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ROBERT B. ANDERSON
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CHRISTINA L. KLINGER
JUSTIN L. BELL
DOUGLAS A. ABRAHAM
KARA C. SEMMLER
A.J. FRANKEN

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Writer's E-mail: kcs@mayadam.net

OF COUNSEL
DAVID A. GERDES
CHARLES M. THOMPSON
GLENN W. MARTENS 1881-1963
KARL GOLDSMITH 1885-1966
BRENT A. WILBUR 1949-2006
TELEPHONE
605 224-8803
FAX
605 224-6289

Patricia Van Gerpen
Executive Director
Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

**RE: In the Matter of the Application of Dakota Access, LLC for an Energy
Facility Permit to Construct the Dakota Access Pipeline; HP 14-002
Our file: 0300**

Dear Ms. Van Gerpen:

Exhibit C to the Application in the above docket was revised and filed with the PUC on 12/23/14. The third of three tables included in that Exhibit C is titled "Federal and State Listed Threatened and Endangered Species in South Dakota." Enclosed for filing, please find a second revision of that particular table located in Exhibit C.

Very truly yours,

MAY, ADAM, GERDES & THOMPSON LLP



KARA C. SEMMLER

KCS/mnf

MAY, ADAM, GERDES & THOMPSON LLP
503 SOUTH PIERRE STREET • P.O. BOX 160
PIERRE, SOUTH DAKOTA 57501-0160

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**Federal and State Listed Threatened and Endangered
Species in South Dakota**

Federally Listed Threatened and Endangered Species in South Dakota

Common Name	Scientific Name	Federal Status	Federal County Listing	Potential Impact	Habitat Requirement	Determination of Effect
Mammals						
Northern long-eared bat	<i>Myotis septentrionalis</i>	T	Beadle, Campbell, Edmunds, Faulk, Kingsbury, Lake, Lincoln, McCook, McPherson, Miner, Minnehaha, Spink, Turner	No effect	Summer roosting habitat underneath bark or in crevices of live and dead trees. Winter habitat includes caves and mines with large entrances.	The USFWS has issued an interim 4(d) rule. The implementation of the interim 4(d) rule for the northern long-eared bat exempts certain activities within the white nose syndrome (WNS) buffer zone – those areas within 150 miles of WNS-positive counties – provided certain conservation measures are implemented. In areas outside of the 150-mile WNS buffer zone, incidental take from lawful activities would be exempted. All of South Dakota is outside of the WNS 150-mile buffer zone; thus, construction and operation of the Project area within South Dakota would be exempt from the Endangered Species Act take prohibition.
Birds						
Interior least tern	<i>Sterna antillarum athalassos</i>	E	Campbell	No effect	Interior least tern nesting habitat includes open shorelines, riverine sandbars, and mudflats along Missouri and Mississippi Rivers drainages.	The Project does not cross the Missouri River within South Dakota. No suitable habitat within the Project area.
Piping plover	<i>Charadrius melodus</i>	T	Campbell, Kingsbury	No effect	Sandy or gravelly beaches and sandbars or alkaline wetlands.	No suitable nesting habitat was identified during Project field surveys. Critical habitat for the piping plover is along the Missouri River; the Project does not cross the Missouri River within South Dakota. This species is highly mobile and would likely avoid the construction area.
Red knot	<i>Calidris canutus rufa</i>	T	Beadle, Campbell, Edmunds, Faulk, Kingsbury, Lake, Lincoln, McCook, McPherson, Miner, Minnehaha, Spink, Turner	No effect	Breeds in the Arctic tundra areas, such as sparsely vegetated habitat. When non-breeding they prefer primarily intertidal, marine habitats, coastal inlets, estuaries, and bays.	No suitable habitat within the Project area.

