

Cenex Pipeline, LLC

Prosper Terminal

Environmental Mitigation Plan

ND PSC Case No. PU-xx-xxx

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1.0 INTRODUCTION

Cenex Pipeline, LLC (Cenex) has prepared this Environmental Mitigation Plan (EMP) for the construction of a storage facility and terminal (Prosper Terminal), located approximately 1.3 miles southeast of Prosper, North Dakota, that will provide refined petroleum products for the proposed NuStar Pipeline Operating Partnership, L.P. (NuStar) Laurel Interconnect Pipeline. The entire project is located in Cass County, North Dakota.

This EMP outlines general construction-related mitigation measures that will be implemented by Cenex and its construction contractor (Contractor) during construction of the Prosper Terminal project. Specific conditions associated with agency permits are not specifically addressed herein.

This EMP has been developed to meet or exceed applicable industry standards and regulatory requirements. Guidance documents used in the preparation of this EMP include North Dakota's Guide to Temporary Erosion-Control Measures for Contractors, Designers, and Inspectors (2001), U.S. Bureau of Reclamation Engineering and O&M Guidelines for Crossings (2008), and several USACE regional conditions for projects operating under Nationwide Permits in North Dakota.

2.0 GENERAL MITIGATION MEASURES

2.1 Contractor

Cenex will make the requirements of this EMP and applicable environmental permits a contractual obligation for the Contractor. The Contractor will ensure that persons engaged in construction of the Prosper Terminal are informed of these construction requirements.

2.2 Line List and Permits

Cenex will provide the Contractor with a construction list that describes special requirements, as agreed upon with private landowners and as required through agency permitting processes.

2.3 Third-party Inspector

Cenex will provide construction oversight to confirm Contractor compliance with the measures of this EMP and any landowner agreements as well as applicable federal, state, and local environmental permits. Cenex will have a third-party environmental inspectors (EIs) for each phase of project construction who are knowledgeable of the environmental mitigation requirements for this project. The third-party inspector will have the authority to stop construction activities and order corrective mitigation for actions that are not in compliance with this EMP, any landowner agreements, or environmental permit requirements. The third-party inspectors will maintain appropriate records to document compliance with these and other applicable environmental permit conditions. At the end of each week, the third-party inspector will prepare a weekly report that will be submitted to Cenex and the North Dakota Public Service Commission (NDPSC).

2.4 Project Site

Access to the construction site will be from public roadways. The Contractor will mark the construction entrance(s) with signs to clearly identify approved access points to the site. All construction equipment and vehicles will be confined to the approved access roads and work space areas within the project site.

2.5 Dust Control

Dust control related to construction activities will be accomplished through administrative and physical means.

All construction-related vehicles will adhere to posted speed limits on public roadways. Work hours near residential areas may be limited.

The Contractor may use multiple methods to wet the construction site to control airborne dust, including water trucks and sprinklers, or additional appropriate measures, such as chemical application and/or reduced speed limits, based on site-specific conditions.

2.6 Undesirable Species Control

Cenex will require that all construction-related equipment be thoroughly cleaned prior to moving the equipment to the job site to limit the potential for the spread of noxious weeds, insects and soil-borne pests. All equipment will be cleaned with high-pressure washing equipment.

Cenex or its agents will perform a noxious weed survey prior to construction. If a noxious weed species is present within the construction site, the extent of infestation areas will be clearly demarcated in the field with flagging or staking prior to clearing and grubbing operations so that the infestation area can be segregated and the vegetative materials destroyed or removed prior to reclamation.

During construction, the Contractor will clean the surface area of all vehicles and construction machinery, including the undercarriage, to remove excess soil and vegetative debris, if that equipment is known to have passed through a weed or soil-borne pest infested area.

Only certified weed free vegetative components (e.g., mulch, straw/hay bales, seed mixes) will be used on the project.

2.7 Non-Hazardous Wastes

The Contractor will handle and dispose of human wastes by use of portable, self-contained chemical toilets. Wastes from these units will be collected by a licensed contractor for disposal only at licensed and approved facilities.

The Contractor will remove all trash from the construction site on a daily basis unless otherwise approved or directed by Cenex.

The Contractor will dispose of horizontal directional drilling (HDD) cuttings and drilling mud at an approved landfill or disposal area located off of the site.

