

Appendix C

Programmatic Agreement

**PROGRAMMATIC AGREEMENT
AMONG
THE RURAL UTILITIES SERVICE,
THE U.S. FISH AND WILDLIFE SERVICE,
AND
THE NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICE
REGARDING
THE CENTER TO GRAND FORKS 345 kV TRANSMISSION LINE PROJECT
FOR
OLIVER, BURLEIGH, MCLEAN, SHERIDAN, WELLS, FOSTER, EDDY, GRIGGS,
NELSON, STEELE, AND GRAND FORKS COUNTIES, NORTH DAKOTA**

WHEREAS, in accordance with the Rural Electrification Act of 1936 (7 U.S.C. §§ 901-950b), the Rural Utilities Service (RUS) is authorized to provide federal financial assistance in the development of infrastructure in rural America; and,

WHEREAS, Minnkota Power Cooperative, Inc. (Minnkota) has applied to RUS for assistance to construct approximately 250 miles of 345 kilovolt (kV) transmission line in North Dakota, with associated aboveground facilities, such as substations, and ancillary facilities, such as temporary construction work and staging areas (CGF Project); and

WHEREAS, RUS may fund the Project thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800); and

WHEREAS, the U.S. Fish and Wildlife Service (USFWS) may issue an approval for the Project to cross easements held by that federal agency, thereby making the CGF Project an undertaking subject to review under 36 CFR Part 800; and

WHEREAS, RUS and USFWS agree that the RUS will be the lead federal agency for purposes of Section 106 in accordance with 36 CFR § 800.2(a)(2); and

WHEREAS, based on the analysis conducted pursuant to 7 CFR Part 1794, RUS will select a 1,000-foot-wide corridor for the CGF Project; and

WHEREAS, the North Dakota Public Service Commission will select a 150-foot-wide right-of-way (ROW), which should be located within the corridor chosen by RUS, for construction of the CGF Project; and

WHEREAS, RUS has determined that the area of potential effects (APE) for the undertaking includes the 1,000-foot-wide corridor beginning near Center, North Dakota at the Milton R. Young Station and terminating in Grand Forks, North Dakota that should contain the Project ROW as well as all Project-related access roads, transmission facilities and corridors, environmental crossings, temporary work spaces, construction areas, and appurtenant facilities that may be located outside of the ROW and may not be contiguous (**Attachment 1**); and

WHEREAS, RUS also has established an APE for visual effects that is one-half mile wide where the CGF Project structures will be 200 feet or less in height, and one mile whenever a structure exceeds 200 feet in height (**Attachment 2**); and

WHEREAS, RUS is phasing identification and evaluation of historic properties, and application of the criteria of adverse effect in accordance with 36 CFR § 800.4(b)(2) and 36 CFR § 800.5(a)(3), respectively, because the Project consists of a large area where access to land in order to complete necessary studies is restricted; and

WHEREAS, in accordance with 36 CFR § 800.14(b)(1)(ii), execution of a Programmatic Agreement (PA) is appropriate because effects on historic properties cannot be fully determined prior to approval of the Project; and

WHEREAS, RUS, in consultation with the North Dakota State Historic Preservation Office (SHPO), has determined that the Project might have an adverse effect on historic properties, which are properties listed on or eligible for listing on the National Register of Historic Places (NRHP); and

WHEREAS, on September 10, 2009, RUS invited the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, the Bois Forte Ojibwe, the Cheyenne River Sioux Tribe, the Crow Creek Sioux Tribe, the Flandreau Santee Sioux Tribe, the Fond du Lac Band of Lake Superior Chippewa, the Grand Portage Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, the Lower Brule Sioux Tribe, the Lower Sioux Indian Community, the Mille Lacs Band of Ojibwe, the Northern Cheyenne Nation, the Oglala Sioux Tribe, the Prairie Island Indian Community, the Red Lake Band of Chippewa Indians, the Rosebud Sioux Tribe, the Santee Sioux Nation, the Sisseton Wahpeton Oyate of the Lake Traverse Reservation, the Spirit Lake Tribe, the Standing Rock Sioux Tribe, the Three Affiliated Tribes of the Fort Berthold Reservation, the Turtle Mountain Band of Chippewa, the Upper Sioux Indian Community and the White Earth Band of Ojibwe to participate in government-to-government consultation for the CGF Project; and

WHEREAS, the following Indian tribes responded affirmatively to this invitation - the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, the Cheyenne River Sioux Tribe, the Mille Lacs Band of Ojibwe, the Northern Cheyenne Nation, the Rosebud Sioux Tribe, the Santee Sioux Nation, the Sisseton Wahpeton Oyate, the Standing Rock Sioux Tribe, the Upper Sioux Indian Community and the White Earth Band of Ojibwe; and

WHEREAS, the Mille Lacs Band of Ojibwe, the Sisseton Wahpeton Oyate and the Standing Rock Sioux Tribe have directly participated in consultation; and

WHEREAS, RUS has invited the following Indian tribes to sign this PA as concurring parties - the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, the Cheyenne River Sioux Tribe, the Mille Lacs Band of Ojibwe, the Northern Cheyenne Nation, the Rosebud Sioux Tribe, the Santee Sioux Nation, the Sisseton Wahpeton Oyate, the Standing Rock Sioux Tribe, the Upper Sioux Indian Community and the White Earth Band of Ojibwe; and

WHEREAS, Minnkota has participated in consultation and has been invited by RUS to sign this PA as an invited signatory; and

WHEREAS, the Wahpekute, a non-federally recognized Indian tribe, has participated in consultation and has been invited to sign this PA as a concurring party; and

WHEREAS, RUS has invited Mr. Tim Mentz to participate in consultation and sign this PA as a concurring party; and

WHEREAS, on May 25, 2011, RUS notified the Advisory Council on Historic Preservation (ACHP), in accordance with 36 CFR § 800.6(a)(1)(i)(C), providing the specified documentation; and

WHEREAS, on June 14, 2011 the ACHP elected not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii);

NOW, THEREFORE, RUS, USFWS and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The RUS shall ensure that the following stipulations are carried out.

I. STANDARDS AND CONDITIONS

- A. All studies and work required under the terms of this PA will be carried out by or under the direct supervision of a professional who, at a minimum, meets the Secretary of the Interior's *Professional Qualification Standards* (48 FR 44716, September 29, 1983) in the appropriate field.
- B. With the exception of transmission structure foundations, Minnkota will not initiate construction of any component of the CGF Project until Section 106 review conducted in accordance with the terms of this PA have been met for that component.
- C. Even if the terms of Stipulations II and III have been met for the site of a transmission structure, construction of that structure remains subject to the requirements of Stipulation IV.
- D. Implementation of Stipulation IV will take place during excavation for CGF Project transmission structure foundations.
- E. Minnkota will establish and facilitate open communication between consulting archeologists and engineers during the performance of archeological field testing, treatment and construction to ensure that the terms of this PA are properly implemented.

II. IDENTIFICATION

- A. Minnkota has completed the following studies: *Draft Class I Literature Search for the Proposed Minnkota Power Cooperative, Inc. Center to Grand Forks 345 kV*

Transmission Line" (March 2010); and *Geomorphological Model for Locating Areas with Potential for Deeply Buried Archaeological Deposits Along the Center to Grand Forks 345 KV Transmission Line Corridor in North Dakota* (January 2011).

- B. Upon completion of archeological identification efforts and pedestrian survey (Class III CRI), which began in October 2010, Minnkota will prepare and submit a draft report describing data gathering and analysis to RUS for review and approval.
 - 1. The draft report will contain maps showing the geographic relationship between the APE, the ROW, identified archeological resources, and proposed structures and other CGF Project-related ground disturbance.
 - 2. The draft report also will include recommendations regarding the NRHP eligibility of identified archeological resources; identify those resources for which additional study might be needed; and propose treatment, including those measures that might avoid adverse effects.
 - 3. When it is acceptable, RUS will submit the draft report to the SHPO and consulting parties for review. The consulting parties will have thirty (30) days from receipt to provide written comments to RUS on the draft report. RUS will ensure that written comments submitted in a timely manner are considered in preparation of the final report.

- C. Minnkota will conduct a study of the APE to identify NRHP listed or eligible architectural resources which might be affected by the CGF Project.
 - 1. The draft report will contain maps showing the geographic relationship between the APE, the ROW, identified properties and resources, and the proposed structures.
 - 2. When it is acceptable, RUS will submit the draft report to the SHPO and consulting parties for review. The consulting parties will have thirty (30) days from receipt to provide written comments to RUS on the draft report. RUS will ensure that written comments submitted in a timely manner are considered in preparation of the final report.

- D. Each and every change in the location of CGF Project components is subject to review under the terms of this PA.

III. TREATMENT

- A. Avoidance of impacts to identified archeological or architectural resources is the preferred alternative. Minnkota will seek agreement with the SHPO and consulting tribes on the identification and implementation of appropriate and reasonable avoidance measures.
 - 1. Whenever the parties agree, Minnkota will incorporate agreed upon avoidance measures into the CGF Project plans and specifications.
 - 2. Wherever the parties cannot agree, RUS will consult with the SHPO and other consulting parties to identify appropriate treatment in accordance with Stipulation III.B.

- B. Prior to developing treatment measures, Minnkota will conduct evaluation studies, as appropriate, in accordance with 36 CFR § 800.4(c)(1). When RUS and the SHPO agree, an identified resource may be treated as eligible for listing on the NRHP for

the purposes of Section 106 under the terms of this PA. Such treatment does not apply to identified resources located on federal land.

1. If historic properties are identified pursuant to 36 CFR § 800.4(c)(2), RUS will apply the criteria of adverse effect in accordance with 36 CFR § 800.5(a).
 2. When RUS determines that there may be an adverse effect, RUS will consult with the SHPO and Indian tribes to identify appropriate measures that are in the public interest to minimize or mitigate adverse effects to historic properties.
- C. When RUS and the consulting parties agree on reasonable treatment measures, Minnkota will prepare a Treatment Plan (Plan) describing the agreed upon measures, the manner in which they will be carried out, and a schedule for their implementation.
1. When treatment consists of or includes data recovery, the Plan will identify the specific research questions to be addressed by data recovery with an explanation of their relevance, the archeological methods to be used, and provisions for public interpretation and education subject to restrictions established by 36 CFR § 800.6(a)(5).
 2. Minnkota will submit the Plan to the SHPO and consulting tribes for review. These parties will have thirty (30) days from receipt to submit a written review. RUS will ensure that the approved Plan takes into account timely comments and recommendations submitted by the consulting parties.
- D. To prevent damage to them, Minnkota will mark and fence all identified rock features during construction of the CGF Project. In addition, to help protect these resources post-construction, Minnkota will designate the location of all rock features as restricted or sensitive locations on Operation and Maintenance maps.
- E. RUS will ensure that Minnkota implements all approved Plans prior to beginning any construction activities for that Project component.

IV. BORING FOR TRANSMISSION STRUCTURE FOUNDATIONS

- A. Minnkota will compare the locations of all proposed transmission structures with the high potential areas identified in the January 2011 geomorphological report and shown in **Attachment 2**.
- B. Minnkota will notify the SHPO in writing whenever a location will contain a structure and has a high potential for deeply buried archeological sites.
1. Such locations will be subject to the measures described in **Attachment 3**.
 2. Monitoring of foundation boring to be conducted pursuant to **Attachment 3** will be performed by a professional archeologist with training in geomorphology.

V. U.S. FISH AND WILDLIFE SERVICE LANDS

Prior to initiating construction of any component of CGF Project that will cross USFWS lands, Minnkota must document for RUS the successful conclusion of Section 106 review conducted in accordance with 36 CFR §§ 800.3 through 800.7 to meet the

requirements of the USFWS. When RUS finds that Section 106 review for that segment has been successfully concluded, RUS may approve construction of that segment.

VI. CURATION

- A. Any artifacts, materials, or records removed from USFWS land that are not subject to the Native American Graves Protection and Repatriation Act (NAGPRA) will be curated by the USFWS in accordance with 36 CFR Part 79.
- B. Minnkota will return all artifacts and materials recovered through implementation of the terms of this PA to the respective landowner.

VII. OTHER MONITORING

- A. Minnkota may elect to offer an opportunity for one tribal monitor identified and agreed to by the consulting tribes to monitor implementation of identification field studies, treatment and construction. The absence of the tribal monitor at any time will not delay the progress of studies, treatment or construction.
- B. Historic properties discovered or unanticipated effects discovered during this monitoring will be treated in accordance with Stipulation IX.
- C. Upon written request, Minnkota will grant RUS and SHPO access to the work site to observe construction.

VIII. CONFIDENTIALITY

RUS will protect information about historic properties of religious and cultural significance to Indian tribes, including location information or information provided by Indian tribes to assist in the identification of such properties, to the extent allowed by Section 304 of the National Historic Preservation Act [16 U. S. C. 470w3], 36 CFR § 800.11(c) and other applicable laws.

IX. POST- REVIEW UNANTICIPATED DISCOVERIES

- A. If previously unidentified historic properties or unanticipated effects to historic properties are discovered during CGF Project construction, the construction contractor will immediately halt all activity within a one hundred (100) foot radius of the discovery, notify Minnkota (see **Attachment 4**) of the discovery and implement interim measures to protect the discovery from looting and vandalism.
- B. Immediately upon receipt of the notification required in Stipulation IX.A, Minnkota will inspect the construction site to determine the extent of the discovery and ensure that construction activities have halted, clearly mark the area of the discovery, implement additional measures, as appropriate, to protect the discovery from looting and vandalism, and notify RUS, SHPO/State Historical Society of North Dakota (SHSND) and the following Indian tribes - the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, the Cheyenne River Sioux Tribe, the Mille Lacs Band of Ojibwe, the Northern Cheyenne Nation, the Rosebud Sioux Tribe, the Santee Sioux Nation, the Sisseton Wahpeton Oyate, the Standing Rock Sioux Tribe, the Upper Sioux Indian Community and the White Earth Band of Ojibwe.

- C. Upon receipt of notification, the RUS shall treat the discovery in accordance with 36 CFR § 800.13(b)(3) and (c).
- D. Treatment of Human Remains
 - 1. When the discovery contains human remains and is located on USFWS land, NAGPRA [25 U.S.C. 3001 et. seq.] and its implementing regulations (43 CFR Part 10) apply.
 - 2. If the construction contractor believes that a discovery contains human remains and the discovery is not located on federal lands, the contractor will comply with Stipulation IX.A. Immediately upon receipt of such notification, Minnkota will
 - a. comply with the procedures required by North Dakota Century Code § 23-06-27 and administrative rules North Dakota Administrative Code Chapter 40-02-03, Protection of Prehistoric and Historic Human Burial Sites, Human Remains, and Burial Goods,
 - b. halt construction activities within a 100 foot radius from the point of discovery;
 - c. implement measures to protect the discovery from looting and vandalism until the completion of requirements under state law; and
 - d. notify the local law enforcement agency, the SHPO/SHSND, the North Dakota Department of Health (NDDH), RUS and the tribes identified in Stipulation IX.B of the discovery.
 - 3. If local law enforcement determines that the remains are not associated with a crime, RUS will determine if it is prudent and feasible to avoid disturbing the remains. If RUS in consultation with SHPO/SHSND determines that disturbance cannot be avoided, Minnkota will remove and reinter the human remains in accordance with rules adopted by, and in consultation with the SHPO/SHSND and the NDDH.
 - 4. Minnkota may resume construction activities in the area of the discovery once implementation of the measures required by the SHPO/SHSND and the NDDH has been completed.
- E. Minnkota will ensure that the requirements of Stipulation VII are incorporated into all construction contracts.

X. REPORTING

- A. Every six (6) months following the execution of this PA until construction is complete, Minnkota will submit a written report to RUS and the SHPO describing progress on implementation of the terms of its terms, the development of construction plans and specifications, construction completed during the period covered by the report, implementation of Plans, the schedule for completion of construction and the terms of the PA, the treatment of any post-review discoveries pursuant to Stipulation IX, any scheduling changes proposed, any problems encountered, and any disputes addressed pursuant to Stipulation XI.
- B. This report will be submitted electronically to RUS and the SHPO.

XI. DISPUTE RESOLUTION

- A. Should any signatory or concurring party to this PA object in writing at any time to any actions proposed or the manner in which the terms of this PA are implemented, RUS and the USFWS, within the limits of their authority, will consult with such party to resolve the objection. If RUS and the USFWS determine that the objection cannot be resolved, that agency will forward all documentation relevant to the dispute, including the resolution proposed by RUS or the USFWS, as appropriate, to the ACHP. The ACHP will
1. Provide the RUS and the USFWS with its advice, pursuant to 36 CFR § 800.2(b)(2), on the resolution of the objection within thirty (30) days of receiving adequate documentation.
 2. Prior to reaching a final decision on the dispute, RUS or the USFWS, as appropriate, will prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. RUS or the USFWS, as appropriate, will then proceed according to its final decision.
 3. If the ACHP does not provide its advice regarding the dispute within thirty (30) days, RUS or the USFWS, as appropriate, may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the respective federal agency will prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and the ACHP with a copy of such written response.
- B. The responsibility of RUS and the USFWS to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.
- C. If at any time during the implementation of the measures stipulated in this PA an objection should be raised by the public, RUS will notify the signatories to this PA and consult with the objecting party to seek resolution. If RUS and the USFWS determine that the objection cannot be resolved, that agencies will seek the advice or comment of ACHP in accordance with Stipulation IX.A.

XII. TERM OF AGREEMENT

- A. The term of this PA will be five (5) years from the date of execution by the signatories unless the signatories agree to extend its term. If its stipulations have not been carried out, and prior to work continuing on the CGF Project, RUS and the USFWS will either (a) execute another agreement pursuant to 36 CFR § 800.6, or request, take into account and respond to the comments of the ACHP pursuant to 36 CFR § 800.7.
- B. Six (6) months prior to the date on which the PA will expire, Minnkota will notify the other signatories of the impending expiration. RUS and the USFWS may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulation XI. RUS and the USFWS will notify the signatories as to the course each will pursue.

XIII. AMENDMENT

This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date it is executed by all of the signatories and filed with ACHP.

XIV. TERMINATION

- A. If any signatory to this PA determines that its terms will not, or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation XI. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.
- B. Once the PA is terminated, and prior to work continuing on the CGF Project, RUS and the USFWS must either (a) execute an agreement pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of ACHP under 36 CFR § 800.7. RUS and the USFWS will notify the signatories as to the course of action each will pursue.

EXECUTION of this PA by RUS, USFWS and the North Dakota SHPO, and implementation of its terms evidence that RUS has taken into account the effects of this undertaking on historic properties and afforded ACHP a reasonable opportunity to comment.

Signatories:

US Department of Agriculture Rural Utilities Service

By: Mark S. Plank Date: 8/22/11
Mark S. Plank, Director
Engineering and Environmental Staff
Water and Environmental Programs

US Fish and Wildlife Service

By: Lloyd Jones Date: 8/24/11
Lloyd Jones
Project Leader
Audubon National Wildlife Refuge

North Dakota State Historic Preservation Office

By: Merian E. Paaverud, Jr. Date: 8-25-11
Merian E. Paaverud, Jr.
State Historic Preservation Officer

Programmatic Agreement
Center to Grand Forks 345 kV Transmission Line Project
August 2011

Invited signatory:

Minnkota Power

By: John T. Graves Date: 8/29/11
John T. Graves
Environmental Manager

Programmatic Agreement
Center to Grand Forks 345 kV Transmission Line Project
August 2011

Tribal concurring parties:

Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation

By: _____ Date: _____
[Name and Title of Concurring Party]

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Center to Grand Forks 345 kV Transmission Line Project
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Cheyenne River Sioux Tribe

By: _____ Date: _____
[Name and Title of Concurring Party]

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Mille Lacs Band of Ojibwe

By: _____ Date: _____
[Name and Title of Concurring Party]

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Northern Cheyenne Nation

By: _____ Date: _____
[Name and Title of Concurring Party]

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Rosebud Sioux Tribe

By: _____ Date: _____
[Name and Title of Concurring Party]

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Santee Sioux Nation

By: _____ Date: _____
[Name and Title of Concurring Party]

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Sisseton Wahpeton Oyate of the Lake Traverse Reservation

By: _____ Date: _____
[Name and Title of Concurring Party]

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Standing Rock Sioux Tribe

By: _____ Date: _____
[Name and Title of Concurring Party]

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Upper Sioux Community

By: _____ Date: _____
[Name and Title of Concurring Party]

White Earth Band of Ojibwe

By: _____ Date: _____
[Name and Title of Concurring Party]

Other concurring parties:

Wahpekute

By: _____ Date: _____
[Name and Title of Concurring Party]

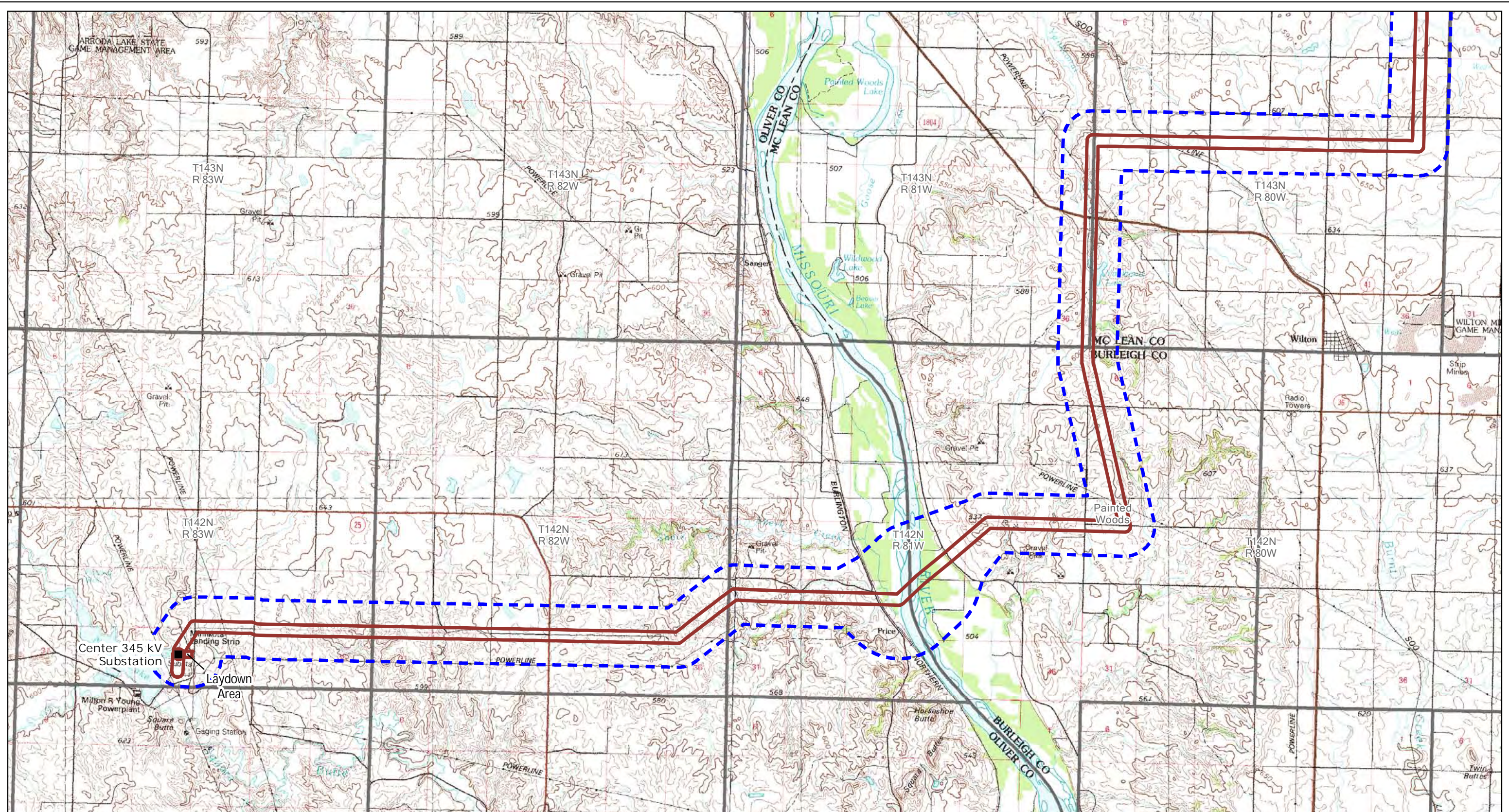
Mr. Tim Mentz

By: _____ Date: _____

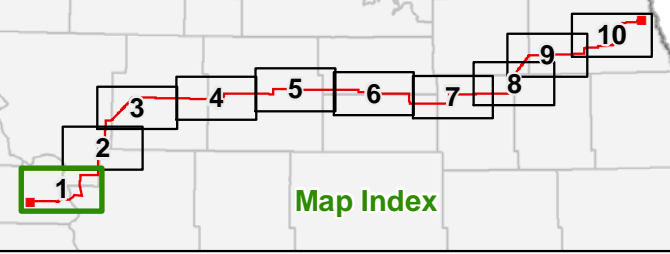
Mr. Tim Mentz
Member, Standing Rock Sioux Tribe

