



Trailblazer Pipeline Company LLC
Rockies Express Pipeline LLC

April 25, 2024

Debbie-Anne A. Reese, Acting Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

Re: Request for Variance No. 7
Trailblazer Pipeline Company LLC and Rockies Express Pipeline LLC
Docket No. CP22-468-000

Dear Acting Secretary Reese:

On October 23, 2023, the Federal Energy Regulatory Commission ("Commission") issued an order ("Order") in Docket No. CP22-468-000¹ granting a certificate of public convenience and necessity ("Certificate") to Trailblazer Pipeline Company LLC and Rockies Express Pipeline LLC (together the "Applicants") for authorization to abandon, construct, and operate certain facilities comprising its "Trailblazer Conversion Project."

Pursuant to Environmental Condition No. 5 of the Order, the Applicants are requesting the variance request as described below, and request approval of the variance by April 30, 2024.

The Applicants are requesting a variance to relocate a portion of the REX Lateral to TPC East, west of the original location, to accommodate landowner preference. The lateral would shift west from approximately MP 21.5 to 22.05 to the county road ROW (Attachment 1). The Applicants are also requesting additional temporary workspace for staging and hydrostatic discharge to accommodate this request.

The proposed new alignment falls outside of the previous environmentally surveyed area; therefore, the Applicants have performed cultural surveys and obtained State Historic Preservation Officer (SHPO) concurrence for the proposed route (Attachment 2). The Applicants have also performed natural resource surveys and have attached the Biological Resources Survey Report, describing no effect to listed species (Attachment 3). No wetlands or waterbodies would be impacted by the proposed variance. The current land use consists of county road right-of-way and farmland. Vegetation present during the growing season consists of corn or soybeans.

The Applicants are providing the following information to support this variance request:

¹ *Trailblazer Pipeline Company LLC and Rockies Express Pipeline LLC*, 185 FERC ¶ 61,039 (October 23, 2023).

Debbie-Anne A. Reese, Acting Secretary

April 25, 2024

Page 2 of 2

The acreage of disturbance is provided below.

REX to TPC East Re-route	Previously Authorized ROW Area (acres)	ROW Variance Area (acres)
Operation	-3.04 AC.	0.00 AC
Construction (ATWS)	-4.66 AC.	2.40 AC.
Total Acres	-7.70 AC.	2.40 AC.

The Jefferson County Road ROW permit (Attachment 4) was received on April 24, 2024, by land agent Lindsay Jarrell.

In accordance with 18 CFR Section 388.112 of the Commission's Regulations, the Applicants request treatment of the attached correspondence as Controlled Unclassified Information/Privileged ("CUI/PRIV"). The Applicants submit that Attachments 1 and 2 meet the definition of CUI/PRIV as found at Section 388.112 of the Commission's Regulations. Accordingly, the Applicants are filing the attached as CUI/PRIV and each page has been marked "Contains Privileged Information – DO NOT RELEASE."

The Applicants are filing this letter of transmittal and attached information in accordance with the Commission's eFiling procedures.

Respectfully submitted,



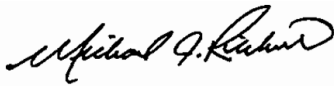
L. Drew Cutright
Vice President, Regulatory Affairs
Tallgrass Energy, LP

Authorized Representative of Trailblazer Pipeline LLC and Rockies Express Pipeline LLC

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all subscribers to the official service list in Docket No. CP22-468-000, in accordance with the requirements of Rule 2010 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR § 385.2010.

Dated this 25th day of April 2024.

A handwritten signature in black ink, appearing to read "Michael J. Rinehart", is written over a light gray rectangular background.

Michael J. Rinehart
Director, Certificates and Tariffs
Tallgrass Energy, LP

Authorized Representative of
Trailblazer Pipeline Company LLC and Rockies Express Pipeline LLC

Attachment 1
Plat

Contains Privileged Information – DO NOT RELEASE

Attachment 2
SHPO Report and Concurrence

Contains Privileged Information – DO NOT RELEASE

Attachment 3
Biological and Wetland and Waters Report



Biological and Aquatic Resources Survey Report

REX to TPC East - Weichel Reroute

Tallgrass Energy - Trailblazer Conversion Project

April 9, 2024

INTRODUCTION

Trailblazer Pipeline Company, LLC (TPC) and Rockies Express Pipeline, LLC (REX) filed an application with the Federal Energy Regulatory Commission (FERC) on May 27, 2022, in accordance with Section 7(b) and 7(c) of the Natural Gas Act to obtain a Certificate of Public Convenience and Necessity, and authorization for the Trailblazer Conversion Project (Project).

In accordance with Section 7 of the Endangered Species Act (ESA), FERC, TPC, and REX requested US Fish and Wildlife (USFWS) consultation for the Project on January 26, and May 4, 2023. USFWS concurrence that the Project will not adversely affect listed species or critical habitat was received on January 30, and May 27, 2023. Additionally, Nebraska Game and Parks Commission (NGPC) reviewed the Project and provided species-specific survey and mitigation recommendations for Nebraska state-listed endangered or threatened species with the potential to be impacted by the Project in various locations.

TPC and REX are evaluating a potential pipeline reroute located along the northern end of the REX to TPC East pipeline segment, identified as the Weichel Reroute. WSP USA Inc. (WSP), TPC and REX's environmental consultant, conducted a biological and aquatic resources survey of the proposed reroute on March 22, 2024, to evaluate potential effects to ESA-listed species, Nebraska state-listed endangered or threatened species, migratory birds, including raptor species, and aquatic resources with the potential to meet the current definition of *Waters of the United States* (WOTUS) under 40 Code of Federal Regulations (CFR) 120.2(a) subject to Clean Water Act (CWA) permitting.

TPC and REX are considering constructing the reroute within the existing county road right-of-way (ROW) or within the western edge of the Weichel property (immediately adjacent to the county roads). The Weichel Reroute Survey Area consists of the pipeline reroute area, additional temporary workspace (for staging), and one potential bore area (approximately 86 acres; Figure 1). TPC and REX will choose one of the reroute options and will not disturb the entire Survey Area for pipeline construction.

WEICHEL REROUTE

The Weichel Reroute Survey Area is located immediately west of the previously surveyed pipeline route, on the northern end of the REX to TPC East pipeline segment, as part of the Trailblazer Conversion Project in Jefferson County, Nebraska.

Additional location details are provided below:

- **Approximate Center Coordinates**
 - Latitude 40.342589°N, Longitude -97.048112°W

— **Public Land Survey System Information**

- Sections 35 and 36 of Township 5 North, Range 3 East; Sections 1 and 2 of Township 4 North, Range 3 East

— **Survey Area Vicinity**

- Located approximately 3 miles southeast of the village of Swanton, along 575th Avenue and 726th Road in Jefferson County, Nebraska

— **Approximate Survey Area**

- Total Weichel Reroute Survey Area: Approximately 86 acres

— **Land Ownership**

- Private

The Weichel Reroute Survey Area is located on previously disturbed, actively utilized agricultural lands and county roads. All impacts associated with the Weichel Reroute will be temporary in nature, and the area will be reclaimed to pre-existing conditions after construction is complete. There is currently active construction occurring north of the Weichel Reroute Survey Area associated with ongoing REX to TPC East pipeline construction activities.

