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SWCA Environmental Consultants

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## **ACRONYMS AND ABBREVIATIONS**

BMP	Best Management Practice
BNSF	Burlington Northern Santa Fe
CCWCB	Cass County Weed Control Board
Cenex	Cenex Pipeline, LLC
CFR	Code of Federal Regulations
Commission	North Dakota Public Service Commission
Consolidated Application	Consolidated Certificate of Corridor Compatibility and Route Permit Application
EMP	Environmental Mitigation Plan
HDD	horizontal directional drilling
NDAC	North Dakota Administrative Code
NDCC	North Dakota Century Code
ND DOT	North Dakota Department of Transportation
NDPRD	North Dakota Parks and Recreation Department
NDSWC	North Dakota State Water Commission
NDTL	North Dakota Trust Lands
NuStar	NuStar Pipeline Operating Partnership L.P.
NWI	National Wetlands Inventory
PHMSA	Pipeline Hazardous Materials Safety Administration
Project	Laurel Interconnect Pipeline Project
ROW	right-of-way
SCADA	supervisory control and data acquisition system
SHPO	State Historic Preservation Office
Study Area	1-mile-wide corridor between, and including, the Fargo Pump Station site and the Mapleton Junction site
SWCA	SWCA Environmental Consultants
USACE	U.S. Army Corps of Engineers
USDOT	U.S. Department of Transportation

**CHECKLIST FOR COMBINED CORRIDOR COMPATIBILITY AND ROUTE PERMIT APPLICATION**

<b>Authority</b>	<b>Description</b>	<b>Section(s)</b>
<b>Chapter 49-22 CENTURY CODE – Title 49</b>		
49-22-08	Application for a Certificate for a Corridor (CC)	
1.a.	Description of size and type of facility	1.0, 9.0
1.b.	Summary of any studies of environmental impacts	14.0
1.c.	Need for the facility	3.0
1.d.	Site for energy conversion facility	N/A
1.e.	Preferred transmission (pipeline) corridor	2.2
1.f.	Analysis of merits and detriments of facility location	2.2, 13.0
1.g.	Mitigating measures	19.0
1.h.	Corridor evaluation pursuant to 49-22-09 and 49-22-05.1	17.0, 18.0
49-22-08.1	Application for Route Permit (RP)	
1.a.	Description of size and type of facility	1.0, 9.0
1.b.	Description of the location	2.0
1.c.	Route evaluation relative to 49-22-09 and 49-22-05.1	17.0, 18.0
1.d.	Mitigating measures	19.0
1.e.	Right-of-way preparation, construction, and reclamation	11.0
1.f.	Statement identifying how: 1) landowners informed of right-of-way acquisition; and 2) how landowners will be compensated	10.0
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2	Effects of transmission technology and design to minimize adverse effects	18.2
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4.h.	Monitoring of impacts	17.4.8
4.i.	Using existing or proposed rights-of-way and corridors	17.4.9
4.j	Using existing or proposed transmission facilities	17.4.10

## **INTRODUCTION**

Cenex Pipeline, LLC. (Cenex) proposes to construct a refined petroleum products storage and distribution facility located approximately 1.3 miles southeast of Prosper, North Dakota. The facility would supply refined petroleum products to the NuStar Pipeline Operating Partnership L.P. (NuStar) proposed 8-inch Laurel Interconnect Pipeline that would connect to NuStar's existing 10-inch North System Pipeline at the proposed Mapleton Junction Site, located approximately 2 miles southeast of Mapleton, North Dakota. The proposed facility would be owned and operated by Cenex and is referred to as the Cenex Prosper Terminal (Project). The Project is located entirely in Cass County, North Dakota (Figures 1 and 2). The relationship between the existing Cenex Pipeline, the proposed Prosper Terminal, the proposed NuStar Laurel Interconnect Pipeline, and the existing NuStar North System Pipeline is illustrated in Figure 3.

The Project, in conjunction with the proposed Laurel Interconnect Pipeline, will provide additional storage and distribution capability of refined petroleum products (gasoline and distillates [diesel]) from Cenex's existing Pipeline, which extends from the CHS Inc. Refinery in Laurel, Montana, to an existing Magellan Midstream Partners, L.P. terminal in Fargo, North Dakota as well as NuStar's existing North System Pipeline, which extends from the Tesoro Refinery in Mandan, North Dakota to a terminal in Roseville, Minnesota. The storage provided by the Project will enhance the refined petroleum products supply capabilities of both the Cenex and NuStar systems.

Cenex is submitting this Application to the North Dakota Public Service Commission (Commission) requesting a Certificate of Corridor Compatibility and Route Permit for construction of the Project.

This Application supports Cenex's request for a Certificate of Corridor Compatibility and Route Permit and complies with Chapter 49-22 of the North Dakota Century Code (NDCC) and Chapters 69-06-05 of the North Dakota Administrative Code (NDAC).

### **1.0 FACILITY TYPE**

The proposed Project would be a refined petroleum products (i.e. gasoline and distillates) storage and distribution facility. The Project will serve as the source facility for NuStar's proposed Laurel Interconnect Pipeline that will transfer refined petroleum products from the Cenex Prosper Terminal to an existing NuStar Pipeline, located southeast of Mapleton in Cass County, North Dakota.

The 63-acre Prosper Terminal site will initially consist of three 145,000 barrel above-ground storage tanks (ASTs), with the potential to install 3 additional 145,000 barrel ASTs; one 10,000 barrel AST to receive product from Cenex's 8-inch mainline pressure relief valve in the event of a pipeline upset condition; influent and effluent metering stations; a Booster Pump Station to deliver product from the ASTs to an adjacent pump station owned and operated by NuStar; and, a Mainline Pump Station and delivery meters to ship product from the ASTs back into the Cenex Pipeline mainline for delivery to the Magellan Terminal in West Fargo.

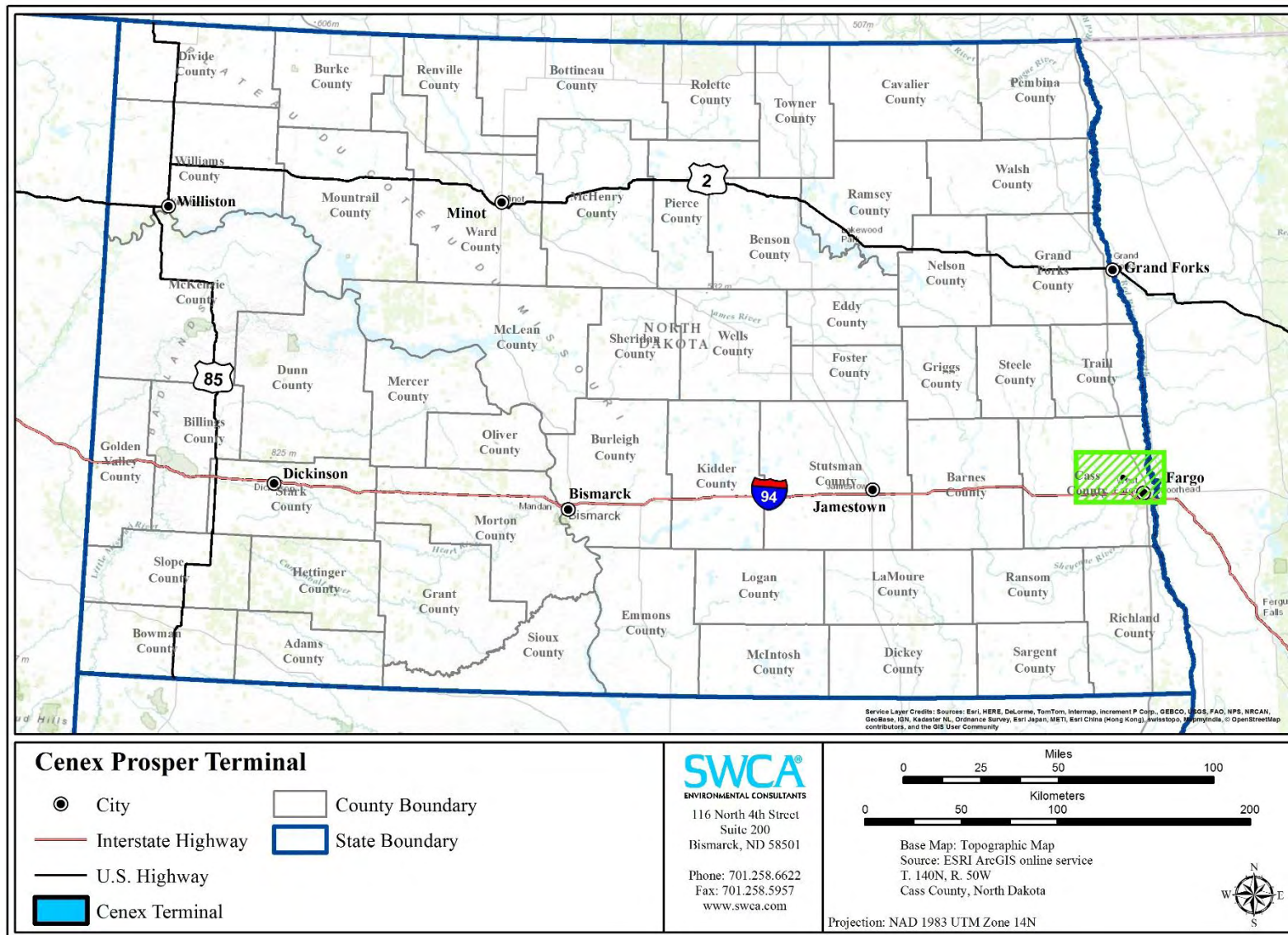


Figure 1. Overview of Cenex Project Location.

