

# DETERMINATION AND APPROVAL FOR CATEGORICAL EXCLUSION

North Dakota Department of Transportation  
Federal Highway Administration - ND Division Office  
SFN 18878 (1-2020)

Project Number 8-029(200)069	PCN 22888	Date 01/29/2021
Project Location Fargo to Grand Forks	Length 67.293	

Work Type  
High Tension Median Cable Guardrail

Project Comments  
No ROW acquisition, No Historic Properties Affected, No Effect on threatened and endangered species, occurs partially within floodplain, no impact on aquatic resources.

**Determination:** Based on the evaluation of this project and the attached documentation, it has been determined the project meets the criteria of a categorical exclusion. Pursuant to the Code of Federal Regulations, Title 23-Highway this project best meets the work type described in 23 CFR 771.117 (c) 8 - Fencing, Signs, Pvtmt Mrk, Signals, & RR Devices

Based on the project work type the level of NEPA documentation required has been determined to be:



## Categorical Exclusion by Definition (CED)

Work is generally confined to the roadway surface but may include minor safety, structural, pedestrian facility, or miscellaneous work that does not require permanent right of way acquisition. Work types are defined in Appendix A of the Programmatic Categorical Exclusion Agreement. No further NEPA documentation is required, but some consultation, coordination, notifications, or permitting may be required.

*Requires approval by NDDOT Designer/Tech Support.*



## Programmatic Categorical Exclusion (PCE)

Work is primarily on the roadway surface, but may also include localized areas of earthwork and enhancement or replacement of structural elements. May require permanent acquisition of minor amounts of right of way.

*Requires approval by NDDOT Designer/Tech Support and NDDOT Environmental Reviewer.*



## Documented Categorical Exclusion (DCE)

Work involves substantial earthwork, regrading, major rehabilitation, new/reconstruction, or bridge replacements.

*Requires approval by NDDOT Designer/Tech Support and NDDOT Environmental Reviewer. If the project exceeds any of the identified thresholds in Section VII of the Programmatic Categorical Exclusion Agreement or is a (d) list project, FHWA approval is also required.*

☐ FHWA Approval Required

## CatEx Addendums/ CatEx Re-Evaluation:

☐ Addendum

☐ Re-Evaluation

**Approvals:** Supporting documentation is complete and compliant with the National Environmental Policy Act (NEPA).

Consultant or Local Public Agency  
*If applicable*

Date

Scott Middaugh

*Digitally signed by Scott Middaugh  
Date: 2021.01.29 11:32:49 -06'00'*

01/29/2021

NDDOT Designer/Tech Support  
*Required in all cases*

Date

Miguel Andrews

*Digitally signed by Miguel Andrews  
Date: 2021.02.22 10:10:46 -06'00'*

02/22/2021

NDDOT Environmental Reviewer  
*Only required for PCE and DCE*

Date

Federal Highway Administration

*Only required if NDDOT Approval thresholds are exceeded*

Date

## Categorical Exclusion by Definition Checklist

<b>Project Number:</b> 8-029(200)069	<b>PCN:</b> 22888	<b>Date:</b> 1/29/2021
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**Estimated Cost (Construction & CE): \$16,255,000**

Although no further NEPA approval is required for this action, the Categorical Exclusion by Definition Checklist (CED) below and *Instructions* are intended to identify any additional consultation, coordination, notifications, or permitting that may be required.

If the answer is **Yes** to any of the questions below, additional documentation of that Subject Area is required, and shall be added to this CED Checklist, and incorporated into the design where applicable. For any questions contact your NDDOT Environmental Reviewer. An overall project map is required to be included with the CED package.

Subject Area	Questions	Yes	No	Documentation added to the Project File
Right of Way	Is temporary right of way required?  <i>If Yes, then attach a figure showing the location(s) and amount(s) needed at each location.</i>		X	
	Is permanent right of way is required?  <i>If Yes, then attach a figure showing the location(s) and amount(s) needed at each location.</i>		X	
	If permanent right of way is required, will any right of way thresholds be exceeded?  -See right of way thresholds in the instructions.  <i>If Yes, then a higher level NEPA document is required.</i>		N/A	
Historic/ Archeological	Does the project involve any of the following?  <div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;">- Work on a Historic Bridge</div> <div style="width: 50%;">- Work in a Historic District</div> <div style="width: 50%;">- Environmental Mitigation</div> <div style="width: 50%;">- Landscaping</div> <div style="width: 50%;">- Work within Reservation Boundaries</div> <div style="width: 50%;">- Disposal or Early Acquisition of Right of Way</div> <div style="width: 50%;">- Trenching for wires or power for any of the following: ITS, ATR, Destination Lighting, or Signals</div> <div style="width: 50%;">- Disturbance of existing ground outside of the existing roadway foreslope</div> </div> <i>If Yes, to any of these items, then a Class III Survey and consultation may be required. Contact ETS Division, Cultural Resource Section for further guidance.</i>		X	ND SHPO Ref # 21-5254; Concurred with No Historic Properties Affected determination. Concurrence attached.

Subject Area	Questions	Yes	No	Documentation added to the Project File
Section 4(f)	<p>Are there any impacts to Section 4(f) properties such as:</p> <ul style="list-style-type: none"> <li>- Historic Site or Historic District</li> <li>- Publicly owned parks and recreation areas</li> <li>- Wildlife &amp; waterfowl refuges</li> </ul> <p><i>If Yes, then the applicable documentation and agency coordination is required.</i></p>		X	
Threatened or Endangered Species	<p>Does the project occur within 0.5 mile of designated critical habitat; require the adjustment of above ground utilities in rural areas; or involve tree removals or structure (bridge, box culvert, cattle pass, or outbuilding) work?</p> <ul style="list-style-type: none"> <li>- See link to designated critical habitat map in the instructions.</li> </ul> <p><i>If yes, see the "Section 7 ESA Guidance" document for further information on how to complete this Subject Area.</i></p>		X	
Migratory Birds	<p>Does your project involve work on bridges, box culverts, or Structural Plate Pipes?</p> <p><i>If Yes, then see the Migratory Bird section in the instructions.</i></p>		X	
Floodplain Permitting and Floodway Authorization	<p>Will the project occur within a 100-year floodplain and/or Zone X Area of Special Consideration?</p> <ul style="list-style-type: none"> <li>- See link for FEMA FIRM in the instructions.</li> </ul> <p><i>If Yes, then a floodplain permit may be required.</i></p>	X		FIRMs Attached
	<p>Will the project occur within a floodway?</p> <ul style="list-style-type: none"> <li>- See link for FEMA FIRM in the instructions.</li> </ul> <p><i>If Yes, then a floodway authorization may be required.</i></p>		X	
Sovereign Lands	<p>Will the project take place on sovereign lands?</p> <ul style="list-style-type: none"> <li>- See link for sovereign lands in the instructions.</li> </ul> <p><i>If Yes, a Sovereign Land Permit may be required.</i></p>		X	

Subject Area	Questions	Yes	No	Documentation added to the Project File
Wetlands	<p>Does your project involve work beyond the roadway foreslope, or other work that could result in earth work?</p> <p><i>If Yes, an aquatic resource delineation, jurisdictional determination, mitigation, and permitting may be required with the project. If an aquatic resource delineation was completed, then attach the "Appendix A5 Wetland and OW Impact Table" and ensure the aquatic resource delineation is added to FileNet.</i></p>	<b>X</b>		Appendix A5 Wetland and OW Impact Table
Airports	<p>Does the project intersect the glide path of an airport?</p> <p>- See link for a map of airport locations in the instructions</p> <p><i>If Yes, then a Notification may need to be provided to the FAA. See Design Manual Section III-17.</i></p>		<b>X</b>	
Local Public Agencies	<p>Do any Local Public Agencies have an interest in the project?</p> <p><i>If Yes, then ensure proper coordination/communication has occurred.</i></p>	<b>X</b>		SOV Coordination



## NOTES TO USERS

This map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. The community map repository should be consulted for possible updated or additional flood hazard information.

To obtain more detailed information in areas where **Base Flood Elevations (BFEs)** and/or **roadways** have been determined, users are encouraged to consult the **Flood Profiles and Floodway Data and/or Summary of Stillwater Elevations** tables contained within the Flood Insurance Study (FIS) report that accompanies this FIRM. Users should be aware that BFEs shown on the FIRM represent modeled, water-surface elevations. These BFEs are intended for flood insurance rating purposes only and should not be used as the sole source of flood elevation information. Accordingly, flood elevation data presented in the FIS report should be utilized in conjunction with the FIRM for purposes of construction and/or floodplain management.

**Coastal Base Flood Elevations** shown on this map apply only landward of 0.17 North American Vertical Datum of 1988 (NAVD 88). Users of this FIRM should be aware that coastal flood elevations are also provided in the Summary of Stillwater Elevations table in the Flood Insurance Study report for this jurisdiction. Elevations shown in the Summary of Stillwater Elevations table should be used for construction and/or floodplain management purposes when they are higher than the elevations shown on this FIRM.

Boundaries of the **roadways** were computed at cross sections and interpolated between cross sections. The roadways were based on hydraulic considerations with regard to requirements of the National Flood Insurance Program. Floodway widths and other pertinent floodway data are provided in the Flood Insurance Study report for this jurisdiction.

Certain areas not in Special Flood Hazard Areas may be protected by flood control structures. Refer to Section 2.4 "Flood Protection Measures" of the Flood Insurance Study report for information on flood control structures for this jurisdiction.

The projection used in the preparation of this map was Universal Transverse Mercator (UTM) zone 14. The horizontal datum was NAD83, (GRS1980 enhanced). Differences in datum, spheroid, projection or UTM zones used in the production of FIRMs for adjacent jurisdictions may result in slight positional differences in map features across jurisdiction boundaries. These differences do not affect the accuracy of this FIRM.

Flood elevations on this map are referenced to the North American Vertical Datum of 1988. These flood elevations must be compared to structure and ground elevations referenced to the same vertical datum. For information regarding conversion between the National Geodetic Vertical Datum of 1929 and the North American Vertical Datum of 1988, visit the National Geodetic Survey website at <http://www.ngs.noaa.gov/> or contact the National Geodetic Survey at the following address:

NGS Information Services  
NOAA, N65512  
National Geodetic Survey  
SSM-C-3, #0202  
1315 East-West Highway  
Silver Spring, MD 20910-3282

To obtain current elevation, description, and/or location information for **bench marks** shown on this map, please contact the Information Services Branch of the National Geodetic Survey at (301) 713-3242, or visit its website at <http://www.ngs.noaa.gov/>.

**Base map information** shown on this FIRM was provided by the Cass County GIS Department. Transportation data is current as of 2015. Political boundaries are current as of 2012.

This map may reflect more detailed or up to date stream channel configurations than those shown on the previous FIRM. The floodplains and floodways that were transferred from the previous FIRM may have been adjusted to conform to these new stream channel configurations and improved topographic data. The profile boundaries depicted on this map represent the hydraulic modeling boundaries that match the flood profiles and Floodway Data Tables if applicable in the FIS report. As a result, the profile boundaries may deviate significantly from the new base map channel representation and may appear outside of the floodplain.

**Corporate limits** shown on this map are based on the best data available at the time of publication. Because changes due to annexations or de-annexations may have occurred after this map was published, map users should contact appropriate community officials to verify current corporate limit locations.

Please refer to the separately printed **Map Index** for an overview map of the county showing the layout of map panels community map repository addresses, and a Listing of Communities table containing National Flood Insurance Program dates for each community as well as a listing of the panels on which each community is located.

For information and questions about this map, available products associated with this FIRM including historic versions of this FIRM, how to order products or the National Flood Insurance Program in general, please call the FEMA Map Information Exchange at 1-877-FEMA-MAP (1-877-369-6273) or visit the FEMA Map Service Center website at <http://www.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the website. Users may determine the current map date for each FIRM panel by visiting the FEMA Map Service Center website or by calling the FEMA Map Information Exchange.

**Accreted Levee Notes to Users:** Check with your local community to obtain more information, such as the estimated level of protection provided (which may exceed the 1-percent-annual-chance level) and Emergency Action Plan, on the levee system(s) shown as providing protection for areas on this panel. To mitigate flood risk in residual risk areas, property owners and residents are encouraged to consider flood insurance and floodproofing in other protective measures. For more information on flood insurance, interested parties should visit the FEMA Website at <http://www.fema.gov/business/index.shtml>.

NOTE: THIS AREA IS SHOWN AS BEING PROTECTED FROM THE 1-PERCENT-ANNUAL-CHANCE OR GREATER FLOOD HAZARD BY A LEVEE SYSTEM. OVERTOPPING OR FAILURE OF ANY LEVEE SYSTEM IS POSSIBLE. FOR ADDITIONAL INFORMATION, SEE THE "ACCREDITED LEVEE NOTE" IN NOTES TO USERS.

FLOODING EFFECTS FROM COUNTY DRAIN 45.

NOTE: THIS AREA IS SHOWN AS BEING PROTECTED FROM THE 1-PERCENT-ANNUAL-CHANCE OR GREATER FLOOD HAZARD BY A LEVEE SYSTEM. OVERTOPPING OR FAILURE OF ANY LEVEE SYSTEM IS POSSIBLE. FOR ADDITIONAL INFORMATION, SEE THE "ACCREDITED LEVEE NOTE" IN NOTES TO USERS.