Programmatic Agreement
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August 2011

ATTACHMENT 1

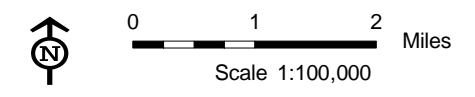


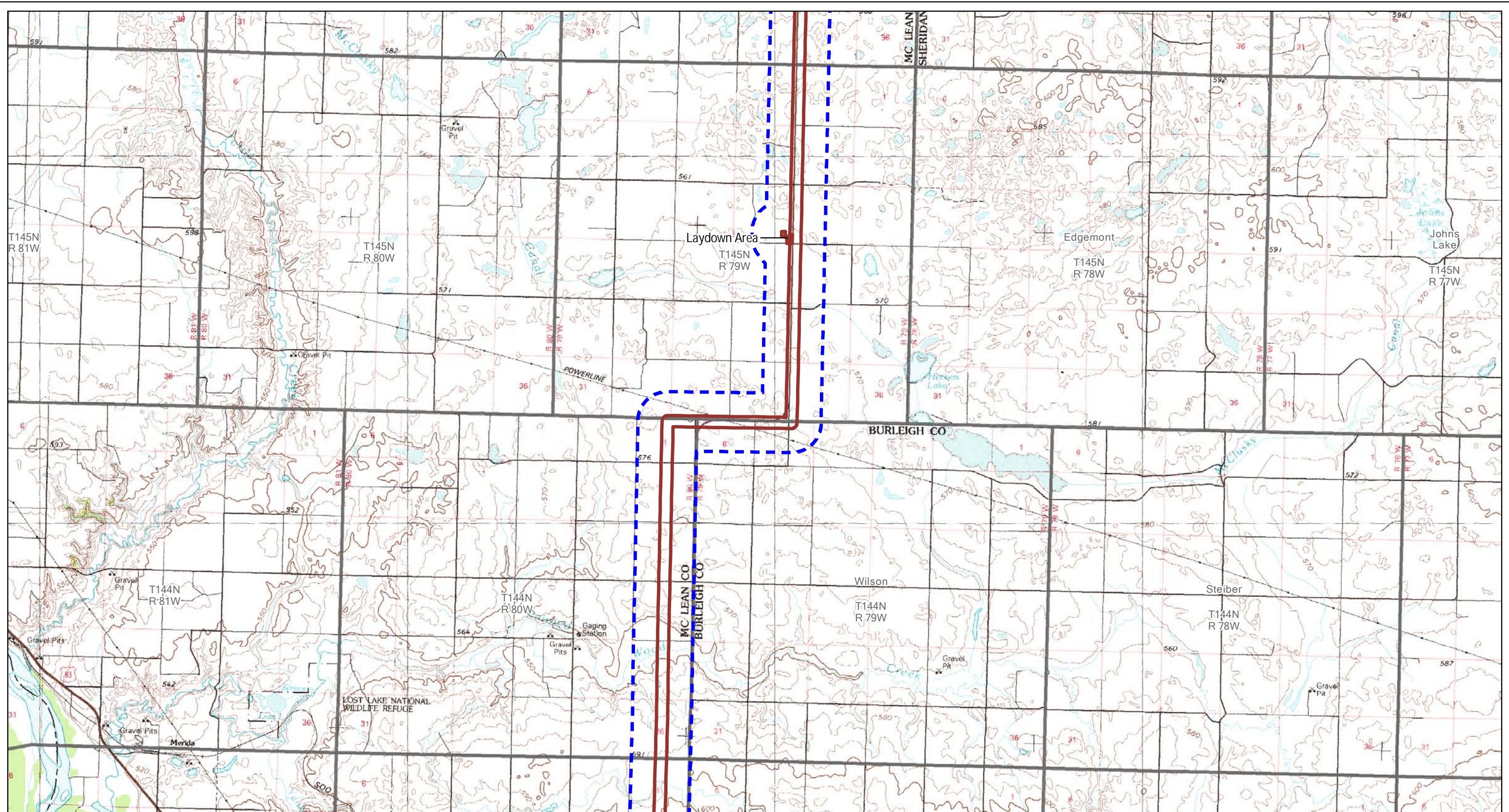
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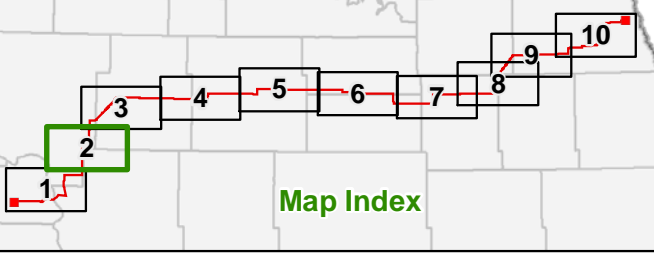
- Direct Effects APE for Archaeological Properties
- Visual Effects APE for Historic Buildings
- Project Substation

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 Areas of Potential Effects for Historic Properties
 Center to Grand Forks Project
 Minnkota Power Cooperative, Inc.



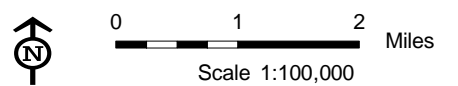


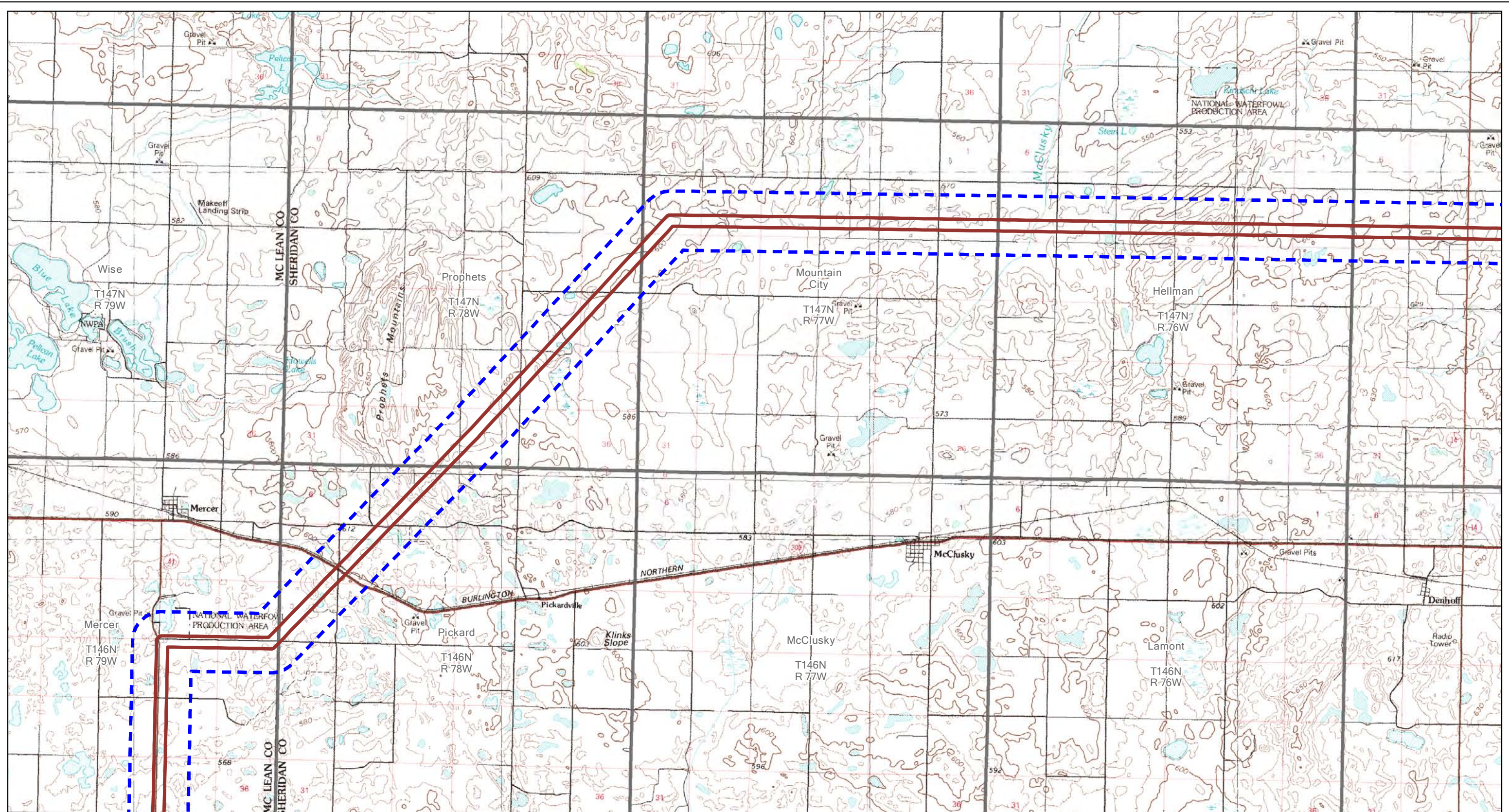
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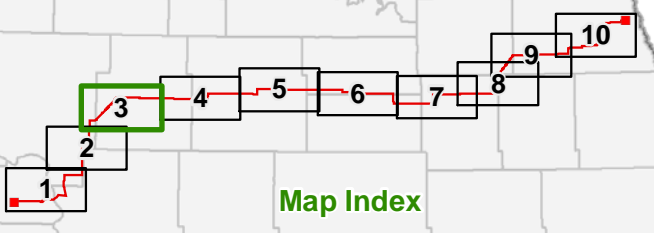
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 Areas of Potential Effects for Historic Properties
 Center to Grand Forks Project
 Minkota Power Cooperative, Inc.





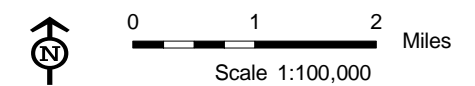
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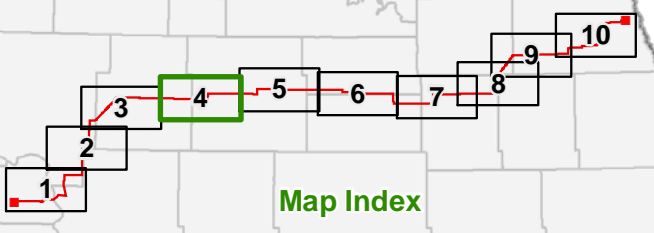
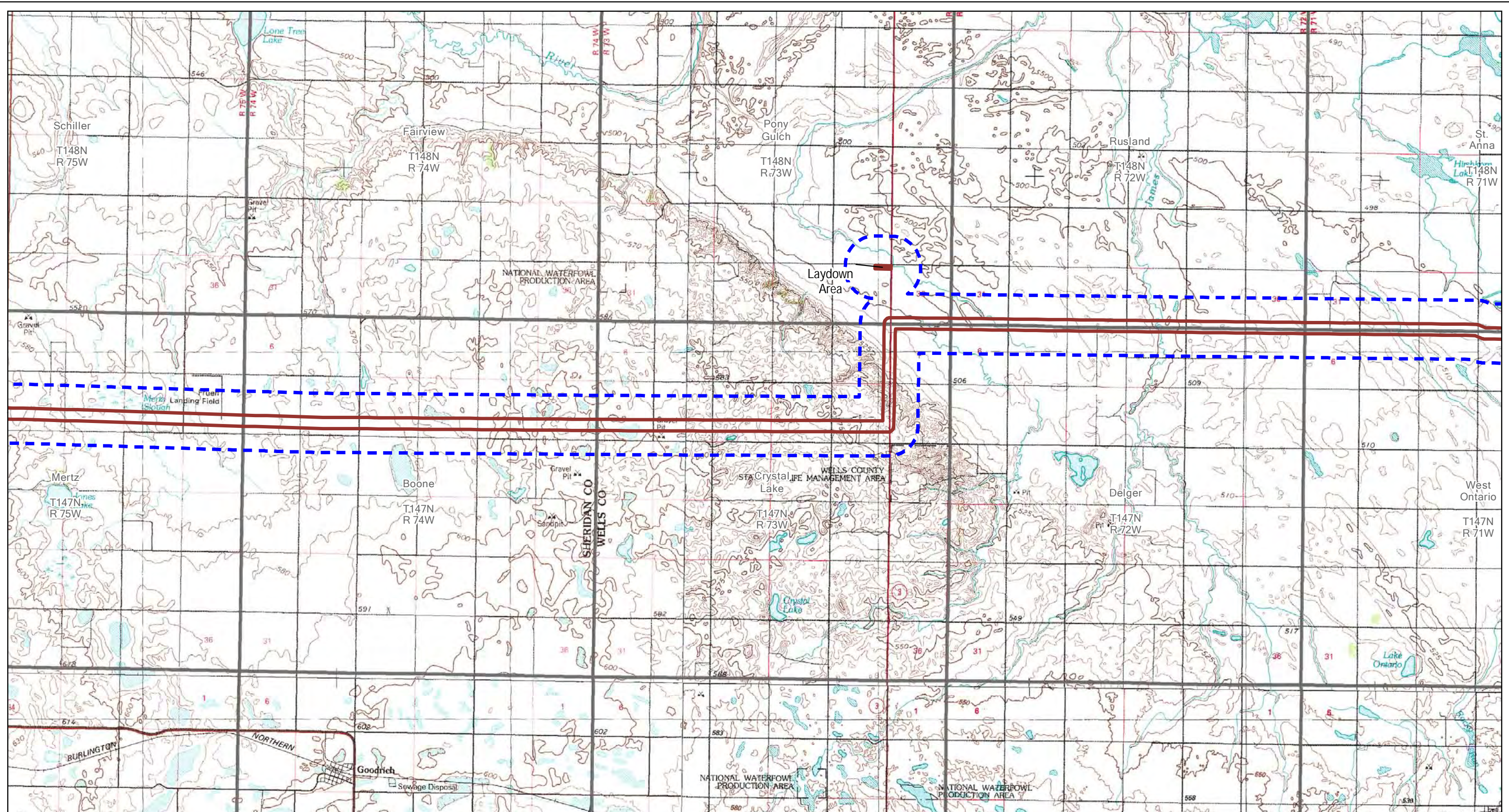


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- Direct Effects APE for Archaeological Properties
- Visual Effects APE for Historic Buildings
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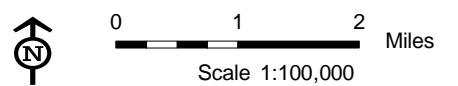
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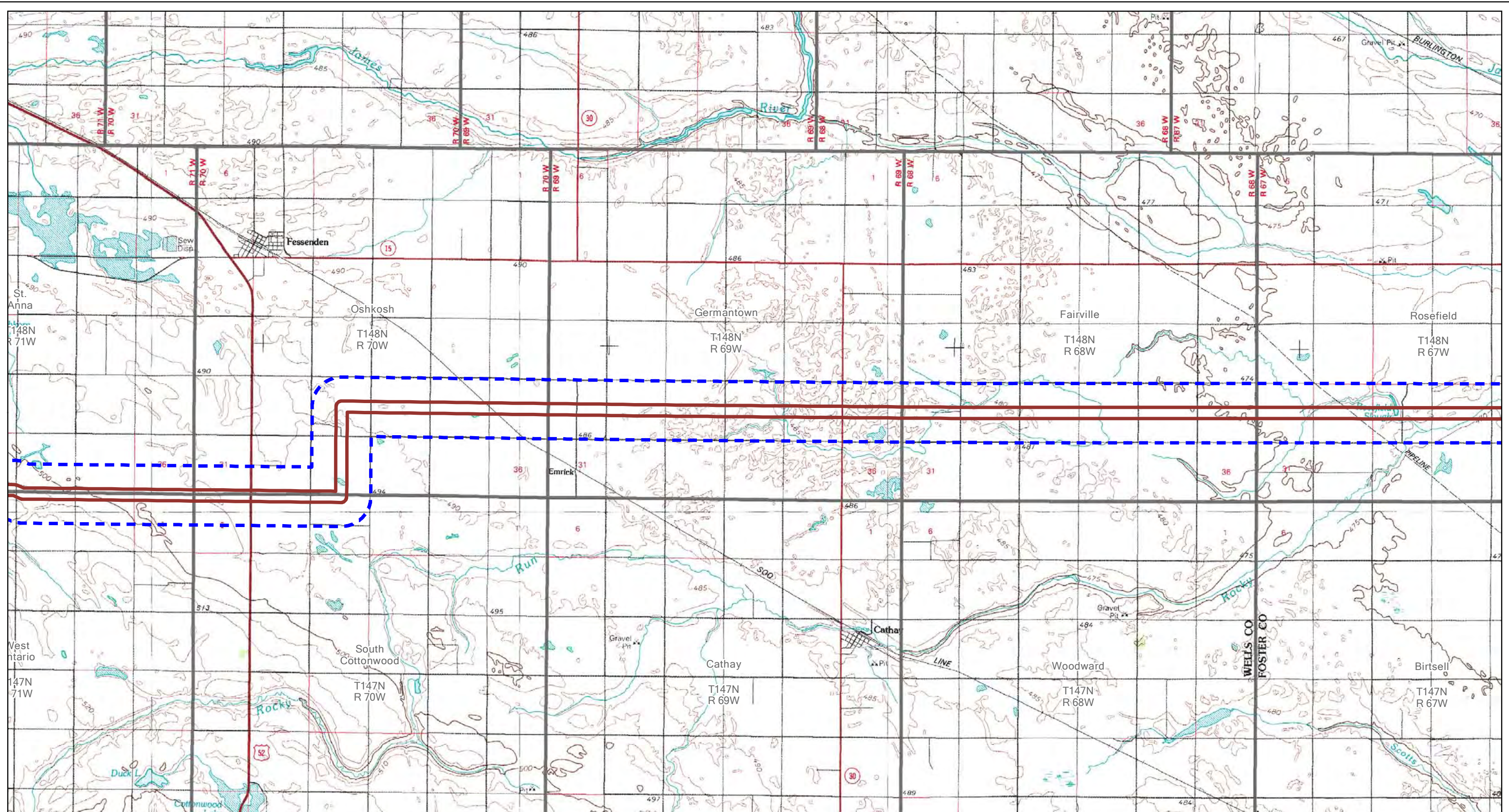


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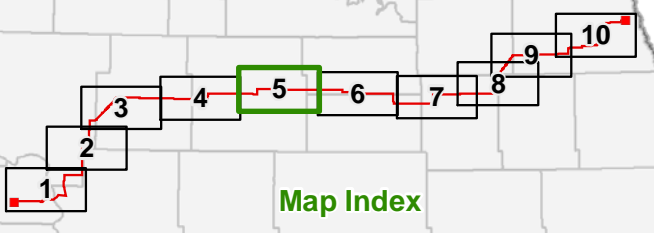
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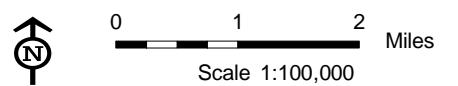


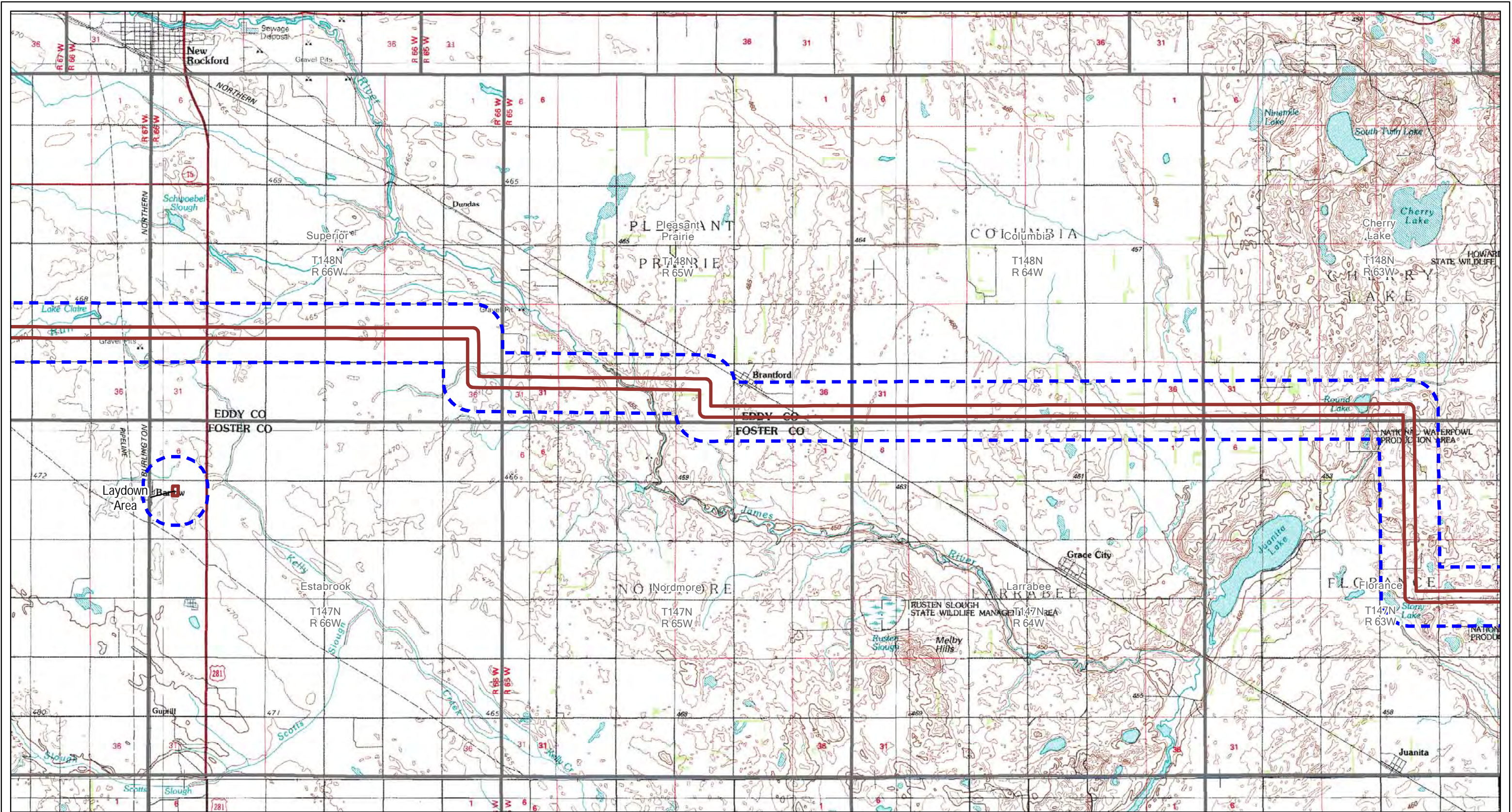
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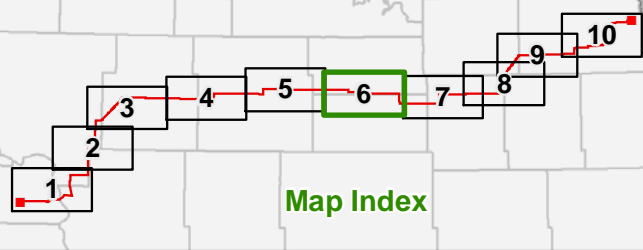
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- Project Substation

Figure 1: Page 5 of 10
 Areas of Potential Effects for Historic Properties
 Center to Grand Forks Project
 Minkota Power Cooperative, Inc.