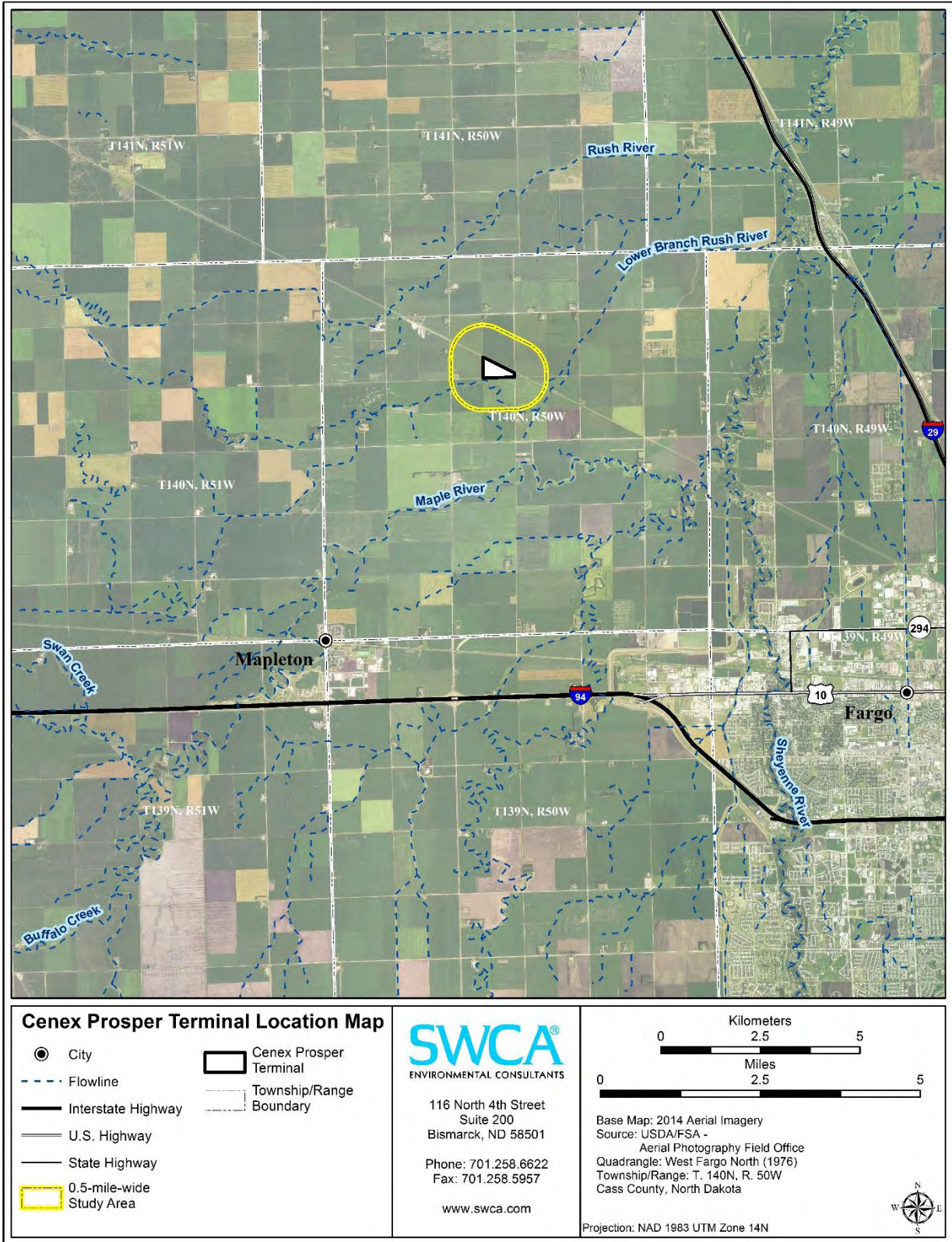


Figure 2. Cenex Prosper Terminal Project Location

# NUSTAR AND CENEX SYSTEM INTERCONNECT



PROPOSED CENEX PROSPER TERMINAL/  
NUSTAR PUMP STATION

CENEX 8" LAUREL PIPELINE

PROPOSED LAUREL  
INTERCONNECT PIPELINE

PROPOSED NUSTAR  
MAPLETON JUNCTION

NUSTAR 10" NORTH SYSTEM PIPELINE

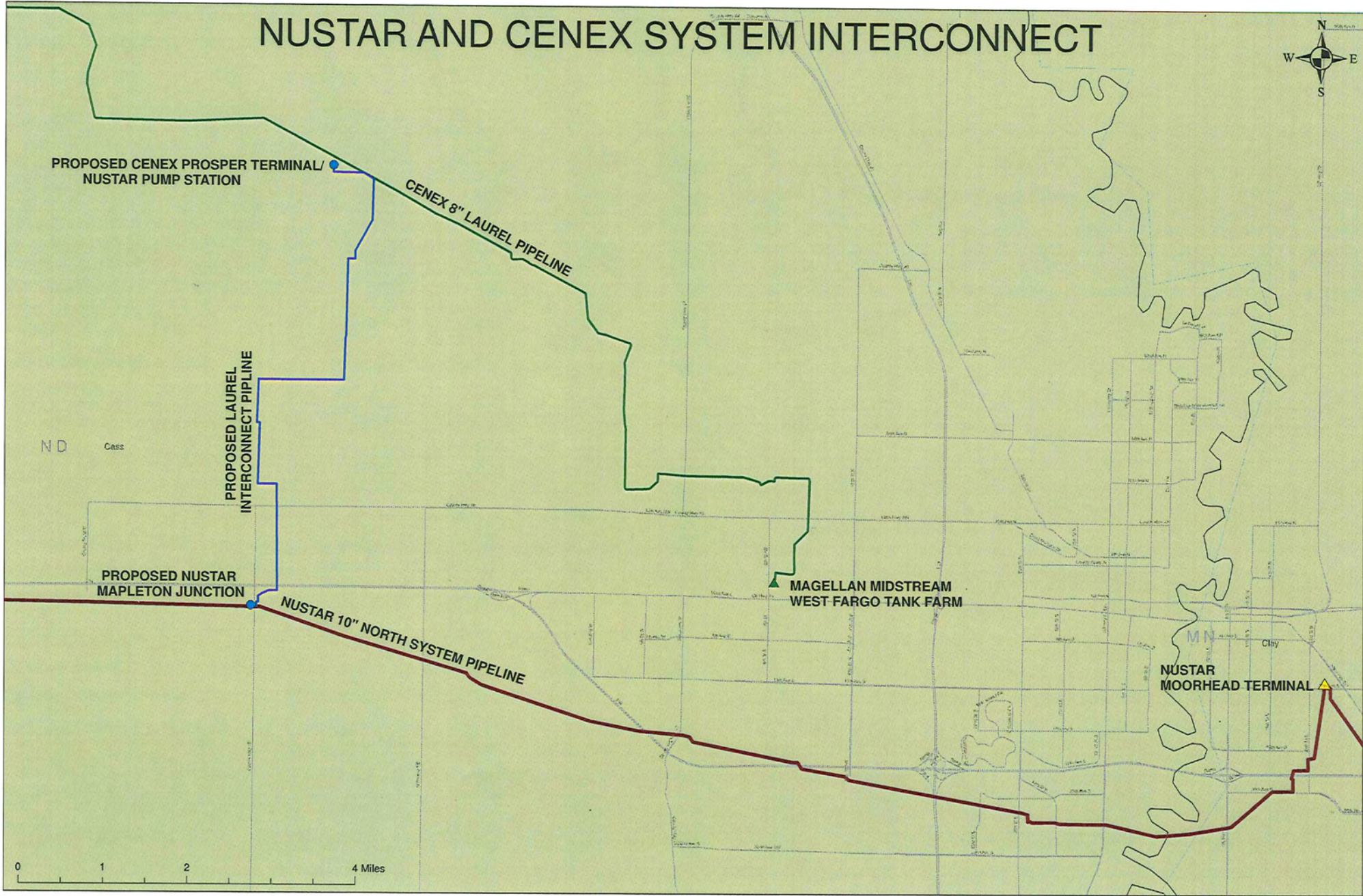
MAGELLAN MIDSTREAM  
WEST FARGO TANK FARM

NUSTAR  
MOORHEAD TERMINAL

ND  
Cass

MN  
Clay

0 1 2 4 Miles



The proposed project includes a reconfiguration of the existing Cenex Pipeline that will consist of an 8-inch underground pipeline for transmitting refined petroleum products to the Cenex Pump Station located within the confines of the proposed Cenex Prosper Terminal. The Cenex Pipeline reconfiguration is currently proposed to traverse approximately 800 feet south from the existing alignment to the Cenex Pump Station, then east for approximately 1,500 feet to rejoin the existing Cenex Pipeline alignment. The section of the Cenex Pipeline between the point where the 8-inch pipeline heads south to where it rejoins the alignment to the east will be removed and disposed/recycled appropriately.

## **2.0 LOCATION**

### **2.1 Project Study Area**

Cenex defined its study area as a 1.0-mile-diameter (0.5 mile radius) circle around the proposed Project (Study Area).

### **2.2 Preferred Location of Project Site**

Cenex is seeking approval of a Site that will align with the 63.107 ±-acre survey area used for conducting environmental field surveys. The specific location of the approximate 2-acre site for the NuStar Fargo Pump Station within the Site is depicted on the drawings provided in Appendix A.

Cenex's proposed Prosper Terminal Site is the result of a thorough site analysis, and coordination with NuStar, landowners, local officials, agencies, and existing infrastructure owners. Cenex obtained and analyzed public and proprietary information to identify sensitive areas and features within the Study Area, such as exclusion and avoidance areas, populated areas, wetlands, waterbodies, natural resources, areas of cultural significance, and public lands. In addition, Cenex considered existing rights-of-way (ROWs) (e.g., pipelines and roads) in an effort to maximize co-location with other infrastructure, where appropriate. Cenex also sought input from affected landowners, agencies, local governments, and other infrastructure owners, and refined the Site based on input received. Cenex completed civil and environmental field surveys and additional constructability reviews to further refine its Site. Ultimately, the Site was selected, which meet the Project needs, comply with the Commission's siting criteria, and minimizes impacts to landowners, the environment, and existing infrastructure.

Additional discussion of the factors considered in selecting the Site is provided in Sections 13.0, 16.0, 17.0, and 18.0 of this Application.

## **3.0 PURPOSE AND NEED OF THE FACILITY**

Between 2007 and 2013, consumption of petroleum products in North Dakota increased significantly—from 26,411 to 40,679 thousand barrels per year.<sup>1</sup> NuStar and Cenex expect this

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<sup>1</sup> See U.S. Energy Information Administration, *Total End-Use Energy Consumption Estimates 1960-2013, North Dakota*. Available at

increased demand to continue or increase during the next 10 years. The Project, in conjunction with the proposed Laurel Interconnect Pipeline, will provide additional storage and distribution capability between Cenex's existing Pipeline and NuStar's existing North System Pipeline. This storage will enhance the refined petroleum products supply capabilities of both systems and better ensure that the systems can efficiently meet this increased refined petroleum products customer demand.

Cenex's existing Pipeline extends from the CHS Inc. Refinery in Laurel, Montana, through terminals in Montana and North Dakota, to Magellan Midstream Partners, L.P.'s West Fargo Tank Farm in Fargo, North Dakota. At the connected terminals, the refined petroleum products transported are distributed by customers (e.g., retail outlets and contract end-users) in North Dakota, Montana, and Minnesota.

