



Commissioner Julie Fedorchak  
Commissioner Brian Kroshus  
Commissioner Randy Christman  
c/o Mr. Darrell Nitschke  
Executive Secretary  
North Dakota Public Service Commission  
600 East Blvd, Dept 408  
Bismarck, ND 58505-0480

July 18, 2017



**RE: North Dakota Pipeline Company LLC  
Siting Exclusion Certification  
8-inch and 10-inch Crude Oil Pipelines, Williams County  
PU-17-246**

Dear Mr. Nitschke:

Enclosed for filing please find two copies of North Dakota Pipeline Company LLC's Minutes from the Preconstruction Conference that was held on July 13, 2017 for the above captioned project. Also provided are two copies of the Federal Aviation Administration's (FAA) Special Provisions document and Finding of No Significant Impact (FONSI) / Record of Decision (ROD) for the proposed Williston Basin International Airport (XWA) located in Williston, North Dakota.

NDPL appreciates the time and attention provided to this matter by the Commission and its Staff. Please contact me at (832) 214-9626 if you have any questions regarding this matter.

Sincerely,

Matt Comeaux  
Supervisor, Regulatory Affairs

cc: Mr. Patrick J. Fahn

Enclosures

# Meeting Minutes



PU-17-246 - North Dakota Pipeline Company, LLC – Siting Exclusion Certification

8-inch and 10-inch Crude Oil Pipelines – Williams County

Pre-Construction Meeting

Thursday, July 13, 2017

Attendees:	<input checked="" type="checkbox"/>	
Matt Comeaux (NDPL-Reg)	<input checked="" type="checkbox"/>	
Zachary Keller (NDPL-Eng)	<input checked="" type="checkbox"/>	
Cathryn Hanson (NDPL-Env)	<input type="checkbox"/>	Unavailable
Jennifer Fry (NDPL-Law)	<input checked="" type="checkbox"/>	
Tracy McAnally (NDPL-Reg)	<input checked="" type="checkbox"/>	Minute Taker
Clint Knutson (Ulteig)	<input checked="" type="checkbox"/>	
Sheri Lares (FAA)	<input checked="" type="checkbox"/>	
Mark Holzer (FAA)	<input checked="" type="checkbox"/>	
Lynn Mosher (NDPL-Eng)	<input checked="" type="checkbox"/>	
Todd Steinberger (NDPL-Const)	<input checked="" type="checkbox"/>	
Mason Short (KLJ Eng)	<input checked="" type="checkbox"/>	
Jennifer Hanley	<input type="checkbox"/>	Unavailable
Adam Vehe (NDPL-Env)	<input checked="" type="checkbox"/>	
Patrick Fahn (ND-PSC)	<input checked="" type="checkbox"/>	

Safety Moment – Avoiding Dehydration

**North Dakota Pipeline Company LLC’s Certification Pursuant to N.D.C.C. § 49-22-03(3)(a) for an existing 8-inch crude oil pipeline, Williams County, North Dakota (Case No. 10,472) and an existing 10-inch crude oil pipeline, Williams County, North Dakota (Case No. PU-06-330)**

Certification

- Patrick Fahn asked for clarification regarding area designated as “proposed utility corridor” on Exhibit A in Certification. Matt Comeaux explains that area is FAA’s designated corridor to relocate all utilities affected by proposed airport infrastructure. Purpose is to relocate all utilities to this area. NDPL’s pipeline relocation work will occur within 150’ wide corridor within this larger “proposed utility corridor”. Matt also indicates that NDPL will be removing those sections of the existing pipeline in between the stopple workspace locations. Patrick asked if those sections to be removed would be trenched. Zach Keller indicated those will be open cut. Patrick then asked if reclamation would be required there as well – Matt confirmed.

- Certification (10) - Patrick stated that he and Matt spoke and came to a consensus regarding overlapping requirements between requirements set forth in Cases 10,472 and PU-06-330. Where there is overlap, NDPL will comply with requirements set forth in PU-06-330. Patrick asked if everyone understood. Matt confirmed.
- Certification (11) – Patrick stated there were also possible overlaps between PSC Orders and FAA requirements. It was agreed that the more stringent compliance requirement would apply in these circumstances. Matt stated that in speaking with Sherri Lares, it appears as though the FAA requirements would be more stringent, particularly in regards to cultural / tribal resources. Sheri added that the FAA has provided NDPL with a copy of the FAA’s Special Provisions for this project, which outlines cultural resource compliance requirements. Matt to provide to Patrick, along with copy of FAA FONSI.

**Commissions Order Case #PU-06-330- Enbridge Pipelines (North Dakota) LLC Trenton to Beaver Lodge Pipeline – Williams County Siting Application**

**Review of Order PU-06-330 – Findings of Fact**

- #7 - Patrick inquired as to the wall thickness and grade of steel to be used. Zach stated that the new portion of 10-inch pipeline will have 0.25-inch wall thickness. Zach also indicated the new portion of 8-inch pipe will meet the minimum required wall thickness for the existing 8-inch line, but exact wall thickness not yet confirmed. Both the 8-inch and the 10-inch pipelines will consist of X-52 grade steel.
- #8 - Matt confirmed this requirement would be met.
- #9 - Matt confirmed this requirement would be met.
- #12 - Patrick stated the proposed 150’ work space is located within previously-evaluated corridor.

**Review of Order PU-06-330 – Order**

- #4 – Patrick inquired as to the routing – any changes anticipated? Matt indicated that route is established and no changes anticipated. If unanticipated changes encountered during construction, PSC would be notified for appropriate next steps.
- #6 – Patrick questions whether any permits were required and associated status. Matt indicated that most permits obtained on behalf of the FAA for larger airport construction project, but some minor permits required. Adam Vehe indicated that NDPL would need to obtain land disturbance and storm water permits, water uptake and water discharge permits prior to associated activities. Copies of permits will be provided to PSC upon receipt.

- #7 – Mason Short confirmed there are no businesses or homes within 500'. Sheri asked if the PSC's concern is related to existing or proposed business/homes, as some businesses may be established in hangars in future. Patrick confirmed PSC only concern with present conditions.
- #8 – Fulfilled by this meeting.
- #9 – Enbridge will inform commission prior to start date, report to the PSC on the date construction has started and provide updates on a weekly basis. Zach indicated that August 1, 2017 is our target start date. Matt asked if reporting formats used on prior projects would be sufficient - Patrick confirmed and stated that unusual events should be reported in weekly events as well. Weekly reporting to PSC should go to general email address in pdf format and copy Patrick. Bottom margin needs to be 1.3" on first page.
- #11 – Patrick indicated that minimum required depth is 48". NDPL indicated no issues with that.
- #12 – Patrick inquired about road crossings. Matt stated he wasn't aware of any. Mason indicated that some graded roads will be crossed but these crossing have been authorized by City of Williston. Patrick asked if there was permitting associated with these authorizations. Mason indicated that no permits were required – City involved in design of crossings.
- #14 – Patrick asked if any wooded areas would be impacted. Mason indicated that no wooded areas would be impacted by Enbridge's pipeline relocation.
- #15 – Patrick stated that if critical habitat encountered, report immediately.
- #16 – No further discussion
- #17 – Patrick asked how this condition compared to FAA's requirements. Sherri Lares indicated that avoidance is required, no provisions for mitigation. Matt will provide copy of FAA Special Provisions to PSC.
- #18 – No further discussion
- #19 – No further discussion
- #20 – No further discussion
- #21 – Matt indicated that we do have an NRCS-approved seed mix. Clint Knutson and Mason Short confirmed. Patrick asked if a separate seed mix would be used in area where existing pipelines to be removed. Mason stated the same mix will be utilized in this area. Mark

Holzer indicated this seed mix will be utilized across entire airport property, where needed.

- #22 – Not applicable
- #23 – Mason stated that fences and gates are being removed by others as part of the overall airport construction project.
- #24 – Patrick indicated that the PSC would like a hard copy, a pdf copy and a GIS copy of as-built drawings. Zach agreed that providing these three months after construction sounds feasible. Matt to confirm GIS format is ok.
- #25 – No further discussion

## FAA's Special Provision



**FAA**  
**Office of Airports**  
**Dakota-Minnesota Airports District Office**

**Special  
Provision**

## **TRIBAL COORDINATION & PROCEDURES DURING CONSTRUCTION**

**Williston Basin International Airport (XWA) located in Williston, North Dakota**

### **1. PURPOSE.**

Establish uniform procedures for the Federal Aviation Administration (FAA) Office of Airports, Dakota-Minnesota Airports District Office (ADO) that define the consultation process, project implementation including the tribal monitoring compensation plan and inadvertent discovery plan, for compliance with the National Historic Preservation Act (NHPA) 16 U.S.C. 470 during construction and implementation of a new commercial service airport - Williston Basin International Airport (XWA) located in Williston, North Dakota.

This document sets forth the process and protocol by which FAA will meet its responsibilities with regard to consultation with Native American Tribal communities with interest in the project area under Section 106 of the NHPA for the replacement airport and associated development in Williston, North Dakota.

Consultation can be generalized as a process of learning through education and interaction. In this case it is a process whereby federal, state and local agencies and the tribal communities work together to take into consideration the effects those undertakings will have on cultural resources important to the Tribes. Working with the Project Team Consultation Committee will allow a clearer understanding of relevant issues and concerns which will result in more effective cultural resource management, and streamline the process.

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## **2. WILLISTON REPLACEMENT AIRPORT PROJECT.**

### **2.1. Background.**

The City of Williston completed a planning study in July 2014. Alternatives included the redesign and reconstruction of the existing airport or a new, relocated airport. They completed a site selection study and found two feasible sites for the proposed new airport location. On September 22, 2015, FAA approved a Finding of No Significant Impact (FONSI)/Record of Decision (ROD) for the proposed new airport location in Williston, ND. The site selected for the new airport is Alternative E, Site 5.

The purpose of the proposed action is to develop aviation facilities that meet FAA airport design standards and accommodate current and projected aviation activity for the Williston, ND area. The need for the proposed action is to provide aviation facilities that meet FAA airport design standards for Airport Reference Code (ARC) D-III aircraft at Alternative E, Site #5. Further information regarding the proposed project is available in the Environmental Assessment (EA) and the Airport's Master plan.

This project will require the acquisition of approximately 1,565 acres of land for airport use and 24.6 acres for road right-of-way, for a total of 1,589.6 acres.

