

July 21, 2022

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

By FedEx and E-mail (ndpsc@nd.gov)

Re: Magellan Pipeline Company, L.P.'s Certification Relating to North Dakota Century  
Code § 49-22.1-01(3)(a)  
Case No. PU-22-309

Dear Mr. Kahl:

Magellan Pipeline Company, L.P. ("Magellan") has received and reviewed the Request for Information received in the referenced matter. We also participated in a telephone conference with analyst Robert Frank, on July 20, 2022. For the reasons set forth in its certification, and as set forth below, Magellan restates that its project will not affect exclusion or avoidance areas and provides information responsive to the Request for Information.

Enclosed herewith in further support of Magellan's certification, please find the State Historic Preservation Office's letter to Magellan determining that no significant sites are located in the area of Magellan's project as well as a Memorandum from Barr Engineering concluding that there are no listed species that will be affected by the project.

As described in Magellan's certification, replacement of the approximately 2,200 feet of the Magellan's existing Alexandria to Grand Forks pipeline is required to allow for construction of the Diversion Channel, a part of the Fargo-Moorhead Flood Risk Management Project implemented by the Metro Flood Diversion Authority (Diversion Authority) in coordination with the U.S. Army Corps of Engineers (USACE).

Magellan's relocation project involves the horizontal directional drilling of the replacement segment of the pipeline in the same location (a slight offset) as the existing section of pipeline, which must be relocated as part of the construction and operation of the Diversion Channel. Construction of the Diversion Channel in this area is scheduled to begin in 2023. Magellan's work must be completed this construction season.

3 PU-22-309 Filed 07/21/2022 Pages: 16  
Response to 13 July 2022 request for information  
Magellan Pipeline Company, L.P.  
Patrick D.J. Mahlberg

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Notably, the Magellan project location is in areas of cultivated farm land and largely within the footprint of the Diversion Channel's project area. The lands above the lowered pipeline section will be excavated during the Diversion Channel's construction. Further, there are no viable alternatives to the Magellan project, because it must be moved in advance of the Diversion Channel construction and any alternative would involve routing along a new route with significantly more construction length and resulting areas of potential impact.

The Diversion Channel is one of the most studied projects in recent times. The USACE prepared the 2011 Final Feasibility Report and Environmental Impact Statement (2011 FEIS), 2013 Supplemental Environmental Assessment for the Fargo-Moorhead Flood Risk Management Project (2013 SEA), and 2019 Final Supplemental Environmental Assessment #2 (2019 SEA). Environmental analyses of the Diversion Channel were presented in the 2011 FEIS and 2013 SEA. The 2019 SEA analyzed changes in other portions of the project outside of the Diversion Channel construction area and are not relevant to this replacement of the Magellan pipeline.

During preparation of the 2011 FEIS and 2013 SEA, extensive Phase I investigations were conducted in the vicinity of several Diversion Channel alignment options. The investigations extended 0.5 miles on either side of the Diversion Channel alignment options and at nearby locations that could have a high potential for cultural resources. Several Phase II investigations were also conducted in the vicinity of the Diversion Channel. The following Figure 1 shows the area of these investigations and the general area of the Magellan pipeline replacement project.

The 2011 FEIS, 2013 SEA, and the 2020 Section 404 Permit issued by the USACE recognized the completion of these investigations and associated mitigation measures. A Programmatic Agreement was negotiated between the USACE, North Dakota State Historic Preservation Officer (SHPO), Minnesota SHPO, and the cities of Fargo and Moorhead, the non-federal sponsors of the project. The Cass County (North Dakota) and Clay County (Minnesota) Boards of Commissioners and 16 Indian tribes were also invited to be concurring parties to the Programmatic Agreement. The Programmatic Agreement was originally signed in 2011 and amended in 2013. The Programmatic Agreement covers the USACE responsibilities to ensure compliance with Section 106 of the National Historic Preservation Act (NHPA), as amended, and the implementing regulations, 36 CFR Part 800, Protection of Historic Properties. Stipulations in the Programmatic Agreement provide for the continued consultation with these parties during historic preservation activities covered by the agreement. The criteria for cultural and archaeological resources protection during Diversion Channel construction are also included in the 2020 Section 404 Permit issued by the USACE.