NuStar's existing North System Pipeline extends from the Tesoro Refinery in Mandan, North Dakota, through NuStar terminals in Jamestown, North Dakota, and Moorhead and Sauk Center, Minnesota, to a terminal in Roseville, Minnesota. NuStar's North System Pipeline also transports refined petroleum products produced in Kansas, Oklahoma, and Texas, which are delivered to a terminal in Jamestown via a NuStar refined products pipeline extending north from Kansas. At the various terminals along the North System Pipeline, the refined petroleum products are distributed by customers (e.g., retail outlets and contract end-users) in North Dakota and Minnesota.

The Project will provide Cenex with greater refined product supply optionality through the use of NuStar's North System Pipeline, which has a direct connection to the Tesoro Refinery in Mandan, North Dakota; a terminal connection to a pipeline transporting product from refineries in Kansas, Oklahoma, and Texas; and, a terminal connection in Moorhead, Minnesota. Thus, the Project will enable Cenex to deliver refined petroleum products from multiple sources to its customers in the Fargo-Moorhead area via either its existing system or NuStar's system.

Deliveries to West Fargo can be hampered by the demand for refined product on a seasonal basis and by the availability of storage capacity at the Magellan Terminal. The Project will help mitigate these seasonal market fluctuations by creating another outlet for the product coming out of the Laurel, Montana area. It also greatly enhances the ability to assure the availability of product during high demand times by having this additional storage for product reserves for those times.

The Project will also enable NuStar to more efficiently distribute diesel fuel and gasoline within the state of North Dakota. The Project will allow NuStar to aggregate the gasoline and diesel fuel that comes off of Cenex's Pipeline at the Prosper Terminal with the supply from North Dakota, Kansas, Oklahoma, and Texas already transported by the North System Pipeline. The additional supply from Cenex's Pipeline will enable NuStar to take more gasoline and diesel fuel off of the North System Pipeline at the Jamestown terminals to meet the increased North Dakota demand, and still continue to fulfill refined petroleum product customer needs downstream at NuStar's Moorhead, Sauk Center, and Roseville terminals. As a result, NuStar

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[http://www.eia.gov/state/seds/data.cfm?incfile=/state/seds/sep\\_use/tx/use\\_tx\\_ND.html&sid=North Dakota](http://www.eia.gov/state/seds/data.cfm?incfile=/state/seds/sep_use/tx/use_tx_ND.html&sid=North Dakota). Accessed September 3, 2015.

will be able to convert and dedicate existing tanks at the Jamestown, North Dakota terminal to gasoline and diesel fuel storage, which will increase the overall supply of gasoline and diesel fuel available to the North Dakota market.

The Project will also provide direct benefits to local communities through temporary construction employment and additional property tax revenue. Additional indirect benefits will result from Project-related purchases of local goods and services, such as the purchase of local gravel for access roads, purchase of fuel, and restaurant and hotel expenditures by Project construction and operations personnel.

A map showing the existing Cenex Pipeline and NuStar North System Pipeline and the proposed NuStar Laurel Interconnect Pipeline and Project is provided in Appendix A.

## **4.0 PRODUCT**

### **4.1 Type of Product to be Transmitted**

The Project will store and distribute refined petroleum products (e.g., gasoline, distillates).

### **4.2 Source of Product**

The refined petroleum products to be stored and distributed by the Project will originate at the Laurel Refinery in Laurel, Montana.

### **4.3 Final Destination of Product**

The refined petroleum products transported by the Project will be delivered to NuStar refined products terminals located in Moorhead, Sauk Centre, and Roseville, Minnesota. From those terminals, the refined petroleum products will be delivered by customers to North Dakota and Minnesota consumers.

## **5.0 TECHNOLOGY TO BE DEPLOYED**

The Project will be designed, constructed, maintained, inspected, and operated to meet or exceed the U.S. Department of Transportation (USDOT) Pipeline Hazardous Materials Safety Administration (PHMSA) regulations, U.S. Environmental Protection Agency requirements, and in accordance with industry standards and company policies. Technologies used to satisfy these requirements and standards include:

- use of an external protective coating and cathodic protection to prevent external pipeline corrosion;
- regular internal pipeline inspection using in-line inspection tools to detect internal anomalies, including corrosion or denting;
- regular visual tank and equipment inspections; and,

- installation of a supervisory control and data acquisition system (SCADA) monitoring and alarm system that continuously monitors the flow and pressure of the system and triggers alarms for events outside normal operating conditions.

Construction and installation of the Prosper Terminal will use different techniques to avoid or minimize impacts to sensitive areas and are discussed further in Section 11.0 below.

## **6.0 ESTIMATED TOTAL COST FOR CONSTRUCTION**

The estimated total cost for construction is \$17 million.

## **7.0 SCHEDULE**

### **7.1 Obtaining Certificate of Site Compatibility**

Cenex requests a Certificate of Site Compatibility and Route Permit from the Commission in January 2016.

### **7.2 Obtaining Route Permit**

Cenex requests a Certificate of Site Compatibility and Route Permit from the Commission in January 2016.

### **7.3 Completing Site Acquisition**

Cenex initiated Site acquisition in August 2015, and acquired an option for the Site in September 2015.

### **7.4 Starting Construction**

Construction of the Project is scheduled to begin in March 2016.

### **7.5 Completing Construction**

Cenex expects to complete construction of the Project by December 2016.

### **7.6 Testing Operations**

Cenex expects to conduct hydrostatic testing of the pipeline, ASTs and associated site facilities prior to placing the facility into service in September 2016. After the pipeline is placed into service, an internal inspection tool will be scheduled to establish a baseline assessment of the pipeline. This pipeline segment is currently scheduled for its next inspection in 2017.

### **7.7 Commencing Operations**

The Project is anticipated to be operational no later than December 2016.

## **8.0 TEN-YEAR PLAN**

Cenex will file an updated 10 Year Plan within the time frame required by North Dakota law.

## **9.0 FACILITY SIZE AND DESIGN**

The following provides a description of the Project design, including the pipeline infrastructure and aboveground facilities.

### **9.1 Aboveground Facilities**

#### **9.1.1 Location of New Facilities**

The proposed Prosper Terminal will be located on 63.107 ± acres of land in Section 9, Township 140 North, Range 50 West, an estimated 1.3 miles southeast of Prosper, North Dakota.

#### **9.1.2 Facility Components**

The Prosper Terminal will include the following equipment:

- Three 145,000 Barrel Storage Tanks complete with internal floating roofs that are capable of receipt and/or delivery of either gasolines or distillates. Facility design provides for additional tankage to be constructed in the future should that option become viable.
- One 10,000 Barrel Tank to receive product from a mainline pressure relief valve in the event of a pipeline upset condition. This is needed for pipeline operational safety; and for Pipeline and Hazardous Materials Safety Administration (PHMSA) compliance.
- A Receipt Metering Manifold for measurement of refined product into the site tankage; complete with product filters for product quality assurance.
- Receipt and Delivery Valve Manifolds into and out of the site tankage that will include transfer piping from tank to tank.
- A Booster Pump Station for use to deliver product from tankage to an adjacent pump station owned and operated by NuStar Pipeline.
- A Mainline Pump Station and delivery meters for use to ship product from tankage back onto the Cenex Pipeline mainline for delivery to the Magellan Terminal in West Fargo.
- Installation of approximately one mile of electrical feeder supply to bring in power from Cass County Electric Co-Op. Also included will be the requisite Electrical Distribution Systems needed to operate this new Facility.

- A Supervisory Control and Data Acquisition (SCADA) System for use to remotely operate this facility from the Cenex Pipeline Control Center in Laurel, MT.
- An Office Building/Shop for use by a full time employee that will be responsible for operation of this Prosper Terminal facility in addition to the existing West Fargo Receipt Station located at the Magellan Terminal. This employee will also be responsible for day-to-day pipeline operations on the east end of the Cenex Pipeline system.
- Tankage for water storage will be constructed on site to allow for fire response capability.

### 9.1.3 Pipeline

#### 9.1.3.1 Width of Right-of-Way

The proposed reconfiguration of the Cenex Pipeline will be entirely within the property boundary of the proposed Cenex Prosper Terminal. A 30-foot wide permanent easement will be established for the pipeline within the Prosper Terminal property.

#### 9.1.3.2 Length of Facility

The length of the pipeline reconfiguration route is approximately 2,300 feet.

#### 9.1.3.3 Pipe Size

The Project will require installation of a nominal 8.625-inch outside diameter steel pipeline with a nominal wall thickness of 0.250 inch. The pipe material will be AP5L X42.

#### 9.1.3.4 Maximum Design Flow Rate

The Cenex Pipeline reconfiguration will maintain the maximum design flow rate of the existing Pipeline, which is 24,000 barrels per day.

### 9.1.4 Maximum Design Operating Pressure and Temperature

The maximum operating pressure for the pipeline is 1,480 pounds per square inch gauge. The pipeline will be designed to operate at a maximum of 100 degrees Fahrenheit.

## 10.0 SITE ACQUISITION

Cenex acquired an option to purchase the site in August 2015 and will exercise that option upon receipt of the Commission's Certificate of Site Compatibility. Cenex worked with the property owner to develop a purchase option agreement that was amenable to both parties. When exercised, the current landowner will be compensated in an amount that is reasonable and customary for agricultural property in this area of North Dakota.

## **11.0 SITE CONSTRUCTION AND RECLAMATION PROCEDURES**

### **11.1 Description of Site Preparation and Construction**

The proposed Project will be designed, constructed, tested, operated, and maintained in accordance with applicable requirements under the USDOT regulations in Title 49 Code of Federal Regulations (CFR) Part 195, U.S. Department of Labor regulations, Occupation Safety and Health Administration requirements, U.S. Environmental Protection Agency, and other applicable federal and state regulations. Among other design standards, 49 CFR Part 195 specifies pipeline material selection; minimum design requirements; protection from internal, external, and atmospheric corrosion; and qualification procedures for welding and operations personnel.

Prior to the start of construction, a pre-construction safety and environmental orientation will be held with all contractors and personnel involved in the Project. The orientation will review safety compliance; incident reporting; protocols for determining, correcting, and documenting safety non-compliance; and expectations for compliance enforcement. All construction personnel will be briefed and trained on all construction and environmental requirements, including laws, rules, and regulations applicable to the work. Cenex will have a qualified and experienced construction representative on-site throughout construction.

Construction will typically take place during daylight hours. Spill prevention measures will be in place to maintain construction personnel safety and to protect the environment.

The standard site construction process includes clearing and grubbing; excavation and grading; tank fabrication; equipment installation; hydrostatic testing; and Site cleanup and restoration. Each of these activities is discussed in more detail below.

