



PU-17-97
Cenex Pipeline, L.L.C.
10" Refined Fuels Pipeline
As-Built Inspection Report

File No. 227701128

May 2021

Prepared for:

**North Dakota Public Service
Commission**
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Table of Contents

| | | |
|------------|---|------------|
| 1.0 | EXECUTIVE SUMMARY | 1.1 |
| 2.0 | BACKGROUND AND SCOPE | 2.1 |
| 2.1 | INTRODUCTION..... | 2.1 |
| 2.2 | PURPOSE..... | 2.1 |
| 2.3 | METHODS AND SCOPE OF INSPECTION..... | 2.1 |
| 2.3.1 | Project Compliance Identification..... | 2.1 |
| 2.3.2 | Document Review..... | 2.2 |
| 2.3.3 | On-Site Inspection..... | 2.2 |
| 3.0 | FINDINGS OF FACT | 3.1 |
| 3.1 | SIZE, TYPE, AND PREFERRED LOCATION OF FACILITY..... | 3.1 |
| 3.2 | SITING CRITERIA..... | 3.1 |
| 3.2.1 | Exclusion Areas..... | 3.1 |
| 3.2.2 | Avoidance Areas..... | 3.3 |
| 3.2.3 | Selection Criteria..... | 3.4 |
| 3.3 | ADDITIONAL MITIGATIVE MEASURES..... | 3.5 |
| 4.0 | COMMISSION ORDERS | 4.1 |
| 4.1 | PENDING APPLICATION MATERIALS..... | 4.1 |
| 5.0 | CERTIFICATION RELATING TO ORDER PROVISIONS | 5.1 |
| 5.1 | INTERAGENCY COMPLIANCE..... | 5.1 |
| 5.1.1 | Additional Agency Conditional Rules and/or Guidance/Recommendations..... | 5.6 |
| 5.2 | CONSTRUCTION..... | 5.10 |
| 5.2.1 | Cultural Resources..... | 5.10 |
| 5.2.2 | Progress Reporting..... | 5.10 |
| 5.2.3 | Soil Management..... | 5.10 |
| 5.2.3.1 | Erosion and Sedimentation..... | 5.11 |
| 5.2.4 | Road Crossings..... | 5.12 |
| 5.2.5 | Staging Areas..... | 5.12 |
| 5.2.6 | Unanticipated Discoveries..... | 5.12 |
| 5.2.7 | Weather Conditions..... | 5.13 |
| 5.2.8 | Stop Work Authority..... | 5.13 |
| 5.3 | RESTORATION AND MAINTENANCE..... | 5.13 |
| 5.3.1 | Restoration..... | 5.13 |
| 5.3.2 | Roads..... | 5.14 |
| 5.3.3 | NRCS Recommendations..... | 5.14 |
| 5.3.4 | Continuing Commitment..... | 5.15 |
| 5.3.5 | Fences and Gates..... | 5.15 |
| 5.3.6 | Drain Tile..... | 5.15 |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

| | | |
|------------|---|------------|
| 5.3.7 | Tree and Shrub Mitigation | 5.15 |
| 5.3.7.1 | Inventory | 5.15 |
| 5.3.7.2 | Clearing | 5.16 |
| 5.3.7.3 | Replacement..... | 5.16 |
| 5.3.8 | Waste Disposal | 5.16 |
| 5.3.9 | Traffic Control | 5.16 |
| 5.4 | COMMUNICATION WITH LANDOWNERS AND PSC | 5.16 |
| 5.4.1 | Right-of-Way Liaison Notifications..... | 5.17 |
| 5.4.2 | Engineering Design Drawings | 5.17 |
| 5.4.3 | Extraordinary Event Notification | 5.17 |
| 5.4.4 | Significant Biological Discoveries | 5.17 |
| 5.4.5 | Modification..... | 5.18 |
| 5.4.6 | As-Built Documentation..... | 5.18 |
| 5.4.7 | Underground Facilities | 5.18 |
| 5.4.8 | Route Adjustments Before or During Construction | 5.19 |
| 6.0 | ISSUES TO RESOLVE AND RECOMMENDATIONS..... | 6.1 |
| 6.1 | DOCUMENTATION..... | 6.1 |
| 6.2 | ROW CONDITIONS | 6.1 |
| 7.0 | REFERENCES..... | 7.1 |
| 8.0 | SIGNATURES..... | 8.1 |

LIST OF TABLES

| | | |
|---------|--|-----|
| Table 1 | Cross Reference Matrix..... | iii |
| Table 2 | Summary of Required Permits (per Application)..... | 5.1 |
| Table 3 | Summary of Agency Correspondence, Permits, and Approvals | 5.2 |

FIGURES

Figure 1-26 As-Built Observation Locations Map

APPENDICES

- Appendix A Field Observation Coordinates
- Appendix B Observation Point Photolog



Table 1 Cross Reference Matrix

| Source of Project Specification | Description of Project Specification | Written Verification | 3 rd Party Verification |
|------------------------------------|--|---|------------------------------------|
| SIZE, TYPE & LOCATION | | | |
| FINDINGS OF FACT 6. | The Project will include 13 main line valves, one pipeline pig launcher located at the terminal in Glendive, Montana, and one pig receiver located at the terminal in Minot, North Dakota. Valves will be located on either side of the following rivers: the Little Muddy, White Earth, and Little Knife Rivers in North Dakota. | Docket 1: Consolidated Application | <i>Section 3.1</i> |
| FINDINGS OF FACT 9. | The Project's permanent right-of-way will primarily consist of a 50-foot wide easement. During construction, up to an additional 25 feet in width of temporary workspace will be necessary for a total of up to 75 feet of construction right-of-way. | Docket 1: Consolidated Application | <i>Section 3.1</i> |
| STUDY OF PREFERRED LOCATION | | | |
| SITING CRITERIA | | | |
| Exclusion Areas | | | |
| FINDINGS OF FACT 15. | The Commission has developed criteria pursuant to North Dakota Century Code section 49-22.1-03 to guide the site, corridor, and route suitability evaluation and designation process. The criteria, as set forth in North Dakota Administrative Code 69- 06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria. | Docket 1: Application, Section 1 Table 1; NDCC 49-22.1-03; NDAC 69-06-08-02 | <i>Section 3.2</i> |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

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|---------------------------------|--|--|------------------------------------|
| FINDINGS OF FACT 18. | <p>Cenex testified that 38 cultural resource sites were identified during the Class III field survey for those areas where survey access was obtained. On June 28, 2017, the NDSHPO issued a letter indicating that it concurs with a "no significant sites affected" determination provided the Project is of the nature stated, takes place in the locations plotted in the report provided by Cenex and the management recommendations for avoidance are followed as stipulated. In December 2017, Cenex provided the NDSHPO with survey results for additional areas surveyed. On December 22, 2017, the NDSHPO issued a letter indicating that "[T]here has been a good faith effort to identify and avoid impacts to "Significant Sites," provided the projects remain as described and mapped. The December 22, 2017, NDSHPO letter identifies four sites that the project should avoid, and one of those sites that should have fencing and archaeological monitoring. NDSHPO also found acceptable Cenex" Cultural Resource Unanticipated Discovery and Monitoring Plan. Cenex will avoid impacts to any cultural sites in accordance with NDSPHO recommendations. Class III cultural resource surveys will be completed for any portions of the corridor not yet surveyed.</p> | Docket 94 (SHPO Concurrence letter); NDAC 69-06-08-02(2) | Section 3.2.1 |
| FINDINGS OF FACT 19. | <p>Cenex testified that the Study Area contains 2.16 acres of Dakota skipper habitat, of which 0.69 acres is located in the Project's 75 foot right-of-way. Potential Dakota skipper habitat was delineated if it visually met the Dakota skipper habitat descriptions in the US Fish and Wildlife Service's Section 7 Guidance (May 2016). Seventeen areas of potential Dakota skipper habitat were delineated within the study area. Cenex testified it has adopted avoidance and mitigation strategies to avoid direct impacts to the species. In addition to construction specifications to minimize dust and noise within close proximity to potential habitat, Cenex will install a fence providing a 10-foot buffer around all identified potential Dakota skipper habitat within the study area and will place a 50-foot buffer on all identified potential Dakota skipper habitat within the study area for ground clearing activities. In those areas where the 50-foot buffer does not allow sufficient right- of-way for construction, Cenex will horizontally directional drill the pipeline and pass machinery through the right-of-way until on the other side where ground clearing activities can resume. Cenex provided information specific to the avoidance plans for each site. As a result of these mitigation measures, a buffer zone to protect the integrity of this Exclusion Area has been established.</p> | Docket 1: Consolidated Application; Docket 57: Exclusion and Avoidance Maps; Docket 88: Dakota Skipper plan and buffer | Section 3.2.1 |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

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|---------------------------------|--|---|------------------------------------|
| FINDINGS OF FACT 20. | The route would cross through a portion of the Haugen Waterfowl Protection Area. Cenex testified that this route had the least environmental impact because Cenex maintains an existing pipeline right-of-way within this area. By following the existing pipeline route would cause the least disturbance to previously undisturbed areas. Cenex testified that the USFWS was conveyed title to this property subject to an existing right- of-way owned by Cenex. Cenex further testified that the USFWS has not objected to the crossing. | Docket 1: Consolidated Application, Section 5.3, Figure A-4 pg. A-46 | Section 3.2.1 |
| FINDINGS OF FACT 21. | No other exclusion areas are located within the Survey Area. | Docket 1: Consolidated Application, Section 5.2.1. Table 12 | Section 3.2.1 |
| Avoidance Areas | | | |
| FINDINGS OF FACT 22. | An Avoidance Area is a geographical area that may not be considered in the routing of a transmission 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 transmission 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. | Docket 1: Consolidated Application, Section 5.3 | Section 3.2.2 |
| FINDINGS OF FACT 24. | Areas within five hundred feet of a residence, school, or place of business are Avoidance Areas. Pursuant to North Dakota Century Code section 49-22.1-03, the five hundred foot avoidance area criteria for an inhabited rural residence may be waived by the owner of the inhabited rural residence in writing. | Docket 1: Application, Docket 1- Section 5.3 table 13; Dockets: 47, 74, | Section 3.2.2 |
| FINDINGS OF FACT 25. | 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. Cenex testified the City of Minot has not objected to the route and has indicated that the terminus for the proposed pipeline will be outside of the Wellhead Protection Zone. The Commission finds there is no reasonable alternative to the proposed route crossing this Avoidance Area. | Docket 1: Consolidated Application, Section 5.5 Table 16 | Section 3.2.2 |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

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| FINDINGS OF FACT 26. | Three geologically unstable areas are present within the Survey Area in SW1/4, Section 33, Township 154N, Range 103W, Williams County, in NW1/4, Section 3, Township 155N, Range 96W, Williams County, and in N1/2, Section 27, Township 155N, Range 94W, Mountrail County. Cenex stated that avoiding these areas would require crossing similar geologically unstable areas. Cenex completed additional geotechnical investigations to ensure the pipe will be installed in geologically stable areas and to minimize the potential for pipeline integrity issues. For these geologically unstable areas Cenex will use the Cut and Cover method described in its and (1) align the pipeline perpendicular or nearly perpendicular to the contours, (2) bury the pipeline at 8 feet, (3) utilize trench-breakers consistent with the Trench Breaker Specification Drawing filed on November 29, 2017, (4) utilize native cohesive materials to backfill the trench, (5) compact the backfill to 95 percent of the maximum dry density and optimum moisture (-1 to +2%) per ASTM 0698, (6) provide drainage in order to prevent water from ponding or collecting near the top of the slope or along the excavation, and (7) install water bars and complete appropriate reclamation. | Docket 85: Late filed exhibit 25- Geotech investigation report | <i>Section 3.2.2</i> |
| FINDINGS OF FACT 27. | The Project will be located within five hundred feet of two inhabited residences. Cenex has obtained waivers from the owners of these residences and has filed the waivers with the Commission | Docket 69: Waiver of Avoidance Area - Beck; Docket 70: Waiver of Avoidance Area- Axness | <i>Section 3.2.2</i> |
| FINDINGS OF FACT 28. | Cenex conducted wetland delineations within the Study Area identified for a majority of the route, and will complete any remaining field surveys prior to construction. Impacts to wetlands will be minimized by temporarily trenching through basins or will be avoided by boring. All work within USAGE jurisdictional areas will comply with Nationwide Permit Number 12. | Docket 1: Application, Section 4.18; Dockets: 30 & 59 and re-route submittals | <i>Section 3.2.2</i> |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

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| Selection Criteria | | | |
| FINDINGS OF FACT 29. | In accordance with the Commission's Selection Criteria, a transmission facility route shall be designated if it is demonstrated that any significant adverse effects that will result from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum. | Docket 1: Consolidated Application, Section 5.3.1. | Section 3.2.3 |
| FINDINGS OF FACT 30. | Cenex has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria. No significant adverse impact will result from the location, construction, and operation of the Project. | Docket 1: Consolidated Application, Section 5.3.1. | Section 3.2.3 |
| FINDINGS OF FACT 31. | Major water bodies crossed by the Project include the Missouri River in Montana, the Little Muddy River, White Earth River, and Little Knife River. An upstream main pipeline valve and a downstream main pipeline valve would be located each of the crossings. Cenex testified that the Shell and Beaver Creeks and Little Muddy, White Earth, and Little Knife Rivers in North Dakota will be bored to a minimum depth of twenty feet below the bed. | NDAC 69-06-08-02(3);Docket 1: Consolidated Application, Sec. 7.3 | Section 3.2.3 |
| Additional Mitigative Measures | | | |
| FINDINGS OF FACT 35. | Cenex testified it will retain environmental inspectors on each pipeline spread to ensure regulatory and environmental compliance. | Docket 100: Findings of Fact, Conclusions of Law and Order | Section 3.3 |
| FINDINGS OF FACT 38. | Cenex testified it will use best management practices in order to minimize erosion and sediment discharge during construction. | Docket 140: North Dakota SWPPP; Docket 31: Construction Environmental Program | Section 3.3 |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

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| FINDINGS OF FACT 39. | In the event that construction is undertaken by Cenex after topsoil has frozen to the point that frost inhibits soil segregation, Cenex has committed to the following applicable winter construction guidelines as set forth in the following documents: North Dakota State University Extension Service, Publication R1728, "Successful Reclamation of Lands Disturbed by Oil and Gas Development and Infrastructure Construction, August 2014; INGAA Foundation, Inc. Report No. 2013.04, "Planning Guidelines for Pipeline Construction During Frozen Conditions," December 2013. In addition, unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/early winter to the point that frost inhibits proper soil segregation. | Docket 100: Findings of Fact, Conclusions of Law and Order; Dockets 196, 198, 201 | Section 3.3 |
| FINDINGS OF FACT 40 | Cenex testified that impacts to wooded draws, wind breaks and other wooded areas within the right-of-way would be limited to a 50-foot disturbance area so as to minimize tree and shrub removal. | Docket 31: Construction Environmental Program (CEP) | Section 3.3 |
| FINDINGS OF FACT 41. | Cenex has developed a Construction Environmental Program, which outlines construction related environmental policies, procedures and protection measures for construction of the Project. | Docket #31- Construction Environmental Program Report | Section 3.3 |
| COMMISSION ORDERS | | | |
| Commission Order 6 | Cenex shall complete Class III cultural resource surveys for any portions of the designated corridor not yet surveyed. Cenex shall file with the Commission documentation from NDSHPO indicating concurrence that no historic properties or sites will be affected prior to beginning construction in those areas. | Docket 89: Late filed Exhibit 26 – Updated Exhibits containing surveys for areas not yet surveyed; Docket 94 SHPO Concurrence Letter on Cenex Pipeline, LLC’s Cultural Resource Report | Section 4.1 |



PU-17-97 CENEX PIPELINE, L.L.C.
10” REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

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|---|---|--|------------------------------------|
| Commission Order 7 | Cenex shall file with the Commission surveys for biological and wetlands resources for any portions of the designated corridor not yet surveyed. Cenex shall not commence construction in any unsurveyed areas until approval from the Commission to proceed has been given. | Docket 89: Late filed Exhibit 26 – Updated Exhibits containing surveys for areas not yet surveyed; | Section 4.1 |
| Commission Order 8 | Prior to commencing construction of any portion of the proposed Project, Cenex shall obtain all necessary licenses and permits for construction of such portion, and provide copies to the Commission prior to construction of that portion of the project. | Docket 100: Findings of Fact, Conclusions of Law and Order | Section 4.1 |
| Commission Order 12 | One year after the Project is placed in service, Cenex shall file with the Commission a summary of the status of restoration activities related to the Project, including any restoration-related issues raised by landowners or identified by Cenex. | Docket 100: Findings of Fact, Conclusions of Law and Order | Section 4.1 |
| CERTIFICATION RELATING TO ORDER PROVISIONS | | | |
| Transmission Facility Siting | | | |
| CERTIFICATION RELATING TO ORDER PROVISIONS 2. | Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations. | Docket 100: Findings of Fact, Conclusions of Law and Order | Section 5.1 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 3. | Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the transmission facility that requires said license or permit. | Docket 100: Findings of Fact, Conclusions of Law and Order | Section 5.1 |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

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|--|---|---|------------------------------------|
| CERTIFICATION RELATING TO ORDER PROVISIONS 3. | Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the transmission facility that requires said license or permit. | NA | Section 5.1.2 |
| Construction | | | |
| CERTIFICATION RELATING TO ORDER PROVISIONS 8. | Company understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area. | Docket 94: SHPO Concurrence Letter | Section 5.2.1 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 10. | Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated on construction activities on a monthly basis. | Dockets 161, 177, 185, 188, 194, 195, and 202; Monthly Construction Reports | Section 5.2.2 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 12. | Company understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must also be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to prated topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced. | Docket 100: Findings of Fact, Conclusions of Law and Order | Section 5.2.3 |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

| Source of Project Specification | Description of Project Specification | Written Verification | 3 rd Party Verification |
|--|---|--|------------------------------------|
| CERTIFICATION RELATING TO ORDER PROVISIONS 13. | Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road. | Dockets 140, 141, 143, 152, 164, 170, 173, 174, 178, and 181; Utility Occupancy, Road Crossing Permits | <i>Section 5.2.4</i> |
| CERTIFICATION RELATING TO ORDER PROVISIONS 14. | Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners. | Docket 100: Findings of Fact, Conclusions of Law and Order | <i>Section 5.2.5</i> |
| CERTIFICATION RELATING TO ORDER PROVISIONS 15. | Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made and a report of such examination is filed with the Commission and the State Historical Society. | Docket 94 SHPO Concurrence Letter; Docket 197: Cultural Memorandum | <i>Section 5.2.6</i> |
| CERTIFICATION RELATING TO ORDER PROVISIONS 16. | Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures are taken by Company. | Docket 100: Findings of Fact, Conclusions of Law and Order | <i>Section 5.2.7</i> |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

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|--|--|--|------------------------------------|
| CERTIFICATION RELATING TO ORDER PROVISIONS 17. | Company understands and agrees that the Commission has authority to stop Project construction activities in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm. | Docket 100: Findings of Fact, Conclusions of Law and Order | Section 5.2.8 |
| Restoration and Maintenance | | | |
| CERTIFICATION RELATING TO ORDER PROVISIONS 18. | Company understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction. | Docket 1: Application; Docket 31: Construction Environmental Program | Section 5.3.1 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 19. | Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the transmission facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition. | Docket 1: Application; Docket 31: Construction Environmental Program | Section 5.3.2 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 20. | Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission. | Docket 1: Application; Docket 31: Construction Environmental Program | Section 5.3.3 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 21. | Company will fulfill its obligation for reclamation and maintenance of the approved transmission facility right-of-way, transmission facility, and associated facilities continuing throughout the life of the transmission facility. | | Section 5.3.4 |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

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|--|---|--|------------------------------------|
| CERTIFICATION RELATING TO ORDER PROVISIONS 22. | Company will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility. | Docket 1: Application | Section 5.3.5 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 23. | Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility. | Docket 1: Application; Docket 31: Construction Environmental Program | Section 5.3.6 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 24. | Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached. | Dockets: 143, 184, and 209, Tree and Shrub Mitigation | Section 5.3.7 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 25. | Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis. | Docket 31: Construction Environmental Program | Section 5.3.8 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 26. | Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility. | Docket 1: Application | Section 5.3.9 |
| Communication with Landowners and PSC | | | |
| CERTIFICATION RELATING TO ORDER PROVISIONS 27. | Company understands and agrees that, prior to beginning construction of the transmission facility at a location, it shall send a letter to each landowner with whom an easement was executed for that location specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the easement. | Docket 139: Preconstruction Conference Call and NOI | Section 5.4.1 |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

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|--|--|---|------------------------------------|
| CERTIFICATION RELATING TO ORDER PROVISIONS 28. | Company understands and agrees that it will file with the commission the name and phone number of the current company representative who is responsible for receiving and resolving landowner issues for the transmission facility. The company will update this information whenever there is a change to the current company representative for the life of all easements for the transmission facility. | Docket 139: Preconstruction Conference Call and NOI | Section 5.4.1 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 29. | Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction. | NA | Section 5.4.2 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 30. | Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the transmission facility, including injuries to any person. | Dockets 186, 189, and 197 | Section 5.3.3 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 31. | Company agrees to report to the Commission , as soon as reasonably possible, the presence in the permit area of any critical habitat or threatened or endangered species of which Company becomes aware and which were not previously reported to the Commission | NA | Section 5.3.4 |
| CERTIFICATION RELATING TO ORDER PROVISIONS 32. | Company understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility. | Docket 191: Certification Relating to Transmission Facility Modification Pursuant to Certification Relating to Order provision No. 32 | Section 5.3.5 |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Cross Reference Matrix
 May 2021

| Source of Project Specification | Description of Project Specification | Written Verification | 3 rd Party Verification |
|--|--|--------------------------|------------------------------------|
| CERTIFICATION RELATING TO ORDER PROVISIONS 33. | Company agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAO 83) UTM Zone 13N or 14N feet (NAO 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed . | Docket 204: Asbuilt Maps | <i>Section 5.4.6</i> |
| CERTIFICATION RELATING TO ORDER PROVISIONS 34. | Company shall notify the Commission as soon as reasonably possible if any damage , as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined. | NA | <i>Section 5.4.7</i> |
| Route Adjustments Before or During Construction | | | |
| CERTIFICATION RELATING TO ORDER PROVISIONS 35. | Company agrees to utilize the following procedures if Company seeks a route adjustment before or during construction of the pipeline, pursuant under N.D.C.C. | NA | <i>Section 5.4.8</i> |
| CERTIFICATION RELATING TO ORDER PROVISIONS 36. | Company will specifically identify which subsection of NDCC 49-22.1-15 it is requesting the adjustment under. Company will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application. | NA | <i>Section 5.4.8</i> |

***Note: Black shaded boxes represent potential non-compliance issues.**



1.0 EXECUTIVE SUMMARY

The North Dakota Public Service Commission (PSC) retained Wenck Associates, Inc. (now Stantec) to complete site inspections for the construction of the 10-inch Refined Fuels Pipeline (Project), constructed by Cenex Pipeline, LLC (Cenex). The Project construction was comprised of two spreads, within Williams, Mountrail, and Ward Counties. Spread 1 (West) was contracted by Frontier Services and Spread 2 (East) was contracted by Loenbro, including those portions sub-contracted to Stealth Energy Group. The purpose of the inspections was to ensure the project was constructed in compliance with the siting laws and rules and the applicable PSC Orders for the Project.

A pre-construction conference call was held for the Project 22 May 2019; Stantec attended the call. Stantec reviewed Project documents and plans to become familiar with applicable PSC Orders. Construction of the project was commenced in June 2019 and the project was commissioned in June 2020. The Final Monthly Construction report (Docket Item 202) was filed 9 March 2020. Stantec conducted an as-built inspection of the Project area April 19-21, 2021.

At the time of the as-built inspection, the pipeline trench had been backfilled, soils had been recontoured, and topsoil replaced. However, there were frequent instances of poor reclamation efforts along a few roadway ROW access areas, unreplaced fencing, rock piles remaining with significant topsoil fractions, and poor handling and cleanup of block valve pad materials (and related infrastructure). Additionally, a temporary approach was observed to be left in place.

