

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

SERIAL NUMBER NDM 102507

1. A right-of-way is hereby granted pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185).
2. Nature of Interest:
 - a. By this instrument, the holder:

BakkenLink Pipeline LLC
601 Jefferson Street, Suite 3600
Houston, TX 77002

receives a right to construct, operate, maintain, and terminate a crude oil pipeline on Federal lands administered by the United States Forest Service described as follows:

T. 147 N., R. 98 W.,
sec. 18, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
sec. 18, Lot 3;

T. 147 N., R. 99 W.,
sec. 13, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
sec. 24, E $\frac{1}{2}$ W $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;

T. 145 N., R. 98 W.,
sec. 19, E $\frac{1}{2}$ NE $\frac{1}{4}$;
sec. 20, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
sec. 29, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$;

5th Principle Meridian, McKenzie Co., ND

Total Linear R/W = 22,526 feet,

- b. The right-of-way or permit area granted herein is: Permanent Pipeline - 20 feet wide & 22,526 feet long containing 10.34 acres, more or less. Site type facilities contain N/A acres. A temporary construction ROW of 50' and identified additional temporary workspace (ATWS) is also hereby granted.
 - c. This instrument shall terminate 30 years from its effective date (12-31-2042) unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental: Per Acre Rental Rate as Determined by Rental Schedule

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the Federal lands within 90 days, or otherwise decommissioned as provided in paragraph (4)(c) or as directed by the authorized officer.
- c. The stipulations, plans, maps, or designs set forth in Attachments 1 & 2, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- d. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- e. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

Darren Snow
(Signature of Holder)

Vice President
(Title)

10/23/2012
(Date)

Donald J. Indin
(Signature of Authorized Officer)

Field Manager
(Title)

10/23/2012
(Effective Date of Grant)

Attachment 1 - BakkenLink ROW, SERIAL NUMBER NDM 102507; Mitigation Measures and Stipulations

Resource	Environmental Protection Measures As Design Features
Air Quality	<ul style="list-style-type: none"> Water or chemical soil binders and best management practices (BMPs) would be used to control dust along the ROW and access roads during construction in accordance with federal, state, and local requirements.
Soils	<ul style="list-style-type: none"> Soil erosion would be minimized by implementing procedures described in BMPs, the Storm Water Pollution Prevention Plan (SWPPP), and the Reclamation Plan. During periods when soils are excessively wet, vehicle traffic and equipment would be restricted to prevent rutting in areas where topsoil is intact (excluding areas where topsoil has been removed/segregated). Use of temporary roads across agricultural lands may result in some compaction and seasonal loss of crops. When necessary, compacted soils would be disked following Project completion and landowners would be compensated for any crop loss.
Water Resources and Wetlands	<ul style="list-style-type: none"> The SWPPP and BMPs would be implemented to minimize storm water transport of sediment from disturbed areas to streams and wetlands. All Project-related storm water and hydrostatic test water discharges would be in compliance with a NPDES permit. No aboveground facilities or staging areas would be constructed within wetlands, riparian areas, or other waters of the U.S. Biologists familiar with wetland and riparian identification would post signs at the edges of the wetland/waterbody features prior to construction. ATWSs would be located a minimum of 50 feet outside wetland boundaries. BMPs (including installation of erosion control devices) would be utilized at all wetland and waterbody crossings to minimize sedimentation. For areas where additional setbacks are deemed necessary to protect the resource, the applicability of the appropriate setback would be determined in consultation with agencies on a site-specific basis. No refueling or lubricating would occur within 100 feet of wetlands and/or perennial/intermittent waterbodies. Hazardous materials, chemicals, fuels, etc. would not be stored within 100 feet of wetlands or perennial/intermittent waterbodies. Application of herbicides or pesticides within the vicinity of wetlands and waterbodies would follow pesticide use protocol and restrictions outlined in the Noxious Weed Management Plan. For dry crossings, topsoil within the trench line shall be segregated from subsoil in wetland and riparian areas for use in reclamation as specified in the Construction, Mitigation, and Reclamation Plan (CMRP). Where crossings of riparian or wetland areas cannot be reasonably avoided, the construction ROW width would be reduced to approximately 50 feet and measures would be taken to minimize impacts. This reduction to the construction ROW would apply to all Waters of the U.S. crossings.

Resource	Environmental Protection Measures As Design Features
Water Resources and Wetlands (Continued)	<ul style="list-style-type: none"> To control Aquatic Invasive Species (AIS), equipment would be washed to remove all vegetative matter and AIS after constructing through stream crossings, where water is evident within the channel.
	<ul style="list-style-type: none"> BakkenLink would avoid impacts to perennial streams by using the HDD crossing method where required. Construction would occur over a limited period of time with the minimum equipment required for safe and efficient operations. Direct access of vehicles and heavy machinery to waterbodies would be minimized.
	<ul style="list-style-type: none"> The horizontal directional drill crossing method would be used at the Little Missouri River and Green River, which would avoid in-stream impacts and reduce erosion along the banks of these waterbodies.
	<ul style="list-style-type: none"> Water used for hydrostatic testing, dust control during construction, etc. would be obtained from municipal or other permitted water supply wells. The installation or abandonment of any wells is not anticipated. Surface water or groundwater appropriation is not anticipated.
	<ul style="list-style-type: none"> If Section 404 permit is obtained and mitigation is required, mitigation areas would need to be monitored for a minimum of five years. Annual reports would have to be submitted to the ND Corps regulatory office. Successful performance criteria would need to be developed in a mitigation and monitoring plan that should be submitted with completed 404 permit application. ND Corps regulatory should be able to provide more guidance.
Vegetation	<ul style="list-style-type: none"> Revegetation seed mixes would be developed in coordination with the agencies and private landowners. The CMRP would outline the procedures to be followed to return the land to pre-existing vegetative cover and land uses.
	<ul style="list-style-type: none"> Trees and shrubs would be replaced in accordance with the PSC's tree and shrub mitigation specifications. BakkenLink would coordinate with the appropriate agencies to identify efficient restoration and mitigation measures following construction.
	<ul style="list-style-type: none"> ROW monitoring of reclaimed areas would be conducted annually for 5 years following reclamation. Reclamation success would be based on the revegetation to 70 percent of the background cover as stipulated in the SWPPP (North Dakota Department of Health, Water Quality Division requirement) and the applicable permits obtained. If, after the first growing season, revegetation is successful, no additional monitoring would be conducted. Reclamation success criteria would be established in coordination with the USFS and USACE.

