

**FINDING OF NO SIGNIFICANT IMPACT  
AND  
DECISION RECORD**

Hawkeye Pipeline System Project  
Environmental Assessment **DOI-BLM-MT-C030-2015-146-EA**  
BLM ROW SERIAL NUMBER NDM 103935

Based on the analysis of potential environmental impacts contained in the referenced environmental assessment (EA), and considering the significance criteria in 40 Code of Federal Regulations (CFR) 1508.27, I have determined that the action will not have a significant effect on the human environment. An environmental impact statement is therefore not required.

**Decision:**

It is my decision to issue a right-of-way (ROW) grant to Hess Corporation for construction of a pipeline system as identified in the Agency Preferred Alternative. The ROW will be issued pursuant to the Mineral Leasing Act of 1920, as amended (30 United States Code 185), and will be subject to the rules and regulations in 43 CFR 2880 and the terms of authorization listed below.

**Summary of the Selected Alternative:**

The Agency Preferred Alternative is the Proposed Action, which extends approximately 26 miles. The Hawkeye Pipeline System Project (Project) would transport crude oil from the proposed Hawkeye Oil Facility near Keene, North Dakota, and natural gas from the existing Hawkeye Compressor Station near Charlson, North Dakota, to the existing Ramberg Truck Facility (crude oil) and existing Silurian Compressor Station (natural gas) near Tioga, North Dakota. This decision is contingent on meeting all stipulations and monitoring requirements listed in **Table 1**.

**Table 1 Summary of Environmental Protection Measures for the Project**

Resource	Environmental Protection Measures
<b>Air Quality</b>	Water or chemical soil binders would be used to control dust along the ROW and access roads during construction in accordance with federal, state, and local requirements.
	Construction would be performed using methods and equipment to minimize the discharge of smoke, dust, or other contaminants to the atmosphere in accordance with federal, state, and local requirements.
<b>Geology and Minerals</b>	The horizontal directional drill (HDD) construction method would be used to avoid impacts to landslide areas associated with the bluffs on the north and south sides of Lake Sakakawea. Where needed, geotechnical investigations would be used to ensure protection from underground coal mines during construction of the pipeline ROW.
<b>Soils</b>	Soil erosion would be minimized by implementing procedures described in the Storm Water Pollution Prevention Plan (SWPPP) (POD, Appendix I), and Construction, Mitigation, and Reclamation Plan (CMRP) (POD, Appendix C).
	For storm water events during construction, 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 crop loss per their easement agreement.

**Table 1 Summary of Environmental Protection Measures for the Project**

Resource	Environmental Protection Measures
<b>Soils (Continued)</b>	During construction, topsoil and subsoil would be segregated. Topsoil would be stripped and stored separately from the subsoil, which would be replaced with minimum handling. In rocky areas, an assessment of the soil handling requirements would be made by Hess.
	On agricultural land, subsoil would be chisel-plowed, rock-picked, and leveled prior to the replacement of topsoil.
<b>Water Resources and Wetlands</b>	The SWPPP and best management practices (BMPs) would be implemented to minimize storm water transport of sediment from disturbed areas to streams and wetlands. All Project-related storm water discharges would be in compliance with a National Pollutant Discharge Elimination System (NPDES) permit.
	Wetland and riparian areas would be identified and signs posted at the edges of the wetland/waterbody features prior to construction to indicate to crews the limits of these areas so that specific BMPs and work practices are adhered to.
	No aboveground facilities or staging areas would be constructed within wetlands, riparian areas, or other waters of the U.S.
	Additional temporary work space would be located a minimum of 50 feet outside wetland boundaries. Protection measures (including installation of erosion control devices) would be utilized at 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/ephemeral waterbodies. Hazardous materials, chemicals, fuels, etc., would not be stored within 100 feet of wetlands or perennial/intermittent waterbodies.
	Hydraulic, fuel, and lubricating systems on operating equipment would be kept in good repair to avoid leakage of petroleum products into watercourses.
	No debris would be placed or left where it would enter a river or stream. Earthen material would not be dumped into rivers or waterways.
	Depositing harmful substances in or adjacent to wetlands or waterbodies is prohibited.
	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.
	Where crossings of riparian or wetland areas cannot be reasonably avoided, HDD methodology would be utilized for the crossings.
	To control Aquatic Invasive Species (AIS), equipment would be washed to remove all vegetation matter and AIS prior to arrival at the construction site and after constructing through stream water, where water is evident within the channel.
	To minimize surface disturbance, temporary drainage alteration would take place for the shortest time possible, and streams and ditches would be reclaimed to the extent practicable.
	The HDD/bore crossing method would be used at a total of 45 locations to avoid sensitive areas such as waterbodies (14), steep topography (3), county roads (23), two combined cultural features/steep terrain and construction constraints, and three combined roads/waterbodies.
Water used for hydrostatic testing, dust control during construction, etc., would be obtained from a licensed contractor. The installation or abandonment of wells is not anticipated. Surface water or groundwater appropriation is not anticipated. All water that needs to be discharged would be handled in accordance with an NPDES permit.	