Multiple site visits since 2012 have produced technical and culturally-sensitive reports, drawings and maps outlining the potential resources identified on Site #5. The general identification of the environmentally sensitive resources including wetlands and tribal resources are outlined in the EA. The specific locations and culturally-sensitive materials are kept confidential and are not subject to release.

The replacement airport and associated development project is considered to be a Federal Undertaking subject to Section 106 as described in 36 CFR Part 800.3(a)(1) and Part 800.16(y) and all other applicable federal, state and local laws.

Williston is committed to the design and construction of a replacement airport project and associated development in Williston, North Dakota that: 1) safely moves people and goods; 2) avoids, minimizes and/or mitigates adverse effects on cultural resources; 3) recognizes that consideration of tribal interest in preservation of significant cultural resources is important to tribal well-being, growth and prosperity; and 4) responds to the needs of North Dakota communities and the Tribes.

### **2.2. Mission Statement and Goals.**

Avoidance of effect to significant cultural resources is important to the FAA, the North Dakota Aeronautics Commission (NDAC), City of Williston, and the Tribes. However, avoidance is not always preservation. If practical and possible, the FAA, the NDAC, and Williston will assist the Tribes in their further goal of preservation of resources of value to them. Avoidance will always be the first option studied. When a resource cannot be

avoided, every attempt will be made to minimize the impacts and to mitigate the loss of information and value identified by all parties.

### **2.3. Intent.**

The FAA, NDAC, and Williston understand the Tribes have concerns regarding cultural resources, preservation of sacred places, continuing destruction of places and things of cultural value, and the effects of this destruction on their cultural identity. Cultural resources are revered by the Tribes. These cultural resources are a connection to their past and important to their cultural identity, sense of self, and future well-being. Cultural resources are tied to people's ancestors, some are related to important religious activities, and all have ongoing spiritual connections. The FAA, the NDAC and Williston recognize the importance of these remnants from the past to indigenous people living today.

Modern development, including transportation construction, has destroyed valuable cultural resources and adversely impacted others. This document is intended to ensure all parties understand all cultural resources are important to the Tribes and work together to protect and preserve them. The FAA, the NDAC and Williston are committed to providing a replacement airport and associated development that will benefit all aviation users. The FAA, the NDAC and Williston are also committed to learning tribal perspectives about cultural resources important to the Tribes and accommodating tribal sensitivities into the aviation project. The Tribes are committed to understanding transportation issues and the perspectives of the FAA, the NDAC, and Williston. The tribes shall provide tribal monitoring for the project. Jointly we are committed to establishing a relationship of mutual trust and respect.

The FAA, the NDAC, and Williston recognize that transportation projects have the potential to adversely affect cultural resources: sacred sites, archaeological sites, traditional natural resources, and traditional landscapes of value to the Tribes. The FAA, the NDAC, and Williston do not wish further destruction of these important places and recognize the inherent rights of the Tribes to retain and preserve these places of value.

It is the intention of the FAA, the NDAC, and Williston to continue to work with the Tribes to find appropriate ways to avoid effecting important cultural resources that may be discovered during construction. Williston pledges to always identify ways of avoiding these resources as the first option. When avoidance of effect is impossible or impractical given other concerns of equal importance, Williston will work with the Tribes for appropriate and respectful resolution of any unavoidable effects.

### **3. PROJECT TEAM CONSULTATION COMMITTEE.**

The Project Team Consultation Committee will be made up of individuals designated from each Tribe; generally this is the Tribal Historic Preservation Officer (THPO), and at least one individual from the FAA and Williston. NDAC personnel will have a standing

invitation to each meeting and can participate as a full Committee member. State Historic Preservation Office (SHPO) personnel can be invited to attend the meetings at the discretion of the Committee, but will not serve as official members.

The Committee will meet annually (prior to the beginning of each construction season) with the potential for specific additional ad-hoc meetings to discuss the replacement airport project and associated development with regard to National Historic Preservation Act (NHPA) compliance.

Project specific issues may require the Committee members to participate in an on-site consultation. These on-site visits may be done by the whole Committee, or interested members, or those appointed by the Committee for the specific task. This on-site consultation can be used to help identify possible impacts or to obtain first-hand knowledge of issues relating to cultural concerns. Tribal elders, THPOs, or other individuals identified by the Committee, who have specific knowledge of the area, project, or resource will be welcome to attend ad hoc Committee onsite meetings.

#### **4. PRESERVATION PLAN.**

The proposed new airport site contains known cultural resources. Williston has developed a new airport layout that avoids these known cultural resources. These known cultural resource areas are identified on the Airport Layout Plan for future protection. These sites will be fenced or otherwise protected during construction. The Tribes will provide TCS during construction to monitor for and determine if other cultural resources may be impacted.

Williston will also protect the cultural resources on the existing Williston Airport. Covenants or other protections will be placed on cultural resources within the existing airport property and avoidance measures, such as fencing, would be incorporated to ensure cultural resources within the access road right-of-way are avoided.

#### **5. CONSTRUCTION MONITORING.**

For the purpose of the proposed replacement airport project and associated development, monitoring crews are representative of an Archaeologist and TCS. These crews are and will be present during all ground disturbances on the proposed new airport location (Site #5), access roads, and the existing airport location in areas identified as culturally sensitive. These areas on the existing airport will remain protected in perpetuity after the land is released. The TCS(s) are chosen at the discretion of the Tribe(s).

A North Dakota permitted archaeologist will serve as the Archaeologist Field Director (Field Director) and will be present during all monitoring activities to assist and advise the crews. Depending upon the work plan of the Contractor(s) to complete construction of the project, fewer or more monitoring crews may be needed at the discretion of the

City of Williston, Contractor, and the Archaeological Field Director in coordination with the TCS(s).

Ground disturbing activities is focused on the disturbance and/or removal of the top 12 inches including the topsoil and Holocene deposits. Material sources (borrow, aggregate, and/or rip-rap) will be from an approved ND Department of Transportation source(s) or a culturally-cleared material source site specific to the Project and therefore does not require monitoring. This would also include stockpile sites, staging areas, plant sites, and waste sites located off the Project site.<sup>1</sup> Once the top 12 inches including the topsoil and Holocene deposits have been disturbed, further monitoring is not anticipated except on a case-by-case basis.

When the TCS(s) arrive at the project, they will receive a contact list that includes names, title, office and cell phone numbers for the consultants engineering staff, the City of Williston, and the FAA staff responsible for this project. A safety plan will be provided. The TCS(s) will also receive a map of the project and area around the project showing the previously discovered cultural sites. The TCS(s) are not employees of the City of Williston or employees of the City's agents/consultants, but will be compensated by the City per the terms defined in Appendix B – Logistics Plan for Construction Monitoring.

At the beginning of each rotation (bi-weekly) or at the discretion of the Tribes, the TCS(s) and Archaeologist Field Director(s) will meet to nominate the Lead TCS. That individual will serve as the single point of contact for all of the TCS(s) in the field and coordinate the daily/weekly reports. These reports will be provided weekly to the Field Director who will then combine with the Archaeologist report to distribute weekly to the Project Team Consultation Committee. These reports are considered to be confidential and not to be reproduced or distributed outside the Committee. Any drawings or sensitive information will not be included in the reports for distribution to the Committee but will be housed at the Dakota-Minnesota Airports District Office (Bismarck Office).

The Field Director will coordinate with the FAA, NDAC, the City of Williston, and the Project Team Consultation Committee to provide updates and project information

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<sup>1</sup> Before disturbing an area outside the project limits, the Contractor must provide the Engineer with a Certificate of Approval for material source locations. A complete list of previously approved sites and downloadable COAs is available on the NDDOT website at [www.dot.nd.gov/divisions/environmental/materialsource.htm](http://www.dot.nd.gov/divisions/environmental/materialsource.htm).

If the list does not include a location, the Contractor must provide a Class III Survey to the Engineer for use by the FAA to consult with the NDSHPO before use of the source on the project. Please provide at least 30 days for the consultation process to occur.

progress. The Lead TCS serves as the single point of contact for Tribes on the notification of issues, questions, or problems that need to be addressed during construction and will coordinate with the Field Director.

The construction crew work schedules will include a daily/weekly meeting to discuss results and devise appropriate responses to issues, including communication between crews, specific discoveries, and monitoring issues. This should be scheduled in conjunction with the weekly planning, safety, and reporting meeting. The TCS(s) will use these meetings to notify the crew of any special days and observed holidays.

Prior to any construction activity, the staked construction area will be inspected by the TCS(s) and archaeologist(s) to ensure any known cultural resources are being properly identified, delineated and avoided.

The TCS (s) and archaeologist(s) will closely observe the removal process and inspect each cut to ensure that subsurface or surface features are identified. If cultural features are encountered during monitoring activities, the location will be marked and construction will skip the area of the feature and work will continue in such a manner so as not to impede project progress in other areas and in a way that will not disturb the feature or associated artifacts prior to excavation and monitoring. If subsurface or surface features are encountered, the Inadvertent Discovery Plan will be initiated.

The Archaeological Field Director(s) and Lead TCS will ensure that documentation of tribally sensitive and legally required documentation of monitoring activities, discoveries and results are produced. This documentation will include dates, participants, decisions, and results. It will also be the responsibility of the Archaeological Field Director(s) and Lead TCS to produce weekly reports to the City of Williston and the FAA. At the completion of the monitoring effort and the processing of any recovered feature fill, cultural materials, or specialized samples, a professional quality report will be produced. If discoveries include culturally sensitive information (including burial goods or human remains) it shall be kept separate from the primary reports. The primary report(s) will meet or exceed the SHPO Guidelines. The FAA will distribute the primary report(s) to the SHPO and Project Consultation Committee members for review and concurrence. The final report(s) should not contain culturally sensitive information that is widely distributed. This information is considered confidential and property of the tribes.

## **6. OTHER POINTS OF MUTUAL AGREEMENT.**

### **6.1. Execution and Implementation.**

The implementation of this process shall constitute formal consultation between the FAA, the NDAC, Williston and the Tribes to meet tribal consultation requirements of Section 106 of the NHPA.

### **6.2. Confidentiality.**

The FAA, the NDAC, and Williston acknowledge the need for confidentiality of certain tribal spiritual and cultural information that may be provided to the FAA by the Tribes during the course of Committee meetings and other aspects of tribal consultation conducted on cultural resource issues. Information provided by consulted tribal members identified as sensitive, and requested to remain confidential, will remain confidential to the extent permitted by State and Federal law. The mechanism used for confidentiality may change through time or with circumstance, but the result will be the same. All confidential materials will be temporarily housed at the Dakota-Minnesota Airports District Office (Bismarck Office) of the FAA after project/issue completion. These materials can be distributed to the appropriate Tribe or Tribes as decided by the Project Team Consultation Committee. At the completion of the project, these materials will be returned to the Tribes.

