minnesota power
AN ALLETE COMPANY

30 west superior street / duluth, minnesota 55802-2093 / fax: 218-723-3955 /www.allete.com

David R. Moeller
Senior Attorney
218-723-3963
dmoeller@allete.com

June 14, 2013

Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard Ave., Dept. 408
Bismarck, North Dakota 58505-0480

RE: Minnesota Power's 250kV Direct Current Line Reroute
Siting Application for a Certificate of Corridor Compatibility and Route Permit for Minnesota Power's 250 kV Direct Current Line Reroute, Stutsman County
Case No. PU-13-103

Dear Mr. Nitschke:

Pursuant to N.D.C.C. §§ 49-22-08 and 49-22-08.1, under the Energy Conversion and Transmission Facility Siting Act, and promulgated rules, Minnesota Power has enclosed the following:

An original and ten copies of an Application for a Certificate of Corridor Compatibility and route permit for the 250 kV Direct Current Line Reroute, Case No. PU-13-103.

In accordance with the North Dakota Public Service Commission's motion on April 3, 2013, please find enclosed the $9,000 filing fee for the Certificate of Site Compatibility application.

If you have any questions, or need additional information, please contact me at the number listed above.

Sincerely,

David R. Moeller

Enc.
c: Bryan Maslowski, Minnesota Power
Dan McCourtney, ALLETE

Application to the North Dakota Public Service Commission for a Certificate of Corridor Compatibility and an Energy Transmission Facility Route Permit for the Minnesota Power 250 kV Direct Current Line Re-route

By
Minnesota Power, an operating division of ALLETE, Inc.

June 2013

Commission Case No. PU-13-103

Application to the North Dakota Public Service Commission For a Certificate of Corridor Compatibility and an Energy Transmission Facility Route Permit for the Minnesota Power 250 kV Direct Current Line Re-route

June 2013

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1.0 Introduction and Waiver Request

1.1 Introduction

Minnesota Power (MP), an operating division of ALLETE, Inc., submits this combined Application for a Certificate of Corridor Compatibility (Corridor Certificate) and a Route Permit to reconstruct and reroute a 0.7 mile long segment of its 465-mile, 250kV direct-current transmission line (DC Line) located in Stutsman County, North Dakota. See **Figure 1-1**. MP provides retail electric service to northeastern Minnesota and wholesale service to 16 municipal customers in Minnesota and two private utilities in Wisconsin. MP has no retail service territory in North Dakota.

In 2009, MP purchased a 465-mile 250kV DC Line located between Duluth, Minnesota, and Center, North Dakota, to transport wind energy from its Bison Wind Energy Center. As part of that purchase, MP and Square Butte Electric Cooperative filed a joint application with the North Dakota Public Service Commission (PSC) to transfer transmission facility permits and certificates (Case No. PU-09-631). The PSC issued an order dated October 28, 2009 approving the joint application.

Because of rising water levels in the project area, several structures on the DC Line need to be relocated out of wetlands. The towers will be moved into upland areas, allowing safer and easier maintenance. The 0.7 mile section to be rerouted is located approximately 1.5 miles east of County Highway 68 and 3.5 miles north of County Highway 39. The nearest town, Medina, is 3.25 miles southwest of the project. The rerouted segment would tie back into existing MP facilities and would continue to provide electrical service. Construction is anticipated to take place in Fall 2013.

1.2 Compliance with the Energy Conversion and Transmission Facility Siting Act

Based on a March 20, 2013 letter from PSC staff, the proposed 0.7 mile transmission line reroute requires a Corridor Certificate and a Route Permit under the North Dakota Energy Conversion and Transmission Facility Siting Act. The siting of a transmission facility is to be made in an orderly manner compatible with environmental preservation and the efficient use of resources (North Dakota Century Code [NDCC] 49-22-02). MP has considered statutory and regulatory exclusion areas, avoidance areas, the selection criteria, and the policy criteria in project design.

Reroute Structures

Reroute Centerline

Existing Line

Study Area

PLSS Section Within 1 Mile

N

Feet

1,000 0 1,000

BARR

Figure 1-1

PROJECT LOCATION MAP
STUTSMAN COUNTY SEGMENT
Proposed 250kV Reroute
Minnesota Power
Stutsman County, ND

Barr Footer: ArcGIS 10.1, 2013-05-30 08:57 File: I:\Projects\3422\1001\Maps\Reports\Stutsman_County\Figure 1-1 Project Location.mxd User: jrv

The original project described in MP's March 5, 2013 Letter of Intent also included a 1.7 mile segment of transmission line to be relocated in Kidder County. Since the letter of intent was submitted, the 1.7 mile Kidder County portion of the project has been modified so that the structures will be relocated entirely within the existing right-of-way. Since all construction in that segment will now be completed within 350 feet of either side of the existing centerline—and no exclusion or avoidance areas are affected—a Certificate of Corridor Compatibility and Route Permit are no longer needed for that segment.

1.3 Combined Corridor Certificate and Route Permit Application

The proposed project is only 0.7 miles long, and the location of the new structures is dictated largely by the availability of nearby dry upland areas. Therefore, MP is requesting a narrow, 200-foot wide corridor. As a result, the information required for the Route Permit application is nearly the same as that required for the Corridor Certificate application, except the Route Permit application also requires a discussion of the factors listed in NDCC Sections 49-22-08.1(e) and (f). Therefore, to make this filing less repetitive, the information required for Route Permit application and Certificate of Corridor Compatibility application is combined. Any information required for the Route Permit application only is indicated where applicable.

1.4 Waiver of Procedures and Time Schedules

In addition to the Certificate of Corridor Compatibility and Route Permit application, MP submits this Application for a Waiver of Procedures and Time Schedules. MP requests that the PSC, pursuant to NDCC Section 49-22-07.2, waive the following requirements:

1. That the PSC hold a single consolidated hearing for this waiver request, for the Certificate of Corridor Compatibility, and for the Route Permit and waive separate hearings as may be required by NDCC Sections 49-22-07.2, 49-22-08.1 and 49-22-13 and North Dakota Administrative Code (NDAC) Section 69-06-01-02.

2. That the PSC shorten the three-month period specified in NDCC Section 49-22-08(5) and the six-month period specified in NDCC Section 49-22-08.1(5).

3. That the PSC waive the requirements of NDCC Section 49-22-08 and NDCC Section 49-22-08.1 insofar as these sections may require the separate filing of applications for a Certificate of Corridor Compatibility and a Route Permit, and insofar as they require the publication of notices of filing applications.

4. That the PSC waive the requirement of NDAC Section 69-06-04-02(1) that the corridor width be at least ten percent of its length and instead allow a 200-foot corridor width.

5. That the PSC waive requirements for Mylar maps and stereo-pair aerial photographs as set forth in the PSC's Application Guidelines for a Certificate of Corridor Compatibility and a Route Permit. Geographic Information System (GIS) maps are provided in the Application.

The PSC's Application Guidelines for Waiver of Procedures and Time Schedules require a facility description, need for, cost of, and justification for the request for waiver, together with evidence that the Project will produce minimal adverse effects. As demonstrated in the Application, and as summarized below, MP's Waiver Request and the issuance of a Certificate of Corridor Compatibility and Route Permit is justified, as the proposed facility is of such design, location, and purpose that it will produce minimal adverse effects.

Description

The project segment proposed for relocation consists of 0.70 miles of the DC Line approximately 1,000 feet south of its existing alignment. No capacity upgrades would be made as part of the relocation. The relocated segment would continue to operate as a 250kV DC overhead line.

Need

Due to changes in the area's hydrology, the utility reroute is needed to move the existing structures out of standing water and maintain adequate ground clearance. In addition to being in the best interest of structural integrity, the reroute would also provide upland access to allow for easier maintenance. The rerouted segment would tie back into existing MP facilities and would continue to provide utility service.

Cost

The DC Line reroute is estimated to cost approximately $700,000.

Justification for Waiver

The project is a short, 0.7 mile long reroute of an existing 465-mile long transmission line. Waivers of timelines and procedures are needed in order to prevent potentially significant delays. MP anticipates beginning construction in Fall 2013 and also needs to have the transmission line completed and energized in late 2013 to be in-service on schedule.

NDCC Section 49-22-07.2 provides that the PSC may waive procedures and time schedules upon a finding that "the proposed facility is of such length, design, location, or purpose that it will produce minimal adverse effects." Based upon the thorough investigation and analysis set forth in the Application, waivers are appropriate because the proposed facility will produce minimal adverse impacts.

In determining whether the proposed facility will result in adverse impacts on the environment, MP evaluated the transmission line using the criteria set forth in the Act, the Rules, and the PSC's Guidelines for Energy Conversion and Transmission Facility Siting (Guidelines). MP evaluated the impacts of the transmission line considering the siting criteria laid out in NDAC 69-06-08 and the factors to be considered in NDCC Section 49-22-09. Impacts associated with the transmission line are summarized in Section 5.17 of the Application. Based upon this evaluation and the factors set forth in the Energy Conversion and Transmission Facility Siting Act and PSC Guidelines, it is clear that the proposed facility will produce minimal adverse impacts.

State and federal agencies were consulted to provide input on potential impacts of the proposed project and, in general, concluded that the proposed facility would produce minimal adverse effects.

MP's proposal takes into consideration all state and federal agency concerns and thereby further mitigates any adverse effects associated with the proposed facilities. The designated state agencies and officers listed in NDAC 69-06-01-05 were notified about the proposed project. MP will continue to work with the agencies to address any concerns that may arise.

MP submits that it has taken all feasible and prudent actions to minimize and mitigate to the greatest extent possible all known or potential adverse impacts. As a result, the proposed project will produce minimal adverse effects. Accordingly, MP respectfully requests that the PSC grant the requested waivers.

2.0 Certificate of Corridor Compatibility and Route Permit

2.1 Certificate of Corridor Compatibility

The North Dakota Energy Conservation and Transmission Facility Siting Act requires an Application for a Certificate of Corridor Compatibility to meet criteria established in NDCC 49-22. According to NDCC 49-22-02, energy transmission facilities are to be routed with consideration given to environmental preservation and efficient use of resources.

MP has considered exclusion areas, avoidance areas, selection criteria, and policy criteria as described in Article 69-06 of the NDAC in the design of this Project. These items are addressed in this application. **Table 1** provides the list of information requested in the North Dakota PSC application guidelines for a Certificate of Corridor Compatibility (November, 1979) and the section of the application in which each issue is addressed.

Table 1 Corridor Certificate Completion Checklist

State Authority	Description	Section Addressed
NDCC Chapter 49-22	PSC Guidelines: Energy Conversion and Transmission Facility Siting	1.2, 1.3, 1.4, 2.1, 2.2, 5.2
NDAC Chapter 69-06-05	Transmission Facility Permit	1.4, 2.2, 2.4
Section A	Description	
1.	Type of facility proposed.	2.3, 5.1
2.	Purpose of the facility.	3.0
3.	The technology to be deployed.	5.1, 5.3
4.	The type of product to be transmitted.	2.3, 5.1
5.	The source of the produce to be transmitted.	N/A
6.	The final destination of the produce to be transmitted.	N/A
7.	The proposed size and design and any alternate size or design that was considered, including:	2.3, 5.1, 5.3
a.	The width of right-of-way.	5.1
b.	The approximate length of facility.	2.3, 5.1
c.	The estimated span length for electric facilities.	5.1
d.	The anticipated type of structure for electric facilities.	5.1
e.	The voltage for electric facilities.	2.3, 5.1
f.	The requirement for and general location of any new associated facilities.	N/A

State Authority	Description	Section Addressed
g.	The estimated distance between surface structures for pipeline facilities.	N/A
h.	The pipe size for pipeline facilities.	N/A
i.	The maximum design operating pressure and temperature for pipeline facilities.	N/A
j.	The maximum design flow rate for pipeline facilities.	N/A
k.	The number and general location of compressor or pumping stations.	N/A
Section B	Time Schedule	
1.	Obtaining the certification of corridor compatibility.	2.4
2.	Completing right-of-way acquisition.	5.2
3.	Starting construction.	2.4
4.	Completing construction.	2.4
5.	Testing operations.	N/A
6.	Commencing operations.	2.4
Section B	Studies	
	Provide a copy of each evaluative studies or assessment of the environmental impact of the proposed facility submitted to agencies listed in Section 69-06-01-05 of the NDAC and each response received.	Pending
Section C	Need for Facility	
1.	An analysis of the need for the proposed facility based on present and projected demand for the product transmitted, including any recent studies supporting the analysis of the need.	3.0
2.	A description of any feasible alternative methods of serving the need.	3.0
Section D	Location	
1.	Selection of appropriate corridor width. The width of a corridor must be at least 10 percent of its length but not less than one mile or greater than six miles unless another appropriate width is determined by the PSC.	4.1
2.	Select a study area, which includes a proposed corridor of sufficient width to enable the commission to evaluate the factors addressed in NDCC 49-22-09.	4.1, Figure 1-1
3.	Discuss the utility's policies and commitments to limit the environmental impact of its facilities, including copies of board resolutions and management directives	1.2
4.	Identify and map the criteria that led to the proposed route location within the designated corridor, including:	4.0
a.	Exclusion areas	4.2.1, Table 3
b.	Avoidance areas	4.2.2, Table 4
c.	Selection criteria	4.2.3, Table 5
d.	Policy criteria	4.2.4, Table 6
e.	Design and construction limitations	4.2.5
f.	Economic considerations	4.2.6
5.	Discussion of the relative value of each criteria and how the applicant selected the proposed corridor location, giving consideration to all criteria and how the location, construction, and operation of the facility will affect each criteria.	4.0

State Authority	Description	Section Addressed
6.	Discussion of the general mitigative measures that the applicant will take to minimize adverse impacts that result from a route location in a proposed corridor and the construction and operation of the facility.	6.17, 7.11, Table 8
7.	Qualifications of each person involved in the corridor location study.	11.0
8.	Maps	
a.	Map the criteria within the study area showing the proposed facility location.	N/A
NDCC Chapter 49-22-09	Factors to be considered in evaluating applications and designation of sites, corridors, and routes	
1.	Available research and investigations relating to the effects of the location, construction, and operation of the proposed facility on public health and welfare, natural resources, and the environment.	7.1
2.	The effects of new energy conversion and transmission technologies and systems designed to minimize adverse environmental effects.	7.2
3.	The potential for beneficial uses of waste energy from a proposed energy conversion facility.	7.3
4.	Adverse direct and indirect environmental effects which cannot be avoided should the proposed site or route be designated.	7.4
5.	Alternatives to the proposed site, corridor or route which are developed during the hearing process and which minimize adverse effects.	7.5
6.	Irreversible and irretrievable commitments of natural resources should the proposed site, corridor, or route be designated.	6.18, 7.6
7.	The direct and indirect economic impacts of the proposed facility.	6.9.1, 7.7
8.	Existing plans of the state, local government, and private entities for other developments on or in the vicinity of the proposed site, corridor, or route.	7.8
9.	The effect of the proposed site or route on existing scenic areas, historic sites and structures, and paleontological or archaeological sites.	6.7, 7.9
10.	The effect of the proposed site or route on areas which are unique because of biological wealth or because they are habitats for rare and endangered species.	7.10
11.	Problems raised by federal agencies, other state agencies, and local entities.	9.1

2.2 Route Permit Application

Table 2 provides the list of information requested in the North Dakota PSC application guidelines for a Route Permit (November, 1979) and the section of the application in which each issue is addressed. Information regarding easements for transmission lines per NDCC 49-22-08.1(f) is also referenced in this portion of the application.

Table 2 Route Permit Completion Checklist

State Authority	Description	Section Addressed
Chapter 49-22	PSC Guidelines: Energy Conversion and Transmission Facility Siting	1.2, 1.3, 1.4, 2.1, 2.2, 5.2
Section A	Description	
1.	Type: Describe the type of transmission facility proposed.	2.3, 5.1
2.	Product: Describe the product or products to be transmitted.	2.3, 5.1
3.	Size and Design: Provide a general description of the proposed size and design, and any alternate size or design, which was considered. Provide one (1) copy of the design data report, separate from the application, for the proposed facility and any associated facilities.	2.3, 5.1, 5.3
4.	Time Schedule: Provide the anticipated time schedule for the accomplishment of major events including, at a minimum, the following:	2.4
a.	Route Permit;	2.4
b.	Right-of-way (ROW) acquisition complete;	5.2
c.	Construction start date;	2.4
d.	Construction complete;	2.4
e.	Test operations; and	N/A
h.	In-service date.	2.4
Section B	Studies	
	Provide a copy of any studies or assessments of the environmental impact of the proposed facility submitted to any federal, regional, state, or local agency.	Pending
Section C	Need for Facility	
1.	An analysis of the need for the proposed facility based on present and projected demand for the product to be transmitted by the facility, including the most recent system studies supporting the analysis of the need.	3.0
2.	A description of any feasible alternative methods of serving the need.	3.0
3.	A statement justifying any deviations from the most recent Ten-Year Plan which the proposed facility may present.	N/A
Section D	Location	4.0
1.	Discuss the utility's policies and commitments to limit the environmental impact of its facilities, including copies of board resolutions and management directives.	1.2
2.	Discuss the factors listed in Section 49-22-09, NDCC to aid the PSC's evaluation of the proposed route.	4.1
3.	Identify and map the criteria that led to the proposed route location within the designated corridor.	4.0
4.	Discuss in detail the relative value of each criteria and how the location, construction, and operation of the facility will affect each criteria.	4.0

State Authority	Description	Section Addressed
5.	The criteria to be evaluated shall include at a minimum all of the following which are within the designated corridor:	4.2
a.	Exclusion areas;	4.2.1
b.	Avoidance areas;	4.2.2
c.	Selection criteria;	4.2.3
d.	Policy criteria;	4.2.4
e.	Design and construction limitations; and	4.2.5
f.	Economic considerations.	4.2.6
6.	Discuss the mitigative measures that will be taken to minimize adverse impacts which result from the location, construction, and operation of the proposed facility.	6.17, 7.11, Table 8
7.	List the qualifications of the people in the various disciplines that contributed to the facility route location study.	11.0
8.	Maps	
a.	Map the criteria within the designated corridor showing the proposed route and location of any new associated facilities. Several different criteria may be shown on each map, depending on the map scale and the density and nature of the criteria. Minimum map scale shall be ½ inch = 1 mile. All maps shall be at the same scale unless otherwise specified.	N/A
b.	Furnish one (1) set of Mylar maps, separate from the application, of the same scale as the criteria maps and showing the same basic features as the criteria maps, including the designated corridor, but not the proposed route or location of any new associated facilities. Note: A waiver for this requirement has been requested.	N/A
c.	Furnish one (1) set of uncontrolled 9 x 9-inch stereo-pair aerial photographs, separate from the application, with acceptable resolution showing the designated corridor, proposed route and location of any new associated faculties, and Section, Township and Range numbers, at a scale of 1 inch = 2000 feet, together with a flight map at a scale of ½ inch = 1 mile showing each flight line and the beginning and ending photo number of each flight line. Photo mosaic strip maps will also be acceptable. If the applicant can demonstrate that because of the limited size and scope of the Project, aerial photographs would not be practical, this requirement may be waived.	N/A
NDCC Chapter 49-22-09	Factors to be considered in evaluating applications and designation of sites, corridors, and routes	
1.	Available research and investigations relating to the effects of the location, construction, and operation of the proposed facility on public health and welfare, natural resources, and the environment.	7.1
2.	The effects of new energy conversion and transmission technologies and systems designed to minimize adverse environmental effects.	7.2
3.	The potential for beneficial uses of waste energy from a proposed energy conversion facility	7.3
4.	Adverse direct and indirect environmental effects which cannot be avoided should the proposed site or route be designated.	7.4
5.	Alternatives to the proposed site, corridor, or route which are developed during the hearing process and which minimize adverse effects.	7.5

State Authority	Description	Section Addressed
6.	Irreversible and irretrievable commitments of natural resources should the proposed site, corridor, or route be designated.	6.18, 7.6
7.	The direct and indirect economic impacts of the proposed facility	6.9.1, 7.7
8.	Existing plans of the state, local government, and private entities for other developments at or in the vicinity of the proposed site, corridor, or route.	7.8
9.	The effect of the proposed site or route on existing scenic areas, historic sites and structures, and paleontological or archaeological sites.	6.7, 7.9
10.	The effect of the proposed site or route on areas which are unique because of biological wealth or because they are habitats for rare and endangered species	7.10
11.	Issues raised by federal agencies, other state agencies, and local entities	9.1

2.3 Project Summary

Minnesota Power is proposing to relocate 0.70 miles of the DC Line. Eight structures would be relocated, and no capacity upgrades are included. The relocated segment would continue to operate as a 250kV DC overhead line.

The existing aluminum mast structures would be relocated and replaced with tubular weathering steel, self-supporting, monopole structures. Design, construction, and operation of the transmission line would be completed be in accordance with the North American Electric Reliability (NAER) corporation standards.

2.4 Project Schedule

Once all pre-construction permits and approvals have been obtained, construction of the proposed project is anticipated to take place in Fall 2013. The proposed project is scheduled as follows:

- **Certificate of Corridor Compatibility:** MP is seeking a Certificate of Corridor Compatibility on or before September 1, 2013.
- **Route Permit Application:** MP is seeking a waiver of PSC procedures to allow joint and simultaneous filing of its applications for a Certificate of Corridor Compatibility and Route Permit.
- **Route Permit:** MP is seeking a Route Permit on or before September 1, 2013
- **Construction Start and Completion Dates:** Construction is anticipated to both start and be completed in Fall 2013.
- **In-Service Date:** The retoured segment is anticipated to be in-service immediately following relocation activities, in Fall 2013.

3.0 Need for Project

Due to rising water levels in the project area, MP needs to move approximately eight existing structures out of standing water in order to maintain adequate ground clearance and structural integrity. The rerouted segment would tie back into existing MP facilities and would continue to provide utility service. By moving the structures into upland areas, the project will allow for easier maintenance on this section of the 465-mile 250kV transmission line. If the project is not built, the structures would remain in wetlands, making long-term maintenance more difficult.

4.0 Location and Evaluation Criteria

4.1 Study Area

MP has defined its study area as a 200-foot wide corridor centered on the preliminary alignment of the rerouted segment. See Figure 1-1. The new alignment and study area have been located to avoid wetlands while minimizing effects to any other nearby environmental resources.

4.2 Criteria to be Evaluated

The applicable regulations include an evaluation of exclusion areas, avoidance areas, as well as selection criteria and policy criteria.

4.2.1 Exclusion Areas

Per Chapter 69-06-08-02 of the NDAC, certain geographical areas shall be excluded from transmission facility route consideration, as shown in **Table 3**.

Table 3 Summary of Exclusion Areas

Exclusion Area	Present within Study Area?	Proposed Buffer	Section Addressed
Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; monuments; and wilderness areas.	None	N/A	6.7, 7.9
Designed or registered state: parks; historic sites; monuments; historical markers; archaeological sites; and nature preserves.	None	N/A	6.7, 7.9
County parks and recreational areas; municipal parks; and parks owned or administered by other governmental subdivisions.	None	N/A	6.8
Areas critical to the life stages of threatened or endangered animal or plant species.	None	N/A	7.10
Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.	None	N/A	6.15, 6.16
Areas within 1,200 feet of the geographic center of an intercontinental ballistic missile (ICBM) launch or launch control facility.	None	N/A	N/A
Areas within 30 feet of either side of a direct line between ICBM launch or launch control facilities to avoid microwave interference.	None	N/A	N/A

4.2.2 Avoidance Areas

Per Chapter 69-06-08-02 of the NDAC and as shown in **Table 4**, certain geographical areas shall not be approved for use in the routing of a transmission facility unless it has been shown that, under the circumstances, there is not reasonable alternative. In determining whether an avoidance area should be designated for a facility, the PSC may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. In addition, a buffer zone shall be implemented around these areas to protect their integrity.

Table 4 Summary of Avoidance Areas

Avoidance Area	Present within Study Area?	Proposed Buffer	Section Addressed
Designated or registered national: historic districts, wildlife areas, wild, scenic, or recreational rivers; wildlife refuges; and grasslands.	None	N/A	6.7, 6.13, 7.9
Designated or registered state: wild, scenic, or recreational rivers; game refuges; game management areas; forests; forest management lands; and grasslands.	None	N/A	6.7, 7.9
Historical resources which are not specifically designated as exclusion or avoidance areas.	None	N/A	6.7, 7.9
Areas which are geologically unstable.	None	N/A	6.11
Within 500 feet of a residence, school, or place of business.	None	N/A	4.2.3
Reservoirs or municipal water supplies.	None	N/A	6.3
Water sources for organized rural water districts.	None	N/A	6.3
Irrigated land.	None	N/A	4.2.3
Areas of recreational significance which are not designated as exclusion areas.	None	N/A	6.8

The study area for the proposed relocation contains wetland basins that are protected by United States Fish and Wildlife Service (USFWS) wetland easement. No permanent structures will be located in wetlands. Coordination is ongoing with USFWS regarding requirements for construction in easement wetlands; results will be included in the Supplemental Application to the PSC.

4.2.3 Selection Criteria

Per Chapter 69-06-08-02 of the NDAC, a corridor or route shall be approved in an area only when the applicant has demonstrated to the PSC that any significant adverse effects resulting from the location, construction, and maintenance of the facility will be at an acceptable minimum or that those effects will be managed and maintained at an acceptable minimum. Exclusion and avoidance areas, along with these selection criteria, were evaluated and taken into account when determining the alignments of the re-routed DC overhead electric transmission line, as shown in **Table 5**.

Table 5 Summary of Selection Criteria

Selection Criteria	Potential Adverse Effects	Section Addressed
The impact upon agriculture:		
Agricultural production.	Approximately 0.01 acres of farmland would be permanently converted by the relocation of the eight power line structures. The remainder of land in the study area would remain available for farming upon construction completion.	6.2
Family farms and ranches.	Construction of the proposed project will result in the conversion of approximately 0.01 acres of farmland from present use to use as an energy transmission facility. The proposed project is located approximately 0.76 miles south of the nearest rural residence. Additionally, the rerouted segment of line would be south of the existing line, putting greater distance between this residence and the transmission line. No adverse impacts are anticipated.	6.2
Land which the owner can demonstrate has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation	No impacted owners have expressed concerns over land that is economically suitable for irrigation. No adverse impacts are anticipated	N/A
Surface drainage patterns and groundwater flow patterns.	No impacts are anticipated to surface drainage or groundwater flow patterns.	6.11, 6.12
The Impact Upon:		
Sound-sensitive land uses.	The nearest residence is approximately 0.76 miles north of the proposed project, and there are no other sound-sensitive land uses within the area. The proposed project is not anticipated to result in long-term changes to the area's noise levels.	6.5
The visual effect on the adjacent area.	The proposed project would result in construction of overhead electric line; however, this would be a replacement to an existing overhead electric line in very close proximity to the rerouted location; therefore, changes in the visual landscape of the area would be minor.	6.6
Extractive and storage resources.	The proposed project is not anticipated to impact extractive and storage resources.	N/A

Selection Criteria	Potential Adverse Effects	Section Addressed
Wetlands, woodlands, and wooded areas.	The proposed project would require removal of existing electric structures that are located within USFWS easement wetlands. Coordination is ongoing with USFWS regarding requirements for construction in easement wetlands; results will be included in the Supplemental Application to the PSC.	6.13
Radio and television reception and other communication or electronic control facilities.	Given the proximity of the rerouted line segment to the existing line segment, disruptions in radio/television reception and other communications or electronic control facilities is not anticipated.	6.3
Human health and safety.	No adverse impacts to human health and safety are anticipated.	6.4
Plant life.	Approximately 0.01 acres of farmland would be converted by the relocation of the eight power line structures. The land where the relocated structures would be placed is active farmland.	6.10, 6.14

4.2.4 Policy Criteria

Per Chapter 69-06-08-02 of the NDAC, the PSC may give preference to an applicant that will maximize benefits through the adoption of up to 10 criteria related to the applicant's policies and practices, as shown in **Table 6**.