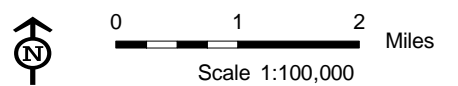


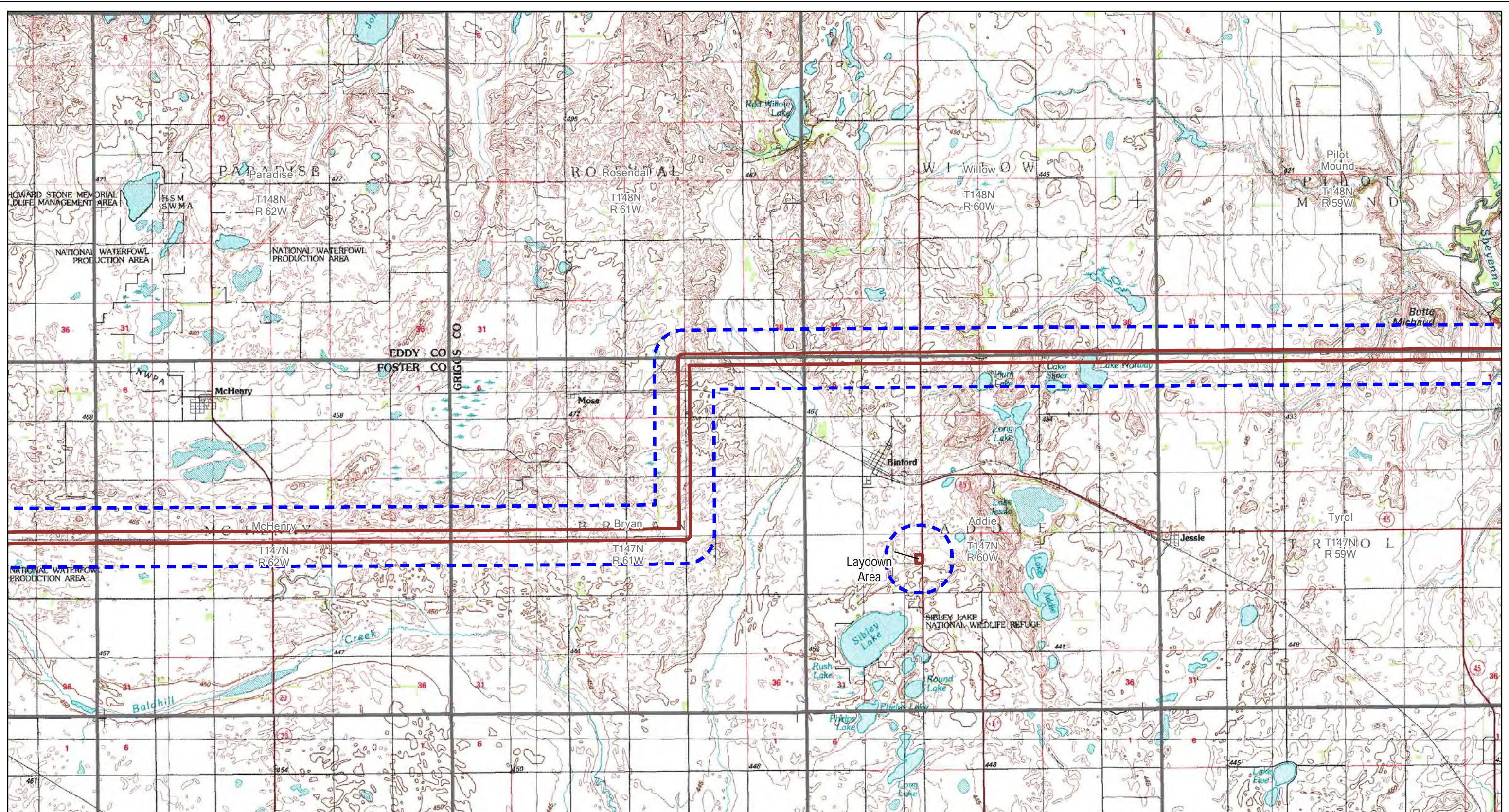
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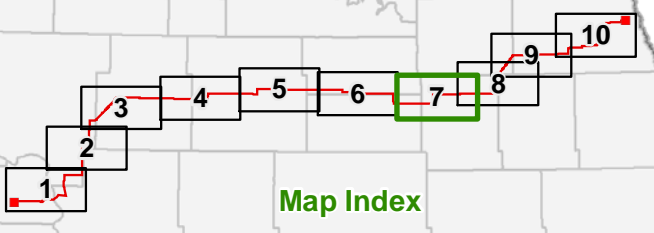
- Direct Effects APE for Archaeological Properties
- Visual Effects APE for Historic Buildings
- Project Substation

Figure 1: Page 6 of 10
 Areas of Potential Effects for Historic Properties
 Center to Grand Forks Project
 Minkota Power Cooperative, Inc.



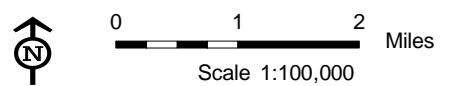


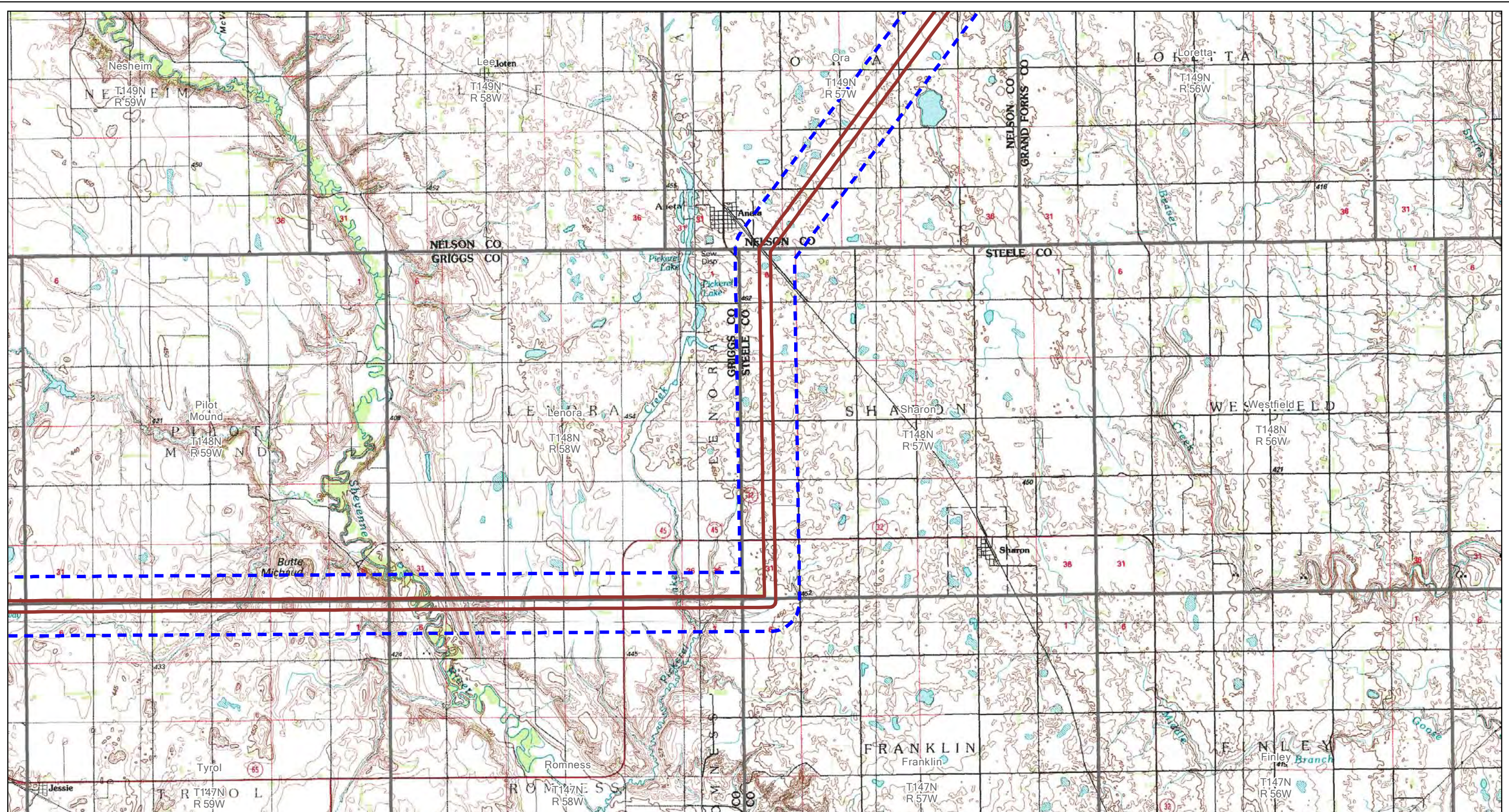
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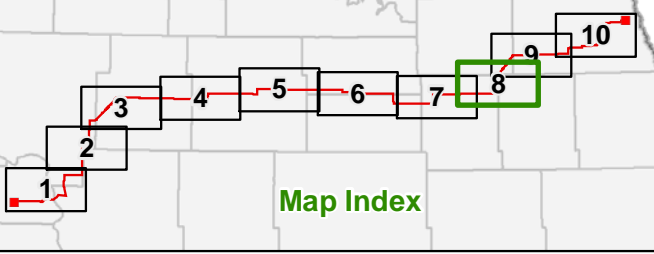
- Direct Effects APE for Archaeological Properties
- Visual Effects APE for Historic Buildings
- Project Substation

Figure 1: Page 7 of 10
 Areas of Potential Effects for Historic Properties
 Center to Grand Forks Project
 Minnkota Power Cooperative, Inc.



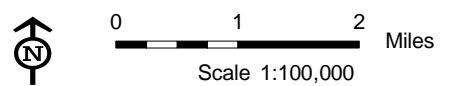


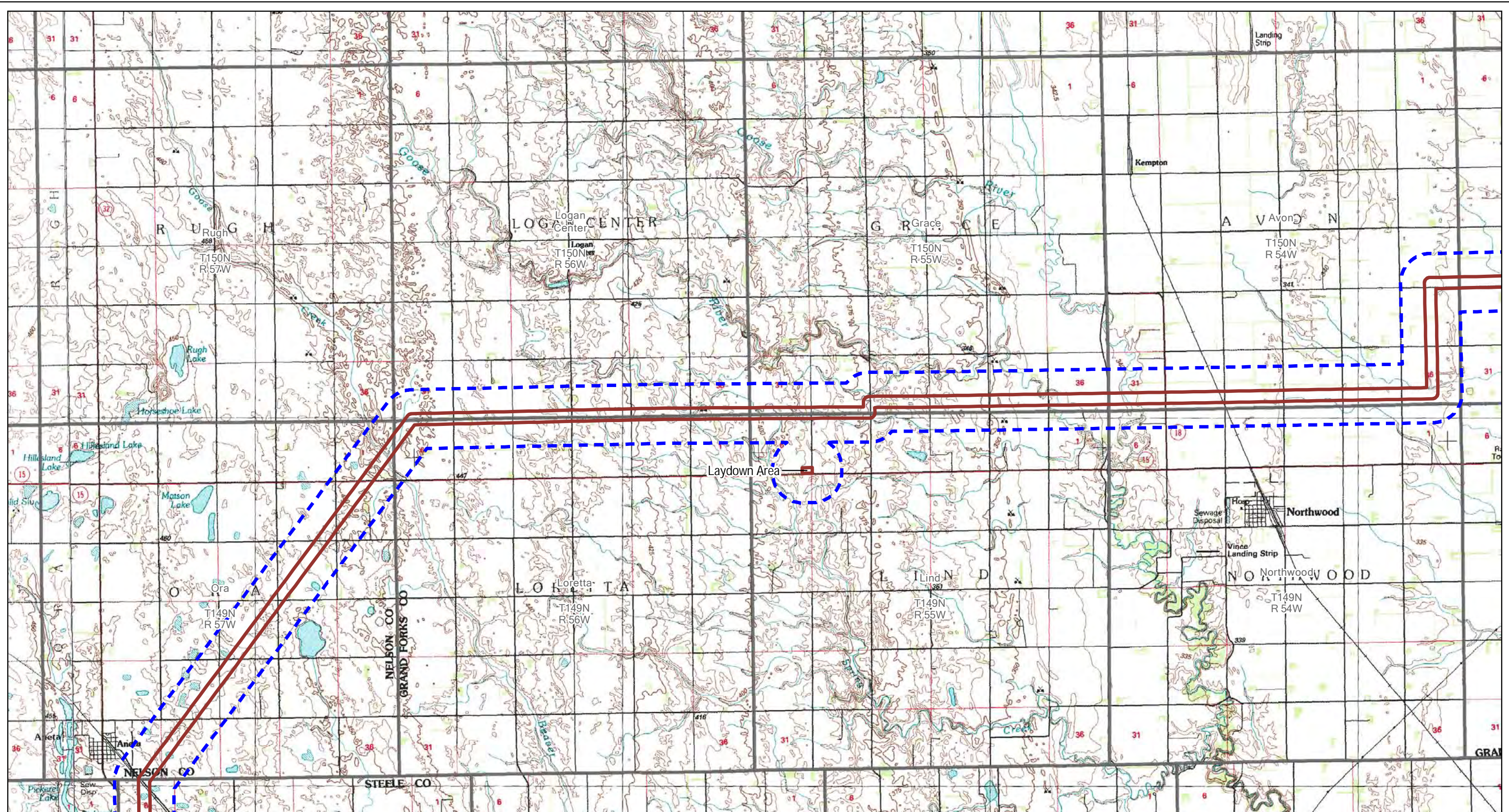
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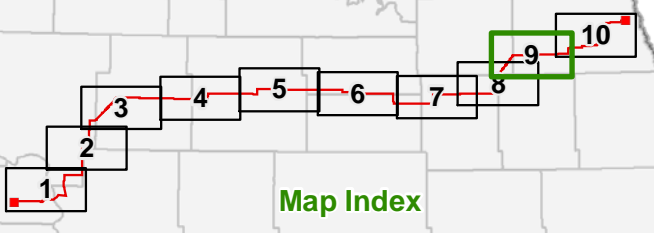
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- Project Substation

Figure 1: Page 8 of 10
 Areas of Potential Effects for Historic Properties
 Center to Grand Forks Project
 Minkota Power Cooperative, Inc.



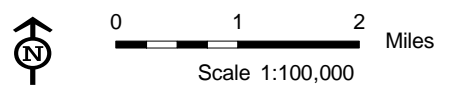


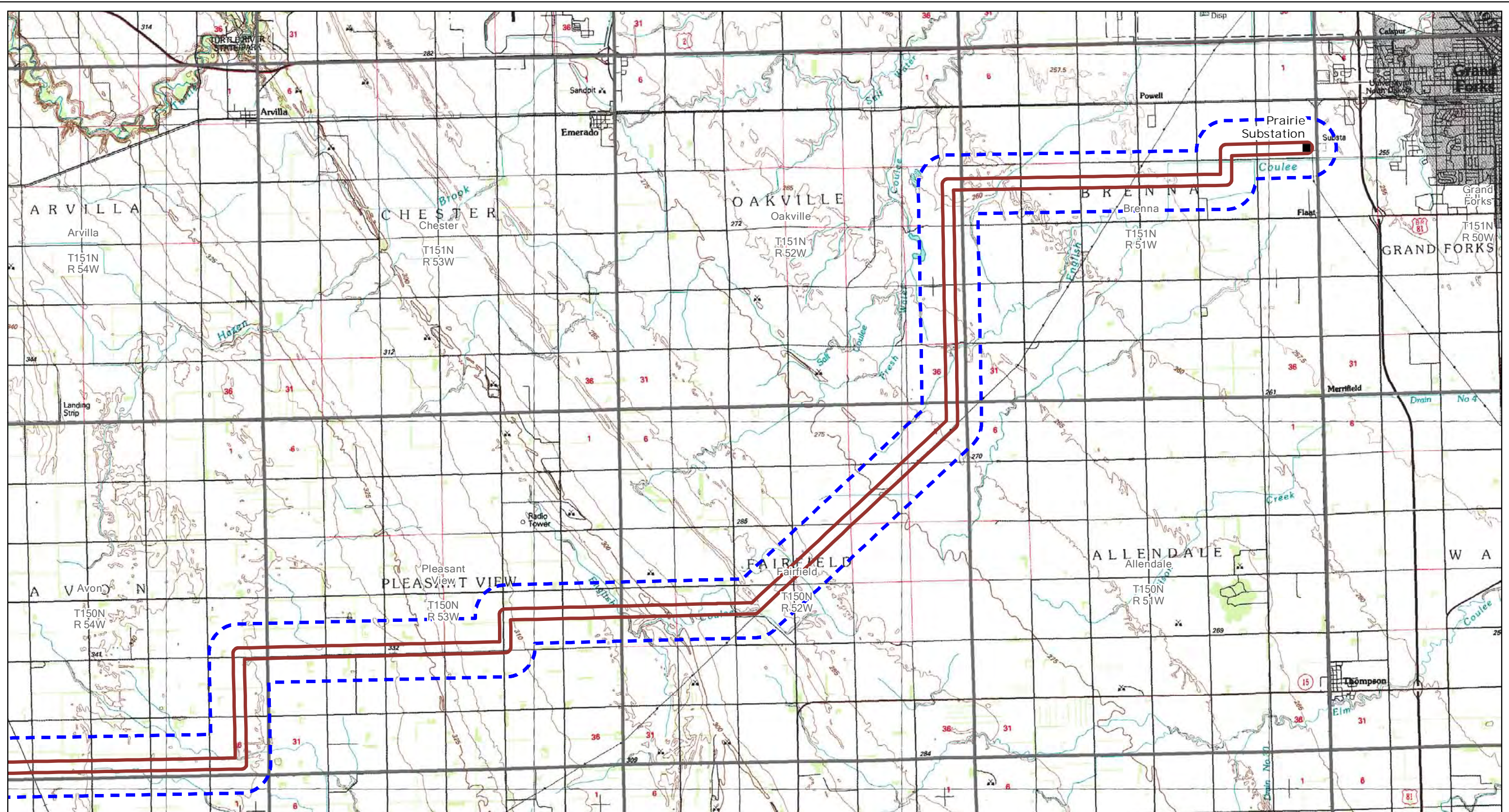
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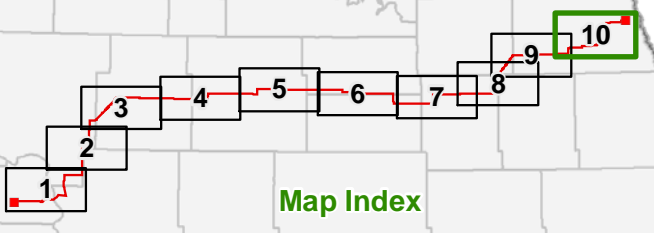
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- Project Substation

Figure 1: Page 9 of 10
 Areas of Potential Effects for Historic Properties
 Center to Grand Forks Project
 Minkota Power Cooperative, Inc.



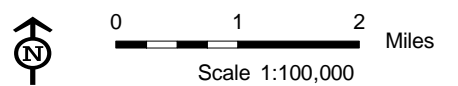


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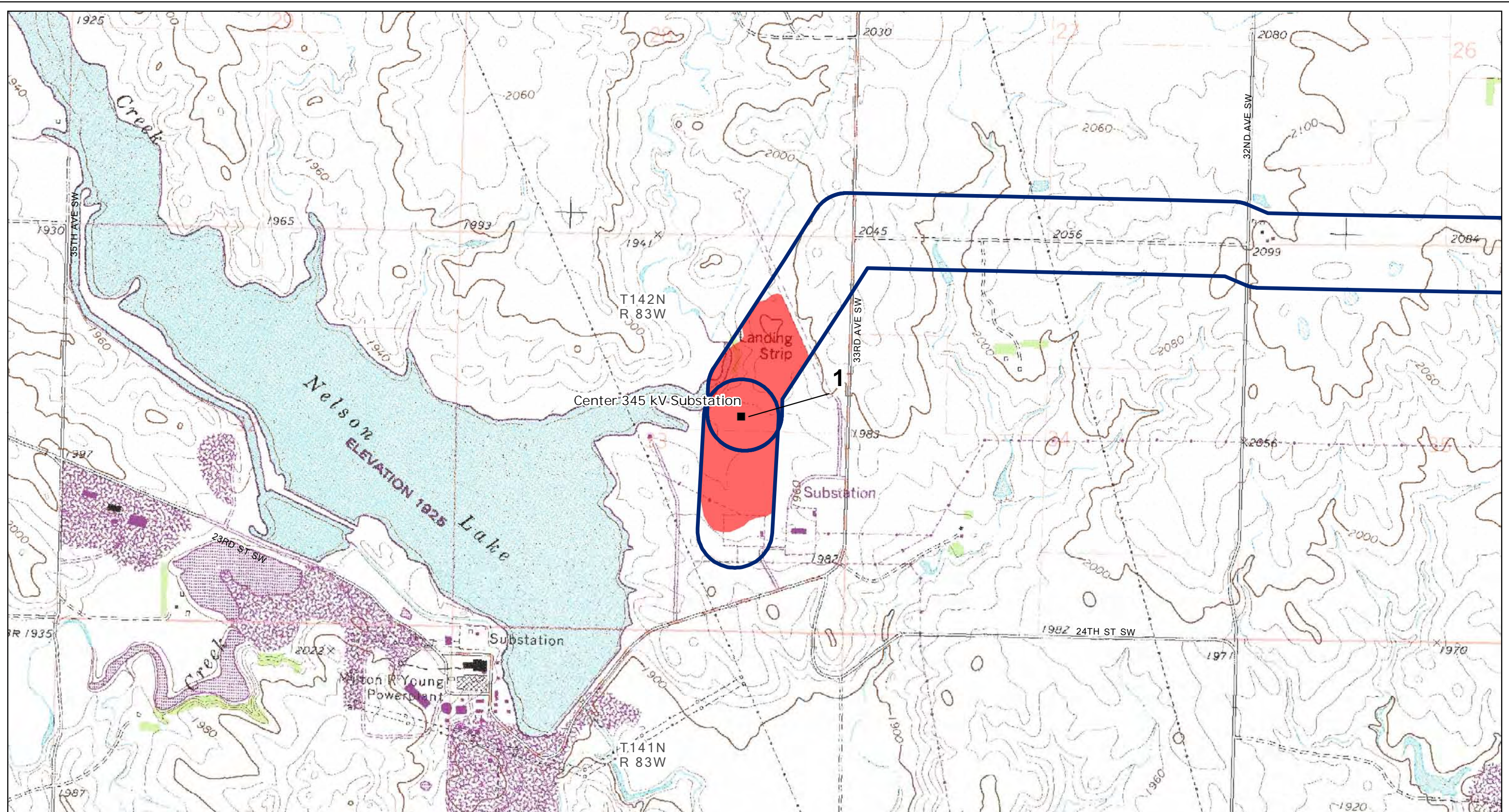
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Figure 1: Page 10 of 10
 Areas of Potential Effects for Historic Properties
 Center to Grand Forks Project
 Minkota Power Cooperative, Inc.