### **6.3. Tribal Consultation & Monitoring Reimbursements.**

The City of Williston will host project specific related meetings and will reimburse the travel, per diem and mileage expenses at Federal rates for up to two representatives from each participating Tribe attending. See [Appendix B](#) for details of reimbursement.

### **6.4. Termination Date.**

This document is effective through the completion of the replacement airport project and associated development at which time it will expire unless specifically extended.

## **7. APPLICABLE REGULATIONS AND POLICY.**

Requirements identified within this document originate in various FAA directives including Orders, regulations and statutes. In the event a listed directive is revised subsequent to the date of this document, the user of this document shall refer to the current version of the policy directive to establish applicable requirements.

- a. Title 49 United States Code (U.S.C.) § 44718, Structures Interfering with Air Commerce.
- b. FAA Order 5100.38 - Airport Improvement Program Handbook.
- c. National Environmental Policy Act of 1969 (NEPA), as amended (42 United States Code § 4321-4347). See the U.S. Code.
- d. Council on Environmental Quality (CEQ), Title 40, Code of Federal Regulations (CFR), parts 1500-1508, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (CEQ Regulations).
- e. FAA Order 1050.1F, Environmental Impacts, Policies and Procedures, U.S. Department of Transportation, Federal Aviation Administration, July 16, 2015.
- f. FAA Order 5050.4B, National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions, U.S. Department of Transportation, Federal Aviation Administration, April 28, 2006.

- g. Environmental Desk Reference for Airport Actions, FAA Office of Airports, October 2007.
- h. National Historic Preservation Act of 1966 (NHPA), as amended, including Executive Order 11593, Protection and Enhancement of the Cultural Environment (36 FR 8921, May 13, 1971) [16 U.S.C. 470, 470 note] [PL 102–575 (1992)].
- i. Antiquities Act of 1906 [16 U.S.C. 431, 432, 433] [PL 59–209 (1906)].
- j. Archaeological and Historic Preservation Act of 1974 (AHPA), as amended [16 U.S.C. 469–469c] [PL 89–665].
- k. Archaeological Resources Protection Act of 1979 (ARPA), as amended [16 U.S.C. 470aa–470mm] [PL 96–95 (1979)].
- l. Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) [25 U.S.C. 3001] [PL 101–601 (1990)].
- m. American Indian Religious Freedom Act of 1978 [42 U.S.C. 1996, 1996 note] [PL 95–341 (1978)].
- n. Executive Order 13007, Indian Sacred Sites (61 FR 26771, May 29, 1996).
- o. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000), and the Presidential Memorandum of April 29, 1994, Government-to-government Relations with Native American Tribal Governments.
- p. Executive Order 11593, Protection and Enhancement of the Cultural Environment (36CFR 8921, May 13, 1971) (16 U.S.C. 470 note).

**APPENDIX A - GLOSSARY**

**Airport Consultant:** An Airport Consultant is a private or public company that provides technical expertise to the Airport Sponsor. The Airport Sponsor often hires the Airport Consultant to prepare, revise, and submit environmental documentation to the FAA in compliance with NEPA and other special purpose laws.

**Airport District Office (ADO):** For the purpose of this document, ADO refers to the office within the FAA Region that administers projects under the AIP and PFC programs. For Regions that do not formally have an ADO office, it refers to the section of the Regional office that administers projects under the AIP and PFC programs.

**Airport Operations Area (AOA):** Any area of the airport used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft. An air operations area includes such paved or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runways, taxiways, or aprons (AC 150/5370-2).

**Airport Sponsor:** The entity that is legally responsible for the management and operation of an airport, including the fulfillment of Federal program obligations and the requirements of applicable laws and regulations.

**Archaeological Field Director:** is an archaeologist permitted by the NDSHS to conducted archaeological investigations and monitoring projects in ND. This individual will identify, as necessary, when construction has proceeded beyond Holocene deposits, and to assist the monitoring crews in the identification of human remains. The Archaeological Field Director will ensure appropriate documentation of discoveries, with consideration to Tribal sensitivity and legal requirements. The Archaeological Field director and/or Archaeological Principal Investigator will ensure completion of a report on the results of monitoring for the SHPO and Committee members.

**Construction Monitoring:** Construction monitoring will be completed by individual crews walking areas of recently disturbed ground during the process of removal of topsoil material with construction machinery. Construction monitoring requires that fresh passes of material removal are inspected. Safe and effective monitoring requires good understanding of construction and monitoring activities by individual's involved and effective means of communication between construction and monitoring crews. Construction implementation plans should consider how best to approach the project with construction monitoring crews, including monitor safety and project construction needs. Coordination with monitoring crews and setting a process for education of all project crews to each other's duties will be the responsibility of the Contractor. If construction activity involving ground disturbance is taking place in multiple areas of the project at the same time, multiple monitoring crews will be needed. Training, coordination, and pairing of monitoring and construction activities will take place in a

manner to allow for effective and safe monitoring for discovery of human remains and archaeological features and completion of project construction needs and is the responsibility of the Contractor.

**Cultural Resources:** Prehistoric and historic districts, sites, buildings, structures, or objects that may or may not be eligible for the National Register of Historic Places. The term includes resources of traditional religious and cultural importance to an Indian Tribe.

**Effect:** Alteration of the characteristics of a cultural resource that qualifies it for inclusion in or eligibility for the National Register of Historic Places [36 CFR 800.16(i)].

**Environmental Protection Specialist (EPS):** The FAA ARP employee that is currently assigned responsibilities for administering the National Environmental Policy Act and other associated environmental actions for a specific airport.

**Historic Property:** Any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization and that meet the National Register criteria [36 CFR 800.16(1)(1)].

**Line of Business (LOB):** As used in this document, LOB represents service units of other FAA organizational offices (e.g. Flight Procedures).

**National Environmental Policy Act (NEPA):** is an act to establish a national policy for the environment. The purposes of the act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality [42 U.S.C. 4321].

**National Historic Preservation Act (NHPA):** An act to establish a Program for the Preservation of Additional Historic Properties throughout the Nation and for Other Purposes. The Congress finds and declares that 1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage; 2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people; 3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency; 4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future

generations of Americans; 5) in the face of ever-increasing extensions of urban centers, highways, residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation; 6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and 7) although the major burdens of historic preservation have been borne and major effects initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities [16 U.S.C. 470(b)].

**National Register Criteria:** The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location design, setting, materials, workmanship, feeling, and association, and: a) that are associated with events that have made a significant contribution to the broad patterns of our history; orb) that are associated with the lives of significant persons in our past; or c) that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or d) that have yielded or may be likely to yield information important in history or prehistory.

**Planner:** The FAA ARP employee that is currently assigned responsibilities for administering airport planning actions for a specific airport.

**Project Manager/Program Manager/Engineer (PM):** For the purpose of this document, the titles "Project Manager", "Program Manager" and Engineer shall be considered synonymous. All references to PM shall mean the FAA ARP employee currently assigned responsibilities for overseeing and administering AIP and PFC funded construction projects at the subject airport.

**State Historic Preservation Officer (SHPO):** The official appointed or designated pursuant to section 101 (b) (1) of the National Historic Preservation Act to administer the State historic preservation program [36 CFR 800.16(v)].

**Subject Matter Expert (SME):** An individual who possesses technical knowledge, skills and abilities that qualifies them as a competent authority for a specific area of expertise.

**Traditional Cultural Specialist (TCS):** The work of the Traditional Cultural Specialist will be to monitor for cultural resources during construction of the Williston Replacement Airport project. The TCS will work as an independent contractor together with archaeologists to assist in cultural resource identification and perform site monitoring in areas where Tribes have expressed interest in being present during construction.

Requesting and obtaining a TCS involves several steps. In order to make this process as easy and efficient as possible, the following steps must be taken.

(i) Prior to commencement of construction, the FAA Tribal Liaison will contact the tribes THPO or Cultural Preservation Office representatives to identify which tribes would be able to provide monitoring services and how many TCS(s) would be available. This information will be relayed to the City or their agent's Tribal Relations Manager.

(ii) Prior to commencement of construction, the City or their agent's Tribal Relations Manager and Field Director will coordinate with the contractor(s) to determine the number of monitoring crews needed, and schedule. The City or their agent's Tribal Relations Manager will coordinate with the THPO/Cultural Preservation offices to arrange TCS(s) and will send agreements and necessary paperwork to the appropriate TCS and THPO/Cultural Preservation offices for their approval and signature. The paperwork will then be sent back to the City or its agent. Copies of all forms will be provided to the THPO /Cultural Preservation office.

(iii) When the necessary paperwork has been completed, project start dates and location will be provided to the TCS. Compensation, lodging, travel fee and mileage compensation and appropriate equipment will be provided by the City (see Appendix B). If questions or concerns arise regarding any of the above information, the City's Tribal Relations Manager will be the primary point of contact.

**Tribal Historic Preservation Officer (THPO):** means the tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of section 106 compliance on tribal lands in accordance with section 101(d)(2) of the act.

**Tribal Liaison:** The FAA ARP employee that is currently assigned responsibilities for consultation with Native American Tribal communities and for administering Section 106 of the NHPA and all other applicable federal, state and local laws.

**Undertaking:** A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval; and that is a type of activity that has potential to cause effects to an historic property 36 CFR 800.3(a) and 800.16(y).

**APPENDIX B – LOGISTICS PLAN FOR CONSTRUCTION MONITORING****B.1. TRADITIONAL CULTURAL SPECIALIST (TCS).****B.1.1. Monitoring Crews.**

Monitoring crews will be made up of an archaeologist and TCS(s) (number to be determined by the Archaeological Field Director in coordination with the TCS(s) on each crew. A Field Director level Archaeologist or higher (Field Director) will be present during all monitoring activities to assist and advise the crews. Depending upon the work plan of the Contractor(s) to complete construction of the project, fewer or more monitoring crews may be needed at the discretion of the City of Williston, Contractor, and the Tribes. Notifications of monitoring needs and TCS requests will occur no less than 48-hours (or two business days) for assignment to report to the construction site.