As-built conditions in various settings along the route were generally acceptable but substandard conditions were observed. Cropland had been recently plowed in a different manner than adjacent field conditions, along the majority of the route, raising questions as to if the cropland has been planted or not and if decompaction work had been performed by Cenex after submission of the final monthly construction report. KLJ stated reseeding of non-cropland areas was completed in 2020; however, non-cropland areas were devoid of vegetation during the April 2021 inspections, including weedy annual species. Stantec observed minimal topsoil and subsoil mixing, with mixing typically located at HDD locations. In general, BMP placement, choice, and maintenance was an issue at many locations. Minor erosion was noted as well as the need for additional or repaired BMPs. A revegetation and reclamation inspection is to follow.

The Project appeared to have been constructed as planned with efforts to minimize impacts. Some issues need to be resolved for the Project to be considered complete and in full compliance, including 1) obtaining written documentation of several items (listed below), 2) several areas needing additional erosion control or repair, 3) vegetation establishment throughout the project area, and 4) verification of final reclamation activities (to be determined during the subsequent Reclamation and Revegetation inspection). Stantec recommends the PSC take the following steps to resolve these issues.

Recommended Action Steps



→ **Request Now**

ROW Conditions

- Status of reclamation activities, re-grading of poorly graded areas, maintenance of BMPs, and potential need for additional BMPs
- Status of filled wetland drainageway and other poorly graded drainageways
- Status of indications of recent plowing and/or seeding evidenced by soil disturbance and lack of vegetation, including annual weeds
- Status of SWPPP related deficiencies
- Status of rockpiles with significant soil fractions
- Status of roadway ROW reclamation of access points
- Status of potential compaction issues
- Status of temporary approach
- Status of area of subsidence
- Status of missing fencing

Permits

- USACE Section 404 Permit
- Department of Transportation, Federal Highway Administration, Permit to Cross
- NDDH – Dewatering Permit
- State Water Commission – water appropriations permit (if state surface water utilized)
- NDDOT and Williams, Mountrail, and Ward County haul road permits

Approvals and Correspondence

- USDA NRCS and FSA – administered lands
- Williams, Mountrail, and Ward County concurrence of all potential required permits
- WAPA – license agreement
- Office of the City Engineer (Minot) – permitting requirements
- NDGF – Plots lands
- Landowner approval or PSC motion to approve modification (Docket 191)

Suggested

- USFWS and NDGF required construction MBTA and BGEPA surveys
- Tree and Shrub Mitigation Plan (Replacement)
- NRCS seeding records and landowner negotiations
- USFWS required re-route concurrences and correspondence of determination
- Engineering design drawings
- Documentation of no significant biological discoveries as related to raptor nests

→ **Future Verification**

- Successful re-seeding and revegetation in fall of 2021



2.0 BACKGROUND AND SCOPE

2.1 INTRODUCTION

The Cenex 10" Refined Fuels Pipeline (Project) in Williams, Mountrail, Ward counties, ND, is under the jurisdiction of the North Dakota Public Service Commission (PSC), which issued its Findings of Fact, Conclusions of Law, and Order in Case No. PU-17-97 on 14 March 2018, granting Certificates of Corridor Compatibility No. 202 and Route Permit No. 212 for the Project. Construction of the Project was comprised of two spreads. Spread 1, constructed by Frontier, is approximately 59.2 miles in ND, originating in Section 34, T156N, R97W, Williams County heading west and intersecting with the North Dakota and Montana border in Section 22, T153N, R104W, Williams County. Spread 1 ends in Richland County, Montana (MT). Spread 2, constructed by Loenbro, is approximately 90.5 miles originating in Section 35, T156N, R97W, Williams County heading east through Williams, Mountrail, and Ward Counties, ending at the CHS terminal approximately one mile west of Minot in Section 20, T155N, R83W, Ward County. The total distance of the pipeline is approximately 181.5 miles, of which 149.7 miles is in North Dakota.

2.2 PURPOSE

The North Dakota Energy Conversion and Transmission Facility Act (North Dakota Century Code Chapter 49-22) authorizes the Public Service Commission to determine that the location, construction, and operation of jurisdictional energy conversion and transmission facilities will produce minimal adverse effects on the environment and the welfare of citizens of North Dakota. Post-construction inspections ensure that such projects are constructed in compliance with the siting laws (North Dakota Century Code Chapter 49-22) and rules (North Dakota Administrative Code Article 69-06) and the applicable PSC Findings of Fact, Conclusions of Law, and Order (Order). The PSC retained Wenck Associates, Inc. (now Stantec) to complete an as-built, post-construction inspection of the Project.

2.3 METHODS AND SCOPE OF INSPECTION

2.3.1 Project Compliance Identification

Stantec's intent was to ensure the Projects obligations of compliance with specifications found in the Findings of Fact, Conclusions of Law and Order, Certifications Relating to Order Provisions, and Tree and Shrub Mitigation. These "Project Specifications" are listed in Table 1, column 1 (Source of Project Specification). Project Specifications originate from 1) siting laws and rules, 2) Project activities or specifications proposed in the Consolidated Application for a Certificate of Corridor Compatibility and Route Permit (Application), 3) Project plans described in the Findings of Fact, Conclusions of Law, and Order 4) Certification Relating to Order Provisions, and 5) regulations or recommendations from other



agencies. A description of the Project Specification as it was written in the submitted docket is provided in Table 1, column 2 (Description of Project Specification).

2.3.2 Document Review

Stantec staff reviewed publicly-available Project documents in the PSC Online Case Search (ND PSC April 2021) to find written verification of compliance for the Project Specifications listed in Table 1. If written verification was filed, the source and name of the documentation is listed in Table 1, column 3 (Written Verification). The findings of written verification are further elaborated upon in the section of this document as stated in Table 1, column 4 (3rd Party Verification). Project Specifications that require on-site inspection verification are elaborated upon in the associated sections of this document identified in Table 1, column 4 (3rd Party Verification). Black shaded boxes in the table represent Project specifications that are potentially non-compliant because they have no written verification, or there is an issue with the findings in 3rd Party Verification.

2.3.3 On-Site Inspection

Joseph Sander, Stantec environmental scientist, inspected the Project route on April 19-21, 2021. The site was inspected by driving to access points and visually inspecting the Project area route from those points. Geographic coordinates were recorded at observation points and potential problem areas using ESRI ArcGIS Collector and Survey123 software applications on a tablet utilizing internal satellite triangulation software or paired with a Trimble Global Positioning System (GPS) (**Appendix A**). Digital photographs were taken with the tablet utilizing the Survey123 application to geotag photo locations and associate all collected data from each Observation Point (Figures 1-26). Photographs were taken showing representative portions of the route, aboveground Project infrastructure, and problem areas (**Appendix B**).

If on-site inspection of a Project Specification was completed, the findings are described in the referenced section in Table 1, column 4 (3rd Party Verification). Black shaded boxes in the table represent Project specifications that are potentially non-compliant or may require additional documentation to be filed with the Commission.



3.0 FINDINGS OF FACT

The following subsections outline compliance with only the Findings of Fact relevant to the scope of the as-built field inspection task.

3.1 SIZE, TYPE, AND PREFERRED LOCATION OF FACILITY

The Project will include 13 main line valves, one pipeline pig launcher located at the terminal in Glendive, Montana, and one pig receiver located at the terminal in Minot, North Dakota. Valves will be located on either side of the following rivers: the Little Muddy, White Earth, and Little Knife Rivers in North Dakota (Finding of Fact 6).

Aboveground facilities were observed, including mainline valves and valves on either side of the Little Muddy, White Earth, and Little Knife Rivers (**Photo Observation Points 11, 27, 52**). Observed aboveground structures were constructed upon engineered and graded aggregate pads with access roads constructed through roadway Right-of-Way (ROW) and chain link fences exist around the aboveground structures restricting access to authorized personnel only. Aboveground structures were found to be in good condition; however, pad material was strewn about and some remaining materials stockpiled nearby (**Photo Observation Points 11, 27, 30**).

The Project's permanent right-of-way will primarily consist of a 50-foot wide easement. During construction, up to an additional 25 feet in width of temporary workspace will be necessary for a total of up to 75 feet of construction right-of-way (Finding of Fact 9).

Stantec observed the construction ROW to be approximately 75 feet wide.

3.2 SITING CRITERIA

The Commission has developed criteria pursuant to North Dakota Century Code section 49-22.1-03 to guide the site, corridor, and route suitability evaluation and designation process. The criteria, as set forth in North Dakota Administrative Code 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria (Finding of Fact 15).

3.2.1 Exclusion Areas

Cenex testified that 38 cultural resource sites were identified during the Class III field survey for those areas where survey access was obtained. On June 28, 2017, the NDSHPO issued a letter indicating that it concurs with a "no significant sites affected" determination provided the Project is of the nature stated, takes place in the locations plotted in the report provided by Cenex and the management recommendations for avoidance are followed as stipulated. In December 2017, Cenex provided the NDSHPO with survey results for additional areas surveyed. On December 22, 2017, the NDSHPO issued a letter indicating that "[T]here has been a good faith effort to identify and avoid impacts to "Significant



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
Findings of Fact
May 2021

Sites," provided the projects remain as described and mapped. The December 22, 2017, NDSHPO letter identifies four sites that the project should avoid, and one of those sites that should have fencing and archaeological monitoring. NDSHPO also found acceptable Cenex" Cultural Resource Unanticipated Discovery and Monitoring Plan. Cenex will avoid impacts to any cultural sites in accordance with NDSHPO recommendations. Class III cultural resource surveys will be completed for any portions of the corridor not yet surveyed (Finding of Fact 18).

Cenex stated 39 (a discrepancy between the Finding of Fact stating a total of 38). Finding previously undocumented cultural resources were identified in the survey corridor centered on the proposed pipeline in Docket 01: Application for a Certificate of Corridor Compatibility & Route Permit for Cenex Pipeline, Section 4.12 Cultural and Archaeological Resources. Stantec has confirmed the letter indicating "good faith and effort to identify and avoid impacts to 'Significant Sites,'" (Docket 36) and the concurrence letter from NDSHPO accepting Cenex's unanticipated discovery and monitoring plan (Docket 94). Cenex submitted documentation of cultural resource incursion, as detailed in Section 5.4.3.

Cenex testified that the Study Area contains 2.16 acres of Dakota skipper habitat, of which 0.69 acres is located in the Project's 75 foot right-of-way. Potential Dakota skipper habitat was delineated if it visually met the Dakota skipper habitat descriptions in the US Fish and Wildlife Service's Section 7 Guidance (May 2016). Seventeen areas of potential Dakota skipper habitat were delineated within the study area. Cenex testified it has adopted avoidance and mitigation strategies to avoid direct impacts to the species. In addition to construction specifications to minimize dust and noise within close proximity to potential habitat, Cenex will install a fence providing a 10-foot buffer around all identified potential Dakota skipper habitat within the study area and will place a 50-foot buffer on all identified potential Dakota skipper habitat within the study area for ground clearing activities. In those areas where the 50-foot buffer does not allow sufficient right- of-way for construction, Cenex will horizontally directional drill the pipeline and pass machinery through the right-of-way until on the other side where ground clearing activities can resume. Cenex provided information specific to the avoidance plans for each site. As a result of these mitigation measures, a buffer zone to protect the integrity of this Exclusion Area has been established (Finding of Fact 19).

Cenex submitted Docket 145: Dakota Skipper Avoidance Strategy Addendum, on October 7, 2017. During construction inspections, Stantec observed Dakota Skipper avoidance as documented in the plan.

The route would cross through a portion of the Haugen Waterfowl Protection Area. Cenex testified that this route had the least environmental impact because Cenex maintains an existing pipeline right-of-way within this area. By following the existing pipeline route would cause the least disturbance to previously undisturbed areas. Cenex testified that the USFWS was conveyed title to this property subject to an existing right- of-way owned by Cenex. Cenex further testified that the USFWS has not objected to the crossing (Finding of Fact 20).

Cenex acknowledged the Haugen Waterfowl Protection Area as an avoidance area and outlined a proposed mitigation for it in Docket 1: Application for a Certificate of Corridor Compatibility & Route Permit for Cenex Pipeline. Cenex submitted Dockets 71 and 72, Haugen Warranty Deed and Right of Way Easement.



No other exclusion areas are located within the Survey Area (Finding of Fact 21).

Stantec did not observe the route to encounter any other exclusion areas.

3.2.2 Avoidance Areas

Areas within five hundred feet of a residence, school, or place of business are Avoidance Areas. Pursuant to North Dakota Century Code section 49-22.1-03, the five hundred foot avoidance area criteria for an inhabited rural residence may be waived by the owner of the inhabited rural residence in writing (Finding of Fact 24). The Project will be located within five hundred feet of two inhabited residences. Cenex has obtained waivers from the owners of these residences and has filed the waivers with the Commission (Finding of Fact 27).

Cenex submitted Dockets 47 and 74 containing a total of 2 landowner waivers. Docket 1: Application, table 13; describes a total of 7 residences and 1 business are located within 500 feet of the pipeline. Stantec can only assume re-routes or a change in status of inhabitation since the application have alleviated the initial (5) residences within 500 feet identified on the application.

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. Cenex testified the City of Minot has not objected to the route and has indicated that the terminus for the proposed pipeline will be outside of the Wellhead Protection Zone. The Commission finds there is no reasonable alternative to the proposed route crossing this Avoidance Area (Finding of Fact 25).

Cenex committed to on-going permit requirement discussions with the City of Minot; however, no formal approval exists with the case file. Stantec recommends the PSC follow up with Cenex on City of Minot approvals and permits required for the Wellhead Protection Area.

Three geologically unstable areas are present within the Survey Area in SW1/4, Section 33, Township 154N, Range 103W, Williams County, in NW1/4, Section 3, Township 155N, Range 96W, Williams County, and in N1/2, Section 27, Township 155N, Range 94W, Mountrail County. Cenex stated that avoiding these areas would require crossing similar geologically unstable areas. Cenex completed additional geotechnical investigations to ensure the pipe will be installed in geologically stable areas and to minimize the potential for pipeline integrity issues. For these geologically unstable areas Cenex will use the Cut and Cover method described in its and (1) align the pipeline perpendicular or nearly perpendicular to the contours, (2) bury the pipeline at 8 feet, (3) utilize trench-breakers consistent with the Trench Breaker Specification Drawing filed on November 29, 2017, (4) utilize native cohesive materials to backfill the trench, (5) compact the backfill to 95 percent of the maximum dry density and optimum moisture (-1 to +2%) per ASTM 0698, (6) provide drainage in order to prevent water from ponding or collecting near the top of the slope or along the excavation, and (7) install water bars and complete appropriate reclamation (Finding of Fact 26).

Stantec visited multiple identified locations of potential geological instability during field inspections.. The portions of the Project through the Section 33-154N-103W Williams County geological unstable area was



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
Findings of Fact
May 2021

constructed with an opened trenched using "Cut and Cover Methods." Section 3-155N-96W, Williams County, and 27-155N-94W, Mountrail County were constructed via HDD. These HDDs were documented through re-route submittals to the Commission. HDD is generally considered the preferred method for construction in geologically unstable areas. Stantec can confirm areas of geologic instability were avoided in compliance with NDGS guidance.

Cenex conducted wetland delineations within the Study Area identified for a majority of the route, and will complete any remaining field surveys prior to construction. Impacts to wetlands will be minimized by temporarily trenching through basins or will be avoided by boring. All work within USACE jurisdictional areas will comply with Nationwide Permit Number 12 (Finding of Fact 28).

Cenex filed numerous re-route certifications with additional analysis performed for potential wetlands. Potential issues with trenching methods through wetlands were noted during previous inspections conducted by Wenck (now Stantec), specifically at a location in Section 29, T156N, R97W (Docket #162-Interim Topsoil Inspector Report). Stantec observed the majority of wetlands to be bored via HDD during April 2021 on-site inspections at several areas (**Observation Points 9, 15, 22, 24, 33**).

3.2.3 Selection Criteria

In accordance with the Commission's Selection Criteria , a transmission facility route shall be designated if it is demonstrated that any significant adverse effects that will result from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum (Finding of Fact 29).

Cenex has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria. No significant adverse impact will result from the location, construction, and operation of the Project (Finding of Fact 30).

Major water bodies crossed by the Project include the Missouri River in Montana, the Little Muddy River, White Earth River, and Little Knife River. An upstream main pipeline valve and a downstream main pipeline valve would be located each of the crossings. Cenex testified that the Shell and Beaver Creeks and Little Muddy, White Earth, and Little Knife Rivers in North Dakota will be bored to a minimum depth of twenty feet below the bed. (Finding of Fact 31).

At the time of the inspection, the land had been restored to its pre-construction contours. Generally, areas impacted by pipeline construction (except aboveground facilities) were returned to previous land use, including both crop land and rangeland.

Stantec observed Cenex to adhere to the HDD and valve requirements for the above-mentioned rivers. In general, wetlands were avoided by HDD methods and best management practices were followed when utilizing trenching methods. However, BMP placement, choice, and maintenance were found to be lacking construction industry standards and manufacturers specifications as well as Cenex's own SWPPP near waterways (**Observation Points 6, 29, 30, 32, 33, 47, 54**).



3.3 ADDITIONAL MITIGATIVE MEASURES

Cenex testified it will retain environmental inspectors on each pipeline spread to ensure regulatory and environmental compliance (Finding of Fact 35).

Stantec observed environmental inspectors from KLJ employed by Cenex on the Project.

Cenex testified it will use best management practices in order to minimize erosion and sediment discharge during construction (Finding of Fact 38).

Cenex submitted Docket 140: North Dakota SWPPP; and, Docket 31: Construction Environmental Program. For more information regarding compliance with Finding of Fact 38, see Sections 5.1.1.2, 5.1.1.4, and 5.2.3

In the event that construction is undertaken by Cenex after topsoil has frozen to the point that frost inhibits soil segregation, Cenex has committed to the following applicable winter construction guidelines as set forth in the following documents: North Dakota State University Extension Service, Publication R1728, "Successful Reclamation of Lands Disturbed by Oil and Gas Development and Infrastructure Construction, August 2014; INGAA Foundation, Inc. Report No. 2013.04, "Planning Guidelines for Pipeline Construction During Frozen Conditions," December 2013. In addition, unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/early winter to the point that frost inhibits proper soil segregation (Finding of Fact 39).

Stantec performed a construction inspection report in January of 2020 and notified the PSC of active topsoil segregation during frozen conditions and evidence of construction crews not following the stated guidance. Stantec submitted Docket 201: Interim As-Built Construction Inspection Report; as a result of the January 2020 construction inspection detailing frozen conditions during active topsoil segregation. Cenex submitted Docket 196: Request for expedited topsoil removal with memorandum in support of request; and, Docket 198: Addendum to 3 Feb. 2020 Winter Topsoil Removal Memorandum; in February of 2020, after Stantec's construction inspection notifying the PSC. Cenex recommitted to following guidelines and proposed ground thawing methodology. PSC submitted Docket 199: Commission Motion to approve topsoil removal.

Cenex testified that impacts to wooded draws, wind breaks and other wooded areas within the right-of-way would be limited to a 50-foot disturbance area so as to minimize tree and shrub removal (Finding of Fact 40).

Stantec observed tree and shrub removal to be limited to 50 foot ROW where necessary (**Observation Point 1**).

Cenex has developed a Construction Environmental Program, which outlines construction related environmental policies, procedures and protection measures for construction of the Project (Finding of Fact 41).



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
Findings of Fact
May 2021

Cenex submitted Docket 31: Construction Environmental Program; detailing planned compliance with Finding of Fact 41. See Section 5.0 for additional information regarding compliance with this Finding of Fact.



4.0 COMMISSION ORDERS

The following subsections outline compliance with only the Commission Orders relevant to the scope of the as-built field inspection task.

4.1 PENDING APPLICATION MATERIALS

Cenex shall complete Class III cultural resource surveys for any portions of the designated corridor not yet surveyed. Cenex shall file with the Commission documentation from NDSHPO indicating concurrence that no historic properties or sites will be affected prior to beginning construction in those areas (Commission Order 6).

Cenex shall file with the Commission surveys for biological and wetlands resources for any portions of the designated corridor not yet surveyed. Cenex shall not commence construction in any unsurveyed areas until approval from the Commission to proceed has been given (Commission Order 7).

Cenex submitted Docket 89: Late filed Exhibit 26 – Updated Exhibits containing surveys for areas not yet surveyed; and, Docket 94 SHPO Concurrence Letter on Cenex Pipeline, LLC's Cultural Resource Report.

Prior to commencing construction of any portion of the proposed Project, Cenex shall obtain all necessary licenses and permits for construction of such portion, and provide copies to the Commission prior to construction of that portion of the project (Commission Order 8).

See Section 5.1 Interagency Compliance; for information pertaining to regulatory compliance with Commission Order 8.

One year after the Project is placed in service, Cenex shall file with the Commission a summary of the status of restoration activities related to the Project, including any restoration-related issues raised by landowners or identified by Cenex (Commission Order 12).

As of the date of this as-built report, the project has not been in service for the period of one year; and Cenex has not yet filed a restoration report. Stantec recommends PSC revisit this with Cenex in June 2021.



5.0 CERTIFICATION RELATING TO ORDER PROVISIONS

5.1 INTERAGENCY COMPLIANCE

Comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations (Certification Statement 2). Obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the transmission facility that requires said license or permit (Certification Statement 3).

A summary of required permits as presented in the application by KLJ is presented in Table 2 below, as referenced from Docket 1: Consolidated Application, Table 16. A summary of agency correspondence, approvals, and permits as it relates to as-built conditions is presented in Table 3 below. The Table 3 summary includes the known responses received at the time of application submittal and those that occurred after the PSC issuance of the Finding of Fact, Conclusion of Law and Order and the Corridor Compatibility Certificate and Route Permit, as well as follow up compliance with permit requirements and resolution of issues raised. The table also includes information as to whether the response exists within the case files, which includes the Application. Stantec is of the opinion, if official correspondence after the PSC issuance of the Finding of Fact, Conclusion of Law and Order is not required to be submitted to the case files, specific permit requirement compliance cannot be known.

Table 2 Summary of Required Permits (per Application)

| Agency | Applicable Resource/Program | Approval Y/N | Permit Required Y/N | Proof Permit Obtained Y/N |
|--|--|-----------------|---------------------------|---------------------------------|
| Public Service Commission | Corridor Certificate and Route Permit | Y | Y | Y |
| USACE, Regulatory Office | Crossings of Section 408 Civil Works projects or other USACE-owned or managed lands; any special requirements, restrictions, or specifications regarding constructing pipelines across or under USACE-regulated features; and any permits issued through USACE which may be applicable to the Project to include anticipated permitting timeframes | N | Y | N |
| North Dakota Department of Health (NDDH) | Identification of impacts to NDDH-administered programs | Y | Y | Y |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Certification Relating to Order Provisions
 May 2021

| Agency | Applicable Resource/Program | Approval Y/N | Permit Required Y/N | Proof Permit Obtained Y/N |
|--|---|--------------|---------------------|---------------------------|
| North Dakota Department of Transportation | Haul Road Permits | Y | Y | N |
| Williams, Mountrail, and Ward Counties | Pipeline permit/Conditional Use Permit (Mountrail and Ward) | Y | Y | Y |
| | Crossing/Road Use | Y | Y | Y |
| | Haul Road Permits | N | Y | N |
| | Floodplain permit (Ward) | NA | N | NA |
| Private Residences within 500-feet of pipeline | Waver of Avoidance Areas (7) | N | Y | N |
| Office of the City Engineer (Minot) | Exemption under Section 20.1-4 or permit under Section 20.1-6 | Y | NA | N |

Table 2 states haul road permits would be required from the NDDOT and Williams, Mountrail, and Ward Counties; however, no permits can be found in the case file.

Table 2 states conditional use permit is required in Mountrail and Ward Counties; however, Dockets 42 & 49 appear to state no permit required.

Table 2 states 7 landowner setback waivers were required; however, Finding of Fact 24 stated only 2 would be required. As outlined in the letter in Docket #47 regarding the waivers, only two properties required the waiver. As stated previously, Stantec can only assume the need for remaining waivers has been alleviated.