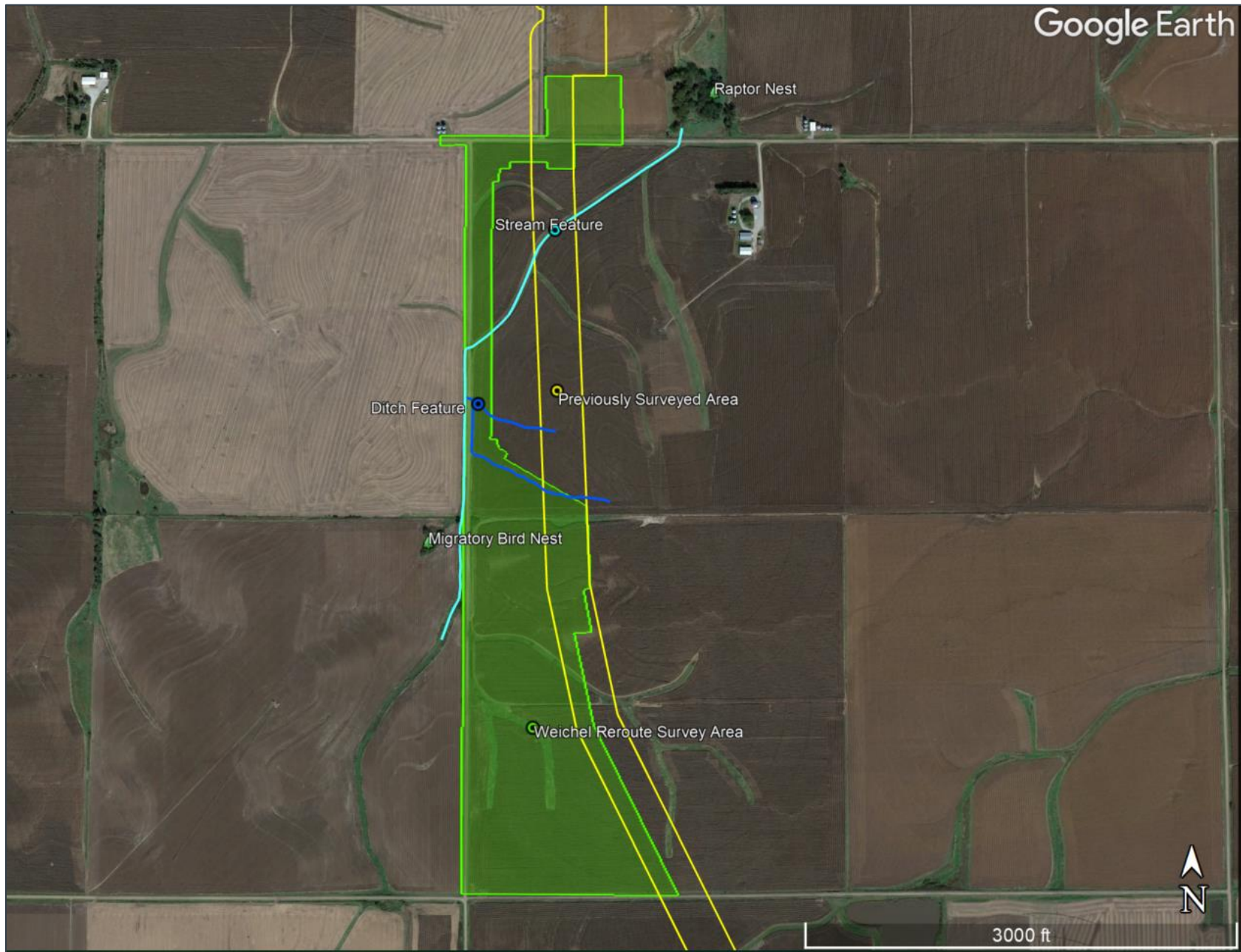


Figure 1: Weichel Reroute Survey Area

ESA-LISTED SPECIES

The USFWS IPaC screening tool was used to evaluate the potential ESA-listed species within the Weichel Reroute Survey Area. The Official Species List identified 4 species with the potential to occur in the vicinity of the Survey Area (Attachment 1; Table 1). There is no USFWS-designated critical habitat or habitat proposed for critical designation within the Survey Area.

Table 1. ESA-listed species with potential to occur in the Weichel Reroute Survey Area (Source: USFWS IPaC)

COMMON NAME	SCIENTIFIC NAME	FEDERAL STATUS
Tricolored Bat	<i>Perimyotis subflavus</i>	Proposed Endangered
Piping Plover	<i>Charadrius melodus</i>	Threatened
Pallid Sturgeon	<i>Scaphirhynchus albus</i>	Endangered
Monarch Butterfly	<i>Danaus plexippus</i>	Candidate

Tricolored Bat

Tricolored bats rely on a dense growth of trees and underbrush covering a large tract of land for roosting.

The Weichel Reroute Area is comprised of disturbed, actively cultivated agricultural lands and county roads which do not have the large, forested area of dense tree growth needed for suitable tricolored bat habitat. There was no suitable roosting habitat for this species observed in the vicinity of the proposed reroute area; therefore, the Weichel Reroute will likely have “no effect” on tricolored bats.

Piping Plover

Piping plovers breed along the Missouri, Platte, Elkhorn, Loup, and Niobrara Rivers in Nebraska. Piping plovers often utilize coastline habitats, tidal flats, shoals and sandbars, and ephemeral pools. There was no suitable habitat for the species observed within or adjacent to the Weichel Reroute Area. Therefore, the Weichel Reroute will likely have “no effect” on the piping plover.

Pallid Sturgeon

Pallid sturgeons are rarely observed in the lower Platte River and are uncommon in the Missouri River bordering Nebraska. They generally select the main channel areas with islands or sand bars.

There are no rivers or other large aquatic resources observed within or in the vicinity the Weichel Reroute Area. Therefore, the Weichel Reroute will likely have “no effect” on the pallid sturgeon.

Monarch Butterfly

The monarch butterfly requires milkweed species (primarily *Asclepias* spp.) and other flowering plants for habitat which can be found in a wide variety of areas, including fields, roadsides, open areas, and gardens. Adult monarch butterflies feed on many flowers but only lay eggs on milkweed species. The monarch butterfly is currently a candidate species under consideration by USFWS for official listing under the ESA. Therefore, the species is not currently provided protections under the ESA.

Due to the existing disturbance within the agricultural fields, there is likely minimal to no milkweed species growing in the Survey Area. Therefore, the Weichel Reroute will likely have “no effect” on the monarch butterfly.

Nebraska State-Listed Species

Nebraska state-listed endangered or threatened species considered during the biological evaluation were based on NGPC's review of the Project and their subsequent January 5, 2022, correspondence identifying potential species that may occur within or in the vicinity of the Project area and associated species-specific survey and mitigation recommendations (Attachment 1). Nebraska state-listed species with the potential to occur within or adjacent to the Weichel Reroute Survey Area (and greater Jefferson County) include whooping crane (*Grus americana*), timber rattlesnake (*Crotalus horridus*), and western massasauga (*Sistrurus tergeminus*; Table 2).