The TCS(s) and Archeologist Field Director(s) will provide construction monitoring during ground disturbing activities in consultation with the City of Williston and the Contractor(s). Ground disturbing activities include the scraping, grading, trenching, and excavation of earthen materials at the new airport location. Once the top 12 inches including the topsoil and Holocene deposits have been disturbed, further monitoring is not anticipated except on a case-by-case basis.

**B.1.2. Lead TCS.**

When the TCS(s) arrive at the project, they will receive a contact list that includes names, title, office and cell phone numbers for the consultants engineering staff, the City of Williston, and the FAA staff responsible for this project. A safety plan will be provided. The TCS(s) will also receive a map of the project and area around the project showing the previously discovered cultural sites. The TCS(s) are not employees of the City of Williston or employees of the City's agents/consultants, but will be compensated by the City per the terms defined in this Appendix.

At the beginning of each rotation (bi-weekly) or at the discretion of the Tribes, the TCS(s) and Archaeologist Field Director(s) will meet to nominate the Lead TCS. That individual will serve as the single point of contact for all of the TCS(s) in the field and coordinate the daily/weekly reports. These reports will be provided weekly to the Field Director who will then combine with the Archaeologist report to distribute weekly to the Project Team Consultation Committee. These reports are considered to be confidential and not to be reproduced or distributed outside the Committee. Any drawings or sensitive information will not be included in the reports for distribution to the Committee but will be housed at the Dakota-Minnesota Airports District Office (Bismarck Office).

The Archaeological Field Director will coordinate with the FAA, NDAC, the City of Williston, and the Project Team Consultation Committee to provide updates and project information progress. The Lead TCS serves as the single point of contact for Tribes on the notification of issues, questions, or problems that need to be addressed during construction and will coordinate with the Field Director.

**B.1.3. Terms of Engagement.**

Terms and conditions have been developed in a manner consistent with all local, state and federal laws governing the protection and identification of archaeological and cultural resources. Monitoring crews should become familiar with the project and with the following terms of engagement as well as any project specific conditions prior to beginning their monitoring session.

- All TCSs designated by the Tribe for the Project are not considered employees of City of Williston or employees of the City's agents, but will be compensated as defined below. All monitors are responsible for applicable taxes, insurances, and/or any other benefits required by law.
- At the start of each work day, TCS(s) shall report to the Archaeological Field Director to whom they are assigned in order to receive any and all necessary safety and job coordination information.
- All monitoring crews must successfully complete the requisite safety and environmental training. Safety training is anticipated to occur weekly.
- Should a member of a monitoring crew find a cultural resource(s), they shall safely notify construction personnel, immediately report the finding to their assigned Archaeologist or Lead TCS, and mark the location for temporary avoidance. Sensitive resources might be of significance to additional tribes and there shall be an opportunity for other tribal monitors to review the discovery.
- Monitoring crews will not have the authority to direct construction personnel or equipment. In the event that a surface or subsurface feature is encountered within the project area during any ground-disturbing activities, the Lead TCS(s) and Archaeologist Field Director(s) will request a temporary work stop in the area of discovery. The City of Williston shall protect the area until cultural resource concerns have been appropriately addressed, and the contractor shall take all actions to protect the area until further notice.

**B.1.4. Compensation.**

TCS(s) will be compensated for their work during the project as follows:

Prior to the first day of monitoring, each TCS(s) will be provided with compensation for their travel fee, one week of per diem for meals, and equipment allowance. Following this initial payment, the monitoring fee, meals, and mileage will be paid out on a weekly basis at the end of the following week.

Amounts paid will be as follows:

- Monitoring Travel Fee                    \$200/day/TCS
- Monitoring Fee\*                            \$50/hr\*\*/TCS  
    \$65/hr\*\*/Lead TCS  
    \*Monitoring Fee will be paid straight time for overtime  
    \*\*\$200/day/TCS minimum
- Meals    Applicable per diem rate
- Automobile Mileage                        Applicable IRS mileage rate
- Lodging                                         Reasonable hotel lodging accommodations will be provided for each TCS (one adult), if desired.

- ✓ Expense and/or travel cost for spouses, other family members, and friends are not allowed.
- ✓ Anticipated construction will occur 6 days a week from dawn until dusk. Daily minimums will not be paid on days when the contractor is not working; such as holidays and/or weekends.
- ✓ Daily minimums will be paid on days that the contractor had anticipated working but was unable to because of conditions beyond their control; such as weather.
- ✓ Personal Protective Equipment (PPE) will be provided to Tribal Monitors as required by the project. A one-time equipment allowance (safety toed boots) will be provided to each TCS (\$50). Person(s) who arrive on jobsite without required equipment will not gain entry on site and will not be compensated for missed work.
- ✓ A monitoring fee as described above will be paid to each TCS on a weekly basis. Hours and/or days of monitoring shall be reported to the Archaeological Field Director by Wednesday 10:00 am of each week.

**B.1.5. Payments.**

Payments will be paid via a check, electronic fund transfer, or cash card. When applicable, a cash card will be issued to the list of the monitors provided by each

specific THPO or designated employee. These cards will be loaded with reimbursable amounts on a weekly basis. It is the responsibility of the TCS to manage and keep their card (and pin number) safe and private. If their card is damaged, lost or stolen, the tribal monitor must notify the card company. A new card will be issued and loaded.

#### **B.1.6. Direct Billing.**

Some of the tribes have TCSs that are employees of that specific tribe. Others do not have that capacity and therefore tribal monitors will be reimbursed for salary and expenses directly. Tribes that utilize direct billing will invoice in order to compensate the monitors with payment as a reimbursed amount including per diem and mileage.

#### **B.1.7. Violations.**

Any violations of hotel policies regarding the number of occupants in a room, damage to the hotel, etc. could result in removal of those persons or people from the hotel. If a monitor is removed from their project-provided hotel lodging accommodations, new accommodations will not be arranged. Instead, in those cases, lodging reimbursement will be limited to the U.S. Government GSA lodging rate for the city of Williston, ND as listed in the most recent OAG Official Traveler – Travel Guide. Weekly expenses for lodging, in the form of a detailed receipt, must be provided, failure to report any and all expenses as scheduled will result in a delay in payment. Any hotel expenses considered excessive or unreasonable will be deducted from future tribal monitoring fees.

### **B.2. TRANSPORTATION.**

The Tribe or TCS(s) are responsible to provide transportation from the Tribal Monitors home address to the project location. Mileage reimbursement will be determined by use of online mapping program, such as Google Maps at the above mileage rate. Absences from the project and return trips home should be coordinated with an onsite Archaeological Field Director to limit unnecessary lodging and/or travel expenses. Travelers failing to do so may not be reimbursed.

TCS(s) are responsible for travel to and from the work site. They will be compensated for 30 miles per days worked at the aforementioned mileage rate. Transportation will be provided on the jobsite.

The Tribe or TCS(s) shall use sound business judgment in determining the need for travel. The following guidelines are provided to assist the monitor in their compliance with the requirements to limit expense reimbursement to those costs that are necessary. Travelers will not be reimbursed for excess costs caused by:

- An indirect route as a matter of personal preference
- Excessive travel to and from the work site for personal reasons

### **B.3. TRIBAL PROJECT TEAM CONSULTATION COMMITTEE MEMBERS.**



## APPENDIX C - DISCOVERY PLAN

### C.1. SECTION 106 LEGAL REQUIREMENTS.

National Historic Preservation Act regulations (36 CFR Part 800.13) define requirements for post-review discoveries. An agency can develop a programmatic agreement [800.13(a)(1)] or include a process to resolve any adverse effects to discoveries in any finding of no adverse effect or memorandum of agreement [800.13(a)(2)]. The finding of effect for this project is No Adverse Effect as outlined in the Final EA and FONSI/ROD dated September 22, 2015. This Discovery Plan is intended to serve the function defined in 800.13(a)(2).

### C.2. BURIAL DISCOVERY.

Intentional, unauthorized disturbance of a human burial site under North Dakota State law is a Class C felony.

*"Any person who knows or has reasonable grounds to believe that a human burial site, human remains, or burial goods, found in or on any land, shall refrain from any activity which might disturb or immediately cease any continued activity which might cause further disturbance of such burial, remains, or goods and shall, as soon as practicable, report the presence or discovery of the burial, remains, or goods, to the local law enforcement agency with jurisdiction in the area in which the burial, remains, or goods are located. A person is guilty of a class B misdemeanor who is required to make such report and willfully, as defined in section 12.1-02-02, fails to make the same. The requirements imposed in this subsection do not apply to any person engaged in the salvaging excavation or other disinterment of a human burial under authority of law." (23-06-27.5).*

If human remains or burial goods are discovered either through monitoring activities or through exposure and identification by the Contractor, the reporting and disposition will take place in accordance with NAGPRA and procedures defined in North Dakota Administrative Code (NDAC) 40-02-03 (Protection of Prehistoric and Historic Human Burial Sites, Human Remains, and Burial Goods) and in accordance with North Dakota Century Code (NDCC) 23-06-27 (Protection of Human Burial Sites, Human Remains, and Burial Goods- Unlawful acts-Penalties-Exceptions):

- Work will immediately cease in the vicinity of the burial site and the Archaeological Field Director or the person identifying the discovery (if it takes place outside the formal monitoring process) will contact the Archaeological Field Director. The Archaeological Field Director is responsible for contacting

immediately the County Sheriff, Intertribal Reinterment Committee (IRC) member(s), Project Team Consultation Committee, and the SHSND.

- All appropriate respect will be shown for any burial (human remains or burial goods) discovered on the project, including efforts to ensure that the burial is protected from on-lookers and potential looting.
- The burial site will be protected by careful placement of tarps or back fill as needed. The burial site should be taken to mean an entire isolated landform (i.e. hilltop, knoll), or 300-foot radius around the discovery when an isolated landform is not present.
- The burial site will be protected from further disturbance until the above listed parties are notified, they consult on the project, and they devise a scope of work under which the project may proceed.
- When Williams County Sheriff's Office completes the investigation and clears the area, the Intertribal Reinterment Committee can continue with the needs of the burial as defined in this document and agreed upon between the Archaeological Field Director, IRC representative(s), Project Team Consultation Committee and the SHSND.
- The SHSND shall inform the North Dakota State Health Department (NDDOH) of the burial discovery. SHSND and NDDOH will determine, as possible, whether the remains are Native American or not. If the remains are determined or presumed to be related to Native Americans then the IRC will become actively involved. IRC involvement will take place within 24 hours of the discovery or as soon as practicable after that time.
- The human remains and burial goods will be studied within the scope allowed through the Administrative Rules (40-02-03-01).
  - If the human remains or burial goods can be restored, visual observation of the remains and burial goods will be completed by the Archaeological Field Director, Lead TCS, and IRC.
  - If the human remains or burial goods must be disinterred, study may take place at the burial site and will include visual observation, written description, and documentation of the remains and goods including limited photography agreed to by the Archaeological Field Director, Lead TCS, and IRC. Written documentation of the burial will be filed with the THPO(s) and documentation acceptable to the IRC will be forwarded to the SHSND. Results will be reported to the Project Team Consultation

Committee. Study will be completed by the Archaeological Field Director, SHSND representative, and/or anthropologist.