Resource	Environmental Protection Measures As Design Features
Noxious Weeds	<ul style="list-style-type: none"> The Project's Noxious Weed Management Plan would be implemented to minimize the spread of noxious weeds. A Pesticide Use Proposal (PUP) would be included in the Noxious Weed Management Plan.
	<ul style="list-style-type: none"> ROW monitoring for noxious weeds and invasive species would be conducted following reclamation in conjunction with ROW monitoring of reclamation success.
	<ul style="list-style-type: none"> BakkenLink would clean construction equipment after completion of construction activities in the Summit Campground area, to prevent the spread of invasive species (e.g., smooth brome) to adjacent areas.
	<ul style="list-style-type: none"> When treating for noxious weeds and invasive species inside USFS recreation sites (e.g., Summit Campground), BakkenLink or their subcontractor would be responsible for providing public notice at least 24 hours in advance of treatment. BakkenLink would notify USFS, and post notice on campsite bulletin boards with information on the product being used, dates of spraying, and contact numbers.
Wildlife and Fisheries	<ul style="list-style-type: none"> Appropriate wildlife and fisheries protection measures would be implemented during all phases of construction in coordination with jurisdictional agencies.
	<ul style="list-style-type: none"> BMPs for protection of water resources that would reduce potential impacts to fish and their habitat would be implemented.
Special Status Species	<ul style="list-style-type: none"> Prior to the initiation of construction, applicable biological surveys would be conducted through areas of suitable habitat for specific species during the appropriate season, as determined by the jurisdictional agencies (e.g., BLM and USFWS) and survey results reported in compliance with Section 7 of the ESA.
	<ul style="list-style-type: none"> If threatened, endangered, candidate, or sensitive plant species are identified in proposed disturbance areas prior to construction, appropriate protection measures would be determined in consultation with agencies.
	<ul style="list-style-type: none"> No construction, operation, or maintenance activities would be allowed within 0.25 mile of the identified sharp-tailed grouse leks on USFS-administered land during the breeding season (March 1 to June 15).
	<ul style="list-style-type: none"> Surface use is prohibited from March 1 through June 15 within 1 mile (line of sight) of a sharp-tailed grouse display ground.
	<ul style="list-style-type: none"> No surface occupancy or use is allowed within 0.25 mile (line of sight) of a sharp-tailed grouse and sage grouse display ground.
	<ul style="list-style-type: none"> If a whooping crane is sighted within 1 mile of pipeline or associated facilities while under construction, all work cease within 1 mile of the Project and the USFWS be contacted immediately (USFWS 2011). In coordination with the USFWS, work may resume after the bird(s) leave the area (USFWS 2011).
Land Use	<ul style="list-style-type: none"> Any range improvements such as fences, gates, cattle guards, and developed water sources located within disturbance or access routes would be repaired to the satisfaction of the agency or private landowner.
	<ul style="list-style-type: none"> If construction would disturb or destroy a natural barrier used for livestock control, the opening would be temporarily closed during construction and permanently closed following construction, as required by the agency or private landowner.
	<ul style="list-style-type: none"> BakkenLink would coordinate with landowners to minimize impacts to their lands. Lands would be restored to cropland and farming use following the construction phase of the Project.