2.8 Hazardous Wastes

The Contractor will ensure that all hazardous and potentially hazardous materials are transported, stored, and handled in accordance with all applicable regulations. Workers exposed to or required to handle hazardous materials will have received proper training in use of those materials, in accordance with the applicable regulations and the manufacturer's recommendations.

The Contractor will dispose of all hazardous materials at licensed waste disposal facilities.

If toxic or hazardous waste materials or containers are encountered during construction, the Contractor will stop work immediately and notify Cenex. The Contractor will not restart work until clearance is granted by Cenex.

2.9 Burning and Fire Prevention

The Contractor will comply with all federal, state, county, and local fire regulations regarding prevention of uncontrolled fires.

The Contractor will maintain a contact list and information of jurisdictional fire authorities. Fire control equipment, primarily fire extinguishers, will be available at construction sites and construction personnel will be properly trained in the use of such equipment.

Flammable materials kept on a construction site will be stored in approved containers away from ignition sources. All flammable wastes will be removed from construction sites on a regular basis.

Smoking will be prohibited at construction sites, except in designated areas away from flammable materials.

2.10 Wet Weather

The Contractor will restrict certain construction activities and work during excessively wet soil conditions to minimize rutting, soil compaction, and off-site soil transport. Activities may be suspended based on the following conditions:

- type of equipment and nature of construction activity planned for that day;
- potential that rutting may cause mixing of topsoil with subsoil layers;
- extent of surface ponding; and
- the potential for excessive soil compaction.

If these conditions cannot be appropriately mitigated through equipment rerouting or the use of construction mats, then construction work will be suspended until adequate protection measures, approved by the NDPSC are taken to avoid irreparable damage to roads or land.

3.0 SPILL PREVENTION

3.1 General

The Contractor will ensure that all equipment is free of leaks prior to use on the construction site and access roads. Throughout the period of construction, the Contractor

will conduct regular maintenance and inspections of the equipment to reduce the potential for spills or leaks.

All equipment parked overnight will be at least 100 feet from a watercourse or wetland, unless otherwise approved by the Environmental Inspector (EI).

Stationary equipment will be placed within a secondary containment if it will be operated or require refueling within 100 feet of a wetland or waterbody boundary.

3.2 Storage

Fuels and lubricants will be stored only at designated staging areas. Storage of fuel and lubricants will be at least 100 feet away from the edge of any perennial watercourse, wetland, storm drain, or any identified environmentally sensitive area.

Bulk fuel storage at the construction site may occur, but such storage will be located in a secondary containment structure with sufficient capacity to capture spills or leaks during filling and/or dispensing activities.

3.3 Refueling

Refueling and lubrication of equipment will be restricted to site areas that are at least 100 feet away from any perennial watercourse, wetland, storm drain, or any environmentally sensitive area.

Rubber-tired vehicles (e.g., pickup trucks) normally will refuel at commercial gas stations. Tracked machinery (e.g., backhoes, bulldozers) will be refueled and lubricated at the construction site. Equipment maintenance will be conducted in designated areas at the site when practical. When necessary and with EI approval, equipment repairs may be made at the construction site.

Each fuel truck that transports and dispenses fuel to construction equipment or project vehicles at the construction site will carry oil spill response equipment and materials onboard at all times. Truck drivers and construction crew personnel will be trained on proper use of this equipment and materials.

3.4 Cleanup and Emergency Notification

Construction activities will be conducted to allow for prompt and effective cleanup of spills of fuel and other hazardous materials. Each construction crew will have sufficient tools and material to stop leaks and supplies of absorbent and barrier materials to allow rapid containment and recovery of spilled materials. Crew members must know and follow the procedure for reporting spills.

Emergency notification procedures between the Contractor and Cenex will be established in the planning stages of construction. In the event of a spill meeting agency reporting criteria, the Contractor will immediately notify Cenex who will then promptly notify the appropriate regulatory agency.

4.0 TEMPORARY EROSION AND SEDIMENT CONTROL

4.1 General

Temporary erosion and sediment control measures will be installed as detailed in the Stormwater Pollution Prevention Plan (SWPPP) for this project prior to initial disturbance of the soil, maintained throughout construction, and reinstalled as necessary until replaced by permanent erosion control structures or restoration of the construction site is complete.