**Table 1 Summary of Environmental Protection Measures for the Project**

Resource	Environmental Protection Measures
<b>Water Resources and Wetlands (Continued)</b>	Based on coordination with the U.S. Army Corps of Engineers (USACE), a Section 404 permit is not required. However, if a Section 404 permit is obtained and mitigation is required, mitigation areas would be monitored for a minimum of 5 years. Annual reports would be submitted to the North Dakota Corps of Engineers regulatory office. Successful performance criteria would be developed in a Mitigation and Monitoring Plan that would be submitted with the 404 permit application.
<b>Vegetation</b>	<p>The U.S. Forest Service (USFS) agency-approved revegetation seed mixes for native prairie would be applied on federal lands. The USFS-approved seed mix will be applied on state and private lands unless state and private landowners request a different seed mix. The CMRP would outline the procedures to be followed for returning the land to pre-existing vegetative cover and land uses.</p> <p>Trees and shrubs would be replaced in accordance with the <i>Tree and Shrub Sampling Plan</i> (POD, Appendix O). Hess would coordinate with the appropriate agencies to identify efficient restoration and mitigation measures following construction.</p> <p>Reclamation monitoring would be conducted for 3 to 5 years after the first growing season, depending on land ownership, to determine the success of revegetation focusing on vegetative cover and noxious weeds and invasive species cover. On private lands, if revegetation is successful after the third growing season, no additional monitoring will be conducted. On USFS, state, and USACE managed lands, if revegetation is successful after the fifth growing season, no additional monitoring will be conducted. Areas that have not been successfully re-established will be revegetated by Hess or by compensation of the landowner to reseed the area.</p> <p>Reclamation success would be based on the revegetation to at least 70 percent of the background cover as stipulated in the SWPPP and the applicable permits obtained.</p> <p>In grasslands identified as native and native-invaded Dakota skipper habitat, post-construction monitoring inspections would be conducted for 5 years following the first growing season to determine the success of revegetation focusing on vegetative cover and noxious weeds and invasive species establishment. The monitoring period may be shortened to 3 years upon request if located on private land. If 2 consecutive years of successful revegetation is not documented, additional mitigation measures (e.g. reseeding) and extended monitoring may be required. Additional mitigation measures will be determined by discussions between the appropriate entity involved (BLM, landowner/manager, or U.S. Fish and Wildlife Service [USFWS]).</p> <p>Reclamation success would be based on the revegetation to at least 70 percent of the background cover, with no more than 30 percent of the total vegetative cover as non-native species, as stipulated in the SWPPP and the applicable permits obtained.</p>
<b>Noxious Weeds</b>	<p>The Noxious Weed and Invasive Weeds and Aquatic Nuisance Species Control Plan (POD, Appendix F) would be implemented to minimize the spread of noxious weeds. A Pesticide Use Proposal would be included in the Plan in the event pesticides are used.</p> <p>Reclamation monitoring for noxious weeds post-construction would be conducted in conjunction with ROW monitoring of reclamation success.</p>
<b>Wildlife and Fisheries</b>	<p>No firearms, dogs, or pets would be brought onto the ROW by anyone involved with the project and no harassment or depredation of any wildlife species or livestock would take place.</p> <p>Hess would construct escape ramps every 0.5 mile to reduce the potential for livestock and wildlife becoming trapped in the pipeline trench.</p> <p>If construction occurs during bird breeding season (February 1 to July 15), Hess would either: 1) mow and maintain vegetation within the Project disturbance area prior to and during the breeding season to deter migratory birds from nesting in the Project area until construction is underway; or 2) conduct a breeding bird survey within 5 days of construction activities. If evidence of breeding is identified, Hess would coordinate with the BLM and applicable federal agencies to determine appropriate actions to protect breeding birds.</p>

