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08-2018-CV-02937

Davis Refinery
Natural Resources Review
Meridian Energy Group, Inc.
BILLINGS COUNTY, NORTH DAKOTA

SEH No. MERID 135471 30.90

March 18, 2016



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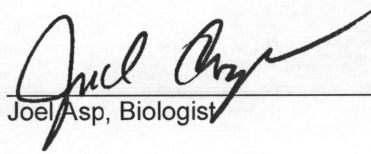
Natural Resources Review
Davis Refinery
Meridian Energy Group, Inc.
Billings County, North Dakota

SEH No. MERID 135471

March 18, 2016

I hereby certify that this Wetland Permit Application was prepared by me. The procedures and field methods used to delineation wetlands within the area of interest constitute an official wetland delineation in accordance with the 1987 U.S. Army Corps of Engineers *Wetlands Delineation Manual* and applicable *Regional Supplement*.

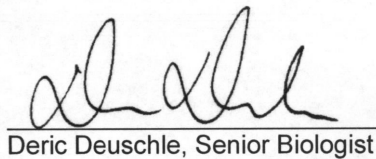
Prepared by:


Joel Asp, Biologist

03/18/16

Date

Reviewed by:


Deric Deuschle, Senior Biologist

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Natural Resources Review

Davis Refinery

Prepared for Meridian Energy Group, Inc.

1.0 Introduction

The purpose of this report is to identify potential regulatory jurisdictional and permitting/approval needs related to the proposed development of a new refinery by Meridian Energy Group, Inc. The refinery, and its associated infrastructure, will be privately funded.

The purpose of the refinery is to process Bakken crude oil locally. The refinery will be built in a phased manner. The primary derivative of the first phase will be jet fuel, diesel fuel and additional distillate products, which will be primarily utilized locally, while the second phase will focus on a complete slate of refined products and specialty chemicals, which will have a broader regional market. Recent crude oil production in the Bakken exceeded one million barrels per day, yet greater than 95% is shipped to out of state refineries for processing. The majority, upwards of two-thirds, of the crude oil that is extracted is transferred by truck to local transfer stations. The process of trucking large quantities of crude oil requires many trucks, which operate using diesel fuel. Because the crude oil processing occurs at distant refineries, there is great cost to deliver the diesel fuel that is needed locally. This need, and distant processing, has led to local diesel shortages, which has the potential to affect the transport capacity of the raw crude oil to the transfer stations, in addition to having a much greater cost to purchase the fuel. Because of the high demand for diesel fuel, and the shortages under the current distribution system, a local refinery is required, and would contribute to the economic well-being of local crude oil producers through greater competitive choices. This refinery will provide fuels locally, eliminating the need to ship raw materials, process them, and return a finished product.

1.1 Project Location

The project is located near the City of Belfield, ND in Township 139 North, Range 100 West, Sections 1 (SW $\frac{1}{4}$), 2 (SE $\frac{1}{4}$), and 12 (N $\frac{1}{2}$) as shown in **Figure 1**. The project area is detailed in **Figure 2**.

2.0 Project Description

The proposed project is the development of the Davis Refinery. The refinery is being designed to be highly efficient and converting crude into liquid fuels. The new refinery will be capable of producing very low sulfur-content diesel and jet fuels, which are anticipated to be new standards under recently authorized mandates by the Environmental Protection Agency. The refinery will utilize natural gas to provide energy for operations. The use of natural gas provides many advantages, including reduced operating costs, lower emissions than other base energy sources, and fewer air emission permitting requirements.

The Davis Refinery will be privately funded. In addition to the refinery itself, the project seeks to address needs for improved infrastructure housing shortages, commercial business diversity, industrial space availability, and basic utility distributions.

2.1 Existing Conditions

The proposed refinery, and ancillary support infrastructure, encompass approximately 720 acres. The current land use can be divided into two separate categories. The northern most parcel (~100 acres) is primarily used as pasture. The Heart River meanders throughout this parcel with remnant oxbows present, and likely wetland habitat associated with the oxbows. There appears to be one active farm site in this northern parcel.

The remaining 620 acres appear to be agricultural row crops (wheat). The landscape is rolling hills with approximately 20 feet of relief over the site. There are two farm sites within the southern parcel. Both sites have grain bins, equipment, and storage sheds. A residential home is present on the southernmost farm site (Intersection of 37th Street SW and 132 ½ Avenue).

3.0 Potential Regulatory Agencies

3.1 U.S. Fish and Wildlife Services

The U.S. Fish and Wildlife Service (USFWS) has primary oversight of threatened and endangered species. North Dakota has eleven (11) species listed via the Endangered Species Act. Generally, these species need larger tracks of land with the proper habitat present. The best potential of any of these threatened or endangered species utilizing the site is in or near the Heart River. It is unlikely that this parcel is large enough to provide the critical habitats these species require. The project area is located east of larger tracts of land that have been dedicated for wildlife (**Figure 3**) and while may provide temporary habitat, it is unlikely this project would have long term impacts on the threatened or endangered species of North Dakota.