Resource	Environmental Protection Measures As Design Features
Recreation and Visual Resources	<ul style="list-style-type: none"> Measures would be implemented to minimize the visual effects of construction on high value road, river, and trail crossings as identified in the ROW permit and POD.
	<ul style="list-style-type: none"> To prevent unauthorized use of the ROW by off-road vehicles and subsequent potential impacts to soil, vegetation, and wildlife resources, access would be blocked at locations specified by agencies and /or private landowners.
Transportation	<ul style="list-style-type: none"> All major highway crossings would be bored to limit traffic interruptions. Un-paved roads would be open cut, subject to approval of local road authorities. Where roads are open cut, traffic would be temporarily directed around the site. Most road crossings would typically be completed within several days, which would limit any disturbance to the traffic flow. Placement of temporary access would be designed to avoid sensitive features such as wetlands. Areas used for temporary roads or working areas during construction would be restored to their original condition to the extent practicable. The USFS designated inventoried Roadless Area would be crossed using the HDD method. No construction traffic would be allowed to access this property.
Cultural and Paleontological Resources	<ul style="list-style-type: none"> Prior to the Project construction, cultural resource inventories would be conducted on all previously uninventoried lands in proposed disturbance areas. Any resources that have been determined as eligible or are included in the NRHP would be avoided to the extent practical. If avoidance is not possible, appropriate mitigation measures would be implemented. Avoidance is recommended for the NRHP-eligible sites (including unevaluated sites) located within or adjacent to the APE. If avoidance of an unevaluated site is not feasible, evaluative testing would be conducted and eligibility determined by the BLM in consultation with the North Dakota State Historic Preservation Office. For any NRHP-eligible sites that cannot be avoided, a treatment plan would be developed by the BLM in consultation with the North Dakota SHPO and interested tribes. To minimize indirect impacts to cultural and paleontological resources, Project-related personnel would be educated as to the sensitive nature of the resources; a strict policy of prohibiting collecting of these resources would be implemented.
Cultural and Paleontological Resources (Continued)	<ul style="list-style-type: none"> If cultural resources are found while Project is under construction, all work would stop and the ND SHPO would be contacted to determine what should be done to protect resources. Written permission shall be obtained stating that work in this area no longer presents a hazard to cultural resources and work can resume.
Noise	<ul style="list-style-type: none"> The Project route would be at least 500 feet from occupied houses and structures. At this distance, noise created during construction should be below ambient background levels, especially near highways and railroad lines.
Public Safety	<ul style="list-style-type: none"> The Project would be located a minimum distance of 500 feet from residences to minimize hazards to human health and safety. Also, isolation valves would be installed along the pipeline in accordance with federal regulations to isolate the pipeline during a leak to minimize the release. A Spill Risk Assessment has been completed to identify HCAs and potential impacts as a result of an accidental release of crude oil during pipeline operation.

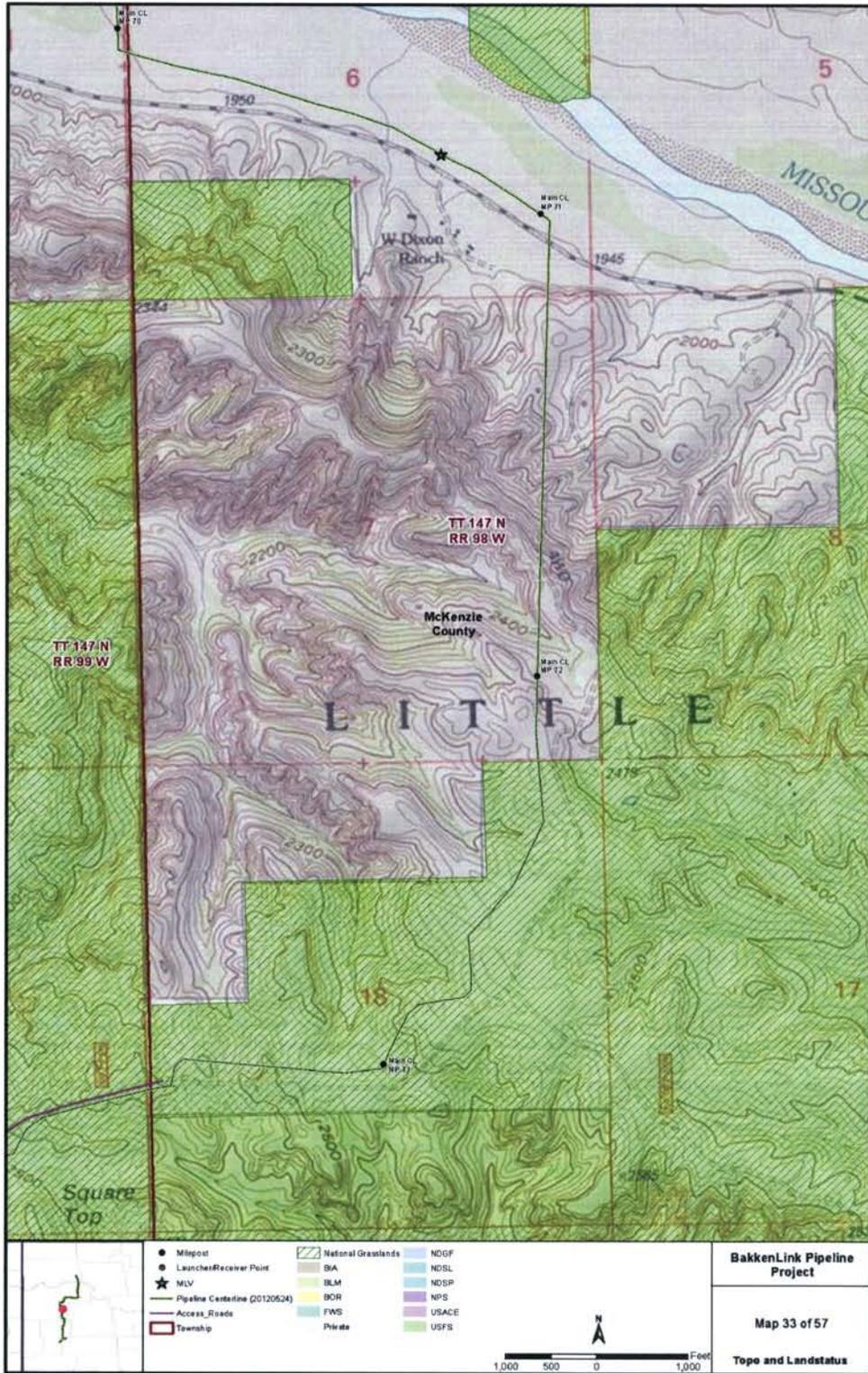
Resource	Mitigation Measures
Mitigation Measures	
Geology and Minerals	<p>GM-1: Geotechnical investigations will be completed in landslide prone areas north and south of the Lake Sakakawea and Little Missouri River crossings in order to characterize areas of potential instability. HDD will be used for the Little Missouri crossing not only at the river crossing itself, but also HDD will be used to avoid landslide hazards and steep slopes along the bluffs on the north and south sides of the river crossing. It is recommended that final design of the HDDs under the landslides incorporate information concerning the bedrock-landslide interface so that the drill borings and eventually the pipe are placed in relatively competent bedrock and not in landslide material. Also, the distance of the entry/exit points from the edges of the bluffs should be adequate to accommodate erosion and large rotational slump blocks that could occur along the edges of the bluffs.</p> <p>GM-2: Pre-construction investigations in areas of known or suspected historic lignite mining along the Project route will be completed prior to construction in order to identify potential subsidence areas. Avoidance of areas having underground voids is the best protection. If avoidance is not possible, then appropriate engineering design is recommended to protect the pipeline and facilities from risk of damage and rupture.</p>
Soils	<p>S-1: During reclamation, compacted areas (typically any area that received repeated traffic or three or more passes by heavy equipment) will be decompacted, to the depth of compaction, by subsoiling or ripping to the depth of compaction. This will help prepare the seed bed, encourage infiltration and help to prevent accelerated runoff and erosion. Where topsoil has been salvaged and segregated, decompaction will occur prior to respreading topsoil. Scarification will only be used on shallow soils.</p> <p>S-2: Salvaged topsoil will be protected from wind and water erosion at all times. To ensure proper erosion control of topsoil piles, all sediment and erosion control measures will be inspected after large rain events and repairs will be performed as needed.</p>
Water Resources	<p>WR-1: An additional mainline valve will be placed on the eastern side of the Cherry Creek Aquifer near Highway 23 (approximately MP 48.5) to reduce the maximum volume of oil (from 15,900 barrels to 5,950 barrels) that could be released in the event of a pipeline rupture.</p> <p>WR-2: BakkenLink has consulted and will continue consulting with the North Dakota Department of Health (NDDH), Water Quality Division, and will implement ground water protection measures as directed (or recommended) by NDDH for segments of the proposed pipeline that traverse the Cherry Creek and Tobacco Garden aquifers.</p>
Wildlife and Fisheries	<p>WF-1: BakkenLink will construct escape ramps every 0.5 mile to reduce the potential for livestock and wildlife becoming trapped in the pipeline trench.</p> <p>WF-2: To the extent practicable, clearing and grubbing of the Project ROW will occur in the fall or winter (i.e., outside of nesting season) to minimize disturbance to nesting birds.</p> <p>WF-3: If construction occurs during breeding season, BakkenLink will conduct pre-construction surveys for active nests, including raptor nests, to protect migratory birds. In North Dakota, the typical migratory bird nesting season (including raptors) is February 1 through July 15 (USFWS 2011c). To minimize impacts to migratory birds (including some game birds, waterfowl, and raptors), active nests will be avoided during construction and maintenance activities, in coordination with USFWS.</p> <p>WF-4: Any open posts (1.5-inch-diameter or greater), which may be utilized in pipeline construction or operation (such as markers, signs, stacks, etc), will be permanently covered or filled with sand or gravel. This is necessary to prevent wildlife mortalities by entrapment.</p>

