

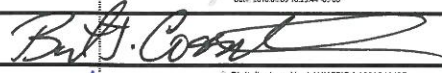


**Operations Division
Real Estate Routing and Review**

Project: Dakota Access Pipeline Consent (Garrison) and Easement (Oahe)

Date Received: 5/26/2016

POC Field Office: Wade Spooner/Jeremy Thury

POC District Office: Brent Cossette

	Concur	Concur (Comments Attached)	Non-concur (Comments Attached)	Not Applicable	Date	Signature	
Environmental Compliance, OD-TN		✓			HARLON.WILLIAM.D.III.1258312887	<small>Digitally signed by HARLON.WILLIAM.D.III.1258312887 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=HARLON.WILLIAM.D.III.1258312887 Date: 2016.06.03 17:47:00 -0500</small>	
Sustainability, OD-TN				✓	COSSETTE.BRENT.JAMES.1249364289	<small>Digitally signed by COSSETTE.BRENT.JAMES.1249364289 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=COSSETTE.BRENT.JAMES.1249364289 Date: 2016.06.03 17:47:00 -0500</small>	
Environmental Stewardship, OD-TN	✓				COSSETTE.BRENT.JAMES.1249364289	<small>Digitally signed by COSSETTE.BRENT.JAMES.1249364289 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=COSSETTE.BRENT.JAMES.1249364289 Date: 2016.06.03 17:47:00 -0500</small>	
Master Plan, OD-TN	✓				GRUNDMAN.JONAS.L.1387947155	<small>Digitally signed by GRUNDMAN.JONAS.L.1387947155 DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, cn=GRUNDMAN.JONAS.L.1387947155 Date: 2016.06.03 12:54:21 -0500</small>	
Recreation, OD-TN				✓	03Jun16	KEY.HAROLD.M.1231026947	<small>Digitally signed by KEY.HAROLD.M.1231026947 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=KEY.HAROLD.M.1231026947 Date: 2016.06.03 17:47:00 -0500</small>
Water Quality, ED-HA	✓				DINKEL.BRENT.ALLEN.1474049333	<small>Digitally signed by DINKEL.BRENT.ALLEN.1474049333 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=DINKEL.BRENT.ALLEN.1474049333 Date: 2016.06.03 17:47:00 -0500</small>	
NWDR 1110-2-5 Land Development, ED-HB	✓				KRAUSE.TONY.DEAN.1282509551	<small>Digitally signed by KRAUSE.TONY.DEAN.1282509551 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=KRAUSE.TONY.DEAN.1282509551 Date: 2016.06.02 12:29:12 -0500</small>	
Hydraulics, ED-HD	✓				MILLER.CURTIS.J.1257728443	<small>Digitally signed by MILLER.CURTIS.J.1257728443 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=MILLER.CURTIS.J.1257728443 Date: 2016.06.03 18:39:43 -0500</small>	
Geotechnical Engineering, ED-G	✓				LANG.DEAN.T.1147761313	<small>Digitally signed by LANG.DEAN.T.1147761313 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=LANG.DEAN.T.1147761313 Date: 2016.06.03 09:11:16 -0500</small>	
River and Reservoir Engineering, ED-HF				✓	PRIDAL.DANIEL.B.1231204730	<small>Digitally signed by PRIDAL.DANIEL.B.1231204730 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=PRIDAL.DANIEL.B.1231204730 Date: 2016.06.03 07:53:20 -0500</small>	
Geology, ED-GG	✓				WAGNER.JASON.L.1249731869	<small>Digitally signed by WAGNER.JASON.L.1249731869 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=WAGNER.JASON.L.1249731869 Date: 2016.06.03 14:20:37 -0500</small>	
Mechanical, ED-DA		✓			SMITH.MICHAEL.T.1277678086	<small>Digitally signed by SMITH.MICHAEL.T.1277678086 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=SMITH.MICHAEL.T.1277678086 Date: 2016.06.03 14:03:41 -0500</small>	
Dam Safety, ED-GB				✓	WORDEN.ROBERT.J.1231346097	<small>Digitally signed by WORDEN.ROBERT.J.1231346097 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=WORDEN.ROBERT.J.1231346097 Date: 2016.06.03 10:18:02 -0500</small>	
Section 106, PM-AE	✓				BRANDON.DAVID.A.1231349819	<small>Digitally signed by BRANDON.DAVID.A.1231349819 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, ou=BRANDON.DAVID.A.1231349819 Date: 2016.06.03 10:25:44 -0500</small>	
408 Review	✓						
NEPA, Eric Laux	✓				LAUX.ERIC.A.1231341427	<small>Digitally signed by LAUX.ERIC.A.1231341427 DN: cn=US, o=U.S. Government, ou=DoD, ou=PR, ou=USA, cn=LAUX.ERIC.A.1231341427 Date: 2016.06.03 09:41:32 -0500</small>	
Chief, OD-TN: Kelly Crane	✓						
Chief, OD-T: Larry D. Janis	✓						

f

Luke Wallace



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
1616 CAPITOL AVENUE
OMAHA NE 68102-4901

CENWO-OD-T

10 June 2016

MEMORANDUM FOR Commander, U.S. Army Corps of Engineers, Omaha District (Henderson)

SUBJECT: Dakota Access Pipeline Project, Garrison Project (Consent Flowage Easements), Oahe Project (Easement)

1. References:

a. EC 1165-2-216, Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Project Pursuant to 33 USC 408.

b. NWDR 1110-2-5, Land Development Guidance at Corps Reservoir Projects

2. In accordance with reference 1.a., enclosed for District-level approval is the proposal for modification and alteration of the Garrison Project on Corps fee property. The modification has undergone an agency review (ATR) by the Omaha District (NWO) and is recommended for approval as the request has been determined to not be injurious to the public interest and not impair the usefulness of work built by the United States.

3. Background:

a. The Dakota Access, LLC, (Dakota Access) is requesting an easement on Corps-owned lands with a 30- inch light crude oil pipeline. The pipeline will cross under the Missouri River (Lake Sakakawea) via horizontal directional drill (HDD) and continues south to Lake Oahe and crosses under Lake Oahe with a second HDD. The project will begin near Stanley, North Dakota and end at Patoka, Illinois. The total length of the pipeline is about 1,100 miles.

b. Corps technical reviewers have reviewed and have determined the request to not be injurious to the public interest and not impair the usefulness of work built by the United States.

4. The point of contact for this project and/or issues regarding this application is Mr. Brent Cossette, Natural Resources Specialist, CENWO-OD-TN, 402-995-2712 or brent.j.cossette@usace.army.mil.

3 Encls

1. Summary of Findings
2. Technical Review Package
3. Finding of No Significant Impact



LARRY D. JANIS

Chief, Recreation and Natural Resources Branch

CENWO-OD-T

SUBJECT: Dakota Access Pipeline Project, Garrison Project (Consent Flowage Easements),
Oahe Project (Easement)

**DISTRICT COMMANDER'S APPROVAL
OF
SECTION 408 DECISION DOCUMENT**

I attest that the Decision Document for the Dakota Access Pipeline Project is consistent with Army policy, and has been reviewed for legal sufficiency by District Counsel. Accordingly, I approve this Decision Document.



JOHN W. HENDERSON
Colonel, Corps of Engineers
District Commander

25 JUL 2016

Date

OMAHA DISTRICT, CORPS OF ENGINEERS CERTIFICATION CHECKLIST


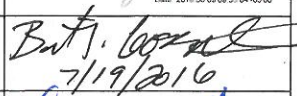
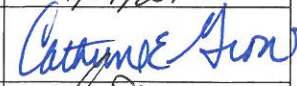
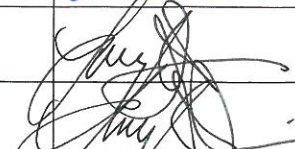
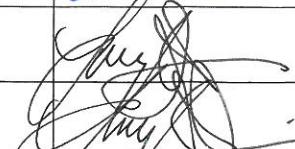
TO ALTER US ARMY CORPS OF ENGINEERS CIVIL WORKS PROJECTS PURSUANT TO
33 USC 408

Dakota Access Pipeline Project, Garrison (Consent Flowage Easements), Oahe Project (Easement)

The Dakota Access, LLC, (Dakota Access) is requesting an easement on Corps-owned lands with a 30- inch light crude oil pipeline. The pipeline will cross under the Missouri River (Lake Sakakawea) via horizontal directional drill (HDD) and continues south to Lake Oahe and crosses under Lake Oahe with a second HDD. The project will begin near Stanley, North Dakota and end at Patoka, Illinois. The total length of the pipeline is about 1,100 miles.

33 U.S.C. § 408 prohibits non-federal entities from building upon, altering, destroying, injuring or in any manner whatever impairing the usefulness of any work built by the United States for the preservation and improvement of navigable waters or to prevent floods. Before any construction, including horizontal drilling and laying pipeline, may commence within the boundaries of the Corps projects, the Secretary of the Army must grant permission for such alteration, occupation or use of navigation and flood control structures when in the judgment of the Secretary such occupation or use will not be injurious to the public interest and will not impair the usefulness of such work.

The proposed activities will not impair the usefulness of a USACE project and are not injurious to the public interest.