#### **11.1.1 Clearing and Grubbing**

Once the limits of the approved work area and any sensitive areas, such as wetland boundaries and cultural sites, have been staked and flagged, the construction area will be cleared and grubbed.

To prevent soil mixing, topsoil will be removed and segregated from the underlying subsoil.

#### **11.1.2 Excavation and Grading**

The site is relatively flat and therefore, the amount of excavation and grading will be minimal. However, the pipeline segment from the Cenex Pipeline mainline to the receipt pumps and metering station and from the delivery pumps and metering station back to the Cenex Pipeline mainline will entail trenching and standard pipeline construction techniques.

#### **11.1.3 Tank Fabrication**

The three 145,000 barrel ASTs, one 10,000 barrel AST, and associated piping will be constructed in accordance with API Std. 650, Welded Tanks for Oil Storage.

#### 11.1.4 Equipment Installation

Equipment will include pumps, metering stations, valve manifolds, SCADA sensors and controls, and electrical supply and control center that will be designed, constructed, and operated in accordance with industry standards and regulatory requirements.

### 11.2 Reclamation Procedures

Specific restoration measures are described in the Environmental Mitigation Plan (EMP), which is provided in Appendix C.

### 11.3 Description of Right-of-Way Preparation and Construction

The proposed 8-inch pipeline will be designed, constructed, tested, operated, and maintained in accordance with applicable requirements under the USDOT regulations in Title 49 Code of Federal Regulations (CFR) Part 195, U.S. Department of Labor regulations, Occupation Safety and Health Administration requirements, and other applicable federal and state regulations. Among other design standards, 49 CFR Part 195 specifies pipeline material selection; minimum design requirements; protection from internal, external, and atmospheric corrosion; and qualification procedures for welding and operations personnel.

Prior to the start of construction, a pre-construction safety and environmental orientation will be held with all contractors and personnel involved in the Project. All construction personnel will be briefed and trained on all construction and environmental requirements, including laws, rules, and regulations applicable to the work. Cenex will have a qualified and experienced construction representative on-site throughout construction.

Construction would typically take place during daylight hours. Spill prevention measures would be in place to maintain construction personnel safety and to protect the environment.

The standard pipeline construction process includes clearing and grading; trenching; pipe stringing, bending, welding; lowering the pipeline; padding and backfilling; hydrostatic testing; and ROW cleanup. Each of these activities is discussed in more detail below.

#### 11.3.1 Clearing and Grading

Once the limits of the approved work area (the construction ROW and temporary workspaces), pipeline centerline, access roads, aboveground facilities, and sensitive areas, such as wetland boundaries and cultural sites, have been staked and flagged, the construction area will be cleared and graded. The ROW will be graded to provide a relatively level surface that is wide enough to allow for the passage of heavy construction equipment.

To prevent soil mixing, topsoil will be removed and segregated from the underlying subsoil. Topsoil will be removed from both the trench and spoil side for the entire length of the pipeline and stored on the temporary construction ROW on the spoil side of the trench.

After pipeline installation is complete, the subsoil will be replaced in the pipeline trench and the adjacent areas to restore the land's natural contours. Then the topsoil will be replaced in the

locations from which it was originally removed. Construction activities will be suspended during abnormally wet conditions to prevent excessive rutting or mixing of topsoil with subsurface soils. Refer to the Pipeline Construction Sequence and Topsoil Salvage Trench and Spoil Side schematic drawings in Appendix A for additional detail.

### 11.3.2 Trenching

Trenches will be excavated using a wheel trencher or backhoe to a depth sufficient to provide the minimum cover required by federal, state, and local governments, as well as landowner requirements. If areas of solid rock are encountered, special excavation equipment and/or techniques will be used.

The amount of open trench permitted at any time during the Project will be dependent on the stability of the trench and weather conditions. In areas where livestock is confined or in cultivated fields, temporary fences, gates, and/or bridges will be installed to provide appropriate restriction or safe access across the open trench.

### 11.3.3 Pipe Stringing, Bending, and Welding

Pipe will be either stored at storage yards or transported directly to the pipeline ROW. Following trenching, pipe will be strung along the ROW. A stringing crew using special trailers will move the pipe along the ROW. Pipe lengths are typically 40 to 60 feet long.

A pipe-bending machine will be used for making slight bends in the pipe to accommodate variations in the pipeline route or to conform to the topography. Using a series of clamps and hydraulic pressure, the bending machine is used to make a smooth, controlled bend in the pipe. Bending will be in accordance with federal standards to ensure integrity of the bend. Pipe used for sharp bends is bent at the mill, or will be forged pipeline fittings. The pipe will be pre-coated with a fusion-bonded epoxy external coating to provide corrosion protection.

The welding process joins the sections of pipe into one continuous length. All welders will be required to pass an approved qualification test; the test will use Project-specific weld procedures developed in accordance with federally adopted welding standards. All field welds will be nondestructively tested to ensure structural integrity and compliance with USDOT regulations. Once welds are approved, the joints will be externally coated and the entire pipeline will be visually and electronically inspected for coating defects, scratches, or other damage. Any damage or defects will be repaired before lowering the pipe into the trench.

### 11.3.4 Pipeline Installation and Trench Backfilling

Side-boom tractors, or trackhoes will simultaneously lift the welded sections of pipe and lower them into the trench. Non-metallic slings will be used to protect the pipe and coating as it is raised and lowered into position. Sand bags or foam blocks will be placed at the bottom of the trench prior to laying the pipe in rocky areas to protect the pipe and coating from damage.

As necessary, trench breakers or water stops will be installed adjacent to wetlands, stream crossings, and in steep topography to eliminate water migration along the trench. When required, the trench will be dewatered prior to lowering in the pipe. Dewatering effluent will

pass through sediment filters such as hay bale structures and/or filter base to ensure compliance with applicable water quality requirements.

Once the pipe is installed, the trench will be backfilled. Soil will be returned to the trench in the reverse order of excavation. Subsoil will be returned to the trench first, followed by the topsoil. The trench line will be compacted with a wheeled-roller or other suitable construction equipment. A crown will be left over the trench line to allow for natural subsidence. If the excavated material contains rocks that could damage the pipe and/or coating, a rock shield will be used to protect the pipe. Topsoil will not be used for padding.

#### **11.4 Restoration Procedures**

Once construction is complete, the pipeline ROW and temporary workspace will be restored to its prior contour and condition to the extent practicable, to be consistent with the site's overall grading plan. Disturbed areas will be revegetated using seeding requirements specified by the Natural Resources Conservation Service (NRCS), so long as revegetation of the ROW is consistent with the site's development plans.

### **12.0 OPERATION AND MAINTENANCE**

During Project operation, facility pressure, temperature, and flow rate data will be transmitted via satellite to a central SCADA system control center located in Laurel, Montana. The SCADA system will provide continuous monitoring of facility operations data 24 hours a day, 7 days a week. Where changes in the data occur that indicate a potential issue with the facility, alarms will be triggered, notifying Cenex of the potential issue.

In the event of an emergency, Cenex will implement emergency response measures to address the situation, in accordance with Cenex Pipeline's Emergency Response Plan. Cenex contracts with an experienced emergency response service provider, whose experience includes implementing emergency response protocols for releases impacting surface waters, such as the Maple River.

### **13.0 ALTERNATIVES CONSIDERED**

#### **13.1 Project Alternatives**

##### **13.1.1 No Action**

Under the No Action Alternative, the Project would not be constructed. Without the Project, a connection between Cenex's existing Pipeline, via the proposed Prosper Terminal, and NuStar's existing North System Pipeline would not be established, and the associated system enhancements would not be realized. As such, the purpose and need of the Project would not be fulfilled. For these reasons, No Action is not an alternative to the Project.

### 13.1.2 Other Pipelines

No existing or planned pipeline projects provide a means to interconnect the existing Cenex Pipeline with NuStar's North System Pipeline via the proposed Laurel Interconnect Pipeline. As such, no other pipelines meet the purpose and need of this Project.

### 13.1.3 Trucking

Trucks are an option for transporting refined petroleum products. However, the purpose of the Project is to interconnect two existing refined petroleum products pipelines located within a few miles of each other. It would not be as economical, efficient, or safe to use trucks to transport refined petroleum products such a short distance between two existing pipelines. To transport the normal daily throughput of the proposed Project (up to 24,000 barrels of refined petroleum products), approximately 120 trucks per day would be required, as well as the construction of permanent truck loading and offloading facilities at each endpoint. Increased truck transport would increase the potential for truck-related incidents (e.g., spills and crashes) and impacts on road infrastructure. In addition, transporting refined petroleum products by truck is less reliable than transporting by pipeline due to limited road capacities, seasonal constraints (e.g., snow, overweight road restrictions), increased maintenance issues, and the limited availability of trucks and drivers. For these reasons, trucking is not an alternative to the Project.

### 13.1.4 Rail

Although rail is an option for transporting refined petroleum products, no rail facilities exist or are planned that would provide a means of transporting refined petroleum products between Cenex's existing Pipeline, via the proposed Prosper Terminal, and NuStar's existing North System Pipeline. Given the lack of existing rail infrastructure between the proposed endpoints, construction of permanent, aboveground rail lateral service lines and ancillary facilities (including railcar loading and offloading facilities) would be required. Such facilities would require permanent conversion of agricultural land to an industrial purpose, and would have greater permanent environmental and landowner impacts than the Project. Moreover, given the short transport distance and the purpose of interconnecting two existing refined petroleum product pipelines, it is not as economical, efficient, or safe to transport refined products via rail. Therefore, rail is not an alternative to the Project.

### 13.1.5 Site Alternatives

The overall objective of the Project is to safely and reliably transport refined petroleum products between Cenex's existing Pipeline, via the proposed Prosper Terminal, and NuStar's existing North System Pipeline, enhancing the supply capabilities of both systems. Cenex worked with NuStar to select the proposed terminal facility location, based on the following factors.

- Meeting the Project's geographic requirements.
- Complying with Commission siting criteria, including exclusion area, avoidance area, selection and policy criteria.
- Avoiding and minimizing potential impacts to existing infrastructure, landowners, and environmentally sensitive areas.
- Utilizing constructability and operational efficiencies.

- Minimizing safety concerns.

#### 13.1.6 Route Alternatives

To facilitate development and construction of the Prosper Terminal, no significant route alternatives were considered. Minor variations in the location and extent of the pipeline within the confines of the Prosper Terminal property may be required to enable the Cenex Pipeline reconfiguration.