Table 2. Nebraska state-listed species with potential to occur in the Weichel Reroute Survey Area (Source: NGPC Correspondence)

COMMON NAME	SCIENTIFIC NAME	STATE STATUS
Whooping Crane	<i>Gruis americana</i>	Endangered
Timber Rattlesnake	<i>Crotalus horridus</i>	Threatened
Western Massasauga	<i>Sistrurus tergeminus</i>	Threatened

Whooping Crane

Whooping cranes are a federal and state-listed endangered species that inhabit shallow, braided river habitat and wetlands for roosting. In Nebraska, whooping cranes spend much of their time in rivers, and may also use wet meadows, marshes, and fields that are open and isolated from human disturbance.

There was no suitable habitat for whooping cranes observed within or in the vicinity of the Weichel Reroute. Therefore, the Weichel Reroute will likely have “no effect” on the whooping crane.

Timber Rattlesnake

Timber rattlesnakes are a state-listed threatened species that utilize deciduous and riparian woodlands in conjunction with rock outcrops or talus slopes that provide winter denning opportunities and are located only in the southeastern portion of Nebraska. Woodlands that timber rattlesnakes inhabit are often associated with upland prairies. Grasslands, and sometimes agricultural fields, provide the snakes with migratory corridors between woodlands. During migration, timber rattlesnakes are known to use eastern woodrat (*Neotoma floridana*) dens for cover.

During the March 2024 field survey, no timber rattlesnake individuals, hibernacula habitat, or eastern woodrat dens were observed. Additionally, WSP conducted a field survey in the Summer of 2021 within 300 feet of the proposed Project area, and no suitable hibernacula nor denning habitat was observed. Therefore, the Weichel Reroute will likely have “no effect” on the timber rattlesnake.

Western Massasauga

Western massasauga are a state-listed threatened species that hibernate in crayfish burrows in wet, mesic areas. These areas are readily identified by reed canary grass or other wetland grasses and the presence of crayfish burrows. In the summer, they are active and migrate between different areas for mating and foraging.

During the March 2024 field survey, saturated grassland habitat was observed along 575th Avenue that receives inundation from storm events and agricultural runoff; however, no crayfish burrows were

identified, and no western massasauga individuals were observed. During the Summer 2021 field survey, no suitable hibernacula habitat nor individuals were observed within the Project area.

Migratory Birds

The Weichel Reroute Survey Area is primarily composed of agricultural lands and county roads that are generally considered low quality habitat for nesting migratory birds. During the March 2024 field survey, one inactive songbird bird nest was observed west of 575th Avenue approximately 100 feet west of the Weichel Reroute Survey Area (Migratory Bird Nest in Figure 1). No other nests were identified in the area.

It would be expected that migratory birds may utilize the area for nesting opportunities during the typical breeding period in Nebraska (i.e., approximately April 1 – August 15). Migratory birds are protected under the Migratory Bird Treaty Act. If construction activities are anticipated to occur within the migratory bird nesting season for which pre-emptive habitat clearing is not possible, a pre-construction nest survey is recommended no more than 5 days prior to the start of construction to determine if any active nests are present.

Raptors

Nesting substrate for raptors is limited within and adjacent to the Weichel Reroute Survey Area. During the March 2024 field survey, no raptor individuals were observed within and in the vicinity of the Survey Area. One unoccupied nest was identified in a small, forested area approximately 0.12 mile east of the northern HDD Survey Area (Raptor Nest in Figure 1).

Additionally, a raptor nest survey was conducted by a WSP biologist in February 2024 for the entire length of the REX to TPC East pipeline segment, and no raptor nests were identified in the vicinity of the Weichel Reroute Survey Area.

Active construction activities are occurring immediately north of the Weichel Reroute Survey Area associated with the REX to TPC East pipeline segment. As such, the Weichel Reroute will not likely result in negative impacts to nesting raptor species, and “take,” as defined in 50 Code of Federal Regulations 10.12, is unlikely to occur.

AQUATIC RESOURCES

There were 2 aquatic resources identified during the 2024 aquatic resources field survey: 1 ephemeral ditch feature and 1 ephemeral stream feature. These features were evaluated to determine if they are likely protected under the CWA.

The ephemeral ditch feature drains south to north along the east side of 575th Avenue and appears to receive surface flows from dry, upland areas during large precipitation events and from direct agricultural runoff from the immediately adjacent fields. The feature flows under 575th Avenue through a culvert and into the ephemeral stream feature (dark-blue flowline in Figure 1).

The ephemeral stream feature flows north along the west side of 575th Avenue until it crosses under a bridge and then continues northeast into an agricultural field east of the Weichel Reroute Survey Area. Once the feature crosses under the bridge, the stream feature loses definition (i.e., discernable bed and bank) and terminates into a grassed swale prior to going under 726th Road through 3 large culverts. The stream feature appears to receive surface runoff from large precipitation events and from general agricultural runoff in the area. During the time of the field survey, standing water was observed near

the 575th Avenue bridge (likely from recent precipitation events), but there was no perceived flow. The stream feature was also evaluated during an aquatic resource survey in 2021 where the feature crosses the original pipeline route to the east of the Weichel Reroute Survey Area. During the 2021 aquatic resource survey, the feature was deemed non-jurisdictional and was not included as WOTUS in the previous CWA Section 404 Nationwide Permit Pre-Construction Notification request and permit verification.

Based on the March 2024 field observations, both aquatic resources appear to be ephemeral, non-relatively permanent features that do not support consistent standing or continuously flowing water or any other characteristics meeting the current definition of WOTUS under 40 CFR 120.2(a). As such, the features are likely non-jurisdictional and, therefore, not subject to additional CWA permitting requirements. The U.S. Army Corps of Engineers (USACE) have final legal authority in determining the jurisdictional status of surface waters under Section 404 of the CWA.

CONCLUSIONS

After evaluation of the proposed Weichel Reroute, it is WSP's professional opinion that the Weichel Reroute will have "no effect" on ESA-listed species, "no effect" on Nebraska state-listed species and is not likely to result in "take" of nesting raptor species. As such, ESA Section 7 Consultation with the USFWS is not required, and additional correspondence and consultation with NGPC is not warranted.

If construction activities are anticipated to occur within the migratory bird nesting season for which pre-emptive habitat clearing is not feasible, a pre-construction nest survey is recommended no more than 5 days before construction to determine if any active nests are present. If an active nest containing birds is found, it is recommended the tree or shrub supporting the active nest remain undisturbed and protected until the nest becomes inactive. A 50-foot construction buffer around the nest would assist in preventing potential "take" of nesting migratory bird species.

The aquatic resources identified within the Weichel Reroute Survey Area are not likely WOTUS subject to USACE jurisdiction and CWA permitting requirements, and no reporting to the USACE is recommended.

This document applies only to the Weichel Reroute area described above. If the proposed disturbance areas change prior to construction, a new evaluation may be warranted.

Attachment 1:

USFWS Official Species List and
NGPC Correspondence



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Nebraska Ecological Services Field Office
9325 B South Alda Rd., Ste B
Wood River, NE 68883-9565
Phone: (308) 382-6468 Fax: (308) 384-8835



In Reply Refer To:
Project Code: 2024-0068941
Project Name: Weichel Reroute Survey Area

03/27/2024 16:30:45 UTC

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website (<https://ipac.ecosphere.fws.gov/>) at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may

affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: <https://www.fws.gov/media/endangered-species-consultation-handbook> or at our Nebraska Field Office webpage (<https://www.fws.gov/office/nebraska-ecological-services/project-planning-and-review-under-endangered-species-act>). We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Project Consultation Code in the header of this letter (i.e., YEAR-XXXXXXX) with any request for consultation or correspondence about your project that you submit to our office.