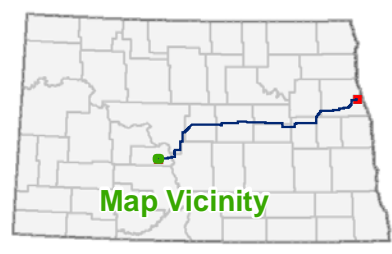


Programmatic Agreement
Center to Grand Forks 345 kV Transmission Line Project
August 2011

ATTACHMENT 2

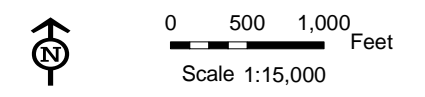


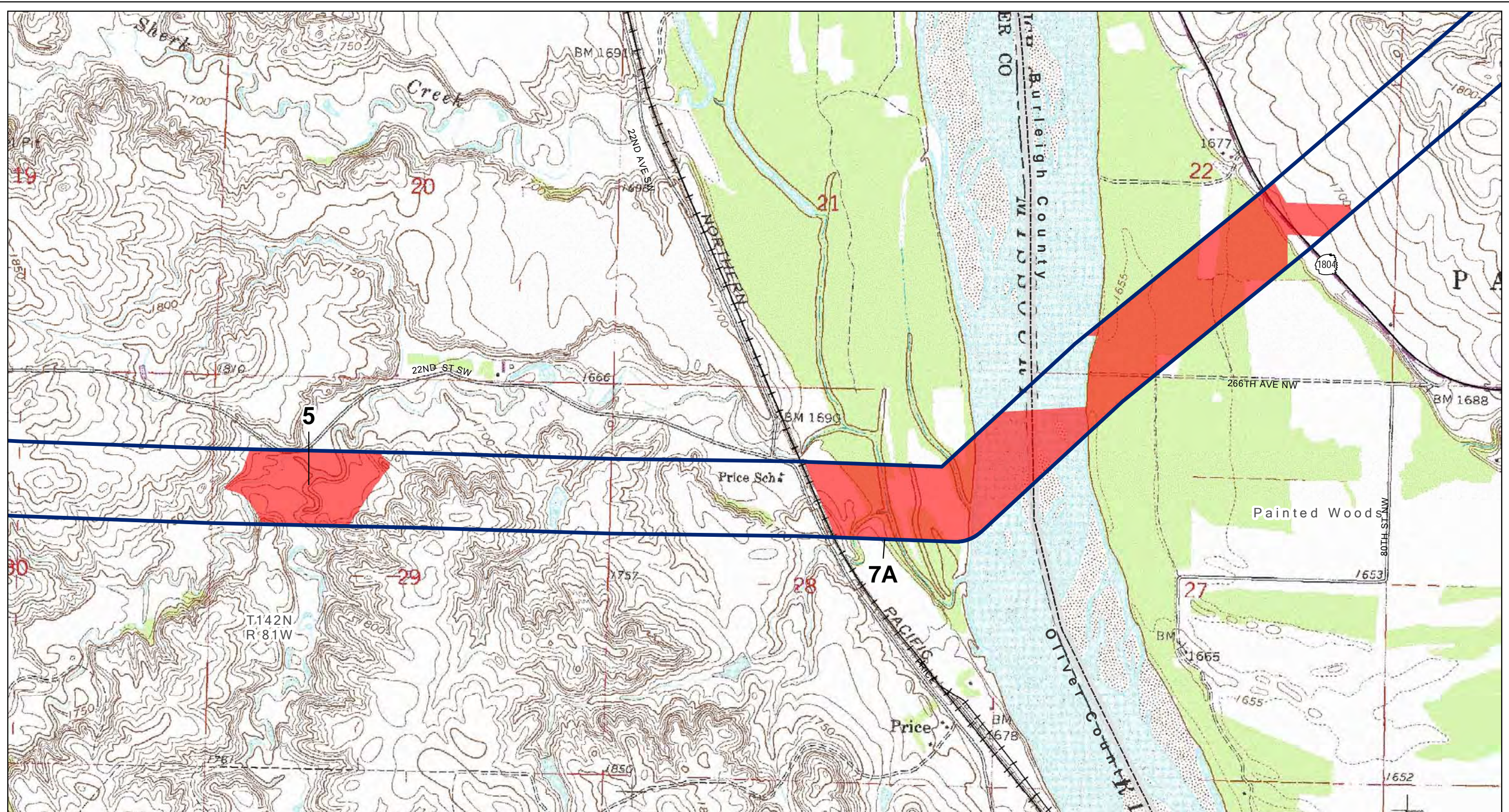
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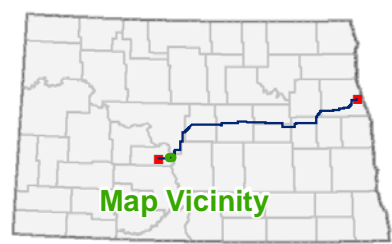
- Project Substation
- ▭ Project Corridor - March 17, 2011
- Geologic Potential**
- High

Locality 1
 High Potential Areas for Deeply Buried Sites
 Center to Grand Forks Project
 Minnkota Power Cooperative, Inc.



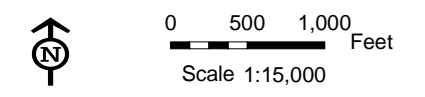


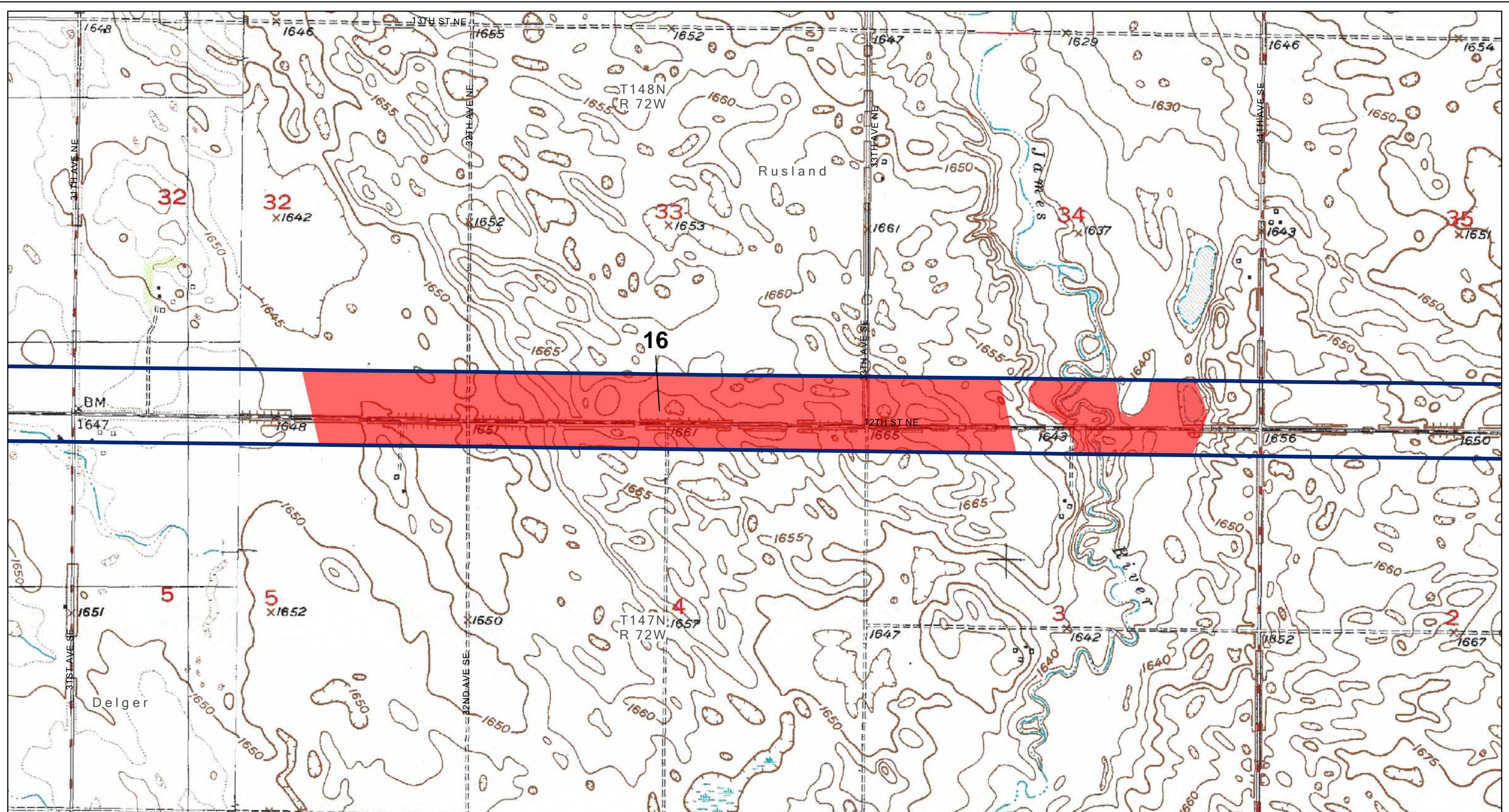
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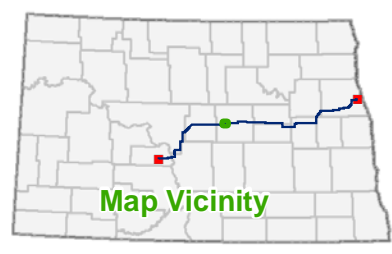
- Project Substation
- ▭ Project Corridor - March 17, 2011
- Geologic Potential**
- High

Localities 5 and 7A
 High Potential Areas for Deeply Buried Sites
 Center to Grand Forks Project
 Minnkota Power Cooperative, Inc.



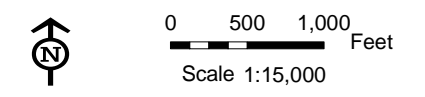


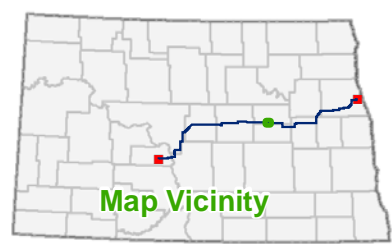
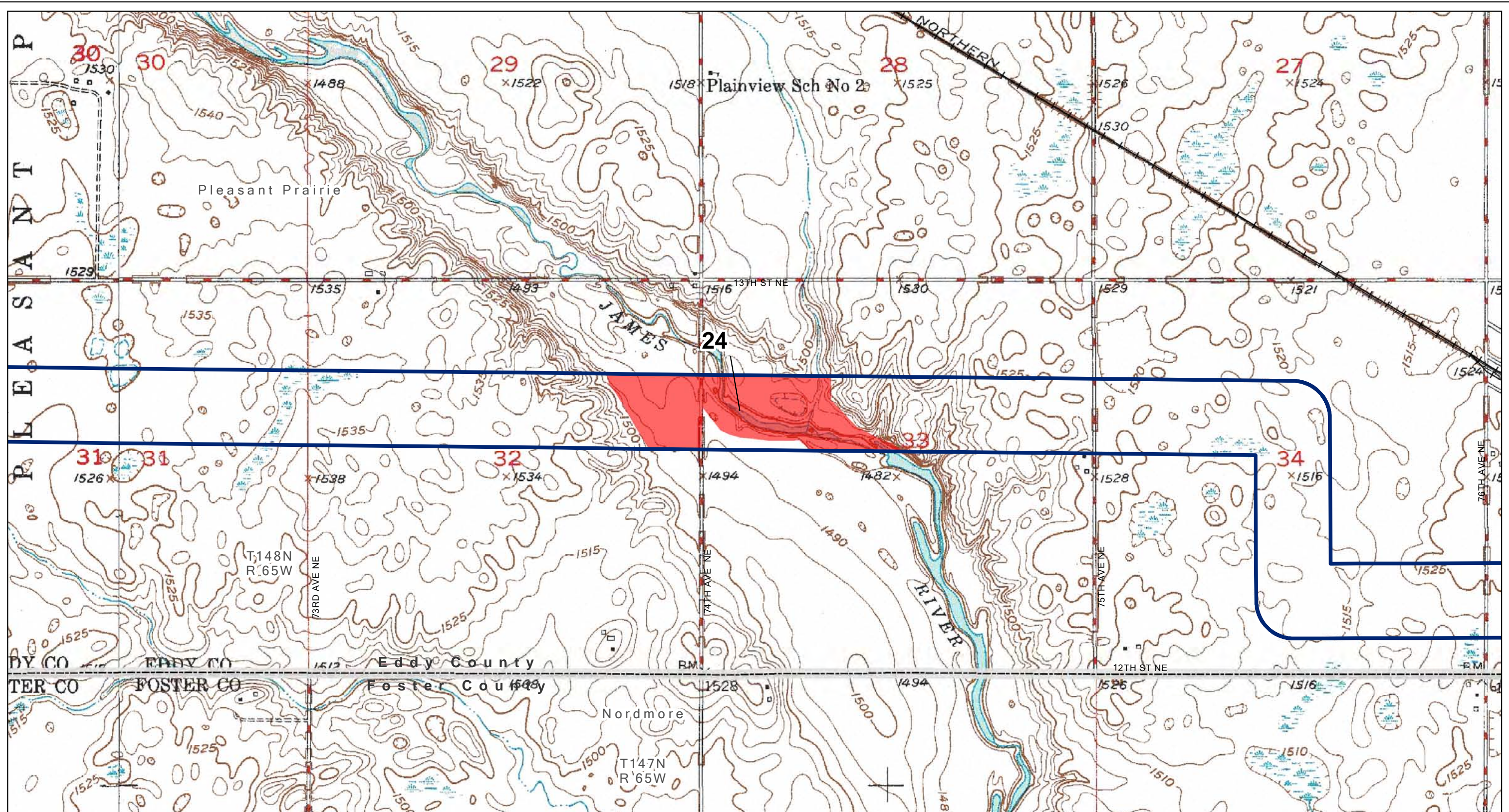
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- Project Substation
- ▭ Project Corridor - March 17, 2011
- Geologic Potential**
- High

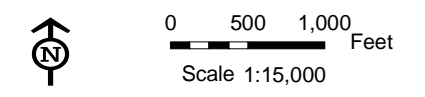
Locality 16
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 Center to Grand Forks Project
 Minnkota Power Cooperative, Inc.

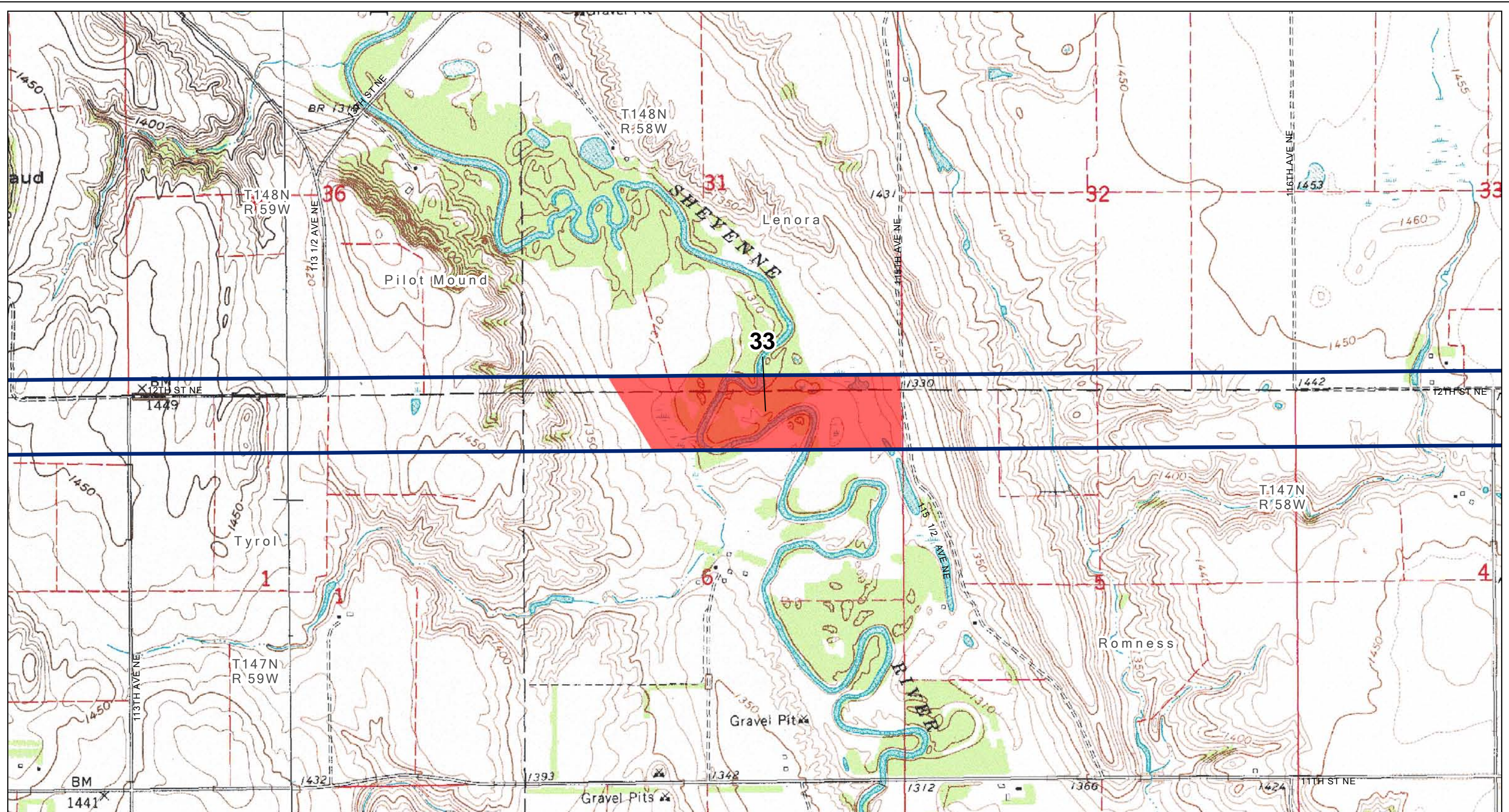




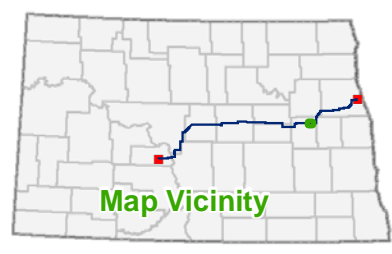
- Project Substation
- Project Corridor - March 17, 2011
- Geologic Potential**
- High

Locality 24
 High Potential Areas for Deeply Buried Sites
 Center to Grand Forks Project
 Minnkota Power Cooperative, Inc.



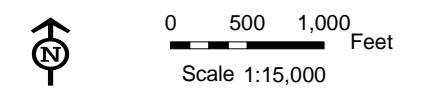


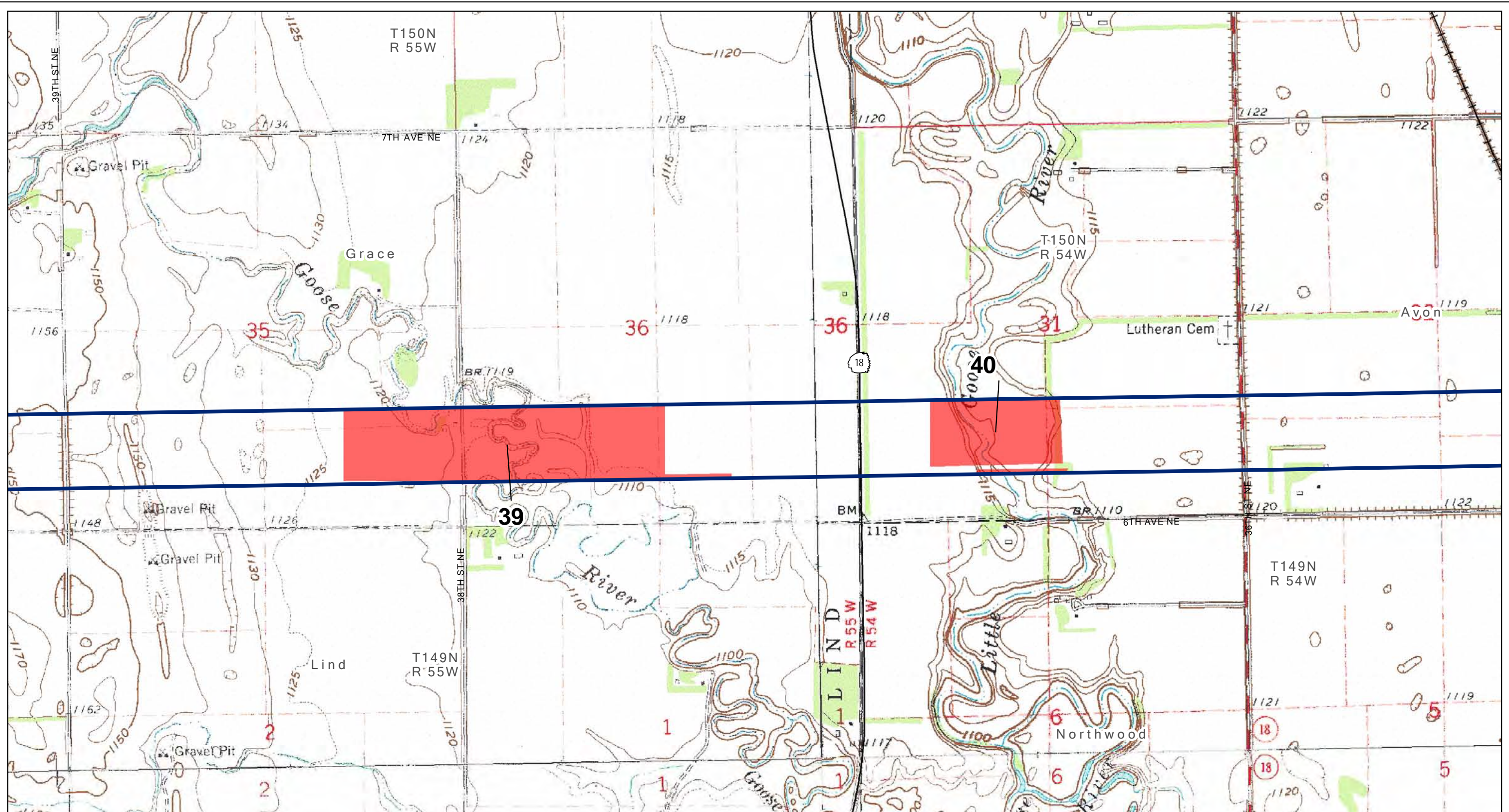
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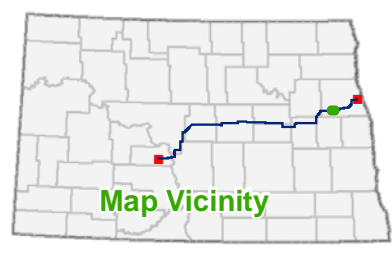
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Locality 33
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 Center to Grand Forks Project
 Minnkota Power Cooperative, Inc.