Office	Representing Authorized Purpose for Project	Not injurious to public interest or Project Purposes			Comments (Attached)	Signature/Date
		Concur	Non-Concur	N/A		
Operations	Recreation			✓	See N/A on Request Package	COSSETTE.BRENT.JAMES.1249364289 <small>Digitally signed by COSSETTE.BRENT.JAMES.1249364289 DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USACE Date: 2016.06.09 07:59:25 -0500</small>
Operations	Fish & Wildlife	✓				COSSETTE.BRENT.JAMES.1249364289 <small>Digitally signed by COSSETTE.BRENT.JAMES.1249364289 DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USACE Date: 2016.06.09 07:59:25 -0500</small>
Operations	Water Supply	✓				RIEF.AMEE.LURENE.1512990173 <small>Digitally signed by RIEF.AMEE.LURENE.1512990173 DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USACE Date: 2016.06.09 07:59:25 -0500</small>
Operations	Navigation			✓		MELLEMA.GREGORY.J.1231349096 <small>Digitally signed by MELLEMA.GREGORY.J.1231349096 DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USACE Date: 2016.06.09 07:59:25 -0500</small>
Engineering	Flood Risk Reduction	✓				 Richard J. Taylor, P.E. Deputy Chief, Engineering Division <small>Digitally signed by TAYLOR.RICHARD.J.1220110204 DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USACE Date: 2016.06.09 16:50:36 -0500</small>
Operations	Water Quality	✓				DINKEL.BRENT.ALLEN.1474049333 <small>Digitally signed by DINKEL.BRENT.ALLEN.1474049333 DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USACE Date: 2016.06.09 16:51:04 -0500</small>
Operations	Hydropower			✓		MELLEMA.GREGORY.J.1231349096 <small>Digitally signed by MELLEMA.GREGORY.J.1231349096 DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USACE Date: 2016.06.09 07:59:25 -0500</small>
Planning (ENV)	NEPA Coverage for All	✓				LAUX.ERIC.A.1231341427 <small>Digitally signed by LAUX.ERIC.A.1231341427 DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USACE Date: 2016.06.09 06:35:06 -0500</small>
Real Estate	All	✓				NOEL.RICK.L.1231350426 <small>Digitally signed by NOEL.RICK.L.1231350426 DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USACE Date: 2016.06.09 05:04:05 -0500</small>
Section 408 Coordinator	All	✓				 7/19/2016
Office of Counsel Certification	All	✓				
Chief OD-TN	All	✓				
Chief OD-T	All	✓				

**SUMMARY OF FINDINGS
PURSUANT 33 USC 408 and EC 1165-2-216**

Dakota Access Pipeline Project, Garrison Project (Consent Flowage Easements), Oahe Project (Easement)

Summary of Rationale and Conclusion (EC 1165-2-216, Par 7(c)(5)(a)): The Dakota Access, LLC, is requesting an easement on Corps-owned lands with a 30- inch light crude oil pipeline. The pipeline will cross under the Missouri River (Lake Sakakawea) via horizontal directional drill (HDD) and continues south to Lake Oahe and crosses under Lake Oahe with a second HDD. The project will begin near Stanley, North Dakota and end at Patoka, Illinois. The total length of the pipeline is about 1,100 miles.

Written Request (EC 1165-2-216, Par 7(c)(5)(b)): See attached.

Project History, Description, and Authorization (EC 1165-2-216, Par 7(c)(5)(c&d)): The Garrison Dam/Lake Sakakawea Project was authorized on December 22nd, 1944, by the Flood Control Act of 1944, Public Law 534, 78th Congress, 2nd session, along with four other Missouri River main stem projects. The project was authorized for flood control, navigation, irrigation, hydropower, municipal and industrial water supply, fish and wildlife, recreation and other purposes.

The Oahe Project was authorized by the Flood Control Act of 1944, Public Law 534, 78th Congress, 2nd Session, along with four other Missouri River main stem projects – Gavins Point, Fort Randall, Big Bend, and Garrison. These five reservoirs are elements of a plan for the development of the Missouri River main stem.

Section 408 Determination: The Section 408 ATRT recommending a Section 408 determination consists of subject matter experts in the following offices: operations, real estate, regulatory, office of counsel, engineering, planning, and emergency management.

1. Impact to the Usefulness of the USACE Project Determination (EC 1165-2-216, Par 7(c)(5)(e)): Due to the proposed pipeline request, the ATRT members determined this request will not limit the ability of either the Garrison or Oahe Projects to function as authorized and will not compromise or change any authorized project conditions, purposes, or outputs. Reference attached memos of the request package.
2. Injurious to the Public Interest Determination (EC 1165-2-216, Par 7(c)(5)(f)): The ATRT members considered all mitigation measures in the environmental assessment along with conditions for the easement and believe this development will not be injurious to the public interest.

Policy Compliance Certification (EC 1165-2-216, Par 7(c)(5)(g)): Each ATRT member has reviewed this request in accordance with applicable policies and regulations. Please see attached certification checklist.

Certification of Legal Sufficiency (EC 1165-2-216, Par 7(c)(5)(h)): District Office of Counsel concurs that the proposal meets all legal and policy requirements. See attached certification checklist.

Certification of Adequate Real Estate Documentation (EC 1165-2-216, Par 7(c)(5)(i)): Chief of the District Real Estate Division concurs that the real estate documentation is adequate. See attached certification checklist.

USACE Studies (EC 1165-2-216, Par 7(c)(5)(j)): There are no ongoing USACE studies that relate to this proposed request.

Operations & Maintenance (O&M) Manual (EC 1165-2-216, Par 7(c)(5)(k)): There will be no assumed responsibilities or costs for USACE for this proposed request, therefore, no changes or impacts will occur to the O&M Manual. Dakota Access LLC will be responsible to O&M per their Corps easement.

Project Partnership Agreement (PPA) or Cooperative Agreement Changes (EC 1165-2-216, Par 7(c)(5)(l)): Not applicable.

Environmental Compliance (EC 1165-2-216, Par 7(c)(5)(m)): A decision on a Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. An Environmental Assessment was conducted and is attached.

Finding of No Significant Impact (FONSI)/Record of Decision (ROD) (EC 1165-2-216, Par 7(c)(5)(n)): The proposed request was reviewed in accordance with NEPA regulations and was found to need an environmental assessment. A mitigated FONSI was issued and is attached.

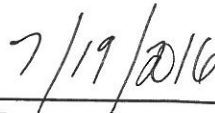
Funds Pursuant Section 214 (EC 1165-2-216, Par 7(c)(5)(o)): Not applicable.

Final Conclusions or Information (EC 1165-2-216, Par 7(c)(5)(p)):

Section 408 Decision Level: Certain proposed alterations, once recommended by the District and Division Commanders, will require a final decision by the Director of Civil Works at HQUSACE if any of the seven questions listed in the EC 1165-2-216 are answered "yes". None of the questions were answered "yes" for this proposal; therefore, a Section 408 decision may be rendered by the District Commander.