**Table 1 Summary of Environmental Protection Measures for the Project**

Resource	Environmental Protection Measures
<b>Wildlife and Fisheries (Continued)</b>	<p>Any open posts (1.5-inch-diameter or greater), which may be utilized in pipeline construction or operation (such as markers, signs, stacks, etc.), would be permanently covered or filled with sand or gravel. This is necessary to prevent wildlife mortalities by entrapment.</p>
	<p>To avoid/minimize impacts to nesting bald eagles from construction activities, Hess would: 1) maintain a minimum 0.5-mile buffer between the activity and any bald eagle nest if no landscape buffer exists; 2) maintain a minimum 660-foot buffer and landscape buffer or natural area between the activity and around the nest tree; and 3) avoid activities during the bald eagle nesting season (February 1 to July 15).</p>
	<p>To avoid/minimize impacts to golden eagles, Hess would conduct surveys prior to any on-the-ground activities to determine the extent of any golden eagle breeding territories in the area that may be impacted by the Project. Hess would conduct an aerial nest survey (preferably by helicopter) within 1 mile of the Project ROW to identify any occupied and unoccupied golden eagle nest sites in proximity to the Project area. Aerial surveys would be conducted between March 1 and May 15, before leaf-out, so that nests are visible and their status (active or inactive) can be determined. A nesting territory or inventoried habitat would be designated as unoccupied by golden eagles only after at least two complete aerial surveys in a single breeding season. Aerial surveys would include the following:</p> <ol style="list-style-type: none"> <li>1. Due to the ability to hover and facilitate observations of the ground, helicopters are preferred over fixed-wing aircraft, although small aircraft also may be used. Hess would report any golden eagle nests, as well as other nests of any other raptors found during the survey. Where possible, Hess would utilize two observers to conduct the surveys.</li> <li>2. Hess would record any observations of golden eagle nest sites using a global positioning system. The date, location, nest condition, activity status, and habitat would be recorded for each sighting.</li> <li>3. Hess would share the qualifications of the biologist(s) conducting the survey, method of survey, and results of the survey with the USFWS.</li> </ol>
	<p>Alternatively, Hess may conduct ground surveys to identify golden eagle nests within 1 mile of the Project ROW between March 1 and May 15. However, ground surveys are much less reliable than aerial surveys, even during leaf-off conditions, and 75 percent of golden eagle nests present may be missed. Hess would conduct at least 2 ground observation periods lasting at least 4 hours or more per linear mile to designate inventoried habitat or territory as unoccupied as long as all potential nest sites and alternate nests are visible and monitored. If a golden eagle nest is observed, Hess would contact the USFWS for further consultation to determine appropriate protection measures and possible "take" permit implications.</p>
<b>Special Status Species</b>	<p>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.</p>
	<p>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.</p>
	<p>Surface use is prohibited from March 1 through June 15 within 1 mile (line of sight) of a sharp-tailed grouse display ground.</p>

**Table 1 Summary of Environmental Protection Measures for the Project**

Resource	Environmental Protection Measures
<p><b>Special Status Species (Continued)</b></p>	<p>If construction were to occur during the interior least tern or piping plover breeding season (April 1 through August 31), Hess would conduct surveys in suitable habitat within 0.5 mile of the Lake Sakakawea crossing location. Surveys would be conducted by a qualified wildlife biologist who is able to identify these species and would occur daily, before and after construction activities. Surveys would last for at least 2 hours prior to the start of construction each day and continue for at least 1 hour after construction has finished each day. If interior least terns or piping plovers are observed within line-of-sight of the Project area, no work would begin or continue and the BLM and USFWS would be contacted within 24 hours. Appropriate protection measures, such as seasonal constraints and the establishment of a spatial buffer area, may 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 within 0.5 mile of suitable habitat.</p>
	<p>If construction occurs during spring (March to May) or fall (September to November) migration, Hess would 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 would cease within 1 mile of the area and the USFWS would be contacted immediately. In coordination with the USFWS, work would resume after the bird(s) leave the area.</p>
	<p>If construction were to occur during the rufa red knot migration period (Fall: July 15 through November 15; Spring: March 15 through June 15), Hess would conduct surveys in suitable habitat within 0.5 mile of the Lake Sakakawea crossing location. Surveys would be conducted by a qualified wildlife biologist who is able to identify rufa red knots and would occur daily before and after construction activities. Surveys would last for at least 2 hours prior to the start of construction each day and continue for at least 1 hour after construction has finished each day. If rufa red knots are observed within line-of-sight of the Project area, no work would begin or continue and the BLM and USFWS would be contacted within 24 hours. In coordination with the USFWS, work may resume after the bird(s) leave the area. Similar constraints may apply to pipeline maintenance activities if conducted within 0.5 mile of suitable habitat.</p>
	<p>In order to reduce impacts to the Dakota skipper, Ottoo skipper, regal fritillary, and tawny crescent, disturbance to native prairie would be reclaimed to its original condition using the USFS-approved native seed mix. The objective is for no net loss of native prairie habitat to occur. In addition, the following protection measures would be implemented to minimize impacts to the special status butterfly species:</p> <ul style="list-style-type: none"> <li>• Restrict workspaces where the ROW crosses native prairie habitat;</li> <li>• Salvage and segregate topsoil in native prairie to maintain the native seed sources for re-vegetation of the ROW in native prairie;</li> <li>• Control noxious and invasive plant species as addressed in the <i>Noxious Weed and Invasive Weeds and Aquatic Nuisance Species Control Plan</i> (POD, Appendix F); and</li> <li>• Prohibit herbicide and pesticide use where special status butterfly species are found.</li> </ul>
	<p>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 would be completed prior to treatments. The location of known special status plant species and noxious weed species individuals and populations would be confirmed prior to treatments. In addition, techniques for special status plant species avoidance via direct and indirect applications would be developed.</p>
	<p>To prevent the spread of aquatic nuisance species during construction and operation, Hess would remove aquatic plants and animals from equipment prior to entering and before leaving any waterbody. Project staff would spray/wash equipment with high pressure hot water when leaving a wetland/waterbody, or would dry equipment for at least 5 days before use at a different wetland/waterbody.</p>

