



IN REPLY REFER TO:
ONEOK Demicks Lake
Pipeline

United States Department of the Interior

FISH AND WILDLIFE SERVICE
North Dakota Ecological Services
3425 Miriam Avenue
Bismarck, North Dakota 58501-7926
(701) 250-4481, ndfieldoffice@fws.gov



May 6, 2019

Ms. Nancy J. Veres
District Ranger
McKenzie Ranger District
1905 South Main Street
Watford City, North Dakota 58854

Dear Ms. Veres:

The letter is in response to your request dated April 30, 2019 requesting concurrence for determination of affects for impacts to species listed under the Endangered Species Act (Act) for the Demicks Lake pipeline. The project includes the construction and installation of a new 20-inch-diameter steel "Y-grade" NGL pipeline that originates at the ONEOK Rockies Midstream L.L.C.'s Demicks Lake Natural Gas processing Plant in McKenzie County, North Dakota, and extends to the southwest to terminate in Richland County, Montana at a planned interconnection with a ONEOK affiliate planned pipeline. The proposed project is approximately 77 miles in length, of which approximately 51.9 miles (approximately 67 percent) would be collocated with existing pipeline corridors. The U.S. Forest Service (USFS) provided a Biological Assessment (BA) and a memorandum dated April 22, 2019 on the project effects to listed species.

In accordance with the Act, you requested U.S. Fish and Wildlife Service (Service) concurrence with your determinations that the project "may affect, but is not likely to adversely affect" the following listed species. Threatened species include the Dakota skipper (*Hesperia dacotae*), rufa red knot (*Calidris canutus rufa*) and piping plover (*Charadrius melodus*). Endangered species include whooping crane (*Grus Americana*) and gray wolf (*Canis lupus*). Based upon the project description and analysis of the potential effects of exposure to listed species included in the BA, the effects are discountable or insignificant. Therefore, the Service concurs with your determinations.

The BA also made a "may affect" determination for northern long-eared bat (*Myotis septentrionalis*) and submitted the streamline section 7 consultation form for that species. We have reviewed the project information provided on the form and your determination that the proposed action will not result in any prohibited incidental take. This project may affect the northern long-eared bat (NLEB); however, there are no effects beyond those previously disclosed in the Service's programmatic biological opinion for the final 4(d) rule dated January 5, 2016. We concur with your determination and any taking that may occur incidental to this

project is not prohibited under the final 4(d) rule (50 CFR §17.40(o)). This project is consistent with the description of the proposed action in the programmatic biological opinion, and the 4(d) rule does not prohibit incidental take of the NLEB that may occur as a result of this project. Therefore, the programmatic biological opinion satisfies the USFS responsibilities under section 7(a)(2) of the Endangered Species Act (ESA) relative to the NLEB for this project.

Section 7(a)(1) of the ESA directs Federal agencies, in consultation with our office, to utilize their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information for conservation of the species. We recommend the following conservation measure for actions that may affect the NLEB: conduct tree removal activities outside of the NLEB pup season (June 1 to July 31). This will minimize impacts to pups at roosts not yet identified. Please keep in mind that you must report any departures from the plans submitted; results of any surveys conducted; or any dead, injured, or sick NLEB that are found to this office. If this project is not completed within one year of this letter, you must update your determination and resubmit the required information.

The BA also includes "no effect" determinations for interior least tern (*Sterna antillarum*), pallid sturgeon (*Scaphirhynchus albus*) and designated critical habitat for Dakota skipper and piping plover. There is no requirement under the implementing regulations of the Act (50 CFR Part 402) for action agencies to receive Service concurrence with "no effect" determinations, therefore the responsibility for "no effect" determinations remains with the USFS. Accordingly, we recommend the USFS retain the documentation for these listed resources in the decisional record for this federal action.

If changes are made in the project plans or operating criteria, or if additional information becomes available, the Service should be informed so that the above determinations can be reconsidered.

The Service appreciates the opportunity to provide comments. If you have any questions on these comments, please contact Jessica Johnson of my staff at (701) 355-8507 or at the letterhead address, or contact me at (615) 224-8693 ext. 224 or at 420 South Garfield Avenue, Pierre, South Dakota 57501.

Sincerely,



Scott V. Larson
Field Supervisor
North and South Dakota Field Offices

cc: USFS Dakota Prairies, Sarah Wold
Eddie Zedaker, Environmental Engineer ONEOK, Tulsa, OK