

From: [DeBerry, Drue](#)
To: [Runge, Jeff](#); [Larson, Scott](#); [Darnall, Nathan](#); [Burgess, Angela](#)
Subject: Re: Corps and R-project
Date: Wednesday, December 16, 2020 7:00:19 AM

Jeff,

As far as the Corps, I think you'll have to make a call to find out who is point for them on R-project. We haven't had to contact them on the project since Eliza and Bob were working on the project.

Angela did a quick check of the R docs yesterday afternoon and found the following:

[Yesterday 1:53 PM] Burgess, Angela

From the EIS, P. 3-95: Helical pier foundations do not require excavation or concrete footings and are not considered fill by USACE (see 33 CFR 323.3(c), indicating that placement of pilings for power line structures does not require a Section 404 permit). The proposed Thedford and Holt County Substation sites are located in uplands and would not affect wetlands. Effects on wetlands from any loss of wetlands at structure locations would be long term and moderate due to the small amount of expected permanent fill of wetlands. NPPD estimates that 0.006 acre of permanent fill of wetlands from structure foundations would occur, however, this fill would affect less than the 0.5 acre required under a Nationwide Permit. Wetlands in the Project area that are nonjurisdictional wetlands under the CWA would not require mitigation. Executive Order 11990 includes a broader definition of wetlands than the CWA and protects wetlands that may not be considered jurisdictional under the CWA, such as wet meadows.

[Yesterday 1:53 PM] Burgess, Angela

P. 3-97: After the final design of the Project is completed, NPPD would conduct additional wetland delineations to identify wetlands in areas of temporary and permanent disturbance. However, any unavoidable impacts on potentially jurisdictional wetlands, whether temporary or permanent, would be discussed with USACE prior to construction to determine the permitting requirements and conditions. Mitigation requirements would be determined in consultation with USACE during the permitting process.

[Yesterday 1:55 PM] Burgess, Angela

From Table 6-1: Section 404 regulates the discharge of dredged or fill material in the jurisdictional wetlands and waters of the United States. NPPD has notified USACE of pending R-Project construction activities, and USACE responded that these activities are covered under a Nationwide permit.

My initial thoughts on TPs:

- (b) (5) [REDACTED] As Angela pointed out, the KXL ruling applies only to pipelines but could be applied to other projects in a case won by case won basis.
- Are there any new 404 permits that will be required?
- Any ESA consultation needs?
- (b) (5) [REDACTED]

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From: Runge, Jeff <jeff_runge@fws.gov>
Sent: Wednesday, December 16, 2020 6:31 AM
To: DeBerry, Drue <drue_deberry@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Darnall, Nathan <nathan_darnall@fws.gov>
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That is a great point. The Corps Nebraska office typically relies on products from the lead federal agency for NEPA and s7. We should give the Corps a heads up about the status of the IT permit and discuss s7 for the NWP-12. Who do we think should be on a call with the Corps?

Also, I would like to develop a comprehensive set of talking points, so we cover all pertinent topics. Any thoughts about discussions topics would be appreciated.

Jeff

From: DeBerry, Drue <drue_deberry@fws.gov>
Sent: Tuesday, December 15, 2020 11:11 AM
To: Runge, Jeff <jeff_runge@fws.gov>; Larson, Scott <scott_larson@fws.gov>; Darnall, Nathan <nathan_darnall@fws.gov>
Subject: Corps and R-project

Jeff,

(b) (5)

Plaintiffs did try to raise issues related to NWP-12 with R.

Corps interface with R project predates my involvement. Checking the NEPA and BO plus reaching out to the Corps is advised prior to our developing the internal memo to file we have discussed.

Thanks,

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