### **14.0 ENVIRONMENTAL STUDIES**

#### **14.1 Cultural Resource Inventory**

SWCA conducted a Class I cultural resource inventory of the Site on October 19, 2015, and a Class III cultural resource inventory of the Site on October 21, 2015 (Wandler, C. 2015). Four previous cultural resource inventories were identified in or within 1 mile of the Class I study area. The inventories were conducted between 1990 and 2015, in support of pipeline, rural water, and transmission line projects. Two previously recorded cultural resources were identified in or within 1 mile of the Class I study area. These consist of a historic cultural material scatter and a historic grain elevator site lead. The historic cultural material scatter has been recommended not eligible for the National Register of Historic Places, and historic grain elevator site lead remains unevaluated for the National Register of Historic Places pending a full recording. Neither previously recorded resource is located within the inventory area.

The Class III inventory consisted of a 59.34-acre block survey surrounding the proposed project area. A small portion of southeast corner of the project area falls within a previously inventoried area for the Laurel Interconnect Pipeline (Schleicher, J. 2015; Schleicher, J. 2015b). As proposed, the project will be contained entirely within both current and previous inventory areas. No cultural resources were identified during the Class III inventory within the current project area. Refer to Appendix F, Cultural Resources Reports and Unanticipated Discovery Plan, for additional information on methodology and survey area.

#### **14.2 Wetland and Waterbody Inventory**

Prior to conducting surveys, SWCA reviewed National Wetlands Inventory (NWI) data and National Hydrography Data to determine the location and extent of mapped wetlands and waterbodies within the Study Area. The desktop analysis identified one stream, totaling approximately 1.35 river miles and zero NWI wetlands within the Study Area.

SWCA conducted field surveys of the Site on October 21, 2015, to confirm the presence and/or absence of wetlands and waterbodies within the Site (Belisle, D. 2015). Refer to Appendix D, Natural Resources Report, for additional information on methodology and survey area.

## Habitat Assessment

### 14.2.1 Tree/Sapling/Shrub Inventory

SWCA used aerial imagery and LANDFIRE (LANDFIRE 2012) to analyze the Study Area for land use and woody vegetation. Less than 1% of the Study Area contains woody vegetation.

SWCA conducted field surveys of the Site on October 21, 2015, to confirm the presence or absence of woody vegetation. The Commission requires 2:1 mitigation for all shrubs and all trees that are 1 inch diameter at breast height or greater that will be impacted during the construction of the Project. No shrubs, or trees with a diameter at breast height of 1 inch or greater were identified within the Corridor surveyed during the field studies. Refer to Appendix D, Natural Resources Report, for additional information on these features and mapped locations.

### 14.2.2 Federally Protected Species

In Cass County, North Dakota, three species are listed under the Endangered Species Act: the gray wolf (*Canis lupus*) (Endangered), the whooping crane (*Grus Americana*) (Endangered), and the northern long-eared bat (*Myotis septentrionalis*) (Threatened). SWCA conducted field surveys of the Site on October 21, 2015, to confirm the presence or absence of suitable habitat for the gray wolf, whooping crane, and northern long-eared bat. No threatened or endangered species were observed during the field surveys. Refer to Appendix D, Natural Resources Report, for additional information on these species.

#### Gray Wolf

Although gray wolves have been observed in the region, no packs are known to have become established in North Dakota, and most of the observed individuals are likely dispersing from Minnesota and Canada. Due to the highly mobile nature of the gray wolf, individuals may be found in the Study Area. Because wolves require large areas of relatively undisturbed habitat with low human activity, development of infrastructure could be a potential stressor and result in wolves avoiding these areas of disturbance. Nonetheless, there are no established wolf packs or known reports of occurrence in the Study Area, so any stressors due to the Project are not likely to affect gray wolves.

#### Whooping Crane

The Study Area is located to the east of the delineated whooping crane migration corridor in North Dakota. Even though the Study Area may contain suitable foraging and roosting habitat for whooping cranes, only 5% of whooping crane sightings are outside of the migration corridor. The nearest verified sighting of a whooping crane occurred in 1976 when one adult was located 22 miles to the southwest of the Study Area (U.S. Fish and Wildlife Service 2013b).

Due to the Project location being outside of the delineated whooping crane migration corridor, the whooping crane is not expected to be impacted by the Project.

### Northern Long-eared Bat

Northern long-eared bats are not known to occur in the Study Area, although species-specific surveys have not been conducted. No known winter hibernacula are located in North Dakota, due to either no suitable hibernacula present or a lack of survey effort (U.S. Fish and Wildlife Service 2013). Suitable winter habitat for northern long-eared bats does not occur within the Study Area; however, nearby trees can act as suitable summer day roosts.

Due to the lack of woody vegetation or other suitable habitat within the Site, the northern long-eared bat is not expected to be impacted by the Project.

#### 14.2.3 Migratory Bird Treaty Act

The project area is an active agricultural field which is used to produce crops such as sugar beets and corn. These crop types do not typically harbor favorable nesting habitats for migratory birds. A limited amount of wooded habitat exists in the analysis area; however no direct impacts are expected to those habitats, and therefore, no take of migratory birds or their active nests would be expected from the project

#### 14.2.4 Bald and Golden Eagle Protection Act Consultation

The bald eagle (*Haliaeetus leucocephalus*) feeds on fish and carrion and typically roosts in large trees near a water source. Bald eagle nesting habitat typically consists of any mature stands of conifer or cottonwood trees in association with rivers, streams, reservoirs, lakes, or any significant body of water. Bald eagles in eastern North Dakota are usually observed along the Red River and Sheyenne River. The nearest known bald eagle nest is located approximately 4 miles to the east (North Dakota Game and Fish Department 2015) of the Study Area. Bald eagles may migrate through the Study Area; however, no bald eagles or nests were observed during the field surveys.

The golden eagle (*Aquila chrysaetos*) prefers habitat characterized by open prairie, plains, and forested areas. Usually, golden eagles in North Dakota can be found in proximity to badland cliffs, which provide suitable nesting habitat. Golden eagles are unlikely to occur within or near the Study Area due to its location outside the golden eagle's primary nesting range. The closest known golden eagle nest is approximately 250 miles west of the Study Area. There are no known golden eagle nests in the Red River Valley.

Due to the lack of occupied bald and golden eagle nests in the Study Area, and the Project's location outside the primary range for the golden eagle, bald and golden eagles are not expected to be impacted by the Project.

Refer to Appendix D, Natural Resources Report, for additional information on these species.

## **15.0 CONSULTATION**

On October 27, 2015, SWCA, on behalf of Cenex, sent letters to various agencies and officials, including those identified in NDAC Section 69-06-01-05, providing information regarding the Project and requesting input. The responses received to-date are summarized below, while -- copies of the consultation letters and responses received to date are included as Appendix E.

### **15.1 North Dakota Department of Health**

In a letter dated November 23, 2015, the department commented that it believes that impacts from the construction will be minor and can be controlled by proper construction methods. The department also provided information, guidance, and recommendations to minimize impacts from the project. Cenex will follow the department's guidance through the use of best management practices and obtaining necessary stormwater, temporary discharge, and air quality permits.

### **15.2 North Dakota Department of Transportation**

In a letter dated November 20, 2015, the department stated that the project should have no adverse effect on North Dakota Department of Transportation highways, but if work were to be performed within state highway rights-of-ways that the District Engineer should be contacted for permitting assistance.

### **15.3 North Dakota State Historic Preservation Office**

In a letter dated November 2, 2015, SHPO recommended a Class III (pedestrian) survey of the Project with specific recommendations that the proposed Project avoid significant cultural resources or sites eligible for the National Register of Historic Places, especially in areas with high densities or previously identified sites.

SWCA conducted the Class I inventory on October 19, 2015, and the Class III inventory was conducted on October 21, 2015. During the Class I and Class III inventory, no cultural resources were identified within the project area. Therefore, SWCA recommended the SHPO that the project be granted a determination of No Historic Properties Affected and clearance to proceed as planned. In a letter dated November 20, 2015, SHPO concurred with the recommendation of "No Historic Properties Affected" and "No Significant Site Affected."

SWCA completed an Unanticipated Discovery Plan and submitted it to SHPO on December 1, 2015. SHPO concurred with the plan in a letter dated December 9, 2015.

### **15.4 North Dakota State Water Commission**

In a letter dated November 6, 2015, the North Dakota State Water Commission (NDSWC) stated that the proposed Project is located within floodplains. Since the NDSWC does not have permitting authority, NDSWC indicated that local floodplain administrators would need to be consulted. On November 10, 2015, SWCA sent Project information to and requested input from the Raymond Township Floodplain Administrator. To date, no comments have been received from the Raymond Township Floodplain Administrator.

The NDSWC noted that it is the responsibility of the Project sponsor to ensure that local, state, and federal agencies are contacted for any required approvals, permits, and easements, and that all waste materials are disposed of properly and not placed in identified floodway areas. The NDSWC stated that no sole-source aquifers have been designated in North Dakota.

The Project is not anticipated to impact gaging stations or water wells. No waste materials will be placed in identified floodway areas, and all waste materials will be properly disposed of in accordance with measures outlined in Cenex’s EMP (see Appendix B).

**15.5 North Dakota State Trust Lands**

On November 13, 2015, the North Dakota Trust Lands (NDTL) responded via email, requesting additional information regarding the approximate location of the Project and its proximity to mineral interests that they manage.

On November 16, 2015, SWCA responded to the NDTL by email, providing the requested shapefile. The NDTL then responded via email on November 16, 2015, stating that they concurred with the data and that the data can be used for the filing with the Commission in the state of North Dakota.

**15.6 U.S. Army Corps of Engineers**

In a letter dated October 30, 2015, the USACE confirmed that, based on the information provided, the proposed Project would not require a Section 10 permit. USACE stated that if the Project requires discharge of dredge or fill material in waters of the United States, a Section 404 permit would be required. A Section 404 permit application with instructions was attached to the letter.

**16.0 IDENTIFICATION OF POTENTIAL PERMITS/APPROVALS**

A permitting matrix was created showing potential federal, state, and local permits that may be needed prior to construction of the Project. See Table 2 for a list of potential permits and approvals.

**Table 1. Potential Permits/Approvals**

<b>Agency</b>	<b>Permit/Approval</b>	<b>Status</b>
<b>Federal</b>		
U.S. Army Corps of Engineers	Section 404 permit for dredge/fill in jurisdictional wetlands and waterbodies	Project will qualify for Nationwide Permit 12.
U.S. Fish and Wildlife Service	Consultation and review of the proposed Project regarding impact to federally threatened and endangered species, migratory birds, and bald and golden eagles	Consultation requested; not received as of the application date.
<b>State</b>		
North Dakota Public Service Commission	Certificate Site Compatibility	Application pending.
North Dakota Department of Health, Water Quality Division	National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction Activity	Submit Notice of Intent at least 7 days prior to the start of construction and prepare and implement a Stormwater Pollution Prevention Plan at the time construction begins.