Project impact between sta 3804+20 and sta 3707+00

## LEGEND

**SPECIAL FLOOD HAZARD AREAS (SFHA) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD**

The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zones A, AE, AH, AL, AO, X, and VE. The Base Flood Elevation is the water surface elevation of the 1% annual chance flood.

- ZONE A:** No Base Flood Elevations determined.
- ZONE AE:** Base Flood Elevations determined.
- ZONE AH:** Flood depths of 1 to 3 feet (usually sheet flow on channel banks). Base Flood Elevations determined.
- ZONE AO:** Flood depths of 1 to 3 feet (usually sheet flow on channel banks). Average depths determined. For areas of shallow flood, velocities are determined.
- ZONE A99:** Special Flood Hazard Area formerly protected from the 1% annual chance flood by a flood control system that was subsequently abandoned. Zone A99 indicates that the former flood control system is being retained to provide protection from the 1% annual chance or greater flood.
- ZONE V:** Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.
- ZONE VE:** Coastal flood zone with velocity hazard (wave action); no Base Flood Elevations determined.
- ZONE VE:** Coastal flood zone with velocity hazard (wave action); no Base Flood Elevations determined.

**FLOODWAY AREAS IN ZONE AE**

The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.

**OTHER FLOOD AREAS**

- ZONE X:** Area of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with change areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.

**OTHER AREAS**

- ZONE D:** Areas determined to be outside the 0.2% annual chance floodplain. Areas in which flood heights are undetermined, but possible.

**COASTAL BARRIER RESOURCES SYSTEM (CBRS) AREAS**

**OTHER PROTECTED AREAS (OPAs)**

CBRS areas and OPAs are normally located within or adjacent to Special Flood Hazard Areas.

Flagship boundary

Floodline boundary

Zone D boundary

CBRS and OPA boundary

Boundary dividing Special Flood Hazard Areas of different Base Flood Elevations, flood depths or flood velocities.

Base Flood Elevation line and value; elevation in feet

Base Flood Elevation value where uniform within same elevation in feet

\* Referenced to the North American Vertical Datum of 1988 (NAVD 88)

Cross section line

Transect line

Geographic coordinates referenced to the North American Datum of 1983 (NAD 83)

1000-meter Universal Transverse Mercator grid ticks, zone 14

3000-foot grid ticks; North Dakota State Plane coordinate system, south zone (FIPSZONE 3202), Lambert Conformal Conic

Bench mark (see explanation in Notes to Users section of the FIS report)

River Mile

MAP REPOSITORIES

Refer to Map Repositories list on Map Index

EFFECTIVE DATE OF COUNTRYWIDE FLOOD INSURANCE RATE MAP

January 16, 2015

EFFECTIVE DATES OF REVISIONS TO THIS PANEL

For community map revision history prior to countywide mapping, refer to the Community Map History table located in the Flood Insurance Study report for this jurisdiction.

To determine if flood insurance is available in this community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-6655.

MAP SCALE 1" = 500'

250 0 500 1000 FEET

125 0 250 500 METERS

**NATIONAL FLOOD INSURANCE PROGRAM**

**NFIP**

**PANEL 0578G**

**FIRM**

**FLOOD INSURANCE RATE MAP**

**CASS COUNTY,**

**NORTH DAKOTA**

**(ALL JURISDICTIONS)**

**PANEL 578 OF 995**

(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS	COMMUNITY	NUMBER	PANEL	SUFFIX
PANAMA CITY GP	38034	0278	12	
HAWKWOOD CITY GP	38036	0278	13	
WILSON ACRE CITY GP	38034	0278	14	

Not to User: The Map Number shown online should be used when placing map orders. The Community Number shown above should be used on insurance applications for the subject community.

**MAP NUMBER**  
38017C0578G

**EFFECTIVE DATE**  
JANUARY 16, 2015

Federal Emergency Management Agency



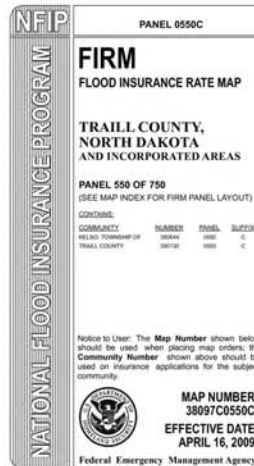
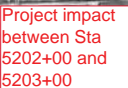








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Wetland Impact Table												
Wetland Number	Location	Wetland Type	Wetland Feature	USACE Jurisdictional Wetlands <sup>1</sup>	Wetland Impacts Acre(s)			USFWS Easement Impacts Acre(s)		Wetland Mitigation		
					Temp.	Perm. (Fill/Drain)	Perm. (Cut)	Temp.	Perm.	Mitigation Required		
										EO 11990	USACE	USFWS
2a	Sec. 28, T141N, R49W	Riverine	Natural	Y	0	0	0	0	0	N	N	N
2c	Sec. 28, T141N, R49W	Riverine	Natural	Y	0	0	0	0	0	N	N	N
3	Sec. 15, T143N, R50W	Ditch	Created	Y	<0.001	0	0	0	0	N	N	N
4	Sec. 10, T143N, R50W	Ditch	Created	N	0	0	0	0	0	N	N	N
5	Sec. 3 & 10, T143N, R50W	Ditch	Created	N	0	0	0	0	0	N	N	N
7	Sec. 21 & 28, T144N, R50W	Ditch	Created	N	0	0	0	0	0	N	N	N
8	Sec. 21, T144N, R50W	Ditch	Created	N	0	0	0	0	0	N	N	N
9	Sec. 16, T144N, R50W	Ditch	Created	N	0	0	0	0	0	N	N	N
10	Sec. 9 & 16, T144N, R50W	Ditch	Created	Y	<0.001	0	0	0	0	N	N	N
11	Sec. 5, T144N, R50W	Ditch	Created	Y	<0.001	0	0	0	0	N	N	N
12a	Sec. 33, T145N, R50W	Riverine	Natural	Y	0	0	0	0	0	N	N	N
12c	Sec. 33, T145N, R50W	Riverine	Natural	Y	0	0	0	0	0	N	N	N
13a	Sec. 6, T145N, R50W	Riverine	Natural	Y	0	0	0	0	0	N	N	N
14	Sec. 6 & 7, T147N, R50W	Ditch	Created	Y	0.003	0	0	0	0	N	N	N
15	Sec. 6, T148N, R50W	Ditch	Created	N	0.006	0	0	0	0	N	N	N



16	Sec. 20, T149N, R50W	Ditch	Created	N	<0.001	0	0	0	0	N	N	N
17	Sec. 17, T149N, R50W	Ditch	Created	N	0.006	0	0	0	0	N	N	N
Totals					0.016	0	0	0	0			

Other Waters Impact Table												
Other Waters												
Number	Location	Type	Size		Feature	USACE Jurisdictional <sup>1</sup>	Impacts to Other Waters					
			Acre(s)	Linear Feet			Acres			Linear Feet		
							Temp.	Perm. (Fill/Drain)	Perm. (Cut)	Temp.	Perm. (Fill/Drain)	Perm. (Cut)
OW1	Sec. 4, T140N, R49W	Riverine	0.35	100	Created	Y	0.00	0.00	0.00	0.00	0.00	0.00
OW2b	Sec. 28, T140N, R49W	Riverine	0.22	100	Natural	Y	0.00	0.00	0.00	0.00	0.00	0.00
OW6	Sec. 33, T144N, R50W	Riverine	0.25	100	Natural	Y	0.00	0.00	0.00	0.00	0.00	0.00
OW12b	Sec. 33, T145N, R50W	Riverine	0.07	100	Natural	Y	0.00	0.00	0.00	0.00	0.00	0.00
OW13b	Sec. 6, T145N, R50W	Riverine	0.23	100	Natural	Y	0.00	0.00	0.00	0.00	0.00	0.00
						Totals	0.00	0.00	0.00	0.00	0.00	0

<sup>1</sup> A wetland Jurisdictional Determination was issued by the USACE on 12/22/2020; NWO-2020-02024-BIS.

Impact Summary Table			
Permanent Impact Summary		Temporary Impacts and additional information	
Wetland Type	Total (Acres)	Wetland Type	Total (Acres/Lf)
Natural/JD (Fill/Drain)	0.000	Temporary JD	0.004
Natural/Non-JD (Fill/Drain)	0.000	Non-JD Temporary	0.012
Artificial/JD (Fill/Drain)	0.000	Permanent JD > 0.10	0.000
Artificial /Non-JD (Fill/Drain))	0.000	Permanent OW	0
Total	0.000	Temporary OW	0
JD Natural (Cut)	0.00		
JD Artificial (Cut)	0.00		
Non-JD Natural (Cut)	0.00		
Non-JD Artificial (Cut)	0.00		
Total	0.00		