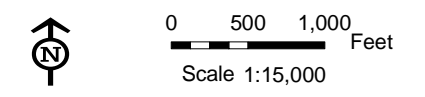


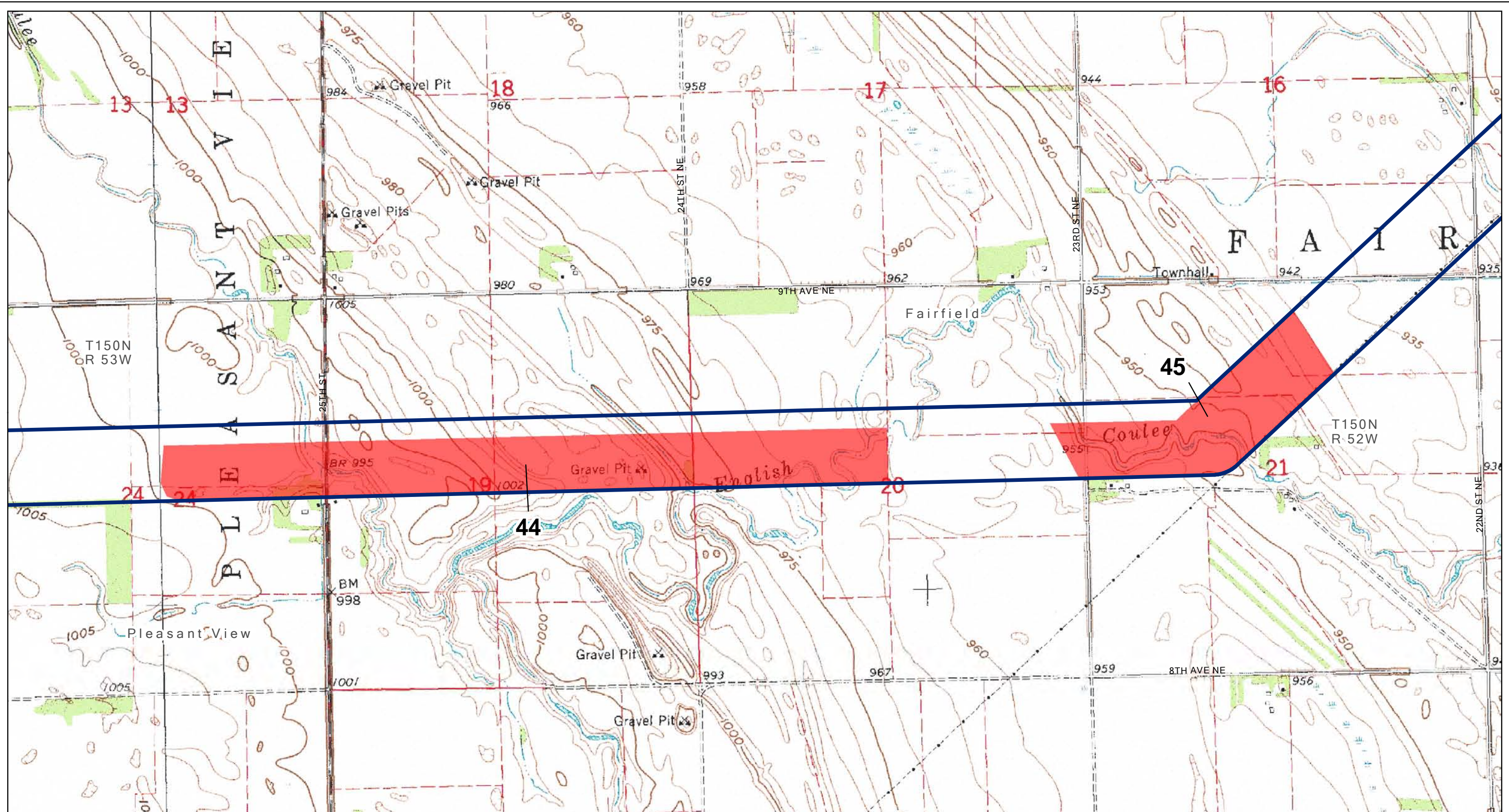
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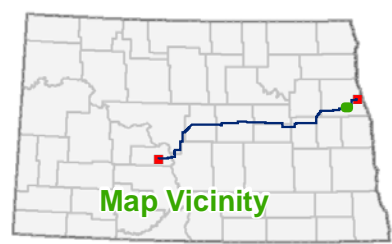
- Project Substation
- ▭ Project Corridor - March 17, 2011
- Geologic Potential**
- High

Localities 39 and 40
 High Potential Areas for Deeply Buried Sites
 Center to Grand Forks Project
 Minnkota Power Cooperative, Inc.



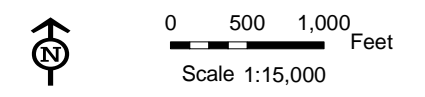


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- Project Substation
- ▭ Project Corridor - March 17, 2011
- Geologic Potential**
- High

Localities 44 and 45
 High Potential Areas for Deeply Buried Sites
 Center to Grand Forks Project
 Minnkota Power Cooperative, Inc.



ATTACHMENT 3

Methods for Addressing Deeply Buried Archaeological Resources for the Center to Grand Forks 345 kV Transmission Line in North Dakota

In January 2011, Strata Morph Geoexplorations (Strata Morph) prepared an assessment for Minnkota Power Cooperative, Inc. (Minnkota) concerning the potential for deeply buried soil horizons that could possibly hold archaeological resources along the preferred route for the proposed 345 kV transmission line between Center and Grand Forks, North Dakota (Project) (Attachment A; Kolb 2011).

Archaeological sites are, by definition, buried cultural deposits. Over time, soils accumulate and bury artifacts associated with human occupation. In some environments, the overlying deposits can be quite deep. For example, Late Plains Archaic, Early Plains Woodland, Middle Plains Woodland, and Plains Village settlements are characteristically contained within deeply buried soils (paleosols) in the Late Holocene floodplain sediments of the James River Valley in North Dakota (Picha and James, 1993).

The Strata Morph assessment analyzed the likelihood that particular geologic environments along the preferred route were stable enough to have been occupied by early Americans and that these geologic environments were later buried by soils (sand, silt, loess) deposited by water or wind. A deeply buried surface soil in this context is one that is 50 centimeters or deeper from today's surface. The assessment addressed the entire 1000-foot route, and categorized the various environments into high, moderate, and low potential to have preserved, buried soils (paleosols). If present, some of these soils could contain archaeological materials. The Strata Morph geomorphologic assessment is appended to this document.

Strata Morph identified 51 discrete areas along the route that had some potential for buried paleosols (Appendix A). Of these, 12 were ranked as having high potential, 25 ranked as having moderate potential, and 13 ranked as having moderate-to-low potential. Table 1, below, lists the cumulative length of these potential areas. Because of shifts to the design, 15.7 miles of corridor that now fall outside the assessed corridor were not classified. These areas, and others that may result from alignment shifts, will be reassessed as the project proceeds. Most of the corridor has little to no potential for deeply buried surface soils.

Table 1

Geologic Potential	Length (miles)
High	7.0
Moderate	10.4
Moderate - Low	2.3
Low - None	212.4
Outside original assessment area	15.7
Total	247.8

Excavation for transmission structure foundations could potentially adversely affect deeply buried archaeological deposits, if present. Ideally, each proposed structure site would be located in an area previously tested and not containing buried archaeological deposits. Several techniques can be used to identify archaeological deposits that are deeply buried. These include geophysical testing (magnetometry and/or resistivity testing), trenching with backhoes, and auger probing. Each of these techniques can be suitable depending on the situation. However, at this time, it is not feasible to test each location prior to construction because exact structure locations are unknown and because there are large areas along the route that have potential for buried sites. Testing with any of the aforementioned methods along a route as large as the proposed Project would be prohibitively expensive and time-consuming. Another factor complicating the issue is that the proposed Project is also constrained by landowners who may be unwilling to have structure locations shift to areas other than those previously agreed to during negotiations with right-of-way agents.

The proposed transmission line structures are to be attached to concrete foundations that could be 7 to 10 feet in diameter, and between 27 and 45 feet deep for tangent structures, or 9 to 15 feet in diameter and 45 to 87 feet deep for dead-end structures, depending on soil conditions. Construction will involve excavation for cylindrical foundations done by a large auger. Augering allows the surrounding soils to retain their strength, which prevents the foundation from "tipping over." Traditional archaeological sampling to identify deeply buried sites at the foundation locations would entail large excavations in order to accommodate an investigation. This would require subsequent installation of an engineered backfill. The engineered backfill would require compaction of the soils for the entire depth before augering the foundation; this would require further disruption of any adjacent soils to an even larger area.

Moving a foundation site does not address the problem as there is limited site flexibility, and the same situation may reoccur. Even a relatively small move, such as shifting a foundation 5 feet in any direction, could necessitate a redesign and resultant relocation of several structures in both directions. It is not as simple as just moving one structure 20 feet; it is likely that for any adjustment, 5 structure locations would need to move/adjust. If any of these are already in place, this would create a significant issue in terms of cost and constructability.

Minnkota has already made efforts to identify archaeological sites along the proposed route and is willing to avoid affecting sites if possible. If construction cannot be designed to avoid a site, that site should be evaluated for its eligibility for listing on the National Register of Historic Places. Because of the magnitude of effort that would be required to test every potential deeply buried soil area for archaeological deposits prior to construction, it is proposed that a program

be implemented whereby archaeologists monitor soil augering at each foundation location during construction within the high potential areas to identify and record any historic properties that may be affected.

The North Dakota State Historic Preservation Office (SHPO) already received a copy of a Class I Literature Search for historic properties, and a predictive model for identifying prehistoric archaeological properties, for the transmission line's area of potential effect. Based on the model, survey efforts to find surface and shallowly buried sites have begun. The survey and predictive model are being refined as results are made available. A full Class III Cultural Resources Inventory report will be provided to the Rural Utility Service (RUS), SHPO and consulting parties upon completion. Additionally, as construction nears completion, Minnkota will supply the RUS and SHPO with the results of construction monitoring at the areas identified as having high probability for deeply buried paleosols.

Each auger location will be monitored or evaluated by an archaeological monitor to observe mechanical augering for foundations within high potential areas as shown on figures in Appendix A. (Monitoring would only be required to the depth of the Holocene soils. Augering may proceed without a monitor present if the monitor determines that close examination is not necessary based upon new information and consultation with RUS and SHPO. New information may include previous monitor data, soil characteristics, information provided to or by Minnkota that may require immediate augering, Monitors will examine backdirt and exposed soil profiles to the extent conditions permit. Monitors will have the authority to temporarily stop work if archaeological deposits are discovered, in order to record artifacts and cultural features, and to assess and evaluate the find. The following protocol will be followed:

1. The monitor directs the construction foreman to stop work.
2. The construction foreman secures the area and places the work site into a safe condition.
3. The monitor notifies Minnkota and prepares a memo describing the discovery.
4. Minnkota notifies RUS and SHPO, and provides the memo describing any archaeological resources identified as part of a weekly summary report.
5. The monitor records the discovery by means of field notes, photographs, sketch maps, artifact or feature descriptions, completes a site form, and allows construction to proceed when documentation is complete.

A procedure for addressing unanticipated discoveries and human remains is outlined in the Programmatic Agreement for this Project. As per stipulations in the Programmatic Agreement, Minnkota, RUS, and North Dakota SHPO would be notified of the discovery, which would be carefully recorded and documented in the field pursuant to appropriate state law (North Dakota Century Code § 23-06-27 and administrative rules North Dakota Administrative Code Chapter 40-02-03, "Protection of Prehistoric and Historic Human Burial Sites, Human Remains, and Burial Goods"). Construction would be delayed pending completion of these legal requirements. Archaeological monitors will prepare daily reports to document their activities and observations. Each week the monitor(s) will submit a summary report describing their activities and observations along with any actions taken and their outcome. The report will be submitted to Minnkota who will forward copies to SHPO and RUS.

References

Michael F. Kolb

Programmatic Agreement
Center to Grand Forks 345 kV Transmission Line Project
August 2011

2011 *Geomorphological Model for Locating Areas with Potential for Deeply Buried Archaeological Deposits along the Center to Grand Forks 345 kV Transmission Line Corridor in North Dakota*. Strata Morph Geoexploration Report of Investigation No. 199. Strata Morph Geoexploration, Inc. Sun Prairie, WI.

Picha, Paul R. and Michael L. Gregg

1993 Chronostratigraphy of Upper James River floodplain sediments: Implications for southeastern North Dakota archaeology. *Geoarchaeology*, Volume 8, Issue 3 pp. 203-215.

ATTACHMENT 4

Contacts

Rural Utilities Service

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Minnkota

John Graves
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Grand Forks, North Dakota 58208-3200

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701-391-3654 (cell)

jgraves@Minnkota.com

June 1, 2011

Jeff Towner
Field Supervisor
U. S. Fish and Wildlife Service
3425 Miriam Avenue
Bismarck, North Dakota 58501

RE: Center to Grand Forks 345 kV Transmission Line Project
North Dakota

Dear Mr. Towner:

Under the Rural Electrification Act of 1936 (7 U.S.C. §§ 901-950b), the Rural Utilities Service (RUS) is authorized to provide assistance for the upgrade, expansion, maintenance and replacement of rural electric infrastructure across the United States. Minnkota Power Cooperative, Inc. (Minnkota) has applied to RUS for financial assistance for the construction of the Center to Grand Forks 345 kilovolt (kV) Transmission Line Project (CGF Project). According to this application, the CGF Project will construct approximately 250 miles of 345 kV transmission line across Oliver, Burleigh, McLean, Sheridan, Wells, Foster, Eddy, Griggs, Nelson, Steele and Grand Forks Counties, North Dakota. RUS may elect to fund this Project, thereby making it an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

Based on an analysis conducted pursuant to its regulations (7 CFR Part 1794) for implementing the requirements of the National Environmental Policy Act (NEPA), RUS will select a 1000-foot wide corridor for construction of the CGF Project. The North Dakota Public Service Commission will then select a 150-foot wide right-of-way (ROW) for construction of the specific CGF Project route which itself should be located within the corridor preferred by RUS. Therefore, RUS has determined that the area of potential effects (APE) includes the 1000-foot wide preferred corridor, which should

contain the route ROW, beginning near Center, North Dakota at the Milton R. Young Station and terminating in Grand Forks, North Dakota as well as all related access roads, construction work and staging areas and appurtenant facilities which may be located outside of the ROW and may not be contiguous. Because the transmission line structures average about 150 feet tall, RUS has identified an APE for visual effects that extends approximately one-half mile. If any structures will be 200 feet or taller, RUS will extend the APE to one mile.

In addition to the involvement of RUS, the Project may require a permit from the U.S. Army Corps of Engineers (USACE). The Project also may require approval from the U.S. Fish and Wildlife Service (USFWS) to cross easements held by that agency. RUS understands that the USACE has decided to meet its responsibilities for Section 106 review independent of RUS. However, the USFWS has designated RUS as the lead agency for the purposes of Section 106 review pursuant to 36 CFR § 800.2(a)(2).

Tribal Consultation - In conducting Section 106 review for the CGF Project, RUS has tried to involve Indian tribes and gather information from them as early as possible in project planning. On September 10, 2009, RUS invited the following Indian tribes to participate in government-to-government consultation - the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, the Bois Forte Ojibwe, the Cheyenne River Sioux Tribe, the Crow Creek Sioux Tribe, the Flandreau Santee Sioux Tribe, the Fond du Lac Band of Lake Superior Indians, the Grand Portage Band, the Leech Lake Band of Ojibwe, the Lower Brule Sioux Tribe, the Lower Sioux Indian Community, the Mille Lacs Band of Ojibwe, the Northern Cheyenne Nation, the Oglala Sioux Tribe, the Prairie Island Indian Community, the Red Lake Band of Chippewa Indians, the Rosebud Sioux Tribe, the Santee Sioux Nation, the Sisseton Wahpeton Oyate of the Lake Traverse Reservation, the Spirit Lake Tribe, the Standing Rock Sioux Tribe, the Three Affiliated Tribes of the Fort Berthold Reservation, the Turtle Mountain Band of Chippewa, the Upper Sioux Indian Community and the White Earth Band of Ojibwe. As part of this invitation, RUS requested that these tribes participate in an on-site meeting scheduled on September 22 – 23, 2009 so that they might discuss project details and visit proposed crossings of the Missouri and Sheyenne Rivers. RUS believed it to be particularly important to solicit tribal involvement and recommendations prior to conducting any archeological study of the APE. Unfortunately, none of the tribes invited attended this meeting.

Following the on-site meeting, the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, the Cheyenne River Sioux Tribe, the Mille Lacs Band of Ojibwe, the Northern Cheyenne Nation, the Rosebud Sioux Tribe, the Santee Sioux Nation, the Sisseton Wahpeton Oyate, the Standing Rock Sioux Tribe, the Upper Sioux Indian Community and the White Earth Band of Ojibwe expressed their interest in participating in consultation. RUS invited these tribes to participate in consultation meetings held in North Dakota on April 22, 2010 and again on June 10, 2010. Although a number of tribes had expressed interest in consulting, only the Mille Lacs Band of Ojibwe, the Sisseton- Wahpeton Oyate and the Standing Rock Sioux Tribe participated in these meetings. To support their participation, tribes had been provided with several documents including the Macro Corridor and Alternative Evaluation Studies, the literature review titled, *Draft Class I Literature Search for the Proposed Center to Grand Forks 345 kV Transmission Line* (March 2010) and a predictive model developed to direct the identification of significant archeological resources.

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Programmatic Agreement - Because the CGF Project consists of a long and wide corridor where access to land in order to complete necessary studies and other pre-construction activities is restricted, RUS has elected to phase the identification and evaluation of historic properties, and application of the criteria of adverse effect in accordance with 36 CFR § 800.4(b)(2) and 36 CFR § 800.5(a)(3), respectively.

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Through this letter and its summary documentation, RUS is inviting the Advisory Council on Historic Preservation (ACHP) to participate in consultation to develop the PA for the CGF project in accordance with 36 CFR § 800.6(a)(1)(i)(C). Please notify RUS of your decision within fifteen days of receipt.

Should you have any questions or need additional information, please contact Dennis Rankin, the project manager at 202-720-1953 or via email at dennis.rankin@wdc.usda.gov.

Sincerely,



for Mark S. Plank

Director

Engineering and Environmental Staff

Water and Environmental Programs

Enclosures

Cc: Laura Dean:EES/Dennis Rankin:EES

June 1, 2011

Barry Williams
Region 6 – Dakotas Zone Archaeologist
preservationU. .S. Fish and Wildlife Service
3425 Miriam Avenue
Bismarck, North Dakota 58501

RE: Center to Grand Forks 345 kV Transmission Line Project
North Dakota

Dear Mr. Williams:

Under the Rural Electrification Act of 1936 (7 U.S.C. §§ 901-950b), the Rural Utilities Service (RUS) is authorized to provide assistance for the upgrade, expansion, maintenance and replacement of rural electric infrastructure across the United States. Minnkota Power Cooperative, Inc. (Minnkota) has applied to RUS for financial assistance for the construction of the Center to Grand Forks 345 kilovolt (kV) Transmission Line Project (CGF Project). According to this application, the CGF Project will construct approximately 250 miles of 345 kV transmission line across Oliver, Burleigh, McLean, Sheridan, Wells, Foster, Eddy, Griggs, Nelson, Steele and Grand Forks Counties, North Dakota. RUS may elect to fund this Project, thereby making it an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

Based on an analysis conducted pursuant to its regulations (7 CFR Part 1794) for implementing the requirements of the National Environmental Policy Act (NEPA), RUS will select a 1000-foot wide corridor for construction of the CGF Project. The North Dakota Public Service Commission will then select a 150-foot wide right-of-way (ROW) for construction of the specific CGF Project route which itself should be located within the corridor preferred by RUS. Therefore, RUS has determined that the area of potential effects (APE) includes the 1000-foot wide preferred corridor, which should

contain the route ROW, beginning near Center, North Dakota at the Milton R. Young Station and terminating in Grand Forks, North Dakota as well as all related access roads, construction work and staging areas and appurtenant facilities which may be located outside of the ROW and may not be contiguous. Because the transmission line structures average about 150 feet tall, RUS has identified an APE for visual effects that extends approximately one-half mile. If any structures will be 200 feet or taller, RUS will extend the APE to one mile.

In addition to the involvement of RUS, the Project may require a permit from the U.S. Army Corps of Engineers (USACE). The Project also may require approval from the U.S. Fish and Wildlife Service (USFWS) to cross easements held by that agency. RUS understands that the USACE has decided to meet its responsibilities for Section 106 review independent of RUS. However, the USFWS has designated RUS as the lead agency for the purposes of Section 106 review pursuant to 36 CFR § 800.2(a)(2).

Tribal Consultation - In conducting Section 106 review for the CGF Project, RUS has tried to involve Indian tribes and gather information from them as early as possible in project planning. On September 10, 2009, RUS invited the following Indian tribes to participate in government-to-government consultation - the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, the Bois Forte Ojibwe, the Cheyenne River Sioux Tribe, the Crow Creek Sioux Tribe, the Flandreau Santee Sioux Tribe, the Fond du Lac Band of Lake Superior Indians, the Grand Portage Band, the Leech Lake Band of Ojibwe, the Lower Brule Sioux Tribe, the Lower Sioux Indian Community, the Mille Lacs Band of Ojibwe, the Northern Cheyenne Nation, the Oglala Sioux Tribe, the Prairie Island Indian Community, the Red Lake Band of Chippewa Indians, the Rosebud Sioux Tribe, the Santee Sioux Nation, the Sisseton Wahpeton Oyate of the Lake Traverse Reservation, the Spirit Lake Tribe, the Standing Rock Sioux Tribe, the Three Affiliated Tribes of the Fort Berthold Reservation, the Turtle Mountain Band of Chippewa, the Upper Sioux Indian Community and the White Earth Band of Ojibwe. As part of this invitation, RUS requested that these tribes participate in an on-site meeting scheduled on September 22 – 23, 2009 so that they might discuss project details and visit proposed crossings of the Missouri and Sheyenne Rivers. RUS believed it to be particularly important to solicit tribal involvement and recommendations prior to conducting any archeological study of the APE. Unfortunately, none of the tribes invited attended this meeting.

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Should you have any questions or need additional information, please contact Dennis Rankin, the project manager at 202-720-1953 or via email at dennis.rankin@wdc.usda.gov.

