



**WBI ENERGY TRANSMISSION, INC.**

**Wahpeton Expansion Project**

**Resource Report 3  
Fish, Wildlife, and Vegetation**

**Final**

**Docket No.  
CP22-XXX-000**

**May 2022**

**WBI ENERGY TRANSMISSION, INC.  
WAHPETON EXPANSION PROJECT  
RESOURCE REPORT 3—FISH, WILDLIFE, AND VEGETATION**

<b>Minimum Filing Requirements for Environmental Reports:</b>	<b>Addressed In:</b>
1. Describe commercial and recreational warmwater, coldwater, and saltwater fisheries in the affected area and associated significant habitats such as spawning or rearing areas and estuaries—Title 18 of the Code of Federal Regulations (CFR) Part (§) 380.12(e)(1).	Sections 3.1.1 and 3.1.2
2. Describe terrestrial habitats, including wetlands, typical wildlife habitats, and rare, unique, or otherwise significant habitats that might be affected by the proposed action. Describe typical species that have commercial, recreational, or aesthetic value—18 CFR § 380.12(e)(2).	Sections 3.2 and 3.5
3. Describe and provide the acreage of vegetation cover types that would be affected, including unique ecosystems or communities such as remnant prairie or old-growth forest, or significant individual plants, such as old-growth specimen trees—18 CFR § 380.12(e)(3).	Section 3.5
4. Describe the impact of construction and operation on aquatic and terrestrial species and their habitats, including the possibility of a major alteration to ecosystems or biodiversity, and any potential impact on state-listed endangered or threatened species. Describe the impact of maintenance, clearing and treatment of the project area on fish, wildlife, and vegetation. Surveys may be required to determine specific areas of significant habitats or communities of species of special concern to state or local agencies—18 CFR § 380.12(e)(4).	Sections 3.1.3, 3.2.3, 3.5.3, and 3.6.2
5. Identify all federally listed or proposed endangered or threatened species and critical habitat that potentially occur in the vicinity of the project. Discuss the results of the consultation requirements listed in § 380.13(b) at least through § 380.13(b)(5)(i) and include any written correspondence that resulted from the consultation. The initial application must include the results of any required surveys unless seasonal considerations make this impractical. If species surveys are impractical, there must be field surveys to determine the presence of suitable habitat unless the entire project area is suitable habitat—18 CFR § 380.12(e)(5).	Section 3.6, appendix 3D
6. Identify all federally listed essential fish habitat that potentially occurs in the vicinity of the project. Provide information on all essential fish habitats, as identified by the pertinent Federal fishery management plans, that may be adversely affected by the project and the results of abbreviated consultations with the National Marine Fisheries Service, and any resulting essential fish habitat assessments—18 CFR § 380.12(e)(6).	Section 3.1
7. Describe site-specific mitigation measures to minimize impacts on fisheries, wildlife, and vegetation—18 CFR § 380.12(e)(7).	Sections 3.1, 3.2, 3.3, and 3.5
8. Include copies of correspondence not provided pursuant to paragraph (e)(5) of this section, containing recommendations from appropriate Federal and state fish and wildlife agencies to avoid or limit impact on wildlife, fisheries, and vegetation, and the applicant's response to the recommendations—18 CFR § 380.12(e)(8).	Appendices 3E and 3F
<b>Federal Energy Regulatory Commissions April 4, 2022 Comments on Draft Resource Report 3:</b>	
1. Section 3.1 indicates that for waterbodies “the exact crossing method will be determined based on site-specific flow conditions at the time of construction. Waterbodies with no perceptible flow at the time of construction will be crossed with the open-cut method” and “if the waterbody has perceivable flow at the time of construction, the waterbody will be crossed using the guided bore method.” Clarify the apparent discrepancy of these statements with the list of planned waterbody-specific crossing methods included in table 2.2-1.	Section 3.1 has been updated to exclude the statement with regard to exact crossing methods being determined based on site specific flow conditions at the time of construction.

<p>2. Clarify which waterbody crossings are in the Red River watershed and if they would be subject to the April 15 to July 1 in-water work restriction. Also, clarify why the Red River has a restricted crossing timeframe.</p>	<p>Section 3.1.1 of Resource Report 3 has been updated to exclude the statement with regard to the timing restriction for in-water work within Red River crossings.</p> <p>The proposed Project will not cross the Red River proper, so this time of year restriction would not be applicable to the Project. WBI Energy confirmed with the North Dakota Game and Fish Department (NDGFD) that this time of restriction is only applicable for the Red River proper and not its tributaries, and the reason for the restricted timeframe for the Red River is due to the channel catfish spawning season.</p>
<p>3. Update table 3.1-1 to indicate that bigmouth buffalo is not a sunfish, rather it is a sucker. Update section 3.1.1 to indicate that the black sandshell mussel's scientific name is <i>Ligumia recta</i>, not <i>Notropis heterolepsis</i>, which is the blacknose shiner fish.</p>	<p>Section 3.1.1, table 3.1-1 has been updated to include these requested edits.</p>
<p>4. Section 3.1.3 indicates that intermittent streams are crossed by the planned Project, but no intermittent streams are listed in table 2.2-1. Clarify the apparent discrepancy.</p>	<p>Section 3.1.3 has been updated to reflect that the proposed Project will not cross intermittent streams, which is consistent with table 2.2-1 in Resource Report 2.</p>
<p>5. Section 3.1.3 indicates that fish would relocate away from in-stream construction areas. Discuss impacts from in-stream trenching, sedimentation, inadvertent release of drilling fluids, and other potential impacts on non-mobile aquatic species such as mussels and other aquatic macroinvertebrates.</p>	<p>Section 3.1.3 has been updated to include potential impacts from in-stream trenching, sedimentation, inadvertent release of drilling fluids, and other potential impacts on non-mobile aquatic species such as mussels and other aquatic macroinvertebrates.</p>
<p>6. Section 3.2.1 includes discussion of forested lands as a wildlife habitat, but forested lands is not included in table 3.2-1. Clarify the apparent discrepancy.</p>	<p>Table 3.2-1 has been updated to include forested lands.</p>

<p>7. Discuss potential impacts (such as noise or lighting during nesting season) and mitigation on waterfowl at the Waterfowl Production Area located less than 0.1 mile west of MP 35.</p>	<p>Section 3.2.3.1 has been updated to include the discussion of potential impacts (such as noise during the nesting season) and mitigation on waterfowl at the Waterfowl Production Area located less than 0.1 mile west of MP 35.</p> <p>Activities, as discussed in Resource Report 1, section 1.2, that would potentially require additional lighting are not anticipated at this location of the pipeline right-of-way within proximity to the identified Waterfowl Production Area. In addition, there are no proposed aboveground facilities that may require additional lighting within proximity of this location; therefore, lighting is not discussed further in Resource Report 3.</p>
<p>8. Discuss what procedures WBI Energy would use to remove wildlife from an open trench if the wildlife is not able to “exit the work area of its own volition.”</p>	<p>Section 3.2.3.1 has been updated to address the issue of wildlife not exiting the open trench on their own volition.</p>
<p>9. Clarify in section 3.3.1 the maximum allowable amount of time between the completion of surveys for nesting birds and the start of construction in that area. Confirm that if the maximum allowable time were exceeded, then the surveys would be repeated prior to the start of construction activities.</p>	<p>Section 3.3.1 has been updated to clarify that ground-based surveys for nesting birds would be conducted prior to construction activities.</p>
<p>10. Indicate if aerial surveys would be conducted prior to construction for eagles as recommended by North Dakota Game and Fish Department.</p>	<p>Based on discussions with the NDGFD, ground-based surveys for raptors (eagles) would be sufficient given the terrain, surrounding habitat and vegetation (primarily agriculture) in the Project area so long as preconstruction surveys were conducted in the spring prior to leaf out. See updated section 3.4.</p>
<p>11. Include a table of forested areas that would be crossed by the planned Project that include MP entry and exit points. Assess the potential to avoid, minimize, or mitigate for impacts on woody vegetation as recommended by the NDGF, especially at contractor yards and access roads.</p>	<p>Section 3.5.1 has been updated to include table 3.5-1 listing forested areas crossed by the Project, including MP entry and exit points.</p> <p>Section 3.5.3 includes assessment to avoid, minimize, or mitigate for impacts on woody vegetation as recommended by the NDGFD, especially at contractor yards and access roads.</p>

<p>12. Indicate which herbicides, surfactants, and other additives would be used to control invasive plant species. Clarify whether equipment would be cleaned before transportation to new locations within the planned Project.</p>	<p>Section 3.2 of the Noxious Weeds Management Plan in appendix 3C provides preventative measures that will be used to prevent the spread of weeds along the Project right-of-way and within the aboveground facilities. Sections 4.0, 4.1, and 5.0 of that plan provide details on herbicide use, if needed. The specific herbicides, surfactants, and other additives are unknown at this time but with the statements above, WBI Energy would obtain any required permits/approvals.</p>
<p>13. Based on consultations with the U.S. Fish and Wildlife Service (FWS) and North Dakota agencies, indicate whether surveys are needed for rare plants and milkweed (which the Monarch butterfly depends on) during the appropriate blooming season.</p>	<p>Consultations are ongoing with the U.S. Fish and Wildlife Service and North Dakota agencies; however, to date, surveys for rare plants and milkweed are not needed (section 3.6.2).</p>
<p>14. Indicate if any seed mixes would be utilized to benefit federally-listed or state sensitive species in non-agricultural areas.</p>	<p>Section 3.5.3 explains that WBI Energy will use the seed mix recommended by the Natural Resources Conservation Service. No updates to text have been made.</p>
<p>15. Include a table in section 3.6.3 listing, describing status and habitats, and discussing potential impacts for state species of concern.</p>	<p>Section 3.6.3 has been updated to include within table 3.6-2 the listing of Level 1 state species of conservation priority as well as the potential impacts and mitigation measures for these species.</p>
<p>16. Describe in the Draft Aquatic Nuisance Species Prevention Plan how aquatic nuisance species, including larvae of the zebra mussel, would be cleaned from equipment including that used for hydrostatic test water, drilling mud water, and water obtained for dust control. Clarify whether surface water would be transported from one 12-digit HUC watershed to another.</p>	<p>Section 3.0 of the <i>Aquatic Nuisance Species Prevention Plan</i> (appendix 3B) addresses mitigation measures and Best Management Practices related to preventing the spread of aquatic nuisance species (ANS), and has been updated to state that water sourced from an ANS infested waterbody will be discharged back to the same waterbody or discharged into an upland area within the same 12-digit Hydrological Unit Code [HUC] watershed as it was sourced. In addition, Section 2.2 of the <i>Aquatic Nuisance Species Prevention Plan</i> has been updated to include agency coordination including the application for an ANS transport permit, which WBI Energy will acquire prior to construction to ensure compliance under North Dakota state law.</p>

17. Clarify in the Noxious Weed Management Plan whether water could be used to clean equipment, source, and if so how the wastewater would be collected and disposed.

Water would not be used for noxious weed management other than when mixing the surfactants or other additives. Section 3.2 of the *Noxious Weed Management Plan* (appendix 3C) details the preventative measures WBI Energy will use to prevent the spread of weeds along the Project right-of-way and within aboveground facilities.

**WBI ENERGY TRANSMISSION, INC.  
WAHPETON EXPANSION PROJECT  
RESOURCE REPORT 3—FISH, WILDLIFE, AND VEGETATION**

**TABLE OF CONTENTS**

<b>3.0</b>	<b>RESOURCE REPORT 3—FISH, WILDLIFE, AND VEGETATION</b>	<b>3-1</b>
3.1	FISHERIES AND OTHER AQUATIC RESOURCES	3-1
3.1.1	Existing Fisheries Resources	3-2
3.1.2	Fisheries of Special Concern	3-4
3.1.3	Construction and Operation Impacts and Mitigation	3-4
3.2	WILDLIFE RESOURCES	3-6
3.2.1	Existing Wildlife Resources	3-6
3.2.1.1	Agricultural Land	3-8
3.2.1.2	Open Land	3-8
3.2.1.3	Forested Land	3-9
3.2.1.4	Developed Land	3-9
3.2.1.5	Open Water	3-10
3.2.2	Significant Wildlife Habitats	3-10
3.2.3	Construction and Operation Impacts and Mitigation	3-10
3.2.3.1	Pipeline Facilities	3-10
3.2.3.2	Aboveground Facilities	3-12
3.3	MIGRATORY BIRD TREATY ACT	3-13
3.3.1	Construction and Operation Impacts and Mitigation	3-15
3.4	BALD AND GOLDEN EAGLE PROTECTION ACT	3-16
3.5	VEGETATION RESOURCES	3-17
3.5.1	Existing Vegetation Resources	3-17
3.5.1.1	Agricultural Land	3-19
3.5.1.2	Non-Native Grassland	3-22
3.5.2	Unique, Sensitive, and Protected Vegetation Communities	3-22
3.5.2.1	Conservation Reserve Program	3-25
3.5.2.2	Agricultural Conservation Easement Program	3-25
3.5.3	Construction and Operation Impacts and Mitigation	3-25
3.5.4	Noxious Weeds and Other Invasive Plants	3-27
3.5.4.1	General Impacts and Mitigation	3-29
3.6	ENDANGERED AND THREATENED SPECIES	3-30
3.6.1	Federally Listed Species	3-30
3.6.1.1	Northern Long-eared Bat	3-31
3.6.1.2	Whooping Crane	3-32
3.6.1.3	Dakota Skipper	3-33
3.6.1.4	Monarch Butterfly	3-34
3.6.1.5	Poweshiek Skipperling	3-34
3.6.1.6	Western Prairie Fringed Orchid	3-35
3.6.2	Construction and Operation Impacts and Mitigation	3-35
3.6.2.1	Northern Long-Eared Bat	3-36
3.6.2.2	Whooping Crane	3-36
3.6.2.3	Dakota Skipper	3-37
3.6.2.4	Monarch Butterfly	3-38
3.6.2.5	Poweshiek Skipperling	3-39

	3.6.2.6 Western Prairie Fringed Orchid .....	3-39
	3.6.3 State Species of Concern .....	3-40
3.7	CUMULATIVE IMPACTS .....	3-43
	3.7.1.1 Fish .....	3-43
	3.7.1.2 Wildlife .....	3-45
	3.7.1.3 Vegetation .....	3-46
	3.7.1.4 Threatened and Endangered Species .....	3-47
3.8	REFERENCES .....	3-49

**LIST OF TABLES**

Table 3.1-1	Representative Fish Species Found in Perennial Waterbodies Crossed by the Project .....	3-3
Table 3.2-1	Representative Wildlife Species in the Project Area.....	3-7
Table 3.3-1	Birds of Conservation Concern that May Occur in the Project Area .....	3-14
Table 3.5-1	Forested Areas Crossed by the Project Area .....	3-18
Table 3.5-2	Vegetation Types Affected by Construction and Operation of the Project .....	3-20
Table 3.5-3	Unique, Sensitive, and Protected Vegetation Communities within 1 mile of the Project.....	3-22
Table 3.5-4	Noxious Weed Species Potentially Occurring in the Project Area.....	3-27
Table 3.5-5	Summary of Noxious Weeds Observed in the Project Area During Surveys.....	3-28
Table 3.6-1	Federally Listed Species in the Project Area .....	3-30
Table 3.6-2	North Dakota Game and Fish Level 1 Species of Conservation Priority that May Occur within the Project Area .....	3-41

**LIST OF FIGURES**

Figure 3.5-1	Unique, Sensitive, and Protected Vegetative Communities .....	3-24
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**APPENDICES**

Appendix 3A	North Dakota Game and Fish Department Consultation/Communications
Appendix 3B	Aquatic Nuisance Species Prevention Plan
Appendix 3C	Noxious Weed Management Plan
Appendix 3D	North Dakota Parks and Recreation Department Consultation/Communications
Appendix 3E	Land Use, Habitat, and Noxious Weed Report
Appendix 3F	United States Fish and Wildlife Service Consultation/Communications



## ACRONYMS AND ABBREVIATIONS

ACEP	Agricultural Conservation Easement Program
ANS	Aquatic Nuisance Plan
ATWS	additional temporary workspace
BCC	birds of conservation concern
BCR	Bird Conservation Region
BGEPA	Bald and Golden Eagle Protection Act
CRP	Conservation Reserve Program
DASK	Dakota skipper
DCH	designated critical habitat
EI	environmental inspector
EO	Executive Order
ESA	Endangered Species Act of 1973
FERC	Federal Energy Regulatory Commission
FERC Plan	<i>FERC's Upland Erosion Control, Revegetation, and Maintenance Plan</i>
FERC Procedures	<i>FERC's Wetland and Waterbody Construction and Mitigation Procedures</i>
FR	Federal Register
FSA	Farm Service Agency
HUC	Hydrologic Unit Code
MBTA	Migratory Bird Treaty Act
MDU	Montana-Dakota Utilities Company
MP	milepost
NDCC	North Dakota Century Code
NDDA	North Dakota Department of Agriculture
NDDOT	North Dakota Department of Transportation
NDGFD	North Dakota Game and Fish Department
NDPRD	North Dakota Parks and Recreation Department
NLEB	northern long-eared bat
NRCS	Natural Resources Conservation Service
Project	Wahpeton Expansion Project
RFFA	reasonably foreseeable future action
SPCC Plan	Spill Prevention, Control, and Countermeasures Plan
USFWS	United States Fish and Wildlife Service
WBI Energy	WBI Energy Transmission, Inc.
WPA	Waterfowl Production Area
WPFO	western prairie fringed orchid

**WBI ENERGY TRANSMISSION, INC.  
WAHPETON EXPANSION PROJECT**

**3.0 RESOURCE REPORT 3—FISH, WILDLIFE, AND VEGETATION**

WBI Energy Transmission, Inc. (WBI Energy) proposes to construct, modify, operate, and maintain the Wahpeton Expansion Project (Project). The Project will involve the construction of approximately 60.5 miles of 12-inch-diameter natural gas transmission pipeline from WBI Energy's existing Mapleton Compressor Station near Mapleton, North Dakota to a new Montana-Dakota Utilities Company (MDU)—Wahpeton Border Station near Wahpeton, North Dakota. The Project will also include minor modifications at the Mapleton Compressor Station; a new MDU—Kindred Border Station near Kindred, North Dakota; new block valve settings; and new pig launcher/receiver settings. The Project may also include newly constructed farm taps along the pipeline route. The proposed Project facilities will be located in Cass and Richland Counties, North Dakota. Figure 1.1-1 of Resource Report 1 provides an overview of the proposed pipeline and associated facilities.

In accordance with Title 18 of the Code of Federal Regulations Part 380.12(e), Resource Report 3 provides information regarding fisheries, wildlife, and vegetation that may be within WBI Energy's proposed Project. This information was developed through literature reviews, consultation with agency personnel, and field surveys. Resource Report 3 describes how the Project may affect these resources and outlines proposed measures to avoid, minimize, or mitigate impacts.

**3.1 Fisheries and Other Aquatic Resources**

As described in section 2.2.1 of Resource Report 2, the Project pipeline crosses 20 waterbodies, including 10 perennial streams and 10 ephemeral streams. Five of the ephemeral streams are also crossed by access roads. None of these waterbodies contain or have the potential to contain species managed by the National Oceanic and Atmospheric Administration, National Marine Fisheries Service, nor do they support essential fish habitats as defined under the Magnuson-Stevens Fishery Conservation and Management Act (Public Law 94-265 as amended through October 11, 1996). Therefore, the Project will not affect any essential fish habitats.

The Project lies within the Devils Lake-Sheyenne and Upper Red River watersheds. Two Hydrologic Unit Code (HUC)-8 sub-basins within the Project area are crossed within the Devils Lake-Sheyenne basin—Maple River (HUC 09020205) and Lower Sheyenne River (HUC 09020204). Three HUC-8 sub-basins are crossed within the Upper Red River watershed—the Western Wild Rice River (HUC 09020105), the Bois De Sioux River (HUC 090201101), and the Upper Red River (HUC 09020104; NDDEQ, 2021). For the 20 pipeline crossings, WBI Energy proposes to cross 18 waterbodies via the guided bore crossing method (the Wild Rice River will be crossed five times) and two waterbodies via the open cut method (see table 2.2-2 in Resource Report 2). The access road crossings may be bridged with temporary equipment bridges, as necessary, in accordance with the Federal Energy Regulatory Commission's (FERC) *Wetland and Waterbody Construction and Mitigation Procedures* (FERC Procedures) and other permits. The use of the flume or dam and pump dry crossing methods is not currently proposed but may be utilized by the construction contractor in lieu of the open-cut wet method. Table 2.2-2 of Resource Report 2 lists the names, locations, and proposed pipeline crossing methods for each

waterbody crossed by the Project by pipeline facilities. The waterbody crossing methods are discussed in more detail in section 1.3.2.1 of Resource Report 1 and section 2.2.7 of Resource Report 2. WBI Energy proposes to source water for use during construction of the Project from municipal water or surface waters located near the proposed Project as described in section 2.2.4 of Resource Report 2.<sup>1</sup>

### **3.1.1 Existing Fisheries Resources**

Fisheries are typically classified according to water temperature (warmwater or coldwater), type of use (commercial or recreational/sport fishing), salinity (marine, freshwater, or estuarine), and use by open water marine fishes that require freshwater upstream areas to spawn (anadromous) or freshwater species that migrate to marine waters for reproduction (catadromous). The North Dakota Game and Fish Department (NDGFD) classify the majority of North Dakota waters as cool water fisheries with the exception of some warm water bass fisheries across the state (NDGFD, 2021b; see appendix 3A). The NDGFD confirmed that the waterbodies crossed by the Project are classified as cool water fisheries with warm water species present. None of the waterbodies in the Project area are classified as marine or estuarine waters and none have the potential to contain anadromous or catadromous species.

The NDGFD confirmed that there are significant spawning aggregations for commercial and recreational fisheries and for commercial fishery operations in waterbodies (tributaries) crossed by the Project (NDGFD, 2021b; see appendix 3A). In response to the Project introductory letter, the NDGFD acknowledged that the Project may cross several classified fisheries including the Sheyenne, Maple, and Wild Rice Rivers and Antelope Creek and requested that these waterbodies are crossed by directional boring (see appendix 3A). In the event that directional boring cannot be implemented, the NDGFD will require its standardized April 15 to June 1 spawning restriction timeframe for in-water construction activities. During this timeframe, any in-water work will require a waiver issued based on the specific location, timing, or permitted activity. Additionally, the NDGFD will require a 72-hour notice for any required equipment inspections in accordance with its Aquatic Nuisance Species (ANS) regulations.

Section 2.2.2 of Resource Report 2 describes the water quality classification systems for streams (Class I, IA, II, and III) in North Dakota. Classification of these systems indicate if a waterbody can support aquatic life. As shown in table 2.2-2 of Resource Report 2, the proposed Project has one Class IA stream crossing (the Sheyenne River), seven Class II crossings (Maple River, Antelope Creek, and five crossings of the Wild Rice River), and seven Class III crossings (NDDEQ, 2021). The Project does not cross any Category 3 waterbodies designated as Outstanding State Resource Waters.

The quality of a fishery, including the composition of its species, is generally influenced by the water quality of the waterbody. Where water quality has been degraded because of the surrounding activities, the fishery typically contains more tolerant fish species—such as common carp (*Cyprinus carpio*), creek chub (*Semotilus atromaculatus*), and various forage species. Conversely, a more diverse fishery (e.g., a sport fishery) will be supported in larger streams or lakes with good water quality and suitable habitat. Small populations of sport fish may also occur in medium to small streams dependent upon water flow, but populations large enough to support a sport fishery are generally restricted to large, perennial rivers and/or lakes/reservoirs with more

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<sup>1</sup> If WBI Energy later determines it is necessary to obtain water from surface water sources for Project-related purposes, it will obtain any required permits or approvals in accordance with state regulations and FERC requirements.

diverse habitats. Table 3.1-1 provides a list of representative fish species (including fisheries classifications) that may be found in the perennial waterbodies crossed by the Project.

TABLE 3.1-1 Wahpeton Expansion Project Representative Fish Species Found in Perennial Waterbodies Crossed by the Project	
Species	Classification <sup>a</sup>
<b>Catfish</b>	
Bullhead catfish ( <i>Ameiurus</i> spp.)	Warmwater
Channel catfish ( <i>Ictalurus punctatus</i> )	Warmwater
Flathead catfish ( <i>Pylodictis olivaris</i> )	Warmwater
<b>Drum</b>	
Freshwater drum ( <i>Aplodinotus grunniens</i> )	Warmwater
<b>Minnow</b>	
Common carp ( <i>Cyprinus carpio</i> )	Warmwater
Creek chub ( <i>Semotilus atromaculatus</i> )	Warmwater
Northern pearl dace ( <i>Margariscus margarita</i> )	Coldwater
<b>Mooneye</b>	
Goldeye ( <i>Hiodon alosoides</i> )	Warmwater
<b>Perch</b>	
Walleye ( <i>Stizostedion vitreum</i> )	Cool-warmwater
Yellow perch ( <i>Perca flavescens</i> )	Cool-warmwater
<b>Pike</b>	
Northern pike ( <i>Esox lucius</i> )	Coldwater
Muskellunge ( <i>Esox masquinongy</i> )	Coldwater
<b>Stickleback</b>	
Brook stickleback ( <i>Culaea inconstans</i> )	Warmwater
<b>Sunfish</b>	
Bluegill ( <i>Lepomis macrochirus</i> )	Warmwater
Crappie ( <i>Pomoxis</i> spp.)	Warmwater
Largemouth bass ( <i>Micropterus salmoides</i> )	Warmwater
Smallmouth bass ( <i>Micropterus dolomieu</i> )	Warmwater
<b>Sucker</b>	
Bigmouth buffalo ( <i>Ictiobus cyprinellus</i> )	Warmwater
White sucker ( <i>Catostomus commersonii</i> )	Warmwater
<b>Temperate or True Bass</b>	
White bass ( <i>Morone chrysops</i> )	Warmwater
Source: USFWS, 2021b; USGS, 2021; NDGFD, 2019b; Dyke et al., 2015; Owen et al., 1981.	
<sup>a</sup> All of these listed fish species are recreational species in North Dakota.	

No federally listed mussel species have been identified in the Project area; however, the NDGFD identifies 10 freshwater mussel species of conservation priority found within North Dakota. Species that may be found within the Sheyenne River include black sandshell (*Ligumia recta*), creek heelsplitter (*Lasmigona compressa*), creeper (*Strophitus undulates*), mapleleaf (*Quadrula* spp.), threeridge (*Potamilus ohioensis*), pink heelsplitter (*Potamilus alatus*), and Wabash pigtoe (*Fusconaia flava*). Species that may be found within the Red River include black sandshell, mapleleaf, threeridge, pink heelsplitter, and Wabash pigtoe (NDGFD, 2011; Dyke et al., 2015).

In response to the Project introductory letter, the NDGFD indicated that ANS are a major concern in North Dakota (see appendix 3A). WBI Energy consulted with the NDGFD to identify waterbodies crossed by the Project that may have ANS infestations. Project waterbody crossings of particular concern are the Sheyenne and Red Rivers and their tributaries, as these rivers and a majority of their tributaries are documented as waterbodies with zebra mussel (*Dreissena polymorpha*) infestations as of July 2021 (NDGFD, 2019a; NDGFD, 2021a). Zebra mussel infestations are considered a Class 1: Prohibited ANS. Class I ANS are only present in a few waterbodies throughout the state but have the high potential for causing ecological and economic harm when invading and establishing themselves in new waterbodies. All perennial waterbodies crossed by the Project are considered infested with zebra mussel by the NDGFD. To prevent the spread of zebra mussels and other ANS during construction, WBI Energy has prepared a draft ANS Prevention Plan (see appendix 3B).

### **3.1.2 Fisheries of Special Concern**

Fisheries of special concern may include waterbodies such as those that contain fisheries of exceptional recreational value, support commercial fishing, or provide habitat for fish species listed for protection at the federal, state, or local level. In North Dakota's State Wildlife Action Plan (Dyke et al., 2015), the NDGFD identifies numerous key fish species of conservation priority that may be associated with the Red and Sheyenne Rivers and their tributaries. An example is the yellow bullhead (*Ameiurus natalis*), which was historically found in the Red River system but recently has only been found in the Wild Rice and Bois de Sioux Rivers. This is a rare species in North Dakota where suitable habitat including pools and slack water of streams are found. Currently, the proposed Project area will overlap with the primary and possible ranges for the yellow bullhead. Although rare in North Dakota, additional fish species identified as conservation priority and that may be found within the Red and Sheyenne Rivers include trout-perch (*Percopsis omiscomaycus*), silver chub (*Macrhybopsis storeriana*), and chestnut lamprey (*Ichthyomyzon castaneus*; Dyke et al., 2015).

### **3.1.3 Construction and Operation Impacts and Mitigation**

WBI Energy anticipates that most of the ephemeral streams crossed by the Project are not likely to be flowing at the time of construction. For perennial waterbodies or those with flow at the time of construction, short-term impacts associated with construction activities have the potential to cause increased sedimentation and turbidity, temperature changes due to removal of vegetation cover over streams, introduction of water pollutants, or entrainment of fish. Direct mortality of benthic invertebrates can occur due to habitat disturbance from construction activities including trenching; however, as described in Resource Report 1, section 1.3.2.2, the guided bore crossing method typically avoids impacts on water quality and other sensitive resources by precluding disturbance of the bored resource (e.g., the waterbody bed and banks). With the

implementation of the construction and mitigation measures described below, however, impacts on fisheries and other aquatic life are expected to be minor, localized, and limited to the construction period. WBI Energy does not anticipate any long-term or population-level impacts on fisheries or aquatic life. No long-term effects on water temperature, dissolved oxygen, pH, benthic invertebrates, or fish communities are expected to occur due to construction or operation of the pipeline or aboveground facilities.

To minimize impacts on aquatic resources within the Project area, construction activities for the Project will be conducted in accordance with FERC's *Upland Erosion Control, Revegetation, and Maintenance Plan* (FERC Plan) and the FERC Procedures. WBI Energy will implement the measures specified in its *Spill Prevention, Control, and Countermeasure Plan* (SPCC Plan), provided in appendix 1F-1 of Resource Report 1 and *Guided Bore Drilling Fluid Monitoring and Operations Plan* provided in appendix 1F-2 of Resource Report 1. In addition, to ensure that the Project will not contribute to the spread of aquatic invasive species, WBI Energy will follow measures outlined in their *Aquatic Nuisance Species Prevention Plan* provided in appendix 3B. Each of these documents is designed to minimize construction impacts on environmental resources, including aquatic resources. Specific construction procedures that will be used to protect surface water resources are discussed in sections 2.2.7 and 2.2.8 of Resource Report 2. With the implementation of the FERC Procedures and WBI Energy's other construction and mitigation plans, the Project is not expected to result in any permanent changes to the water quality or water quality classifications of the waterbodies crossed.

Waterbodies with perceptible flow at the time of construction that are not crossed using the guided bore crossing method will be crossed using the open-cut method. The use of the flume or dam and pump dry crossing methods is not currently proposed, but may be utilized by the construction contractor in lieu of the open-cut method. In-stream construction and removal of riparian vegetation associated with the open cut, flume, or dam and pump methods may cause a temporary increase in turbidity levels at these crossings, which can increase the sedimentation rate immediately downstream of the construction work area. To minimize such impacts, temporary erosion and sedimentation controls will be installed and maintained in accordance with the FERC Plan or FERC Procedures as appropriate. Following completion of each crossing, streambeds and banks will be restored to their preconstruction conditions to the extent practicable and revegetated using appropriate seed mixes in accordance with the FERC Procedures, which will help minimize erosion and reduce long-term impacts on fisheries and other aquatic resources.

In streams with fish, the effects of the open-cut crossing method will be localized, of short duration, and will not have a significant impact on resident fish populations. Direct mortality of benthic invertebrates can occur due to habitat disturbance from construction activities, including trenching and backfilling. In-stream construction activities (excluding blasting, if required) typically take place in less than 24 hours for minor streams (those 10 feet in width or less) and less than 48 hours for intermediate streams (those between 10 and 100 feet in width). The rapid pace of construction along with implementation of the other measures identified in the FERC Plan or FERC Procedures will reduce the impacts of sedimentation and turbidity on aquatic life. Additionally, it is expected that individual fish, where present, will temporarily relocate upstream or downstream of the crossing locations to avoid the most turbid water.

Implementation of the measures specified in the SPCC Plan and *Guided Bore Drilling Fluid Monitoring and Operation Plan* will minimize potential impacts on aquatic resources due to inadvertent releases of fuel, drilling fluid, or mechanical fluids. As specified in the SPCC Plan,

hazardous materials, chemicals, fuels, and lubricating oils will not be stored and concrete coating activities will not be performed within 100 feet of stream banks. In most cases, refueling or hydraulic fluid servicing of construction equipment will not be conducted within 100 feet of stream banks. If the equipment cannot be reasonably moved beyond 100 feet of the stream banks, refueling or hydraulic servicing may be conducted under the supervision of WBI Energy's environmental inspectors (EI) in accordance with the SPCC Plan.

Entrainment of fish and other aquatic organisms during water withdrawals for hydrostatic testing or dust control (see section 2.2.4 of Resource Report 2) is sometimes a concern during pipeline construction projects. If surface waters are used for hydrostatic test water or dust control, intake screens will be implemented and sized to eliminate the entrainment of fingerling and small fish during water withdrawal. Additionally, the majority of smaller waterbodies crossed by the Project are not expected to contain fish at the time of the crossing; therefore, the Project is not anticipated to significantly affect fishery resources within the Project area.

### **3.2 Wildlife Resources**

Wildlife habitat characterizations were obtained from available literature, agency websites, review of aerial photographs of the right-of-way, and field surveys. The suitability of an area as habitat for wildlife is closely related to the surrounding vegetation. A description of major vegetation classes and their associated cover types within the Project area is provided below. Additional detail regarding vegetation resources in the Project area is provided in section 3.5. Endangered and threatened species are discussed in section 3.6.

#### ***3.2.1 Existing Wildlife Resources***

The Project will cross three broad vegetation classes comprising several distinct cover types and developed open space and open water (Dyke et al., 2015; 2019c). The vegetation classes and their associated habitats include the following:

- agricultural land (cultivated crops, hayfields, and pastureland);
- open land or grasslands (short- and mixed-grass prairie, shrubland, and non-forested wetlands); and
- forested land (hedgerows, upland wooded areas, and deciduous forests).

These vegetation classes provide food, protective cover, and young-rearing habitat for wildlife and are further discussed in section 3.5.1. Developed open spaces in the Project area include commercial, residential, or industrial development and road and utility corridors. While these areas may be used by wildlife for foraging, most wildlife occurring in developed land are transient.

Table 3.2-1 lists the characteristic wildlife species present in the Project area that are not classified as species of conservation concern. Species currently listed as threatened, endangered, or special concern species are discussed in section 3.6 of this report. Numerous species of mammals with diverse life histories and habitat needs are found in North Dakota and may occur within the Project area. Some of these species are rare for this region, are on the periphery of their range, or are valued for their economic and recreational importance (e.g.,

trapping and hunting). The NDGFD divides these mammalian groups into broad categories including bats, carnivores, rodents and shrews, and ungulates (Dyke et al., 2015).