**Table 1 Summary of Environmental Protection Measures for the Project**

Resource	Environmental Protection Measures
<b>Special Status Species (Continued)</b>	The revegetation plan would 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. The approved USFS-approved seed mix to be used for reclamation meets these commitments.
	Hess would obtain a seed source that is as local as possible to ensure the particular cultivars are well adapted to the local climate.
<b>Land Use</b>	Any range improvements such as fences, gates, cattle guards, and developed water sources that are damaged during construction and are located within the Project's disturbance area or access roads would be repaired to the satisfaction of the agency or private landowner.
	If construction disturbs or destroys 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.
	Hess would coordinate with landowners to minimize impacts to their lands. Lands would be restored to original use following the construction phase of the Project.
	Construction personnel would be directed to stay within the approved ROW or would follow designated access roads to prevent disturbance beyond the ROW and approved access routes.
<b>Recreation and Visual Resources</b>	Measures would be implemented to minimize the visual effects of construction on high value road, river, and trail crossings as identified by the BLM, USFS, or USACE.
	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.
<b>Transportation</b>	All major highway crossings would be bored to limit traffic interruptions.
	All roads, including unpaved roads, would be bored subject to approval of local road authorities.
	Temporary access areas would avoid sensitive features such as wetlands. Areas used for temporary roads or staging areas during construction would be restored to their original condition to the extent practicable.
<b>Cultural and Paleontological Resources</b>	Prior to Project construction, cultural and paleontological resource inventories would be conducted on all proposed disturbance areas not previously inventoried. All cultural resources recorded during the inventories would be evaluated for eligibility to the National Register of Historic Places (NRHP). Avoidance is recommended for cultural resources listed on the NRHP, evaluated as eligible for listing on the NRHP, or unevaluated. If avoidance is not possible, a treatment plan would be developed by the BLM in consultation with the North Dakota SHPO, USFS/USACE (if on their lands), and interested tribes. The treatment plan would be implemented prior to Project construction.
	Twenty-three cultural resources (32MZ773, 32MZ796, 32MZ2164, 32MZ2168, 32MZ2599, 32MZ2764, 32MZ2766, 32MZ2767, 32MZ2768, 32MZ2769, 32MZ2770, 32WI414, 32WI1522, 32WI1575, 32WI1576, 32WI1577, 32WI1579, 32WI1580, 32WI1581, 32WI1632, 32WI1633, 32WI1634, and 32WI1635) have been identified in the project area and all of these cultural resources have been avoided by the Project through redesign of the Project ROW. On February 17, 2015, the SHPO concurred with the BLM's findings that the Project would not have an adverse effect on these cultural resources. Archaeological monitoring and protective fencing would be utilized during construction near 17 of the cultural resources (32MZ0773, 32MZ0796, 32MZ2168, 32MZ2599, 32MZ2766, 32MZ2767, 32MZ2769, 32MZ2770, 32WI1575, 32WI1577, 32WI1579, 32WI1580, 32WI1581, 32WI1632, 32WI1633, 32WI1634, and 32WI1635) and six areas near the Project ROW would be monitored due to the possibility of encountering buried archaeological resources and/or paleosols.