Sincerely,



Mark S. Plank

Director

Engineering and Environmental Staff

Water and Environmental Programs

Enclosures

Cc: Laura Dean:EES/Dennis Rankin:EES

May 25, 2011

Reid Nelson, Director
Office of Federal Agency Programs
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue, NW
Suite #803
Washington, D.C. 20002

RE: Center to Grand Forks 345 kV Transmission Line Project
North Dakota

Dear Mr. Nelson:

Under the Rural Electrification Act of 1936 (7 U.S.C. §§ 901-950b), the Rural Utilities Service (RUS) is authorized to provide assistance for the upgrade, expansion, maintenance and replacement of rural electric infrastructure across the United States. Minnkota Power Cooperative, Inc. (Minnkota) has applied to RUS for financial assistance for the construction of the Center to Grand Forks 345 kilovolt (kV) Transmission Line Project (CGF Project). According to this application, the CGF Project will construct approximately 250 miles of 345 kV transmission line across Oliver, Burleigh, McLean, Sheridan, Wells, Foster, Eddy, Griggs, Nelson, Steele and Grand Forks Counties, North Dakota. RUS may elect to fund this Project, thereby making it an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

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contain the route ROW, beginning near Center, North Dakota at the Milton R. Young Station and terminating in Grand Forks, North Dakota as well as all related access roads, construction work and staging areas and appurtenant facilities which may be located outside of the ROW and may not be contiguous. Because the transmission line structures average about 150 feet tall, RUS has identified an APE for visual effects that extends approximately one-half mile. If any structures will be 200 feet or taller, RUS will extend the APE to one mile.

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Should you have any questions or need additional information, please contact Dennis Rankin, the project manager at 202-720-1953 or via email at dennis.rankin@wdc.usda.gov.

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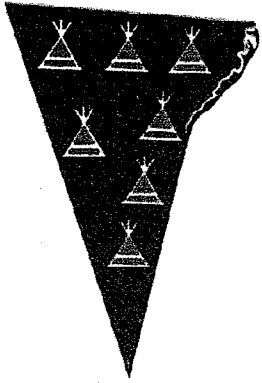
Mark S. Plank

Director

Engineering and Environmental Staff
Water and Environmental Programs

Enclosures

Cc: Laura Dean:EES/Dennis Rankin:EES



Tribal Historic Preservation Office

P.O. Box 121

205 Oak St. East, Suite 207

Sisseton, SD 57262

(605) 698-4972 phone

(605) 698-7054 fax

October 1, 2010

**Laura Dean, PhD
Federal Preservation Officer/Archeologist
Rural Utilities Service
1400 Independence Avenue, SW
Mail Stop 1571
Washington, DC 20250-1571**

Re: Minnkota Center to Grand Forks Transmission Line

Dear Ms. Dean,

I am writing with regard to the above mentioned project. First of all, we would like to voice our dismay with your office and the contractor representative John Graves, during the last meeting with the tribes via conference call which was held at Standing Rock on Aug 17, 2010. The tribes are unhappy with the fact that the contractor John Graves of Minnkota was in your office during the conference call and that you and he had predetermined the outcome of the so called Tribal consultation meeting and informed tribes of Rural Utilities Service' and Minnkota's decision prior to the tribal consultation conference call. The tribes in attendance again stressed to RUS our deep concern about using a predictive model to determine the areas to be surveyed. The tribes from the very beginning have requested a 100% survey of the entire corridor. The reason for this being the disturbance area is not just where the tower pads are located, the entire corridor will be disturbed (cultural resources destroyed) by the construction of the transmission towers and the cable installation process. Even though towers are spaced at 1000 ft apart all the areas i.e. staging areas, roads for heavy equipment such as excavators, cranes, semi tractors and bulldozers etc. the whole area within the corridor/APE is basically disturbed (cultural resources destroyed) during the construction phase. The information we requested as to the construction plan blueprints etc. have not been forthcoming as requested. The SWO THPO feels it would not be in

our best interest to provide a monitor until a 100% survey is agreed upon. As far as we are concerned the consultation process has not been a good faith effort on the part of RUS and we would request you reconsider the tribes' concerns regarding a 100% survey. By the tribes allowing a monitor to participate on a small portion of the arch survey process would only give the contractor and RUS the opportunity to say that tribal participation was afforded that is why we cannot accept the offer to put a monitor in the field at this time. Please feel free to call to discuss our concerns.

Respectfully,



Dianne Desrosiers
Tribal Historic Preservation Officer
Sisseton Wahpeton Oyate

Cc: Waste Win Young, SRST THPO
Dennis Gill Sr. Wahpekute
Natalie Weyaus, MBO THPO
Russell Eagle Bear, RST THPO
Franky Jackson, Santee Sioux Tribe, THPO
Perry Brady, Three Affiliated Tribes THPO
Darrell Smith, Spirit Lake Nation
Michael Justin, HDR
Val Hauser, ACHP

May 25, 2011

Merlan E. Paaverud, Jr.
State Historic Preservation Officer
The Historical Society of North Dakota
612 East Boulevard Avenue
Bismarck, North Dakota 58505-0830

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Mr. Paaverud:

The Rural Utilities Service (RUS) is considering an application for financial assistance from Minnkota Power Cooperative (Minnkota) for the construction of an approximately 250 mile long 345 kV electric transmission line and associated facilities to deliver power from the Milton R. Young Station Unit 2 (Young 2) power plant located near Center, North Dakota, to a delivery point in Minnkota's service area near Grand Forks, North Dakota. The line would be constructed primarily using single pole steel structures. Various modifications to associated substations in the area would also be required. The following counties could be affected by this project – Oliver, Burleigh, McLean, Sheridan, Wells, Foster, Eddy, Griggs, Nelson, Steele, and Grand Forks. RUS is considering funding this application, thereby making the proposal an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

RUS has determined that the area of potential effects (APE) includes the 1000-foot wide preferred corridor, which should contain the route right-of-way (ROW), beginning near Center, North Dakota at the Milton R. Young Station and terminating in Grand Forks, North Dakota as well as all related access roads, construction work and staging areas and appurtenant facilities which may be located outside of the ROW and may not be contiguous. Because the transmission line structures average about 150 feet tall, RUS has identified an APE for visual effects that extends approximately one-half mile. If any structures will be 200 feet or taller, RUS will extend the APE to one mile.

In addition to the involvement of RUS, the Project may require a permit from the U.S. Army Corps of Engineers (USACE). The Project also may require approval from the U.S. Fish and Wildlife Service (USFWS) to cross easements held by that agency. RUS understands that the USACE has decided to meet its responsibilities for Section 106 review independent of RUS. However, the USFWS has designated RUS as the lead agency for the purposes of Section 106 review pursuant to 36 CFR § 800.2(a)(2).

In conducting Section 106 review for the CGF Project, RUS has tried to involve Indian tribes and gather information from them as early as possible in project planning. On September 10, 2009, RUS initiated government-to-government consultation with twenty-four Indian tribes. A more detailed description of the consultation efforts of RUS can be found in the enclosed letter to the Advisory Council on Historic Preservation (ACHP) dated May 25, 2011.

In order to identify historic properties in the APE, Minnkota first conducted a literature review titled, *Draft Class I Literature Search for the Proposed Center to Grand Forks 345 kV Transmission Line* (March 2010). On the basis of this study and other factors, including professional experience, Minnkota designed a predictive model to direct the identification of significant archeological resources. In October 2010, Minnkota initiated archeological field testing based on the predictive model. That testing should resume in May 2011. In addition to these efforts, Minnkota also has completed a geomorphological study of the APE titled, *Geomorphological Model for Locating Areas with Potential for Deeply Buried Archaeological Deposits Along the Center to Grand Forks 345 KV Transmission Line Corridor in North Dakota* (January 2011). RUS provided an opportunity for your office to review and comment on all of these documents.

Throughout consultation, RUS has sought specific information from Indian tribes about the nature and location of historic properties of religious and cultural significance to them that might be affected by this project. As demonstrated by the enclosed letter, the Sisseton Wahpeton Oyate has asserted that survey of 100% of the APE is needed to accomplish this identification. RUS considered this recommendation, but found that it did not comport with the requirements of 36 CFR Part 800 and was inconsistent with ACHP guidance (see enclosed response from RUS dated November 24, 2010).

Because the CGF Project consists of a long and wide corridor where access to land in order to complete necessary studies and other pre-construction activities is restricted, RUS has elected to phase the identification and evaluation of historic properties, and application of the criteria of adverse effect in accordance with 36 CFR § 800.4(b)(2) and 36 CFR § 800.5(a)(3), respectively. RUS has revised the initial draft of the Programmatic Agreement (PA) for the referenced project in response to the recommendations provided by your office, and to more accurately reflect project circumstances and procedures. The result of this revision is the enclosed PA which establishes the procedures for a phased approach, clarifying that construction may not begin on any component of the

project until the requirements of the agreement have been met. With the enclosed letter, RUS notified the ACHP of the development of this PA in accordance with 36 CFR § 800.6(a)(1)(i)(C).

Please review the enclosed final draft PA and provide RUS with your written comments within thirty days of receipt. Send your comments to Dennis Rankin at 1400 Independence Avenue, SW, Mail Stop 1571, Room 2244, Washington, D.C. 20250-1571 or via email to dennis.rankin@wdc.usda.gov. On June 15th prior to the close of the review period, RUS will host a teleconference to discuss your recommendations.

Should you have any questions or require additional information, please contact Dennis Rankin at 1400 Independence Avenue, SW, Mail Stop 1571, Room 2244, Washington, D.C. 202-720-1953 or via email to dennis.rankin@wdc.usda.gov. RUS appreciates your attention to this matter.

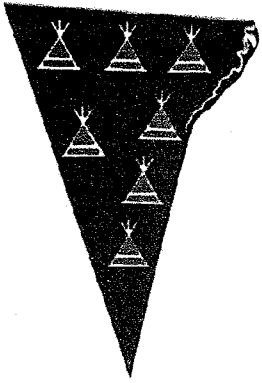
Sincerely,



for Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures

Cc: Dennis Rankin:EES/Laura Dean:EES



Tribal Historic Preservation Office

P.O. Box 121

205 Oak St. East, Suite 207

Sisseton, SD 57262

(605) 698-4972 phone

(605) 698-7054 fax

October 1, 2010

**Laura Dean, PhD
Federal Preservation Officer/Archeologist
Rural Utilities Service
1400 Independence Avenue, SW
Mail Stop 1571
Washington, DC 20250-1571**

Re: Minnkota Center to Grand Forks Transmission Line

Dear Ms. Dean,

I am writing with regard to the above mentioned project. First of all, we would like to voice our dismay with your office and the contractor representative John Graves, during the last meeting with the tribes via conference call which was held at Standing Rock on Aug 17, 2010. The tribes are unhappy with the fact that the contractor John Graves of Minnkota was in your office during the conference call and that you and he had predetermined the outcome of the so called Tribal consultation meeting and informed tribes of Rural Utilities Service' and Minnkota's decision prior to the tribal consultation conference call. The tribes in attendance again stressed to RUS our deep concern about using a predictive model to determine the areas to be surveyed. The tribes from the very beginning have requested a 100% survey of the entire corridor. The reason for this being the disturbance area is not just where the tower pads are located, the entire corridor will be disturbed (cultural resources destroyed) by the construction of the transmission towers and the cable installation process. Even though towers are spaced at 1000 ft apart all the areas i.e. staging areas, roads for heavy equipment such as excavators, cranes, semi tractors and bulldozers etc. the whole area within the corridor/APE is basically disturbed (cultural resources destroyed) during the construction phase. The information we requested as to the construction plan blueprints etc. have not been forthcoming as requested. The SWO THPO feels it would not be in

our best interest to provide a monitor until a 100% survey is agreed upon. As far as we are concerned the consultation process has not been a good faith effort on the part of RUS and we would request you reconsider the tribes' concerns regarding a 100% survey. By the tribes allowing a monitor to participate on a small portion of the arch survey process would only give the contractor and RUS the opportunity to say that tribal participation was afforded that is why we cannot accept the offer to put a monitor in the field at this time. Please feel free to call to discuss our concerns.

Respectfully,



Dianne Desrosiers
Tribal Historic Preservation Officer
Sisseton Wahpeton Oyate

Cc: Waste Win Young, SRST THPO
Dennis Gill Sr. Wahpekute
Natalie Weyaus, MBO THPO
Russell Eagle Bear, RST THPO
Franky Jackson, Santee Sioux Tribe, THPO
Perry Brady, Three Affiliated Tribes THPO
Darrell Smith, Spirit Lake Nation
Michael Justin, HDR
Val Hauser, ACHP

Dianne Derosiers
Tribal Historic Preservation Officer
Sisseton Wahpeton Oyate
205 Oak Street East, Suite 207
Sisseton, South Dakota 57262

RE: Proposed Center to Grand Forks Transmission Line
Minnkota Power Cooperative
North Dakota

Dear Ms. Derosiers:

In your letter to the Rural Utilities Service (RUS) dated October 1, 2010, you expressed dismay about the outcome of the August 17, 2010 consultation meeting conducted via teleconference to discuss the proposed Center to Grand Forks Transmission Line (Project). Minnkota Power Cooperative has applied to RUS requesting financial assistance for the construction of this Project. Because RUS may provide financial assistance to this proposal, it is considered an undertaking subject to review under Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

In your October 1, 2010 letter, you state that RUS had predetermined the outcome of this meeting. This assumption appears to be based on the simple coincidence that Minnkota's representative, Mr. John Graves, was in Washington, D.C. with the RUS National Office staff when he participated in this meeting. It is not at all clear from your letter how Mr. Graves' mere presence at the table with RUS staff might preordain the outcome of the consultation meeting. In fact, Mr. Graves elected to visit the National Office to discuss various aspects of the environmental review of the referenced project, not just Section 106.

In conducting Section 106 review for this Project, RUS has made a concerted effort to involve Indian tribes and gather information from them as early as possible in Project planning. RUS believes the information provided by tribes to be essential to informed decision making about the level of effort needed to identify historic properties. Accordingly, RUS invited the Sisseton Wahpeton Oyate and other Indian tribes to an on-site meeting to discuss the Project and visit the proposed crossings of the Missouri and Sheyenne Rivers prior to conducting any archeological field survey of the area of potential effects (APE). Unfortunately due to limited resources, RUS only afforded Indian tribes about three weeks to respond to this invitation. However, to facilitate participation, even with short notice, Minnkota offered to reimburse interested tribes for their travel to this meeting. As promised and as requested by tribes, RUS traveled to North Dakota to conduct this face-to-face consultation meeting. To the dismay of this agency, no tribes attended this meeting and the only responses received by RUS to its invitation were complaints about the procedures established by Minnkota for reimbursement.

Following this effort, RUS continued its review of this Project, but before proceeding with any archeological field survey RUS again invited the Sisseton Wahpeton Oyate and other Indian tribes to participate in consultation meetings held in North Dakota. The first meeting hosted by RUS was held on April 22, 2010. The next meeting held on June 10, 2010, which also was hosted by RUS, was preceded by two days of tours of the Project corridor, with a special focus on those alternatives proposed for crossing the Missouri and Sheyenne Rivers. During these consultation meetings, RUS had hoped that the Sisseton Wahpeton Oyate and other consulting Indian tribes would provide specific information about the nature and location of historic properties of religious and cultural significance to them that might be found in the APE. Because, the specific information requested was not forthcoming at these meetings and access to the APE at this time is limited, Minnkota offered interested tribes an opportunity to participate in a reconnaissance survey of the APE that would be conducted from a helicopter. It is my understanding that this offer has been declined by the Sisseton Wahpeton Oyate and other tribes largely because RUS will not conduct a 100% archeological survey of the APE.

Your October 1, 2010 letter, which reiterates the request that RUS conduct a 100% archeological survey of the APE, also provides the basis for this recommendation. You argue that a 100% archeological survey is needed because the entire APE will be disturbed by Project construction. As such, this assessment focuses solely on the nature and extent of potential effects of the Project, as if archeological sites and other resources listed or eligible for listing on the National Register of Historic Places are spread evenly across the landscape.

On the contrary, the distribution of archeological sites and other cultural resources across the landscape is, and always been, influenced by a number of factors. This means that archeological sites are not distributed evenly but are found only in those places marked by the convergence of environmental and other factors conducive for human habitation and exploitation at a particular time in the past. Furthermore, archeological sites are not always found where the convergence of these factors maximizes the likelihood for human occupation. For these reasons, when making a decision about what is a reasonable level of effort for archeological survey, RUS is obliged to weigh and consider the nature and extent of the Project effects, i.e. disturbance, along with other factors, such as previous research, and the nature and location of the historic properties that might be present. The weighing and vetting of these several factors together by RUS, in accordance with 36 CFR § 800.4(b)(1), is what is required to meet the reasonable and good faith regulatory standard for Section 106 review.

Guidance provided by the Advisory Council on Historic Preservation (ACHP) makes it clear that 100% archeological survey is not required to meet the reasonable and good faith regulatory standard. In its *Section 106 Archaeology Guidance* (2009), the ACHP states that a federal agency "*is not expected to conduct a 100 percent survey of the area of potential effects*" (Question #22, pg. 16). Recently, the ACHP reaffirmed this interpretation in a letter to the Iowa State Historic Preservation Office dated August 20, 2010. Furthermore, in response to recent litigation against the U.S. State Department, the U.S. District Court, Central Division, also did not find 100% archeological survey to be a requirement of Section 106 review stating that "[i]t is clear, then, that there is no requirement that a survey of 100% of the area to be developed be conducted" (Memorandum Order and Opinion, CIV 08-3021, filed September. 29,

2009). While it may appear to you that the decision by RUS not to conduct 100% survey is predetermined, in fact, it is based upon a legal decision, and policy and guidance developed by the ACHP, the agency which promulgated the Section 106 regulations.

RUS has considered your recommendation, but has decided to proceed with an archeological survey that covers less than 100% of the APE. This survey is being guided by a predictive model which was developed based on an evaluation of previous research and is being tested through implementation. In its ongoing effort to involve you in consultation, RUS will request that the Sisseton Wahpeton Oyate and other consulting tribes review the findings of this archeological survey before proceeding to the next step in Section 106 review.

RUS understands the importance of face-to-face consultation meetings to the Sisseton Wahpeton Oyate and other Indian tribes. However, such meetings are not always needed or advisable given the nature of the historic properties or an undertaking's effects. Furthermore, as you have been advised, the administrative budget of RUS is such that the agency does not have unlimited funding for staff travel. This situation necessitates that all participants in Section 106 maximize consultation efficiencies where possible.

Should you have any questions or require additional clarification, please contact Dennis Rankin and Lauren McGee at dennis.rankin@wdc.usda.gov and lauren.mcgee@wdc.usda.gov, respectively.

Sincerely,

Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

CC:

Waste Win Young
Tim Mentz, Sr.
Dennis Gill Sr
Natalie Weyaus
Russell Eagle Bear
Franky Jackson
Perry Brady
Darrell Smith
Valerie Hauser
Charlene Vaughn
John Graves



United States Department of Agriculture
Rural Development

May 31, 2011

Mr. Darrell Youpee
Tribal Historic Preservation Officer
Assinboine and Sioux Tribes of the Fort Peck Reservation
5012 Medicine Bear Road
P.O. Box 1027
Poplar, Montana 59255

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Mr. Youpee:

The Rural Utilities Service (RUS) is considering an application for financial assistance from Minnkota Power Cooperative (Minnkota) for the construction of an approximately 260 mile long 345 kV electric transmission line and associated facilities to deliver power from the Milton R. Young Station Unit 2 (Young 2) power plant located near Center, North Dakota, to a delivery point in Minnkota's service area near Grand Forks, North Dakota. The line would be primarily constructed using single pole steel structures. Various modifications to associated substations in the area would also be required. The following counties could be affected by this proposal – Oliver, Burleigh, McLean, Sheridan, Wells, Foster, Eddy, Griggs, Nelson, Steele, and Grand Forks. RUS is considering funding this application, thereby making the proposal an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

RUS has determined that the area of potential effects (APE) includes the 1000-foot wide preferred corridor, which should contain the route ROW, beginning near Center, North Dakota at the Milton R. Young Station and terminating in Grand Forks, North Dakota as well as all related access roads, construction work and staging areas and appurtenant facilities which may be located outside of the ROW and may not be contiguous.

Because the transmission line structures average about 150 feet tall, RUS has identified an APE for visual effects that extends approximately one-half mile. If any structures will be 200 feet or taller, RUS will extend the APE to one mile.

RUS has offered your tribe several opportunities to participate in consultation, specifically soliciting your assistance in determining the level of effort needed to identify historic properties which might be affected by the project. A more detailed description of the consultation efforts of RUS can be found in the enclosed letter to the Advisory Council on Historic Preservation dated May 25, 2011. In order to identify historic properties in the APE, Minnkota first conducted a literature review titled, *Draft Class I Literature Search for the Proposed Center to Grand Forks 345 kV Transmission Line* (March 2010). On the basis of this study and other factors, including professional

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experience, Minnkota designed a predictive model to direct the identification of significant archeological resources. In October 2010, Minnkota initiated archeological field testing based on the predictive mode. That testing should resume in May 2011. In addition to these efforts, Minnkota also has completed a geomorphological study of the APE titled, *Geomorphological Model for Locating Areas with Potential for Deeply Buried Archaeological Deposits Along the Center to Grand Forks 345 KV Transmission Line Corridor in North Dakota* (January 2011).

Because the CGF Project consists of a long and wide corridor where access to land in order to complete necessary studies and other pre-construction activities is restricted, RUS has elected to phase the identification and evaluation of historic properties, and application of the criteria of adverse effect in accordance with 36 CFR § 800.4(b)(2) and 36 CFR § 800.5(a)(3), respectively. An initial Programmatic Agreement (PA) drafted by RUS was sent to you electronically on April 9, 2010. RUS revised this initial draft in response to recommendations from the North Dakota State Historic Preservation Office (SHPO), and to more accurately reflect project circumstances and procedures. The result of this revision is the enclosed PA which establishes the procedures for a phased approach, clarifying that construction may not begin on any component of the project until the requirements of the agreement have been met.

Please review the enclosed final draft PA and provide RUS with your written comments within thirty days of receipt. Send your comments to Dennis Rankin at 1400 Independence Avenue, SW, Mail Stop 1571, Room 2244, Washington, D.C. 20250-1571 or via email to dennis.rankin@wdc.usda.gov. On June 22, 2011 prior to the close of the review period RUS will host a teleconference to discuss your recommendations.

Should you have any questions or require additional information, please contact Dennis Rankin at 1400 Independence Avenue, SW, Mail Stop 1571, Room 2244, Washington, D.C. 202-720-1953 or via email to dennis.rankin@wdc.usda.gov. RUS appreciates your attention to this matter.

Sincerely,



Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures



United States Department of Agriculture
Rural Development

May 31, 2011

Ms. Donna Ray Peterson
Tribal Historic Preservation Officer
Cheyenne River Sioux Tribe
P.O. Box 590
Eagle Butte, South Dakota 57625

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Ms. Peterson:

The Rural Utilities Service (RUS) is considering an application for financial assistance from Minnkota Power Cooperative (Minnkota) for the construction of an approximately 260 mile long 345 kV electric transmission line and associated facilities to deliver power from the Milton R. Young Station Unit 2 (Young 2) power plant located near Center, North Dakota, to a delivery point in Minnkota's service area near Grand Forks, North Dakota. The line would be primarily constructed using single pole steel structures. Various modifications to associated substations in the area would also be required. The following counties could be affected by this proposal – Oliver, Burleigh, McLean, Sheridan, Wells, Foster, Eddy, Griggs, Nelson, Steele, and Grand Forks. RUS is considering funding this application, thereby making the proposal an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

RUS has determined that the area of potential effects (APE) includes the 1000-foot wide preferred corridor, which should contain the route ROW, beginning near Center, North Dakota at the Milton R. Young Station and terminating in Grand Forks, North Dakota as well as all related access roads, construction work and staging areas and appurtenant facilities which may be located outside of the ROW and may not be contiguous. Because the transmission line structures average about 150 feet tall, RUS has identified an APE for visual effects that extends approximately one-half mile. If any structures will be 200 feet or taller, RUS will extend the APE to one mile.