Resource	Mitigation Measures
Special Status Species	SSS-1: The loss of special status plant species individuals or populations may occur as a result of adjacent noxious weed-related herbicide application treatments. To effectively mitigate this impact, consultation between the special status plant species jurisdictional agency and the weed control specialists will be completed prior to treatments. The location of known special status plant species and noxious weed species individuals and populations will be confirmed prior to treatments. In addition, techniques for special status plant species avoidance via direct and indirect applications will be developed.
	SSS-2: To prevent the spread of aquatic nuisance species during construction and operation, BakkenLink will remove aquatic plants and animals from equipment before leaving any waterbody. Project staff will spray/wash equipment with high pressure hot water when leaving a wetland/waterbody, or will dry equipment for at least 5 days before use at a different wetland/waterbody.
	SSS-3: The revegetation plan will include a commitment to reseed disturbed native prairie with a comparable native grass/forb seed mixture and planting a diverse mixture of native cool- and warm-season grasses and forbs; and
Special Status Species (Continued)	SSS-4: BakkenLink will obtain a seed source that is as local as possible to insure the particular cultivars are well adapted to the local climate.
	<p>SSS-5: Disturbance to native prairie will be reclaimed to its original condition using native seed mixes specified by applicable state and federal agencies. The objective is for no net loss of native prairie habitat to occur. Where avoidance of native prairie is not feasible, appropriate surveys will be conducted to ensure that Dakota skipper and regal fritillary populations will not be affected. In addition, the following protection measures will be implemented to minimize impacts to the Dakota skipper, regal fritillary, Ottoo skipper, and tawny crescent:</p> <ul style="list-style-type: none"> • Restrict workspaces where the ROW crosses native prairie habitat; • Salvage and segregate topsoil in native prairie to maintain the native seed sources for re-vegetation of the ROW in native prairie; and • Restrict herbicide and pesticide use where Dakota skippers, regal fritillaries, Ottoo skippers, and tawny crescents are found.
	SSS-6: If construction occurs during spring or fall migration, BakkenLink will provide whooping crane monitors in suitable habitat along the ROW. If a whooping crane is sighted within 1 mile of a pipeline or associated facilities during construction, all work will cease within 1 mile of the area and the USFWS will be contacted immediately. In coordination with the USFWS, work will resume after the bird(s) leave the area (USFWS 2011c). By implementing these mitigation measures, construction-related impacts to the whooping crane are anticipated to be low.
	SSS-7: If construction were to occur during the interior least tern or piping plover breeding season (April 1 through August 31), BakkenLink will conduct surveys in suitable habitat within 0.25 mile of the Lake Sakakawea crossing location. A qualified biologist will survey no more than 2 weeks prior to construction-related activities to identify occupied breeding territories and/or active nest sites. If occupied breeding territories and/or active nest sites are identified, the USFWS will be notified. Appropriate protection measures, such as seasonal constraints and the establishment of a spatial buffer area, will be implemented on a site-specific basis, in coordination with the USFWS. Similar constraints and/or mitigation measures may apply to pipeline maintenance activities if conducted during the breeding season within 0.25 mile of the Project area.
	SSS-8: All surface disturbing activities within suitable nesting habitat occur outside the burrowing owl breeding period (May 1 to September 15).

