

APPENDIX F

AGENCY NOTIFICATION LETTERS AND RESPONSES

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Agency	July 27, 2012 Study Area Notification Response	September 25, 2012 Corridor Notification Response	February 5, 2013 Preliminary Route Notification Response	May 6, 2013 Preferred Route Notification Response	August 29, 2012 Interagency Meeting (only noted if an invitation was sent)	January 17, 2013 Interagency Meeting (only noted if an invitation was sent)	Additional Correspondences	
	See pages F-15 – F-68	See pages F-69 – F-81	See pages F-82 – F-83	See pages F-84 – F-136	Minutes on pages F147-F151	Minutes on pages F166-F169	See pages F-136-F-230	
Federal	Federal Aviation Administration	September 20, 2012	December 18, 2012	No Response	No Response		Did Not Attend	No
	Federal Highway Administration	No Response	No Response	No Response	No Response	Attended	Did Not Attend	No
	National Park Service	No Response	No Response	No Response	July 10, 2013 (email)			No
	U.S. Army Corps of Engineers	August 1, 2012	No Response	No Response	May 14, 2013	Did Not Attend	Attended	<ul style="list-style-type: none"> January 11, 2013 – Letter of Jurisdictional Determination February 6, 2013 – Email response in reference to water crossings
	U.S. Fish and Wildlife Service	August 7, 2012	November 1, 2012	March 20, 2013 (Email response from Waubay National Wildlife Refuge Department)	July 24, 2013	Attended	Attended	<ul style="list-style-type: none"> July 31, 2012 - Meeting February 7, 2013 – Email follow up on NEPA process with Kulm WMD March 20, 2013 Email with comments on NEPA process March 25, 2013 – Email correspondence with Kulm WMD August 20, 2013 Meeting Ongoing Email and Phone Correspondences for GIS data
	U.S. Forest Service	No Response	No Response	No Response	No Response			No
	U.S. Geological Survey	No Response	No Response	No Response	No Response			No
	USDA Natural Resources Conservation Service	No Response	No Response	No Response	May 16, 2013	Did Not Attend	Did Not Attend	<ul style="list-style-type: none"> Ongoing email correspondences for GIS data
	USDA Rural Development	No Response	No Response	No Response	No Response			No
	U.S. Dept of the Interior Bureau of Reclamation	August 10, 2012	No Response	No Response	No Response	Attended	Attended	No
State	Job Service North Dakota	No Response	No Response	No Response	No Response			No
	NDSU Extension Service - North Dakota State Soil Conservation Committee	No Response	No Response	No Response	No Response			No

Agency	July 27, 2012 Study Area Notification Response	September 25, 2012 Corridor Notification Response	February 5, 2013 Preliminary Route Notification Response	May 6, 2013 Preferred Route Notification Response	August 29, 2012 Interagency Meeting (only noted if an invitation was sent)	January 17, 2013 Interagency Meeting (only noted if an invitation was sent)	Additional Correspondences	
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State	North Dakota Aeronautics Commission	August 6, 2012 (email)	No Response	No Response	No Response		No	
	North Dakota Department of Agriculture	No Response	No Response	No Response	No Response		No	
	North Dakota Department of Career and Technical Education	No Response	No Response	No Response	No Response		No	
	North Dakota Department of Commerce	No Response	No Response	No Response	May 13, 2013		No	
	North Dakota Department of Emergency Services	No Response	No Response	No Response	May 9, 2013		No	
	North Dakota Department of Health	August 13, 2012	No Response	No Response	May 14, 2013	Did Not Attend	Did Not Attend	No
	North Dakota Department of Human Services	No Response	No Response	No Response	No Response			No
	North Dakota Department of Labor	No Response	No Response	No Response	No Response			No
	North Dakota Department of Transportation	August 15, 2012	No Response	No Response	May 15, 2013	Attended	Attended	<ul style="list-style-type: none"> May 17, 2013 – Email in reference to preferred route letter and additional right-of-way crossing information
	North Dakota Energy Development Impact Office	No Response	No Response	No Response	No Response			No
	North Dakota Game and Fish Department	August 14, 2012	No Response	No Response	July 18, 2013 (email)	Attended	Attended	No
	North Dakota Geological Survey	No Response	No Response	No Response	No Response			No
	North Dakota Highway Patrol	Did not receive a notification	No Response	No Response	No Response			No
	North Dakota Indian Affairs Commission	No Response	No Response	No Response	No Response			No
	North Dakota Parks and Recreation Department	August 14, 2012	No Response	No Response	No Response	Did Not Attend	Attended	<ul style="list-style-type: none"> Ongoing Correspondence for GIS data
North Dakota State Land Department	No Response	No Response	No Response	No Response			No	

Agency		July 27, 2012 Study Area Notification Response	September 25, 2012 Corridor Notification Response	February 5, 2013 Preliminary Route Notification Response	May 6, 2013 Preferred Route Notification Response	August 29, 2012 Interagency Meeting (only noted if an invitation was sent)	January 17, 2013 Interagency Meeting (only noted if an invitation was sent)	Additional Correspondences
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State	North Dakota State Water Commission	August 9, 2012	No Response	No Response	May 16, 2013	Attended	Attended	No
	Office of Management and Budget	No Response	No Response	No Response	No Response			No
	State Historical Society of North Dakota	August 3, 2012 (email)	No Response	No Response	July 9, 2013	Attended	Attended	<ul style="list-style-type: none"> • August 29, 2012 - Meeting • February 7, 2013 Meeting • July 25, 2013 – Response to Survey Approach • Ongoing Email Correspondence in reference to Data
Local	Dickey County	No Response	No Response	No Response	No Response			<ul style="list-style-type: none"> • August 29, 2012 - Meeting • January 29, 2013 Meeting • May 30, 2013 – Phone call about preferred route • August 22, 2013 – Phone call to notify of application schedules
	City of Ellendale	No Response	No Response	No Response	No Response			No
Tribal	Bureau of Indian Affairs, Great Plains Region	No Response	No Response	No Response	May 17, 2013			<ul style="list-style-type: none"> • August 7, 2012 Meeting
	Sisseton-Wahpeton Oyate	No Response	No Response	No Response	No Response			<ul style="list-style-type: none"> • October 2, 2012 Meeting • March 8, 2013 Meeting • May 7, 2013 Meeting • May 8, 2013 Meeting • June 13, 2013 Meeting
	Standing Rock	No Response	No Response	No Response	No Response			<ul style="list-style-type: none"> • October 2, 2012 Meeting • March 8, 2013 Meeting • May 7, 2013 Meeting • June 13, 2013 Meeting

Letters to the Agencies



July 27, 2012

<NAME>

<ADDRESS>

**RE: Request for Information
Montana-Dakota Utilities Co. and Otter Tail Power Company
Proposed Big Stone South to Ellendale 345kV Transmission Line Project
North Dakota and South Dakota**

Dear <NAME>,

Montana-Dakota Utilities Co. (Montana-Dakota) and Otter Tail Power Company (OTP) request your review of the above-mentioned Project for information and potential impacts relating to state land resources that may be present within the study area. The project will require a *Certificate of Corridor Compatibility* and a *Route Permit* from the North Dakota Public Service Commission (PSC).