Table 2 states a floodplain permit is required from Ward County; however, communication from the State Water Commission provided by KLJ in Docket 1: Application, Appendix B, Scoping Package, page 215; documents no need for such floodplain permit.

Table 3 Summary of Agency Correspondence, Permits, and Approvals

| Agency | Applicable Resource/Program | Approval Y/N | Permit Required Y/N | Proof Permit Obtained Y/N |
|--|-------------------------------------|--------------|---------------------|---------------------------|
| United States Department of Interior, Bureau of Indian Affairs | Tribal lands | Y | N | NA |
| Federal Aviation Administration | Lands affecting navigable air space | Y | N | NA |
| USFWS North | Federally listed threatened and | Y | N | NA |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Certification Relating to Order Provisions
 May 2021

| Agency | Applicable Resource/Program | Approval Y/N | Permit Required Y/N | Proof Permit Obtained Y/N |
|--|---|--------------|---------------------|---------------------------|
| Dakota Field Office | endangered species | | | |
| | USFWS-managed lands | Y | Y | Y |
| | MBTA and BGEPA consultation | Y | N | NA |
| U.S. Department of Agriculture (USDA) Natural Resources Conservation Service-Williams County | Identification of impacts to NRCS-administered lands and programs | N | N | NA |
| USDA Farm Services Agency (FSA) | Identification of impacts to FSA-administered lands and programs | N | N | NA |
| U.S. Department of Defense (USDOD) - Cable Affairs | Setbacks from sensitive installations | Y | N | NA |
| North Dakota Game and Fish Department (NDGFD) | State Conservation Priority Species | Y | N | NA |
| | Game Refuges | Y | N | NA |
| | Game Management Areas | Y | N | NA |
| | Private Land Open to Sportsmen | Y | N | NA |
| | Bald and Golden Eagle Nest Data | Y | N | NA |
| North Dakota Department of Transportation (NDDOT) | Highway right-of-way | Y | Y | Y |
| North Dakota Department of Commerce | North Dakota Federal Program Review Process | Y | N | NA |
| North Dakota Parks and Recreation Department | North Dakota Natural Heritage Inventory system, State Parks, Recreation areas, Natural areas, and Land and Water Conservation Fund projects | Y | N | NA |
| North Dakota SHPO | Natural Register of Historic Places, Cultural Resources Consultation | Y | N | NA |
| North Dakota Geological Survey (NDGS) | Identification of impacts to NDGS-administered lands and programs | Y | N | NA |
| North Dakota State Water Commission (NDSWC) | Identification of impacts to rural water supply systems and NDSWC-administered projects | Y | N | NA |
| North Dakota Department of Trust Lands (NDDTL) – | Identification of impacts to NDDTL-administered School Trust lands. | Y | Y | Y |



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
 Certification Relating to Order Provisions
 May 2021

| Agency | Applicable Resource/Program | Approval Y/N | Permit Required Y/N | Proof Permit Obtained Y/N |
|---|---|--------------|---------------------|---------------------------|
| School Trust | | | | |
| NDDTL – Mineral Trust | Identification of impacts to NDDTL-administered Mineral Trust lands | Y | NA | NA |
| Western Area Power Administration | Crossings and setbacks | N | UK | N |
| BNSF | Railroad crossings | Y | Y | Y |
| Northwest Rural Water District Crossing | Infrastructure crossings | Y | Y | Y |
| Williams, Mountrail, and Ward Counties | Confirmation of any local ordinances or other resources under Williams County jurisdiction applicable to the Project; any permits issued through the County which may be applicable to the Project; and a summary of any applicable permit process and anticipated timeframes. Locations of any county-regulated drains, ditches, and/or other drainage features; relevant special requirements, restrictions, or specifications; relevant local ordinances and/or permits; and a summary of permit process and anticipated timeframes. Confirmation of current listing of noxious weeds; known locations of noxious and/or invasive weed species along the proposed route; and guidance and/or recommendations for weed control, pesticide use, and non-chemical treatment options | N | UK | N/NA |
| Townships | Road Crossings | Y | Y | Y |

Stantec recommends additional information from those agencies for which correspondence or follow up communications have not been recorded in the case files be submitted to the PSC for verification of compliance.

Those agencies for which Cenex filed permits and documentation within the case files:

- NDPSC
- USFWS – managed lands
- NDSHPO
- NDDTL - easement
- NDDEQ – NPDES Permit



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
Certification Relating to Order Provisions
May 2021

- NDDOT – Utility Occupancy Permit
- BNSF - crossings
- Williams, Mountrail, Ward County – Road/Section Line Crossing Permits
- Townships – Road/Section Line Crossing Permits
- Northwest Rural Water District Crossing

Those agencies for which Cenex filed permits but no documentation within the case files:

- USACE, Section 404 Permit
- NDDOT & County Haul Road Permits

Those agencies for which Cenex notified and no formal approval within in the case files:

- USDA NRCS and FSA
 - The correspondence does not seem to address lands administered by these programs and instead alludes to the Farmland Protection Policy Act, which is of unrelated consequence and therefore approval was granted to the project under these circumstances.
- Williams, Mountrail, and Ward Counties
 - No formal approvals or acknowledgment of project specific permits
- WAPA
 - Follow up on project specifics was to be provided to determine if a license agreement would be required; however, it is not present in the case file.
- Office of the City Engineer (Minot)
 - Email communications about permitting requirements are vague.

Stantec is of the opinion, it has identified potentially required permits or formal approvals for which Cenex has not provided copies to the case file. Those agencies and permits include:

- USDA NRCS and FSA administered lands or programs
- NDDH – Dewatering Permit
- Department of Transportation, Federal Highway Administration, Permit to Cross
- Mountrail County, Conditional Use Permit
- State Water Commission Conditional or temporary water appropriations permit
 - If state surface water was utilized for hydrostatic testing
- NDGF PLOTS
 - Approval makes no mention of PLOTS lands. No landowner agreements present in case files.
- Landowner setback waivers

Stantec recommends the PSC request verification of these permits to enter into the case file.



5.1.1 Additional Agency Conditional Rules and/or Guidance/Recommendations

Those agencies which indicated additional conditional rules and/or guidance and recommendations are outlined below. Stantec is of the opinion, conditional rules must be followed, while guidelines and recommendations do not hold the power of law; however, are not independent of approvals and are in fact conditional of approval. Therefore, deviances from guidelines or recommendations is grounds for revocation of approval.

United States Fish and Wildlife Service

Stantec cannot locate within the case file, project specific concurrence from the USFWS. Provided below are the general guidelines provided by USFWS, but note, Stantec cannot confirm project specific guidelines.

- Threatened and Endangered Species
 - Whooping Crane Surveys (spring and fall)
 - Piping Plover Habitat Surveys (April 1 to August 31)
 - Northern Long Eared Bat Habitat Surveys (prior to construction)

Stantec observed construction timing avoidance over multiple areas along the pipeline route. Stantec cannot confirm or deny the reason for every instance of construction timing avoidance. Piping Plover habitat surveys should occur from April 1 to August 31. Whooping Crane surveys should occur during the migration through North Dakota during spring and fall. Northern Long Eared Bat roost surveys should be conducted prior to disturbance in habitat areas. Stantec is of the opinion, without evidence of on-going surveys, Stantec cannot confirm compliance.

- Bald and Golden Eagle Breeding Territory and Nest Surveys (March 1 to May 15)
 - Avoid construction near Bald Eagle breeding & nesting (February 1 to July 15)
 - Avoid construction near Golden Eagles at all times

Stantec is of the opinion, the guidance includes surveys to be conducted even in absence of nesting sites and without evidence of on-going surveys, Stantec cannot confirm total compliance. Stantec is unaware of potential Bald or Golden Eagle sightings, nests, or breeding territories reports made to the USFWS. During as built inspections. Stantec observed multiple raptor nests within ½ mile of the corridor.

- Terrestrial Habitat Avoidance and Restoration
 - Native replanting should utilize warm and cool season grasses and forbs.
 - Seed varieties should be as local as possible.

Stantec is of the opinion, native seeding and planting following NRCS guidelines, as stated in the application satisfies this guidance. Stantec is also of the opinion, without proof of purchase or confirmation of seed mixes and rates utilized on specific properties, these guidelines cannot be confirmed. Stantec will follow up during reclamation inspections for further investigation into seeding practices.



PU-17-97 CENEX PIPELINE, L.L.C.
10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
Certification Relating to Order Provisions
May 2021

- Mitigation
 - Mitigate impacts by NEPA definition

Stantec is of the opinion, mitigation efforts are afforded by the permitting process, notifications, correspondence, and construction design and plans.

- Migratory Birds
 - Per 50 CFR 10.13, migratory birds are protected and require take permit

Stantec is of the opinion, nesting bird surveys performed by Cenex's Environmental Inspectors provides sufficient protection and compliance under this clause.

- Wetland/Grassland Easements
 - Coordinate potential impacts

Cenex has been in communication with USFWS with regard to potential impacts upon USFWS property interests.

Natural Resource Conservation Service

- Impacts to wetlands should be avoided.
- Disturbance should be temporary.
- Drainage (temporary or permanent) is not allowed.
- Mechanized landscaping necessary for installation should be kept to a minimum and preconstruction contours maintained.
- Temporary side cast material must be placed in such a manner not to be dispersed in the wetland.
- All trenches in a wetland must be backfilled to original elevation.

Cenex committed to implement appropriate minimization and mitigation measures at these features, which may include avoidance (e.g., workspace modification or HDD) or use of construction mats and other best management practices (BMPs) to minimize impacts when working in or around wetlands. Cenex submitted Docket 31: Construction Environmental Program as well as a Storm Water Pollution Prevention Plan. These plans elaborate upon waterbody crossings and protections.

During inspections, multiple locations were observed where the pipeline was horizontally bored underneath stream channels, open cut, or temporary bridges were constructed. Most observed wetlands were bored via HDD techniques, but some were trenched. In general, these inspections found the methods utilized to be adequate; however, SWPPP implementation was found to be inadequate (see Section 5.2.3.1).

During as-built inspections, waterbody crossings were inspected and found to be generally in good conditions with a few minor exceptions. Additional reclamation activities are recommended at some observed wetland/waterbody areas. Stantec observed gully erosion between two wetlands was filled (**Observation Point 14**) and poor grading of a drainageway, which may cause diversion of surface flows, impeding flows, and likely contributing to erosion during reclamation phase (**Observation Points 12 & 32**).

Additional BMPs and maintenance/repair is recommended at many observed wetlands and waterbodies or areas adjacent and conveyances (**Photo Observation Points 2, 5, 6, 29, 30, 32, 33, 34, 46, 47, 54**). Removal of rockpiles with significant topsoil fraction located at drainageways (**Observation Point 39**).



North Dakota Game and Fish Department

General:

- Native prairie and wooded draws should be avoided to the extent possible.
- Additional precautions be implemented into the designs of pipes crossing state waterways.
- Wetlands should be avoided, but if they cannot be, no alterations should be made to existing drainage patterns.
- Aboveground appurtenances should not be placed in wetland areas.
- Unavoidable destruction or degradation of wetland acres should be mitigated in kind.
- Aquatic Nuisance Species are a major concern, State law requires the contractor to take appropriate precautions to prevent introduction or movement of ANS within the State. The contractor should provide the department reasonable opportunity to inspect equipment prior to launch or placement into waters of the State.
- Aerial surveys should be conducted for raptor nests before construction begins. One-half mile construction buffer be implemented around active eagle nest sites (Known occupied within the past 5 years).
- Install pressure sensing valves on both sides of state waterways. These valves should be placed as close to the waterway as possible while staying out of the floodplain to reduce potential damage from ice and other floating debris.
- Develop a maintenance schedule to ensure the integrity of the pipe for the life of the project.

Project Specific:

- Recommend HDD boring and if not feasible construction should not take place between April 15 and June 1 and controls implemented to reduce erosion and sedimentation for classified fisheries White Earth and Little Muddy Rivers as well as Shell and Beaver Creek.

See Sections throughout 5.1.1 for the wetland and waterbody findings associated with construction impacts. Stantec is of the opinion, communications with NDGF concerning notifications and opportunity to inspect equipment prior to launch into waters of the state are not required to be submitted to the PSC and therefore, Stantec cannot independently verify compliance. Stantec is of the opinion, the maintenance schedule compliance is achieved by the outlined monitoring and maintenance schedule in Docket 1. Cenex could not locate a block valve close to the Little Muddy River due to a landowner dispute, and therefore moved the block valve further west. Stantec cannot locate within case file landowner, PSC, or NDGF approval for this modification. Please refer to Section 5.4.5 for more information.

Stantec observed a gully erosion between two wetlands was filled (**Observation Point 14**) and poor grading of a drainageways, which may cause diversion of surface flows, impeding flows, and likely contributing to erosion during reclamation phase (**Observation Points 12 & 32**).

North Dakota Department of Health

General

- Stormwater Permit required for disturbance over 1-acre.
- Protect against compaction, vegetation loss, and unnecessary damage to wetlands, riparian zones, delicate flora, land resources, and other sensitive areas.
- Manage construction to minimize impacts to aquatic systems through spill prevention and stream bank, bed, and vegetation disturbance avoidance and permitted pesticide use.
- Fill below the OHWM must be free of organics, debris, and wastes, temporary fill must be removed, and impacted areas restored to original condition.
- Keep noise to a minimum by operating good working equipment and ensuring construction activities are not conducted during early or late hours.
- All spills must be immediately reported, and appropriate remedial actions performed
- All solid waste materials must be managed and transported in accordance with the state's solid and hazardous waste rules.



- Select locations that minimize the potential for impacts to human health and the environment during and after construction by avoiding when possible source water protection areas and sensitive surface and groundwater environments; and, select areas with natural barriers to these environments.
- Develop a spill response plan that emphasizes rapid deployment of prepositioned assets necessary to contain spills and subsequent cleanup.
- Proper surveillance monitoring for early detection of leaks should be required.

Project Specific:

- Special care to be taken with discharge to 303d waters (Little Knife River and Little Muddy River)
- The proposed construction project overlies the following seven glacial drift aquifers, of which four have been designated as sensitive groundwater areas by the Department (*indicates sensitive glacial drift aquifer): Little Muddy, Yellowstone River Channel, Ray, Shell Creek-White Lake*, White Earth*, Little Knife River Valley* and Shell Creek- East Branch*.

See Sections throughout 5.1.1 for the wetland and waterbody findings associated with construction impacts. See Section 5.2.6, Soil Management for information on compliance regarding SWPPP related tasks such as soil handling, erosion, sedimentation, and BMPs.

Cenex committed to several construction plans to mitigate the effects of construction as outlined by NDDH guidance and the PSC agreed no construction impacts are expected regarding impairment of the items of concern if all plans are followed. Stantec observed several accounts of unvegetated drainageways with little to no BMPs, a few areas of potential compaction, and rock piles in drainageways with topsoil attached. Stantec is of the opinion, compliance by Cenex includes addressing these disturbances.

State Water Commission

- Temporary water appropriation permit for water appropriation.
- Water permit for diversion of surface or groundwater.
- SWC water quality monitoring wells encountered during construction activities and must be removed, contact Water Appropriations Division to ensure proper abandonment.
- The OSE Engineering and Permitting Section reviewed the project route and determined that the project route traverses over or through surface water resources. The OSE requests to be notified regarding the proposed project's impacts, if any, to water resources such as water courses (i.e. streams or rivers), agricultural drains, and wetlands (i.e. ponds, sloughs, lakes, or any series thereof) as any alterations, modifications, improvements, or impacts to those water resources may require a drainage permit(s) or a construction permit(s) from the OSE.

See Sections throughout 5.1.1 for the wetland and waterbody findings associated with construction impacts. See Section 5.2.6, Soil Management for information on compliance regarding SWPPP related tasks such as soil handling, erosion, sedimentation, and BMPs.

Stantec observed a gully erosion between two wetlands was filled (**Observation Point 14**) and poor grading of a drainageways, which may cause diversion of surface flows, impeding flows, and likely contributing to erosion during reclamation phase (**Observation Points 12 & 32**). Stantec is of the opinion, hydrostatic testing typically requires water appropriation; however, Stantec cannot locate within the case file a permit for water appropriation. Stantec suggests the PSC inquire as to the source and permitting of hydrostatic testing waters.



5.2 CONSTRUCTION

5.2.1 Cultural Resources

All cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area (Certification Statement 8).

Cenex submitted Docket 94: SHPO Concurrence Letter on Cenex Pipeline, LLC's Cultural Resources Report; on 12/27/2017, prior to construction. The Docket provides approval for Cenex's cultural resources avoidance and monitoring plan.

5.2.2 Progress Reporting

Inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated on construction activities on a monthly basis (Certification Statement 10).

Construction involving soil disturbance for the Project began 5 June 2019 on Spread 2 and 10 June 2019 on Spread 1; Stantec was noticed and present during commencements. Cenex submitted Dockets: 161, 177, 185, 188, 194, 195, and 202; Monthly Construction reports, corresponding to the monthly intervals from June 5th 2019 to February 14th 2020. Construction activities proceeded for a total of 8 months. The 7 Dockets cover all 8 months; however, the final docket covers a span of 2 months and was submitted one month after cessation of construction activities, effectively submitting the January and February progress reports 1 and 2 months late, respectively. In general, progress reporting was filed late, out of compliance with the monthly requirements.

5.2.3 Soil Management

All topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must also be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced. Topsoil must be segregated from subsoil (Certification Statement 12).

Initial concerns as to the topsoil stripping methods for the western segment of the Project were brought forth during initial Topsoil Inspections. Frontier's methodology (west spread) consists of stripping all



topsoil from the trench side, while the other side of the ROW is stripped of only 2-3 inches of topsoil. This side is used to string pipe and drive vehicles. According to Mr. Lawson, Frontier only continues to strip topsoil off this side of the ROW to provide a level surface to string pipe. During reclamation they deep rip the compaction, then reapply the few inches of stockpiled topsoil. Wenck-Stantec staff expressed a concern with this method of deep ripping for reclamation. With a depth of in situ topsoil at 2-5 inches still present, the deep ripping would mix subsoil into the topsoil. The recommendation to Frontier was to minimize mixing where possible if compaction was not deep by having equipment operators reduce their ripping depth. Mr. Lawson felt they could restrict their ripping depth to 5-6 inches. Mr. Lawson was confident in their method since they've used it in the area with excellent reclamation results. Overall, the West Spread looked comparable to the East Spread during the 2021 as-built inspection. However, the as-built inspections did not serve to fully confirm or deny suitable soil decompaction, specifically on the West Spread. This will be further evaluated during Final Revegetation inspections.

During subsequent Construction Inspections, there were occurrences of minor mixing of subsoil with topsoil in stockpiles. The main concerns identified in the Interim As-Built Construction Report were winter HDD bell hole locations. Stantec visually confirmed overall appropriate subsoil and topsoil replacement and topographical grading during as-built inspections with some exceptions (**Appendix B**). Generally, observations during the as-built inspection indicated that minor issues were resolved upon backfilling of trenches, and that topsoil replacement was adequate to support establishment of crops in cropland and grasses seeded in rangeland; however, with some exceptions (**4, 12, 32, 39, 41**). Observations during as-built inspections noted previously identified issues at winter HDD bell hole locations still had evidence of minor mixing of topsoil and subsoils (**Observation Point 13**). Stantec also observed an area of subsidence at a winter trenching location (**Observation Point 38**).

Overall, and in respect to the issues noted above, Stantec confirmed topsoil was removed, stored, and replaced properly for the majority of the length of the ROW at multiple locations during topsoil, construction, and as-built inspections (Dockets 162, 182, 187, and 201: Interim Topsoil Inspection Report, Topsoil Inspection Report, and Construction Inspection Report, Interim As-Built Construction Report; respectively). Soil management conditions appeared to be properly conducted with few minor discrepancies regarding topsoil and subsoil mixing. Potential soil compaction issues will be assessed further during final revegetation inspections of the Project.

5.2.3.1 Erosion and Sedimentation

The Project Application states throughout many sections, BMPs would be used during and after construction to minimize soil erosion and protect surface water (Docket 1: Application), as well as the Construction Environmental Program document and compliance with the NPDES Permit and SWPPP. Additionally, multiple Federal, State, and local regulatory agencies provided statements in correspondences to protect against erosion and sedimentation (see Section 5.1.1). Specifically, the NDDH provided guidance which is elaborated in Section 5.1.1.4 and expanded upon below.

As-built inspections noted a number of deficiencies in erosion and sediment BMPs. Many BMPs were found to be in disrepair after the winter season. Large portions of the ROW had evidence of crimped straw placement; however, at the time of inspection, most had blown away, evidence of a lack of proper



placement. Straw wattles, erosion control blankets, and silt fences were also found to be in disrepair, and sometimes improperly installed, or deficient for their intended use. Other areas were lacking BMPs where they should have been implemented, such as slopes or conveyances. As such, conditions have allowed erosion along the ROW at some locations. Observation Points which elaborate upon specific locations of BMPs and/or erosion include: **2, 5, 6, 28, 29, 30, 32, 33, 34, 47, and 54**. Stantec recommends PSC follow up with Cenex to address potential erosion issues and BMP maintenance.

5.2.4 Road Crossings

All buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road (Certification Statement 13).

Cenex submitted Dockets 140, 141, 143, 152, 164, 170, 173, 174, 178, and 181 detailing Federal, State, County and Township permits and agreements for utility occupancy. The Dockets were filed prior to construction in those areas and contain road crossing permits as described in Section 5.1.1. All road crossing permits detail specifications to be followed which may or may not include no disturbance and restoration clauses. Stantec visually confirmed many road crossings were conducted through boring operations and ROW disturbances were absent; however, a few discrepancies were noted (**Observation Points 8, 42, 45, 48, 59**).

5.2.5 Staging Areas

Staging areas or equipment shall not be located on land owned by a person other than the Company unless otherwise negotiated with landowners (Certification Statement 14).

Staging areas and equipment were located along the pipeline temporary construction ROW, within survey limits, typically adjacent to road crossings. KLJ has communicated that location of staging areas have been negotiated with landowners and are legal documents. Details of negotiations with landowners are not submitted to the PSC case files and cannot be independently verified.

5.2.6 Unanticipated Discoveries

If any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made and a report of such examination is filed with the Commission and the State Historical Society (Certification Statement 15).

Cenex submitted Docket 94: SHPO Concurrence Letter on Cenex Pipeline, LLC's Cultural Resources Report; on 12/27/2017, prior to construction. The Docket provides approval for Cenex's Unanticipated Discoveries Plan. Cenex submitted Docket 197: Cultural Memorandum; detailing an unanticipated discovery.



5.2.7 Weather Conditions

Construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures are taken by Company (Certification Statement 16).

Stantec was not present on-site during or immediately following all adverse weather conditions to document compliance with construction suspension due to weather conditions. Stantec however did observe Cenex to be obtaining and following load haul road permits and restrictions.

5.2.8 Stop Work Authority

The Commission has authority to stop Project construction activities in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm (Certification Statement 17).

Stantec is unaware of PSC initiated Stop Work Authority being implemented.

5.3 RESTORATION AND MAINTENANCE

The following subsections address compliance with Certification Statements 18 through 26.

5.3.1 Restoration

As soon as practicable upon the completion of the construction of the transmission facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction (Certification Statement 18).

Cenex submitted Docket 31: Construction Environmental Program; detailing restoration and mitigation practices. At the time of the site inspection, the pipeline trench had been backfilled, soils had been recontoured, and topsoil replaced. The majority of the ROW appeared recently plowed and/or seeded. In crop land, the plowing was inconsistent with adjacent field conditions, and no evidence of previous cropping. Non-cropland generally lacked any vegetation at all (**Photo Observation Point: 5, 6, 28, 29, 30, 34, and 44**). Stantec recommends actions in the weed management plan be implemented from now and throughout the reclamation phase (**Photo Observation Points 3 and 35**).