Agency	Permit/Approval	Status
	NPDES General Permit for Temporary Dewatering/Hydrostatic Testing	Submit application at least 30 days prior to discharge.
North Dakota Department of Health, Air Quality Division	Air Quality Permit to Construct for the storage tanks and Permit to Operate for terminal operations.	Submit application for Permit to Construct at least 90 days prior to construction start date. Permit to Operate issued after facility construction complete and final inspection performed.
North Dakota State Historic Preservation Office (SHPO)	Cultural and historic resources consultation and review	A Class III intensive cultural resource inventory was completed for the Site and SHPO concurrence was received.
<b>Local</b>		
Raymond Township	Zoning Change from Agricultural to Industrial; Certificate of Zoning Compliance	To be obtained prior to project construction. Zoning change was approved on 12/11/2016. Raymond Township reviews project information and issues the certificate of zoning compliance in accordance with township regulations.

**17.0 SITING CRITERIA**

**17.1 Exclusion Areas**

In accordance with NDAC § 69-06-08-02(1), certain geographical areas shall be excluded from consideration for a transmission facility route. A buffer zone of a reasonable width to protect the integrity of the area must be included. See Table 3 for a summary of exclusion areas in relation to the Study Area and Site.

**17.1.1 Designated or Registered National Parks, Memorial Parks, Historic Sites and Landmarks, Natural Landmarks, Monuments, and Wilderness Areas**

No designated or registered national parks, memorial parks, historic sites and landmarks, natural landmarks, monuments, and wilderness areas would be within the Study Area and Site. See also Section 14.1 of this Application.

**17.1.2 Designated or Registered State Parks, Historic Sites, Monuments, Historical Markers, Archaeological Sites, and Natural Preserves**

No designated or registered state parks, historic sites, monuments, historical markers, archaeological sites, and natural preserves would be within the Study Area and Site. See also Section 14.1 of this Application.

**Table 2. Exclusion Areas Summary**

<b>Feature</b>	<b>Within Study Area (Y/N)</b>	<b>Within Site Y/N</b>	<b>Description</b>	<b>Section Addressed</b>
Designated or registered national parks, memorial parks, historic sites and landmarks, natural landmarks, monuments, and wilderness areas.	N	N	N/A	17.1.1
Designated or registered state parks, historic sites, monuments, historical markers, archaeological sites, and natural preserves.	N	N	N/A	17.1.2
County parks and recreational areas, municipal parks, and parks owned or administered by other governmental subdivisions.	N	N	N/A	17.1.3
Areas critical to the life stages of threatened or endangered animal or plant species.	N	N	N/A	17.1.4
Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.	N	N	N/A	17.1.5
Areas within 1,200 feet of the geographic center of an intercontinental ballistic missile (ICBM) launch or launch control facility.	N	N	N/A	17.1.6
Areas within 30 feet on either side of a direct line between ICBM launch or launch control facility.	N	N	N/A	17.1.7

**17.1.3 County Parks and Recreational Areas, Municipal Parks, and Parks Owned or Administered by Other Governmental Subdivisions**

The Study Area and Site are not within any county parks and recreational areas, municipal parks, or parks owned or administered by other governmental subdivisions.

**17.1.4 Areas Critical to the Life Stages of Threatened or Endangered Animal or Plant Species**

The Study Area and Site are not within any areas critical to the life stages of threatened or endangered animal or plant species.

**17.1.5 Areas Where Animal or Plant Species that are Unique or Rare to This State Would be Irreversibly Damaged**

The Study Area and Site do not cross any areas where animal or plant species that are unique or rare to this state would be irreversibly damaged by the Project.

**17.1.6 Areas within 1,200 Feet of the Geographic Center of an Intercontinental Ballistic Missile Launch or Launch Control Facility**

The Study Area and Site are not located within 1,200 feet of the geographic center of an Intercontinental Ballistic Missile Launch or Launch Control Facility.

**17.1.7 Areas within 30 Feet on Either Side of a Direct Line between Intercontinental Ballistic Missile Launch or Launch Control Facility**

The Study Area and Site do not cross areas within 30 feet on either side of a direct line between an Intercontinental Ballistic Missile Launch or Launch Control Facility.

**17.2 Avoidance Areas**

In accordance with NDAC § 69-06-08-02(2), certain geographical areas may not be approved for an energy conversion facility unless the applicant shows that, under the circumstances, there is no reasonable alternative. In determining whether an avoidance area should be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. In addition, a buffer zone of a reasonable width to protect the integrity of the area must be included, unless a distance is specified in the criteria. Avoidance areas may be located within a corridor, but at no given point may such an area or areas encompass more than 50% of the corridor unless there is no reasonable alternative. See Table 4 for a summary of avoidance areas in relation to the Site.

**17.2.1 Scenic, or Recreational Rivers; Wildlife Refuges; and Grasslands**

No designated or registered national historic districts; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; or grasslands are within the Study Area or Site.

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

The Study Area or Site do not contain any designated or registered state, wild, scenic, or recreational rivers; game refuges, game management areas; management areas; forests; forest management lands; or grasslands.

**17.2.3 Historical Resources Not Specifically Designated as Exclusion or Avoidance Areas**

No historical resources not specifically designated as exclusion or avoidance areas are within the Study Area or Site.

**17.2.4 Areas that are Geologically Unstable**

The Study Area or Site do not cross geologically unstable areas.

**17.2.5 Within 500 Feet of a Residence, School, or Place of Business**

The Study Area and Site are not located within 500 feet of a residence, school, or place of business.

**Table 3. Avoidance Areas Summary**

<b>Feature</b>	<b>Within Study Area (Y/N)</b>	<b>Within Site Y/N</b>	<b>Description</b>	<b>Section Addressed</b>
Designated or registered national historic districts; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.	N	N	N/A	17.2.1
Designated or registered state wild, scenic, or recreational rivers; game refuges; game management areas; management areas; forests; forest management lands; and grasslands.	N	N	N/A	17.2.2
Historical resources which are not specifically designated as exclusion or avoidance areas.	N	N	N/A	17.2.3
Areas which are geologically unstable.	N	N	N/A	17.2.4
Within 500 feet of a residence, school, or place of business.	N	N	N/A	17.2.5
Reservoirs and municipal water supplies.	N	N	N/A	17.2.6
Water sources for organized rural water districts.	N	N	N/A	17.2.7
Irrigated land	N	N	N/A	17.2.8
Areas of recreational significance which are not designated as exclusion areas.	N	N	N/A	17.2.9

**17.2.6 Reservoirs and Municipal Water Supplies**

No reservoirs and municipal water supplies were identified in the Study Area or Site.

**17.2.7 Water Sources for Organized Rural Water Districts**

No water sources for organized rural water districts are present in the Study Area or Site.

**17.2.8 Irrigated Land**

No irrigated land is present within the Study Area or Site.

**17.2.9 Areas of Recreational Significance that are not Designated as Exclusion Areas**

No areas of recreational significance which are not designated as exclusion areas are within the Study Area or Site.

**17.3 Selection Criteria**

17.3.1 Agricultural Production

Agricultural land use comprises 100% of the Project’s Route (LANDFIRE 2012). The Project Route would permanently impact approximately 63 acres of potential prime farmland with development of the Prosper Terminal. (Table 5). Dominant crop includes sunflowers.

**Table 4. Farmland in Study Area**

Type of Farmland	1-mile-wide Study Area		Right-of-Way	
	Area (acres)	Percent Total Area	Area (acres)	Percent Total Area
All areas are prime farmland	240.475307	8.04%	0.680036	1.09%
Prime farmland if drained	2688.555928	89.89%	61.518239	98.91%
Not prime farmland	61.92139243	2.07%	0	0.00%
<b>Total</b>	<b>2,990.95</b>	<b>100.00%</b>	<b>62.20</b>	<b>100.00%</b>

17.3.2 Family Farms and Ranches

There are seven family farms and no ranches located within the Study Area. One farm unit is crossed by the Route. Construction impacts to family farms would be short term and minor, with the primary impact being the loss of standing crops and the use of the land within the work area during construction activities as well as potential diminished yields following construction. NuStar will implement mitigation measures to minimize potential impacts to family farms and ranches, as outlined in the EMP (Appendix C).

17.3.3 Land Economically Suitable for Irrigation

Cenex has not identified any center pivot irrigation within the Site, or any land that is planned to be irrigated. Thus, the Project is not anticipated to impact irrigated land or any irrigation systems. In the event that irrigation systems are encountered, Cenex will compensate and/or repair any damages to the systems that may result from the Project’s construction activities.

17.3.4 Surface Drainage Patterns and Groundwater Flow Patterns

Surface Drainage

Surface drainage patterns will not be altered by construction of the Project. Streams, swales, ditches, and other natural drains would not be impacted by the Project.

Groundwater Flow Patterns

All of Cass County is covered with glacial drift that ranges in thickness from 80 to 470 feet. In the Project area, the glacial drift consists of two units: an upper unit that is comprised of a silty yellow clay that ranges in thickness from 0 to about 50 feet; and a lower unit that is comprised of a silty, olive-gray, plastic clay that ranges in thickness from 0 to about 80 feet.

The West Fargo Aquifer underlies the Study Area and is a buried glaciofluvial deposit that extends in a north/south direction and ranges in thickness from 0 to 140 feet, with an average thickness of 60 feet. The aquifer material consists of sediments ranging in size from fine sand to boulder-sized, but consist mainly of fine- to coarse-grained sand. This is an artesian aquifer system that is confined by the overlying silt and clay deposits that appear to range from 60 to 90 feet in thickness. The basal confining units may be composed of either granite, Cretaceous-age shale, or glacial till.

Regional groundwater flow directions are to the east and northeast towards the Sheyenne River. Local groundwater flow directions along the Route are towards the Maple River, the Lower Branch of the Rush River, and drainage ditches associated with cultivated fields.

Any construction impacts that may occur to groundwater flow would be in surficial aquifers and would be highly localized and temporary in nature. No permanent impacts to groundwater flow are expected as a result of the Project.

#### 17.3.5 Sound Sensitive Land Uses

The proposed Project would be located in a rural area that is sparsely populated. Existing noise within the area is primarily natural, except for the occasional roadway traffic and agricultural equipment. Sound intensity is measured by the decibel; the A-weighted scale is used in most noise ordinances and standards and approximates the range of human hearing by filtering out lower frequency noises, which are not as damaging as higher frequency noises. In rural areas, background noise is generally at levels of 40 to 50 A-weighted decibel (McCain and Associates, Inc. 2011).

