



Notice of determination for West Path Delivery 2023 Project – crossing of Bar U Ranch National Historic Site

This notice of determination is being issued by Parks Canada under the *Impact Assessment Act (IAA)*. The West Path Delivery 2023 Project (the Project) is proposed to cross the Bar U Ranch National Historic Site (Bar U Ranch) on federal lands administered by Parks Canada. Parks Canada will be required to issue a land use agreement pursuant to the *Federal Real Property and Immovables Act* to NOVA Gas Transmission Ltd. (NGTL, the Proponent). Parks Canada has a responsibility under section 82 of the *IAA* to make a determination that the Project is not likely to cause significant adverse environmental effects on federal lands administered by Parks Canada, considering the five factors outlined in subsection 84(1) of the *IAA*. A Notice of Commencement was posted for the Project identifying Parks Canada as a Federal Authority on 21 December, 2020.

The Project was subject to an approval under section 183 of the *Canada Energy Regulator Act (CER Act)*, which included a public hearing process and decision by the Governor in Council (GiC). Parks Canada participated throughout the Canada Energy Regulator (CER) hearing process as an Intervenor, focussed on evaluating potential effects on federal lands at the Bar U Ranch and throughout public engagement and Indigenous consultation, led by the CER's Crown consultation team. Impact Assessment information was coordinated through the CER hearing process. Impact assessment requirements for the portion of the pipeline across federal lands managed by Parks Canada were incorporated within the Environmental and Socio-Economic Assessment for the Project as a separate Bar U Ranch filing (Supplemental Filing 4, RegDocs [C-12563-1](#)). This supplemental filing was prepared according to the CER's Filing Manual and additional guidance provided by Parks Canada (RegDocs [C-15317-3](#) and [C-15317-4](#)).

The West Path Delivery 2023 pipeline will traverse approximately 900 m across the Bar U Ranch. The pipeline will parallel existing pipeline Right of Ways (ROWs) for the entire length across the site. Land cover within the project footprint is predominately modified agricultural vegetation. Crossing of Pekisko creek occurs outside of the Bar U Ranch boundaries, downstream of the site. The Bar U Ranch is located within the traditional territories of numerous Indigenous groups. During the Crown consultation process led by the CER, the Elk Valley Metis outlined a history of traditional use of the area and the Piikani Nation identified several sites of significance, all of which were animal sightings near the Bar U Ranch. The Stoney Nakoda outlined a rich history of supplying the Bar U Ranch with knowledge of the lands, resources, and labour. Many Stoney Nakoda Nations members worked as general labourers on the ranch while continuing traditional harvest throughout the area. The Stoney Nakoda Nations highlighted concerns that a high density of burial sites may be located on the Bar U Ranch, including the vicinity of the proposed pipeline right of way. During the Crown consultation process, impacts on traditional resources and use that support the exercise of Indigenous rights were raised but none were specific only to the Bar U Ranch.



Key Issues:

Key issues of concern identified throughout the review of the Environmental and Socio-Economic Assessment and Crown consultation process include:

- Disturbance of cultural resources, specifically the irrigation ditch at site 1670R, and a pre-contact period site 1684R;
- Potential for unknown archaeological resources and burial sites along the route; and
- Removal of old growth cottonwood trees near Pekisko Creek, which provide habitat for the Endangered Little Brown Myotis (Schedule 1, *Species at Risk Act*).

Determination Conditions:

To address these potential impacts, the Proponent will be required to adhere to all measures and mitigations outlined in:

- The NGTL West Path Delivery Project Environmental and Socio-Economic Impact Assessment and updated Environmental Protection Plan (EPP). The updated EPP relevant to the pipeline portion across the Bar U Ranch must be submitted to Parks Canada a minimum of 60 days prior to any phase of construction. Parks Canada must be notified immediately of any changes to the EPP relevant to work across the Bar U Ranch;
- The project conditions issued in [Certificate GC-134 for the West Path Delivery 2023 Project](#). Project conditions include requirements to ensure Indigenous engagement and monitoring are sustained throughout the life of the Project. These conditions identified in the Project Certificate include, but are not limited to:
 - Condition 12 - Construction Monitoring Plan for Indigenous peoples;
 - Condition 13 - Outstanding Traditional Land and Resource Use investigations; and
 - Condition 26 - Post-Construction Monitoring Plan for Indigenous peoples.Information relevant to the Bar U Ranch in plans and reports associated with project conditions must be submitted to Parks Canada within the prescribed timelines for submission to the CER.
- Conditions outlined in the land use agreement issued under the *Federal Real Property and Immovables Act* issued by Parks Canada for the Project; and
- The site-specific measures outlined below, which will be incorporated as conditions into the Parks Canada land use agreement.