Resource	Mitigation Measures
Special Status Species (Continued)	SSS-9: If work is proposed to take place during the migratory bird breeding season (February 1 to July 15), BakkenLink will implement appropriate protection measures, including clearing and grubbing the Project route prior to spring nesting, and having a qualified biologist survey the Project route for nesting migratory birds within 5 days of any ground disturbing activity.
	SSS-10: If surveys or other available information indicate a potential for take of migratory birds, their eggs, or active nests, BakkenLink will suspend activities and contact the USFS, McKenzie Ranger District, and the USFWS for further coordination on the extent of the impact and the long-term implications of the intended use of the Project on migratory bird populations.
	SSS-11: Any open posts (1.5-inch-diameter or greater), which may be utilized for pipeline construction or operation (e.g., markers, signs, stacks, fences, etc.) will be permanently covered or filled with sand or gravel to prevent wildlife mortalities by entrapment.
	SSS-12: Surface use is prohibited from April 1 through June 15 within 1 mile (line-of-sight) of bighorn sheep lambing areas (USFS 2001; NDGFP 2011).
	SSS-13: New developments, including new facilities, roads, and concentrations of humans, within 1 mile of bighorn sheep lambing areas may be moved or modified to be out of view of the lambing areas (USFS 2001). This stipulation applies to drilling and testing and new construction projects, not to operation or maintenance of production facilities (USFS 2001).
Recreation	RR-1: Construction activities within the Summit Campground will not take place between the established quiet hours of 10:00 pm to 7:00 am; this time restriction would not apply to the HDD activities that would be completed for the U.S. Highway 85 crossing and area immediately south of the Summit Campground.
	RR-2: Recreation facilities at the Summit Campground will not be used by project construction workers. Alternative facilities will be provided.
	RR-3: Construction vehicles or equipment at the Summit Campground will not park in recreation campsites or parking areas by the restrooms.
Recreation (Continued)	RR-4: Camping at the Summit Campground by construction workers will not be permitted.
	RR-5: Access to the Summit Campground will be maintained by keeping access open from at least one entrance.
Visual Resources	VR-1: Aboveground structures will be painted with BLM-approved environmental colors to minimize contrasts with surrounding landscapes.
Hazardous Materials	HM-1: It is recommended that ground disturbing activities be monitored in the area of uranium deposits shown on Figure 3.2-3 in the EA. Spoil piles and airborne dust will be monitored by qualified persons to ensure that radiation is below government recommended action levels. If action levels are exceeded, BakkenLink will provide for appropriate personal protective equipment to be provided to construction workers and length of potential exposure monitored to limit time of exposure to comply with government recommended levels. In addition, soils that exhibit elevated levels of radioactivity will be dealt with according to the provisions for handling contaminated soil in the SPCC Plan.
Cultural Resources / Native American Concerns	CR-1 - BakkenLink would provide funding to allow interested Native American tribes the opportunity to inventory the route for traditional cultural properties prior to construction, and to monitor previously identified cultural resource sites during project construction. Inventory and Monitoring activities would be conducted as specified in the cultural resources monitoring plan jointly developed by the tribe(s), Metcalf Archaeology, Inc. and the BLM. The monitoring plan would be approved by BLM.

Resource	Mitigation Measures
U.S. Forest Service Mitigation Measures	<ul style="list-style-type: none"> • Keep disturbance to a minimum to reduce impacts to suitable sensitive species habitat and native vegetation communities in general, and also to reduce spread of invasive species. • Where the disturbance area will intersect noxious weeds or patches of invasive species, treat the noxious weeds or invasive species at least two weeks prior to construction; or salvage and stockpile the topsoil from these sites separately to isolate the vegetative propagules and seed. These areas should be identified to ensure they are monitored after reclamation. • Use a Forest Service approved native seed mix for reclamation; monitor to ensure proper establishment. Monitor annually for 5 years following reclamation to ensure reclamation success and to identify noxious weeds and invasive species establishment. • If invasive species are found on reclaimed sites that are in areas mostly dominated by native species, treat the invasive species sites and reseed if necessary. • If noxious weeds are found on reclaimed sites, treat the weeds and reseed if necessary. • Clean vehicles and equipment used for construction prior to entering the National Grassland to remove all seeds and plant propagules (seeds and vegetative parts that may sprout) in order to prevent the potential spread of noxious weeds and invasive species. This mitigation would be applied when moving equipment from an area dominated by invasive species to an area that is not dominated by invasive species. • Clearly mark (stake/fence/flag) sensitive plants within or very near the ROW prior to construction and note them on alignment sheets to ensure that they are avoided. Ensure that such marking is still visible prior to reclamation activities. • Any discovery of sensitive or watch plants within the project area should be reported to the McKenzie Ranger District office. Sensitive plant populations discovered after project approval should be protected; therefore, last minute alterations of the project design or access route may be requested in order to avoid negative impacts to such populations.

