

Brian R. Bjella
100 West Broadway, Suite 250
P.O. Box 2798
Bismarck, ND 58502-2798
701.223.6585
bbjella@crowleyfleck.com

October 10, 2017

Mr. Darrell Nitschke
Executive Director
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480



Dear Mr. Nitschke:

In re: Cenex Pipeline, LLC
Case No. PU-17-097
Late Filed Exhibit No. 26
Our File No. 020836-000001

Enclosed for filing are 11 copies of Late Filed Exhibit No. 26 – Avoidance and Exclusion Areas for the above matter. Also being filed is a Certificate of Service relating to the report.

Very truly yours,

Brian R. Bjella

bw
enc.

cc: Administrative Judge Timothy J. Dawson (w/enc)
Derrick Braaten (w/enc)
Zachary Pelham (w/enc)
Kevin Pranis (w/enc)

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Cenex Pipeline, LLC
10" Refined Fuels Pipeline – Williams, Mountrail, Ward
Siting Application**

PU-17-097

CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2017, the following document:

1. Late Filed Exhibit No. 26 – Avoidance and Exclusion Areas

was served via U.S. mail and e-mail upon the following:

Derrick Braaten
Baumstark Braaten Law Partners
109 North 4th St., Suite 100
Bismarck, ND 58501-4003
derrick@baumstarkbraaten.com

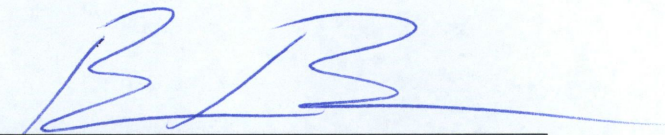
Zachary Pelham
Special Assistant Attorney General
PO Box 400
Bismarck, ND 58502-0400
On behalf of the PSC
zep@pearce-durick.com

Timothy J. Dawson
Administrative Law Judge
Office of Administrative Hearings
2911 North 4th Street, Suite 303
Bismarck, ND 58503
tjdawson@nd.gov

Kevin Pranis
Laborers District Council
81 E. Little Canada Road
St. Paul, MN 55117
kpranis@liunagroc.com

Dated this 10th day of October, 2017.

CROWLEY FLECK PLLP
Attorneys for Cenex Pipeline, LLC
100 West Broadway, Suite 250
P.O. Box 2798
Bismarck, North Dakota 58502
(701) 223-6586

By 
BRIAN R. BJELLA (#03549)



