation of these resources can be found in their entirety under separate covers.

#### *2012 North Dakota Regional Conditions*

The USACE Omaha District has issued regional conditions applicable to all projects within the State of North Dakota. These regional conditions issued in 2012 list six conditions applicable to all nationwide permits. The six conditions listed would not require notification to the USACE for the proposed Project due to the proposed Project's lack of impact to wetlands classified as peatland, natural springs, the Missouri River (including Lake Sakakawea and Lake Oahe), borrow sites or Class III or higher waters as identified on the 1978 Stream Evaluation Map for the State of North Dakota.

In addition, the 2012 regional conditions in North Dakota include one condition identified as applicable specifically to NWP 12. The proposed Project would not include the construction or installation of intake structures; therefore, notification to the USACE or required specifications of the facilities based on this condition is not anticipated.

## **8.0 SUMMARY**

Four potential waters of the U.S. delineated as USGS blue-lines and six freshwater emergent wetlands (three of which are associated with blue-line tributaries) that are intersected by the proposed Project were identified during desktop analysis and field reconnaissance. Preconstruction notification under the reporting requirements for NWP 12 is not anticipated based on observed site conditions.

These services and this report were performed and prepared in accordance with generally accepted local assessment practices at the time the services were performed; no warranties, express or implied, are intended or made. The limitations of this assessment should be recognized as Wood Group Mustang, Inc. formulates conclusions on the environmental risks associated with construction of the proposed Project. Furthermore, the services herein shall in no way be construed, designed, or intended to be relied upon as legal interpretation or advice.

## 9.0 REFERENCES

- (EPA) United States Environmental Protection Agency. 2014. Surf Your Watershed. Available at: <http://cfpub.epa.gov/surf/locate/index.cfm>. (Accessed on November 6, 2014)
- Fry, J., Xian, G., Jin, S., Dewitz, J., Homer, C., Yang, L., Barnes, C., Herold, N., and Wickham, J. 2011. Completion of the 2006 National Land Cover Database for the Conterminous United States, PE&RS, Vol. 77(9):858-864.
- (NRCS) Natural Resources Conservation Service. 2013. Web Soil Survey. Available online at: <http://websoilsurvey.nrcs.usda.gov/>. (Accessed on November 6, 2014)
- (NRCS) Natural Resources Conservation Service. 2014. Lists of hydric soils, national list, all states. March 2014 version. Available online at: <http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/use/hydric/>. (Accessed on November 6, 2014)
- (USACE) U.S. Army Corps of Engineers. 1987. "Corps of Engineers Wetlands Delineation Manual," Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Mississippi.
- (USFWS) U.S. Fish and Wildlife Service Fisheries and Habitat Conservation. 2014. National Wetlands Inventory. Available online at: [www.fws.gov/wetlands/Data/Mapper.html](http://www.fws.gov/wetlands/Data/Mapper.html). (Accessed on November 6, 2014)