- If it is possible to leave the human remains or burial goods in-place without further disturbance and is not in conflict with the project construction needs, the area will be backfilled, stabilized, and protected.
- If disinterment is the only feasible option, the IRC shall, as soon as possible after study is completed, re-inter the disinterred human remains and all burial goods as by the IRC with notification to the Project Team Consultation Committee, which may include either at a nearby location (with the consent of the landowner), or on Indian lands within the boundaries of the appropriate reservation.
- Disinterment will take place under the supervision of the Archaeological Field Director, Lead TCS, and FAA Tribal Liaison using standard archaeological procedures and contextual analysis.

**The City of Williston will facilitate payment for the cost of reburial at the rate of up to \$2,000/burial discovery. Payment will be directed to an individual or Tribe identified by the IRC.**

### **C.3. OTHER CULTURAL FEATURES DISCOVERY.**

This Discovery Plan will apply to any and all surface and subsurface cultural features discovered during the course of construction monitoring. This Discovery Plan will be used in conjunction with monitoring effort described in this document to ensure that any surface and subsurface features are identified and data recovered from them before they are preserved or destroyed by construction activities.

At the discretion of the Archaeological Field Director and Lead TCS(s), the discovery of sparse or moderate concentrations of cultural material (involved) would not activate the terms of the Discovery Plan. The Discovery Plan is focused on the recovery of information from prehistoric and historic features, which include any surface or subsurface features including but not limited to the following: cache pits, fire-hearths, cairns, stone circles, post-molds, house floors, discrete prehistoric artifact concentrations, foundations, cellars, vaults, window wells, privy pits, or other definable remnants of historic structures.

In the event that a surface or subsurface feature is encountered within the project area during any ground-disturbing activities, all work in the discovery area shall cease until the Archaeological Field Director and Lead TCS have documented and evaluated the site for eligibility for the National Register of Historic Places. The City of Williston shall protect the area until cultural resource concerns have been appropriately addressed,

and the contractor shall take all actions to protect the area until further notice. The significance of the discovery will dictate the level of coordination and documentation needed. The City of Williston will notify the FAA, the North Dakota SHPO, and the Tribes of discoveries found on-site that the Archaeological Field Director and the Lead TCS deem necessary. Under typical non-burial circumstances, certain features encountered will be plotted on a map of the area (site map) and a USGS 7.5' quadrangle map. Certain features will be fully recorded and excavated in compliance with State Historical Society of North Dakota (SHSND) Guidelines and Excavation Standards. The features will be exposed in plain view, photographed, and mapped, then one-half of the feature will be expediently excavated (and bagged for water screening) to expose the profile. The second half of the feature will be excavated after a profile has been photographed and illustrated.

No artifacts besides those recovered from excavation will be collected during the monitoring process unless deemed burial goods by the Lead TCS. Collected artifacts not deemed burial goods (a protected class of artifacts noted in NDAC 40-02-03-03) will be collected from excavations, and material will be deposited in the collections of the SHSND following state law (NDCC 55-03-02). This will be the responsibility of the involved archaeologists.

FONSI / ROD

U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION

Great Lakes Region  
Des Plaines, Illinois  
and  
Dakota Minnesota Airports District Office  
Bismarck, North Dakota

FINDING OF NO SIGNIFICANT IMPACT (FONSI)/RECORD OF DECISION (ROD)

for

PROPOSED REPLACEMENT AIRPORT (XWA)  
SERVING D-III AIRCRAFT

in

WILLISTON, NORTH DAKOTA

Proposed by the

CITY OF WILLISTON  
WILLISTON, NORTH DAKOTA

SEPTEMBER 2015

## **Introduction**

This Finding of No Significant Impact (FONSI)/Record of Decision (ROD) has been prepared for the proposed replacement airport (XWA) serving D-III aircraft, located in Williston, North Dakota. The current airport (Sloulin Field International Airport – ISN) and proposed replacement airport (Williston Basin International Airport – XWA) will be owned and operated by the City of Williston. The proposed action, associated actions, and their environmental impacts are described in detail in the attached Final Environmental Assessment (Final EA) dated August 2015. The EA was prepared in accordance with the guidelines and requirements set forth by the Council on Environmental Quality (CEQ) and the Federal Aviation Administration (FAA) to implement the environmental review and disclosure provisions of the National Environmental Policy Act of 1969 (NEPA).

Based on the evaluation in the attached EA and mitigation commitments defined in this document, no significant impacts associated with the development actions were identified in accordance with FAA Order 1050.1E, *Environmental Impacts: Policies and Procedures* and FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*; therefore, no environmental impact statement will be prepared and this FONSI/ROD was prepared. This FONSI/ROD and attached Final EA provide a review of the impacts expected to occur to the environment from a decision to implement the Proposed Action and provides the FAA's basis for its decision.

### **I. The Purpose and Need for the Proposed Action**

The purpose of the proposed action is to develop aviation facilities that meet FAA airport design standards and accommodate current and projected levels of aviation activity for the Williston area. The need for the proposed action is to provide aviation facilities necessary to meet the expected demand for the forecasted growth of air traffic in Williston area consistent with FAA airport design standards for ARC D-III aircraft, as well as provide the capability for anticipated future operation of larger aircraft.

### **II. Proposed Action**

The City of Williston proposes to decommission the existing Sloulin Field International Airport (ISN) and construct, operate and maintain a new airport located in Williston, North Dakota. The Airport will be relocated approximately 6 miles north and 5 miles west of Williston. The proposed new terminal building would be located approximately 2.5 miles from US Highway 2. The proposed new airport would be called the Williston Basin International Airport and the airport identifier changed to (XWA).

The City of Williston proposes to relocate the Sloulin Field International Airport to develop aviation facilities that meet FAA airport design standards and accommodated current and projected levels of aviation activity. They propose to construct two runways

and related aviation facilities that meet FAA airport design standards for Airport Reference Code (ARC) D-III aircraft as well as acquire land for compatible land use and expansion of facilities to future aviation demands. Development of a replacement airport requires FAA approval of an airport layout plan (ALP), the final EA and FONSI/ROD and approval of funding from local agencies, North Dakota Aeronautics Commission (NDAC), and the FAA. The proposed action would require the acquisition of land for the construction of access roads, construction of runways, taxiways, aprons and various airport structures, and the installation of navigational aids to meet FAA design standards for ARC D-III aircraft. The proposed action includes acquisition of land for compatible land use, expansion of facilities the closure and sale of the existing Sloulin Field International Airport. The relocated airport is anticipated to be constructed from 2015–2018, pending environmental approval and funding availability.

The issuance of an environmental approval establishes the eligibility for the Airport to compete for and receive federal funding for the development. This environmental determination and grant eligibility is conditioned on the ability to acquire the land necessary to fully implement the project, including but not limited to, mitigation of wetlands, protection of environmentally sensitive resources, relocation/burial of various utilities (powerlines and pipelines), and the relocation/closure of roads in the project area.

The proposed action includes unconditional approval of the Airport Layout Plan (ALP) for the development items in the attached final EA and summarized below for the construction and operation of the new airport. The following list identifies the necessary facilities and design considerations needed to provide an aviation facility that could accommodate current and anticipated forecast activity:

- Acquire land for the airport, airspace protection, land use control and widening and paving existing roads to provide an airport access road. Acquisition of 1,560 acres of airport property referred to as Site #5;
- Construction of a 7,500-foot long by 150-foot wide runway, with lighting and markings (MALSR, HIRL, and precision markings);
- Construction of a 7,500-foot long by 50-foot wide full-length parallel taxiway, with MITL, signs, and markings. As noted in the previous bullet, capacity to accommodate future expansion to 8,500 feet is incorporated into the site layout;
- Construction of a 4,500-foot long by 75-foot wide crosswind runway with MIRL and non-precision markings;
- Construction of a 4,500-foot long by 35-foot wide crosswind parallel taxiway with MITL;
- Installation of applicable NAVAIDs and AWOS system (ILS, DME, NDB);

- Construction of general aviation (approximately 51,000 square yards of apron, 60,500 square feet of hangars including 26 t-hangar units), corporate hangar (approximately 31,700 square feet of corporate hangars), and terminal apron (approximately 37,000 square yards) development areas, with associated taxiways;
- Construction of a 108,000 square foot passenger terminal building with associated 1,500 stall parking lots;
- Construction of an ARFF building and fuel farm (approximately 7,700 square feet expandable to 8,600 square feet);
- Construction of an airport perimeter road for airfield maintenance and airport access roads to provide connections to major highways;
- Construction of an enclosed wastewater treatment facility/facilities to provide wastewater management at the airport;
- Connection of airport utilities to existing utility lines;
- Construction of a perimeter wildlife/security fence;
- Removal of wetlands identified as moderate or high wildlife attractants in the Wildlife Hazard Evaluation Report;
- Relocation of the existing hangars and FBOs at the current airport site, in accordance with the City of Williston' Relocation Policy;
- Construction of SRE storage building (20,000 square feet expandable to 27,000 square feet);
- Construction of a fueling area (approximately 100 feet by 100 feet) to accommodate a minimum of 30,000 gallons of Jet A fuel storage, and all other airport fuel storage for equipment and vehicles;
- Construction 8,000 square yard cargo apron with possible future expansion to 39,000 square yards;
- Construction of air cargo sorting facility;
- Construction of deicing fluid containment facility;
- Approval of an amendment to the incumbent airlines operating certificates and operational specifications under 14 CFR Part 119<sup>1</sup> and Part 121<sup>2</sup> by the FAA.