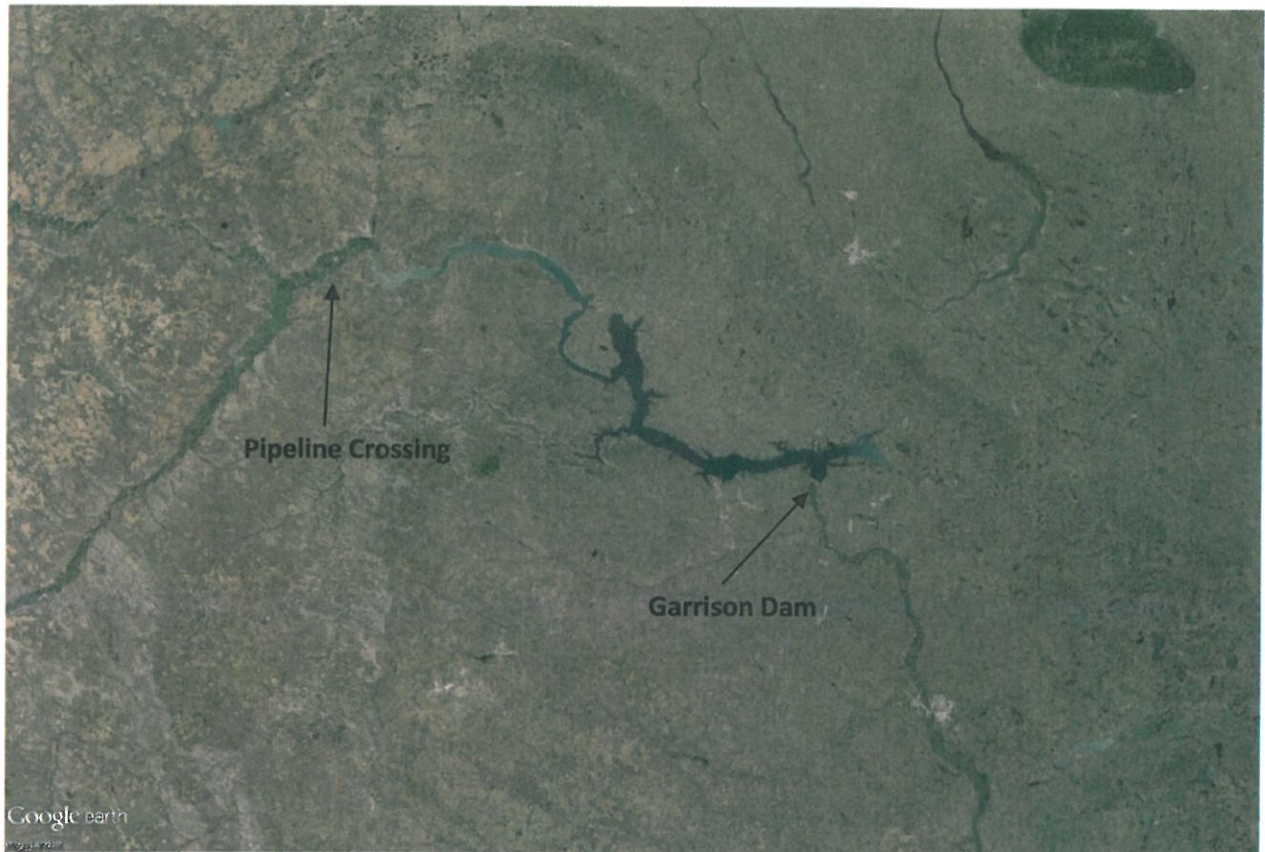


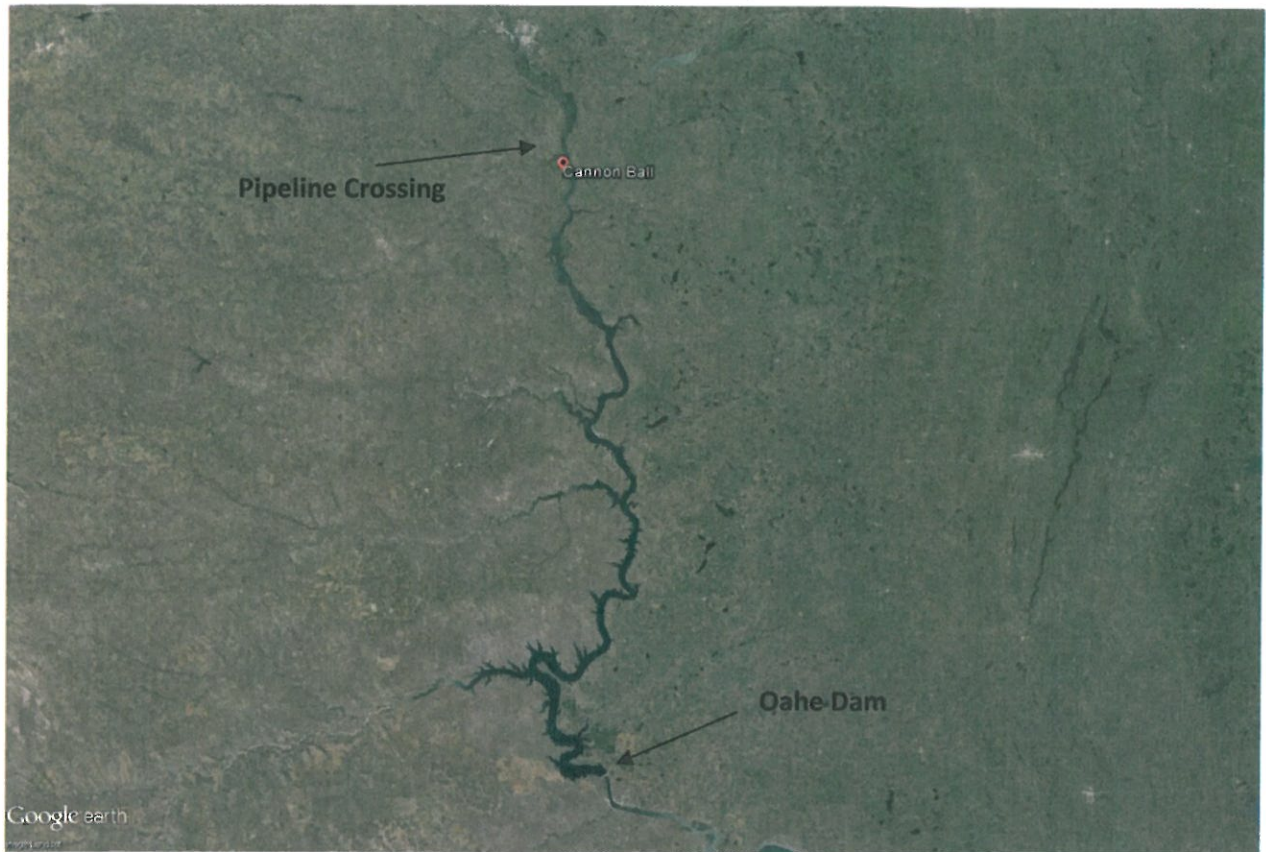
Brent Cossette
Section 408 Coordinator, Corps of Engineers
Omaha District



Date

APPENDIX B-1
Vicinity Map of Proposed Request Located on Garrison Project, ND





Section 408 Determination Checklist

Determination Checklist

US Army Corps of Engineers, Omaha District

Per EC 1165-2-216

<u>Exemptions</u>	
<input type="checkbox"/>	Alterations performed by District as part of a federally authorized project.
<input type="checkbox"/>	Alterations performed by the non-federal Sponsor that are specified in the Operations, Maintenance, Repair, Replacement, and Rehabilitation Manual, including repair, replacement, and rehabilitation alterations described under §5 I of ER 1110-2-401.
<input type="checkbox"/>	Routine Operations and Maintenance activities specified in the O&M manual.
<input type="checkbox"/>	Alterations compliant with an approved Project Master Plan, Shoreline Management Plan, or Operational Management Plan.
<input type="checkbox"/>	Real Estate Outgrants issued to implement an approved Project Master Plan, Shoreline Management Plan, or Operational Management Plan.
<input type="checkbox"/>	Alterations included within Real Estate Outgrants issued pursuant to the procedures in ER/EP 1130-2-550, Chapters 16 or 17, except for alterations that need to be reviewed in accordance to Appendix B-E of EC 1165-2-216.
<input type="checkbox"/>	Alterations undertaken by a non-federal sponsor as an in kind contribution for an authorized USACE project pursuant to an executed project partnership agreement.
<input type="checkbox"/>	Requests for alterations received by District for review or coordination before 31 July 2014, however, requests for alterations received prior to 31 July 2014 will continue to be reviewed under EC 1165-2-214 and prior 33 USC 408 reviews.
<u>Categorical Permissions</u>	
<input type="checkbox"/>	(list currently being compiled for approval)

<u>HQUSACE Decision Level</u>		
yes	no	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the proposed alteration require a Type II IEPR (Safety Assurance Review) reference EC 1165-2-214?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the proposed alteration require an Environmental Impact Statement (EIS) in which USACE is the lead agency?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the proposed alteration change how the USACE project will meet its authorized purpose?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the proposed alteration preclude or negatively impact alternatives for a current General Investigation (GI) or other study?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Is the non-federal sponsor for a USACE project proposing to undertake the alteration as in-kind contributions eligible for credit under Section 221 of Flood Control Act of 1970, as amended?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Is the proposed alteration for installation of hydropower facilities?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Is there a desire for USACE to assume operations and maintenance responsibilities of the proposed navigation alteration pursuant to Section 204(f) of Water Resources Development Act (WRDA) of 1986?
<u>District/Division Decision Level</u>		
<input checked="" type="checkbox"/>		Request is not applicable in any of the above categories and recommendation is for District Level Section 408 Determination.
<input type="checkbox"/>		Request is not applicable in any of the above categories and recommendation is for Division Level Section 408 Determination.

Requester Checklist
Section 408 Written Requests
US Army Corps of Engineers, Omaha District

General: Requester is responsible for providing all information that identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances.

Written Request (EC 1165-2-216 Par 7(c)(2))	
Complete Description:	<input checked="" type="checkbox"/> drawings, sketches, maps, and plans sufficient to determine the purpose, scope, and location
Also Pursuing Section 10/404/103 permits?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
Indicate if also seeking:	<input type="checkbox"/> credit under Section 221 of the Flood Control Act of 1970 <input type="checkbox"/> credit under Section 204(f) of WRDA 1986 <input checked="" type="checkbox"/> Not Applicable – Not Applicable
Will require the use of federally owned real property?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes, this request requires the use of federally-owned real property or property owned by the non-federal sponsor.
Is there a non-federal sponsor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, the request originates from the non-federal sponsor <input type="checkbox"/> Yes, a written statement from the non-federal sponsor endorsing the alteration is included
Required Documentation for All Requests (EC 1165-2-216 Par 7(c)(3))	
Technical Analysis and Design	<input checked="" type="checkbox"/> project design is at 60% or more of final design
Hydrologic and Hydraulics System Performance Analysis	<input checked="" type="checkbox"/> No, not required and justification included – Proposes project is located above the flood pool with no potential hydrologic impacts, therefore, performance analysis is not applicable. <input type="checkbox"/> Yes
Environmental Compliance	<input checked="" type="checkbox"/> NEPA completed and attached <input checked="" type="checkbox"/> EA completed and attached (if applicable) <input type="checkbox"/> EIS completed and attached (if applicable) <input type="checkbox"/> Additional environmental compliance requirements included
Description of Real Estate Requirements	<input type="checkbox"/> Included in a completed Right of Availability checklist <input checked="" type="checkbox"/> Included in the written request <input type="checkbox"/> Not Applicable
Executive Order 11988 Considerations	<input type="checkbox"/> Sufficient information is included in the written request. <input checked="" type="checkbox"/> Not Applicable - Alteration will not be located within flood plain.
Requester Review Plan	<input checked="" type="checkbox"/> No requester review plan is needed. <input type="checkbox"/> A requester review plan was determined necessary by District and is included. <input type="checkbox"/> Request requires a Type II IEPR and requester review plan is required and is included.
Operations & Maintenance	<input checked="" type="checkbox"/> no O&M will be necessary <input type="checkbox"/> O&M will be necessary and USACE will assume; justification for augmenting O&M is provided <input type="checkbox"/> O&M will be necessary and will be performed by the non-federal sponsor; information for updating the O&M manual is provided
Other Information	<input checked="" type="checkbox"/> USACE determines no other information is required from requester <input type="checkbox"/> USACE determines other information is required and is attached in the submittal
For Dams and Reservoirs - See Attached Engineering Memos	
See EC 1165-2-216, Appendix B Part B-4 Requirements	
For Non-Federal Hydropower Development at USACE Facilities (N/A)	
See EC 1165-2-216, Appendix C Part C-4 Requirements	
For Levee, Floodwall or Flood Risk Management Channel Projects (N/A)	
See EC 1165-2-216, Appendix D Part D-4 Requirements	
For Navigation Channels, Jetties, Bridges, and other Features (N/A)	
See EC 1165-2-216, Appendix E Part E-4 Requirements	