Table 6 Summary of Policy Criteria

Policy Criteria	Applicant's Policies and Practices	Section Addressed
Location and design.	The project has been designed to avoid placement of structures in wetlands and in accordance with NAER standards.	2.3, 5.3
Training and utilization of available labor in this state for the general and specialized skills required.	Skilled and trained labor from North Dakota would be used to the extent possible.	N/A
Economies of construction and operation.	Local contractors would be utilized to the extent possible	N/A
Use of citizen coordinating committees.	MP would coordinate directly with affected landowners.	5.2
A commitment of a portion of the transmitted product for use in this state.	Power transmitted through the proposed project would be available to MP's service area, including North Dakota.	N/A
Labor relations.	No impacts to labor relations are anticipated.	N/A
The coordination of facilities.	The proposed project would tie into the existing MP overhead line.	3.0, 5.1
Monitoring of impacts.	Based on the impact assessment included in Section 5 of this document, adverse environmental impacts are not anticipated. Mitigation and associated monitoring would not be required.	7.11

Policy Criteria	Applicant's Policies and Practices	Section Addressed
Utilization of existing and proposed rights of ways and corridors.	Construction within the existing utility easement is not consistent with the purpose and need of the project, which is to remove the existing structures from standing water within the existing utility easement.	3.0
Other existing or proposed transmission facilities.	Upon completion, the rerouted project segment would tie into the existing MP DC Line.	3.0, 5.1

4.2.5 Design and Construction Limitations

In general, there were two design and construction limitations that were considered in the development of this project: moving the existing structures out of wetlands and into upland areas and landowner permission[1]. Both of these objectives have been accomplished by the proposed reroute alignment.

4.2.6 Economic Considerations

This project is proposed to maintain the reliability MP's electrical network and reduce maintenance needs by relocating utility structures to upland areas. As such, economic considerations were not considerable factors in the development of this project.

[1] MP is an unregulated utility entity; therefore, landowner permission is required for any utility modification, including placement of poles in new locations.

5.0 Description of Proposed Project, Easement Acquisition, Construction, and Reclamation

5.1 Project Description

The project segment proposed for relocation consists of 0.70 miles of 250kV DC overhead electric transmission line approximately 1,000 feet south of its existing alignment. No capacity upgrades would be made as part of the relocation. The relocated segment would continue to operate as a 250kV DC overhead line.

The existing aluminum mast towers would be relocated and replaced with four-foot diameter tubular weathering steel, self-supporting monopole structures. Eight structures would be relocated as part of the project. The structures would range from 65to 100 feet tall and have an average span of 660 feet between each. All structures would be located within MP's 120-foot wide utility easement. Design, construction, and operation of the transmission line would be completed be in accordance with the North American Electric Reliability (NAER) corporation standards.

5.2 Utility Easement Acquisition

Acquisition of the utility easement will be completed in accordance with current North Dakota State law. MP will coordinate with affected landowners and negotiate appropriate compensation as required by NDCC Section 49-22-08.1(f)(1).

The proposed project primarily crosses agricultural fields separated by tree rows. Tall-growing trees may need to be cleared prior to construction in order to reduce potential for future conflicts with the overhead DC line. A tree and shrub survey will be completed and submitted in the Supplemental Application to the PSC.

5.3 Construction Methodology

Construction would commence once the utility easement has been acquired and cleared. Construction components would be delivered to the site, where they would be assembled and erected using mobile cranes or other appropriate construction equipment. The realigned structures would be directly embedded into the ground by excavating a hole for each structure. Once the structures have been set, the excavated holes would be backfilled with native soils or crushed rock.

All structures are anticipated to be placed at existing grade levels. Minor grading may be required to provide level, stable working surfaces for construction activities. Once construction is complete, the leveled areas would be re-graded to match original contours to the extent practicable.

Most of the construction activity would be limited to the area immediately around each structure. Each structure would require approximately 100 square feet of land to be converted from its current use and become part of the utility network, resulting in approximately 0.01 acre of permanent land use impact. Access paths and a construction work area, anticipated to be approximately a 100-foot radius, around each structure would be required; however, impacts within these areas would be temporary in nature and only for the duration of construction. Line stringing would occur once the structures are erected.

The proposed project has been designed, constructed, operated, and maintained to meet or surpass all relevant state codes, National Electric Safety Code (NESC), Avian Power Line Interaction Committee (APLIC) raptor-safe design standards, and MP company standards. Appropriate safety standards would be met for construction, operation, and maintenance of the facility.

5.4 Restoration

Construction related ground disturbance would be limited to the immediate work area and appropriate erosion control measures would be employed. Upon completion of construction, any generated debris would be removed and disposed, temporary staging around would be dismantled, and areas of significant rutting would be re-graded to match original land contours to the extent practicable. Since the area is presently being farmed, it would remain available for farming upon completion of construction rather than being revegetated with native grassland species.

5.5 Maintenance

MP will periodically use the easement to perform inspections, routine maintenance, and repairs over the life of the transmission line.

6.0 Environmental Analysis

This section describes the existing conditions within the study area. The existing conditions, or affected environment, are the baseline conditions that may be affected by the proposed project. This section discusses the direct environmental impacts of the proposed project. Indirect impacts are identified in the resource discussions where applicable. Mitigation measures, such as best management practices (BMPs), which will avoid, minimize, or mitigate impacts are discussed where appropriate.

The proposed project is located approximately 1.5 miles east of County Highway 68 and 3.5 miles north of County Highway 39. The landscape in the vicinity of the project consists of gently rolling hills with multiple isolated wetland basins. The nearest town, Medina, has a population of 308 and is located 3.25 miles southwest of the project.

6.1 Demographics

The proposed project is located in a rural portion of Stutsman County in southeastern North Dakota. Major employment industries in Stutsman County include: educational services, health care, and social assistance; agriculture, forestry, fishing, hunting, mining; and construction. Unemployment in Stutsman County is similar to levels statewide; however, per capita income is much lower than statewide levels and the percentage of individuals below poverty level is nearly double in Stutsman County, as shown in **Table 7**.

Table 7 Demographic Trends

Location	Population in 2010	Unemployment	Per Capita Income (dollar)	Individuals Below Poverty Level
Stutsman County	21,100	3.2%	$18,718	26.2%
Statewide	672,591	3.4%	$27,305	12.3%

6.1.1 Demographic Impacts/Mitigation

The proposed project would not result in changes to income or population trends in Stutsman County. Therefore, demographic impacts are not anticipated and mitigation would not be required.

6.2 Land Use

The proposed project is located in a rural setting used for active agriculture production. It is in an area that Stutsman County has zoned as an Agricultural District.

6.2.1 Land Use Impacts/Mitigation

The proposed project would result in the conversion of approximately 0.01 acres of land from farmland to electrical utility use through installation of structures to support overhead electric lines. The remainder of the study area would remain available for agriculture use upon construction completion. According to the Stutsman County Zoning Ordinance, communication towers, lines, and equipment are permitted uses in an agricultural zone. Re-zoning would not be required; however, MP would work with Stutsman County to obtain a Building Permit for each individual new, moved, or permanently removed structure prior to construction.

6.3 Public Services

Electrical Services

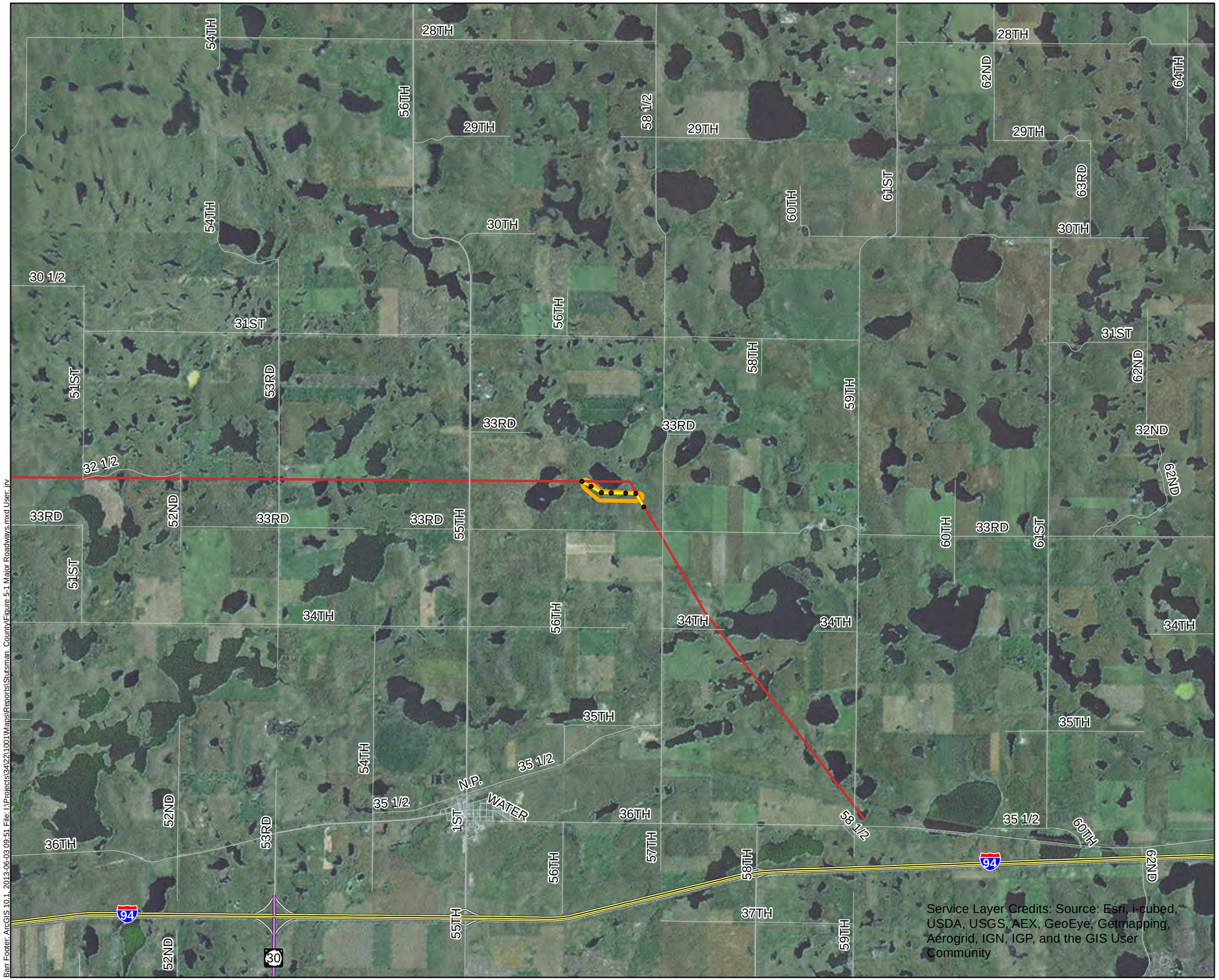
Minnesota Power does not provide retail electric service in North Dakota. Electric service in the area is provided by a variety of providers, including Otter Tail Power and Northern Plains Electric Cooperative.

Local Services

The proposed project is located in a rural part of North Dakota mainly composed of cultivated land. Several small towns are located within 20 miles of the project, although none are located immediately adjacent to the study area. Residents receive sewer, water, and utility services, as well as recreational opportunities such as parks and services such as hotels and restaurants. The Dakota Clinic, located in Medina, is the closest facility offering medical services. Medina also hosts a school system providing Kindergarten through 12th Grade.

Roads

Major roadways near the project include County Highway 68, located west of the project and County Highway 39, located south of the project. See **Figure 6-1**. Other roadways in the vicinity of the project range from well-maintained county and township gravel roadways to very low or minimum maintenance roadways and dirt trails.



Barr Footer: ArcGIS 10.1, 2013-06-03 09:51 File: I:\Projects\3422\1001\Maps\Reports\Stutsman CountyFigure 5-1 Major Roadways.mxd User: jnv

- Reroute Structures
- Reroute Centerline
- Existing Line
- Study Area

N

Feet

5,000 0 5,000

BARR

Figure 6-1

MAJOR ROADWAYS
STUTSMAN COUNTY SEGMENT
Proposed 250kV Reroute
Minnesota Power
Stutsman County, ND

Telephone, Fiber Optic, and Microwave Communications

Telephone, fiber optic, and radio communication services are provided to communities surrounding the project.

Traffic

Traffic counts have not been conducted for roadways in the project's vicinity due to the rural, limited use of these roadways. It is anticipated that most of the traffic loads on the roadways near the vicinity of the project study area can be attributed to local agricultural traffic and commuting from rural residences.

Water Supply

The Stutsman Rural Water District supplies rural water service to many locations throughout Stutsman County. Much of the rural water infrastructure occurs within existing road rights-of-way. The district has recently acquired funding for a $10 million expansion project to provide expanded service to 750 residents in western Stutsman County. It is also common for rural residents in the area to utilize private wells for alternative uses, such as agriculture. No sole source aquifers occur in the project's study area.

6.3.1 Public Services Impact/Mitigation

Electrical Services

The project would not disrupt utility service in the vicinity of the proposed project; however, overhead electric structures placed in standing water would require increased maintenance over time. The proposed project would improve the reliability of the area's electrical network by relocating structures to upland areas and out of standing water. Mitigation would not be required.

Local Services

The proposed project would not impact local services; mitigation would not be required.

Roads

The proposed project would require existing roads to be used for hauling equipment and materials during construction; however, it would not require the construction of new roadways in the study area, and mitigation would not be required.

Telephone, Fiber Optic, and Microwave Communications

Locations of buried telephone and fiber optic lines would be taken into account during construction of the proposed project, and potentially affected utility companies would be consulted as necessary. Impacts to radio frequencies are not anticipated and mitigation would not be required.

Traffic

It is anticipated that traffic volumes would increase during construction due to workers and large trucks delivering equipment to the proposed project. It is estimated that approximately 12 trips per day would be generated during the construction period. The temporary, localized increase in traffic is not expected to be at a volume that would alter travel patterns in the area. Permits for transportation of large equipment would be acquired as needed from the North Dakota Department of Transportation prior to construction and would be the responsibility of the contractor. Mitigation would not be required.

Water Supply

The proposed project is not anticipated to impact water supply. Mitigation would not be required.

6.4 Human Health and Safety

Air Traffic

The Federal Aviation Administration (FAA) regulates federal airspace. Overhead power lines, depending on their height, may have an effect on airports or navigable airspace. The FAA was contacted as part of project scoping; a response was not received.

The nearest commercial airport is the Jamestown Regional Airport, located approximately 35 miles east of the proposed project. Rau Field Airport, a small general aviation airport, is located approximately 12 miles south of the proposed project.

Hazardous Materials/Hazardous Waste

A Phase I Environmental Assessment was performed in a manner consistent with the ASTM 2247-08, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property. The Assessment also complied with the U.S. Environmental Protection Agency 40 CFR Part 312 Standards and Practices for All Appropriate Inquiries, Final Rule. The purpose of the Assessment was to identify Recognized Environmental Conditions (RECs) in connection with the Property; no RECs were identified.

6.4.1 Human Health and Safety Impacts/Mitigation

Air Traffic

The nearest commercial airport is 35 miles away and the nearest general aviation airport is 12 miles away. The proposed project is not anticipated to impact air traffic and mitigation would not be required.

Hazardous Materials/Hazardous Waste

The proposed project would not impact hazardous materials or hazardous waste sites.

6.5 Noise

The proposed project is located in a rural setting that typically receives noise contributions from farm machinery and local roadway traffic. Noise levels in rural settings typically range from 35 to 45 decibels (dBA).

6.5.1 Noise Impacts/Mitigation

Construction of the proposed project would result in temporary noise impacts in the immediate vicinity of the project. These noise impacts would only be incurred for the duration of construction and are anticipated to be minor in the overall setting. Mitigation would not be required.

6.6 Visual

The visual landscape in the project study area consists of rural agricultural fields with existing overhead electric infrastructure. No visually sensitive areas, such as National Parks, exist in the vicinity of the project.

6.6.1 Visual Impacts/Mitigation

The proposed project would include a reroute of an overhead electric line approximately 1,000 feet south of its existing alignment. This would result in minor modification of the immediate area's visual aesthetics. However, the existing segment of overhead electric line would be decommissioned and removed, resulting in no net gain in visual encumbrance due to overhead power infrastructure. Mitigation would not be required.

6.7 Cultural and Archaeological Resources

A Class I Literature Review (Class I) was completed by Beaver Creek Archaeology, Inc. in April 2013. The Class I focused on an area of potential effect (APE) that consisted of a one-mile radius

surrounding the reroute alignment. Results of this review indicated that there are no previously recorded sites or isolated finds within the APE.

A Class III Cultural Resources Inventory was completed in June 2013. No previously unrecorded sites were encountered.

6.7.1 Cultural and Archaeological Resources Impacts/Mitigation

The Class III report, and recommended determination of eligibility, are pending and will be submitted in the Supplemental Application to the PSC.

6.8 Recreational Resources

USFWS wetland easements exist in the immediate vicinity of the project. North Dakota is located in the central flyway for waterfowl migration, attracting recreationalists such as hunters and bird watchers to the region.

There are no golf courses, recreational areas, state parks, or state historic markers in the vicinity of the proposed project.

6.8.1 Recreational Resources Impacts/Mitigation

The proposed project may result in temporary disturbance of waterfowl's use of surrounding wetlands, which may disrupt hunting in the immediate study area. These impacts are temporary and would only last for the duration of construction. Mitigation would not be required.

6.9 Land Based Economics

Agriculture is the primary generator of land-based revenue in Stutsman County.

6.9.1 Land Based Economics Impacts/Mitigation

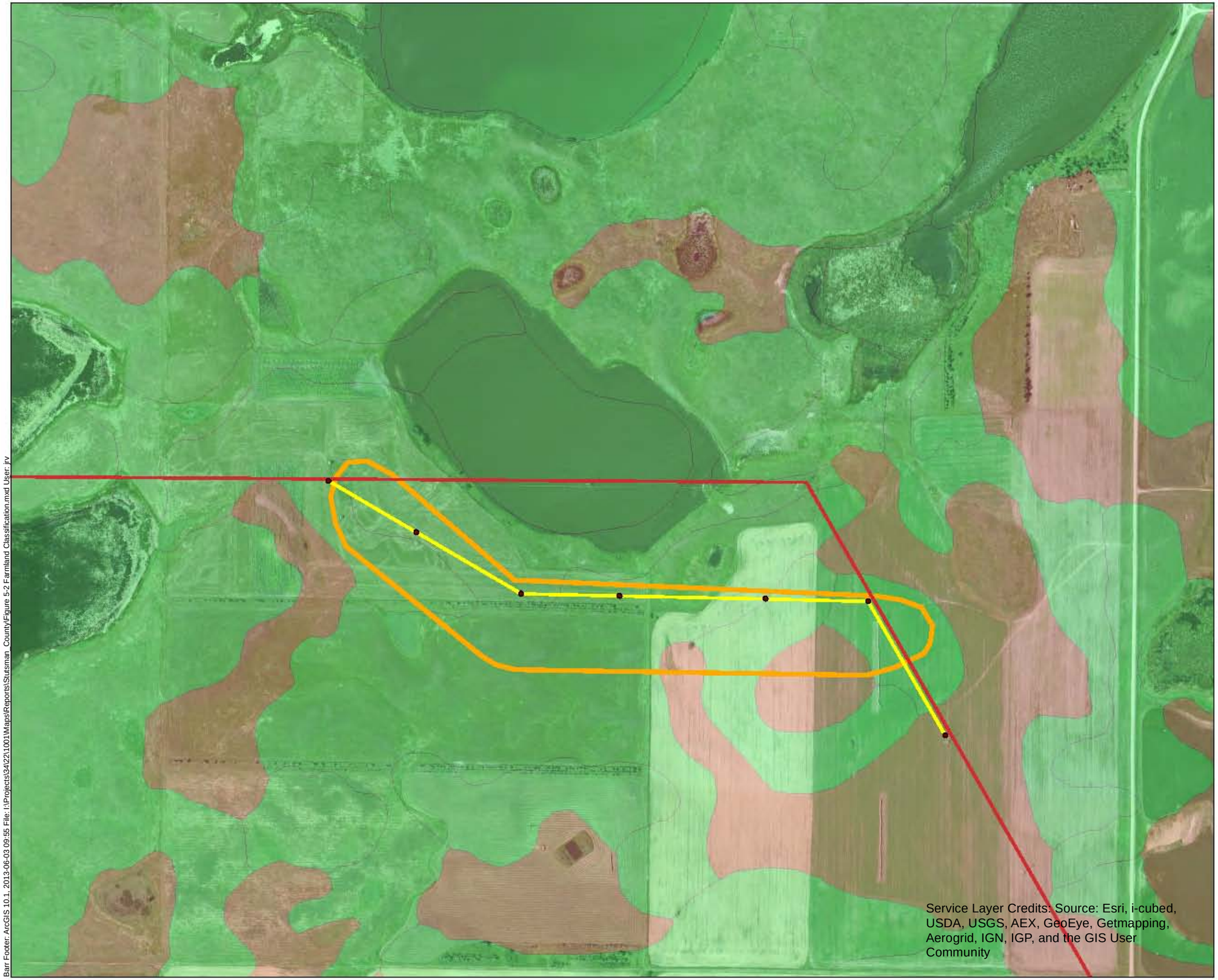
The proposed project would convert approximately 0.01 acre of land from farmland to electrical utility use through installation of structures to support overhead electric lines. The remainder of the study area would remain available for agriculture use upon construction completion. In addition, any transmission line structures removed from upland areas would be returned to agricultural use. Given the small scale of disturbance, the proposed project would not impact land based economics and mitigation would not be required.

6.10 Soils

Three soil types are found in the project study area. The majority of these soils are not classified by the Natural Resources Conservation Service (NRCS) as prime or statewide farmland. See **Figure 6-2**. The NRCS has responsibility under the Farmland Protection Policy Act (FPPA) in documenting conversion of prime, statewide importance, and local importance farmland to non-agriculture use.

6.10.1 Soils Impacts/Mitigation

Project impacts to soils are anticipated to be minor. Soil impacts would be localized, and BMPs would be implemented to minimize these impacts. Surface disturbance associated with construction of the proposed project could result in the soil surface becoming more prone to wind and water erosion. In addition, soil may be compacted as a result of the heavy equipment used in construction. BMPs may include the use of erosion and sediment control during construction, segregating topsoil from subsurface materials, use of construction equipment appropriately sized to the scope and scale of the project, and maintaining appropriate drainage. Per correspondence received from the NRCS, since the proposed project would impact a minimal acreage of farmland, the FPPA would not apply. Please See Appendix A, Agency Coordination.



Reroute Structures

Reroute Centerline

Existing Line

Study Area

Farmland Classification

Prime farmland

Farmland of statewide importance

Not prime farmland

Prime farmland if drained

N

Feet

500 0 500

BARR

Figure 6-2

FARMLAND CLASSIFICATION
STUTSMAN COUNTY SEGMENT
Proposed 250kV Reroute
Minnesota Power
Stutsman County, ND

6.11 Geologic and Groundwater Resources

The proposed project is located in an ecoregion of North Dakota known as the Northern Glaciated Plains. This area is characterized by a flat to gently rolling landscape created from glacial drift, resulting in surface geology consisting of glacial till. As the glaciers receded and buried ice chunks melted, temporary and seasonal wetlands were created. Due to these geologic sequences, the project is also located in a region commonly called the prairie pothole region.

No aquifers are located in the study area, and no sole source aquifers have been designated in North Dakota.

6.11.1 Geologic and Groundwater Resources Impacts/Mitigation

The proposed project would not impact geologic or groundwater resources; mitigation would not be required.

6.12 Surface Water and Floodplain Resources

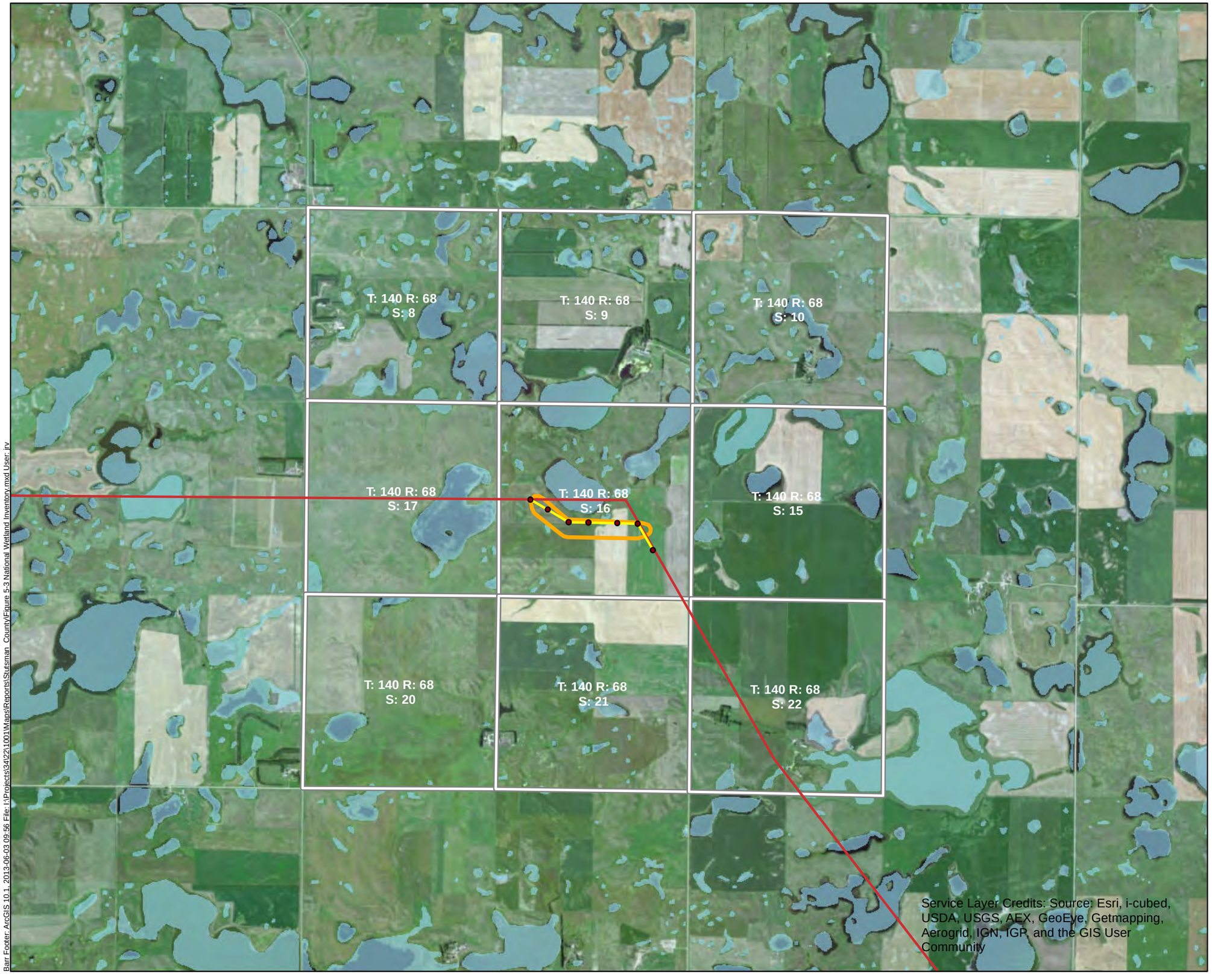
There are no streams, rivers, lakes, or other bodies of water in the project study area. Based on *correspondence* received from the North Dakota State Water Commission, the proposed project is not located within a designated floodplain. See Appendix A.

6.12.1 Surface Water and Floodplain Resources Impacts/Mitigation

The proposed project would not impact surface water or floodplains; mitigation would not be required.

6.13 Wetlands

The proposed project occurs in the prairie pothole region of North Dakota. This region is dotted with wetland basins of various sizes and water regimes. Removal of structures that are currently inundated would require work in/across one wetland basin, as shown on **Figure 6-3**, National Wetland Inventory Wetlands. This basin is protected by an USFWS wetland easement, but is not under the jurisdiction of the United States Corps of Engineers (USACE). See Appendix A, Agency Coordination.



Reroute Structures

Reroute Centerline

Existing Line

Study Area

NWI Wetlands

PLS Section Within 1 Mile

N

Feet

2,500 0 2,500

BARR

Figure 6-3

NATIONAL WETLAND INVENTORY WETLANDS
STUTSMAN COUNTY SEGMENT
Proposed 250kV Reroute
Minnesota Power
Stutsman County, ND

Barr Footer: ArcGIS 10.1, 2013-06-03 09:56 File: I:\Projects\34\22\1001\Maps\Reports\Stutsman_County\Figure 5-3 National Wetland Inventory.mxd User: jrv

6.13.1 Wetland Impacts/Mitigation

The proposed project has been designed to avoid placement of poles in wetland. However, it will require temporary construction in wetland protected by USFWS easement to remove currently inundated poles. Coordination is ongoing with USFWS regarding requirements for construction in easement wetlands; results will be included in the Supplemental Application to the PSC.