The Contractor will inspect all temporary erosion control measures within 24 hours of each significant rainfall event of 0.25 inches or greater. The Contractor will repair or replace all ineffective temporary erosion control measures as expediently as practicable, but prior to the next rainfall event.

4.2 Sediment Barriers

Sediment barriers will be constructed of silt fence, staked hay or straw bales, fiber rolls, compacted earth (e.g., drivable berms across travel lanes), sand bags, or other appropriate materials.

Sediment barriers will be installed below disturbed areas where there is the potential for offsite sedimentation. Areas where temporary sediment barriers will be placed include: the base of sloped portions of the site bordered by public highways, flowing streams, and wetlands; along the edge of the construction site, as needed to prevent downslope siltation of adjacent waterbodies and wetlands; and, along trench or hydrostatic test water discharge locations, as required.

Sections of temporary sediment barriers may be designed to allow passage of construction equipment. Sediment barriers will be reinstalled to their original specifications when equipment passage is no longer required, heavy precipitation is imminent, or at the end of the work day, whichever is sooner.

The Contractor will maintain hay or straw bale/wattle and silt fence sediment barriers by removing collected sediment when it reaches one-half the height of the barrier and replacing the damaged control. If bale filters cannot be replaced due to access problems, the Contractor will place a new row of sediment barriers upslope.

The Contractor will use hay or straw bales that are free of noxious weeds.

The Contractor will remove sediment barriers, except those needed for permanent erosion and sediment control, during cleanup of the construction site.

4.3 Temporary Slope Breakers

Temporary slope breakers will be installed to minimize concentrated or sheet flow runoff in disturbed areas at the following recommended spacing:

<u>Slope (%)</u>	<u>Spacing (feet)</u>
1	300
2	200

3-5	150
>5	100

Temporary slope breakers will be constructed of earthen material, silt fence, staked hay or straw bales, fiber rolls, sand bags, or similar materials.

When earthen berms are constructed, they will be constructed of subsoil material, when practical, and have a two to eight percent slope with a 4-foot base and 1.5-foot height, or as site conditions require.

Temporary slope breakers will direct outfall to a stable, well-vegetated area or an appropriate energy-dissipating device (e.g., silt fence, hay or straw bales/wattles) at the end of the slope breaker and off the construction site. The outfall of each temporary slope breaker will be installed to prevent sediment discharge into wetlands, waterbodies, or other sensitive resources.

A hard plug will be left in place where a slope breaker crosses an open trench.

Temporary slope breakers will not be installed on cultivated land except by landowner request.

4.4 Temporary Mulching

If a disturbed construction work area is inactive for one month or is expected to be inactive for one month or more, the Contractor will apply temporary seed and/or mulch to reduce risk of erosion. The Contractor will not apply mulch within wetland boundaries.

Temporary mulch of straw or equivalent applied on slopes will be spread uniformly to cover at least 75 percent of the ground surface at an approximate rate of 2 tons per acre of straw or its equivalent. Mulch application on slopes within 100 feet of waterbodies and wetlands will be increased to an approximate rate of 3 tons per acre.

5.0 HIGHWAY, ROAD, AND RAILROAD CROSSINGS

There are no highway, road or railroad crossings associated with the Prosper Terminal project.

6.0 CONSTRUCTION SEQUENCE

6.1 Clearing

The initial stage of construction will involve clearing the site to allow for a safe operating environment. Clearing of trees, brush, and other vegetation from the site may be accomplished with hand-held chainsaws, brush hogs, hydraulic tree-cutting equipment, bull dozers, or other equipment designed for that purpose. Woody material will be chipped or mulched onsite or hauled off to an appropriate disposal location, or as otherwise directed by the landowner. No burning will be conducted as part of this project.

6.2 Grading

After clearing, the construction site will be graded to develop a site that allows for a safe

working surface for equipment, tank foundation excavation, tank fabrication and equipment and pipeline segments installation. All work will be conducted in accordance with applicable permits, regulations, or guidelines.

6.3 Topsoil Removal and Storage

Measures will be taken to preserve the physical and chemical property integrity of topsoil so it may be used during final reclamation of the construction site. Generally, these measures will segregate the topsoil from underlying subsoil layers to prevent mixing during construction and to allow for easy retrieval during reclamation. Topsoil will not be used for trench breakers, to fill low areas, or to backfill the lower portion of trenches.