Construction-related activities are expected to be short-term and during the daytime; therefore, impacts to area residents would be minimal. During operations, noise impacts would be primarily vehicles used to transport maintenance personnel at the Site and aboveground facilities. Cenex and its contractors will comply with all state and local noise requirements during construction and operation of the Project.

#### 17.3.6 Visual Effect on Adjacent Areas

Impacts to visual resources as a result of Project development are assessed by the degree of modification to the existing landscape and sensitivity of the viewer. Changes to the line, form, and character of the existing landscape can result in a level of contrast that would attract the attention of those in the area. The number of viewers, their activities, and the extent their activities are related to the visual quality of the area determine the level of viewer sensitivity.

The Project is located in a rural area that is sparsely populated and is primarily used for agriculture. Viewers of the landscape would be limited to area residents and travelers along local roadways. Based on the number of viewers and the duration of their views, viewer sensitivity is considered low.

Since this is an aboveground facility, the resulting structure would result in a change of view shed and skyline for local residents. Painting these facilities with colors that blend with the surrounding landscape will reduce the visual contrast.

#### 17.3.7 Extractive and Storage Resources

There are no active extractive resources within the Study Area. Oil and gas production in North Dakota is primarily limited to the Williston Basin, which covers much of the western and central portions of the state and does not include Cass County (North Dakota Department of Mineral Resources 2015). No mineable coal, geothermal or uranium resources, or sand or gravel deposits are located in the Study Area (North Dakota Department of Mineral Resources 2015). The nearest clay deposit suitable for lightweight aggregate is located approximately 5 miles from the Study Area, along the Red River Valley, north of Fargo (North Dakota Department of Mineral Resources 2015). Therefore, construction and operation of the proposed Project will not impact access to, or the operations of, mineral resource extraction.

#### 17.3.8 Wetlands, Woodlands, and Wooded Areas

A desktop review was completed of the Study Area and included the review of aerial imagery, NWI data, and LANDFIRE dataset to identify any wetlands, woodlands, and wooded areas within the Study Area. Field surveys conducted on October 21, 2015, identified these areas within the Site. Please refer to Sections 14.2 and 14.3 for further discussion on the results of the desktop analysis and field surveys with respect to these resources.

#### 17.3.9 Radio and Television Reception and Other Communication or Electronic Facilities

No radio and television reception and/or other communications and electronic facilities are located within the Study Area or Site. Cenex does not anticipate the Project will impact radio and television reception and/or other communications and electronic facilities.

#### 17.3.10 Human Health and Safety

Construction of the proposed Project could generate a possible risk to local citizens' public safety from increased traffic along rural roadways. Increased truck traffic and transport of heavy equipment will be temporary during construction.

Petroleum products storage involves some risk in the event of an accident and the release of the product. A release of refined petroleum products during operation could contaminate soil and groundwater if the leak is not properly contained and remediated. To minimize this risk, the facility will be remotely monitored using a SCADA system 24 hours a day, 7 days a week and the facility will be staffed during normal business hours (8:00 a.m. to 5:00 p.m., 5 days per week). Additionally, the AST's will be surrounded by an earthen dike complete with an HDPE liner for containment.

To minimize potential impacts during operation, an Emergency Response Plan will be developed, in conjunction with local authorities and first responders, detailing site-specific response plans, emergency equipment availability and location, and emergency contacts.

#### 17.3.11 Animal Health and Safety

Wildlife species currently inhabiting the Study Area and Site are common and the loss of land cover and vegetation removed by the proposed Project is discountable. Permanent disturbance and above ground facilities will occur as a result of the proposed Project; however, no direct, long-term impacts to wildlife are anticipated from the Project.

#### 17.3.12 Plant Life

Plants species currently inhabiting the Site are common. Impacts to plant species in the Study Area from the Project are anticipated to be discountable.

### **17.4 Policy Criteria**

#### 17.4.1 Location and Design

Cenex selected the Site based on a number of factors, including environmental, engineering, and constructability considerations.

Cenex worked with landowners, met with local municipalities, and consulted with state and federal agencies to identify siting constraints and inform the siting of the proposed Project. Field surveys, including those assessing natural and cultural resources, provided supplemental information to assist in refining the siting process to avoid or minimize impacts to sensitive resources.

#### 17.4.2 Training and Use of In-State Labor

Cenex expects to employ approximately 25 to 45 workers during peak Project construction. Local, in-state labor will be used to the extent practicable; however, if specialized skilled workers (e.g., licensed welders) are not available for hire within the state, Cenex may need to employ workers from out-of-state.

#### 17.4.3 Economies of Construction and Operation

Direct and indirect economic benefits to the state of North Dakota resulting from construction of the proposed Project are discussed in Sections 13.0 and 17.7. Once the Project is constructed and online, Cenex expects annual maintenance and operation costs to be minimal.

#### 17.4.4 Use of Citizen Coordinating Committees

Cenex has contacted and worked closely with local city, township, and county officials and personnel, utility companies, and others throughout development of the proposed Project. Initial contacts were made in August 2015. Project plans and maps were provided to facilitate an exchange of information and gather concerns about the Project. Other than one-on-one communication with landowners, no formal Citizen Coordinating Committees were used for communications and outreach to the public or jurisdictional entities.

#### 17.4.5 Commitment of a Portion of Transmitted Product for Use in State

The refined petroleum products transported to and stored by the Project will be delivered to the NuStar refined products terminals located in Moorhead, Sauk Centre, and Roseville, Minnesota. From those terminals, the refined petroleum products will be delivered by customers to North Dakota and Minnesota consumers.

As discussed in Section 3.0, the supply transported by the Project from Cenex's Pipeline to NuStar's North System Pipeline will also better enable both Cenex and NuStar to meet the gasoline and diesel fuel needs of North Dakota consumers from the centrally located terminals, while still meeting the needs of downstream customers.

#### 17.4.6 Labor Relations

Cenex maintains a positive relationship with its employees, contractors, and the public, and is committed to a safe working environment. Cenex is an Equal Opportunity Employer and expects to use local personnel for construction of the proposed Project, to the practicable.

#### 17.4.7 Coordination of Facilities

Cenex identified all third-party entities/utilities (e.g., petroleum, water, electric, railroad, highways) that will be associated with the Project. Cenex then contacted each entity to obtain its respective crossing and encroachment guidelines and requirements. Cenex has incorporated these requirements into the Project design, and will work closely with each entity during construction and future operation and maintenance to ensure the safe construction and operation of the Project around these adjacent utilities/entities.

#### 17.4.8 Monitoring Impacts

Cenex is committed to the protection of the environment as well as public and employee safety. The proposed Project will be constructed and maintained in accordance with industry and government requirements and will meet or exceed all applicable federal, state, and local environmental laws, regulations, and standards, including those regulations stipulated by PHMSA, U.S. EPA, and other federal and state agencies. An EMP has been developed specifically for this Project (see Appendix C).

In addition, Cenex will provide construction oversight to confirm contractor compliance with mitigation measures and applicable permits. Cenex will have third-party inspectors who are knowledgeable of the environmental mitigation requirements for the Project. The inspectors will have the authority to stop construction activities and order corrective mitigation and will maintain appropriate compliance documents.

During Project operation, Cenex will conduct regular visual inspections to identify issues of concern, including operational and equipment issues. In addition, the SCADA system will continuously monitor pressure, temperature, and product flow 24 hours a day, 7 days a week, with information transmitted via satellite to Cenex's Control Center, located in Laurel, Montana, which will promptly respond to any anomalies. Cenex will monitor community concerns throughout Project operations and respond appropriately.

#### 17.4.9 Using Existing or Proposed Rights-of-Way and Corridors

The Project will utilize, in part, the existing Cenex Pipeline Right-of-Way as part of the Cenex Pipeline Reconfiguration.

#### 17.4.10 Other Existing or Proposed Transmission Facilities

The Project will provide a connection between Cenex's existing Pipeline, via the proposed Prosper Terminal, and NuStar's existing North System Pipeline, which will enhance the refined petroleum products supply capabilities of both systems.

## **18.0 EVALUATION OF NDCC SECTION 49-22-09 FACTORS**

In selecting the proposed Corridor and Route for the Project, NuStar evaluated the factors set forth in NDCC Section 49-22-09. A discussion of each factor is provided below.

### **18.1 Effects on Public Health, Welfare, Natural Resources, and the Environment**

Please see Sections 14.0, 15.0, 16.0, 18.0, and 19.0 of this Application for a discussion of available research and investigations relating to the effects of the location, construction, and operation of the proposed Project on public health and welfare, natural resources, and the environment. As discussed further in those sections, the Project is not anticipated to have any significant or long-term negative impacts on public health and welfare, natural resources, or the environment.

### **18.2 Transmission Technologies and Systems Designed to Minimize Adverse Environmental Effects**

The Project design is consistent with existing refined petroleum products storage and distribution technologies. Mitigation measures have been or will be used to avoid or minimize any potential impacts to sensitive resources, including the use of best management practices (BMPs) throughout construction to reduce any potential impacts to resources from clearing, grading, trenching, and facility installation. Once constructed, the Project will be monitored remotely via a SCADA system 24 hours a day, 7 days a week.

### **18.3 Potential for Beneficial Uses of Waste Energy from a Proposed Energy Conversion Facility**

The Project does not include any energy conversion facilities; therefore, the potential for beneficial uses of waste energy from a proposed energy conversion facility does not apply.

### **18.4 Unavoidable Adverse Direct and Indirect Environmental Effects**

Unavoidable adverse direct and indirect environmental impacts from the Project will be associated with the aboveground facilities and will consist predominantly of visual impacts from the storage tanks. See Sections 14.0, 15.0, 16.0, 18.0, and 19.0 for further discussion of the Project's potential direct and indirect environmental effects, as well as planned mitigation measures.

### **18.5 Site Alternatives Developed During the Hearing that Minimize Adverse Effects**

A description of the alternatives analyzed is presented above in Section 13.0. Cenex analyzed alternatives in conjunction with NuStar during selection of its proposed Site, and incorporated this information in selection of the Site. As a result, Cenex identified the proposed Site that meets the needs of the Project, as well as the Commission's siting criteria, while minimizing potential impacts to landowners, existing infrastructure, and the environment.

If other Site route alternatives are developed during the Commission's hearing process, Cenex will analyze those alternatives, as necessary.

## **18.6 Irreversible and Irretrievable Commitments of Natural Resources if Designated**

Irreversible or irretrievable commitments of natural resources include steel for the ASTs and ancillary facilities; gravel for improvements to access roads and facility areas; and, petroleum products to power construction equipment, the pump station, and other pipeline and aboveground facilities. The Project will convert approximately 63.107 ± acres to industrial use.