TABLE 3.2-1 Wahpeton Expansion Project Representative Wildlife Species in the Project Area					
Species	Agricultural Lands	Open Lands	Forested Land	Developed Lands	Open Water
<b>Mammals</b>					
American Badger ( <i>Taxidea taxus</i> )		X			
Coyote ( <i>Canis latrans</i> )	X	X		X	
Deer mouse ( <i>Peromyscus maniculatus</i> )		X			
Eastern cottontail ( <i>Sylvilagus floridanus</i> )		X			
Eastern fox squirrel ( <i>Sciurus niger</i> )		X	X	X	
Meadow vole ( <i>Microtus pennsylvanicus</i> )		X			
Mink ( <i>Mustela vison</i> )		X			
Muskrat ( <i>Ondatra zibethicus</i> )		X			
Raccoon ( <i>Procyon lotor</i> )	X	X	X	X	X
Red fox ( <i>Vulpes vulpes</i> )		X	X		
Striped skunk ( <i>Mephitis mephitis</i> )	X	X			
White-footed mouse ( <i>Peromyscus leucopus</i> )		X			
White-tailed deer ( <i>Odocoileus virginianus</i> )	X	X	X	X	
White-tailed jackrabbit ( <i>Lepus townsendii</i> )	X	X			
<b>Birds</b>					
American crow ( <i>Corvus brachyrhynchos</i> )	X	X		X	
American kestrel ( <i>Falco sparverius</i> )	X	X			
Bald eagle ( <i>Haliaeetus leucocephalus</i> )		X			X
Blue-winged teal ( <i>Anas discors</i> )		X			X
Brown-headed cowbird ( <i>Molothrus ater</i> )	X	X			
Clay-colored sparrow ( <i>Spizella pallida</i> )		X			
Eastern kingbird ( <i>Tyrannus tyrannus</i> )	X	X			
Henslow's sparrow ( <i>Centronyx henslowii</i> )		X			
Killdeer ( <i>Charadrius vociferous</i> )	X	X			
Mallard ( <i>Anas platyrhynchos</i> )	X	X			X
Mourning dove ( <i>Zenaida macroura</i> )	X	X		X	
Northern harrier ( <i>Circus cyaneus</i> )	X	X			
Red-tailed hawk ( <i>Buteo jamaicensis</i> )	X	X			



TABLE 3.2-1					
Wahpeton Expansion Project Representative Wildlife Species in the Project Area					
Species	Agricultural Lands	Open Lands	Forested Land	Developed Lands	Open Water
Ring-necked pheasant ( <i>Phasianus colchicus</i> )	X	X			
Savannah sparrow ( <i>Passerculus sandwichensis</i> )		X			
Sharp-tailed grouse ( <i>Tympanuchus phasianellus</i> )		X			
Western kingbird ( <i>Tyrannus verticalis</i> )		X			
<b>Reptiles and Amphibians</b>					
American toad ( <i>Bufo</i> [ <i>Anaxyrus</i> ] <i>americanus</i> )		X			
Boreal chorus frog ( <i>Pseudacris maculata</i> )		X			
Common gartersnake ( <i>Thamnophis sirtalis</i> )		X			
Great Plains toad ( <i>Bufo cognatus</i> )		X			
Northern leopard frog ( <i>Rana pipiens</i> )		X			
Plains gartersnake ( <i>Thamnophis radix</i> )		X			
Red-bellied snake ( <i>Storeria occipitomaculata</i> )		X			
Tiger salamander ( <i>Ambystoma tigrinum</i> )		X			
Western painted turtle ( <i>Chrysemys picta</i> )		X			

Source: NDGFD, 2015; 2018; 2019a; 2019d.

### 3.2.1.1 Agricultural Land

Agricultural land comprises about 728.1 acres (92 percent) impacted by the construction of the Project (based on acres affected as described in section 8.2 and table 8.2-1 of Resource Report 8). In general, monocultures in cultivated cropland provide poor quality wildlife habitat in the Project area. While these areas tend to support relatively low wildlife diversity, croplands may provide a food source for opportunistic species such as white-tailed deer, ring-necked pheasant, and migrating waterfowl. Additionally, despite the conversion of native vegetation to cropland in these areas, many game and non-game wildlife species inhabit the grassy and wooded edges of farmland and adjacent riparian and wetland habitat. Agricultural areas bordered by shrubland or hedgerows tend to have greater species diversity due to the proximity of a variety of foraging, nesting, roosting, and cover habitats. In addition, land modified by agriculture but left fallow can serve as surrogate habitat for bird species typically found in grasslands (NRCS, 1999).

### 3.2.1.2 Open Land

Open land comprises about 12.0 acres (between 1 and 2 percent) of the Project area affected by construction (based on acres affected as described in table 8.2-1 of Resource

Report 8). Open areas—which include non-forested areas such as grassland, shrubland, and emergent wetlands—provide wildlife with a variety of protective cover and forage food sources such as seed, foliage, roots, and insects. Game animals that inhabit open land include white-tailed deer, ring-necked pheasants, and white-tailed jackrabbits. Non-game grassland mammals include coyotes and several types of voles and mice. In addition, several reptiles and amphibians inhabit grasslands such as the plains gartersnake, red-bellied snake, boreal chorus frog, and Great Plains toad. Many of these species are prey animals for raptors that may be found in grasslands such as American kestrel, red-tailed hawk, and northern harrier. Mixed-grass prairie is also an important breeding habitat for sharp-tailed grouse.

Several neotropical migratory songbirds prefer to nest in open herbaceous vegetation including the western meadowlark, bobolink, chestnut-collared longspur, and grasshopper sparrow. The low-lying vegetation in grasslands provides necessary habitat structure for protection from predators and brood-rearing activities. Grasslands provide a variety of forage food sources to migrating songbirds such as insects and other invertebrates, fruits, and native grass seeds.

Wetlands (emergent wetlands and shrub/scrub) are included in the open land cover type. A variety of amphibian species, such as the boreal chorus frog and northern leopard frog, use these habitats as breeding locations because of a lack of fish and other aquatic predators. Wetlands also provide year-round habitat for mammals such as muskrats and American mink. The wetlands are often located next to upland habitats increasing the diversity of wildlife within a small area. Impacts on wetlands are dependent on the duration and the type of localized disturbance. WBI Energy will follow the FERC Procedures for wetland crossings and will restore wetlands accordingly, resulting in only temporary impacts.

#### *3.2.1.3 Forested Land*

Forested land, which includes primarily small stands of deciduous trees in riparian areas or along wetland edges and hedgerows along roads or fields, comprises about 1.7 acres (less than 1 percent) of the Project area affected by construction (see section 3.5.1 for additional information). Forested lands provide food, cover, and young-rearing habitat for a wide variety of wildlife species. Secondary canopy shrubs and saplings, brush piles, and fallen logs provide cover for a number of small- to medium-sized mammals. Standing dead trees may provide nesting or roosting sites for a variety of birds and mammal species and foraging opportunities for birds. The most conspicuous mammals that utilize the forested habitats in the Project region include white-tailed deer, red foxes, eastern fox squirrels, raccoons, and bats.

#### *3.2.1.4 Developed Land*

Developed land—which includes industrial, commercial, and residential development and roads, railroads, and utility corridors—comprises about 35.7 acres (between 4 and 5 percent) of the Project area affected by construction (based on acres affected as described in table 8.2-1 of Resource Report 8). These areas generally provide poor habitat for wildlife. Typical wildlife species that may be found in developed land include squirrels, mice, skunks, raccoons, and mourning doves. Many species found in developed areas are considered opportunistic species that inhabit a number of the other habitat types found along the Project. These species have adapted to inhabit developed areas.

### *3.2.1.5 Open Water*

Open water comprises 13.8 acres (between 1 and 2 percent) of the Project area affected by construction (based on acres affected as described in table 8.2-1 of Resource Report 8). In addition to fish, a number of mammal species, waterfowl, and a variety of reptiles and amphibians utilize open water habitat. Some mammal and bird species are dependent on aquatic habitats for food and cover, while other species—such as the raccoon—are less restricted, but prefer to be close to water.

### **3.2.2 Significant Wildlife Habitats**

There are no National Park Service Wilderness Areas, National Wild and Scenic Rivers, or state-designated high quality or outstanding natural resource waters crossed by the Project (Wild and Scenic Rivers Council, 2014).

One United States Fish and Wildlife Service (USFWS) conservation easement or management area is within 1 mile of the Project area (USFWS, 2019b). This area is within the Tewaukon Wetland Management District and includes one Waterfowl Production Area (WPA) or wetland easement and is located (at the Project's nearest point) less than 0.1 mile west of milepost (MP) 35. WPAs provide habitat for a variety of waterfowl, shorebirds, grassland birds, plants, insects, and wildlife and are acquired as public lands or are protected through easements within the USFWS National Wildlife Refuge System (USFWS, 2019b). WPAs are primarily located within the prairie wetlands or potholes of the Dakotas, Minnesota, and Montana. North Dakota has more than one-third of the nation's WPAs (USFWS, 2007b).

### **3.2.3 Construction and Operation Impacts and Mitigation**

Construction and operation of the Project may result in short- and long-term impacts (e.g., noise disturbances, wildlife displacement from suitable habitat) on wildlife species and their existing habitat along the proposed pipeline route and at aboveground facility sites. The extent and duration of impacts will vary depending on the species present in each affected habitat type and their individual life histories. After construction is complete, WBI Energy will restore the right-of-way as near as practicable to preconstruction conditions in accordance with the FERC Plan and FERC Procedures. Cropland will be restored to active agricultural production and other areas will be revegetated using methods and seed mixes appropriate to existing land uses and cover types in accordance with the Natural Resources Conservation Service (NRCS) recommendations (more information regarding seed mixes is provided in section 7.3.1 of Resource Report 7). Because the Project will not permanently alter the characteristics of the majority of the available wildlife habitats, most Project-related impacts on wildlife are anticipated to be temporary.

#### *3.2.3.1 Pipeline Facilities*

Construction of the Project will require the use of a temporary construction right-of-way and the operation of the pipeline will require the retention of a permanent easement. WBI Energy proposes to use a 75-foot-wide temporary construction right-of-way through upland and wetland areas for the 12-inch-diameter pipeline. The permanent easement will be 50 feet wide. Areas of additional temporary workspace (ATWS) will be required at wetland and waterbody crossings, at road and railroad crossings, at points of inflection along the route, at areas where special construction methods will be implemented (e.g., the guided bore crossing method), and ATWS

may be required in areas where additional space is needed for storage of stripped topsoil. Resource Reports 1 and 8 provide more information regarding areas that will be affected by the construction and operation of the pipeline.

Until vegetation is reestablished, construction activities will temporarily reduce feeding, nesting, and cover options for wildlife and migratory birds in the immediate Project area. Mobile species may be temporarily disturbed or displaced from portions of their habitats and mortality of individuals of less mobile species—such as some small mammals, reptiles, or amphibians—may occur. Indirect wildlife and migratory bird impacts associated with construction noise and increased human activity will be temporary and could include displacement and avoidance of work areas. Noise from construction equipment, vehicle traffic, and general Project-related activity during construction (e.g., clearing and grading for site preparation and trenching activities) and operation could affect migratory bird behavior. Specifically, sound from equipment could affect sensitive migratory bird habitat, including the WPA (as described in section 3.2.2), and result in displacement of waterfowl. Waterfowl may be temporarily displaced from suitable habitat during construction activities. Specifically, waterfowl could become displaced from their nesting habitat if clearing and grading or trenching activities are initiated during the nesting season. Initiation of these construction activities during the middle of the nesting season could lead to nest abandonment and lost or reduced productivity. However, disturbances related to construction activities would be temporary. There are no aboveground facilities generating noise within the vicinity of the WPA. Due to the short duration of construction noise, impacts on waterfowl at the nearby WPA from Project-related noise is not expected to result in adverse permanent impacts.

Both direct and indirect impacts on wildlife along the proposed pipeline route and in other work areas will generally be of short duration and limited to the period of construction activities.

Effects on most non-forested upland habitat disturbed by construction will be temporary and these areas are expected to recover quickly once construction is completed. Similarly, Project-related impacts on scrub/shrub and emergent wetland habitats will be relatively short term. The temporary effects on these habitats should have little or no significant impact on their importance to wildlife and no changes to wildlife populations are anticipated.

Forested lands comprise less than 1 percent of the area that will be impacted by construction. Impacts on these limited forested areas will be greater than other vegetation types. This is due to the long-term conversion of wooded habitats to earlier successional stages in the temporary right-of-way and the permanent conversion to scrub/shrub and/or non-woody herbaceous species in the permanent, maintained easement. Probably because of this, the NDGFD expressed concern in its response letter to WBI Energy about the potential impacts on wetlands and the removal of woody vegetation.

WBI Energy has implemented several additional measures to avoid and minimize impacts on these resources. To the extent practicable, the proposed route was selected and refined to avoid environmentally sensitive areas that may provide habitats and to parallel existing infrastructure. WBI Energy avoided wooded areas to the extent possible when developing the proposed pipeline route. WBI Energy also proposes to use the guided bore crossing method at select feature crossings. Due to the very small percentage of forested land crossed, it is anticipated that the Project will not have significant impacts on wildlife associated with loss of forest habitat.

To avoid impacts on wildlife during construction, WBI Energy will also minimize the length of the excavated pipeline trench left open overnight and leave breaks in the windrowed materials to facilitate wildlife movement across the construction right-of-way. WBI Energy will install earthen plugs or escape ramps at regular intervals in areas where the trench is left open overnight, as directed by the EIs, to allow wildlife to escape the trench. In addition, if cattle are present during construction, WBI Energy will install temporary fencing around the right-of-way in areas where the pipe trench is left open overnight. Trenches, excavations, uncapped pipe segments, and idle equipment will be checked for wildlife before initiating construction activities each day. Any wildlife that has entered the work area will be allowed to exit the work area of its own volition. If wildlife are not able to exit the work area, then WBI Energy's EI will be notified and, if necessary, appropriate agencies (e.g., NDGFD or USFWS) will be notified requesting further assistance.

Following construction, temporary workspace—including ATWS and most areas within the permanent pipeline easements—will be restored to preconstruction conditions and vegetative cover in accordance with the FERC Plan, the FERC Procedures, and landowner agreements. In order to maintain accessibility of the right-of-way and to accommodate pipeline integrity surveys, however, vegetation along the pipeline right-of-way may be cleared periodically in accordance with the FERC Plan and FERC Procedures (except in areas crossed by guided bore where vegetation maintenance will not be conducted). Active cropland will be allowed to revert to preconstruction use across the full width of the right-of-way. In non-cultivated uplands, the entire 50-foot-wide permanent easement will be maintained in a herbaceous state. In wetlands, the FERC Procedures allow for a 10-foot-wide corridor centered over the pipeline to be permanently maintained in a herbaceous state and trees greater than 15 feet in height within 15 feet of the pipeline may be cut and removed from the right-of-way. No maintenance will likely need to occur in wetlands that are seasonally or permanently flooded. Given the predominance of agricultural and open land along the proposed pipeline route, WBI Energy anticipates that the need for routine vegetation maintenance will be infrequent and limited to specific locations such as areas around pipeline markers and road crossings.

WBI Energy will follow measures provided in its *Noxious Weed Management Plan* (see appendix 3C) and will restore the right-of-way as near as practical to preconstruction condition in accordance with the FERC Plan and FERC Procedures. For more information on vegetation impacts, see section 3.5 below.

Project-related impacts on wildlife are anticipated to be temporary and limited to the period of construction activities. The temporary effects on these habitats should have little or no significant impact on their importance to wildlife and no changes to populations are anticipated.

#### 3.2.3.2 Aboveground Facilities

Minimal impacts on wildlife species and their habitats will result from construction and operation of the proposed aboveground facilities.

The Project will require modifications within the fenceline of the existing Mapleton Compressor Station and the construction of the MDU—Kindred and the MDU—Wahpeton Border Stations. Additionally, seven block valves and four pig launcher/receiver settings will be located within the permanent right-of-way. Only agricultural and developed land will be affected by the construction of these new aboveground facilities. Together these facilities will affect approximately 8 acres of agricultural land during construction and less than 4 acres of agricultural land during operation.

Construction and operation of these facilities will result in minimal impacts on wildlife because the existing wildlife in these areas can migrate to other nearby locations with suitable habitat. Additionally, all land affected by the construction of the aboveground facilities will be agricultural (cultivated) land or developed land (modifications at Mapleton Compressor Station), which tends to support low diversity species. Consequently, construction and operation of these facilities are not expected to have a significant effect on wildlife. Measures that will be implemented to minimize impacts during construction of aboveground facilities will be similar to those used during pipeline construction and will include erosion and sedimentation controls and other measures specified by the FERC Plan, the FERC Procedures, and the SPCC Plan.

### 3.3 Migratory Bird Treaty Act

Migratory birds are protected under the Migratory Bird Treaty Act (MBTA; Title 16 United States Code Sections 703-711). Executive Order (EO) 13186 (66 Federal Register [FR] 3853) directs federal agencies to identify where unintentional take is likely to have a measurable negative effect on migratory bird populations and to avoid or minimize adverse impacts on migratory birds through enhanced collaboration with the USFWS. EO 13186 was issued in part to ensure that environmental analyses of federal actions assess the impacts of these actions on migratory birds. It also states that emphasis should be placed on species of concern, priority habitats, and key risk factors and it prohibits the direct take of any migratory bird without authorization from the USFWS. The MBTA protects native migratory birds and their eggs and active nests. The MBTA prohibits intentionally taking, possessing, transporting, selling, or purchasing migratory birds and their parts, nests, or eggs without a valid permit. Recently, the MBTA rulemaking process has undergone scrutiny; the interpretation of this law is currently being analyzed to define and distinguish what constitutes “intentional” take. On October 4, 2021, the USFWS published a final rule revoking the January 7, 2021 regulation that limited the scope of the MBTA. On December 3, 2021, the final rule went into effect and the USFWS returned to implementing the MBTA as prohibiting incidental take and applying enforcement discretion (USFWS, 2021d).

Although the MBTA provides protection for all migratory birds and their nests, it is standard practice as noted in EO 13186 and a Memorandum of Understanding between FERC and the USFWS (unless notified otherwise by the USFWS) to use the Birds of Conservation Concern (BCC) list when evaluating the potential impact of a project on migratory birds (USFWS, 2008). This list identifies “species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing” under the Endangered Species Act of 1973 (ESA).

The USFWS encourages proactive management of these BCC species by state agencies and other partners to prevent the need for listing them as endangered or threatened. EO 13186, *Responsibilities of Federal Agencies to Protect Migratory Birds*, recommends BCC lists be consulted as they are intended to stimulate coordinated and collaborative proactive conservation actions among federal, state, tribal, and private partners. The USFWS adopted Bird Conservation Regions (BCR) as the smallest geographic scale of distinct regions in North America that share similar BCC, habitats, and resource management issues for conservation. The Project facilities will be located across one terrestrial BCR (i.e., Prairie Potholes). As shown in table 3.3-1, 14 bird species and subspecies that may occur in the Project area are designated BCC in this region (USFWS, 2022b; Bird Studies Canada and North American Bird Conservation Initiative, 2022; North American Bird Conservation Initiative, 2021; USFWS, 2022b).

A variety of migratory bird species may occur seasonally along the proposed pipeline route. The Project is within the Central Flyway for waterfowl (USFWS, 2021c; Dubovsky, 2020). Many species of migratory birds—such as ducks, geese, doves, pigeons, sandhill and whooping cranes, and tundra swans—use the flyway during spring and fall migration between the Gulf of Mexico and central Canada (Dubovsky, 2020). All of these species use open land and wetland areas and could be sensitive to Project construction activities.

WBI Energy has identified the vegetation types crossed by the Project in section 3.5 below. Although some emergent wetlands and small wooded lots will be crossed by the Project, the predominant vegetation communities consist of agricultural land (between 90 and 91 percent of the Project area), developed land (between 5 and 6 percent of the Project area), and open land (between 1 and 2 percent of the Project area). These communities are used by migratory birds for nesting and during other life stages. Potential impacts on nesting migratory bird species include the following: habitat fragmentation; loss of wooded habitat; temporary removal of vegetation in grasslands, which could cause nesting species to relocate to other suitable habitat; and noise generated during construction, which could disturb nesting birds if present.

TABLE 3.3-1 Wahpeton Expansion Project Birds of Conservation Concern that May Occur in the Project Area <sup>a</sup>		
Species	Habitat Association	Peak Nesting Bird Season in North Dakota
American golden-plover <sup>b</sup> ( <i>Pluvialis dominica</i> )	Utilize a variety of habitats during migration including burned, plowed, and harvested agricultural fields, pasturelands, sod farms, estuaries, mudflats, and prairie.	NA—Migrant Species
Bald eagle <sup>c, d, e</sup> ( <i>Haliaeetus leucocephalus</i> )	Typically breeds in forested areas adjacent to large bodies of water. Nests in trees and will occasionally nest on cliff faces and ground nest in treeless areas. Stopover habitat during migration includes roosting sites with deciduous trees that are in or near riparian areas, protected from human disturbance, and in proximity to foraging habitat.	Early March to July
Black tern ( <i>Chlidonias niger</i> )	Shallow freshwater marshes with emergent vegetation, which includes prairie sloughs, margins of lakes, and river or island edges.	Early June to mid-July
Black-billed cuckoo ( <i>Coccyzus erythrophthalmus</i> )	Found within brushy margins or woodland openings, thickets of small trees, and prairie shrubs. Can also be found utilizing riparian areas, shelterbelts, and wooded areas of towns and farmsteads.	Mid-June to late July
Bobolink ( <i>Dolichonyx oryzivorus</i> )	Fields comprised of mixed grasses and broad-leaved forbs (e.g., red clover [ <i>Trifolium pratense</i> ] and dandelion [ <i>Taraxacum officinale</i> ]).	Early June to mid-July
Franklin's gull ( <i>Leucophaeus pipxcan</i> )	Habitat within breeding range includes freshwater marshes nesting over water, on floating mats built on water's surface, muskrat ( <i>Ondatra zibethicus</i> ) houses, or floating debris.	Late May to Mid-July
Golden eagle <sup>b, d</sup> ( <i>Aquila chrysaetos</i> )	Primary habitat includes rugged portions of badlands, buttes overlooking native prairie, large trees, and frequently associated with prairie dog ( <i>Cynomys ludovicianus</i> ) colonies.	NA—Migrant Species
Hudsonian godwit <sup>b</sup> ( <i>Limosa haemastica</i> )	Utilize marshes, shallow marshy lakes, flooded pastures, prairie pools, and mudflats.	NA—Migrant Species
Lesser yellowlegs <sup>b</sup> ( <i>Tringa flavipes</i> )	Utilizes a variety of habitats during migration including fresh marshes and edges of lakes and ponds.	NA—Migrant Species
Marbled godwit ( <i>Limosa fedoa</i> )	Associated with a variety of wetlands and nests frequently on grazed native prairie.	Early May to late June

TABLE 3.3-1

**Wahpeton Expansion Project  
Birds of Conservation Concern that May Occur in the Project Area <sup>a</sup>**

Species	Habitat Association	Peak Nesting Bird Season in North Dakota
Red-headed woodpecker ( <i>Melanerpes erythrocephalus</i> )	Typical habitat includes open forests with clear understories, open pine plantations, and treerows in agricultural areas.	Early June to early August
Ruddy turnstone <sup>b</sup> ( <i>Arenaria interpres morinella</i> )	Habitat during migration includes mudflats and shorelines of freshwater lakes.	NA—Migrant Species
Short-billed dowitcher <sup>b</sup> ( <i>Limnodromus griseus</i> )	Utilize a variety of habitats during migration including manmade environments such as impoundments, sewage ponds, and flooded farm fields. Additional habitats include muddy margins of rivers, lakes, and bays.	NA—Migrant Species
Willet ( <i>Tringa semipalmata</i> )	Breeds in prairies comprised of short, sparse cover near wetlands and grasslands.	Late May to mid-July

Sources: USFWS, 2021a; 2022; Bird Studies Canada and North American Bird Conservation Initiative, 2022; Cornell Lab of Ornithology, 2022; NDGFD, 2016; 2019a; 2019d.

<sup>a</sup> BCR region 11, Prairie Potholes, overlaps the Project facilities.

<sup>b</sup> Non-breeding within North Dakota.

<sup>c</sup> Not identified as a BCC bird, but identified within the USFWS Information for Planning and Consultation System as a Non-BCC Vulnerable species that could be found within the Project area.

<sup>d</sup> ESA delisted species.

<sup>e</sup> Protected under the Bald and Golden Eagle Protection Act (BGEPA).

NA = not applicable

### 3.3.1 Construction and Operation Impacts and Mitigation

Migratory birds, particularly ground-nesting birds, could use agricultural land, open water, and open land present in the Project area as habitat. Impacts on habitat include the potential temporary disturbance of soils and vegetation during construction. Direct impacts on species include the potential for mortality or injury during construction from destruction of ground nests or vehicle collisions. Construction of the Project is planned to begin in the spring of 2024 subject to receipt of necessary permits and regulatory approvals, which could overlap with the migratory bird nesting season. To minimize impacts in areas where clearing cannot occur prior to the migratory bird nesting season, WBI Energy will conduct ground-based surveys for nesting birds prior to clearing of the right-of-way. In the event of construction schedule delays, ground-based surveys for nesting birds will be reinitiated prior to the start of clearing the right-of-way. If nests are identified during surveys and depending on local topography and vegetative buffers, work will stop up to 0.1 mile from the nest. Construction activities in these areas could resume when the chicks have fledged or the nest is determined inactive. In areas where clearing occurs prior to migratory bird nesting but construction does not occur right after clearing, the construction area will be maintained (as needed) to avoid the regrowth of potential nesting habitat.

After construction is complete, WBI Energy will restore the right-of-way as near as practical to preconstruction condition in accordance with the FERC Plan and FERC Procedures. Cropland will be restored to active agricultural production and other areas will be revegetated using methods and seed mixes appropriate to existing land use, cover type, or landowner preference. WBI Energy anticipates that the Project area, with the exception of forested areas on



the maintained operational right-of-way and permanent aboveground facilities, will return to preconstruction conditions over time. Consequently, the Project will not permanently alter the character of available habitats for migratory birds.

Regular maintenance of vegetation in the permanent right-of-way will be conducted in accordance with the FERC Plan and FERC Procedures. The FERC Plan and FERC Procedures do not allow routine vegetation maintenance clearing more frequently than once every three years with the exception of a 10-foot-wide corridor centered over the pipeline, which can be maintained annually in a herbaceous state to facilitate periodic corrosion and leak surveys. Routine maintenance clearing will occur outside of the migratory bird nesting season. The majority of the route is cropland or has low growing vegetation, however, which allows for regular inspection without regular clearing. In wetlands, the FERC Procedures allow for selective cutting of trees greater than 15 feet in height within 15 feet of the pipeline. As noted above, WBI Energy anticipates that the need for routine vegetation maintenance will be infrequent and limited to specific locations such as areas around pipeline markers and at road crossings.

Based on the relatively limited extent of the proposed disturbance within the broader landscape and with the implementation of the proposed mitigation and restoration measures, no substantial changes in migratory bird habitat availability or suitability are anticipated as a result of the Project. As such, the Project is not expected to result in adverse permanent or cumulative impacts on migratory birds.

### **3.4 Bald and Golden Eagle Protection Act**

The Bald and Golden Eagle Protection Act (BGEPA; Title 16 United States Code 668), provides additional protection to bald and golden eagles. The BGEPA prohibits the take, possession, sale, barter, offer to sell, purchase, transport, export, or import of any bald or golden eagle, alive or dead—including any part, nest, or egg, unless allowed by permit. “Take” under this act is defined as “to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb.” Disturb is defined as “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.” If a proposed project or action would occur in areas where nesting, feeding, or roosting eagles occur, then project proponents may need to take additional conservation measures to achieve compliance with the BGEPA. The BGEPA includes limited exceptions to its prohibitions through a permitting process, including exceptions to take bald or golden eagle nests that interfere with resource development or recovery operations.

WBI Energy reviewed golden eagle nest habitat range data available from the NDGFD (NDGFD, 2022a), which shows there is no nest habitat for golden eagles crossed by the Project. Golden eagle range and nesting habitat is concentrated in southwestern North Dakota. Bald eagle status in North Dakota include both year-round and migratory populations, where they are typically found near large rivers and lakes or wetlands bordered by mature stands of trees (e.g., cottonwood [*Populus deltoids*]). Bald eagle nests are usually found within the top quarter of tall, living trees found within 1.2 miles of water (NDGFD, 2019e). However, Johnson (2009) documented that bald eagles historically have utilized atypical habitats in North Dakota. The landscape surrounding nests across the state have varied from forested landscapes to open, prairie habitat. Nests have historically been found in a single tree or shelterbelt surrounded by

agriculture (Johnson, 2009). WBI Energy reviewed bald eagle nest location data provided by the USFWS and NDGFD. Five bald eagle nest locations were identified within 2 miles of the Project area including: one northeast of the proposed Kost Contractor Yard, which is located along the Sheyenne River and near the city of Riverside (West Fargo), North Dakota; two located southwest of the proposed pipeline MP 25.7, approximately 1.4 and 1.7 miles away from the proposed centerline; one located northeast of the proposed pipeline MP 38, approximately 1.9 miles away from the proposed centerline; and one located northeast of the proposed pipeline MP 59.7, approximately 1.7 miles away, which is located along the Red River. Incidental on-the-ground raptor nest surveys were conducted during wetland and waterbody surveys (limited to the 300-foot-wide wetland/waterbody survey corridor), during which no nesting activity for bald eagles was observed.

NDGFD submitted comments to FERC during the scoping period stating that aerial surveys should be conducted for raptor nests before construction begins and recommend a 0.5 mile construction buffer be implemented around active eagle nest sites. However, based on a conversation with the NDGFD (NDGFD, 2022b) and coordination on further Project details, ground-based raptor surveys will be sufficient based on the terrain, surrounding habitat, and vegetation (primarily agriculture) within the Project area. The NDGFD indicated that raptor nests will be visible from the ground so long as preconstruction surveys are conducted during the spring prior to leaf out. WBI Energy will continue to coordinate, as needed, with the USFWS and NDGFD agencies regarding raptor surveys for the Project.

If a bald eagle nest is identified near the Project area, WBI Energy will implement the measures described in the USFWS 2007 National Bald Eagle Management Guidelines (USFWS, 2007a) to avoid and minimize impacts on nesting bald eagles. The proposed Project is not expected to affect bald eagles.

### **3.5 Vegetation Resources**

This section describes the existing vegetation cover types that occur within the Project area, including vegetation communities of special concern and exotic or invasive species. Potential impacts on vegetation resources from construction and operation of the Project are also discussed. Wetland communities identified along the pipeline route are identified in table 2.3-1 and described in section 2.3 of Resource Report 2. Information on vegetation types within the Project area was obtained from available literature, results of environmental field surveys, and review of recent (2019) digital aerial photography.

#### ***3.5.1 Existing Vegetation Resources***

The Project will be located in the Red River Valley physiographic region of eastern North Dakota, which lies within the Great Plains physiographic region of the United States. Land use in this region is dominated with dry-farming cropland. The Project will be located within the Red River Valley of the North Major Land Resource Area, where the dominant soils are Mollisols and Vertisols (USDA, 2006). Soil characteristics are deep, somewhat poorly drained to very poorly drained, and loamy to clayey in texture. The dominant vegetation type crossed by the Project consists of agricultural grain and row crops. Vegetation cover types in the Project area are reflective of historical and current agricultural and pastoral land use practices in the area.

Forested land is limited in North Dakota and is primarily found in riparian zones, which are areas between waterbodies and adjacent upland (NDGFD, 2019d). In 2019, the land area of

North Dakota included an estimated 2.0 percent, or 808,701 acres, of forested land dominated by hardwood types such as green ash (*Fraxinus pennsylvanica*), bur oak (*Quercus macrocarpa*), and hickory (*Carya* spp.; USFS, 2020). In many areas, forests have experienced significant alterations over the past decades due to the spread of Dutch elm disease, overgrazing, altered water flows, and the conversion of the land to other uses (Knodel and Zeleznik, 2020; Kotchman, 2010). Invasion of the emerald ash borer (*Agilus planipennis*) is also a top concern and potential threat for North Dakota ash species (USFS, 2018). In the Project area, the forested land predominantly consists of small stands of deciduous trees primarily in wooded riparian areas and along the edges of wetlands and hedgerows along roads and fields. Trees common in these areas include black willow (*Salix nigra*), boxelder (*Acer negundo*), and eastern cottonwood. Table 3.5-1 provides forested areas crossed by the Project, including MP entry and exit points.

Forested Land/County	Land Designation	MP		Feet Crossed
		Entry	Exit	
<b>Cass</b>				
	Mixed Forest	24.1	24.1	167.4
	Mixed Forest	24.1	24.1	83.1
<b>Richland</b>				
	Forested Wetland (Surveyed)	34.2	34.3	178.3
	Mixed Forest	36.8	36.8	111.2
	Deciduous Forest	41.3	41.3	98.8
	Woody Wetlands	50.8	50.8	107.9
	Woody Wetlands	50.9	50.9	231.6
	Deciduous Forest	50.9	50.9	98.2
	Woody Wetlands	51.1	51.1	231.6
	Woody Wetlands	51.1	51.2	97.2
	Woody Wetlands	51.2	51.3	579.9
	Woody Wetlands	51.3	51.4	323.3
	Deciduous Forest	57.0	57.0	55.3
	Mixed Forest	57.0	57.0	200.1
	Deciduous Forest	57.6	57.6	98.2

Source: Dewitz, 2021.

The majority of the land in the Project area is agricultural. Limited areas of scrub-shrub and forested wetlands are found within the Project area. Less than 1 percent of the affected area is classified as forested land. Developed land—consisting of existing industrial, commercial, and residential development and roads, railroads, and utility lines—encompasses less than 5 percent of the Project area (see table 8.2-1 of Resource Report 8). Only limited vegetation communities,

such as grasses or other maintained cover, are found in developed lands; therefore, developed lands are not further discussed in this section.

Table 3.5-2 summarizes the vegetation and cover types that will be affected by construction and operation of the proposed Project facilities. Land uses crossed by the Project were classified based on information obtained through biological field surveys and review of digital aerial photography including land use and land cover types.

#### *3.5.1.1 Agricultural Land*

The dominant vegetation type crossed by the Project is agricultural land, which includes rotated croplands. Small grains and row crops such as canola, soybeans, corn, sugar beets, and sunflowers are grown in the region (USDA, 2006).