# Solicitation of Views

## **Federal**

US Department of the Army – Corps of Engineers

US Department of Energy – Western Area Power Administration

US Department of Interior – Bureau of Indian Affairs

## **State**

North Dakota Parks and Recreation

North Dakota State Historic Preservation Office

North Dakota State University

## **Other**

City of Hillsboro

Consolidated Communications

Enbridge

Fargo-Moorhead Metropolitan Council of Governments

Midco

Nodak Electric

Polar

WBI Energy

I-29 High Tension Median Cable Guradrail SOV LIST

Type	Code	Letter	Notes	CTitle	First	Last	Title	Department	Agency	Address	City	State	Zip	Phone	Fax	Date Edited
#### STATE	100	#5		Ms.	Jeani	Borchert	Cultural Resource Specialist	Cultural Resource Section	ND Department of Transportation	608 E. Boulevard Ave.	Bismarck	ND	58505-0700	J 701-328-4378 V 701-328-2152		08/07/19
#### FEDERAL	100	1		Mr.	Daniel	Lewis, P.E.		Chief Missile Engineering	Minot Air Force Base	445 Peacekeeper Place	Minot AFB	ND	58705	701-723-4815		03/11/14
#### FEDERAL	100	1		Mr.	Cy	Munos	Cable Affairs Officer	91st Missile Maintenance Squadron	Minot Air Force Base	300 Minuteman Drive	Minot AFB	ND	58705	701-723-4834		07/24/14
#### FEDERAL	100	1		Mr.	Timothy	LaPointe	Regional Director	Great Plains Regional Office	Bureau of Indian Affairs	115 4th Ave. SE, Suite 400	Aberdeen	SD	57401			12/02/15
#### FEDERAL	200	1		Ms.	Evelyn	Lim	Regional Administrator	Regional Office	Department of HUD	1670 Broadway, Ste. 200	Denver	CO	80202-4813	303-672-5440		02/21/20
#### FEDERAL	500	1	Use if project is within 5 miles of an airport identified in ND Aeronautics Commission Airport Directory (and Airport named in SOV email) OR if a structure (temporary or permanent) is associated with proposed project exceeds 200 feet in height in the State of ND.				Manager	Bismarck Airports District Office	Federal Aviation Administration	2301 University Drive, Bldg 23B	Bismarck	ND	58504			08/13/18
#### FEDERAL	500	1	Use on projects near rail lines					Office of Economic Analysis	Federal Railroad Administration	1200 New Jersey Avenue SE	Washington	DC	20590			07/11/11
#### FEDERAL	100	1					Deputy Base Civil Engineer	319 CES/CD	Grand Forks Air Force Base	525 Tuskegee Airmen Blvd.	Grand Forks AFB	ND	58205-6434			08/16/13
#### FEDERAL	200	#2	Separate SOV letter- do not include in main merge	Ms.	Patricia	McQueary	Manager	ND Regulatory Office	US Army Corps of Engineers	3319 University Drive	Bismarck	ND	58504			12/30/15
#### FEDERAL	500	1	Projects in/adjacent to Red River Valley and Devils Lake	Mr.	Nathan	Wallerstedt	Chief, Project Management & Development Branch	St. Paul District	US Army Corps of Engineers	180 5th St. E., Ste 700	St. Paul	MN	55101-1678			01/20/11
#### FEDERAL	100	1		Mr.	Marc	Kress	North Dakota Maintenance Manager	Western Area Power Admin.	US Department of Energy	PO Box 1173	Bismarck	ND	58502-1173			03/01/19
#### STATE	100	1		Mr.	Scott	Davis	Executive Director		Indian Affairs Commission	600 E. Blvd. Ave. 1st Floor, Judicial Wing, Rm 117	Bismarck	ND	58505-0300			01/12/11
#### STATE	500	1	Use if project is within 5 miles of airport	Mr.	Kyle	Wanner	Director		ND Aeronautics Commission	PO Box 5020	Bismarck	ND	58502-5020			07/06/16
#### STATE	100	1		Mr.	Justin	Messner	Disaster Recovery Chief	Department of Homeland Security	ND Department of Emergency Services	PO Box 5511	Bismarck	ND	58506	701-328-8107		05/22/19
#### STATE	100	1		Mr.	Steve	Dyke	Supervisor	Conservation Section	ND Game & Fish Department	100 Bismarck Expressway	Bismarck	ND	58501-5095	701-328-6347	701-328-6352	09/27/11
#### STATE	100	1		Ms.	Jolene	Rieck	Program Manager		ND Parks & Recreation Dept.	1600 E. Century Ave., Suite 3	Bismarck	ND	58503-0649	701-328-5379	701-328-5363	02/21/20
#### STATE	100	1		Mr.	Scott	Hochhalter	State Soil Specialist	NDSU Extension Service	Soil Conservation Committee	2718 Gateway Ave., #104	Bismarck	ND	58503	701-328-9715	701-328-9721	01/20/11
	CITY	1		Mr.	Blake	Hankey	Mayor		City of Harwood	PO Box 65	Harwood	ND	58042			
	CITY	1		Mr.	Dick	Sundberg	Councilman		City of Harwood	PO Box 65	Harwood	ND	58042			
	CITY	1		Mr.	George	Vinson	Councilman		City of Harwood	PO Box 65	Harwood	ND	58042			
	CITY	1		Mr.	Brock	Hansen	Councilman		City of Harwood	PO Box 65	Harwood	ND	58042			
	CITY	1		Ms.	Jamie	Nettum	Councilman		City of Harwood	PO Box 65	Harwood	ND	58042			
	CITY	1		Mr.	Darren	Wetzel	Mayor		City of Argusville	602 Lynn Dawn Drive	Argusville	ND	58005			
	CITY	1		Mr.	Dave	Becker	Council Member		City of Argusville	602 Lynn Dawn Drive	Argusville	ND	58005			
	CITY	1		Mr.	Wayne	Hagemeister	Council Member		City of Argusville	602 Lynn Dawn Drive	Argusville	ND	58005			
	CITY	1		Ms.	Jenna	Saewert	Council Member		City of Argusville	602 Lynn Dawn Drive	Argusville	ND	58005			
	CITY	1		Ms.	Katie	Shipley	Council Member		City of Argusville	602 Lynn Dawn Drive	Argusville	ND	58005			
	CITY	1		Mr.	Todd	Kalm	Mayor		City of Gardner	PO Box 36	Gardner	ND	58036			
	CITY	1		Ms.	Kelly	Kylo	Mayor		City of Grandin	PO Box 234	Grandin	ND	58038			
	CITY	1		Mr.	Terry	Sando	Mayor/Commission President		City of Hillsboro	PO Box 400	Hillsboro	ND	58045			
	CITY	1		Mr.	Levi	Reese	Commission Vice President		City of Hillsboro	PO Box 400	Hillsboro	ND	58045			
	CITY	1		Mr.	Jim	Anderson	Public Works Superintendent		City of Hillsboro	PO Box 400	Hillsboro	ND	58045			
	CTY	1		Mr.	Blaine	Laaveg	Highway Superintendent		Cass County	1201 W Main Avenue	West Fargo	ND	58078			
	CTY	1		Mr.	Jason	Benson	Highway Engineer		Cass County	1201 W Main Avenue	West Fargo	ND	58078			
	CTY	1		Mr.	Jesse	Jahner	Sheriff		Cass County	PO Box 488	Fargo	ND	58108			
	CTY	1		Mr.	Corwyn	Martin	Highway Superintendent		Traill County	PO Box 116	Hillsboro	ND	58045			
	CTY	1		Mr.	Steve	Hunt	Sheriff		Traill County	PO Box 279	Hillsboro	ND	58045			
	CTY	1		Mr.	Nick	West	Highway Engineer		Grand Forks County	PO Box 5682	Grand Forks	ND	58206			
	CTY	1		Mr.	Andy	Schneider	Sheriff		Grand Forks County	PO Box 12608	Grand Forks	ND	58208			
#### REGIONAL	500	1		Ms.	Cindy	Gray	Executive Director		Fargo-Moorhead Metro. Council of Govts.	1 2nd St. N., Ste. 232 Case Plaza	Fargo	ND	58102			07/06/15
#### REGIONAL	500	1		Mr.	Earl	Haugen	Executive Director		Grand Forks - E GF	P.O. Box 5200	Grand Forks	ND	58206-5200	701-232-3242	701-232-5043	07/23/07
	COMMRCL	600	1	Mr.	Taylor	Smith	Manager	Public Projects	BNSF Railway Company	2454 Occidental Ave South, #2D	Seattle	WA	98134	206-725-6396		08/06/19
	COMMRCL	600	1	Mr.	Travis	Lill			Xcel Energy	2302 Great Northern Dr.	Fargo	ND	58102			
	COMMRCL	600	1	Mr.	Chadrick	Walsh			Xcel Energy	2302 Great Northern Dr.	Fargo	ND	58102			
	COMMRCL	600	1	Mr.	Chuck	Ames			Cass County Electric Cooperative	3312 42nd St. S, Suite 200	Fargo	ND	58104			
#### COMMRCL	600	1		Mr.	Ron	Deutz			Midcontinent Communications	50 22nd Street East	West Fargo	ND	58078			
	COMMRCL	600	1	Mr.	Paul	Klabunde	Coordinator of Maintenance		Magellan Midstream Partners	902 Main Avenue East	West Fargo	ND	58078			
	COMMRCL	600	1	Mr.	Bruce	Grubb	City Administrator		City of Fargo	225 4th Street North	Fargo	ND	58102			
	COMMRCL	600	1	Mr.	Mark	Lovik	Manager		Spark Light	1024 Pace Drive	Fargo	ND	58103			
	COMMRCL	600	1	Mr.	Charles	Grummons			Century Link	302 29th Street North	Fargo	ND	58102			
	COMMRCL	600	1	Mr.	Jerry	Blomeke	Manager		Cass Rural Water Users	PO Box 98	Kindred	ND	58051			
	COMMRCL	600	1	Mr.	Rondal	Loeslie	Manager		East Central Regional Water District	PO Box 287	Thompson	ND	58278			
	COMMRCL	600	1	Mr.	Steven	Breidenbach	Engineering Manager		Nodak Electric Cooperative	PO Box 13000	Grand Forks	ND	58208			
	COMMRCL	600	1	Mr.	Karl	Blake			Polar Communications	PO Box 270	Park River	ND	58270			
	COMMRCL	600	1	Mr.	Greg	Demme			Enbridge	1600 2nd Avenue SW, Suite 16	Minot	ND	58701			
	COMMRCL	600	1	Mr.	Ron	Laqua	Manager		Halstad Telephone	PO Box 55	Halstad	MN	56548			
	COMMRCL	600	1	Mr.	Ross	Branstner	Outside Plant Manger		Consolidated Communications	3312 42nd St. S, Suite 100	Fargo	ND	58103			
	COMMRCL	600	1	Mr.	Keith	Seifert			WBI Energy	2010 Montana Avenue	Glendive	MT	59330			
#### COMMRCL	600	1		Mr.	Brent	DeKrey			North Dakota State University	PO Box 6050	Fargo	ND	58108			



4585 Coleman Street  
Bismarck, ND 58503-0431  
701 355 8400  
[KLJENG.COM](http://KLJENG.COM)

December 10, 2020

«CTitle» «First» «Last»  
«Title»  
«Department»  
«Agency»  
«Address»  
«City», «State» «Zip»

PROJECT NO. 8-029(200)069 PCN 22888  
I-29 HIGH TENSION MEDIAN CABLE GUARDRAIL  
CASS, TRAILL, AND GRAND FORKS COUNTIES

The North Dakota Department of Transportation, in cooperation with the Federal Highway Administration, is proposing a roadway improvement on I-29 from north of Cass County Highway 20 to 2 miles north of Grand Forks Highway 6 (RP 69.847 to 137.140). **Please see the enclosed Project Location Map.**

The project consists of installing high tension median cable guardrail in the I-29 median. The project may also include flattening of the inslopes and decommissioning of some median crossovers.

This project is scheduled for a 2023 bid opening.

The project will not require the acquisition of permanent or temporary right-of-way.

To ensure that all social, economic, and environmental effects are considered in the development of this project, we are soliciting your views and comments on the proposed project pursuant to Section 102(2) (D) (IV) of the National Environmental Policy Act of 1969, as amended. We are particularly interested in any property which your department may own or have an interest in, and which would be adjacent to the proposed roadway improvement. We would also appreciate being made aware of any proposed developments your department may be contemplating in the areas under consideration for the proposed roadway facility. Any information that might help us in our studies would be appreciated.

Information or comments relating to environmental or other matters that you might furnish will be used in determining if this project is a "categorical exclusion" or whether an "Environmental Assessment" or a "Draft Environmental Impact Statement" will be prepared.



It is requested that any comments or information be forwarded to our office on or before January 15, 2021. If no reply is received by this date, it will be assumed that you have no comment on this project.

If further information is desired regarding the proposed roadway improvement, please contact Scott Middaugh at 701.271.4871 in Fargo, ND.

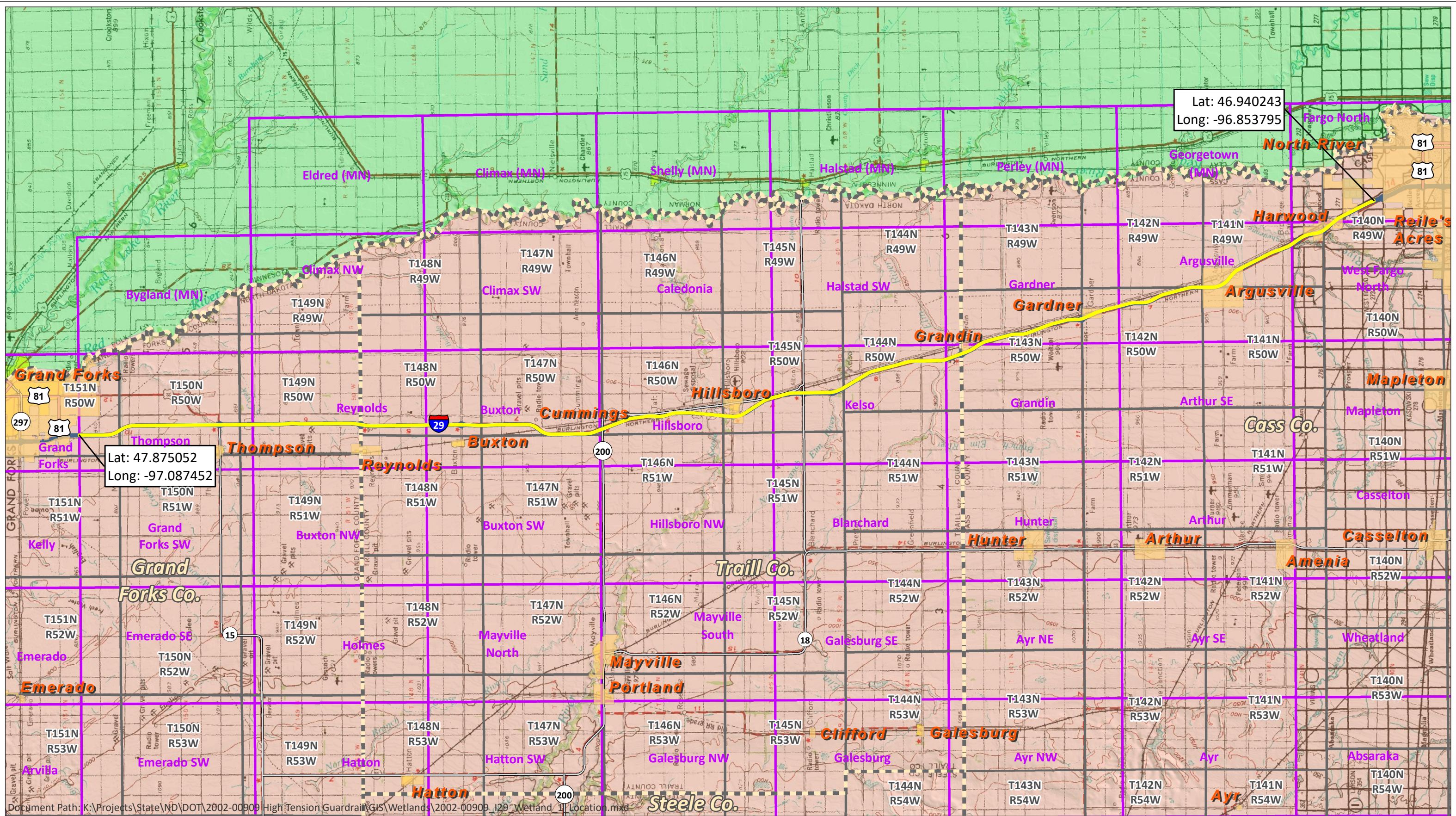
A handwritten signature in blue ink, appearing to read 'S. Middaugh'.

SCOTT MIDDAGH, PE – PROJECT MANAGER

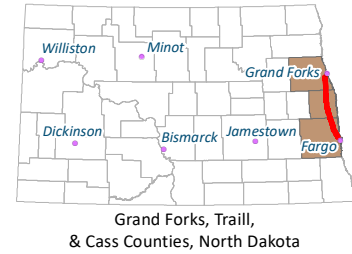
sm/na

Enclosure – Project Location Map

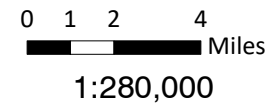




Document Path: K:\Projects\State\ND\DOT\2002-00909\High Tension Guardrail\GIS\Wetlands\2002-00909\_I29\_Wetland\_Location.mxd



Map created by KLJ  
Topo Source: National Geographic  
Society, i-cubed 2013  
Data Source: KLJ, NDGIS, & NDDOT



- Project Area
- City Limits
- Interstate
- State Route
- US Route
- Townships
- County Boundary
- USGS Quadrangles
- Minnesota
- North Dakota

Exhibit 1 - Project Location

Drawn By: JDP	Date: 10/13/2020	I-29 High Tension Guardrail 8-029(200)069, PCN 22888	Page 1 of 1
Delineators: N. Anderson, D. Breker			

North Dakota Department of Transportation





November 3, 2020

Patricia McQueary, State Program Manager  
US Army Corps of Engineers  
North Dakota Regulatory Office  
3319 University Drive  
Bismarck, ND 58504

AQUATIC RESOURCES JURISDICTIONAL REQUEST  
8-029(200)069; PCN 22888  
HIGH-TENSION MEDIAN CABLE GUARDRAIL  
CASS, TRAILL, AND GRAND FORKS COUNTIES

The North Dakota Department of Transportation (NDDOT), in cooperation with the Federal Highway Administration (FHWA), is proposing roadway improvements along Interstate 29 (I29) between reference point (RP) 69.847 and RP 137.140, spanning portions of Cass, Traill, and Grand Forks Counties in North Dakota. The project consists of installing a high-tension median cable guardrail within the I29 median. The project bid opening is scheduled for January of 2023. Median wetlands were initially mapped via an office determination that was approved during a US Army Corps of Engineers and NDDOT pre-application meeting. The office delineated wetlands are not included in the enclosed report as they developed on previously authorized fill. The aquatic resources included in the enclosed report are limited to areas where culverts or bridges occur within or intersect the center median.