Topsoil, to a maximum depth of 12 inches or topsoil to the depth of cultivation, whichever is greater, will be stripped from the active construction areas at the site. Stripped topsoil will be stockpiled at a location(s) identified in the SWPPP. Topsoil will be replaced in disturbed/excavated areas of the site that after construction has been completed, provided that topsoil replacement and revegetation is consistent with the site development plan.

6.4 Tree and Shrub Mitigation

Cenex will address mitigation, reclamation and remediation measures to comply with any applicable state requirements, including the NDPSC's Tree and Shrub Mitigation Specifications.

Cenex will inventory all trees and shrubs anticipated to be cleared, including those that are considered invasive species or noxious weeds (e.g., *Caragana arborescens* [Siberian Peashrub]; *Elaeagnus angustifolia* [Russian olive]; *Rhamnus cathartica* [buckthorn]; *Tamarix chinensis*, *T. parviflora*, and *T. ramosissima* [saltcedar]; and, *Ulmus pumila* [Siberian elm]) before cutting. The inventory will record the location, number, and species of trees and shrubs. Two 2-year-old saplings will be planted for every one tree removed. Two shrubs (stem cuttings) will be planted for every one shrub removed.

Except in the case of invasive or noxious species, trees and shrubs will be replaced by the same species or similar species, suitable for North Dakota growing conditions, as recommended by the North Dakota Forest Service. Invasive or noxious species will be replaced by similar non-invasive or non-noxious species suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.

Tree and shrub replacement will not be conducted within a 20- to 30-foot wide path over the pipeline segments to facilitate visual inspections of the site in accordance with U.S. Department of Transportation safety regulations.

6.5 Trenching

Trenching is typically accomplished with a backhoe excavator or a rotary wheel ditching machine to provide a ditch of sufficient depth and width, with a bottom to continuously support the pipeline. The trench will be excavated to a depth that is in accordance with the NDPSC requirements (i.e. 48 inches in on-site areas and in accordance with applicable U.S. Department of Transportation regulations. If an increased pipeline depth is requested by a state-level agency, modifications to additional temporary workspace may be necessary to accommodate the increased amount of trench spoil.

Excavated material will be sidecast within the construction site with consideration for topsoil segregation, as noted in Section 6.3. Excavated material will be stored in a manner to minimize erosion and sedimentation.

Trenching operations will be followed as closely as practicable by lower-in and backfill operations to minimize the length of time the ditch is open.

When pumping captured stormwater from the trench, the Contractor will ensure that adequate pumping capacity and sufficient hose is available. The discharge of pumped water will be through filter bags or other method detailed in the SWPPP and in accordance with the environmental mitigation measures outlined throughout this EMP. If shallow groundwater is encountered during trenching or other site excavation that requires more extensive dewatering, a separate dewatering discharge permit will be obtained.

6.6 Pipe Preparation and Installation

Prior to lowering into the trench, pipe section ends are beveled to prepare them for welding. This process produces shavings which will be removed, to the extent practicable, immediately following beveling. Sections are then welded together to form a continuous pipe.

The pipe may be wrapped with a protective shielding (e.g., epoxy, urethane epoxy) to protect the pipe coating during backfilling. This process is typically completed prior to pipeline delivery to the site, except for a 3- to 6-inch section at each end to prevent the coating from interfering with the welding process. This bare section of pipe will be coated with a Polyguard *RD-6* pipeline tape coating system. Any residual material from this coating process will be disposed of in accordance with measures outlined in Section 2.8.

Prior to lowering into the trench, the coated and welded pipeline will be inspected to ensure it is free of defects.

6.7 Backfilling

The subsoil excavated during the trenching process is initially used to backfill the trench. Prior to backfilling, the trench will be dewatered and trench breakers (soft plugs) installed on slopes where necessary to minimize the potential for water movement and erosion of the trench after the trench is backfilled. Trench breakers will be constructed of materials such as sand bags, sand/cement bags, bentonite bags, or other suitable materials. Topsoil will not be used to construct trench breakers.

Stormwater accumulated in the trench will be removed and discharged in accordance with the SWPPP and the environmental mitigation measures outlined throughout this EMP.