As this wetland is not under the jurisdiction of the USACE, a Section 404 permit and associated USACE-approved mitigation would not be required.

6.14 Vegetation

Land in the immediate vicinity of the project is farmed. Several wind rows of trees are located in the study area.

6.14.1 Vegetation Impacts/Mitigation

Since the area is presently being farmed, it would remain available for farming upon completion of construction rather than being revegetated with native grassland species. A tree and shrub survey will be completed and submitted in the Supplemental Application to the PSC.

6.15 Wildlife and Avian Species

The project study area is actively used for agricultural crop production. Though both game and non-game wildlife species use the area, the project area does not contain any high quality wildlife habitat.

The proposed project lies in the prairie pothole region of North Dakota and within the Central Flyway of North America. As such, this area is used as resting grounds for many birds on their spring and fall migrations, as well as nesting and breeding grounds for many waterfowl species.

Protection is provided for the bald and golden eagles through the Bald and Golden Eagle Protection Act (BGEPA) and for other migratory birds through the Migratory Bird Treaty Act (MBTA). The BGEPA was written with the intent to protect and preserve bald and golden eagles, both of which are treated as a species of concern within the Department of the Interior. The MBTA regulates impacts to migratory bird species such as direct mortality, habitat degradation, and/or displacement of individual birds.

Review of the North Dakota Natural Heritage Inventory did not note the recorded observance of any sensitive wildlife or avian populations within one mile of the proposed project.

6.15.1 Wildlife and Avian Species Impacts/Mitigation

Ground clearing activities associated with construction of the proposed project may impact habitat for ground dwelling mammals and other wildlife species. While wildlife may use the study area for feeding, they are anticipated to adapt to temporary construction disturbance and continue to thrive. Additionally, the areas of proposed land use conversion (approximately 0.01 acre) are minimal in the context of the setting. Furthermore, the study area has been previously and continues to be disturbed due to farming practices. The proposed project is not anticipated to result in long-term wildlife impacts and mitigation would not be required.

The project study area does not contain suitable habitat for bald or golden eagles. Therefore, eagle impacts are not anticipated and mitigation would not be required. Similar to wildlife, resident avian species are anticipated to adapt to temporary construction disturbance and continue to utilize the area. To comply with the MBTA, construction of the proposed project is scheduled to take place in the fall to avoid avian breeding and nesting seasons. Avian impacts are not anticipated and mitigation would not be required.

6.16 Rare and Unique Natural Resources

The study area was evaluated to determine the potential for federally-listed threatened, endangered, and candidate species. An official list of federally-listed species in the vicinity of the proposed project was requested through the USFWS IPaC online program (Consultation Tracking Number 06E15000-2013-SLI-0147) on April 16, 2013. According to the IPaC results, the following species are listed in the vicinity of the proposed project:

- Whooping crane (endangered)
- Piping plover (threatened)
- Sprague's pipit (candidate)
- Dakota skipper (candidate)

Review of the North Dakota Natural Heritage Inventory did not note the recorded observance of any threatened or endangered species within one mile of the proposed project. See **Appendix A**, Agency Consultation.

6.16.1 Rare and Unique Natural Resources

The proposed project includes a minor reroute of an overhead utility that is already in existence. In addition, all construction activities would take place in the fall, outside of the nesting, breeding,

and/or migration periods for these species. Therefore, the proposed project is anticipated to have *no effect* on the whooping crane and piping plover and is not anticipated to impact the Sprague's pipit or Dakota skipper. USFWS concurrence is not required with a no effect determination and mitigation would not be required.

6.17 Summary of Impacts

Table 8 contains a summary of the proposed project, its environmental impacts, as well as any mitigation measures proposed.

Table 8 Summary Comparison of Project Alternatives and Impacts

Resource	No Action Alternative	Proposed Project	Proposed Mitigation
Demographics	No impacts.	No adverse impacts.	None
Land Use	No impacts.	Minor conversion of approximately 0.01 acres from farmland to utility use.	None
Public Services	No impacts.	Enhance the reliability of the area's electrical network. Minor temporary traffic increases.	None
Human Health and Safety	No impacts.	No adverse impacts.	None
Noise	No impacts.	Temporary noise increases during construction, no long-term impacts.	None
Visual	No impacts.	Minor modification of the immediate area's visual aesthetics.	None
Cultural and Archaeological Resources	No impacts.	No adverse impacts.	None
Recreational Resources	No impacts.	No adverse impacts	None
Land Based Economics	No impacts.	No adverse impacts.	None
Soils	No impacts.	May cause soil surface to become more prone to wind and water erosion and may result in soil compaction.	BMPs will be used, as appropriate, during and after construction.
Geologic and Groundwater Impacts	No impacts.	No adverse impacts anticipated.	None
Surface Water and Floodplain Resources	No impacts.	No adverse impacts anticipated.	None
Wetlands	No impacts.	Temporary construction in wetlands protected by USFWS.	Pending
Vegetation	No impacts.	No adverse impacts anticipated.	None

Resource	No Action Alternative	Proposed Project	Proposed Mitigation
Wildlife and Avian Species	No impacts.	Temporary disturbance during construction; however, species are expected to remain in area and continue to use it following construction. No adverse impacts anticipated.	Construction is timed to take place in the fall, outside of the migratory bird breeding and nesting season. No mitigation required.
Rare and Unique Resources	No impacts.	No effect to threatened or endangered species, no impact to candidate species.	Construction is timed to take place in the fall, outside breeding and nesting season for listed species. No mitigation required.

6.18 Irreversible and Irretrievable Commitment of Resources.

As with any construction project, certain irreversible and irretrievable commitments of natural resources, man power, materials, and fiscal resources are required. Fossil fuels, labor, and construction materials will be expended to complete the project. Additionally, labor and natural resources will be used in the fabrication and preparation of construction materials; these materials are generally not retrievable; however, they are not in short supply and their use would not have an adverse effect on the availability of these resources. Any construction would require a one-time expenditure of funds, which are not retrievable; however, the anticipated benefits would balance the irretrievable commitment of resources caused by construction of the proposed project.

7.0 Additional Factors to Consider in Application Evaluation

7.1 Environmental Studies Completed for Project

The following environmental studies have been completed for the proposed project:

- Phase I Environmental Site Assessment
- Class I Literature Review for cultural resources
- Class III Survey for cultural resources

7.2 Technologies Used to Minimize Adverse Environmental Effects

The proposed project is not anticipated to have adverse environmental effects. It has been designed using appropriate industry standards, and new technologies to minimize impacts were not considered.

7.3 Beneficial Uses of Waste Energy

Waste energy is not anticipated to be generated by the proposed project.

7.4 Unavoidable Adverse Environmental Impacts

The proposed project is not anticipated to result in any unavoidable direct or indirect adverse environmental impacts. An environmental impact assessment is included in Section 6 of the of this Application package.

7.5 Alternative Routes Developed during Project Hearing to Minimize Adverse Effects

This section will be addressed, as appropriate, once the Project Hearing has been held.

7.6 Irreversible and Irretrievable Commitments of Natural Resources

As with any construction project, certain irreversible and irretrievable commitments of natural resources, man power, materials, and fiscal resources are required. Fossil fuels, labor, and construction materials will be expended to complete the project. Additionally, labor and natural resources will be used in the fabrication and preparation of construction materials; these materials are generally not retrievable; however, they are not in short supply and their use would not have an adverse effect on the availability of these resources. Any construction would require a one-time

expenditure of funds, which are not retrievable; however, the anticipated benefits would balance the irretrievable commitment of resources caused by construction of the proposed project.

7.7 Economic Impacts

The proposed project was developed to improve structural integrity of MP's existing overhead power network rather than to capitalize on new economic development; therefore, the proposed project is not anticipated to impact land based economies or the economics of the surrounding area.

7.8 Potential for Additional Development

No additional development is anticipated as a result of the proposed project.

7.9 Scenic Areas, Historic Sites and Structures, and Paleontological or Archaeological Sites

There are no scenic areas or historic sites/structures in the vicinity of the proposed project.

A Class I Literature Review (Class I) was completed by Beaver Creek Archaeology, Inc. in April 2013. The Class I focused on an area of potential effect APE that consisted of a one-mile radius surrounding the reroute alignment. Results of this review indicated that there are no previously recorded sites or isolated finds within the APE.

A Class III Cultural Resources Inventory was completed in June 2013. No previously unrecorded sites were encountered. The Class III report, and recommended determination of eligibility, are pending and will be submitted in the Supplemental Application to the PSC.

7.10 Threatened and Endangered Species

The study area was evaluated to determine the potential for federally-listed threatened, endangered, and candidate species. An official list of federally-listed species in the vicinity of the proposed project was requested through the USFWS IPaC online program (Consultation Tracking Number 06E15000-2013-SLI-0147) on April 16, 2013. According to the IPaC results, the following species are listed in the vicinity of the proposed project:

- Whooping crane (endangered)
- Piping plover (threatened)
- Sprague's pipit (candidate)
- Dakota skipper (candidate)

Review of the North Dakota Natural Heritage Inventory did not note the recorded observance of any threatened or endangered species within one mile of the proposed project.

The proposed project includes a minor reroute of an overhead utility that is already in existence. In addition, all construction activities would take place in the fall, outside of the nesting, breeding, and/or migration periods for these species. Therefore, the proposed project is anticipated to have *no effect* on the whooping crane and piping plover and is not anticipated to impact the Sprague's pipit or Dakota skipper. USFWS concurrence is not required with a no effect determination and mitigation would not be required.

7.11 Mitigation Measures

As described in Section 6, the project is not anticipated to have adverse environmental impacts; mitigation measures and monitoring are not anticipated.

8.0 Public Involvement

If ordered by the PSC, a PSC Hearing will be held in conjunction with approval of this application. These meetings are open to the public. Public notice of the hearing will be advertised in local newspapers or as otherwise directed by the PSC.

9.0 Agency Coordination

To initiate early communication and coordination, a scoping package was sent to federal, state, and local entities on April 18, 2013. This scoping package included information on the project and a project location map. A second scoping package was send on May 17, 2013 notifying the previous contacted parties that the proposed reroute in Kidder County was no longer being pursued. At the conclusion of the 30-day comment period, responses from 10 entities were received. These comments have been referenced as incorporated where appropriate in the text of this document. ***Please refer to Appendix A, Agency Coordination.***

9.1 Summary of Commenting Agencies

Table 9 provides a list of agencies that provided comments during the project scoping process.

Table 9 Summary of Commenting Agencies

Jurisdiction	Agency
Federal Agencies	U.S. Department of Agriculture – Natural Resources Conservation Service
	U.S. Department of Defense – Army Corps of Engineers, North Dakota Regulatory Office (3 responses)
	U.S. Department of the Interior – Fish and Wildlife Service, Chase Lake NWR/WMD/PP
	U.S. Department of the Interior – Fish and Wildlife Service, Long Lake National Wildlife Refuge (2 responses)
State Agencies	North Dakota Department of Health (2 responses)
	North Dakota Game and Fish Department (2 responses)
	North Dakota Parks and Recreation Department
	North Dakota State Water Commission (2 responses)
	State Historical Society of North Dakota (2 responses)
Local Entities	Stutsman County Zoning Administrator

The following discussion provides a summary of each agency response received. Complete copies of each response can be found in ***Appendix A, Agency Coordination.***

9.1.1 U.S. Department of Agriculture – Natural Resources Conservation Service

The NRCS stated that if the project is supported by federal funding or actions, the FPPA would apply; however, the NRCS stated that farming in the project area would not be significantly impacted due to minimal acreage and that the FPPA does not apply.

9.1.2 U.S. Department of Defense – Army Corps of Engineers, North Dakota Regulatory Office

Three responses were received from the USACE: one outlining the permitting process, if applicable, and the other with the results of the approved jurisdictional determination for affected wetlands. The USACE has issued an approved jurisdictional determination stating that wetlands affected by the project are not under the jurisdiction of the USACE. As such, a USACE permit for impacts to these wetlands would not be required. The jurisdictional determination is valid for five years from the date of issuance (April 23, 2013). A third response was received based on the second scoping letter; this response affirmed the jurisdictional determination remained valid.

9.1.3 U.S. Department of the Interior – Fish and Wildlife Service, Chase Lake NWR/WMD/PP

The west half of Section 16, T140N, R68W has a USFWS Waterfowl Management Right easement (commonly referred to as a wetland easement). This area is along both the existing and proposed reroute alignments. The purpose of the wetland easement is to preserve and protect wetlands for waterfowl and other wildlife. With this easement, the USFWS owns perpetual rights which restrict or prohibit the right to drain, burn, level, or fill any wetland basin included within the easement. This office of the USFWS is concerned with proposed projects that would have direct or indirect impacts to USFWS easement wetlands and stated that wetland impacts can typically be avoided by projects such as the currently proposed overhead electric transmission line reroute. The agency requested detailed construction plans as they pertain to structure locations, construction materials, and construction methods.

9.1.4 North Dakota Department of Health

The North Dakota Department of Health stated that it believed the environmental effects from the proposed project will be minor and can be controlled by proper construction methods. These methods include minimizing: fugitive dust emissions, adverse effects to water bodies, noise, and obtaining a North Dakota Discharge Elimination System Permit if the project results in more than one acre of disturbance. Included with the letter were the department's construction and environmental disturbance requirements. It was also stated that the North Dakota Department of Health owns no

land in or adjacent to the proposed project, nor does it have any projects scheduled in the area. In addition, it believes the project is consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

9.1.5 North Dakota Game and Fish Department

The North Dakota Game and Fish Department does not believe the proposed project will have any significant effects on wildlife or wildlife habitat. The department requests a copy of the plan to remove existing structures from wetlands once it is developed.

9.1.6 North Dakota Parks and Recreation Department

The North Dakota National Heritage Inventory did not identify any sensitive species or habitat within a one-mile radius of the proposed project in Stutsman County. The department requested that all efforts be made to avoid impacts to waterfowl and wildlife species and their habitats. It requested pre and post construction aviation monitoring studies to identify and assess adverse impacts to waterfowl and wildlife. In addition, the department requested that impacted areas be revegetated with species native to the project area.

9.1.7 North Dakota State Water Commission

The North Dakota State Water Commission responded that the proposed project is not in an identified floodplain and that the project will not affect an identified floodplain; all waste material must be disposed of properly and not within floodways; that no sole source aquifers have been designated in North Dakota; and that the project sponsor is responsible for acquiring appropriate local, state, and federal agencies are contacted for any required permits, approvals, and easements.

9.1.8 State Historical Society of North Dakota

The North Dakota State Historic Preservation Officer requested that a Class III (pedestrian) survey of the project [study area] be completed.

9.1.9 Stutsman County Zoning Administrator

The response received from the Stutsman County Zoning Administrator states that the office believes there will be little, if any, social or economic impact resulting from the project due to the distance of the project from nearby residences. From a local zoning standpoint, the office is concerned about public and environmental safety if structures that are now located in water are allowed to remain there. The office stated that the project is located in an area currently zoned as an Agricultural District and that projects of this nature are a permitted use in an agricultural zone. Rezoning will not be required for the project; however a Building Permit would be required for each individual

structure installed, moved to a new location, or permanently removed. Project plans should be included with the building permits. The office requested documentation that would address how the existing structures are to be removed so as to minimize contamination of surrounding waters and eliminate a potential public safety hazard.

9.1.10 Agencies Solicited but No Response Received

Of the 35 agencies and other interested parties that were solicited for this project, 18 did not respond. Appendix A provides the list of agencies from whom comments were requested.

10.0 Identification of Potential Permits/Approvals

The following permits would be required prior to construction:

- PSC – Certificate of Corridor Compatibility and Energy Transmission Facility Route Permit
- USFWS – A Special Use Permit is anticipated for work in USFWS easement wetlands. Coordination with USFWS is pending and will be included in the Supplemental Application to the PSC.
- Stutsman County – Building Permits

11.0 Qualifications of Contributors to this Corridor Study

Minnesota Power Project Management Team

Daniel McCourtney – Permit Manager

Mark Wolcott – Project Engineer

Bryan Malsowski – Project Coordinator

Barr Engineering Management Team

Mandy Bohnenblust

Mandy has more than six years of experience providing environmental consulting services that range from Phase I site assessments to biological-resources and protected-species studies. She served as the task lead on state and local permitting work for Minnesota Power's Bison 3 and ACE wind developments, and currently manages the Allete Clean Energy project. For both projects, she coordinated subconsultants' fieldwork and resources reporting. In addition, she participated in the Phase I for the ACE project, and has worked on numerous other Phase I projects for energy clients.

Shanna Braun

Shanna has eight years of experience in environmental consulting. Her services include performing wetland delineations, assessing impacts, and facilitating the environmental approval process for projects related to energy transmission and alternative energy, and natural resources. She has particular experience managing staff, project tasks, regulatory compliance, schedules, and budgets on projects requiring NEPA review. In the last several years, Shanna has completed more than 60 wetland delineations in five upper-Midwest states; performed more than 50 environmental assessments; assisted with development of wetland mitigation plans; and developed and implemented public involvement strategies for engineering projects.

Joshua Vosejpka

Joshua Vosejpka recently joined Barr after graduating from Minnesota State University in Mankato with a degree in geographic information systems. As a GIS specialist at Barr, his work involves using GIS for figure and map creation, working with and interpreting aerial photos, analyzing both raster and vector data, developing GIS scripts and programs, working with internet map applications, and coordinating GIS work with other software applications.

John Wachtler

John joined Barr in 2005 with a background that includes work for private industry and governmental agencies. At Barr, he assists clients with environmental siting and permitting issues, as well as EIS preparation, transmission-route and power-plant permitting, risk assessments, and regulatory and public participation strategy. John recently served as the project manager for the develop-mint of the environmental impact statement prepared with the state of Minnesota's Office of Energy Security for the CapX Brookings-to-Hampton 345 kV transmission line.

Appendix A

Agency Coordination

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engineering and environmental consultants

BARR

April 18, 2013

«First» «Last»
«Title»
«Department»
«Agency»
«Address»
«City», «State» «Zip»

Re: Minnesota Power 250kV Overhead Line Reroutes
Kidder and Stutsman Counties, North Dakota

Dear Mr. «Last»:

Minnesota Power is planning to reroute two segments of 250kV overhead power line in Kidder and Stutsman Counties, North Dakota. The Kidder County segment is approximately 2 miles long, while the Stutsman County segment is about 0.7 miles long (***please refer to enclosed Project Location Maps***). Due to changes in the area's hydrology, the utility reroutes are needed to move the existing structures out of standing water and maintain adequate ground clearance. In addition to being in the best interest of structural integrity, the reroutes would also provide upland access to allow for easier maintenance. Both rerouted segments would tie back into existing Minnesota Power facilities and would continue to provide utility service. Construction of both reroutes is anticipated to take place in Fall 2013.

Pursuant to Chapter 49-22 of the North Dakota Century Code and Article 69-06 of the North Dakota Century Code, Minnesota Power will seek a Certificate of Corridor Compatibility and Route Permit from the North Dakota Public Service Commission (PSC). Barr Engineering Company is assisting Minnesota Power in these efforts.

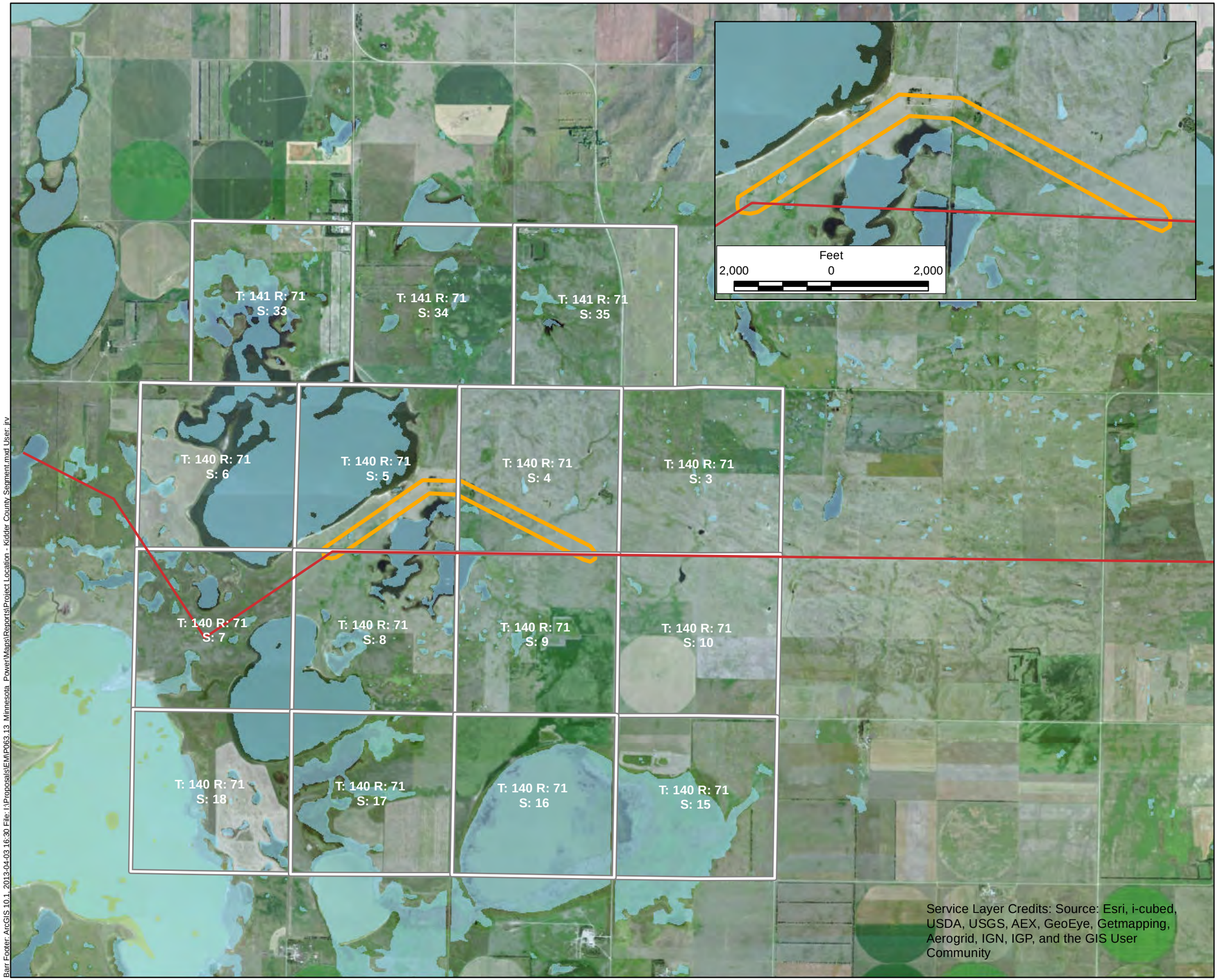
The purpose of this letter is to inform your organization of the proposed project and to ensure that all known social, economic, and environmental effects are considered in the development of this project. We are particularly interested in environmental permits and approvals that may be required. Copies of all correspondence received in response to this letter will be included with the Certificate application for the PSC's records. Written comments are requested by **May 18, 2013** for consideration in this study.

If further information is desired regarding the proposed project, please contact me by email (abohnenblust@barr.com) or by phone (952-842-3533).

Sincerely,

Mandy Bohnenblust
Project Manager

Enclosures: Project Overview Maps



Existing Line

Proposed 250kV Route

NWI Wetlands

PLS Section Within 1 Mile

N

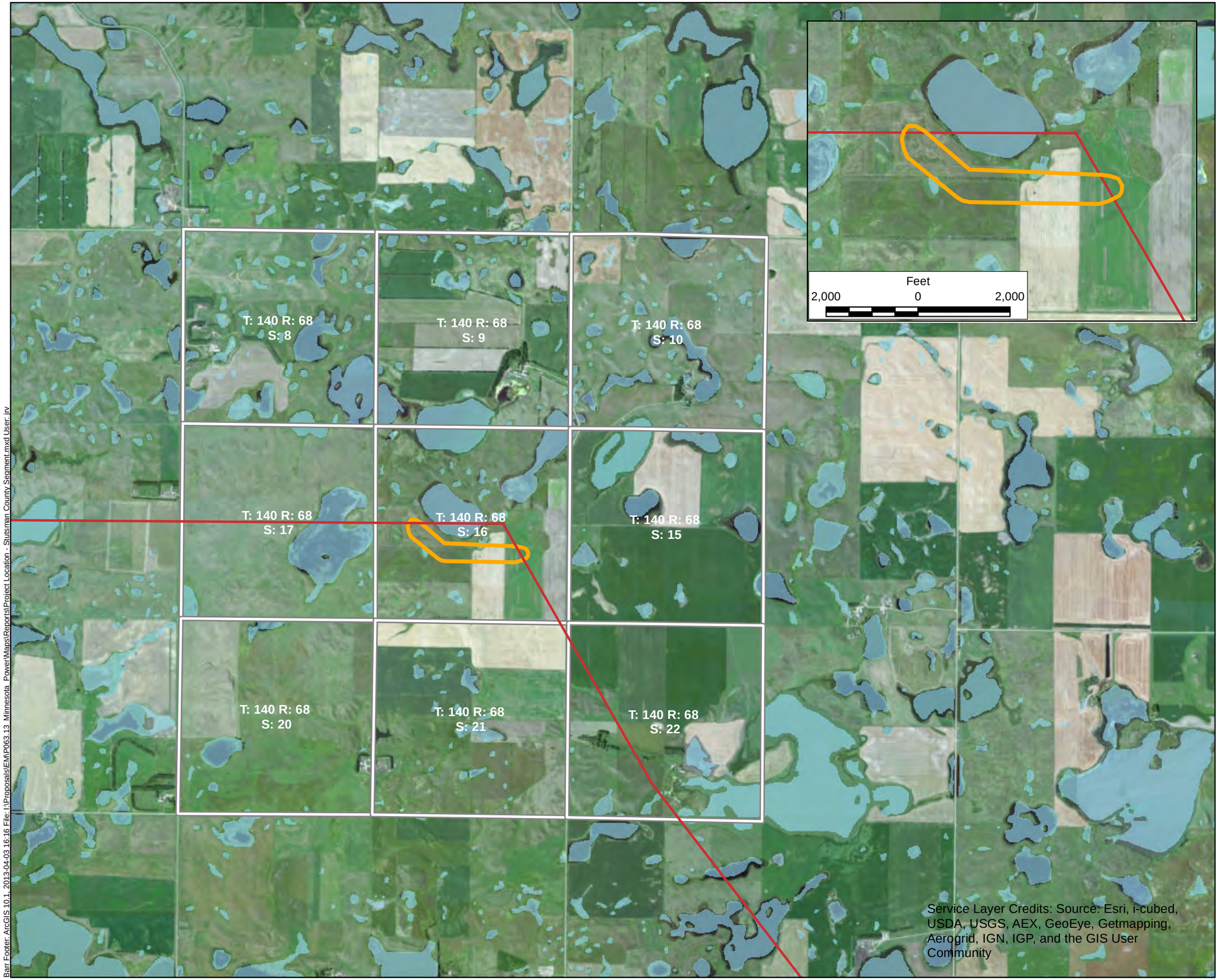
Feet

3,000 0 3,000

BARR

PROJECT LOCATION
KIDDER COUNTY SEGMENT
Proposed 250kV Reroute
Minnesota Power
Kidder County, ND

Barr Footer: ArcGIS 10.1, 2013-04-03 16:30 File: I:\Proposals\EMP\063.13 Minnesota Power\Maps\Reports\Project Location - Kidder County Segment.mxd User: jrv



Existing Line

Proposed 250kV Route

NWI Wetlands

PLS Section Within 1 Mile

N

Feet
2,500
0
2,500

BARR

PROJECT SITE
STUTSMAN COUNTY SEGMENT
Proposed 250kV Reroute
Minnesota Power
Stutsman County, ND

Barr Footer: ArcGIS 10.1, 2013-04-03 16:16 File: I:\Proposals\EMP\063.13 Minnesota Power\Maps\Reports\Project Location - Stutsman County Segment.mxd User: jnv

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engineering and environmental consultants

BARR

April 18, 2013

Mr. «First» «Last»
«Title»
«Department»
«Agency»
«Address»
«City», «State» «Zip»

Re: Minnesota Power 250kV Overhead Line Reroutes
Kidder and Stutsman Counties, North Dakota

Dear Mr. «Last»:

Minnesota Power is planning to reroute two segments of 250kV overhead power line in Kidder and Stutsman Counties, North Dakota. The Kidder County segment is approximately 2 miles long, while the Stutsman County segment is about 0.7 miles long (***please refer to enclosed Project Location Maps***). Due to changes in the area's hydrology, the utility reroutes are needed to move the existing structures out of standing water and maintain adequate ground clearance. In addition to being in the best interest of structural integrity, the reroutes would also provide upland access to allow for easier maintenance. Both rerouted segments would tie back into existing Minnesota Power facilities and would continue to provide utility service. Construction of both reroutes is anticipated to take place in Fall 2013.

