



1250 West Century Avenue
Mailing Address:
P.O. Box 5601
Bismarck, ND 58506-5601
(701) 530-1600

August 27, 2021

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, D.C. 20426

Re: WBI Energy Transmission, Inc.
North Bakken Expansion Project
Docket Nos. CP20-52-000 and CP20-52-001
Variance Request for Project Modification

Dear Ms. Bose:

On June 1, 2021, the Federal Energy Regulatory Commission (FERC or Commission) issued an Order Issuing Certificate (Order) in the above referenced dockets authorizing WBI Energy Transmission, Inc. (WBI Energy) to construct and operate its North Bakken Expansion Project (Project) in Burke, McKenzie, Mountrail and Williams Counties, North Dakota. On July 8, 2021, the Commission authorized WBI Energy to proceed with construction of all Project facilities.

Pursuant to Environmental Condition No. 5 of the Order, WBI Energy is hereby submitting a Level 3 variance request for a minor reroute on the north spread of the Tioga-Elkhorn Creek pipeline between mileposts 12.3 and 12.5 due to a new oil and gas well pad being constructed at milepost 12.3 (V38). A project variance request form and attachments are included with this filing and provide the information required for FERC staff to review and approve the request.

WBI Energy respectfully requests approval of this variance request by Monday, August 30, 2021 in order to continue with Project work in this area.

Pursuant to 18 CFR § 385.2010 of the Commission's regulations, copies of this filing are being served to each person whose name appears on the official service list for this proceeding.

Should you have any questions or comments regarding this filing, please call the undersigned at (701) 530-1563.

Sincerely,

/s/ Lori Myerchin

Lori Myerchin
Director, Regulatory Affairs and
Transportation Services

Attachment

Courtesy Copies:

Dawn Ramsey, FERC Environmental Project Manager (via email)
Shannon Crosley, FERC Environmental Deputy Project Manager (via email)
Official Service List

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 27th day of August 2021.

By /s/ Lori Myerchin
Lori Myerchin
Director, Regulatory Affairs and
Transportation Services
WBI Energy Transmission, Inc.
1250 West Century Avenue
Bismarck, ND 58503
Telephone: (701) 530-1563

North Bakken Expansion Project Variance Request Form



Variance Request Number: V38

Anticipated Variance Level (1, 2, or 3): 3

Date Landowner Requested/Approved: 8/2/2021

Date Submitted to FERC: 8/20/2021

Date FERC Approval Needed: ASAP

Date FERC Approved:

FERC Approval No.:

Request Prepared By: Stephanie Merrell, ERM	Landowner: See tract number
Pipeline/Facility: Tioga-Elkhorn Creek Pipeline	Tract Number: 155-96-03-038
Spread: North	In or within 50 feet of a wetland? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
County(ies): Williams	In or within 50 feet of a waterbody? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Milepost(s): 12.3–12.5 (approx. station nos. 649+00–660+00)	In or within 50 feet of another environmentally sensitive area? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Net Acreage Affected: 0.53	
Current Land Use/Vegetative Cover: Cultivated Crops, Grasslands/Herbaceous, Shrub/Scrub	

Description of Nearby Features/Resources (Wetland, Waterbody, T&E Habitat, Invasive Species Area, Residence, Cultural Site, etc. [include distance(s)]):

No wetlands, invasive species areas, residences, or cultural sites are within 100 feet of the proposed variance request. A waterbody is located within about 30 feet of the northern end of the reroute; however, it is already crossed by WBI's currently proposed pipeline route at that location. A small amount of Dakota skipper (DASK) dispersal and foraging habitat was identified along the northwestern portion of the reroute; however, the U.S. Fish and Wildlife Service (FWS) reviewed the survey and reroute materials and concurred that construction of the proposed reroute would not result in additional impacts to threatened and endangered species.

Variance From: Permit Plan/Procedure Workspace Drawing Mitigation Measure Other

Detailed Description of Variance: Attachments? Yes No Number of Attachments: 9

WBI Energy is requesting a minor reroute of the Tioga-Elkhorn Creek pipeline south of 60th Street NW between approximate mileposts 12.3 to 12.5, which will result in a shift of the pipeline centerline and associated permanent and temporary workspace approximately 180 feet to the west to avoid a well pad currently under construction along the original pipeline alignment. Additionally, the existing access road from 60th Street NW will need to be rerouted to the south of the well pad to connect to the new right-of-way location at approximately milepost 12.5 because the original location at milepost 12.3 is now within the well pad site.

Workspace additions are as follows: 2.18 acres temporary and 1.01 acres permanent; workspace deletions are as follows: 1.57 acres temporary and 1.09 acres permanent; workspace conversions are as follows: 0.14 acre temporary to permanent and 0.05 acre permanent to temporary. Excluding conversions between temporary and permanent, this shift in workspace will result in an increase in the overall acreage by 0.53 acre.