Federally Listed Threatened and Endangered Species in South Dakota

Common Name	Scientific Name	Federal Status	Federal County Listing	Potential Impact	Habitat Requirement	Determination of Effect
Sprague's pipit	<i>Anthus spragueii</i>	C	Campbell, McPherson	No effect	Prefer native grasslands of intermediate height and sparse to intermediate vegetation density, low forb density, and little bare ground but low litter depth. Introduced grasslands may be utilized, but to a much lesser extent. Nests on the ground from early May to mid-October.	Breeding habitat range is in the northern part of the state. Some of the Project area may be within this range; however, there are no occurrences documented within the Project area (SDNHP, 2014 and eBird, 2014)
Whooping crane	<i>Grus americana</i>	E	Beadle, Campbell, Clark, Edmunds, Faulk, Kingsbury, McCook, McPherson, Miner, Spink, Turner	No effect	During migration, this species utilizes wetlands and cropland ponds for feeding and roosting. Seasonal and semi-permanent wetlands are the most commonly used.	The Project area is within the migratory range of this species (Cornell Lab of Ornithology, 2014). Only one whooping crane occurrence record is located in Kingsbury County within one mile of the Project (SDNHP, 2014). This species is highly mobile and would likely avoid construction.
Fishes						
Pallid sturgeon	<i>Scaphirhynchus albus</i>	E	Campbell, Lincoln	May affect, not likely to adversely affect	Prefer a fast flowing turbid river with a firm sand or gravel bottom. Areas at the end of chutes or sandbars are commonly used for feeding.	The Missouri River (Campbell County) will not be crossed in South Dakota, and the Big Sioux River (Lincoln County) will be crossed via HDD. Dakota Access plans to withdraw water from the Big Sioux River for HDD installation activities and hydrostatic testing of the HDD segment. Dakota Access would implement conditions on permitted intake structures at the Big Sioux River as described in the USFWS Recovery Plan for the Pallid Sturgeon (USFWS, 2014). Potential indirect impacts on pallid sturgeon would be avoided and minimized through implementation of the HDD Contingency Plan.

Federally Listed Threatened and Endangered Species in South Dakota

Common Name	Scientific Name	Federal Status	Federal County Listing	Potential Impact	Habitat Requirement	Determination of Effect
Topeka shiner	<i>Notropis topeka</i>	E	Beadle, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Spink, Turner	May affect, likely to adversely affect	Found in small prairie streams that exhibit perennial or nearly perennial flow. Substrate usually is clean gravel, cobble, or sand.	Nine waterbodies crossed by the Project in South Dakota were identified by the USFWS as containing known occurrences (James River, Shue Creek, Pearl Creek, Middle Pearl Creek, Redstone Creek, Rock Creek, West Fork Vermillion River, East Fork Vermillion River, and Big Sioux River). Four waterbodies (James River, Pearl Creek, East Fork Vermillion River, and Big Sioux River) would be crossed using HDD construction methods, thus avoiding direct adverse effects at these locations. Field surveys of the remaining five waterbodies identified that one of these waterbodies, the West Fork Vermillion, would be crossed at the headwaters of the stream where it is an emergent wetland with no perennial flow. Therefore, the West Fork Vermillion River is not suitable habitat for the species. The four remaining streams (Shue Creek, Redstone Creek, Middle Pearl Creek, and Rock Creek) include known occurrences and potential suitable spawning habitat.
Invertebrates						
Dakota skipper	<i>Hesperia dacotae</i>	T	Edmunds, McPherson	No effect	Dakota skippers only utilize high quality undisturbed (i.e., remnant, uncultivated) prairie; including, wet tallgrass prairie and dry mixed grass prairie.	No native grasslands were identified within Edmunds and McPherson counties during field surveys.
Vascular Plants						
Western prairie fringed orchid	<i>Platanthera praeclara</i>	T	Lake, Lincoln, McCook, Miner, Minnehaha, Turner	No effect	Prefers moist tallgrass prairie and sedge meadows.	No western prairie fringed orchids were identified within the Project area based on field survey results. In addition, the species seems to have been extirpated from South Dakota (USFWS, 2015 and U.S. Geological Survey, 2014a).
E= Endangered T= Threatened C= Candidate						