4585 Coleman Street
Bismarck, ND 58503-0431
701 355 8400
KLIENG.COM

Memorandum

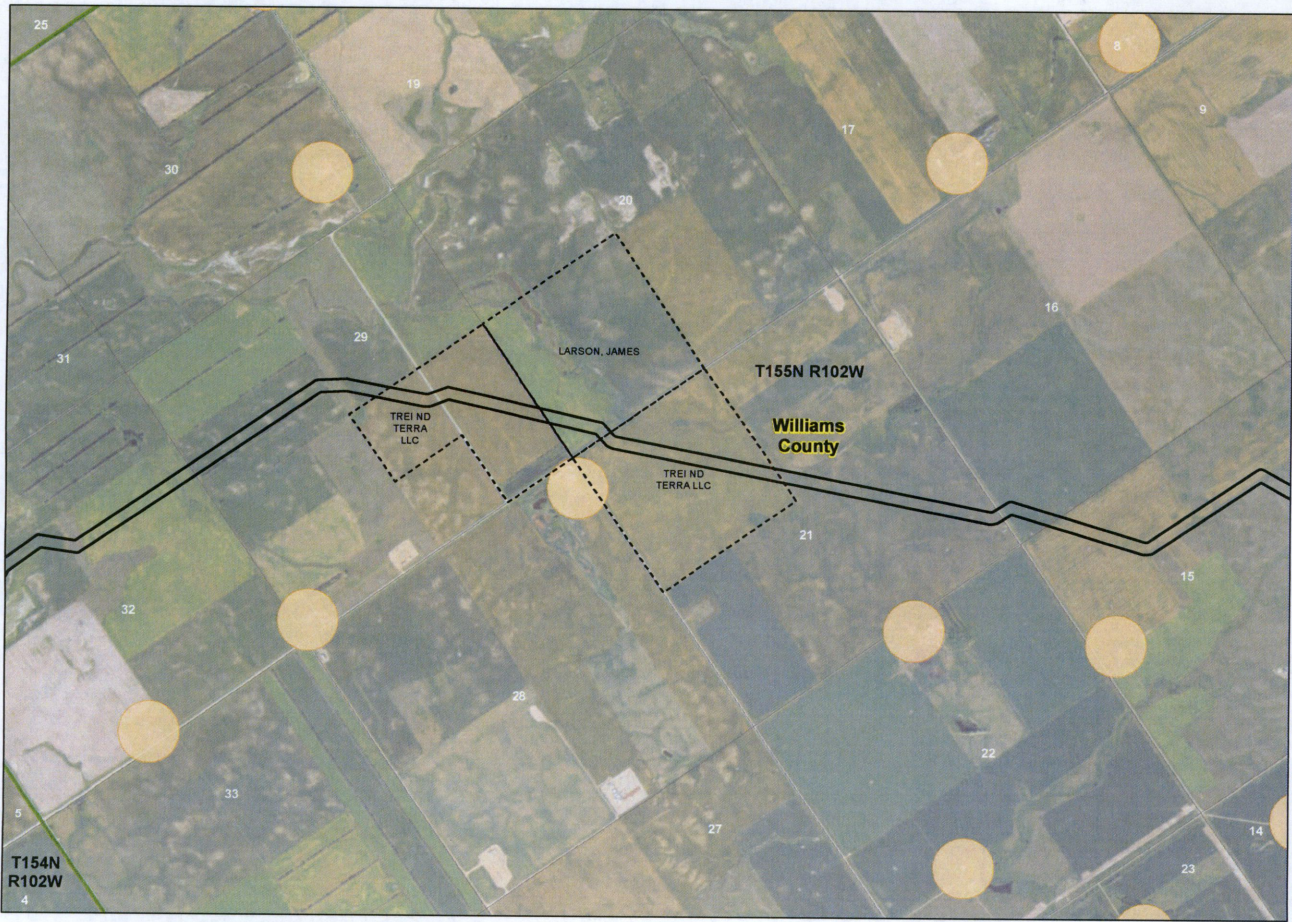
Date: 10/9/2017
To: ND Public Service Commission (PU-17-97)
Copy to: Mike Stahly, Cenex Pipeline, LLC
From: Grady Wolf, KLJ
RE: Late Filed Exhibit 26 (Avoidance and Exclusion Areas)

Remarks

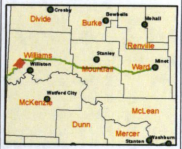
At the Public Hearings for ND Public Service Commission (PSC) Case PU-17-97, KLJ testified that several parcels of land included in the proposed route for the Cenex Pipeline Sidney to Minot Pipeline Project were not surveyed due to not being granted access permission. Since the Hearings, additional permissions to survey were granted for 15 parcels of property. KLJ completed environmental and cultural resource field surveys on the additional parcels between September 11-29, 2017. During the surveys, nine avoidance areas consisting of cultural resource sites were identified within the surveyed parcels. No additional avoidance or exclusion areas were identified within the surveyed parcels. Please refer to the attached ***Avoidance and Exclusion Area Maps*** to view additional parcels surveyed.

KLJ is currently completing appropriate North Dakota Cultural Resources Survey site forms for submittal to the State Historical Society of North Dakota. Upon the receipt of Smithsonian Institution Trinomial Systems numbers for newly identified cultural resources, an addendum to the report titled *Cenex Pipeline, LLC Refined Fuels Pipeline: A Class III Cultural Resource Inventory in Williams, Mountrail, and Ward Counties, North Dakota*, will be produced and submitted for agency review and concurrence. Upon issuance of concurrence, the report and correspondence will be submitted to the PSC.