Overall, all Diversion Channel construction activities, including utility relocation, will be monitored for cultural and archaeological resources in accordance with requirements of 2011 FEIS and 2013 SEA, Programmatic Agreement, and 2020 Section 404 Permit. This includes detailed excavation methods to allow for constant observation by on-site cultural

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resources/archaeological monitors at 14 locations near existing and historic water drainages. However, none of these sites are located near the Magellan pipeline replacement project.

The Programmatic Agreement, as included in the appendices of the 2011 FEIS and 2013 SEA, are attached to this document. Copies of the 2011 FEIS, 2013 SEA, 2019 SEA, and 2020 Section 404 Permit can be provided to the Commission, if requested.

Magellan again thanks the Commission and Staff for their efforts.

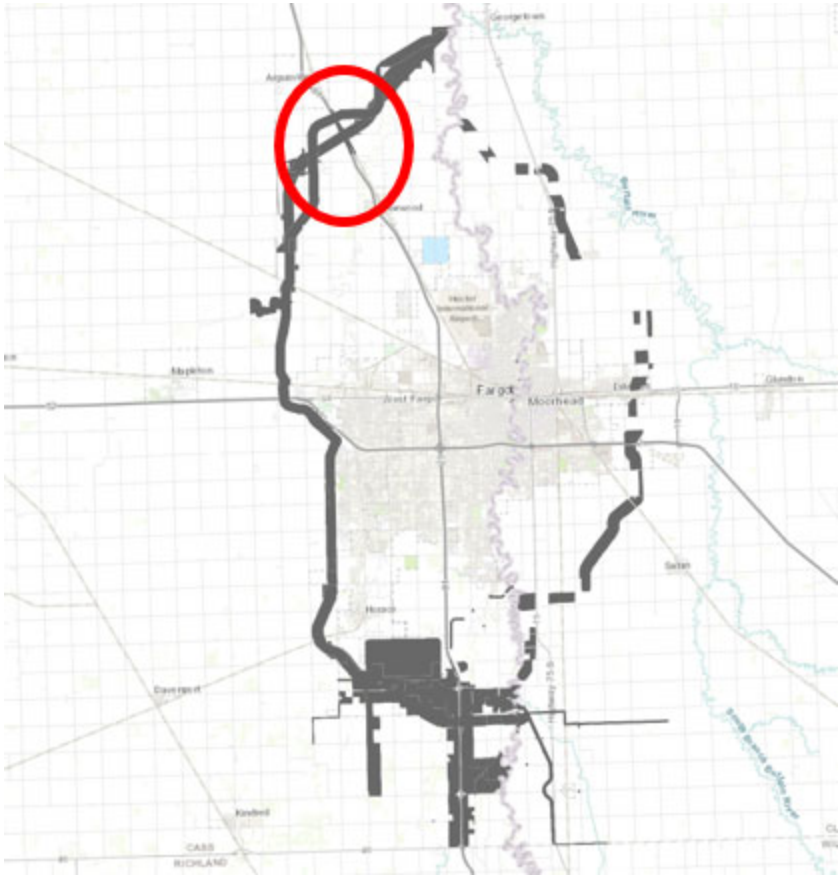
Sincerely,

/s/ Patrick D.J. Mahlberg

Patrick D.J. Mahlberg  
**Direct Dial:** 612.492.7419  
**Email:** pmahlberg@fredlaw.com

cc: Robert Frank (by e-mail: rfrank@nd.gov)

**Figure 1. Locations of Cultural Resources Investigations for the Fargo-Moorhead Flood Risk Management Project and General Location of Magellan Pipe Replacement (Red Circle) (USACE)**





July 19, 2022

Stephen Day  
Magellan Midstream Partners, L.P.  
One Williams Center, OTC-8  
Tulsa, Oklahoma 74172

**ND SHPO Ref: 22-0272 Magellan pipe replacement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project in portions of [T141N R49W Sections 17 & 20] in Cass County, North Dakota**

Dear Stephen,

We reviewed ND SHPO Ref: 22-0272 Magellan pipe replacement for Fargo-Moorhead Metropolitan Area Flood Risk Management Project in portions of [T141N R49W Sections 17 & 20] in Cass County, North Dakota. There are no significant sites in the area.