Backfill will be comprised of soil material excavated from the trench. If rocky conditions, as determined by the Cenex inspector, are encountered so that the backfill will contain rocks that could cause damage to the pipeline or the pipeline coatings, the pipe will be shielded or padded with an approved material for at least 6 inches above the pipeline before any rock is introduced back into the ditch.

The lesser of 4 feet or the actual depth of topsoil cover, will not be backfilled with soil containing rocks of any greater concentration or size than existed prior to pipeline construction in the pipeline trench, bore pits, or other excavations.

To reduce the potential for ditch line subsidence, spoil will be replaced and compacted by backhoe bucket or roller or by the wheels or tracks of equipment traversing

down the trench.

6.8 Cleanup

Cleanup activities to restore disturbed areas of the site to the approximate pre-construction conditions will be conducted immediately following backfilling operations, as weather conditions permit.

All non-hazardous and hazardous materials will be disposed of in accordance with measures outlined in Section 2.7 and Section 2.8.

The site will be re-contoured with spoil material to meet site grading plan requirements. Topsoil will be replaced after re-contouring of the grade with subsoil. The topsoil will be replaced on the subsoil storage area and over the trench so that after settling occurs, the topsoil's approximate original depth and contour (with an allowance for settling) will be achieved. Subsoil will not be placed on top of topsoil.

Temporary sediment barriers will be removed and accumulated sediment will be re-contoured with the rest of the site. As needed, permanent erosion controls will be installed.

6.9 Permanent Erosion and Sediment Control

After final grading and contouring of upland areas, sloped areas will be stabilized with permanent erosion control structures.

6.9.1 Permanent Slope Breakers

Permanent slope breakers (e.g., diversion berms/ditches and level spreaders) will be installed to minimize concentrated or sheet flow runoff in disturbed areas. Permanent slope breakers will be constructed of earthen material. Slope breakers will divert surface runoff to adjacent stable vegetated areas or to energy-dissipating devices. In general, permanent slope breakers should be installed immediately downslope of all trench breakers. Permanent slope breakers will be installed as specified on the construction drawings or generally with a minimum spacing as shown on the following table:

<u>Slope (%)</u>	<u>Spacing (feet)</u>
<5	125
5-10	100
10-20	75
20-30	50
>30	25

The gradient (fall) for each slope breaker will be two to eight percent unless otherwise modified as required by site-specific conditions.

6.10 Reclamation and Revegetation

The following mitigation measures will be utilized, unless otherwise modified to address site specific conditions or circumstances.

6.10.1 Soil Compaction

Severely compacted or rutted areas within the construction site will be tilled or chiseled to loosen compacted soils. The subsoil surface will be graded smooth and any subsoil clumps broken up (disc and harrow) in an effort to avoid topsoil mixing.

6.10.2 Seeding and Mulching

The final seed mixture will be based on recommendations from the local Natural Resources Conservation office.

Certificates of seed analysis are required for all seed mixes to restrict the introduction of noxious weeds.

Seed will be used within 12 months of testing. Seeding will follow cleanup, re-grading, and topsoil replacement as closely as possible. Seed will be applied to all disturbed surfaces requiring revegetation, in accordance with the site development plan.

If mulch was applied for temporary erosion control during construction activities, the Contractor will remove and dispose of the excess mulch prior to seedbed preparation to ensure that seedbed preparation equipment and seed drills do not become plugged with mulch. After seeding, the Contractor may evenly re-apply and anchor (straw crimp) the removed temporary mulch on the construction site.

Seeding will be completed at a rate appropriate for the region and stability of the reclaimed surface. Seeding rates will be based on pure live seed specifications for the seed mix.

The Contractor will use a drill seeder equipped with a cultipacker designed and equipped to apply grass and grass-legume seed mixtures. Equipment will include mechanisms (e.g., seed box agitator) to allow even distribution of all species in each seed mix, an adjustable metering mechanism to accurately deliver the specified seeding rate, and with a mechanism (e.g., depth bands) to accurately place the seed at the specified depth.

The Contractor will plant seed at depths consistent with the local or regional agricultural practices.