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
1616 CAPITOL AVENUE
OMAHA NE 68102-4901

CENWO-OD-TN

10 June 2016

MEMORANDUM FOR RECORD

SUBJECT: Dakota Access Pipeline Consent to Flowage Easements – Garrison Project

1. Dakota Access, LLC, (Dakota Access) is requesting a consent to multiple flowage easements at Lake Sakakawea for a 24 inch light crude oil pipeline.

The pipeline would cross under the Missouri River via horizontal directional drill (HDD) and continue south to Lake Oahe and cross Lake Oahe with a second HDD. The project will begin near Stanley, North Dakota and end at Patoka, Illinois. The total length of the pipeline is about 1,100 miles.

Relative to the Garrison Project Office, Dakota Access is requesting a consent to flowage easement for a 24 inch diameter light crude oil pipeline.

2. Please place the following special conditions on the consent to easement:

- a. All environmental commitments in the Environmental Assessment and Finding of No Significant Impact must be conducted and incorporated by reference.
- b. Pipeline must be maintained and operated per ASME B31.3, B31.4, B31.8, CFR 192, CFR 195, API 1104, and related codes.
- c. Cathodic Protection will be operated and maintained per applicable codes and Dakota Access's Operations and Maintenance Manual. Wall thickness testing will be performed on a 5 year interval through the use of in-line inspection. The periodic in-line inspection will be performed in-lieu of periodic hydro tests. Inspection reports must be sent to the Garrison Project Office.
- d. The Facility Response Plan will be submitted to the United States Army Corps of Engineers (USACE) for review prior to the operation of the pipeline.
- e. All plans not final at the time the Environmental Assessment is complete will be submitted to the USACE for review and the incorporation of USACE comments prior to submittal to PHMSA.

These plans include, but are not limited to the;

- a. Geographical Response Plan
- b. Operations and Maintenance Manual
- c. Risk Assessment (Integrity Management Plan)

- d. Spill Models (Using the National Hydrography Dataset by the USGS)
- f. Any plans that have been updated in condition "d" must be sent to USACE Environmental Compliance Coordinators at the Omaha District Office and the Garrison Project Office within one year of the update.
- g. Must provide as-built drawings for the crossing of the Missouri River to the USACE Section 408 Coordinator Omaha District Office and the Operations Project Manager Garrison Project Office within 6 months of the completion of pipeline construction.
- h. Commitment for Training Exercises:
 - a. Must conduct full scale open water and full scale winter/ice exercises that at Lake Sakakawea and Lake Oahe. A full scale exercise will occur once every 3 years (triennial cycle) with the location and type of exercise occurring on alternating schedules (e.g. open water exercise at Oahe the first triennial cycle, followed by winter exercise at Sakakawea the following triennial cycle, followed by a winter exercise at Oahe the following triennial cycle, etc.). The first exercise will occur within the first 3 years after the pipeline becomes operational.
 - b. To facilitate USACE staff involvement, Dakota Access must notify the USACE Environmental Compliance Coordinators at the Omaha District Office and the Garrison Project Office at least ninety (90) days prior to initiation of the training exercises. Dakota Access must also solicit the participation of key stakeholders (federal, state, local, and Tribal) in these exercises.
- i. Within one year of operation of the pipeline, DAPL must provide for an all-weather access and collection point downstream of the Lake Sakakawea Missouri River HDD crossing. DAPL must provide an equipment storage facility on non-federal lands that includes a fenced permanent storage area for winter and open water spill response equipment. The storage facility should be placed in a strategic location and near existing facilities that would support access to the water. DAPL would coordinate with the USACE and any other applicable stakeholders to obtain all necessary permits and approvals prior to construction for any ground disturbing activities associated with these facilities. The storage facility should contain sufficient response equipment at a minimum to mitigate an unintended worst case release for this crossing.



BRENT J. COSSETTE
Section 408 Coordinator, Omaha District



**DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
GARRISON PROJECT OFFICE
PO BOX 527
RIVERDALE, NORTH DAKOTA 58565-0527**

CENWO-OD-GA

19 May 2016

MEMORANDUM THRU

Garrison Project Office, Omaha District (CENWO-OD-GA), (Lindquist)

Recreation and Natural Resource Branch, Omaha District, Corps of Engineers
(CENWO-OD-TN), (Cossette)

FOR Real Estate Branch, Omaha District, Corps of Engineers (CENWO-RE), (Noel)

SUBJECT: Dakota Access, LLC. Construction of Dakota Access Pipeline (DAPL) crossing flowage easements LL3440E, LL3483E-1, LL3453E, LL3430E, LL3450E-2, LL3431E & LL3426E-2 north of Lake Sakakawea/Missouri River in Williams Counties, ND.

1. An application has been submitted to the U.S. Army Corps of Engineers (USACE) Garrison Project Office by Dakota Access, LLC to receive a Consent to Easement for the construction, operation, & maintenance of 1,100 miles of 12-30" diameter crude oil pipeline under Lake Sakakawea in Williams Counties.
 1. The 24" dia. Pipeline is proposed to cross sections 7, 18, 19 & 30 Township 153N, Range 103W on USACE flowage easements LL3440E, LL3483E-1, LL3453E, LL3430E, LL34350E-2, LL3431E & LL3426E-2 on the North side of Lake Sakakawea/ Missouri River for 2.83 miles.
 2. Construction workspace needed to trench in pipeline and stage HDD boring site within flowage easements totals 59.3 ac.
2. The proposed installation for this project is to open cut and trench on flowage easements and cross the river using HDD.
3. Review by Natural Resource staff indicated the following conditions:

1. No impacts to USACE fee title land is proposed. All activity proposed is located on USACE flowage easement on private land.
 2. All environmental commitments in the Environmental Assessment, Finding of No Significant Impact, and Plan of Development submitted by Dakota Access and all conservation recommendations in the Biological Opinion as applicable and are hereby incorporated by reference
 3. This pipeline is also crossing the Missouri River for .21 miles on Corps Fee title land at Lake Oahe. This segment of the project is not reflected in this memo and was not reviewed by the Garrison Project Office.
 4. An Environmental Assessment has been completed on the flowage easement crossing and is currently being reviewed by USACE within the project and Omaha district office.
-
4. Garrison Project Natural Resource Staff recommends consent to easement. Point of contact is Jeremy J. Thury. Phone: 701-654-7761.
 5. For Your Action.

Encl
ROA packet

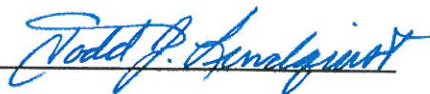


ALFRED C. STONESIFER
Supervisory Natural Resource Specialist

CONCURRENCES:

- a. CENWO-OD-GA concurs with the above recommendation.

Signature: _____



Todd J. Lindquist
Operation Project Manager

Garrison Project, ND

Date: 24 May 2016

- b. CENWO-OD-T concurs with the finding of no significant environmental concerns and the recommendations for resolution of the encroachments, based on the attached documentation.

Signature:  _____

Larry D. Janis
Chief, Recreation and Natural Resource Branch
Omaha District

Date: 7/19/16



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
GARRISON PROJECT OFFICE
PO BOX 527
RIVERDALE, NORTH DAKOTA 58565-0527

CENWO-OD-GA

19 May 2016

MEMORANDUM THRU

Garrison Project Office, Omaha District (CENWO-OD-GA), (Lindquist)

Recreation and Natural Resource Branch, Omaha District, Corps of Engineers
(CENWO-OD-TN), (Cossette)

FOR Real Estate Branch, Omaha District, Corps of Engineers (CENWO-RE), (Noel)

SUBJECT: Dakota Access, LLC. Construction of Dakota Access Pipeline (DAPL) crossing flowage easements LL3440E, LL3483E-1, LL3453E, LL3430E, LL3450E-2, LL3431E & LL3426E-2 north of Lake Sakakawea/Missouri River in Williams Counties, ND.