Thank you for the opportunity to review this project under North Dakota cultural resources consultation. This letter does not serve as federal agency consultation or SHPO consultation for compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, (36 CFR Part 800), or the National Environmental Policy Act, as amended, (42 U.S.C. §§ 4321- 4347).

If you have any questions, please contact Lorna Meidinger, Historic Preservation Specialist at (701) 328-2089 or [lbmeidinger@nd.gov](mailto:lbmeidinger@nd.gov)

Sincerely,

for William D. Peterson PhD  
Director, State Historical Society of North Dakota

22-0272

## Memorandum

**To:** Stephen Day; Magellan Pipeline Company, L.P.  
**From:** Tyler Seiboldt; Barr Engineering  
**Subject:** T&E Desktop Review  
**Date:** July 21, 2022  
**Project:** FMM Water Diversion Relocation

Barr Engineering (Barr) was contracted by Magellan Pipeline Company, L.P. (Magellan) to conduct a Threatened and Endangered Species Desktop Review of their FMM Water Diversion Relocation Project located in Cass County, North Dakota. This review considered possible impacts from the active project with a 350 foot-wide buffer zone from the pipeline (Figure 1). However, it should be noted that the access route to the workspace is an existing road and disturbance is not anticipated within the small wooded area. Barr reviewed the United States Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) website on July 20, 2022, to identify any federally listed species and designated critical habitat protected under the Endangered Species Act (ESA) that may be present within or near the project workspace. The review identified three threatened species and one candidate species that may occur within or near the project (Attachment 1). Descriptions of the species habitats and effect determinations are provided in the following sections:

- **Northern Long-eared Bat (Threatened):** The northern long-eared bat (*Myotis septentrionalis*) hibernates in caves and mines and swarms in surrounding wooded areas in autumn. This species roosts and forages in upland forests during late spring and summer. The project site is located entirely within an active agricultural field; as such, no tree and/or brush clearing is expected at this site, and no suitable roosting tree habitat or winter hibernacula will be impacted. Based on known roost tree and hibernacula data, no known maternity roost trees or hibernacula are within 150 feet or 1/4 mile of the site, respectively. Impacts to northern long-eared bats are not anticipated.
- **Dakota Skipper (Threatened):** The Dakota skipper (*Hesperia dacotae*) is typically found in native dry-mesic to dry prairie where mid-height grasses, such as little bluestem (*Schizachyrium scoparium* var. *scoparium*), prairie dropseed (*Sporobolus heterolepis*), and side-oats grama (*Bouteloua curtipendula* var. *curtipendula*), are a major component of the vegetation. The project site is located entirely within an active agricultural field that would not be considered suitable habitat for this species. No native dry-mesic or dry prairies will be impacted; as such, impacts to Dakota skipper are not anticipated.
- **Monarch Butterfly (Candidate):** The monarch butterfly (*Danaus plexippus*) lives in fields and parks where milkweed and native plants are common. The project site is located entirely within an agricultural field where milkweed may be present; however, candidate species are not legally protected under the ESA.
- **Western Prairie Fringed Orchid (Threatened):** The western prairie fringed orchid (*Platanthera praeclara*) occurs almost exclusively in remnant native prairies and sedge meadows. The majority of sites occur in full sunlight on moist, calcareous till or sandy soils, primarily along swales and in marsh areas. None of the sites have a significant history of cattle grazing, although a few have a history of intermittent mowing for wild hay. The project site is located entirely within an active agricultural field

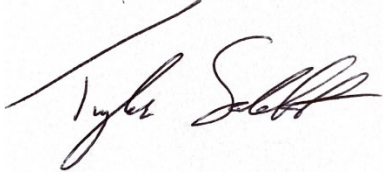
**To:** Stephen Day; Magellan Pipeline Company, L.P.  
**From:** Tyler Seiboldt; Barr Engineering  
**Subject:** T&E Desktop Review  
**Date:** July 21, 2022  
**Page:** 2

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that is not suitable habitat for this species. No remnant native prairies and sedge meadows will be impacted; as such, impacts to western prairie fringed orchid are not anticipated.

Based on a review of the project area, including a 350 foot-wide buffer on either side of the pipeline location, and the data from the USFWS IPaC website, no federally-listed species will be affected by the project. There are no state-listed species in North Dakota.