Montana-Dakota and Otter Tail Power Company plan to construct a 345kV transmission line in North Dakota and South Dakota and a new Ellendale 345kV Junction Substation in North Dakota. The transmission line will be approximately 150 to 175 miles long. We call it the Big Stone South to Ellendale (BSSE) Project. The transmission line will connect a new Ellendale 345kV Junction Substation, proposed to be located about 1.5 miles west of Ellendale in Dickey County, North Dakota to the proposed Big Stone South Substation, which is part of a separate project and is anticipated to be located near the Big Stone Plant at Big Stone City in Grant County, South Dakota. The Big Stone South Substation is proposed by the Big Stone South to Brookings Project and is not a part of the BSSE Project. The BSSE Project will increase the transfer capacity on the current transmission system, serve as a generation outlet, and add system reliability.

Because the project is in the preliminary planning stages, exact route alternatives have not yet been established. Our consultant, HDR Engineering, Inc. is gathering data to prepare the PSC Application. To assist in project siting and design, we are sending this letter to provide you with the opportunity to review the area. ***We are seeking any comments and supporting information relevant to the study area that would help identify opportunities and constraints for siting the proposed transmission line.*** You can see the project study area on the enclosed map.

To help us identify and evaluate potential resource issues that could be included in the corridor analysis and ultimately the PSC Application, which we expect to submit August 2013, please provide Chad Miller (contact information below) with any information pertaining to the BSSE Project by August 15, 2012.

Also in the near future, Montana-Dakota and Otter Tail Power Company are planning to attend the North Dakota interagency meeting at the US Army Corps of Engineer's office in Bismarck, ND. You may also want to attend to share any initial feedback on the project that you may have.

Montana-Dakota and Otter Tail Power Company – Big Stone South to Ellendale Project
345 kV Transmission Line

July 27, 2012

If you have questions or comments during your review, or if you would like a GIS file of the study area, please contact Chad Miller at (701) 222-7865 or chad.miller@mdu.com.

Sincerely,

Montana-Dakota Utilities Co.

Otter Tail Power Company



Henry Ford
Project Developer

Dean Pawlowski
Project Developer

Enclosures: Figure 1 - Study Area Map



September 25, 2012

ADDRESS

**RE: Project update with study corridors
Montana-Dakota Utilities Co. and Otter Tail Power Company
Proposed Big Stone South to Ellendale 345 kV Transmission Line Project**

Dear,

This is an update on the Big Stone South to Ellendale transmission line project. You may recall that Montana-Dakota Utilities Co. and Otter Tail Power Company plan to construct a 345 kV transmission line approximately 150 miles to 175 miles long between a new Ellendale Junction substation, proposed to be located near Ellendale in Dickey County, North Dakota, and the proposed Big Stone South substation, which is part of a separate project and will be located near Big Stone City in Grant County, South Dakota. This transmission project will improve reliability, increase system capacity and support public policy by enabling renewable energy to integrate into the system.

Since you received our notification letter we have:

- Launched www.BSSetransmissionline.com
- Established a toll-free information line at (886) 283-4678.
- Identified study corridors within the study area.

Our project team gathered input at meetings with federal, state, and local agencies on routing constraints and opportunities within the initial study area. This input along with field reviews, data available in the project area, and engineering factors helped to develop study corridors, which are identified on the enclosed map. We evaluated the following criteria:

- Existing rights-of-way (transmission lines, pipelines, railway, or roads), survey lines, and natural division lines.
- Populated areas.
- High densities of environmental natural features.
- River crossing locations.
- Public and private airports.
- Length.

We are seeking information related to the study corridors to help us identify a location for the transmission line. If your jurisdiction is now outside the study corridors, we appreciate your feedback to date and we welcome any additional thoughts you have on the project development.

We will be hosting open house meetings at six locations throughout the study corridors the week of October 15, 2012. The following table provides detailed information for each of the open house meetings. You are welcome to attend and share your feedback with the project team.

Montana-Dakota Utilities Co. and Otter Tail Power Company
 Big Stone South to Ellendale Project 345 kV Transmission Line

Monday, October 15	Tuesday, October 16	Wednesday, October 17	Thursday, October 18
5:00 – 7:00 pm Wheaton Library Community Room 901 1 st Avenue North Wheaton, MN 56296	11:00 am – 1:00 pm Milbank Visitor Center Community Room 1001 East 4 th Avenue Milbank, SD 57252	11:00 am – 1:00 pm Dakota Event Center 720 Lamont Street Aberdeen, SD 57401	11:00 am – 1:00 pm Marshall County Meeting Room 909 South Main Street Britton, SD 57430
	5:00 – 7:00 pm The Galley 230 Highway 12 Webster, SD 57274	5:00 – 7:00 pm Fireside Restaurant & Lounge 415 1 st Avenue North Ellendale, ND 58436	

We appreciate your ongoing participation in this project and look forward to continuing to work with you. If you have questions, comments, feedback or would like a GIS file of the study corridors, please contact Chad Miller at (701) 222-7865 or chad.miller@mdu.com.

Chad Miller
 Montana Dakota Utilities Co.
 400 North Fourth Street
 Bismarck, ND 58501-4092

Sincerely,

Montana-Dakota Utilities Co.



Henry Ford
 Project Developer

Otter Tail Power Company



Dean Pawlowski
 Project Developer

Enclosures: Figure 1 - Study Corridors Map



<DATE>

ADDRESS

**RE: Project Update with Preliminary Routes
Montana-Dakota Utilities Co. and Otter Tail Power Company
Proposed Big Stone South to Ellendale 345 kV Transmission Line Project**

Dear,

Montana-Dakota Utilities Co. and Otter Tail Power Company will hold public meetings the week of February 25, 2013, to obtain feedback on the preliminary routes for the Big Stone South to Ellendale 345 kV transmission line project. As you may recall, the project consists of a proposed 345 kV transmission line that will be 150 miles to 175 miles long. The project will be located between the proposed Ellendale Junction substation, which would be located near Ellendale in Dickey County, North Dakota, and the proposed Big Stone South substation, which is part of a separate project and will be located near Big Stone City in Grant County, South Dakota. Construction of this project will improve reliability, increase system capacity and support public policy by enabling renewable energy to integrate into the system. You can find more information by visiting www.BSSEtransmissionline.com or by calling our toll-free information line at (888) 283-4678.

In October 2012, the project team gathered input from federal, state, and local agencies and the public at open house meetings within the initial study area and study corridors. This input along with field reviews, data available in the project area, and engineering factors helped to develop preliminary routes, identified on the enclosed map. The preliminary routes minimize effects upon constraints within the corridors and are the focus of route development. We evaluated the following criteria to identify the preliminary routes:

- Existing rights-of-way (transmission lines, pipelines, railway, or roads), survey lines, and natural division lines
- Populated areas
- High densities of environmental natural features
- River crossing locations
- Public and private airports
- Length

Now we are seeking information related to the preliminary routes and encourage you to attend one of our upcoming meetings. If your jurisdiction is now outside of the updated study corridors that the preliminary routes are located within (see enclosed map), you may not want to continue to provide feedback. If so, we understand and thank you for your earlier involvement. If not, we welcome your continued participation, knowing that we currently are not reviewing route options outside of the updated study corridors.