Variance Justification:

This pipeline reroute, workspace shift, and access road change are required to avoid a well pad currently under construction along the original pipeline alignment. WBI Energy investigated whether it would be possible to install the pipeline within the footprint of the well pad but the owner declined stating that it would require them to disturb more ground and find another place to store the topsoil pile. WBI Energy also inquired about using the existing access road to the well pad but the owner declined, stating that the periods with significant traffic along the access road would coincide, and requested that WBI Energy find alternate access to the right-of-way at this location. Therefore, WBI Energy will need to reroute around the well pad (there is no other viable alternative).

As mentioned above, a waterbody is located within about 30 feet of the northern end of the reroute; however, it is already crossed by WBI's existing proposed pipeline route at that location. WBI Energy will implement the measures in FERC's Wetland and Waterbody Construction and Mitigation Procedures to avoid impacts on the waterbody. As described above, a small amount of DASK dispersal and foraging habitat was identified along the northwestern portion of the reroute; however, the FWS reviewed the survey and reroute materials and had no additional concerns with the implementation of this reroute. WBI Energy will not be conducting construction activities in the foraging habitat during the June 10 to July 15 DASK flight period. No wetlands, cultural resources, or other environmental resources will be affected by this variance. WBI Energy will restore the area to preconstruction conditions and will implement the mitigation measures in FERC's Upland Erosion Control, Revegetation, and Maintenance Plan; FERC's Wetland and Waterbody Construction and Mitigation Procedures; and other permits/plans as applicable to further reduce impacts during construction. For these reasons, implementation of this variance will provide equal protection to the environmental resources.

For WBI Energy Use Only

Additional Surveys Required	Surveyed Corridor Description	Additional Surveys Completed
Cultural Survey: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Additional cultural survey was completed on a previously un-surveyed portion of the tract (see filed survey report information below).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
T&E Survey: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Additional DASK survey was completed on a previously un-surveyed portion of the tract (see filed survey report information below).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Wetland/Waterbody: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Additional wetland/waterbody surveys were completed on a previously un-surveyed portion of the tract (see filed survey report information below).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Filed Survey Report(s) Documenting Survey Coverage (include FERC accession number(s)):

Cultural survey reports are included as attachment 6-2 of WBI Energy's Implementation Plan (filed as CUI//PRIV under FERC accession no. 20210608-5150)
 DASK and waterbody/wetland surveys were filed under accession nos. 20210608-5151 and 20200911-5167.
 Additional cultural survey information and State Historical Society of North Dakota concurrence was filed on the docket under accession number 20210817-5036.
 Additional DASK and waterbody/wetland survey information and FWS concurrence with the DASK surveys were filed on the docket under accession no. 20210820-5026.

Sign-off (as appropriate)	Name (print)	Approval Signature	Conditions or Notes (See Attached)
Project Manager	Dave Linn		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Engineering	Mollie Hunt or Allison Stephens		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Land Agent *	Wade Nielsen		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Environmental Manager	Jill Linn		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Regulatory Affairs	Lori Myerchin		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Lead Environmental Inspector **	N/A	N/A	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Third Party Compliance Monitor	N/A	N/A	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Third Party Compliance Manager			<input type="checkbox"/> Yes <input type="checkbox"/> No
Other – Position	N/A	N/A	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

*Where request would affect areas outside of previously approved work areas, signature denotes approval gained from affected landowner(s)

**Or designated Environmental Inspector for facility/facilities

VARIANCE CONDITIONS OR NOTES

Name:

Title:

Organization:

Conditions or Notes:

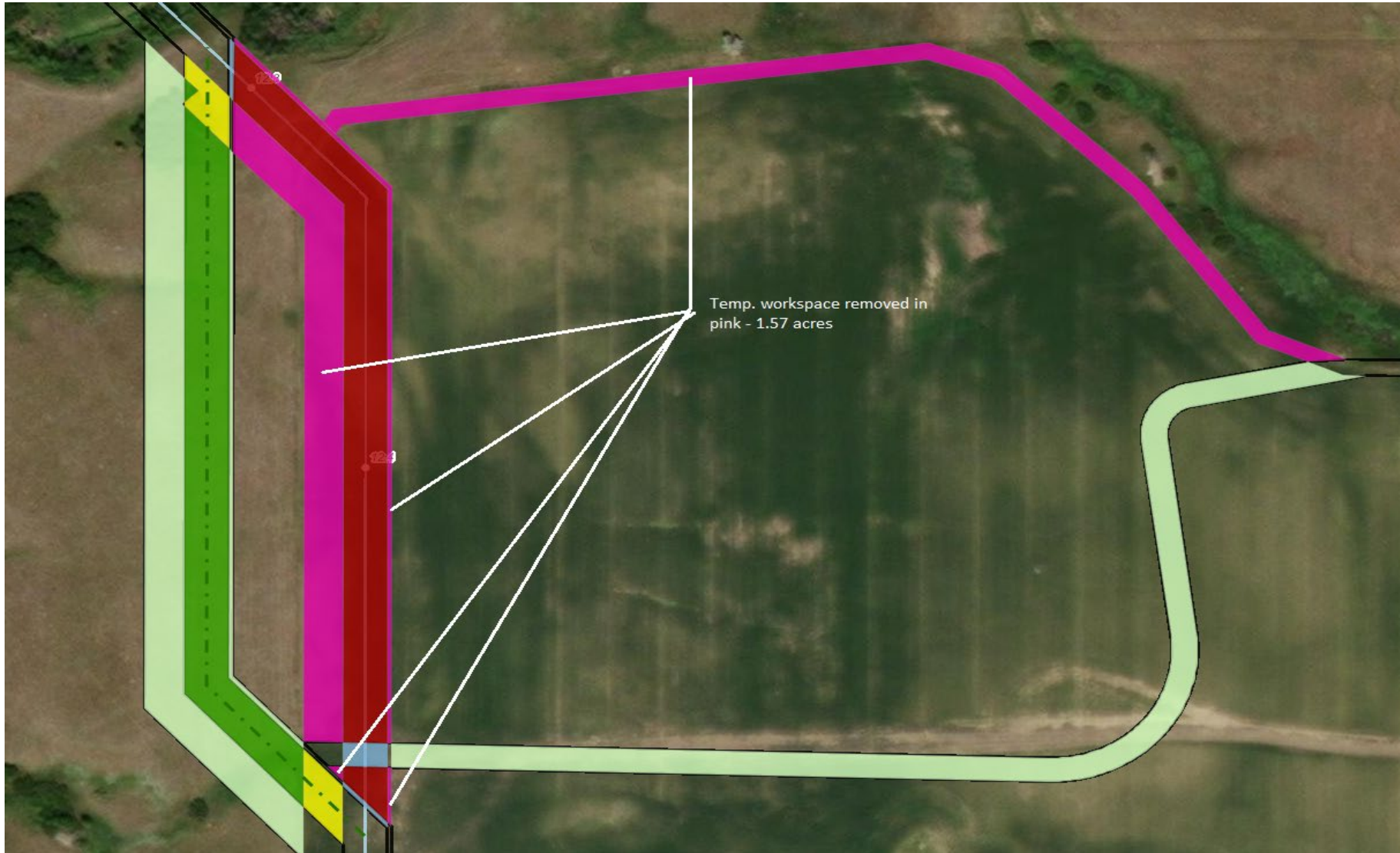
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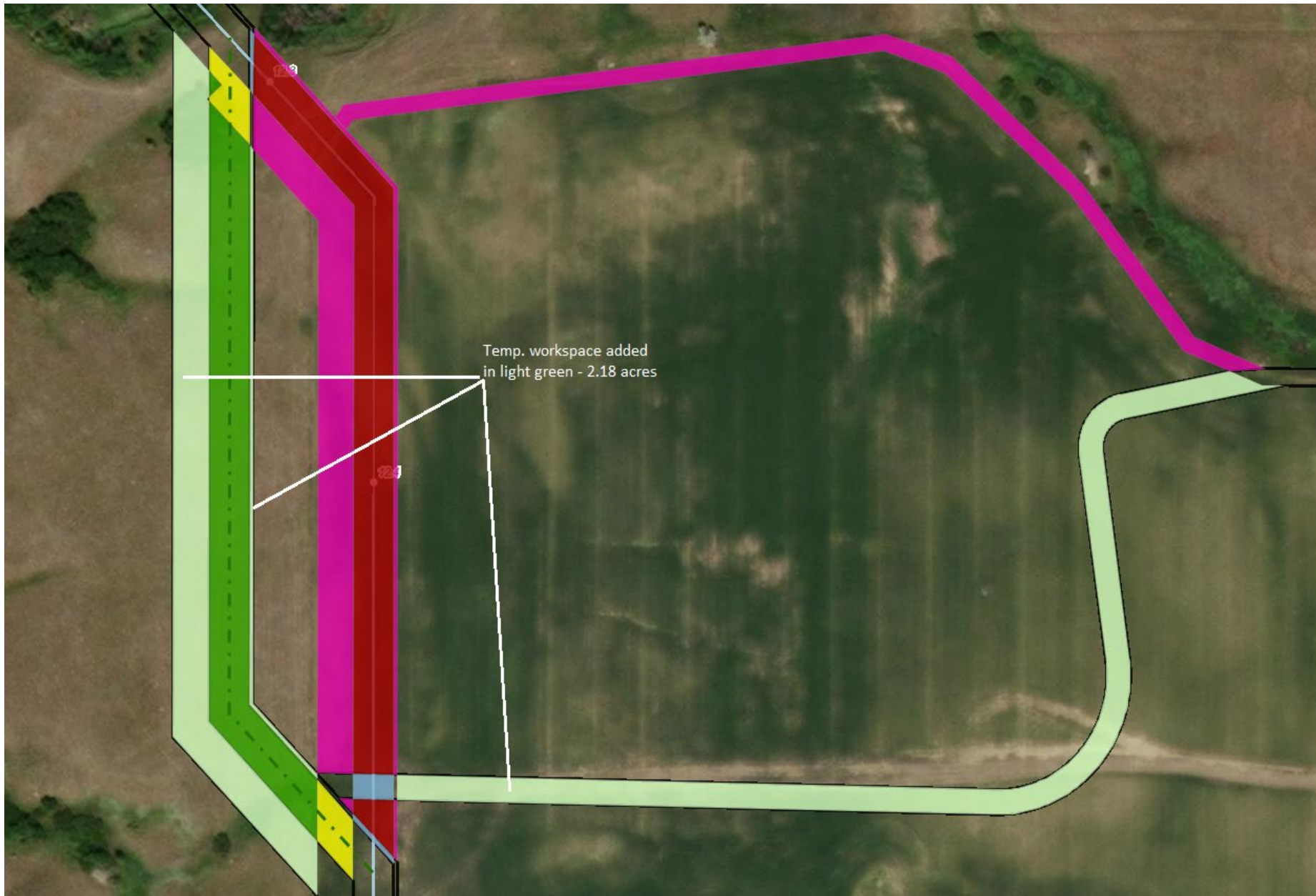
Title:

Organization:

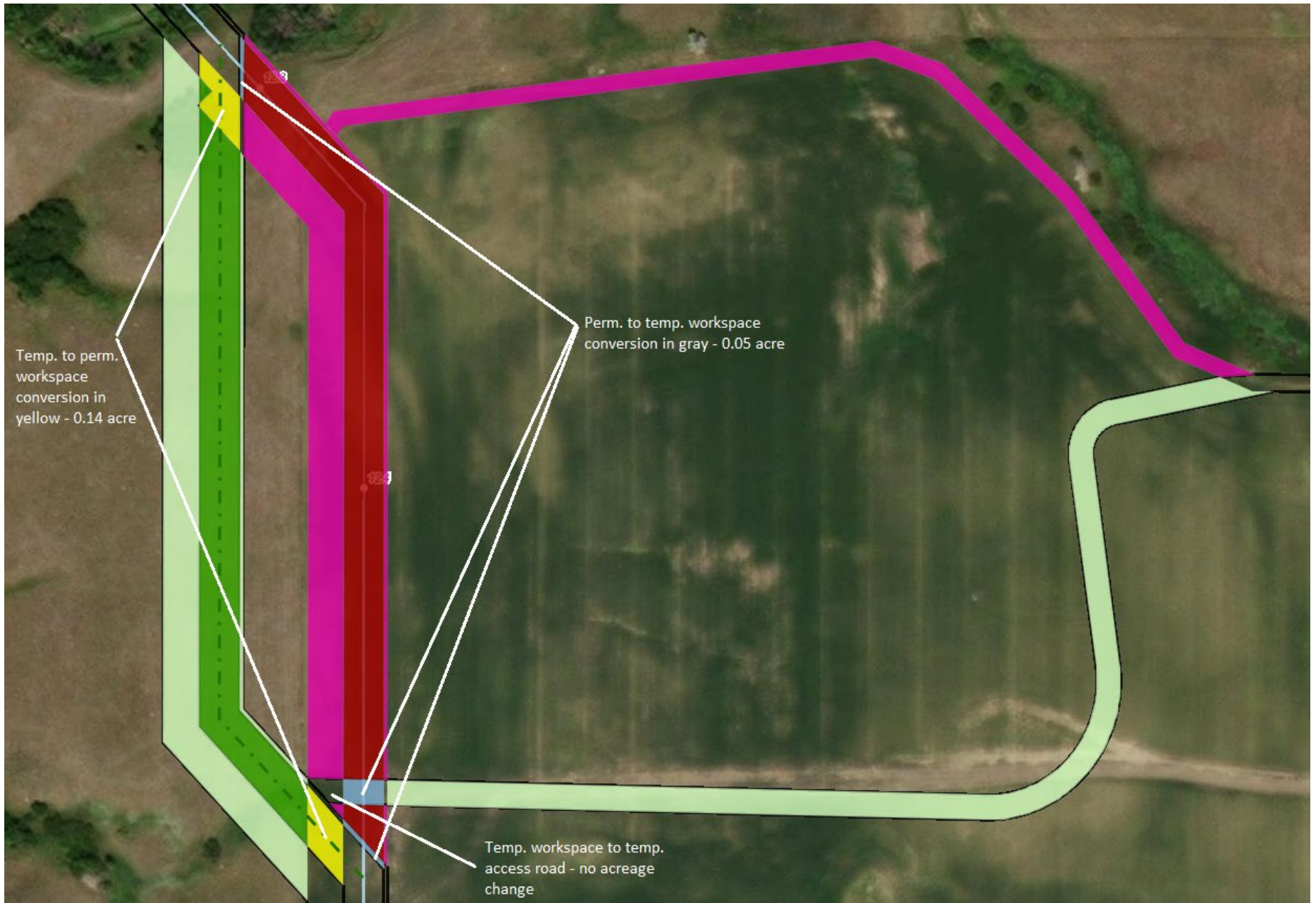