Thank you,

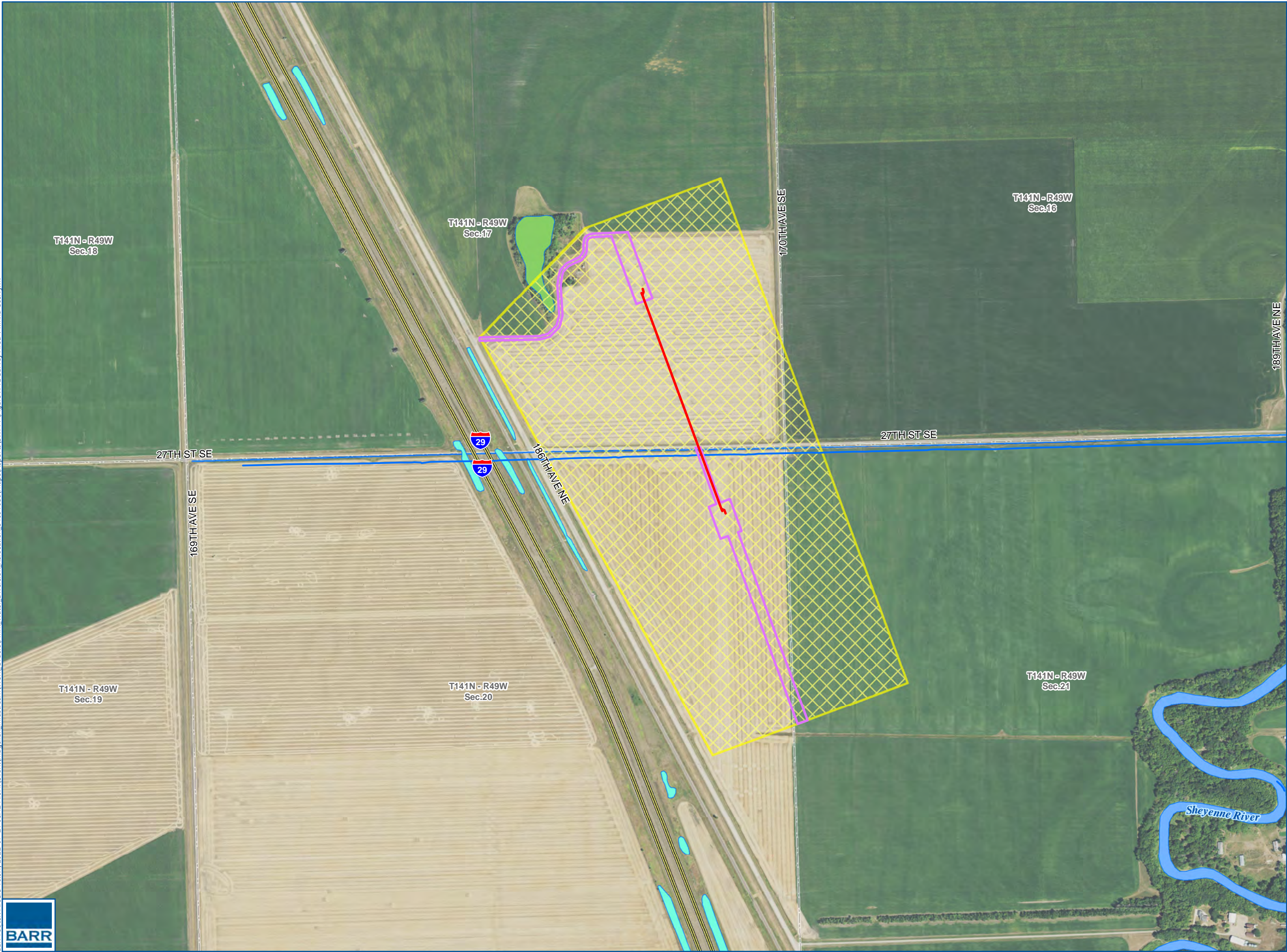
A handwritten signature in black ink, appearing to read "Tyler Seiboldt", is centered on the page. The signature is fluid and cursive.