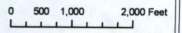
With the exception of two parcels, all parcels have been surveyed along the proposed route and survey results have been submitted to the PSC. The two remaining parcels include one linear mile of the route and is located within cropland. Desktop review of the un-surveyed parcels didn't indicate the presence of any additional avoidance or exclusion areas. At the request by the PSC, Table 12 (Summary of Exclusion Areas), and Table 13 (Summary of Avoidance Areas) have been updated to address any known avoidance or exclusion areas within the proposed 200-foot survey corridor. *Please refer to the attached **Table 12 and Table 13.***



**Cenex Pipeline, LLC
Refined Fuels Pipeline**



- Legend**
- Schools - 500' Avoidance
 - Missile Site - 1200ft Exclusion
 - Residential/Commercial Building - 500' Avoidance
 - Previous Study Area
 - Potential Dakota Skipper Habitat
 - Historic Landslide Areas
 - Current Study Area
 - Parcels Surveyed



Exclusion & Avoidance

1 inch = 1,000 feet Page 5 of 38
 Created Date: 10/6/2017 Created By: AAJ

Cenex Pipeline, LLC
Refined Fuels Pipeline



Legend

- Schools - 500' Avoidance
- Missile Site - 1200ft Exclusion
- Residential/Commercial Building - 500' Avoidance
- Previous Study Area
- Potential Dakota Skipper Habitat
- Historic Landslide Areas
- Current Study Area
- Parcels Surveyed