Pursuant to Chapter 49-22 of the North Dakota Century Code and Article 69-06 of the North Dakota Century Code, Minnesota Power will seek a Certificate of Corridor Compatibility and Route Permit from the North Dakota Public Service Commission (PSC). Barr Engineering Company (Barr) is assisting Minnesota Power in these efforts.

Barr requested an official list of federally-listed species in the vicinity of each project through the USFWS IPaC online program (Consultation Tracking Numbers 06E15000-2013-SLI-0147 and 06E15000-2013-SLI-0148) on April 16, 2013. According to the IPaC results, the following species are listed in the vicinity of the proposed re-routes:

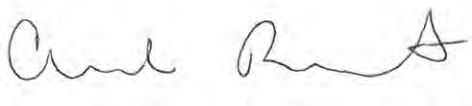
- Whooping crane (endangered)
- Piping plover (threatened)
- Sprague's pipit (candidate)
- Dakota skipper (candidate, Stutsman County segment only)

The proposed project includes minor re-routes of overhead utilities that are already in existence. Portions of the Kidder County segment would be shifted north up to 2,000 feet, and the Stutsman County segment would be shifted south approximately 1,000 feet. In addition, all construction activities would take place in the fall, outside of the nesting, breeding, and/or migration periods for these species. Therefore, the proposed project is anticipated to have *no effect* on the whooping crane and piping plover and is not anticipated to impact the Sprague's pipit or Dakota skipper.

The additional purpose of this letter is to inform your organization of the proposed project and to ensure that all known social, economic, and environmental effects are considered in the development of this project. We are particularly interested in environmental permits and approvals that may be required. Copies of all correspondence received in response to this letter will be included with the Certificate application for the PSC's records. Written comments are requested by **May 18, 2013** for consideration in this study.

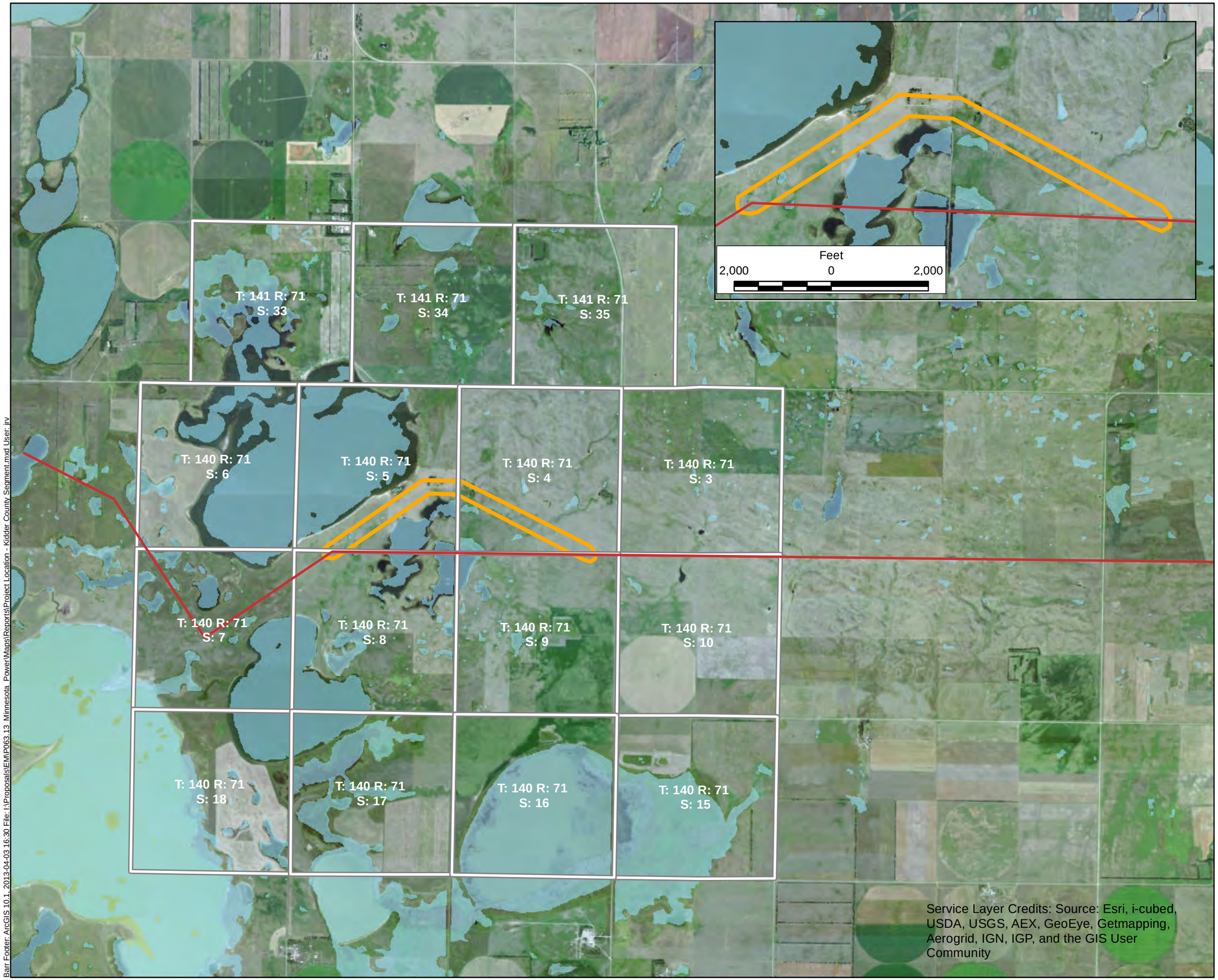
If further information is desired regarding the proposed project, please contact me by email (abohnenblust@barr.com) or by phone (952-842-3533).

Sincerely,



Mandy Bohnenblust
Project Manager

Enclosures: Project Overview Maps



Existing Line

Proposed 250kV Route

NWI Wetlands

PLS Section Within 1 Mile

N

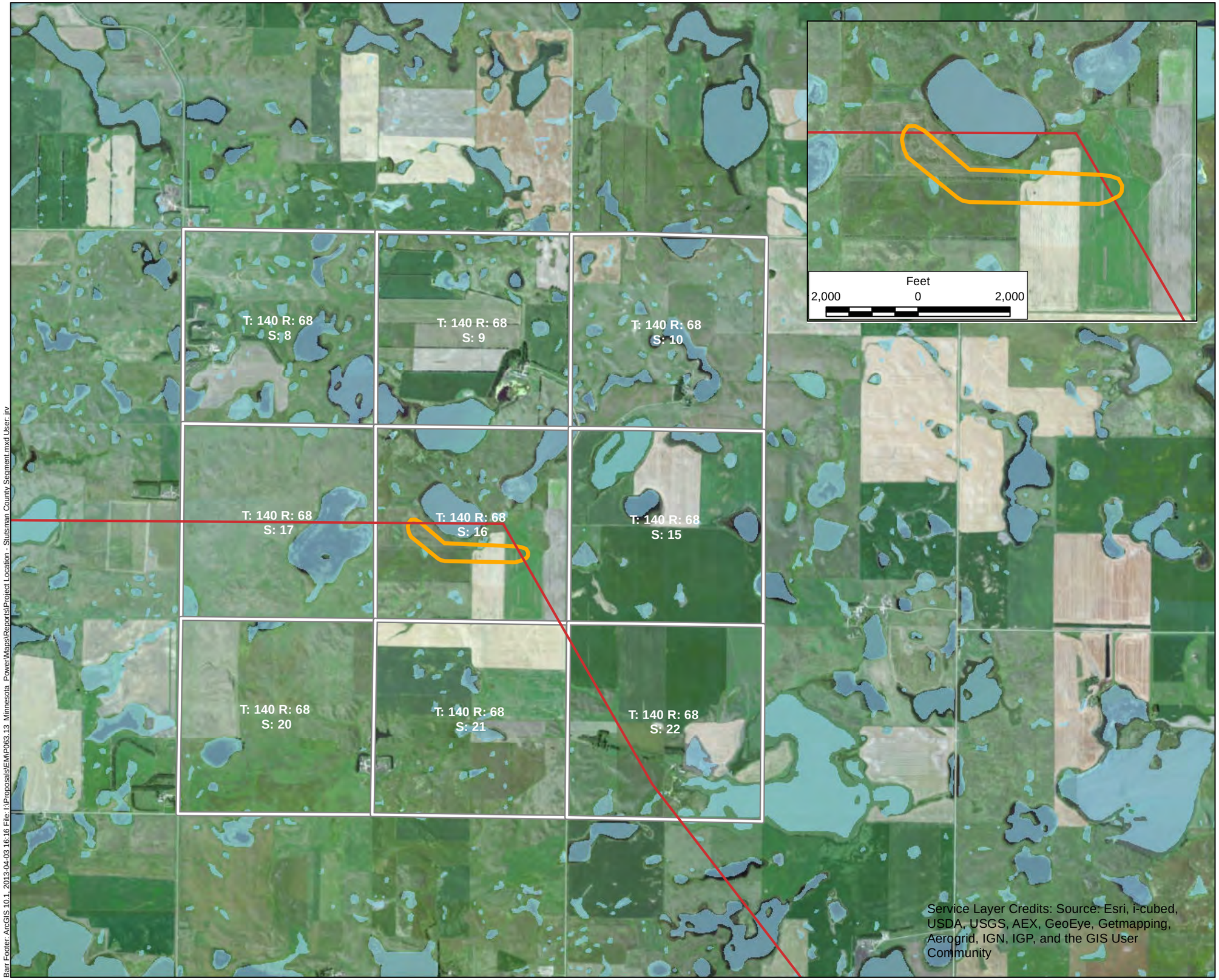
Feet

3,000 0 3,000

BARR

PROJECT LOCATION
KIDDER COUNTY SEGMENT
Proposed 250kV Reroute
Minnesota Power
Kidder County, ND

Barr Footer: ArcGIS 10.1, 2013-04-03 16:30 File: I:\Proposals\EMP\063.13 Minnesota Power\Maps\Reports\Project Location - Kidder County Segment.mxd User: jrv



Existing Line

Proposed 250kV Route

NWI Wetlands

PLS Section Within 1 Mile

N

Feet
2,500
0
2,500

BARR

PROJECT SITE
STUTSMAN COUNTY SEGMENT
Proposed 250kV Reroute
Minnesota Power
Stutsman County, ND

Barr Footer: ArcGIS 10.1, 2013-04-03 16:16 File: I:\Proposals\EMP\063.13 Minnesota Power\Maps\Reports\Project Location - Stutsman County Segment.mxd User: jnv

United States Department of the Interior

FISH AND WILDLIFE SERVICE
NORTH DAKOTA ECOLOGICAL SERVICES FIELD OFFICE
3425 MIRIAM AVENUE
BISMARCK, ND 58501
PHONE: (701)250-4481 FAX: (701)355-8513
URL:
www.fws.gov/northdakotafieldoffice/endspecies/endangered_species.htm

Consultation Tracking Number: 06E15000-2013-SLI-0148 April 16, 2013
Project Name: Minnesota Power 250kV Reroute

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project.

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, and proposed species, designated critical habitat, and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (http://www.fws.gov/windenergy/) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm; http://www.towerkill.com; and http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment

United States Department of Interior
Fish and Wildlife Service

Project name: Minnesota Power 250kV Reroute

Official Species List

Provided by:

NORTH DAKOTA ECOLOGICAL SERVICES FIELD OFFICE
3425 MIRIAM AVENUE
BISMARCK, ND 58501
(701) 250-4481
http://www.fws.gov/northdakotafieldoffice/endspecies/endangered_species.htm

Consultation Tracking Number: 06E15000-2013-SLI-0148
Project Type: Transmission Line
Project Description: Minnesota Power is planning to reroute two segments of 250kV overhead power line in Kidder and Stutsman Counties, North Dakota. The Kidder County segment is approximately 2 miles long, while the Stutsman County segment is about 0.7 miles long. Due to changes in the areas hydrology, the utility reroutes are needed to move the existing structures out of standing water. Construction of both reroutes is anticipated to take place in Fall 2013.

Project Location Map:

Project Coordinates: MULTIPOLYGON (((-99.6746596 46.9660305, -99.6617975 46.9722008, -99.6567182 46.9721348, -99.6397798 46.9664212, -99.6391407 46.9658503, -99.6391342 46.9653027, -99.6397918 46.9650372, -99.6407046 46.9652255, -99.6572601 46.9709412, -99.6608785 46.9710156, -99.6720813 46.9656647, -99.6730496 46.9652304, -99.6736049 46.9651319, -99.6743706 46.965175, -99.6746512 46.9653638, -99.6747255 46.9657444, -99.6746596 46.9660305)))

Project Counties: Kidder, ND

Endangered Species Act Species List

Species lists are not entirely based upon the current range of a species but may also take into consideration actions that affect a species that exists in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Please contact the designated FWS office if you have questions.

Piping Plover *(Charadrius melodus)*

Population: except Great Lakes watershed

Listing Status: Threatened

Sprague's Pipit *(Anthus spragueii)*

Listing Status: Candidate

Whooping crane *(Grus americana)*

Population: except where EXPN

Listing Status: Endangered

United States Department of the Interior

FISH AND WILDLIFE SERVICE
NORTH DAKOTA ECOLOGICAL SERVICES FIELD OFFICE
3425 MIRIAM AVENUE
BISMARCK, ND 58501
PHONE: (701)250-4481 FAX: (701)355-8513
URL:
www.fws.gov/northdakotafieldoffice/endspecies/endangered_species.htm

Consultation Tracking Number: 06E15000-2013-SLI-0147 April 16, 2013
Project Name: Minnesota Power 250kV Reroutes

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project.

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, and proposed species, designated critical habitat, and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

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We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment

United States Department of Interior
Fish and Wildlife Service

Project name: Minnesota Power 250kV Reroutes

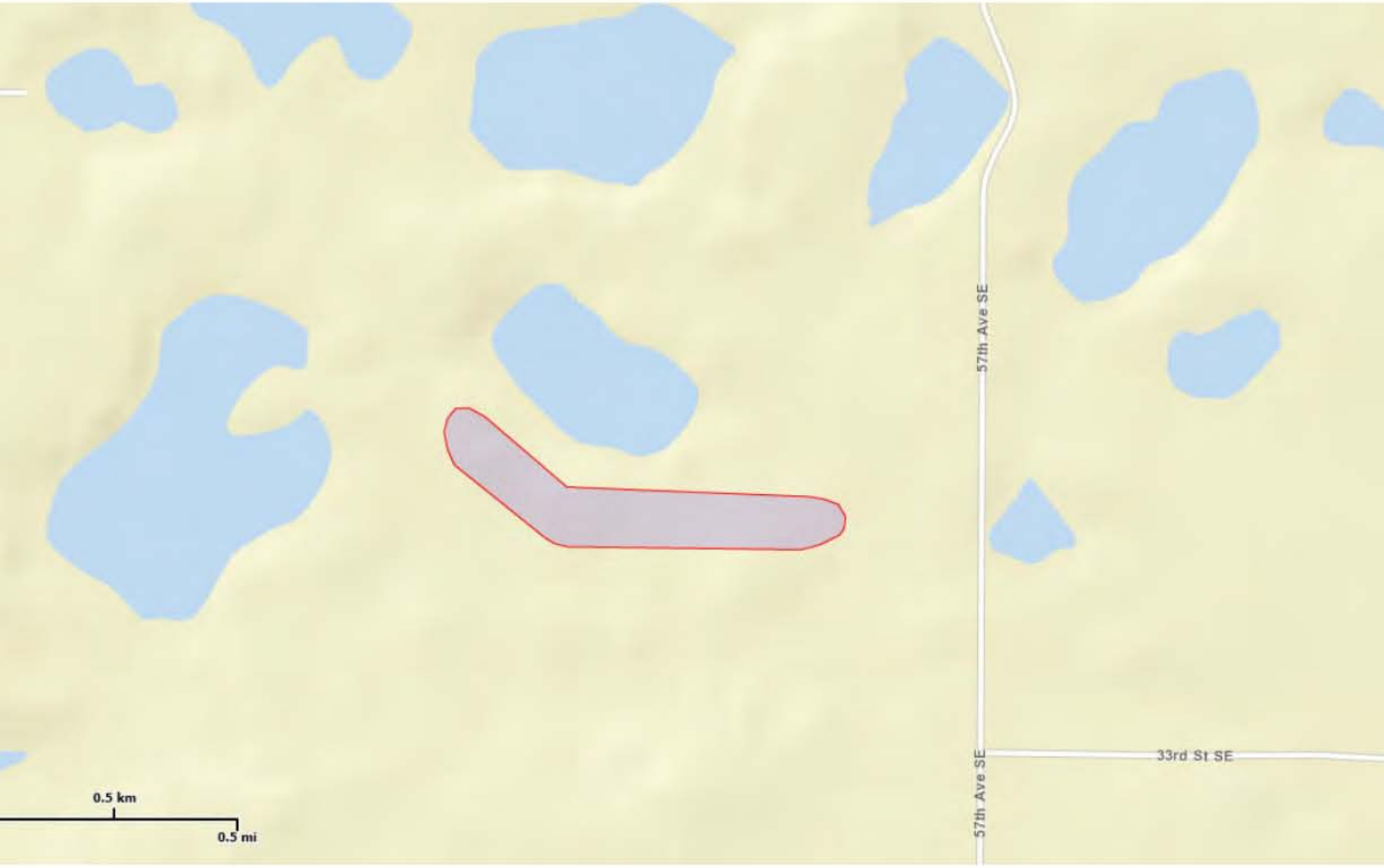
Official Species List

Provided by:

NORTH DAKOTA ECOLOGICAL SERVICES FIELD OFFICE
3425 MIRIAM AVENUE
BISMARCK, ND 58501
(701) 250-4481
http://www.fws.gov/northdakotafieldoffice/endspecies/endangered_species.htm

Consultation Tracking Number: 06E15000-2013-SLI-0147
Project Type: Transmission Line
Project Description: Minnesota Power is planning to reroute two segments of 250kV overhead power line in Kidder and Stutsman Counties, North Dakota. The Kidder County segment is approximately 2 miles long, while the Stutsman County segment is about 0.7 miles long. Due to changes in the areas hydrology, the utility reroutes are needed to move the existing structures out of standing water. Construction of both reroutes is anticipated to take place in Fall 2013.

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-99.2736467 46.9430839, -99.2709479 46.9415046, -99.2630832 46.9412944, -99.2625406 46.9412385, -99.2620812 46.9411252, -99.2618504 46.9408543, -99.2618909 46.9405971, -99.2620361 46.9404396, -99.2626817 46.9402239, -99.263286 46.9401082, -99.2709203 46.9401761, -99.2713587 46.9402465, -99.2716722 46.9403743, -99.2746424 46.9420101, -99.2748736 46.9423524, -99.2749799 46.9427378, -99.2748771 46.9430381, -99.2746071 46.9432673, -99.27419 46.9432826, -99.2736467 46.9430839)))

Project Counties: Stutsman, ND

Endangered Species Act Species List

Species lists are not entirely based upon the current range of a species but may also take into consideration actions that affect a species that exists in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Please contact the designated FWS office if you have questions.

Dakota Skipper *(Hesperia dacotae)*

Listing Status: Candidate

Piping Plover *(Charadrius melodus)*

Population: except Great Lakes watershed

Listing Status: Threatened

Sprague's Pipit *(Anthus spragueii)*

Listing Status: Candidate

Whooping crane *(Grus americana)*

Population: except where EXPN

Listing Status: Endangered

[Project Name] SOV LIST

Save as new file for each project and edit accordingly with project specific contacts

CTitle	First	Last	Title	Department	Agency	Address	City	State	Zip	Phone	Fax
Mr.	Eric	Schmit, P.E.		Chief Missile Engineering	Minot Air Force Base	320 Peacekeeper Place	Minot AFB	ND	58705		
Mr.	James	Larsen		Cable Affairs Office	Minot Air Force Base	330 Bomber Blvd	Minot AFB	ND	58705		
Sir	*or*	*Madam*	Acting Regional Administrator	Regional Office	Department of HUD	1670 Broadway, Ste. 200	Denver	CO	80202-4813		
Ms.	Laurie	Suttmeier	Manager	Bismarck Airports District Office	Federal Aviation Administration	2301 University Drive, Bldg 23B	Bismarck	ND	58504		
Ms.	Mary	Giltner	Deputy Base Civil Engineer	319 CES/CEVA	Grand Forks Air Force Base	525 Tuskagee Airmen Rd.	Grand Forks AFB	ND	58205-6434		
Mr.	Dan	Cimarosti	Manager	ND Regulatory Office	US Army Corps of Engineers	1513 S. 12th St.	Bismarck	ND	58504		
Ms.	Mary	Podoll	State Conservationist		US Department of Agriculture - NRCS	PO Box 1458	Bismarck	ND	58502-1458		
Mr.	Gerald	Paulson	Director, Transmission Lines and Substatio	Western Area Power Admin.	US Department of Energy	PO Box 1173	Bismarck	ND	58502-1173	701-221-4531	
Mr.	Jeffrey	Towner	Field Supervisor		US Fish & Wildlife Service	3425 Miriam Avenue	Bismarck	ND	58501		
Mr.	Neil	Shook	District Manager	Chase Lake WMD	US Fish & Wildlife Service	5924 19th Street SW	Woodworth	ND	58496		
Sir	or	Madam	District Manager	Long Lake WMD	US Fish & Wildlife Service	12000 353rd Street SE	Moffit	ND	58560		
Mr.	Lonnie	Hoffer	Disaster Recovery Chief	Department of Homeland Security	ND Department of Emergency Services	PO Box 5511	Bismarck	ND	58506	701-328-8100	
Mr.	L. David	Glatt	Chief	Environmental Health Section Gold Seal Center	ND Department of Health	918 E. Divide Ave., 4th floor	Bismarck	ND	58501-1947	701-328-5150	701-328-5200
Mr.	Steve	Dyke	Supervisor	Conservation Section	ND Game & Fish Department	100 Bismarck Expressway	Bismarck	ND	58501-5095	701-328-6347	701-328-6352
Mr.	Mark	Zimmerman	Director		ND Parks & Recreation Dept.	1600 E. Century Ave., Suite 3	Bismarck	ND	58503-0649	701-328-5357	701-328-5363
Mr.	Merl	Paaverud	Director	State Historic Preservation Office	State Historical Society of North Dakota	612 East Boulevard	Bismarck	ND	58505		
Mr.	Kyle	Wanner	Aviation Planner		ND Aeronautics Commission	PO Box 5020	Bismarck	ND	58502-5020		
Mr.	Todd	Sando	State Engineer		ND State Water Commission	900 E. Blvd. Ave.	Bismarck	ND	58505-0850		
Mr.	Jerry	Lein			ND Public Service Commission	600 E. Boulevard, Dept. 408	Bismarck	ND	58505-0480		
Mr.	Scott	Hochhalter	State Soil Specialist	NDSU Extension Service	Soil Conservation Committee	2718 Gateway Ave., #104	Bismarck	ND	58503	701-328-9715	701-328-9721
Mr.	Casey	Bradley	Auditor		Stutsman County	511 2nd Avenue SE, Ste. 102	Jamestown	ND	58401		
Mr.	Craig	Neys	Commissioner		Stutsman County	511 2nd Avenue SE	Jamestown	ND	58401		
Mr.	Dale	Marks	Commissioner		Stutsman County	511 2nd Avenue SE	Jamestown	ND	58401		
Mr.	Dennis	Ova	Commissioner		Stutsman County	511 2nd Avenue SE	Jamestown	ND	58401		
Mr.	Mark	Klose	Commissioner		Stutsman County	511 2nd Avenue SE	Jamestown	ND	58401		
Mr.	David	Schwartz	Commissioner		Stutsman County	511 2nd Avenue SE	Jamestown	ND	58401		
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Mr.	Chad	Kaiser	Sheriff		Stutsman County	205 6th Street SE, Ste. 102	Jamestown	ND	58401		
Mr.	Mickey	Nenow	Highway Director		Stutsman County	1508 4th Street NW	Jamestown	ND	58401		
Ms.	Michelle	Keily	Auditor		Kidder County	120 E. Broadway	Steele	ND	58482		
Mr.	Daniel	Moch	Commissioner		Kidder County	120 E. Broadway	Steele	ND	58482		
Mr.	Dan	Mittleider	Commissioner		Kidder County	120 E. Broadway	Steele	ND	58482		
Mr.	Don	Rudolph	Commissioner		Kidder County	120 E. Broadway	Steele	ND	58482		
Mr.	Jim	Albrecht	Emergency Manager		Kidder County	120 E. Broadway	Steele	ND	58482		

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May 17, 2013

Eric Schmit, P.E.
Chief Missile Engineering
Minot Air Force Base
320 Peacekeeper Place
Minot AFB, ND 58705

Re: Minnesota Power 250kV Overhead Line Reroutes
Kidder and Stutsman Counties, North Dakota

Dear Mr. Schmit:

On April 18, 2013, a letter was sent regarding Minnesota Power's plans to reroute two segments of 250kV overhead power line in Kidder and Stutsman Counties, North Dakota. The Kidder County segment was approximately 2 miles long, while the Stutsman County segment was approximately 0.7 miles long (***please refer to enclosed Project Location Maps***). Due to landowner concerns in Kidder County, Minnesota Power will move the existing structures out of standing water and into upland areas, along the same route. The Stutsman County reroute will not change from the original reroute proposed on April 18, 2013. Construction of both reroutes is anticipated to take place in Fall 2013.

Pursuant to Chapter 49-22 of the North Dakota Century Code and Article 69-06 of the North Dakota Century Code, Minnesota Power will seek a Certificate of Corridor Compatibility and Route Permit from the North Dakota Public Service Commission (PSC). Barr Engineering Company is assisting Minnesota Power in these efforts.

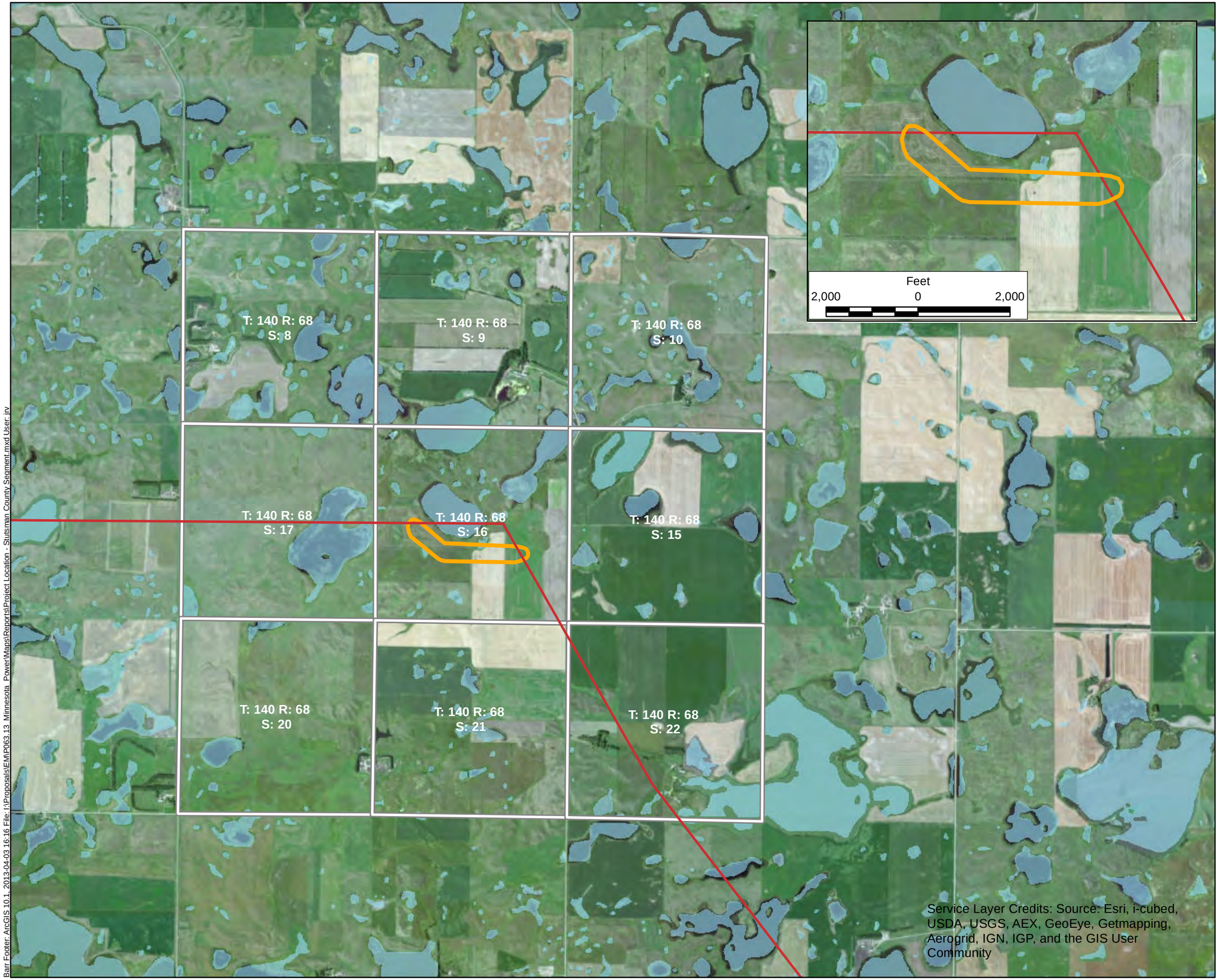
The purpose of this letter is to inform your organization of the changes to the proposed project and to ensure that all known social, economic, and environmental effects are considered in the development of this project. We are particularly interested in environmental permits and approvals that may be required. Copies of all correspondence received in response to this letter will be included with the Certificate application for the PSC's records. Written comments are requested by **June 17, 2013** for consideration in this study.