The project team will hold open house meetings at five locations during the week of February 25, 2013. These meetings will include a brief presentation followed by an open house format during which

Montana-Dakota Utilities Co. and Otter Tail Power Company
 Big Stone South to Ellendale Project 345 kV Transmission Line

attendees may review maps and talk with project specialists. You are welcome to attend and share your ideas with the project team.

Monday, February 25	Tuesday, February 26	Wednesday, February 27
<p>Groton Area School 5:30 – 7:00 pm Presentation at 6:00 pm Groton, SD</p>	<p>Fireside Restaurant and Lounge 11:30 am – 1:00 pm Presentation at 12:00 pm Ellendale, ND</p>	<p>The Galley 11:30 am – 1:00 pm Presentation at 12:00 pm Webster, SD</p>
	<p>Amacher Auditorium 5:30 – 7:00 pm Presentation at 6:00 pm Britton, SD</p>	<p>Milbank Visitor Center 5:30 – 7:00 pm Presentation at 6:00 pm Milbank, SD</p>

We appreciate your ongoing participation in this project and look forward to continuing to work with you. If you have questions, comments or feedback, please contact Chad Miller at (701) 222-7865 or chad.miller@mdu.com or mail him at:

Chad Miller
 Montana-Dakota Utilities Co.
 400 North Fourth Street
 Bismarck, ND 58501-4092

Sincerely,

Montana-Dakota Utilities Co.

Otter Tail Power Company




Henry Ford
 Project Developer

Dean Pawlowski
 Project Developer

Enclosures: Preliminary Routes Map



<DATE>

ADDRESS

**RE: Project Update with Preferred Route
Montana-Dakota Utilities Co. and Otter Tail Power Company
Proposed Big Stone South to Ellendale 345 kV Transmission Line Project**

Dear NAME,

Montana-Dakota Utilities Co. and Otter Tail Power Company have selected a preferred route for the proposed Big Stone South to Ellendale 345 kV transmission line project. As you may recall, the line will be 160 miles to 170 miles long and will be routed between a new substation to be located near Ellendale in Dickey County, North Dakota, and Big Stone South substation, which is part of a separate project and will be located near Big Stone City in Grant County, South Dakota. The Mid-Continent Independent System Operator (MISO, formally Midwest Independent Transmission System Operator) identified the need for this transmission line to improve reliability, increase electric system capacity and support public policy by enabling renewable and other forms of energy to integrate into the electric system. You can find more information by visiting www.BSSetransmissionline.com, calling our toll-free information line at (888) 283-4678, or contacting Chad Miller (information below).

In January, February and March 2013, we gathered input from tribal, federal, state, and local agencies and the public. We discussed routing constraints and opportunities near preliminary routes. Using this input, along with environmental and engineering considerations, the project team developed the preferred route. (See enclosed map. Please note three areas on the map called Additional Route Segments where the project team has not yet identified the preferred route.)

We evaluated the following criteria to identify the preferred route:

- Existing rights-of-way (transmission lines, pipelines, railway, or roads), survey lines, and natural division lines
- Populated areas
- High densities of important natural features
- High densities of cultural properties and sensitive traditional areas
- River crossing locations
- Public and private airports
- Length
- Input from agencies and landowners
- Input from tribes

The project is seeking comments related to the preferred route. If your jurisdiction is now outside of the preferred route, we appreciate your input to date. We are no longer reviewing route options outside of the preferred route; however, you are welcome to continue to provide feedback if you have thoughts on the project. For agencies with jurisdiction or interests within the preferred route, we are requesting comments

Montana-Dakota Utilities Co. and Otter Tail Power Company
Big Stone South to Ellendale Project 345 kV Transmission Line

on any permits or approvals that may be necessary or any other feedback that may affect the design, construction or schedule of the Project. **Particularly, Insert agency-specific language here.**

Please note that Montana-Dakota Utilities Co. and Otter Tail Power Company will be finalizing the route details in the next month in order to submit state routing permit applications in late summer 2013. Therefore, we request response from your office within 30 days of receipt of this letter so that, where feasible and appropriate, we may incorporate them into the application materials and route design. We appreciate your ongoing participation in this project and look forward to continuing to work with you. If you have questions, comments or feedback, please contact Chad Miller at (701) 222-7865, chad.miller@mdu.com, or by mail at the address below.

Chad Miller
Montana-Dakota Utilities Co.
400 North Fourth Street
Bismarck, ND 58501-4092

Sincerely,

Montana-Dakota Utilities Co.



Henry Ford
Project Developer

Otter Tail Power Company



Dean Pawlowski
Project Developer

Enclosures: Preferred Route Map

Agency Responses



REPLY TO
ATTENTION OF

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

August 1, 2012

North Dakota Regulatory Office

HDR Engineering, Inc
Attn: Brian Hunker
701 Xenia Avenue South Suite 600
Minneapolis, MN 55416

Dear Mr. Hunker:

This is in response to your letter dated July 27, 2012 requesting US Army Corps of Engineers (Corps) comments regarding the project to construct a 345kV transmission line in North Dakota and South Dakota and a new Ellendale 345kV Junction Substation in 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 impacting navigable waters. Section 10 waters in North Dakota are the Missouri River (including Lake Sakakawea and Lake Oahe), Yellowstone River, James River south of the railroad track in Jamestown, North Dakota, Bois de Sioux River, Red River of the North, and the Upper Des Lacs Lake. Work over, in, or under navigable waters is considered to have an impact. Section 404 of the Clean Water Act regulates the discharge of dredged 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 waters of the United States.

Please submit a location map and completed Corps permit application (copy enclosed) describing all proposed work and construction methodology, to the letterhead address if a Section 10/404 permit is required.

Do not hesitate to contact this office by letter or telephone (701-255-0015) if we can be of further assistance.

Sincerely,

Sam E. Werner
Acting Regulatory Program Manager
North Dakota

Enclosure



APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT (33 CFR 325)			OMB APPROVAL NO. 0710-0003 EXPIRES: 31 August 2012		
Public reporting burden 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 this 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 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: First - Middle - Last - Company - E-mail Address -			8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required) First - Middle - Last - Company - E-mail Address -		
6. APPLICANT'S ADDRESS. Address - City - State - Zip - Country -			9. AGENT'S ADDRESS Address - City - State - Zip - Country -		
7. APPLICANT'S PHONE NOS. W/AREA CODE a. Residence b. Business c. Fax			10. AGENT'S PHONE NOS. W/AREA CODE 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.					
_____ APPLICANT'S SIGNATURE			_____ 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)		
15. LOCATION OF PROJECT Latitude: °N Longitude: °W			Address 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
 Liner 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).