TABLE 3.5-2

**Wahpeton Expansion Project  
Vegetation Types Affected by Construction and Operation of the Project (acres)<sup>a, b</sup>**

Facility/Workspace	Agricultural Land <sup>c</sup>		Open Land (Non-Native Grassland) <sup>d</sup>		Forested Land <sup>e</sup>		Total	
	Const.	Oper.	Const.	Oper.	Const.	Oper.	Const.	Oper.
<b>Pipeline Facilities</b>								
Wahpeton Expansion Pipeline	517.1	346.0	8.5	5.7	1.1	1.1	526.7	352.8
<b>Subtotal</b>	<b>517.1</b>	<b>346.0</b>	<b>8.5</b>	<b>5.7</b>	<b>1.1</b>	<b>1.1</b>	<b>526.7</b>	<b>352.8</b>
<b>ATWS</b>								
	113.0	0.0	1.4	0.0	0.1	0.0	114.5	0.0
<b>Subtotal</b>	<b>113.0</b>	<b>0.0</b>	<b>1.4</b>	<b>0.0</b>	<b>0.1</b>	<b>0.0</b>	<b>114.5</b>	<b>0.0</b>
<b>Aboveground Facilities</b>								
MDU—Kindred Border Station	1.7	1.7	0.0	0.0	0.0	0.0	1.7	1.7
MD—Wahpeton Border Station	1.7	1.7	0.0	0.0	0.0	0.0	1.7	1.7
Mapleton Compressor Station	2.8	0.0	0.0	0.0	0.0	0.0	2.8	0.0
<b>Subtotal</b>	<b>6.2</b>	<b>3.4</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>6.2</b>	<b>3.4</b>
<b>Contractor Yards</b>								
Kost Yard	19.1	0.0	1.6	0.0	0.0	0.0	20.7	0.0
Kindred Yard	3.5	0.0	0.3	0.0	0.2	0.0	4.0	0.0
Comstock North Yard	20.7	0.0	0.0	0.0	0.0	0.0	20.7	0.0
Comstock South Yard	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Wahpeton City Yard	28.1	0.0	0.0	0.0	0.0	0.0	28.1	0.0
<b>Subtotal</b>	<b>71.4</b>	<b>0.0</b>	<b>1.9</b>	<b>0.0</b>	<b>0.2</b>	<b>0.0</b>	<b>73.5</b>	<b>0.0</b>
<b>Access Roads</b>								
Access Roads	18.3	1.3	0.3	0.0	0.3	0.0	18.9	1.3
<b>Subtotal</b>	<b>18.3</b>	<b>1.3</b>	<b>0.3</b>	<b>0.0</b>	<b>0.3</b>	<b>0.0</b>	<b>18.9</b>	<b>1.3</b>
<b>Valve Site<sup>o</sup></b>								
Valve Site #2	0.7	0.1	0.0	0.0	0.0	0.0	0.7	0.1
Valve Site #4	0.4	0.1	0.0	0.0	0.0	0.0	0.4	0.1
Valve Site #5	0.7	0.1	0.0	0.0	0.0	0.0	0.7	0.1
Valve Site #6	0.4	0.1	0.0	0.0	0.0	0.0	0.4	0.1
<b>Subtotal</b>	<b>2.2</b>	<b>0.4</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>2.2</b>	<b>0.4</b>
<b>Project Total</b>	<b>728.2</b>	<b>351.1</b>	<b>12.1</b>	<b>5.7</b>	<b>1.7</b>	<b>1.1</b>	<b>742.0</b>	<b>357.9</b>

TABLE 3.5-2

**Wahpeton Expansion Project  
Vegetation Types Affected by Construction and Operation of the Project (acres)<sup>a, b</sup>**

FacilityWorkspace	Agricultural Land <sup>c</sup>		Open Land (Non-Native Grassland) <sup>d</sup>		Forested Land <sup>e</sup>		Total	
	Const.	Oper.	Const.	Oper.	Const.	Oper.	Const.	Oper.
<p><sup>a</sup> The subtotals and totals in this table may not reflect the sum of the addends due to rounding.</p> <p><sup>b</sup> This table does not include vegetation types for developed land or open water as there is no vegetation within these areas. This results in the totals in this table not matching other resource reports.</p> <p><sup>c</sup> Includes cultivated crops, hayfields, and pastureland.</p> <p><sup>d</sup> Includes herbaceous land, scrub/shrub, and non-forested wetlands.</p> <p><sup>e</sup> Includes deciduous and mixed forestland (hedgerows, upland wooded areas, and deciduous forests).</p> <p><sup>f</sup> Block valve setting #1 will be constructed and operated within the Mapleton Compressor Station site. Valve Settings #3 and #7 will be constructed and operated within the construction and operational footprints of the MDU—Kindred Border Station and the MDU—Wahpeton Border Station. The construction and operational acreages for these valve settings are included within the acreages for the Mapleton Compressor Station, the MDU—Kindred Border Station, and the MDU—Wahpeton Border Station. A pig launcher/receiver will be collocated at Valve Sites #1, #2, #5, and #7.</p> <p>Const. = construction; Oper. = operational</p>								

### 3.5.1.2 Non-Native Grassland

Vegetation in the non-native grassland category consists of planted non-native grasses, including smooth brome (*Bromus inermis*), Kentucky bluegrass (*Poa pratensis*), reed canary grass (*Phalaris arundinacea*), goldenrods (*Solidago* spp.), amaranths (*Amaranthus* spp.), and clovers such as alfalfa (*Medicago sativa*; Sedivec et al., 2011). Non-native forbs, such as Canada thistle (*Cirsium arvense*), are also common throughout the area.

### 3.5.2 Unique, Sensitive, and Protected Vegetation Communities

As described in section 8.4 of Resource Report 8, the majority of the Project crosses private lands and the remaining lands crossed are federal, state, and city of Wahpeton lands associated with highway crossings. The Project does not cross United States protected areas managed by state and/or federal agencies (e.g., state department of natural resources, state department of land/conservation, USFWS, United States Forest Service). WBI Energy consulted with the North Dakota Parks and Recreation Department (NDPRD) regarding rare plants and ecological communities through the Natural Heritage Program (see appendix 3D). As discussed in section 8.9 of Resource Report 8, the NDPRD responded to WBI Energy’s Project introduction letter and, based on a query of the North Dakota Natural Heritage biological conservation database, the NDPRD provided a list of rare plants and ecological communities within 1 mile of the Project. For the majority of these ecological communities, the last observations date back to the late 1990s (NDPRD, 2021). Table 3.5-3 provides the list of rare plants and ecological communities that are located within 1 mile of the Project workspace. Figure 3.5-1 provides a map of these historic locations relative to the Project area.

TABLE 3.5-3					
Wahpeton Expansion Project					
Unique, Sensitive, and Protected Vegetation Communities within 1 mile of the Project					
Community Type/Association	Species Assemblages	Nearest MP / Direction From Centerline	Approximate Distance / Nearest Workspace (mile)	State Rank <sup>a</sup>	Global Rank <sup>b</sup>
Wet-mesic Tallgrass Prairie	<i>Andropogon gerardii</i> , <i>Panicum virgatum</i>	MP 33.9 / West	1.1 / Access Road	S1	GNR
Wet Prairie	<i>Spartina pectinate</i> , <i>Calamagrostis stricta</i>	MP 31.9 / West	0.6 / Pipeline Facility	S2S3	GNR
Northern Reedgrass Wet Meadow	<i>Calamagrostis stricta</i> , <i>Carex lanuginosa</i>	MP 34.7 / West	0.4 / Access Road	S2S3	GNR
Sand Mixed Grass Prairie	<i>Calamovilfa longifolia</i> , <i>Andropogon hallii</i>	MP 35.9 / Southwest	0.5 / Pipeline Facility	S2	GNR
Mesic Tallgrass Prairie	<i>Andropogon gerardii</i> , <i>Sorghastrum nutans</i> , <i>Muhlenbergia richardsonis</i>	MP 34.7 / Southwest	0.1 / Pipeline Facility	S1	GNR
Mesic Tallgrass Prairie	<i>Andropogon gerardii</i> , <i>Sorghastrum nutans</i> , <i>Muhlenbergia richardsonis</i>	MP 34.5 / West	0.3 / Access Road	S1	GNR
Northern Reedgrass Wet Meadow	<i>Calamagrostis stricta</i> , <i>Carex lanuginosa</i>	MP 33.6 / West	1.3 / Pipeline Facility	S2S3	GNR
Sand Mixed Grass Prairie	<i>Calamovilfa longifolia</i> , <i>Andropogon hallii</i>	MP 33.5 / West	1.4 / Access Road	S2	GNR
Northern Reedgrass Wet Meadow	<i>Calamagrostis stricta</i> , <i>Carex lanuginosa</i>	MP 36.5 / Southwest	0.3 / Pipeline Facility	S2S3	GNR

TABLE 3.5-3

**Wahpeton Expansion Project  
Unique, Sensitive, and Protected Vegetation Communities within 1 mile of the Project**

Community Type/Association	Species Assemblages	Nearest MP / Direction From Centerline	Approximate Distance / Nearest Workspace (mile)	State Rank <sup>a</sup>	Global Rank <sup>b</sup>
Sand Mixed Grass Prairie	<i>Calamovilfa longifolia</i> , <i>Andropogon hallii</i>	MP 34.5 / West	0.1 / Access Road	S2	GNR
Mesic Tallgrass Prairie	<i>Andropogon gerardii</i> , <i>Sorghastrum nutans</i> , <i>Muhlenbergia richardsonis</i>	MP 36.4 / Southwest	0.7 / Pipeline Facility	S1	GNR
Mesic Tallgrass Prairie	<i>Panicum virgatum</i> , <i>Calamogrostis stricta</i> , <i>Andropogon gerardii</i>	MP 31.9 / West	0.6 / Pipeline Facility	S2	G3G4
Mesic Tallgrass Prairie	<i>Panicum virgatum</i> , <i>Calamogrostis stricta</i> , <i>Andropogon gerardii</i>	MP 36.5 / West	0.2 / Pipeline Facility	S2	G3G4
Mesic Tallgrass Prairie	<i>Panicum virgatum</i> , <i>Calamogrostis stricta</i> , <i>Andropogon gerardii</i>	MP 34.7 / West	0.4 / Access Road	S2	G3G4
Northern Reedgrass Wet Meadow	<i>Calamagrostis stricta</i> , <i>Carex lanuginosa</i>	MP 35.4 / Southwest	0.7 / Pipeline Facility	S2S3	GNR
Dry Mesic Tallgrass Prairie	<i>Schizachyrium scoparium</i> , <i>Stipa spartea</i> , <i>Bouteloua curtipendula</i>	MP 32.1 / West	0.8 / Access Road	S2	G2G3
Dry Mesic Tallgrass Prairie	<i>Schizachyrium scoparium</i> , <i>Stipa spartea</i> , <i>Bouteloua curtipendula</i>	MP 35.2 / Southwest	0.7 / Pipeline Facility	S2	G2G3
Wet Mesic Tallgrass Prairie	<i>Panicum virgatum</i> , <i>Calamogrostis stricta</i> , <i>Andropogon gerardii</i>	MP 35.6 / Southwest	0.9 / Pipeline Facility	S2	G3G4
Mesic Tallgrass Prairie	<i>Andropogon gerardii</i> , <i>Sorghastrum nutans</i> , <i>Muhlenbergia richardsonis</i>	MP 36.0 / Southwest	0.3 / Pipeline Facility	S1	GNR
Wet Mesic Tallgrass Prairie	<i>Panicum virgatum</i> , <i>Calamogrostis stricta</i> , <i>Andropogon gerardii</i>	MP 36.4 / Southwest	0.7 / Pipeline Facility	S2	G3G4
Mesic Tallgrass Prairie	<i>Andropogon gerardii</i> , <i>Sorghastrum nutans</i> , <i>Muhlenbergia richardsonis</i>	MP 34.5 / West	0.1 / Access Road	S1	GNR
Not applicable	<i>Platanthera praeclara</i> <sup>c</sup>	MP 30.3 / East	0.4 / Pipeline Facility	S2	G3

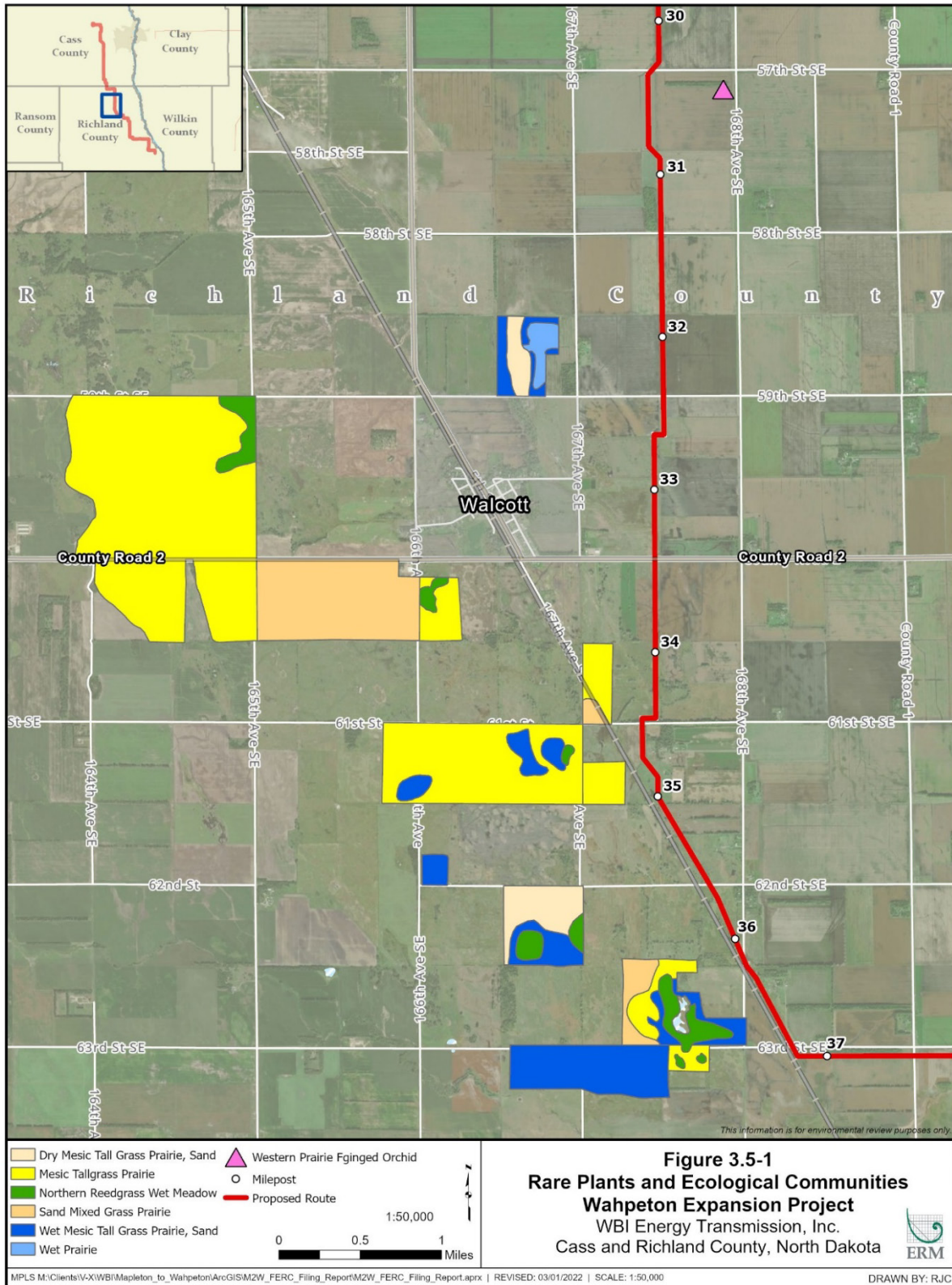
Source: NDRPD, 2021; NatureServe, 2021; North Dakota Natural Heritage Program, 2013; Hagen et al., 2005.

<sup>a</sup> As outlined in North Dakota's Comprehensive Wildlife Conservation Strategy, state ranks are as follows: S1 = Critically Imperiled; S2 = Imperiled; S3 = Vulnerable; S4 = Apparently Secure; S5 = Secure; SU = Unrankable; SX = Presumed Extirpated; and SR = Reported.

<sup>b</sup> Global ranks follow NatureServe, an international network of biological inventories known as natural heritage programs or conservation data centers that operate in all 50 states of the United States and in Canada, Latin America, and the Caribbean. Global ranks are as follows: GX = Presumed Extinct/Presumed Collapsed; GH = Possibly Extinct/Possible Collapsed; G1 = Critically Imperiled; G2 = Imperiled; G3 = Vulnerable; G4 = Apparently Secure; G5 = Secure; GU = Unrankable; GNR = Unranked; and GNA = Not applicable.

<sup>c</sup> Federally listed as threatened.





### 3.5.2.1 Conservation Reserve Program

The Conservation Reserve Program (CRP) is a voluntary program that provides technical and financial assistance to farmers and ranchers to address soil, water, and related natural resource concerns on their lands. The program is administered by the Farm Service Agency (FSA) with the NRCS providing technical land eligibility determinations, conservation planning, and practice implementation.

The CRP aims to reduce soil erosion, reduce sedimentation in streams and lakes, improve water quality, establish wildlife habitat, and enhance forest and wetland resources by encouraging conversion of highly erodible cropland or other environmentally sensitive acreage to vegetative cover, such as tame or native grasses, wildlife plantings, trees, filter strips, or riparian buffers. By establishing such vegetation cover, the CRP can create habitat for a variety of wildlife species, potentially including the species present in the Project area (USFS, 2022b).

As discussed in section 8.7 of Resource Report 8, on December 16, 2021, WBI Energy reached out to the FSA requesting a review of the Project route to determine if any CRP lands are crossed by the Project. A response from the FSA is pending. See appendix 8D of Resource Report 8 for copies of this correspondence. *[Note: WBI Energy will provide FERC with copies of any additional correspondence with the Project application.]*

### 3.5.2.2 Agricultural Conservation Easement Program

The NRCS administers the Agricultural Conservation Easement Program (ACEP), which assists landowners, land trusts, and other entities in the protection, restoration, and enhancement of wetlands, grasslands, and working farms and ranches through conservation easements. There are two components to this program including the agricultural land easements and wetland reserve easements (USFS, 2022a). WBI Energy consulted with the NRCS on a preliminary version of the proposed pipeline route. As discussed in section 8.8 of Resource Report 8, on December 16, 2021, WBI Energy reached out to the NRCS requesting review of the proposed pipeline route and the NRCS confirmed that the Project does not intersect any ACEP lands and the closest ACEP land is located approximately 1,600 feet from the pipeline. See appendix 7C of Resource Report 7 for copies of this correspondence.

## 3.5.3 Construction and Operation Impacts and Mitigation

Table 3.5-2 summarizes the amount of vegetation by cover type that will be affected by construction and operation of the proposed facilities. Construction of the Project will affect 742.0 acres of vegetated land, including 526.7 acres for the construction right-of-way, about 114.5 acres for the ATWS, 6.2 acres for aboveground facilities, about 73.5 acres for the contractor yards, about 2.2 acres for the valve sites, and 18.9 acres for the temporary and permanent access roads. Approximately 357.9 acres will be retained for operation of the Project, including 352.8 acres for the permanent right-of-way, about 3.4 acres for the aboveground facilities, less than 0.5 acre for the valve sites, and approximately 1.3 acres for the permanent access roads.

Construction of the proposed pipeline will require clearing and grading of the temporary right-of-way, which will be conducted as described in Resource Report 1. The permanent right-of-way will be maintained as cropland or other herbaceous and shrub vegetation communities while the remaining temporary workspace along the construction right-of-way and any ATWS areas will be allowed to revert to preconstruction conditions. Implementation of the

measures specified in the FERC Plan and FERC Procedures will minimize Project-related impacts on affected vegetation communities.

As discussed in section 3.2.3.1, WBI Energy has implemented measures (e.g., avoidance of wooded areas to the extent possible when developing the proposed pipeline route, and proposing use of the guided bore crossing method at select feature crossings) to avoid and minimize impacts on vegetation including forested lands and woody vegetation (as defined in section 3.2.1.3). Since filing the draft Resource Reports, WBI Energy has reduced the workspace at several contractor yards to avoid impacts on forested lands where feasible. In addition, contractor yards will be restored to preconstruction conditions in accordance with the FERC Plan or to a condition as specified in landowner agreements. WBI Energy also will use existing public and private access roads on a temporary basis to transport personnel, equipment, vehicles, and materials to the proposed Project work areas during construction (see Resource Report 1, section 1.1.3.4) and permanent access roads will not affect forested land.

The amount of time it will take for vegetation in disturbed areas to revegetate will vary by vegetation type; for example, tree communities take longer to reestablish than shrubs or herbaceous vegetation. Agricultural land and most open lands (e.g., non-native grassland) are expected to revert to a preconstruction condition relatively quickly, generally within one or two years following construction.

Following construction, WBI Energy will revegetate disturbed non-agricultural upland areas within the right-of-way and ATWS in accordance with the FERC Plan using seed mixes recommended by the NRCS or landowners. Revegetation will provide protection against erosion. In areas where final grade and cleanup is completed during active construction, WBI Energy will comply with the timelines for seeding identified in the FERC Plan (weather and soil conditions permitting) or as recommended by the NRCS or FSA (subject to approval by landowners). Timely restoration of the construction right-of-way, reseeding with the appropriate seed mixes, and the use of effective erosion control measures will minimize the duration of vegetation disturbance.

Following construction, trees and shrubs (if present prior to construction) will be allowed to grow within the temporary construction right-of-way and ATWS areas. However, vegetation maintenance will generally preclude the reestablishment of trees and large shrubs on the permanent right-of-way in upland areas. Vegetation maintenance activities on the permanent right-of-way will be conducted no more than once every 3 years except for a 10-foot-wide area over the pipeline, which may be maintained annually to maintain this area in a herbaceous strip. WBI Energy anticipates that the need for vegetation maintenance along the proposed pipeline route will be infrequent due to the predominantly open and agricultural vegetation types.

Construction and operation impacts on wetland vegetation will be minimized by the implementation of the measures specified in section 1.3 of Resource Report 1 by implementing the measures identified in the FERC Procedures and by complying with the conditions of applicable permits. Additional information regarding impacts on wetlands is provided in section 2.3 of Resource Report 2.

Construction and operation of the proposed aboveground facilities will generally be similar to those described above for the pipeline right-of-way and in the wildlife habitat discussion in section 3.2. At these locations, temporary workspace will be restored to preconstruction condition and cover types; areas within the permanent facility footprints at each site will be converted to

developed lands. As noted in table 3.5-2, the Project will have less than 4 acres of permanent impacts on vegetation as a result of the proposed aboveground facilities.

**3.5.4 Noxious Weeds and Other Invasive Plants**

According to regulations in North Dakota law (North Dakota Century Code [NDCC] 4.1-47-01), noxious weeds are defined as any “plant propagated by either seed or vegetative parts and determined to be injurious to public health, crops, livestock, land or other property” as determined by NDCC Sections 4.1-47-05, 4.1-47-10, or 4.1-47-21. The North Dakota Department of Agriculture (NDDA) has established and implemented a statewide network to manage noxious weeds. Under these regulations (NDCC 4.1-47-02), “each person shall do all things necessary and proper to control the spread of noxious weeds and no person may distribute, sell, or offer for sale” noxious weeds.

Noxious and invasive plant species include non-native, undesirable native, or introduced species that are able to exclude and/or out-compete desired native vegetation, thereby decreasing overall species diversity. The NDDA maintains a list of noxious weeds that are recognized and regulated by all cities and counties in North Dakota. Counties have the option to add additional weeds onto a list for enforcement in their jurisdictions. Cass and Richland Counties list 14 noxious weed species potentially occurring in the area (see table 3.5-4).

WBI Energy conducted noxious weed surveys for state- and county-listed noxious weed species within a 300-foot-wide corridor centered on the proposed pipeline centerline within grassland areas. These noxious weed surveys were conducted concurrently with wetland and waterbody surveys and were not timed to coincide with any specific morphological state. Data points and/or polygons were collected at observed noxious weed infestations and percent cover was recorded (see appendix 3E). Weed species identified were limited to one species—Canada thistle. Table 3.5-5 summarizes noxious weeds observed in the Project area.

TABLE 3.5-4		
Wahpeton Expansion Project Noxious Weed Species Potentially Occurring in the Project Area		
Species	Counties	
	Cass	Richland
Absinth wormwood ( <i>Artemisia absinthium</i> L.)	X	X
Canada thistle ( <i>Cirsium arvense</i> (L.) Scop.)	X	X
Dalmatian toadflax ( <i>Linaria genistifolia</i> spp. <i>dalmatica</i> )	X	X
Diffuse knapweed ( <i>Centaurea diffusa</i> Lam.)	X	X
Houndstongue ( <i>Cynoglossum officinale</i> L.)	X	X
Leafy spurge ( <i>Euphorbia esula</i> L.)	X	X
Musk thistle ( <i>Carduus nutans</i> L.)	X	X

TABLE 3.5-4		
Wahpeton Expansion Project Noxious Weed Species Potentially Occurring in the Project Area		
Species	Counties	
	Cass	Richland
Palmer amaranth ( <i>Amaranthus palmeri</i> )	X	X
Purple loosestrife ( <i>Lythrum salicaria</i> L., <i>Lythrum virgatum</i> L., and all cultivars)	X	X
Russian knapweed ( <i>Centaurea repens</i> L.)	X	X
Saltcedar ( <i>Tamarisk</i> spp.)	X	X
Spotted hemlock ( <i>Conium maculatum</i> )	X	
Spotted knapweed ( <i>Centaurea maculosa</i> Lam.)	X	X
Yellow toadflax ( <i>Linaria vulgaris</i> )	X	X

Sources: Cass County, North Dakota, 2022; Ikley, 2020; NDDA, 2017.

TABLE 3.5-5			
Wahpeton Expansion Project Summary of Noxious Weeds Observed in the Project Area During Surveys			
Species	Nearest MP / Facility	Area (square feet)	Percent Cover
Canada thistle ( <i>Cirsium arvense</i> .)	24.2	150	0-10
	28.3	20	0-10
	28.3	15	0-10
	28.3	20	0-10
	30.3	35	0-10
	31.4	< 10	0-10
	31.4	< 10	0-10
	31.4	< 10	0-10
	31.6	15	10-25
	31.6	15	0-10
	31.6	10	0-10
	31.6	10	0-10
	31.8	30	10-25
	31.8	10	10-25
	31.8	15	0-10
	33.5	300	0-10
33.5	< 10	50-75	

TABLE 3.5-5			
Wahpeton Expansion Project Summary of Noxious Weeds Observed in the Project Area During Surveys			
Species	Nearest MP / Facility	Area (square feet)	Percent Cover
	36.4	< 10	10-25
	36.8	300	0-10
	37	15	10-25
	41	15	10-25
	41	< 10	0-10
	41	< 10	0-10
	41	< 10	0-10
	42.4	< 10	0-10
	43.4	10	0-10
	43.5	< 10	0-10
	Kindred Pipe Yard	15	0-10

#### 3.5.4.1 General Impacts and Mitigation

Vegetation removal and soil disturbance during construction of the pipeline facilities could create optimal conditions for the establishment of invasive, non-native plants and noxious weed species. Construction equipment traveling from weed and invasive plant infested areas into weed-free areas along the construction corridor could disperse invasive plant and noxious weed seeds and propagates, resulting in the establishment of undesirable vegetation in previously weed-free areas.

WBI Energy will implement the measures described in its *Noxious Weeds Management Plan* to prevent and control the introduction or spread of noxious weeds during and following construction of the Project (provided in appendix 3C). The measures contained in this plan are designed to identify areas supporting noxious weeds prior to construction, to prevent the introduction and spread of weeds from construction equipment moving along the right-of-way, to contain weed seeds and propagules by preventing segregated topsoil from being spread to adjacent areas or along the construction right-of-way, and to address weed infestations that develop during operation of the Project. The following are examples of measures that are discussed in more detail in the *Noxious Weeds Management Plan*:

- As noted above, WBI Energy conducted surveys for noxious weed species within the Project area (see table 1 of appendix 3C). These locations will be identified on construction alignment sheets. Additional areas supporting noxious species may be identified during preconstruction inspections by WBI Energy’s EIs. Prior to construction, the EIs will mark areas of noxious weed infestation by using color-coded flagging, staking, and/or signs on the construction right-of-way to alert construction personnel to implement weed control measures during construction.
- Prior to clearing and grading operations, pre-treatment of noxious weed infestations (e.g., application of herbicide or mechanical measures) may be conducted if it is determined that pre-treatment will aid in controlling the spread of weeds during

construction. The weed control measure chosen will be the best method available for the time, place, and species or weed.

- All contractor equipment will be cleaned prior to arriving on the Project site and inspected to verify that it is adequately clean of soil and debris capable of transporting weed propagules prior to working on the Project.
- The material used for erosion control (e.g., hay bales or straw) will be weed-free.

Following construction, WBI Energy will monitor the Project area in accordance with the FERC Plan and FERC Procedures. In the event that noxious weed species become established in the right-of-way, WBI Energy may implement post-construction application of herbicides or mechanical measures to control noxious weeds. The weed control measure chosen will be the best method available for the time, location, and species of weed.

- WBI Energy will control noxious weed species at WBI Energy-managed aboveground facility sites to prevent the spread of weeds onto adjacent properties. This may include the use of approved herbicides, mechanical methods, and/or alternative methods as appropriate for the species and in accordance with applicable laws and regulations.
- WBI Energy’s operations staff will monitor and treat noxious weeds as part of its normal operations and maintenance activities in accordance with state regulations.

### 3.6 Endangered and Threatened Species

In accordance with the FERC guidelines and for purposes of complying with the requirements of Section 7(a)(2) of the ESA, WBI Energy has initiated consultation with the USFWS regarding federally listed species that may occur or potentially be affected by construction and operation of the Project. WBI Energy has evaluated the potential for the proposed Project to affect federally listed and threatened and endangered species, candidate species, and designated critical habitat (DCH) as discussed below. *[Note: WBI Energy is in the process of consulting with the USFWS regarding endangered and threatened species and will file updated correspondence with the USFWS with the Project application.]*

#### 3.6.1 Federally Listed Species

Six species, either federally listed as threatened or endangered or identified as candidate species, have the potential to occur within the Project area. Two of the species have critical habitat that has been designated in North Dakota, but located outside of the Project area.

The species lists were compiled from a review of the USFWS Information for Planning and Consultation System (USFWS, 2022b) and agency consultations (see appendix 3F). Table 3.6-1 provides a summary of the federally listed species that potentially occur in the Project area.

TABLE 3.6-1		
Wahpeton Expansion Project Federally Listed Species in the Project Area		
Species	Federal Status	Habitat/Life History Notes
Mammals		

TABLE 3.6-1

**Wahpeton Expansion Project  
Federally Listed Species in the Project Area**

Species	Federal Status	Habitat/Life History Notes
Northern long-eared bat ( <i>Myotis septentrionalis</i> ; NLEB)	Threatened	Rare in North Dakota. Primarily found in woodland habitats. A significant loss of individuals to white-nose syndrome in eastern and midwestern United States and in Canada have cause population concern throughout this species' range.
<b>Birds</b>		
Whooping crane ( <i>Grus americana</i> )	Endangered	Migrant species occurring in North Dakota during the spring and fall seasons (April to mid-May and September to early November). Utilize wetlands, lakes, riverine areas, and a variety of cropland for roosting and foraging.
<b>Insects</b>		
Dakota skipper ( <i>Hesperia dacotae</i> , DASK)	Threatened	Dependent on high-quality, tall-grass and mixed-grass prairie. Habitat includes wet prairie dominated by bluestem grasses ( <i>Andropogon</i> spp.), wood lily ( <i>Lilium philadelphicum</i> ), harebell ( <i>Campanula rotundifolia</i> ), and smooth camas ( <i>Zygadenus elegans</i> ) and dry prairie on ridges and hillsides dominated by bluestem grasses, green needlegrass ( <i>Nassella viridula</i> [Trin.] Barkworth), pale purple coneflower ( <i>Echinacea</i> sp.), upright coneflower ( <i>Ratibida columnaris</i> ), and blanketflower ( <i>Gaillardia aristata</i> ).
Monarch butterfly ( <i>Danaus plexippus</i> )	Candidate	Two main populations of monarchs in North America. The population found in North Dakota breed east of the Rocky Mountains and overwinter in Mexico. During the breeding season, monarchs lay their eggs on their milkweed host plant ( <i>Asclepias</i> spp.). There are 10 species of native milkweed in North Dakota, two that are most familiar include common milkweed ( <i>Asclepias syriaca</i> ) and showy milkweed ( <i>Asclepias speciosa</i> ). Once the monarch larvae hatch, they feed exclusively on milkweed.
Poweshiek skipperling ( <i>Oarisma Poweshiek</i> )	Endangered	Habitat includes remnant prairie areas including prairie fens, grassy lake and stream margins, moist meadows, sedge meadows, and wet-to-dry prairie. Adults are dependent on high-quality nectar from flowering herbaceous plants and shrubs for feeding and healthy and abundant suitable grasses for egg laying.
<b>Flowering Plants</b>		
Western prairie fringed orchid ( <i>Platanthera praeclara</i> ; WPFO)	Threatened	Preferred habitat includes unplowed, calcareous prairies and sedge meadows. Plants have also been observed in successional communities including borrow pits, old fields, and roadside ditches. Land management practices such as burning, grazing, and mowing may affect the species depending on timing, frequency, and intensity.
Sources: USFWS, 2022b; NDGFD, 2016c; 2019a; 2019c; 2019d; USFWS, 1996.		

### 3.6.1.1 Northern Long-eared Bat

The northern long-eared bat (*Myotis septentrionalis*; NLEB) ranges across the eastern and north central United States and all Canadian provinces west to the southern Yukon Territory and eastern British Columbia (78 FR 61046). NLEBs are considered common in only small portions of the western part of its range (i.e., Black Hills of South Dakota) and uncommon or rare in the western extremes of the range (78 FR 61046). This species has only been identified in a few locations in North Dakota, which include forested habitat in the Turtle Mountains and the riparian corridors of the Little Missouri and Missouri Rivers (NDGFD, 2019e). Of these known occurrences, the nearest documented NLEB to the Project area is greater than 180 miles away in the Missouri River Valley. In addition to the Missouri River Valley and the Badlands of western North Dakota, Gillam et al. (2015) document one observation of the NLEB in Fort Buford, McKenzie County and in the Little Missouri National Grassland, which is located in parts of



McKenzie, Billings, Slope, and Golden Valley Counties in northwest and western North Dakota. Minnesota records for NLEB are from the north-central and eastern half of the state, including Becker County, Minnesota located approximately 40 miles east/northeast of the Project area (Gillam et al., 2015; MNDNR, 2022a). NLEBs spend winter months hibernating in crevices or cracks of caves and mines. Summer months are spent roosting underneath bark in cavities or crevices of live and dead trees. NLEBs are adaptable in their selection of tree species used for roosting; NLEBs have been documented using numerous tree species and utilizing both crevices and bark of trees and a range of stem diameters and heights. In nearby Minnesota, Swingen et al. (2018) documented the most common roost tree species were aspen (*Populus* spp.), oak (*Quercus* spp.), and maple (*Acer* spp.). Maternity colonies form in the summer months where females give birth to a single bat (pup). Most bats within a colony give birth around the same time, from late May or early June to late July, where maternity colonies containing females and young typically have 30 to 60 bats at the beginning of the summer (USFWS, 2020d). There are no known hibernacula within North Dakota; however, there has been limited survey effort in the state (78 FR 61046; NDGFD, 2016d). Estimated NLEB hibernation season in North Dakota is from October 1 through May 15 (USFWS, 2014).

The NLEB is a threatened species under the ESA with a 4(d) rule. The finalized 4(d) rule for the NLEB allows incidental take of bats in populations outside of the counties or districts where white-nose syndrome is known to be present (81 FR 1900). The 4(d) rule applies to the entire state of North Dakota. Under the final 4(d) rule, incidental take outside of hibernacula that results from tree removal is only prohibited when it (1) occurs within 0.25 mile (0.4 kilometer) of known NLEB hibernacula; or (2) cuts or destroys known occupied maternity roost trees, or any other trees within a 150-foot (45-meter) radius from the known occupied maternity trees, during the pup season (June 1 through July 31).

The USFWS is currently undergoing a review of the federal listing for the NLEB and this species is proposed to be listed as endangered in November 2022. If the species is listed as endangered, the 4(d) rule will no longer be applicable. The USFWS anticipates publishing additional guidance for the species closer to the final rule publication. The species is very susceptible to the fungal disease, white-nose syndrome, which has led to significant losses and caused a population concern range wide. Other sources of mortality for the NLEB include impacts on winter hibernation areas, loss or degradation of summer habitats, and wind farm operations (USFWS, 2015; NDGFD, 2016d). No critical habitat has been designated for this species.

### 3.6.1.2 Whooping Crane

The whooping crane (*Grus americana*) utilizes a variety of habitats along their migration route, including croplands, freshwater wetlands with shallow areas, and submerged sandbars in wide, unobstructed river channels isolated from human disturbance (Austin and Richert, 2005; Urbanek and Lewis, 2015). The Aransas-Wood Buffalo population of the whooping crane migrates in the spring and fall through the central portion of North Dakota. Spring migration occurs from late April to mid-June, with most sightings occurring in the western two-thirds of the state; Cass and Richland Counties are considered within the possible range for whooping crane (NDGFD, 2019e). During migration, preferred stopover sites include large shallow marshes with minimal to no emergent zones for roosting and nearby upland cropland and pastures for foraging. Fall migration normally begins in mid-September, with most birds arriving at the Texas wintering grounds between late October and mid-November.

The whooping crane is listed as endangered under the ESA; only about 506 individuals remain in the Aransas-Wood Buffalo population (International Crane Foundation, 2021). Current threats to whooping cranes include loss or deterioration of critical wetland habitat, low genetic diversity, utility line collisions, predation, disease, disturbance at nest sites, and illegal shooting (International Crane Foundation, 2021; Meine et al., 1996). Whooping crane populations have primarily declined due to loss of habitat and illegal shooting. The Aransas-Wood Buffalo whooping crane population has a restricted wintering distribution along the Gulf Intracoastal Waterway of Texas where the risk of contaminant spills is high based on the amount of barge traffic (Urbanek and Lewis, 2015). The status of the species in the wild is precarious because the birds concentrate during the winter, which makes the birds more vulnerable to contaminant spills. Delayed sexual maturity, small clutch sizes, and low recruitment rates have also affected recovery efforts. DCH for this species occurs in Kansas, Oklahoma, Nebraska, and Texas.