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Act, there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts and permitting see <https://www.fws.gov/program/migratory-bird-permit>

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit:

<https://www.federalregister.gov/documents/2012/10/03/2012-24433/migratory-bird-conservation-executive-order-13186>

Platte River System: The Platte River, its tributaries, and associated wetland habitats are resources of national importance. Due to the cumulative effect of many water depletion projects

in the Platte River basin, the Service considers any direct or indirect depletion of flows from the Platte River system to be significant and will continue to further deteriorate the already stressed habitat conditions. Federal agencies must consult with the Service under section 7 of the ESA for projects in Nebraska that may lead to water depletions or have the potential to impact water quality in the Platte River system, because these actions may affect threatened and endangered species inhabiting the downstream reaches of these river systems. The federally listed species that could be impacted from Platte River water depletions include the federally endangered Whooping Crane (*Grus americana*), and Pallid Sturgeon (*Scaphirhynchus albus*); the threatened Piping Plover (*Charadrius melodus*) and Western Prairie Fringed Orchid (*Platanthera praeclara*).

In general, depletions include evaporative losses and/or consumptive use of surface or groundwater within the affected basin, often characterized as diversions minus return flows. Project elements that could be associated with depletions include, but are not limited to: borrow sites, ponds, lakes, and reservoirs (e.g., for detention, recreating, irrigation, storage, stock watering, municipal storage, and power generation); hydrostatic testing of pipelines; wells; dust abatement; diversion structures; and water treatment facilities. For more information on consultation requirements for the Platte River species, please visit <https://fws.gov/partner/platte-river-recovery-implementation-program>

Nebraska Nongame and Endangered Species Conservation Act: Federally listed species protected under the Endangered Species Act are also state-listed under the Nebraska statute, the Nebraska Nongame and Endangered Species Conservation Act. There may be state-listed species affected by the proposed project that are not federally listed. To determine if the proposed project may affect state-listed species, the Service recommends that the project proponent contact the Nebraska Game and Parks Commission (NGPC) Planning and Program Division located at 2200 North 33rd Street Lincoln, Nebraska 68503-0370. For more information and to request an environmental review from the NGPC, visit their Environmental Review website at <http://outdoornebraska.gov/environmentalreview/> for instructions and contact information.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Bald & Golden Eagles
- Migratory Birds
- Wetlands

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Nebraska Ecological Services Field Office

9325 B South Alda Rd., Ste B

Wood River, NE 68883-9565

(308) 382-6468

PROJECT SUMMARY

Project Code: 2024-0068941
Project Name: Weichel Reroute Survey Area
Project Type: Natural Gas Distribution
Project Description: Weichel Reroute
Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@40.3430764,-97.04814403579778,14z>



Counties: Jefferson and Saline counties, Nebraska

ENDANGERED SPECIES ACT SPECIES

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 1 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Tricolored Bat <i>Perimyotis subflavus</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: This species only needs to be considered if the project includes wind turbine operations. Species profile: https://ecos.fws.gov/ecp/species/10515	Proposed Endangered

BIRDS

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened

FISHES

NAME	STATUS
Pallid Sturgeon <i>Scaphirhynchus albus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/7162	Endangered

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

BALD & GOLDEN EAGLES

Bald and golden eagles are protected under the Bald and Golden Eagle Protection Act¹ and the Migratory Bird Treaty Act².

Any person or organization who plans or conducts activities that may result in impacts to bald or golden eagles, or their habitats³, should follow appropriate regulations and consider implementing appropriate conservation measures, as described in the links below. Specifically, please review the "[Supplemental Information on Migratory Birds and Eagles](#)".

-
1. The [Bald and Golden Eagle Protection Act](#) of 1940.
 2. The [Migratory Birds Treaty Act](#) of 1918.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

THERE ARE NO BALD AND GOLDEN EAGLES WITHIN THE VICINITY OF YOUR PROJECT AREA.

MIGRATORY BIRDS

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats³ should follow appropriate regulations and consider implementing appropriate conservation measures, as described in the links below. Specifically, please review the "[Supplemental Information on Migratory Birds and Eagles](#)".

-
1. The [Migratory Birds Treaty Act](#) of 1918.
 2. The [Bald and Golden Eagle Protection Act](#) of 1940.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, see the PROBABILITY OF PRESENCE SUMMARY below to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
American Golden-plover <i>Pluvialis dominica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/10561	Breeds elsewhere

NAME	BREEDING SEASON
Chimney Swift <i>Chaetura pelagica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9406	Breeds Mar 15 to Aug 25
Lesser Yellowlegs <i>Tringa flavipes</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9679	Breeds elsewhere
Pectoral Sandpiper <i>Calidris melanotos</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9561	Breeds elsewhere
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9398	Breeds May 10 to Sep 10

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read "[Supplemental Information on Migratory Birds and Eagles](#)", specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Green bars; the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during that week of the year.

Breeding Season (■)

Yellow bars; liberal estimate of the timeframe inside which the bird breeds across its entire range.

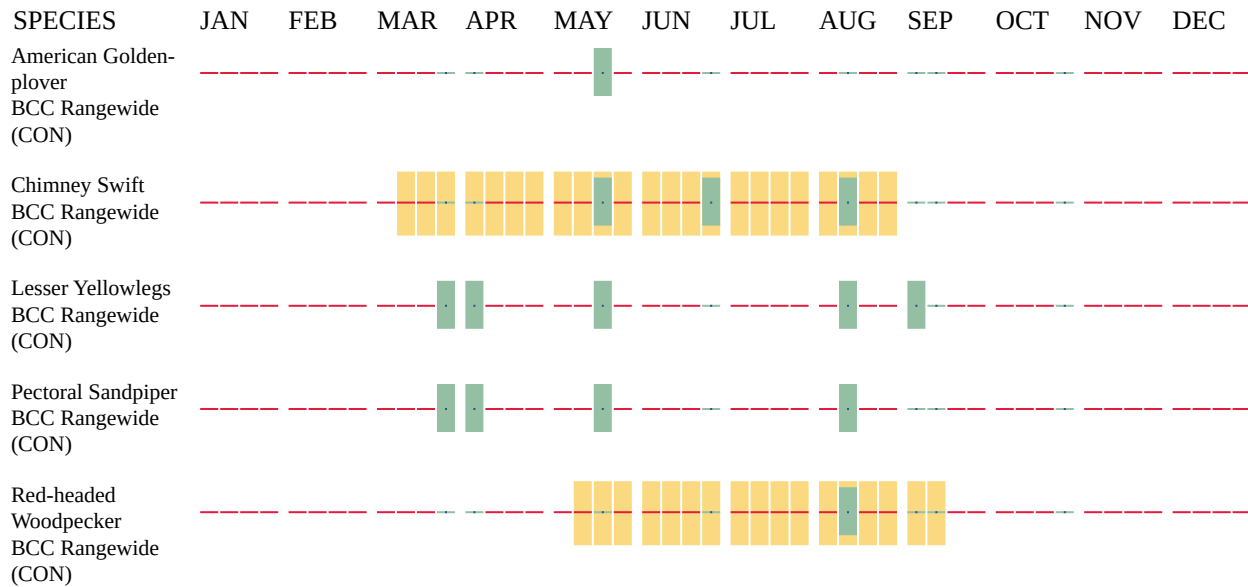
Survey Effort (|)

Vertical black lines; the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data (—)

A week is marked as having no data if there were no survey events for that week.