0 500 1,000 2,000 Feet

Exclusion & Avoidance



1 inch = 1,500 feet Page 6 of 38
Created Date: 10/6/2017 Created By: AAJ

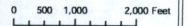


**Cenex Pipeline, LLC
Refined Fuels Pipeline**

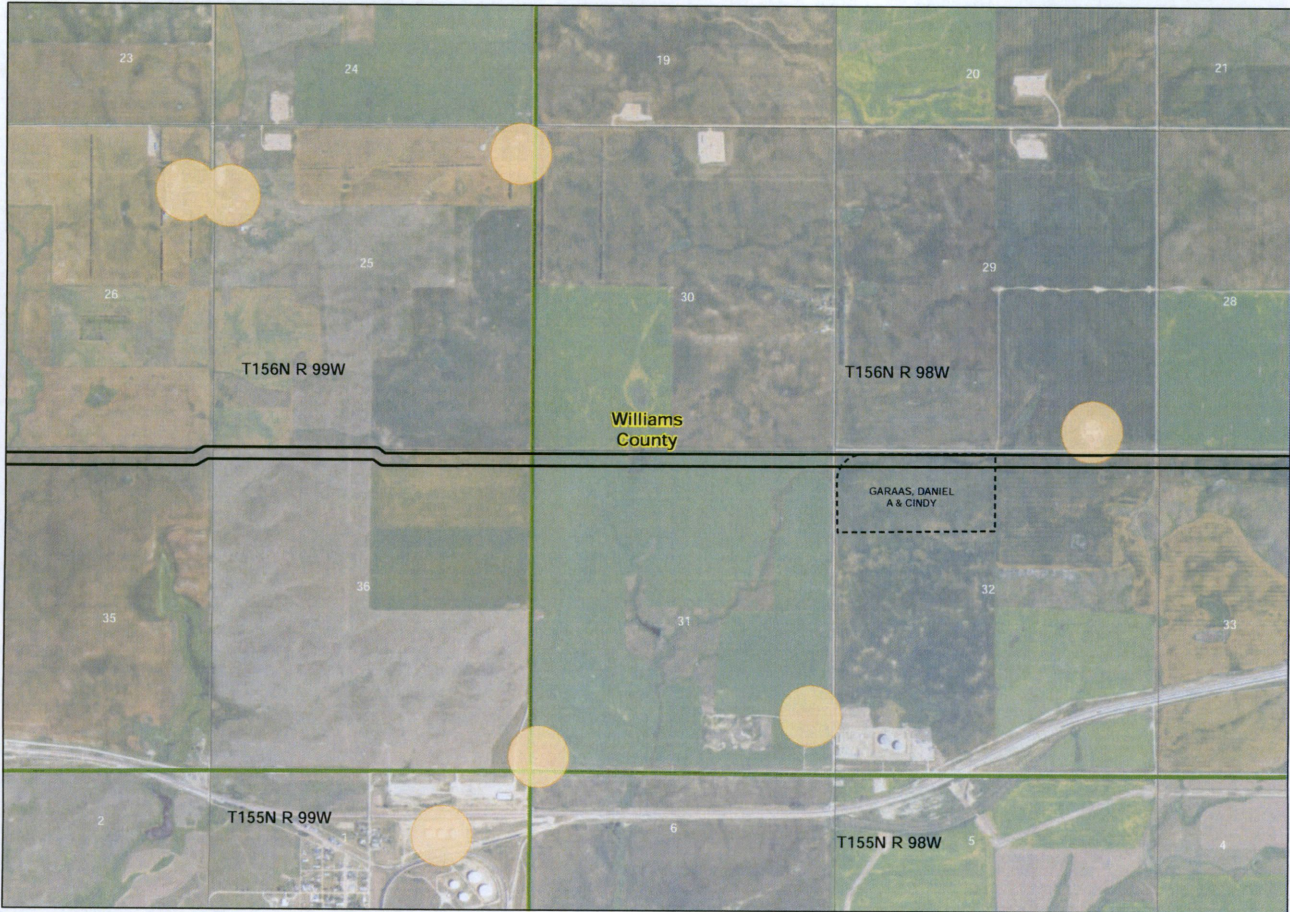


Legend

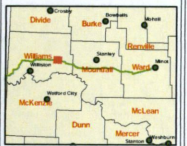
- Schools - 500' Avoidance
- Missile Site - 1200ft Exclusion
- Residential/Commercial Building - 500' Avoidance
- Previous Study Area
- Potential Dakota Skipper Habitat
- Historic Landslide Areas
- Current Study Area
- Parcels Surveyed



