

Missouri River Basin Inter-Agency Roundtable

Inter-Agency Pipeline Permitting



The Mineral Leasing Act, 1920, as amended

When a proposed hydrocarbon* pipeline crosses lands administered by two or more Federal agencies, the BLM assumes the role of lead permitting agency.

- *oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced



- TRANS-ALASKA PIPELINE AUTHORIZATION ACT
- November 16, 1973
- To amend section 28 of the Mineral Leasing Act of 1920, and to authorize a trans-Alaska oil pipeline, and for other purposes.
- *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*
- TITLE I
- Sec.101. Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), is further amended to read as follows:
 - “Grant of Authority”
 - “Sec.28. (a) Rights-of-way through any Federal lands may be granted by the Secretary of the Interior or appropriate agency head for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom to any applicant possessing the qualifications provided in section 1 of this Act, as amended, in accordance with the provisions of this section.”

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- “(b) (1) For the purposes of this section ‘Federal lands’ means all lands owned by the United States except lands in the National Park System, lands held in trust for the Indian or Indian tribe, and lands on the Outer Continental Shelf. A right-of-way through a Federal reservation shall not be granted if the Secretary or agency head determines that it would be inconsistent with the purposes of the reservation.”
- “(2) ‘Secretary’ means the Secretary of the Interior.”
- “(3) ‘Agency head’ means the head of any Federal department or independent Federal office or agency, other than the Secretary of the Interior, which has jurisdiction over Federal lands.”

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- “Inter-Agency Coordination
- “(2) *Where the surface of the Federal lands involved is administered by the Secretary or by two or more Federal agencies, the Secretary is authorized, after consultation with the agencies involved, to grant or renew rights-of-way or permits through the Federal lands involved.* The Secretary may enter into interagency agreements with all other Federal agencies having jurisdiction over Federal lands for the purpose of avoiding duplications, assigning responsibility, expediting review of rights-of-way or permit applications, issuing joint regulations, and assuring a decision based upon the comprehensive review of all factors involved in any right-of-way or permit applications. Each agency head shall administer and enforce the provisions of this section, appropriate regulations, and the terms and conditions of rights-of-way or permits insofar as they involve Federal lands under the agency head’s jurisdiction.



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BLM Regulations: 43CFR 2884

K. MLA ROWs Crossing Lands Administered by Two or More Federal Agencies.

“Anytime an applicant applies for a ROW pursuant to MLA which crosses lands administered by two or more Federal agencies, regardless of whether or not lands administered by the BLM are involved, the BLM will process the application and issue all grants, temporary use permits, amendments and assignments.”





BLM Receives the SF-299, Application for ROW

The Project Proponent submits one ROW application for all Federal lands crossed by the proposed project.

The application is submitted to the appropriate, jurisdictional BLM office.



The BLM categorizes the ROW application utilizing a processing fee schedule contained in 43CFR 2880.

Category 6 (Estimated Federal work hours >50) provides for full cost recovery. *

43CFR 2884: "Proposed pipelines of 24 inch diameter or larger are considered major Federal actions and require a Federal Register Notice and Congressional notification."

DM516, Ch. 11: "Approval of applications to the BLM for major Federal actions normally require the preparation of an EIS."

- * The BLM does not have the authority to collect and/or disburse funds for other Federal agencies.

BLM Serializes the ROW Casefile and Initiates the ROW Process





A Plan of Development is Requested

The BLM asks the proponent to submit a detailed Plan of Development (POD) prior to initiation of the required NEPA analysis, ESA consultation, and Section 106, NHPA Tribal Consultation.





The BLM Schedules an Inter-Agency Kick-Off Meeting

The kick-off meeting is scheduled in a centralized location. The BLM chairs the meeting.

Federal, State and local agencies are invited.

The Project Proponent is asked to provide a detailed outline of the proposal.

Agenda topics include:

- identification of cooperating agencies;
- development of an MOU





A Memorandum of Understanding (MOU) is Developed Between the BLM, Cooperating Agencies, and the Project Proponent

The BLM develops a draft MOU for cooperating agency and project proponent review and input.