**Table 1 Summary of Environmental Protection Measures for the Project**

Resource	Environmental Protection Measures
<p><b>Cultural and Paleontological Resources (Continued)</b></p>	<p>If cultural resources, including human remains, are discovered during Project construction, all work would stop in the area of the discovery and the procedures outlined in the Unanticipated Discoveries Plan for Cultural Resources (POD, Appendix K) would be followed. If the cultural resource is determined to be a historic property and cannot be avoided, then appropriate mitigation measures would be developed in consultation with the applicable federal land managing agency, Tribes, and SHPO. Written permission stating that work in this area no longer presents a hazard to cultural resources would be required from the BLM before work can resume in the area of the discovery. If human remains are discovered, the Environmental Inspector would immediately stop construction in a 300-foot radius and notify the BLM. If human remains are determined to be Native American and found on federal lands, BLM would follow the requirements under the Native American Graves Protection and Repatriation Act (NAGPRA). BLM would provide written notice to Hess indicating they can proceed with construction once the remains have been fully evaluated and appropriate treatment of the discovery has been completed. Paleontological monitoring is required during ground-disturbing activities in areas identified with PFYC Class 4 bedrock. If paleontological resources are discovered during Project-related construction activities, all construction activity would cease within 100 feet of the discovery and would be reported to the construction supervisor and a qualified BLM-permitted paleontologist for assessment and recommended actions. The discovery would be handled as stipulated in the Unanticipated Discoveries Plan for Paleontological Resources (POD, Appendix L). Construction activities would not resume until the BLM Project Manager has issued a Notice to Proceed.</p> <p>To reduce potential visual effects to a historic property in which site setting contributes to its NRHP eligibility, aboveground structures would be painted with BLM-approved environmental colors to minimize contrasts with surrounding landscapes</p> <p>To minimize indirect impacts to cultural and paleontological resources, Project-related personnel would be educated as to the sensitive nature of the resources, and a strict policy of prohibiting collection of these resources would be implemented.</p>
<p><b>Tribal Treaty Rights and Interests</b></p>	<p>Several areas of tribal concern have been identified in the Project ROW. These areas of tribal concern would be avoided by the Project by realignment or narrowing of the Project ROW.</p>
<p><b>Noise</b></p>	<p>Construction would be restricted to the hours from 7:00 a.m. to 7:00 p.m. within 1,000 feet of an occupied residence. Construction would not occur within 1,000 feet of the Trinity Lutheran Church on Sundays. Based on these assumptions, noise levels would comply with the 65 decibels (dB) on the A-weighted scale (dBA) Housing and Urban Development (HUD) standard and noise effects on sensitive receptors would be minimized.</p>
<p><b>Public Safety and Environmental Protection</b></p>	<p>The Project would be located a minimum distance of 300 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 potential leak to minimize the release. At Lake Sakakawea, isolation valves would: 1) be remotely operated to reduce potential spill volume; 2) have pressure sensors that are capable of detecting leaks with slow release rates; and 3) have pressure detectors equipped with acoustic detection capabilities, capable of identifying the location of a release within 6 feet of its actual location, thereby reducing environmental disturbance.</p> <p>A Spill Risk Assessment has been completed to identify HCAs and potential impacts as a result of an accidental release of crude oil, NGL, and natural gas during pipeline operation.</p> <p>Equipment would be maintained on-site to contain, capture, and clean up any accidental release of harmful chemicals, pollutants, or other materials into the environment. Spills would be cleaned up immediately. Spills on water that cause a sheen on the water require notification to the U.S. Environmental Protection Agency (USEPA) and would be removed by the appropriate containment and cleanup technologies. Spills would be cleaned up using an absorbent material, vacuum trucks, and other equipment, and the contaminated material either drummed in marked 55-gallon drums or hauled to an authorized disposal area.</p>

**Table 1 Summary of Environmental Protection Measures for the Project**

Resource	Environmental Protection Measures
<b>Public Safety and Environmental Protection (Continued)</b>	<p>The use of hazardous materials would be carefully controlled. Such materials would be clearly labeled and used only by authorized personnel trained in the transportation, handling, use, and storage of the specific hazardous materials. Storage sites for fuels and hazardous materials would be located a minimum distance of 500 yards from wetlands and waterbodies and would be selected to ensure that risk of contamination of waterbodies or other sensitive environments resulting from an accidental spill at the site is reduced, and that leakage would be readily detected and contained.</p>
	<p>Storage sites of fuels or chemicals designed to hold in excess of 300 barrels would be surrounded by an impermeable berm, which would be of sufficient capacity to contain 150 percent of the volume of liquid stored. All hazardous chemicals, regardless of volume (including pesticides) would be stored on or in a secondary containment vessel capable of containing 150 percent of the volume of liquid stored.</p>
	<p>Hess would be responsible (or have contracts with companies with equipment and capabilities) for maintaining a sufficient supply of spill containment and clean-up equipment, including suitable commercial absorbent material on the work site with the responsibility to adequately respond to a loss of containment event.</p>
	<p>Hess would implement fire prevention and control measures including, but not limited to: 1) ensuring that sufficient suppression equipment and qualified personnel are present during hot work jobs; 2) requiring construction crews to carry fire extinguishers in their vehicles and/or equipment; 3) training construction crews in the proper use of fire extinguishers; and 4) coordinating with the local fire district to provide fire response services.</p>
<b>USFS Specific Mitigation Measures</b>	<p>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.</p>
	<p>Where the disturbance area would intersect noxious weeds or patches of invasive species, treat the noxious weeds or invasive species at least 2 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.</p>
	<p>Use a USFS-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, at any time during the 5-year monitoring period, revegetation is deemed successful by the USFS, no additional monitoring would be conducted.</p>
	<p>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.</p>
	<p>If noxious weeds are found on reclaimed sites, treat the weeds and reseed if necessary.</p>
	<p>Clean vehicles and equipment used for construction at approved water or air wash stations (monitored by an Environmental Inspector) prior to entering the LMNG 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. Approved wash stations would include commercial car washes and on-site locations. This mitigation would be applied when moving equipment from an area containing invasive species to an area that does not contain invasive species.</p>
	<p>Clearly mark (stake/fence/flag) sensitive plant populations 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.</p>
	<p>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.</p>