State Listed Threatened and Endangered Species in South Dakota

Common Name	Scientific Name	State Status ^a	Potential Impact	Habitat Requirement	Determination of Effect
Mammals					
Black-footed ferret	<i>Mustela nigripes</i>	E	No impact anticipated	Associated exclusively with large (10,000 acres or more) prairie dog towns. Use burrows for shelter and feed on prairie dogs and other species within the habitat.	Historically, the species was present within the state; however, large prairie dog complexes needed to support a black-footed ferret population do not currently exist within the Project area.
Northern river otter	<i>Lontra canadensis</i>	T	No impact anticipated	Rivers with high quality water and an abundant food supply.	Within the Project area, this species has been documented within the Big Sioux River and James River watersheds (South Dakota Game, Fish, and Parks [SDGFP], 2014a and South Dakota Natural Heritage Program [SDNHP], 2014). However, both of these rivers will be crossed via HDD, therefore avoiding impacts to the riverine habitats utilized by the otter.
Swift fox	<i>Vulpes velox</i>	T	No impact anticipated	Prefer short or mixed grass prairies with flat to gently rolling terrain and sparse vegetation that allows for good mobility and visibility.	Although historically the range of this species was within the Project area, the species does not currently reside within the Project area (NatureServe, 2014).
Birds					
American dipper	<i>Cinclus mexicanus</i>	T	No impact anticipated	Cold and clear, fast-moving streams with gravel, stone, or sand bottoms which support invertebrates. Streams with structures over the water such as waterfalls, rocks and boulders are needed for nesting.	The range of this species is not within the Project area (Cornell Lab of Ornithology, 2014).
Bald eagle	<i>Haliaeetus leucocephalus</i>	T	No impact anticipated	Breeds and winters in areas close to a coast, river or lake. Prefers conifers for nesting and roosting and tends to avoid areas with high human traffic.	There are few forested areas along the pipeline route for nesting. Occurrence data from the SDNHP documented a nest approximately one mile from the Project area. Field surveys did not identify bald eagles within the Project area. This species is highly mobile and would likely avoid construction.
Eskimo curlew	<i>Numenius borealis</i>	E	No impact anticipated	Variety of grassland habitats.	The Project area is within the migratory range of this species (NatureServe, 2014). This species is highly mobile and would likely avoid construction.
Interior least tern	<i>Sterna antillarum athalassos</i>	E	No impact anticipated	Interior least tern nesting habitat includes open shorelines, riverine sandbars, and mudflats along Missouri and Mississippi Rivers drainages.	The Project does not cross the Missouri River within South Dakota. No suitable habitat within the Project area.
Osprey	<i>Pandion haliaetus</i>	T	No impact anticipated	Prefer habitat near water including, saltmarshes, rivers, ponds, and reservoirs. Osprey places their nest in open areas on poles, channel markers, and dead trees, often over water.	The Project area is within the migratory range of this species (Cornell Lab of Ornithology, 2014). This species is highly mobile and would likely avoid construction.