Tyler Seiboldt  
Environmental Scientist

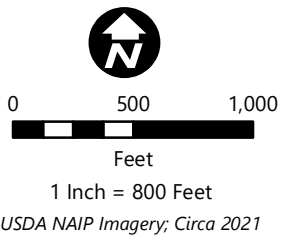
#### Attachments

- Figure 1 – Project Location
- Attachment 1 – USFWS IPaC Resource List

Barr Footer: ArcGIS 10.8.1, 2022-07-21 08:42 File: I:\Client\Magellan\_Midstream\Work Orders\FMM\Water\_Diversion\_Relocation\_34091056\Maps\Reports\SWPPP\Figure X.TE Survey Area V1.mxd User: jwk



- Project Location
- Project Design**
- Pipe Centerline HDD
- Access Route / Temporary Workspace
- T&E Survey Area
- National Hydrography Dataset (NHD)**
- Stream/River
- Wetlands (National Wetlands Inventory)**
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Riverine
- Public Land Survey Section



T&E SURVEY AREA  
FMM  
Water Diversion Relocation  
Magellan Pipeline Company

FIGURE 1

# IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

## Location

Cass County, North Dakota



## Local offices

North Dakota Ecological Services Field Office

☎ (701) 250-4481

📠 (701) 355-8513

3425 Miriam Avenue  
Bismarck, ND 58501-7926

<https://www.fws.gov/office/north-dakota-ecological-services>

Minnesota-Wisconsin Ecological Services Field Office

☎ (952) 252-0092

📠 (952) 646-2873

4101 American Blvd E  
Bloomington, MN 55425-1665

# Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species<sup>1</sup> and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries<sup>2</sup>).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

1. Species listed under the [Endangered Species Act](#) are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information. IPaC only shows species that are regulated by USFWS (see FAQ).
2. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

## Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> Wherever found No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened

## Insects

NAME	STATUS
Dakota Skipper <i>Hesperia dactotae</i> Wherever found There is final critical habitat for this species. The location of the critical habitat is not available. <a href="https://ecos.fws.gov/ecp/species/1028">https://ecos.fws.gov/ecp/species/1028</a>	Threatened
Monarch Butterfly <i>Danaus plexippus</i> Wherever found No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a>	Candidate

## Flowering Plants

NAME	STATUS
Western Prairie Fringed Orchid <i>Platanthera praeclara</i> Wherever found No critical habitat has been designated for this species. <a href="https://ecos.fws.gov/ecp/species/1669">https://ecos.fws.gov/ecp/species/1669</a>	Threatened

## Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

THERE ARE NO CRITICAL HABITATS AT THIS LOCATION.

# Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act<sup>1</sup> and the Bald and Golden Eagle Protection Act<sup>2</sup>.

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.

Additional information can be found using the following links:

- Birds of Conservation Concern <https://www.fws.gov/program/migratory-birds/species>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide conservation measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON (IF A BREEDING SEASON IS INDICATED FOR A BIRD ON YOUR LIST, THE BIRD MAY BREED IN YOUR PROJECT AREA SOMETIME WITHIN THE TIMEFRAME SPECIFIED, WHICH IS A VERY LIBERAL ESTIMATE OF THE DATES INSIDE WHICH THE BIRD BREEDS ACROSS ITS ENTIRE RANGE. "BREEDS ELSEWHERE" INDICATES THAT THE BIRD DOES NOT LIKELY BREED IN YOUR PROJECT AREA.)
American Golden-plover <i>Pluvialis dominica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds elsewhere
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. <a href="https://ecos.fws.gov/ecp/species/1626">https://ecos.fws.gov/ecp/species/1626</a>	Breeds Dec 1 to Aug 31
Black Tern <i>Chlidonias niger</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/3093">https://ecos.fws.gov/ecp/species/3093</a>	Breeds May 15 to Aug 20
Black-billed Cuckoo <i>Coccyzus erythrophthalmus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/9399">https://ecos.fws.gov/ecp/species/9399</a>	Breeds May 15 to Oct 10
Bobolink <i>Dolichonyx oryzivorus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 20 to Jul 31
Chestnut-collared Longspur <i>Calcarius ornatus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 1 to Aug 10
Clark's Grebe <i>Aechmophorus clarkii</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Jun 1 to Aug 31
Eastern Whip-poor-will <i>Antrostomus vociferus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 1 to Aug 20
Franklin's Gull <i>Leucophaeus pipixcan</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 1 to Jul 31
Golden Eagle <i>Aquila chrysaetos</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. <a href="https://ecos.fws.gov/ecp/species/1680">https://ecos.fws.gov/ecp/species/1680</a>	Breeds Jan 1 to Aug 31