■ probability of presence ■ breeding season | survey effort — no data



Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds>
- Nationwide conservation measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

WETLANDS

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

FRESHWATER EMERGENT WETLAND

- PEM1C

IPAC USER CONTACT INFORMATION

Agency: Private Entity

Name: Brackett Mays

Address: 848 East 2nd Ave

City: Durango

State: CO

Zip: 81301

Email: brackett.mays@wsp.com

Phone: 9702602515



2200 N. 33rd St. • P.O. Box 30370 • Lincoln, NE 68503-0370 • Phone: 402-471-0641

January 5, 2022

Joseph Carlo
WSP USA
6510 S. Millrock Drive, Suite 225
Salt Lake City, Utah 84121

Re: Trailblazer Conversion Project and FERC Blanket Components; Adams, Clay, Fillmore, Franklin, Jefferson, Kearney, Kimball, Lincoln, Perkins, Saline, and Webster Counties, Nebraska

Dear Mr. Carlo:

Please reference WSP USA email correspondence dated November 18, 2021. This letter is in response to your request for comments on this project's current proposed route and potential impacts to endangered and threatened species in Nebraska. As we understand it, the project involves abandonment of 392 miles of pipeline and 3 compressor stations, construction of approximately 70 miles of underground pipeline in 3 different locations, construction of 5 new compressor stations, modification of 4 existing compressor stations in Nebraska. We are aware that a goal of this project is to prepare existing pipeline for future transport of carbon dioxide from ethanol plants in Colorado, Wyoming, and Nebraska. The Nebraska Game and Parks Commission (Commission) has responsibility for protecting endangered and threatened species under authority of the Nongame and Endangered Species Conservation Act (NESCA) (Neb. Rev. Stat. § 37-801 to 37-811). We have reviewed the project pursuant to NESCA, as well as other state fish and wildlife and public land trust resources and offer the following preliminary comments.

This project's locations within Nebraska are located within the range of the following state-listed endangered or threatened species:

	Common Name	Scientific Name	State Status	Fed Status
BIRDS	Eastern Black Rail ^	<i>Laterallus jamaicensis jamaicensis</i>	Threatened	Threatened
	Mountain Plover	<i>Caradrius montanus</i>	Threatened	
	Thick-Billed Longspur	<i>Rhynchophanes mccownii</i>	Threatened	
	Rufa Red Knot ^	<i>Calidris canutus rufa</i>	Threatened	Threatened
	Whooping Crane	<i>Grus americana</i>	Endangered	Endangered
INSECTS	American Burying Beetle	<i>Nicrophorus americanus</i>	Endangered	Threatened 4(d)
MAMMALS	Northern Long-eared Bat	<i>Myotis septentrionalis</i>	Threatened	Threatened 4(d)
	Swift Fox	<i>Vulpes velox</i>		
REPTILES	Timber Rattlesnake	<i>Crotalus horridus</i>	Threatened	
	Western Massasauga	<i>Sistrurus tergeminus</i>	Threatened	

^There are recent (not historical) records of these species in Nebraska. However, there are no known Breeding populations and/or Nebraska does not provide an important stopover or migratory path for these species.

TIME OUTDOORS IS TIME WELL SPENT

OutdoorNebraska.org

The following protected species have suitable habitat and known occurrences within 1-mile of the proposed pipeline route:

- American Burying Beetle
- Mountain Plover
- Swift Fox
- Western Massasauga
- Whooping Crane

American Burying Beetle

The American burying beetle (*Nicrophorus americanus*) is a member of the carrion beetle family Silphidae. They are an important part of the nutrient cycling process as they recycle decaying materials back into the ecosystem. These beetles are nocturnal and search widely for carrion. This species is found in a variety of habitats including grassland prairie, forest edge, scrubland and mesic areas such as wet meadows, streams, and wetlands. Carrion availability is a more important component of habitat than a specific type of vegetation. The causes for the decline of this species are complex and remain unresolved, but likely relate to habitat fragmentation, use of artificial lighting, and degradation of habitats that result in declines of small birds and mammals (200 grams or less) that the American burying beetle uses for reproduction purposes (Nebraska Game and Parks Commission 1995). In Nebraska, the American burying beetle has been observed from April 1 to October 29, with peak periods of activity extending from June through August. Based on our review, only two of the project locations are within range of American burying beetle. These locations are both in South central Lincoln County. Potential areas of construction should be surveyed for grasslands and pastures. If suitable habitat will be impacted, total area of soil disturbance will need to be calculated to determine if the project will negatively affect this species.

Mountain Plover and Thick-Billed Longspur

Mountain Plover and Thick-Billed Longspur both inhabit heavily disturbed short-grass prairie habitat in Kimball, southern Banner, and western Cheyenne counties. Thick-Billed Longspur's range also occurs in the prairies of central and southern Sioux County. Specifically, these two species inhabit relatively level, upland topography or "tablelands" in the southwestern Panhandle. They will nest in agricultural fields, prairie-dog colonies, and other disturbed or intensively grazed short-grass habitats. Nearly all areas where these birds may have traditionally nested have been converted to agriculture. As a result, nearly all nesting in Nebraska now occurs in agricultural fields. Both species will arrive March 15th, begin courtship behavior, and establish breeding territories and nests. Primary nesting activity for these species begins May 1st and will continue through August 15th. Most birds have left Nebraska by mid-August.

There are documented occurrences of mountain plover and thick-billed longspur in the vicinity of the proposed project location in Kimball County. If any construction activity will be occurring in short-stature grasslands (vegetation < 6 inches in height) or in fallow farm fields during the breeding and nesting period, a survey for mountain plover and thick-billed longspur nests needs to be conducted by a qualified biologist prior to construction. Survey protocol can be provided upon request. Results of the survey should be sent to Commission staff to determine if actions are needed to avoid impacts to mountain plover or thick-billed longspur.

Northern Long-eared Bat

During the summer, northern long-eared bats (NLEBs) typically roost singly or in colonies underneath bark or in cavities, crevices, or hollows of live and dead trees and/or snags (typically ≥ 3 inches dbh).

Males and non-reproductive females may also roost in cooler places, like caves and mines. This species of bat seems opportunistic in selecting roosts, using trees based on the presence of cavities, crevices, or peeling bark. They have also occasionally been found roosting in structures like barns and sheds, particularly when arboreal roosting habitat is not available. They forage on insects in upland and lowland woodlots and tree-lined corridors. NLEBs typically overwinter in hibernacula that include caves and abandoned mines; however, they may also use structures resembling caves or mines, such as abandoned railroad tunnels, storm sewer entrances, dry wells, aqueducts and other similar structures. An evaluation should be done to determine if there is hibernating or summer roosting habitat available within or near the project area which could be used by this species and could be affected by project activities. Tree clearing activities should be scheduled to avoid the maternal roosting season (June 1 – July 31).