Waterbodies in the vicinity of the delineated aquatic resources include the Sheyenne, Elm, North Branch Elm, and Goose Rivers, all of which are direct or indirect tributaries of the Red River of the North. A map indicating the delineated waterbodies and/or wetlands within the project area is enclosed in the attached delineation report.

Please provide an approved jurisdictional determination for each of the waterbodies and/or wetlands and identify them on the enclosed table.

NDDOT grants the US Army Corps of Engineers right of entry to legally access any of the project area within roadway right of way. Any areas outside of roadway right of way requires notification so NDDOT can accompany you to the field or obtain permission where necessary.

If further information is desired regarding the proposed roadway improvement, please contact Russ Senske at (701) 328-2188 in Bismarck, ND.

*Russell Senske*

Russell Senske  
NA/RS: 19  
Enclosure  
8-029(200)069 Aquatic Resources Delineation Report; PCN 22888

December 4, 2020

William D. Peterson PhD  
ND State Historic Preservation Officer  
ND Heritage Center  
612 East Boulevard Avenue  
Bismarck, ND 58505-0830

Attn: Lisa Steckler, Project Review Coordinator

## CONSULTATION ON NDDOT PROJECTS, STATE HIGHWAY SYSTEM

We are initiating consultation on the following project. This letter is intended to give you information on the proposed project and how we intend to proceed to meet our responsibilities under Section 106 of the National Historic Preservation Act of 1966 (as revised 1992). Further, it is intended to solicit your views pursuant to Section 102(2) (D) (IV) of the National Environmental Policy Act of 1969. We would appreciate your comment on the project and our planned cultural resource work, and discussion of any concerns you may have regarding historic properties which may be affected by the project.

**Lead Federal Agency:** Federal Highway Administration

**NDDOT Project #:** 8-029(200)069 **PCN:** 22888

**Legal Location:** The project is located in Cass, Traill, and Grand Forks Counties in the following Sections:

Cass County	T140N R49W	Sections: 4, 5, 9, 10, 15
	T141N R49W	Sections: 6, 7, 17, 18, 20, 28, 29, 33
	T141N R50W	Section: 1
	T142N R49W	Section: 31
	T142N R50W	Sections: 2, 11, 12, 13, 24, 25, 36
	T143N R50W	Sections: 3, 4, 10, 15, 22, 23, 26, 35
Traill County	T144N R50W	Sections: 5, 8, 9, 16, 21, 28, 33
	T145N R50W	Sections: 6, 7, 8, 17, 20, 29, 32, 33
	T146N R50W	Sections: 6, 7, 18, 19, 20, 29, 30, 31
	T147N R50W	Sections: 6, 7, 18, 19, 30, 31
	T148N R50W	Sections: 6, 7, 18, 19, 30, 31

Grand Forks County	T149N R50W	Sections: 5, 8, 17, 20, 29, 32
	T150N R50W	Sections: 5, 8, 17, 20, 29, 32
	T151N R50W	Sections: 29, 32

**Project Type:** High tension median cable guardrail.

**Purpose and Need:** In general, the purpose of the project is to provide for the safe and efficient movement of people and goods while meeting current North Dakota Department of Transportation (NDDOT), and American Association of State Highway and Transportation Officials standards. Specifically, the purpose of the project is to eliminate cross median crashes on I-29. The need for the project is based on increased safety and to align with North Dakota's Vision Zero.

**Project Description:** The North Dakota Department of Transportation, in cooperation with the Federal Highway Administration, is proposing a roadway improvement on I-29 from north of Cass County Highway 20 to 2 miles north of Grand Forks Highway 6 (RP 69.847 to 137.140). Specifically, the project consists of installing high tension median cable guardrail in the I-29 median. The project may also include flattening of the inslopes and decommissioning of some median crossovers. No ground disturbing work is anticipated to occur outside of the interstate median. The project is not anticipated to require permanent and/or temporary right-of-way.

**APE:** The area of potential effect is the footprint of the project.

**Justification:** This is minor safety work to an existing Interstate Highway and disturbed median.

**Proposed Cultural Resource Work and Justification:** We requested a Class I records search so that we could talk about the kinds of known resources in the area and address any archaeological sites that may be present on either side of the highway and could potentially have intact expression within the median. While this would be a rare situation, understanding the known resources is a good faith effort at identification and understanding of effects. In rare cases we may also learn that a Class III survey would be advisable. In regard to the current project, major portions of the Interstate have been previously surveyed to Class III standards. No eligible sites have been identified within the Interstate ROW. There are a couple site leads that cross the project area but appear to actually exist outside of the Interstate corridor.

**Other Consulting Parties:** NDDOT/FHWA consults with regional tribes through our TCC.

**Plan for Public Involvement:** A Solicitation of Views package will be distributed as part of the project; however, no public meetings are proposed.

We are requesting your acceptance of the Class I report and your concurrence in a finding of No Historic Properties Affected. If you need further information regarding the proposed project, please contact me or the other NDDOT cultural resource staff.



JEANI BORCHERT  
Attachment



## Scott Middaugh

---

**From:** Rob Thomas <Robert.Thomas@consolidated.com>  
**Sent:** Monday, December 14, 2020 12:25 PM  
**To:** Scott Middaugh  
**Subject:** [WARNING: UNSCANNABLE EXTRACTION FAILED]Consolidated Communications I-29 fiber crossing  
**Attachments:** CCI Approx Fiber Route.kmz

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

Hey Scott,

Here is a KMZ of our fiber crossing near Patio World just N of Co Rd 20.

Let me know if you need anything else.

Thanks  
Rob

**ROB THOMAS** | OSP ENGINEER  
D: 701.356.6032 | C: 701.793.6504  
[Robert.Thomas@consolidated.com](mailto:Robert.Thomas@consolidated.com)  
[consolidated.com](http://consolidated.com) | NASDAQ: CNSL



## Scott Middaugh

---

**From:** Wood, Lowell <AWood@WAPA.GOV>  
**Sent:** Monday, December 14, 2020 1:36 PM  
**To:** Scott Middaugh  
**Cc:** Kress, Marc; Ellis, Kristopher; Noel, David; Ibeneme, Bob  
**Subject:** I-29 Guard Rail project  
**Attachments:** WAPA FA-GK T-LINE SEC 24-142-49 CASS COUNTY ND.pdf

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

Scott:

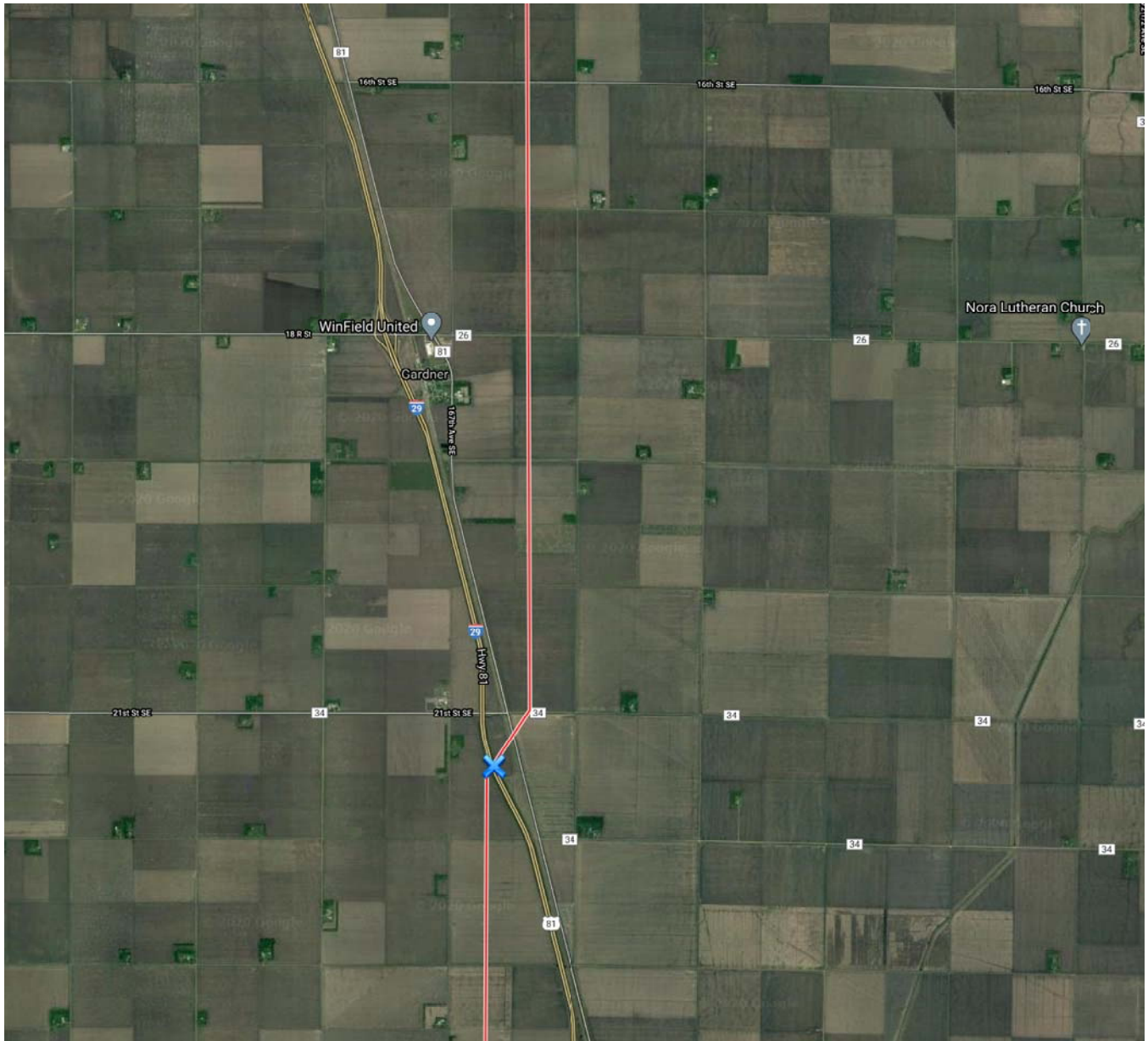
As per our phone call on December 11, 2020, it is our understanding that the guardrails will be in the median between the north and south bound lanes for I-29. Western Area Power Administration (WAPA) has a 115kV transmission line that crosses I-29 approximately 3.5 miles south of Gardner, ND, in the as shown on the attached drawing. Please note that the minimum Approach distance to our conductor is 13 feet. Please contact us before working within our ROW if any personnel or equipment has the "capability" of getting within 13' feet of any Conductors. Please call me with any questions at 701-224-9423.

Thanks.

Al

**L. Alan Wood | Realty Specialist**

Western Area Power Administration | Upper Great Plains  
(H) 701.224.9423 teleworking | [awood\[at\]wapa.gov](mailto:awood[at]wapa.gov)



## Nick Anderson

**From:** Hanley, William <William.Hanley@WBIEnergy.com>  
**Sent:** Monday, December 14, 2020 4:38 PM  
**To:** Scott Middaugh  
**Subject:** 8-029(200)069 PCN 22888

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



Scott,  
WBI Energy Transmission Inc., owns and operates a 16-inch, high pressure natural gas pipeline, and crosses the Interstate 29, approximately 920-feet north of Mile Marker 75. I don't think there will be any issues with this construction project and WBI Energy's utility, but please keep informed of any changes with this project and I will review the plans again.

Sincerely,

(Bill) William D. Hanley

Staff Engineer Assistant

**Email** [william.hanley@wbienergy.com](mailto:william.hanley@wbienergy.com)

**Cell Phone** 406-941-2958

**Office Phone** 406-359-7265



## Scott Middaugh

---

**From:** Justin Lindell <jlindell@polartel.com>  
**Sent:** Tuesday, December 15, 2020 2:30 PM  
**To:** Scott Middaugh  
**Cc:** Mike Otto  
**Subject:** 8-029(200)069 PCN 22888 , I-29 High Tension Median Cable Guardrail, Cass, Traill, & GF Counties  
**Attachments:** Overview.pdf; 150N-50W-5.pdf; 146N-50W-6.pdf; 150N-50W-32.pdf

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

Scott,

I have attached drawings of our three crossing under I-29 that we discussed over the phone. If you have any questions or concerns please feel free to contact me.