**Table 1 Summary of Environmental Protection Measures for the Project**

Resource	Environmental Protection Measures
<b>USFWS Specific Mitigation Measures (Continued)</b>	<p><u>Northern Long-eared Bat</u></p> <ol style="list-style-type: none"> <li data-bbox="464 352 1437 499">1. In areas along the Project route where woodlands and shrublands would be crossed, Hess would conduct acoustic bat surveys (minimum of 2 detector nights per 0.6 miles of suitable summer habitat) between May 1 and August 31, in coordination with the USFWS, to determine if northern long-eared bats are present within the Project area (as per the Northern Long-Eared Bat Interim Conference and Planning Guidance [USFWS 2014]).</li> <li data-bbox="464 520 1437 730">2. If acoustic surveys indicate the presence of northern long-eared bats, Hess would conduct surveys prior to construction to identify potential roosting trees/snags within and immediately adjacent to the Project ROWs that are potentially suitable habitat for the northern long-eared bat. Once identified, Hess would not construct in these areas from June 1 to August 15, when there may be young present. In the case that construction occurs between June 1 and August 15, Hess would implement additional measures to ensure potential roosting trees/snags are not impacted by Project activities, including fencing-off and/or monitoring.</li> </ol>
	<p><u>Dakota Skipper</u></p> <ol style="list-style-type: none"> <li data-bbox="464 800 1437 947">1. In order to further reduce impacts to potential grassland habitat, Hess would reduce the construction ROW width from 100 feet to 75 feet in 3 areas (MP 14.0 to 14.5, MP 14.8 to 16.2, MP 16.5 to 19.5) to reduce impacts to potential grassland habitat. To the extent practical, Hess would utilize the existing high pressure natural gas pipeline ROW for additional temporary workspaces.</li> </ol> <p data-bbox="431 957 1437 1104">Reducing the construction ROW width from 100 feet to 75 feet in these 3 areas, as well as utilizing the existing high pressure natural gas pipeline ROW for ATWS, would avoid impacts to approximately 14.8 acres of grassland habitat potentially suitable for Dakota skippers (i.e., native and native-invaded grassland habitat). This would result in an 18.4 percent decrease in overall impacts to potential grassland habitat.</p>

All construction, reclamation, operation, maintenance, and abandonment will be implemented in accordance with the Plan of Development (POD) that has been prepared in conjunction with the EA and additional standard mitigating measures, which will become part of the ROW grant. As a condition of ROW authorization, no surface disturbance will be permitted until Hess receives a Notice to Proceed (in the form of a signed ROW Grant) from the Bureau of Land Management (BLM) authorized officer. A Notice to Proceed shall authorize construction or use only as therein expressly stated and only for the particular location or use therein described.

This decision to issue a ROW grant to Hess North Dakota Pipelines LLC approves the Hess POD dated April 2015, as the typical ROW construction configuration.

**Rationale for the Decision:**

The decision to issue the ROW grant to Hess meets the BLM's objectives identified in the purpose for the Proposed Action, as described in Section 1.4 of the EA, and is based on the impact analysis contained in the EA. The analysis shows that there will be no undue or unnecessary environmental impacts to the environment caused by construction, reclamation, operation, maintenance, or abandonment of the Project while adhering to the POD and stipulations set forth under the ROW grant.

Nothing has been discovered that would preclude the BLM from authorizing the Project as specified in the Project EA and POD, and as described in this Decision Record.

The No Action Alternative was the only alternative considered due to the lack of viable action alternatives to the Proposed Action.

Additional regulations and statutes that support this decision are identified in Table 1-1 of the EA.

The proposed Project has been reviewed and found to be in conformance with prescribed management actions and standards and guidelines for protecting resources from surface-disturbing activity, as set forth in the Dakota Prairie Grasslands Land and Resource Management Plan.

### **Project Summary**

The Agency Preferred Alternative is the Proposed Action with the implementation of the environmental protection measures, CMRP, and resource-specific mitigation measures identified in the EA.

The Project includes approximately 26 miles of new pipeline (crude oil, natural gas) construction, repurposing of 2.4 miles of existing pipelines across Lake Sakakawea, and construction of the 79.7-acre Hawkeye Oil Facility. A system of two new 24-strand fiber optic cables also would be constructed. The fiber optic cables would originate from the proposed Hawkeye Oil Facility (crude oil) and existing Hawkeye Compressor Station (natural gas) south of Lake Sakakawea in McKenzie County. One fiber optic cable would extend to the existing Ramberg Truck Facility (crude oil) in Williams County and the other fiber optic cable would extend to the existing Silurian Compressor Station (natural gas) in Williams County. For the lake crossing, an existing gas line across the lake would be taken out of service and repurposed to string the fiber optic cables.