1. An application has been submitted to the U.S. Army Corps of Engineers (USACE) Garrison Project Office by Dakota Access, LLC to receive a Consent to Easement for the construction, operation, & maintenance of 1,100 miles of 12-30" diameter crude oil pipeline under Lake Sakakawea in Williams Counties.
 1. The 24" dia. Pipeline is proposed to cross sections 7, 18, 19 & 30 Township 153N, Range 103W on USACE flowage easements LL3440E, LL3483E-1, LL3453E, LL3430E, LL34350E-2, LL3431E & LL3426E-2 on the North side of Lake Sakakawea/ Missouri River for 2.83 miles.
 2. Construction workspace needed to trench in pipeline and stage HDD boring site within flowage easements totals 59.3 ac.
2. The proposed installation for this project is to open cut and trench on flowage easements and cross the river using HDD.
3. Review by Natural Resource staff indicated the following conditions:

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 3. This pipeline is also crossing the Missouri River for .21 miles on Corps Fee title land at Lake Oahe. This segment of the project is not reflected in this memo and was not reviewed by the Garrison Project Office.
 4. An Environmental Assessment has been completed on the flowage easement crossing and is currently being reviewed by USACE within the project and Omaha district office.
4. Garrison Project Natural Resource Staff recommends consent to easement. Point of contact is Jeremy J. Thury. Phone: 701-654-7761.
5. For Your Action.

Encl
ROA packet



ALFRED C. STONESIFER
Supervisory Natural Resource Specialist

CONCURRENCES:

- a. CENWO-OD-GA concurs with the above recommendation.

Signature: _____



Todd J. Lindquist
Operation Project Manager

Garrison Project, ND

Date: 24 May 2016

- b. CENWO-OD-T concurs with the finding of no significant environmental concerns and the recommendations for resolution of the encroachments, based on the attached documentation.

Signature: _____

Larry D. Janis
Chief, Recreation and Natural Resource Branch
Omaha District

Date: _____



VIA EMAIL

October 7, 2015

Brent Cossette
Natural Resource Specialist
Environmental Stewardship
CENWO-OD-TN
United States Army Corps of Engineers, Omaha District
1616 Capital Avenue, Suite 9000
Omaha, NE 68102
Brent.J.Cossette@usace.army.mil

**Re: Updated Request for Consent to Easement Across Flowage and Saturation
Easements for the Proposed Dakota Access Pipeline Project in Williams County,
North Dakota**

Dear Mr. Cossette:

Dakota Access, LLC, (Dakota Access) is proposing the Dakota Access Pipeline (DAPL) Project; an approximate 1,100 mile long, 12- to 30-inch diameter light crude oil pipeline project beginning near Stanley, North Dakota, and routing through South Dakota, Iowa and ending at Patoka, Illinois.

DAPL is proposed to cross private lands which the U.S. Corps of Engineers (Corps) has seven flowage and saturation easements over (**Figure 1**), associated with the Buford-Trenton-Irrigation District (Garrison Dam) and north of Lake Sakakawea/ Missouri River. It is understood that due to these crossings, the Corps will need to provide consent to easement for the pipeline to be constructed and installed on lands where Corps has easements.

Dakota Access has performed environmental and geotechnical analysis of the subsurface at these crossings to determine environmental features and feasible crossing methods. It is anticipated that the pipeline will cross the flowage easements via conventional trench/backfill method; this additionally includes a portion of the planned horizontal directional drill (HDD) entry point for the Lake Sakakawea/Missouri River crossing (**Figure 2**).

The purpose of this letter is to provide an update to the formal request for initiation of the Corps consent to easement process dated March 9, 2015. The following provides additional information regarding this request.

DAPL Project Crossing Corps Easements

The proposed 24-inch diameter pipeline in this location of the DAPL Project will cross seven (7) contiguous Corps flowage and saturation easements on the north side of Lake Sakakawea/Missouri River for approximately 2.97 miles. The proposed pipeline will cross Corps easements identified below in the respective section, township, range and county and as depicted in the attached **Figures 1 and 2**.

County	Tract No.	Township	Range	Section
Williams	LL3440E	152N	103W	19, 20, 29, 30
	LL3483E-1	152N	103W	19, 20
	LL3453E	152N	103W	18, 19
	LL3430E	152N	103W	18, 19
	LL3450E-2	152N	103W	18
	LL3431E	152N	103W	7, 18
	LL3426E-2	152N	103W	7

Dakota Access is securing a 50 foot wide permanent easement along the entire Project alignment that is generally centered on the pipeline (i.e. 25 feet on either side of the centerline). Based upon Corps provided easement documents and mapping, Dakota Access understands that the distance across Corps flowage and saturation easement areas north of the Missouri River is approximately 15,692 feet (2.97 miles).

Dakota Access performed a geotechnical boring program to assess soil and geology to assist with design of the HDD (**Figure 2**). Two soil borings were advanced on the property where Corps has easements. The plan is to establish the HDD entry point on the north side of the river and the HDD exit point on the south side of the river. A temporary workspace, which measures approximately 200 feet by 250 feet will be used on the Corps easements to facilitate the Missouri River HDD on the north side of the river. The HDD will result in approximately 1,570 feet of pipeline on Corps easements.

For activities associated with the installation of HDD and the hydrostatic testing of the HDD segment, Dakota Access plans to withdrawal water from the Missouri River. Acquisition points would coincide with the proposed pipeline crossing of the river. The pump will be set on a barge or float anchored just offshore of each bank at the proposed permanent easement. The barge/float would be approximately 12 feet wide by 14 feet long and fitted with a secondary containment structure. The pump's intake hose will be eight inches in diameter and connect the screened intake to the pump. The intake hose will push the water from the pump to the top of bank and then to the HDD equipment or pipeline section. The



intake hose would be temporarily (during construction only) located within the 50-foot permanent pipeline easement (Figure 2). No ground disturbance along the permanent easement is anticipated.

Dakota Access plans to install remaining pipeline using conventional open-cut construction methods on Corps flowage and saturation easement lands north of the HDD entry point. After pipeline installation is completed there will be no above ground facilities associated with the pipeline. The proposed typical construction easement for the DAPL is 150 feet wide (and includes the 50 feet of permanent easement as indicated in **Figure 3**). Additional temporary workspace is included at road crossings and change in pipe alignment. All dimensions and additional construction information are included in the Environmental Assessment (EA).

We appreciate your assistance with this request for Corps consent to cross flowage and saturation easement areas north of the Missouri River. We understand the March 9, 2015 formal DAPL Project request for consent to easement from the Corps officially initiated the Corps real estate process. We further understand that the environmental review for crossing these easements will be combined with the environmental review for the proposed DAPL crossing of the Corps owned lands at Lake Oahe.

Should you have any questions or comments, or require any other information for this request, please contact me at 713.989.7186, Monica.Howard@energytransfer.com, or at Dakota Access, LLC, c/o Monica Howard, 1300 Main Street Rm 14.030, Houston, TX 77002.

Sincerely,

Dakota Access, LLC

A handwritten signature in cursive script that reads "Monica Howard".

Monica Howard
Director Environmental Sciences

- Enc. Figure 1 – Corps Flowage and Saturation Easement Areas Crossed by Proposed DAPL Project
 Figure 2 – DAPL Project Layout
 Figure 3 – DAPL Project Typical ROW Configuration

MEMORANDUM THRU CHIEF, ENGINEERING DIVISION

MEMORANDUM FOR CENWO-OD-TN/COSSETTE

SUBJECT: Dakota Access Pipeline Project Crossing of Lake Oahe

The U.S. Army Corps of Engineers (USACE), Omaha District (Corps) received an Applicant's Technical Supplement for a proposed Dakota Access Pipeline Horizontal Directional Drilling (HDD) crossing of Lake Oahe in Morton and Emmons Counties, North Dakota for the installation of a 30" diameter steel pipeline for transportation of crude oil from the Bakken and Three Forks plays in North Dakota and South Dakota to points east.

Oahe Dam, including Lake Oahe, is a congressionally authorized and federally constructed project along the Missouri River. The US Army Corps of Engineers maintains and operates Oahe Dam and Lake Oahe, in cooperation with other agencies. The Corps has a congressionally mandated responsibility to ensure that the federally constructed projects are appropriately operated and maintained. No improvements shall be passed over, under, or through the walls, levees, improved channels or floodways; nor shall any excavation or construction be permitted within the limits of the projects right-of-way, nor shall any change be made in any feature of the works without prior approval of the Corps. The US Army Corps of Engineers Regulation ER 200-2-2 (33 CR Part 230) applies.

All (13) geotechnical comments by Mr. Dean Lang and Mr. Jason Wagner that were generated during the technical review have been entered into a log. Once the comments were satisfactorily addressed by the Engineer-of-Record, Dakota Access LLC and GeoEngineers, they were closed out. Technical record of comments and responses, follow-up comments and responses, etc., are kept in Projnet.

Dakota Access LLC and GeoEngineers will fully implement all required and agreed upon technical changes, as has been recorded by the review process in Projnet.

Dakota Access LLC and GeoEngineers are responsible for amending the Operations & Maintenance (O&M) Manual for the project to reflect the as-built conditions for any permanent modifications or encroachments. The amendment to the O&M Manual is required to be provided to the Corps for record keeping purposes within 60 days of completion of construction. The Corps can provide guidance on developing an addendum to the O&M Manual, upon request.

The comments herein pertain only to the geotechnical and flowable easement issues related HDD and Geotechnical investigations in the floodway and do not constitute USACE approval of any permits that may be required.

CENWO-ED-G

SUBJECT: Dakota Access Pipeline Project Crossing of Lake Oahe

If you have any questions, please contact Mr. Dean Lang at (402) 995-2231, Mr. Jason Wagner at (402) 995-2276, or the undersigned at (402) 995-2218.

A handwritten signature in black ink, appearing to read "David P. Ray".