Of aboveground infrastructure pad templates Stantec observed, all appeared to be a loose assortment of rocks with little to no relief provided from native soil ground surface. This condition allows for pad materials at the edges of the template to mix with surrounding native soils and also will allow for the emergence of weeds through the pad template. Areas where pad materials were stockpiled prior to use and loading/unloading/construction areas were not cleaned up properly and have resulted in the surrounding areas of the pad template to be mixed with an abundance of pad materials. Small stockpiles of pad materials were left adjacent to the pads in many instances. Stantec cannot be sure of landowner



agreements for adjacent to pad stockpiles; however, in prior experience, stockpiled pad materials required for maintenance are typically located upon the pad template and usually associated with heavy traffic upon pads (**Observation Points 11, 27, 30, 36, 37, 58**).

Stantec observed rock piles with significant fractions of topsoil placed out of the ROW and one near the head of a drainageway (**Observation Points 39 and 41**).

A revegetation inspection contracted by the PSC is planned one year from the last date of seeding to document establishment of vegetation and ultimate compliance with this Certification Statement. Stantec is currently unsure the established date for reseeding of the entire Project to appropriately time final revegetation inspections.

5.3.2 Roads

All pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the transmission facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition (Certification Statement 19).

Cenex submitted Docket 1: Application for a Certificate of Corridor Compatibility & Route Permit. Cenex stated all roads damaged will be restored to pre-construction conditions or as agreed between the landowner or regulatory agency. Cenex also submitted Docket 31: Construction Environmental Program Report which details road repair and maintenance. At the time of the as-built inspection, the majority of county, township, and access roads and ROWs appeared to be in good condition with a few discrepancies (**Observation Points 8, 42, 45, 48, 59**). Observation Point 59 appears to be a temporary approach left intact by Cenex.

During on-site inspections in January 2020, Stantec observed an approximately 4,400-ft. long constructed access road in Section 21-155N, 94W. The contractor stated that the landowner would like this road to be left in place after Project completion (see Docket #201, Interim As-Built Construction Inspection Report).

5.3.3 NRCS Recommendations

Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the NRCS recommendations, unless otherwise specified by the landowner and approved by the Commission. (Certification Statement 20).

Cenex submitted Docket 31: Construction Environmental Program. This plan outlines compliance with NRCS recommendations. It does not appear that Cenex has filed any deviation from recommendations as negotiated with landowners, and no PSC approvals for such deviations exist within the case files. Stantec recommends the PSC to inquire Cenex about landowner negotiations if warranted.



5.3.4 Continuing Commitment

Company will fulfill its obligation for reclamation and maintenance of the approved transmission facility right-of-way, transmission facility, and associated facilities continuing throughout the life of the transmission facility (Certification Statement 21).

At the time of as-built inspections, reclamation was complete and areas requiring additional maintenance have been addressed throughout this document and summarized in Section 6.0. A reclamation and revegetation inspection will be conducted one year from date of final seeding.

5.3.5 Fences and Gates

Repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility (Certification Statement 22).

Cenex committed to repairing and replacing all fences and gates (Docket 1: Application). During the as-built inspection fencing was not replaced at all of the inspected locations (**Photo Observation Points 16, 17, and 20**).

5.3.6 Drain Tile

Repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility (Certification Statement 23).

Cenex committed to repair or replace all damaged drainage tile (Docket 1: Consolidated Application). Stantec did not observe any broken or damaged drainage tile during inspections. Currently there are no PSC protocols to report damaged drainage tiles to the case file, and Stantec is unaware of any landowner complaints regarding damaged drainage tiles.

5.3.7 Tree and Shrub Mitigation

Comply with the Tree and Shrub Mitigation Specifications (Certification Statement 24).

5.3.7.1 Inventory

Prior to cutting or clearing trees or shrubs for construction, all trees one-inch or greater in diameter at breast height must be inventoried to record the location, number, and species and, all shrubs and all coniferous trees of any diameter must be inventoried to record the location, number, and species (Tree and Shrub Mitigation Specifications, PSC).

Cenex submitted Dockets 143, 184, and 209, relating to Tree Shrub Mitigation Planning. The Dockets detail tree and shrub surveys performed prior to clearing and post clearing; however, without sufficient data detailing when and where surveys were conducted. Stantec cannot verify if all locations including re-



routes were surveyed. The Docket does not detail pre-clearing tree and shrub inventory (not required to be filed with the PSC). Stantec suggests the PSC require this data to be submitted to the case file, allowing review for compliance. Docket 209 details post-clearing inventory.

5.3.7.2 Clearing

The maximum width of tree and shrub removal is 50 feet, unless otherwise approved by the Commission (Tree and Shrub Mitigation Specifications, PSC).

Stantec observed Cenex to abide by the 50-foot construction ROW through woody areas so that tree and shrub loss was mitigated during construction. In general, major woody areas or planted shelterbelts were cleared in 50-foot construction ROWs (**Photo Observation Point 1**). As far as Stantec can ascertain, Cenex did not file any tree and shrub clearing expansion requests.

5.3.7.3 Replacement

Docket 209 details proposed replacement measures and landowner on/off site replacement plans; however, negotiations or formal approvals are absent from the case file. Stantec recommends the PSC confirm approvals or require landowner approvals to be submitted to the case file.

5.3.8 Waste Disposal

Remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis (Certification Statement 25).

Cenex submitted Docket 31: Construction Environmental Program; which outlines specific protocols of waste management. At the time of the as-built inspection, there was no waste, debris, or abandoned equipment observed. Equipment and material staging areas in the vicinity of the as-built inspection points had been appropriately cleaned up post-construction.

5.3.9 Traffic Control

Provide any necessary safety measures for traffic control or to restrict public access to the transmission facility (Certification Statement 26).

Cenex committed to provide safety measures for traffic control (Docket 1: Application). Stantec observed traffic control measures during all inspections, near appropriate points during all phases of construction.

5.4 COMMUNICATION WITH LANDOWNERS AND PSC

The following subsections address compliance with Certification Statements 27 through 41.



5.4.1 Right-of-Way Liaison Notifications

Prior to beginning construction of the transmission facility at a location, it shall send a letter to each landowner with whom an easement was executed for that location specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the easement (Certification Statement 27). File with the commission the name and phone number of the current company representative who is responsible for receiving and resolving landowner issues for the transmission facility. The company will update this information whenever there is a change to the current company representative for the life of all easements for the transmission facility (Certification Statement 28).

Contact information for a company representative was provided during the pre-construction conference call (Docket 139: Preconstruction Conference Minutes and NOI). Stantec cannot independently verify if Cenex sent landowner notifications of company representatives as no such information exists in the case files. Stantec is unaware of any landowner or community concerns filed with the PSC to date.

5.4.2 Engineering Design Drawings

Provide the Commission with engineering design drawings of the transmission facility prior to construction (Certification Statement 29).

Stantec cannot locate within the case file, any engineering design drawings. Stantec suggests the PSC follow up as necessary.

5.4.3 Extraordinary Event Notification

Advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the transmission facility, including injuries to any person (Certification Statement 30).

Cenex submitted Docket 186: Memorandum regarding cultural resource incursion; and, Docket 189: Supplement to 24 Oct. 2019 filing regarding cultural resource incursion – SHPO email; as a follow up to Docket 186. Cenex also submitted Docket 190: Notification of on-site injury. Cenex also submitted Docket 197: Cultural Memorandum; documenting an unanticipated discovery and communications with SHPO. Cenex submitted Docket 190: Notification of On-Site Injury, on 11/18/20, detailing an on-site injury. Stantec is unaware of any other communications to the PSC and it appears Cenex complied with the requirement regarding extraordinary events.

5.4.4 Significant Biological Discoveries

Report to the Commission, as soon as reasonably possible, the presence in the permit area of any critical habitat or threatened or endangered species of which Company becomes aware and which were not previously reported to the Commission (Certification Statement 31).



It appears Cenex did not submit any reports to the PSC which describe previously unidentified critical habitat or threatened or endangered species. During as-built inspections, Stantec observed the corridor to be within ½ mile of raptor nests. Stantec did not confirm occupancy of nests. Stantec suggests the PSC require on-going survey documentation performed by environmental inspectors and natural resource surveyors employed in performing compliance with conditional rules and guidance approvals provided by agencies outlined in Section 5.1.1.1 as documentation of compliance with this certification. Stantec did not observe any other significant biological discoveries during inspections.

5.4.5 Modification

Inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility (Certification Statement 32).

Cenex submitted Docket 191: Certification Relating to Transmission Facility Modification Pursuant to Certification Relating to Order Provision No. 32. The docket details moving a block valve due to failed landowner negotiations to another location, still west of the Little Muddy River and in previously surveyed area and approved corridor. Stantec cannot locate within the case file, landowner approval or PSC motion to approve modification. Stantec suggests the PSC review Docket 191 for compliance. Stantec is of the opinion, modification, does not include re-routes, which are discussed in Certification Statements 35 & 36, addressed in Section 5.4.8 of this document.

5.4.6 As-Built Documentation

Provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAO 83) UTM Zone 13N or 14N feet (NAO 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed (Certification Statement 33).

Cenex submitted Docket 204: As-Built Maps on 9/8/2020, within 3 months of construction completion. Stantec finds the docket to include paper maps and a reference to a thumb drive with GIS files containing as-built conditions.

5.4.7 Underground Facilities

Notify the Commission as soon as reasonably possible if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the



certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined (Certification Statement 34).

Cenex did not submit any notices to the case file concerning damage to underground facilities. Stantec did not observe damage to underground facilities during any inspection period.

5.4.8 Route Adjustments Before or During Construction

Utilize the following procedures if Company seeks a route adjustment before or during construction of the pipeline, pursuant under NDCC §49-22.1-15 (Certification Statement 35). Specifically identify which subsection of NDCC 49-22.1-15 it is requesting the adjustment under. Company will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application (Certification Statement 36).

A number of re-route issues were identified during this Project. Amendments to the original Certificate of Corridor Compatibility and Route Permit were documented in Case Files PU-20-399 and PU-20-448 for this Project. Through communications with the PSC, Stantec was informed additional investigation into route adjustments was not necessary for the as-built task, as the PSC has undertaken the responsibility as evidenced by inquiry docket submissions to the case files. Therefore, Stantec did not review information specific to PU-20-399 nor PU-20-448.



6.0 ISSUES TO RESOLVE AND RECOMMENDATIONS

6.1 DOCUMENTATION

Stantec recommends that Cenex submits the following documentation to the PSC:

Permits

- USACE Section 404 Permit
- Department of Transportation, Federal Highway Administration, Permit to Cross
- NDDH – Dewatering Permit
- State Water Commission – water appropriations permit (if state surface water utilized)
- NDDOT and Williams, Mountrail, and Ward County haul road permits

Approvals and Correspondence

- USDA NRCS and FSA – administered lands
- Williams, Mountrail, and Ward County concurrence of all potential required permits
- WAPA – license agreement
- Office of the City Engineer (Minot) – permitting requirements
- NDGF – Plots lands
- Landowner approval or PSC motion to approve modification (Docket 191)

Suggested

- USFWS and NDGF required construction MBTA and BGEPA surveys
- Tree and Shrub Mitigation Plan (Replacement)
- Engineering design drawings
- Documentation of no significant biological discoveries as related to raptor nests

6.2 ROW CONDITIONS

Stantec recommends the PSC follow up with Cenex during or prior to the reclamation phase of inspections:

- Status of reclamation activities, re-grading of poorly graded areas, maintenance of BMPs, and potential need for additional BMPs
- Status of filled wetland drainageway and other poorly graded drainageways
- Status of recent plowing and/or seeding evidenced by soil disturbance and lack of vegetation, including annual weeds; determine final reseeding dates
- Status of SWPPP related deficiencies
- Status of rockpiles with significant soil fractions
- Status of roadway ROW reclamation of access points
- Status of potential compaction issues
- Status of temporary approach
- Status of area of subsidence
- Status of missing fencing
- Status of temporary approach



7.0 REFERENCES


North Dakota Public Service Commission (ND PSC). 2020. Online Case Search. Available from:
http://www.psc.nd.gov/database/company_case_list.php. Accessed May 2021.



8.0 SIGNATURES


This document was prepared by Stantec Consulting Services Inc. ("Stantec") for the account of North Dakota Public Service Commission (the "Client"). The material in it reflects Stantec's professional judgment in light of the scope, schedule and other limitations stated in the document and in the contract between Stantec and the Client. The findings in the document are based on conditions and information existing at the time the document was compiled and do not take into account any subsequent changes. Recommendations and opinions contained in this report represent our professional judgment and are based upon available information and technically accepted practices at the present time and location. Other than this, no warranty is implied or expressed.

Lead Project Manager and Environmental Scientist, Matt Retka, and Environmental Scientist, Joseph Sander, prepared the report.



Matt Retka
Project Manager
Environmental Scientist

May 28, 2021
Date



Joseph Sander
Environmental Scientist

May 28, 2021
Date

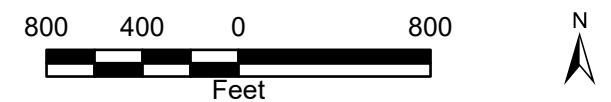
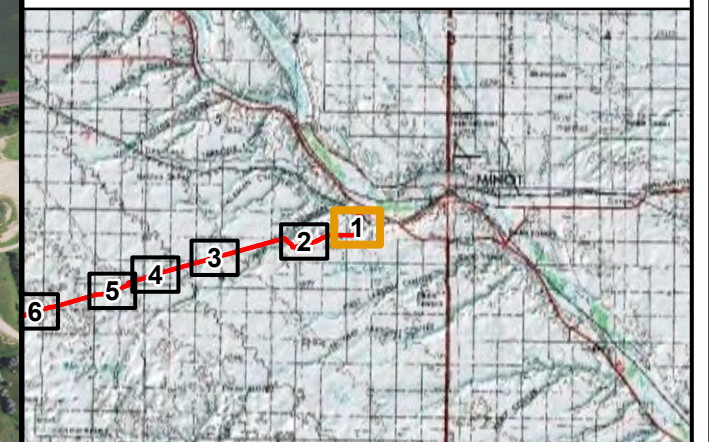


FIGURES

Figure 1-26: As-Built Observation Locations Map

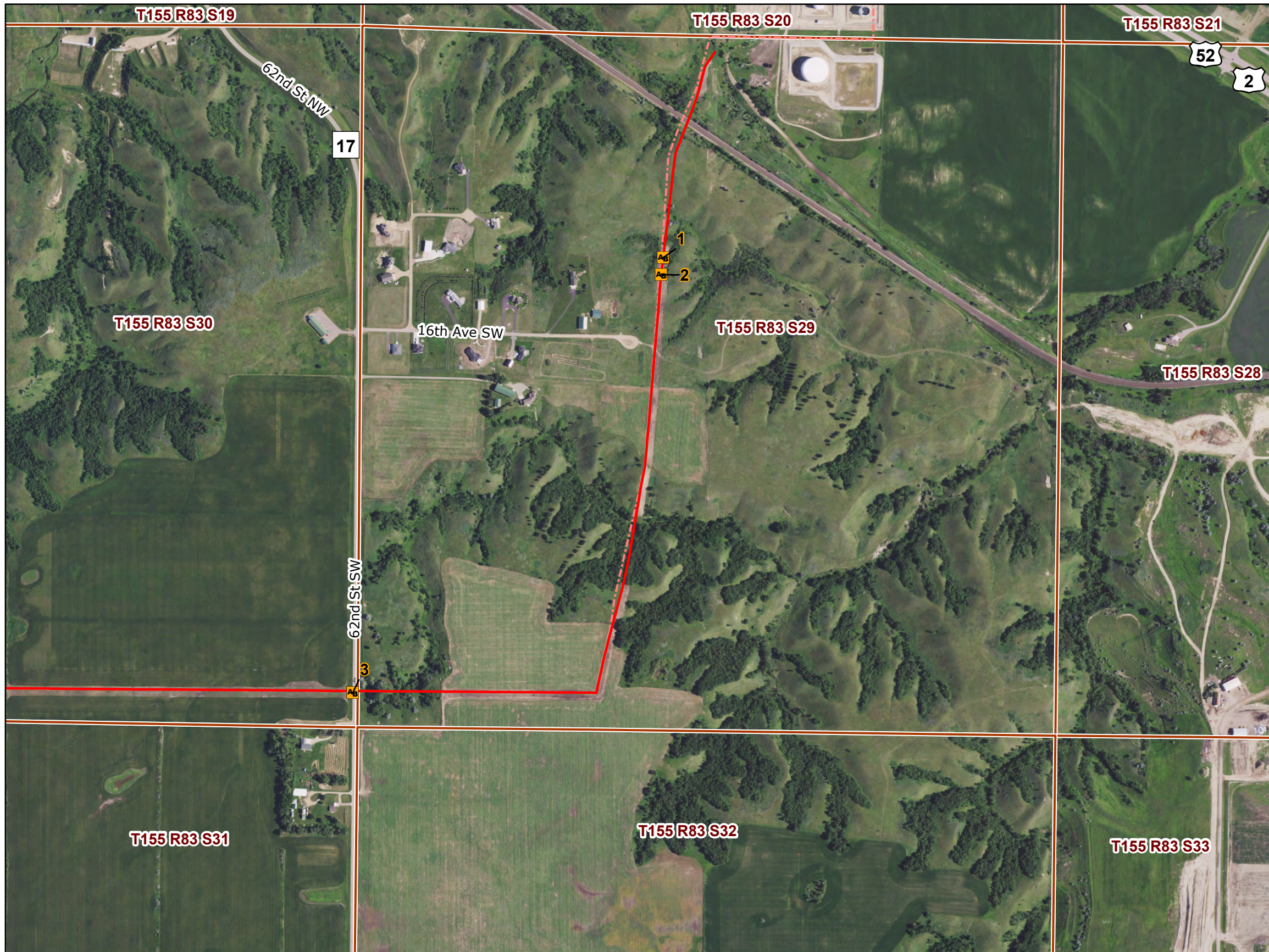
Cenex Pipeline
Figure 1

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

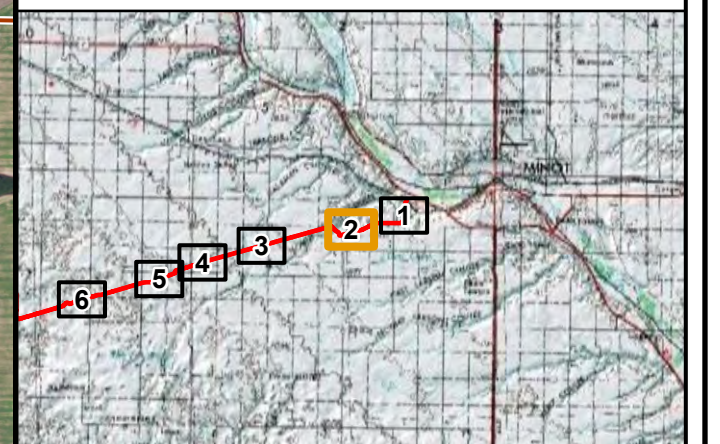
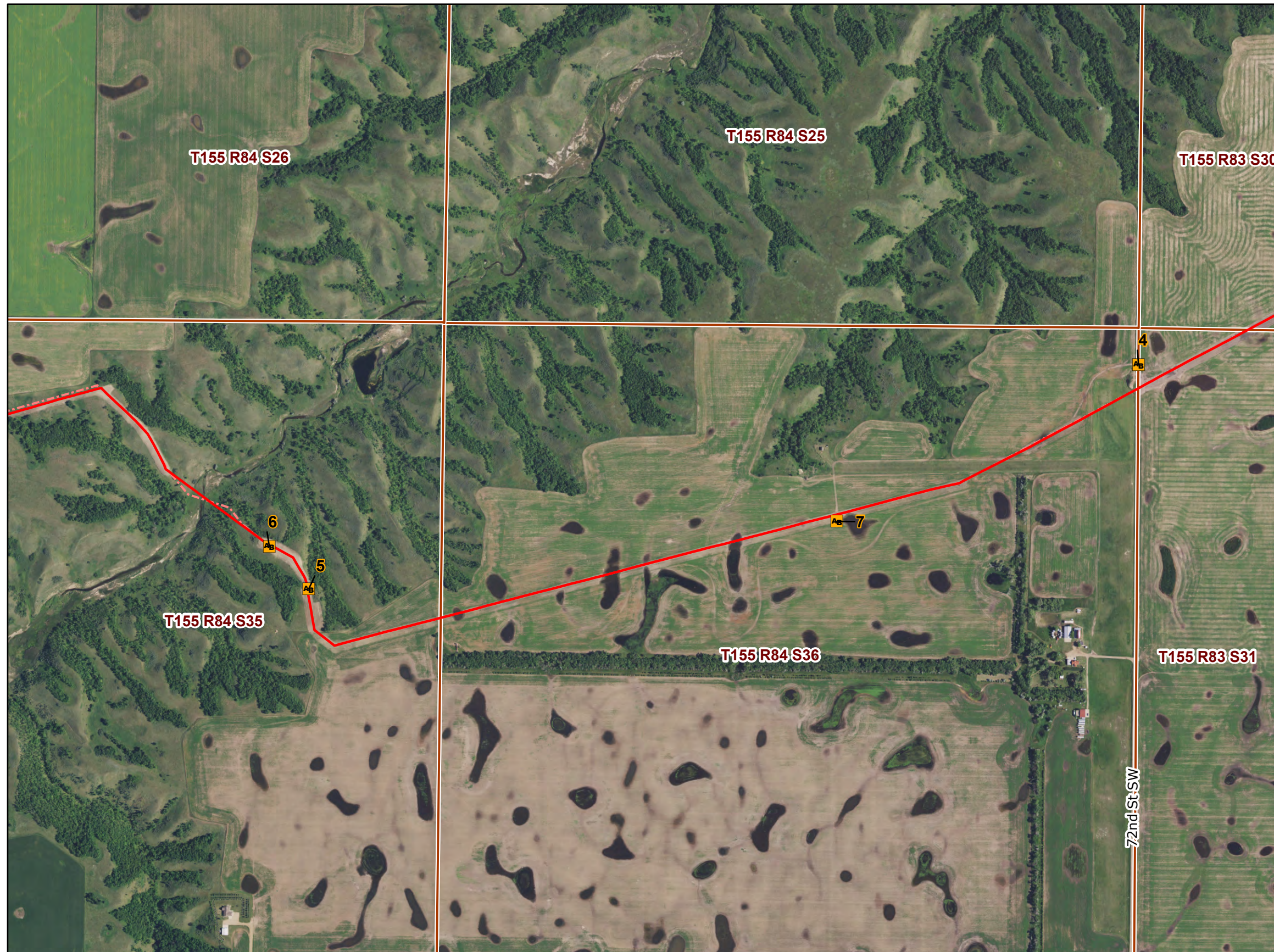


MAY 2021

Map 1 of 26

Cenex Pipeline
Figure 2

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

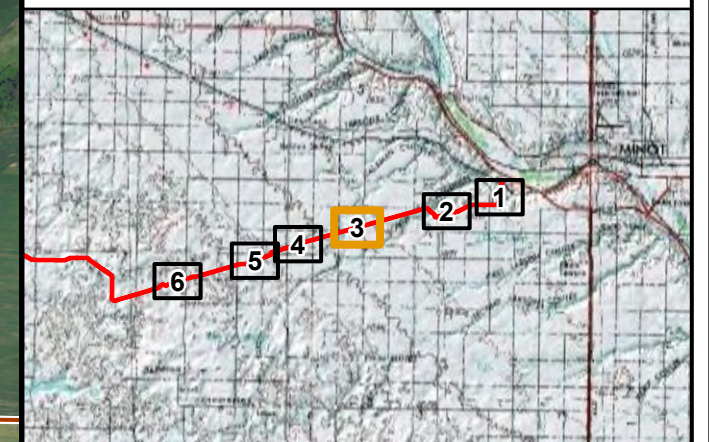


MAY 2021

Map 2 of 26

Cenex Pipeline
Figure 3

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

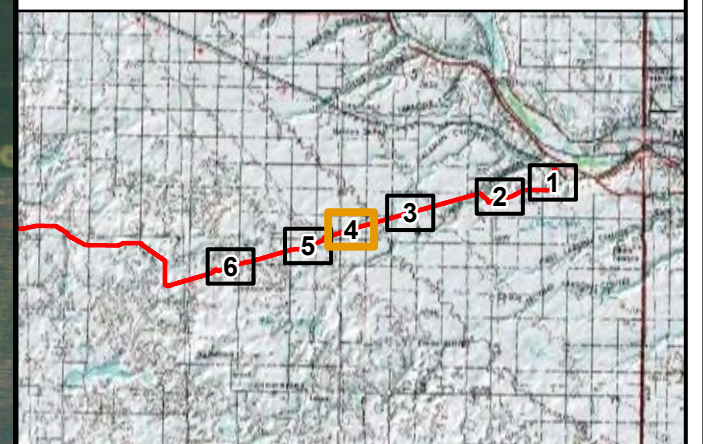


MAY 2021

Map 3 of 26

Cenex Pipeline
Figure 4

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)