Swift Fox

Swift fox is the smallest of the North American canines and utilizes burrows more than any other canine. This species requires open shortgrass prairies with few shrubs and trees. Swift foxes use many burrows during the year, but they are generally tied to an individual burrow during natal denning and pup-rearing, which in Nebraska typically runs from April through August. There are multiple documented occurrences of swift fox in the vicinity of the proposed project location in Kimball County. If construction activity will occur during the natal denning period, a survey for active swift fox dens should be conducted by a qualified biologist, prior to construction. Survey protocol is available upon request. Results of the survey should be sent to Commission staff to determine if actions are needed to avoid impacts to swift fox.

Timber Rattlesnake and Western Massasauga

Timber rattlesnakes are the largest of Nebraska's rattlesnakes. This species utilizes deciduous and riparian woodlands in conjunction with rock outcrops or talus slopes that provide winter denning opportunities and are located only in the southeastern portion of Nebraska. Woodlands that timber rattlesnakes inhabit are often associated with upland prairies. Grasslands, and sometimes agricultural fields, provide the snakes with migratory corridors between woodlots. During migration, timber rattlesnakes are known to use eastern woodrat (*Neotoma floridana*) houses for cover.

Western massasauga hibernate in crayfish burrows in wet, mesic areas. These areas are readily identified by reed canary grass or other wetland grasses and the presence of crayfish burrows. In summer they are active and migrate between different areas for mating and foraging. They are found moving through warm season grassland areas. Both massasauga and timber rattlesnakes are active from approximately April 1 through October 31, depending on ambient temperatures.

Jefferson County has records of both rattlesnakes. There are records of western massasauga within the immediate vicinity of the proposed alignment corridor in Colfax County, near the town of Rogers, Nebraska. It appears from the project description and aerial photographs that there may be suitable habitat (woodlands, grasslands, and wet, mesic areas) for both rattlesnake species along the current proposed alignment in Jefferson County.

Prior to pipeline construction, a survey for hibernacula habitat shall be completed for the alignment of the pipeline and a 100-yard buffer around the area of impact (50 yards on each side) to ensure that no hibernation habitat is destroyed during construction. Should this habitat be found in the path of the pipeline, additional survey may be necessary to determine presence and further coordination with Commission staff shall occur to determine avoidance, minimization, or mitigation strategies. If

hibernacula is found near, but not in the area of soil disturbance, ensure that the area is marked on plans as such that it will not be destroyed with equipment or trenching. Habitat survey and additional coordination must be completed prior to construction. Presence/absence surveys should occur just prior to construction.

We also recommend that if construction will take place during the time when rattlesnakes are active, that the area of construction be mowed very short, and vegetation removed (baling is acceptable). This includes the area of the trench and areas where equipment will be driving. This will discourage use by rattlesnakes, as it will provide less cover and will allow snakes to be more easily detected. If construction occurs within the range of these species during the active season, visual surveys for rattlesnakes shall be conducted daily and should one be found in the area during construction, impact avoidance protocol shall be followed. Impact Avoidance Protocol is available from Commission staff.

Whooping Crane

Whooping cranes use shallow, sparsely vegetated streams, rivers, and wetlands in Nebraska to feed and roost during spring and fall migration. They also frequently stopover near ponds and lakes and may feed in crop fields or hay meadows that are near roosting locations. The migration period in Nebraska is approximately March 6 through April 29 and from October 9 through November 15, weather dependent. Federally designated critical habitat for this species exists in Nebraska in a 3-mile wide, 56-mile-long reach of the Platte River from Lexington to Shelton, Nebraska. Alterations to feeding and roosting habitats, human disturbance (i.e. noise, construction-related activities, infrastructure, etc.) and depletions of instream flows have negative impacts on whooping cranes. Based on information provided, there is potentially suitable habitat .2 mi north of the proposed project location in Clay County and potentially suitable foraging and stopover habitat along the length of the project in central Nebraska. If construction work would occur in or adjacent to suitable habitat for this species during the migratory seasons, survey protocol shall be implemented during the migration seasons. If powerlines will be constructed as part of this project near suitable habitat for this species, further coordination would be necessary to determine impacts and minimization measures, if needed.

Bald and Golden Eagle Protection Act

The federal Bald and Golden Eagle Protection Act (Eagle Act) (16 U.S.C. 668-668c) provides for the protection of bald eagles (*Haliaeetus leucocephalus*) and golden eagles (*Aquila chrysaetos*). Under the Eagle Act, "take" of eagles, their parts, nests, or eggs is prohibited without a permit issued by the Secretary of the Interior. Disturbance resulting in injury to an eagle or a decrease in productivity or nest abandonment by substantially interfering with normal breeding, feeding, or sheltering behavior is a form of "take."

Bald eagles use mature, forested riparian areas near rivers, streams, lakes, and wetlands and occur along all the major river systems in Nebraska. The bald eagle southward migration begins as early as October and the wintering period extends from December-March. Golden eagles are found in arid open country with grassland for foraging in western Nebraska and usually near buttes or canyons which serve as nesting sites. Several bald eagles and golden eagles nest in Nebraska from mid-February through mid-July. Disturbances within 0.5-miles of an active nest or within line-of-sight of the nest could cause adult eagles to discontinue nest building or to abandon eggs. Both bald and golden eagles frequent river systems in Nebraska during the winter where open water and forested corridors provide feeding, perching, and roosting habitats, respectively. The frequency and duration of eagle use of these habitats in the winter depends upon ice and weather conditions. Human disturbances and loss of wintering habitat can cause undue stress leading to cessation of feeding and failure to meet winter

thermoregulatory requirements. These affects can reduce the carrying capacity of preferred wintering habitat and reproductive success for the species.

To comply with the Eagle Act, it is recommended that the project proponent determine if the proposed project would impact bald or golden eagles or their habitats. This can be done by conducting a habitat assessment, surveying nesting habitat for active and inactive nests, and surveying potential winter roosting habitat to determine if it is being used by eagles. The area to be surveyed is dependent on the type of project; however, for most projects we recommend surveying the project area and a ½ mile buffer around the project area. If it is determined that either species could be affected by the proposed project, the Commission recommends that the project proponent notify the U.S. Fish and Wildlife Service Nebraska Field Office as well as the Commission Nongame Bird Program Manager (joel.jorgensen@nebraska.gov) for recommendations to avoid “take” of bald and golden eagles.

Migratory Bird Treaty Act

Under the Migratory Bird Treaty Act (16 U.S.C. 703-712: Ch. 128 *as amended*) (MBTA) construction activities in grassland, wetland, stream, woodland, and riverbank habitats that would otherwise result in the taking of migratory birds, eggs, young, and/or active nests should be avoided. Although the provisions of MBTA are applicable year-round, most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. However, some migratory birds are known to nest outside of the aforementioned primary nesting season. For example, raptors often nest in woodland and riparian habitats during February 1 through July 15, whereas sedge wrens, which occur in some wetland habitats, normally nest from July 15 to September 10. If development in this area is planned to occur during the primary nesting season or at any other time which may result in the “take” of nesting migratory birds, the project proponent should arrange to have a qualified biologist conduct a field survey of the affected habitats to determine the absence or presence of nesting migratory birds. If a field survey identifies the existence of one or more active bird nests that cannot be avoided by the planned construction activities, the U.S. Fish and Wildlife Service Nebraska Field Office as well as the Commission Nongame Bird Program Manager (joel.jorgensen@nebraska.gov) should be contacted immediately. For more information about the MBTA and avoiding impacts to migratory birds, or to report active bird nests that cannot be avoided by planned construction activities, please contact the U.S. Fish and Wildlife Service, Nebraska Field Office (nebraskaes@fws.gov). Adherence to these guidelines will help avoid the unnecessary take of migratory birds.