Address --
 City -- State -- Zip --

26. List of Other Certifications 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 a permit or permits to authorize the work described in this application. I certify that the 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, identify 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.**

From: Quinnell, Susan L. [<mailto:squinnell@nd.gov>]
Sent: Friday, August 03, 2012 2:54 PM
To: Miller, Chad
Subject: ND SHPO Ref: 12-1463 MDU & OtterTail Power company Proposed big stone South to Ellendale 345kV Transmission Line Project

Hello Chad,

We received the initial consultation letter on the Big Stone South to Ellendale project and note that an archaeological survey will be conducted. If you have a shape file of the North Dakota portion of the project, it would be helpful in review. Our e-mail can accept unzipped shapefiles, zipped attachments are stripped off.

Thanks.

Susan Quinnell
Review and Compliance Coordinator
ND State Historic Preservation Office
State Historical Society of North Dakota
North Dakota Heritage Center
612 East Boulevard Avenue
Bismarck ND 58505-0830

701-328-3576
701-328-3710 FAX

Kyle,

Thank you for your comments. As the routing process progresses, your comments and the Ellendale airport will be taken into consideration. Thanks again, I appreciate your time in providing comments to this project.

Sincerely,

Chad Miller

From: Wanner, Kyle C. [<mailto:kcwanner@nd.gov>]
Sent: Monday, August 06, 2012 8:41 AM
To: Miller, Chad
Cc: Taborsky, Lawrence E.
Subject: Big Stone South to Ellendale 345kV Transmission Line Project

Chad,

This e-mail is regards to the RFI on the Proposed Big Stone South to Ellendale 345kV Transmission Line Project.

The Ellendale Airport is located approximately 1 mile north east of the City of Ellendale. From the information I received, I notice that this area is in the study area of the project. As the area is further studied, please notice the location Ellendale airport and file the correct airspace form with the FAA at the below website if needed.

<https://oeaaa.faa.gov/oeaaa/external/portal.jsp>

Please also advise the Ellendale airport of any activities that may be taking place around the airport so that they may comment of the project or file a NOTAM for safety precautions if needed.

Regards,

Kyle Wanner, Aviation Planner
North Dakota Aeronautics Commission
w (701) 328-9651
c (701) 425-5926
<http://www.nd.gov/ndaero/>





United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
420 South Garfield Avenue, Suite 400
Pierre, South Dakota 57501-5408



August 7, 2012

Mr. Chad Miller
Montana-Dakota Utilities Company
400 North Fourth
Bismarck, North Dakota 58501

Re: Big Stone South to Ellendale 345 kV
Transmission Line Project, Numerous
Counties in North Dakota, South Dakota,
and Possibly Minnesota

Dear Mr. Miller:

This letter is in response to your request dated July 27, 2012, for environmental comments regarding the above referenced project involving the construction of a new 345 kV transmission line beginning at the new Ellendale Substation in Dickey County, North Dakota, and ending at the proposed Big Stone South Substation in Grant County, South Dakota. The transmission line may cross into Minnesota also.

Please consult the National Wetlands Inventory maps, available online at <http://wetlands.fws.gov/>, to determine what wetlands exist in the proposed project area. If a project may impact wetlands or other important fish and wildlife habitats, the U.S. Fish and Wildlife Service (Service), in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and other environmental laws and rules, recommends complete avoidance of these areas, if possible; then minimization of any adverse impacts; and finally, replacement of any lost acres; in that order. Alternatives should be examined and the least damaging practical alternative selected. If wetland impacts are unavoidable, a mitigation plan addressing the number and types of wetland acres to be impacted and the methods of replacement should be prepared and submitted to the resource agencies for review.

The current study area falls under the jurisdiction of four of the Service's Wetland Management Districts (WMD) in South Dakota and two WMD's in North Dakota. WMD's administer easements and fee title properties in several counties in this study area. To determine whether Service interest lands exist at the proposed project site, the exact locations of these properties, and any additional restrictions that may apply regarding these sites, please contact the following Service offices:

Brown and Spink Counties in South Dakota

Jay Peterson
Sand Lake Wetland Management District
39650 Sand Lake Drive
Columbia, South Dakota 57433
Telephone No. (605) 885-6320

Marshall, Roberts, Day, Clark, Codington, and Grant Counties in South Dakota

Connie Mueller
Waubay Wetland Management District
44401 134A Street
Waubay, South Dakota 57273
Telephone No. (605) 947-4521

Hamlin and Deuel Counties in South Dakota

Natoma Buskness
Madison Wetland Management District
P.O. Box 48
Madison, South Dakota 57042
Telephone No. (605) 256-2974

Beadle County, South Dakota

Clarke Dirks
Huron Wetland Management District
Federal Building, Room 309
200 4th Street SW
Huron, South Dakota 57350
Telephone No. (605) 352-5894

Dickey County, North Dakota

Kulm Wetland Management District
1 First Street, SW
P.O. Box E
Kulm, North Dakota 58456
Telephone No. (701) 647-2866

Sargent and Richland Counties in North Dakota

Tewaukon National Wildlife Refuge
9754 143 1/2 Avenue SE
Cayuga, North Dakota 58013
Telephone No. (701) 724-3598

Enclosed you will find the county-by-county endangered species list for each state within the study area - South Dakota, North Dakota, and Minnesota.

If the Federal action agency or their designated representative determines that the project will have “no effect” on federally listed species, Service concurrence is not necessary per section 7 of the Endangered Species Act (ESA). If the Federal action agency or their designated representative determines that this project "may adversely affect" listed species in South Dakota, it should request formal consultation from this office. If a “may affect - not likely to adversely affect” determination is made for this project, it should be submitted to this office for concurrence. For more information regarding Federal action agency responsibilities as related to section 7 of the ESA, please refer to the Service’s Endangered Species Act Consultation Handbook, available online at <http://www.fws.gov/endangered/consultations/index.html>.

Please contact our office again when the final route has been determined for the transmission line so that we may provide more detailed information about wetlands, fisheries, and endangered species.

The Service appreciates the opportunity to provide comments. If you have any questions regarding these comments, please contact Charlene Bessken of this office at (605) 224-8693, Extension 231.

Sincerely,



Scott V. Larson
Field Supervisor
South Dakota Field Office

Enclosures

cc: FWS/Sand Lake WMD; Columbia, SD
FWS/Madison WMD; Madison, SD
FWS/Waubay WMD; Waubay, SD
FWS/Huron WMD; Huron, SD
FWS/Kulm WMD; Kulm, ND
FWS/Tewaukon WMD; Cayuga, ND
FWS/ND ES Field Office; Bismarck, ND
FWS/Twin Cities ES Field Office; Bloomington, MN

South Dakota Listed Species by County List (updated 17 April 2012)

The bald eagle was removed from the List of Endangered and Threatened Wildlife effective August 8, 2007. The protections provided to the bald eagle under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act have continued to remain in place after the species was delisted. National Bald Eagle Management Guidelines (<http://www.fws.gov/pacific/eagle/NationalBaldEagleManagementGuidelines.pdf>) have been developed. This rule change does not affect the bald eagle's status as a threatened or endangered species under State laws or suspend any other legal protections provided by State law.