The scope of the Project was developed based on the use of existing Hess pipelines and infrastructure. With the exception of slight modifications based on landowner requests and/or federal agency guidance, the Project mostly follows existing pipeline and utility easements. Many of the aboveground facilities associated with the Project are to be located within existing Hess facilities to reduce additional disturbance and potential environmental effects.

#### *Crude Oil Pipeline*

The Project would consist of approximately 22.9 miles of a new crude oil pipeline and repurposing of 2.4 miles of an existing pipeline that crosses Lake Sakakawea. South of Lake Sakakawea, the Project would consist of approximately 10.1 miles of new 12-inch-diameter crude oil pipeline and 2 associated 24-strand fiber optic cables in a single trench from the proposed Hawkeye Oil Facility to the existing North Charlson Compressor Station. From the existing North Charlson Compressor Station to the existing North of River Valve Station, approximately 2.4 miles of an existing 8-inch-diameter pipeline across Lake Sakakawea would be repurposed to crude oil service. The 2.4 miles of existing pipeline proposed for crude oil service was constructed in 1992 and the serviceability was confirmed in 2013 by hydrostatic testing per pipeline safety requirements (49 CFR 192, Subpart J, Test Requirement) and through use of in-line inspection tools. North of Lake Sakakawea, from the existing North of River Valve Station to the existing Ramberg Truck Facility, the Project would consist of approximately 12.8 miles of new 12-inch-diameter crude oil pipeline and 2 associated 24-strand fiber optic cables in a single trench.

The crude oil pipeline is designed for an initial flow rate of 60,000 barrels per day (bpd) and a maximum design flow rate of the crude oil pipeline is 76,000 bpd. The pipeline would be buried a minimum of 5 feet underground, a depth that exceeds federal pipeline safety requirements (49 CFR 195.248). The 2.4 miles of existing pipeline across Lake Sakakawea proposed for repurposing to crude oil service is buried to a depth of 6 feet.

Other surface facilities associated with the crude oil pipeline would be limited to pig launcher/receivers, mainline valves (MLV), emergency shutdown (ESD) valves, and pipeline markers.

#### *Natural Gas Pipeline*

The Project also would include 18.2 miles of a new natural gas pipeline and repurposing of 2.4 miles of an existing pipeline that crosses Lake Sakakawea. South of Lake Sakakawea, from the existing Hawkeye Compressor Station to the existing North Charlson Compressor Station, the Project would consist of

approximately 7.2 miles of a new 12-inch-diameter natural gas pipeline and two associated fiber optic cables in the same trench with the proposed crude oil pipeline. Between the existing North Charlson Compressor Station and existing North of River Valve Station, approximately 2.4 miles of an existing 8-inch-diameter residue line would be repurposed to natural gas service. The 2.4 miles of existing pipeline proposed for natural gas was constructed in 1956 and the serviceability was confirmed in 2013 by hydrostatic testing per pipeline safety requirements (49 CFR 192, Subpart J Test Requirements) and through use of in-line inspection tools. North of Lake Sakakawea, from the existing North of River Valve Station to the existing Silurian Compressor Station, the Project consists of approximately 11.0 miles of new 12-inch-diameter natural gas pipeline and two associated 24-strand fiber optic cables in the same trench as the proposed crude oil pipeline.

The natural gas pipeline is designed for an initial flow rate of 70 million standard cubic feet per day (mmscfd) and a maximum design flow rate of 100 mmscfd. The natural gas pipeline would be buried a minimum of 5 feet underground, exceeding depth of cover requirements and thus providing supplemental mitigation to reduce the risk of outside force damage. The 2.4 miles of existing pipeline across Lake Sakakawea proposed for repurposing to natural gas service is buried to a depth of 6 feet.

Other surface facilities associated with the natural gas pipeline would be limited to pig launcher/receivers, MLVs, ESD valves, and pipeline markers.

### **Public and Agency Involvement**

Both formal and informal agency scoping regarding the Project has been ongoing for over 2 years. Hess's engineers, lands specialists, and consultants have interacted with the applicable agencies and landowners extensively over the past 2 years to develop a preferred route and construction techniques that would avoid or minimize impacts to the environment. In accordance with the National Environmental Policy Act (NEPA) Sections 101 and 102, federal regulations, and BLM policy, through scoping via the Public Notice, the BLM has solicited the public's involvement in the EA process. Public involvement can be achieved through various methods, such as sending direct mail notification of a proposed project and/or conducting scoping meetings where public and other interested parties (federal, state, and local agencies; tribal governments; landowners; and non-governmental organizations) are invited to a public venue to comment on the proposed project via an open house or more formal presentation setting. Scoping provides a mechanism for defining the scope of significant issues (40 CFR 1501.7 and 40 CFR 1508.25) and concerns associated with the development and operation of a proposed project. This information is used to better define the EA analysis so that the focus is on areas of interest and concern to the public and other parties.