A Final MOU is routed for agency and proponent signatures.





The BLM Conducts Public Scoping

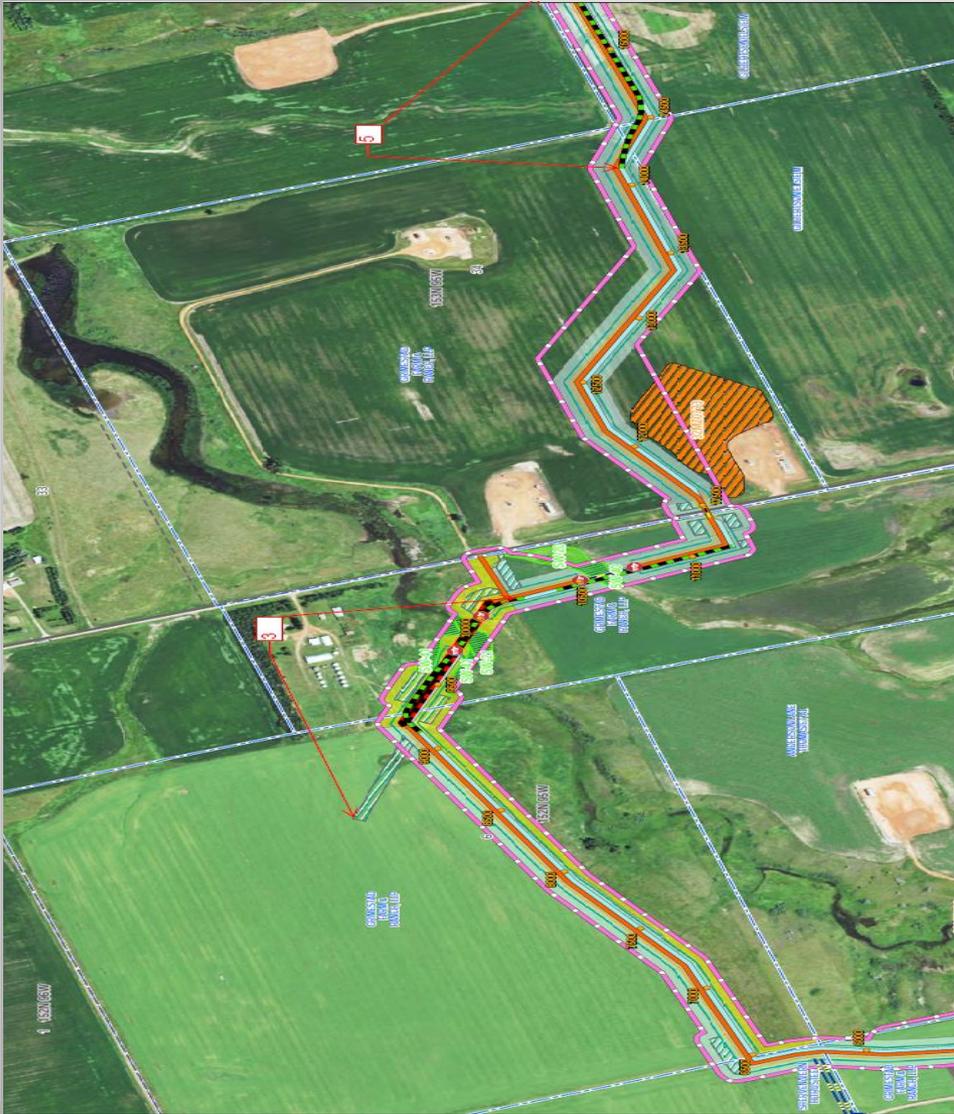
A public scoping notice is developed and mailed to interested and affected parties identified on an inter-agency contact list.

The scoping notice is also published in regional newspapers and posted on the BLM website.

The purpose of the scoping process is to obtain feedback on relevant issues that may influence the scope of the environmental analysis, including alternatives.

Public scoping meetings are scheduled if an EIS is initiated.





Project Analysis is Initiated

Category 6 ROW applications:

Biological inventories, cultural inventories, civil surveys, NEPA analysis and biological assessments are conducted by independent contractors under the direction of the BLM.