# Appendix A

## Figures

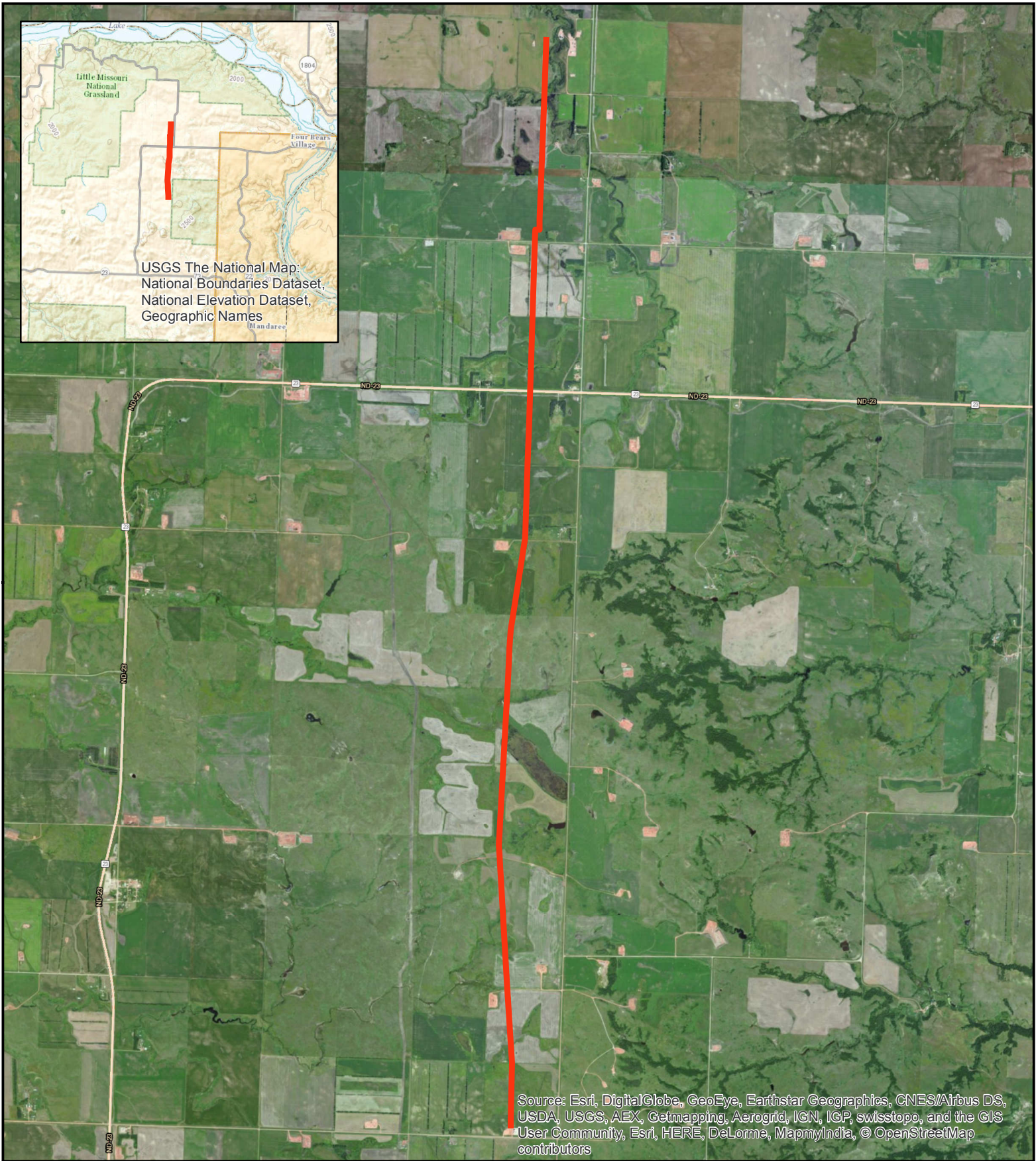

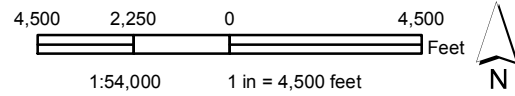
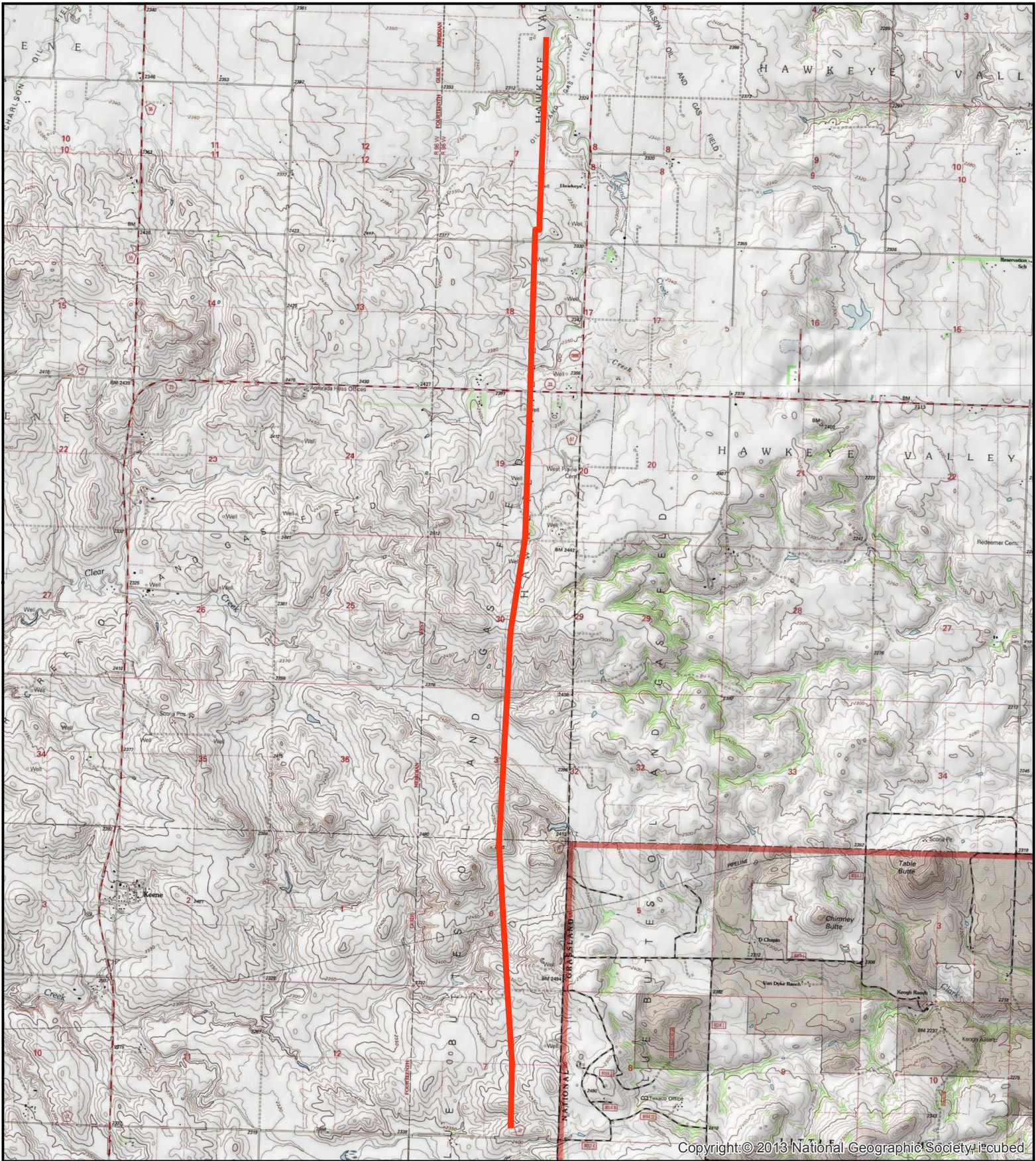


Figure 1: Project Location  
 Potential Waters of the U.S. Assessment  
 Keene to Charlson  
 June 2015  
 Apex No. 7010815N031