DAVID P. RAY P.E.
Chief, Geotechnical Engineering
and Sciences Branch

MEMORANDUM FOR CENWO-OD-TN (Cossette)

SUBJECT: Dakota Access Pipeline (DAPL) Review

1. The U.S. Army Corps of Engineers, Omaha District (Corps) received an Applicant's Technical Supplement for proposed Dakota Access Pipeline (DAPL) Horizontal Directional Drilling (HDD) plan for the installation of steel pipeline below Lake Sakakawea, North Dakota, for transportation of crude oil.
2. Garrison Dam, including Lake Sakakawea, is a congressionally authorized and federally constructed project along the Missouri River. The US Army Corps of Engineers (Corps) maintains and operates Garrison Dam and Lake Sakakawea in cooperation with other Federal agencies.
3. The Corps has a congressionally mandated responsibility to ensure that the federally constructed projects are appropriately operated and maintained. No improvements shall be passed over, under or through the walls, levees, improved channels or floodways, nor shall any excavation or construction be permitted within the limits of the project right-of-way, nor shall any change be made in any feature of the works without prior approval of the Corps.
4. Mechanical aspects of this project were reviewed by Michael T. Smith, Design Branch Mechanical Section Chief, and all mechanical comments generated during the technical review were entered into the ProjNet / DrChecks. Once the comments were satisfactorily addressed by the Engineer-of-Record (Jonathan Fredland), they were closed out in ProjNet/DrChecks. Technical record of comments and responses, follow-up comments and follow-up responses, etc. is kept in ProjNet / DrChecks.
5. The Engineer-of-Record will fully implement all required and agreed upon technical changes, as has been recorded by ProjNet / DrChecks review process.
6. The Engineer-of-Record is responsible for amending the O&M Manual for the project to reflect the as-built conditions for any permanent modifications or encroachments. The amendment to the O&M Manual is required to be provided to the Corps for record keeping purposes within 60 days of completion of construction. The Corps can provide guidance on developing an addendum to the O&M Manual, upon request.
7. The comments herein pertain only to the mechanical issues related to pipeline lake crossing and do not constitute Corps of Engineers' approval of any permits that may be required.
8. If you have any questions, please contact Michael T. Smith at 402-995-2133.

Michael T. Smith, P.E.

Michael T. Smith, P.E.
Chief, Design Branch Mechanical Section
US Army Corps of Engineers, Omaha District

MEMORANDUM FOR CENWO-OD-TN

SUBJECT: Water Quality Team Review of Draft Environmental Assessment for Dakota Access Pipeline Project Crossings of Flowage Easements and Federal Lands.

1. The Omaha District Water Quality Team (WQ) is responsible for coordinating compliance with the guidance and requirements set forth in the U.S. Army Corps of Engineers' Engineering Regulation – ER 1110-2-8154, "Water Quality and Environmental Management for Corps Civil Works Projects". The guiding principles taken from ER 1110-2-8154 serve as the basis for surface water quality management activities in the Omaha District. WQ has reviewed the Draft Environmental Assessment for Dakota Access Pipeline Project Crossings of Flowage Easements and Federal Lands and has no comments at this time. Additional documentation supporting ER 1110-2-8154 is provided in the comments below.
2. The Corps' water quality management authority is founded on the Federal Water Pollution Control Act (FWPCA) of 1948 and its amendments including the Clean Water Act (CWA) of 1977 and the Water Quality Act of 1987. The FWPCA Amendments of 1972 (PL 92-500) strongly affirm the Federal interest in water quality. Executive Order 12088, Federal Compliance with Pollution Control Standards, dated 13-October-1978, requires compliance by Federal facilities and activities with applicable pollution control standards in the same manner as any non-Federal entity.
3. The ultimate responsibility to control water quantity and quality at all Corps projects rests with the Corps.
4. If you have any questions or comments regarding this review, please me at (402) 995-2347.



John Hargrave
Limnologist
Omaha District Water Control and Water Quality
Section
Hydrologic Engineering Branch
Engineering Division



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
1616 CAPITOL AVENUE
OMAHA NE 68102-4901

CENWO-ED-HB

9 March 2016

MEMORANDUM FOR CENWO-OD-TN (Cossette)

SUBJECT: Executive Order 11988 and NWDR 1110-2-5 Compliance Memo for the Proposed Dakota Access Pipeline (DAPL) Project in Williams County, North Dakota, across Flowage and Saturation Easements

1. The Omaha District Flood Risk and Floodplain Management Section (FRFM) is responsible for coordinating the compliance with the requirements of Executive Order 11988 (Flood Plain Management). FRFM reviewed the updated proposed project submittal by Mrs. Monica Howard originally submitted March 2015, and as found it to be in compliance with EO 11988. Executive Order 11988 is applicable to all planning, design, and construction civil works projects, activities under the operation and maintenance program, and to real estate program (ER 1165-2-26). Specific to alteration of civil works projects EO 11988 compliance is identified in EC1165-2-216 in Section 7.c.(3).ix.(e) and Section 7.c.(4)(b).

2. The proposed project is approximately 1,100 miles long, 12- to 30-inch diameter light crude oil underground pipeline beginning near Stanley, North Dakota and routing through South Dakota, Iowa and ending at Patoka, Illinois. This review is for the portion of the proposed project that crosses seven USACE flowage and saturation easements (LL3440E, LL3483E-1, LL3453E, LL3430E, LL3450E-O, LL34316E, and LL3426E-2) for approximately 3 miles, with a portion of it within the Garrison Dam flood control pool.

3. The following comments are outlined using the review criteria identified in ER 1165-2-26:

a. Determine if the proposed action is in the base floodplain: The project is located in Williams County, North Dakota which participates in the National Flood Insurance Program (NFIP). The portion of the proposed pipeline that crosses the USACE flowage and saturation easements is in the Zone A Special Flood Hazard Area (SFHA) shown on Map Panel 3803120025A.

b. Identify and evaluate practicable alternatives to the action or to location of the action: The proposed project is functionally dependent on its location in the floodplain.

c. Advise the general public in the affected area and obtain their views and comments : It should be ensured that the proposed project is in compliance with

CENWO-ED-HB

SUBJECT: Executive Order 11988 and NWDR 1110-2-5 Compliance Memo for the Proposed Dakota Access Pipeline (DAPL) Project in Williams County, North Dakota, across Flowage and Saturation Easements

floodplain management criteria of Williams County and the State of North Dakota. It is recommended that the applicant obtain a local floodplain permit prior to construction.

d. Identify beneficial and adverse impacts due to the action: The proposed pipeline has no adverse impacts on the operation of the Garrison flood control pool (see the below comments for compliance with NWDR 1110-2-5).

e. Identify the potential for the project to induce development in the base floodplain: Because this project will not change zoning or restrictions, the project is not expected to have any impact on development potential within the Zone A SFHA.

f. Determine viable methods to minimize any adverse impacts:

(1) Provided that the site topography is left at its natural ground elevation after construction, the proposed project should not adversely impact the USACE flowage and saturation easements.

(2) Flood-related problems should not occur if the pipeline is buried far enough below the beds of the Missouri River to prevent exposure due to streambed erosion during periods of high flood flows.

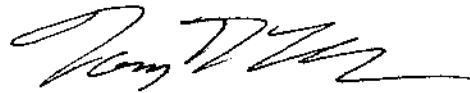
(3) The shutoff valve location presented in the original proposal was identified as a potential issue, but has since been addressed and removed according to Dakota Access Pipeline Project Figure 6-B, dated August 2015.

4. Plans for the proposed pipeline were reviewed for compliance with appendix A (Typical Cut and Fill Volumes for Land Development Proposals) of NWDR 1110-2-5, Land Development Guidance at Corps Reservoir Projects. Provided that the site topography is left at its natural ground elevation after construction and all excess material is hauled off site, there are no flood risk and floodplain management concerns from this office and therefore the proposed project is recommended for approval.

CENWO-ED-HB

SUBJECT: Executive Order 11988 and NWDR 1110-2-5 Compliance Memo for the Proposed Dakota Access Pipeline (DAPL) Project in Williams County, North Dakota, across Flowage and Saturation Easements

5. The comments herein pertain only to flood risk and floodplain management concerns. If you have any questions, please contact Mr. Brennan Beam at (402) 995-2317 or myself at (402) 995-2322.

A handwritten signature in black ink, appearing to read 'Tony D. Krause', with a stylized, flowing script.

TONY D. KRAUSE, P. E., CFM
Chief, Flood Risk and Floodplain
Management Section
Hydrologic Engineering Branch
Engineering Division

**U.S. ARMY CORPS OF ENGINEERS OMAHA DISTRICT
NEPA CONSIDERATION CHECKLIST for PROJECT ACTIONS**

Project Name: GARRISON PROJECT LAKE SAKAKAWEA	Address/Location: 7,18,19,20,29, & 30 152N-103W
Brief Description of Proposed Action: CROSSING OF FLOWAGE EASEMENT WITH 12"-30" CRUDE OIL PIPELINE.	