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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

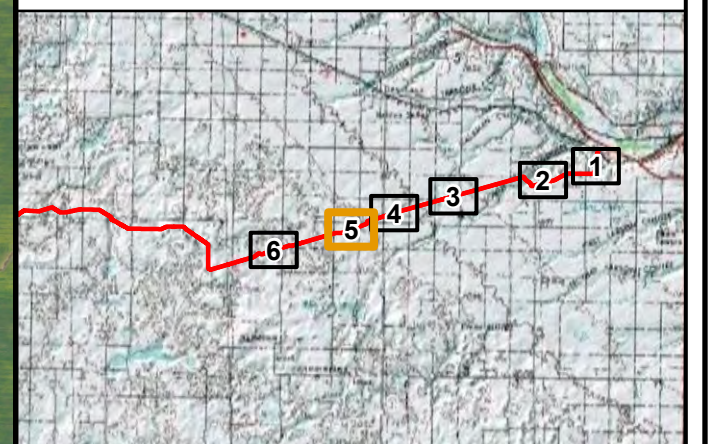


MAY 2021

Map 4 of 26

Cenex Pipeline
Figure 5

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

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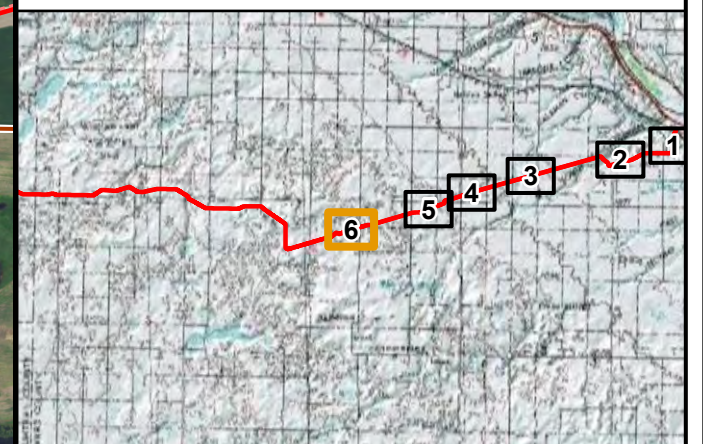


MAY 2021

Map 5 of 26

Cenex Pipeline
Figure 6

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

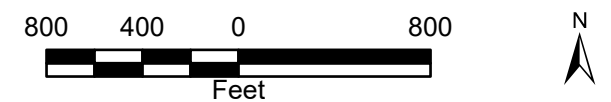
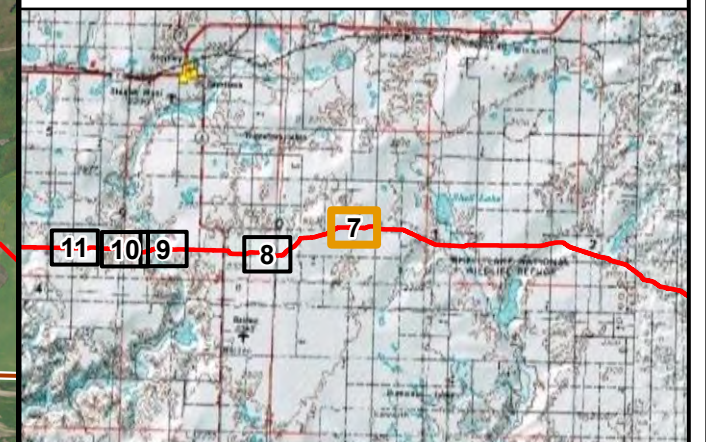


MAY 2021

Map 6 of 26

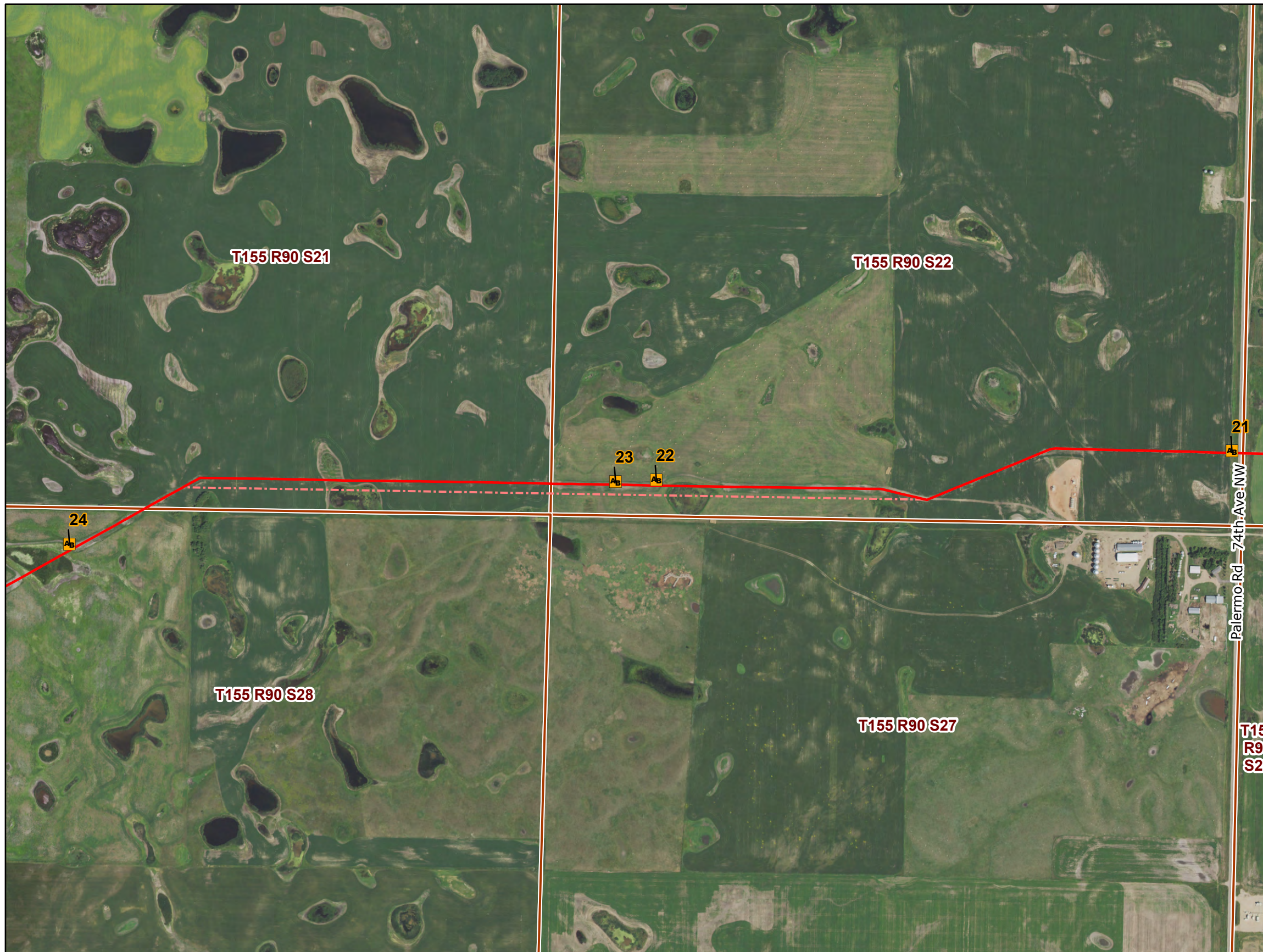
Cenex Pipeline
Figure 7

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

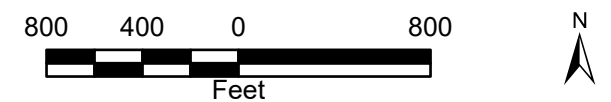
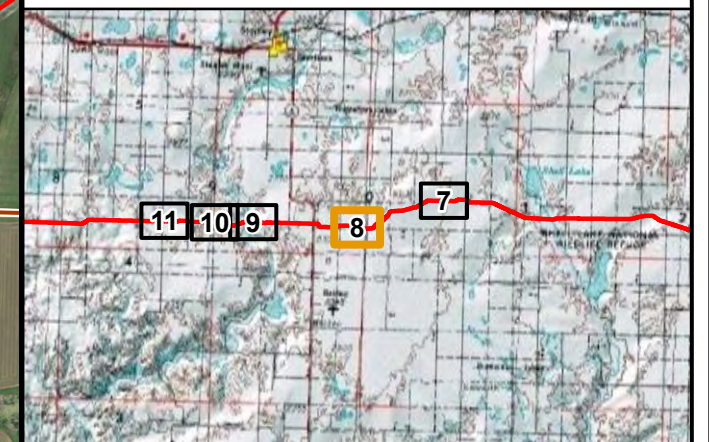


MAY 2021

Map 7 of 26

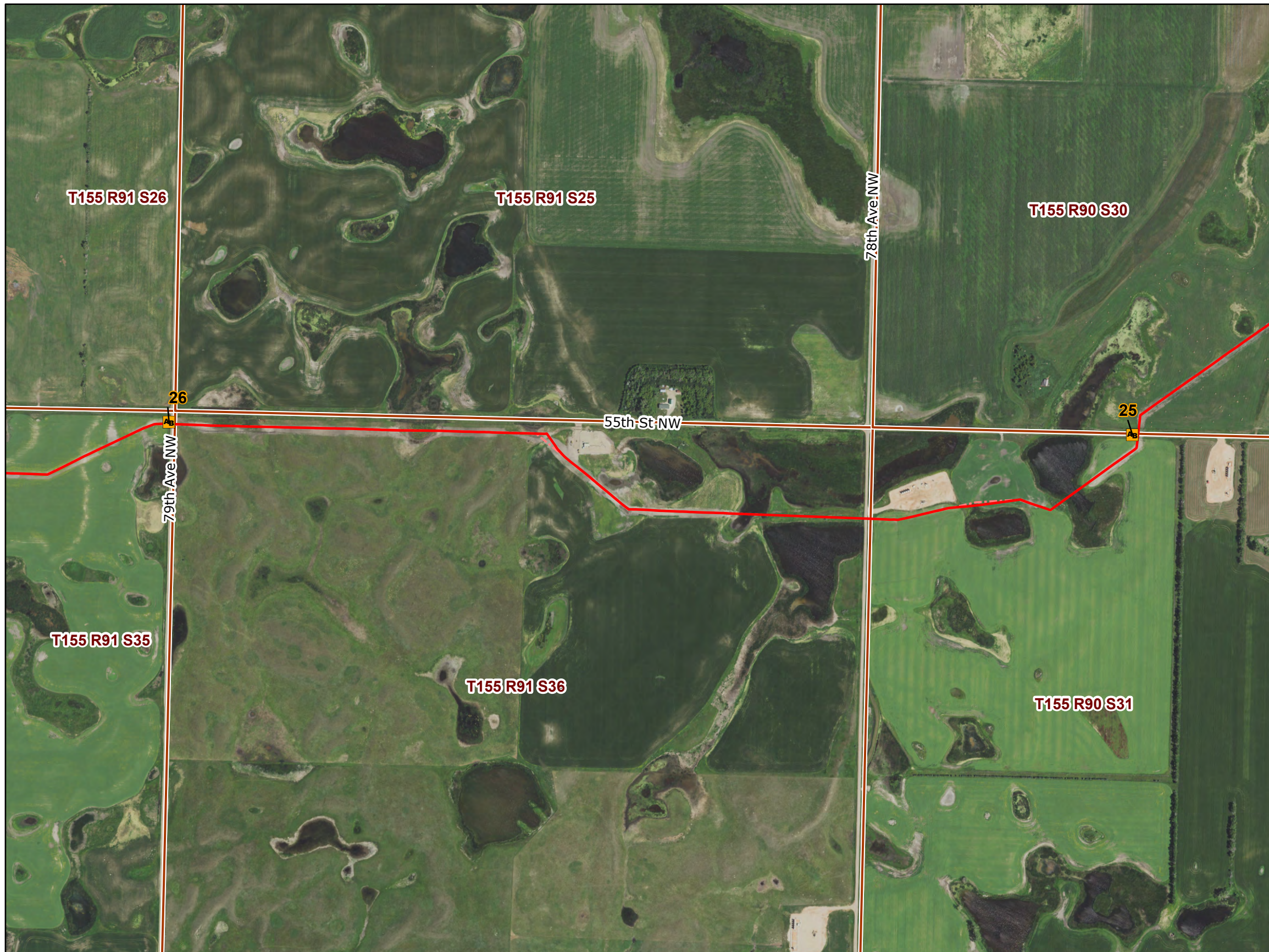
Cenex Pipeline
Figure 8

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION




As-Built Observation Locations

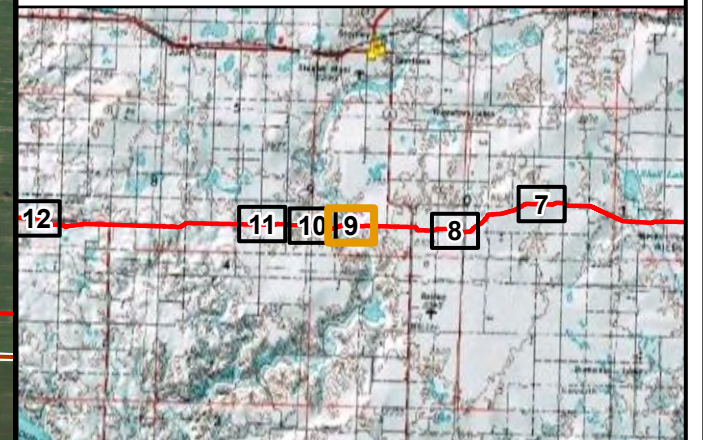


MAY 2021

Map 8 of 26

Cenex Pipeline
Figure 9

-  As-Built Observation Point Location
-  Cenex As-Built Centerline (PU-17-97)
-  Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)

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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations






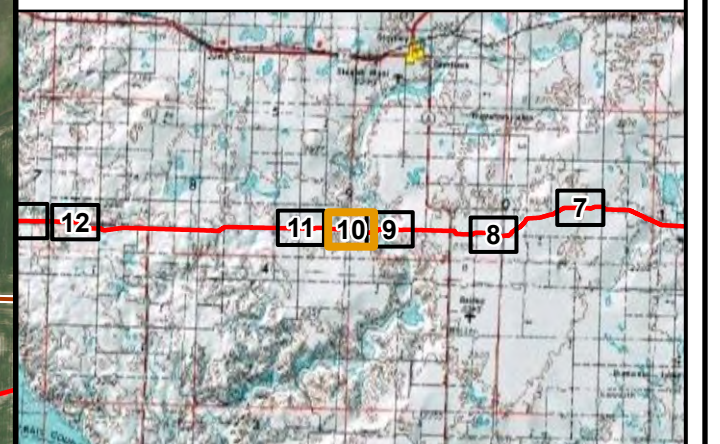
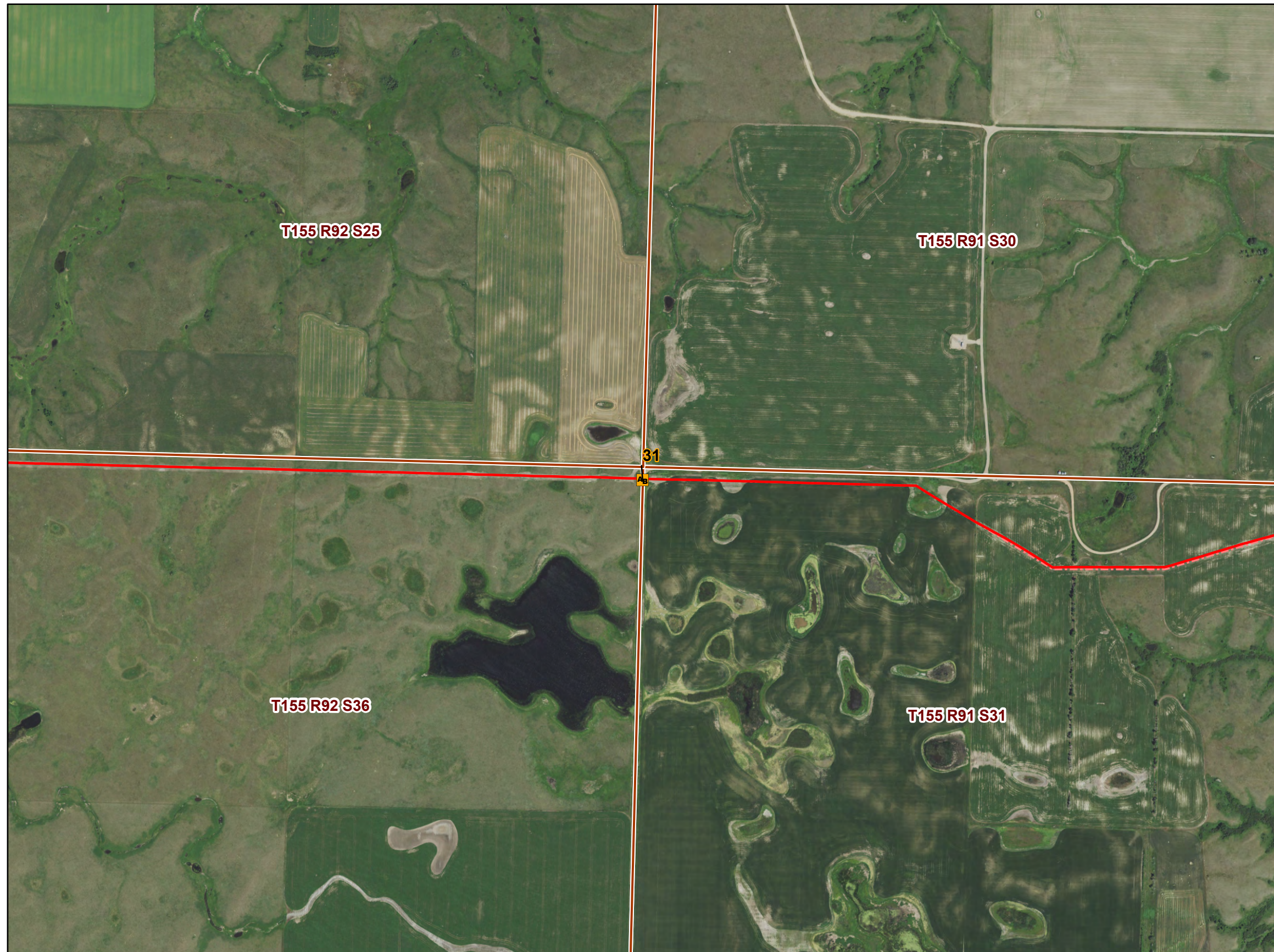
MAY 2021

Map 9 of 26

**North Dakota
Public Service Commission**

**Cenex Pipeline
Figure 10**

-  As-Built Observation Point Location
-  Cenex As-Built Centerline (PU-17-97)
-  Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)
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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

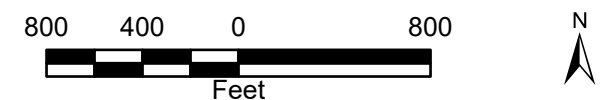
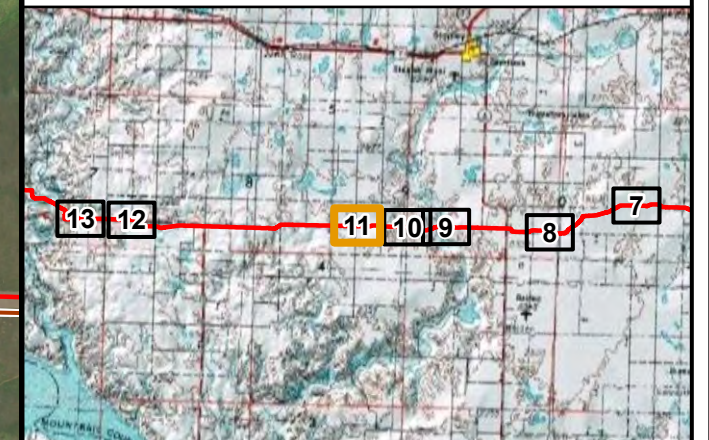
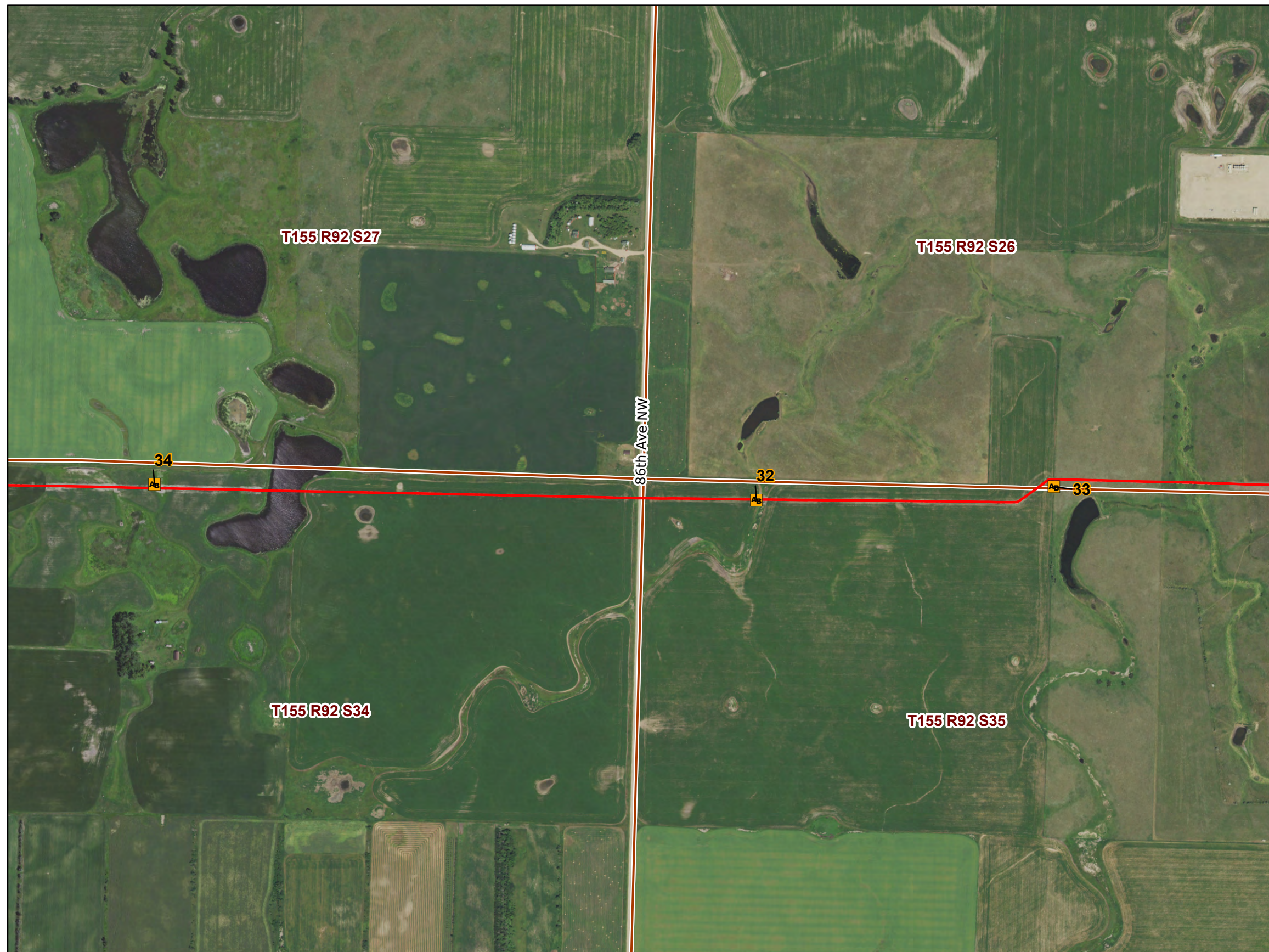