Attachment 2 – BakkenLink ROW, SERIAL NUMBER NDM 102507; Map1



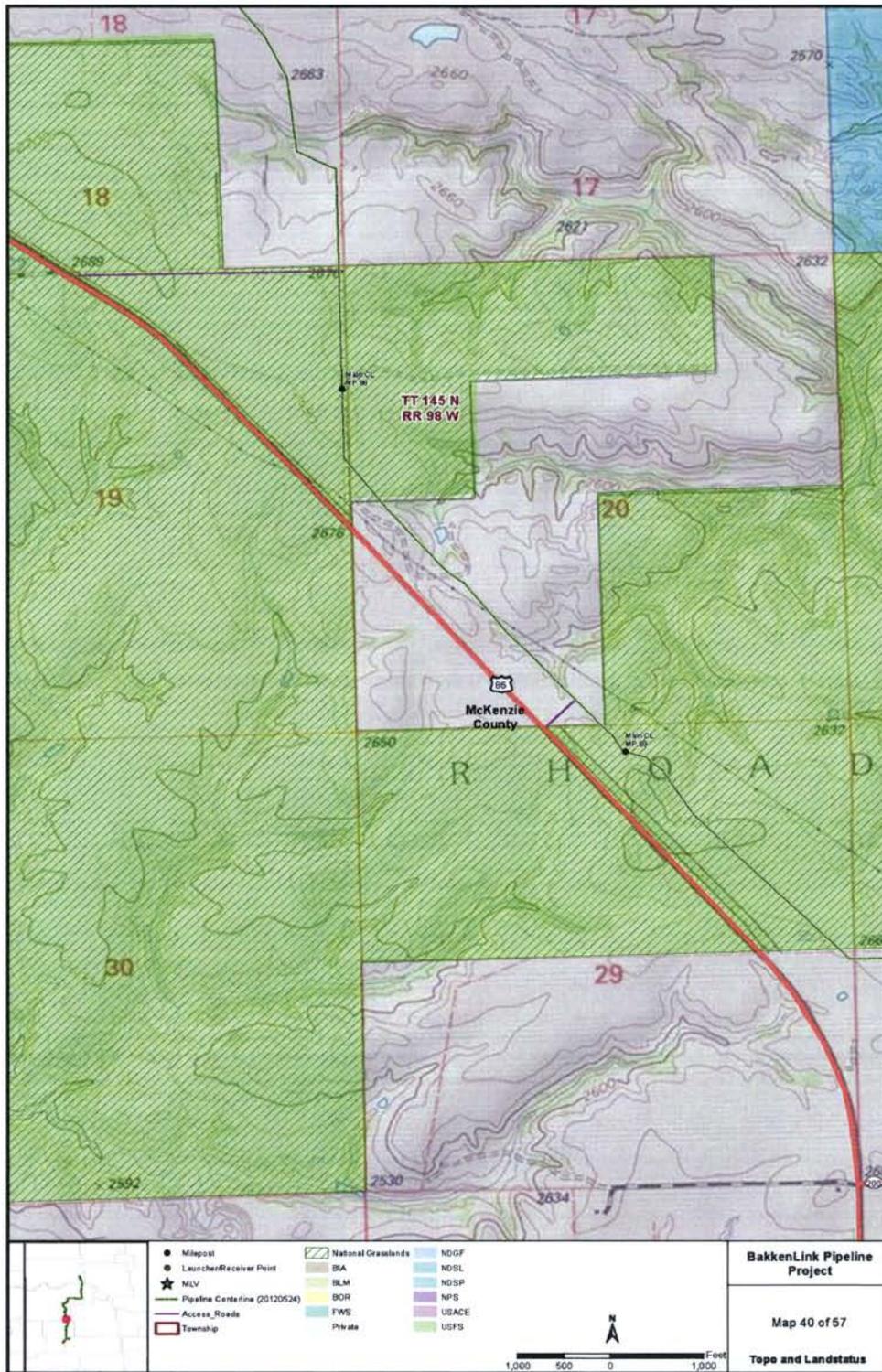
Attachment 2 – BakkenLink ROW, SERIAL NUMBER NDM 102507; Map2



Attachment 2 – BakkenLink ROW, SERIAL NUMBER NDM 102507; Map3



Attachment 2 – BakkenLink ROW, SERIAL NUMBER NDM 102507; Map4



MONITORING and TRADITIONAL CULTURAL PROPERTY INVENTORY PLAN: Right-of-Way and Open Trench Inspection BakkenLink Pipeline

Statement:

This Monitoring and Traditional Cultural Property Inventory Plan (Plan) is specific to the 2012 Bakkenlink project and in no way should be viewed as the proper way to conduct Section 106 of the National Historic Preservation Act identification efforts. A compromise for this plan was reached between the Bureau of Land Management (lead federal agency), the applicant (Bakkenlink) and the Standing Rock Sioux Tribe Tribal Historic Preservation Office (SRST THPO). In no way should this plan be used as precedent for any future agreements or for future compliance with Section 106 of the National Historic Preservation Act (NHPA).

Introduction

The objective of monitoring is to ensure that cultural resources (sites) eligible to the National Register of Historic Places (NRHP) or those resources for which the eligibility has not been determined are protected and to keep pipeline construction moving forward to the degree that is practical. Both right-of-way (ROW) blading and pipeline trenches will be monitored along the entire BakkenLink pipeline undertaking area of potential effects (APE).