E = Endangered

T = Threatened

C = Candidate

XN = Experimental/Non-essential Population

CH = Critical Habitat

PCH = Proposed Critical Habitat

County	Group	Species	Certainty of Occurrence	Status
Aurora	Bird	Crane, Whooping	Known	E
	Fish	Shiner, Topeka	Known	E
Beadle	Bird	Crane, Whooping	Known	E
	Fish	Shiner, Topeka	Known	E
Bennett	Bird	Crane, Whooping	Known	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
Bon Homme	Bird	Crane, Whooping	Possible	E
	Bird	Tern, Least	Known	E
	Bird	Plover, Piping	Known	T (CH)
	Fish	Shiner, Topeka	Known	E
	Fish	Sturgeon, Pallid	Known	E
Brookings	Fish	Shiner, Topeka	Known	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
	Invertebrate	Dakota Skipper	Known	C
	Invertebrate	Poweshiek Skipperling ⁸	Known	C
Brown	Bird	Curllew, Eskimo	Extremely Rare	E
	Bird	Crane, Whooping	Known	E
	Fish	Shiner, Topeka	Known	E
	Invertebrate	Dakota Skipper	Known	C
Brule	Bird	Crane, Whooping	Known	E
	Bird	Tern, Least	Known	E
	Bird	Plover, Piping	Possible	T
	Fish	Sturgeon, Pallid	Known	E

County	Group	Species	Certainty of Occurrence	Status
Buffalo	Bird	Crane, Whooping	Known	E
	Bird	Tern, Least	Known	E
	Bird	Plover, Piping	Possible	T
	Fish	Sturgeon, Pallid	Known	E
Butte	Bird	Crane, Whooping	Known	E
	Bird	Greater Sage Grouse	Known	C
	Bird	Sprague's Pipit	Possible Breeding/Migration	C
Campbell	Bird	Crane, Whooping	Known	E
	Bird	Plover, Piping	Known	T (CH)
	Bird	Tern, Least	Known	E
	Fish	Sturgeon, Pallid	Possible	E
	Bird	Sprague's Pipit	Possible Migration	C
Charles Mix	Bird	Crane, Whooping	Known	E
	Bird	Plover, Piping	Known	T (CH)
	Bird	Tern, Least	Known	E
	Fish	Sturgeon, Pallid	Possible	E
Clark	Bird	Crane, Whooping	Known	E
	Fish	Shiner, Topeka ³	Possible	E
	Invertebrate	Poweshiek Skipperling ⁸	Known	C
Clay	Bird	Plover, Piping	Known	T (CH)
	Bird	Tern, Least	Known	E
	Fish	Sturgeon, Pallid	Possible	E
	Fish	Shiner, Topeka	Known	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
	Mussel	Mussel, Scaleshell ⁶	Historic	E
Codington	Bird	Crane, Whooping	Known	E
	Fish	Shiner, Topeka	Known	E
	Invertebrate	Dakota Skipper	Known	C
	Invertebrate	Poweshiek Skipperling ⁸	Known	C
Corson	Bird	Crane, Whooping	Known	E
	Bird	Plover, Piping	Known	T (CH)
	Bird	Tern, Least	Known	E
	Mammal	Ferret, Black-footed	Possible	E
	Fish	Sturgeon, Pallid	Possible	E
	Bird	Sprague's Pipit	Possible Breeding/Migration	C
Custer	Bird	Crane, Whooping	Possible	E
	Mammal	Ferret, Black-footed	Known	E
	Bird	Sprague's Pipit	Possible Migration	C

County	Group	Species	Certainty of Occurrence	Status
Davison	Bird Fish	Crane, Whooping Shiner, Topeka	Possible Known	E E
Day	Bird Bird Invertebrate Invertebrate	Crane, Whooping Plover, Piping Dakota Skipper Poweshiek Skipperling ⁸	Possible Known Known Known	E T C C
Deuel	Fish Invertebrate Invertebrate	Shiner, Topeka ³ Dakota Skipper Poweshiek Skipperling ⁸	Known Known Known	E C C
Dewey	Bird Bird Bird Mammal Fish Bird	Crane, Whooping Plover, Piping Tern, Least Ferret, Black-footed ⁴ Sturgeon, Pallid Sprague's Pipit	Known Known Known Known Known Possible Migration	E T (CH) E XN E C
Douglas	Bird Fish	Crane, Whooping Shiner, Topeka	Known Possible	E E
Edmunds	Bird Invertebrate	Crane, Whooping Dakota Skipper	Known Known	E C
Fall River	Bird Bird	Greater Sage Grouse Sprague's Pipit	Known Possible Migration	C C
Faulk	Bird	Crane, Whooping	Known	E
Grant	Fish Invertebrate Invertebrate	Shiner, Topeka ³ Dakota Skipper Poweshiek Skipperling ⁸	Possible Known Known	E C C
Gregory	Bird Bird Bird Mammal Fish Insect	Crane, Whooping Plover, Piping Tern, Least Ferret, Black-footed ⁴ Sturgeon, Pallid Beetle, American Burying ²	Known Known Known Possible Known Known	E T (CH) XN E E E
Haakon	Bird Bird Bird Bird	Crane, Whooping Plover, Piping Tern, Least Sprague's Pipit	Known Known Known Possible Migration	E T E C
Hamlin	Bird Fish Invertebrate Invertebrate	Crane, Whooping Shiner, Topeka ³ Dakota Skipper Poweshiek Skipperling ⁸	Possible Known Known Known	E E C C

County	Group	Species	Certainty of Occurrence	Status
Hand	Bird	Crane, Whooping	Known	E
	Fish	Shiner, Topeka	Known	E
Hanson	Bird	Crane, Whooping	Possible	E
	Fish	Shiner, Topeka	Known	E
Harding	Bird	Crane, Whooping	Possible	E
	Bird	Greater Sage Grouse	Known	C
	Bird	Sprague's Pipit	Possible Breeding/Migration	C
Hughes	Bird	Crane, Whooping	Known	E
	Bird	Plover, Piping	Known	T (CH)
	Bird	Tern, Least	Known	E
	Fish	Sturgeon, Pallid	Known	E
Hutchinson	Bird	Crane, Whooping	Possible	E
	Fish	Shiner, Topeka	Known	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
Hyde	Bird	Crane, Whooping	Known	E
	Bird	Plover, Piping	Known	T
	Bird	Tern, Least	Known	E
	Fish	Sturgeon, Pallid	Known	E
Jackson	Bird	Crane, Whooping	Known	E
	Mammal	Ferret, Black-footed ⁴	Possible	XN
	Bird	Sprague's Pipit	Possible Migration	C
Jerauld	Bird	Crane, Whooping	Known	E
	Fish	Shiner, Topeka ³	Possible	E
Jones	Bird	Crane, Whooping	Known	E
	Bird	Sprague's Pipit	Possible Migration	C
Kingsbury	Bird	Crane, Whooping	Known	E
	Bird	Plover, Piping	Known	T
	Fish	Shiner, Topeka ³	Possible	E
Lake	Fish	Shiner, Topeka ³	Possible	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
Lawrence	Bird	Crane, Whooping	Known	E
	Bird	Sprague's Pipit	Possible Migration	C
Lincoln	Fish	Sturgeon, Pallid ⁷	Known	E
	Fish	Shiner, Topeka	Known	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T