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<sup>1</sup>14 CFR Part 119, Certification: Air carriers and commercial operators

This approval allows for the operation of scheduled turbojet aircraft carrying passengers into the relocated Williston airport;

- Environmental approval for new instrument flight procedures at the new Airport;
- Environmental clearance to develop a land release and reuse plan to decommission the existing airport, and sell the land to the city of Williston. This would involve conducting an FAA land release, clean-up and reclamation of the existing site, and implementing protections of cultural resources and wetlands on airport property. All runways and taxiways would be marked or removed at the time of the release so there is no indication of available landing surfaces. Additionally, all FAA owned NAVAIDs would be decommissioned and removed from the airport. Prior to the release of the existing airport, the FAA will need to approve the land release and reuse plan. This could result in further environmental documentation and analysis; and
- Mitigation associated with construction such as: 6.6 acres of jurisdiction wetlands, protection of environmentally sensitive resources, tribal monitoring of all ground disturbing activities.

### **III. Alternatives Considered**

The completed site analysis identified five relocation sites potentially suitable for airport development, in addition to developing the existing airport, as options for meeting the existing and forecasted needs of the Williston region. During the development of the spatial model, a total of five sites were identified as potential locations for the airport. Initially, Sites #1, #2 and #3 were identified. After further refinement of the spatial model to better represent terrain issues and expansion to include McKenzie County, Sites 4 and 5 were additionally found.

The five relocation sites included:

- Site #1: Construct a new airport 3 miles north and 7 miles west of Williston (discarded at initiation of EA)
- Site #2: Construct a new airport 8 miles north and 3 miles west of Williston (carried forward as Alternative C)
- Site #3: Construct a new airport 9 miles west and 2 miles north of Williston (discarded at initiation of EA)
- Site #4: Construct a new airport 5 miles north and 6 miles west of Williston (discarded during EA development)

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<sup>2</sup>14 CFR Part 121, Air Carrier Certification

- Site #5: Construct a new airport 6 miles north and 5 miles west of Williston (carried forward as Alternative E)

Planners and engineers reviewed the potential of all five alternative site discovered in the GIS site selection model, performed on-site inspections and reviewed the potential alternative sites with the City of Williston, FAA Staff and North Dakota Aeronautics staff to determine which sites should move forward for additionally analysis. After this preliminary screening which considered the totality of the potential impacts, costs and utility of each site, two of these initial alternatives (Site #1 and Site #3) presented potential impacts of greater significance than the other sites that resulted in them being discarded from further detailed analysis.

As a result of the areas studied, the five alternatives carried forward to the EA process included:

- Alternative A, No Action;
- Alternative B, Expand the existing airport site;
- Alternatives to relocate/build new airport
  - Alternative C/Site #2;
  - Alternative D/Site #4; and
  - Alternative E/Site #5).

Both Alternative C and Alternative E include analysis of impacts for the disposal of the current airport. The new airport would be issued a new 3-letter identifier through the airspace determination process within the FAA.

Alternative C and Alternative E include removal of the current airport from service in conjunction with the start of operation of the new airport. Buildings and facilities may be left in place, removed, relocated, or recycled. All semblances of the current airport facilities' (runway and taxiways) shall be removed.

#### **IV. Preferred Alternative**

Therefore, on the basis of the evaluation of the alternatives carried forward and evaluated for affected environment and environmental consequences in the attached final EA, Alternative E is the preferred alternative. This alternative is to construct a new airport suitable for ARC D-III operations at Alternative E, Site #5. This would require acquisition of approximately 1,565 acres of land for airport use and road right-of-way. The existing airport property would be reclaimed and the land released back to the city of Williston, ND. Covenants or other protections would be implemented on the existing airport property to protect wetlands and cultural resources. Alternative E has been identified as the Least Environmentally Damaging Practicable Alternative (LEDPA) for wetland impacts.

## V. Alternatives Considered and Discarded

The final EA provides a discussion of project alternatives that were initially considered for this project (Site #1 and Site #3) and an explanation of why each alternative was discarded from further analysis. During the EA process, Alternative B, Expand Existing Airport, and Alternative D/Site #4 were discarded after further review due to potential impacts. Further discussion of discarded alternatives is included in the final EA.

## VI. Environmental Consequences of the Preferred Alternative

Environmental impact categories identified in FAA Order 1050.1E, *Environmental Impacts: Policies and Procedures*, and FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*, were evaluated in the final EA. Environmental Consequences of the Alternative A (No Action), Alternative C/Site #2, and Alternative E/Site #5 are detailed in Chapter 2 of the final EA.

Alternative E - Construct a new airport suitable for ARC D-III operations at Alternative E, Site #5 is the Preferred Alternative and the environmental consequences are detailed in the final EA and summarized below: The No Action Alternative would not have any of the below listed environmental consequences except for normal maintenance of airport facilities.

Air Quality. North Dakota is in attainment with the Clean Air Act as amended and would experience minimal air impacts. The project is not located in a non-attainment or maintenance area; the General Conformity Rule does not apply. Emissions inventories indicate that the project's total net emissions from the new airport do not exceed threshold de minimis levels. A more detailed analysis is not necessary. Temporary, impacts during construction would be minimized using BMPs.

Climate. The proposed Alternatives C and E would increase GHG emissions by 2,666 MT CO<sub>2</sub>e over Alternative A, an increase of 26 percent. This increase would comprise less than 0.000084 percent of U.S. based GHG emissions and less than 0.000027 percent of global GHG emissions.

Coastal Resources. No Coastal Resources Present. No Impacts.

Compatible Land Use. No significant compatible land use impacts:

The build alternatives each have impacts related to removal/monitoring of wildlife hazards, burial/relocation of transmission lines, relocation of pipelines, and impacts to roadways. The Airport will work with the City of Williston and/or Williams County to develop zoning regulations to ensure compatible land use adjacent to the airport site.

Removal of two wetlands onsite for wildlife hazard purposes. Monitoring of off-airport wetlands identified as wildlife hazards.

There are no residential properties affected, however, there are two homes located immediately adjacent.

There is a need to bury: a 25kV line; 0.3 miles of MWEC proposed 3-phase line; and 0.9 miles of distribution line and bury or relocate: 1.4 mile of MWEC 115kV transmission line.

Alternative E requires the closure of approximately 1.2 miles of road leading to the VOR, the rerouting of 1.0 miles of 59th St NW and approximately 2.6 miles of road improvements along 58th Street and 140th Ave to connect to truck bypass.

Construction Impacts. Temporary and minor impacts will occur as a result of construction activities:

Construction activities, specifically the earthmoving phase of the project, are likely to produce some amount of airborne material or dust. Measures to control and limit the amount of dust in the air would be required. The City of Williston shall comply with all Federal, State, and Local laws and regulations controlling pollution of the environment. Necessary precautions shall be taken to prevent pollution of streams, lakes, ponds, and reservoirs with fuels, oils, chemicals, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter. This may mean employing adequate dust filters, smoke collectors, controlling burning, watering haul roads, providing erosion protection, or any other means needed to meet existing requirements. In accordance with recommendations from the North Dakota Department of Health (NDDOH) measures would be taken to minimize fugitive dust emissions from construction activities. Noise levels would be minimized by ensuring construction equipment is equipped with a working muffler.

During construction, it may be necessary to designate certain areas as borrow pits. Spoil pits for the purpose of disposing of the unsuitable material from the construction may also be required. Prior to the removal of any soil or waste from borrow or spoil pits, topsoil would be removed from these areas. Upon completion of their use, they would be re-landscaped, topsoil replaced, and reseeded in a manner so as to blend with the surrounding terrain, while minimizing wildlife attractants. The Authority shall obtain borrow site clearance (material quality, cultural resources, wetlands, and threatened or endangered species) before taking materials from any borrow sites not identified and cleared in the final EA.

It is anticipated, that the water quality of the area would experience minimum impact during construction. Construction activity would be limited to the days when the soil is dry enough to allow for proper compaction. Water would be added as necessary, to obtain optimum density and to reduce dust in the embankment areas. The hauling and spreading of water over the excavation and embankment areas would not be in such

great volume as to produce any runoff into neighboring streams. The potential for heavy rains during the construction period does exist. Provided the rain is of sufficient quantity to produce free water across the construction area, a certain amount of silt might be carried away from the graded areas. In order to prevent this type of erosion, the Authority would be required to install a silt fence and hay bales, or use other acceptable methods, to intercept this silt.

Alternative E would require grading 2.5 million cubic yards of dirt. Potential temporary impacts include increased noise, mobile source emissions, fugitive dust, and soil erosion. It is anticipated that all earthmoving activities associated with the build alternatives would take place on Airport property; additional fill or excess waste materials are not anticipated. The use of haul roads is expected and these haul roads are within the area already cleared for the project. The City shall properly maintain public roads and streets and any portion of the airport property that are used for haul roads for the duration of the project. The City is responsible for the approval from the local officials for all routes. Haul roads shall be left in original or better condition as prior to hauling operations.

Overall, construction impacts would be minimized through the use of Best Management Practices (BMPs). Specifications for the proposed project shall include Item P-156 Temporary Air and Water Pollution, Soil Erosion, and Siltation Control. These specifications are contained in FAA Advisory Circular (AC) 150/5370-10, Standards for Specifying Construction of Airports. The Contractor would be advised of the need to abide by these specifications throughout the duration of the project.

DOT Section 4(f). No impact, provided cultural resources identified on existing airport are protected during land release and a site located adjacent to the access road right-of-way is avoided during construction. On the existing airport the property containing the golf course and gun range would be released to the city of Williston and it will or shall remain a Section 4(f) resources. This would not result in a "use".

Farmlands. Conversion of approximately 1,565 acres of agricultural land to airport land. Of those acres, 3 acres are prime farmland and 1, 265 are of statewide importance. A score of 195 for the airport site (Form AD-1006) and 159 for the access roads (Form CPA-106), which represents a loss of 0.1% of farmland in Williams County. On June 24, 2015 a revised AD-1006 form was submitted to National resources Conservation Service (NRCS).

Fish, Wildlife, and Plants. Determination of "may affect but is not likely to adversely affect" whooping cranes; "no effect" to the pallid sturgeon, gray wolf; interior least tern; piping plover, northern long eared bat and rufa red knot. Determination of may affect, not likely to jeopardize the species to Sprague's pipit. Any new power lines required for the project would be placed underground to avoid the potential for whooping crane fatalities. Efforts to minimize impacts to migratory birds would be implemented. As it is assumed construction cannot avoid being completed from February 1–July 15, impacts

to migratory birds would be minimized through either pre-construction migratory bird surveys to identify nests or mowing/maintaining the construction site so it is unsuitable for nesting prior to the nesting/breeding season.