If further information is desired regarding the proposed project, please contact me by email (abohnenblust@barr.com) or by phone (952-842-3533).

Sincerely,

Mandy Bohnenblust
Project Manager

Enclosures: Project Overview Map



Existing Line

Proposed 250kV Route

NWI Wetlands

PLS Section Within 1 Mile

N

Feet
2,500
0
2,500

BARR

PROJECT SITE
STUTSMAN COUNTY SEGMENT
Proposed 250kV Reroute
Minnesota Power
Stutsman County, ND

Barr Footer: ArcGIS 10.1, 2013-04-03 16:16 File: I:\Proposals\EMP\063.13 Minnesota Power\Maps\Reports\Project Location - Stutsman County Segment.mxd User: jnv

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May 17, 2013

Mr. Jeffrey Towner
Field Supervisor
US Fish & Wildlife Service
3425 Miriam Avenue
Bismarck, ND 58501

Re: Minnesota Power 250kV Overhead Line Reroutes
Kidder and Stutsman Counties, North Dakota

Dear Mr. Towner:

On April 18, 2013, a letter was sent regarding Minnesota Power's plans to reroute two segments of 250kV overhead power line in Kidder and Stutsman Counties, North Dakota. The Kidder County segment was approximately 2 miles long, while the Stutsman County segment was approximately 0.7 miles long (***please refer to enclosed Project Location Maps***). Due to landowner concerns in Kidder County, Minnesota Power will move the existing structures out of standing water and into upland areas, along the same route. The Stutsman County reroute will not change from the original reroute proposed on April 18, 2013. Construction of both reroutes is anticipated to take place in Fall 2013.

Pursuant to Chapter 49-22 of the North Dakota Century Code and Article 69-06 of the North Dakota Century Code, Minnesota Power will seek a Certificate of Corridor Compatibility and Route Permit from the North Dakota Public Service Commission (PSC). Barr Engineering Company (Barr) is assisting Minnesota Power in these efforts.

Barr requested an official list of federally-listed species in the vicinity of each project through the USFWS IPaC online program (Consultation Tracking Numbers 06E15000-2013-SLI-0147 and 06E15000-2013-SLI-0148) on April 16, 2013. According to the IPaC results, the following species are listed in the vicinity of the proposed re-routes:

- Whooping crane (endangered)
- Piping plover (threatened)
- Sprague's pipit (candidate)
- Dakota skipper (candidate, Stutsman County segment only)

The proposed project includes minor re-routes of overhead utilities that are already in existence. The Kidder County segment would stay along the same route, but existing structures that are currently in standing water would be moved into upland areas. The Stutsman County segment would be shifted south approximately 1,000 feet. In addition, all construction activities would take place in the fall, outside of the nesting, breeding, and/or migration periods for these species. Therefore, the proposed project is anticipated to have *no effect* on the whooping crane and piping plover and is not anticipated to impact the Sprague's pipit or Dakota skipper.

The additional purpose of this letter is to inform your organization of the changes to the proposed project and to ensure that all known social, economic, and environmental effects are considered in the development of this project. We are particularly interested in environmental permits and approvals that may be required. Copies of all correspondence received in response to this letter will be included with the Certificate application for the PSC's records. Written comments are requested by **June 17, 2013** for consideration in this study.

If further information is desired regarding the proposed project, please contact me by email (abohnenblust@barr.com) or by phone (952-842-3533).

Sincerely,

Mandy Bohnenblust
Project Manager

Enclosures: Project Overview Maps

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May 17, 2013

Mr. Neil Shook
District Manager
Chase Lake WMD
US Fish & Wildlife Service
5924 19th Street SW
Woodworth, ND 58496

Re: Minnesota Power 250kV Overhead Line Reroutes
Kidder and Stutsman Counties, North Dakota

Dear Mr. Shook:

On April 18, 2013, a letter was sent regarding Minnesota Power's plans to reroute two segments of 250kV overhead power line in Kidder and Stutsman Counties, North Dakota. The Kidder County segment was approximately 2 miles long, while the Stutsman County segment was approximately 0.7 miles long (***please refer to enclosed Project Location Maps***). Due to landowner concerns in Kidder County, Minnesota Power will move the existing structures out of standing water and into upland areas, along the same route. The Stutsman County reroute will not change from the original reroute proposed on April 18, 2013. Construction of both reroutes is anticipated to take place in Fall 2013.

Pursuant to Chapter 49-22 of the North Dakota Century Code and Article 69-06 of the North Dakota Century Code, Minnesota Power will seek a Certificate of Corridor Compatibility and Route Permit from the North Dakota Public Service Commission (PSC). Barr Engineering Company (Barr) is assisting Minnesota Power in these efforts.

Barr requested an official list of federally-listed species in the vicinity of each project through the USFWS IPaC online program (Consultation Tracking Numbers 06E15000-2013-SLI-0147 and 06E15000-2013-SLI-0148) on April 16, 2013. According to the IPaC results, the following species are listed in the vicinity of the proposed re-routes:

- Whooping crane (endangered)
- Piping plover (threatened)
- Sprague's pipit (candidate)
- Dakota skipper (candidate, Stutsman County segment only)

The proposed project includes minor re-routes of overhead utilities that are already in existence. The Kidder County segment would stay along the same route, but existing structures that are currently in standing water would be moved into upland areas. The Stutsman County segment would be shifted south approximately 1,000 feet. In addition, all construction activities would take place in the fall, outside of the nesting, breeding, and/or migration periods for these species. Therefore, the proposed project is anticipated to have *no effect* on the whooping crane and piping plover and is not anticipated to impact the Sprague's pipit or Dakota skipper.

The additional purpose of this letter is to inform your organization of the changes to the proposed project and to ensure that all known social, economic, and environmental effects are considered in the development of this project. We are particularly interested in environmental permits and approvals that may be required. Copies of all correspondence received in response to this letter will be included with the Certificate application for the PSC's records. Written comments are requested by **June 17, 2013** for consideration in this study.

If further information is desired regarding the proposed project, please contact me by email (abohnenblust@barr.com) or by phone (952-842-3533).

Sincerely,

Mandy Bohnenblust
Project Manager

Enclosures: Project Overview Maps

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May 17, 2013

District Manager
Long Lake WMD
US Fish & Wildlife Service
12000 353rd Street SE
Moffit, ND 58560

Re: Minnesota Power 250kV Overhead Line Reroutes
Kidder and Stutsman Counties, North Dakota

To Whom it May Concern:

On April 18, 2013, a letter was sent regarding Minnesota Power's plans to reroute two segments of 250kV overhead power line in Kidder and Stutsman Counties, North Dakota. The Kidder County segment was approximately 2 miles long, while the Stutsman County segment was approximately 0.7 miles long (***please refer to enclosed Project Location Maps***). Due to landowner concerns in Kidder County, Minnesota Power will move the existing structures out of standing water and into upland areas, along the same route. The Stutsman County reroute will not change from the original reroute proposed on April 18, 2013. Construction of both reroutes is anticipated to take place in Fall 2013.

Pursuant to Chapter 49-22 of the North Dakota Century Code and Article 69-06 of the North Dakota Century Code, Minnesota Power will seek a Certificate of Corridor Compatibility and Route Permit from the North Dakota Public Service Commission (PSC). Barr Engineering Company (Barr) is assisting Minnesota Power in these efforts.

Barr requested an official list of federally-listed species in the vicinity of each project through the USFWS IPaC online program (Consultation Tracking Numbers 06E15000-2013-SLI-0147 and 06E15000-2013-SLI-0148) on April 16, 2013. According to the IPaC results, the following species are listed in the vicinity of the proposed re-routes:

- Whooping crane (endangered)
- Piping plover (threatened)
- Sprague's pipit (candidate)
- Dakota skipper (candidate, Stutsman County segment only)

The proposed project includes minor re-routes of overhead utilities that are already in existence. The Kidder County segment would stay along the same route, but existing structures that are currently in standing water would be moved into upland areas. The Stutsman County segment would be shifted south approximately 1,000 feet. In addition, all construction activities would take place in the fall, outside of the nesting, breeding, and/or migration periods for these species. Therefore, the proposed project is anticipated to have *no effect* on the whooping crane and piping plover and is not anticipated to impact the Sprague's pipit or Dakota skipper.

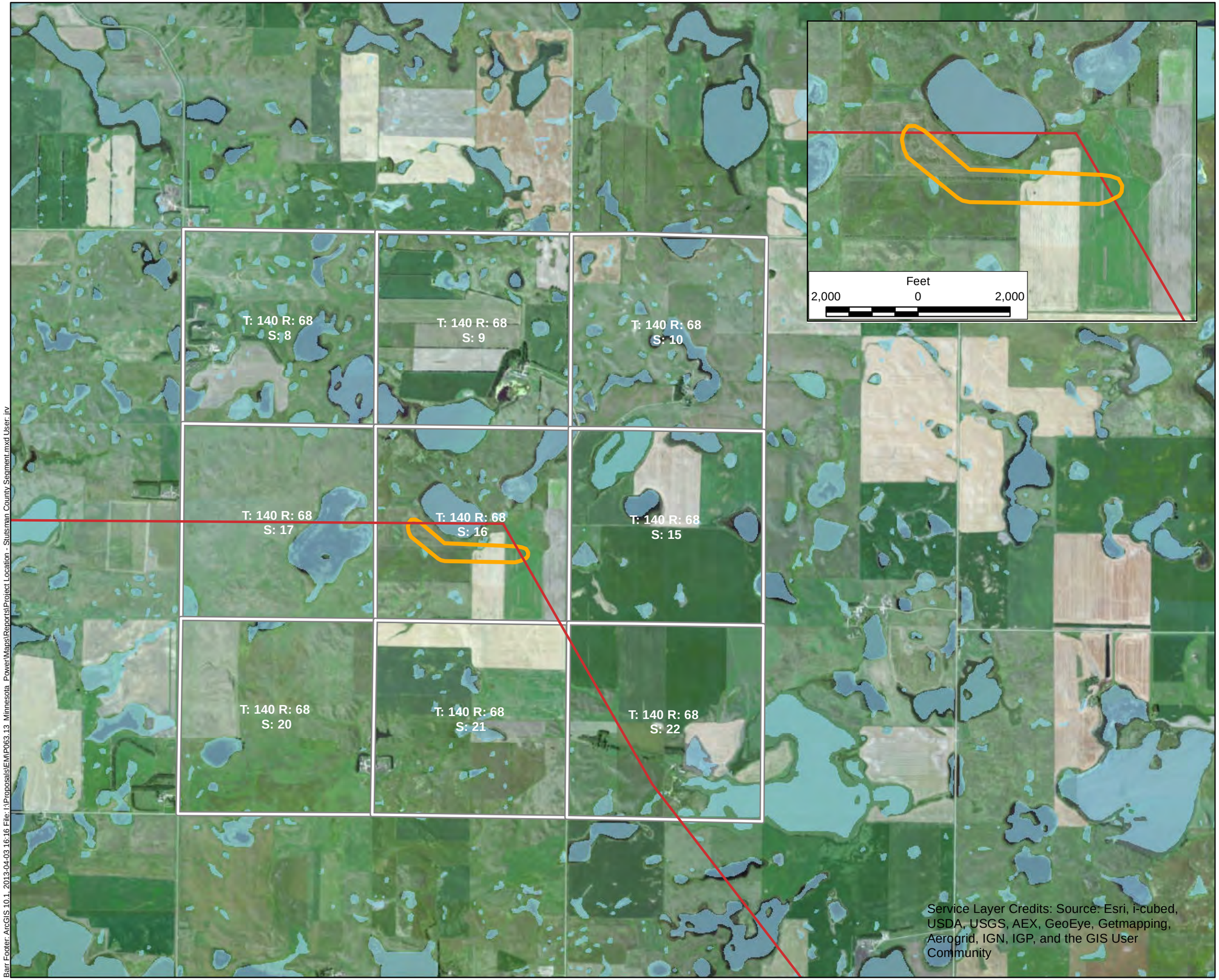
The additional purpose of this letter is to inform your organization of the changes to the proposed project and to ensure that all known social, economic, and environmental effects are considered in the development of this project. We are particularly interested in environmental permits and approvals that may be required. Copies of all correspondence received in response to this letter will be included with the Certificate application for the PSC's records. Written comments are requested by **June 17, 2013** for consideration in this study.

If further information is desired regarding the proposed project, please contact me by email (abohnenblust@barr.com) or by phone (952-842-3533).

Sincerely,

Mandy Bohnenblust
Project Manager

Enclosures: Project Overview Maps



Existing Line

Proposed 250kV Route

NWI Wetlands

PLS Section Within 1 Mile

N

Feet
2,500
0
2,500

BARR

PROJECT SITE
STUTSMAN COUNTY SEGMENT
Proposed 250kV Reroute
Minnesota Power
Stutsman County, ND

Barr Footer: ArcGIS 10.1, 2013-04-03 16:16 File: I:\Proposals\EMP\063.13 Minnesota Power\Maps\Reports\Project Location - Stutsman County Segment.mxd User: jnv

[Project Name] SOV LIST

Save as new file for each project and edit accordingly with project specific contacts

CTitle	First	Last	Title	Department	Agency	Address	City	State	Zip	Phone	Fax
Mr.	Eric	Schmit, P.E.		Chief Missile Engineering	Minot Air Force Base	320 Peacekeeper Place	Minot AFB	ND	58705		
Mr.	James	Larsen		Cable Affairs Office	Minot Air Force Base	330 Bomber Blvd	Minot AFB	ND	58705		
Sir	*or*	*Madam*	Acting Regional Administrator	Regional Office	Department of HUD	1670 Broadway, Ste. 200	Denver	CO	80202-4813		
Ms.	Laurie	Suttmeier	Manager	Bismarck Airports District Office	Federal Aviation Administration	2301 University Drive, Bldg 23B	Bismarck	ND	58504		
Ms.	Mary	Giltner	Deputy Base Civil Engineer	319 CES/CEVA	Grand Forks Air Force Base	525 Tuskagee Airmen Rd.	Grand Forks AFB	ND	58205-6434		
Mr.	Dan	Cimarosti	Manager	ND Regulatory Office	US Army Corps of Engineers	1513 S. 12th St.	Bismarck	ND	58504		
Ms.	Mary	Podoll	State Conservationist		US Department of Agriculture - NRCS	PO Box 1458	Bismarck	ND	58502-1458		
Mr.	Gerald	Paulson	Director, Transmission Lines and Substatio	Western Area Power Admin.	US Department of Energy	PO Box 1173	Bismarck	ND	58502-1173	701-221-4531	
Mr.	Jeffrey	Towner	Field Supervisor		US Fish & Wildlife Service	3425 Miriam Avenue	Bismarck	ND	58501		
Mr.	Neil	Shook	District Manager	Chase Lake WMD	US Fish & Wildlife Service	5924 19th Street SW	Woodworth	ND	58496		
Sir	or	Madam	District Manager	Long Lake WMD	US Fish & Wildlife Service	12000 353rd Street SE	Moffit	ND	58560		
Mr.	Lonnie	Hoffer	Disaster Recovery Chief	Department of Homeland Security	ND Department of Emergency Services	PO Box 5511	Bismarck	ND	58506	701-328-8100	
Mr.	L. David	Glatt	Chief	Environmental Health Section Gold Seal Center	ND Department of Health	918 E. Divide Ave., 4th floor	Bismarck	ND	58501-1947	701-328-5150	701-328-5200
Mr.	Steve	Dyke	Supervisor	Conservation Section	ND Game & Fish Department	100 Bismarck Expressway	Bismarck	ND	58501-5095	701-328-6347	701-328-6352
Mr.	Mark	Zimmerman	Director		ND Parks & Recreation Dept.	1600 E. Century Ave., Suite 3	Bismarck	ND	58503-0649	701-328-5357	701-328-5363
Mr.	Merl	Paaverud	Director	State Historic Preservation Office	State Historical Society of North Dakota	612 East Boulevard	Bismarck	ND	58505		
Mr.	Kyle	Wanner	Aviation Planner		ND Aeronautics Commission	PO Box 5020	Bismarck	ND	58502-5020		
Mr.	Todd	Sando	State Engineer		ND State Water Commission	900 E. Blvd. Ave.	Bismarck	ND	58505-0850		
Mr.	Jerry	Lein			ND Public Service Commission	600 E. Boulevard, Dept. 408	Bismarck	ND	58505-0480		
Mr.	Scott	Hochhalter	State Soil Specialist	NDSU Extension Service	Soil Conservation Committee	2718 Gateway Ave., #104	Bismarck	ND	58503	701-328-9715	701-328-9721
Mr.	Casey	Bradley	Auditor		Stutsman County	511 2nd Avenue SE, Ste. 102	Jamestown	ND	58401		
Mr.	Craig	Neys	Commissioner		Stutsman County	511 2nd Avenue SE	Jamestown	ND	58401		
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Mr.	Dennis	Ova	Commissioner		Stutsman County	511 2nd Avenue SE	Jamestown	ND	58401		
Mr.	Mark	Klose	Commissioner		Stutsman County	511 2nd Avenue SE	Jamestown	ND	58401		
Mr.	David	Schwartz	Commissioner		Stutsman County	511 2nd Avenue SE	Jamestown	ND	58401		
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Mr.	Dustin	Bakken	Planning and Zoning Director		Stutsman County	511 2nd Avenue SE	Jamestown	ND	58401		
Mr.	Chad	Kaiser	Sheriff		Stutsman County	205 6th Street SE, Ste. 102	Jamestown	ND	58401		
Mr.	Mickey	Nenow	Highway Director		Stutsman County	1508 4th Street NW	Jamestown	ND	58401		
Ms.	Michelle	Keily	Auditor		Kidder County	120 E. Broadway	Steele	ND	58482		
Mr.	Daniel	Moch	Commissioner		Kidder County	120 E. Broadway	Steele	ND	58482		
Mr.	Dan	Mittleider	Commissioner		Kidder County	120 E. Broadway	Steele	ND	58482		
Mr.	Don	Rudolph	Commissioner		Kidder County	120 E. Broadway	Steele	ND	58482		
Mr.	Jim	Albrecht	Emergency Manager		Kidder County	120 E. Broadway	Steele	ND	58482		

Minnesota Power
250 kV Direct Current Line Re-route
Stutsman County, North Dakota
List of Scoping Responses

Federal Agencies

U.S. Department of Agriculture – Natural Resources Conservation Service (2 responses)
U.S. Department of Defense – Army Corps of Engineers, North Dakota Regulatory Office (3 responses)
U.S. Department of the Interior – Fish and Wildlife Service, Chase Lake NWR/WMD/PP
U.S. Department of the Interior – Fish and Wildlife Service, Long Lake National Wildlife Refuge (2 responses)

State Agencies

North Dakota Department of Health (2 responses)
North Dakota Game and Fish Department (2 responses)
North Dakota Parks and Recreation Department
North Dakota State Water Commission (2 responses)
State Historical Society of North Dakota (2 responses)

Local Entities

Stutsman County Zoning Administrator

United States Department of Agriculture

NRCS

Natural Resources Conservation Service
PO Box 1458
Bismarck, ND 58502-1458

May 22, 2013

Mandy Bohnenblust
Project Manager
Barr Engineering Co.
4700 West 77th Street, Ste. 200
Minneapolis, Minnesota 55435

RE: Minnesota Power 250kV Overhead Line Reroutes
Kidder and Stutsman Counties, North Dakota

Dear Ms. Bohnenblust:

The Natural Resources Conservation Service (NRCS) has reviewed your letter dated May 17, 2013, concerning proposed reroutes of two segments of 250kV overhead power lines in Kidder and Stutsman Counties, North Dakota.

NRCS has a major responsibility with the Farmland Protection Policy Act (FPPA) in documenting conversion of farmland (i.e., prime, statewide importance and local importance) to non-agricultural use. Your proposed project is not supported by federal funding or actions, therefore, FPPA does not apply and no further action is needed.

If you have additional questions pertaining to FPPA, please contact Steve Sieler, Liaison Soil Scientist, NRCS, Bismarck, ND at 701-530-2019.

Sincerely,

WADE D. BOTT
State Soil Scientist

United States Department of Agriculture

NRCS

Natural Resources Conservation Service
PO Box 1458
Bismarck, ND 58502-1458

April 22, 2013

Mandy Bohenblust, Project Manager
Barr Engineering, Co.
4700 West 77th Street, Ste. 200
Minneapolis, Minnesota 55435

Re: Minnesota Power 250kV Overhead Line Reroutes
Kidder and Stutsman Counties, North Dakota

Dear Ms. Bohenblust:

The Natural Resources Conservation Service (NRCS) has reviewed your letter dated April 18, 2013, concerning a proposed plan to reroute two segments of 250kV overhead power line in Kidder and Stutsman Counties, North Dakota.

NRCS has a major responsibility with the Farmland Protection Policy Act (FPPA) in documenting conversion of farmland (i.e., prime, statewide importance and local importance) to non-agriculture use when federal funding is used. Farming in this project area will not be significantly impacted due to minimal acreage, therefore; FPPA does not apply.

If you have additional questions pertaining to FPPA, please contact Steve Sieler, Liaison Soil Scientist, NRCS, Bismarck, ND, at 701-530-2019.

Sincerely,

WADE D. BOTT
State Soil Scientist

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
1513 SOUTH 12TH STREET
BISMARCK ND 58504-6640

May 21, 2013

North Dakota Regulatory Office

[NWO-2013-0606-BIS]
[NWO-2013-0607-BIS]

Ms. Mandy Bohnenblust
Barr Engineering Company
4700 West 77th Street, Suite 200
Minneapolis, Minnesota 55435

Dear Ms. Bohnenblust:

This letter is in reply to your May 17, 2013, letter informing the Corps of a plan change associated with Minnesota Power's reroute of two segments of 250kV overhead power line. The reroutes are located at Sections 4, 5, 8 & 9, Township 140 North, Range 71 West and Section 16, Township 140 North, Range 68 West, in Kidder and Stutsman County, North Dakota.

Despite the plan change, the waters identified in the project area remain nonjurisdictional as stated in our April 23, 2013, Approved Jurisdictional Determinations (JD). These JDs are valid for five years. Therefore, the plan change and associated activities are not be subject to Department of the Army (DA) regulatory authorities and no permit is required.

Although a DA permit is not required from this office, it does not eliminate the need to obtain other Federal, state, tribal, and local approvals that may have regulatory jurisdiction over the projects.

The Omaha District, North Dakota Regulatory Office is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our Customer Service Survey found on our website at http://per2.nwp.usace.army.mil/survey.html. If you do not have Internet access, you may call and request a paper copy of the survey that you can complete and return to us by mail or fax.

If you have any questions regarding this determination or jurisdiction, please feel free to contact me at telephone number (701) 255-0015 and reference the applicable Corps identification number NWO-2013-0606-BIS or NWO-2013-0607-BIS.

Sincerely,

Matthew J. Mikulecky
Regulatory Project Manager
North Dakota Regulatory Office

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
1513 SOUTH 12TH STREET
BISMARCK ND 58504-6640

April 23, 2013

North Dakota Regulatory Office

[NWO-2013-0606-BIS]
[NWO-2013-0607-BIS]

Ms. Shanna Braun
Barr Engineering Company
4700 West 77th Street
Minneapolis, Minnesota 55435

Dear Ms. Braun:

We have reviewed your requests for Department of the Army (DA), US Army Corps of Engineers (Corps), jurisdictional determination (JD) for a MN Power Reroute Project at two locations. Specifically, the activities are located at Sections 4, 5, 8 & 9, Township 140 North, Range 71 West and Section 16, Township 140 North, Range 68 West, in Kidder and Stutsman County, North Dakota.

Based on the information that you provided, we have determined that the waters identified in your requests are not jurisdictional waters of the United States. Therefore, the proposed projects are not be subject to DA regulatory authorities and no permit pursuant to Section 404 of the Clean Water Act is required from the Corps.

An approved JD has been completed for the wetland areas identified in your requests and is enclosed for your information. The JD may also be viewed at our website located at: http://www.nwo.usace.army. mil/Missions/RegulatoryProgram/NorthDakota.aspx. The JD will be available on the website within 30 days. You may also request copies of the supporting materials the Corps used in determining this JD. If you are not in agreement with the JD, you may request an administrative appeal under Corps regulations found at 33 CFR 331 (Request for Appeal (RFA) enclosed). The request for appeal must be received within 60 days from the date of this correspondence. If you would like more information on the jurisdictional appeal process, contact this office. It is not necessary to submit a RFA if you do not object to the JD. The JD will be valid for a period of 5 years from the date of this letter.

Although a DA permit is not required for this project(s), this does not eliminate the need to obtain other Federal, state, tribal, and local approvals that may have regulatory jurisdiction over this project.

The Omaha District, North Dakota Regulatory Office is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our Customer Service Survey found on our website at http://per2.nwp.usace.army. mil/survey.html. If you do not have Internet access, you may call and request a paper copy of the survey that you can complete and return to us by mail or fax.

If you have any questions regarding this determination or jurisdiction, please feel free to contact me at telephone number (701) 255-0015 and reference the applicable Corps identification number NWO-2013-0606-BIS or NWO-2013-0607-BIS.

Sincerely,

Matthew J. Mikulecky
Regulatory Project Manager
North Dakota Regulatory Office

Enclosures

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 23 April 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER:
Omaha District – MN POWER - NWO-2013-606-BIS Form 1 of 1

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Central Legal Description: S16, T140N, R68W

State: North Dakota County/parish/borough: Stutsman City: near Medina
Center coordinates of site (lat/long in degree decimal format): Lat. 46.94011° N. Long. -99.268251° W.
Universal Transverse Mercator: 14
Name of nearest waterbody: Minneapolis Flats Creek (10.4 miles)
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: None (Isolated Pothole)
Name of watershed or Hydrologic Unit Code (HUC): Apple (10130103)

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: 11 April 2013
☐ Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** *"navigable waters of the U.S."* within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]

☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: _____.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are no** *"waters of the U.S."* within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters:.
      Wetlands: linear feet: _width (ft) and/or acres acres

   c. **Limits (boundaries) of jurisdiction** based on: Not Applicable.
      Elevation of established OHWM (if known):_____.

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

☐ sediment deposition
☐ water staining
☐ other (list): _____
☐ multiple observed or predicted flow events
☐ abrupt change in plant community _____
☐ Discontinuous OHWM.[7] Explain: _____.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☐ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):

☐ Mean High Water Mark indicated by:
- ☐ survey to available datum;
- ☐ physical markings;
- ☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: _____.
Identify specific pollutants, if known: _____.