County	Group	Species	Certainty of Occurrence	Status
Lyman	Bird	Crane, Whooping	Known	E
	Bird	Tern, Least	Known	E
	Bird	Plover, Piping	Possible	T
	Mammal	Ferret, Black-footed	Known	E
	Fish	Sturgeon, Pallid	Known	E
	Bird	Sprague's Pipit	Possible Migration	C
Marshall	Bird	Crane, Whooping	Possible	E
	Invertebrate	Dakota Skipper	Known	C
	Invertebrate	Poweshiek Skipperling ⁸	Known	C
McCook	Bird	Crane, Whooping	Possible	E
	Fish	Shiner, Topeka	Known	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
McPherson	Bird	Crane, Whooping	Known Possible	E
	Bird	Sprague's Pipit	Breeding/Migration	C
	Invertebrate	Dakota Skipper	Known	C
Meade	Bird	Crane, Whooping	Known	E
	Bird	Tern, Least	Known	E
	Bird	Sprague's Pipit	Possible Breeding/Migration	C
Mellette	Bird	Crane, Whooping	Known	E
	Mammal	Ferret, Black-footed ⁴	Possible	XN
Miner	Bird	Crane, Whooping	Possible	E
	Fish	Shiner, Topeka	Known	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
Minnehaha	Fish	Shiner, Topeka	Known	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
Moody	Fish	Shiner, Topeka	Known	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
	Invertebrate	Dakota Skipper	Known	C
Pennington	Bird	Crane, Whooping	Known	E
	Bird	Tern, Least	Known	E
	Mammal	Ferret, Black-footed ⁴	Known	XN
	Bird	Sprague's Pipit	Possible Migration	C
Perkins	Bird	Crane, Whooping	Known Possible	E
	Bird	Sprague's Pipit	Breeding/Migration	C
Potter	Bird	Crane, Whooping	Known	E
	Bird	Plover, Piping	Known	T (CH)
	Bird	Tern, Least	Known	E
	Fish	Sturgeon, Pallid	Known	E

County	Group	Species	Certainty of Occurrence	Status
Roberts	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
	Invertebrate	Dakota Skipper	Known	C
	Invertebrate	Poweshiek Skipperling ⁸	Known	C
Sanborn	Bird	Crane, Whooping	Possible	E
	Fish	Shiner, Topeka	Known	E
Shannon	Bird	Crane, Whooping	Known	E
	Mammal	Ferret, Black-footed ⁴	Possible	XN
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
	Bird	Sprague's Pipit	Possible Migration	C
Spink	Bird	Crane, Whooping	Known	E
	Fish	Shiner, Topeka ³	Possible	E
Stanley	Bird	Crane, Whooping	Known	E
	Bird	Plover, Piping	Known	T (CH)
	Bird	Tern, Least	Known	E
	Fish	Sturgeon, Pallid	Known	E
	Bird	Sprague's Pipit	Possible Migration	C
Sully	Bird	Crane, Whooping	Known	E
	Bird	Plover, Piping	Known	T (CH)
	Bird	Tern, Least	Known	E
	Fish	Sturgeon, Pallid	Known	E
Todd	Bird	Crane, Whooping	Possible	E
	Mammal	Ferret, Black-footed ⁴	Known	XN
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
	Insect	Beetle, American Burying ²	Known	E
Tripp	Bird	Crane, Whooping	Known	E
	Mammal	Ferret, Black-footed ⁴	Possible	XN
	Insect	Beetle, American Burying ²	Known	E
Turner	Bird	Crane, Whooping	Possible	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
	Fish	Shiner, Topeka	Known	E
Union	Bird	Plover, Piping	Known	T
	Bird	Tern, Least	Known	E
	Fish	Sturgeon, Pallid	Possible	E
	Fish	Shiner, Topeka	Known	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
	Mussel	Mussel, Scaleshell ⁶	Historic	E
Walworth	Bird	Crane, Whooping	Known	E
	Bird	Plover, Piping	Known	T (CH)
	Bird	Tern, Least	Known	E
	Fish	Sturgeon, Pallid	Possible	E

County	Group	Species	Certainty of Occurrence	Status
Yankton	Bird	Curlew, Eskimo	Extremely Rare	E
	Bird	Plover, Piping	Known	T (CH)
	Bird	Tern, Least	Known	E
	Fish	Sturgeon, Pallid	Possible	E
	Fish	Shiner, Topeka ³	Possible	E
	Plant	Orchid, Western Prairie Fringed ¹	Possible	T
	Mussel	Mussel, Scaleshell ⁶	Historic	E
	Mussel	Mussel, Higgins Eye ^{5,6}	Possible	E
Ziebach	Bird	Crane, Whooping	Known	E
	Bird	Plover, Piping	Known	T (CH)
	Bird	Tern, Least	Known	E
	Mammal	Ferret, Black-footed ⁴	Possible	XN
	Bird	Sprague's Pipit	Possible Migration	C

Notes

¹ The counties indicated for the Western Prairie Fringed Orchid are counties with potential habitat. Currently, there are no known populations of this species in South Dakota. Status surveys have been completed for the orchid in South Dakota. However, because of the ecology of this species, there is a possibility that plants may be overlooked.

² The American Burying Beetle is presently known for only Gregory, Todd and Tripp counties. One specimen was recently trapped in southern Bennett County. Historic specimens have been recorded from Haakon and Brookings Counties. A comprehensive status survey has never been completed for the American burying beetle in South Dakota. Until status surveys have been completed, the beetle could and may occur in any county with suitable habitat. Suitable habitat is considered to be any site with significant humus or topsoil suitable for burying carrion.

³ Although Topeka Shiners have not been formally documented within Clark, Douglas, Grant, Jerauld, Kingsbury, Lake, Spink, or Yankton Counties, the species may still occur in these areas because they contain portions of known occupied Topeka Shiner streams and/or potentially occupied streams that exist within one or more of the three known inhabited watersheds in South Dakota: the James, Vermillion, and Big Sioux.

⁴ Black-footed ferrets have been reintroduced in the Badlands National Park, Buffalo Gap National Grasslands, Cheyenne River Sioux Tribe Reservation, Lower Brule Sioux Reservation, Rosebud Sioux Reservation and Wind Cave National Park .

⁵ A fresh dead shell of a Higgins Eye Mussel was found in the Missouri River below Gavins Point Dam on October 27, 2004.

⁶ Shells of these species have been found, but no populations have been located.

⁷ A pallid sturgeon was caught in Lincoln County from the Big Sioux River in May 2009.

⁸ This list includes counties where Poweshiek skipperling has been confirmed within the past 25 years (1986 or later). Due to the sharp declines in the last several years, the list may include counties in which the species no longer occurs. Nevertheless, we recommend that agencies contact the South

Dakota Ecological Services Field Office if undertaking or planning projects that may affect Poweshiek skipperling habitat in these counties.

More specific information on these species can be found at our website at <http://www.fws.gov> or by calling our office for more information.

Any corrections or additions to this list should be submitted to Scott Larson, U.S. Fish and Wildlife Service, South Dakota Field Office, Ecological Services, 420 South Garfield Avenue, Pierre, SD; Telephone (605)224-8693.