RUS has offered your tribe several opportunities to participate in consultation, specifically soliciting your assistance in determining the level of effort needed to identify historic properties which might be affected by the project. A more detailed description of the consultation efforts of RUS can be found in the enclosed letter to the Advisory Council on Historic Preservation dated May 25, 2011. In order to identify historic properties in the APE, Minnkota first conducted a literature review titled, *Draft Class I Literature Search for the Proposed Center to Grand Forks 345 kV Transmission Line* (March 2010). On the basis of this study and other factors, including professional

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Because the CGF Project consists of a long and wide corridor where access to land in order to complete necessary studies and other pre-construction activities is restricted, RUS has elected to phase the identification and evaluation of historic properties, and application of the criteria of adverse effect in accordance with 36 CFR § 800.4(b)(2) and 36 CFR § 800.5(a)(3), respectively. An initial Programmatic Agreement (PA) drafted by RUS was sent to you electronically on April 9, 2010. RUS revised this initial draft in response to recommendations from the North Dakota State Historic Preservation Office (SHPO), and to more accurately reflect project circumstances and procedures. The result of this revision is the enclosed PA which establishes the procedures for a phased approach, clarifying that construction may not begin on any component of the project until the requirements of the agreement have been met.

Please review the enclosed final draft PA and provide RUS with your written comments within thirty days of receipt. Send your comments to Dennis Rankin at 1400 Independence Avenue, SW, Mail Stop 1571, Room 2244, Washington, D.C. 20250-1571 or via email to dennis.rankin@wdc.usda.gov. On June 22, 2011 prior to the close of the review period RUS will host a teleconference to discuss your recommendations.

Should you have any questions or require additional information, please contact Dennis Rankin at 1400 Independence Avenue, SW, Mail Stop 1571, Room 2244, Washington, D.C. 202-720-1953 or via email to dennis.rankin@wdc.usda.gov. RUS appreciates your attention to this matter.

Sincerely,



Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures



United States Department of Agriculture
Rural Development

May 31, 2011

Ms. Elisse Aune
Tribal Historic Preservation Officer
Mille Lacs Band of Ojibwe
43408 Oodena Drive
Onamia, Minnesota 56359

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Ms. Auna:

The Rural Utilities Service (RUS) is considering an application for financial assistance from Minnkota Power Cooperative (Minnkota) for the construction of an approximately 260 mile long 345 kV electric transmission line and associated facilities to deliver power from the Milton R. Young Station Unit 2 (Young 2) power plant located near Center, North Dakota, to a delivery point in Minnkota's service area near Grand Forks, North Dakota. The line would be primarily constructed using single pole steel structures. Various modifications to associated substations in the area would also be required. The following counties could be affected by this proposal – Oliver, Burleigh, McLean, Sheridan, Wells, Foster, Eddy, Griggs, Nelson, Steele, and Grand Forks. RUS is considering funding this application, thereby making the proposal an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

RUS has determined that the area of potential effects (APE) includes the 1000-foot wide preferred corridor, which should contain the route ROW, beginning near Center, North Dakota at the Milton R. Young Station and terminating in Grand Forks, North Dakota as well as all related access roads, construction work and staging areas and appurtenant facilities which may be located outside of the ROW and may not be contiguous. Because the transmission line structures average about 150 feet tall, RUS has identified an APE for visual effects that extends approximately one-half mile. If any structures will be 200 feet or taller, RUS will extend the APE to one mile.

RUS has offered your tribe several opportunities to participate in consultation, specifically soliciting your assistance in determining the level of effort needed to identify historic properties which might be affected by the project. A more detailed description of the consultation efforts of RUS can be found in the enclosed letter to the Advisory Council on Historic Preservation dated May 25, 2011. In order to identify historic properties in the APE, Minnkota first conducted a literature review titled, *Draft Class I Literature Search for the Proposed Center to Grand Forks 345 kV Transmission Line* (March 2010). On the basis of this study and other factors, including professional

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Sincerely,



Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures



United States Department of Agriculture
Rural Development

May 31, 2011

Mr. Linwood Tallbull
Tribal Historic Preservation Officer
Northern Cheyenne Tribe
p.O. Box 128
Lame Deer, Montana 59043

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Mr. Tallbull:

The Rural Utilities Service (RUS) is considering an application for financial assistance from Minnkota Power Cooperative (Minnkota) for the construction of an approximately 260 mile long 345 kV electric transmission line and associated facilities to deliver power from the Milton R. Young Station Unit 2 (Young 2) power plant located near Center, North Dakota, to a delivery point in Minnkota's service area near Grand Forks, North Dakota. The line would be primarily constructed using single pole steel structures. Various modifications to associated substations in the area would also be required. The following counties could be affected by this proposal – Oliver, Burleigh, McLean, Sheridan, Wells, Foster, Eddy, Griggs, Nelson, Steele, and Grand Forks. RUS is considering funding this application, thereby making the proposal an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

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Should you have any questions or require additional information, please contact Dennis Rankin at 1400 Independence Avenue, SW, Mail Stop 1571, Room 2244, Washington, D.C. 202-720-1953 or via email to dennis.rankin@wdc.usda.gov. RUS appreciates your attention to this matter.

Sincerely,



Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures



United States Department of Agriculture
Rural Development

May 31, 2011

Mr. Russell Eagle Bear
Tribal Historic Preservation Officer
Rosebud Sioux Tribe of the Rosebud Indian Reservation
P.O. Box 809
Rosebud, South Dakota 57470

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Mr. Eagle Bear:

The Rural Utilities Service (RUS) is considering an application for financial assistance from Minnkota Power Cooperative (Minnkota) for the construction of an approximately 260 mile long 345 kV electric transmission line and associated facilities to deliver power from the Milton R. Young Station Unit 2 (Young 2) power plant located near Center, North Dakota, to a delivery point in Minnkota's service area near Grand Forks, North Dakota. The line would be primarily constructed using single pole steel structures. Various modifications to associated substations in the area would also be required. The following counties could be affected by this proposal – Oliver, Burleigh, McLean, Sheridan, Wells, Foster, Eddy, Griggs, Nelson, Steele, and Grand Forks. RUS is considering funding this application, thereby making the proposal an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

RUS has determined that the area of potential effects (APE) includes the 1000-foot wide preferred corridor, which should contain the route ROW, beginning near Center, North Dakota at the Milton R. Young Station and terminating in Grand Forks, North Dakota as well as all related access roads, construction work and staging areas and appurtenant facilities which may be located outside of the ROW and may not be contiguous. Because the transmission line structures average about 150 feet tall, RUS has identified an APE for visual effects that extends approximately one-half mile. If any structures will be 200 feet or taller, RUS will extend the APE to one mile.

RUS has offered your tribe several opportunities to participate in consultation, specifically soliciting your assistance in determining the level of effort needed to identify historic properties which might be affected by the project. A more detailed description of the consultation efforts of RUS can be found in the enclosed letter to the Advisory Council on Historic Preservation dated May 25, 2011. In order to identify historic properties in the APE, Minnkota first conducted a literature review titled, *Draft Class I Literature Search for the Proposed Center to Grand Forks 345 kV Transmission Line* (March 2010). On the basis of this study and other factors, including professional

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Because the CGF Project consists of a long and wide corridor where access to land in order to complete necessary studies and other pre-construction activities is restricted, RUS has elected to phase the identification and evaluation of historic properties, and application of the criteria of adverse effect in accordance with 36 CFR § 800.4(b)(2) and 36 CFR § 800.5(a)(3), respectively. An initial Programmatic Agreement (PA) drafted by RUS was sent to you electronically on April 9, 2010. RUS revised this initial draft in response to recommendations from the North Dakota State Historic Preservation Office (SHPO), and to more accurately reflect project circumstances and procedures. The result of this revision is the enclosed PA which establishes the procedures for a phased approach, clarifying that construction may not begin on any component of the project until the requirements of the agreement have been met.

Please review the enclosed final draft PA and provide RUS with your written comments within thirty days of receipt. Send your comments to Dennis Rankin at 1400 Independence Avenue, SW, Mail Stop 1571, Room 2244, Washington, D.C. 20250-1571 or via email to dennis.rankin@wdc.usda.gov. On June 22, 2011 prior to the close of the review period RUS will host a teleconference to discuss your recommendations.

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Sincerely,



Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures



United States Department of Agriculture
Rural Development

May 31, 2011

Mr. Roger Trudell
Tribal Chairman/Leader
Santee Sioux of Nebraska
108 Spirit Avenue
Niobrara, Nebraska 68760

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Mr. Trudell:

The Rural Utilities Service (RUS) is considering an application for financial assistance from Minnkota Power Cooperative (Minnkota) for the construction of an approximately 260 mile long 345 kV electric transmission line and associated facilities to deliver power from the Milton R. Young Station Unit 2 (Young 2) power plant located near Center, North Dakota, to a delivery point in Minnkota's service area near Grand Forks, North Dakota. The line would be primarily constructed using single pole steel structures. Various modifications to associated substations in the area would also be required. The following counties could be affected by this proposal – Oliver, Burleigh, McLean, Sheridan, Wells, Foster, Eddy, Griggs, Nelson, Steele, and Grand Forks. RUS is considering funding this application, thereby making the proposal an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

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Sincerely,



Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures



United States Department of Agriculture
Rural Development

May 31, 2011

Ms. Dianne Derosiers
Tribal Historic Preservation Officer
Sisseton Wahpeton Oyate
205 Oak Street, Suite 207
Sisseton, South Dakota 57262

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Ms. Derosiers:

The Rural Utilities Service (RUS) is considering an application for financial assistance from Minnkota Power Cooperative (Minnkota) for the construction of an approximately 260 mile long 345 kV electric transmission line and associated facilities to deliver power from the Milton R. Young Station Unit 2 (Young 2) power plant located near Center, North Dakota, to a delivery point in Minnkota's service area near Grand Forks, North Dakota. The line would be primarily constructed using single pole steel structures. Various modifications to associated substations in the area would also be required. The following counties could be affected by this proposal – Oliver, Burleigh, McLean, Sheridan, Wells, Foster, Eddy, Griggs, Nelson, Steele, and Grand Forks. RUS is considering funding this application, thereby making the proposal an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

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Sincerely,



Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures



United States Department of Agriculture
Rural Development

May 31, 2011

Mr. Kevin Jensvold
Chairman
Upper Sioux Community of Minnesota
5722 Travers Lane
Granite Falls, Minnesota 56241

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Mr. Jensvold:

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Sincerely,



Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures



United States Department of Agriculture
Rural Development

May 31, 2011

Mr. Tom McCauley
Tribal Historic Preservation Officer
White Earth Band of Minnesota Chippewa
p.O. Box 418
White Earth, Minnesota 56591

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Mr. McCauley:

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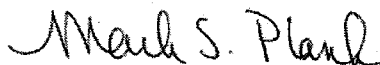
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Sincerely,



Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures



United States Department of Agriculture
Rural Development

May 31, 2011

Ms. Waste Win
Tribal Historic Preservation Office
Standing Rock Sioux Tribe of North and South Dakota
P.O. Box D
Fort Yates, North Dakota 58538

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Ms. Win:

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Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures

May 31, 2011

Mr. Dennis Gill, Sr.
Wahpekute Band of the Dakota
3322 Gill Road
Waubay, South Dakota 57501

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Mr. Gill:

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Please review the enclosed final draft PA and provide RUS with your written comments within thirty days of receipt. Send your comments to Dennis Rankin at 1400 Independence Avenue, SW, Mail Stop 1571, Room 2244, Washington, D.C. 20250-1571 or via email to dennis.rankin@wdc.usda.gov. On June 22, 2011 prior to the close of the review period RUS will host a teleconference to discuss your recommendations.

Should you have any questions or require additional information, please contact Dennis Rankin at 1400 Independence Avenue, SW, Mail Stop 1571, Room 2244, Washington, D.C. 202-720-1953 or via email to dennis.rankin@wdc.usda.gov. RUS appreciates your attention to this matter.

Sincerely,



Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures



United States Department of Agriculture
Rural Development

May 31, 2011

Mr. Tim Mentz, Sr.
Standing Rock Sioux Tribe
P.O. Box D
Fort Yates North Dakota 58538

RE: Proposed Center-Grand Forks 345 kV Transmission Project
North Dakota

Dear Mr. Mentz:

The Rural Utilities Service (RUS) is considering an application for financial assistance from Minnkota Power Cooperative (Minnkota) for the construction of an approximately 260 mile long 345 kV electric transmission line and associated facilities to deliver power from the Milton R. Young Station Unit 2 (Young 2) power plant located near Center, North Dakota, to a delivery point in Minnkota's service area near Grand Forks, North Dakota. The line would be primarily constructed using single pole steel structures. Various modifications to associated substations in the area would also be required. The following counties could be affected by this proposal – Oliver, Burleigh, McLean, Sheridan, Wells, Foster, Eddy, Griggs, Nelson, Steele, and Grand Forks. RUS is considering funding this application, thereby making the proposal an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

RUS has determined that the area of potential effects (APE) includes the 1000-foot wide preferred corridor, which should contain the route ROW, beginning near Center, North Dakota at the Milton R. Young Station and terminating in Grand Forks, North Dakota as well as all related access roads, construction work and staging areas and appurtenant facilities which may be located outside of the ROW and may not be contiguous. Because the transmission line structures average about 150 feet tall, RUS has identified an APE for visual effects that extends approximately one-half mile. If any structures will be 200 feet or taller, RUS will extend the APE to one mile.

RUS has offered your tribe several opportunities to participate in consultation, specifically soliciting your assistance in determining the level of effort needed to identify historic properties which might be affected by the project. A more detailed description of the consultation efforts of RUS can be found in the enclosed letter to the Advisory Council on Historic Preservation dated May 25, 2011. In order to identify historic properties in the APE, Minnkota first conducted a literature review titled, *Draft Class I Literature Search for the Proposed Center to Grand Forks 345 kV Transmission Line* (March 2010). On the basis of this study and other factors, including professional

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Web: <http://www.rurdev.usda.gov>

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1400 Independence Avenue, S.W., Washington, DC 20250-9410 or call (800) 795-5273 (Voice) or (202) 720-6382 (TDD).

experience, Minnkota designed a predictive model to direct the identification of significant archeological resources. In October 2010, Minnkota initiated archeological field testing based on the predictive mode. That testing should resume in May 2011. In addition to these efforts, Minnkota also has completed a geomorphological study of the APE titled, *Geomorphological Model for Locating Areas with Potential for Deeply Buried Archaeological Deposits Along the Center to Grand Forks 345 KV Transmission Line Corridor in North Dakota* (January 2011).

Because the CGF Project consists of a long and wide corridor where access to land in order to complete necessary studies and other pre-construction activities is restricted, RUS has elected to phase the identification and evaluation of historic properties, and application of the criteria of adverse effect in accordance with 36 CFR § 800.4(b)(2) and 36 CFR § 800.5(a)(3), respectively. An initial Programmatic Agreement (PA) drafted by RUS was sent to you electronically on April 9, 2010. RUS revised this initial draft in response to recommendations from the North Dakota State Historic Preservation Office (SHPO), and to more accurately reflect project circumstances and procedures. The result of this revision is the enclosed PA which establishes the procedures for a phased approach, clarifying that construction may not begin on any component of the project until the requirements of the agreement have been met.

Please review the enclosed final draft PA and provide RUS with your written comments within thirty days of receipt. Send your comments to Dennis Rankin at 1400 Independence Avenue, SW, Mail Stop 1571, Room 2244, Washington, D.C. 20250-1571 or via email to dennis.rankin@wdc.usda.gov. On June 22, 2011 prior to the close of the review period RUS will host a teleconference to discuss your recommendations.

Should you have any questions or require additional information, please contact Dennis Rankin at 1400 Independence Avenue, SW, Mail Stop 1571, Room 2244, Washington, D.C. 202-720-1953 or via email to dennis.rankin@wdc.usda.gov. RUS appreciates your attention to this matter.

Sincerely,



Mark S. Plank
Director
Engineering and Environmental Staff
Water and Environmental Programs

Enclosures



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

COPY

Jack Dalrymple
Governor of North Dakota

June 7, 2011

North Dakota
State Historical Board

Mr. Mark S. Plank Director
Engineering and Environmental Staff
Rural Development-Rural Utilities Service
United States Department of Agriculture
1400 Independence Avenue SW
Mail Stop 1571 Room 2244
Washington, DC 20250-1571

Chester E. Nelson, Jr.
Bismarck - President

**NDSHPO REF.: 10-0173 USDA-RUS/PSC Center to Grand Forks 345 kV
Transmission Line Project: Programmatic Agreement (PA)**

Gereld Gemtholz
Valley City - Vice President

Richard Kloubec
Fargo - Secretary

Albert I. Berger
Grand Forks

Dear Mr. Plank:

Calvin Grinnell
New Town

We have received and reviewed correspondence and documentation for: **10-0173
USDA-RUS/PSC Center to Grand Forks 345 kV Transmission Line Project:
Programmatic Agreement (PA)** and offer the attached comments on the draft
document.

Diane K. Larson
Bismarck

A. Ruric Todd III
Jamestown

Thank you for the opportunity to review the project, and we look forward to the review
of (outstanding) project documentation, and to further consultation on it. If you have
questions please contact either Susan Quinnell at (701) 328-3576 or squinnell@nd.gov
or Paul Picha at ppicha@nd.gov or (701) 328-3574.

Sara Otte Coleman
*Director
Tourism Division*

Kelly Schmidt
State Treasurer

Alvin A. Jaeger
Secretary of State

Sincerely,

Mark A. Zimmerman
*Director
Parks and Recreation
Department*

Merlan E. Paaverud, Jr.
State Historic Preservation Officer (North Dakota)
and

Director, State Historical Society of North Dakota
c: Dennis Rankin, RUS, Washington, DC
c: Barry G. Williams, USFWS, Bismarck
c: Patrick Fahn, ND PSC, Bismarck


Francis Ziegler
*Director
Department of Transportation*

Merlan E. Paaverud, Jr.
Director

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American Association
of Museums since 1986*

10-0173

June 7, 2011

Paul R. Picha 

**NDSHPO REF.: 10-0173 USDA-RUS/PSC Center to Grand Forks 345 kV Transmission Line
Project: Programmatic Agreement (PA)**

Page Para/Line Comment

4 IL.B/1 Please change to: archaeological survey (Class III CRI)

5 IV.B/2-4 Identified resources that are being considered/treated as National Register eligible (Historic Properties) should be or have been formally evaluated for significance and eligibility in some manner to substantiate/support their respective determination of eligibility.

Please change to: following evaluation.

7 IX.B/1 Please change to: SHPO/ State Historical Society of North Dakota (SHSND)

7 IX.D.2.d/2 Please change to: State Historical Society of North Dakota (SHSND)/
North Dakota SHPO
The SHSND is the entity that is specifically referred to in the NDCC and NDAC

7 IX.D.3/5 Please change to SHSND/SHPO

7 IX.D.4/2 Please change to SHSND/SHPO

**PROGRAMMATIC AGREEMENT
AMONG
THE RURAL UTILITIES SERVICE,
THE U.S. FISH AND WILDLIFE SERVICE,
AND
THE NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICE
REGARDING
THE CENTER TO GRAND FORKS 345 kV TRANSMISSION LINE PROJECT
FOR
OLIVER, BURLEIGH, MCLEAN, SHERIDAN, WELLS, FOSTER, EDDY, GRIGGS,
NELSON, STEELE, AND GRAND FORKS COUNTIES, NORTH DAKOTA**

WHEREAS, in accordance with the Rural Electrification Act of 1936 (7 U.S.C. §§ 901-950b), the Rural Utilities Service (RUS) is authorized to provide federal financial assistance in the development of infrastructure in rural America; and,

WHEREAS, Minnkota Power Cooperative, Inc. (Minnkota) has applied to RUS for assistance to construct approximately 250 miles of 345 kilovolt (kV) transmission line in North Dakota, with associated aboveground facilities, such as substations, and ancillary facilities, such as temporary construction work and staging areas (CGF Project); and

WHEREAS, RUS may fund the Project thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800); and

WHEREAS, the U.S. Fish and Wildlife Service (USFWS) may issue an approval for the Project to cross easements held by that federal agency, thereby making the CGF Project an undertaking subject to review under 36 CFR Part 800; and

WHEREAS, RUS and USFWS agree that the RUS will be the lead federal agency for purposes of Section 106 in accordance with 36 CFR § 800.2(a)(2); and

WHEREAS, based on the analysis conducted pursuant to 7 CFR Part 1794, RUS will select a 1,000-foot-wide corridor for the CGF Project; and

WHEREAS, the North Dakota Public Service Commission will select a 150-foot-wide right-of-way (ROW), which should be located within the corridor chosen by RUS, for construction of the CGF Project; and

WHEREAS, RUS has determined that the area of potential effects (APE) for the undertaking includes the 1,000-foot-wide corridor beginning near Center, North Dakota at the Milton R. Young Station and terminating in Grand Forks, North Dakota that should contain the Project ROW as well as all Project-related access roads, transmission facilities and corridors, environmental crossings, temporary work spaces, construction areas, and appurtenant facilities that may be located outside of the ROW and may not be contiguous (**Attachment 1**); and

WHEREAS, RUS also has established an APE for visual effects that is one-half mile wide where the CGF Project structures will be 200 feet or less in height, and one mile whenever a structure exceeds 200 feet in height (**Attachment 2**); and

WHEREAS, RUS is phasing identification and evaluation of historic properties, and application of the criteria of adverse effect in accordance with 36 CFR § 800.4(b)(2) and 36 CFR § 800.5(a)(3), respectively, because the Project consists of a large area where access to land in order to complete necessary studies is restricted; and

WHEREAS, in accordance with 36 CFR § 800.14(b)(1)(ii), execution of a Programmatic Agreement (PA) is appropriate because effects on historic properties cannot be fully determined prior to approval of the Project; and

WHEREAS, RUS, in consultation with the North Dakota State Historic Preservation Office (SHPO), has determined that the Project might have an adverse effect on historic properties, which are properties listed on or eligible for listing on the National Register of Historic Places (NRHP); and

WHEREAS, on September 10, 2009, RUS invited the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, the Bois Forte Ojibwe, the Cheyenne River Sioux Tribe, the Crow Creek Sioux Tribe, the Flandreau Santee Sioux Tribe, the Fond du Lac Band of Lake Superior Chippewa, the Grand Portage Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, the Lower Brule Sioux Tribe, the Lower Sioux Indian Community, the Mille Lacs Band of Ojibwe, the Northern Cheyenne Nation, the Oglala Sioux Tribe, the Prairie Island Indian Community, the Red Lake Band of Chippewa Indians, the Rosebud Sioux Tribe, the Santee Sioux Nation, the Sisseton Wahpeton Oyate of the Lake Traverse Reservation, the Spirit Lake Tribe, the Standing Rock Sioux Tribe, the Three Affiliated Tribes of the Fort Berthold Reservation, the Turtle Mountain Band of Chippewa, the Upper Sioux Indian Community and the White Earth Band of Ojibwe to participate in government-to-government consultation for the CGF Project; and

WHEREAS, the following Indian tribes responded affirmatively to this invitation - the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, the Cheyenne River Sioux Tribe, the Mille Lacs Band of Ojibwe, the Northern Cheyenne Nation, the Rosebud Sioux Tribe, the Santee Sioux Nation, the Sisseton Wahpeton Oyate, the Standing Rock Sioux Tribe, the Upper Sioux Indian Community and the White Earth Band of Ojibwe; and

WHEREAS, the Mille Lacs Band of Ojibwe, the Sisseton Wahpeton Oyate and the Standing Rock Sioux Tribe have directly participated in consultation; and

WHEREAS, RUS has invited the following Indian tribes to sign this PA as concurring parties - the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, the Cheyenne River Sioux Tribe, the Mille Lacs Band of Ojibwe, the Northern Cheyenne Nation, the Rosebud Sioux Tribe, the Santee Sioux Nation, the Sisseton Wahpeton Oyate, the Standing Rock Sioux Tribe, the Upper Sioux Indian Community and the White Earth Band of Ojibwe; and

WHEREAS, Minnkota has participated in consultation and has been invited by RUS to sign this PA as an invited signatory; and

WHEREAS, the Wahpekute, a non-federally recognized Indian tribe, has participated in consultation and has been invited to sign this PA as a concurring party; and

WHEREAS, RUS has invited Mr. Tim Mentz to participate in consultation and sign this PA as a concurring party; and

WHEREAS, on May 25, 2011, RUS notified the Advisory Council on Historic Preservation (ACHP), in accordance with 36 CFR § 800.6(a)(1)(i)(C), providing the specified documentation; and

WHEREAS, on June 14, 2011 the ACHP elected not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii);

NOW, THEREFORE, RUS, USFWS and the North Dakota SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The RUS shall ensure that the following stipulations are carried out.