Funding for services provided by third party contractors is provided by the project proponent.

Disclosure statements addressing potential conflicts of interest are required by the BLM.





Section 106, NHPA and Section 7, ESA Consultations are Initiated

Tribal consultation, pursuant to Section 106 of the National Historic Preservation Act (NHPA) and; Section 7, Endangered Species Act (ESA) consultation are initiated by the BLM.

Agencies administering Federal lands crossed by a proposed pipeline project are encouraged to be involved in the Consultation processes.

Hawkeye Pipeline System Project Draft Environmental Assessment



Cooperating Agencies:

U.S. Forest Service



U.S. Army Corps of Engineers



U.S. Fish and Wildlife Service



EA Number: DOI-BLM-MT-C030-2015-146-EA

March 2015

BLM

Bureau of Land Management, North Dakota Field Office, Dickinson, North Dakota



NEPA

Draft NEPA documents are routed to agencies for review and comment prior to public release.

The BLM provides comment responses to agencies, and incorporates mutually agreed upon modifications into draft documents for public review and comment.

BakkenLink Pipeline Project Environmental Assessment



Cooperating Agencies:

U.S. Forest Service



U.S. Army Corps of Engineers



US Army Corps
of Engineers
Geotechnical and
Structure Laboratory

October 2012

BLM

Bureau of Land Management, North Dakota Field Office, Dickinson, North Dakota



Final NEPA Document

If analysis contained in the NEPA document indicates the proposed project may be implemented without significant impact to the human environment, the BLM signs a FONSI/Decision Record and publishes a Final NEPA Document.

If an EIS has been prepared, a Record of Decision is signed.



ROW Grant Issued

The BLM issues one ROW Grant for all Federal lands. The ROW Grant includes mitigation, stipulations, and conditions of approval mutually agreed upon by all agencies.

FORM 2600-14
(August 1985)

Issuing Office
North Dakota Field Office

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT
SERIAL NUMBER NDM 104448

1. A right-of-way (ROW) amendment is hereby granted pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185).

2. Nature of Interest:

a. By this instrument, the holder:

Enable Bakken Crude Services, LLC
P.O. Box 21734
Shreveport, LA 71151

receives a right to construct, operate, maintain, and terminate a crude oil and produced water pipeline gathering system on Federal lands administered by the United States Forest Service. The pipeline gathering system authorized by this ROW Grant Amendment will extend, and become part of the pipeline gathering system authorized by the original ROW Grant No. NDM 104448. The area encompassed by the ROW Grant Amendment is described as follows:

USFS

T. 149 N., R. 96 W.,
sec. 19, E½SE¼, SE¼NE¼;
sec. 20, S½NW¼, NE¼NW¼, N½NE¼;
sec. 21, NW¼NW¼;
T. 149 N., R. 97 W.,
sec. 08, N½SW¼, SE¼SW¼;

6th Principle Meridian, McKenzie Co., ND

USFS Linear ROW 50' wide x 11,128.12' long; (12.77 ac.)

Total Federal Linear ROW = 12.77 ac.