Thanks,



Justin Lindell  
Draftsperson  
jlindell@polartel.com  
701.284.7221  
www.thinkpolar.com

## Disclaimer

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This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd.**

## Scott Middaugh

---

**From:** DeKrey, Brent <brent.dekrey@ndsu.edu>  
**Sent:** Tuesday, December 22, 2020 8:58 AM  
**To:** Scott Middaugh  
**Cc:** Nick Anderson  
**Subject:** RE: NDSU Utility Facilities

Got your letter and just wanted to let you know we don't have any comments. Thanks.

Brent DeKrey  
Associate Director – Construction and Maintenance  
Facilities Management  
**NORTH DAKOTA STATE UNIVERSITY**

Thorson Maintenance Center 124  
Dept 3200, PO Box 6050  
Fargo, ND 58108-6050  
Phone: (701) 231-7322  
Cell: (701) 936-0379  
Fax: (701) 231-8008  
[Brent.DeKrey@ndsu.edu](mailto:Brent.DeKrey@ndsu.edu)  
[www.ndsu.edu](http://www.ndsu.edu)



---

**From:** Scott Middaugh <Scott.Middaugh@kljeng.com>  
**Sent:** Tuesday, December 1, 2020 9:55 AM  
**To:** DeKrey, Brent <brent.dekrey@ndsu.edu>  
**Cc:** Nick Anderson <nick.anderson@kljeng.com>  
**Subject:** RE: NDSU Utility Facilities

Brent,

It looks like it has been marked. We are going to be sending out Solicitation of Views letters as part of the project as well. I am more wondering who that letter should be addressed to. Would that be you or someone else up at NDSU?

Thanks,

Scott Middaugh PE  
KLJ - Fargo  
701-271-4871 Direct  
701-799-5639 Cell

---

**From:** DeKrey, Brent <[brent.dekrey@ndsu.edu](mailto:brent.dekrey@ndsu.edu)>  
**Sent:** Tuesday, December 1, 2020 9:17 AM  
**To:** Scott Middaugh <[Scott.Middaugh@kljeng.com](mailto:Scott.Middaugh@kljeng.com)>  
**Cc:** Nick Anderson <[nick.anderson@kljeng.com](mailto:nick.anderson@kljeng.com)>  
**Subject:** RE: NDSU Utility Facilities

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

Hey Scott – I sent it to our Ag guys to see if they received the notice. I'm guessing you didn't get confirmation that the locate was completed?

Brent DeKrey  
Associate Director – Construction and Maintenance  
Facilities Management  
**NORTH DAKOTA STATE UNIVERSITY**

Thorson Maintenance Center 124  
Dept 3200, PO Box 6050  
Fargo, ND 58108-6050  
Phone: (701) 231-7322  
Cell: (701) 936-0379  
Fax: (701) 231-8008  
[Brent.DeKrey@ndsu.edu](mailto:Brent.DeKrey@ndsu.edu)  
[www.ndsu.edu](http://www.ndsu.edu)



---

**From:** Scott Middaugh <[Scott.Middaugh@kljeng.com](mailto:Scott.Middaugh@kljeng.com)>  
**Sent:** Tuesday, December 1, 2020 8:48 AM  
**To:** DeKrey, Brent <[brent.dekrey@ndsu.edu](mailto:brent.dekrey@ndsu.edu)>  
**Cc:** Nick Anderson <[nick.anderson@kljeng.com](mailto:nick.anderson@kljeng.com)>  
**Subject:** NDSU Utility Facilities

Brent,

We are working on a high tension guardrail project along I-29 between Fargo and Grand Forks. In one of the utility locates we submitted NDSU appeared as a utility owner. I have attached the ticket for your information. Do you know who I would talk to at NDSU to determine what type of facility is out there and where it is located?

Thanks,

Scott Middaugh PE  
KLJ  
701-271-4871 Direct  
701-799-5639 Cell  
3203 32nd Ave S Suite 201  
Fargo, ND 58103-6242  
[kljeng.com](http://kljeng.com)



## Scott Middaugh

---

**From:** Cindy Gray <gray@fmmetrocog.org>  
**Sent:** Tuesday, December 22, 2020 11:55 AM  
**To:** Scott Middaugh  
**Cc:** Luke Champa; Zacher, Wayne A.; Walton, Bob R.  
**Subject:** 8-029(200)069 PCN 22888 - SOV Response regarding I-29 High Tension Median Cable Guardrail

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

Scott,

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) wishes to document our support for the construction of high tension median cable guardrail along I-29 starting north of Cass County Highway 20 and extending north to the Grand Forks area. The southerly segment of the project, as described in the SOV letter, is within our Urbanized Area (UZA), and within our Metropolitan Planning Area (MPA).

The proposed project supports the transportation goals of Metro Grow: 2045 Fargo-Moorhead Metropolitan Transportation Plan. The relevant goals of our plan include:

- System Safety and Security – median guardrails improve the safety of the interstate highway system for the traveling public.
- Travel Efficiency and Reliability – fewer serious crashes involving both directions of the interstate improve reliability of interstate travel.
- Economic Development – Freight is vital to our region's economy, as is the unimpeded flow of traffic between regional economic hubs. The improved safety, travel efficiency and reliability brought about by safety measures such as high tension median cable guardrail contribute to economic development in the region, which is very dependent upon regional travel.

Metro COG and our local partners have been very pleased that NDDOT is installing these median guardrails along our interstate system, and we look forward to project completion.

We will be coordinating with NDDOT about the manner in which the project is listed in our Transportation Improvement Program (TIP) and in the State Transportation Improvement Program (STIP), because the south end of the project is currently listed as beginning somewhere in District 8 (Fargo District) and as having a 48.1 mile project length, rather than starting specifically north of CR 20 and having a 67.3 mile project length as shown in your SOV letter. This change in project length probably also results in a change in the project cost. Metro COG may need to process a TIP amendment to reflect the specific parameters of the project. We will work with NDDOT to determine if an amendment or administrative modification is necessary.

Please let me know if you have any questions.

Cindy Gray, AICP  
Executive Director

[cgray@fmmetrocog.org](mailto:cgray@fmmetrocog.org)

Direct: 701-532-5103 | Cell: 701-367-9947



Fargo-Moorhead Metropolitan Council of Governments  
1 2<sup>nd</sup> St N, Suite 232  
Fargo, ND 58102

## Scott Middaugh

---

**From:** Kelly Daly <Kelly.Daly@enbridge.com>  
**Sent:** Tuesday, January 5, 2021 9:56 AM  
**To:** Scott Middaugh  
**Subject:** Project 8-029(200)069 PCN 22888 I-29  
**Attachments:** Enbridge pipeline description.pdf

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

Hello Scott. Please review the attachment which shows the location of the NDPL (Enbridge) pipeline. I will be the main point of contact for this project. I look forward to receiving the plans once they are complete, but I don't anticipate there being any conflicts with our pipeline.

Thank you,

**Kelly Daly**

Sr. Crossing Analyst  
Midwest Region I S & R Crossings  
—

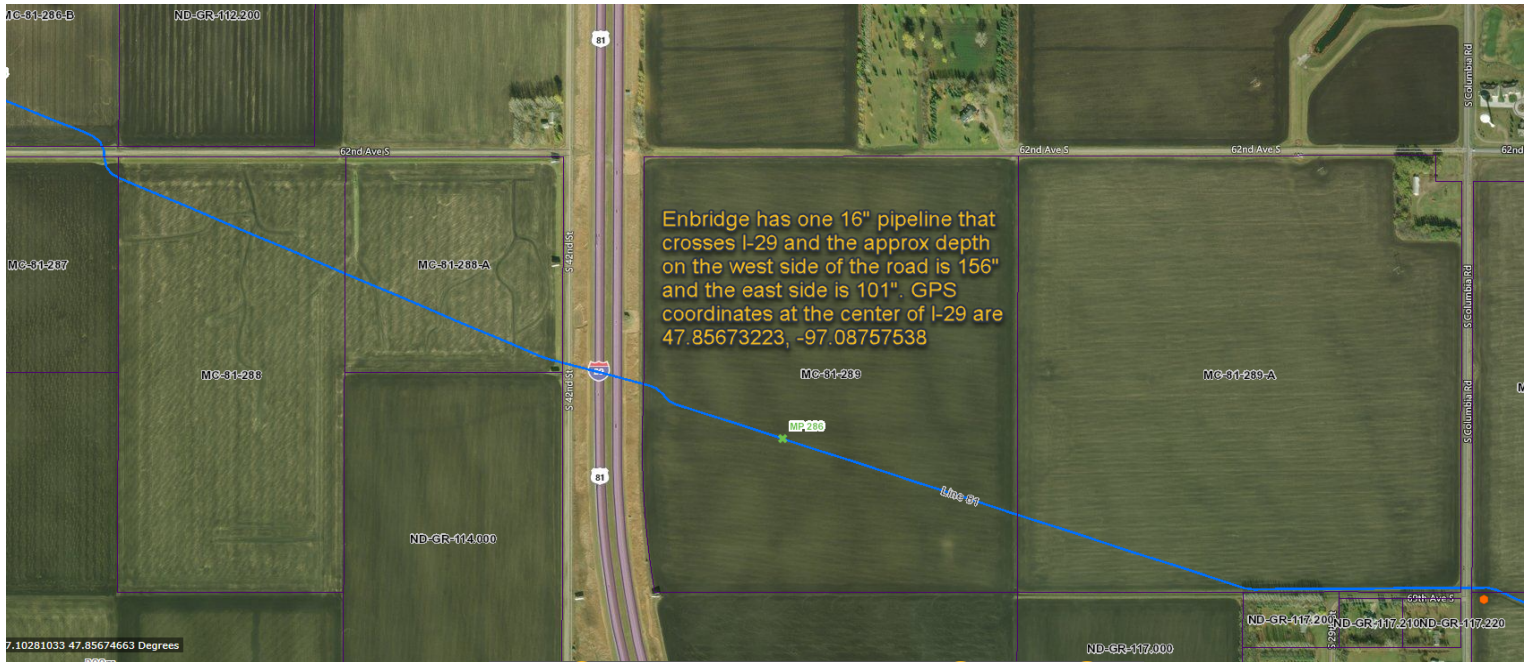
**ENBRIDGE**

*Operator of North Dakota Pipeline Company LLC*

TEL: ~~701-857-0813~~ | CELL: 701-340-5739  
1600 2<sup>nd</sup> Ave SW, Suite 16, Minot, ND 58701

[enbridge.com](http://enbridge.com)

**Safety. Integrity. Respect.**



## Scott Middaugh

---

**From:** Scott Pede <Scott.Pede@Midco.com>  
**Sent:** Thursday, January 7, 2021 10:20 AM  
**To:** Scott Middaugh  
**Cc:** Robert Johnson  
**Subject:** RE: [EXTERNAL] - RE: Project 8-029(200)069 PCN 22888  
**Attachments:** Crossing MM 73.pdf; 19th ave N Fargo crossing.pdf; Hillsboro South.pdf; Buxton Exit.pdf; Thompson Exit.pdf; Grand Forks 36th ave S.pdf; Grand Forks 17th ave S South Fiber.pdf; Grand Forks US 81 intersection.pdf; Grand Forks 17th ave S North Fiber.pdf; Grand Forks Gateway Dr exit.pdf; Grand Forks Demers exit.pdf

Here are PDF's off all the I29 crossings between North of Fargo to North of Grand Forks.. these are all fiber lines except the one on 36<sup>th</sup> ave s, Grand Forks... please let me know if you have any questions.



**Scott Pede**  
CONSTRUCTION PROJECT  
COORDINATOR II

Office: 2187915300  
[Scott.Pede@Midco.com](mailto:Scott.Pede@Midco.com)

**Midco.com**

---

**From:** Scott Middaugh <[Scott.Middaugh@kljeng.com](mailto:Scott.Middaugh@kljeng.com)>  
**Sent:** Wednesday, January 6, 2021 7:22 AM  
**To:** Robert Johnson <[Robert.Johnson@Midco.com](mailto:Robert.Johnson@Midco.com)>  
**Subject:** [EXTERNAL] - RE: Project 8-029(200)069 PCN 22888

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

Robert,

Thank you for your response. We have completed an ND One Call for the project corridor and performed topographic survey to collect all terrain and utility data. To ensure that we have all Midco crossings accounted for, could you please send me any utility maps you have for I-29 crossings?

Thanks,

Scott Middaugh PE  
KLJ - Fargo  
701-271-4871 Direct  
701-799-5639 Cell

---

**From:** Robert Johnson <[Robert.Johnson@Midco.com](mailto:Robert.Johnson@Midco.com)>  
**Sent:** Wednesday, January 6, 2021 6:56 AM  
**To:** Scott Middaugh <[Scott.Middaugh@kljeng.com](mailto:Scott.Middaugh@kljeng.com)>  
**Subject:** Project 8-029(200)069 PCN 22888

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

Hello Scott,

I received your project along the I-29 corridor for the high tension median cable. At this time Midco has no plans to acquire any new property or own any along I-29. However Midco does have fiber optic cables that cross I-29 in several areas within the scope of your project.

Please let me know if you need those locations identified.