### 3.6.1.3 Dakota Skipper

Historically, Dakota skipper (*Hesperia dacotae*; DASK) were distributed throughout tallgrass prairie habitats of Illinois, Iowa, Minnesota, South Dakota, North Dakota, Manitoba, and Saskatchewan (Vaughan and Shepherd, 2005). Within the United States, DASK have been extirpated from Illinois and Iowa and are now only present in scattered isolated sites in western Minnesota, northeastern South Dakota, and the northern half of North Dakota (USFWS, 2016). DASK is listed as threatened under the ESA; Critical habitat for DASK has been designated in North Dakota, South Dakota, and Minnesota (80 FR 59248). North Dakota Critical Habitat Units 1, 2, and 13—which are the closest critical habitat to the Project—are located in Richland and Ransom Counties approximately 22, 26, and 27 miles west and southwest of the Project area, respectively (USFWS, 2019a). Main threats to DASK and its habitat include cattle grazing (Selby, 2006), haying, lack of habitat management, pesticide use, flooding, habitat fragmentation, isolation of populations, and prairie conversion. Other risks identified were related to climate change, including catastrophic drought (USFWS, 2018b).

DASK inhabit two types of prairie habitat—low wet-mesic prairie with little topographic relief that occurs on near-shore glacial lake deposits (Type A) and dry-mesic, mixed-grass prairie dominated by mixed bluestem and green needlegrasses occurring primarily on rolling terrain over gravelly glacial moraine deposits (Type B; USFWS, 2016). Both habitat types contain an abundance of flowering plants and alkaline soils (Vaughan and Shepherd, 2005). In dry mixed-grass prairie, DASK can be found along ridges and hillsides (Cochrane and Delphey, 2002).

DASK complete one generation per year (Cochrane and Delphey, 2002). The larvae overwinter at or below ground level. During the spring, the larvae emerge to complete their development. The larvae eventually pupate in June (Vaughan and Shepherd, 2005). Adults generally emerge in mid-June to early July and mate during a two- to four-week flight period (Cochrane and Delphey, 2002; Vaughan and Shepherd, 2005). Peak flight times occur within a span of about 10 days in early July each year (USFWS, 2018b). Females lay eggs on a range of broadleaf plants and grasses (Vaughan and Shepherd, 2005), which hatch after incubating for seven to 20 days (Cochrane and Delphey, 2002). Little bluestem is often selected for both egg laying and as a food source for larvae (Vaughan and Shepherd, 2005). Nectar sources for adults vary regionally and include purple coneflower (*Echinacea* sp.), blanketflowers (*Gaillardia* sp.), black-eyed Susans (*Rudbeckia* sp.), and evening primrose (*Calypphus serrulatus*; Cochrane and Delphey, 2002; Vaughan and Shepherd, 2005).

#### 3.6.1.4 Monarch Butterfly

The monarch butterfly (*Danaus plexippus*) is a candidate species under the ESA and not yet listed or proposed for listing. Candidate species are plants and animals for which the USFWS has sufficient information on their biological status and threats to propose them as endangered or threatened under the ESA, but for which development of a proposed listing regulation is precluded by other higher priority listing activities. Candidate species receive no statutory protection under the ESA (USFWS, 2017a). Two North American populations, including migratory populations east and west of the Rocky Mountains, have been monitored at their overwintering sites since the mid-1990s. Monarch butterflies found east of the Rocky Mountains, including breeding populations found in North Dakota, migrate south or southwest to mountainous overwintering grounds in central Mexico (NDGFD, 2021c). While populations normally fluctuate from year-to-year, data indicate population declines over the last two decades (USFWS, 2020c). Threats associated with these declines include habitat loss and fragmentation, pesticide use on milkweed (*Asclepias* spp.) host plants, and changing climate (USFWS, 2021f).

In general, habitat requirements for monarch populations include specific quantities and optimal quality of milkweed and breeding season nectar sources; however, the specific optimal amount of habitat and its spatial distribution are unknown (USFWS, 2020c).

The monarch life cycle varies geographically. Monarchs lay their eggs on milkweed host plants and the larvae emerge after two to five days. The larvae then develop and feed on the milkweed over a period of nine to 18 days. The larvae pupate into chrysalis and six to 14 days later emerge as an adult butterfly. There are multiple generations of monarchs produced during the breeding season; where most adult butterflies live two to five weeks, overwintering adults enter into reproductive diapause (suspended reproduction) and live six to nine months (USFWS, 2020c).

#### 3.6.1.5 Poweshiek Skipperling

Historically, the Poweshiek skipperling (*Oarisma poweshiek*) were distributed throughout tallgrass and mixed grass prairie habitats of Illinois and Iowa in the south, to Michigan in the east, North Dakota and South Dakota in the west, and southern Manitoba in the north (USFWS, 2020a). The Poweshiek skipperling has undergone rangewide declines in number of individuals and the location of populations and may be extirpated from the Dakotas, Minnesota, and Iowa within the last 10 years. Poweshiek skipperling populations are now known only from Wisconsin, Michigan, and Manitoba (USFWS, 2021e) and this species is considered extirpated within North Dakota (NDGFD, 2019e; Dyke et al., 2015). Poweshiek skipperling is listed endangered under the ESA. Critical habitat for the Poweshiek skipperling occurs in North Dakota, South Dakota, Minnesota, Iowa, Michigan, and Wisconsin (80 FR 59248). North Dakota Critical Habitat Units 1 and 2, which are the closest critical habitat to the Project, are located in Richland County approximately 22 and 26 miles southwest of the Project area. Similar to threats identified for DASK, main threats to Poweshiek skipperling and its habitat include cattle grazing, habitat loss, habitat fragmentation and isolation of populations, and periods of prolonged drought (MNDNR, 2022b; Selby, 2010).

Poweshiek skipperling inhabit remnant prairie habitats including prairie fens, grassy lake and stream margins, moist meadows, sedge meadows, and wet-to-dry prairies with hillsides. Primary habitat plant species for Poweshiek skipperling include bluestem and purple coneflower (NDGFD, 2019e).

Poweshiek skipperling complete one generation per year, including a single flight period lasting two to four weeks. Adult Poweshiek skipperling emerge from mid-June to early July when they rely on high-quality nectar from flowers for feeding and a source of healthy and abundant host plants for egg laying (USFWS, 2021h). Nectar plants vary geographically; nectar sources documented in North Dakota include smooth ox-eye (*Heliopsis helianthoides*) and purple coneflower (*Echinacea* sp.; Swengel and Swengel, 1999). Plant sources for egg laying and larval food include prairie dropseed (*Sporobolus heterolepis*), little bluestem (*Schizachyrium scoparium*), sideoats grama (*Bouteloua curtipendula*), and *Carex* spp. Poweshiek skipperling overwinter as larvae above ground dependent on blades and/or stems of host plants; therefore, this species also requires suitable microclimate conditions for shelter during winter (USFWS, 2020a).

#### 3.6.1.6 Western Prairie Fringed Orchid

The western prairie fringed orchid (*Platanthera praeclara*; WPFO) is a terrestrial member of the orchid family found in Iowa, Kansas, Minnesota, Missouri, Nebraska, and North Dakota. In North Dakota, the WPFO distribution is confined to Richland and Ransom Counties. The USFWS 2020 five-year review on the WPFO indicates that since 2009 there has been one new population discovered and nine populations are now considered extirpated (primarily concentrated within the Sheyenne National Grassland) by the North Dakota Natural Heritage Program, as no orchids have been observed since 1995 or the habitat is no longer suitable (USFWS, 2021i). The Sheyenne National Grasslands is located over 8 miles west/southwest of the Project area. Natural heritage data provided by the NDPRD documented one historic record (observation greater than 35 years ago) of the WPFO within 1 mile of the Project area to the east of MP 30.4. The WPFO is listed as threatened under the ESA. Identified threats to the WPFO throughout its range include woody encroachment, invasive plant species, siltation, erosion, altered fire regimes, land use/management changes (e.g., conversion of remnant prairie to cropland), and the use of herbicides and insecticides (USFWS, 2021i).

WPFO habitat conditions vary across its geographic range; however, one common factor thought to influence the growth of this species is groundwater depth. This species is found almost exclusively in remnant native plant communities (MNDNR, 2022c). In southeastern North Dakota, preferred habitat for the species includes northern wet prairie, northern mesic prairie, and prairie wet meadows. The populations of WPFO found within the Sheyenne National Grassland are located in sedge meadows associated with lowland depressions called swales (Volken et al., 2001). The WPFO relies on its relationship with mycorrhizal soil fungi for seed germination and seedling development. This species has been documented emerging as early as late March in southwestern Minnesota and senescence generally occurs in late September or earlier if the soil moisture is abnormally low. Peak flowering typically occurs from early to mid-July (MNDNR, 2022c). The WPFO is also reliant on sphinx moth populations for seed production.

#### 3.6.2 Construction and Operation Impacts and Mitigation

The potential effects of the Project on federally listed species are evaluated below. WBI Energy is consulting with the USFWS regarding potential impacts on listed species and will provide updates and relevant documentation to FERC when available.

### 3.6.2.1 Northern Long-Eared Bat

The Project site is within the probable range of NLEB; however, no documented hibernacula for the species are present in the Project area (NDGFD, 2019e). Direct effects could occur if roosting trees being actively used by NLEB were removed by construction activities during summer use (March through September). Construction of the Project is anticipated to occur from spring to late fall of 2024, which overlaps the active and breeding season of the NLEB. Although bats could potentially roost in small patches of trees, windrows, or shelterbelts, there are no large forested habitats in the vicinity of the proposed Project. Dominant vegetation types crossed by the Project consist of agricultural grain and row crops. Less than 1 percent of the Project area is classified as forested land. Therefore, highly suitable NLEB habitat is not present within the Project area. Once construction is complete, approximately 1.1 acre of forested land will be retained as open land within the new permanent right-of-way. No forested lands are located within the aboveground facilities, contractor yards, access roads, or valve site locations. WBI Energy has implemented measures (e.g., avoidance of wooded areas to the extent possible when developing the proposed pipeline route, proposing use of the guided bore crossing method at select feature crossings, and reducing workspaces at contractor yards) to avoid and minimize impacts on vegetation including forested lands. In addition, there are no known NLEB hibernacula or maternity roosts within 50 miles of the proposed Project (USFWS, 2021g); therefore, the Project is not anticipated to have any direct impacts on NLEB.

Indirect effects could occur if construction activities were to displace roosting or foraging bats from nearby habitat due to the increase in noise and human activity in the area. Bats will likely move to surrounding undeveloped treed areas in the areas surrounding the Project and any indirect impacts are expected to be insignificant. NLEB habitat is limited within the Project area and there are no documented occurrences of the species in the Project area. [Note: *WBI Energy has completed a USFWS Information for Planning and Consultation submission and NLEB 4 (d) rule determination and will provide FERC with the USFWS response upon receipt.*] Given the small amount of tree clearing that will occur and the lack of documented occurrences of NLEB in the Project area, the Project may affect—but is not likely to adversely affect—the NLEB. As noted in the January 5, 2016 Programmatic Biological Opinion, any take that may occur as a result of the Project is not prohibited under the ESA Section 4(d) rule adopted for this species at 50 Code of Federal Regulations 17.40(o).

### 3.6.2.2 Whooping Crane

The only whooping cranes that may occur along the pipeline route or in the Project vicinity would be individual migrants flying north in the spring or south in the fall. Given the location of the Project, the likelihood of individual cranes being in the area is low, but possible (Cornell Lab of Ornithology, 2022). Moreover, due to the abundance of both wetlands and croplands in the Project area, WBI Energy expects that migrant cranes will be able to find suitable feeding and roosting areas away from the Project during the temporary disturbance from construction and post-construction restoration. Project EIs will be trained in whooping crane identification prior to the start of construction. In the event that individual cranes are observed along the Project right-of-way during construction, they will be left undisturbed and construction within 1 mile of the cranes will cease until they vacate the area—at which time construction activities will resume. Following restoration, the right-of-way will be returned to preconstruction condition in open lands. Therefore, WBI Energy has determined that the Project may affect, but is not likely to adversely

affect, the whooping crane or its habitat with the implementation of the proposed mitigation measures.

### 3.6.2.3 *Dakota Skipper*

The Project area is within the DASK's historical range and the species was historically documented within Richland County. These historic locations of known DASK observations within Richland County were concentrated within the northwestern and southcentral townships of the County (USFWS, 2018a). There are no recent records of the DASK in the Project area and it is now considered extirpated in Richland County.

The USFWS has DCH for the DASK in North Dakota, South Dakota, and Minnesota (80 FR 59248). There is one known critical habitat site in Richland County (USFWS, 2019a) and two critical sites in Ransom County (80 FR 59248). North Dakota Critical Habitat Units 1, 2, and 13—which are the closest critical habitat units to the Project—are located in Richland and Ransom Counties approximately 22, 26, and 27 miles west and southwest of the Project area, respectively. Critical Habitat Unit 4, which is the closest critical habitat in Minnesota, is located in Clay County more than 20 miles from the Project area. Due to the distance between the Project area and the DCHs, the Project is not anticipated to have an effect on DASK critical habitat.

Targeted DASK surveys were not conducted during the 2021 field survey effort; however, a habitat assessment of the vegetation was completed (see appendix 3E). In the USFWS DASK North Dakota Survey Protocol (USFWS, 2018a), suitable habitat for the DASK is defined as native prairies containing native grasses and diverse forbs. Croplands, non-native haylands, pastures, shrublands, forests, or other grasslands dominated by non-native plant species are typically not considered suitable for DASK. Following this guidance, suitable habitat for DASK was not documented within the Project area; however, there is historically documented potential habitat outside of the Project area (see table 3.5-3 and figure 3.5-1), which is greater than 2 miles southwest of MP 25.7 located within suitable grassland habitat. The best available information for the presence of the DASK comes from the *Population Distribution and Occupancy Status* section of the FR (79 FR 63672) documenting species presence, species surveys by Royer et al. (2014), and from the USFWS DASK North Dakota Survey Protocol (USFWS, 2018a). The closest documented population to the Project area includes one site within the Sheyenne National Grassland complex in Ransom County; however, the status of DASK at this site is currently unknown, because the species was not observed during subsequent surveys. In addition, the FR (79 FR 63672) states that DASK habitat in the Sheyenne National Grassland complex have experienced intensive grazing, leafy spurge invasions, and extensive herbicide use leading to habitat modifications and resulting in the extirpation of DASK from previously known sites (Cochrane and Delphay, 2002; Delphay et al., 2017).

The Project area does not contain suitable DASK habitat but is largely composed of agricultural land, which comprises approximately 91 percent of the vegetation resources within the Project area. DASKs are not likely to be present in the dominant vegetation found within the Project area including cropped areas, previously cropped areas, non-native haylands/pastures, or other grassland that is dominated by non-native species (USFWS, 2018b). Overall, there is a strong correlation between DASK occurrences and the dominance of native grasses in habitat, which indicates that populations of DASK and their persistence require native grasses for survival (USFWS, 2018b). For example, Davis (2020) documented that pastures dominated by smooth brome provide poor habitat for DASK larvae as the widely spaced stems are unsuitable for their

shelter-building behavior. Additionally, Nordmeyer et al. (2021) observed negative effects on DASK larvae growth and survival resulting from foraging on invasive grass species, including smooth brome and Kentucky bluegrass. Smooth brome and Kentucky bluegrass were documented during the 2021 habitat assessment as typical species observed within the agricultural and grassland areas of the Project area (see appendix 3E). In addition, DASK are unlikely to use the Project area during dispersal as they are not known to disperse widely. DASK have a mean mobility of 3.5 (standard deviation = 0.7) on a scale of 0 (sedentary) to 10 (highly mobile; Burke et al., 2011; USFWS, 2017b).

Project construction activities create an opportunity for introducing and spreading noxious weeds and invasive plant species within the Project area. Noxious weeds and invasive plants can out compete native forbs that are food sources for DASK (USFWS, 2017b). Noxious weeds were observed concurrently with wetland and waterbody surveys and were not timed to coincide with any specific morphological state. Weed species identified during surveys were limited to one species—Canada thistle. Weed control measures, including providing contractor education on noxious weeds, implementing preventative measures (e.g., flagging existing noxious weed infestations, cleaning equipment, segregating topsoil, and implementing reclamation) following FERC's Plan and FERC's Procedures, and implementing treatment methods will be incorporated into the Project to reduce the threat of introducing or spreading noxious weeds and invasive plant species within the Project area.

After soil is cleared in disturbed non-agricultural upland areas within the right-of-way and ATWS in accordance with the FERC Plan, revegetation efforts would include using seed mixes approved by the NRCS, or landowners, and would provide habitat for the DASK while reducing habitat fragmentation along the Project alignment. Based on recommendations provided by the NRCS (see section 7.3.1 of Resource Report 7), WBI Energy proposes to use seed mixes designed for reseeding land in accordance with the North Dakota Department of Transportation (NDDOT) 2020 *Standard Specifications for Road and Bridge Construction* (NDDOT, 2020) and recommendations for adding 10 pounds of oats per acre to serve as a companion or nurse crop, which would reduce erosion and weed competition.

WBI Energy has determined the Project may affect, but is not likely to adversely affect, the DASK due to the lack of suitable habitat within and immediately adjacent to the Project area, the species' poor dispersal abilities, and the implementation of the proposed mitigation measures (e.g., implementation of weed control measures and revegetation efforts).

#### 3.6.2.4 *Monarch Butterfly*

As discussed in section 3.6.1.4, the monarch butterfly does not currently have federal protection. The USFWS 12-month finding on a petition to list the monarch does not protect monarchs under the ESA at this time (USFWS, 2020b).

Targeted monarch butterfly surveys were not conducted during the 2021 field survey effort and, to date, the USFWS and North Dakota agencies have not requested surveys for rare plants or milkweed; however, a habitat assessment of the vegetation was completed (see appendix 3E). While field surveys were not conducted during the peak blooming season for milkweed species, surveyors documented suitable habitat—including small numbers of common milkweed—for the monarch within the Project area (see appendix 3E). About 10 species of native milkweed can be found in North Dakota (NDGFD, 2019c) and additional milkweed species and/or milkweed populations are likely present within the Project area near ditches and woodland edges. Monarch

butterflies and their suitable habitat are not likely to be present in the dominant vegetation found within the Project including cropped areas, previously cropped areas, non-native haylands/pastures, or other grassland that is dominated by non-native species. Due to the lack of suitable habitat, Project impacts to the monarch butterfly are anticipated to be minor.

#### 3.6.2.5 *Poweshiek Skipperling*

The Project area is within the Poweshiek skipperling's historical range. There are historic records from 16 sites in seven of North Dakota's counties—including Cass and Richland Counties—for this species. The most recent observation of Poweshiek skipperling within its historical range in North Dakota was in 2001 (Selby, 2010). The NDGFD document that this species is rare and believed to be extirpated in North Dakota and the USFWS document that Poweshiek skipperling may have been extirpated from the Dakotas, Minnesota, and Iowa within the last 10 years (USFWS, 2021e). The USFWS DCH for the Poweshiek skipperling is located in North Dakota, South Dakota, Minnesota, Iowa, Michigan, and Wisconsin. North Dakota Critical Habitat Units 1 and 2, which are the closest critical habitats in North Dakota to the Project, are located in Richland County approximately 22 and 26 miles southwest of the Project area, respectively. Critical Habitat Units 4, 18, and 11—which are the closest critical habitat in Minnesota—are located in Clay and Wilkin Counties more than 20 miles from the Project. Due to the distance between the Project and the DCHs, the Project is not anticipated to have an effect on Poweshiek skipperling critical habitat.

Targeted Poweshiek skipperling surveys were not conducted during the 2021 field survey effort; however, a habitat assessment of the vegetation was completed (see appendix 3E). Suitable habitat for Poweshiek skipperling was not documented within the Project area; however, there is historically documented potential habitat outside of the Project area (see table 3.5-3 and figure 3.5-1). Poweshiek skipperling are not likely to be present in the dominant vegetation found within the Project including cropped areas, previously cropped areas, non-native haylands/pastures, or other grassland that is dominated by non-native species (USFWS, 2021h). Due to the lack of suitable habitat and the likelihood that this species has been extirpated from the state (USFWS, 2021h), WBI Energy has determined that the Project may have no effect on Poweshiek skipperling.

#### 3.6.2.6 *Western Prairie Fringed Orchid*

The Project area is within the WPFO historical range. Based on USFWS five-year species review (USFWS, 2021i), the WPFO has not been regularly surveyed outside of the Sheyenne National Grasslands in North Dakota since the 1990s.

Targeted WPFO surveys were not conducted during the 2021 field survey effort; however, a habitat assessment of the vegetation was completed (see appendix 3E). The WPFO was not documented during field surveys; however, surveys were not conducted during the peak blooming season for this species. Suitable habitat for the WPFO—such as prairie and sedge meadows and associated native prairie plant species (e.g., big and little bluestem, sedges, switchgrass [*Panicum virgatum* L.], and prairie sandreed [*Calamovilfa longifolia* (Hook) Scribn.]—were not observed in the Project area. There is a historical sighting documented for the WPFO within 1 mile of the Project (see table 3.5-3 and figure 3.5-1). As indicated on the Minnesota Department of Natural Resource (MNDNR) site (MNDNR, 2022c), conservation efforts for the WPFO should be directed toward protecting “*high quality, intact, native habitat,*” which further indicate the specialized habitat that the WPFO is dependent upon and that is not present within the Project



area. Further noted on the MNDNR's site, annual haying can present problems for long-term WPFO survival, particularly if the haying occurs prior to seed capsule maturation; the WPFO reproduces entirely by seed and annual mowing could lead to reproductive failure and eventually population collapse (MNDNR, 2022c). Given that the majority of land in the Project area is agricultural—which would include utilizing methods such as haying and mowing, the WPFO is not likely to be present within the Project area. In general, the WPFO is not likely to be present in the dominant vegetation found within the Project area—including cropped areas, previously cropped areas, non-native haylands/pastures, or other grassland that is dominated by non-native species.

Construction of the proposed pipeline will require clearing and grading of the temporary right-of-way, which will temporarily impact vegetation communities. The permanent right-of-way will be maintained as cropland or other herbaceous and shrub vegetation communities while the remaining temporary workspace along the construction right-of-way and any ATWS areas will be allowed to revert to preconstruction conditions. Implementation of the measures specified in the FERC Plan and FERC Procedures will minimize Project-related impacts on affected vegetation communities.

Following construction, WBI Energy will revegetate disturbed non-agricultural upland areas within the right-of-way and ATWS in accordance with the FERC Plan using seed mixes approved by the NRCS or landowners (see section 7.3.1 of Resource Report 7). Based on recommendations provided by the NRCS, WBI Energy proposes to use seed mixes designed for reseeding land in accordance with the NDDOT 2020 *Standard Specifications for Road and Bridge Construction* (NDDOT, 2020). Revegetation will provide protection against erosion. In areas where final grade and cleanup is completed during active construction, WBI Energy will comply with the timelines for seeding identified in the FERC Plan (weather and soil conditions permitting) or as recommended by the NRCS or FSA (subject to approval by landowners). Timely restoration of the construction right-of-way, reseeding with the appropriate seed mixes, and the use of effective erosion control measures will minimize the duration of vegetation disturbance.

Project construction activities create an opportunity for introducing and spreading noxious weeds and invasive plant species within the Project area. Noxious weeds and invasive plants can out compete native forbs and grasses, which provide habitat for the WPFO. Weed control measures, as described above—including providing contractor education on noxious weeds, implementing preventative measures, and implementing treatment methods—have been incorporated into the Project to reduce the threat of introducing or spreading noxious weeds and invasive plant species within the Project area.

Due to the lack of suitable habitat for the WPFO—including intact prairie and sedge meadows (swales) and associated native plant species—and the implementation of the proposed mitigation measures (e.g., implementation of weed control measures and revegetation efforts), WBI Energy has determined that the Project may affect, but is not likely to adversely affect, the WPFO.

### **3.6.3 State Species of Concern**

While North Dakota does not have a state endangered species program, it does track data regarding species identified as a species of concern and other significant ecological communities. North Dakota's Wildlife Action Plan (Dyke et al., 2015) focuses on species that are considered Species of Conservation Priority and are categorized into three levels according to their

conservation need. Currently, there are 36 Level 1 species, 44 Level II species, and 35 Level III species (NDGFD, 2019f). Table 3.6-2 provides Species of Conservation Priority, specifically Level 1 species, that may occur within the Project area.

TABLE 3.6-2		
<b>Wahpeton Expansion Project</b>		
<b>North Dakota Game and Fish Level 1 Species of Conservation Priority that May Occur within the Project Area</b>		
Species	Preferred Habitat	Preferred Habitat within the Project Area?
<b>Mammals</b>		
Big Brown Bat <i>Eptesicus fuscus</i>	Habitat generalist. Uses structures, bridges, and dead trees for roosting.	Yes
Black-tailed Prairie Dog <i>Cynomys ludovicianus</i>	Forms large communities in flat prairies with short vegetation. Often in areas grazed by livestock.	No
Little Brown Bat <i>Myotis lucifugus</i>	Uses structures near foraging areas as roosts. Hibernates in caves, mines, and rock crevices.	Yes
NLEB <sup>a</sup> <i>Myotis septentrionalis</i>	Wooded habitats, roosts in loose bark within holes. Hibernates in caves and mines.	No
Townsend's Big-eared Bat <i>Corynorhinus townsendii</i>	Commonly found in forests and riparian zones during the summer, winters in caves and mines.	No
<b>Birds</b>		
American Bittern <i>Botaurus lentiginosus</i>	Large wetlands with tall emergent vegetation and upland grasslands.	Yes
Baird's Sparrow <i>Ammodramus bairdii</i>	Large continuous native prairies, grasslands, and grazed pastures. Found less often in dense wet meadows.	Yes
Black-billed Cuckoo <i>Coccyzus erythrophthalmus</i>	Edges of scrub-shrub prairie and mixed forest habitat. Also found in riparian areas, farmsteads, within forests.	Yes
Black Tern <i>Chlidonias niger</i>	Shallow fresh and brackish wetlands with open water and emergent vegetation.	Yes
Chestnut-collared Longspur <i>Calcarius ornatus</i>	Open, arid, mixed grass, and short grass prairies with little shrubs and litter. Grazed and maintained grasslands are preferred. Nests on the ground.	Yes
Ferruginous Hawk <i>Buteo regalis</i>	Open grassland and shrub communities. Nest in isolated tree, in shrubs, or on the ground.	Yes
Franklin's Gull <i>Leucophaeus pipixcan</i>	Prairie wetlands with emergent vegetation and floating mats of vegetation.	Yes
Grasshopper Sparrow <i>Ammodramus savannarum</i>	Native grasslands with patches of bare ground, leaf litter, and sparse woody vegetation. Nests on the ground.	Yes
Greater Sage Grouse <i>Centrocercus urophasianus</i>	Leks are commonly located in sagebrush grasslands and agricultural land.	No
Horned Grebe <i>Podiceps auritus</i>	Wetlands and waterbodies with emergent vegetation and open water.	Yes
Lark Bunting <i>Calamospiza melanocorys</i>	Large contiguous grasslands with sagebrush present, weedy agricultural fields, hay land, and pastures. Nests under tall grass or cactus for protection.	No
Long-billed Curlew <i>Numenius americanus</i>	Large open shortgrass prairies near waterbodies or wetlands.	Yes
Marbled Godwit <i>Limosa fedoa</i>	Sparsely vegetated native grasslands near wetlands.	Yes
Nelson's Sparrow <i>Ammodramus nelsoni</i>	Emergent freshwater wetlands with dense vegetation. Also uses prairies, meadows, and lake margins. Nests on the ground in shallow marshes and wet meadows.	Yes
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i>	Deciduous forests along rivers, roadsides, agricultural areas, and developed areas within tree cavities.	Yes

Sprague's Pipit <i>Anthus spragueii</i>	Large native grasslands with sparse vegetation and little to no grazing.	Maybe?
Swainson's Hawk <i>Buteo swainsoni</i>	Grasslands and agriculture fields with nearby isolated trees.	Yes
Yellow Rail <i>Coturnicops noveboracensis</i>	Shallow fresh and brackish wetlands dominated by emergent vegetation.	Yes
Wilson's Phalarope <i>Phalaropus tricolor</i>	Emergent wetlands, open water, and shorelines.	Yes
<b>Amphibians and Reptiles</b>		
Canadian Toad <i>Anaxyrus hemiophrys</i>	Perennial lakes, ponds, and wetlands. Burrows into the ground.	Yes
Plains Spadefoot <i>Spea bombifrons</i>	Dry, open grasslands with sandy or loose soil. Sometimes found in ephemeral wetlands. Burrows until it reaches damp soil. Emerges from ground after heavy rains.	No
Smooth Green Snake <i>Opheodrys vernalis</i>	Shortgrass grasslands, native prairies, meadows, and woodland clearings. Hibernates in burrows, crevices, and road embankments.	No
Plains Hog-nosed Snake <i>Heterodon nasicus</i>	Grasslands, prairies, mixed forests, sand dunes with sandy or gravelly soil. Burrows or uses mammal burrows for cover.	No
<b>Fish</b>		
Sturgeon Chub <i>Marcrybopsis gelida</i>	Turbid rivers with moderate to strong currents with rock, gravel, or sand bottoms.	No
Sicklefin Chub <i>Marcrybopsis meeki</i>	Channels of large turbid rivers with strong currents and sand or gravel bottoms.	No
Northern Pearl Dace <i>Margariscus nachtriebi</i>	Small streams with depths of 1 to 2 feet with gravel or sand bottoms.	No
Blue Sucker <i>Cycleptus elongatus</i>	Riffles and narrow chutes of large turbid rivers with fast currents and gravel bottom rivers.	No
<b>Mussels</b>		
Creek Heelsplitter <i>Lasmigona compressa</i>	The Red River and its tributaries. Range has been reduced due to changes to the Red River and its tributaries.	Yes
Pink Papershell <i>Potamilus ohioensis</i>	Large river systems, mainly the Missouri River and its tributaries with mud, sand, or gravel substrates.	No
<b>Insects</b>		
Monarch Butterfly <sup>b</sup> <i>Danaus plexippus</i>	Grassy areas with milkweed, native flowers, and abundant nectar sources.	Yes
Regal Fritillary <i>Speyeria idalia</i>	Tall grass prairies and native prairies with violets.	Yes
Sources: NDGFD, 2019e; MNHP, 2022a; 2022b; 2022c.		
Notes:		
<sup>a</sup>	This species is also federally listed as threatened under the ESA (see sections 3.6.1 and 3.6.2).	
<sup>b</sup>	This species is also a candidate for federal listing under the ESA (see section 3.6.1 and 3.6.2).	

There were no observations of state species of concern during the 2021 field surveys conducted by WBI Energy. However, field surveys for wetland and waterbodies occurred outside of the migratory bird nesting season and the migratory season for birds in this region of North Dakota. Section 3.1.3 discusses potential impacts on fisheries and other aquatic organisms, which include state fish and mussels of concern. For perennial waterbodies or those with flow at the time of construction, short-term impacts associated with construction activities have the potential to cause increased sedimentation and turbidity, temperature changes due to removal of vegetation cover over streams, introduction of water pollutants, or entrainment of fish. Direct mortality of benthic invertebrates can occur due to habitat disturbance from construction activities including trenching; however, as described in Resource Report 1, section 1.3.2.2, the guided bore crossing method typically avoids impacts on water quality and other sensitive resources by

precluding disturbance of the bared resource (e.g., the waterbody bed and banks). However, with the implementation of the construction and mitigation measures described below, impacts on fisheries and other aquatic life are expected to be minor, localized, and limited to the construction period. As discussed in section 3.2.3, construction and operation of the Project may result in short- and long-term impacts (e.g., noise disturbances, wildlife displacement from suitable habitat) on wildlife species—including species of concern—and their existing habitat along the proposed pipeline route and at aboveground facility sites. Additionally, as discussed in section 3.3.1, impacts on migratory bird habitat include the potential temporary disturbance of soils and vegetation during construction. Direct impacts on species of concern include the potential for mortality or injury during construction from destruction of ground nests or vehicle collisions. Mitigation measures as identified in section 3.3.1 will be implemented to avoid and/or minimize impacts on migratory birds and their habitat. Impacts on species of concern will be avoided or minimized through implementation of measures in the FERC Plan and FERC Procedures. These measures are designed to decrease the potential for erosion, to restore preconstruction contours, to increase the potential for successful revegetation of the right-of-way, and to prevent or control the spread of noxious weeds. Given the nature of the habitats crossed and the measures that will be implemented as part of the Project, impacts on state species of concern will be minimal.

### 3.7 Cumulative Impacts

Section 1.10 of Resource Report 1 defines a cumulative impact and describes the general scope of the cumulative impact analysis. This section describes the potential cumulative impacts on fish, wildlife, and vegetation from the Project combined with the past, present, and reasonably foreseeable future actions (RFFA) identified in appendix 1I and figure 1.10-1 of Resource Report 1. The location, proposed schedule, and a description of each RFFA are provided in appendix 1I.

Consideration of impacts within an HUC-12 sub-watershed accounts for impacts on vegetation and wildlife that will be directly affected by construction activities and for indirect impacts such as changes in habitat availability and displacement of transient species. The temporal scope for these resources includes construction through restoration of the Project. Additionally, impacts on vegetation within the permanent right-of-way will occur throughout operation. A total of 19 past, present, and RFFAs were considered for their potential to contribute to cumulative impacts on fish, wildlife, and vegetation resources. The projects fall into one or more of the following categories: energy infrastructure, transportation, utility (non-energy), residential, and other (e.g., agricultural activities).

#### 3.7.1.1 Fish

For perennial waterbodies or those with flow at the time of construction, temporary impacts on wetlands and waterbodies associated with construction of the proposed Project may include increased sedimentation and turbidity, temperature changes due to removal of vegetation cover over streams, introduction of water pollutants, or entrainment of fish. Impacts on fisheries and other aquatic life are expected to be minor, localized, and limited to the construction period.

The following RFFAs fall within the Project's geographic and temporal scope for fisheries:

- Meridian Grove 2nd Addition and Asmoor Glen Projects: The two housing developments in Cass County and the construction of the Flickertail Solar Project

could affect fish by increasing sedimentation in surface waters primarily due to vegetation removal and ground-disturbing construction activities.

- NuStar Pipeline Operating Partnership Pipeline Relocation Project: The NuStar Pipeline Operating Partnership, L.P. is proposing to relocate approximately 2 miles of 10-inch-diameter pipeline in Cass County. Limited information is available regarding this project's potential impacts on fish; however, it is assumed that the impacts would be similar to those described above for the proposed Project.
- MDU Distribution System for Kindred and Wahpeton: MDU is proposing a non-jurisdictional distribution system to provide natural gas from the MDU—Kindred Border Station to industrial and residential customers in Kindred, North Dakota and from the MDU—Wahpeton Border Station to customers in Wahpeton, North Dakota. The distribution system may also consist of farm taps along the mainline to provide natural gas to adjacent landowners and power lines to serve non-jurisdictional facilities at the proposed MDU Border Stations. The construction of these appurtenant facilities would be anticipated to contribute to short-term impacts on fisheries during construction due to the removal of vegetation cover and ground disturbance, which could increase sedimentation in surface waters but would not be expected to continue beyond the construction period.
- Kindred Airport Runway Expansion Project: The Kindred Airport is planning to expand its existing runway and departure service. This project is not anticipated to contribute to a cumulative impact on fish because it is not scheduled to begin construction until 2027, which is well after the Project's right-of-way will have been restored.
- Ongoing agricultural activities: The ongoing agricultural activities in the vicinity of the Project could result in degradation of aquatic habitat due to increased sediment loading associated with ground disturbance.
- NDDOT Projects: The 8 NDDOT transportation projects in Cass and Richland Counties that are within the same HUC-12 subwatershed as the Project could affect fish by increasing sedimentation in surface waters primarily due to vegetation removal and ground-disturbing construction activities; however, these projects are primarily limited to resurfacing existing roadway surfaces and are anticipated to have little, if any, ground disturbance.
- Fargo-Moorhead Area Diversion Project: The United States Army Corps of Engineers Fargo-Moorhead Area Diversion Project is designed to control flooding of the Red River and its tributaries and could result in a positive impact on fish since reducing flooding will ultimately improve water quality in the subwatershed (MNDNR, 2016).