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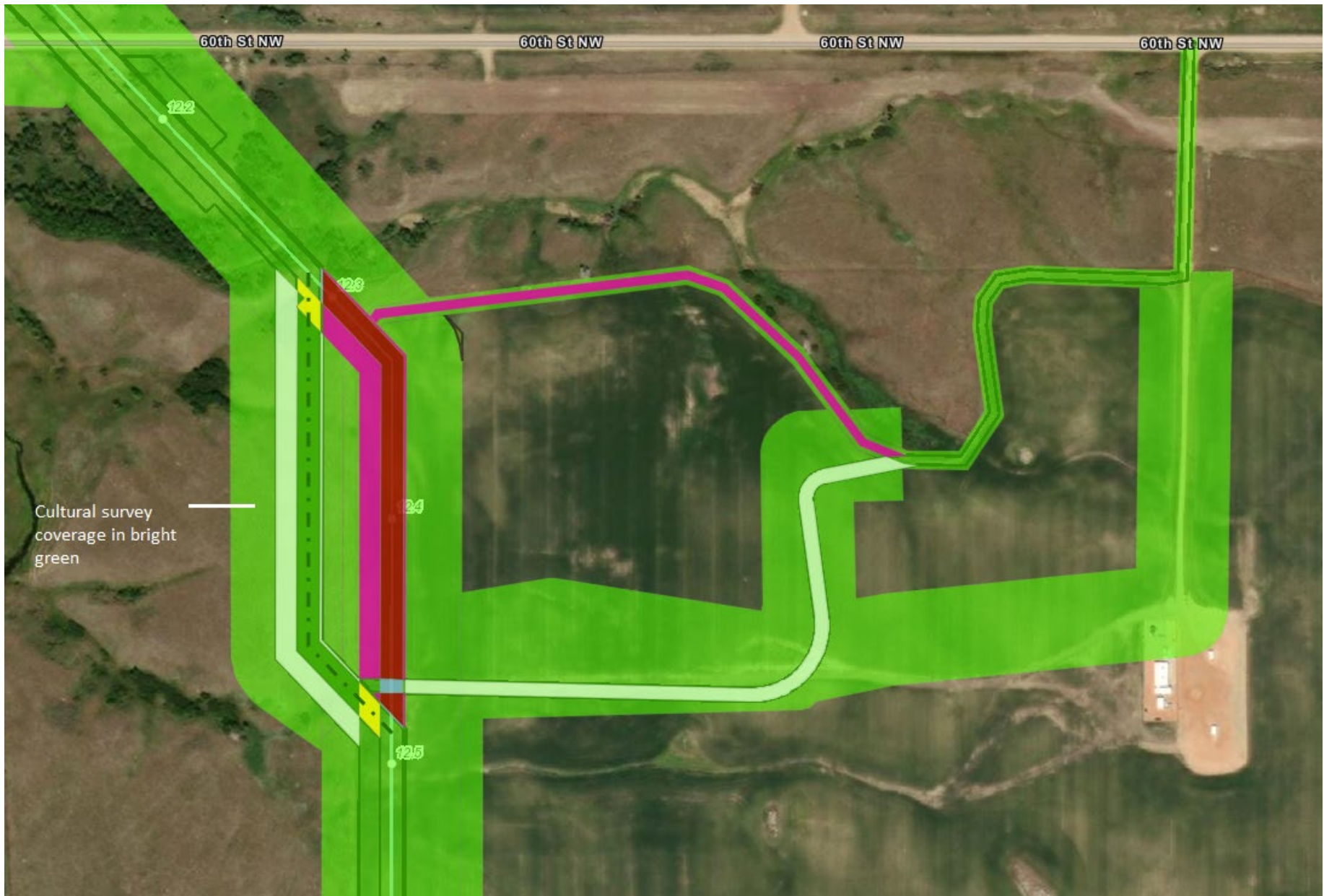
ATTACHMENTS