MAY 2021

Map 10 of 26

Cenex Pipeline
Figure 11

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)

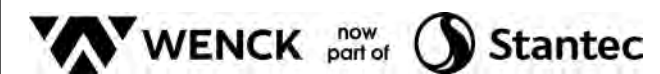


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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

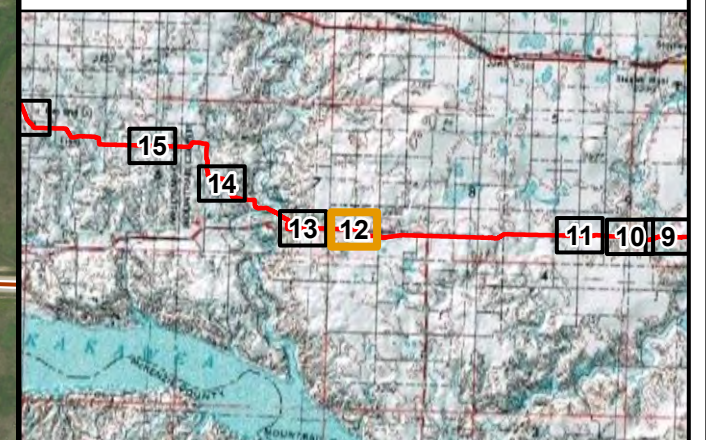


MAY 2021

Map 11 of 26

Cenex Pipeline
Figure 12

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)

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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

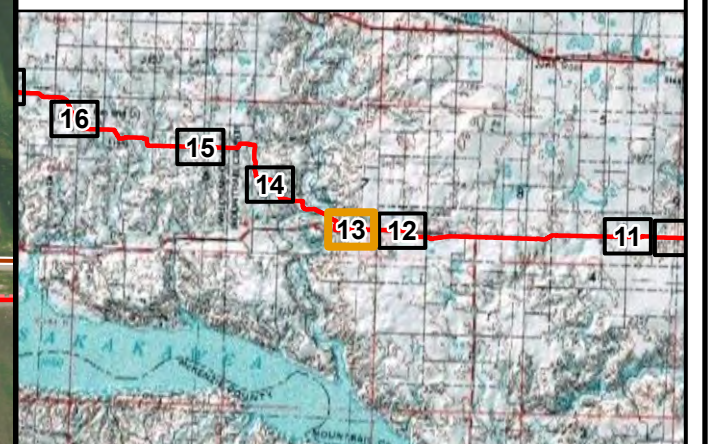
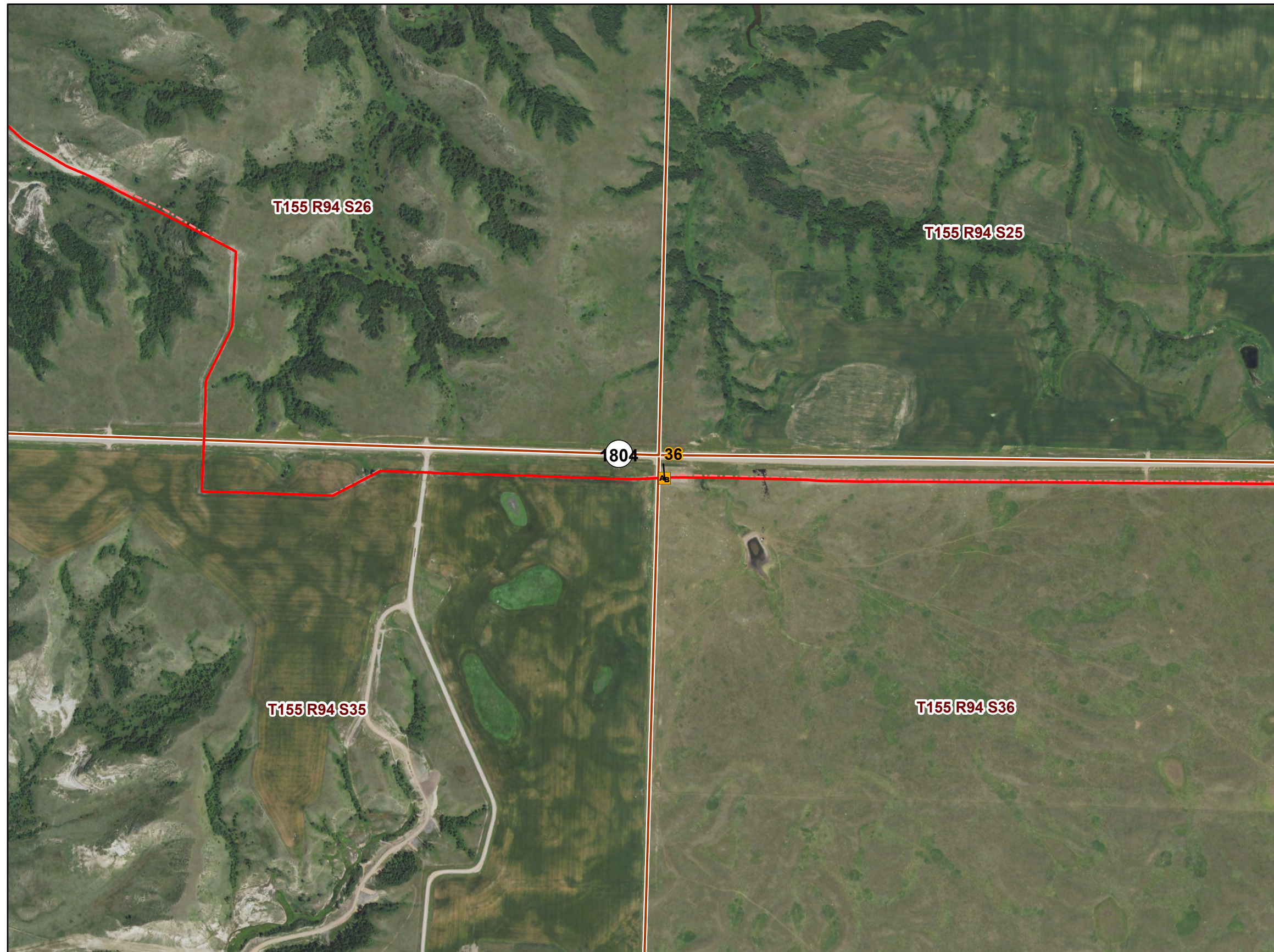


MAY 2021

Map 12 of 26

Cenex Pipeline
Figure 13

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)
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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

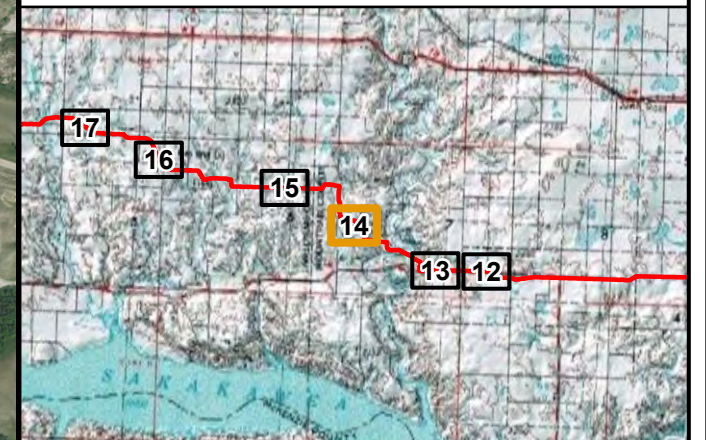


MAY 2021

Map 13 of 26

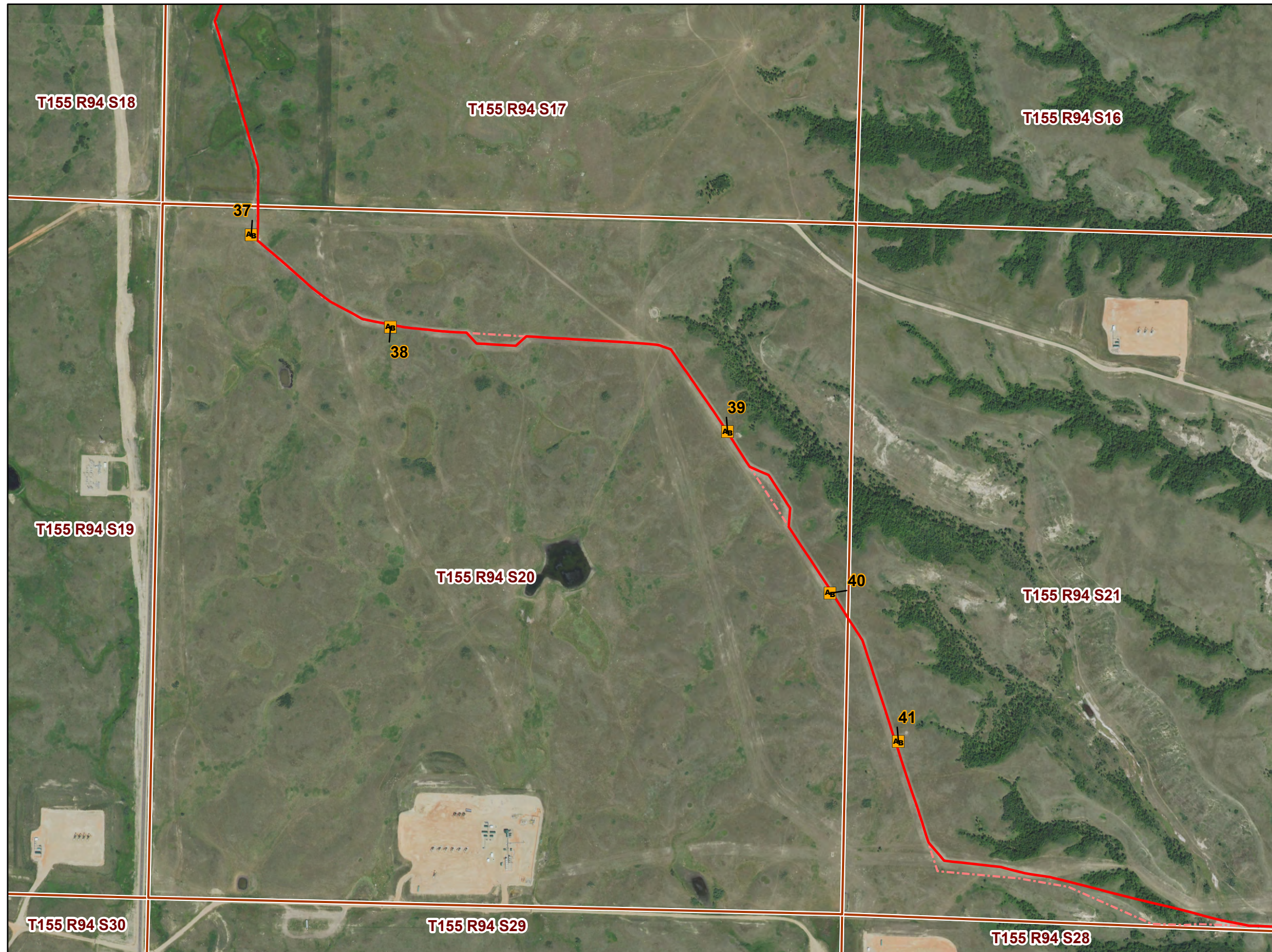
Cenex Pipeline
Figure 14

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

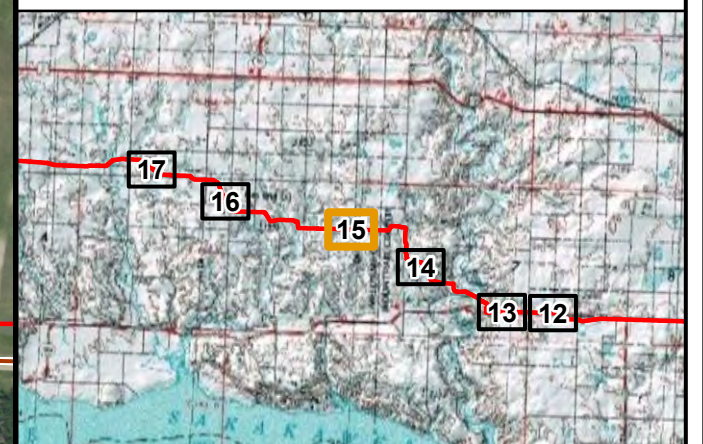


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Map 14 of 26

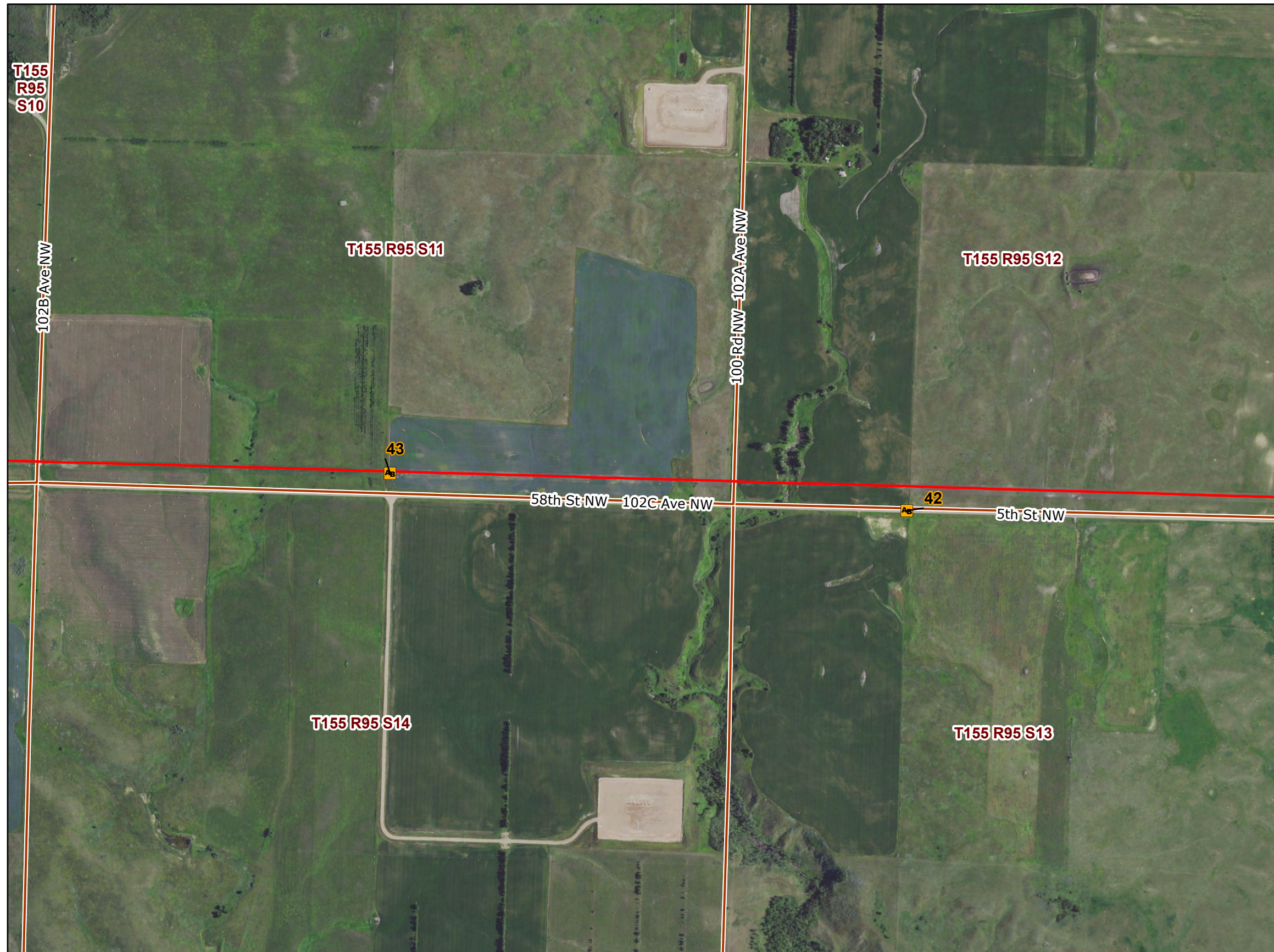
Cenex Pipeline
Figure 15

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)

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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

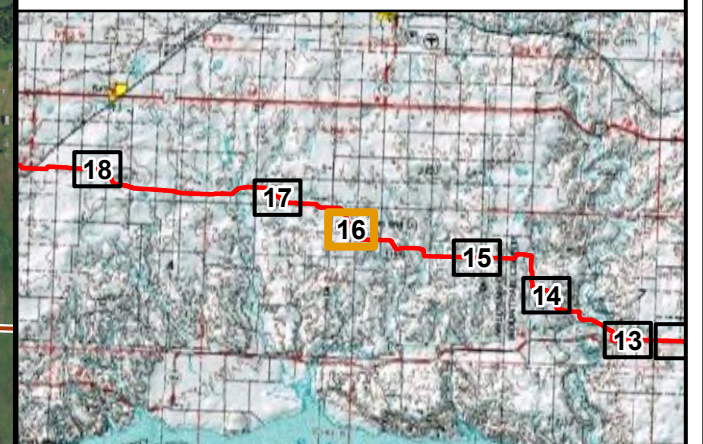


MAY 2021

Map 15 of 26

Cenex Pipeline
Figure 16

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)

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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

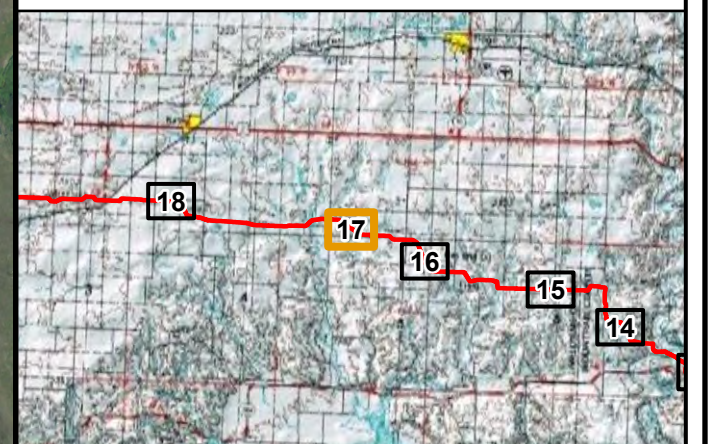


MAY 2021

Map 16 of 26

Cenex Pipeline
Figure 17

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)

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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

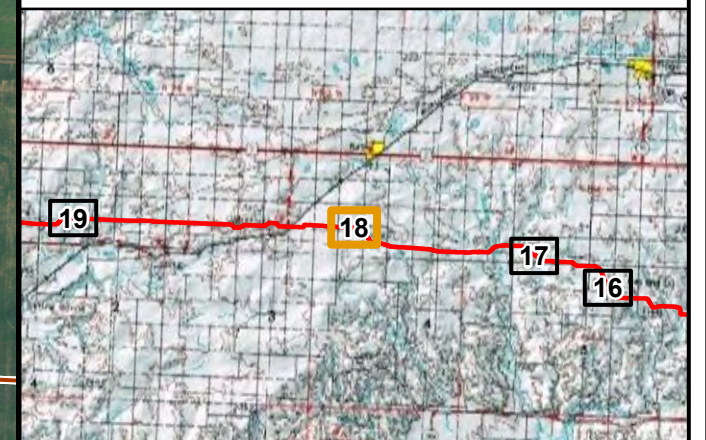


MAY 2021

Map 17 of 26

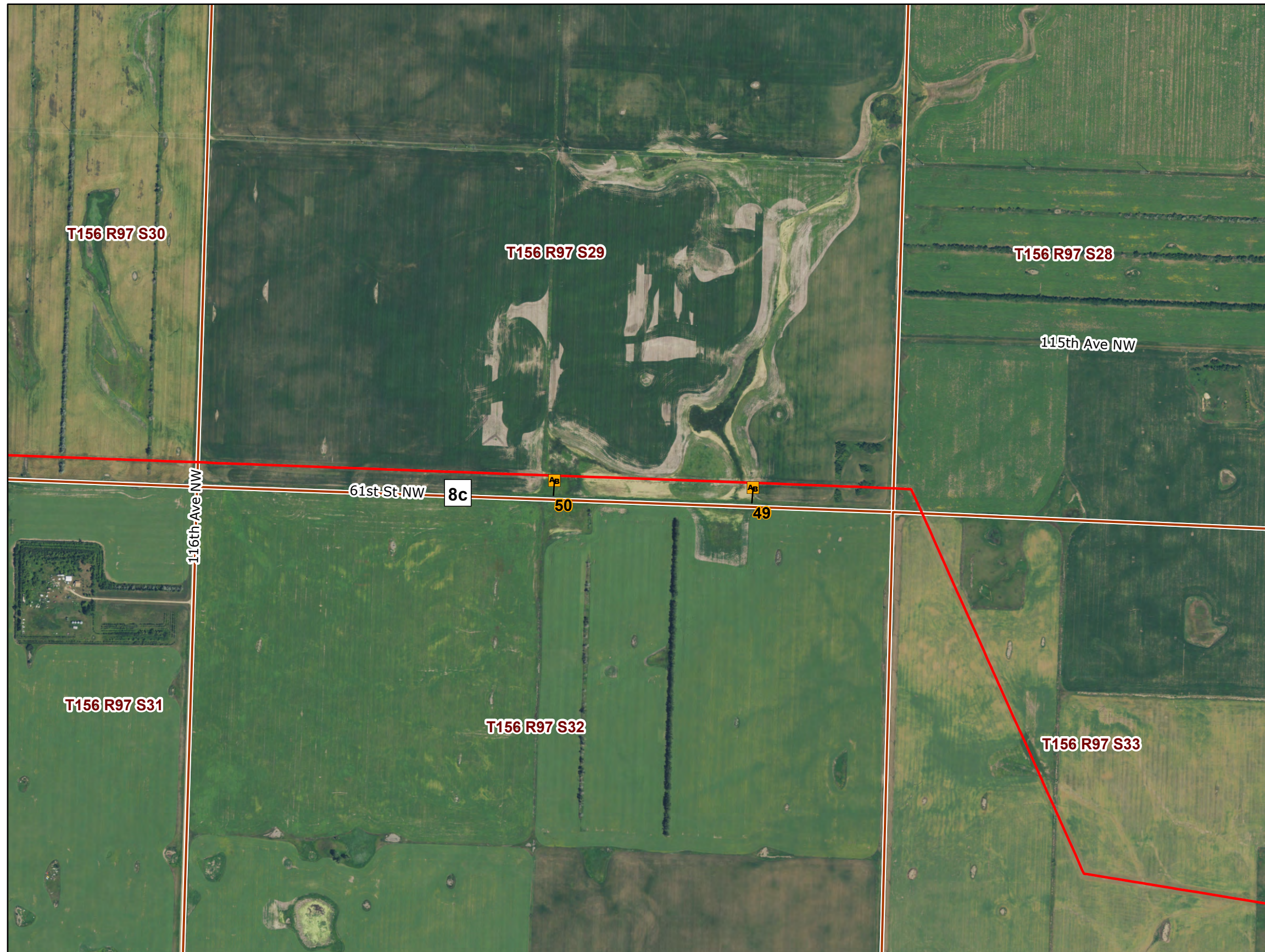
Cenex Pipeline
Figure 18

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



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PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