The Fargo-Moorhead Area Diversion Project, ongoing agricultural activities, and several NDDOT roadway improvement projects are scheduled to occur simultaneously with the construction of the Project. The construction of the MDU distribution system is likely to occur soon after construction of the Project when restoration activities are ongoing. WBI Energy will implement the proposed mitigation measures described in section 3.1.3 to minimize impacts of the proposed Project on fish. It is anticipated that the RFFAs listed above would also implement similar measures. As a result, significant cumulative impacts on fish are not expected.

### 3.7.1.2 Wildlife

Construction and operation of the Project may result in short-term impacts (e.g., noise and visual disturbances) on wildlife species and their habitat along the proposed pipeline route and long-term impacts (e.g., permanent displacement) at aboveground facility sites. Until vegetation has become re-established, construction activities will temporarily reduce feeding, nesting, and cover options for wildlife and migratory birds in the immediate Project area. Additionally, wildlife and migratory birds could be temporarily displaced due to construction noise and increased human activity.

The following RFFAs fall within the Project's geographic and temporal scope for wildlife:

- Meridian Grove 2nd Addition and Asmoor Glen Projects: The two housing developments in Cass County are expansions of existing neighborhoods and would affect wildlife resources and habitat primarily as a result of vegetation clearing, excavation, and permanent displacement where new structures are located.
- Flickertail Solar Project: The Flickertail Solar Project could affect wildlife in the short term during vegetation removal and ground-disturbing construction activities and may permanently displace wildlife and lead to increased competition for resources in adjacent habitat.
- NuStar Pipeline Operating Partnership's Pipeline Relocation Project: NuStar Pipeline Operating Partnership Pipeline is expected to have short-term impacts on wildlife during vegetation removal and ground disturbing facilities, but since the pipeline right-of-way will be restored to preconstruction conditions, long-term impacts on wildlife are not anticipated as a result of this project.
- MDU Distribution System for Kindred and Wahpeton: The MDU distribution systems will have similar impacts on wildlife as the Project. Specifically, the construction of the MDU—Kindred Border Station and the MDU—Wahpeton Border Station and associated power lines would be anticipated to contribute to short-term impacts on wildlife during construction due to the removal of vegetation cover and the presence of construction equipment. Minor reduction in forested habitat and wetland conversion may occur as a result of the construction of the MDU Border Stations.
- The Kindred Airport Runway Expansion Project: This Project would impact wildlife during vegetation removal and ground disturbing activities and would result in permanent displacement of wildlife during operation of the facilities.
- Ongoing agricultural activities: The ongoing agricultural activities in the vicinity of the Project are unlikely to contribute to a cumulative impact on wildlife. The agricultural activities have been ongoing and wildlife affected by the activities would have already relocated to adjacent suitable habitat.
- NDDOT Projects: Eight NDDOT transportation projects in Cass and Richland Counties will occur in the same timeframe and within the same HUC-12 subwatershed as the Project; however, because the proposed transportation projects are limited to

maintenance and resurfacing work of existing roadways, the impacts on wildlife would be limited and temporary during construction.

- Fargo-Moorhead Area Diversion Project: The Fargo-Moorhead Area Diversion Project is designed to control flooding and could result in impacts on wildlife from direct impacts including dredging, draining, filling, and excavation. Short-term, indirect impacts on wildlife—including noise and visual disturbances—are anticipated. Some species of wildlife would relocate to adjacent habitat, while others would be permanently displaced during and after construction.

The Fargo-Moorhead Area Diversion Project, ongoing agricultural activities, and several NDDOT roadway improvement projects are scheduled to occur simultaneously with construction of the Project and construction of the MDU Border Stations is likely to occur soon after construction of the Project when restoration activities are ongoing. With implementation of the mitigation measures described in sections 3.2.3 and 3.3.1, significant cumulative impacts on wildlife are not expected.

### 3.7.1.3 Vegetation

Construction and operation of the Project may result in short- and long-term impacts on vegetation associated with clearing and grading of the temporary right-of-way and routine clearing of the permanent right-of-way throughout operation. A 10-foot-wide area over the pipeline may be maintained in a herbaceous state on the permanent right-of-way in non-cropped areas to facilitate pipeline inspection. Vegetation maintenance activities on the rest of the permanent right-of-way will be conducted no more than once every three years. The remaining temporary workspace along the construction right-of-way and any ATWS areas will be allowed to revert to preconstruction conditions.

The following RFFAs fall within the Project's geographic and temporal scope for vegetation:

- Flickertail Solar Project: The Flickertail Solar Project would result in temporary disturbances on vegetation during construction and permanent impacts on vegetation associated with the solar panel structures and permanent access roads. Each of the solar panel structures are assumed to affect less than 0.1 acre at each location and the project will be required to revegetate disturbed lands following construction.
- Meridian Grove 2nd Addition and Asmoor Glen Projects: The two housing development expansion projects would result in permanent impacts on vegetation because the developed areas would not be allowed to return to preconstruction conditions following construction.
- NuStar Pipeline Operating Partnership's Pipeline Relocation Project: The NuStar Pipeline Operating Partnership Pipeline Relocation Project would be expected to result in temporary disturbance and removal of vegetation during construction and then allowed to revegetate during operation of the project.
- MDU Distribution System for Kindred and Wahpeton: The MDU Border Stations will have similar impacts on vegetation as the Project. Specifically, the construction of the

MDU Border Stations and associated power lines would be anticipated to contribute to short-term impacts on vegetation during construction due to the removal of vegetation cover and the presence of construction equipment. Minor reduction in forested habitat and wetland conversion may occur as a result of the construction of the MDU Border Stations.

- The Kindred Airport Runway Expansion Project: This project would result in permanent impacts on vegetation because the developed areas would not be allowed to return to preconstruction conditions following construction. Additionally, this project would impact vegetation during clearing and ground disturbing activities and would result in the permanent displacement of vegetation during operation of the facilities.
- Ongoing agricultural activities: The ongoing agricultural lands crossed by the Project account for a significant portion of the vegetation that will be affected by construction of the Project. The vegetation in these areas will be temporarily removed during construction, but then allowed to be restored to preconstruction conditions and uses.
- NDDOT Projects: The eight NDDOT transportation projects in Cass and Richland Counties will occur in the same time frame and within the same HUC-12 subwatershed as the Project; however, because the proposed transportation projects are limited to maintenance and resurfacing work of existing roadways, the impacts on vegetation would be minimal and temporary during construction.
- Fargo-Moorhead Area Diversion Project: Fargo-Moorhead Area Diversion Project is designed to control flooding and would primarily impact vegetation by converting cropland to grasslands and wetlands on the embankment of the diversion channel (MNDNR, 2016).

WBI Energy will implement the mitigation measures described in section 3.5.3 to minimize impacts on vegetation during construction and operation of the Project. Timely restoration of the construction right-of-way, reseeded with the appropriate seed mixes, and the use of effective erosion control measures will minimize vegetation disturbance. Given the current level of disturbance in the Project area and the temporary nature of the majority of the impacts on vegetation, the Project is not anticipated to contribute to a significant cumulative impact on vegetation.

#### *3.7.1.4 Threatened and Endangered Species*

As described in section 3.6.2, the Project may affect—but is not likely to adversely affect—the NLEB, whooping crane, DASK, monarch butterfly, and WPFO or their habitats. Additionally, the Project would have no effect on the Poweshiek skipperling. Mitigation measures that WBI Energy would implement to avoid or minimize potential impacts on federally threatened and endangered species and state species of concern are described in section 3.6.2.

Any projects listed in appendix 1I that involve a federal action and have the potential to impact a federally-listed threatened and endangered species, including the Project, would be required to comply with Section 7 of the ESA—which requires all Federal agencies to use their authorities to conserve endangered and threatened species in consultation with the USFWS. Due to the regulatory requirement to consult with the USFWS regarding a project's impacts on



protected species and critical habitats—which requires that the project’s impacts be considered in light of existing conditions and in conjunction with nearby development—it is unlikely that the Project, in combination with the impacts from other projects, would contribute to a significant cumulative effect on threatened and endangered species.

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**APPENDIX 3A NORTH DAKOTA GAME AND FISH DEPARTMENT  
CONSULTATION/COMMUNICATIONS**

September 13, 2021

North Dakota Department of Game and Fish  
Conservation Supervisor  
100 North Bismarck Expressway  
Bismarck, ND 58501-5095  
701-328-6300

Subject: WBI Energy Transmission, Inc.  
Proposed Wahpeton Expansion Project  
Cass and Richland Counties, North Dakota

To Whom it may Concern:

WBI Energy Transmission, Inc. (WBI Energy) operates a natural gas transmission pipeline system in the Northern Plains and is proposing to expand its system in southeastern North Dakota. The Wahpeton Expansion Project will involve constructing approximately 60 miles of 12-inch diameter natural gas pipeline from WBI Energy's existing Mapleton Compressor Station near Mapleton, North Dakota, to a new delivery station near Wahpeton, North Dakota. The project will include minor modifications at the Mapleton Compressor Station and a new delivery station near Kindred, North Dakota. The enclosed map shows the preliminary proposed pipeline route and locations of project facilities.

This project will allow WBI Energy to transport an additional 20.6 million cubic feet of natural gas per day to help meet growing demand for natural gas in southeastern North Dakota. Montana-Dakota Utilities Co., a local distribution company, has engaged WBI Energy to construct this project to fulfill Wahpeton customers' needs for additional uninterrupted natural gas supply and to extend natural gas service to Kindred, at the request of city officials and residents.

The project is regulated by the Federal Energy Regulatory Commission (FERC) under Section 7(c) of the Natural Gas Act. Under the Energy Policy Act of 2005, FERC is the lead agency for coordinating federal authorizations and complying with the National Environmental Policy Act (NEPA) on natural gas pipeline projects subject to its jurisdiction. WBI Energy plans to submit an application with the FERC in May 2022 for a Certificate of Public Convenience and Necessity to

construct and operate the proposed pipeline and associated facilities. Applications for other federal or state authorizations will be submitted prior to or at approximately the same time as the FERC application, or on timelines defined by the appropriate federal or state regulations. Pending regulatory approvals, WBI Energy anticipates beginning construction in early 2024, with the new facilities in service by November 2024.

WBI Energy plans to file a request with the FERC to use the FERC's pre-filing process for the project. This process will provide agencies, landowners, and other stakeholders the opportunity to work with WBI Energy and the FERC to identify and resolve environmental issues prior to the filing of the Certificate application, which will result in a more efficient regulatory review process. WBI Energy plans to submit its request to use the pre-filing process in late September 2021 and anticipates receiving FERC's approval to use the process in early October 2021. Pending FERC's approval, WBI Energy will also hire and fund a third-party environmental consultant to assist FERC in the preparation of the NEPA document for the project.

WBI Energy has retained Environmental Resources Management (ERM) to provide environmental support services for the project. An ERM representative and/or FERC staff will be in touch with you in the near future to gauge your interest in participating in the pre-filing process, provide additional information, and discuss specific permitting and/or consultation requirements. In the meantime, if you have questions about the project, please contact me at 406-359-7332 or Maggie Suter of ERM at 410-972-4125.

Thank you for your time and assistance with this project.

Sincerely,



Jill Linn  
Environmental Affairs  
WBI Energy Transmission, Inc.

Enclosures: Project Overview Map

cc: Robbyn Reukauf, WBI Energy Transmission, Inc.  
Maggie Suter, ERM



October 7, 2021

Jill Linn  
Environmental Affairs  
WBI Energy Transmission, Inc.  
2010 Montana Avenue  
Glendive, MT 59330

Dear Ms. Linn:

RE: Proposed Wahpeton Expansion Project  
Cass & Richland Counties, North Dakota

This project as proposed would construct approximately 60 miles of 12-inch diameter natural gas pipeline from WBI Energy's existing Mapleton Compressor Station to a new delivery station near Wahpeton, North Dakota. The North Dakota Game and Fish Department has reviewed this project for wildlife concerns.

The National Wetland Inventory indicates a variety of wetlands within the proposed project corridor. Steps should be taken to protect any wetlands that cannot be avoided, existing drainage patterns should not be altered, and above-ground appurtenances should not be placed in wetland areas. Unavoidable destruction or degradation of wetland acres should be mitigated in kind. We also ask that every effort be made to prevent removal of woody vegetation, and disturbed areas be reclaimed to pre-project conditions.

The pipeline route may cross a number of Classified fisheries including the Sheyenne, Maple, and Wild Rice Rivers, and Antelope Creek. We ask that these streams be crossed by directional boring to protect the resource. If this method is not feasible, construction should not take place within the waterway between April 15 and June 1, and controls should be implemented to minimize erosion and sedimentation.

The Department also recommends that additional precautions be implemented into the design of pipes crossing under the State's waterways. One means of minimizing a potentially large pipeline failure is to incorporate pressure sensing valves on both sides of the waterway. These valves should be placed as close to the waterway as possible while staying out of the floodplain to reduce potential damage from ice and other floating debris. A maintenance schedule should be developed to ensure the integrity of the pipe for the life of the project.

Governor  
Doug Burgum

Director  
Terry Steinwand

Deputy Director  
Scott A. Peterson

Aquatic nuisance species (ANS) are a major concern in North Dakota. State law requires that the contractor, including any and all subcontractors involved in this project, take appropriate precautions to prevent the introduction or movement of ANS within the state. The contractor should provide the department a reasonable opportunity to inspect any equipment prior to these items being launched or placed into waters of the state. The Department's Aquatic Nuisance Species Coordinator, Mr. Benjamin Holen, can be contacted at 701-368-9117 for equipment inspections or additional information regarding ANS prevention protocols.

Aerial surveys should be conducted for raptor nests before construction begins. We recommend that a ½-mile construction buffer be implemented around active eagle nest sites (known occupied within the past 5 years). Ms. Sandra Johnson, Conservation Biologist, may be contacted at 701-328-6327 for additional information on eagle nest sites in the state.

We do not believe this project will have significant adverse effects on wildlife or wildlife habitat provided these recommendations are implemented where appropriate during project construction.

Sincerely,



(f02)

Greg Link  
Chief  
Conservation & Communication Division

js

**From:** [Kreft, Bruce L.](#)  
**To:** [Leslie Rodman-Jaramillo](#)  
**Subject:** RE: WBI Wahpeton Expansion project - questions regarding fisheries resources  
**Date:** Tuesday, January 4, 2022 7:41:47 AM  
**Attachments:** [image001.png](#)

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Hey Leslie,

I think we got confused regarding spawning aggregations. There is significant spawning that occurs in the tributaries. Most of the species have adapted to the sediments that are present in these systems so the statement that there are no significant spawning aggregations was incorrect. We classify the majority of our waters as cool water fisheries with the exception of some warm water bass fisheries across the state. Most of the information regarding ANS maps and our ND Species of Conservation Priority ( <https://gf.nd.gov/wildlife/scp>) are on our website for your viewing pleasure. There are specific writeups within the State Wildlife Action Plan that are also on our website (<https://gf.nd.gov/publications/599>) for the river systems. Hopefully this helps.

BK

---

**From:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>  
**Sent:** Monday, January 3, 2022 5:36 PM  
**To:** Kreft, Bruce L. <[bkreft@nd.gov](mailto:bkreft@nd.gov)>  
**Subject:** RE: WBI Wahpeton Expansion project - questions regarding fisheries resources

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Hi Bruce,

Wanted to check in on my previous message (below) sent prior to the holidays. Are you able to confirm any *fisheries of special concern*?

Also, quick update that I reached out to the department's aquatic nuisance coordinator whom passed along a colleagues name (Gerry Weigel) to help in gaining any GIS data with regard to zebra mussel infestations.

Thanks for your assistance.  
Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*

**ERM**  
M +1 503 984 6609

---

**From:** Leslie Rodman-Jaramillo  
**Sent:** Tuesday, December 14, 2021 3:29 PM  
**To:** [BKreft@nd.gov](mailto:BKreft@nd.gov)  
**Subject:** WBI Wahpeton Expansion project - questions regarding fisheries resources

Hi Bruce,

Thanks again for taking my call the other afternoon with regard to fisheries questions and the Wahpeton Expansion Project. I had some additional questions for you that I wanted to double check.

You had confirmed during our conversation that there were no significant spawning aggregations (mostly due to heavy silt) for commercial and/or recreational fisheries, and no commercial fishery operations associated with the waterbodies (Sheyenne, Wild Rice, Maple) crossed by the Project. I wanted to double check if the waterbodies crossing by the Project would include any *fisheries of special concern*, those that contain fisheries of exceptional recreational value, support commercial fishing, or provide habitat for fish species listed for protection at federal, state, or local level?

With regard to fisheries in North Dakota, from my research, all fishery types in the state are warmwater with the exception of portions of the Missouri River system, which is not within the Project area. Let me know if this is incorrect. Also, I was able to find a figure with regard to zebra mussel infestations, [map-zebra.pdf \(nd.gov\)](#), but was wondering if your department has information that can be shared in GIS on these occurrences, so we can take a look at all tributaries with these infestations?

Thank you,

Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*

**ERM**

1050 SW 6<sup>th</sup> Ave Suite 1650 |Portland, OR |97204

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**Meeting Notes**

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**Attendees** North Dakota Game and Fish Department (NDGFD):  
Bruce Kreft – Conservation Biologist (Water Resources specialist)  
701-328-6224 [BKreft@nd.gov](mailto:BKreft@nd.gov)

ERM: Leslie Rodman-Jaramillo

---

**Prepared By** Leslie Rodman-Jaramillo

---

**Date** December 3, 2021

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**Subject** WBI Energy Wahpeton Expansion Project – Fisheries concerns

---

Leslie called Bruce Kraft to discuss fisheries resources and waterbody crossings for the Wahpeton Expansion Project.

- Leslie provided general description/location details for proposed project; detailing proposed route through Richland and Cass Counties and primarily (if not exclusively) crossing agricultural lands.
- Leslie summarized waterbodies, specifically those identified in the NDGFD response letter that would be crossed by the Project including Sheyenne, Maple, and Wild Rice Rivers, and Antelope Creek.
- We discussed fisheries within these waterbodies, and Bruce confirmed that there are significant spawning aggregations in the tributaries; even though these waterbodies (and many in this area) are silty. Most of the species have adapted to the sediments that are present in these systems.
- Bruce indicated that the NDGFD would be most concerned about in-water work as it relates to sedimentation. He mentioned that some projects have been able to do some activities (e.g., sheet piling), but in general no in-water work during the standard timeframe of April 15 – June 1. The one exception is if the Project crosses the Red River, then the timeframe would be April 15 – July 1 due to the species composition.
  - An example of sedimentation concerns that Bruce mentioned was that the Sheyenne River is an important clam bed resource for the state of North Dakota, and they would not want to have large amount of sedimentation from Project activities.
- Bruce asked about the crossing methods, and recommended that all these crossings be directional boring.
- Bruce also mentioned that invasive zebra mussels are a real concern, and WBI would need to be in contact with the coordinator on this. This is state law.

- Bruce provided information with regard to crossing these waterbodies, WBI would need to seek permits from the Department of Water Resources, State Sovereign Lands Permits, and to contact Jerry Heiser at 701-328-4935.

**From:** [Leslie Rodman-Jaramillo](#)  
**To:** [Holen, Benjamin M.](#)  
**Subject:** RE: ANS Information - WBI Energy Wahpeton Expansion Project  
**Date:** Thursday, February 17, 2022 10:37:00 AM  
**Attachments:** [image001.png](#)  
[M2W\\_Construction\\_Footprint\\_20220106.sbx](#)  
[M2W\\_Construction\\_Footprint\\_20220106.shp](#)  
[M2W\\_Construction\\_Footprint\\_20220106.shp.xml](#)  
[M2W\\_Construction\\_Footprint\\_20220106.shx](#)  
[M2W\\_Construction\\_Footprint\\_20220106.cpg](#)  
[M2W\\_Construction\\_Footprint\\_20220106.dbf](#)  
[M2W\\_Construction\\_Footprint\\_20220106.prj](#)  
[M2W\\_Construction\\_Footprint\\_20220106.sbn](#)

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Hi Ben,

Thanks so much for providing this information. Attached are the separate shapefiles (8 files; it doesn't work if I zip them and send to NDGFD) of the project workspace.

Please let me know if you have any questions, and I'll be in touch regarding ANS as we move along.

Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*  
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**M +1 503 984 6609**

---

**From:** Holen, Benjamin M. <bholen@nd.gov>  
**Sent:** Tuesday, February 15, 2022 7:05 AM  
**To:** Leslie Rodman-Jaramillo <leslie.rodmanjaramillo@erm.com>  
**Subject:** RE: ANS Information - WBI Energy Wahpeton Expansion Project

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Hey Leslie,

I had a chance to talk to our Chief Warden, I hope this helps you out. Also, could you provide me with a shapefile of the project? It never came my way.

NDGFD is currently the only state agency with the authority to do aquatic commercial inspection. The authority to require commercial inspections comes from the following ND Century Code and Administrative Rule sections.

CC: **20.1-17-04. Inspection of watercraft.**

**The director shall train and authorize personnel to inspect watercraft and associated**

**equipment, including weed harvesters, for aquatic nuisance species before the watercraft and equipment enter or leave waters of the state during the open water season.**

AR: **30-03-06-01. Equipment.**

**Upon leaving any water body or while in transit, all watercraft, watercraft motors, watercraft trailers, docks, boatlifts, and recreational and commercial equipment used in fishing, hunting, and watercrafting or construction equipment shall be free of prohibited or regulated aquatic nuisance species, as defined in the state's aquatic nuisance species list. All equipment is subject to inspection by a duly appointed agent of the director.**

We encourage all environmental inspectors to be certified to inspect for ANS, but NDGFD still wants to look at water based equipment. It never hurts to have multiple sets of eyes looking over equipment.

Finally, below is the current known infested waterbodies in the state, which can be found on our website. Strictly as a precaution, NDGFD considers the tributaries of ZM rivers to be infested from the river confluence up to the first vehicular bridge crossings on the tributaries.

- Lake LaMoure and the James River - Dickey County
- Twin Lake - LaMoure County
- Lake Ashtabula - Barnes County
- Lake Elsie - Richland County
- Red River - entire length of the Red River including tributaries upstream to the first vehicular bridge or crossing
- Sheyenne River – entire length starting at Baldhill Dam in Barnes County, downstream to the Red River including tributaries upstream to the first vehicular bridge or crossing.

Thanks,  
Ben

---

**From:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>  
**Sent:** Thursday, February 10, 2022 1:49 PM  
**To:** Holen, Benjamin M. <[bholen@nd.gov](mailto:bholen@nd.gov)>  
**Subject:** ANS Information - WBI Energy Wahpeton Expansion Project

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Hi Ben,

Following up on our call from yesterday (Feb. 9), I had a few questions with regard to aquatic nuisance species inspections, particularly regarding zebra mussel infested waters that may overlap WBI Energy's Wahpeton Expansion Project.

As stated in the ND Game and Fish letter (attached) received as a response to WBI Energy's project introduction letter, the contractor should provide the department a reasonable opportunity to inspect any equipment prior to use in waters of the state. Additionally, the text below is from the ND Century Code regarding inspections:

20.1-17-04. Inspection of watercraft. The director shall train and authorize personnel to inspect watercraft and associated equipment, including weed harvesters, for aquatic nuisance species before the watercraft and equipment enter or leave waters of the state during the open water season.

Based on the above, I had the following questions regarding inspections:

- Are the inspections a requirement, or considered best management practice?
- Does NDGFD have the authority as inspectors, or are there additional state agencies with inspectors?
- Should the contractor's construction environmental inspectors be certified to inspect for ANS?

Finally, I have the following questions regarding waterbodies and zebra mussel infestations:

- Which waterbodies does the NDFGD consider infested with zebra mussel?
  - Are these only perennial waterbodies that are tributaries to the Red and Sheyenne Rivers?

Any additional information/guidance you are able to provide is appreciated and will be helpful for WBI Energy's ANS Prevention Plan.

I have previously provided the department a copy of the project shapefile as well as the KMZ. Please

let me know if you need me to send that information once again.

Thank you,  
Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*

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1050 SW 6<sup>th</sup> Ave Suite 1650 |Portland, OR |97204

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**E** [Leslie.RodmanJaramillo@erm.com](mailto:Leslie.RodmanJaramillo@erm.com) | **W** [www.erm.com](http://www.erm.com)



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**From:** [Kreft, Bruce L.](#)  
**To:** [Leslie Rodman-Jaramillo](#)  
**Subject:** RE: WBI Wahpeton Expansion project - questions regarding fisheries resources  
**Date:** Thursday, April 28, 2022 9:52:23 AM  
**Attachments:** [image001.png](#)  
[image002.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.

Hey Leslie,  
Our Department would classify the waterways you asked about as cool water fisheries with warm water species present.  
BK

---

**From:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>  
**Sent:** Thursday, April 28, 2022 10:26 AM  
**To:** Kreft, Bruce L. <[bkreft@nd.gov](mailto:bkreft@nd.gov)>  
**Subject:** RE: WBI Wahpeton Expansion project - questions regarding fisheries resources

**\*\*\*\*\* CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. **\*\*\*\*\***

Hi Bruce,  
I was looking at the following (as found in CHAPTER 33-16-02.1 STANDARDS OF QUALITY FOR WATERS OF THE STATE; [North Dakota Administrative Code - Title 33 Article 16 Chapter 2.1 \(ndlegis.gov\)](#)), but those don't seem to be definitions.

Class	Characteristics
1	Cold water fishery. Waters capable of supporting growth of cold water fish species (e.g., salmonids) and associated aquatic biota.
2	Cool water fishery. Waters capable of supporting natural reproduction and growth of cool water fishes (e.g., northern pike and walleye) and associated aquatic biota. These waters are also capable of supporting the growth and marginal survival of cold water species and associated biota.
3	Warm water fishery. Waters capable of supporting natural reproduction and growth of warm water fishes (e.g., largemouth bass and bluegill) and associated aquatic biota. Some cool water species may also be present.
4	Marginal fishery. Waters capable of supporting a fishery on a short-term or seasonal basis (generally a "put and take" fishery).
5	Not capable of supporting a fishery due to high salinity.

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*  
ERM  
M +1 503 984 6609

---

**From:** Kreft, Bruce L. <[bkreft@nd.gov](mailto:bkreft@nd.gov)>  
**Sent:** Wednesday, April 27, 2022 11:04 AM

**To:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>  
**Subject:** RE: WBI Wahpeton Expansion project - questions regarding fisheries resources

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I will verify with our Fisheries Biologist. What is your definition of a warm water fishery?

---

**From:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>  
**Sent:** Tuesday, April 26, 2022 5:17 PM  
**To:** Kreft, Bruce L. <[bkreft@nd.gov](mailto:bkreft@nd.gov)>  
**Subject:** RE: WBI Wahpeton Expansion project - questions regarding fisheries resources

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Hi Bruce,

Circling back to an earlier message you shared; see below. With regard to warm water fisheries and the Wahpeton Expansion Project, I wanted to see if you could confirm for me that this proposed project would not cross warm water fisheries. The proposed project would cross the Maple River, unnamed trib to the Maple River, Sheyenne River, Wild Rice River, unnamed trib to Wild Rice River, Pitcairn Creek, Antelope Creek (and roadside ditches). Let me know if it's easier to discuss in more detail.

Thank you,  
Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*  
**ERM**  
**M +1 503 984 6609**

---

**From:** Kreft, Bruce L. <[bkreft@nd.gov](mailto:bkreft@nd.gov)>  
**Sent:** Tuesday, January 4, 2022 7:41 AM  
**To:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>  
**Subject:** RE: WBI Wahpeton Expansion project - questions regarding fisheries resources

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Hey Leslie,

I think we got confused regarding spawning aggregations. There is significant spawning that occurs in the tributaries. Most of the species have adapted to the sediments that are present in these systems so the statement that there are no significant spawning aggregations was incorrect. **We classify the majority of our waters as cool water fisheries with the exception of some warm water bass fisheries across the state.** Most of the information regarding ANS maps and our ND Species of Conservation Priority ( <https://gf.nd.gov/wildlife/scp> ) are on our website for your viewing pleasure. There are specific writeups within the State Wildlife Action Plan that are also on our website ( <https://gf.nd.gov/publications/599> ) for the river systems. Hopefully this helps.

BK

---

**From:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>

**Sent:** Monday, January 3, 2022 5:36 PM

**To:** Kreft, Bruce L. <[bkreft@nd.gov](mailto:bkreft@nd.gov)>

**Subject:** RE: WBI Wahpeton Expansion project - questions regarding fisheries resources

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Hi Bruce,

Wanted to check in on my previous message (below) sent prior to the holidays. Are you able to confirm any *fisheries of special concern*?

Also, quick update that I reached out to the department's aquatic nuisance coordinator whom passed along a colleagues name (Gerry Weigel) to help in gaining any GIS data with regard to zebra mussel infestations.

Thanks for your assistance.

Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*  
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**M +1 503 984 6609**

---

**From:** Leslie Rodman-Jaramillo

**Sent:** Tuesday, December 14, 2021 3:29 PM

**To:** [BKreft@nd.gov](mailto:BKreft@nd.gov)

**Subject:** WBI Wahpeton Expansion project - questions regarding fisheries resources

Hi Bruce,

Thanks again for taking my call the other afternoon with regard to fisheries questions and the Wahpeton Expansion Project. I had some additional questions for you that I wanted to double check.

You had confirmed during our conversation that there were no significant spawning aggregations (mostly due to heavy silt) for commercial and/or recreational fisheries, and no commercial fishery operations associated with the waterbodies (Sheyenne, Wild Rice, Maple) crossed by the Project. I wanted to double check if the waterbodies crossing by the Project would include any *fisheries of special concern*, those that contain fisheries of exceptional recreational value, support commercial fishing, or provide habitat for fish species listed for protection at federal, state, or local level?

With regard to fisheries in North Dakota, from my research, all fishery types in the state are warmwater with the exception of portions of the Missouri River system, which is not within the Project area. Let me know if this is incorrect. Also, I was able to find a figure with regard to zebra mussel infestations, [map-zebra.pdf \(nd.gov\)](#), but was wondering if your department has information that can be shared in GIS on these occurrences, so we can take a look at all tributaries with these infestations?

Thank you,

Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist

*Pronouns: she/her/hers*

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**E** [Leslie.RodmanJaramillo@erm.com](mailto:Leslie.RodmanJaramillo@erm.com) | **W** [www.erm.com](http://www.erm.com)



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## Call Log

### Log of Telephone Conversation

<b>Date</b>	May 5, 2022
<b>Time of Conversation</b>	10:30 a.m. PST
<b>Call To / From Whom</b>	To: Sandy Johnson From: Leslie Rodman-Jaramillo
<b>Company / Organization</b>	North Dakota Game and Fish Department
<b>Phone Number</b>	701-328-6382
<b>ERM Contact</b>	Leslie Rodman-Jaramillo
<b>Phone number</b>	503-984-6609
<b>Reference</b>	Wahpeton Expansion Project

### LOG OF CONVERSATION

Leslie called Sandy Johnson, Conservation Biologist with the North Dakota Game and Fish Department (NDGFD), in order to follow up with a comment the NDGFD provided for the Project as filed on the FERC docket during the scoping period. The letter had stated that *“aerial surveys should be conducted for raptor nests before construction begins. We recommend that a ½-mile construction buffer be implemented around active bald eagle nest sites (known occupied within the past 5 years).”*

Leslie discussed methods for surveying eagles as it relates to the proposed Wahpeton Expansion Project in southeastern North Dakota. Leslie reviewed the Project area and discussed the terrain, surrounding landscape, and habitat. Leslie and Sandy also discuss known bald eagle nest locations known within 2-mile of the Project area. Sandy confirmed that ground based survey efforts for raptors (eagles) would be sufficient for this Project, as nests would be visible from the ground so long as survey were conducted during the spring season prior to leaf out.

The following summarizes Leslie and Sandy’s discussion. As discussed, these points were provide in a follow-up email and Sandy will in turn provide concurrence via email for WBI Energy’s records.

- We discussed that the NDGFD submitted comments to FERC during the scoping period stating that aerial surveys should be conducted for raptor nests before construction begins, and recommend a 0.5 mile construction buffer be implemented around active eagle nest sites.
  - Per our discussion, you confirmed that ground-based raptor surveys would be sufficient given the Project location, terrain, surrounding vegetation (primarily agriculture), and location of known historical nests.
  - You confirmed that any raptor nest would be visible from the ground within the Project’s survey corridor so long as preconstruction surveys were conducted during the spring, prior to leaf out.

**From:** [Johnson, Sandra K.](#)  
**To:** [Leslie Rodman-Jaramillo](#)  
**Cc:** [Maggie Suter](#); [Becky Moores](#)  
**Subject:** RE: WBI Energy - Wahpeton Expansion Project and eagle surveys  
**Date:** Friday, May 13, 2022 12:13:26 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)

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Hi Leslie,  
I concur with the items listed below.  
Thanks,  
Sandy

**Sandra Johnson**  
*Conservation Biologist*

701.328.6382 · [sajohnson@nd.gov](mailto:sajohnson@nd.gov) · [gf.nd.gov](http://gf.nd.gov)



**From:** Leslie Rodman-Jaramillo <leslie.rodmanjaramillo@erm.com>  
**Sent:** Thursday, May 5, 2022 5:44 PM  
**To:** Johnson, Sandra K. <sajohnson@nd.gov>  
**Cc:** Maggie Suter <Maggie.Suter@erm.com>; Becky Moores <Becky.Moores@erm.com>  
**Subject:** WBI Energy - Wahpeton Expansion Project and eagle surveys

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Good afternoon Sandy,

Thank you for returning my call today, and discussing methods for surveying eagles as it relates to the proposed Wahpeton Expansion Project in southeastern North Dakota.

As we discussed, I wanted to follow-up with a brief summary of our call and if you could please respond with any additional comments and concurrence on this plan, that would be helpful.

- We discussed that the NDGFD submitted comments to FERC during the scoping period stating that aerial surveys should be conducted for raptor nests before construction begins, and recommend a 0.5 mile construction buffer be implemented around active eagle nest sites.
  - Per our discussion, you confirmed that ground-based raptor surveys would be sufficient given the Project location, terrain, surrounding vegetation (primarily agriculture), and location of known historical nests.
  - You confirmed that any raptor nest would be visible from the ground within the Project's survey corridor so long as preconstruction surveys were conducted during the spring, prior to leaf out.
- As a general rule, NDGFD advises following the 2007 *U.S. Fish and Wildlife Service's National Bald Eagle Management Guidelines* (e.g., construction activities should occur outside of the breeding season if eagle nest is within 660 feet).

Thank you, and please let me know if you have any additional questions.

Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*

**ERM**

1050 SW 6<sup>th</sup> Ave Suite 1650 |Portland, OR |97204

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- As a general rule, NDGFD advises following the 2007 *U.S. Fish and Wildlife Service's National Bald Eagle Management Guidelines* (e.g., construction activities should occur outside of the breeding season if eagle nest is within 660 feet).

## Davis Gray

---

**From:** Holen, Benjamin M. <bholen@nd.gov>  
**Sent:** Monday, May 9, 2022 8:31 AM  
**To:** Davis Gray  
**Subject:** RE: Zebra Mussel Question

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Also for the permit, can I get the following information:

- Name of the company and an address who will be doing the hydrostatic testing.
- A point of contact at that company
- Water source, Red River?

Thanks,  
Ben

---

**From:** Holen, Benjamin M.  
**Sent:** Sunday, May 8, 2022 10:15 PM  
**To:** 'Davis Gray' <Davis.Gray@erm.com>  
**Subject:** RE: Zebra Mussel Question

Hi Davis,

I apologize for the slow reply. To be complaint with ANS Regulations we need to get you a couple special permits. I will get to work on those right away.

### Century Code

**20.1-17-06. Prohibited activities.**

A person may not possess, import, purchase, sell, propagate, transport, or introduce a prohibited aquatic nuisance species except:

1. Under a permit issued by the director;
2. When being transported to the department, or another destination as the director may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;
3. When being transported for disposal as part of a harvest or control activity under a permit issued by the director or when being transported as specified by the director;
4. When the specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise secured in a sealed container;
5. When being removed from watercraft or equipment, or caught while angling, and immediately returned to the water from which it came; or
6. As the director otherwise may prescribe by rule.