We also invite the Standing Rock Sioux Tribe's (SRST) Tribal Historic Preservation Office (THPO) to monitor the entire length of the current proposed 2012 Bakkenlink Pipeline, and conduct their own Traditional Cultural Property (TCP) inventory of the entire length of the current proposed 2012 Bakkenlink Pipeline and associated infrastructure and access roads during the course of this monitoring and TCP inventory plan. Traditional Cultural Properties (TCP) is defined as historic properties of traditional religious and cultural significance to Indian tribes. It is understood by all parties agreeing to this plan that only SRST tribal personnel can properly identify or make recommendations for the eligibility of historic sites of traditional religious and cultural significance to the SRST Tribe. The lead federal agency must account for our expertise knowledge of and recommendations for TCP's per 36CFR800.4 (c) (1). The SRST tribal monitors will re-evaluate the boundaries of any historic sites of traditional religious or cultural significance (TCP), and bring forth any new sites that were un-identified or unknown to the archaeologist who conducted the initial Class III cultural resources inventory.

Monitoring of the entire route will consist of a qualified archaeologist and a tribal monitor at any location where ground disturbing activities are occurring. The TCP inventory will consist of Tribal Monitors only and will consist of pedestrian survey over the entire currently proposed 2012 Bakkenlink Pipeline and any associated infrastructure and access roads. No other personnel should be present during the TCP inventory unless specifically requested to be present by the

lead tribal monitor for that specific crew. All tribal monitors employed for this project will be certified by and selected by the Standing Rock Sioux Tribe Tribal Historic Preservation Office per tribal resolution.

The SRST does not feel they were properly included in the National Historic Preservation Act, Section 106 Process; therefore, a team of Tribal Monitors will be surveying and monitoring the entire route from Fryburg, ND to Beaver Lodge, ND. This will assist in the identification process which should have been undertaken prior to any construction.

Monitoring and Site Identification

The surveying crews will be split into a southern team which will start near Fryburg, ND and a northern team that will start near Watford City, ND. Each team will have a lead monitor that will serve as the point of contact.

- Each team will have (2) GPS units to mark the location of any sites and (or) discoveries

Little Missouri River Crossing - Open Trench Inspection

Although the pipeline across the Little Missouri River will be installed through horizontal directional drilling, portions of the valley/floodplain may be subject to earth moving activities. Because of the possibility for deeply buried cultural deposits here; all earth moving activities within the valley/floodplain will be monitored through open trench inspection (OTI). OTI will entail the archaeologist and a tribal monitor:

- Walking each side of the trench to examine profiles and determine if they contain significant archaeological remains.
- Inspecting during trenching to ensure that sites are not destroyed unnecessarily. Safety concerns can be addressed by having the archaeologist and tribal monitor stand on one side of the trench only while excavators are digging and inspecting the other side when safety allows them to cross the trench for inspection (for example – when pipefitters are fitting pipe or excavator is not actively digging or moving pipe.
- Recording the location of any discovery with a GPS receiver capable of sub-meter accuracy and marking the location with offset staking placed outside the working ROW for post-construction relocation and test excavations if necessary.
- The archaeologist and tribal monitor will not enter the trench if it has not been properly shored or stepped back per OSHA excavation safety standards.

Because of safety concerns, buried features observed during the OTI will be excavated after construction has moved beyond the vicinity of the feature if necessary. The benefits of post-construction test excavations and/or data recovery include:

- aiding the projects construction schedule,

- having a schedule for implementation of post-construction excavations not driven by construction deadlines,
- having a schedule that will not be affected by severe weather conditions, and
- The ability to stage the investigations so that gains realized during the post-construction can be applied more deliberately.

Note: post-construction excavations should only be considered in cases where continued construction will have little impact on the discovery

Site-Specific Monitoring

Construction will begin with blading the construction ROW to remove the topsoil (Holocene soils) and set it aside for re-vegetation after the trench has been refilled. Blading will employ rubber tired road graders and tracked bulldozers.

Eleven sites have been identified that will need to be fenced off and/or monitored during construction in their vicinity (Table 1). These sites have been selected because the construction corridor could not be rerouted around or necked down sufficiently to ensure avoidance. Generally, a 50-foot buffer is considered sufficient for avoidance when fenced.

The archaeologist and tribal monitor will be present during the removal of Holocene soils.

The monitors will have the authority to redirect or halt construction if blading uncovers an historic property.

Heavy equipment redistributing sediments removed from the trench or the topsoil with no new ground alterations need not be accompanied by a monitor.

Table 1: Sites requiring monitoring

SITS #	Legal Location	Site Type
32MZ1311	147/98-18	Cultural material scatter
32MZ1484	147/99-25	Cultural material scatter
32MZ1647	145/98-28	Cultural material scatter
32MZ2311	146/99-1	Cultural material scatter
32MZ2313	148/99-10	Cultural material scatter
32MZ2351	150/97-3	Stone circle(s)
32MZ2353	149/98-15	cairn
32MZ2357	145/99-12	Cultural material scatter
32MZ2358	145/99-12	Cultural material scatter
32MZ2359	145/99-12	Cultural material scatter
32MZ2360	147/98-18	Eagle trapping pit(s)

Note 1: If sites are located within 100 feet of the construction ROW they have been fenced prior to construction. If the sites are within 50 feet of the construction ROW monitoring during construction is proposed.

Note 2: Sites 32MZ2357 and 32MZ2358 have been added to the original list of sites to be monitored because of minor route adjustments in the vicinity of these sites. The sites are still probably greater than 50 feet from the centerline but to ensure avoidance, these sites will be monitored.