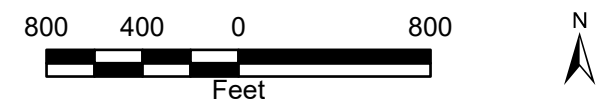
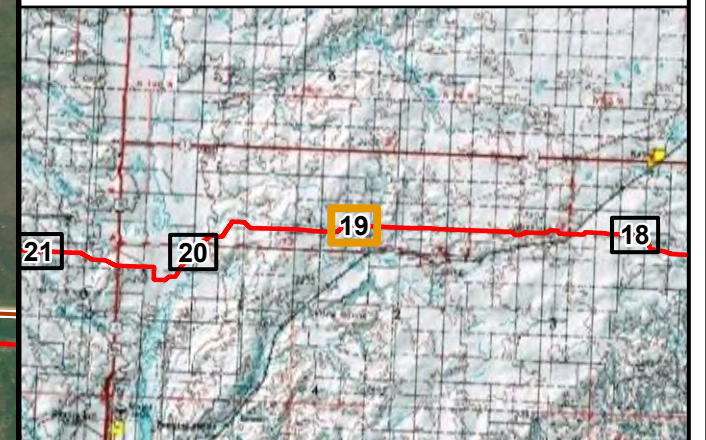


MAY 2021

Map 18 of 26

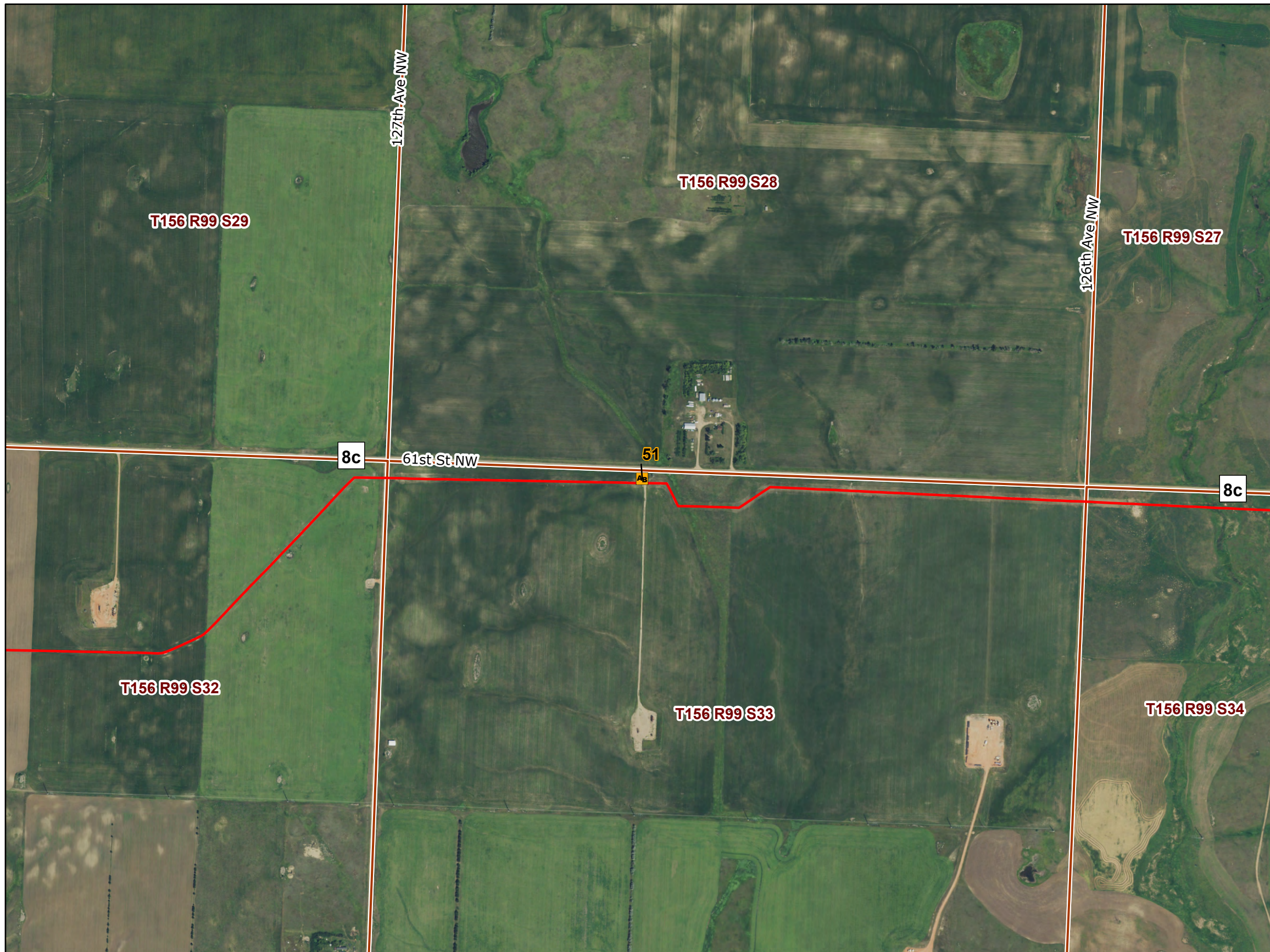
Cenex Pipeline
Figure 19

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)

Path: L:\2579\0033\pro\Cenex_Pipeline\Cenex_Pipeline.aprx
Date: 5/4/2021 Time: 9:22 AM User: MueKJ0907



PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION




As-Built Observation Locations

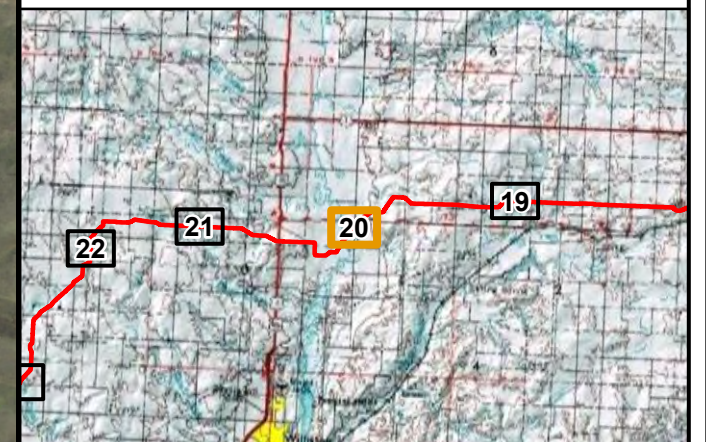


MAY 2021

Map 19 of 26

Cenex Pipeline
Figure 20

-  As-Built Observation Point Location
-  Cenex As-Built Centerline (PU-17-97)
-  Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)

Path: L:\2579\0033\pro\Cenex_Pipeline\Cenex_Pipeline.aprx
Date: 5/4/2021 Time: 9:22 AM User: MueKJ0907



PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION




As-Built Observation Locations

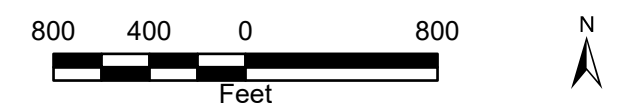
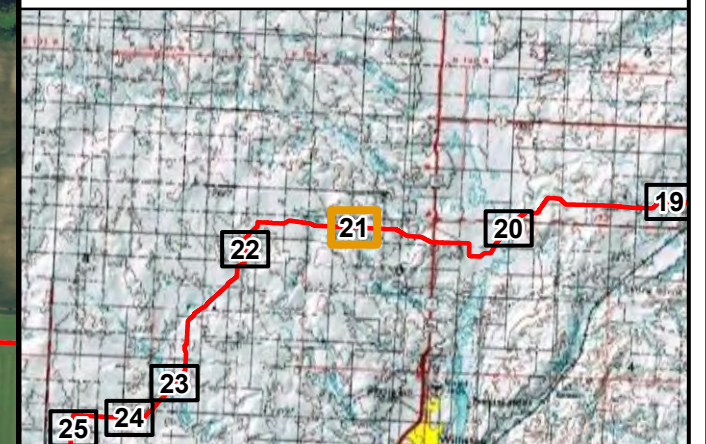


MAY 2021

Map 20 of 26

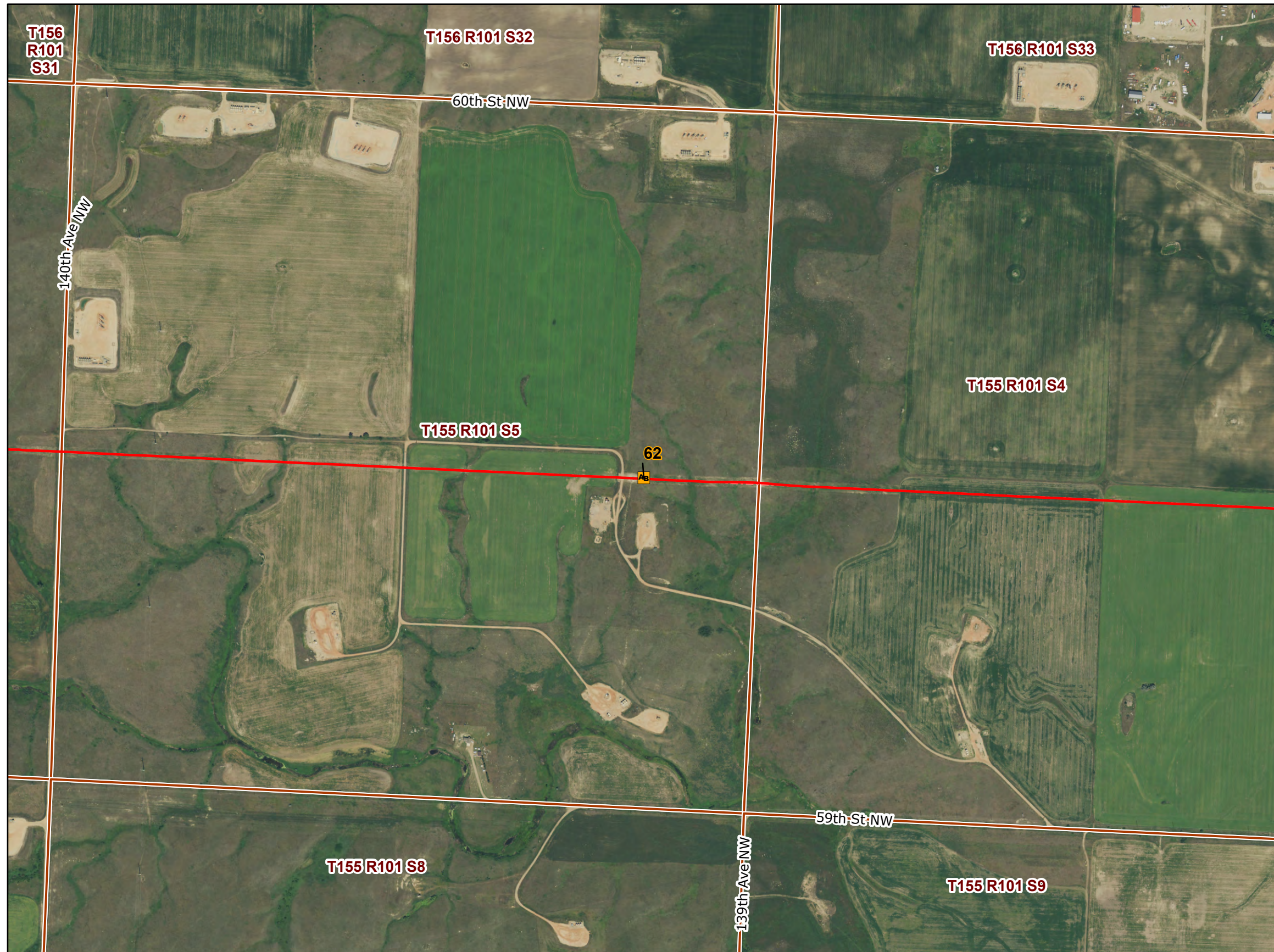
Cenex Pipeline
Figure 21

-  As-Built Observation Point Location
-  Cenex As-Built Centerline (PU-17-97)
-  Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)

Path: L:\2579\0033\pro\Cenex_Pipeline\Cenex_Pipeline.aprx
Date: 5/4/2021 Time: 9:22 AM User: MueKJ0907



PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

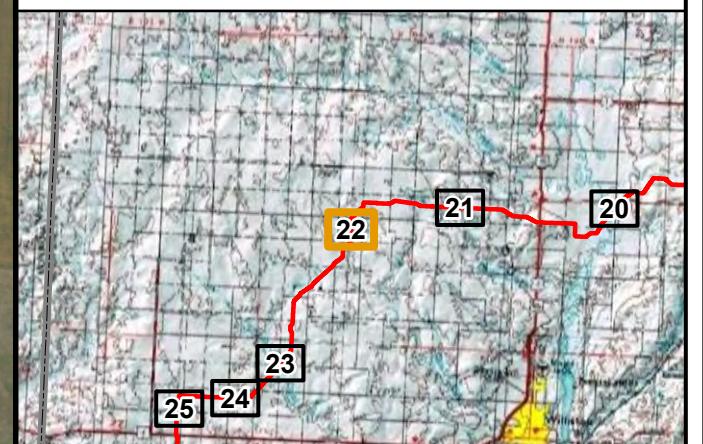


MAY 2021

Map 21 of 26

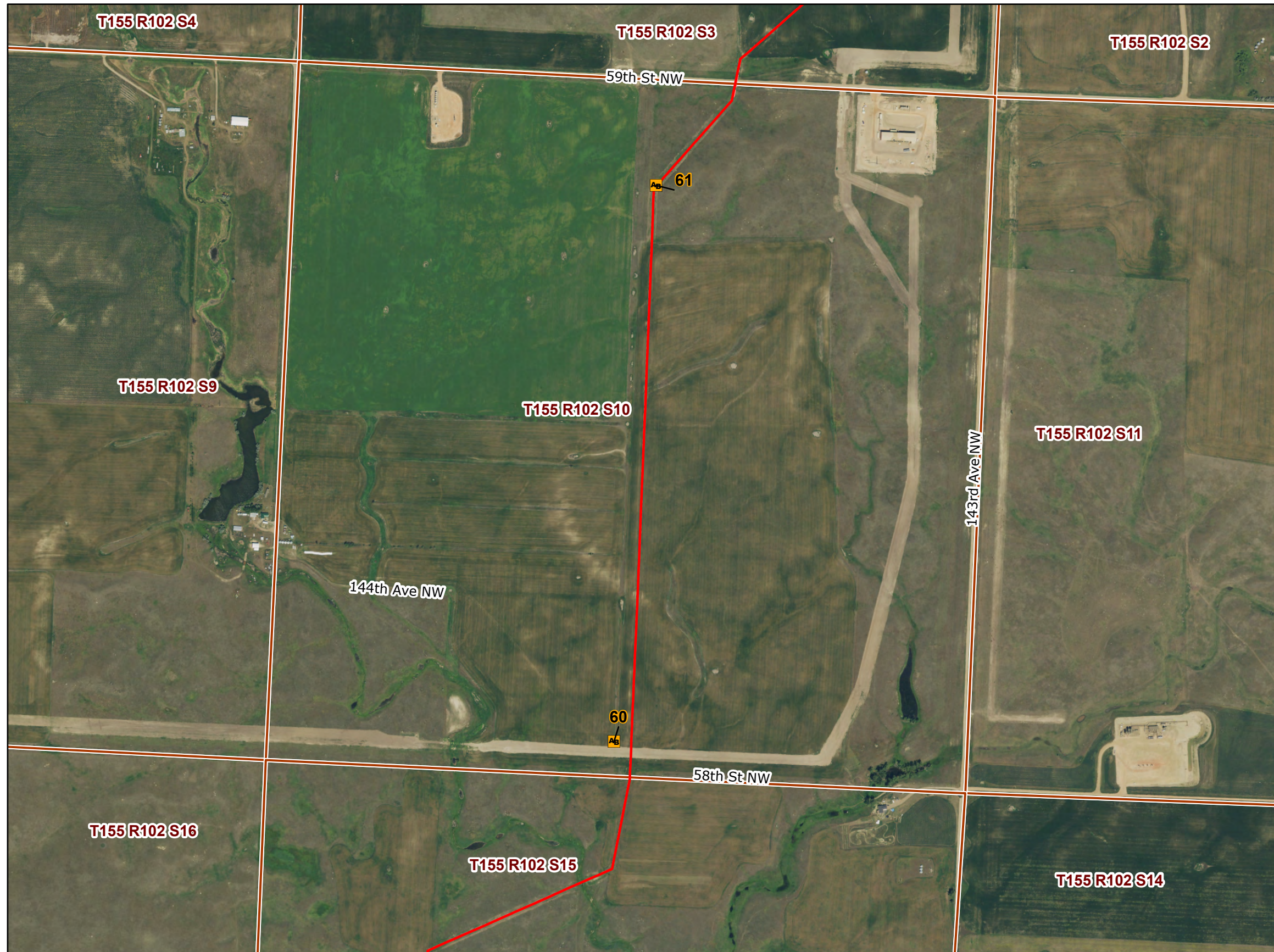
Cenex Pipeline
Figure 22

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)

Path: L:\2579\0033\pro\Cenex_Pipeline\Cenex_Pipeline.aprx
Date: 5/4/2021 Time: 9:23 AM User: MueKJ0907



PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

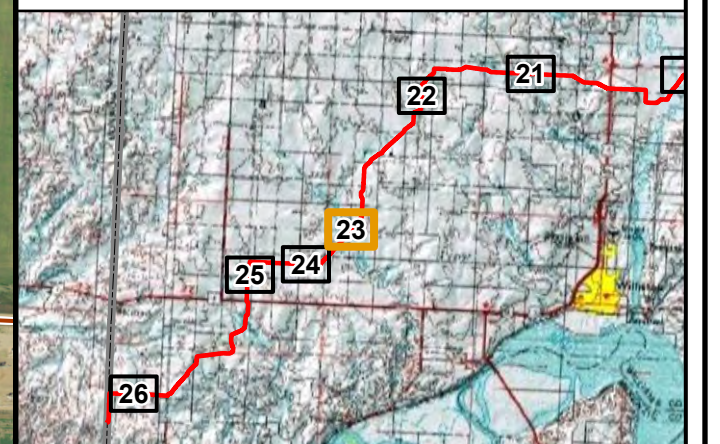


MAY 2021

Map 22 of 26

Cenex Pipeline
Figure 23

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)
Path: L:\2579\0033\pro\Cenex_Pipeline\Cenex_Pipeline.aprx
Date: 5/4/2021 Time: 9:23 AM User: MueKJ0907

PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations



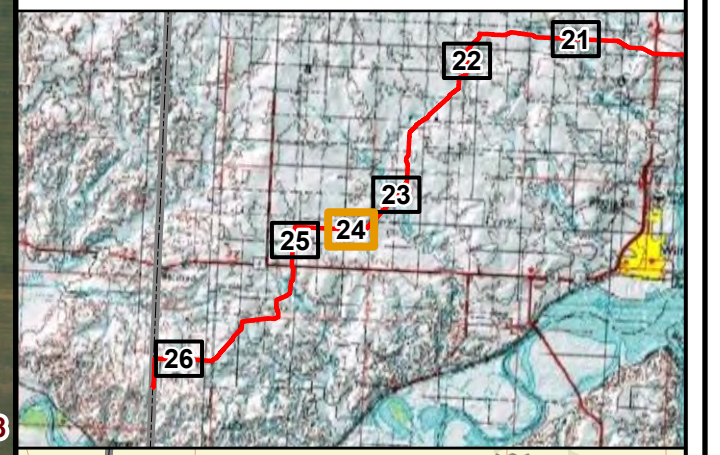
MAY 2021

Map 23 of 26

North Dakota
Public Service Commission

Cenex Pipeline
Figure 24

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)
Path: L:\2579\0033\pro\Cenex_Pipeline\Cenex_Pipeline.aprx
Date: 5/4/2021 Time: 9:23 AM User: MueKJ0907



PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

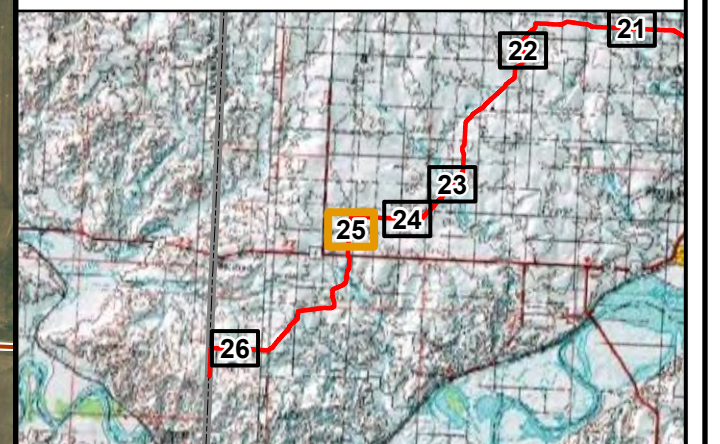
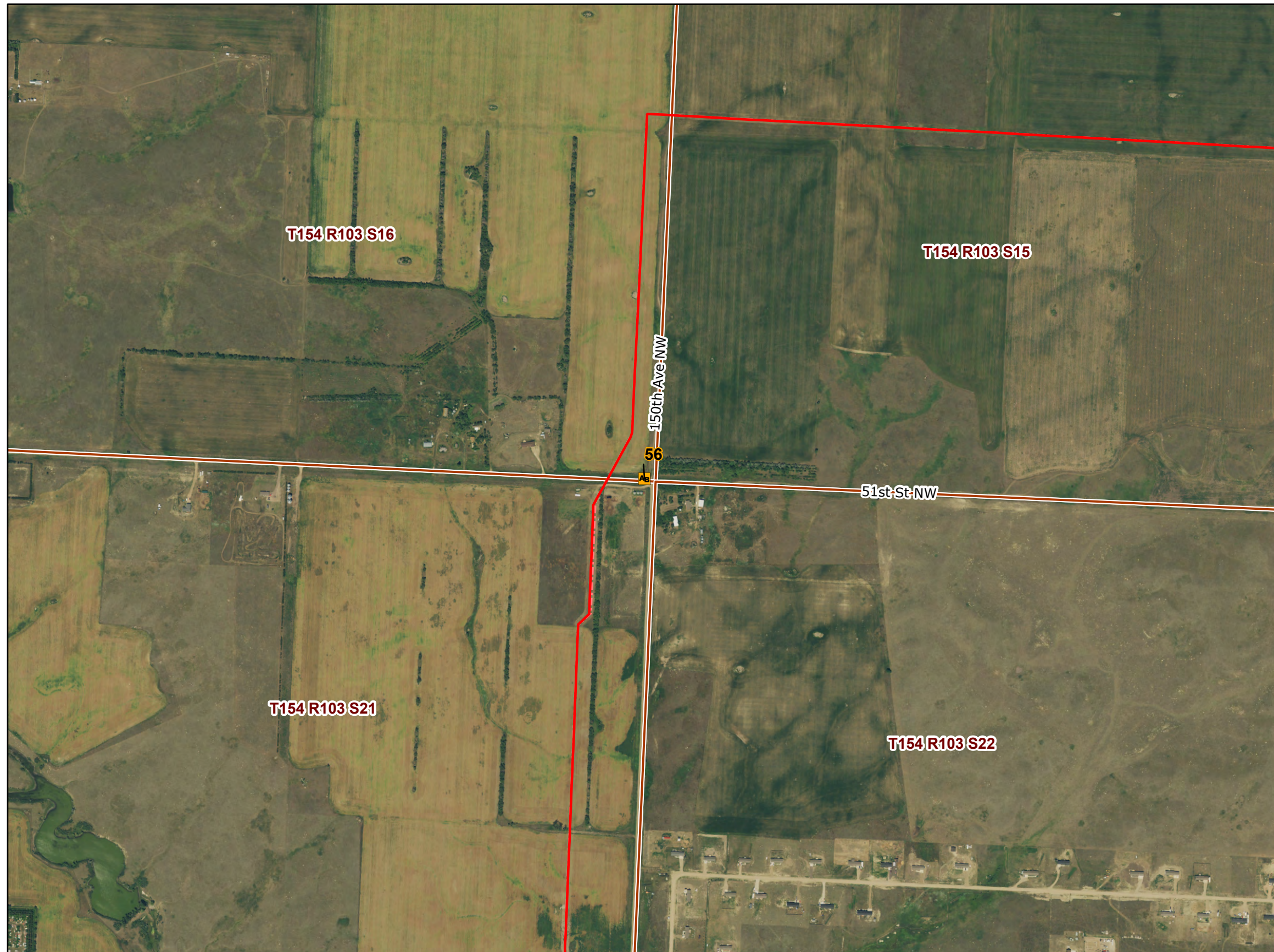