Administrative rule

**30-03-06-05. Water prohibited.**

1. Refer to the North Dakota game and fish department website for a listing of state waters infested with class I prohibited aquatic nuisance species. Fish transported and held in or on ice are allowed.
2. All water must be drained from all watercraft and recreational, commercial, and construction equipment bilges and confined spaces, livewells, and baitwells, when out of water or upon entering the state. Water used for instate transportation of legal live bait and legal live baitfish in bait buckets no larger than five gallons in volume is allowed to and from waters of the state not designated as infested with class I prohibited aquatic nuisance species. Refer to the current fishing proclamation for legal live bait and legal live baitfish definitions. Potable water and sewage water are excluded from this restriction.
3. Water may not be transported away from waters of the state designated as infested with class I prohibited aquatic nuisance species unless permitted by the state water commission or otherwise authorized.
4. All drain plugs that may hold back water must be removed, and water draining devices must be open, on all watercraft and recreational, commercial, and construction equipment bilges and confined spaces, during any out-of-water transport of same.

Thanks,  
Ben

---

**From:** Davis Gray <[Davis.Gray@erm.com](mailto:Davis.Gray@erm.com)>  
**Sent:** Thursday, May 5, 2022 1:47 PM  
**To:** Holen, Benjamin M. <[bholen@nd.gov](mailto:bholen@nd.gov)>  
**Subject:** Zebra Mussel Question

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Hi Ben,

I called earlier about North Dakota specific guidelines and requirements when it comes to zebra mussels.

We have already committed to discharging all water used on the Project back to its original source. Would the following sentence be compliant with all state regulations and requirements as it concerns ANS? Specifically concerning the transport (but not discharge) of zebra mussel infested water over HUC8 boundaries.

While hydrostatic testing of the pipe the water would be transported through the pipe from one HUC8 to another and then sent back through the pipe to the original waterbody for it to be discharged.

Davis Gray  
Consultant II, Scientist

**ERM**  
840 West Sam Houston Parkway North | Suite 600 | Houston, TX 77024  
**M** (281) 638 2615  
**E** [Davis.Gray@erm.com](mailto:Davis.Gray@erm.com) | **W** [www.erm.com](http://www.erm.com)





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**Meeting Notes**

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<b>Attendees</b>	North Dakota Game and Fish Department (NDGFD): Ben Holen –Aquatic Nuisance Species Coordinator 701-368-9117 <a href="mailto:BHolen@nd.gov">BHolen@nd.gov</a>  ERM: Davis Gray
<b>Prepared By</b>	Davis Gray
<b>Date</b>	May 12, 2022
<b>Subject</b>	WBI Energy Wahpeton Expansion Project – ANS Permitting

---

Davis Gray called Ben Holen and to discuss ANS permitting that he had emailed him about the week before.

Ben Holen clarified that any removal of ANS infested water away from an infested waterbody is considered transporting of the water.

The permit would take less than a day for the NDGFD to draft and that it would last 1 year.

The permit can cover all ANS related activities including dust suppression, drilling mud, and hydrostatic testing.

The permit would be a 1 page letter giving the project approval to use ANS water as it sees fit as long as it is discharged back to the original waterbody or discharged where the ANS species would be unable to infest additional waterbodies. This letter exempts the projects from rules under 30-03-06-05 and 20.1-17-06.

Treating the water with biocides would not negate the need for this permit.

Ben Holen then thanked ERM as we are one of the first companies to show interest in protecting ND waters and to apply for one of these permits.

## **APPENDIX 3B AQUATIC NUISANCE SPECIES PREVENTION PLAN**



**WBI ENERGY TRANSMISSION, INC.**

**Wahpeton Expansion Project**

**Appendix 3B**

**Aquatic Nuisance Species Prevention Plan**

**Final**

**Docket No.**

**CP22-XXX-000**

**May 2022**

**WAHPETON EXPANSION PROJECT  
WBI ENERGY TRANSMISSION, INC.  
DRAFT AQUATIC NUISANCE SPECIES PREVENTION PLAN**

**TABLE OF CONTENTS**

**1.0 AQUATIC NUISANCE SPECIES..... 3B-1**  
**2.0 REGULATORY SETTING ..... 3B-2**  
    2.1 NORTH DAKOTA RULES AND REGULATIONS..... 3B-2  
    2.2 AGENCY INPUT ..... 3B-3  
**3.0 MITIGATION MEASURES AND BEST MANAGEMENT PRACTICES ..... 3B-3**

**ACRONYMS AND ABBREVIATIONS**

ANS	aquatic nuisance species
NDGFD	North Dakota Game and Fish Department
Project	Wahpeton Expansion Project
WBI Energy	WBI Energy Transmission, Inc.

## 1.0 AQUATIC NUISANCE SPECIES

WBI Energy Transmission, Inc. (WBI Energy) anticipates the crossing of multiple waterbodies during the construction of the Wahpeton Expansion Project (Project). During waterbody crossings, WBI Energy will implement the control measures described in this document to prevent the spread of aquatic nuisance species (ANS) such as zebra mussels (*Dreissena polymorpha*).

The zebra mussel is an invasive, fingernail-sized mollusk that is native to fresh waters in Eurasia. The species attaches in great numbers to solid surfaces such as rocks, boat docks, and bridge pilings, and can clog pipes such as those used for municipal or industrial water supply systems. Free-swimming larvae in water are hard to detect and can be transported into other waterbodies if water is not drained properly.<sup>1</sup> Zebra mussels and other ANS have been documented to reduce overall species diversity, increase benthification, degrade water quality, increase detritus buildup, and change sediment chemistry.<sup>2</sup>

The North Dakota Game and Fish Department (NDGFD) classifies ANS species into three categories depending on the severity of the threat posed by each species. Zebra mussel infestations are considered a Class 1: Prohibited ANS. Class 1 ANS are present in few waterbodies throughout the state but have the high potential for causing ecological and economic harm when invading and establishing themselves in new waterbodies. Additionally, there are no known management strategies to control the zebra mussel without also harming other non-ANS species.<sup>2</sup>

WBI Energy consulted with NDGFD to identify waterbodies what will be crossed by the Project that should be subject to this ANS Plan. Project waterbody crossings of particular concern are the Sheyenne and Red Rivers and their tributaries, as these rivers and a majority of their tributaries are documented as waterbodies with zebra mussel infestation as of July 2021<sup>3</sup>. All perennial waterbodies crossed by the Project are considered infested with zebra mussels by the NDGFD. Guided bore crossing methods are planned for each of the waterbodies, and no in-water crossing by any equipment is anticipated at those locations.

At other waterbodies, WBI Energy may utilize a variety of waterbody crossing methods depending on permits and what method best fits the circumstances at each crossing. Potential methods may include open cut, guided bore, flume, or dam and pump. In each case and for each method, WBI Energy will adhere to measures specified in the Federal Energy Regulatory Commission's *Wetland and Waterbody Construction and Mitigation Procedures* and other plans as well as any additional requirements that may be specified in federal or state waterbody crossing permits.

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<sup>1</sup> North Dakota Game and Fish. 2015. Some ANS of Immediate Concern Brochure. Accessed December 2021. Available online: <https://gf.nd.gov/gnf/fishing/docs/ans-brochure.pdf>.

<sup>2</sup> North Dakota Game and Fish. 2018. North Dakota Aquatic Nuisance Species Management Plan. North Dakota Aquatic Invasive Species Committee, Bismarck, North Dakota. Accessed December 2021. Available online: <https://gf.nd.gov/gnf/fishing/docs/ndansmgmtplan.pdf>.

<sup>3</sup> North Dakota Game and Fish. 2021. ANS Infested Waters in North Dakota. Accessed December 2021. Available online: <https://gf.nd.gov/ans/infested-waters>.

## 2.0 REGULATORY SETTING

### 2.1 NORTH DAKOTA RULES AND REGULATIONS

In North Dakota, an ANS is defined as any nonindigenous, obligate aquatic species of plant or animal which is injurious to native and desirable aquatic species or which has a negative effect on aquatic habitats, environment, or the economy of the state.<sup>4</sup>

The North Dakota ANS Regulations (North Dakota Administrative Code Title 30-03-06)<sup>5</sup> require:

- Any recreational or commercial equipment used in fishing, hunting, watercrafting, or construction shall be free of prohibited or regulated ANS and aquatic vegetation upon leaving any waterbody or while in transit. All equipment is subject to inspection by a duly appointed agent of the director.
- All water must be drained from all watercraft and recreational, commercial, and construction equipment when out of water or upon entering the state.
- Water may not be transported away from waters of the state designated as infested with Class 1 prohibited ANS unless permitted by the state water commission or otherwise authorized.
- Additionally, the North Dakota ANS regulations (North Dakota Century Code Title 20.1-17-06) states that a person may not possess import, purchase, sell, propagate, transport, or introduce a prohibited ANS except:
  1. under a permit issued by the director;
  2. when being transported to the department, or another destination as the director may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;
  3. when being transported for disposal as part of a harvest or control activity under a permit issued by the director or when being transported as specified by the director;
  4. when the specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise secured in a sealed container;
  5. when being removed from watercraft or equipment, or caught while angling, and immediately returned to the water from which it came; or
  6. as the director otherwise may prescribe by rule.

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<sup>4</sup> North Dakota Aquatic Nuisance Species Management Plan. 2018. Available online: <https://gf.nd.gov/gnf/fishing/docs/ndansmgmtplan.pdf>.

<sup>5</sup> North Dakota Administrative Code. ND. North Dakota Administrative Code Title 30-03-06. Accessed December 2021. Available online: <https://www.legis.nd.gov/information/acdata/pdf/30-03-06.pdf>.

The NDGFD also recommends the following to clean, drain, and dry equipment<sup>6</sup>:

7. Clean—Inspect and remove any plants or animals that may be present prior to leaving the immediate access area. If possible, also remove excessive mud that may harbor seeds or organisms. It is illegal to have ANS or vegetation on your equipment when leaving a waterbody or when entering North Dakota. Removed weeds can be discarded along the shore, and/or in trash receptacles.
8. Drain—Remove all water from equipment prior to leaving the immediate access area to prevent the transportation of microscopic organisms. Leave drain plugs out and draining devices open during transport into or within North Dakota
9. Dry—Dry equipment completely (drying times vary by season and daily conditions), set equipment in frozen conditions for 48 hours, or decontaminated before using in waters again.

## **2.2 AGENCY INPUT**

In a letter to WBI Energy regarding the Project, the NDGFD specified that state law requires the contractor, including all subcontractors involved in the Project, take appropriate precautions to prevent the introduction or movement of ANS within the state. And as such, the contractor should provide the department a reasonable opportunity to inspect any equipment prior to these items being launched or placed into waters of the state.<sup>7</sup>

Additionally the NDGFD ANS coordinator specified that the Project would need to acquire an ANS transport permit that would exempt the Project from regulations under North Dakota Administrative Code Title 30-03-06 and North Dakota Century Code 20.1-17-06 (see Resource Report 3, appendix 3A). WBI Energy will acquire this permit prior to construction to ensure compliance under North Dakota state law.

## **3.0 MITIGATION MEASURES AND BEST MANAGEMENT PRACTICES**

WBI Energy will implement the best management practices described below to prevent the spread of ANS.

1. Equipment will satisfy the North Dakota ANS Regulations and, when applicable, the recommended clean, drain, and dry procedures prior to entering the Project construction right-of-way.
2. WBI Energy will be informed by the equipment owner/operator if equipment will enter perennial waterbodies crossed by the Project considered infested with zebra mussels. This will be done with sufficient time for WBI Energy to notify the NDGFD no less than 2 weeks prior to the start of construction at those sites, to allow the NDGFD the opportunity to inspect equipment prior to contact with surface water. In the event of an inadvertent return during a guided bore crossing, WBI Energy will immediately

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<sup>6</sup> North Dakota Game and Fish. 2019. Aquatic Nuisance Species Webpage. Accessed December 2021. Available online: <https://gf.nd.gov/ans>.

<sup>7</sup> North Dakota Game and Fish. 2021. Response Letter to the Proposed Wahpeton Expansion Project Cass & Richland Counties, North Dakota.



- implement the response measures in the Guided Bore Drilling Fluid Monitoring and Operations Plan and notify NDGFD of the need to enter the waterbody as soon as possible.
3. Surface water will not be taken from infested waterbodies and discharged into other waterbodies, including water used for hydrostatic testing. Water will be discharged back into the water it was sourced from or into upland areas within the same 5<sup>th</sup> level (12-digit Hydrological Unit Code) watershed it was withdrawn from. Water withdrawn for dust control will only be discharged onto upland areas. Water withdrawn for drilling mud would be used to backfill the trench but would not be used to backfill trenched waterbodies.
  4. If equipment is used in perennial waterbodies crossed by the Project considered infested with zebra mussels, the equipment will be cleaned (physical removal of mud, vegetation, debris), drained, and dried before use in another water.
  5. When equipment that has been in contact with any surface water is moved from one 5<sup>th</sup> level watershed (12-digit Hydrological Unit Code) to another, the equipment will be cleaned (physical removal of mud, vegetation, debris), drained, and dried.
  6. If ANS are found on any equipment, the equipment will be decontaminated by the equipment owner/operator and inspected by the Project Environmental Inspector or an authorized aquatic invasive species inspector. Decontamination methods may include the following:
    - For vegetation, physical removal and collection of vegetation and dirt/mud for disposal as solid waste.
    - Equipment will be sprayed/soaked with water greater than 140 degrees Fahrenheit for at least 10 minutes.
    - Equipment will be sprayed/soaked with a disinfection solution used in accordance with the manufacturer's label.

## **APPENDIX 3C NOXIOUS WEED MANAGEMENT PLAN**



**WBI ENERGY TRANSMISSION, INC.**

**Wahpeton Expansion Project**

**Appendix 3C**

**Noxious Weeds Management Plan**

**Final**

**Docket No.**

**CP22-XXX-000**

**May 2022**

**WAHPETON EXPANSION PROJECT  
WBI ENERGY TRANSMISSION, INC.  
APPENDIX 3C  
NOXIOUS WEED MANAGEMENT PLAN**

**TABLE OF CONTENTS**

<b>1.0</b>	<b>INTRODUCTION.....</b>	<b>3C-1</b>
1.1	PLAN PURPOSE .....	3C-1
1.2	GOALS AND OBJECTIVES .....	3C-1
<b>2.0</b>	<b>WEED INVENTORY .....</b>	<b>3C-2</b>
<b>3.0</b>	<b>WEED MANAGEMENT .....</b>	<b>3C-5</b>
3.1	EDUCATION .....	3C-5
3.2	PREVENTIVE MEASURES.....	3C-5
3.3	TREATMENT METHODS.....	3C-6
<b>4.0</b>	<b>HERBICIDE APPLICATION, HANDLING, SPILLS, AND CLEANUP .....</b>	<b>3C-6</b>
4.1	HERBICIDE APPLICATION AND HANDLING (IF USED) .....	3C-6
4.2	HERBICIDE SPILLS AND CLEANUP .....	3C-7
4.3	WORKER SAFETY AND SPILL REPORTING.....	3C-7
<b>5.0</b>	<b>MONITORING AND OPERATION.....</b>	<b>3C-8</b>
<b>6.0</b>	<b>REFERENCES.....</b>	<b>3C-9</b>

**LIST OF TABLES**

Table 1	Noxious Weed Species Potentially Occurring in the Project Area.....	3C-2
---------	---	------

**LIST OF FIGURES**

Figure 1	Noxious Weeds .....	3C-4
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**LIST OF ATTACHMENTS**

Attachment A	Noxious Weeds Identified During 2021 Field Surveys
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**ACRONYMS AND ABBREVIATIONS**

EI	Environmental Inspector
NDCC	North Dakota Century Code
Project	Wahpeton Expansion Project
WBI Energy	WBI Energy Transmission, Inc.

## 1.0 INTRODUCTION

This *Noxious Weed Management Plan* was prepared for WBI Energy Transmission, Inc.'s (WBI Energy) proposed Wahpeton Expansion Project (Project) to identify noxious weed control practices that will be implemented for the Project. Pursuant to North Dakota Century Code (NDCC) § 4.1-47, North Dakota law requires that measures be taken to control the spread of noxious weeds. Noxious weeds have the potential to invade areas disturbed by construction and may spread along the cleared areas of the pipeline right-of-way. Soil disturbance may also allow weed seed already present to germinate and grow.

Weeds are defined as plant species that grow out of place and are “competitive, persistent, and pernicious” (James et al., 1991). Noxious weeds are plant species designated by federal, state, or county governments as injurious to public health, agriculture, recreation, wildlife, or property (Sheley et al., 1999). Under NDCC § 4.1-47, 11 plant species have been designated as noxious weeds. In addition, North Dakota law allows county and city weed boards to develop lists of additional noxious weeds.

NDCC § 4.1-47 requires “every person to do all things necessary and proper to control the spread of noxious weeds.” At the state and county levels, the State Agricultural Commissioner and County Weed Control Officer respectively, are responsible for the enforcement of the weed laws. Once a noxious weed problem has been identified, it is the responsibility of the landowner to control or rectify the problems. In addition, it is a Class B misdemeanor to willfully do the following:

- transport any material that contains noxious weed seeds or propagating parts on a public road in a manner that allows for the dissemination of noxious weeds;
- drive or transport any equipment on a public road in a manner that allows for the dissemination of noxious weeds; or
- dispose of any material that contains noxious weeds or propagating parts in a manner that allows for the dissemination of noxious weeds.

## 1.1 PLAN PURPOSE

The purpose of this plan is to prescribe methods to prevent and control the spread of noxious weeds (hereinafter referred to as weeds) during and following construction of the Project. WBI Energy and their contractors will be responsible for carrying out the methods described in this plan.

This plan is applicable to the installation of the pipeline and aboveground facilities within the temporary construction right-of-way, permanent operational right-of-way, contractor yards, access roads, and other areas disturbed by the Project's construction activities.

## 1.2 GOALS AND OBJECTIVES

The goals of this plan are to implement preventative measures to control the spread of weeds during construction of the pipeline and prevent, to the extent possible, the invasion of

weeds from surrounding lands. Monitoring during construction and operation of the Project will be conducted to help achieve these goals.

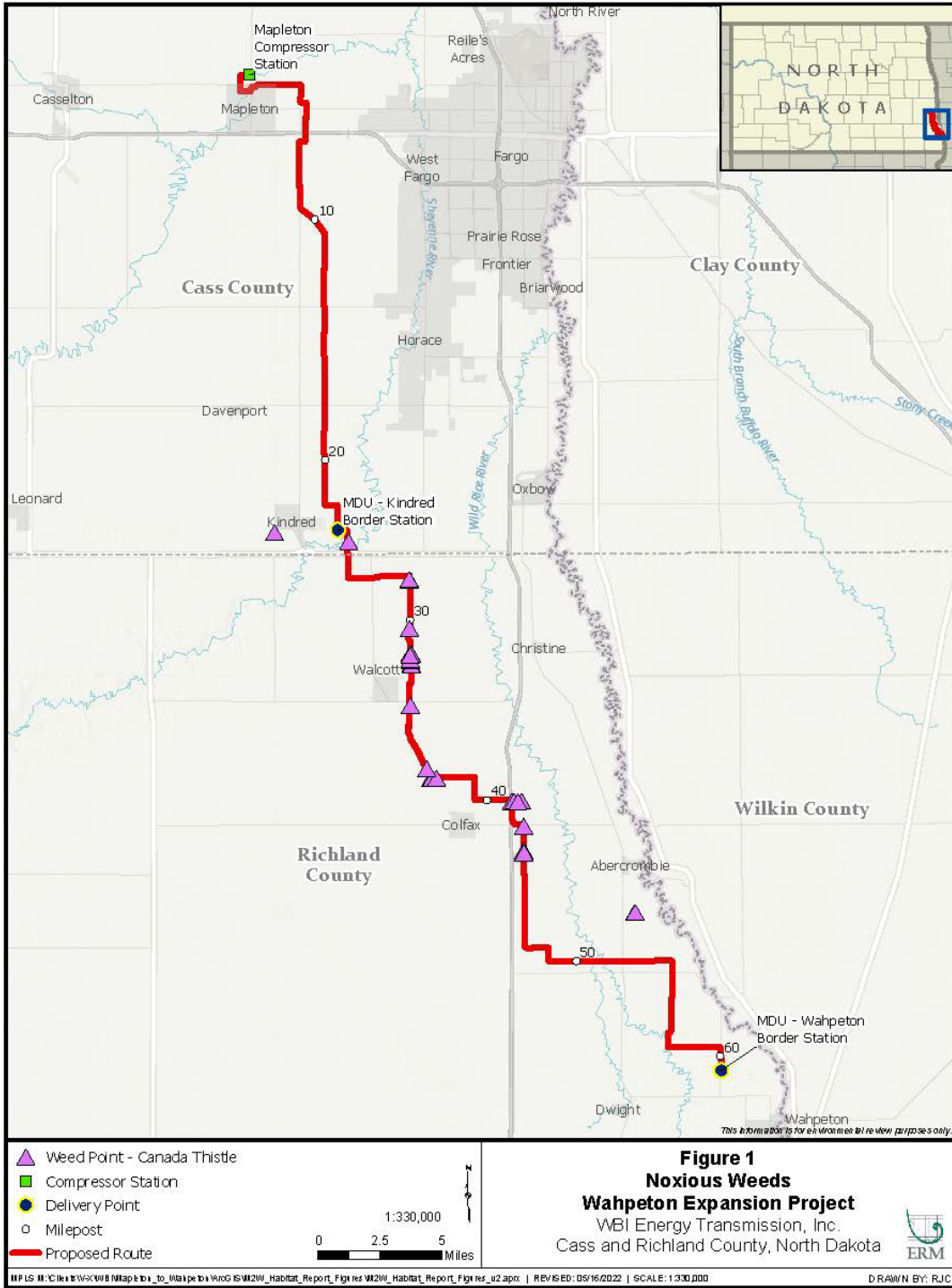
## 2.0 WEED INVENTORY

WBI Energy identified the presence of noxious weeds in the right-of-way during its fall 2021 field surveys along the pipeline right-of-way and adjacent extra workspaces, along new or improved access roads, and within aboveground facility locations where clearing will be required (see figure 1). Early identification of existing infestations is intended to help minimize the spread of weeds by identifying sites where preventive measures could be implemented. Information resulting from identification before, during, and after construction, including species identified within or adjacent to the Project area, locations of infestations, and extent of infestations will be kept on file by WBI Energy.

Table 1 lists the weeds (as identified on agency websites) that have the potential to occur within the two counties crossed by the Project's facilities. Only one weed species, Canada thistle, was identified during the 2021 surveys.

TABLE 1		
Wahpeton Expansion Project Noxious Weed Species Potentially Occurring in the Project Area		
Species	Counties	
	Cass	Richland
Absinth wormwood ( <i>Artemisia absinthium</i> L.)	X	X
Canada thistle ( <i>Cirsium arvense</i> (L.) Scop.)	X	X
Dalmatian toadflax ( <i>Linaria genistifolia</i> spp. <i>dalmatica</i> )	X	X
Diffuse knapweed ( <i>Centaurea diffusa</i> Lam.)	X	X
Houndstongue ( <i>Cynoglossum officinale</i> L.)	X	X
Leafy spurge ( <i>Euphorbia esula</i> L.)	X	X
Musk thistle ( <i>Carduus nutans</i> L.)	X	X
Palmer amaranth ( <i>Amaranthus palmeri</i> )	X	X
Purple loosestrife ( <i>Lythrum salicaria</i> L., <i>Lythrum virgatum</i> L., and all cultivars)	X	X
Russian knapweed ( <i>Centaurea repens</i> L.)	X	X
Saltcedar ( <i>Tamarisk</i> spp.)	X	X
Spotted hemlock ( <i>Conium maculatum</i> )	X	

TABLE 1		
Wahpeton Expansion Project Noxious Weed Species Potentially Occurring in the Project Area		
Species	Counties	
	Cass	Richland
Spotted knapweed ( <i>Centaurea maculosa Lam.</i> )	X	X
Yellow toadflax ( <i>Linaria vulgaris</i> )	X	X
Sources: Cass County, North Dakota, 2022; Ikley, 2020; NDDA, 2017.		





### 3.0 WEED MANAGEMENT

Weeds are spread by a variety of means including pedestrian vectors (e.g., hiking, recreation, etc.), construction equipment, construction and reclamation materials, livestock, and wildlife. Implementation of preventative measures to control the spread of weeds is the most cost effective management approach. WBI Energy will implement weed control management measures that are consistent with state and county regulations.

#### 3.1 EDUCATION

WBI Energy and Environmental Inspectors (EIs) will provide information regarding weed identification, management, and impacts on agriculture, livestock, and wildlife to their contractors prior to the commencement of construction. Critical information regarding the prevention of spreading weeds in areas not infested, controlling the proliferation of weeds already present, adhering to measures to prevent the spread of weeds (e.g., not driving off the cleared right-of-way, cleaning equipment that collects soil and plant seeds, and quickly identifying new infestations of weeds) will be provided to all personnel working on the Project.

#### 3.2 PREVENTIVE MEASURES

The following preventive measures will be used to prevent the spread of weeds along the Project right-of-way and within aboveground facilities:

- Prior to construction, the EIs will mark known areas of noxious weed infestation, including additional areas identified during preconstruction inspections, by using color-coded flagging, staking, and/or signs on the construction right-of-way to alert construction personnel to implement weed control measures during construction.
- All contractor equipment will arrive at the work site clean and weed-free. All equipment leaving an area infested with noxious weeds will first be cleaned with an air compressor to limit the spread of noxious weed seeds and propagules.
- An EI or other designated personnel will ensure that equipment is free of soil and debris capable of transporting weed seeds, roots, or rhizomes.
- In the construction right-of-way, topsoil will be segregated and will not be mixed with spoil material before or during replacement. Once the disturbed areas have been de-compacted as needed, topsoil will be re-distributed over the entire disturbed area from which it was salvaged and re-contoured. Final revegetation will occur within the approved seeding window.
- The contractor will implement reclamation of disturbed lands following construction as outlined in the Federal Energy Regulatory Commission's *Upland Erosion Control, Revegetation, and Maintenance Plan* and *Wetland and Waterbody Construction and Mitigation Procedures*. Continuing revegetation efforts will ensure adequate vegetative cover to prevent the invasion of weeds.
- The contractor will ensure that straw bales, used on the Project for sediment barrier installations, or mulch, are weed-free.

- Equipment will not be sprayed with pre-emergent chemicals as a preventive measure as these chemicals target a wide range of vegetation. As a result, the use of such chemicals could affect the success of revegetation efforts.

### **3.3 TREATMENT METHODS**

Weed controls will be used in accordance with existing regulations and landowner or agency agreements.

Prior to clearing and grading operations, pre-treatment of noxious weed infestations may be conducted if it is determined that pre-treatment will aid in controlling the spread of weeds during construction. The weed control measures implemented at these locations may include the application of herbicide or mechanical measures. The weed control measure chosen will be the best method available for the time, location, and species of weed.

- Herbicide application is an effective means of reducing the size of weed populations. Herbicide application and handling methods are described in section 4.0 below.
- Mechanical methods such as mowing or disking are reliant on the use of equipment to disk or excavate weed populations. Depending on the timing of the Project approvals and construction, mechanical methods may not be effective control methods. However, this method may be used during operation of the Project.

During construction, WBI Energy, the EIs or their contractor will periodically monitor the Project right-of-way to allow for early detection of noxious weed species infestations. If such species are found in numbers that are significantly different from existing nearby off right-of-way locations, appropriate control measures will be implemented in an attempt to eradicate the identified weed infestations along the right-of-way and to reduce the spread or proliferation of weeds. Post-construction monitoring and control measures are discussed in section 5.0 below.

## **4.0 HERBICIDE APPLICATION, HANDLING, SPILLS, AND CLEANUP**

Herbicides, if used, will be selected based on information gathered from local county weed control districts and/or the North Dakota Department of Agriculture.

### **4.1 HERBICIDE APPLICATION AND HANDLING (IF USED)**

Prior to herbicide application, WBI Energy's contractor will obtain any required permits or approvals from the local weed district and landowner. The chemical application will be done by a licensed contractor in accordance with all applicable laws and regulations.

Herbicide label instructions and manufacturer's guidelines will be strictly adhered to. For example, manufacturer's guidelines recommend that herbicides only be applied under appropriate weather conditions (i.e., periods of low wind speeds, when precipitation is not imminent, etc.), that application sprayers be mounted low to the ground, and that sprayer booms incorporate specialized nozzles designed to produce large droplet sizes with limited drift potential.

Adherence to these specifications and manufacturer label directions would minimize the potential for drift or transport of herbicides to off right-of-way areas.

Vehicle-mounted sprayers (e.g., handgun, boom, and injector) will be used primarily in open areas that are readily accessible by vehicle. Hand application methods (e.g., backpack spraying) that target individual plants will be used to treat small scattered weed populations in rough terrain. Calibration checks of equipment will be conducted at the beginning of spraying and periodically thereafter to ensure proper application rates are being achieved.

Herbicides will be transported daily to the Project site with the following provisions:

- Herbicides will be premixed and delivered in returnable/refillable containers and transferred by closed system to application tanks to limit worker and environmental exposure and eliminate the need for disposal of herbicide containers in area landfills.
- Herbicides will be transported in a manner that will prevent tipping or spilling.
- Mixing of surfactants or other additives with water or other carriers and refilling of containers will typically be conducted at road crossings, and no mixing or filling will occur within 100 feet of open or flowing water, wetlands, or other sensitive resources, greater than 200 feet from private wells, and greater than 400 feet from public wells.
- Mixing and application procedures will be supervised by a licensed commercial applicator, and monitoring will be conducted to ensure that proper mixing, application, cleanup, personal protection and safety procedures are followed.
- All herbicide equipment and containers will be inspected daily for leaks.

#### **4.2 HERBICIDE SPILLS AND CLEANUP**

WBI Energy has developed a *Spill Prevention, Control, and Countermeasure (SPCC) Plan* that incorporates reasonable precautions to be taken to avoid spills of potentially hazardous materials. In the event of a spill, cleanup will be immediate. Herbicide contractors will be responsible for keeping spill kits in their vehicles and in herbicide storage areas to allow for quick and effective response to spills.

Response to an herbicide spill will vary depending on the material spilled and the size/location of the spill. The order of priorities after discovering a spill are to protect the safety of personnel and the public, minimize damage to the environment, and conduct cleanup and remediation activities.

#### **4.3 WORKER SAFETY AND SPILL REPORTING**

Herbicide contractors will obtain and have readily available copies of the appropriate Safety Data Sheets and the product labels for the herbicides used. Herbicide spills will be reported in accordance with applicable laws and requirements. Further information regarding spill response and reporting is provided in the WBI Energy's *SPCC Plan*.

## 5.0 MONITORING AND OPERATION

Following construction, weed infestations will be monitored as part of the WBI Energy's restoration monitoring activities. WBI Energy's operations staff will monitor and treat noxious weeds as a part of its normal operations and maintenance activities in accordance with state regulations.

Weed control measures will be implemented at those locations where noxious weed populations are greater than the surrounding areas. WBI Energy may implement post-construction application of herbicides or mechanical measures to control noxious weeds. The weed control measure chosen will be the best method available for the time, location, and species of weed.

- Herbicide application is an effective means of reducing the size of weed populations. Herbicide application and handling methods are described in section 4.0 above.
- Mechanical methods such as mowing or disking are reliant on the use of equipment to disk or excavate weed populations. Mechanical treatments will be conducted prior to seed maturation if needed. In addition, subsequent reseeding will be conducted, if necessary, to re-establish a desirable vegetative cover that will stabilize the soils and slow the potential of reinvasion of noxious weeds.
- Where appropriate, WBI Energy will further consult with the county weed boards regarding the use of biological and other alternate noxious weed control methods. The alternate methods may be implemented after consultation with and approval of private landowners.

## 6.0 REFERENCES

James, L., J. Evans, M. Ralphs, and R. Child, editors. 1991. Noxious Range Weeds. Westview Press. Boulder, CO.

Sheley, R., J. Petroff, M. Borman. 1999. Introduction to Biology and Management of Noxious Rangeland Weeds, Corvallis, OR.

**ATTACHMENT A      NOXIOUS WEEDS IDENTIFIED DURING 2021  
FIELD SURVEYS**

Wahpeton Expansion Project  
Appendix 3C  
Noxious Weed Management Plan—Attachment A

ATTACHMENT A Wahpeton Expansion Project Summary of Noxious Weeds Observed in the Project Area During Surveys			
Species	Nearest Milepost / Facility	Area (square feet)	Percent Cover
Canada thistle ( <i>Cirsium arvense.</i> )	24.2	150	0-10
	28.3	20	0-10
	28.3	15	0-10
	28.3	20	0-10
	30.3	35	0-10
	31.4	< 10	0-10
	31.4	< 10	0-10
	31.4	< 10	0-10
	31.6	15	10-25
	31.6	15	0-10
	31.6	10	0-10
	31.6	10	0-10
	31.8	30	10-25
	31.8	10	10-25
	31.8	15	0-10
	33.5	300	0-10
	33.5	< 10	50-75
	36.4	< 10	10-25
	36.8	300	0-10
	37	15	10-25
	41	15	10-25
	41	< 10	0-10
	41	< 10	0-10
	41	< 10	0-10
	42.4	< 10	0-10
	43.4	10	0-10
43.5	< 10	0-10	
Kindred Pipe Yard	15	0-10	

**APPENDIX 3D NORTH DAKOTA PARKS AND RECREATION  
DEPARTMENT CONSULTATION/COMMUNICATIONS**



September 13, 2021

North Dakota Parks and Recreation Department  
Planning and Natural Resources Division  
1600 E. Century Avenue  
Suite 3  
Bismarck, ND 58503-0649  
(701)-328-5357

Subject: WBI Energy Transmission, Inc.  
Proposed Wahpeton Expansion Project  
Cass and Richland Counties, North Dakota

To Whom it may Concern:

WBI Energy Transmission, Inc. (WBI Energy) operates a natural gas transmission pipeline system in the Northern Plains and is proposing to expand its system in southeastern North Dakota. The Wahpeton Expansion Project will involve constructing approximately 60 miles of 12-inch diameter natural gas pipeline from WBI Energy's existing Mapleton Compressor Station near Mapleton, North Dakota, to a new delivery station near Wahpeton, North Dakota. The project will include minor modifications at the Mapleton Compressor Station and a new delivery station near Kindred, North Dakota. The enclosed map shows the preliminary proposed pipeline route and locations of project facilities.

This project will allow WBI Energy to transport an additional 20.6 million cubic feet of natural gas per day to help meet growing demand for natural gas in southeastern North Dakota. Montana-Dakota Utilities Co., a local distribution company, has engaged WBI Energy to construct this project to fulfill Wahpeton customers' needs for additional uninterrupted natural gas supply and to extend natural gas service to Kindred, at the request of city officials and residents.

The project is regulated by the Federal Energy Regulatory Commission (FERC) under Section 7(c) of the Natural Gas Act. Under the Energy Policy Act of 2005, FERC is the lead agency for coordinating federal authorizations and complying with the National Environmental Policy Act (NEPA) on natural gas pipeline projects subject to its jurisdiction. WBI Energy plans to submit an application with

the FERC in May 2022 for a Certificate of Public Convenience and Necessity to construct and operate the proposed pipeline and associated facilities. Applications for other federal or state authorizations will be submitted prior to or at approximately the same time as the FERC application, or on timelines defined by the appropriate federal or state regulations. Pending regulatory approvals, WBI Energy anticipates beginning construction in early 2024, with the new facilities in service by November 2024.

WBI Energy plans to file a request with the FERC to use the FERC's pre-filing process for the project. This process will provide agencies, landowners, and other stakeholders the opportunity to work with WBI Energy and the FERC to identify and resolve environmental issues prior to the filing of the Certificate application, which will result in a more efficient regulatory review process. WBI Energy plans to submit its request to use the pre-filing process in late September 2021 and anticipates receiving FERC's approval to use the process in early October 2021. Pending FERC's approval, WBI Energy will also hire and fund a third-party environmental consultant to assist FERC in the preparation of the NEPA document for the project.