## **18.7 Direct and Indirect Economic Impacts of the Facility**

Direct and indirect economic impacts from Project construction include short-term employment opportunities during construction, long-term employment during operations, increased local revenue for Project-related expenditures, and increased local and state tax revenues. Tax revenues in North Dakota are derived from sales, use, gross receipts, lodging, and individual income. Local property taxes would be realized on an annual basis during the Project's operational phase. Project-related local expenditures during the construction, for example, would include lodging and food, fuel, and construction materials and equipment.

## **18.8 Existing Plans for Other Developments (State, Local, and Private) in the Vicinity of the Project**

Cenex has been in consultation with federal, state, and local governments, landowners, existing infrastructure owners, and water districts, and Cenex has not identified any potential conflicts with existing or planned developments. Cenex will obtain all necessary permits and approvals for the Project from federal, state, and local governments and agencies, and will comply with applicable local land use requirements.

## **18.9 Effects of the Proposed Route on Existing Scenic Areas, Historic Sites and Structures, and Cultural Resources**

The Project avoids all known scenic areas, historic sites and structures, and cultural resources; therefore, the Project is not anticipated to impact these resources. For further discussion, please see Sections 14.0, 15.0, 16.0, and 19.0 of this Application.

## **18.10 Effects of the Proposed Site on Areas Which are Unique Because of Biological Wealth or Rare and Endangered Species Habitats**

Although suitable foraging habitat for the whooping crane is present in the Study Area, the Project location is east of the identified whooping crane migration corridor and thus, the likelihood of whooping cranes being in the Study Area is extremely low. No other potential areas that are unique because of biological wealth or because they are habitats for rare and endangered species are located within the Study Area or Site and thus, the Project is not anticipated to impact these resources. For further discussion, please see Sections 14.0, 15.0, 16.0, and 19.0 of this Application.

### **18.11 Problems Raised by Federal Agencies, other State Agencies, and Local Entities**

A summary of consultations, notifications, and agency responses are provided in Section 15.0; copies of correspondence are provided in Appendix E. Consultation is ongoing and Cenex will respond to and address concerns if raised.

## **19.0 OTHER FACTORS CONSIDERED**

### **19.1 Design Construction Limitations**

Specific factors taken into account in the selection of the Site, including design and construction limitations, are identified in Sections 2.0 and 13.0 of, and discussed throughout, this Application. In particular, the Project was designed to interconnect Cenex's existing refined petroleum products system with NuStar's existing refined petroleum products system at the identified interconnection points.

The Project will be designed, constructed, and operated in accordance with USDOT regulations governing the transportation of hazardous liquids by pipeline, which are set forth in 49 CFR Part 195, USEPA regulations governing oil pollution prevention, as set forth in 40 CFR 112, state and local regulations, and industry standards.

### **19.2 Economic Considerations**

In selecting the Site, one of many factors Cenex considered was facilitating construction of the Project in the most economical and efficient manner. However, Site selection required balancing of a number of factors, as discussed specifically in Sections 2.2 and 13.0 of this Application.

Other economic considerations associated with the Project include the positive direct and indirect economic benefits that the Project will provide within and beyond North Dakota. As discussed in Section 17.7 of this Application, the Project will provide short-term employment of workers during construction, long term employment during operations, increased revenues from local expenditures, and increased tax revenues. Additionally, the proposed Project will enhance both Cenex's and NuStar's ability to supply refined petroleum products to consumers in North Dakota and Minnesota.

### **19.3 Present and Future Natural Resource Development**

As discussed in Section 16.1.1, there are no national parks, national memorial parks, national historic sites or landmarks, national wilderness areas, or national monuments located within the Study Area and Site. Similarly, there are no designated or registered state parks, sites, monuments, or nature preserves within the Site. There are also no county parks, municipal parks, or parks owned or administered by other governmental subdivisions within the Study Area.

In addition, as discussed in Section 16.2.1, there are no wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; or grasslands within the Study Area or Site. Also, no designated or registered state wild or recreational rivers, game refuges, game management and

management areas, forests, forest management lands, or grasslands are within the Study Area or Site.

The Project would permanently remove land from agricultural production. Further, as discussed in Sections 16.3.7 and 16.4.7, Cenex will continue to work closely with existing infrastructure owners to safely construct and operate the Project and to minimize the potential for impacts to existing facilities.

## **20.0 APPLICANT'S MITIGATION MEASURES AND POLICIES AND COMMITMENTS TO LIMIT ENVIRONMENTAL IMPACT**

Cenex is committed to avoiding, minimizing, and mitigating the environmental impacts of the Project. The Project has been designed with these commitments in mind. The Project will be constructed and operated to meet or exceed federal, state, local, and industry safety, environmental, and operational standards.

In addition to the mitigation measures discussed throughout this Application, Cenex has developed an EMP, presented as Appendix C, which outlines general construction-related mitigation measures to minimize impacts to natural and cultural resources from Project development. These measures meet or exceed applicable industry standards and regulatory requirements. Specifically, the EMP provides a detailed description of the mitigation measures that will be implemented during Project construction, including:

- general mitigation measures;
- spill prevention;
- temporary erosion and sediment control;
- uplands;
- waterbodies and riparian areas; and
- hydrostatic testing.

Cenex is also developing specific plans for the Project, including a SWPPP, a temporary discharge permit for hydrostatic testing, a SPCC Plan, and a Facility Response Plan.

## **21.0 QUALIFICATIONS OF PREPARERS**

### **Mr. Jim Dawson**

Senior Project Manager

SWCA Environmental Consultants, 116 North 4<sup>th</sup> Street, Bismarck, North Dakota 57732

Mr. Dawson is a senior environmental specialist/project manager who provides regulatory compliance consulting services for oil and gas operations, including environmental site assessments and due diligence activities; stormwater permitting and inspections; preparation of Spill Prevention, Contingency and Countermeasure Plans, Facility Response Plans, and Pipeline Spill Response Plans; spill investigation, assessment, and cleanup services; and investigation and cleanup/remediation of reserve pits and legacy contamination sites.

Mr. Dawson is a Professional Geologist and Certified Hazardous Materials Manager with extensive field, regulatory, managerial, and consulting experience throughout the United States

with diverse project experience, including contaminated soil and ground water investigation, monitoring, and remediation; environmental site assessments and due diligence activities; solid and hazardous waste management; environmental regulatory permitting and compliance assistance; ground water resources studies; and unexploded ordnance detection, discrimination, and remediation technologies.

**Dr. Judy Cooper**

Principal – Midwest

SWCA Environmental Consultants, 4320 Winfield Road, #200, Warrenville, Illinois 60555

Dr. Cooper is the Principal for SWCA's Midwest operations, including Chicago and Pittsburgh. She most recently served as SWCA's Cultural Resources Program Director in Austin and, before that, Office Director in SWCA's Bismarck Office. She has more than 14 years of experience in cultural resources management and archaeology and has worked within the Great Plains, Rocky Mountains, and Mid-Atlantic regions. She is an expert in laws and regulations governing cultural resources. She also specializes in environmental compliance for energy projects and works with multi-disciplinary teams to ensure compliance with laws at the both state and federal level, including the Clean Water Act, Clean Air Act, and National Environmental Policy Act (NEPA). Dr. Cooper holds a bachelor's degree in anthropology from Penn State University as well as a master's degree and a Ph.D. in anthropology from Southern Methodist University.

**Ms. Ashley Persinger**

Project Manager

SWCA Environmental Consultants, 116 North 4<sup>th</sup> Street, Bismarck, North Dakota 57732

Ms. Persinger has extensive experience in avian ecology and habitat studies, encompassing study design, data collection and analyses, and field crew leadership. Ms. Persinger is a project manager and field director with 5 years of consulting experience in the Great Plains. She has led crews on hundreds of habitat assessments in North Dakota. Ms. Persinger is educated and experienced in multiple ecological principles, including mammalogy, ornithology, conservation, population dynamics, and habitat modeling. Her experience includes threatened, endangered, and sensitive species analysis and critical habitat identification in support of NEPA documentation, including environmental and biological assessments.

**Mr. Brian R. Bjella**

Attorney at Law

Crowley Fleck PLLP, 100 W. Broadway Avenue, Suite 250, Bismarck, North Dakota 58501

Brian R. Bjella is a Partner in the firm's Bismarck Energy, Environment & Natural Resources Department. He joined the firm in 2009 after practicing with Fleck, Mather & Strutz, Ltd., in Bismarck, North Dakota since 1980. His primary areas of practice are natural resources, public utilities and government relations law. Prior to joining the firm, Brian served as an Assistant Attorney General for the State of North Dakota, representing the Board of University and School Lands.

A significant portion of Brian's practice involves representing energy clients in permitting facilities before the North Dakota Public Service Commission. He has extensive experience in preparation of mineral title opinions. Brian has litigated contract and property law issues before state and federal

courts. He also has represented clients in lobbying activities before the North Dakota legislature.



## **22.0 REFERENCES CITED**

- LANDFIRE. 2012. LANDFIRE National Existing Vegetation Type layer. U.S. Department of Interior, Geological Survey. Available online at <http://www.landfire.gov/index.php>. Accessed November 16, 2015
- North Dakota Department of Mineral Resources. 2015. North Dakota Geological Survey Mineral Resources. Available at: <https://dmr.nd.gov/ndgs/Mineral>. Accessed November 15, 2015.
- North Dakota Game and Fish Department. 2015. North Dakota bald eagle nest sites 2014 data. Received from S. Johnson, North Dakota Game and Fish Department, November 15, 2015.
- Belisle, D. 2015. Natural Resources and Wetland Delineation Report for the Cenex Prosper Terminal, Cass County, North Dakota. Prepared by SWCA Environmental Consultants. November 18, 2015.
- Kilcullin, T. 2015. Unanticipated Discovery Plan for Cultural Resources Identified During Construction of the Proposed Cenex Prosper Terminal in Cass County, North Dakota. SWCA Environmental Consultants. December 8, 2015.
- North Dakota State Historical Society Concurrence Letter, dated December 9, 2015, stating that the Unanticipated Discovery Plan for the Proposed Cenex Prosper Terminal in Cass County, North Dakota is acceptable.
- U.S. Fish and Wildlife Service (USFWS). 2013. Northern Long-eared Bat Fact Sheet. Midwest Endangered Species. Available at: <http://www.fws.gov/midwest/endangered/mammals/nlba/nlbaFactSheet.html>. Accessed November 15, 2014.
- . 2013b. Whooping crane. Available at: <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B003>.
- Wandler, C. 2015. A Class I and Class III Cultural Resource Inventory of the Cenex Pipeline Prosper Oil Terminal, Cass County, North Dakota. Prepared by SWCA Environmental Consultants. November 16, 2015.