Floodplains. No impact. Not located within a floodplain.

Hazardous Materials, Pollution Prevention, and Solid Waste. No known contamination sites associated with relocation sites. Reclamation of the existing airport would require removal/remediation of recognized environmental conditions identified at the existing airport. Removal/remediation would be done in accordance with local, state, and federal requirements. An asbestos inspection would be required for any buildings being demolished and a Notification of Demolition or Renovation Form would be submitted to the North Dakota Department of Health (NDDOH). Any removal of hazardous materials would be done in accordance with state and federal requirements.

Historic, Architectural, Archeological, and Cultural Resources. Received State Historic Preservation Office (SHPO) concurrence for "No Historic Properties Affected" on May 13, 2015 as long as cultural resources on existing airport are protected and tribal heritage sites are avoided and protected.

Light Emissions and Visual Impacts. Additional light emissions would occur from runway lights and other lights associated with the airport. The visual landscape of the new sites would be changed from open grassland to airport development and the landscape of the existing airport would be converted to other uses, possibly municipal and commercial uses.

Natural Resources and Energy Supply. Energy and natural resources will be used in construction. Increased energy use will occur as operations increase. This increase is not anticipated to have a measureable effect on local energy or natural resource suppliers. No adverse impact.

Noise. No Impacts. All of the DNL 65 dB contour would be within airport property. No houses or buildings are located inside the DNL 65 dB contour line. The analysis showed that there would be no significant impact, individually or cumulatively, over noise sensitive areas.

Socioeconomic Impacts. Acquisition of approximately 1,565 acres of land. Economic and infrastructure growth due to improvements in airport transportation services and efficiencies. No substantial social impact is anticipated. No disproportionate risk to children would be present and only small increases in permanent employment expected.

Water Quality. Minimal impacts during construction. Applicable permits would be acquired and a Stormwater Pollution Prevention Plan would be developed..

Wetlands. Approximately 6.6 acres of wetlands would be taken. Impacts to wetlands would be mitigated and a Section 404 permit would be required for impacts to jurisdictional wetlands. An on-site wetland delineation was completed in the spring of 2015, a jurisdictional determination was requested on June 17, 2015, the U.S. Army Corps of Engineers (USACE) issued a preliminary jurisdictional determination on July 17, 2015 requiring a Section 404 permit. The Airport submitted a permit application to USACE on July 24, 2015. On September 14, 2015, the USACE provide the draft 404 permit application for a 21-day public and agency review. This will allow for the review and approval of the wetland impacts and associated mitigation for the project.

Coordination with the environmental resource agencies will be completed during the design/404 permitting phase of the project for impacted wetlands. Ducks Unlimited has identified that mitigation credits are available and may be purchased through the Ducks Unlimited Wetland Mitigation Bank.

Wild and Scenic Rivers. No wild or scenic rivers are located within the study area for the proposed build alternatives or at the existing site. No impact.

Additional environmental factors for the selection of Alternative E:

- Alternative E has the least dirtwork associated with construction (approximately 2.5 million cubic yards of dirt versus 6.3 million cubic yards associated with Alternative C).
- Alternative E would impact the least amount of wetlands (approximately 6.6 acres versus 13.1).
- Alternative E is more compatible with local development plans as it would be located within close proximity to the US Highway 85/2 truck bypass.
- Alternative C would require relocation of larger transmission lines when compared to Alternative E (345kV versus 115kV). These lines are more difficult to relocate and are up to 20 times more expensive to bury than smaller lines. The cost and/or design considerations to relocate or bury the smaller power lines (2.3 miles for C versus 1.2 miles for E) for each site are not considered to be appreciable.
- Alternative E would require the least intrusive road closures and relocations along public roads.

<b>Alternative</b>	<b>Closures</b>	<b>Relocations</b>
Alternative C	0.9 miles of 61 St NW(Prairie Road)	0.8 miles of 60 <sup>th</sup> St NW(Prairie Road)
Alternative E	0 miles (1.2 miles to VOR not needed anymore)	1.0 miles of 59 <sup>th</sup> St NW(Prairie Road)

- Alternative E enables a site design with maximum southern exposure of apron surfaces, which would improve snow and ice removal at an airport.
- Alternative E contains a runway configuration that separates the general aviation and commercial service facilities, which enhances security at the commercial terminal.
- Alternative E is the least environmentally damaging alternative when mitigation, BMPs and protection of the environmentally sensitive resources are implemented.

## **VII. Public and Agency Involvement**

Involving members of the public is of primary importance in the development of alternatives and analysis for the project. As part of the continuing coordination process, a series of public meetings were held throughout the project. Additionally, newsletters providing project updates were sent to various agencies, potentially affected landowners, and other interested parties on October 30, 2012 and June 18, 2013. Comments from potentially affected landowners were also received during phone calls and other correspondence completed to achieve permission to access land for field studies. Additionally, public involvement was also completed as part of the planning process that was conducted concurrently with this EA. Information related to those efforts can be reviewed in the Master Plan for the airport.

### *Public Input Meetings*

The first public informational meeting was held the evening of July 31, 2012 at the El Rancho Hotel in Williston, North Dakota. The meeting was held from 7:00 p.m. to 9:00 p.m. and included a presentation with a question and answer period. Over 100 people attended the Public Informational Meeting. At the conclusion of the 15-day comment period, 14 written comments were received.

A stakeholder meeting was held May 1, 2012 at the Hampton Inn & Suites in Williston, ND. The meeting was held from 7:00 to 9:00 p.m. Landowners located within the study area for each of the project alternatives were invited to attend. The purpose of the meeting was to provide an opportunity for landowners to discuss the project and any concerns. 16 landowners attended the meeting, in addition to representatives from the City of Williston and KLJ. Comments received during this meeting were combined with comments received as part of Public Informational Meeting #2.

The alternatives public workshop was held the afternoon of May 2, 2012 at the Hampton Inn & Suites in Williston, North Dakota. The workshop was held from 1:00 p.m. to 5:00 p.m. and was an informal period where individuals could view exhibit layouts of the project alternatives, receive handouts on the project, and discuss the project with the project team. About 50 people attended the Alternatives Public Workshop.

The second public informational meeting was held the evening of May 2, 2013 at the Hampton Inn & Suites in Williston, North Dakota. The meeting was held from 6:30 p.m. to 8:30 p.m. and included a presentation and a question and answer period. About 39 people attended the second Public Informational Meeting. At the conclusion of the 15-day comment period, comments were received from 11 people.

The methodology for responding to comments received is based upon the general guidelines developed as part of NEPA. Public coordination for the project is ongoing.

#### *Draft Environmental Assessment (Draft EA)*

Prior to the Public Hearing, the Draft EA was available for review from August 25, 2014. The comment period ended October 13, 2014. At the conclusion of the comment period, written comments were received from three people.

#### *Public Hearing*

A Public Hearing was held on September 25, 2014 at the Williston Area Recreation Center in Williston, North Dakota. An open house was held from 11:30 am to 8:00 pm, with a formal presentation given at 6:30 pm. Approximately 49 people attended throughout the day. In addition, six people gave comments to the court reporter during the Public Hearing.

#### *Final Environmental Assessment (Final EA) and Draft FONSI*

The Final EA and Draft FONSI were available for review from August 19, 2015 to September 19, 2015 for a 30 day public and agency comment period.

During the 30-day comment period, the Airport/Consultant received a letter providing comments on the final EA and draft FONSI/ROD from Ms. Phyllis Owan dated September 18<sup>th</sup>, 2015. Her letter and comment responses are attached to the FONSI/ROD in Appendix A.

### **VIII. Environmental Impact Mitigation**

The City of Williston shall implement the following mitigating measures as a condition of environmental approval of the proposed action items listed in this FONSI/ROD to support existing and proposed aeronautical activities at the Airport. Prior to the disbursement of Federal funds for this project, the Airport will provide the FAA Dakota Minnesota Airports District Office (DMA-ADO) a copy of all permits and mitigation approvals obtained as required in the attached EA, and commits to comply with the following permit and mitigation requirements:

Air Quality. Implementation of BMPs to control wind erosion of exposed areas and material stockpile will be incorporated into project design and construction. Measures will be taken to minimize fugitive dust emissions created during construction activities.

Compatible Land Use. The airport will coordinate with the city of Williston and/or Williams County to develop zoning regulations limiting the land use types near the new airport to those compatible with airport operations. Zoning at the existing airport would need to be updated to account for the change in land use if the airport is relocated. A Wildlife Hazard Assessment/Wildlife Hazard Management Plan will be required to be completed to more accurately identify hazards specific to the new location. The sponsor's comprehensive land use plan will also determine whether any of the airport's excess land can be retained for agricultural use consistent with wildlife hazard criteria.

Construction Impacts. Measures to minimize harm will be incorporated into design and during construction through use of BMPs. Specifications for the proposed project shall include Item P-156 *Temporary Air and Water Pollution, Soil Erosion, and Siltation Control*. These specifications are contained in FAA AC 150/5370-10E, *Standards for Specifying Construction of Airports*. If offsite borrow is required, borrow must be obtained from an approved borrow source free of cultural materials, wetlands, and threatened and endangered species. Disturbed areas should be re-seeded with a mixture of seeds native to the project area.

Fish, Wildlife, and Plants. All efforts would be made for construction activities to begin after July 15 and end prior to February 1, in order to avoid impacts to migratory birds during the breeding/nesting season. In the event that a construction activity would take place within the nesting and breeding season, pre-construction surveys for migratory birds and/or their nests would be conducted within five days prior to the initiation of construction activities. Alternatively, the site may be mowed/cleared outside of the nesting season prior to construction to remove potential breeding habitat for nesting migratory birds. The site would be maintained until the end of the breeding season or when construction is complete. If whooping cranes are observed within one mile of the proposed construction area, work will cease until the US Fish and Wildlife Service (USFWS) is contacted. If a bald or golden eagle nest is sighted within 0.5 miles of the area being disturbed by construction, construction activities shall cease and the USFWS shall be notified for advice on how to proceed. An updated determination letter for the proposed redevelopment of the existing airport property will be required to be sent to USFWS, with the most current redevelop options, prior to the land release of the existing airport.