Golden-winged Warbler <i>Vermivora chrysoptera</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/8745">https://ecos.fws.gov/ecp/species/8745</a>	Breeds May 1 to Jul 20
Hudsonian Godwit <i>Limosa haemastica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds elsewhere
Lesser Yellowlegs <i>Tringa flavipes</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/9679">https://ecos.fws.gov/ecp/species/9679</a>	Breeds elsewhere
Long-eared Owl <i>asio otus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/3631">https://ecos.fws.gov/ecp/species/3631</a>	Breeds Mar 1 to Jul 15
Marbled Godwit <i>Limosa fedoa</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/9481">https://ecos.fws.gov/ecp/species/9481</a>	Breeds May 1 to Jul 31
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Sep 10
Ruddy Turnstone <i>Arenaria interpres morinella</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds elsewhere
Short-billed Dowitcher <i>Limnodromus griseus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. <a href="https://ecos.fws.gov/ecp/species/9480">https://ecos.fws.gov/ecp/species/9480</a>	Breeds elsewhere
Willet <i>Tringa semipalmata</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Apr 20 to Aug 5

## Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

### Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is  $0.25/0.25 = 1$ ; at week 20 it is  $0.05/0.25 = 0.2$ .
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

### Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

### Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

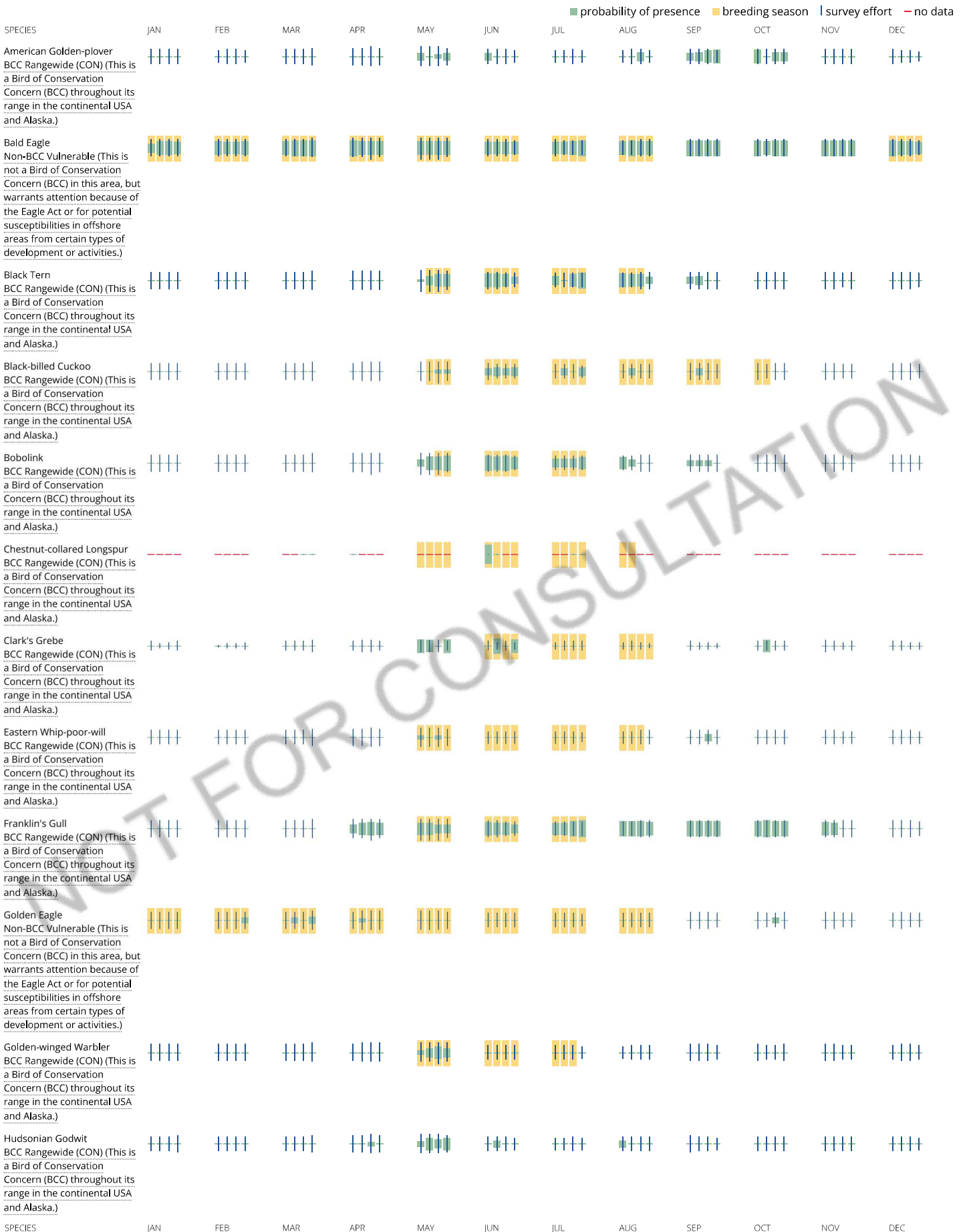
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