Streams & Wetlands – Best Management Practices

The Commission recommends that best management practices for construction activities along streams include the establishment of appropriate erosion control methods during construction to prevent increased sediment input into waterways. Practices that allow soil to runoff into waterways following rainfall events cause additional siltation of streams and increase turbidity which can result in a lowering of water quality and thus, a loss in the diversity of natural aquatic systems. Care should also be taken to avoid the input of contaminants, such as oils, and grease, etc., into waterways during construction. If any fill material will be placed into wetlands or streams resulting from this project, the U.S. Army Corps of Engineers should be contacted to determine if a 404 permit is needed.

Construction activities in the stream should be avoided during native fish spawning periods from May 15 to July 31. Construction is preferred during low flow periods (likely August through October). Adequate flow should be maintained in the stream during construction so as not to impede the movement of aquatic species. Areas disturbed during construction should be reseeded with a mix of native grasses and forbs and appropriate for the area. These best management practices would be applicable to any

permanent and temporary construction impacts. If techniques, such as underground directional boring, would be used to install the pipeline when crossing stream and wetland areas, impacts to these resources could be avoided and minimized. The Commission encourages mitigation of those impacts to stream and wetland resources that cannot be avoided. Impacts to riparian corridors because of pipeline construction, including tree and shrub loss, should also be avoided, minimized, or mitigated.

State Wildlife Management Areas

Ayr Lake Wildlife Management Area is located within 1-mile of the pipeline's proposed route. For questions regarding easements for access to this or other identified state-owned properties, please contact Charla Rassmussen in our Realty Office at charla.rassmussen@nebraska.gov. Commission staff expects coordination on any parts of this project if impacts are anticipated to Commission owned or managed properties.

This information is being provided based on a review of the material you sent, aerial photographs, and our Nebraska Natural Heritage Database. If the proposed project route is changed and as more information is developed regarding construction of the project, we recommend further coordination with the Commission Planning & Programming Division staff.

Please note this correspondence does not satisfy requirements of Neb. Rev. Stat. §37-807 (3) of the Nongame and Endangered Species Conservation Act. Under authority of Neb. Rev. Stat. §37-807 (3), all Nebraska state agencies are required to consult with the Commission to ensure any actions authorized, funded, or carried out by them do not jeopardize the continued existence of a state listed species. This requirement would extend to any permit issued or authorized by a state agency.

For an assessment of potential impacts to habitats and species protected under federal wildlife laws, including federally listed, candidate or proposed endangered or threatened species, please contact the Nebraska Field Office (nebraskaes@fws.gov), U.S. Fish and Wildlife Service, 9325 South Alda Road, Wood River, NE 68883.

Thank you for opportunity to review this proposal. If you have any questions regarding these comments, please contact me at (402) 471-5554 or jessica.tapp@nebraska.gov.

Sincerely,



Jessica Tapp, CWB®
Environmental Specialist III
Planning and Programming Division

ec: USFWS (Nebraska Field Office)

References

Nebraska Game and Parks Commission. 1995. *Nebraska's Threatened and Endangered Species: American Burying Beetle*. Nebraska Game and Parks Commission, Lincoln, Nebraska.

Rolfsmeier, S. B. and G. Steinauer. 2010. *Terrestrial Ecological Systems and Natural Communities of Nebraska*. Nebraska Game and Parks Commission, Lincoln, Nebraska.

Schneider, R., K. Stoner, G. Steinauer, M. Panella, and M. Humpert. 2011. *The Nebraska Natural Legacy Project: State Wildlife Action Plan, 2nd ed.* The Nebraska Game and Parks Commission, Lincoln, Nebraska.

Attachment 4
Jefferson County Road ROW

JEFFERSON COUNTY
PERMIT TO OCCUPY COUNTY RIGHT-OF-WAY
(With Utility)

Rockies Express Pipeline LLC, hereinafter referred to as "owner" requests to construct a

36" Steel Natural Gas Pipeline, occupying the right-of-way of Jefferson County Highway System at the

(N - S - E - W) side of Section 01, T - 04 - N, R - 03 - E (Gibson Township) at approximately
(circle ONE)

0 feet from the NW - SW - NE - SE) section corner and placed at the (N - S - E - W) side of the road.
(circle ONE) (circle ONE)

Owner proposes to place and maintain the aforesaid utility construction on the Jefferson County public right-of-way at owner's risk and expense and hereby absolves Jefferson County, its officials and employees from any liability arising from the placing and maintaining of said construction. Owner is responsible for any aggregate on the original construction, or for any replacement aggregate should an extension be requested at a later date.

The owner will cooperate fully with the officials of Jefferson County and will keep them fully and immediately informed of all construction or maintenance work required on Jefferson County public right-of-way. The surface of the road will be restored to the same condition as it was prior to the work and will accomplish such restoration to the reasonable satisfaction of the Jefferson County Officials.

Person to be contacted, prior to construction by a telephone company or a utility company is the County Highway Superintendent, 1415 "A" Street, PO Box 394, Fairbury, NE 68352, telephone number (402) 729-6373. Each location to be inspected by Jefferson County when the permit is submitted and upon project completion, at which time any work or supply of gravel reasonably required to restore the surface of the road or work to restore county right-of-way to the same condition as it was prior to the work will be determined and the work performed and gravel supplied by the Owner.

Include a sketch indicating approximate location to or from some easily recognized landmark.

Date: 3/22/24

Lindsay Jarrell
(Signature by Owner)

370 Van Gordan Street

Lakewood, CO 80228

(Complete Mailing Address)

PERMIT FEE \$100

(County Use Only)

COMMENTS: I RECOMMEND THAT THIS PERMIT BE GRANTED SUBJECT TO Owner's agreeing to return the damaged area to its original condition. Other conditions: (If Any) Attached Addendum

Date

4/24/24

Gale Pohlmann
(Authorized Signature)

We Hereby Grant

Rockies Express Pipeline, Owner, permission for said access.

Date

4-24-2024

Gale Pohlmann
(Signature - Chairman of Board)

Addendum to Permit to Occupy County Right-of-Way

This Addendum hereby becomes part of that certain Jefferson County Permit to Occupy County Right-of-Way (the "Permit"), dated April 23, 2024, between Rockies Express Pipeline LLC, a Delaware limited liability company, whose address is 370 Van Gordon Street, Lakewood, Colorado 80228 (the "Owner"), and Jefferson County, Nebraska (the "County").