Hazardous Materials, Pollution Prevention, and Solid Waste. Removal/remediation of recognized environmental conditions identified at the existing airport would be done in accordance with local, state, and federal requirements. If demolition of the existing buildings is completed, an Asbestos Survey would be conducted prior to demolition, pursuant to NDDOH requirements. A Notification of Demolition or Renovation form would be submitted to the NDDOH and the Contractor would notify the NDDOH at least 10 days prior to demolition. Also, any removal of lead-based paint would be done in accordance with state and federal requirements. In the event that previously unknown contaminants are discovered during construction, or if a spill occurs during construction, work shall cease until the contractor notifies the National Response Center

(800.424.8802). If contamination is encountered, the Contractor must also notify the NDDOH. Any encountered contaminated soil would be temporarily stockpiled and sampled to determine disposal requirements. During construction, in the event that unknown contaminants are discovered or a reportable spill occurs, the City shall take immediate response actions and notify the appropriate local, State, and Federal agencies including the National Response Center and the NDDOH, as specified in the attached EA.

Pursuant to NDDOH requirements, an Asbestos Survey is required prior to the demolition of the buildings on the existing airport. In addition, a Notice of Demolition or Renovation form will be submitted to the NDDOH. The City or Contractor will notify the NDDOH 10 days prior to the demolition.

Historical, Architectural, Archaeological, and Cultural Resources. Consultation with the SHPO was conducted and a finding of “No Historic Properties Affected” was determined for the proposed action. If any construction activity results in discovery of cultural resources, work shall cease until the Airport notifies the SHPO and the Dakota Minnesota Airports District Office (DMA-ADO). The City shall protect the area until cultural resource concerns have been appropriately addressed, and the Airport shall take action to comply with the National Historic Preservation Act, the American Indian Religious Freedom Act, the Native American Graves Protection and Repatriation Act, and the Archaeological Resources Protection Act, as appropriate. Borrow sites shall be cleared by the SHPO prior to the use of material from the borrow site.

Covenants or other protections would be placed on cultural resources within the existing airport property and avoidance measures, such as fencing, would be incorporated to ensure cultural resources within the access road right-of-way are avoided. The proposed new site identified a number of environmentally sensitive areas. These areas are identified on the ALP for future protection. They will be fenced or otherwise protected during all ground disturbance construction. During coordination with the tribes, they requested to have tribal monitors present during all earthwork and ground disturbing activities. Tribal monitoring will be provided by the Airport and/or Contractor during the project. Prior to construction, an inadvertent discovery and mitigation plan will be developed to address any resources discovered during construction.

Additionally sites deemed of importance to the represented tribes were recorded; the sites are *potentially eligible* for inclusion on the National Register of Historic Places under Criteria D, however further private consultation would be required to make full determination of eligibility. The features and sites deemed to be important to the represented tribes will all be avoided by the construction activities association with Alternative E. Protective measures would be required to ensure that no unintentional disturbances of these sites occur during construction, this would include the use of construction fencing or other markers placed under the observation of an appointed tribal monitor(s). Due to the potential for additional discoveries during construction, the airport will be required to provide tribal monitors an opportunity to observe any new ground disturbance in accordance with guidelines to be provided by the FAA and

prepared in consultation with the Tribes. One newly recorded site was identified in the access road inventory. The site is unevaluated for the National Register of Historic Places. It retains integrity of location, but other aspects of integrity have been degraded. It is believed the site can be avoided and/or protected during construction, as the site boundary is near the edge of the 200-foot boundary that was surveyed, which would be outside of the road right-of-way. The existing airport contains cultural sites in the area northwest of the airport. It is recommended covenants or other site protection be implemented if the existing airport land is released. The FAA will continue to work with the tribal representatives throughout the life of the project.

Light Emissions and Visual Impacts. Design elements such as landscaping and architectural features will be used to reduce the adverse effect of the visual intrusion into the rural environment.

Socioeconomic Impacts, Environmental Justice, and Children's Environmental Health and Safety Risks. Acquisition of property will follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. It is not anticipated that any homes would require relocation as part of this project. However, there are landowners adjacent to the site that may desire to be purchased as part of the project. While not a federally-funded expense, those landowners could coordinate with the City to determine if the City wishes to purchase those properties.

Water Quality. Implementation of BMPs for sedimentation and erosion control will be incorporated into project design and construction. Stormwater drainage will be managed according to FAA AC 150/5320-5D. The airport and its tenants follow BMPs spill prevention. The contractor will apply for the National Pollutant Discharge Elimination System (NDPDES) General Permit for Stormwater Discharges through the NDDOH (NDR10-0000). Additionally, a permit will be required from NDDOH to permit the wastewater treatment at the new airport site. A North Dakota Pollutant Discharge Elimination System (NDPDES) General Permit for Storm Water Discharges associated with Construction Activities shall be applied for and obtained as required by the North Dakota Department of Health (NDDH). Mitigation measures include implementation of Best Management Practices (BMPs) for sedimentation and erosion control subject to the NDDH, and other measures listed in the attached EA. A NDPDES General Permit for Temporary Discharges for construction activities shall be obtained if any construction dewatering occurs as a result of this project and as required by the NDDH. A NDPDES Surface Water Discharge Permit for construction activities shall be obtained as required by the NDDH. Mitigation measures include implementation of BMPs for sedimentation, erosion control subject to the NDDH.

Wetlands. Impacts to wetlands would be mitigated and a Section 404 permit will be required for impacts to jurisdictional wetlands. All on site wetlands were assumed to be jurisdictional. An on-site wetland delineation was completed in the spring of 2015, a jurisdictional determination was requested on June 17, 2015, the USACE issued a preliminary jurisdictional determination on July 17, 2015 requiring a Section 404 permit.

The Airport submitted a permit application to USACE on July 24, 2015. On September 14, 2015, the USACE provide the draft 404 permit application for a 21-day public and agency review. This will allow for the review and approval of the wetland impacts and associated mitigation for the project.

Coordination with the environmental resource agencies will be completed during the design/404 permitting phase of the project for impacted wetlands. Ducks Unlimited has identified that mitigation credits are available and may be purchased through the Ducks Unlimited Wetland Mitigation Bank.

## **IX. FAA Findings and Orders**

The FAA has conducted an independent review of the factual assumptions contained in the EA and determined the adequacy of the EA and takes responsibility for the document's scope and content. Individuals from the FAA have devoted substantial attention to the final EA to comply with NEPA, and other environmental requirements. Accordingly, I find that the independent and objective evaluation called for by the Council on Environmental Quality has been provided. The FAA has given this proposal the independent and objective evaluation required by the Council on Environmental Quality [40 CFR 1506.5].

I have carefully and thoroughly considered the facts contained in the attached final EA. Based on that information, I find that the proposed Federal action is consistent with existing national environmental policies and objectives of Section 101(a) of the National Environmental Policy Act of 1969 (NEPA). I also find the proposed Federal action will not significantly affect the quality of the human environment. As a result, FAA will not prepare an EIS for this action.

Therefore, under the authority delegated to me by the Administrator of the FAA, I find that the proposed airport improvement projects described and evaluated in the attached final EA and addressed in this FONSI/ROD are reasonably supported and approved. I direct that action be taken to carry out the agency actions discussed in the following proposed action:

- Unconditional approval of the Airport Layout Plan (ALP) for the development listed in the final EA as the proposed action. A future action to extend the proposed relocated airport to meet ARC D-IV is shown for discussion purposes only. It is conditionally approved until such time as it is needed and a separate environmental analysis is required.
- Issue final airspace determinations for the development on the ALP for the proposed action.
- Eligibility for Federal grants-in-aid funds for eligible items.

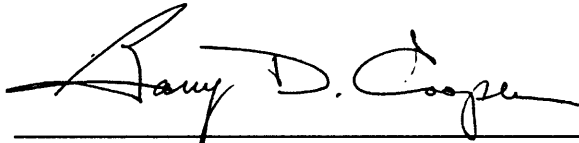
- Environmental approval for the development or revision, implementation, and use of air traffic/flight procedures to allow for full use of the proposed action.
- FAA Finding of “No Historic Properties Affected” for the proposed action.
- FAA finding of “may affect, but is not likely to adversely affect” whooping cranes; “no effect” to the pallid sturgeon, gray wolf; interior least tern; piping plover, northern long eared bat and rufa red knot. Determination of may affect, not likely to jeopardize the species to Sprague’s pipit. Any new power lines required for the project would be placed underground to avoid the potential for whooping crane fatalities. Efforts to minimize impacts to migratory birds would be implemented. As it is assumed construction cannot avoid being completed from February 1– July 15, impacts to migratory birds would be minimized through either pre-construction migratory bird surveys to identify nests or mowing/maintaining the construction site so it is unsuitable for nesting prior to the nesting/breeding season..
- This project involves construction in designated wetland areas. As discussed in the EA, it is anticipated that the preferred alternative, Alternative E will result in an impact of approximately 6.6 acres of wetlands. As discussed in the EA, Alternative E is the Least Environmentally Damaging Practicable Alternative. There are no prudent or practicable alternatives to this impact. The proposed action includes all practicable measures to minimize impacts to wetland areas. We find that based on the discussion above and the description found in the attached EA, sufficient evidence exists to support the FAA’s Wetland Finding that: a) there is no practicable alternative to such construction; and b) the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use for the Proposed Action.

After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in Section 101 of the National Environmental Policy Act of 1969 (NEPA) and other applicable environmental requirements and will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to Section 101(a) and Section 102(2)(C) of NEPA.

Having met all relevant requirements for environmental considerations and consultation, the proposed action is authorized to be taken at such time as the requirements have been met. These decisions are taken pursuant to 49 U.S.C. § 40101, et seq. The FAA findings contained in the FONSI/ROD constitute an order of the Administrator, which is subject to review by the Courts of Appeals of the United States, in accordance with the provisions of Section 1006 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 46110.

Finally, having based upon the administrative review of this project, I certify, as prescribed by 49 U.S.C. 44502(b) that implementation of the Proposed Action is reasonably necessary for use in air commerce.

APPROVED: X



Barry D. Cooper, Regional Administrator  
Federal Aviation Administration  
Great Lakes Region Office

DATE: September 22, 2015

#### **RIGHT OF APPEAL**

This FONSI/ROD presents the Federal Aviation Administration's final decision and approvals for the actions identified, including those taken under provisions of 49 U.S.C. Subtitle VII, Parts A and B. This decision constitutes a final order of the Administrator subject to review by the Courts of Appeals of the United States in accordance with the provisions of 49 U.S.C. Section 46110.