MAY 2021

Map 24 of 26

Cenex Pipeline
Figure 25

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)
Path: L:\2579\0033\pro\Cenex_Pipeline\Cenex_Pipeline.aprx
Date: 5/4/2021 Time: 9:23 AM User: MueKJ0907

PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations

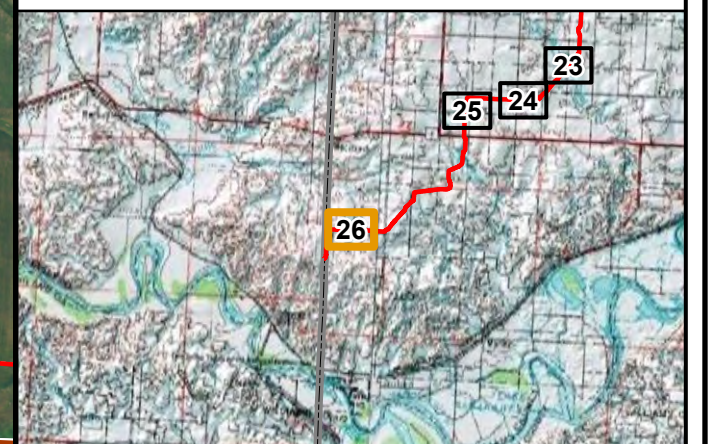


MAY 2021

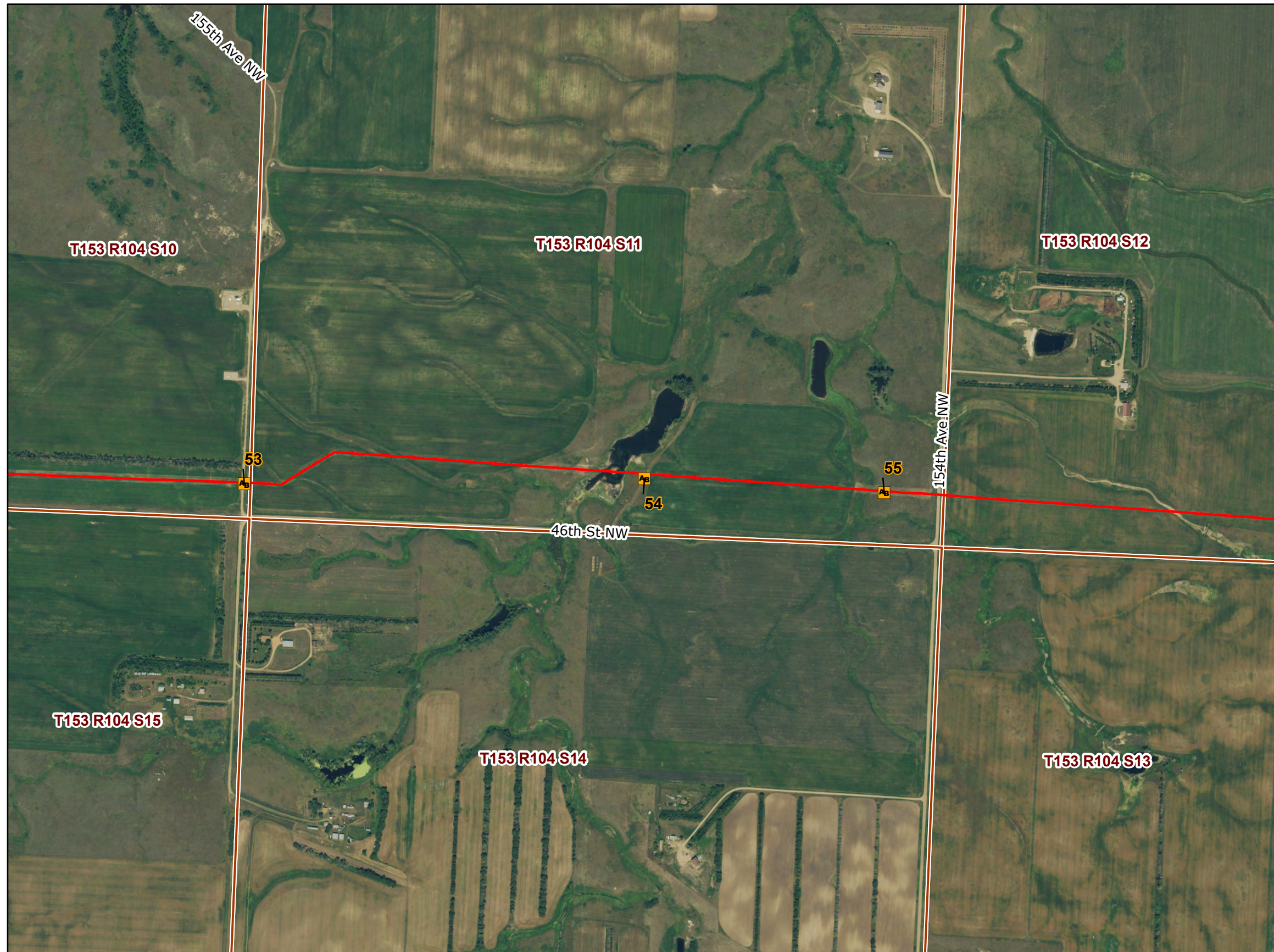
Map 25 of 26

Cenex Pipeline
Figure 26

- As-Built Observation Point Location
- Cenex As-Built Centerline (PU-17-97)
- Cenex Original Proposed Centerline (PU-17-97)



2020 Aerial Photograph (Source: NAIP)
Path: L:\2579\0033\pro\Cenex_Pipeline\Cenex_Pipeline.aprx
Date: 5/4/2021 Time: 9:24 AM User: MueKJ0907



PU-17-97 CENEX PIPELINE CONSTRUCTION INSPECTION

As-Built Observation Locations



MAY 2021

Map 26 of 26

APPENDIX A

Field Observation Coordinates

10" REFINED FUELS PIPELINE AS-BUILT INSPECTION REPORT
APPENDIX A - Field Observation Coordinates

May 2021

Field Observation Points

| Observation Point # | Latitude | Longitude |
|---------------------|-------------|--------------|
| 1 | 47.460339 | -104.032852 |
| 2 | 47.4663105 | -104.0116471 |
| 3 | 47.46629251 | -104.0116739 |
| 4 | 47.474629 | -104.003596 |
| 5 | 47.474629 | -104.003596 |
| 6 | 47.48162612 | -103.9195844 |
| 7 | 47.481399 | -103.919231 |
| 8 | 47.497733 | -103.898903 |
| 9 | 47.53198889 | -103.8624885 |
| 10 | 47.53512948 | -103.8648205 |
| 11 | 47.53381155 | -103.8651191 |
| 12 | 47.53234936 | -103.864904 |
| 13 | 47.53308503 | -103.864893 |
| 14 | 47.555544 | -103.862377 |
| 15 | 47.555816 | -103.86235 |
| 16 | 47.61832125 | -103.7778031 |
| 17 | 47.66176428 | -103.7390694 |
| 18 | 47.67436112 | -103.6351048 |
| 19 | 47.67458389 | -103.6350784 |
| 20 | 47.69590273 | -103.5833937 |
| 21 | 47.72798658 | -103.5191837 |
| 22 | 47.7324889 | -103.5167951 |
| 23 | 47.73341047 | -103.4995133 |
| 24 | 47.73421001 | -103.454727 |
| 25 | 47.75068909 | -103.4333132 |
| 26 | 47.7609847 | -103.3891303 |
| 27 | 47.7593563 | -103.3691008 |
| 28 | 47.78958096 | -103.3497711 |
| 29 | 47.79261636 | -103.3267398 |
| 30 | 47.80900883 | -103.3180052 |
| 31 | 47.81184171 | -103.3154658 |
| 32 | 47.81924524 | -103.3150274 |
| 33 | 47.83374 | -103.3147509 |
| 34 | 47.83372368 | -103.3145987 |
| 35 | 47.84067838 | -103.3148576 |
| 36 | 47.84801738 | -103.2700869 |
| 37 | 47.85364695 | -103.2192437 |
| 38 | 47.85321774 | -103.2081333 |
| 39 | 47.87408372 | -103.0855113 |
| 40 | 47.87597458 | -103.0591886 |
| 41 | 47.87718687 | -103.0514293 |
| 42 | 47.87720347 | -103.0514423 |
| 43 | 47.89147586 | -103.0477562 |
| 44 | 47.89144949 | -103.0477626 |
| 45 | 47.90747163 | -103.0066547 |
| 46 | 47.90717191 | -103.0059678 |



APPENDIX B

Observation Point Photolog

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 1
Date Taken: April 19, 2021 2:37 PM
Direction Photo is Taken: North
Spread: 2

Photo Description: Appropriate tree clearing width.

Latitude: 48.2210150000001
Longitude: -101.373215



Observation Point: 2
Date Taken: April 19, 2021 2:40 PM
Direction Photo is Taken: North
Spread: 2

Photo Description: Lack of BMPs for erosion and sediment control on slopes.

Latitude: 48.2206600000001
Longitude: -101.373271667



Observation Point: 3
Date Taken: April 19, 2021 3:13 PM
Direction Photo is Taken: West
Spread: 2

Photo Description: Overview of well graded and decompaction plowed pipeline ROW. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.2118966670001
Longitude: -101.382715

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 4

Date Taken: April 19, 2021 3:33 PM
Direction Photo is Taken: West
Spread: 2

Photo Description: Construction access not graded well, also utilized by landowner, not clear if grading and compaction issues present are Cenex or landowner caused.

Latitude: 48.210491667
Longitude: -101.403845



Observation Point: 5

Date Taken: April 19, 2021 4:01 PM
Direction Photo is Taken: Northeast
Spread: 2

Photo Description: BMPs not maintained. No vegetation growing. Lack of construction industry standard and Cenex SWPPP implementation of BMPs.

Latitude: 48.2056250000001
Longitude: -101.429571667



Observation Point: 6

Date Taken: April 19, 2021 4:05 PM
Direction Photo is Taken: Northwest
Spread: 2

Photo Description: BMPs not maintained. No vegetation growing. Lack of construction industry standard and Cenex SWPPP implementation of BMPs.

Latitude: 48.2064983330001
Longitude: -101.430811667

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 7
Date Taken: April 19, 2021 4:14 PM
Direction Photo is Taken: East
Spread: 2

Photo Description: Compaction in ROW along access path, may be utilized by landowner, unsure if Cenex or landowner caused issue.

Latitude: 48.20716
Longitude: -101.413168333



Observation Point: 8
Date Taken: April 19, 2021 4:33 PM
Direction Photo is Taken: Southeast
Spread: 2

Photo Description: Roadway ROW construction access in ditch. Substandard reclamation, both sides. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.1991200000001
Longitude: -101.4907



Observation Point: 9
Date Taken: April 19, 2021 4:45 PM
Direction Photo is Taken: Southwest
Spread: 2

Photo Description: Proof of HDD crossing methods through wetland drainage.

Latitude: 48.19672
Longitude: -101.505501666

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 10

Date Taken: April 19, 2021 4:51 PM
Direction Photo is Taken: Northeast
Spread: 2

Photo Description: Overview of pipeline ROW, successfully cropped field.

Latitude: 48.1906683330001
Longitude: -101.533636666



Observation Point: 11

Date Taken: April 19, 2021 4:57 PM
Direction Photo is Taken: Northeast
Spread: 2

Photo Description: Block valve pad. Unkempt and strewn pad material. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.186045
Longitude: -101.554695



Observation Point: 12

Date Taken: April 19, 2021 5:07 PM
Direction Photo is Taken: South
Spread: 2

Photo Description: Drainageway not graded back to original conditions. Large clods and topsoil present with mixed subsoil. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.188003333
Longitude: -101.546786666

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 13

Date Taken: April 19, 2021 5:21 PM
Direction Photo is Taken: Southwest
Spread: 2

Photo Description: Construction inspection revisit of HDD area. Significant subsoil mixing present. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.179695
Longitude: -101.577103333



Observation Point: 14

Date Taken: April 19, 2021 5:27 PM
Direction Photo is Taken: South
Spread: 2

Photo Description: Minor wetland outlet drainageway filled. Alteration of surface drainage patterns. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.178928333
Longitude: -101.581035



Observation Point: 15

Date Taken: April 19, 2021 5:45 PM
Direction Photo is Taken: East
Spread: 2

Photo Description: Proof of HDD wetland crossing.

Latitude: 48.176093334
Longitude: -101.593036667

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 16
Date Taken: April 19, 2021 5:59 PM
Direction Photo is Taken: Southwest
Spread: 2

Photo Description: Fence not replaced.

Latitude: 48.1678683330001
Longitude: -101.639003333



Observation Point: 17
Date Taken: April 19, 2021 6:01 PM
Direction Photo is Taken: Southwest
Spread: 2

Photo Description: Fence not replaced.

Latitude: 48.1678850000001
Longitude: -101.64113



Observation Point: 18
Date Taken: April 19, 2021 6:09 PM
Direction Photo is Taken: West
Spread: 2

Photo Description: Overview of well graded, no mixing, and no compaction of pipeline ROW. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.1641250000001
Longitude: -101.656503333

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 19

Date Taken: April 19, 2021 6:12 PM
Direction Photo is Taken: West
Spread: 2

Photo Description: Fence replaced.

Latitude: 48.1636083330001
Longitude: -101.663141667



Observation Point: 20

Date Taken: April 19, 2021 6:18 PM
Direction Photo is Taken: Southwest
Spread: 2

Photo Description: Fence not replaced.

Latitude: 48.1652950000001
Longitude: -101.652736667



Observation Point: 21

Date Taken: April 20, 2021 9:48 AM
Direction Photo is Taken: West
Spread: 2

Photo Description: Overview of well graded and plowed ROW. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.2276133330001
Longitude: -102.224706666

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 22

Date Taken: April 20, 2021 9:57 AM
Direction Photo is Taken: East
Spread: 2

Photo Description: Proof of HDD crossing wetland.

Latitude: 48.2267416670001
Longitude: -102.242593334



Observation Point: 23

Date Taken: April 20, 2021 10:14 AM
Direction Photo is Taken: East
Spread: 2

Photo Description: Construction access not reclaimed and compaction present.

Latitude: 48.2266866670001
Longitude: -102.243861667



Observation Point: 24

Date Taken: April 20, 2021 10:20 AM
Direction Photo is Taken: Southeast
Spread: 2

Photo Description: Proof of HDD under wetland.

Latitude: 48.225128333
Longitude: -102.260805

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 25
Date Taken: April 20, 2021 10:42 AM
Direction Photo is Taken: Northeast
Spread: 2

Photo Description: Fence replaced.

Latitude: 48.2113450000001
Longitude: -102.301886666



Observation Point: 26
Date Taken: April 20, 2021 11:10 AM
Direction Photo is Taken: Southwest
Spread: 2

Photo Description: Overview of well graded topography.

Latitude: 48.2111366670001
Longitude: -102.331846667



Observation Point: 27
Date Taken: April 20, 2021 11:25 AM
Direction Photo is Taken: East
Spread: 2

Photo Description: Block valve pad. Pad materials in strewn and unkempt.

Latitude: 48.211555
Longitude: -102.396006667

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 28

Date Taken: April 20, 2021 11:39 AM
Direction Photo is Taken: West
Spread: 2

Photo Description: BMPs not maintained. No vegetation growing. Lack of construction industry standard and Cenex SWPPP implementation of BMPs.

Latitude: 48.211825
Longitude: -102.400385



Observation Point: 29

Date Taken: April 20, 2021 11:43 AM
Direction Photo is Taken: West
Spread: 2

Photo Description: BMPs not maintained. No vegetation growing. Lack of construction industry standard and Cenex SWPPP implementation of BMPs.

Latitude: 48.2118616670001
Longitude: -102.404721667



Observation Point: 30

Date Taken: April 20, 2021 12:15 PM
Direction Photo is Taken: East
Spread: 2

Photo Description: Unkempt pad materials strewn about and stockpile left. General lack of vegetation and industry and Cenex SWPPP standard BMPs.

Latitude: 48.2105800000001
Longitude: -102.418503334

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 31

Date Taken: April 20, 2021 12:23 PM
Direction Photo is Taken: East
Spread: 2

Photo Description: Overview of well graded and plowed ROW. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.2111333340001
Longitude: -102.439661667



Observation Point: 32

Date Taken: April 20, 2021 12:46 PM
Direction Photo is Taken: Northeast
Spread: 2

Photo Description: Poor grading in drainageway. Improper BMP placement. Silt fence perpendicular to drainageway is not industry standard. Failure to maintain BMPs.

Latitude: 48.2109983340001
Longitude: -102.479335



Observation Point: 33

Date Taken: April 20, 2021 12:52 PM
Direction Photo is Taken: East
Spread: 2

Photo Description: Proof of HDD crossing wetland. Lack of BMPs.

Latitude: 48.211438333
Longitude: -102.470081667

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 34

Date Taken: April 20, 2021 1:03 PM
Direction Photo is Taken: South
Spread: 2

Photo Description: BMP maintenance required. Poor vegetation abundance and quality, multitude of weeds.

Latitude: 48.2110016670001
Longitude: -102.498091667



Observation Point: 35

Date Taken: April 20, 2021 1:28 PM
Direction Photo is Taken: East
Spread: 2

Photo Description: Vegetation actively growing, weedy.

Latitude: 48.211086666
Longitude: -102.677576666



Observation Point: 36

Date Taken: April 20, 2021 1:33 PM
Direction Photo is Taken: East
Spread: 2

Photo Description: Pad materials strewn about. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.2109516670001
Longitude: -102.72018

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 37

Date Taken: April 20, 2021 1:50 PM
Direction Photo is Taken: Southeast
Spread: 2

Photo Description: Pad materials strewn and stockpile left. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.2401783330001
Longitude: -102.80429



Observation Point: 38

Date Taken: April 20, 2021 1:54 PM
Direction Photo is Taken: East
Spread: 2

Photo Description: Minor subsidence. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.23835
Longitude: -102.79987



Observation Point: 39

Date Taken: April 20, 2021 2:01 PM
Direction Photo is Taken: Southeast
Spread: 2

Photo Description: Rock pile mixed with significant soil piled off ROW and at head of drainage.

Latitude: 48.2363800000001
Longitude: -102.789283334

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 40

Date Taken: April 20, 2021 2:06 PM
Direction Photo is Taken: South
Spread: 2

Photo Description: Construction inspection revisit. Winter stripping does not differ from other areas. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.2330900000001
Longitude: -102.785941666



Observation Point: 41

Date Taken: April 20, 2021 2:09 PM
Direction Photo is Taken: Northeast
Spread: 2

Photo Description: Rock pile with significant soil fraction located off row.

Latitude: 48.2300466670001
Longitude: -102.783681667



Observation Point: 42

Date Taken: April 20, 2021 2:47 PM
Direction Photo is Taken: North
Spread: 2

Photo Description: Construction access compaction present. It appears not to be the original field access.

Latitude: 48.2552666670001
Longitude: -102.844468334

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 43

Date Taken: April 20, 2021 2:53 PM
Direction Photo is Taken: East
Spread: 2

Photo Description: Overview of well graded ROW with no growth difference.

Latitude: 48.2557166660001
Longitude: -102.860583334



Observation Point: 44

Date Taken: April 20, 2021 3:17 PM
Direction Photo is Taken: Northwest
Spread: 2

Photo Description: Overview of ROW with contrasting vegetative success indicative of potential compaction.

Latitude: 48.269623333
Longitude: -102.961681667



Observation Point: 45

Date Taken: April 20, 2021 3:33 PM
Direction Photo is Taken: North
Spread: 2

Photo Description: Poor ditch grade matching.

Latitude: 48.2833150000001
Longitude: -103.009041666

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 46

Date Taken: April 20, 2021 3:36 PM
Direction Photo is Taken: Southwest
Spread: 2

Photo Description: Evidence of BMPs placed relatively recently. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.28414
Longitude: -103.010296667



Observation Point: 47

Date Taken: April 20, 2021 3:39 PM
Direction Photo is Taken: South
Spread: 2

Photo Description: Failure to maintain BMPs. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.284116667
Longitude: -103.015945



Observation Point: 48

Date Taken: April 20, 2021 3:46 PM
Direction Photo is Taken: East
Spread: 2

Photo Description: Construction access not reclaimed and poorly graded. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.2919216670001
Longitude: -103.043993334

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 49

Date Taken: April 20, 2021 4:33 PM
Direction Photo is Taken: North
Spread: 1

Photo Description: Evidence of soil mixing and no desired vegetation present.

Latitude: 48.299271667
Longitude: -103.178363334



Observation Point: 50

Date Taken: April 20, 2021 4:41 PM
Direction Photo is Taken: Northeast
Spread: 1

Photo Description: Construction inspection soil segregation issue revisit. 2020Vegetation growth seems adequate.

Latitude: 48.2992800000001
Longitude: -103.184555



Observation Point: 51

Date Taken: April 20, 2021 5:14 PM
Direction Photo is Taken: East
Spread: 1

Photo Description: Overview of ROW, cropping success.

Latitude: 48.298911667
Longitude: -103.423833334

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 52

Date Taken: April 20, 2021 5:29 PM
Direction Photo is Taken: West
Spread: 1

Photo Description: Block valve. No vegetation.

Latitude: 48.2799866670001
Longitude: -103.561685



Observation Point: 53

Date Taken: April 21, 2021 9:48 AM
Direction Photo is Taken: West
Spread: 1

Photo Description: Overview of well graded and plowed ROW. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.083018333
Longitude: -104.03551



Observation Point: 54

Date Taken: April 21, 2021 9:57 AM
Direction Photo is Taken: West
Spread: 1

Photo Description: Lack of BMPs on slope to water.

Latitude: 48.0835066670001
Longitude: -104.023113333

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 55

Date Taken: April 21, 2021 10:27 AM
Direction Photo is Taken: West
Spread: 1

Photo Description: ROW trenched through NHD blue line waterway. Closer inspection reveals area is not a wetland or waterway.

Latitude: 48.083446667
Longitude: -104.015666667



Observation Point: 56

Date Taken: April 21, 2021 11:05 AM
Direction Photo is Taken: North
Spread: 1

Photo Description: Overview of well graded and plowed ROW. Unclear as to why the ROW is seemingly recently plowed.

Latitude: 48.154728333
Longitude: -103.928148334



Observation Point: 57

Date Taken: April 21, 2021 11:16 AM
Direction Photo is Taken: East
Spread: 1

Photo Description: Grade well matched to topography of NHD blue line waterway.

Latitude: 48.1621700000001
Longitude: -103.88135

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 58

Date Taken: April 21, 2021 11:29 AM
Direction Photo is Taken: Southwest
Spread: 1

Photo Description: Pad materials strewn, compaction present, and no vegetation.

Latitude: 48.1832250000001
Longitude: -103.842876666



Observation Point: 59

Date Taken: April 21, 2021 11:30 AM
Direction Photo is Taken: North
Spread: 1

Photo Description: Apparent temporary approach left intact.

Latitude: 48.1832933330001
Longitude: -103.842938333



Observation Point: 60

Date Taken: April 21, 2021 1:45 PM
Direction Photo is Taken: North
Spread: 1

Photo Description: Overview of ROW, successfully cropped.

Latitude: 48.2564066670001
Longitude: -103.787788333

PU-17-97 (Cenex): Observation Point Photolog



Observation Point: 61

Date Taken: April 21, 2021 1:54 PM
Direction Photo is Taken: Northeast
Spread: 1

Photo Description: Vegetation growing.

Latitude: 48.267995
Longitude: -103.78722



Observation Point: 62

Date Taken: April 21, 2021 3:02 PM
Direction Photo is Taken: West
Spread: 1

Photo Description: Construction inspection revisit. Winter tie in area. Conditions are acceptable.

Latitude: 48.277046666
Longitude: -103.694336667