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian corridor. Characteristics (type, average width): _____.
☐ Wetland fringe. Characteristics: _____.
☐ Habitat for:
- ☐ Federally Listed species. Explain findings: _____.
- ☐ Fish/spawn areas. Explain findings: _____.
- ☐ Other environmentally-sensitive species. Explain findings: _____.
- ☐ Aquatic/wildlife diversity. Explain findings: _____.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:
Properties:
Wetland size: _____ acres
Wetland type. Explain: _____.
Wetland quality. Explain: _____.
Project wetlands cross or serve as state boundaries. Explain: _____

(b) General Flow Relationship with Non-TNW:
Flow is: **Pick List**. Explain: _____.

Surface flow is: **Pick List**
Characteristics: _____.

Subsurface flow: **Pick List**. Explain findings: _____.
☐ Dye (or other) test performed: _____.

(c) Wetland Adjacency Determination with Non-TNW:
☐ Directly abutting
☐ Not directly abutting
- ☐ Discrete wetland hydrologic connection. Explain: _____.
- ☐ Ecological connection. Explain: _____.
- ☐ Separated by berm/barrier. Explain: _____.

(d) Proximity (Relationship) to TNW
Project wetlands are **Pick List** river miles from TNW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Flow is from: **Pick List.**
Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: _____.
Identify specific pollutants, if known: _____.

[7]Ibid.

(iii) Biological Characteristics. Wetland supports (check all that apply):

- ☐ Riparian buffer. Characteristics (type, average width):_____.
- ☐ Vegetation type/percent cover. Explain:_____.
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings:_____.
  - ☐ Fish/spawn areas. Explain findings:_____.
  - ☐ Other environmentally-sensitive species. Explain findings:_____.
  - ☐ Aquatic/wildlife diversity. Explain findings:_____.

3. **Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately (_____) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
_____	_____	_____	_____

Summarize overall biological, chemical and physical functions being performed: _____.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:_____.

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: _____.

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: _____.

D. **DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):**

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: _____linear feet_____width (ft), Or, _____acres.
   - ☐ Wetlands adjacent to TNWs: _____acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: _____.
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: _____.

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☐ Tributary waters: _____ linear feet_____width (ft).
   - ☐ Other non-wetland waters: _____acres.
     Identify type(s) of waters: _____.

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: _____ linear feet_____width (ft).
   - ☐ Other non-wetland waters: _____acres.
     Identify type(s) of waters: _____.

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
     - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

     - ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: _____.

   Provide acreage estimates for jurisdictional wetlands in the review area: _____acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: _____acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
   - ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional wetlands in the review area: _____acres.

7. **Impoundments of jurisdictional waters.[9]**
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   - ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   - ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   - ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

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[8] See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

E. **ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):**[10]

- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
- ☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- ☐ which are or could be used for industrial purposes by industries in interstate commerce.
- ☐ Interstate isolated waters. Explain:_____.
- ☐ Other factors. Explain:_____.

Identify water body and summarize rationale supporting determination: _____.

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: _____linear feet_____width (ft).
- ☐ Other non-wetland waters:____acres.
  - Identify type(s) of waters:_____.
- ☐ Wetlands:____acres.

F. **NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☒ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☒ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:_____.
- ☐ Other: (explain, if not covered above): _____.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): _____linear feet_____width (ft).
- ☐ Lakes/ponds: _____acres.
- ☐ Other non-wetland waters: _____acres. List type of aquatic resource: _____.
- ☒ Wetlands: 50 _acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): _____linear feet, _____width (ft).
- ☐ Lakes/ponds: _____acres.
- ☐ Other non-wetland waters: _____acres. List type of aquatic resource: _____.
- ☐ Wetlands: _____acres.

SECTION IV: DATA SOURCES.

A. **SUPPORTING DATA. Data reviewed for JD (check all that apply -** checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Applicant provide map and request.
- ☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☐ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:_____.
- ☐ Corps navigable waters' study:_____.
- ☐ U.S. Geological Survey Hydrologic Atlas:_____.
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: 1 : 24,000 – Medina – ND.
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation:
- ☒ National wetlands inventory map(s). Cite name:USFWS NWI .
- ☐ State/Local wetland inventory map(s):_____.

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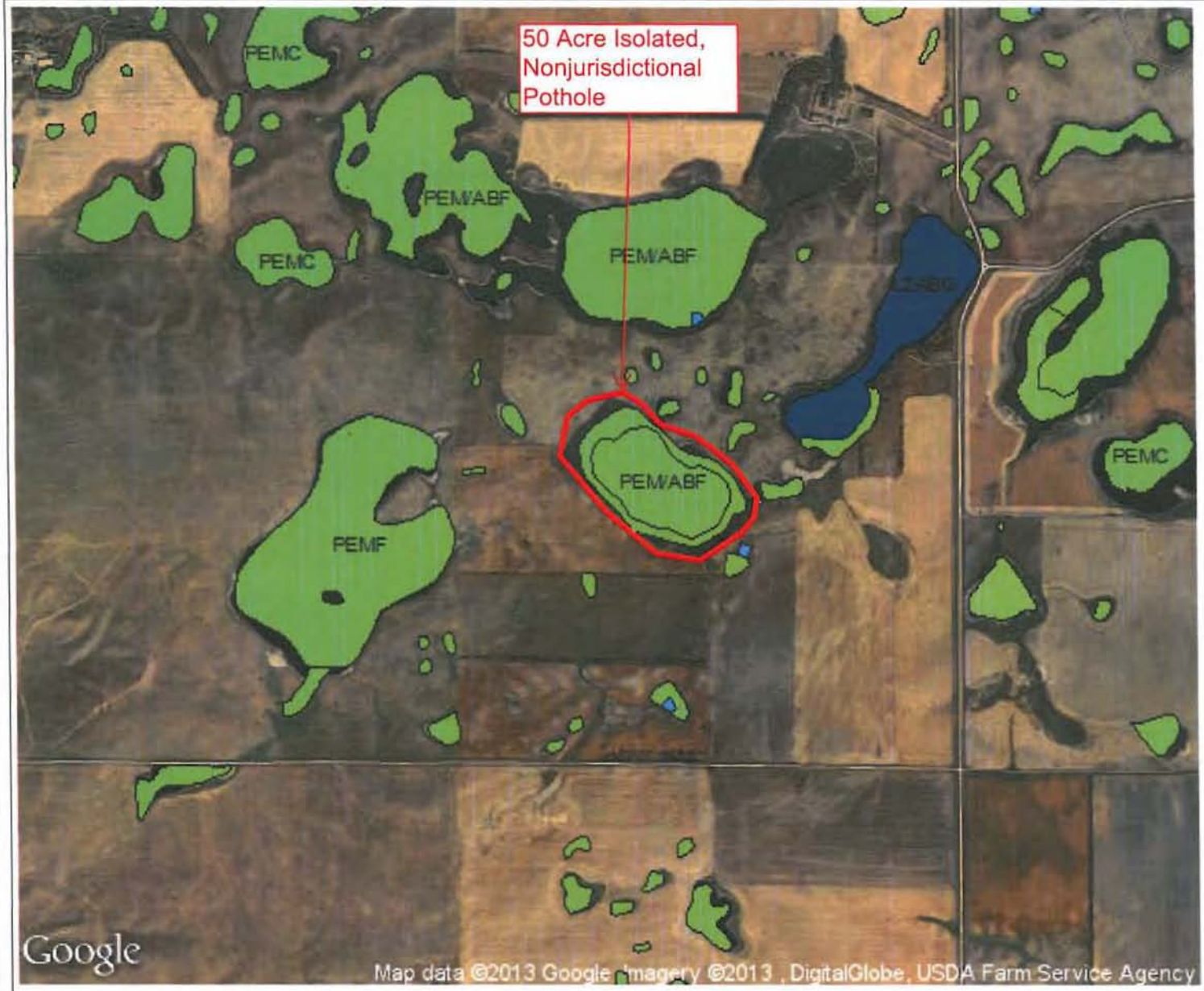
[10] **Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.***

☐ FEMA/FIRM maps:_____.
☐ 100-year Floodplain Elevation is:_____(National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date):Google Earth 2012 & 2011.
or ☐ Other (Name & Date):_____.
☐ Previous determination(s). File no. and date of response letter:_____.
☐ Applicable/supporting case law:_____.
☐ Applicable/supporting scientific literature:_____.
☐ Other information (please specify):_____.

B. ADDITIONAL COMMENTS TO SUPPORT JD: A location map is provided, depicting the location of the closed subject pothole.



Wetlands

APPROVED JD - NWO-2013-0606-BIS

MN POWER REROUTE

0 200 400 600m

Date Printed: 04.11.2013 Map Scale: 1:27084

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: **MN POWER**	File Number: **NWO-2013-0606-BIS**	Date: **23 April 2013**
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
XX	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://usace.army.mil/inet/functions/cw/cecwo/reg or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:	If you only have questions regarding the appeal process you may also contact: US Army Corps of Engineers, Northwestern Division Attn: Mary Hoffman, Appeal Review Officer 1125 NW Couch Street Portland, OR 97208-2870 Telephone (503) 808-3825 David.W.Gesl@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

	Date:	Telephone number:
_____ Signature of appellant or agent.		

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 23 April 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER:
Omaha District – MN POWER - NWO-2013-0607-BIS Form 1 of 1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
Central Legal Description: S4,5,8 & 9, T140N, R71W

State: North Dakota County/parish/borough: Kidder City: near Tappen
Center coordinates of site (lat/long in degree decimal format): Lat. 46.970291° N, Long. -99.662832° W
Universal Transverse Mercator: 14
Name of nearest waterbody: Little Pipestem Creek (25 miles)
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: None (Isolated Potholes)
Name of watershed or Hydrologic Unit Code (HUC): Apple (10130103)

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: 11 April 2013
☐ Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** *"navigable waters of the U.S."* within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]

☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain: ____.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are no** *"waters of the U.S."* within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters:.
      Wetlands: linear feet: _width (ft) and/or acres acres

   c. **Limits (boundaries) of jurisdiction** based on: Not Applicable.
      Elevation of established OHWM (if known):____.

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

2. **Non-regulated waters/wetlands (check if applicable):**[3]

☒ **Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:** The JD Review Area consists of two isolated prairie pothole wetlands. The wetlands are closed basins with no drainage outlets. As such, they do not exhibit a discernable surface connection to waters of the US. Therefore, it is concluded that the identified waters are "isolated."

It is further determined that the waters: 1) are not used by interstate or foreign travelers for recreational or other purposes; 2) do not support fish or shellfish that could be taken and sold in interstate or foreign commerce; and 3) are not used for industrial purposes by industries in interstate commerce. Lastly, the waters do not exhibit sufficient proximity and/or connectivity to jurisdictional other waters; whereby, nonspeculative ecological connection(s) could be made that would constitute adjacency.

Based upon these principle considerations, it is determined that the subject waters are **isolated and nonjurisdictional** under the auspices of Section 404 of the Clean Water Act.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. **TNW**
   Identify TNW: _____.

   Summarize rationale supporting determination: _____.

2. **Wetland adjacent to TNW**
   Summarize rationale supporting conclusion that wetland is "adjacent": _____.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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[3] Supporting documentation is presented in Section III.F.

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

1. **Characteristics of non-TNWs that flow directly or indirectly into TNW**

(i) **General Area Conditions:**
Watershed size: _____ **Pick List**
Drainage area: _____ **Pick List**
Average annual rainfall: _____ inches
Average annual snowfall: _____ inches

(ii) **Physical Characteristics:**
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Project waters are **Pick List** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: _____.

Identify flow route to TNW[5]: _____.
Tributary stream order, if known: _____.

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☐ Natural
☐ Artificial (man-made). Explain: _____.
☐ Manipulated (man-altered). Explain: _____.

Tributary properties with respect to top of bank (estimate):
Average width: _____ feet
Average depth: _____ feet
Average side slopes: **Pick List.**

Primary tributary substrate composition (check all that apply):
☐ Silts ☐ Sands ☐ Concrete
☐ Cobbles ☐ Gravel ☐ Muck
☐ Bedrock ☐ Vegetation. Type/% cover: _____
☐ Other. Explain: _____.

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: _____.
Presence of run/riffle/pool complexes. Explain: _____.
Tributary geometry: **Pick List**
Tributary gradient (approximate average slope): _____ %

(c) Flow:
Tributary provides for: **Pick List**
Estimate average number of flow events in review area/year: **Pick List**
Describe flow regime: _____.
Other information on duration and volume: _____.

Surface flow is: **Pick List**. Characteristics: _____.

Subsurface flow: **Pick List**. Explain findings: _____.
☐ Dye (or other) test performed: _____.

Tributary has (check all that apply):
☐ Bed and banks
☐ OHWM[6] (check all indicators that apply):
☐ clear, natural line impressed on the bank ☐ the presence of litter and debris
☐ changes in the character of soil ☐ destruction of terrestrial vegetation
☐ shelving ☐ the presence of wrack line
☐ vegetation matted down, bent, or absent ☐ sediment sorting

[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
[6] A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

☐ leaf litter disturbed or washed away
☐ sediment deposition
☐ water staining
☐ other (list): _____
☐ scour
☐ multiple observed or predicted flow events
☐ abrupt change in plant community _____
☐ Discontinuous OHWM.[7] Explain: _____.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☐ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):

☐ Mean High Water Mark indicated by:
- ☐ survey to available datum;
- ☐ physical markings;
- ☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: _____.
Identify specific pollutants, if known: _____.

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian corridor. Characteristics (type, average width): _____.
☐ Wetland fringe. Characteristics: _____.
☐ Habitat for:
- ☐ Federally Listed species. Explain findings: _____.
- ☐ Fish/spawn areas. Explain findings: _____.
- ☐ Other environmentally-sensitive species. Explain findings: _____.
- ☐ Aquatic/wildlife diversity. Explain findings: _____.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:
Properties:
Wetland size: _____ acres
Wetland type. Explain: _____.
Wetland quality. Explain: _____.
Project wetlands cross or serve as state boundaries. Explain: _____.

(b) General Flow Relationship with Non-TNW:
Flow is: **Pick List**. Explain: _____.

Surface flow is: **Pick List**
Characteristics: _____.

Subsurface flow: **Pick List**. Explain findings: _____.
☐ Dye (or other) test performed: _____.

(c) Wetland Adjacency Determination with Non-TNW:
☐ Directly abutting
☐ Not directly abutting
- ☐ Discrete wetland hydrologic connection. Explain: _____.
- ☐ Ecological connection. Explain: _____.
- ☐ Separated by berm/barrier. Explain: _____.

(d) Proximity (Relationship) to TNW
Project wetlands are **Pick List** river miles from TNW.
Project waters are **Pick List** aerial (straight) miles from TNW.
Flow is from: **Pick List.**
Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: _____.
Identify specific pollutants, if known: _____.

[7]Ibid.

(iii) Biological Characteristics. Wetland supports (check all that apply):

- ☐ Riparian buffer. Characteristics (type, average width):_____.
- ☐ Vegetation type/percent cover. Explain:_____.
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings:_____.
  - ☐ Fish/spawn areas. Explain findings:_____.
  - ☐ Other environmentally-sensitive species. Explain findings:_____.
  - ☐ Aquatic/wildlife diversity. Explain findings:_____.

3. **Characteristics of all wetlands adjacent to the tributary (if any)**

   All wetland(s) being considered in the cumulative analysis: **Pick List**

   Approximately (_____) acres in total are being considered in the cumulative analysis.

   For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
_____	_____	_____	_____

   Summarize overall biological, chemical and physical functions being performed: _____.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:_____.

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: _____.

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: _____.

D. **DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):**

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: _____linear feet_____width (ft), Or, _____acres.
   - ☐ Wetlands adjacent to TNWs: _____acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: _____.
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: _____.

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☐ Tributary waters: _____ linear feet_____width (ft).
   - ☐ Other non-wetland waters: _____acres.
     Identify type(s) of waters: _____.

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: _____ linear feet_____width (ft).
   - ☐ Other non-wetland waters: _____acres.
     Identify type(s) of waters: _____.

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
     - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

     - ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: _____.

   Provide acreage estimates for jurisdictional wetlands in the review area: _____acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: _____acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
   - ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional wetlands in the review area: _____acres.

7. **Impoundments of jurisdictional waters.[9]**
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   - ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   - ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   - ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

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[8] See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

E. **ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):**[10]

- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
- ☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- ☐ which are or could be used for industrial purposes by industries in interstate commerce.
- ☐ Interstate isolated waters. Explain:_____.
- ☐ Other factors. Explain:_____.

Identify water body and summarize rationale supporting determination: _____

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: _____linear feet_____width (ft).
- ☐ Other non-wetland waters:____acres.
  - Identify type(s) of waters:_____.
- ☐ Wetlands:____acres.

F. **NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- ☒ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - ☒ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- ☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:_____.
- ☐ Other: (explain, if not covered above): _____.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): _____linear feet_____width (ft).
- ☐ Lakes/ponds: _____acres.
- ☐ Other non-wetland waters: _____acres. List type of aquatic resource: _____.
- ☒ Wetlands: 128 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): _____linear feet, _____width (ft).
- ☐ Lakes/ponds: _____acres.
- ☐ Other non-wetland waters: _____acres. List type of aquatic resource: _____.
- ☐ Wetlands: _____acres.

SECTION IV: DATA SOURCES.

A. **SUPPORTING DATA. Data reviewed for JD (check all that apply** - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Applicant provide map and request.
- ☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☐ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:_____.
- ☐ Corps navigable waters' study:_____.
- ☐ U.S. Geological Survey Hydrologic Atlas:_____.
  - ☐ USGS NHD data.
  - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: 1 : 24,000 – Tappen North – ND.
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation:
- ☒ National wetlands inventory map(s). Cite name:USFWS NWI .
- ☐ State/Local wetland inventory map(s):_____.
- ☐ FEMA/FIRM maps:_____.
- ☐ 100-year Floodplain Elevation is:_____(National Geodectic Vertical Datum of 1929)

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[10] **Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.***

☒ Photographs: ☒ Aerial (Name & Date):NAIP/Google 2013 & 2012.
or ☐ Other (Name & Date):_____.
☐ Previous determination(s). File no. and date of response letter:_____.
☐ Applicable/supporting case law:_____.
☐ Applicable/supporting scientific literature:_____.
☐ Other information (please specify):_____.

B. **ADDITIONAL COMMENTS TO SUPPORT JD:** A location map is provided, identifying the closed basins.

ORM Project Locations

- Project Location
- Project Location
- Project Location

ORM Waters of the US

- Marine
- Estuarine
- Riverine
- Riparian
- Lacustrine
- Palustrine
- Uplands
- Other/Unknown
- Marine
- Estuarine
- Riverine
- Riparian
- Lacustrine
- Palustrine
- Uplands
- Other/Unknown
- Marine
- Estuarine
- Riverine
- Riparian
- Lacustrine
- Palustrine
- Uplands
- Other/Unknown

APPROVED JD MAP - NWO-2013-0607-BIS

MN POWER REROUTE

N W E S

0 200 400 600m

Date Printed: 04.11.2013 Map Scale: 1:27084

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: **MN POWER**	File Number:**NWO-2013-0607-BIS**	Date: **23 April 2013**
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
XX	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://usace.army.mil/inet/functions/cw/cecwo/reg or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:	If you only have questions regarding the appeal process you may also contact: US Army Corps of Engineers, Northwestern Division Attn: Mary Hoffman, Appeal Review Officer 1125 NW Couch Street Portland, OR 97208-2870 Telephone (503) 808-3825 David.W.Gesl@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

_____ Signature of appellant or agent.	Date:	Telephone number:

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
1513 SOUTH 12TH STREET
BISMARCK ND 58504-6640

REPLY TO
ATTENTION OF

April 22, 2013

North Dakota Regulatory Office

Ms. Mandy Bohnenblust
Barr Engineering Co
4700 W 77th Street Suite 200
Minneapolis, Minnesota 55435

Dear Ms. Bohnenblust:

This is in response to your letter dated April 18, 2013, requesting Department of the Army (DA), US Army Corps of Engineers (Corps) comments regarding a project to reroute two segments of 250kV overhead power line located in Kidder and Stutsman Counties, North Dakota.

Corps regulatory offices administer Section 10 of the Rivers and Harbors Act (Section 10) and Section 404 of the Clean Water Act (Section 404). Section 10 regulates work in or affecting navigable waters. Section 404 regulates the discharge of dredge or fill material (temporarily or permanently) in waters of the United States. Waters of the United States may include, but are not limited to, rivers, streams, ditches, coulees, lakes, ponds, and their adjacent wetlands. Fill material includes, but is not limited to, rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mines or other excavation activities and materials used to create any structure or infrastructure in the waters of the United States.

Nationwide Permit 12 authorizes activities for the construction of utility lines. A copy of this nationwide permit and conditions is enclosed. **The nationwide permit and conditions are submitted only for informational purposes and in no way is it, or this letter, to confirm that your activity complies with the nationwide permit and conditions.** As explained within Nationwide Permit 12, the permittee is required to submit a pre-construction notification to the Corps of Engineers prior to construction if any of seven criteria are met, provided compliance is demonstrated with all permit conditions. Please note General Conditions 18 (Endangered Species) and 20 (Historic Properties) describes when non-Federal sponsors must submit a pre-construction notification in conjunction with those conditions.

If your proposal would require a Section 10 and/or Section 404 permit, please complete and submit the enclosed Corps of Engineers permit application to the US Army Corps of Engineers, North Dakota Regulatory Office, 1513 South 12th Street, Bismarck, North Dakota 58504. If you are unsure if a permit is required, you may submit an application, or, a letter requesting a

jurisdictional determination. Include a project location map, description of work, and construction methodology when submitting either.

If we can be of further assistance or should you have any questions regarding our program, please do not hesitate to contact this office by letter or phone at (701) 255-0015.

Sincerely,

Daniel E. Cimarosti

Daniel E. Cimarosti
State Program Manager
North Dakota Regulatory Office

Enclosures

U.S. ARMY CORPS OF ENGINEERS

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT

33 CFR 325. The proponent agency is CECW-CO-R.

OMB APPROVAL NO. 0710-0003
EXPIRES: 28 FEBRUARY 2013

Public reporting for this collection of information is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters, Executive Services and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and/or instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME	8. AUTHORIZED AGENT'S NAME AND TITLE (agent is not required)
First - Middle - Last -	First - Middle - Last -
Company -	Company -
E-mail Address -	E-mail Address -
6. APPLICANT'S ADDRESS:	9. AGENT'S ADDRESS:
Address-	Address-
City - State - Zip - Country -	City - State - Zip - Country -
7. APPLICANT'S PHONE NOs. w/AREA CODE	10. AGENTS PHONE NOs. w/AREA CODE
a. Residence b. Business c. Fax	a. Residence b. Business c. Fax

STATEMENT OF AUTHORIZATION

11. I hereby authorize, _____ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

_____ _____
SIGNATURE OF APPLICANT DATE

NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions)	
13. NAME OF WATERBODY, IF KNOWN (if applicable)	14. PROJECT STREET ADDRESS (if applicable) Address
15. LOCATION OF PROJECT Latitude: °N Longitude: °W	City - State- Zip-

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)

State Tax Parcel ID Municipality

Section - Township - Range -

17. DIRECTIONS TO THE SITE

18. Nature of Activity (Description of project, include all features)

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:

Type Amount in Cubic Yards	Type Amount in Cubic Yards	Type Amount in Cubic Yards

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

Acres

or

Linear Feet

23. Description of Avoidance, Minimization, and Compensation (see instructions)

24. Is Any Portion of the Work Already Complete? ☐ Yes ☐ No IF YES, DESCRIBE THE COMPLETED WORK

25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

a. Address-

City - State - Zip -

b. Address-

City - State - Zip -

c. Address-

City - State - Zip -

d. Address-

City - State - Zip -

e. Address-

City - State - Zip -

26. List of Other Certificates or Approvals/Denials received from other Federal, State, or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED

* Would include but is not restricted to zoning, building, and flood plain permits

27. Application is hereby made for permit or permits to authorize the work described in this application. I certify that this information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT DATE SIGNATURE OF AGENT DATE

The Application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than $10,000 or imprisoned not more than five years or both.

Instructions for Preparing a
Department of the Army Permit Application

Blocks 1 through 4. To be completed by Corps of Engineers.

Block 5. Applicant's Name. Enter the name and the E-mail address of the responsible party or parties. If the responsible party is an agency, company, corporation, or other organization, indicate the name of the organization and responsible officer and title. If more than one party is associated with the application, please attach a sheet with the necessary information marked Block 5.

Block 6. Address of Applicant. Please provide the full address of the party or parties responsible for the application. If more space is needed, attach an extra sheet of paper marked Block 6.

Block 7. Applicant Telephone Number(s). Please provide the number where you can usually be reached during normal business hours.

Blocks 8 through 11. To be completed, if you choose to have an agent.

Block 8. Authorized Agent's Name and Title. Indicate name of individual or agency, designated by you, to represent you in this process. An agent can be an attorney, builder, contractor, engineer, or any other person or organization. Note: An agent is not required.

Blocks 9 and 10. Agent's Address and Telephone Number. Please provide the complete mailing address of the agent, along with the telephone number where he / she can be reached during normal business hours.

Block 11. Statement of Authorization. To be completed by applicant, if an agent is to be employed.

Block 12. Proposed Project Name or Title. Please provide name identifying the proposed project, e.g., Landmark Plaza, Burned Hills Subdivision, or Edsall Commercial Center.

Block 13. Name of Waterbody. Please provide the name of any stream, lake, marsh, or other waterway to be directly impacted by the activity. If it is a minor (no name) stream, identify the waterbody the minor stream enters.

Block 14. Proposed Project Street Address. If the proposed project is located at a site having a street address (not a box number), please enter it here.

Block 15. Location of Proposed Project. Enter the latitude and longitude of where the proposed project is located. If more space is required, please attach a sheet with the necessary information marked Block 15.

Block 16. Other Location Descriptions. If available, provide the Tax Parcel Identification number of the site, Section, Township, and Range of the site (if known), and / or local Municipality that the site is located in.

Block 17. Directions to the Site. Provide directions to the site from a known location or landmark. Include highway and street numbers as well as names. Also provide distances from known locations and any other information that would assist in locating the site. You may also provide description of the proposed project location, such as lot numbers, tract numbers, or you may choose to locate the proposed project site from a known point (such as the right descending bank of Smith Creek, one mile downstream from the Highway 14 bridge). If a large river or stream, include the river mile of the proposed project site if known

Block 18. Nature of Activity. Describe the overall activity or project. Give appropriate dimensions of structures such as wing walls, dikes (identify the materials to be used in construction, as well as the methods by which the work is to be done), or excavations (length, width, and height). Indicate whether discharge of dredged or fill material is involved. Also, identify any structure to be constructed on a fill, piles, or float-supported platforms.

The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach an extra sheet of paper marked Block 18.

Block 19. Proposed Project Purpose. Describe the purpose and need for the proposed project. What will it be used for and why? Also include a brief description of any related activities to be developed as the result of the proposed project. Give the approximate dates you plan to both begin and complete all work.

Block 20. Reasons for Discharge. If the activity involves the discharge of dredged and/or fill material into a wetland or other waterbody, including the temporary placement of material, explain the specific purpose of the placement of the material (such as erosion control).

Block 21. Types of Material Being Discharged and the Amount of Each Type in Cubic Yards. Describe the material to be discharged and amount of each material to be discharged within Corps jurisdiction. Please be sure this description will agree with your illustrations. Discharge material includes: rock, sand, clay, concrete, etc.

Block 22. Surface Areas of Wetlands or Other Waters Filled. Describe the area to be filled at each location. Specifically identify the surface areas, or part thereof, to be filled. Also include the means by which the discharge is to be done (backhoe, dragline, etc.). If dredged material is to be discharged on an upland site, identify the site and the steps to be taken (if necessary) to prevent runoff from the dredged material back into a waterbody. If more space is needed, attach an extra sheet of paper marked Block 22.

Block 23. Description of Avoidance, Minimization, and Compensation. Provide a brief explanation describing how impacts to waters of the United States are being avoided and minimized on the project site. Also provide a brief description of how impacts to waters of the United States will be compensated for, or a brief statement explaining why compensatory mitigation should not be required for those impacts.

Block 24. Is Any Portion of the Work Already Complete? Provide any background on any part of the proposed project already completed. Describe the area already developed, structures completed, any dredged or fill material already discharged, the type of material, volume in cubic yards, acres filled, if a wetland or other waterbody (in acres or square feet). If the work was done under an existing Corps permit, identity the authorization, if possible.