	YES <input type="checkbox"/>	NO <input type="checkbox"/>	INITIAL
1. The proposed action would have significant adverse effects on public health or safety.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JT
2. The proposed action is in a location with unique geographic characteristics such as historical or paleontological resources	<input type="checkbox"/>	<input type="checkbox"/>	
3. An Archaeologist reviewed this federal undertaking for cultural clearance. See attached documentation or copy of official email.	<input type="checkbox"/>	<input type="checkbox"/>	
4. The proposed action would adversely affect park, recreation, or refuge lands; principle drinking water aquifers; wetlands; floodplain; prime or unique farmlands; or ecologically significant or critical habitat areas.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JT
5. The proposed action would have highly controversial environmental effects.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JT
6. The proposed action would have highly uncertain environmental effects or involve unique or unknown environmental risks.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JT
7. The proposed action would establish a precedent for future action or represents a decision in principle about a future consideration with significant environmental effects.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JT
8. The proposed action is related to other actions with individually insignificant, but cumulatively significant environmental effects.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	JT
9. The proposed action would adversely affect properties listed or eligible for listing in the National Register of Historic Places. See attached documentation or copy of official email.	<input type="checkbox"/>	<input type="checkbox"/>	
10. The proposed action would affect either directly or indirectly, a species included or proposed to be included on the list of endangered or threatened species. Attach USFWS concurrence.	<input type="checkbox"/>	<input type="checkbox"/>	Amper
11. The proposed action may violate Federal, State, Local or Tribal law or regulation imposed for the protection of the environment or imposed to ensure compliance with <u>Executive Order EO 11988 (Floodplain Management)</u> , <u>EO 11990 (Protection of Wetlands)</u> , <u>Wild or Scenic Rivers Act</u> , or the <u>Fish and Wildlife Coordination Act</u> .	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JT
12. The proposed action is in conformance with the project Master Plan and or the project OMP.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JT
13. There is evidence of hazardous or toxic materials, which were stored on, disposed of on, or have otherwise contaminated the subject property.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JT
14. The proposed action requires a Regulatory Section 10 404 permit. Can still be categorically excluded.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	JT
15. The proposed action involves surface disturbance greater than one (1) acre -Can still be categorically excluded but may need a NPDES permit. Consult with District or Project ECC if there is a question.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	JT
16. This action requires that the affected Tribes be consulted per <u>the Programmatic Agreement</u> for the operation and management of the Missouri River main stem system for compliance with the National Historic Preservation Act. Can still be categorically excluded. See attached documentation.	<input type="checkbox"/>	<input type="checkbox"/>	

IT HAS BEEN DETERMINED THAT THE PROPOSED ACTION:	
<input type="checkbox"/> Qualifies for a Categorical Exclusion in accordance with <u>FR 200-2-2</u> Paragraph 9 dated March 4, 1988. (Check list on page 2)	
<input checked="" type="checkbox"/> Is adequately covered in an existing EA (Environmental Assessment) or EIS (Environmental Impact Statement) entitled	
<u>Dakota Access Pipeline EA</u> <u>June 2016</u>	and dated
<input type="checkbox"/> Requires mitigative measures (attach description).	
<input type="checkbox"/> May not be categorically excluded - Proposal forwarded to Omaha District Office (CENWO-OD-TN) for further review.	

Signature of Preparer <i>Jeremy Thum</i>	Date <u>5/18/16</u>	Phone <u>701-654-7261</u>
Operations Manager <i>[Signature]</i>	<u>5/20/16</u>	Date

Rogers, Richard R NWO

From: Cain, David I NWO
Sent: Monday, December 07, 2015 2:31 PM
To: Cossette, Brent NWO
Cc: Crane, Kelly A NWO; Lindquist, Todd J NWO; Spooner, Wade D NWO; Harnois, Richard D NWO; Price, Julie A NWO; Maier, Megan M NWO; Rogers, Richard R NWO
Subject: RE: DAPL Tribal Admin Record (UNCLASSIFIED)
Attachments: Garrison O&G Pipeline update02172015.pdf; Document1.docx

Classification: UNCLASSIFIED

Caveats: NONE

Brent,

The only connection to DAPL we have had officially was the use of flowage easement lands. It had been determined that we do not have jurisdiction on lands we do not have access to. Formal Consultation was not initiated for the DAPL proposal due to the determination that the Regulatory Branch would have the lead role. This being said, due to the involvement with the civil works branch the proposal was mentioned in an oil and gas update PA letter dated February 17, 2015. The project was listed with Hess Hawkeye, Bakkenlink, Bakken Bridge, Paradigm Sakakawea, North Dakota Pipeline/Enbridge Western Expansion; the other currently proposed pipelines.

I must emphasize consultation was not officially initiated by the Garrison office for the DAPL pipeline. It is my understanding that the only consultation that has been officially initiated is for the Oahe Geotechnical Investigation, which is a separate project all together from the pipeline project. I do not want to speak for the Oahe Archaeologists, so Rick and Megan, please correct me if I'm speaking out of turn. However, I have been made aware, indirectly, that a G to G meeting had been arranged for the DAPL project in Sioux Falls, but the generic document attached above is the only documentation I have of the meeting, so I can't tell you if we have already had this meeting or if it has yet to even be officiated.

David I. Cain
Lead Field Archeologist
USACE, Garrison Project
201 1st Street
Riverdale, ND 58565
Office:(701)654-7706

-----Original Message-----

From: Cossette, Brent NWO
Sent: Monday, December 07, 2015 1:05 PM
To: Harnois, Richard D NWO; Cain, David I NWO; Price, Julie A NWO
Cc: Crane, Kelly A NWO
Subject: DAPL Tribal Admin Record (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

All:

Rogers, Richard R NWO

From: Cain, David I NWO
Sent: Monday, December 07, 2015 2:31 PM
To: Cossette, Brent NWO
Cc: Crane, Kelly A NWO; Lindquist, Todd J NWO; Spooner, Wade D NWO; Harnois, Richard D NWO; Price, Julie A NWO; Maier, Megan M NWO; Rogers, Richard R NWO
Subject: RE: DAPL Tribal Admin Record (UNCLASSIFIED)
Attachments: Garrison O&G Pipeline update02172015.pdf; Document1.docx

Classification: UNCLASSIFIED

Caveats: NONE

Brent,

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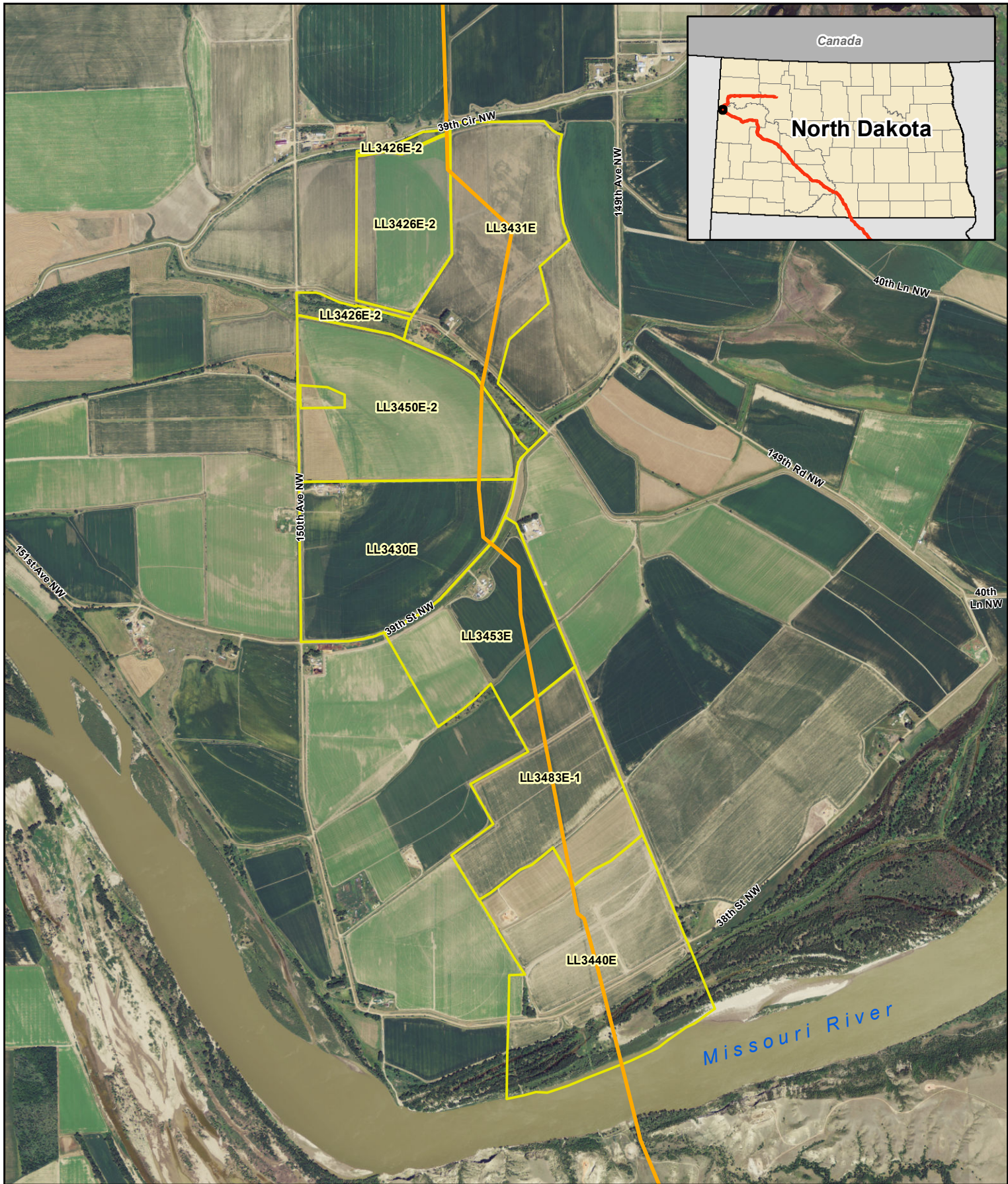
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CLASSIFICATION: UNCLASSIFIED