### No Data (—)

A week is marked as having no data if there were no survey events for that week.

### Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



<p>Lesser Yellowlegs BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)</p>												
<p>Long-eared Owl BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)</p>												
<p>Marbled Godwit BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)</p>												
<p>Red-headed Woodpecker BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)</p>												
<p>Ruddy Turnstone BCC - BCR (This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA)</p>												
<p>Short-billed Dowitcher BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)</p>												
<p>Willet BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)</p>												

#### Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

#### What does IPaC use to generate the migratory birds potentially occurring in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

#### What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

#### How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

#### What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern \(BCC\)](#) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

#### Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

#### What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

#### Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

## Coastal Barrier Resources System

Projects within the [John H. Chafee Coastal Barrier Resources System](#) (CBRS) may be subject to the restrictions on federal expenditures and financial assistance and the consultation requirements of the Coastal Barrier Resources Act (CBRA) (16 U.S.C. 3501 et seq.). For more information, please contact the local [Ecological Services Field Office](#) or visit the [CBRA Consultations website](#). The CBRA website provides tools such as a flow chart to help determine whether consultation is required and a template to facilitate the consultation process.

THERE ARE NO KNOWN COASTAL BARRIERS AT THIS LOCATION.

#### Data limitations

The CBRS boundaries used in IPaC are representations of the controlling boundaries, which are depicted on the [official CBRS maps](#). The boundaries depicted in this layer are not to be considered authoritative for in/out determinations close to a CBRS boundary (i.e., within the "CBRS Buffer Zone" that appears as a hatched area on either side of the boundary). For projects that are very close to a CBRS boundary but do not clearly intersect a unit, you may contact the Service for an official determination by following the instructions here: <https://www.fws.gov/service/coastal-barrier-resources-system-property-documentation>

#### Data exclusions

CBRS units extend seaward out to either the 20- or 30-foot bathymetric contour (depending on the location of the unit). The true seaward extent of the units is not shown in the CBRS data, therefore projects in the offshore areas of units (e.g., dredging, breakwaters, offshore wind energy or oil and gas projects) may be subject to CBRA even if they do not intersect the CBRS data. For additional information, please contact [CBRA@fws.gov](mailto:CBRA@fws.gov).

## Facilities

### National Wildlife Refuge lands

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

This location overlaps the following National Wildlife Refuge lands:

LAND	ACRES
CASS COUNTY WATERFOWL PRODUCTION AREA	3,970.67 acres

### Fish hatcheries

THERE ARE NO FISH HATCHERIES AT THIS LOCATION.

# Wetlands in the National Wetlands Inventory

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

WETLAND INFORMATION IS NOT AVAILABLE AT THIS TIME

This can happen when the National Wetlands Inventory (NWI) map service is unavailable, or for very large projects that intersect many wetland areas. Try again, or visit the [NWI map](#) to view wetlands at this location.

## Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

## Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

## Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

NOT FOR CONSULTATION