Now, Therefore, for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Road Improvement: On or before completion of the installation of Owner's natural gas pipeline, Owner shall at Owner's sole cost and expense: 1) remove the existing bridge located approximately 1,465 feet south of the intersection of Y road and 575th Ave. and replace it with the installation of three 72" culverts; 2) improve the portion (Approx. 2700 feet) of 575th Ave. where Owner's pipeline will be installed by laying a minimum of 4" road base consisting of $\frac{3}{4}$ " rock; and 3) improve the portion (Approx. 900 feet) of Y Road where Owner's pipeline will be installed by laying a minimum of 4" road base consisting of $\frac{3}{4}$ " rock. Reclamation standards for the affected areas adjacent to the road shall be in accordance with FERC regulations.
2. Engineering Design: The Jefferson County Engineer (the "County Engineer") will promptly design specifications for reconstruction of the affected county road including the three 72" culverts (the "Reconstruction Design"). Owner will promptly contract with an independent licensed engineering firm to design engineering alignment sheets such that pipeline depth of cover is compliant with 49 CFR 192 and ASME B31.8 requirements which alignment sheets are subject to review and approval by the County Engineer (the "Pipeline Depth Design"). Construction in the County ROW cannot begin until the Reconstruction Design and Pipeline Depth Design are approved by the County Engineer and agreed to by Owner. Owner shall reconstruct the road in accordance with the Reconstruction Design and bury Owner's pipeline consistent with the Pipeline Depth Design. All costs to construct the pipeline and reconstruct the county road in accordance with the Reconstruction Design and Pipeline Depth Design shall be at Owner's sole cost and expense.
3. Pipeline Markers: Owner shall place pipeline markers in accordance with federal/state requirements and will place additional markers as may be determined by the County.
4. Construction Oversight: The County Engineer may provide construction monitoring and oversight during the construction of the pipeline and reconstruction of the county road to ensure compliance with the Reconstruction Design and Pipeline Depth Design. Owner shall reimburse the County for reasonable actual expenses for time spent by the County Engineer on the monitoring activities and time spent on the Reconstruction Design.

Attached as Exhibit "A" to this Addendum is a sketch showing the approximate location of Owner's proposed pipeline route.

Owner's obligations pursuant to this Addendum shall only apply if Owner constructs its pipeline in the County Right of Way. This Addendum shall not apply to other permits to cross County Right of Way with Owner's pipeline.

This Addendum shall be part of the Permit as if fully contained therein, the terms of which shall be binding on Owner, and the remainder of said Permit shall be in full force and affect.

Signature Page to Follow

County:

Jefferson County

By:

Gale Pohlman
Gale Pohlman, Chairman of the Jefferson
County Board of County Commissioners

Owner:

Rockies Express Pipeline LLC

By:

Name:

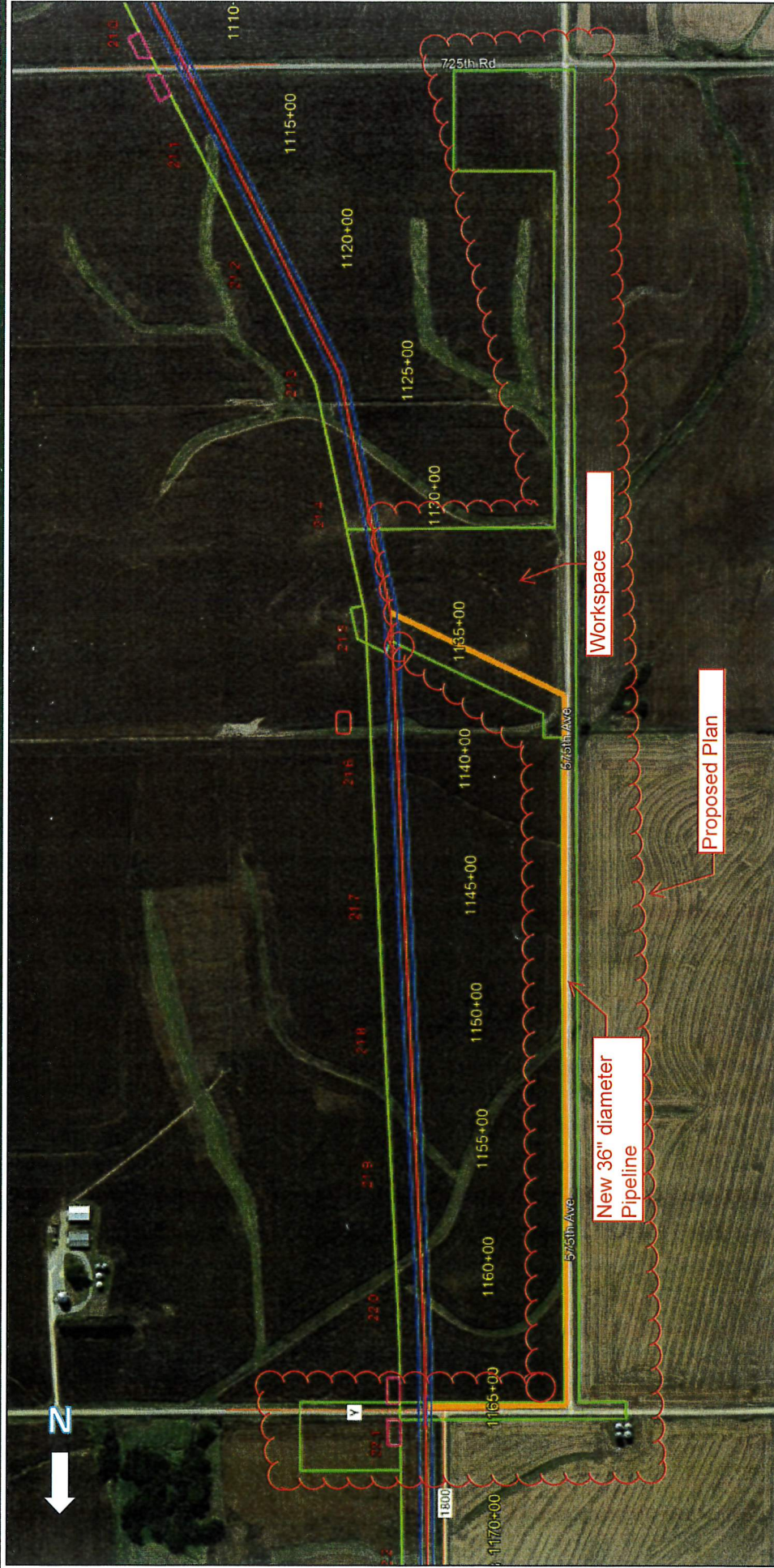
Piwan Farooqi

Title:

SVP, CAPITAL PROJECTS



Exhibit "A"





CERTIFICATE OF LIABILITY INSURANCE

3/1/2025

DATE (MM/DD/YYYY)

4/10/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LOCKTON COMPANIES 3657 BRIARPARK DRIVE, SUITE 700 HOUSTON TX 77042 866-260-3538	CONTACT NAME:	
	PHONE (A/C, No, Ext):	
INSURED 1491853 Tallgrass Energy, LP 370 Van Gordon St Lakewood CO 80228	FAX (A/C, No):	
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A : Everest Premier Insurance Company	
	16045	
INSURER B : Everest National Insurance Company		
10120		
INSURER C :		
INSURER D :		
INSURER E :		
INSURER F :		

COVERAGES **CERTIFICATE NUMBER:** 20486179 **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☒ CLAIMS-MADE ☒ OCCUR ☒ S&A Pollution GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y	Y	EN4GL00387-241	3/1/2024	3/1/2025	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	Y	Y	EN4CA00649-241	3/1/2024	3/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$			NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX AGGREGATE \$ XXXXXXXX \$ XXXXXXXX
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	EN4WC00322-241	3/1/2024	3/1/2025	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER	CANCELLATION See Attachment
20486179 Jefferson County Road Department 1415 A Street Fairbury NE 68352	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.