Formal public scoping meetings were not conducted as part of the NEPA process for the Project; however, public scoping was conducted via published Public Notices in local newspapers and through direct mail notification to affected landowners, tribal governments, governmental agencies, and other potentially interested parties.

In addition to ongoing informal agency consultation, mail notifications, and news press releases, formal agency scoping meetings were held in Minot, North Dakota, and at the USFWS North Dakota Ecological Service Field Office on April 23, 2013, and January 15, 2014, respectively. Agencies that participated in the meetings or provided written comments during the agency scoping period included the USFWS, USACE, USFS, Natural Resources Conservation Service, North Dakota Geological Survey, North Dakota Forest Service, North Dakota State Water Commission, North Dakota Parks and Recreation, and the Tribal Historic Preservation Office, Standing Rock Sioux Tribe.

A public scoping notice describing the Project and requesting comments was distributed on March 11, 2013 to all individuals identified on the BLM/USFS mailing list, which included 119 interested parties and 32 landowners in the area of the Project. The scoping notice also included BLM contact information for providing comments. In addition, the BLM issued a News Release containing the same

Project and contact information on March 11, 2013. The News Release was published in the following regional newspapers, notifying the public of the Project and soliciting comments:

- Associated Press
- Billings County Pioneer
- Dickinson Press
- Dunn County Herald
- Minot Daily News
- Bismarck Tribune
- Williston Daily Herald

The BLM's public scoping comment period ended on April 22, 2013.

The BLM notified 17 tribes, including the Three Affiliated Tribes, of the Project on March 7, 2013, as part of the scoping process. In addition, the BLM sent a follow-up letter, with a follow-up phone call and email, inviting the tribal chairman, THPO, and/or designated contact of the tribes to attend a face-to-face meeting. The first face-to-face meeting was held on June 17, 2013, in New Town. The second face-to-face meeting was held on June 19 and 20, 2013, in Spearfish, South Dakota. Pedestrian surveys of the Project ROW were conducted on various dates in the late summer and fall of 2013 by several tribes, including Turtle Mountain Band of Chippewa, Mandan, Arikara, and Hidatsa Nation, Sisseton-Wahpeton Oyate, Crow Creek Sioux, Rosebud Sioux, Spirit Lake, Yankton Sioux, Fort Peck Assiniboine and Sioux Tribes, Cheyenne River Sioux, Oglala Sioux, and Northern Cheyenne.

The Draft EA was issued for public review on April 20, 2015, with a direct mailing to 30 agencies, 17 tribes, 34 individuals, 29 organizations/companies, and a press release. The review period ended on May 20, 2015. One letter and 11 e-mails with comments on the Draft EA were received by the BLM during the 30-day public comment period. Comments were received from the North Dakota Department of Health, Division of Water Quality; Soar Land Group; Chairman Fox of the Mandan, Hidatsa, and Arikara Nation; and eight individuals.

Based on review of the comment letter and e-mails, a listing of substantive comments on the Draft EA and responses to these comments were developed by the BLM.

Some of the key issues identified in the comment letter and e-mails included the following:

- Potential spill impacts on Fort Berthold's drinking water, irrigation, and daily life;
- Potential adverse impacts to the Missouri River and Lake Sakakawea, a significant cultural and spiritual resource of the MHAN, associated with oil and natural gas being transported across the lake;
- Potential scouring of the existing pipeline by movement of the Missouri River;
- Alternative use of HDD versus repurposing the existing pipelines across the lake;
- Age and integrity of the existing pipelines proposed for repurposing;
- Adequate monitoring of the pipeline for potential oil leaks;
- Public scoping efforts;
- Protection of cultural resources and tribal identification of cultural resources; and,
- Potential spill impacts to wildlife and lands adjacent to the lake.

### **Finding of No Significant Impact (FONSI)**

Based on the analysis of the potential environmental impacts contained in the above referenced EA, I have determined that the impacts are not expected to be significant and an environmental impact statement is not needed.

### **Appeal Opportunity**

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4. If an appeal is taken, the notice of appeal must be filed in this office within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed is in error.

If anyone wishes to file a petition pursuant to the regulations contained in 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2881.10(b) for a stay of the effectiveness of this decision during the time the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay also must be submitted to each party named in this decision, to the Interior Board of Land Appeals, and to the appropriate Office of the Solicitor (see CFR 4.413) at the same time the original documents are filed with this office. Anyone requesting a stay has the burden of proof to demonstrate that a stay should be granted.

#### *Standards for Obtaining a Stay*

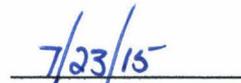
Except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards:

- 1) The relative harm to the parties if the stay is granted or denied;
- 2) The likelihood of the appellant's success on the merits;
- 3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- 4) Whether the public interest favors granting a stay.

**APPROVED**



Authorized Officer (signature)



Date of signature