



Gretchen Norman
Stantec Consulting Services Inc.
7000 Yellowtail Road, Suite 230
Cheyenne WY, 82009-6110

RE: Amended State Water Quality Certification
TPCO2-04, TPCO2-05, & TPCO2-06 Laterals

Dear: Ms. Norman,

This certification letter supersedes the Water Quality Certification issued November 4, 2024. NDEE received a request for an amendment on February 4, 2025, due to route deviations for the proposed TPCO2-04 Lateral. Total temporary impacts to wetlands have been increased by 0.11 acres. Changes are in **bold print** and underlined, deletions are in ~~strikethrough~~.

We have reviewed the information submitted to this office regarding the above-referenced project to construct and operate the proposed TPCO2-04, TPCO2-05, and TPCO2-06 Laterals. The TPCO2-04 Lateral would be approximately 52.5 miles of 8 to 10-inch-diameter steel pipeline that would transport captured carbon dioxide from an existing agriculture products plant near Central City, NE (41° 6'42.60"N, 97°58'39.02"W), to the TPCO2-06 Lateral. The TPCO2-05 Lateral would be approximately 7 miles of six-inch-diameter steel pipeline that would transport captured carbon dioxide from an existing ethanol plant near Aurora, NE (40°52'38.50"N, 98° 6'5.20"W), to the TPCO2-04 Lateral. The TPCO2-06 Lateral would be approximately 7.9 miles of 10-inch-diameter steel pipeline that would transport captured carbon dioxide from an existing ethanol plant near Hastings, NE (40°29'51.85"N, 98°18'24.35"W) as well as carbon dioxide transported by the TPCO2-04 and TPCO2-05 Laterals, to the existing Trailblazer Pipeline. As we understand, the proposed activities will result in 0.91 acres of temporary impact to waterbodies and ~~5.64~~ **5.75** acres of temporary impact to wetlands identified as waters of the U.S. (WOTUS) according to the certification request.

Pursuant to § 401 of the Clean Water Act of 1977, as amended by the Water Quality Act of 1987, and Title 120, *Rules and Regulations Pertaining To Certification by The State of Nebraska*, NDEE will provide certification to an applicant for a federally issued and administered permit or license to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in a discharge into navigable waters, if the discharge will not violate Title 117, *Nebraska Surface Water Quality Standards*.

The Department's certification may specify any special condition necessary to assure that the applicant for a federal license or permit will comply with Title 117. **The Department has determined the proposed activity will comply with Title 117 with the following conditions:**

1. Construction activities will employ Best Management Practices (erosion and sediment controls), maintained in effective operating condition during construction, to reduce to the maximum extent practicable the erosion of land into water bodies located within or adjacent to the construction site (Title 117, Chapter 3, Section 001).
2. Temporary impacts to surface waters shall be restored to pre-project conditions following construction (Title 117, Chapter 3, Section 001).
3. The following species may occur in the vicinity of, or be affected by, the proposed activity: the state and federally listed threatened Piping Plover (*Charadrius melodus*) and the state and federally listed endangered Whooping Crane (*Grus americana*), Northern Long-Eared Myotis (*Myotis septentrionalis*), and Interior Least Tern (*Sternula antillarum athalassos*). Based on consultation with Nebraska Game and Parks Commission (NGPC), in order to avoid adverse effects on these species' construction activities shall be implemented under the following conditions:
 - a. Construction activities will not occur within one-mile of suitable habitat during the interior least tern and piping plover nesting season (April-August).
 - b. To avoid impacts to suitable nesting habitats, Horizontal Directional Drilling (HDD) will be used for construction crossing the Platte River and entry/exit points would be setback several hundred feet from the river.
 - c. Water required for construction of the project would be sourced from existing permitted sources to avoid depletions of the Platte River system.
 - d. Tree clearing will occur between November 1 to March 31 to avoid summer active season for bats.
 - e. To avoid impacts to suitable tree roosting habitat, HDD will be used for construction crossing perennial-waterbodies the Platte River to minimize tree clearing.
 - f. Construction activities within whooping crane migration corridor would be scheduled to occur during winter months (December – February) when whooping cranes are not present in Nebraska.
 - g. If construction would need to occur during whooping crane migration periods (Spring migration: March 6 – April 29; and fall migration: October 9 – November 15), trained personnel, or a qualified biologist, will conduct surveys according to protocol (prior to start of daily construction activities). If species are present work will stop within ½ mile of the whooping crane and follow the protocol to determine when work can resume (also do not initiate work if species is found in the morning survey). If the species is not found during the survey, then work may proceed.

If conducted in accordance with the conditions listed above, this activity will not violate the water quality standards of all temporary and permanently impacted Title 117 waterbodies. If a waterbody does not have a designated use, Title 117 requires that they be protective of the downstream uses of designated waterbodies and does not allow direct discharges into lakes or impoundments, except as authorized by National Pollutant Discharge Elimination System (NPDES) permits.

If the area of disturbance will be greater than 1.0 acre, we remind the applicant that a NPDES Construction Stormwater Permit may be required under §402 of the Clean Water Act. For more information and to apply online, please go to: <http://deq.ne.gov/Publica.nsf/pages/WAT012>.

In addition, Title 117 includes an antidegradation provision to ensure that water quality of surface waters is to be maintained and protected consistent with the uses applied under Title 117 standards and water quality degradation which would adversely affect existing uses will not be allowed. If the proposed project activities may impact waters of the State, not specifically identified as WOTUS, we encourage you to contact the department's 401 Coordinator for a voluntary review to evaluate impacts to State waters and how best to comply with state water quality standards.

We, therefore, by this letter, provide §401 Water Quality Certification. This certification does not constitute authorization to conduct your project, nor does it supersede additional local, state, federal, or Tribal permits as required by law. It is a statement of compliance with Nebraska Surface Water Quality Standards only, which is one requirement to gain authorization from the U.S. Army Corps of Engineers in the form of a §404 permit. If you have any questions, please feel free to call our 401 Coordinator, Cydney Calhoun, at (402) 471-2875. Thank you for your assistance in Nebraska Department of Environment and Energy's review of your project.

Pursuant to the Delegation Memorandum dated June 20, 2024, and signed by the Director, the undersigned hereby executes this document on behalf of the Director.

Sincerely,

Sarah Starostka
Administrator
NDEE Planning & Aid Division

ECC: Mandy Nolan, U.S. Army Corps of Engineers
Brooke Stansberry, U.S. Fish & Wildlife Service
Ruby Rolland, Nebraska Game & Parks Commission
Gabriel DuPree, U.S. Environmental Protection Agency
Susan Knabe, Stantec Consulting Services