Thank you



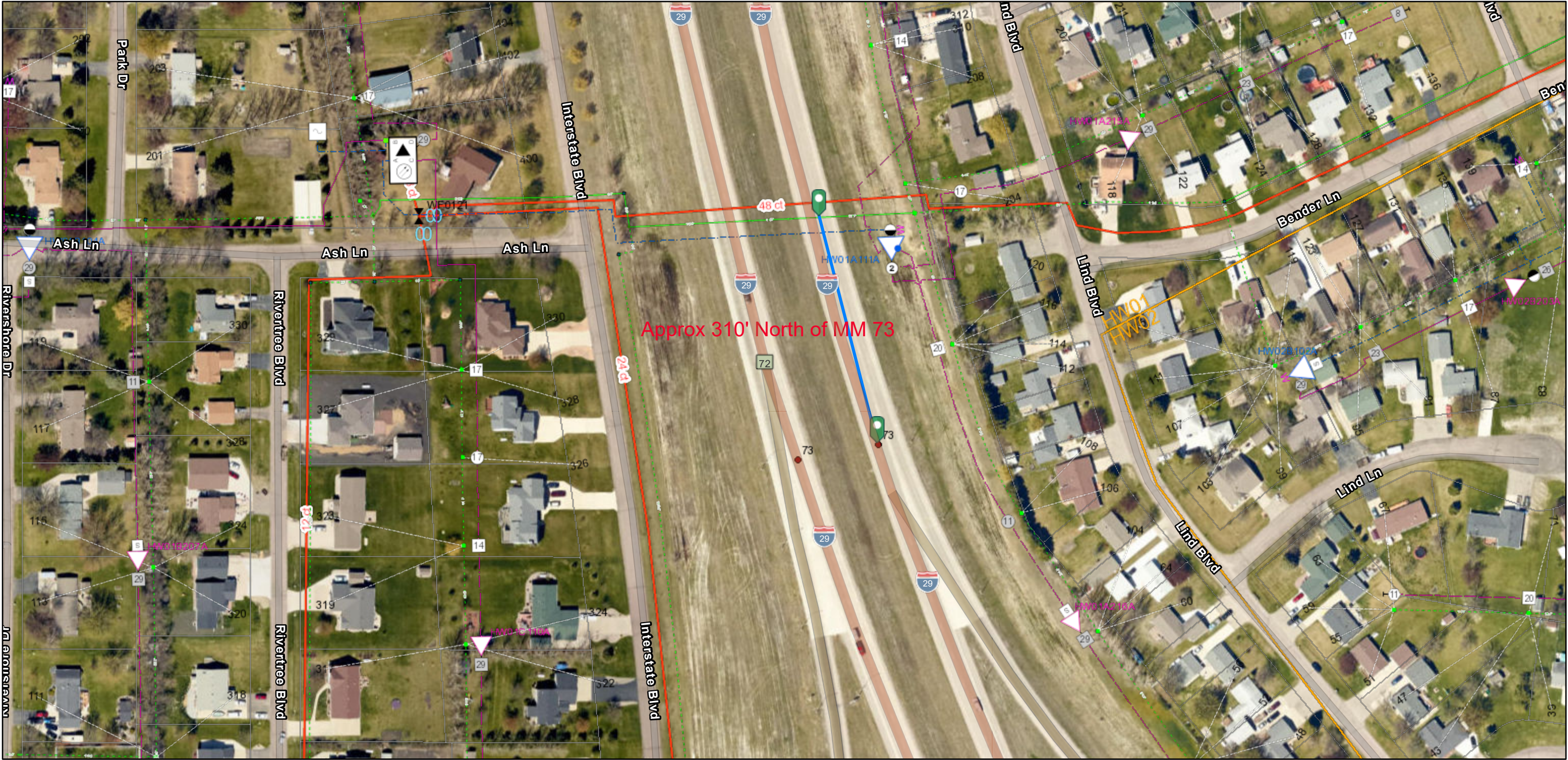
**Robert Johnson**  
CONSTRUCTION MANAGER

Office: 7013354228  
[Robert.Johnson@Midco.com](mailto:Robert.Johnson@Midco.com)

**Midco.com**

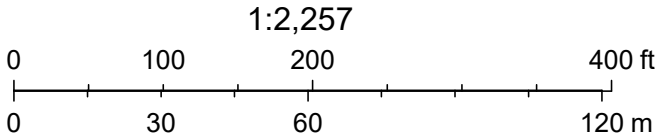


# ArcGIS Web Map



1/7/2021, 8:29:39 AM

- midcogissde.MIDCOGIS.Mile\_Markers
- Line Extension Tracking
  - <Null>
  - On Hold
  - In Progress
  - In Review



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community



# ArcGIS Web Map



1/7/2021, 9:28:37 AM

1:4,514

00.040.070.14 mi

00.050.10.2 km

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community



# ArcGIS Web Map



1/7/2021, 9:52:52 AM

1:2,257

00.010.030.06 mi

00.030.060.11 km

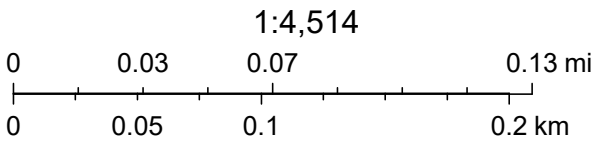
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community



# ArcGIS Web Map



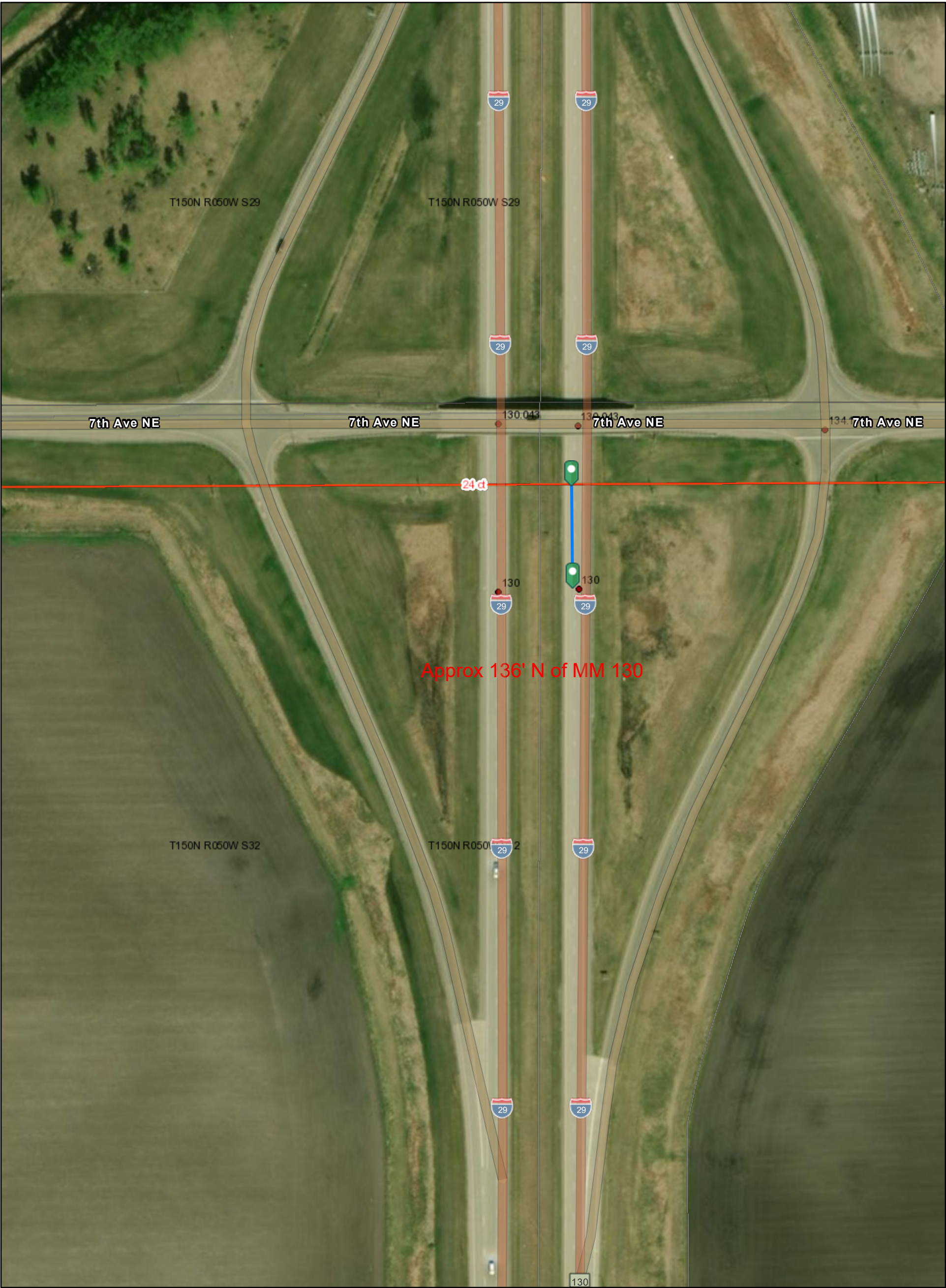
1/7/2021, 9:56:27 AM



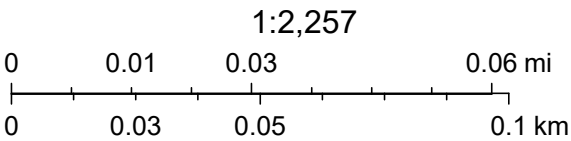
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
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# ArcGIS Web Map



1/7/2021, 9:59:20 AM



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community



# ArcGIS Web Map



1/7/2021, 10:02:55 AM

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00.030.060.11 km

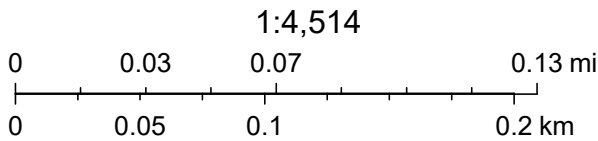
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community



# ArcGIS Web Map



1/7/2021, 10:06:11 AM



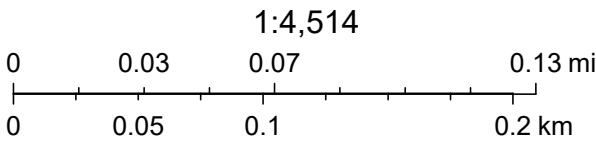
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community



# ArcGIS Web Map



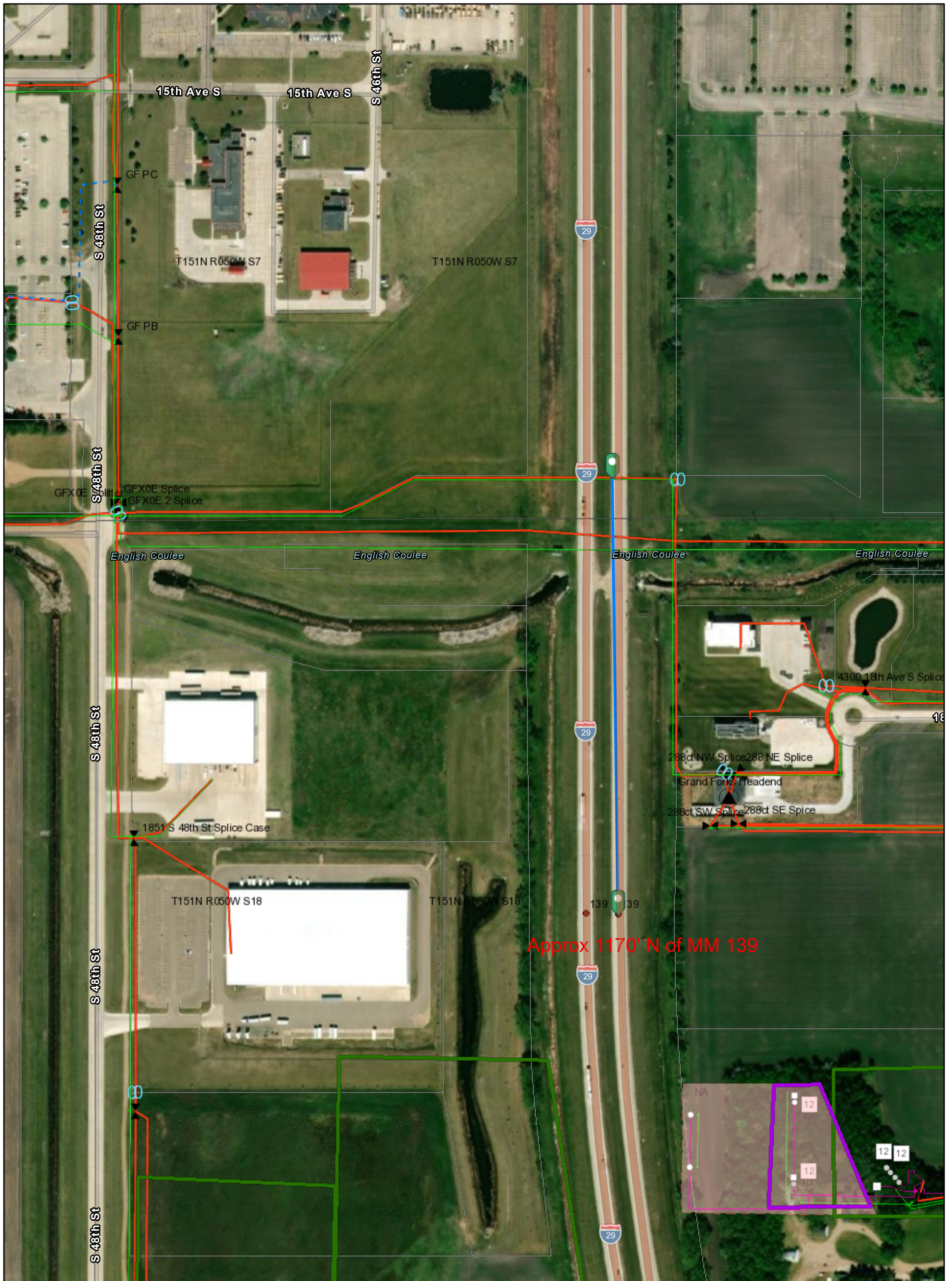
1/7/2021, 10:16:54 AM



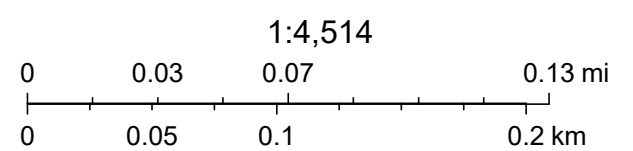
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
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# ArcGIS Web Map