Block 25. Names and Addresses of Adjoining Property Owners, Lessees, etc., Whose Property Adjoins the Project Site. List complete names and full mailing addresses of the adjacent property owners (public and private) lessees, etc., whose property adjoins the waterbody or aquatic site where the work is being proposed so that they may be notified of the proposed activity (usually by public notice). If more space is needed, attach an extra sheet of paper marked Block 24.

Information regarding adjacent landowners is usually available through the office of the tax assessor in the county or counties where the project is to be developed.

Block 26. Information about Approvals or Denials by Other Agencies. You may need the approval of other federal, state, or local agencies for your project. Identify any applications you have submitted and the status, if any (approved or denied) of each application. You need not have obtained all other permits before applying for a Corps permit.

Block 27. Signature of Applicant or Agent. The application must be signed by the owner or other authorized party (agent). This signature shall be an affirmation that the party applying for the permit possesses the requisite property rights to undertake the activity applied for (including compliance with special conditions, mitigation, etc.).

DRAWINGS AND ILLUSTRATIONS

General Information.

Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map, a Plan View or a Typical Cross-Section Map. Identify each illustration with a figure or attachment number.

Please submit one original, or good quality copy, of all drawings on 8½ x11 inch plain white paper (electronic media may be substituted). Use the fewest number of sheets necessary for your drawings or illustrations.

Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view, or cross-section). **While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate, and contain all necessary information.**

Vicinity Map

The vicinity map you provide will be printed in any public notice that is issued and used by the Corps of Engineers and other reviewing agencies to locate the site of the proposed activity. You may use an existing road map or US Geological Survey topographic (scale 1:24,000) as the vicinity map. Please include sufficient details to simplify locating the site from both the waterbody and from land. Identify the source of the map or chart from which the vicinity map was taken and, if not already shown, add the following:

- location of activity site (draw an arrow showing the exact location of the site on the map).
- latitude, longitude, river mile, if known, and/or other information that coincides with Block 6 on the application form.
- name of waterbody and the name of the larger creek, river, by, etc., that the waterbody is immediately tributary to.
- names, descriptions and location of landmarks.
- name of all applicable political (county, parish, borough, town, city, etc.) jurisdictions
- name of and distance to nearest town, community, or other identifying locations
- names or numbers of all roads in the vicinity of the site.
- north arrow.
- scale.

Plan View

The plan view shows the proposed activity as if you were looking straight down on it from above. your plan view should clearly show the following:

- Name of waterbody (river, creek, lake, wetland, etc.) and river mile (if known) at location of activity.
- Existing shorelines.
- Mean high and mean low water lines and maximum (spring) high tide line in tidal areas.
- Ordinary high water line and ordinary low water line if the proposed activity is located on a non-tidal waterbody.
- Average water depths around the activity.
- Dimensions of the activity and distance it extends from the high water line into the water.
- Distances to nearby Federal projects, if applicable.
- Distance between proposed activity and navigation channel, where applicable.
- Location of structures, if any, in navigable waters immediately adjacent to the proposed activity.
- Location of any wetlands (marshes, swamps, tidal flats, etc.)
- North arrow.
- Scale.
- If dredged material is involved, you must describe the type of material, number of cubic yards, method of handling, and the location of fill and spoil disposal area. The drawing should show proposed retention levees, weirs, and/or other means for retaining hydraulically placed materials.
- Mark the drawing to indicate previously completed portions of the activity.

Cross Section View and/or Elevation

The elevation and/or cross section view is a scale drawing that shows the side, front, or rear of the proposed activity. If a section view is shown, it represents the proposed structure as it would appear if cut internally for display. Your elevation should clearly show the following:

- Water elevations as shown in the plan view.

- Water depth at water-ward face of proposed activity or, if dredging is proposed, dredging and estimated disposal grades.
- Dimensions from mean high water line (in tidal waters) of proposed fill or float, or high tide line for pile supported platform. Describe any structures to be built on the platform.
- Cross section of excavation or fill, including approximate side slopes.
- Graphic or numerical scale.
- Principal dimensions of the activity

Notes on Drawings*

- Names of adjacent property owners who may be affected. Complete names and addresses should be shown in Block 5 on ENG Form 4345.
- Legal property description: Number, name of subdivision, block, and lot number. Section, Township, and Range (if applicable) from plot, deed, or tax assessment.
- Photographs of the site of the proposed activity are not required; however, pictures are helpful and may be submitted as part of any application.
- **While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate, and contain all necessary information.**

* Drawings should be as clear and simple as possible (ie, not too "busy").

FACT SHEET
NATIONWIDE PERMIT 12
(2012)

UTILITY LINE ACTIVITIES.

Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Utility lines: This NWP authorizes the construction, maintenance, or repair of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for the utility lines, in all waters of the United States, provided there is no change in pre-construction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. The term "utility line" does not include activities that drain a water of the United States, such as drainage tile or french drains, but it does apply to pipes conveying drainage from another area.

Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

Utility line substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2-acre of waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for overhead utility line towers, poles, and anchors: This NWP authorizes the construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as

near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

This NWP may authorize utility lines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (See 33 CFR Part 322). Overhead utility lines constructed over section 10 waters and utility lines that are routed in or under section 10 waters without a discharge of dredged or fill material require a section 10 permit.

This NWP also authorizes temporary structures, fills, and work necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate. (Sections 10 and 404)

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if any of the following criteria are met: (1) The activity involves mechanized land clearing in a forested wetland for the utility line right-of-way; (2) a section 10 permit is required; (3) the utility line in waters of the United States, excluding overhead lines, exceeds 500 feet; (4) the utility line is placed within a jurisdictional area (i.e. water of the United States), and it runs parallel to or along a stream bed that is within that jurisdictional area; (5) discharges that result in the loss of greater than 1/10-acre of waters of the United States; (6) permanent access roads are constructed above grade in waters of the United States for a distance of more than 500 feet; or (7) permanent access roads are constructed in waters of the United States with impervious materials. (See general condition 31.)

Note 1: Where the proposed utility line is constructed or installed in navigable waters of the United States (i.e., section 10 waters) within the coastal United States, the Great Lakes, and United States territories, copies of the pre-construction notification and NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

Note 2: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work, in accordance with the requirements for temporary fills.

Note 3: Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to Section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material into waters of the United States associated with such pipelines will require a section 404 permit (see NWP 15).

Note 4: For overhead utility lines authorized by this NWP, a copy of the PCN and NWP verification will be provided to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical

habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.noaa.gov/fisheries.html respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for obtaining any "take" permits required under the U.S. Fish and Wildlife Service's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such "take" permits are required for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those

tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or

parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality. *Specifically for North Dakota, the North Dakota Department of Health has denied water quality certification for all projects proposed to affect Class 1 and 1a rivers or classified lakes, individual certification must be obtained. For project proposed to affect any other waters, the North Dakota Department of Health has issued water quality certification provided the attached Construction and Environmental Disturbance Requirements are followed.*

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

_____

(Transferee)

_____

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the work and mitigation.

31. Pre-Construction Notification—(a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either: (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or (2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition
20 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any

consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information: (1) Name, address and telephone numbers of the prospective permittee; (2) Location of the proposed project; (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans); (4) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate; (5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan. (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act. (c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also

be used. (d) *Agency Coordination:* (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. (2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5. (3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. (4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of preconstruction notifications to expedite agency coordination.

Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

2012 Nationwide Permits
Regional Conditions
Omaha District
State of North Dakota

The following Nationwide Permit regional conditions will be used in the State of North Dakota. Regional conditions are placed on Nationwide Permits to ensure projects result in less than minimal adverse impacts to the aquatic environment and to address local resources concerns.

Wetlands Classified as Peatlands – Revoked for Use

All Nationwide Permits, with the exception of 3, 5, 20, 32, 38 and 45, are revoked for use in peatlands in North Dakota.

Peatlands are saturated and inundated wetlands where conditions inhibit organic matter decomposition and allow for the accumulation of peat. Under cool, anaerobic, and acidic conditions, the rate of organic matter accumulation exceeds organic decay. Peatlands can be primarily classified into ombrotrophic bogs and minerotrophic fens; the latter subdivided into poor, moderate-rich, and extreme-rich fens, each with distinctive indicator species, community physiognomy, acidity, alkalinity, and base cation content.

Wetlands Classified as Peatlands – Pre-construction Notification Requirement

For Nationwide Permits 3, 5, 20, 32, 38, and 45 permittees must notify the Corps in accordance with General Condition 31 (Notification) prior to initiating any regulated activity impacting peatlands in North Dakota.

Waters Adjacent to Natural Springs – Pre-construction Notification Requirement

For all Nationwide Permits permittees must notify the Corps in accordance with General Condition No. 31 (Notification) for regulated activities located within 100 feet of the water source in natural spring areas in North Dakota. For purposes of this condition, a spring source is defined as any location where there is artesian flow emanating from a distinct point at any time during the growing season. Springs do not include seeps and other groundwater discharge areas where there is no distinct point source.

Missouri River, including Lake Sakakawea and Lake Oahe within the State of North Dakota – Pre-construction Notification Requirement

For all Nationwide Permits permittees must notify the Corps in accordance with General Condition No. 31 (Notification) prior to initiating any regulated activity in the Missouri River, including Lake Sakakawea and Lake Oahe, within the State of North Dakota.

Borrow Site Identification – All Nationwide Permits

The permittee is responsible for ensuring that the Corps is notified of the location of any borrow site that will be used in conjunction with the construction of the authorized activity so that the Corps may evaluate the site for potential impacts to aquatic resources, historic properties, and endangered species. For projects where there is another lead Federal agency, the permittee shall provide the Corps documentation indicating that the lead Federal agency has complied with the National Historic Preservation Act and Endangered Species Act for the borrow site. The permittee shall not initiate work at the borrow site in conjunction with the authorized activity until approval is received from the Corps.

Counter-sinking Culverts and Associated Riprap – All Nationwide Permits

That culverts and riprap proposed to be installed within waters of the United States listed as Class III or higher on the 1978 Stream Evaluation Map for the State of North Dakota shall be installed one foot below the natural streambed. The 1978 Stream Evaluation Map for the State of North Dakota can be accessed on the North Dakota Regulatory Office's website at: http://www.nwo.usace.army.mil/html/od-rnd/ndhome.htm.

REGIONAL CONDITIONS APPLICABLE TO SPECIFIC NATIONWIDE PERMITS

Nationwide Permit 7 – Outfall Structures and Associated Intake Structures and Nationwide Permit 12 – Utility Line Activities

Intake Structures - Intake screens with a maximum mesh opening of 1/4-inch must be provided, inspected annually, and maintained. Wire, Johnson-like, screens must have a maximum distance between wires of 1/8-inch. Water velocity at the intake screen shall not exceed ½-foot per second.

Pumping plant sound levels will not exceed 75 dB at 50 feet.

Intakes located in Lake Sakakawea, above river mile 1519, are subject to the following conditions:

- The intakes shall be floating.
- At the beginning of the pumping season, the intake shall be placed over water with a minimum depth of 20 feet.
- If the 20-foot depth is not attainable, then the intake shall be located over the deepest water available.
- If the water depth falls below six feet, the intake shall be moved to deeper water or the maximum intake velocity shall be limited to ¼ foot per second.

Intakes located in Lake Sakakawea, below river mile 1519, and in the Missouri River below Garrison Dam are subject to the following conditions:

- The intakes shall be submerged.
- At the beginning of the pumping season, the intake will be placed at least 20 vertical feet below the existing water level.
- The intake shall be elevated 2 to 4 feet off the bottom of the river or reservoir bed.
- If the 20-foot depth is not attainable, then the intake velocity shall be limited to ¼-foot per second with the intake placed at the maximum practicable attainable depth.

Nationwide Permit 11 – Temporary Recreational Structures - Boat Docks

a. If future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

b. No boat dock shall be located on a sandbar or barren sand feature located in or along the banks of the Missouri River.

c. The farthest point riverward on the dock located on the Missouri River proper shall not exceed a total length of 30 feet from the ordinary high water line found along the high bank out into the River. Information Note: Issuance of this permit does not supersede authorization required by the North Dakota State Engineer's Office.

d. Any boat dock located on the Missouri River shall be anchored to the top of the high bank.

e. Any boat dock located within an excavated bay or marina off the main river channel may be anchored to the bay or marina bottom with spuds.

Nationwide Permit 13 - Bank Stabilization

Permittees must notify the Corps in accordance with General Condition No. 31 (Notification) prior to initiating any regulated activity within the State of North Dakota.

Nationwide Permit 23 - Approved Categorical Exclusions

Permittees must notify the Corps in accordance with General Condition No. 31 (Notification) prior to initiating any regulated activity within the State of North Dakota. In addition to information required by General Condition 31, permittees must identify the approved categorical exclusion that applies and provide documentation that the project fits the categorical exclusion.

Nationwide Permit 27 - Aquatic Habitat Restoration, Establishment and Enhancement Activities

Permittees must notify the Corps in accordance with General Condition No. 31 (Notification) prior to initiating any regulated activity within the State of North Dakota.

GENERAL CONDITIONS (REGIONAL ADDITIONS)

General Condition 3- Spawning Areas

No regulated activity within waters of the United States listed as Class III or higher on the 1978 Stream Evaluation Map for the State of North Dakota or on the North Dakota Game and Fish Department's website as a North Dakota Public Fishing Water shall occur between 15 April and 1 June. No regulated activity within the Red River of the North shall occur between 15 April and 1 July. North Dakota Public Fishing Waters can be accessed at: http://gf.nd.gov/fishing/nd-fish-wat.html. The 1978 Stream Evaluation Map for the State of North Dakota can be accessed on the North Dakota Regulatory Office's website at: http://www.nwo.usace.army.mil/html/od-rnd/ndhome.htm.

General Condition 6 – Suitable Material

Permittees are reminded that General Condition No. 6 prohibits the use of unsuitable material. In addition, organic debris, some building waste, and materials excessive in fines are not suitable material. Specific verbiage on prohibited materials can be accessed on the North Dakota Regulatory Office's website at: http://www.nwo.usace.army.mil/html/od-rnd/ndhome.htm.

General Condition 9 - Management of Water Flows

Permittees are reminded that water flow management addressed in General Condition 9 is applicable to all aspects of a permitted project, including temporary features.

General Condition 31 – Pre-construction Notification

Prospective permittees should be aware that a **field delineation** may be required for applications where notification is required in accordance with General Condition 31 and/or mitigation may be required. The Corps 1987 Wetland Delineation Manual and applicable Regional Supplements to the Manual can be accessed on the North Dakota Regulatory Office's website at: http://www.nwo.usace.army.mil/html/od-rnd/ndhome.htm.

NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
Gold Seal Center, 918 E. Divide Ave.
Bismarck, ND 58501-1947
701.328.5200 (fax)
www.ndhealth.gov

Construction and Environmental Disturbance Requirements

These represent the minimum requirements of the North Dakota Department of Health. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect the waters of the State of North Dakota. All projects will be designed and implemented to restrict the losses or disturbances of soil, vegetative cover, and pollutants (chemical or biological) from a site.

Soils

Prevent the erosion of exposed soil surfaces and trapping sediments being transported. Examples include, but are not restricted to, sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap, mesh or burlap blankets to hold soil during construction, and immediately establishing vegetative cover on disturbed areas after construction is completed. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, or land resources will be protected against compaction, vegetation loss, and unnecessary damage.

Surface Waters

All construction which directly or indirectly impacts aquatic systems will be managed to minimize impacts. All attempts will be made to prevent the contamination of water at construction sites from fuel spillage, lubricants, and chemicals, by following safe storage and handling procedures. Stream bank and stream bed disturbances will be controlled to minimize and/or prevent silt movement, nutrient upsurges, plant dislocation, and any physical, chemical, or biological disruption. The use of pesticides or herbicides in or near these systems is forbidden without approval from this Department.

Fill Material

Any fill material placed below the high water mark must be free of top soils, decomposable materials, and persistent synthetic organic compounds (in toxic concentrations). This includes, but is not limited to, asphalt, tires, treated lumber, and construction debris. The Department may require testing of fill materials. All temporary fills must be removed. Debris and solid wastes will be removed from the site and the impacted areas restored as nearly as possible to the original condition.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Mountain-Prairie Region
Chase Lake NWR/WMD/PP
5924 19th Street SE
Woodworth, ND 58496-9360
(701)752-4218
January 10, 2012

Certified Mail:
Return Receipt Requested

Stutsman County
331X,1

Mandy Bohnenblust
4700 West 77th ST, Suite 200
Minneapolis, MN 55435

Dear Ms. Bohnenblust:

This letter is in reference to the information we received regarding the Minnesota Power 250kV Overhead Line Reroutes located in Kidder and Stutsman Counties, North Dakota. Our office, the Chase Lake WMD, administers U.S. Fish and Wildlife Service (Service) land interests for Stutsman County. I have forwarded a copy of your information to the Long Lake WMD Office who administers Service land interests in Kidder County. I have also forwarded a copy of your information to our Ecological Services office located in Bismarck for their review. The tract of land in Stutsman County for the proposed reroute is specifically described as:

T. 140N., R. 68W., 5th PM
Section 16 S1/2

The west half of section 16 has a U. S. Fish and Wildlife Service (Service) Waterfowl Management Right easement or more commonly referred to as a wetland easement. The purpose of the wetland easement is to preserve and protect wetlands for waterfowl and other wildlife. Wetlands also provide flood control, ground water recharge, act as natural filters for water, and are sources of forage and water for livestock. With this easement the Service has purchased and owns perpetual rights which restrict or prohibit the right to drain, burn, level or fill any wetland basin included within the easement.

CHASE LAKE NWR/WMD
& Prairie Project
5924 19TH Street SE
Woodworth, ND 58496-9360
(701)752-4218

The concern from our office with the propose project would be any direct or indirect impacts to the wetlands that are covered by the provisions of the Service's easement. In projects such as this, impacts are usually fill impacts from the construction of access roads and/or tower placements. However, typically impacts to wetlands can be avoided in projects such as this.

Please provide us additional information pertaining to the project. We will need detailed construction plans as they pertain to tower locations, construction materials, and construction methods.

We appreciate your early notification regarding this project and look forward to working with you. If you have any questions, you may contact me at: 701-752-4218x1.

Best Regards,

Neil Shook
Chase Lake NWR/WMD/PP
Refuge Manager

Cc: LL WMD

CHASE LAKE NWR/WMD
& Prairie Project
5924 19TH Street SE
Woodworth, ND 58496-9360
(701)752-4218

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Long Lake National Wildlife Refuge
12000 353 Street SE
Moffit, ND 58560
Phone: (701) 387-4397 FAX: (701) 387-4767

May 20, 2013

Certified Mail 7011 2970 0002 1622 7702
Return Receipt requested

Kidder County 76X

Ms. Mandy Bohnenblust
Barr Engineering Co.
4700 West 77th St. Suite 200
Minneapolis, MN 55453

Dear Ms. Bohnenblust:

This letter is in reference to the information we received regarding the Minnesota Power 250kV Overhead Line Reroute located in Kidder County, North Dakota. Our office, Long Lake National Wildlife Refuge, administers U.S. Fish and Wildlife Service (Service) land interests for Kidder County. The tract of land in Kidder County for the proposed reroute is specifically described as:

T. 140N., R. 71W., 5th PM
Section 5, S1/2
Section 8, N1/2

The south half of section 5 and portions of section 8 have a U. S. Fish and Wildlife Service (Service) Waterfowl Management Right easement or more commonly referred to as a wetland easement. The purpose of the wetland easement is to preserve and protect wetlands for waterfowl and other wildlife. Wetlands also provide flood control, ground water recharge, act as natural filters for water, and are sources of forage and water for livestock. With this easement the Service has purchased and owns perpetual rights which restrict or prohibit the right to drain, burn, level or fill any wetland basin included within the easement.

In projects such as this, impacts to protected wetlands are usually fill impacts from the construction of access roads and/or tower placements. However, typically impacts to wetlands can be avoided in projects such as this.

The proposed project in Kidder County will stay along the same route, but existing structures that are currently in standing water would be moved into upland areas. Moving structures out of standing water would be allowed as long as long as they are placed outside of protected wetland basins. The attached map shows protected wetland basins for the south half of section 5 and portions of section 8. I would also recommend removing any fill, gravel, rocks, etc. placed around the existing structures located in water after they are removed. This will help restore the wetland back to a more natural state.

Please provide us additional information pertaining to the project. We will need detailed plans as they pertain to tower locations, tower removal, construction materials, and construction methods.

We appreciate your early notification regarding this project and look forward to working with you. If you have any questions, you may contact me at: 701-387-4397 x18.

Sincerely,

Ed Meendering
Refuge Officer

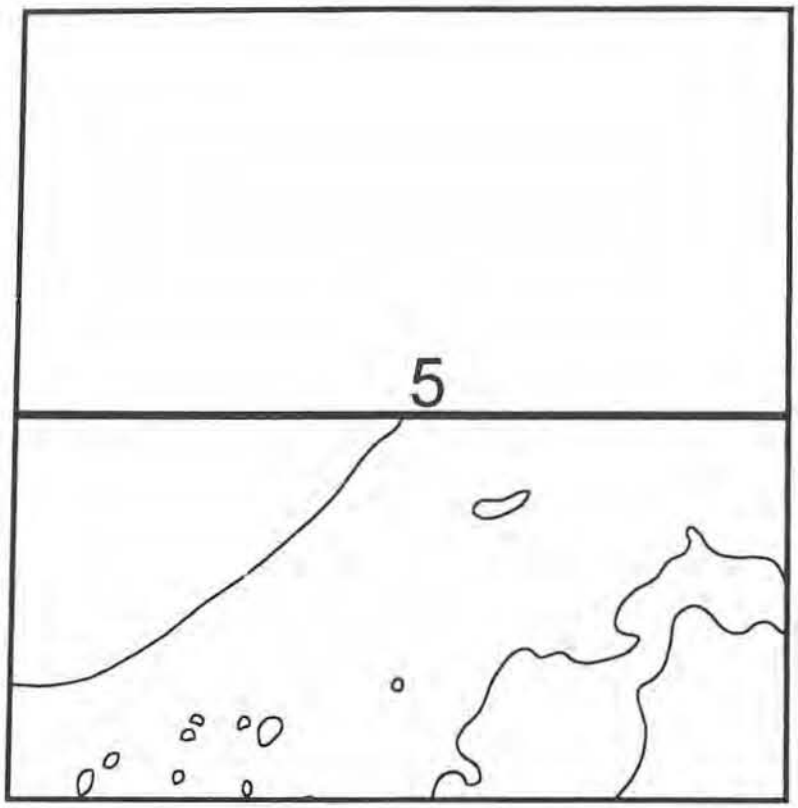
Attachment: Exhibit "A" map #1 and #2.
cc: Easement File Kidder 76X

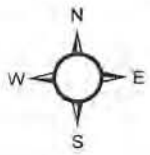
UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

Tract: 76X

WATERFOWL PRODUCTION AREA KIDDER COUNTY, STATE OF NORTH DAKOTA EASEMENT AUTHORIZED BY MIGRATORY BIRD HUNTING STAMP ACT OF MARCH 16, 1934, AS AMENDED.
T. 140N., R. 71W., 5th PRINCIPAL MERIDIAN

SECTION 5, S1/2





1 inch = 0.25 miles

The U.S. Fish and Wildlife Service (Service) has purchased and owns perpetual rights which restrict or prohibit the right to drain, burn, level, and fill any wetland basins depicted on this map. This map represents the Service's effort to depict the approximate location, size and shape of all protected wetlands based on information and maps available at the time this map was prepared. However, wetlands are hydrologically dynamic systems, with expanding and contracting water levels. This map is not meant to depict water levels in the wetland in any given year. The Service reserves the right to revise this map, provided the mapped acreage remains consistent with the Easement's Summary Acres.

Prepared by: _____
Kristina Hanson

Approved by: _____
Edward Meendering

Date: 5-8-13

LEGEND

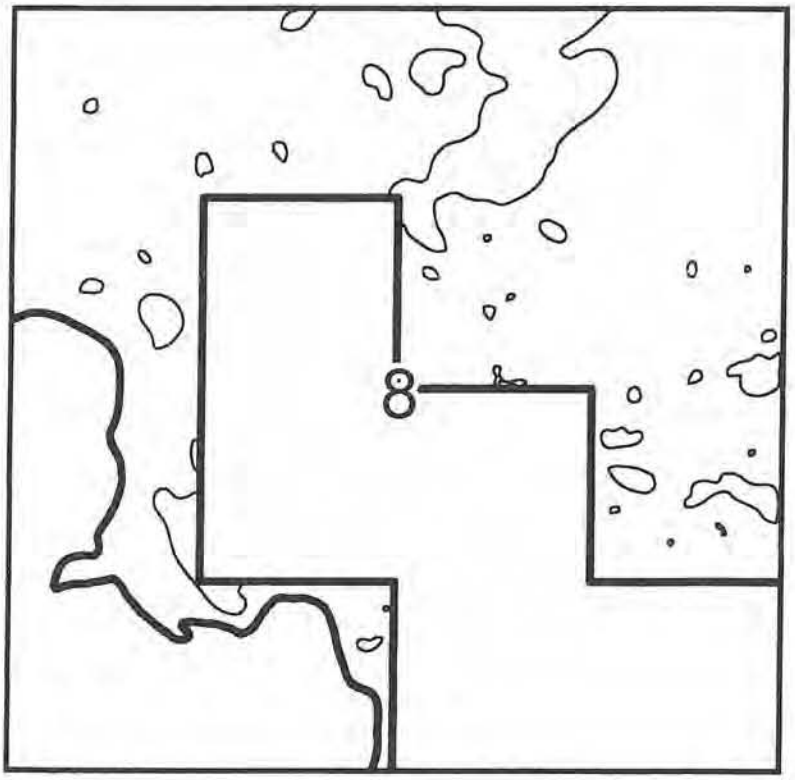
- Section Boundary
- Boundary of Easement Description
- Wetlands Covered by Provisions of the Easement
- Wetlands Deleted from the Easement
- Approved Drainage Facility

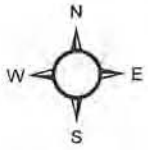
UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

Tract: 76X

WATERFOWL PRODUCTION AREA KIDDER COUNTY, STATE OF NORTH DAKOTA EASEMENT AUTHORIZED BY MIGRATORY BIRD HUNTING STAMP ACT OF MARCH 16, 1934, AS AMENDED.
T. 140N., R. 71W., 5th PRINCIPAL MERIDIAN

SECTION 8, lots 1, 2, 3, N1/2NW1/4, SE1/4NW1/4, SE1/4SW1/4, NE1/4SE1/4, NE1/4





1 inch = 0.25 miles

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Prepared by: Kristina Hanson

Approved by: Edward Meendering

Date: 5-8-13

LEGEND

- Section Boundary
- Boundary of Easement Description
- Wetlands Covered by Provisions of the Easement
- Wetlands Deleted from the Easement
- Approved Drainage Facility

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Long Lake National Wildlife Refuge
12000 353 Street SE
Moffit, ND 58560
Phone: (701) 387-4397 FAX: (701) 387-4767

May 8, 2013

Certified Mail 7011 2970 0002 1622 7542
Return Receipt requested

Kidder County 76X

Ms. Mandy Bohnenblust
Barr Engineering Co.
4700 West 77th St. Suite 200
Minneapolis, MN 55453

Dear Ms. Bohnenblust:

This letter is in reference to the information we received regarding the Minnesota Power 250kV Overhead Line Reroutes located in Kidder and Stutsman Counties, North Dakota. Our office, Long Lake National Wildlife Refuge, administers U.S. Fish and Wildlife Service (Service) land interests for Kidder County. The tract of land in Kidder County for the proposed reroute is specifically described as:

T. 140N., R. 71W., 5th PM
Section 5 S1/2

The south half of section 5 has a U. S. Fish and Wildlife Service (Service) Waterfowl Management Right easement or more commonly referred to as a wetland easement. The purpose of the wetland easement is to preserve and protect wetlands for waterfowl and other wildlife. Wetlands also provide flood control, ground water recharge, act as natural filters for water, and are sources of forage and water for livestock. With this easement the Service has purchased and owns perpetual rights which restrict or prohibit the right to drain, burn, level or fill any wetland basin included within the easement.

The concern from our office with the propose project would be any direct or indirect impacts to the wetlands that are covered by the provisions of the Service's easement. The attached map shows protected wetland basins for the south half of section 5. In projects such as this, impacts are usually fill impacts from the construction of access roads and/or tower placements. However, typically impacts to wetlands can be avoided in projects such as this.

Please provide us additional information pertaining to the project. We will need detailed construction plans as they pertain to tower locations, construction materials, and construction methods.