Exclusion & Avoidance

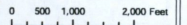


Cenex Pipeline, LLC
Refined Fuels Pipeline

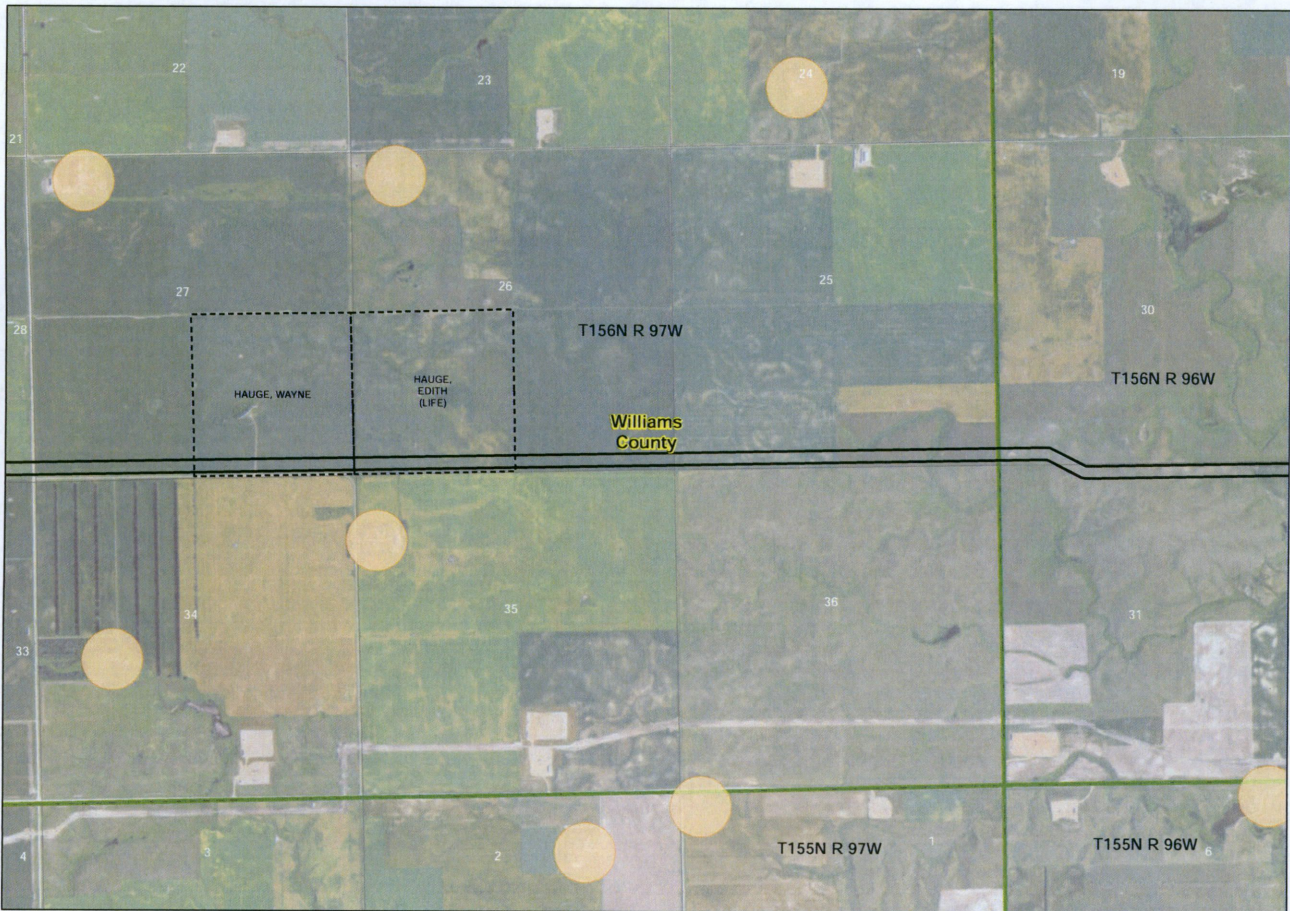


Legend

- Schools - 500' Avoidance
- Missile Site - 1200ft Exclusion
- Residential/Commercial Building - 500' Avoidance
- Previous Study Area
- Potential Dakota Skipper Habitat
- Historic Landslide Areas
- Current Study Area
- Parcels Surveyed