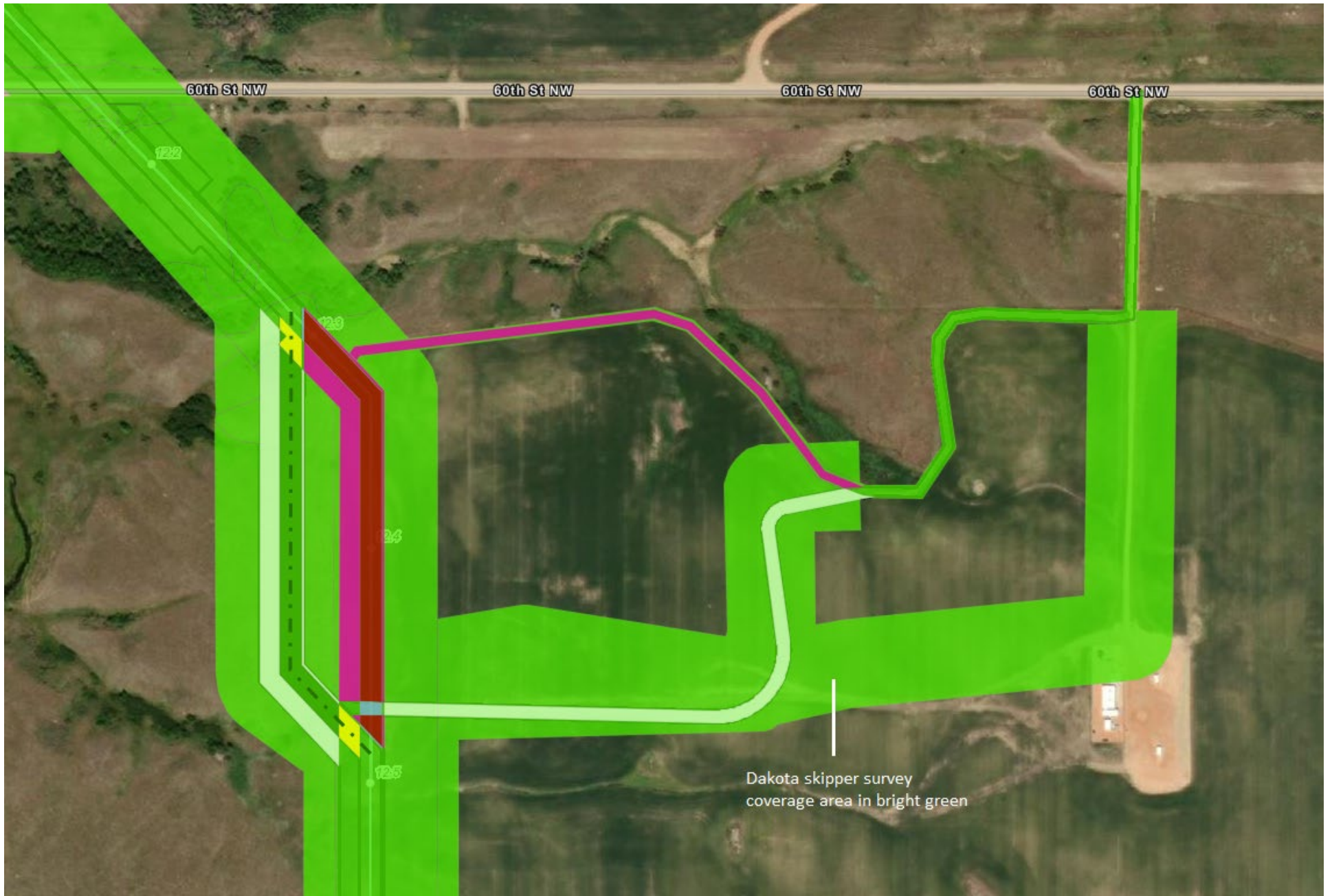


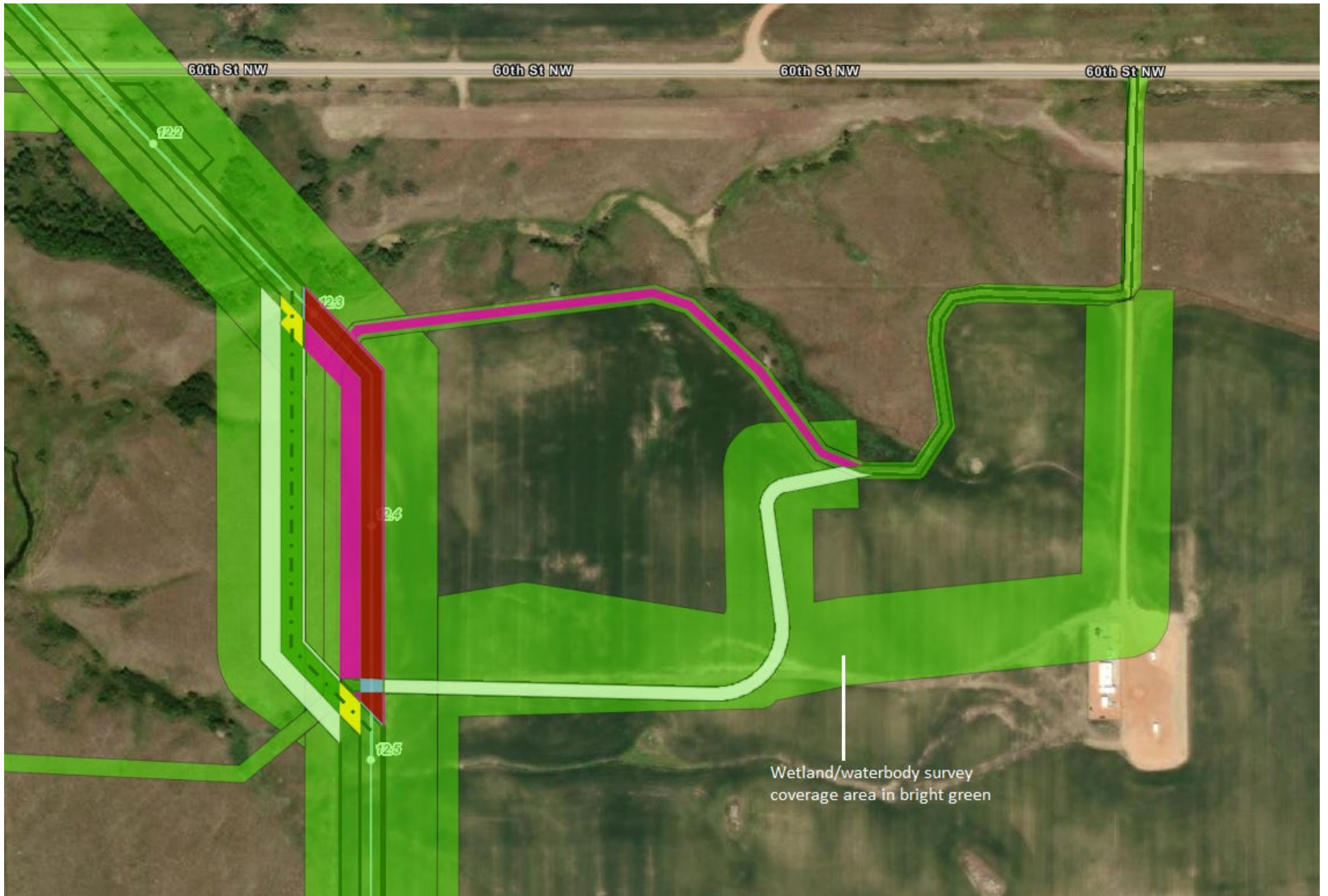


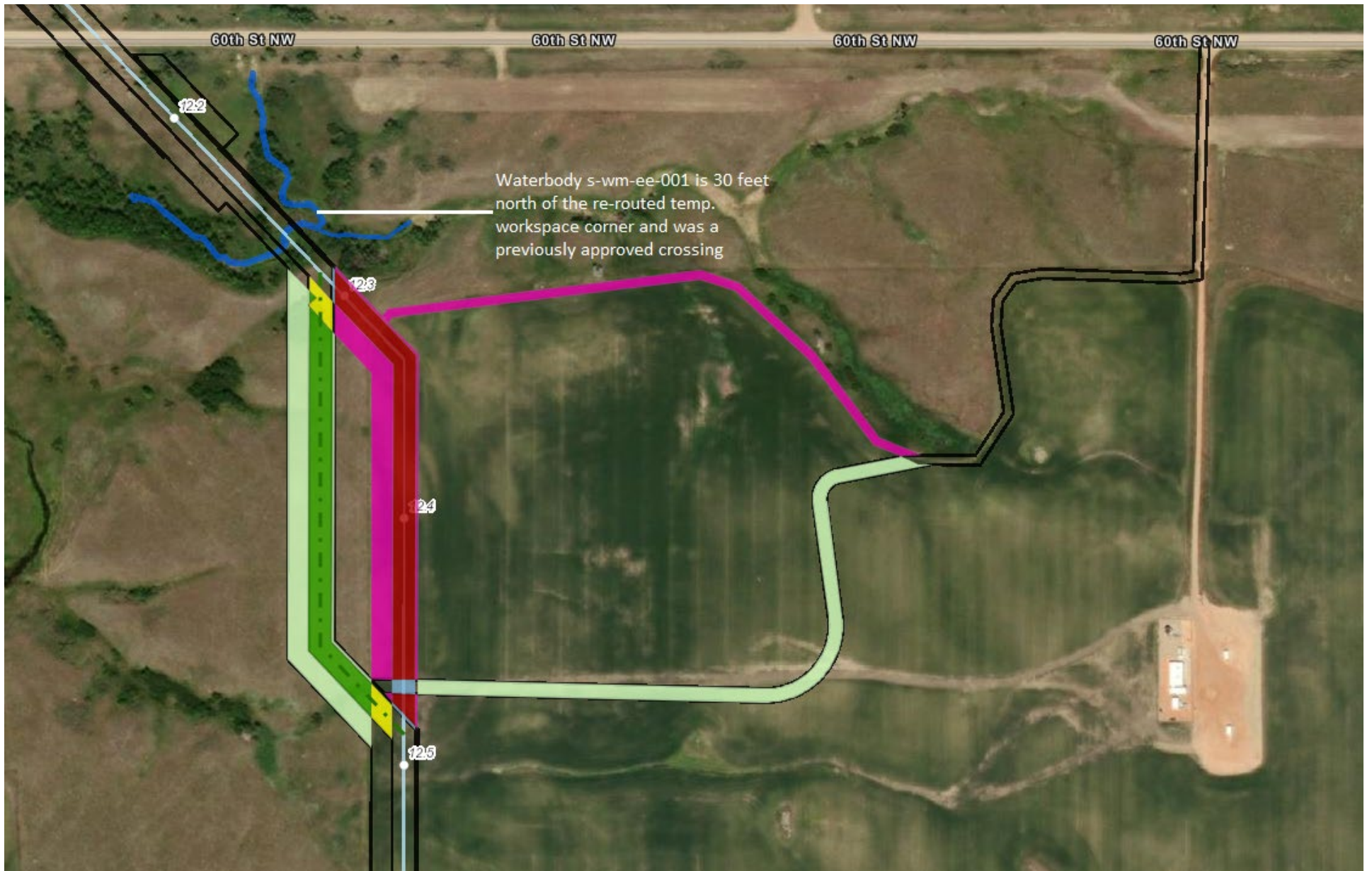












From: [Reinisch, Jerry D](#)
To: [Tina Lyons](#)
Subject: RE: [EXTERNAL] RE: WBI North Bakken Expansion Project Additional Dakota Skipper Surveys for Reroute Around Recently Constructed Well Pad at MPs 12.3 to 12.5 of the Tioga-Elkhorn Creek Pipeline
Date: Tuesday, August 17, 2021 2:44:04 PM
Attachments: [image001.png](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Tina

After review of the materials sent, there does not appear to be additional concerns reference the project re-route.

Regards

Jerry

From: Tina Lyons <Tina.Lyons@erm.com>