I. STANDARDS AND CONDITIONS

- A. All studies and work required under the terms of this PA will be carried out by or under the direct supervision of a professional who, at a minimum, meets the Secretary of the Interior's *Professional Qualification Standards* (48 FR 44716, September 29, 1983) in the appropriate field.
- B. With the exception of transmission structure foundations, Minnkota will not initiate construction of any component of the CGF Project until Section 106 review conducted in accordance with the terms of this PA have been met for that component.
- C. Even if the terms of Stipulations II and III have been met for the site of a transmission structure, construction of that structure remains subject to the requirements of Stipulation IV.
- D. Implementation of Stipulation IV will take place during excavation for CGF Project transmission structure foundations.
- E. Minnkota will establish and facilitate open communication between consulting archeologists and engineers during the performance of archeological field testing, treatment and construction to ensure that the terms of this PA are properly implemented.

II. IDENTIFICATION

- A. Minnkota has completed the following studies: *Draft Class I Literature Search for the Proposed Minnkota Power Cooperative, Inc. Center to Grand Forks 345 kV*

Transmission Line' (March 2010); and *Geomorphological Model for Locating Areas with Potential for Deeply Buried Archaeological Deposits Along the Center to Grand Forks 345 KV Transmission Line Corridor in North Dakota* (January 2011).

- identification efforts a pedestrian survey*
- B. Upon completion of archeological ~~field testing~~ (Class III CRI), which began in October 2010, Minnkota will prepare and submit a draft report describing data gathering and analysis to RUS for review and approval.
1. The draft report will contain maps showing the geographic relationship between the APE, the ROW, identified archeological resources, and proposed structures and other CGF Project-related ground disturbance.
 2. The draft report also will include recommendations regarding the NRHP eligibility of identified archeological resources; identify those resources for which additional study might be needed; and propose treatment, including those measures that might avoid adverse effects.
 3. When it is acceptable, RUS will submit the draft report to the SHPO and consulting parties for review. The consulting parties will have thirty (30) days from receipt to provide written comments to RUS on the draft report. RUS will ensure that written comments submitted in a timely manner are considered in preparation of the final report.
- C. Minnkota will conduct a study of the APE to identify NRHP listed or eligible architectural resources which might be affected by the CGF Project.
1. The draft report will contain maps showing the geographic relationship between the APE, the ROW, identified properties and resources, and the proposed structures.
 2. When it is acceptable, RUS will submit the draft report to the SHPO and consulting parties for review. The consulting parties will have thirty (30) days from receipt to provide written comments to RUS on the draft report. RUS will ensure that written comments submitted in a timely manner are considered in preparation of the final report.
- D. Each and every change in the location of CGF Project components is subject to review under the terms of this PA.

III. TREATMENT

- A. Avoidance of impacts to identified archeological or architectural resources is the preferred alternative. Minnkota will seek agreement with the SHPO and consulting tribes on the identification and implementation of appropriate and reasonable avoidance measures.
1. Whenever the parties agree, Minnkota will incorporate agreed upon avoidance measures into the CGF Project plans and specifications.
 2. Wherever the parties cannot agree, RUS will consult with the SHPO and other consulting parties to identify appropriate treatment in accordance with Stipulation III.B.
- B. Prior to developing treatment measures, Minnkota will conduct evaluation studies, as appropriate, in accordance with 36 CFR § 800.4(c)(1). When RUS and the SHPO agree, an identified resource may be treated as eligible for listing on the NRHP for

the purposes of Section 106 under the terms of this PA. Such treatment does not apply to identified resources located on federal land.

1. If historic properties are identified pursuant to 36 CFR § 800.4(c)(2), RUS will apply the criteria of adverse effect in accordance with 36 CFR § 800.5(a).
 2. When RUS determines that there may be an adverse effect, RUS will consult with the SHPO and Indian tribes to identify appropriate measures that are in the public interest to minimize or mitigate adverse effects to historic properties.
- C. When RUS and the consulting parties agree on reasonable treatment measures, Minnkota will prepare a Treatment Plan (Plan) describing the agreed upon measures, the manner in which they will be carried out, and a schedule for their implementation.
1. When treatment consists of or includes data recovery, the Plan will identify the specific research questions to be addressed by data recovery with an explanation of their relevance, the archeological methods to be used, and provisions for public interpretation and education subject to restrictions established by 36 CFR § 800.6(a)(5).
 2. Minnkota will submit the Plan to the SHPO and consulting tribes for review. These parties will have thirty (30) days from receipt to submit a written review. RUS will ensure that the approved Plan takes into account timely comments and recommendations submitted by the consulting parties.
- D. To prevent damage to them, Minnkota will mark and fence all identified rock features during construction of the CGF Project. In addition, to help protect these resources post-construction, Minnkota will designate the location of all rock features as restricted or sensitive locations on Operation and Maintenance maps.
- E. RUS will ensure that Minnkota implements all approved Plans prior to beginning any construction activities for that Project component.

IV. BORING FOR TRANSMISSION STRUCTURE FOUNDATIONS

- A. Minnkota will compare the locations of all proposed transmission structures with the high potential areas identified in the January 2011 geomorphological report and shown in **Attachment 2**.
- B. Minnkota will notify the SHPO in writing whenever a location will contain a structure and has a high potential for deeply buried archeological sites.
1. Such locations will be subject to the measures described in **Attachment 3**.
 2. Monitoring of foundation boring to be conducted pursuant to **Attachment 3** will be performed by a professional archeologist with training in geomorphology.

V. U.S. FISH AND WILDLIFE SERVICE LANDS

Prior to initiating construction of any component of CGF Project that will cross USFWS lands, Minnkota must document for RUS the successful conclusion of Section 106 review conducted in accordance with 36 CFR §§ 800.3 through 800.7 to meet the

requirements of the USFWS. When RUS finds that Section 106 review for that segment has been successfully concluded, RUS may approve construction of that segment.

VI. CURATION

- A. Any artifacts, materials, or records removed from USFWS land that are not subject to the Native American Graves Protection and Repatriation Act (NAGPRA) will be curated by the USFWS in accordance with 36 CFR Part 79.
- B. Minnkota will return all artifacts and materials recovered through implementation of the terms of this PA to the respective landowner.

VII. OTHER MONITORING

- A. Minnkota may elect to offer an opportunity for one tribal monitor identified and agreed to by the consulting tribes to monitor implementation of identification field studies, treatment and construction. The absence of the tribal monitor at any time will not delay the progress of studies, treatment or construction.
- B. Historic properties discovered or unanticipated effects discovered during this monitoring will be treated in accordance with Stipulation IX.
- C. Upon written request, Minnkota ~~may~~^{shall} grant RUS and SHPO access to the work site to observe construction.

VIII. CONFIDENTIALITY

RUS will protect information about historic properties of religious and cultural significance to Indian tribes, including location information or information provided by Indian tribes to assist in the identification of such properties, to the extent allowed by Section 304 of the National Historic Preservation Act [16 U. S. C. 470w3], 36 CFR § 800.11(c) and other applicable laws.

IX. POST- REVIEW UNANTICIPATED DISCOVERIES

- A. If previously unidentified historic properties or unanticipated effects to historic properties are discovered during CGF Project construction, the construction contractor will immediately halt all activity within a one hundred (100) foot radius of the discovery, notify Minnkota (see **Attachment 4**) of the discovery and implement interim measures to protect the discovery from looting and vandalism.
- B. Immediately upon receipt of the notification required in Stipulation IX.A, Minnkota will inspect the construction site to determine the extent of the discovery and ensure that construction activities have halted, clearly mark the area of the discovery, implement additional measures, as appropriate, to protect the discovery from looting and vandalism, and notify RUS, SHPO/State Historical Society of North Dakota (SHSND) and the following Indian tribes - the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, the Cheyenne River Sioux Tribe, the Mille Lacs Band of Ojibwe, the Northern Cheyenne Nation, the Rosebud Sioux Tribe, the Santee Sioux Nation, the Sisseton Wahpeton Oyate, the Standing Rock Sioux Tribe, the Upper Sioux Indian Community and the White Earth Band of Ojibwe.

C. Upon receipt of notification, the RUS shall treat the discovery in accordance with 36 CFR § 800.13(b)(3) and (c).

D. Treatment of Human Remains

1. When the discovery contains human remains and is located on USFWS land, NAGPRA [25 U.S.C. 3001 et. seq.] and its implementing regulations (43 CFR Part 10) apply.
2. If the construction contractor believes that a discovery contains human remains and the discovery is not located on federal lands, the contractor will comply with Stipulation IX.A. Immediately upon receipt of such notification, Minnkota will
 - a. comply with the procedures required by North Dakota Century Code § 23-06-27 and administrative rules North Dakota Administrative Code Chapter 40-02-03, Protection of Prehistoric and Historic Human Burial Sites, Human Remains, and Burial Goods,
 - b. halt construction activities within a 100 foot radius from the point of discovery;
 - c. implement measures to protect the discovery from looting and vandalism until the completion of requirements under state law; and
 - d. notify the local law enforcement agency, the SHSND/SHPO, the North Dakota Department of Health (NDDH), RUS and the tribes identified in Stipulation IX.B of the discovery.
3. If local law enforcement determines that the remains are not associated with a crime, RUS will determine if it is prudent and feasible to avoid disturbing the remains. If RUS determines that disturbance cannot be avoided, Minnkota will remove and reinter the human remains in accordance with rules adopted by the SHSND/SHPO and the NDDH.
4. Minnkota may resume construction activities in the area of the discovery once implementation of the measures required by the SHSND/SHPO and the NDDH has been completed.

*In consultation
with
SHSND/NDSPD*

*+ in consultation
with*

E. Minnkota will ensure that the requirements of Stipulation VII are incorporated into all construction contracts.

X. REPORTING

- A. Every six (6) months following the execution of this PA until construction is complete, Minnkota will submit a written report to RUS and the SHPO describing progress on implementation of the terms of its terms, the development of construction plans and specifications, construction completed during the period covered by the report, implementation of Plans, the schedule for completion of construction and the terms of the PA, the treatment of any post-review discoveries pursuant to Stipulation IX, any scheduling changes proposed, any problems encountered, and any disputes addressed pursuant to Stipulation XI.
- B. This report will be submitted electronically to RUS and the SHPO.

XI. DISPUTE RESOLUTION

- A. Should any signatory or concurring party to this PA object in writing at any time to any actions proposed or the manner in which the terms of this PA are implemented, RUS and the USFWS, within the limits of their authority, will consult with such party to resolve the objection. If RUS and the USFWS determine that the objection cannot be resolved, that agency will forward all documentation relevant to the dispute, including the resolution proposed by RUS or the USFWS, as appropriate, to the ACHP. The ACHP will
1. Provide the RUS and the USFWS with its advice, pursuant to 36 CFR § 800.2(b)(2), on the resolution of the objection within thirty (30) days of receiving adequate documentation.
 2. Prior to reaching a final decision on the dispute, RUS or the USFWS, as appropriate, will prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. RUS or the USFWS, as appropriate, will then proceed according to its final decision.
 3. If the ACHP does not provide its advice regarding the dispute within thirty (30) days, RUS or the USFWS, as appropriate, may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the respective federal agency will prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and the ACHP with a copy of such written response.
- B. The responsibility of RUS and the USFWS to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.
- C. If at any time during the implementation of the measures stipulated in this PA an objection should be raised by the public, RUS will notify the signatories to this PA and consult with the objecting party to seek resolution. If RUS and the USFWS determine that the objection cannot be resolved, that agencies will seek the advice or comment of ACHP in accordance with Stipulation IX.A.

XII. TERM OF AGREEMENT

- A. The term of this PA will be five (5) years from the date of execution by the signatories unless the signatories agree to extend its term. If its stipulations have not been carried out, and prior to work continuing on the CGF Project, RUS and the USFWS will either (a) execute another agreement pursuant to 36 CFR § 800.6, or request, take into account and respond to the comments of the ACHP pursuant to 36 CFR § 800.7.
- B. Six (6) months prior to the date on which the PA will expire, Minnkota will notify the other signatories of the impending expiration. RUS and the USFWS may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulation XI. RUS and the USFWS will notify the signatories as to the course each will pursue.

XIII. AMENDMENT

This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date it is executed by all of the signatories and filed with ACHP.

XIV. TERMINATION

- A. If any signatory to this PA determines that its terms will not, or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation XI. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.
- B. Once the PA is terminated, and prior to work continuing on the CGF Project, RUS and the USFWS must either (a) execute an agreement pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of ACHP under 36 CFR § 800.7. RUS and the USFWS will notify the signatories as to the course of action each will pursue.

EXECUTION of this PA by RUS, USFWS and the North Dakota SHPO, and implementation of its terms evidence that RUS has taken into account the effects of this undertaking on historic properties and afforded ACHP a reasonable opportunity to comment.

Signatories:

US Department of Agriculture Rural Utilities Service

By: Mark S. Plank Date: 8/22/11
Mark S. Plank, Director
Engineering and Environmental Staff
Water and Environmental Programs

US Fish and Wildlife Service

By: _____ Date: _____
Lloyd Jones
Project Leader
Audubon National Wildlife Refuge

North Dakota State Historic Preservation Office

By: _____ Date: _____
Merlan E. Paaverud, Jr.
State Historic Preservation Officer

Invited signatory:

Minnkota Power

By: _____ Date: _____
[Name and Title of Representative of Applicant]

Tribal concurring parties:

Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation

By: _____ Date: _____
[Name and Title of Concurring Party]

Cheyenne River Sioux Tribe

By: _____ Date: _____
[Name and Title of Concurring Party]

Mille Lacs Band of Ojibwe

By: _____ Date: _____
[Name and Title of Concurring Party]

Northern Cheyenne Nation

By: _____ Date: _____
[Name and Title of Concurring Party]

Rosebud Sioux Tribe

By: _____ Date: _____
[Name and Title of Concurring Party]

Santee Sioux Nation

By: _____ Date: _____
[Name and Title of Concurring Party]

Sisseton Wahpeton Oyate of the Lake Traverse Reservation

By: _____ Date: _____
[Name and Title of Concurring Party]

Standing Rock Sioux Tribe

By: _____ Date: _____
[Name and Title of Concurring Party]

Upper Sioux Community

By: _____ Date: _____
[Name and Title of Concurring Party]

White Earth Band of Ojibwe

By: _____ Date: _____
[Name and Title of Concurring Party]

Other concurring parties:

Wahpekute

By: _____ Date: _____
[Name and Title of Concurring Party]

Mr. Tim Mentz

By: _____ Date: _____

Mr. Tim Mentz
Member, Standing Rock Sioux Tribe

ATTACHMENT 1

ATTACHMENT 2

ATTACHMENT 3

Methods for Addressing Deeply Buried Archaeological Resources for the Center to Grand Forks 345 kV Transmission Line in North Dakota

In January 2011, Strata Morph Geoexplorations (Strata Morph) prepared an assessment for Minnkota Power Cooperative, Inc. (Minnkota) concerning the potential for deeply buried soil horizons that could possibly hold archaeological resources along the preferred route for the proposed 345 kV transmission line between Center and Grand Forks, North Dakota (Project) (Attachment A; Kolb 2011).

Archaeological sites are, by definition, buried cultural deposits. Over time, soils accumulate and bury artifacts associated with human occupation. In some environments, the overlying deposits can be quite deep. For example, Late Plains Archaic, Early Plains Woodland, Middle Plains Woodland, and Plains Village settlements are characteristically contained within deeply buried soils (paleosols) in the Late Holocene floodplain sediments of the James River Valley in North Dakota (Picha and James, 1993). *Gregg*

The Strata Morph assessment analyzed the likelihood that particular geologic environments along the preferred route were stable enough to have been occupied by early Americans and that these geologic environments were later buried by soils (sand, silt, loess) deposited by water or wind. A deeply buried surface soil in this context is one that is 50 centimeters or deeper from today's surface. The assessment addressed the entire 1000-foot route, and categorized the various environments into high, moderate, and low potential to have preserved, buried soils (paleosols). If present, some of these soils could contain archaeological materials. The Strata Morph geomorphologic assessment is appended to this document.

Strata Morph identified 51 discrete areas along the route that had some potential for buried paleosols (Appendix A). Of these, 12 were ranked as having high potential, 25 ranked as having moderate potential, and 13 ranked as having moderate-to-low potential. Table 1, below, lists the cumulative length of these potential areas. Because of shifts to the design, 15.7 miles of corridor that now fall outside the assessed corridor were not classified. These areas, and others that may result from alignment shifts, will be reassessed as the project proceeds. Most of the corridor has little to no potential for deeply buried surface soils.

Table 1

Geologic Potential	Length (miles)
High	7.0
Moderate	10.4
Moderate - Low	2.3
Low - None	212.4
Outside original assessment area	15.7
Total	247.8

Excavation for transmission structure foundations could potentially adversely affect deeply buried archaeological deposits, if present. Ideally, each proposed structure site would be located in an area previously tested and not containing buried archaeological deposits. Several techniques can be used to identify archaeological deposits that are deeply buried. These include geophysical testing (magnetometry and/or resistivity testing), trenching with backhoes, and auger probing. Each of these techniques can be suitable depending on the situation. However, at this time, it is not feasible to test each location prior to construction because exact structure locations are unknown and because there are large areas along the route that have potential for buried sites. Testing with any of the aforementioned methods along a route as large as the proposed Project would be prohibitively expensive and time-consuming. Another factor complicating the issue is that the proposed Project is also constrained by landowners who may be unwilling to have structure locations shift to areas other than those previously agreed to during negotiations with right-of-way agents.

The proposed transmission line structures are to be attached to concrete foundations that could be 7 to 10 feet in diameter, and between 27 and 45 feet deep for tangent structures, or 9 to 15 feet in diameter and 45 to 87 feet deep for dead-end structures, depending on soil conditions. Construction will involve excavation for cylindrical foundations done by a large auger. Augering allows the surrounding soils to retain their strength, which prevents the foundation from "tipping over." Traditional archaeological sampling to identify deeply buried sites at the foundation locations would entail large excavations in order to accommodate an investigation. This would require subsequent installation of an engineered backfill. The engineered backfill would require compaction of the soils for the entire depth before augering the foundation; this would require further disruption of any adjacent soils to an even larger area.

Moving a foundation site does not address the problem as there is limited site flexibility, and the same situation may reoccur. Even a relatively small move, such as shifting a foundation 5 feet in any direction, could necessitate a redesign and resultant relocation of several structures in both directions. It is not as simple as just moving one structure 20 feet; it is likely that for any adjustment, 5 structure locations would need to move/adjust. If any of these are already in place, this would create a significant issue in terms of cost and constructability.

Minnkota has already made efforts to identify archaeological sites along the proposed route and is willing to avoid affecting sites if possible. If construction cannot be designed to avoid a site, that site should be evaluated for its eligibility for listing on the National Register of Historic Places. Because of the magnitude of effort that would be required to test every potential deeply buried soil area for archaeological deposits prior to construction, it is proposed that a program

be implemented whereby archaeologists monitor soil augering at each foundation location during construction within the high potential areas to identify and record any historic properties that may be affected.

The North Dakota State Historic Preservation Office (SHPO) already received a copy of a Class I Literature Search for historic properties, and a predictive model for identifying prehistoric archaeological properties, for the transmission line's area of potential effect. Based on the model, survey efforts to find surface and shallowly buried sites have begun. The survey and predictive model are being refined as results are made available. A full Class III Cultural Resources Inventory report will be provided to the Rural Utility Service (RUS), SHPO and consulting parties upon completion. Additionally, as construction nears completion, Minnkota will supply the RUS and SHPO with the results of construction monitoring at the areas identified as having high probability for deeply buried paleosols.

Each auger location will be monitored or evaluated by an archaeological monitor to observe mechanical augering for foundations within high potential areas as shown on figures in Appendix A. (Monitoring would only be required to the depth of the Holocene soils. Augering may proceed without a monitor present if the monitor determines that close examination is not necessary based upon new information and consultation with RUS and SHPO. New information may include previous monitor data, soil characteristics, information provided to or by Minnkota that may require immediate augering, Monitors will examine backdirt and exposed soil profiles to the extent conditions permit. Monitors will have the authority to temporarily stop work if archaeological deposits are discovered, in order to record artifacts and cultural features, and to assess and evaluate the find. The following protocol will be followed:

1. The monitor directs the construction foreman to stop work.
2. The construction foreman secures the area and places the work site into a safe condition.
3. The monitor notifies Minnkota and prepares a memo describing the discovery.
4. Minnkota notifies RUS and SHPO, and provides the memo describing any archaeological resources identified as part of a weekly summary report.
5. The monitor records the discovery by means of field notes, photographs, sketch maps, artifact or feature descriptions, completes a site form, and allows construction to proceed when documentation is complete.

A procedure for addressing unanticipated discoveries and human remains is outlined in the Programmatic Agreement for this Project. As per stipulations in the Programmatic Agreement, Minnkota, RUS, and North Dakota SHPO would be notified of the discovery, which would be carefully recorded and documented in the field pursuant to appropriate state law (North Dakota Century Code § 23-06-27 and administrative rules North Dakota Administrative Code Chapter 40-02-03, "Protection of Prehistoric and Historic Human Burial Sites, Human Remains, and Burial Goods"). Construction would be delayed pending completion of these legal requirements. Archaeological monitors will prepare daily reports to document their activities and observations. Each week the monitor(s) will submit a summary report describing their activities and observations along with any actions taken and their outcome. The report will be submitted to Minnkota who will forward copies to SHPO and RUS.

References

Michael F. Kolb

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ATTACHMENT 4

Contacts

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