Site Specific Measures:

Cultural Resources

- The irrigation ditch at site 1670R must be reconstructed to original contours.
- Stripping, grading, or open trench construction activities at site 1684R must be monitored by a qualified, professional archaeologist (eligible to hold an archaeological



research permit in the Province of Alberta and a Research & Collection Permit from Parks Canada).

- Parks Canada Cultural Resource Management Specialists must be notified immediately and work stopped if historical or paleontological features or human remains are found during construction. All finds will be subject to Parks Canada's Incidental Finds policy and Management Directive 2.3.1 Human Remains, Cemeteries and Burial Grounds as appropriate.

Emergency Management, Safety, and Visitor Experience

- A detailed schedule must be submitted to Parks Canada a minimum of 30 days in advance of any phase of construction. Parks Canada must also be notified if any changes in schedule are required.
- An Emergency Management Plan specific to the Bar U Ranch for all phases of the Project, including construction, operation, and decommissioning must be submitted 60 days prior to commencing work on-site.
- Site safety orientations must be made available to Parks Canada staff to permit independent monitoring by the Parks Canada Environmental Surveillance Officer (ESO). Inspection and compliance monitoring records must be made available to the ESO upon request.
- All signage on the Bar U Ranch National Historic Site must be provided in both French and English.
- The construction footprint must be secured against access by wildlife, livestock and unauthorized visitors, to the satisfaction of Parks Canada. Wildlife movement across the construction footprint must also be addressed in access restriction planning.

Vegetation

- All equipment accessing the Bar U Ranch must arrive on site in a clean state to prevent the introduction of non-native plant species and weeds. Equipment inspections must be documented and available to Parks Canada upon request.
- The right-of-way and all temporary work areas must be clearly flagged and no vegetation disturbance is permitted beyond the approved boundaries.
- Vegetation burning is not permitted within the Bar U Ranch.
- A Reclamation Plan must be submitted to Parks Canada for approval a minimum of 60 days prior to commencing construction. The Reclamation Plan must outline the proposed seed mixes for all disturbed areas within the Bar U Ranch and certificates of seed analysis. Post-construction monitoring of reclamation success must also be included in the Reclamation Plan.

Wildlife

- All vegetation clearing on the Bar U Ranch must occur outside of the migratory bird nesting period (April 26 - August 31) and outside of the active bat season (April 1- October 21).



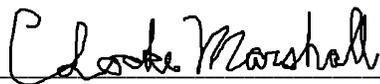
- A wildlife survey must be completed within 7 days of any vegetation clearing or topsoil removal and made available to Parks Canada upon request. The wildlife survey must be completed by a qualified professional biologist. Mitigation and/or monitoring plans must be submitted to Parks Canada for review and approval for any wildlife residences that may be affected by the Project.
- During the migratory bird nesting period, breeding bird surveys must be completed within 7 days of resuming work after periods of inactivity greater than 7 days. During the peak nesting period, breeding bird surveys must be performed after periods of inactivity greater than 4 days.
- A mitigation plan for impacts to bat habitat in the Project footprint is being developed by the Proponent in consultation with Parks Canada. The final plan is subject to Parks Canada approval prior to commencing any work at the Bar U Ranch. Of note, any divergence from this plan or clearing within the timing windows may result in the need for a Permit under the *Species at Risk Act* (SARA).

Additional Plan and Permit Requirements

- If dewatering or discharge is planned on the Bar U Ranch, detailed plans must be submitted to Parks Canada for review and approval a minimum of 30 days prior to any discharge on the property.
- Additional permitting will be required for ongoing operational and maintenance activities that require on-site access (e.g., operational/integrity digs or maintenance activities) in accordance with the land use agreement. The Proponent must work with Parks Canada to ensure adequate measures and permits are in place prior to any activities that require access to site.

Conclusion:

Taking into consideration information received throughout the Crown consultation process, proposed site-specific mitigation measures, and the Certificate conditions identified for the Project, Parks Canada has determined that the Project is not likely to cause significant adverse effects on lands administered by Parks Canada at the Bar U Ranch.



2023-01-10

C. Locke Marshall,
Field Unit Superintendent, Waterton Lakes
National Park and Bar U Ranch National Historic
Site

Date