Exclusion & Avoidance

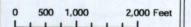


**Cenex Pipeline, LLC
Refined Fuels Pipeline**



Legend

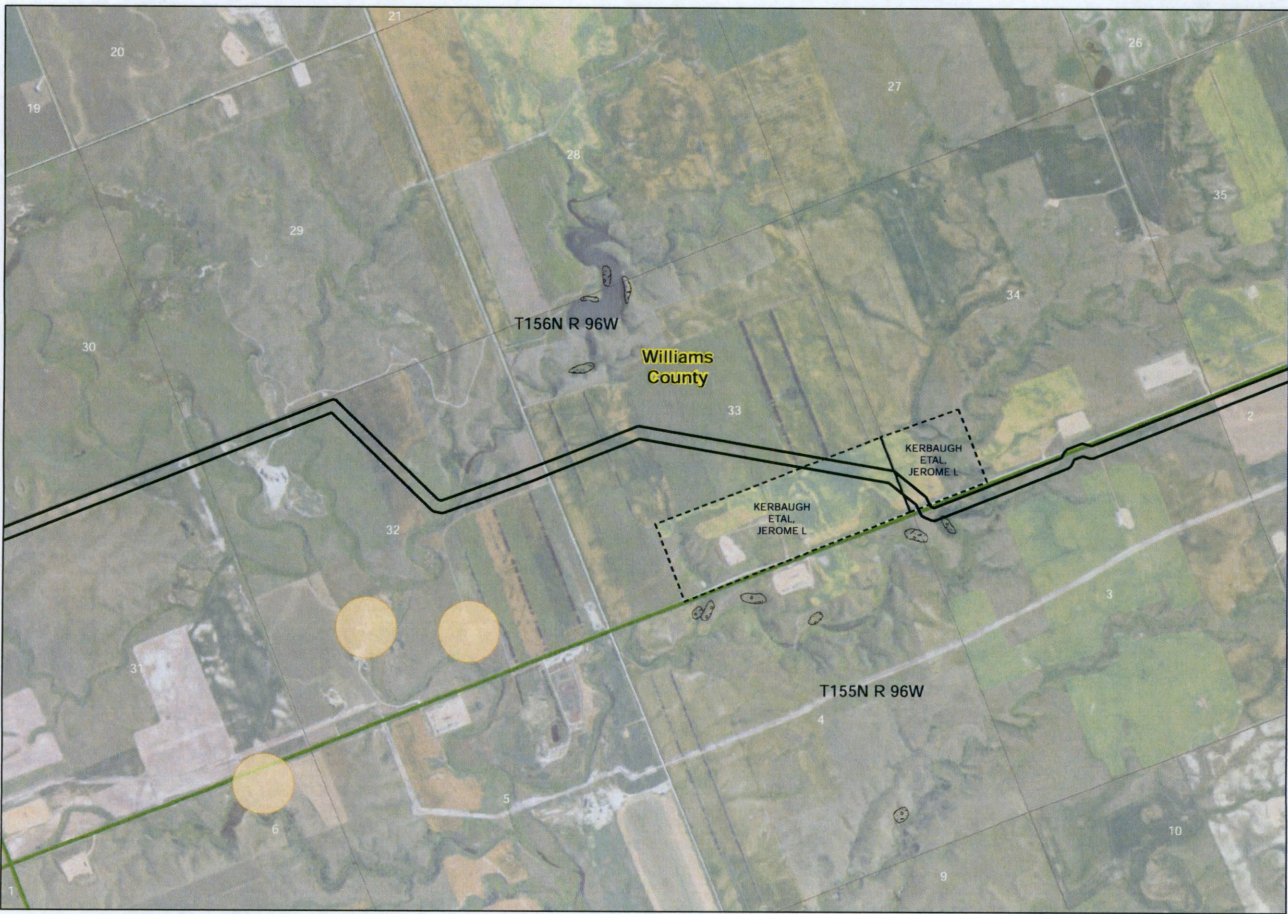
- Schools - 500' Avoidance
- Missile Site - 1200ft Exclusion
- Residential/Commercial Building - 500' Avoidance
- Previous Study Area
- Potential Dakota Skipper Habitat
- Historic Landslide Areas
- Current Study Area
- Parcels Surveyed