1/7/2021, 10:09:54 AM



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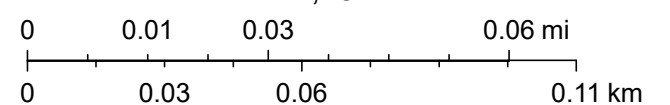


# ArcGIS Web Map



1/7/2021, 10:14:48 AM

1:2,257



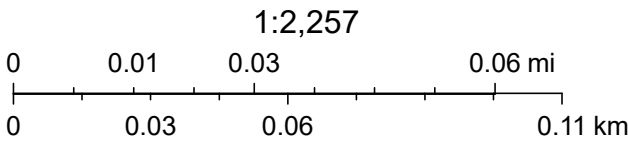
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
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# ArcGIS Web Map



1/7/2021, 10:12:23 AM



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3203 32nd Avenue South, Suite 201  
Fargo, ND 58103-6242  
701 232 5353  
[KLJENG.COM](http://KLJENG.COM)

# Phone Log

**Date:** 1/11/2021  
**Call From:** Casey Hanson – Nodak Electric  
**Project:** 8-029(200)069  
**RE:** SOV Response

## Remarks

Casey called regarding the SOV letter he had received. He stated that Nodak Electric has 23 crossing between Fargo and Grand Forks and they should all be 8-10' deep. He said to give him a call with any questions at 701-795-6722.

Electronic of message found here: <K:\Projects\State\ND\DOT\2002-00909 High Tension Guardrail\Enviro\SOV\Responses>.



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Great Plains Regional Office  
115 Fourth Avenue SE, Suite 400  
Aberdeen, South Dakota 57401

IN REPLY REFER TO:  
DECRM  
MC-208

Scott Middaugh, P.E. - Project Manager  
KLJ Engineering, Inc.  
4585 Coleman Street  
Bismarck, North Dakota 58503-0431

Dear Mr. Middaugh:

This is in response to your letter of December 10<sup>th</sup>, 2020 concerning the proposed PCN 22888 I-29 tension median cable guardrail, Cass, Traill, and Grand Forks Counties. We have considered the potential for both environmental damage and impacts to archaeological and Native American religious sites on lands held by the United States of America in trust on behalf of the Tribe and within the administrative jurisdiction of the Great Plains Region. We have no environmental objections to the actions as long as the projects comply with all applicable laws and regulations. You should be aware; however, that Tribes or Tribal members may have lands in fee status near the sites of interest. These lands would not necessarily be in our databases, and the Tribes should be contacted directly to ensure all concerns are recognized. The actions considered have the following project names:

December 10<sup>th</sup>, 2020

Project Name: PCN 22888 I-29 Tension  
Median Cable Guardrail,  
Cass, Traill, and Grand Forks  
Counties

We also find that the listed action will not affect cultural resources on Tribal or individual landholdings for which we are responsible. Methodologies for the treatment of cultural resources now known or yet to be discovered – particularly human remains – must nevertheless utilize the best available science in accordance with provisions of the Native American Graves Protection and Repatriation Act, the Archaeological Resources Protection Act of 1979 (as amended), and all other pertinent legislation and implementing regulations.

Questions regarding environmental opinions and conditions can be addressed to Christie Avery, and Archaeological concerns can be addressed to Dr. Sebastian C. LeBeau II, Regional Archaeologist, at (605) 226-7656.

Sincerely,

Regional Director



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, OMAHA DISTRICT  
NORTH DAKOTA REGULATORY OFFICE  
3319 UNIVERSITY DRIVE  
BISMARCK, NORTH DAKOTA 58504-7565

December 22, 2020

NWO-2020-02024-BIS

NDDOT  
Attn: Mr. Russell Senske  
608 East Boulevard Avenue  
Bismarck, North Dakota 58505-0700

Dear Mr. Senske:

We are responding to your November 3, 2020 request for an approved jurisdictional determination for the I-29 Improvements, High-Tension Median Cable Guardrail Installation, 8-029(200)069; PCN 22888, Cass, Traill, and Grand Forks Counties site. The approximately 803.4-acre project site is located on I-29 between Fargo and Grand Forks, between reference point (RP) 69.847 and RP 137.140, with center coordinates at Latitude 47.3998°, Longitude -97.0739°, Hillsboro, Traill County, North Dakota.

Based on available information, **we have determined that OW 1, OW 2, OW 6, OW 12, Wetland 13b and Wetland 3 are all (a)(2) perennial or intermittent tributaries that contribute surface water flow directly or indirectly to an (a)(1) waters of the U.S.** The following wetlands were determined to be (a)(4) Wetland abuts an (a)(1)-(a)(3) waters: Wetland 2a, 2c, 10, 11, 12a, 12c, 13a, 13c, and 14. Approximately 5.16 acres of waters of the United States, including wetlands, are present within the survey area. These waters are regulated under Section 404 of the Clean Water Act.

The 3.91-acre waters identified as Wetlands 4, 5, 7, 8, 9, 15, 16, and 17 are excluded waters under the Navigable Waters Protection Rule under (b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). As such, these waters are not currently regulated by the Corps of Engineers. This disclaimer of jurisdiction is only for Section 404 of the Federal Clean Water Act. Other Federal, State, and local laws may apply to your activities.

An approved (JD) has been completed for the wetland areas identified in your request and is enclosed for your information. The JD may also be viewed at our website located at: <http://www.nwo.usace.army.mil/Missions/Regulatory-Program/North-Dakota/Jurisdictional-Determination.aspx>. The JD will be available on the website within 30 days. You may also request copies of the supporting materials the Corps used in determining this JD. If you are not in agreement with the JD, you may request an administrative appeal under Corps regulations found at 33 CFR 331. The request for appeal (copy enclosed) must be received within 60 days from the date of this correspondence. If you would like more information on the jurisdictional appeal process, contact this office. It is not necessary to submit a Request for Appeal if you do



not object to the JD. The JD will be valid for a period of 5 years from the date of this letter.

This determination is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 Code of Federal Regulations (CFR) Part 331.

A Notification of Appeal Process (NAP) and Request for Appeal (RFA) form is enclosed. If you request to appeal this determination you must submit a completed RFA form to the Northwestern Division Office at the following address: U.S. Army Corps of Engineers, Northwestern Division, Attn: Regulatory Appeals Review Officer, P.O. Box 2870, Portland, Oregon 97208-2870.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the NAP. Should you decide to submit an RFA form, it must be received at the above address by 60 days from the date of this letter. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

You should provide a copy of this letter and notice to all other affected parties, including any individual who has an identifiable and substantial legal interest in the property.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer service survey found on our website at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey).

Please refer to identification number NWO-2020-02024-BIS in any correspondence concerning this project. If you have any questions, please contact me at North Dakota Regulatory Office, 3319 University Drive, Bismarck, North Dakota 58504, by email at [Patricia.L.McQueary@usace.army.mil](mailto:Patricia.L.McQueary@usace.army.mil), or telephone at (701) 255-0015. For more information regarding our program, please visit our website at <http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/NorthDakota.aspx>.

Sincerely,



Patricia L. McQueary  
State Program Manager  
North Dakota

Enclosures

## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: NDDOT  
Russell Senske

File Number: NWO-2020-02024-BIS

Date: December 21, 2020

Attached is:

See Section below

	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found in Corps regulations at 33 CFR Part 331, or at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/FederalRegulation.aspx>

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:  
US Army Corps of Engineers, North Dakota Regulatory Office  
Attn: Patricia McQueary, Regulatory Program Manager  
3319 University Drive  
Bismarck, ND 58504 Telephone (701) 255-0015, ext. 2001  
CENWO-OD-RND@usace.army.mil

If you only have questions regarding the appeal process you may also contact:  
US Army Corps of Engineers, Northwestern Division  
Attn: Regulatory Appeals Review Officer  
P.O. Box 2870  
Portland, OR 97208-2870

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date:

Telephone number:





U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): December 22, 2020

ORM Number: NWO-2020-02024-BIS

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: ND City: Hillsboro County/Parish/Borough: Traill County

Center Coordinates of Review Area: Latitude 47.399896 Longitude -97.073909

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- ☒ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)<sup>3</sup>

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
NWO-2020-02024-BIS_OW 6	0.25 acres	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	OW 6 is the Elm River, a perennial tributary of the Red River.
NWO-2020-02024-BIS_OW1	0.35 acres	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This is Legal Drain 40, which is an intermittent tributary of the Red River. Historically, most legal drains were constructed in tributaries and have been significantly modified over the years. Drain 40 is considered a re-channelized tributary of the Red River.
NWO-2020-02024-BIS_OW2b	0.22 acres	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a	The Sheyenne River is a perennial river and tributary to the Red River.

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

		typical year	
NWO-2020-02024-BIS_OW 12b	0.07 acres	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	North Branch of the Elm River – a perennial tributary of the Elm River, which flows into the Red River of the North.
NWO-2020-02024-BIS_Wetland 13b	0.23 acres	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The Goose River is a perennial tributary of the Red River of the North.
NWO-2020-02024-BIS_Wetland 3	0.69 acres	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Relocated tributary of the Red River. Appears to have intermittent flow based on historical aerial photographs. Ponding evident along entire length to Red River.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
NWO-2020-02024-BIS_Wetland 10	1.01 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	This wetland is part of a larger system of wetlands and drainages that flow into an intermittent tributary to the North Branch of the Elm River. The elevation of the wetland is at the same elevation as the surrounding wetlands, which indicates that it is not constructed in uplands.
NWO-2020-02024-BIS_Wetland 11	0.36 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	This wetland is part of a larger complex that drains south and into a drainage ditch (considered intermittent by the ND GIS Hub) and then into the Elm River. The elevation of the wetland is at the same elevation as the surrounding wetlands, which indicates that it is not constructed in uplands.
NWO-2020-02024-BIS_Wetland 12a	0.05 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Directly abut the North Branch of the Elm River.
NWO-2020-02024-BIS_Wetland 12c	0.05 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Directly abuts the North Branch of the Elm River.
NWO-2020-02024-BIS_Wetland 13a	0.06 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Directly abutting the Goose River, a perennial tributary of the Red River of the North.
NWO-2020-02024-BIS_Wetland 13c	0.06 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Directly abutting the Goose River, a perennial tributary of the Red River of the North.
NWO-2020-02024-BIS_Wetland 14	1.62 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Drainage feature is culverted under I-29 but daylight in the median. Wetlands adjacent to the roadway are at the same elevation as the wetland in the median, indicating that the wetlands were not excavated in

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<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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			uplands. The wetland appears to connect downstream, through numerous relocated tributaries, to Buffalo Coulee, an intermittent tributary of the Red River of the North.
NWO-2020-02024-BIS_Wetland 2a	0.05 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Directly abutting a perennial tributary (Sheyenne River) to the Red River.
NWO-2020-02024-BIS_Wetland 2c	0.09 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Directly abutting a perennial tributary (Sheyenne River) to the Red River.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
NWO-2020-02024-BIS_Wetland 15	0.35 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Located entirely within the median with no apparent connection to any downstream resources. No adjacent wetlands are present.
NWO-2020-02024-BIS_Wetland 16	0.26 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Located entirely within the median with no apparent connection to any downstream resources. No adjacent wetlands are present.
NWO-2020-02024-BIS_Wetland 17	0.4 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	There is a culvert under the roadway that daylights within the median. The adjacent wetlands appear to be isolated and confined between a frontage road to the west and do not connect downstream on the east side of I-29.
NWO-2020-02024-BIS_Wetland 4	0.59 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Constructed ditch wetland. May have at one time been a part of a larger wetland found on both sides of the highway. This area has been impacted by agricultural drainage and the area along the highway may have created a low spot for water ponding. Does not appear to have a downstream connection to any perennial or intermittent stream systems.
NWO-2020-02024-BIS_Wetland 5	0.35 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	This ditch flows into a drainage feature that is culverted under I-29, daylighting in the median. The drainage feature was reviewed for a possible connection downstream to the Red River but there does not appear to be an intermittent or perennial channel that connects downstream.
NWO-2020-02024-BIS_Wetland 7	0.96 acres	(b)(1) Non-adjacent wetland	This wetland feature is part of a drainage feature that is culverted under I-29, daylighting in the median. The drainage feature was reviewed for a possible connection downstream to the Red River but there does not appear to be an intermittent or perennial channel that connects downstream.
NWO-2020-02024-BIS_Wetland 8	0.43 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water	Wetland 8 is another ditch wetland that connects to a drainage feature that is culverted under I-29, daylighting in the median. It does appear to eventually

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<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

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<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.