All:



0 1,000 2,000 Feet

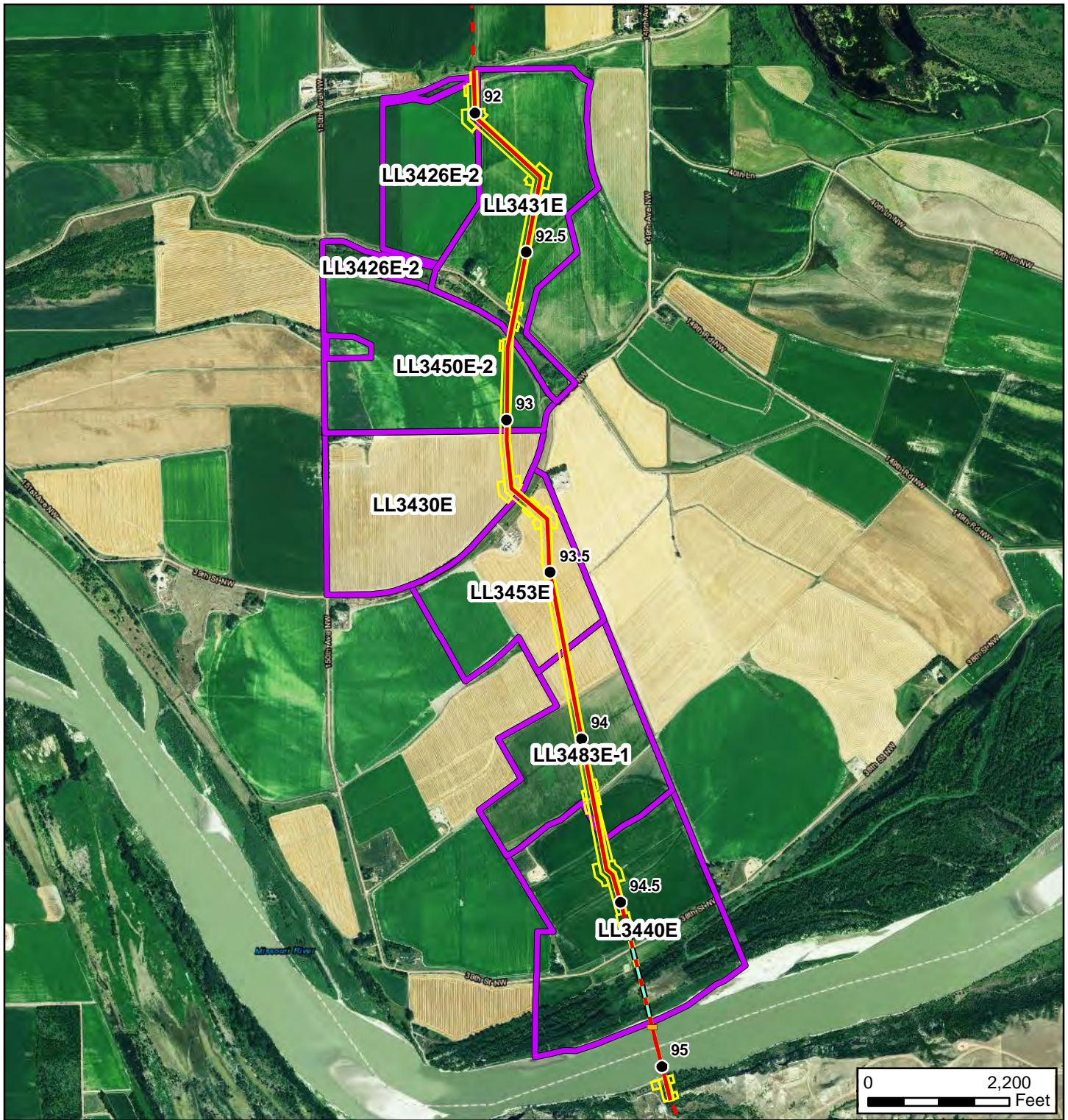
1 inch = 2,000 feet

DAKOTA ACCESS, LLC
For Environmental Purposes Only



Figure 1
Corps Flowage and Saturation Easement Areas
Crossed by Proposed Dakota
Access Pipeline Project

- Proposed Centerline
- Corps Flowage Easement Areas



North Dakota

- Milepost
- Barge Location With Pumping Intake Structure*
- Temporary Above Ground Waterline
- Project Centerline
- - - DAPL Centerline
- Workspace
- USACE Flowage Easements

* Barge location dependant on water level



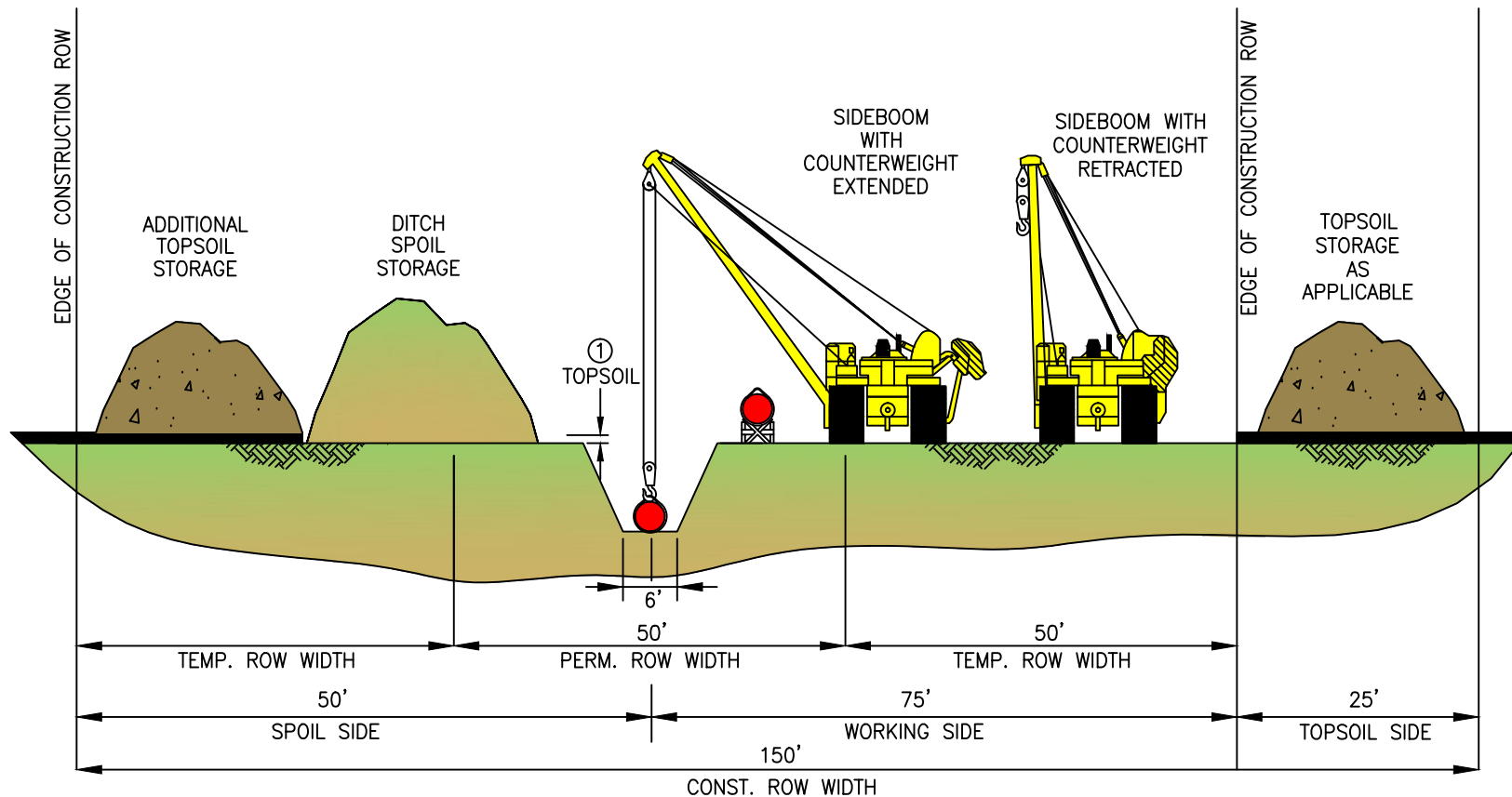
DAKOTA ACCESS, LLC

**Dakota Access Pipeline Project
Figure 2
Project Layout
Flowage Easements
Williams County, North Dakota**

UTM83-13F

1:26,400

Date: August, 2015



NOTES:

- ① DEPTH OF TOPSOIL SEGREGATED BASED UPON SITE-SPECIFIC CONDITIONS.

C	12/12/14	RER	ISSUED FOR REVIEW	
B	12/12/14	RER	ISSUED FOR REVIEW	
A	9/16/14	MR	ISSUED FOR REVIEW	
REV.	DATE	BY	DESCRIPTION	CHK.

PROJECT NO. 10395700

TYPICAL RIGHT-OF-WAY CONFIGURATION

UPLAND CONSTRUCTION FULL WIDTH TOPSOIL SEGREGATION

DRAWN BY: MR	DATE: 09/15/14
CHECKED BY: RL	DATE: 09/15/14
SCALE: N.T.S.	APP.:

DWG. NO.	REV.
Figure 3	C