Exclusion & Avoidance



1 inch = 1,000 feet Page 18 of 38
Created Date: 10/09/17 Created By: AAJ

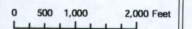


Cenex Pipeline, LLC
Refined Fuels Pipeline

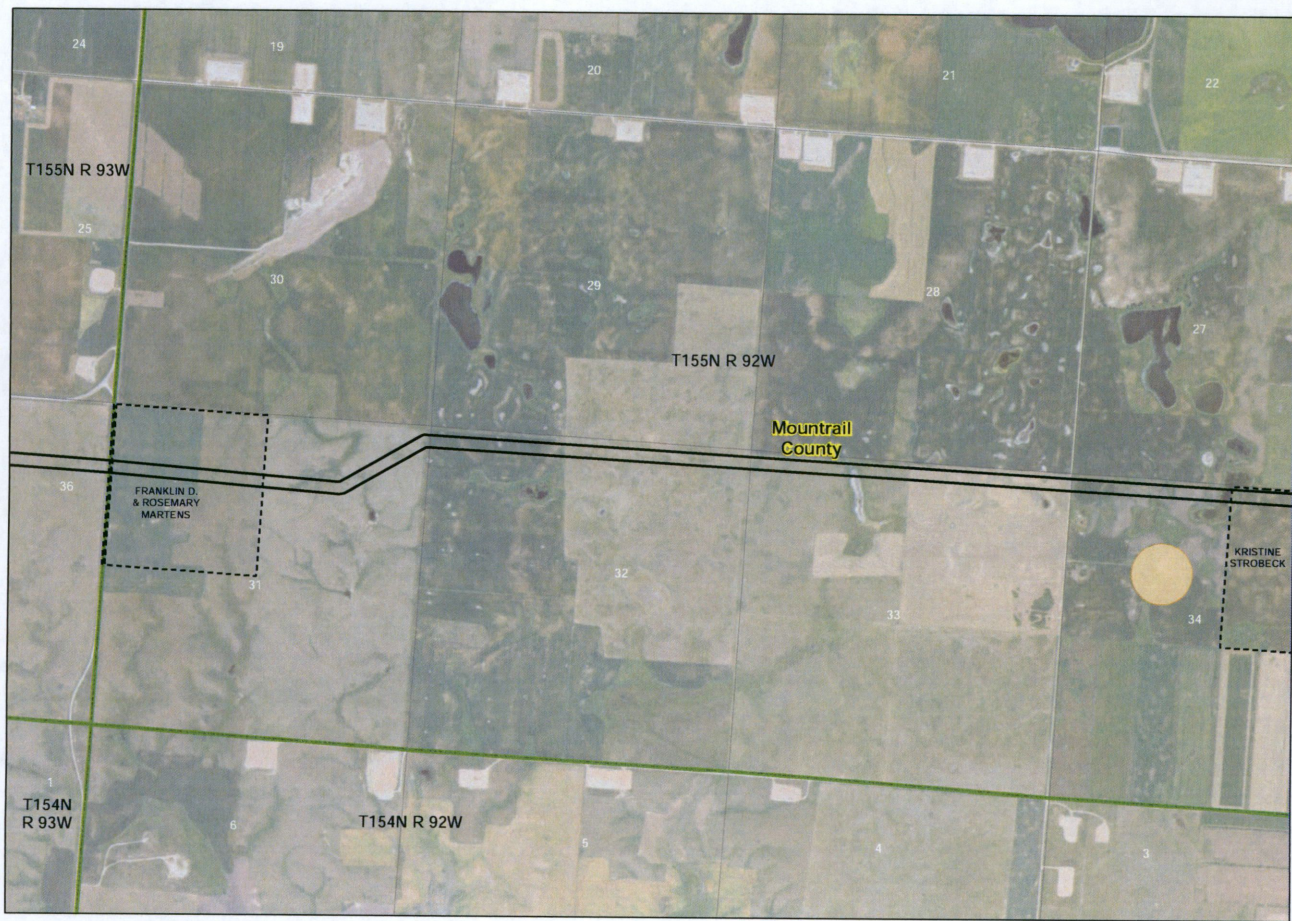


Legend

- Schools - 500' Avoidance
- Missile Site - 1200ft Exclusion
- Residential/Commercial Building - 500' Avoidance
- Previous Study Area
- Potential Dakota Skipper Habitat
- Historic Landslide Areas
- Current Study Area
- Parcels Surveyed



Exclusion & Avoidance

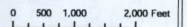


**Cenex Pipeline, LLC
Refined Fuels Pipeline**



Legend

- Schools - 500' Avoidance
- Missile Site - 1200ft Exclusion
- Residential/Commercial Building - 500' Avoidance
- Previous Study Area
- Potential Dakota Skipper Habitat
- Historic Landslide Areas
- Current Study Area
- Parcels Surveyed