3.2 North Dakota Game and Fish Department

North Dakota Game and Fish Department (G&FD) reviews proposed projects for Species of Conservation Priority and for the presence of Private Land Open to Sportsmen (PLOTS) program land. The State Wildlife Action Plan (SWAP) is the guiding document for this review. The SWAP identifies 115 species (47 birds, 2 amphibians, 9 reptiles, 21 mammals, 22 fish, 10 mussels, and 4 insects) and the critical habitats that should be conserved when possible in the state of North Dakota. Critical habitats are generally described as non-disturbed areas comprised of native vegetative species.

The proposed project area can be divided into two separate habitat types. **Figure 4** shows the Gap Analysis Program (GAP) land use from 2010. The northern 100 acre portion encompasses the Heart River, utilized as cattle pasture, and the remaining 620 acres that has a long crop history. The northern 100 acre parcel has potential for native vegetation to be present within the project area. The Heart River meanders throughout this parcel, with potential of wetland habitat at the toe of the hillsides and adjacent to the river. This area appears to have been utilized as cattle pasture for an extended period of time. Traditionally, areas used as cattle pasture are dominated by non-native pasture grass, but may contain remnant pockets of native vegetation either on the peaks of the hills or in the low areas adjacent to the streams. Species included in the SWAP could potentially to use this area, but due to its relatively small size and long history of cattle use it is not likely classified as critical habitat. South of the Heart River is the remainder of the proposed project area. The majority of this 620 acres has a long crop history. A tributary of the Heart River does extend into a

portion of the southern project area (see Figure 2), which may have some associated wetland habitats and tree species. While the potential that one or more of the species listed in the SWAP may occasionally use the project area, it is unlikely the proposed project will have any direct impacts for species listed in the SWAP.

Review the PLOTS Guide map shown on the G&FD website indicates PLOTS land are not present in or adjacent to this proposed project.

3.3 North Dakota Natural Resources Conservation Service (NRCS)

One of the responsibilities of the NRCS is soil health and management of state farmlands. A soils map showing the soil types and their "Farmland" classification are shown in **Appendix A**. The vast majority of the soils is listed as non-prime farmland with two small area mapped as prime farmland if drained.

3.4 U.S. Army Corps of Engineers

3.4.1 Wetlands Definition and Delineation Methodology

Wetlands are defined in federal Executive Order 11990 as *"areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances, do support a prevalence of vegetation or aquatic life typically adapted for saturated soil conditions."*

The project area will be delineated in the spring of 2016 for any areas meeting the wetland criteria in accordance with the U.S. Army Corps of Engineers *Wetland Delineation Manual* (USACE 1987) and *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains Region* (USACE 2010). One positive indicator (except in certain situations) from each of three elements must be present in order to make a positive wetland determination, which are as follows:

- Greater than 50 percent dominance of hydrophytic plant species.
- Presence of hydric soil.
- The area is either permanently or periodically inundated, or soil is saturated to the surface during the growing season of the dominant vegetation.

Topographic maps (**Figure 5**), the National Wetlands Inventory (NWI) map (**Figure 6**), the Soil Survey, and the hydric soil (**Appendix B**) list will be reviewed prior to the field delineation to locate potential wetland habitat. These sources showed wetland areas that were investigated in greater detail during the field delineation.

Field notes, samples, and photographs will be taken at representative locations in each wetland basin and the information transferred to Wetland Determination Data Forms.

Wetland plant species nomenclature follows the *National Wetland Plant List* (USACE 2014). Identification was aided when necessary with field guides for the region.

Wetland boundaries will be located and mapped. **Figure 7** is a desktop delineation to provide guidance of where the expected wetland habitat will be present. These boundaries will be adjusted when an "in the field" delineation is completed.

3.5 State Historical Society

A Class I survey was completed for the proposed project area by Beaver Creek Archaeology. The survey was completed for Sections 1, 2, and 12. The review identified six isolated finds (considered ineligible to the National Register of Historic Properties) within these sections. One of these isolated finds was within the refinery property, but was outside on any proposed construction zones. **Figure 8** shows the proposed project layout.

3.6 Future Tasks

- 1) During the growing season, on-site visits will be completed to document the natural resources and habitats present on-site will occur. The primary activity will be the completion of a wetland delineation to survey and map the presence of wetland habitat. During this visit, the areas around the Heart River will be observed and habitat types confirmed.
- 2) Each of the agencies listed above will be contacted and provided opportunity to review and comment on methodology and conclusions of this report.

4.0 Conclusions

- The proposed project is not expected to have direct impacts on endangered or threatened species.
- The proposed project site is not listed as prime farmland.
- The cultural resources review did not reveal any significant previously recorded cultural resources within the proposed construction boundaries of the refinery. One ineligible isolated find was within the projects property boundaries, but is not located near the potential construction zone.
- The potential wetland habitat, as determined in the desktop study, can be worked into the site design, or if impacted, there are options for mitigation. Final confirmation of the wetland locations is pending a spring delineation process.