State Listed Threatened and Endangered Species in South Dakota

Common Name	Scientific Name	State Status ^a	Potential Impact	Habitat Requirement	Determination of Effect
Peregrine falcon	<i>Falco peregrines</i>	E	No impact anticipated	Inhabits any open habitat with a wide view of the surrounding area, close proximity to water and rocky cliffs or even tall buildings available for nesting.	No nesting habitat is within the Project area (NatureServe, 2014). This species is highly mobile and would likely avoid the construction area.
Piping plover	<i>Charadrius melodus</i>	T	No impact anticipated	Sandy or gravelly beaches and sandbars or alkaline wetlands.	No suitable nesting habitat was identified during Project field surveys. Critical habitat for the piping plover is along the Missouri River; the Project does not cross the Missouri River within South Dakota. This species is highly mobile and would likely avoid the construction area.
Whooping crane	<i>Grus americana</i>	E	No impact anticipated	During migration, this species utilizes wetlands and cropland ponds for feeding and roosting. Seasonal and semi-permanent wetlands are the most commonly used.	The Project area is within the migratory range of this species (Cornell Lab of Ornithology, 2014). Only one whooping crane occurrence record is located in Kingsbury County within one mile of the Project (SDNHP, 2014). This species is highly mobile and would likely avoid construction.
Reptiles					
Eastern hognose snake	<i>Heterodon platirhinos</i>	T	No impact anticipated	Prefer woodlands with sandy soil, fields, farmland and coastal areas.	The range of this species is not located within the Project area (NatureServe, 2014).
False map turtle	<i>Graptemys pseudogeographica</i>	T	No impact anticipated	Inhabits slow moving rivers, river sloughs, oxbow lakes, lakes and reservoirs containing abundant aquatic vegetation and basking sites.	The range of this species within South Dakota is limited to the Missouri River area. The Project enters South Dakota east of the Missouri River (NatureServe, 2014).
Lined snake	<i>Tropidoclonion lineatum</i>	E	No impact anticipated	Prefers open prairie hillsides and rocky, woodland areas	The range of this species within South Dakota is limited to the southeast corner of the state. Suitable habitat may be present within the Project area; however, this species is highly mobile and would likely avoid construction.
Fishes					
Banded killifish	<i>Fundulus diaphanous</i>	E	No impact anticipated	Habitat ranges from quiet waters of lakes and ponds with ample vegetation to muddy streams without vegetation.	The current species habitat range is not located within the Project area (SDGFP, 2014b).
Blacknose shiner	<i>Notropis heterolepis</i>	E	No impact anticipated	Prefers clear, cool streams with sand and gravel beds, and deep pools with abundant vegetation both in the water and on lands bordering the streams. This species has only been found in two pristine streams located in south-central South Dakota.	No suitable habitat within the Project area.

State Listed Threatened and Endangered Species in South Dakota

Common Name	Scientific Name	State Status^a	Potential Impact	Habitat Requirement	Determination of Effect
Finescale dace	<i>Chrosomus neogaeus</i>	E	No impact anticipated	Occur most often in cool, clear mountain streams and less often in lakes, reservoirs, or large rivers. Prefer moderate water velocities, associate with a variety of substrates.	The Project area is outside of the current species range (NatureServe, 2014).
Longnose sucker	<i>Catostomus catostomus</i>	T	No impact anticipated	Found in cool, spring-fed streams where it feeds on the bottom on crustaceans, snails, insect larvae, and larvae.	The Project area is outside of the current species range (NatureServe, 2014).
Northern pearl dace	<i>Margariscus nachtriebi</i>	T	No impact anticipated	Occurs in cool bogs, ponds, lakes, and clear streams.	The species distribution is not located within the Project area. Limited to Counties within southwestern South Dakota (U.S. Geological Survey, 2014b)
Northern redbelly dace	<i>Chrosomus eos</i>	T	No impact anticipated	Prefers areas with beds of aquatic vegetation in spring-fed streams.	Believed to be extirpated from the Big Sioux drainage (SDGFP, 2014c)
Pallid sturgeon	<i>Scaphirhynchus albus</i>	E	No impact anticipated	Prefer a fast flowing turbid river with a firm sand or gravel bottom. Areas at the end of chutes or sandbars are commonly used for feeding.	The Missouri River (Campbell County) will not be crossed in South Dakota, and the Big Sioux River (Lincoln County) will be crossed via HDD, therefore no impacts will occur to this species.
Sicklefin chub	<i>Macrhybopsis meeki</i>	E	No impact anticipated	Prefer large, turbid rivers with a diversity of depths and velocities forming braided channels, sand bars, sand flats, and gravel bars.	No suitable habitat within the Project area.
Sturgeon chub	<i>Macrhybopsis gelida</i>	T	No impact anticipated	Prefer large, turbid rivers with a range of depths and velocities forming braided channels, gravel bars, and sand flats and bars.	No suitable habitat within the Project area.

E= Endangered
T= Threatened
^a South Dakota state listed species do not have county listings, they are listed state-wide.

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