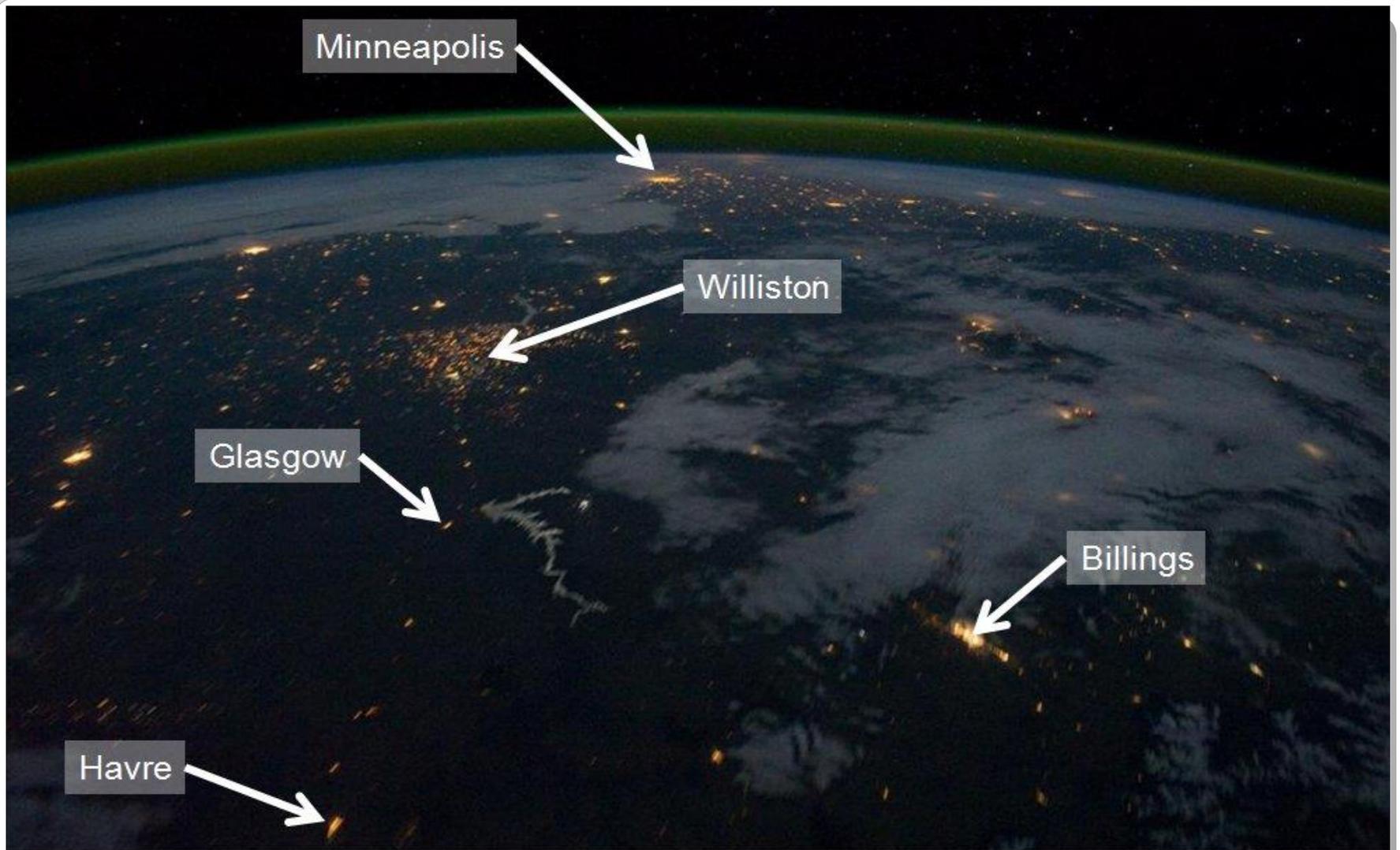
b. The right-of-way or permit area granted herein is: Permanent Pipeline – 50 feet wide & 11,128.12 feet long containing 12.77 acres, more or less. Site type facilities contain N/A acres. A temporary, 80' wide construction ROW (50' permanent ROW plus 30' temporary ROW) and identified additional temporary workspace (ATWS) is also hereby granted.

c. This instrument shall terminate 30 years from its effective date (12-31-2043) unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.



- **Challenges:**
- MOU Execution
- Cost Recovery
- Mutual Schedules and Timelines
- Regulatory Permit Coordination





This image was taken by an astronaut aboard the International Space Station on Oct. 18 2011 at night. It was a 1 second exposure using a low-light camera and shows lights brighter than they would have appeared with the naked eye. North is left of the image. Lights from cities along the Hi-Line can be seen, as well as Fort Peck Lake reflecting moon light. The cluster of lights around Williston is from oil rigs in the area. The green arc over the earth is an ionization layer at the top of the atmosphere, and is not ordinarily visible to the unaided eye. Image courtesy of the Image Science & Analysis Laboratory, NASA Johnson Space Center.