Exclusion & Avoidance



Table 12. Summary of Exclusion Areas

EXCLUSION AREA	PRESENT WITHIN 200' SURVEY CORRIDOR	METHODS/ALTERNATIVES CONSIDERED FOR EXCLUSION AREA	PROPOSED MITIGATION
Designated or registered national: parks, memorial parks, historic sites and landmarks, natural landmarks, monuments, and wilderness areas.	None	N/A	N/A
Designated or registered state: parks, historic sites, monuments, historical markers, archaeological sites, and nature preserves.	None	N/A	N/A
County parks and recreation areas, municipal parks, and parks owned or administered by other governmental subdivisions.	None	N/A	N/A
Areas critical to life stages of threatened or endangered animal or plant species.	Yes	Adjacent corridors were analyzed to avoid potential impacts to Dakota skipper habitat. The proposed 10-corridor provides the best route to minimize the potential for impacts to all avoidance and exclusions areas as well as considerations for constructability.	Cenex has agreed to install a protective fence around potential habitat providing a 10-foot buffer. In addition, no ground disturbing activities will occur within a 50-foot buffer of potential habitat of the Dakota skipper.
Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.	None	N/A	N/A
Areas within 1,200 feet of the geographic center of an ICBM launch or launch control facility.	None	N/A	N/A
Areas within 30 feet on either side of a direct line between ICBM launch or launch control facilities to avoid microwave interference.	None	N/A	N/A

Table 13. Summary of Avoidance Areas

AVOIDANCE AREA	PRESENT WITHIN 200' SURVEY CORRIDOR	METHODS/ALTERNATIVES CONSIDERED FOR AVOIDANCE AREA	PROPOSED MITIGATION
Designated or registered national: historic districts; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges and grasslands.	Haugen Waterfowl Production Area	The project route would cross through a portion (approximately 0.50 miles) of the Haugen Waterfowl Production Area. This route would create the least environmental impact because of Cenex's existing ROW within this area. The proposed pipeline would also cause the least ground disturbance to previously undisturbed land by following the existing pipeline route. The USFWS has entered into a pipeline construction consent agreement with Cenex.	Upon completion of construction, cleanup and rough grading activities would include removing construction debris, replacing fences removed during construction, restoring the disturbed areas as near as practicable to the original contours, and installing or repairing temporary erosion-control measures. Every effort would be made to begin cleanup and rough grading (including installing temporary erosion-control measures) within 24 hours after backfilling. The project would be completed in compliance with USFWS management, Cenex polices, and all permit specifications.
Designated or registered state: wild, scenic, or recreational rivers; game refuges; game management areas; management areas; forests; forest management lands; and grasslands.	N/A	N/A	N/A
Historical resources that are not specifically designated as exclusion or avoidance areas.	Yes	A Class I Literature Review was completed to identify known cultural resources to avoid impacts during initial routing. In addition, adjacent corridors were surveyed around new cultural resource sites to minimize impacts to avoidance and exclusion areas while still considering constructability of the pipeline.	A 50-foot buffer will be placed around cultural resource sites to protect the resource from impacts. Consultation with SHPO will take place to ensure their concurrence of No Historic Properties Affected.
Areas which are geologically unstable.	Yes	The pipeline was sited to provide the least damaging environmental alternative while minimalizing excessive rerouting of the pipeline.	Cenex has completed geotechnical investigations along the proposed route to ensure the pipe is being installed by such a manner as to protect the pipeline from potential erosion.
Within 500 feet (152.4 meters) of a residence, school, or place of business.	Residences/farmsteads, One business	A total of two inhabited residences/farmsteads would be within 500 feet of the proposed pipeline.	Cenex has obtained all waivers for properties within the setback distance.
Reservoirs and municipal water supplies.	Sundre Wellhead Protection Area; Minot	A portion of the pipeline would be constructed within a delineated, groundwater dependent, Wellhead Protection Area associated with the City of Minot. Passing through the Wellhead Protection Area could not be avoided because the CHS Minot Terminal is located within the Wellhead Protection Area. Correspondence with the City has taken place and they have not objected to the project as they	The city has indicated that the pipeline will not be located within its wellhead protection zone. During operations, SCADA system communications would be used to monitor for pipeline integrity remotely 24-7. In addition, the pipeline would receive regular inspections by on-the-ground field staff or aerial flight along the ROW observing pipeline integrity.

AVOIDANCE AREA	PRESENT WITHIN 200' SURVEY CORRIDOR	METHODS/ALTERNATIVES CONSIDERED FOR AVOIDANCE AREA	PROPOSED MITIGATION
		indicated the project falls outside the wellhead protection zone.	
Water resources for organized rural water districts.	None	N/A	N/A
Areas of recreational significance which are not designated as exclusion areas.	None	N/A	N/A