We appreciate your early notification regarding this project and look forward to working with you. If you have any questions, you may contact me at: 701-387-4397 x18.

Sincerely,

Ed Meendering
Refuge Officer

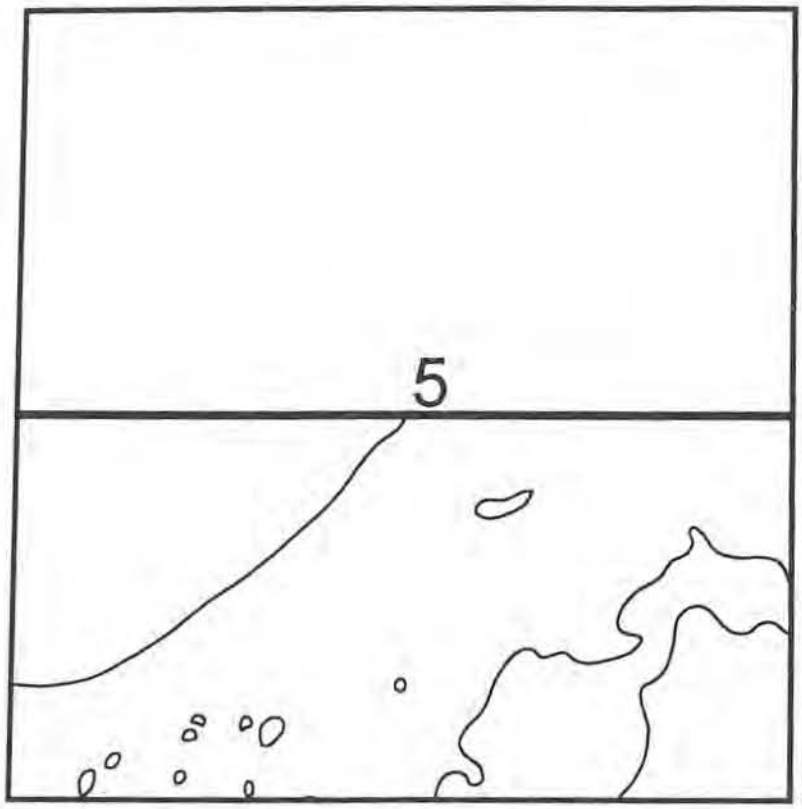
Attachment: Exhibit "A" map #1.
cc: Easement File Kidder 76X

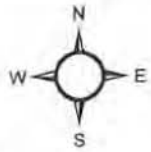
UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

Tract: 76X

WATERFOWL PRODUCTION AREA KIDDER COUNTY, STATE OF NORTH DAKOTA EASEMENT AUTHORIZED BY MIGRATORY BIRD HUNTING STAMP ACT OF MARCH 16, 1934, AS AMENDED.
T. 140N., R. 71W., 5th PRINCIPAL MERIDIAN

SECTION 5, S1/2





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Prepared by: Kristina Hanson
Kristina Hanson

Approved by: Ed Meendering
Edward Meendering

Date: 5-8-13

LEGEND

- Section Boundary
- Boundary of Easement Description
- Wetlands Covered by Provisions of the Easement
- Wetlands Deleted from the Easement
- Approved Drainage Facility

NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
Gold Seal Center, 918 E. Divide Ave.
Bismarck, ND 58501-1947
701.328.5200 (fax)
www.ndhealth.gov

May 1, 2013

Ms. Mandy Bohnenblust
Barr Engineering Company
4700 West 77th Street, Suite 200
Minneapolis, MN 55435

Re: Minnesota Power 250kV Overhead Line Reroutes
Kidder and Stutsman Counties, North Dakota

Dear Ms. Bohnenblust:

This department has reviewed the information concerning the above-referenced project submitted under date of May 17, 2013, with respect to possible environmental impacts.

This department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. With respect to construction, we have the following comments:

1. All necessary measures must be taken to minimize fugitive dust emissions created during construction activities. Any complaints that may arise are to be dealt with in an efficient and effective manner.

2. Care is to be taken during construction activity near any water of the state to minimize adverse effects on a water body. This includes minimal disturbance of stream beds and banks to prevent excess siltation, and the replacement and revegetation of any disturbed area as soon as possible after work has been completed. Caution must also be taken to prevent spills of oil and grease that may reach the receiving water from equipment maintenance, and/or the handling of fuels on the site. Guidelines for minimizing degradation to waterways during construction are attached.

3. Noise from construction activities may have adverse effects on persons who live near the construction area. Noise levels can be minimized by ensuring that construction equipment is equipped with a recommended muffler in good working order. Noise effects can also be minimized by ensuring that construction activities are not conducted during early morning or late evening hours.

The department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

These comments are based on the information provided about the project in the above-referenced submittal. The U.S. Army Corps of Engineers may require a water quality certification from this department for the project if the project is subject to their Section 404 permitting process. Any additional information which may be required by the U.S. Army Corps of Engineers under the process will be considered by this department in our determination regarding the issuance of such a certification.

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,

L. David Glatt, P.E., Chief
Environmental Health Section

LDG:cc
Attach.

NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
Gold Seal Center, 918 E. Divide Ave.
Bismarck, ND 58501-1947
701.328.5200 (fax)
www.ndhealth.gov

Construction and Environmental Disturbance Requirements

These represent the minimum requirements of the North Dakota Department of Health. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect the waters of the State of North Dakota. All projects will be designed and implemented to restrict the losses or disturbances of soil, vegetative cover, and pollutants (chemical or biological) from a site.

Soils

Prevent the erosion of exposed soil surfaces and trapping sediments being transported. Examples include, but are not restricted to, sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap, mesh or burlap blankets to hold soil during construction, and immediately establishing vegetative cover on disturbed areas after construction is completed. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, or land resources will be protected against compaction, vegetation loss, and unnecessary damage.

Surface Waters

All construction which directly or indirectly impacts aquatic systems will be managed to minimize impacts. All attempts will be made to prevent the contamination of water at construction sites from fuel spillage, lubricants, and chemicals, by following safe storage and handling procedures. Stream bank and stream bed disturbances will be controlled to minimize and/or prevent silt movement, nutrient upsurges, plant dislocation, and any physical, chemical, or biological disruption. The use of pesticides or herbicides in or near these systems is forbidden without approval from this Department.

Fill Material

Any fill material placed below the high water mark must be free of top soils, decomposable materials, and persistent synthetic organic compounds (in toxic concentrations). This includes, but is not limited to, asphalt, tires, treated lumber, and construction debris. The Department may require testing of fill materials. All temporary fills must be removed. Debris and solid wastes will be removed from the site and the impacted areas restored as nearly as possible to the original condition.

NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
Gold Seal Center, 918 E. Divide Ave.
Bismarck, ND 58501-1947
701.328.5200 (fax)
www.ndhealth.gov

May 1, 2013

Ms. Mandy Bohnenblust
Barr Engineering Company
4700 West 77th Street, Suite 200
Minneapolis, MN 55435

Re: Minnesota Power 250kV Overhead Line Reroutes
Kidder and Stutsman Counties, North Dakota

Dear Ms. Bohnenblust:

This department has reviewed the information concerning the above-referenced project submitted under date of April 18, 2013, with respect to possible environmental impacts.

This department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. With respect to construction, we have the following comments:

1. All necessary measures must be taken to minimize fugitive dust emissions created during construction activities. Any complaints that may arise are to be dealt with in an efficient and effective manner.

2. Care is to be taken during construction activity near any water of the state to minimize adverse effects on a water body. This includes minimal disturbance of stream beds and banks to prevent excess siltation, and the replacement and revegetation of any disturbed area as soon as possible after work has been completed. Caution must also be taken to prevent spills of oil and grease that may reach the receiving water from equipment maintenance, and/or the handling of fuels on the site. Guidelines for minimizing degradation to waterways during construction are attached.

3. Projects disturbing one or more acres are required to have a permit to discharge storm water runoff until the site is stabilized by the reestablishment of vegetation or other permanent cover. Further information on the storm water permit may be obtained from the Department's website or by calling the Division of Water Quality (701-328-5210). Also, cities may impose additional requirements and/or specific best management practices for construction affecting their storm drainage system. Check with the local officials to be sure any local storm water management considerations are addressed.

4. Noise from construction activities may have adverse effects on persons who live near the construction area. Noise levels can be minimized by ensuring that construction equipment is

equipped with a recommended muffler in good working order. Noise effects can also be minimized by ensuring that construction activities are not conducted during early morning or late evening hours.

The department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,

L. David Glatt, P.E., Chief
Environmental Health Section

LDG:cc
Attach.

NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
Gold Seal Center, 918 E. Divide Ave.
Bismarck, ND 58501-1947
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Construction and Environmental Disturbance Requirements

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Fill Material

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From: Schumacher, John D. [mailto:jdschumacher@nd.gov]
Sent: Monday, June 10, 2013 5:30 PM
To: Mandy Bohnenblust
Subject: FW: MN Power 250kV Overhead Line Reroutes - Kidder & Stutsman Co.

Ms. Bohnenblust,

The North Dakota Game and Fish Department has reviewed this project as amended and has no additional concerns.

JOHN SCHUMACHER
RESOURCE BIOLOGIST
ND GAME AND FISH DEPT
701.328.6321

From: Schumacher, John D. [mailto:jdschumacher@nd.gov]
Sent: Tuesday, May 14, 2013 9:40 AM
To: Mandy Bohnenblust
Subject: MN Power 250kV Overhead Line Reroutes - Kidder & Stutsman Co.

Ms. Bohnenblust,

The North Dakota Game and Fish Department has reviewed this project for wildlife concerns. We do not believe it will have any significant adverse effects on wildlife or wildlife habitat based on the information provided.

We would appreciate being updated on the plan to remove the existing structures from the wetlands after it is developed.

JOHN SCHUMACHER
RESOURCE BIOLOGIST
ND GAME AND FISH DEPT
701.328.6321

Jack Dalrymple, Governor
Mark A. Zimmerman, Director

1600 East Century Avenue, Suite 3
Bismarck, ND 58503-0649
Phone 701-328-5357
Fax 701-328-5363
E-mail parkrec@nd.gov
www.parkrec.nd.gov

May 10, 2013

Mr. Mandy Bohnenblust
Barr Engineering
4700 West 77th Street
Suite 200
Minneapolis, MN 58435

Re: Minnesota Power 250kV Overhead Line Reroutes in Kidder and Stutsman Counties, North Dakota.

Dear Mr. Bohnenblust,

The North Dakota Parks and Recreation Department (the Department) has reviewed the above referenced proposed Minnesota Power 250kV Overhead Line Reroutes in Kidder and Stutsman Counties, North Dakota.

Our agency scope of authority and expertise covers recreation and biological resources (in particular rare plants and ecological communities). The project as defined does not affect state park lands that we manage or Land and Water Conservation Fund recreation projects that we coordinate.

The North Dakota Natural Heritage biological conservation database has been reviewed to determine if any plant or animal species of concern or other significant ecological communities are known to occur within an approximate one-mile radius of the project area. Based on this review, we several species of concern documented in adjacent sections to project area. Please see the attached spreadsheet and map for more information on these occurrences.

Because this information is not based on a comprehensive inventory, there may be species of concern or otherwise significant ecological communities in the area that are not represented in the database. The lack of data for any project area cannot be construed to mean that no significant features are present. The absence of data may indicate that the project area has not been surveyed, rather than confirm that the area lacks natural heritage resources.

Given the potential for not only habitat disturbance and disruption but the threat to nesting, feeding and migratory bird in the area we suggest that all efforts be made to avoid impacts to waterfowl and wildlife species and their habitats. In an effort to avoid or minimize impacts to waterfowl and wildlife and their habitats we encourage proper evaluation of all potential overhead line reroutes. To identify and assess adverse impacts to waterfowl and wildlife we suggest pre and post construction avian monitoring studies be conducted.

Regarding any reclamation efforts, we recommend that any impacted areas be revegetated with species native to the project area.

We appreciate your commitment to rare plant, animal and ecological community conservation, management and inter-agency cooperation to date. For additional information please contact Kathy Duttenhefner (701-328-5370 or kgduttenhefner@nd.gov) of our staff. Thank you for the opportunity to comment on this proposed project.

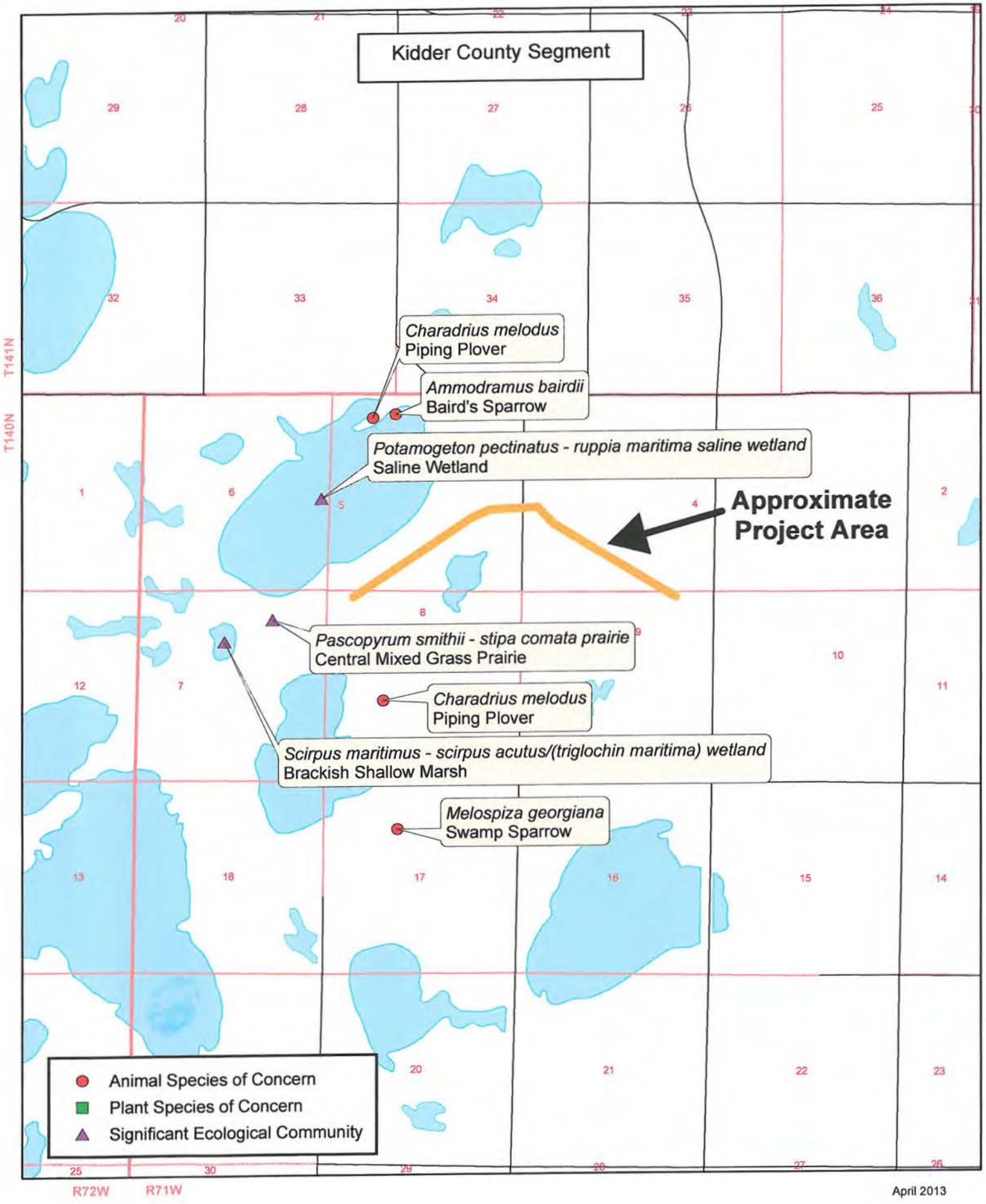
Sincerely,

for Kathy Duttenhefner

Jesse Hanson, Manager
Planning and Natural Resources Division

R.USNDNHI*2013-062KD5/10/2013DL5.18.2013

North Dakota Parks and Recreation Department
North Dakota Natural Heritage Inventory



April 2013

North Dakota Natural Heritage Inventory

Rare Animal and Plant Species and Significant Ecological Communities

State Scientific Name	State Common Name	State Rank	Global Rank	Federal Status	Township Range Section	County	Last Observation	Estimated Representation Accuracy	Precision
Ammodramus bairdii	Baird's Sparrow	SU	G4		140N071W - 05	Kidder	1982-06-11		S
Charadrius melodus	Piping Plover	S1S2	G3	LE,LT	140N071W - 05; 141N071W - 33; 140N071W - 06; 141N071W - 34	Kidder	1991	Low	S
Charadrius melodus	Piping Plover	S1S2	G3	LE,LT	140N071W - 08; 140N071W - 05; 140N071W - 17; 140N071W - 18; 140N071W - 06; 140N071W - 09; 140N071W - 07; 140N071W - 16; 140N071W - 04	Kidder	1972	Low	M
Melospiza georgiana	Swamp Sparrow	S3	G5		140N071W - 17; 141N071W - 19; 141N071W - 36; 141N071W - 23; 140N072W - 10; 139N071W - 07; 140N072W - 26; 140N070W - 06; 140N070W - 18; 140N072W - 16; 141N071W - 33; 140N070W - 07; 140N072W - 09; 141N071W - 24; 141N071W - 32; 140N072W - 36; 141N070W - 32; 1	Kidder			G
Pascopyrum smithii - stipa comata prairie	Central Mixed Grass Prairie	S2	GNR		140N071W - 07	Kidder	1984-06-27		S
Potamogeton pectinatus - ruppia maritima saline wetland	Saline Wetland	S3	GNR		140N071W - 06; 140N071W - 05	Kidder	1982-06-11		S
Scirpus maritimus - scirpus acutus/(triglochin maritima) wetland	Brackish Shallow Marsh	S3	GNR		140N071W - 07	Kidder	1984-06-27		S

North Dakota Natural Heritage Inventory Biological and Conservation Data Disclaimer

The quantity and quality of data collected by the North Dakota Natural Heritage Inventory are dependent on the research and observations of many individuals and organizations. In most cases, this information is not the result of comprehensive or site-specific field surveys; many natural areas in North Dakota have never been thoroughly surveyed, and new species are still being discovered. For these reasons, the Natural Heritage Inventory cannot provide a definite statement on the presence, absence, or condition of biological elements in any part of North Dakota. Natural Heritage data summarize the existing information known at the time of the request. Our data are continually upgraded and information is continually being added to the database. This data should never be regarded as final statements on the elements or areas that are being considered, nor should they be substituted for on-site surveys.

Estimated Representation Accuracy

Value that indicates the approximate percentage of the Element Occurrence Representation (EO Rep) that was observed to be occupied by the species or community (versus buffer area added for locational uncertainty). Use of estimated representation accuracy provides a common index for the consistent comparison of EO reps, thus helping to ensure that aggregated data are correctly analyzed and interpreted.

Very high (>95%)
High (>80%, <= 95%)
Medium (>20%, <= 80%)
Low (>0%, <= 20%)
Unknown
(null) - Not assessed

Precision

A single-letter code for the precision used to map the Element Occurrence (EO) on a U.S. Geological Survey (USGS) 7.5' (or 15') topographic quadrangle map, based on the previous Heritage methodology in which EOs were located on paper maps using dots.

S - Seconds: accuracy of locality mappable within a three-second radius; 100 meters from the centerpoint
M - Minute: accuracy of locality mappable within a one-minute radius; 2 km from the centerpoint
G - General: accuracy of locality mappalbe to map or place name precision only; 8 km from centerpoint
U - Unmappable

ND Parks and Recreation Department

ND Natural Heritage Inventory
1600 East Century Ave., Suite 3
Bismarck, ND 58503-0649
(701) 328-5370 FAX: (701) 328-5363

INVOICE

INVOICE NO: 0162
DATE5/10/2013

Mandy Bohnenblust
Barr Engineering Cp.
4700 West 77th Street, Suite 200
Minneapolis, MN 55435

CONTACT	REFERENCE NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS
K.Duttenhefner	NHI_2013_062	5/1013	usps		

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1	Data retrieval, data analysis, manual and computer searches, packaging and collection of data. ProjectMinnesota Power 250kV Overhead Line Reroutes, Kidder and Stutsman Counties, North Dakota	$ 60.00	$ 60.00
		SUBTOTAL	$ 60.00
		SALES TAX	
		SHIPPING & HANDLING	
		TOTAL DUE	$ 60.00

Make all checks payable to: ND Parks and Recreation Department
If you have any questions concerning this invoice, call: Kathy Duttenhefner, (701) 328-5370

THANK YOU FOR YOUR INTEREST IN RARE SPECIES CONSERVATION.

Entry Event	Fund	Dept.	Project	Activity
463021	398	1508	OR15082	15082

North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850
701-328-2750 • TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: http://swc.nd.gov

June 10, 2013

Mandy Bohnenblust
Barr Engineering
4700 West 77 Street, STE 200
Minneapolis, MN 55435

Dear Ms. Bohnenblust:

This is in response to your request for review of environmental effects associated with the Minnesota Power 250 kV Overhead Line Reroutes project located in Kidder and Stutsman Counties.

The proposed project has been reviewed by State Water Commission staff and the following comments are provided:

- There are no floodplains identified and/or mapped where this proposed project is to take place. The area is designated as a Zone X. It is also believed that the project will not affect an identified floodplain as identified by the National Flood Insurance Program (NFIP). The NFIP maps used to make this determination are: Kidder County – Unmapped County; and Stutsman County, Panel #38093C0725E, Date 5/24/2011.

- It is the responsibility of the project sponsor to ensure that local, state and federal agencies are contacted for any required approvals, permits, and easements.

- All waste material associated with the project must be disposed of properly and not placed in identified floodway areas.

- No sole-source aquifers have been designated in ND.

There are no other concerns associated with this project that affect State Water Commission or State Engineer regulatory responsibilities.

Thank you for the opportunity to provide review comments. If you have any questions, please call me at 701-328-4967.

Sincerely,

Linda Weispfenning
Water Resource Planner

LW:dp/1570

North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850
701-328-2750 • TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: http://swc.nd.gov

May 16, 2013

Mandy Bohnenblust
Barr Engineering
4700 West 77th Street, STE 200
Minneapolis, MN 55435

Dear Ms. Bohnenblust:

This is in response to your request for review of environmental impacts associated with Minnesota Power's reroute of two segments of 250kV overhead power line in Kidder and Stutsman Counties, ND.

The proposed project has been reviewed by State Water Commission staff and the following comments are provided:

- There are no floodplains identified and/or mapped where this proposed project is to take place. The area is designated as a Zone X. It is also believed that the project will not affect an identified floodplain as identified by the National Flood Insurance Program (NFIP). The NFIP map used to make this determination is: Stutsman County, Panel #38093C0725E, Date: 5/24/2011. Kidder County – unmapped area.

- It is the responsibility of the project sponsor to ensure that local, state and federal agencies are contacted for any required approvals, permits, and easements.

- All waste material associated with the project must be disposed of properly and not placed in identified floodway areas.

- No sole-source aquifers have been designated in ND.

There are no other concerns associated with this project that affect State Water Commission or State Engineer regulatory responsibilities.

Thank you for the opportunity to provide review comments. If you have any questions, please call me at 701-328-4967.

Sincerely,

Linda Weispfenning
Water Resource Planner

LW:dp/1570

STATE HISTORICAL SOCIETY OF NORTH DAKOTA

May 22, 2013

Ms. Mandy Bohnenblust
Project Manager
Barr Engineering Co.
4700 West 77th St., Suite 200
Minneapolis, MN 55435

ND SHPO Ref.:13-0792 RUS Minnesota Power Two 250kV Overhead Line Reroutes in portions of [140N R71W Sections 4, 5 and T140N R68W Section 15] Kidder and Stutsman Counties, North Dakota

Dear Ms. Bohnenblust,

We reviewed ND SHPO Ref.:13-0792 RUS Minnesota Power Two 250kV Overhead Line Reroutes in portions of [140N R71W Sections 4, 5 and T140N R68W Section 15] Kidder and Stutsman Counties, North Dakota and if consulted by a federal agency, would concur with a "No Historic Properties Affected" determination, provided the project remains as described and mapped in your correspondence dated May 17, 2013.

Thank you for the opportunity to review this project. If you have any questions please contact Susan Quinnell, Review and Compliance Coordinator at (701) 328-3576, e-mail squinnell@nd.gov

Sincerely,

Merlan E. Paaverud, Jr.
State Historic Preservation Officer (North Dakota)
and Director, State Historical Society of North Dakota

STATE HISTORICAL SOCIETY OF NORTH DAKOTA

April 23, 2013

Ms. Mandy Bohnenblust
Project Manager
Barr Engineering
4700 West 77th Street, Suite 200
Minneapolis, MN 55435

ND SHPO Ref.:13-0792 RUS Minnesota Power Two 250kV Overhead Line Reroutes in portions of [T140N R71N Sections 4, 5 and T140N R68 W Section 16] Kidder and Stutsman Counties, North Dakota

Dear Ms. Bohenblust,

We reviewed your documentation regarding ND SHPO Ref.:13-0792 RUS Minnesota Power Two 250kV Overhead Line Reroutes in portions of [T140N R71N Sections 4, 5 and T140N R68 W Section 16] Kidder and Stutsman Counties, North Dakota. We recommend a Class III (pedestrian) survey of the project area in these project areas.

Thank you for the opportunity to review this project to date. We look forward to review of the Class III report. If you have any questions please contact Susan Quinnell, Review and Compliance Coordinator at (701) 328-3576, e-mail squinnell@nd.gov

Sincerely,

Merlan E. Paaverud, Jr.
State Historic Preservation Officer (North Dakota)
and Director, State Historical Society of North Dakota

Stutsman County

511 2nd Ave. S.E. Suite 102
Jamestown, ND 58401
Phone: 701-252-9035

May 2, 2013

Barr Engineering Co.
Attn: Mandy Bohnenblust
4700 West 77th Street, Suite 200
Minneapolis, MN 55435

Dear Ms. Bohnenblust

I have received your letter dated April 18th, 2013 in regards to the Minnesota Power 250kV Overhead Line Reroute projects in Kidder and Stutsman Counties. I appreciate the forward thinking in seeking input from the local jurisdictions as your project makes its way through the permitting process.

The purpose and intent of the Stutsman County Zoning Ordinance states "It is intended that the establishment of this ordinance will promote orderly and non-conflicting uses of land and property, protect property rights, ensure the provisions of adequate public services, and to promote conservation of land, water, and other natural resources."

In your letter you state that your firm intends to ensure that all known social, economic, and environmental effects are considered in the development of the project. The area of the project located in a very rural portion of Stutsman County. The nearest residence to your proposed reroute project is approximately .85 miles away with the second nearest residence at approximately 1.35 miles away. It is in my opinion that there will be little, if any, social or economic impact resulting from this project.

Environmental concerns are not as transparent however. Obviously the cause of the project can ultimately be blamed on the hydrology in the area. I have researched the project using various forms of aerial images including Google Earth. From what I can gather from those images, I can identify two utility structures that are completely inundated with water that will be obsolete when the new path of the transmission line is in place. From a local zoning standpoint those structures that are now located in water pose a concern in regards to public and environmental safety if allowed to remain standing. Stutsman County would like to see documentation that would address how the structures are to be removed so as to minimize contamination of the surrounding waters and eliminate a potential public safety hazard.

Stutsman County

511 2nd Ave. S.E. Suite 102
Jamestown, ND 58401
Phone: 701-252-9035

Also, in regards to local zoning, this project is located in an area that is currently zoned as an Agricultural District. According to the Stutsman County Zoning Ordinance, communication towers, lines, and equipment are a permitted use in an Agricultural zone. Rezoning will not be required for this project however "no person, firm, or corporation shall erect, construct, make structural changes, or move any structure, excluding agricultural buildings without first obtaining a Building Permit." Stutsman County will require a separate permit in the amount of $10 for each individual structure whether it be erected as new, moved to a new location, or removed permanently.

A copy of any available plans and/or documentation in regards to the project shall be submitted with the application for permit. Failure to provide this information may be grounds for a denial of a Building Permit.

If there are any further questions in regards to this project or a portion thereof that are within the jurisdiction of Stutsman County you may contact the office of the Zoning Administrator at 701-252-9035 or by email at dubakken@nd.gov.

Respectfully,

Dustin Bakken
Stutsman County
Director of Tax Equalization/
Zoning Administrator