The following archaeological sites were mentioned in the formal letter attached to the E-mail sent to the BLM on 14 September 2012, and are of concern to the Standing Rock Sioux Tribe (SRST). The construction corridor has changed and these sites are no longer within or adjacent to the corridor. Site 32MZ859 is a single stone circle/feature and remains unevaluated for inclusion in the NRHP. The site boundary is 4 miles west of the current re-routed centerline and is well outside construction ROW. Site 32MZ2314 is a lithic scatter with two stone features, and remains unevaluated for the NRHP. The centerline for pipeline has been re-routed south approximately 1,725 feet south of the site. Site 32MZ2316 is a rock cairn/stone feature, and remains unevaluated for the NRHP. The centerline for the pipeline has been re-routed approximately 750' feet south of the site. As these sites are on private land, BakkenLink no longer has right of access. If the Tribe still wants to visit the sites, BakkenLink has agreed to contact the landowner(s) to determine if they will allow tribal representatives to visit the sites. However, neither BLM nor BakkenLink can guarantee that the landowner(s) will grant access.

Unanticipated Discoveries

BakkenLink will implement the following measures for the unanticipated discovery of cultural resources or human remains.

Cultural Resources:

- If a previously unrecorded cultural resource is encountered in the field by construction or other non-tribal and non-archaeological personnel, BakkenLink will stop all work in the vicinity and notify the consulting archaeologist and the tribal monitor. The archaeologist and tribal monitor in consultation with the BLM archaeologist, the SRST THPO, and the NDSHPO will need to be determine whether the site qualifies as a historic property (36 CFR 800.16[1][1]).

If the archaeologist identifies a cultural site during the course of monitoring then all work in the vicinity must stop. This site will be treated as potentially eligible to the NRHP. The SRST THPO, the archaeologist, the BLM archaeologist, and the NDSHPO will conduct a formal consultation on how the site will be avoided by all construction and ground disturbing activities.

If the resource qualifies as a historic property and avoidance is not possible, the archaeologist, the tribal monitor, the BLM archaeologist, SRST THPO and the NDSHPO will have to assess the effects to the historic property and, if necessary, develop an acceptable mitigation plan. That plan will have to be determined before construction can recommence in the vicinity of the discovery.

If the resource does not qualify as a historic property, construction can recommence in the vicinity.

- If the tribal monitor from the SRST THPO identifies a cultural site or TCP during the course of the survey then all work in the vicinity must stop. This site will be treated as potentially eligible to the NRHP. The SRST THPO, the archaeologist, the BLM archaeologist, and the NDSHPO will conduct a formal consultation on how the site will be avoided by all construction and ground disturbing activities.
- If the discovery is on federal lands, BakkenLink will also notify the archaeologist of the appropriate federal agency. BakkenLink shall follow the procedures as directed by the agency archaeologist.

Human burial sites, human remains, and burial goods:

- If unmarked human burials or human remains are discovered during construction activities, BakkenLink will comply with the North Dakota Century Code §23-06-27 and the administrative rules in the North Dakota Administrative Code Chapter 40-02-03 (attached).
- Upon encountering unmarked human burials or human remains and/or burial goods during ground disturbing activities, BakkenLink will immediately stop work within a one-hundred (100) foot radius from the point of discovery. BakkenLink will immediately implement interim measures to protect the discovery from vandalism and looting. BakkenLink will not remove or otherwise disturb any human remains or other items in the immediate vicinity of the discovery.
- BakkenLink will immediately notify the local law enforcement agency, the SRST THPO, the State Historical Society of North Dakota (SHSND) who, in turn, will notify the North Dakota Department of Health and the appropriate Native American Tribes and North Dakota Intertribal Reinterment Committee [NDIRC].
- Local law enforcement will determine whether the remains are associated with a crime. If BakkenLink in consultation with SHSND and NDIRC determines that further disturbance cannot be avoided, the NDIRC will remove and reinter the human remains in accordance with the rules adopted by the SHSND/NDSHPO and the North Dakota Department of Health.
- BakkenLink will resume construction activities in the area of the discovery only upon completion and approval of the measures required by the SHSND, NDIRC and the North Dakota Department of Health.
- If the discovery is on federal lands, BakkenLink will notify the archaeologist of the appropriate federal agency and the NDSHPO who in turn will contact the NDIRC and appropriate Indian tribes. BakkenLink shall follow the procedures as directed by the NDIRC.

Report

The archaeologist and tribal monitors will prepare a report upon completion of all monitoring activities. This report will document the results of the monitoring activities. The report will be submitted to BakkenLink, the BLM, the ND SHPO, and the Standing Rock Sioux Tribe.

Tribal Monitor

These individuals are appointed by the Standing Rock Sioux Tribe's THPO. These individuals will represent the interests of the Standing Rock Sioux Tribe's THPO during monitoring and inventory activities. BakkenLink will provide the tribal monitors with sufficient advance notification of the contractor's schedule relative to ground disturbance so that the tribal monitors can arrange for a monitor to be present during construction.

Professional Qualifications

BakkenLink will ensure that all monitoring activities are under the direction of a Project Director that meets or exceeds the Secretary of the Interior's Professional Qualification Standards (http://www.nps.gov/history/local-law/arch_stnds_9.htm) and is permitted by the State Historical Society of North Dakota. Tribal monitors are not subject to the Secretary of the Interior's Professional Qualification Standards and are to be treated on an equal level as the archaeologist who meets or exceeds these standards.