WBI Energy has retained Environmental Resources Management (ERM) to provide environmental support services for the project. An ERM representative and/or FERC staff will be in touch with you in the near future to gauge your interest in participating in the pre-filing process, provide additional information, and discuss specific permitting and/or consultation requirements. In the meantime, if you have questions about the project, please contact me at 406-359-7332 or Maggie Suter of ERM at 410-972-4125.

Thank you for your time and assistance with this project.

Sincerely,



Jill Linn  
Environmental Affairs  
WBI Energy Transmission, Inc.

Enclosures: Project Overview Map

cc: Robbyn Reukauf, WBI Energy Transmission, Inc.  
Maggie Suter, ERM

October 6, 2021

Jill Linn  
WBI Energy Transmission, Inc.  
2010 Montana Ave.  
Glendive, MT 59330

Re: WBI Energy Transmission – Proposed Wahpeton Expansion Project, Cass and Richland Counties

Dear Ms. Linn,

The North Dakota Parks and Recreation Department (NDPRD) has reviewed the above-referenced proposed Wahpeton Expansion Project in Cass and Richland Counties, North Dakota. NDPRD's scope of authority and expertise covers properties that NDPRD owns, leases, or manages; properties protected under Section 6(f) of the Land and Water Conservation Fund (LWCF); rare plants and ecological communities established through the Natural Heritage Program.

The project does not appear to affect properties that NDPRD owns, leases, or manages. The project may affect any properties protected under Section 6(f) of the LWCF.

Several Land and Water Conservation Fund project has been identified near the proposed project's vicinity. Attached is a map identifying the approximate locations. Properties that have received funding from the LWCF program have a designated 6(f) property boundary that carries restrictions on modifications to the property, including but not limited to utilities or any divesture of land. For additional information regarding LWCF properties, don't hesitate to contact Char Langehaug, ND Parks and Recreations Department's Grants Coordinator, at [cbinstock@nd.gov](mailto:cbinstock@nd.gov) or 701-328-5364.

A query of the North Dakota Natural Heritage biological conservation database determines if any current or historical plant or animal species of concern or other significant ecological communities are known to occur within an approximate one-mile radius of the project area. Based on this review, we have known rare species or significant ecological communities documented within or immediately adjacent to the project site. Attached is a map identifying the approximate locations.

We appreciate your commitment to rare plant, animal, and ecological community conservation, management, and inter-agency cooperation to date. For additional information, please get in touch with Natural Resources Coordinator Kathy Duttenhefner at 701-328-5370, 701-220-3377 (cell), or [kgduttenhefner@nd.gov](mailto:kgduttenhefner@nd.gov).

Thank you for the opportunity to comment on the proposed project.

Sincerely,



Kathy Duttenhefner, Coordinator/Biologist II  
Natural Resources Division

1600 East Century Ave. Ste. 3 | Bismarck, ND 58503

PHONE: 701-328-5357 | FAX: 701-328-5363 | EMAIL: [parkrec@nd.gov](mailto:parkrec@nd.gov) | WEBSITE: [www.parkrec.nd.gov](http://www.parkrec.nd.gov)

**From:** [Dirk, Christine](#)  
**To:** [Leslie Rodman-Jaramillo](#)  
**Cc:** [Becky Moores](#)  
**Subject:** RE: Response Letter for WBI Wahpeton Project  
**Date:** Friday, December 17, 2021 12:40:25 PM  
**Attachments:** [ERM\\_NDPRD\\_R21-03.zip](#)

**WARNING:** The sender of this email could not be validated and may not match the person in the "From" field.

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Hello,

Please find the requested data attached. It is our policy to require the recipient of an electronic data transfer and/or spatial data transfer to sign an agreement for the release of data. Please read through the attached agreement and send a signed version to our office. Upon receipt the NDNHI coordinator will also sign the agreement. A copy of this finalized version will be sent to your office for your records.

**Christine Dirk**

*GIS Specialist*

701.328.5368 • [parkrec.nd.gov](http://parkrec.nd.gov)



---

**From:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>  
**Sent:** Tuesday, December 14, 2021 6:16 PM  
**To:** Dirk, Christine <[cdirk@nd.gov](mailto:cdirk@nd.gov)>  
**Subject:** RE: Response Letter for WBI Wahpeton Project

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Hi Chris,

Sounds good, please keep me posted.

Thanks.

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*  
ERM  
M +1 503 984 6609

---

**From:** Dirk, Christine <[cdirk@nd.gov](mailto:cdirk@nd.gov)>  
**Sent:** Monday, December 13, 2021 6:29 AM  
**To:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>  
**Subject:** RE: Response Letter for WBI Wahpeton Project

**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.

Hello Leslie,

I will be working on this request today and will try to get it done by day's end.

Chris

**Christine Dirk**

*GIS Specialist*

701.328.5368 • [parkrec.nd.gov](http://parkrec.nd.gov)



---

**From:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>  
**Sent:** Monday, November 15, 2021 3:31 PM  
**To:** Dirk, Christine <[cdirk@nd.gov](mailto:cdirk@nd.gov)>  
**Cc:** Lauren Rosenkranz <[Lauren.Rosenkranz@erm.com](mailto:Lauren.Rosenkranz@erm.com)>; Becky Moores <[Becky.Moores@erm.com](mailto:Becky.Moores@erm.com)>  
**Subject:** RE: Response Letter for WBI Wahpeton Project

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Hello Chris,

As promised in my voicemail left today (11/15), I'm following up on our shapefile (section 6(f) lands and NHI data) request and providing you with my contact information.

Please let me know if you have additional questions.

Thank you,  
Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*  
**ERM**  
**M +1 503 984 6609**

---

**From:** Becky Moores <[Becky.Moores@erm.com](mailto:Becky.Moores@erm.com)>  
**Sent:** Monday, November 8, 2021 11:44 AM  
**To:** Dirk, Christine <[cdirk@nd.gov](mailto:cdirk@nd.gov)>  
**Cc:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>; Lauren Rosenkranz <[Lauren.Rosenkranz@erm.com](mailto:Lauren.Rosenkranz@erm.com)>  
**Subject:** RE: Response Letter for WBI Wahpeton Project

Hello Christine,

Following up on this request to see if you can provide shapefiles for the properties, section 6(f) lands, and the Natural Heritage inventory data.

Thank you,

Becky Moores

**ERM**  
**M 303 919 6735**

---

**From:** Becky Moores  
**Sent:** Friday, October 29, 2021 2:03 PM  
**To:** 'Dirk, Christine' <[cdirk@nd.gov](mailto:cdirk@nd.gov)>  
**Cc:** Lauren Rosenkranz <[Lauren.Rosenkranz@erm.com](mailto:Lauren.Rosenkranz@erm.com)>  
**Subject:** RE: Response Letter for WBI Wahpeton Project

Hi Christine,

Looks like your firewall blocked my email with a zip file in it, so I have attached the individual files for the shapefile for the current route. It is still fluctuating a bit, but seeing any data you can provide may help in the final siting and/or early mitigation planning, if needed.

Thank you,

Becky Moores

**ERM**  
**M** 303 919 6735

---

**From:** Becky Moores  
**Sent:** Friday, October 29, 2021 1:59 PM  
**To:** Dirk, Christine <[cdirk@nd.gov](mailto:cdirk@nd.gov)>  
**Cc:** Lauren Rosenkranz <[Lauren.Rosenkranz@erm.com](mailto:Lauren.Rosenkranz@erm.com)>  
**Subject:** RE: Response Letter for WBI Wahpeton Project

Hi Christine,

Attached is the current route. It is still fluctuating a bit, but seeing any data you can provide may help in the final siting and/or early mitigation planning, if needed.

Thank you,

Becky Moores

**ERM**  
**M** 303 919 6735

---

**From:** Dirk, Christine <[cdirk@nd.gov](mailto:cdirk@nd.gov)>  
**Sent:** Friday, October 22, 2021 2:02 PM  
**To:** Becky Moores <[Becky.Moores@erm.com](mailto:Becky.Moores@erm.com)>  
**Subject:** FW: Response Letter for WBI Wahpeton Project

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Hello,

Could you provide a project boundary shapefile or geodatabase file? The project boundary I used in the initial request was just a guess on my part based on the paper map. Thanks.

Chris

**Christine Dirk**  
*GIS Specialist*

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---

**From:** Duttonhefner, Kathleen G. <[kgduttonhefner@nd.gov](mailto:kgduttonhefner@nd.gov)>  
**Sent:** Tuesday, October 12, 2021 7:15 AM  
**To:** Dirk, Christine <[cdirk@nd.gov](mailto:cdirk@nd.gov)>  
**Subject:** FW: Response Letter for WBI Wahpeton Project

See request below

Kathy D

---

**From:** Becky Moores <[Becky.Moores@erm.com](mailto:Becky.Moores@erm.com)>  
**Sent:** Monday, October 11, 2021 4:16 PM  
**To:** Duttonhefner, Kathleen G. <[kgduttonhefner@nd.gov](mailto:kgduttonhefner@nd.gov)>  
**Subject:** Response Letter for WBI Wahpeton Project

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Hello Kathy,

I am reaching out to you in regards to the letter your department provided in response to the WBI Wahpeton Expansion Project. I wanted to see if you would be able to provide shapefiles or other spatial files for the properties, section 6(f) lands, and the Natural Heritage inventory data in the map that was included with the letter. We would like to incorporate this information into our project GIS system for planning and permitting purposes.

Thank you,

Becky Moores  
*Principal Consultant*

**ERM**  
1 Ninth Street Island Drive | Livingston, Montana | 59047  
**M** 303 919 6735  
**E** [becky.moores@erm.com](mailto:becky.moores@erm.com) | **W** [www.erm.com](http://www.erm.com)



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## **APPENDIX 3E LAND USE, HABITAT, AND NOXIOUS WEED REPORT**



# Wahpeton Expansion Project

## Land Use, Habitat, and Noxious Weed Report

May 2022

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## CONTENTS

<b>1.</b>	<b>INTRODUCTION .....</b>	<b>3E-1</b>
<b>2.</b>	<b>SURVEY METHODOLOGY .....</b>	<b>3E-1</b>
<b>3.</b>	<b>RESULTS .....</b>	<b>3E-2</b>
3.1	Desktop Findings .....	3E-2
3.1.1	Regional Setting.....	3E-2
3.1.2	Land Use .....	3E-2
3.1.3	Habitat Types.....	3E-3
3.1.4	Hydrology.....	3E-4
3.1.5	Soils .....	3E-4
3.1.6	Noxious Weeds.....	3E-4
3.1.7	Threatened and Endangered Species .....	3E-5
3.2	Field Findings .....	3E-6
3.2.1	Land Use .....	3E-6
3.2.2	Habitat Types.....	3E-6
3.2.3	Noxious Weeds.....	3E-7
3.2.4	Threatened and Endangered Species .....	3E-8

### ATTACHMENT A FIGURES

- Figure 1 Project Overview**
- Figure 2 EPA Ecoregions**
- Figure 3 Natural Heritage Occurrences**
- Figure 4 Land Cover**
- Figure 5 Noxious Weeds**

### ATTACHMENT B OBSERVED PLANT LIST

#### List of Tables

Table 1: NLCD Land Use Types in the Project Footprint.....	3E-2
Table 2: Significant Ecological Communities within 1-mile of the Project .....	3E-3
Table 3: Federally Listed and Candidate Species Potentially Occurring in the Project Area .....	3E-5
Table 4: Land Use Types Observed in the Project Area .....	3E-6
Table 5: Noxious Weed Species Observed in the Survey Area .....	3E-7
Table 6: Federally Listed Species Potentially Occurring in the Project Area.....	3E-9

## 1. INTRODUCTION

ERM-West, Inc. (ERM), on behalf of WBI Energy Transmission, Inc. (WBI Energy) and in support of their proposed Wahpeton Expansion Project (Project), conducted field surveys to identify and document current land use practices, potential threatened and endangered species habitat, and the presence of noxious weeds within the Project area. The Project is located in Cass and Richland Counties, North Dakota (Figure 1), and will involve construction of approximately 60.5 miles of 12-inch-diameter natural gas transmission pipeline from WBI Energy's existing Mapleton Compressor Station near Mapleton, North Dakota, to a new delivery station near Wahpeton, North Dakota. Field surveys were conducted in October and November, 2021. Surveys will be attempted in 2022 in locations where the Project has been modified or access permission was not granted in 2021 and a subsequent report will be prepared to incorporate the additional findings. This report presents the survey methods and findings of the field surveys.

## 2. SURVEY METHODOLOGY

Prior to conducting field surveys, ERM completed a desktop review of publicly available resources to inform and guide the field survey effort. Protected species and habitat information was acquired through the U.S. Fish and Wildlife Service's (USFWS) Information for Planning and Consultation (IPaC) system and the U.S. Environmental Protection Agency (EPA) ecoregion designations. Noxious weed lists were obtained from the North Dakota Department of Agriculture. The following data sources were reviewed in ArcGIS to identify areas that should be targeted in the field for habitat classification: high-resolution aerial photography, USFWS National Wetlands Inventory (NWI) mapping, U.S. Geological Survey (USGS) National Hydrography Dataset (NHD), Natural Resource Conservation Service (NRCS) Web Soil Survey data, and USGS topographic maps. North Dakota Natural Heritage Inventory data was received after the 2021 field surveys were completed and was reviewed in conjunction with previous desktop resources and field findings.

ERM biologists conducted field surveys of current land use, land cover, potential threatened and endangered species habitats and noxious weed surveys concurrently with wetland and waterbody delineations within the Project survey area from October 4 to November 19, 2021. The survey area included locations of potential direct and indirect impacts from the proposed Project, within a 300-foot-wide corridor centered on the proposed pipeline route, as well as the footprint of all proposed aboveground facilities, access roads, and contractor yards. Some areas could not be directly accessed due to lack of survey permission from landowners. Those areas were assessed from the nearest public road and marked for follow-up surveys. Spatial data documenting the locations of potential habitat features and noxious weed communities were collected using sub-meter accuracy Global Positioning System (GPS) units.

Potential habitat for threatened and endangered species were evaluated and defined as areas with suitable landscape position and vegetation community type and structure that might support use by protected species. Specific habitat requirements for individual species are summarized in Section 3 of this report. To document locations of potential habitat, field staff collected location points and a description of the current land use, land cover, and observed habitat characteristics. Field surveys were conducted in the fall near the end of the growing season and were not timed to coincide with any specific flora or fauna life history or seasonal patterns of habitat utilization.

Boundaries of noxious weed communities were delineated by GPS if the area was 10 square feet or greater, or simply marked with a single GPS point if only a few individuals were present. The species, percent cover, and a general description were documented.

### 3. RESULTS

#### 3.1 Desktop Findings

##### 3.1.1 Regional Setting

The Project area is located in the southern portion of the Lake Agassiz Plain ecoregion (EPA ecoregion level III<sup>1</sup>). Ecoregions are areas with similar biological, physical, geologic, and aquatic features. The glacial Lake Agassiz filled the Red River Valley since the beginning of the Pleistocene. The Lake Agassiz Plain ecoregion is composed of thick lacustrine sediments underlain by glacial till. The area is extremely flat and has fewer lakes and pothole wetlands than neighboring ecoregions. The historic tallgrass prairie has been replaced by intensive agriculture. Common crops in the northern half of the region include potatoes, beans, and wheat; soybeans and corn are prominent in the south; and sugar beets are grown throughout the region.

Within the smaller level IV ecoregions, the majority of the Project is located in the Glacial Lake Agassiz Basin ecoregion, with a small portion (approximately 3.3 miles) of the Project located in the Sand Deltas and Beach Ridges ecoregion (Figure 2). The Glacial Lake Agassiz Basin is an extremely flat area with extensive cultivated farmland. Flooding can be a problem due to the Red River having a very low gradient and poorly defined floodplain. Outside of channelized areas in the floodplain, valley streams meander within narrow riparian strips of cottonwood, elm, ash, and willow. Soils range from silty to clayey in texture. Most have high water tables and are extremely productive. By contrast, the Sand Deltas and Beach Ridges ecoregion presents varying relief. Three sand deltas occur where major rivers entered glacial Lake Agassiz and dropped their sediment load; a high erosion risk exists in the sand dune areas. The beach ridges appear as parallel lines of sand and gravel formed by wave action on the varying shoreline levels of glacial Lake Agassiz. The changing landscape between these two ecoregions is located along a section in the middle of the Project near milepost 36 and can be easily identified in aerial imagery.

Climate in the Project area is typical for eastern North Dakota, with a mean annual rainfall of approximately 23 inches, and mean annual snowfall of approximately 50 inches. Annual temperatures in the area range from 4°F – 80°F on average.<sup>2</sup>

##### 3.1.2 Land Use

Land use in the Project area is primarily utilized for dry-farmed, cash-grain crops and livestock production. Land use data from the National Land Cover Database (NLCD)<sup>3</sup> for the construction and operations areas for the Project are listed in Table 1; 90.7 percent (702.2 acres) of the construction area and 94.7 percent (352.7 acres) of the operations area are listed as cultivated crops.

**Table 1: NLCD Land Use Types in the Project Footprint**

Land Use Category	Construction Area (acres)	Operations Area (acres)
Cultivated Crops	702.2	352.7
Hay Pasture	2.1	1.1

<sup>1</sup> Ecoregions of North Dakota and South Dakota. Available online at <https://www.epa.gov/eco-research/ecoregion-download-files-state-region-8#pane-32>. Accessed January 2022.

<sup>2</sup> National Climatic Data Center. 2018. Data Tool: 30-Year Normals 1981 – 2010. Available online at <https://www.ncdc.noaa.gov/cdo-web/datatools/normals>. Accessed November 2021.

<sup>3</sup> Multi-Resolution Land Characteristics Consortium. 2016. National Land Cover Database. Available online through partnership with ESRI and at <https://www.mrlc.gov/national-land-cover-database-nlcd-2016>. Accessed January 2022.

Land Use Category	Construction Area (acres)	Operations Area (acres)
Developed - High Intensity	5	0
Developed - Medium Intensity	14	0.3
Developed - Low Intensity	12.6	2.5
Developed - Open Space	10.9	3.5
Barren Land	1.6	0.0
Herbaceous	8.0	4.6
Mixed Forest	2.6	1.6
Deciduous Forest	0.9	0.4
Open Water	0.4	0.4
Wetlands - Emergent	12.4	4.9
Wetlands - Shrub	0.8	0.0
Wetlands - Woody	0.5	0.4
Wetlands - Forested	0.5	0.2
<b>Total Acres</b>	<b>774.2</b>	<b>372.5</b>

### 3.1.3 Habitat Types

The North Dakota Parks and Recreation Department (NDPRD) provided Natural Heritage Inventory data for rare plants and ecological communities within 1-mile of the proposed Project area. One rare plant observation and several ecological communities are present within 1-mile of the Project, but none of these occurrences are located within the construction and operations areas for the Project. The single rare plant observation was recorded in 1984. The ecological communities are all within or immediately adjacent to the portion of the Project that is located in the Sand Deltas and Beach Ridges ecoregion. The ecological communities present within 1-mile of the Project are listed in Table 2 and shown in Figure 3.

**Table 2: Significant Ecological Communities within 1-mile of the Project**

Community Type/Association	Species Assemblages
Dry Mesic Tallgrass Prairie, Sand	Little bluestem ( <i>Schizachyrium scoparium</i> ) Porcupine grass ( <i>Hesperostipa spartea</i> ) Sideoats grama ( <i>Bouteloua curtipendula</i> )
Mesic Tallgrass Prairie	Big bluestem ( <i>Andropogon gerardii</i> ) Indiangrass ( <i>Sorghastrum nutans</i> ) Mat muhly ( <i>Muhlenbergia richardsonis</i> )
Northern Reedgrass Wet Meadow	Northern reedgrass ( <i>Calamagrostis stricta</i> ) Woolly Sedge ( <i>Carex pellita</i> )
Sand Mixed Grass Prairie	Sand reedgrass ( <i>Calamovilfa longifolia</i> ) Sand bluestem ( <i>Andropogon halii</i> )
Wet-mesic Tallgrass Prairie	Big bluestem ( <i>Andropogon gerardii</i> ) Switchgrass ( <i>Panicum virgatum</i> ) Northern reedgrass ( <i>Calamagrostis stricta</i> )
Wet Prairie	Prairie cordgrass ( <i>Spartina pectinate</i> ) Northern reedgrass ( <i>Calamagrostis stricta</i> ) <i>Carex</i> spp.

### 3.1.4 Hydrology

The proposed Project lies within the Devil's Lake-Sheyenne and Upper Red River watersheds and crosses several named waterbodies, including the Maple River, Sheyenne River, Wild Rice River, and Antelope Creek. The Project has 24 waterbody crossing locations consisting of 8 perennial stream crossings, 15 ephemeral stream crossings, and one open waterbody crossing. The Project does not cross any designated National Wild and Scenic Rivers or state-designated high quality or outstanding natural resource waters.<sup>4</sup>

Groundwater resources in the Project area consist of aquifers that occur in sedimentary bedrock within the Northern Great Plains region. The aquifer lithology occurs as two primary types: sand and/or sandstone beds in the Dakota Sandstone, and sand and gravel deposits associated with glacial drift. Overlying the bedrock aquifer systems are localized alluvial and glacial aquifers comprised of unconsolidated glacial deposits.

### 3.1.5 Soils

The Project is located in the Red River of the North Major Land Resource Area (MLRA) 56. The dominant soil orders in MLRA 56 are Mollisols and Vertisols. The soils in this MLRA are characterized as very deep, somewhat poorly drained to very poorly drained, and are loamy to clayey in texture. The major soil resource concerns are wind erosion, sediment deposition from floodwater, maintenance of the content of organic matter and productivity of the soils, salinity in select areas, surface compaction, and aggregate stability.<sup>5</sup>

### 3.1.6 Noxious Weeds

Prior to field efforts, a list of noxious weed species potentially occurring in the Project area was compiled based on a review of state and county-specific sources.<sup>6</sup> Based on that information, the following species are known to occur in both Cass and Richland Counties, and have the potential to be found in the Project area:

- Absinth wormwood (*Artemisia absinthium*)
- Canada thistle (*Cirsium arvense*)
- Dalmatian toadflax (*Linaria genistifolia* spp. *dalmatica*)
- Diffuse knapweed (*Centaurea diffusa*)
- Houndstongue (*Cynoglossum officinale*)
- Leafy spurge (*Euphorbia esula*)
- Musk thistle (*Carduus nutans*)
- Palmer amaranth (*Amaranthus palmeri*)
- Purple loosestrife (*Lythrum salicaria*, *Lythrum virgatum*, and all cultivars)

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<sup>4</sup> National Wild and Scenic Rivers System. North Dakota. Available online at: <https://www.rivers.gov/north-dakota.php>. Accessed January 2022.

<sup>5</sup> U.S. Department of Agriculture. 2006. U.S. Department of Agriculture, Natural Resources Conservation Service. Agriculture Handbook No. 296, Land Resource Regions and Major Land Resource Areas of the United States, the Caribbean, and the Pacific Basin. Pages 152-153. Available online at [https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/nrcs142p2\\_050898.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_050898.pdf). Accessed November 2021.

<sup>6</sup> North Dakota Department of Agriculture. 2021. Noxious Weeds. Available online at: <https://www.nd.gov/ndda/plant-industries/noxious-weeds>. Accessed September 2021.



- Russian knapweed (*Centaurea repens*)
- Saltcedar (*Tamarisk* spp.)
- Spotted knapweed (*Centaurea maculosa*)
- Yellow toadflax (*Linaria vulgaris*)

### 3.1.7 Threatened and Endangered Species

Prior to field efforts, ERM biologists reviewed the IPaC system to evaluate the potential for federally threatened, endangered, and candidate species or their potential habitat to occur within the Project area. There are currently six federally listed or candidate species with the potential to be present within the Project area (Table 3). North Dakota does not maintain a state-level threatened and endangered species list, therefore only federally protected species have been evaluated.

**Table 3: Federally Listed and Candidate Species Potentially Occurring in the Project Area**

Species	Listing in County		Federal Status	Preferred Habitat
	Cass	Richland		
<b>Mammals</b>				
Northern long-eared bat ( <i>Myotis septentrionalis</i> )	X	X	Threatened	Rare in North Dakota. Primarily found in woodland habitats. Prefer to roost in cavities of large trees in relatively undisturbed areas. Pup season occurs June 1 – July 31.
<b>Birds</b>				
Whooping crane ( <i>Grus americana</i> )	X	X	Endangered	Migrant species occurring in North Dakota during the spring and fall seasons (April to mid-May and September to early November). Utilize wetlands, lakes, riverine areas, and a variety of cropland for roosting and foraging.
<b>Insects</b>				
Dakota skipper ( <i>Hesperia dacotae</i> )	X	X	Threatened	Dependent on high-quality tall-grass and mixed-grass prairie. Habitat includes wet prairie dominated by bluestem grasses, wood lily ( <i>Lilium philadelphicum</i> ), harebell ( <i>Campanula rotundifolia</i> ), and smooth camas ( <i>Zygadenus elegans</i> ); dry prairie on ridges and hillsides dominated by bluestem grasses, green needlegrass, pale purple coneflower ( <i>Echinacea</i> sp.), upright coneflower ( <i>Ratibida columnaris</i> ), and blanketflower ( <i>Gaillardia aristata</i> ).
Monarch butterfly ( <i>Danaus plexippus</i> )	X	X	Candidate	Two main populations of monarchs in North America. The population found in North Dakota breed east of the Rocky Mountains and overwinter in Mexico. During the breeding season, monarchs lay their eggs on their milkweed host plant ( <i>Asclepias</i> spp.). There are 10 species of native milkweed in North Dakota, two that are most familiar include common milkweed and showy milkweed. Once the monarch larvae hatch, they feed exclusively on milkweed.
Poweshiek skipperling ( <i>Oarisma Poweshiek</i> )	--	X	Endangered	Habitat includes remnant prairie areas including prairie fens, grassy lake and stream margins, moist meadows, sedge meadows, and wet-to-dry prairie. Adults are dependent on high-quality nectar from flowering herbaceous plants and shrubs for feeding and healthy and abundant suitable grasses for egg laying.

Species	Listing in County		Federal Status	Preferred Habitat
	Cass	Richland		
<b>Flowering Plants</b>				
Western prairie fringed orchid ( <i>Platanthera praeclara</i> )	--	X	Threatened	Preferred habitat includes unplowed, calcareous prairies and sedge meadows. Plants have also been observed in successional communities including borrow pits, old fields, and roadside ditches. Land management practices such as burning, grazing, and mowing may affect the species depending on timing, frequency, and intensity.

## 3.2 Field Findings

### 3.2.1 Land Use

Field surveys largely confirmed desktop research regarding land cover and use. The proposed Project is primarily located in a rural area utilized predominantly for agricultural purposes. Isolated forested areas were documented within the Project survey area, primarily along riparian corridors. Non-native vegetation dominated limited naturalized areas outside of agricultural fields. Areas of residential development were dispersed throughout the Project area as well. The current land use types observed in the field and calculated through GIS analysis of aerial imagery are presented in Table 4 and Figure 4.

**Table 4: Land Use Types Observed in the Project Area**

Land Use Category	Construction Area (acres)	Percent	Operations Area (acres)	Percent
Agriculture	702.2	90.7	352.7	94.8
Developed	42.4	5.5	6.3	1.7
Open Water	0.4	0.1	0.4	0.1
Open Land	11.6	1.5	5.7	1.5
Forest	3.5	0.5	2.0	0.5
Wetland	14.1	1.8	5.6	1.5
<b>Total</b>	<b>774.2</b>	<b>100</b>	<b>372.2</b>	<b>100</b>

### 3.2.2 Habitat Types

The Project survey area is characterized by agricultural lands and consists primarily of rotational crops. Agricultural and roadside ditches were common throughout the survey area. Non-agricultural cropland habitats include riparian areas, upland forested areas, and grassland pastures. Forested areas were predominantly associated with riparian corridors, with additional small stands interspersed along roadsides and between agricultural fields and residences, likely serving as windbreaks. Grasslands were limited to isolated areas and generally dominated, or strongly defined by, invasive and non-native species. Areas of fallow fields and pasture were also present but similarly limited on the landscape. Areas of native prairie were not observed within the Project area. Representative photos of habitat types in the survey area are provided in attachment A.

Agricultural areas were principally corn, soybeans, sugar beets, alfalfa, and hay. Agricultural and roadside ditches often exhibited wet or mesic conditions and were characterized by non-native and/or invasive emergent wetland vegetation. Typical species documented in ditches include: smooth brome (*Bromus*

*inermis*), Kentucky bluegrass (*Poa pratensis*), reed canary grass (*Phalaris arundinacea*), cattails (*Typha angustifolia* and *T. latifolia*), and clovers such as alfalfa (*Medicago sativa*).

Riparian communities, including woodlands, scrub-shrub, and herbaceous habitats, were documented throughout the survey area and generally had the greatest diversity of species and structural diversity. Dominant tree and shrub species in wooded areas included green ash (*Fraxinus pennsylvanica*), Eastern cottonwood (*Populus deltoides*), and black willow (*Salix nigra*).

Grasslands within the survey area are best described as agricultural pastures (some appeared to be fallow), had limited presence in the survey area, and were generally dominated by non-native and/or invasive plant species. Some common grasses and forbs in these areas included reed canary grass, smooth brome, foxtail barely (*Hordeum jubatum*), goldenrods (*Solidago* spp.), amaranths (*Amaranthus* spp.), and Kentucky bluegrass.

A complete list of plants observed in the survey area can be found in attachment B.

### 3.2.3 Noxious Weeds

Locations, extents, and percent cover of noxious weed communities observed in the field are presented in Table 5. Figure 5 shows the locations of these noxious weed infestations in the survey area. Canada thistle was the only state-listed noxious weed species documented. Population sizes ranged from a few closely-spaced individuals to widely spread infestations across areas up to 300 square feet (population size estimates referred only to the area inside the Project study boundaries, and in some cases extended further).

**Table 5: Noxious Weed Species Observed in the Survey Area**

Milepost	Species	Area (square feet)	Percent Cover
24.2	Canada thistle	150	0-10
28.3	Canada thistle	20	0-10
28.3	Canada thistle	15	0-10
28.3	Canada thistle	20	0-10
30.3	Canada thistle	35	0-10
31.4	Canada thistle	< 10	0-10
31.4	Canada thistle	< 10	0-10
31.4	Canada thistle	< 10	0-10
31.6	Canada thistle	15	10-25
31.6	Canada thistle	15	0-10
31.6	Canada thistle	10	0-10
31.6	Canada thistle	10	0-10
31.8	Canada thistle	30	10-25
31.8	Canada thistle	10	10-25
31.8	Canada thistle	15	0-10
33.5	Canada thistle	300	0-10
33.5	Canada thistle	< 10	50-75

Milepost	Species	Area (square feet)	Percent Cover
36.4	Canada thistle	< 10	10-25
36.8	Canada thistle	300	0-10
37	Canada thistle	15	10-25
41	Canada thistle	15	10-25
41	Canada thistle	< 10	0-10
41	Canada thistle	< 10	0-10
41	Canada thistle	< 10	0-10
42.4	Canada thistle	< 10	0-10
43.4	Canada thistle	10	0-10
43.5	Canada thistle	< 10	0-10
Kindred Pipe Yard	Canada thistle	15	0-10

### 3.2.4 Threatened and Endangered Species

No federally protected species were observed during the field surveys; however, potentially suitable habitat was identified for some candidate/listed species including: northern long eared bat, whooping crane, monarch butterfly, and western prairie fringed orchid. Non-agricultural habitat suitable for threatened or endangered species habitat were limited to isolated areas.

Northern long eared bats prefer to roost underneath shagging bark, crevices or cavities of trees, often south facing for solar exposure. Within forested areas, field teams identified trees that could support roosting northern long-eared bats.

Whooping cranes will utilize a wide range of habitats as stopover sites during their migration. During surveys, field teams identified some rivers, wetlands, and croplands that may provide suitable stopover foraging habitat for whooping cranes during migration.

Monarch butterfly requires milkweed plants as larval host plants during the breeding season, and can be found wherever there is access to these plants. Within their extensive North American range, monarch butterflies can be found in agricultural areas, open grasslands, and residential areas during breeding season. Field teams identified individual milkweed plants during survey, providing potential monarch butterfly habitat.

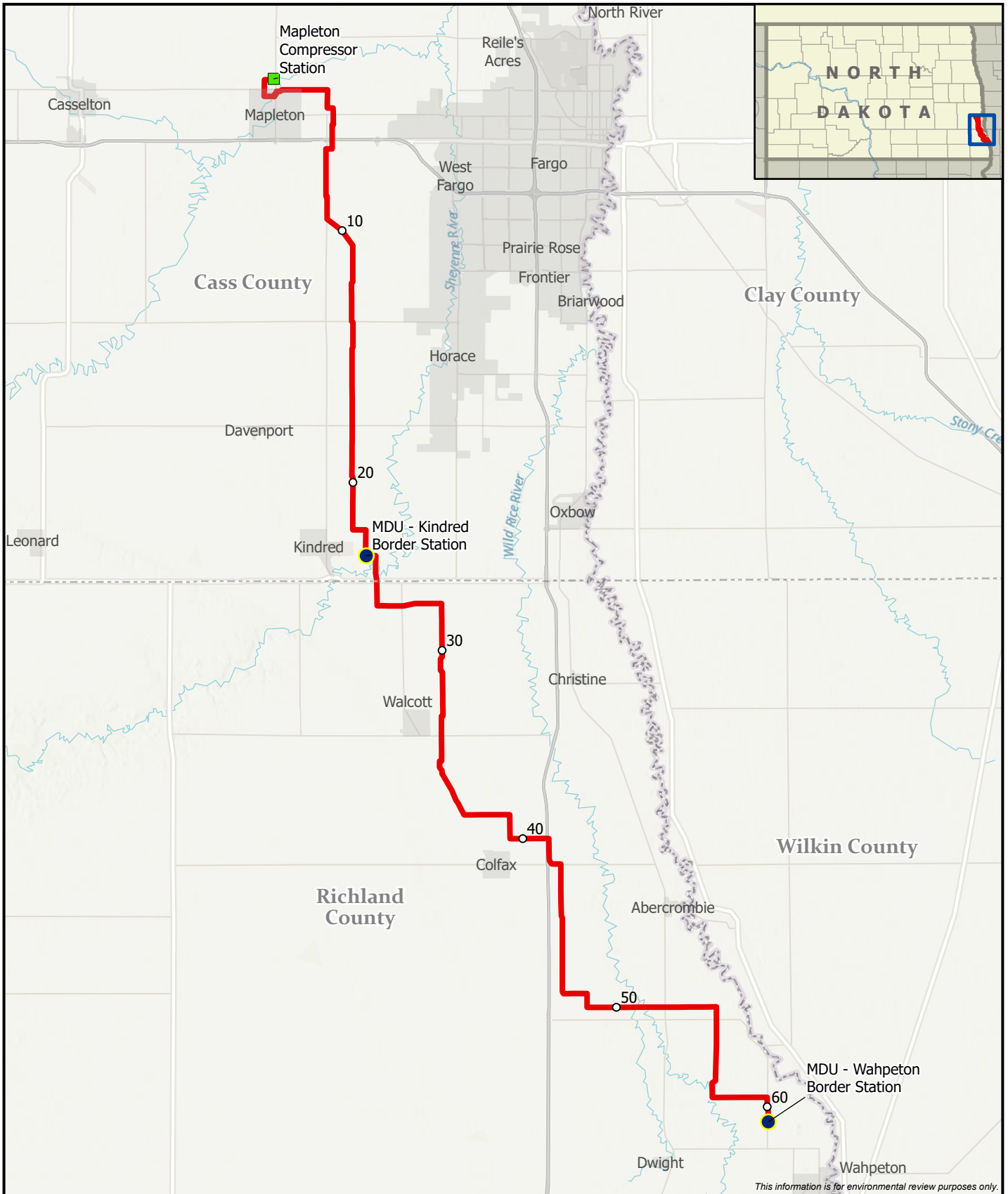
The western prairie fringed orchid prefers prairies and sedge meadows as well as lowland depressions, call swales, but will also grow in disturbed areas including borrow pits, roadside ditches and old fields. Field teams delineated roadside ditches; however, these areas are not considered preferred suitable habitat for the western prairie fringed orchid as they are not characteristic of northern wet prairie, northern mesic prairie, or prairie wet meadow communities where this species typically occurs.