**Legend**  
 Keene to Charlson

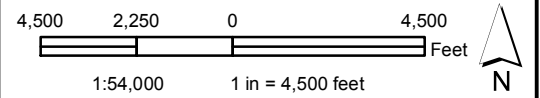


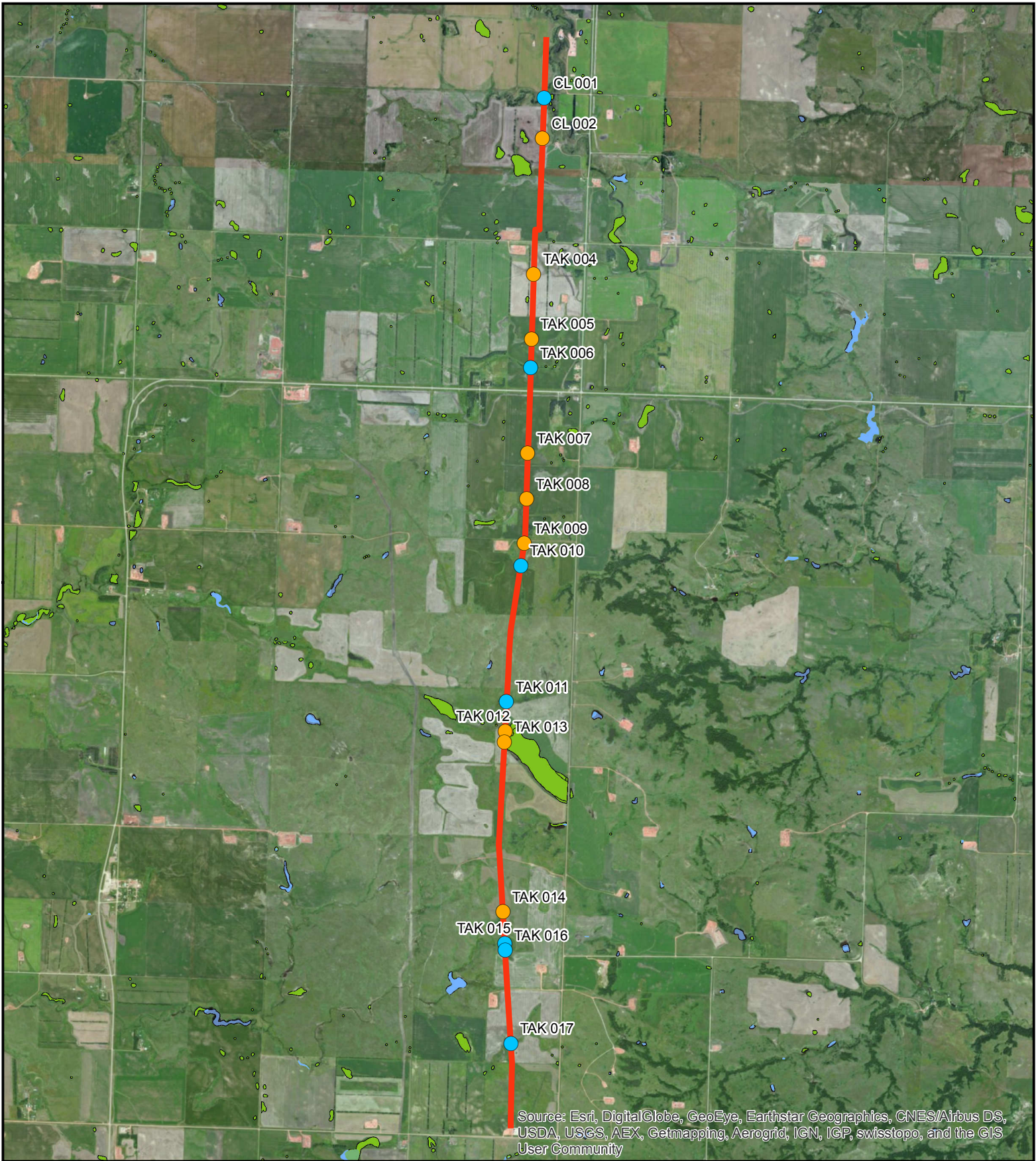


Copyright © 2013 National Geographic Society. i-cubed

Figure 2: Topography (USGS 7.5')  
 Potential Waters of the U.S. Assessment  
 Keene to Charlson  
 June 2015  
 Apex No. 7010815N031

**Legend**  
 Keene to Charlson





Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Figure 3: Results  
 Potential Waters of the U.S. Assessment  
 Keene to Charlson  
 June 2015  
 Apex No. 7010815N031

- Legend**
- Non-jurisdictional
  - Potential Waters of the U.S.
  - Keene to Charlson