Broadcast or hydro seeding, used in lieu of drilling, will require double the recommended seeding rates. Where seed is broadcast, a cultipacker or other equipment will be used immediately following broadcasting to incorporate the seed to the specified depth and to firm the seedbed.

Areas that are too steep or otherwise cannot be safely harrowed or cultipacked will be hand-raked in order to incorporate the broadcast seed to the specified depth.

Immediately after seeding, the Contractor will apply certified weed free mulch on all areas with high erosion potential and on slopes greater than 5 percent. The

Contractor will spread mulch uniformly over the area to cover at least 75 percent of the ground surface at an approximate rate of 2 tons per acre of hay or straw or their equivalent. The Contractor will not apply mulch in cultivated areas unless requested by the landowner.

If a mulch blower is used, the majority of strands of the mulching material will not be shredded to less than 8 inches in length to allow anchoring. The Contractor will anchor mulch immediately after application to minimize loss by wind and water. Depending upon the length of straw mulch, a soil tackifier may be applied to the soil before the mulch is blown onto help anchor the mulch.

When anchoring (straw crimping) by mechanical means, the Contractor will ensure that the straw stalks are a minimum of 12 inches in length and will use a tool specifically designed for mulch anchoring with flat, notched disks to properly crimp the mulch to a depth of 2 to 3 inches.

6.10.3 Fences

The site will have a perimeter fence with vehicle entry gates on 32nd Street SE, with personnel gates on the western and northern site boundaries. Upon completion of all backfilling, cleanup, and restoration, including mulching and seeding of the construction site, permanent repairs will be made to all fences to ensure their functionality.

6.10.4 Site and Pipeline Markers

Upon completion of all cleanup and restoration activities and during the time when the Contractor is making permanent repairs to fences, the Contractor will install pipeline markers at locations required by Title 49 Code of Federal Regulations Part 195.

7.0 WETLAND CROSSINGS

There are no wetland crossings at the construction site.

8.0 WATERBODIES AND RIPARIAN AREAS

There are no waterbody or riparian areas at the construction site.

9.0 HYDROSTATIC TESTING

9.1 General

The Contractor will provide for the safety of all construction personnel and the general public during hydrostatic test operations by placing appropriate warning signs at the construction site. Staging and work areas for filling the pipeline with water will be located a minimum of 100 feet from a waterbody or wetland boundary if topographic conditions permit.

9.2 Test Water Source

Cenex will provide the Contractor with a copy of the appropriate withdrawal/discharge permits for hydrostatic test water. The Contractor will keep water withdrawal/discharge permits on site at all times during testing operations.

In some instances sufficient quantities of water may not be available from the permitted water sources at the time of testing. Withdrawal rates may be limited as stated by the permit. If the quantity of water from the permitted source is insufficient to allow for hydrostatic testing of the pipeline, an alternative source will be identified and permit authorization sought by Cenex.

The Contractor will be responsible for obtaining any required water analyses from each source to be used in sufficient time to have a lab analysis performed prior to any filling operations. The analysis will determine the pH value and total suspended solids and other parameters that may be required by the North Dakota Department of Health.

No chemicals will be used in the test water.

9.3 Water Discharge

The Contractor will comply with state-issued National Pollutant Discharge Elimination System permits for discharging test water.

The Contractor will not discharge any water containing oil or other substances that are in sufficient amounts as to create a visible color film ("sheen") on the surface of the receiving water.

The Contractor will not discharge into state-designated exceptional value waters, waterbodies which provide habitat for federally listed threatened or endangered species, or waterbodies designated as public water supplies, unless appropriate federal, state, and local permitting agencies grant written permission. To avoid impacts from introduced species, no inter-basin transfers (discharge) of hydrostatic test water will occur.

The discharge operation will be monitored and water samples will be collected and analyzed prior to the beginning of the discharge to ensure that it complies with the project and permit requirements. If required by state permits, additional water quality testing will be conducted during discharge, in accordance with permit conditions.

The Contractor will regulate the discharge rate (3,000 gpm maximum), use energy dissipation devices, and install sediment barriers, as necessary, to prevent erosion, streambed scour, suspension of sediments, or excessive stream flow. Water must be disposed of using good engineering judgment so that all federal, state, and local environmental standards are met. Dewatering lines will be of sufficient strength and be securely supported and tied down at the discharge end to prevent whipping during this operation.