Based on the habitat requirements of the species and the land use and habitats observed in the Project area and vicinity, Table 5 lists the likelihood for federally listed species and/or their habitat to be present in the Project area.

**Table 6: Federally Listed Species Potentially Occurring in the Project Area**

Species	Habitat Present within the Project Area	Potential for Species to Occur within the Project Area
Northern long-eared bat ( <i>Myotis septentrionalis</i> )	Yes, some riparian environments in the Project area contain potential roost trees for the northern long-eared bat	Possible, forested areas within the Project area are sparse and fragmented and potential roost trees are limited. There are no known caves or hibernacula within 50 miles, and there are no documented occurrences of the bat in or near the proposed Project area.
Whooping crane ( <i>Grus americana</i> )	Yes, there are abundant croplands, wetlands, lacustrine, and riverine areas that occur in and around the Project area	Possible. However, abundant suitable habitat in the vicinity of the Project area indicates that any migrant cranes should find suitable habitat away from Project disturbance. Surveyed waterbodies did not have suitable foraging habitat.
Dakota skipper ( <i>Hesperia dacotae</i> )	No, there are isolated areas of non-native prairie habitat, but none provide suitable habitat	Unlikely, there are very few grassland areas in the Project vicinity and suitable habitat in the area is limited.
Monarch butterfly ( <i>Danaus plexippus</i> )	Yes, some milkweed was identified in small numbers	Possible, the monarch's range is extensive, and occurrences of milkweed were documented in the survey area.
Poweshiek skipperling ( <i>Oarisma Poweshiek</i> )	No, there are isolated areas of non-native prairie habitat, but none provide suitable habitat	Unlikely, there are very few grassland areas in the Project vicinity and suitable habitat in the area is limited. The Project is outside of the currently known range of the species; the Poweshiek skipperling is considered extirpated from the state.
Western prairie fringed orchid ( <i>Platanthera praeclara</i> )	No, while wetland ditches were identified during field surveys, these areas are not considered prairies and sedge meadows or lowland depressions (swales), and do not provide suitable habitat	Unlikely, native suitable habitat is not present and no recent occurrences of the species have been documented in the Project vicinity.

## **ATTACHMENT A FIGURES**

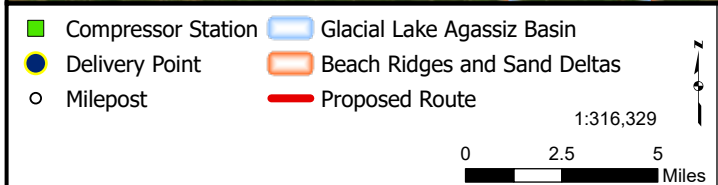
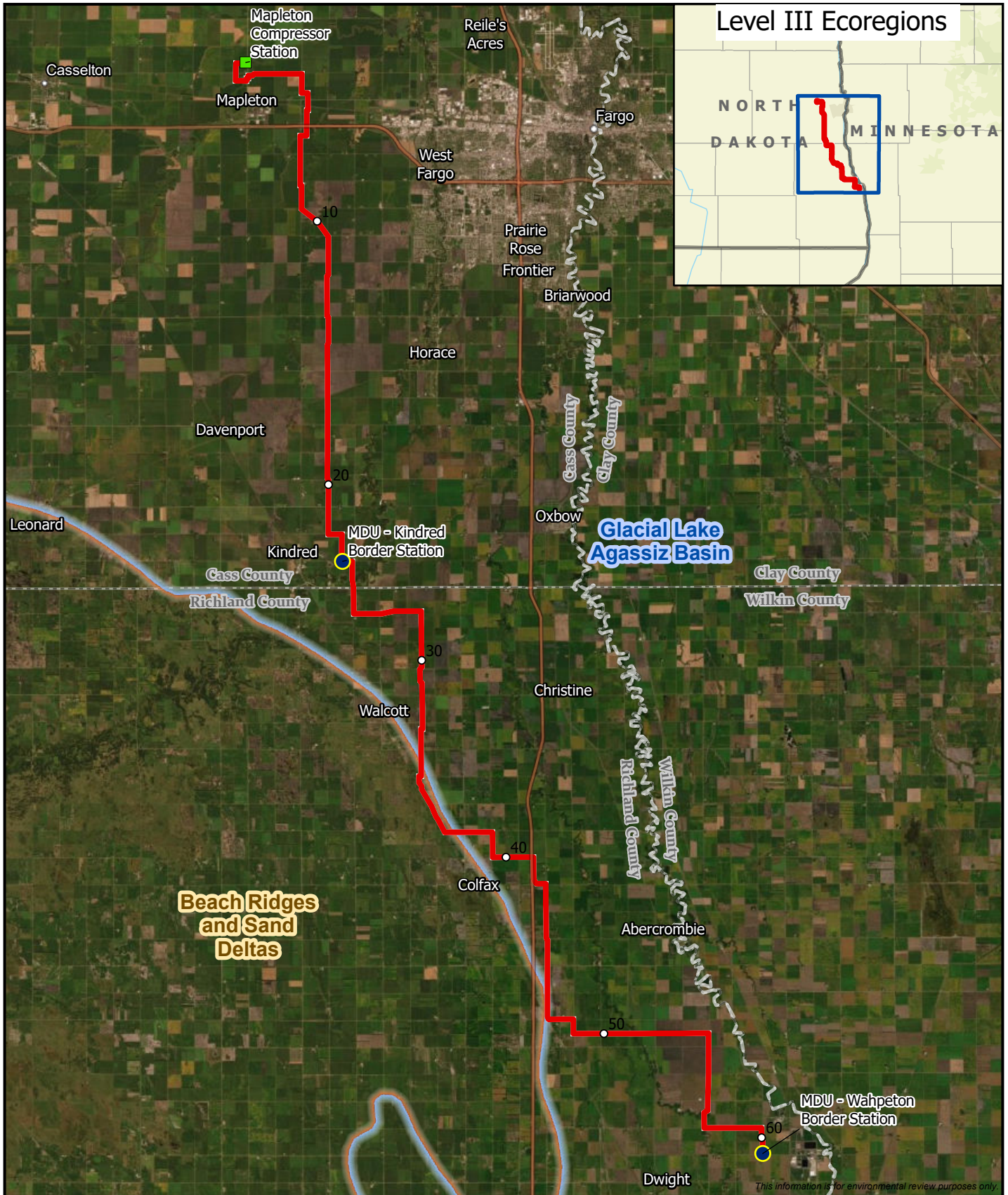


*This information is for environmental review purposes only.*



**Figure 1**  
**Project Overview**  
**Wahpeton Expansion Project**  
 WBI Energy Transmission, Inc.  
 Cass and Richland County, North Dakota

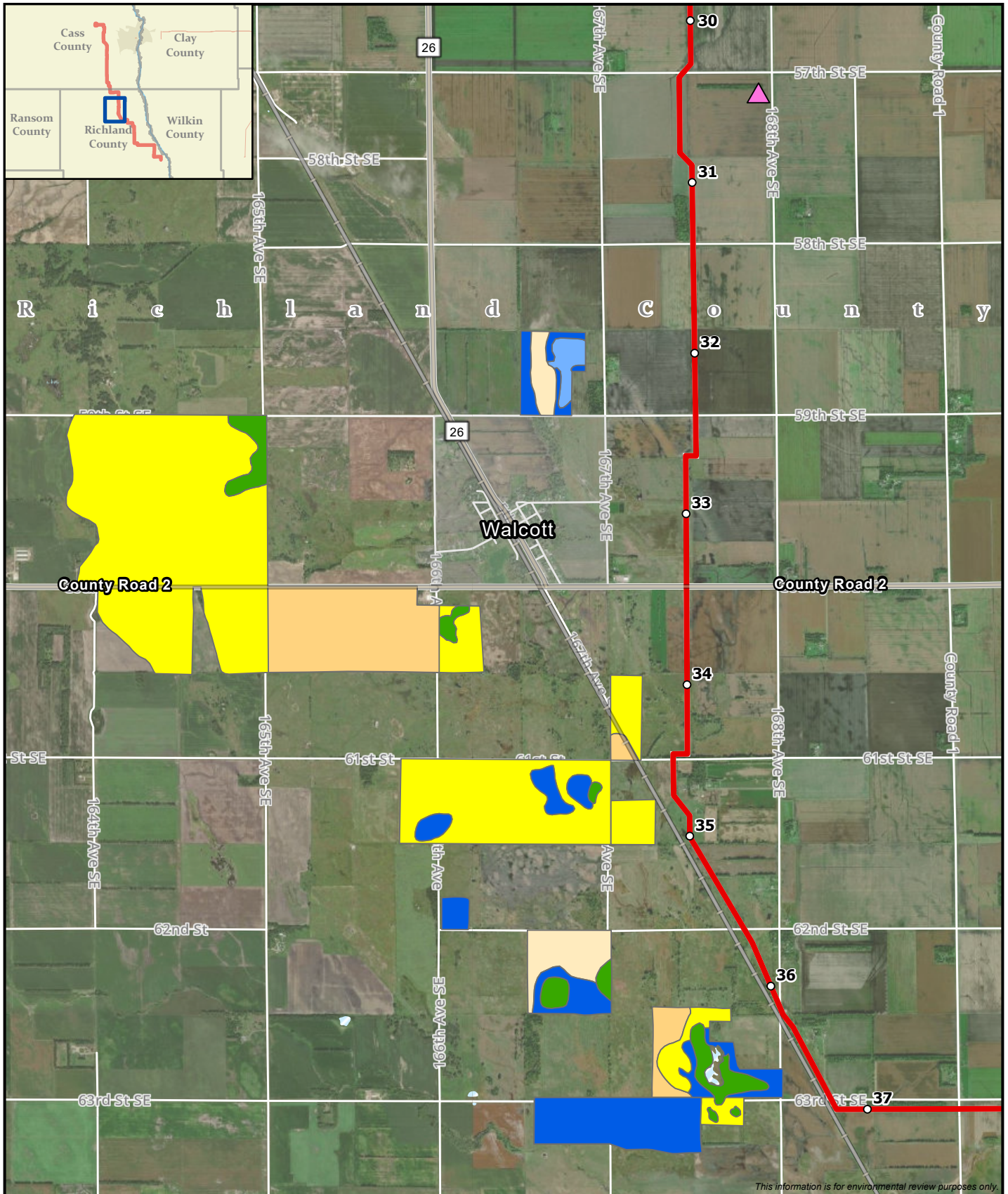




**Figure 2**  
**EPA Ecoregions, Level IV**  
**Wahpeton Expansion Project**  
 WBI Energy Transmission, Inc.  
 Cass and Richland County, North Dakota

*This information is for environmental review purposes only.*





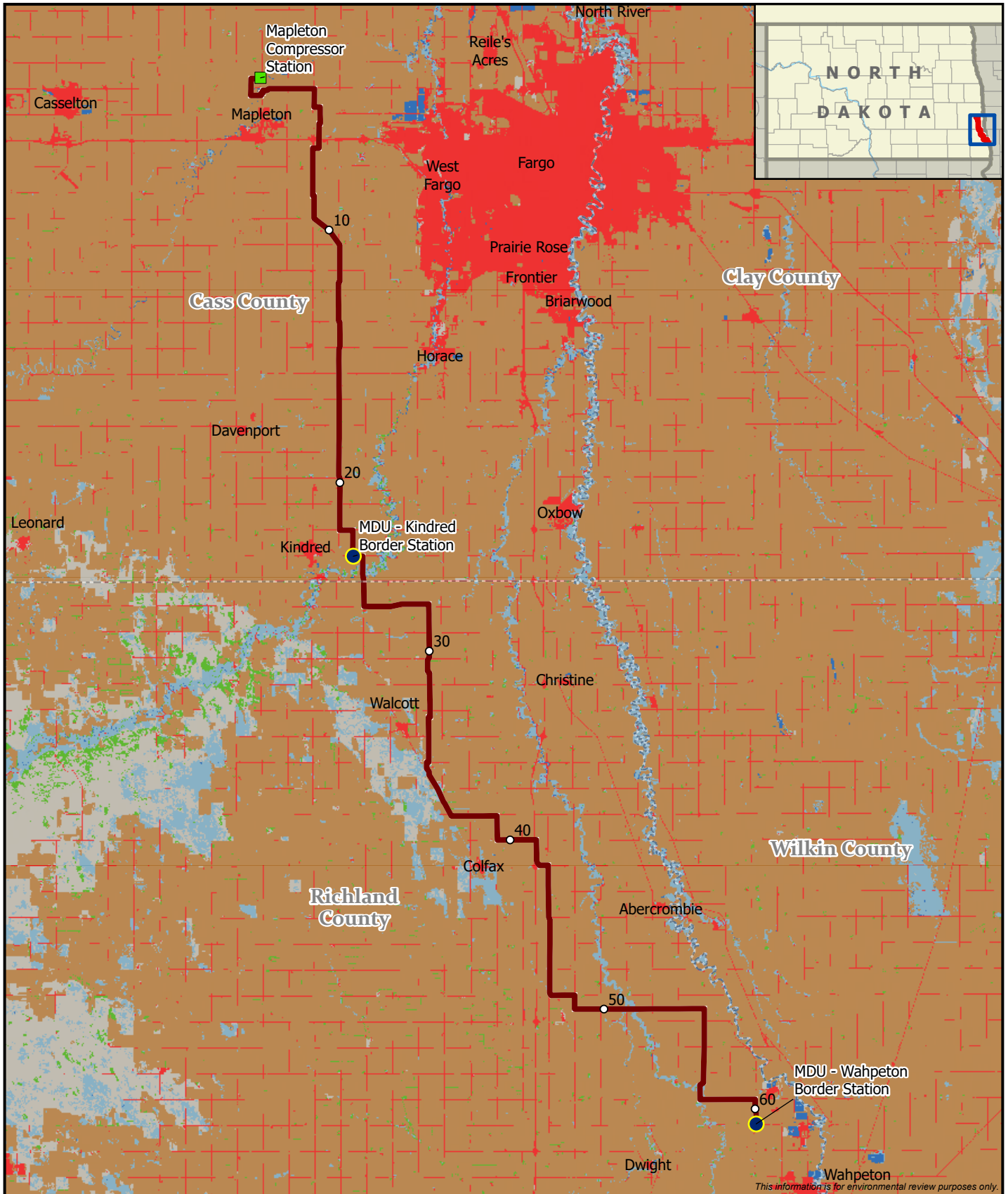
**Figure 3**  
**North Dakota Natural Heritage Occurrences**  
**Wahpeton Expansion Project**  
 WBI Energy Transmission, Inc.  
 Cass and Richland County, North Dakota

Dry Mesic Tall Grass Prairie, Sand  
 Mesic Tallgrass Prairie  
 Northern Reedgrass Wet Meadow  
 Sand Mixed Grass Prairie  
 Wet Mesic Tall Grass Prairie, Sand  
 Wet Prairie  
 Western Prairie Fingied Orchid  
 Milepost  
 Proposed Route

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Miles

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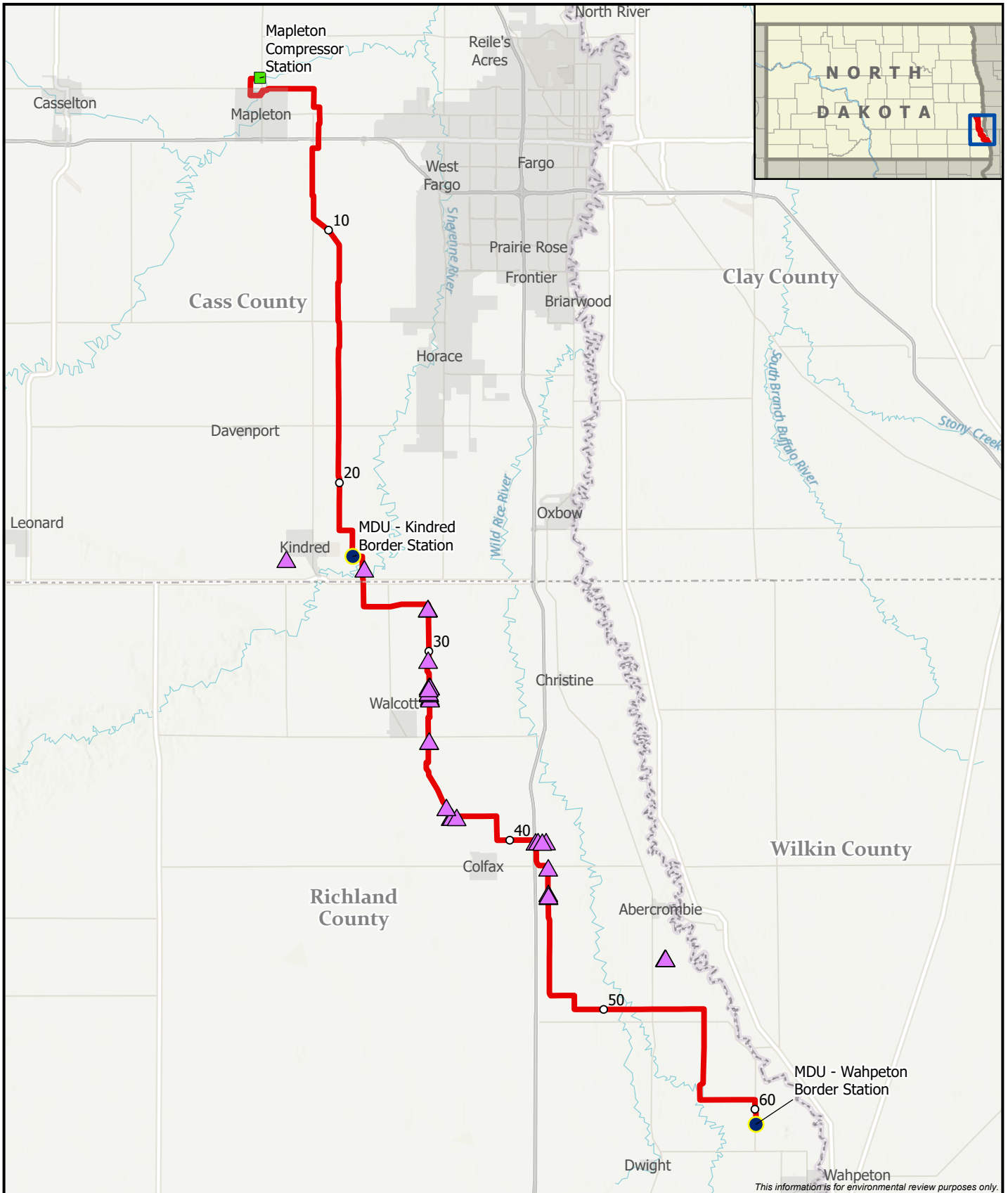


*This information is for environmental review purposes only.*



**Figure 4**  
**Land Cover**  
**Wahpeton Expansion Project**  
 WBI Energy Transmission, Inc.  
 Cass and Richland County, North Dakota





*This information is for environmental review purposes only.*

-  Weed Point - Canada Thistle
-  Compressor Station
-  Delivery Point
-  Milepost
-  Proposed Route

  
 1:330,000  
  
 0 2.5 5 Miles

**Figure 5**  
**Noxious Weeds**  
**Wahpeton Expansion Project**  
 WBI Energy Transmission, Inc.  
 Cass and Richland County, North Dakota



**ATTACHMENT B OBSERVED PLANT LIST**

## Plants Observed in the Survey Area

Scientific Name	Common Name
<i>Acer negundo</i>	Boxelder
<i>Amaranthus retroflexus</i>	Redroot Amaranth
<i>Amaranthus tuberculatus</i>	Roughfruit Amaranth
<i>Ambrosia artemisiifolia</i>	Annual Ragweed
<i>Ambrosia trifida</i>	Great Ragweed
<i>Asclepias syriaca</i>	Common Milkweed
<i>Bromus arvensis</i>	Field Brome
<i>Bromus inermis</i>	Smooth Brome
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Bull Thistle
<i>Cornus racemosa</i>	Gray Dogwood
<i>Digitaria ischaemum</i>	Smooth Crabgrass
<i>Distichlis spicata</i>	Saltgrass
<i>Echinochloa crus-galli</i>	Barnyardgrass
<i>Echinochloa muricata</i>	Rough barnyardgrass
<i>Elaeagnus angustifolia</i>	Russian-Olive
<i>Eleocharis acicularis</i>	Needle Spike-Rush
<i>Eleocharis palustris</i>	Common Spike-Rush
<i>Elymus hystrix</i>	Eastern Bottlebrush Grass
<i>Elymus repens</i>	Quackgrass
<i>Equisetum hyemale</i>	Scouringrush Horsetail
<i>Equisetum laevigatum</i>	Smooth Horsetail
<i>Eragrostis cilianensis</i>	Stinkgrass
<i>Euthamia graminifolia</i>	Flat-top Goldentop
<i>Fallopia convolvulus</i>	Black Bindweed
<i>Fraxinus pennsylvanica</i>	Green Ash
<i>Glycyrrhiza lepidota</i>	American Licorice
<i>Helianthus annuus</i>	Common Sunflower
<i>Hordeum jubatum</i>	Fox-Tail Barley
<i>Ipomoea cordatotriloba</i>	Tievine
<i>Leersia oryzoides</i>	Rice Cutgrass
<i>Lotus corniculatus</i>	Bird's-foot Trefoil
<i>Medicago sativa</i>	Alfalfa
<i>Melilotus officinalis</i>	Yellow Sweet-Clover

Scientific Name	Common Name
<i>Pascopyrum smithii</i>	Western Wheatgrass
<i>Persicaria hydropiperoides</i>	Swamp Smartweed
<i>Phalaris arundinacea</i>	Reed Canary Grass
<i>Phragmites australis</i>	Common Reed
<i>Plantago major</i>	Common Plantain
<i>Poa nemoralis</i>	Forest Blue Grass
<i>Poa pratensis</i>	Kentucky Blue Grass
<i>Populus deltoides</i>	Eastern Cottonwood
<i>Rhamnus cathartica</i>	Common Buckthorn
<i>Rosa arkansana</i>	Prairie Rose
<i>Rumex crispus</i>	Curly Dock
<i>Salix amygdaloides</i>	Peachleaf Willow
<i>Salix interior</i>	Sandbar Willow
<i>Salix nigra</i>	Black Willow
<i>Schedonorus pratensis</i>	Meadow Fescue
<i>Schoenoplectus tabernaemontani</i>	Softstem Bulrush
<i>Scirpus atrovirens</i>	Dark-Green Bulrush
<i>Scirpus pallidus</i>	Cloaked Bulrush
<i>Setaria pumila</i>	Yellow Foxtail
<i>Setaria verticillata</i>	Hooked Bristlegrass
<i>Solidago altissima</i>	Canada Goldenrod
<i>Solidago gigantea</i>	Giant Goldenrod
<i>Solidago rigidum</i>	Stiff Goldenrod
<i>Sonchus arvensis</i>	Field Sowthistle
<i>Sonchus asper</i>	Spiny Sowthistle
<i>Spartina pectinata</i>	Prairie Cordgrass
<i>Symphotrichum ericoides</i>	White Heath Aster
<i>Symphotrichum lanceolatum</i>	White Panicle Aster
<i>Symphotrichum lateriflorum</i>	Calico Aster
<i>Trifolium pratense</i>	Red Clover
<i>Typha angustifolia</i>	Narrowleaf Cattail
<i>Typha latifolia</i>	Broadleaf Cattail
<i>Xanthium strumarium</i>	Rough Cocklebur

**APPENDIX 3F UNITED STATES FISH AND WILDLIFE SERVICE  
CONSULTATION/COMMUNICATIONS**

September 13, 2021

U.S. Fish and Wildlife Service  
Region 6  
North Dakota Field Office  
3425 Miriam Avenue  
Bismarck, ND 58501-7926

Subject: WBI Energy Transmission, Inc.  
Proposed Wahpeton Expansion Project  
Cass and Richland Counties, North Dakota

To Whom it may Concern:

WBI Energy Transmission, Inc. (WBI Energy) operates a natural gas transmission pipeline system in the Northern Plains and is proposing to expand its system in southeastern North Dakota. The Wahpeton Expansion Project will involve constructing approximately 60 miles of 12-inch diameter natural gas pipeline from WBI Energy's existing Mapleton Compressor Station near Mapleton, North Dakota, to a new delivery station near Wahpeton, North Dakota. The project will include minor modifications at the Mapleton Compressor Station and a new delivery station near Kindred, North Dakota. The enclosed map shows the preliminary proposed pipeline route and locations of project facilities.

This project will allow WBI Energy to transport an additional 20.6 million cubic feet of natural gas per day to help meet growing demand for natural gas in southeastern North Dakota. Montana-Dakota Utilities Co., a local distribution company, has engaged WBI Energy to construct this project to fulfill Wahpeton customers' needs for additional uninterrupted natural gas supply and to extend natural gas service to Kindred, at the request of city officials and residents.

The project is regulated by the Federal Energy Regulatory Commission (FERC) under Section 7(c) of the Natural Gas Act. Under the Energy Policy Act of 2005, FERC is the lead agency for coordinating federal authorizations and complying with the National Environmental Policy Act (NEPA) on natural gas pipeline projects subject to its jurisdiction. WBI Energy plans to submit an application with the FERC in May 2022 for a Certificate of Public Convenience and Necessity to



construct and operate the proposed pipeline and associated facilities. Applications for other federal or state authorizations will be submitted prior to or at approximately the same time as the FERC application, or on timelines defined by the appropriate federal or state regulations. Pending regulatory approvals, WBI Energy anticipates beginning construction in early 2024, with the new facilities in service by November 2024.

WBI Energy plans to file a request with the FERC to use the FERC's pre-filing process for the project. This process will provide agencies, landowners, and other stakeholders the opportunity to work with WBI Energy and the FERC to identify and resolve environmental issues prior to the filing of the Certificate application, which will result in a more efficient regulatory review process. WBI Energy plans to submit its request to use the pre-filing process in late September 2021 and anticipates receiving FERC's approval to use the process in early October 2021. Pending FERC's approval, WBI Energy will also hire and fund a third-party environmental consultant to assist FERC in the preparation of the NEPA document for the project.

WBI Energy has retained Environmental Resources Management (ERM) to provide environmental support services for the project. An ERM representative and/or FERC staff will be in touch with you in the near future to gauge your interest in participating in the pre-filing process, provide additional information, and discuss specific permitting and/or consultation requirements. In the meantime, if you have questions about the project, please contact me at 406-359-7332 or Maggie Suter of ERM at 410-972-4125.

Thank you for your time and assistance with this project.

Sincerely,



Jill Linn  
Environmental Affairs  
WBI Energy Transmission, Inc.

Enclosures: Project Overview Map

cc: Robbyn Reukauf, WBI Energy Transmission, Inc.  
Maggie Suter, ERM

September 13, 2021

U.S. Fish and Wildlife Service, Region 6  
Tewaukon Wetland Management District  
9754 143 ½ Avenue SE  
Cayuga, ND 58013  
701-724-3598  
tewaukon@fws.gov

Subject: WBI Energy Transmission, Inc.  
Proposed Wahpeton Expansion Project  
Cass and Richland Counties, North Dakota

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Sincerely,



Jill Linn  
Environmental Affairs  
WBI Energy Transmission, Inc.

Enclosures: Project Overview Map

cc: Robbyn Reukauf, WBI Energy Transmission, Inc.  
Maggie Suter, ERM

September 13, 2021

U.S. Fish and Wildlife Service, Region 6  
Valley City Wetland Management District  
11515 River Road  
Valley City, ND 58072  
(701)-845-3466

Subject: WBI Energy Transmission, Inc.  
Proposed Wahpeton Expansion Project  
Cass and Richland Counties, North Dakota

To Whom it may Concern:

WBI Energy Transmission, Inc. (WBI Energy) operates a natural gas transmission pipeline system in the Northern Plains and is proposing to expand its system in southeastern North Dakota. The Wahpeton Expansion Project will involve constructing approximately 60 miles of 12-inch diameter natural gas pipeline from WBI Energy's existing Mapleton Compressor Station near Mapleton, North Dakota, to a new delivery station near Wahpeton, North Dakota. The project will include minor modifications at the Mapleton Compressor Station and a new delivery station near Kindred, North Dakota. The enclosed map shows the preliminary proposed pipeline route and locations of project facilities.

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Sincerely,



Jill Linn  
Environmental Affairs  
WBI Energy Transmission, Inc.

Enclosures: Project Overview Map

cc: Robbyn Reukauf, WBI Energy Transmission, Inc.  
Maggie Suter, ERM

**From:** [Leslie Rodman-Jaramillo](#)  
**To:** "Reinisch, Jerry D"  
**Subject:** RE: [EXTERNAL] WBI Energy Wahpeton Expansion Project shapefile  
**Date:** Thursday, January 13, 2022 10:45:00 AM  
**Attachments:** [M2W\\_Construction\\_Footprint\\_20220106.kmz](#)  
[image001.png](#)

---

Hi Jerry,

Please see the attached KMZ for the Wahpeton Expansion Project. As we discussed, if you have time to outline a few details that you are able to point out on an initial review, that would be appreciated! Please let me know if you have any questions at this time.

Thank you,

Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*  
**ERM**  
**M +1 503 984 6609**

---

**From:** Reinisch, Jerry D <jerry\_reinisch@fws.gov>  
**Sent:** Monday, January 10, 2022 5:32 AM  
**To:** Leslie Rodman-Jaramillo <leslie.rodmanjaramillo@erm.com>  
**Subject:** RE: [EXTERNAL] WBI Energy Wahpeton Expansion Project shapefile

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Leslie

Thank you for the updated information. I will be busy from 9-11 as we have our weekly staff meetings.

Regards

Jerry

---

**From:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>  
**Sent:** Sunday, January 9, 2022 10:19 PM  
**To:** Reinisch, Jerry D <[jerry\\_reinisch@fws.gov](mailto:jerry_reinisch@fws.gov)>  
**Subject:** [EXTERNAL] WBI Energy Wahpeton Expansion Project shapefile

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

Hi Jerry,

As we discussed earlier, I wanted to provide you with an updated shapefile of the Wahpeton Expansion Project that is proposed to cross Cass and Richland Counties. Please let me know if you have any trouble accessing this file.

I'd like to follow-up with you on a call with some additional questions I have at this time. I'll try to reach out to you Monday, January 10<sup>th</sup>. Please let me know if there are times that will not work for you.

Thank you,  
Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*

**ERM**

1050 SW 6<sup>th</sup> Ave Suite 1650 |Portland, OR |97204

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**E** [Leslie.RodmanJaramillo@erm.com](mailto:Leslie.RodmanJaramillo@erm.com) | **W** [www.erm.com](http://www.erm.com)



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**From:** [Reinisch, Jerry D](#)  
**To:** [Leslie Rodman-Jaramillo](#)  
**Subject:** RE: [EXTERNAL] WBI Energy Wahpeton Expansion Project shapefile  
**Date:** Wednesday, January 19, 2022 5:48:12 AM  
**Attachments:** [image001.png](#)

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Leslie

After a quick review of the Wahpeton Expansion Project I noted the following:

1. Bald eagle nest near the staging area in West Fargo
2. Two bald eagle nests south of highway 46 near Kindred along the Sheyenne River
3. DASK presence southwest of the eagles' nests, similar habitat continues from Kindred to Norman.

Attached map shows the locations. Yellow circles are bald eagle locations and green triangles are for DASK activities.

Regards

Jerry

---

**From:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>  
**Sent:** Thursday, January 13, 2022 12:46 PM  
**To:** Reinisch, Jerry D <[jerry\\_reinisch@fws.gov](mailto:jerry_reinisch@fws.gov)>  
**Subject:** RE: [EXTERNAL] WBI Energy Wahpeton Expansion Project shapefile

Hi Jerry,

Please see the attached KMZ for the Wahpeton Expansion Project. As we discussed, if you have time to outline a few details that you are able to point out on an initial review, that would be appreciated! Please let me know if you have any questions at this time.

Thank you,

Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*  
ERM  
M +1 503 984 6609

---

**From:** Reinisch, Jerry D <[jerry\\_reinisch@fws.gov](mailto:jerry_reinisch@fws.gov)>  
**Sent:** Monday, January 10, 2022 5:32 AM  
**To:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>  
**Subject:** RE: [EXTERNAL] WBI Energy Wahpeton Expansion Project shapefile

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recognize the sender and know the content is safe.

Leslie

Thank you for the updated information. I will be busy from 9-11 as we have our weekly staff meetings.

Regards

Jerry

---

**From:** Leslie Rodman-Jaramillo <[leslie.rodmanjaramillo@erm.com](mailto:leslie.rodmanjaramillo@erm.com)>

**Sent:** Sunday, January 9, 2022 10:19 PM

**To:** Reinisch, Jerry D <[jerry\\_reinisch@fws.gov](mailto:jerry_reinisch@fws.gov)>

**Subject:** [EXTERNAL] WBI Energy Wahpeton Expansion Project shapefile

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Hi Jerry,

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I'd like to follow-up with you on a call with some additional questions I have at this time. I'll try to reach out to you Monday, January 10<sup>th</sup>. Please let me know if there are times that will not work for you.

Thank you,

Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist  
*Pronouns: she/her/hers*

**ERM**

1050 SW 6<sup>th</sup> Ave Suite 1650 | Portland, OR | 97204

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**E** [Leslie.RodmanJaramillo@erm.com](mailto:Leslie.RodmanJaramillo@erm.com) | **W** [www.erm.com](http://www.erm.com)



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**From:** [Wilson, Eric D](#)  
**To:** [Leslie Rodman-Jaramillo](#)  
**Subject:** Re: [EXTERNAL] WBI Energy proposed Wahpeton Expansion Project - FWS easements  
**Date:** Monday, February 14, 2022 9:17:19 AM  
**Attachments:** [image001.png](#)

---

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Hi Leslie,

I looked over the shapefiles you sent and can confirm that there is one wetland easement within 1mi of the proposed construction footprint.

If you need more info, or if the route changes, please let me know.

Thanks,

Eric Wilson  
Wildlife Refuge Specialist  
Tewaukon National Wildlife Refuge Complex  
9754 143 1/2 Ave SE  
Cayuga, ND 58013  
O) 701-724-3598 x 5  
C) 701-403-0041  
[eric\\_wilson@fws.gov](mailto:eric_wilson@fws.gov)  
<https://www.fws.gov/refuge/tewaukon>

---

**From:** Leslie Rodman-Jaramillo <leslie.rodmanjaramillo@erm.com>  
**Sent:** Friday, February 11, 2022 12:00 PM  
**To:** Wilson, Eric D <eric\_wilson@fws.gov>  
**Cc:** Azure, Dave <dave\_azure@fws.gov>; Fitzmorris, Patrick J <patrick\_fitzmorris@fws.gov>  
**Subject:** [EXTERNAL] WBI Energy proposed Wahpeton Expansion Project - FWS easements

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Hi Eric,

I spoke with your colleague, Dave Azure, this morning and he passed along your contact information. I'm working with WBI Energy on a proposed project, the Wahpeton Expansion Project, which would include about 60-miles of natural gas pipeline crossing Cass and Richland Counties in

southeastern North Dakota. For additional reference, please see the attached WBI Energy project introductory letter, which was sent to the Tewaukon District, as well as the FWS response to FERC.

I wanted to get confirmation on the fee title and/or easement properties and proximity to the proposed Project. I've attached a copy of the shapefile as well as the KMZ. In checking the spatial data I have for these FWS lands, I have found that one FWS conservation easement or management area is within 1-mile of the proposed Project. This area is within the Tewaukon WMD and includes one waterfowl production area. I'm hoping that you can confirm this, and please let me know if there are additional properties as well.

Please let me know if you need additional information and have any questions.

Thank you,

Leslie

Leslie Rodman-Jaramillo  
Senior Consultant, Scientist

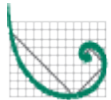
*Pronouns: she/her/hers*

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**M** +1 503 984 6609

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