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		that do not satisfy the conditions of (c)(1)	connect downstream to the Elm River via a number of drainage ditches along the highway and railroad tracks. It does not appear to be intermittent or perennial flow and loses hydrological features in several places. It was determined to be non-jurisdictional based on a lack of hydrological indicators to connect downstream to a TNW.
NWO-2020-02024-BIS_Wetland 9	0.57 acres	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	There is a culvert under I-29 that daylight in the median. Although connected with adjacent wetlands outside of the project area, there was no indication that there was an intermittent or perennial surface water connection to a downstream TNW.

### III. SUPPORTING INFORMATION

**A. Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: *KLJ. Field Aquatic Resources Delineation Report. October 2020.*

This information is only partially sufficient for purposes of this AJD.

*Rationale: The Delineation Report does not separate out what appears to be natural wetlands flowing through culverts under I-29 and ditch wetlands that extend north or south from the natural wetlands. The delineation refers to all these as created ditch wetlands. The delineation report only addresses waters within the project area and does not identify or discuss potential downstream connections.*

Data sheets prepared by the Corps: *Title(s) and/or date(s).*

☒ Photographs: *(NA, aerial, other, aerial and other) Title(s) and/or date(s).*

☐ Corps Site visit(s) conducted on: *Date(s).*

☐ Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s).*

☒ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

☒ USDA NRCS Soil Survey: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx> (20201209)

☒ USFWS NWI maps: <https://www.fws.gov/wetlands/data/mapper.html> (20201209)

☒ USGS topographic maps: <https://viewer.nationalmap.gov/advanced-viewer/> (20201208)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	<a href="https://viewer.nationalmap.gov/advanced-viewer/">https://viewer.nationalmap.gov/advanced-viewer/</a>
USDA Sources	<a href="https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx">https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx</a>
NOAA Sources	N/A.
USACE Sources	APT Tool
EPA Geo Viewer	<a href="https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=ada349b90c26496ea52aab66a092593b">https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=ada349b90c26496ea52aab66a092593b</a>
ND State GIS Hub	<a href="https://www.nd.gov/gis/apps/HubExplorerV2/">https://www.nd.gov/gis/apps/HubExplorerV2/</a>

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- B. Typical year assessment(s):** The typical year assessment indicates that the spring of 2020 was drier than normal.
- C. Additional comments to support AJD:** The Aquatic Resource Delineation report indicates many of the median wetlands as created ditch wetlands. Although there is indication that many of these are features created from the construction of I-29, many are drainages that are culverted under I-29 and daylight in the median. These wetlands are at the same elevation as adjacent natural wetlands and, therefore, would be part of a larger system. Many of these wetlands are part of agricultural drainages, some legal drains regulated by the county water boards, that have re-channelized natural drainages. Much of the I-29 corridor between Fargo and Grand Forks drains to tributaries of the Red River of the North, including North Branch of the Elm River, Elm River and Goose River. Those median wetlands that were found to have a surface water connection through a legal drain, were considered to be jurisdictional.

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## Scott Middaugh

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**From:** Duttenhefner, Kathy G. <kgduttenhefner@nd.gov>  
**Sent:** Sunday, January 17, 2021 10:27 AM  
**To:** Scott Middaugh  
**Subject:** RE: 8-029(200)069 PCN 22888-I-19 High Tension Median Cable Guardrail – Cass, Traill, and Grand Forks Counties  
**Attachments:** KLJ\_I-29\_Improvement\_J\_Rieck\_Response\_Letter\_DL1.15.2021.pdf; KLJ\_NDDOT\_I-29\_Improvement\_HERITAGE.pdf; KLJ\_NDDOT\_I-29\_Improvement\_LWCF.pdf; KLJ\_NDDOT\_I-29\_Improvement\_MAP.pdf

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

**RE: 8-029(200)069 PCN 22888-I-19 High Tension Median Cable Guardrail – Cass, Traill, and Grand Forks Counties**

Attached is North Dakota Parks and Recreation environmental review response letter for the above referenced project.

**Kathy Duttenhefner**

*Natural Resources Coordinator/Biologist II*

701.328.5370 • 701.220.3377 • [parkrec.nd.gov](http://parkrec.nd.gov)





January 14, 2021

Scott Middaugh  
KLJ Solutions  
4585 Coleman Street  
Bismarck, ND 58503-0431

**RE: 8-029(200)069 PCN 22888-I-29**  
**High Tension Median Cable Guardrail – Cass, Traill, and Grand Forks Counties**

Dear Mr. Middaugh,

The North Dakota Parks and Recreation Department (NDPRD) has reviewed the above-referenced project median cable guardrail in Cass, Traill, and Grand Fork 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); and 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.

Two Land and Water Conservation Fund projects have been identified within the proposed project's vicinity: **Olsen Softball Complex Upgrades 38-01313** and **Harwood Park Improvement 38-01068**. Attached is a map identifying the approximate location. 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. Please contact NDPRD's Grant Coordinator, Char Binstock, at (701) 328-5364 [cbinstock@nd.gov](mailto:cbinstock@nd.gov) for a copy of the boundary and additional information.

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 no known rare species or significant ecological communities documented within or immediately adjacent to the project site.

Please feel free to reach out to our office for further clarification if necessary.

Sincerely,



Jolene Rieck, PLA  
Chief of Planning & Programs

Cc: Char Binstock, NDPRD Grants Coordinator

North Dakota Natural Heritage Inventory  
Rare Animal and Plant Species and Significant Ecological Communities

State Scientific Name	State Common Name	State Rank	Global Rank	Federal Status	Township Range Section	County	Last Observation	Estimated Representation Accuracy	Precision
Chrosomus eos	Northern Redbelly Dace	S4	G5		145N050W - 05	Traill	1966-06-24		S
Coccyzus americanus	Yellow-billed Cuckoo	SU	G5	PS	140N049W - 05; 141N049W - 33; 140N049W - 06; 141N049W - 29; 140N049W - 09; 141N049W - 27; 141N049W - 34; 141N049W - 32; 141N049W - 28; 140N049W - 07; 140N049W - 04; 140N049W - 08	Cass	1934-06-24		M

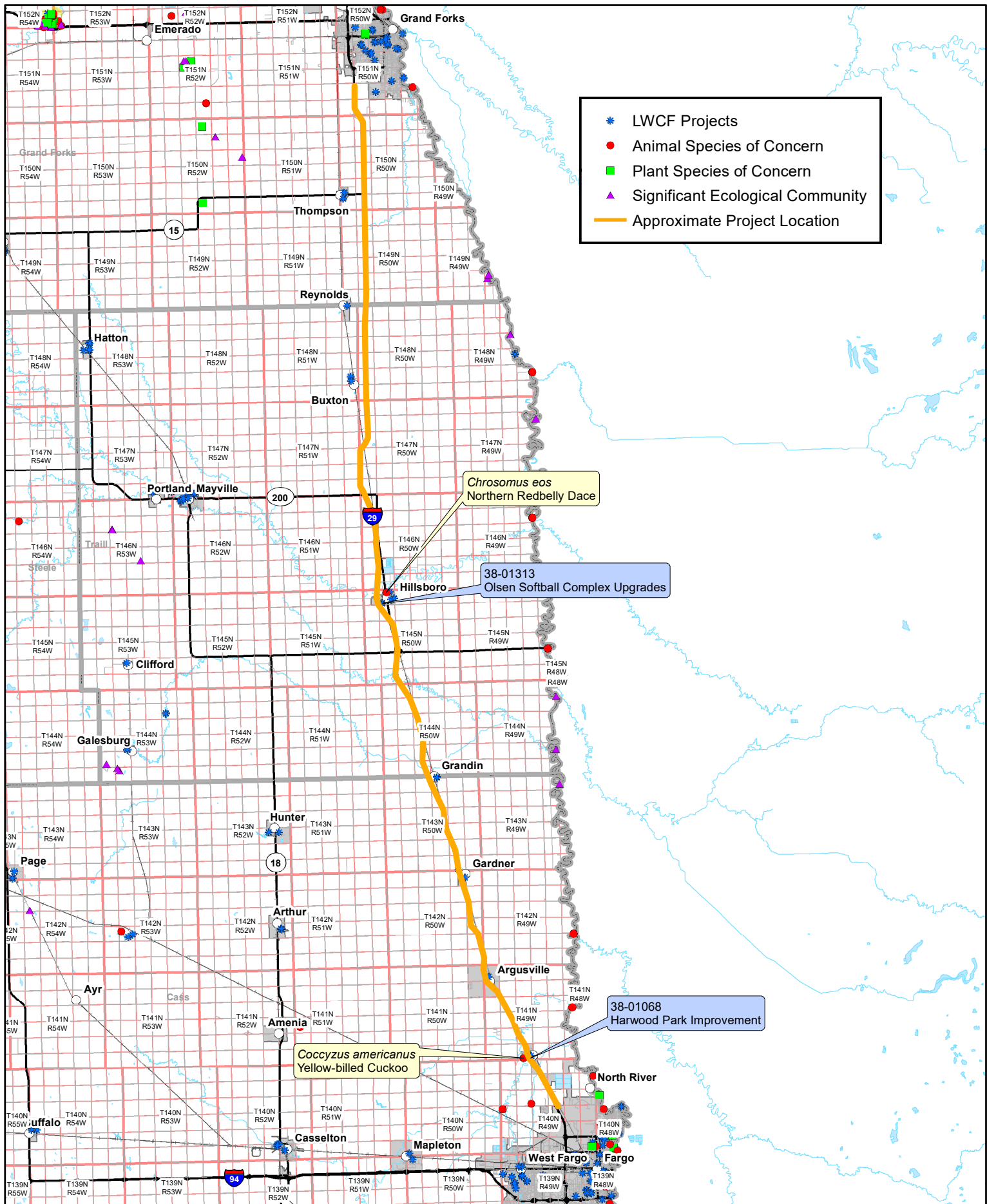
## Land and Water Conservation Fund Projects

<b><u>Project Name</u></b>	<b><u>Project Number</u></b>
Harwood Park Improvement	38-01068
Olsen Softball Complex Upgrades	38-01313



# North Dakota Parks and Recreation Department

## North Dakota Natural Heritage Inventory





December 28, 2020

Scott Middaugh, PE  
KLJ  
4585 Coleman Street  
Bismarck, ND 58503-0431

**RE: 8-029(200)069 PCN 22888  
I-29 High Tension Median Cable Guardrail  
Cass, Traill, and Grand Fork Counties**


Dear Mr Middaugh:

AE2S is the City Engineer for the City of Hillsboro, ND. The City of Hillsboro is currently developing a project to install a new 14" waterline across I-29. The pipe will be bored under I-29 from ROW to ROW. The project is anticipated to be constructed in 2021–2022. The following is a location map of the proposed pipe crossing:



If you have any questions concerning, please feel free to contact me at (701) 746-8087 or send e-mail to [Steve.Swanson@AE2S.com](mailto:Steve.Swanson@AE2S.com).

**AE2S**

  
Steven E. Swanson, PLS  
Survey/Project Manager

**Advanced Engineering and Environmental Services, Inc.**

4050 Garden View Drive Suite 200 • Grand Forks, ND 58201 • (t) 701-746-8087 • (f) 701-746-0370



December 28, 2020

Ms. Jeani Borchert  
NDDOT  
608 East Boulevard Avenue  
Bismarck, ND 58505-0700

**ND SHPO Ref.: 21-5254NDDOT Project #: 8-029(200)069 PCN: 22888 in portions of [T140N R49W Sections: 4, 5, 9, 10, & 15] [T141N R49W Sections: 6, 7, 17, 18, 20, 28, 29, & 33] [T141N R50W Section: 1] [T142N R49W Section: 31] [T142N R50W Sections: 2, 11, 12, 13, 24, 25, & 36] [T143N R50W Sections: 3, 4, 10, 15, 22, 23, 26, & 35] [T144N R50W Sections: 5, 8, 9, 16, 21, 28, & 33] [T145N R50W Sections: 6, 7, 8, 17, 20, 29, 32, & 33] [T146N R50W Sections: 6, 7, 18, 19, 20, 29, 30, & 31] [T147N R50W Sections: 6, 7, 18, 19, 30, & 31] [T148N R50W Sections: 6, 7, 18, 19, 30, & 31] [T149N R50W Sections: 5, 8, 17, 20, 29, & 32] [T150N R50W Sections: 5, 8, 17, 20, 29, & 32] & [T151N R50W Sections: 29, & 32] Cass, Traill, & Grand Forks Counties, North Dakota**

Dear Ms. Borchert,

We reviewed ND SHPO Ref.: 21-5254NDDOT Project #: 8-029(200)069 PCN: 22888 in Cass, Traill, & Grand Forks Counties, North Dakota, and we concur with a determination of "No Historic Properties Affected" for this project provided it takes place in the location and in the manner described in the documentation and provided all borrow comes from an approved source.

Thank you for the opportunity to review this project. Please include the ND SHPO Reference number listed above in further correspondence for this specific project. If you have any questions please contact Lisa Steckler, Historic Preservation Specialist at (701) 328-3577 or [lsteckler@nd.gov](mailto:lsteckler@nd.gov)

Sincerely,

for William D. Peterson, PhD  
State Historic Preservation Officer  
(North Dakota)

21-5254