Sent: Tuesday, August 17, 2021 11:17 AM
To: Reinisch, Jerry D <jerry_reinisch@fws.gov>
Cc: Andrea Thornton <Andrea.Thornton@erm.com>
Subject: [EXTERNAL] RE: WBI North Bakken Expansion Project Additional Dakota Skipper Surveys for Reroute Around Recently Constructed Well Pad at MPs 12.3 to 12.5 of the Tioga-Elkhorn Creek Pipeline
Importance: High

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi Jerry - Per our discussion, attached is the short survey report for the North Bakken Expansion Project reroute around the well pad recently constructed across WBI Energy's approved right-of-way near mileposts 12.3 to 12.5 of the Tioga-Elkhorn Creek pipeline. As you will see, the majority of the areas were classified as not-suitable or dispersal habitat (with two small areas of foraging habitat within the northwestern corner of the survey corridor). Below is a snip of the proposed reroute around the well pad (the red/pink areas show the existing approved route and green/yellow areas show the proposed reroute around the recently constructed well pad). This reroute is a high priority so if you are able to expedite your review it would be greatly appreciated. If you have any questions, need any additional information, or have any recommendations, please let us know.



Thanks so much for fitting in this review!

Tina

Tina Lyons
ERM
612.210.4928
tina.lyons@erm.com

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