**County Occurrence of Endangered, Threatened and Candidate Species
and Designated Critical Habitat in North Dakota**

February 2012

Species	A d a m s	B a r n e s	B e n s o n	B i l l i n g s	B o t t i n e a u	B o w m a n	B u r k e	B u r l e i g h	C a s s	C a v a l i e r	D i c k e y	D i v i d e	D u n n	E d d y	E m m o n s	F o s t e r	F o s t e r	G o v a l l e y	G r. F o r k s	G r a n t	G r i g g s	H e t t i n g e r	K i d d e r	L a m o u r e	L o g a n	M c H e n r y	M c I n t o s h	M c K e n z i e	
Interior Least Tern - E								X					X		X														X
Whooping Crane - E	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Black-footed Ferret - E	X			X		X							X					X		X		X							X
Pallid Sturgeon - E								X					X		X														X
Gray Wolf - E	X			X	X	X	X					X	X					X		X		X							X
Piping Plover - T			X				X	X				X	X	X	X	X								X		X	X	X	X
Western Prairie Fringed Orchid - T																													
Dakota Skipper - C					X		X						X	X													X		X
Poweshiek skipperling - C									X																				
Sprague's Pipit - C	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X		X		X	X	X	X	X	X	X	X
Greater Sage-Grouse - C						X												X											
Designated Critical Habitat																													
Piping Plover			X				X	X				X	X	X	X								X		X	X	X	X	

E - Endangered

T - Threatened

C - Candidate

Endangered west of Hwy 83 - Delisted east of Hwy 83

X

**County Occurrence of Endangered, Threatened and Candidate Species
and Designated Critical Habitat in North Dakota**

February 2012

Species	M c L e a n	M e r c e r	M o r t o n	M o u n t r a i l	N e l s o n	O l i v e r	P e m b i n a	P i e r c e	R a m s e y	R a n s o m	R e n v i l l e	R i c h l a n d	R o l e t e	S a r g e n t	S h e r i d a n	S i o u x	S l o p e	S t a r k	S t e e l e	S t u t s m a n	T o w n e r	T r a i l l	W a l s h	W a r d	W e l l s	W i l l i a m s		
Interior Least Tern - E	X	X	X	X		X										X											X	
Whooping Crane - E	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Black-footed Ferret - E		X	X			X										X	X	X										
Pallid Sturgeon - E	X	X	X	X		X										X												X
Gray Wolf - E	X	X	X	X		X					X					X	X	X							X			X
Piping Plover - T	X	X	X	X		X		X			X				X	X					X				X	X	X	
W. P. Fringed Orchid - T										X		X																
Dakota Skipper - C	X			X		X				X		X	X	X							X				X	X		
Poweshiek skipperling - C										X		X		X														
Sprague's Pipit - C	X	X	X	X		X	X	X	X	X	X		X	X	X	X	X	X			X	X		X	X	X	X	X
Greater Sage-Grouse - C																	X											
Designated Critical Habitat																												
Piping Plover	X	X	X	X		X		X			X				X	X					X				X			X

E - Endangered

T - Threatened

C - Candidate

Endangered west of Hwy 83 - Delisted east of Hwy 83

X

Minnesota

County Distribution of Federally-Listed Threatened, Endangered and Candidate Species

County	Species	Status	Habitat
Aitkin	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
Anoka	No listed species present		
Becker	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Beltrami	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
Benton	No listed species present		
Big Stone	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Blue Earth	No listed species present		
Brown	Prairie bush-clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils
Carlton	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
Carver	No listed species present		
Cass	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
Chippewa	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Chisago	Higgins eye pearl mussel (<i>Lampsilis higginsii</i>)	Endangered	St. Croix River
	Spectaclecase (<i>Cumberlandia monodonta</i>)	Endangered	St. Croix River

County	Species	Status	Habitat
	Snuffbox (<i>Epioblasma triquetra</i>)	Endangered	Small to medium-sized creeks and some larger rivers, in areas with a swift current
	Winged mapleleaf (<i>Quadrula fragosa</i>)	Endangered	St. Croix River
Clay	Sprague's pipit (<i>Anthus spragueii</i>)	Candidate	Large (>350 acre) patches of grassland - prefer native grassland, but also use non-native planted grasslands.
	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
	Western prairie fringed orchid (<i>Platanthera praeclara</i>)	Threatened	Wet prairies and sedge meadow
Clearwater	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
Cook	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
	Canada lynx (<i>Lynx canadensis</i>)	Critical Habitat	Map of critical habitat in Minnesota
Cottonwood	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Gravelly soil in dry to mesic prairies
Crow Wing	No species listed		
Dakota	Higgins eye pearl mussel (<i>Lampsilis higginsii</i>)	Endangered	Mississippi River
	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils
Dodge	Dwarf trout lily (<i>Erythronium propullans</i>)	Endangered	North facing slopes and floodplains in deciduous forests
	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils

County	Species	Status	Habitat
Douglas	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Faribault	No listed species present		
Fillmore	Leedy's roseroot (<i>Rhodiola integrifolia</i> ssp. <i>leedyi</i>)	Threatened	Cool, wet groundwater-fed limestone cliffs
Freeborn	No listed species present		
Goodhue	Dwarf trout lily (<i>Erythronium propullans</i>)	Endangered	North facing slopes and floodplains in deciduous forests
	Higgins eye pearlymussel (<i>Lampsilis higginsii</i>)	Endangered	Mississippi River
	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils
Grant	No listed species present		
Hennepin	Higgins eye pearlymussel (<i>Lampsilis higginsii</i>)	Endangered	Mississippi River
Houston	Eastern massasauga (<i>Sistrurus catenatus</i>)	Candidate	Floodplain wetlands and nearby upland areas along the Mississippi River and Tributaries
	Higgins eye pearlymussel (<i>Lampsilis higginsii</i>)	Endangered	Mississippi River
Hubbard	No species listed		
Isanti	No species listed		
Itasca	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
Jackson	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils
Kanabec	No species listed		
Kandiyohi	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie

County	Species	Status	Habitat
Kittson	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
	Western prairie fringed orchid (<i>Platanthera praeclara</i>)	Threatened	Wet prairies and sedge meadows
Koochiching	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
	Canada lynx (<i>Lynx canadensis</i>)	Critical Habitat	Map of lynx critical habitat in Minnesota
Lac Qui Parle	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Lake	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
	Canada lynx (<i>Lynx canadensis</i>)	Critical Habitat	Map of lynx critical habitat in Minnesota
Lake of the Woods	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
	Piping plover (<i>Charadrius melodus</i>) Northern Great Plains Breeding Population	Threatened; and Critical Habitat	Sandy beaches, islands
Le Sueur	No listed species present		
Lincoln	Topeka shiner (<i>Notropis topeka</i>)	Endangered	Prairie rivers and streams
	Topeka shiner (<i>Notropis topeka</i>)	Critical Habitat	
	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie

County	Species	Status	Habitat
	Western prairie fringed orchid (<i>Platanthera praeclara</i>)	Threatened	Wet prairies and sedge meadow
Lyon	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Mahnomen	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Marshall	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
Martin	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils
McLeod	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Meeker	No listed species present		
Mille Lacs	No listed species present		
Morrison	No listed species present		
Mower	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils
	Western prairie fringed orchid (<i>Platanthera praeclara</i>)	Threatened	Wet prairies and sedge meadows
Murray	Topeka shiner (<i>Notropis topeka</i>)	Endangered	Prairie rivers and streams
	Topeka shiner (<i>Notropis topeka</i>)	Critical Habitat	
	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Nicollet	No listed species present		
Nobles	Topeka shiner (<i>Notropis topeka</i>)	Endangered	Prairie rivers and streams
	Topeka shiner (<i>Notropis topeka</i>)	Critical Habitat	

County	Species	Status	Habitat
	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils
	Western prairie fringed orchid (<i>Platanthera praeclara</i>)	Threatened	Wet prairies and sedge meadow
Norman	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
	Western prairie fringed orchid (<i>Platanthera praeclara</i>)	Threatened	Wet prairies and sedge meadows
Olmsted	Leedy's roseroot (<i>Rhodiola integrifolia</i> ssp. <i>leedyi</i>)	Threatened	Cool, wet groundwater-fed limestone cliffs
	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils
Otter Tail	No species listed		
Pennington	Western prairie fringed orchid (<i>Platanthera praeclara</i>)	Threatened	Wet prairies and sedge meadows
Pine	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
	Spectaclecase (<i>Cumberlandia monodonta</i>)	Endangered	St. Croix River
Pipestone	Topeka shiner (<i>Notropis topeka</i>)	Endangered	Prairie rivers and streams
	Topeka shiner (<i>Notropis topeka</i>)	Critical Habitat	
	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie

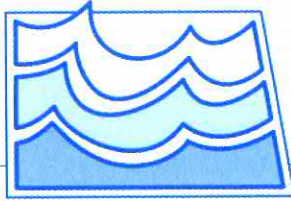
County	Species	Status	Habitat
	Western prairie fringed orchid (<i>Platanthera praeclara</i>)	Threatened	Wet prairies and sedge meadows
Polk	Sprague's pipit (<i>Anthus spragueii</i>)	Candidate	Large (>350 acre) patches of grassland - prefer native grassland, but also use non-native planted grasslands.
	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	Western prairie fringed orchid (<i>Platanthera praeclara</i>)	Threatened	Wet prairies and sedge meadows
Pope	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Ramsey	Higgins eye pearl mussel (<i>Lampsilis higginsii</i>)	Endangered	Mississippi River
	Winged mapleleaf (<i>Quadrula fragosa</i>)	Endangered	St. Croix River
Red Lake	Western prairie fringed orchid (<i>Platanthera praeclara</i>)	Threatened	Wet prairies and sedge meadow
Redwood	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils
Renville	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils
Rice	Dwarf trout lily (<i>Erythronium propullans</i>)	Endangered	North facing slopes and floodplains in deciduous forest
	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils
Rock	Topeka shiner (<i>Notropis topeka</i>)	Endangered	Prairie rivers and streams
	Topeka shiner (<i>Notropis topeka</i>)	Critical Habitat	

County	Species	Status	Habitat
	Prairie bush clover (<i>Lespedeza leptostachya</i>)	Threatened	Native prairie on well-drained soils
	Western prairie fringed orchid (<i>Platanthera praeclara</i>)	Threatened	Wet prairies and sedge meadows
Roseau	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
	Sprague's pipit (<i>Anthus spragueii</i>)	Candidate	Large (>350 acre) patches of grassland - prefer native grassland, but also use non-native planted grasslands.
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
St. Louis	Piping Plover (<i>Charadrius melodus</i>) Great Lakes Breeding Population	Endangered and Critical Habitat Designated in this county	Sandy beaches, islands
	Canada lynx (<i>Lynx canadensis</i>)	Threatened	Northern forest
	Canada lynx (<i>Lynx canadensis</i>)	Critical Habitat	Map of lynx critical habitat in Minnesota
Scott	No listed species present		
Sherburne	No listed species present		
Sibley	No listed species present		
Stearns	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Steele	Dwarf trout lily (<i>Erythronium propullans</i>)	Endangered	North facing slopes and floodplains in deciduous forests
Stevens	No listed species present		
Swift	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Todd	No listed species present		

County	Species	Status	Habitat
Traverse	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Wabasha	Eastern massasauga (<i>Sistrurus catenatus</i>)	Candidate	Floodplain wetlands and nearby upland areas along the Mississippi River and Tributaries
	Higgins eye pearl mussel (<i>Lampsilis higginsii</i>)	Endangered	Mississippi River
	Sheepnose (<i>Plethobasus cyphus</i>)	Endangered	Mississippi River
	Spectaclecase (<i>Cumberlandia monodonta</i>)	Endangered	Mississippi River
Wadena	No listed species present		
Waseca	No listed species present		
Washington	Higgins eye pearl mussel (<i>Lampsilis higginsii</i>)	Endangered	Mississippi River
	Snuffbox (<i>Epioblasma triquetra</i>)	Endangered	Small to medium-sized creeks and some larger rivers, in areas with a swift current
	Spectaclecase (<i>Cumberlandia monodonta</i>)	Endangered	St. Croix River
	Winged mapleleaf (<i>Quadrula fragosa</i>)	Endangered	St. Croix River
Watonwan	No listed species present		
Wilkin	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie
Winona	Eastern massasauga (<i>Sistrurus catenatus</i>)	Candidate	Floodplain wetlands and nearby upland areas along the Mississippi River and Tributaries
	Higgins eye pearl mussel (<i>Lampsilis higginsii</i>)	Endangered	Mississippi River

County	Species	Status	Habitat
	Sheepnose (<i>Plethobasus cyphus</i>)	Endangered	Mississippi River
	Karner blue butterfly (<i>Lycaeides melissa samuelis</i>)	Endangered	Pine barrens and oak savannas on sandy soils and containing wild lupines (<i>Lupinus perennis</i>), the only known food plant of larvae.
Wright	No listed species present		
Yellow Medicine	Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Native prairie habitat
	* Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Native Prairie

Revised March 2012



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>

August 9, 2012

Chad Miller
Montana Dakota Utilities Co
400 N Fourth St.
Bismarck, ND 58501

Dear Mr. Miller:

This is in response to your request for review of environmental impacts associated with the proposed Big Stone South to Ellendale 345kV Transmission Line Project located in ND & SD.

The proposed project has been reviewed by State Water Commission staff and the following comments are provided:

Richland County project area:

- There are floodplains identified and/or mapped where this proposed project is to take place. The areas are designated as Zone AE. North Dakota has no formal "permitting" authority as a state entity in National Flood Insurance Program (NFIP) identified floodplain areas. The permitting is always done by the local entity, which has jurisdiction in the area in question. Please work closely with the County Floodplain Administrator. The Floodplain Administrator for the Richland County is: Brett Lambrecht; 413 3rd Avenue N; Wahpeton, ND; 701-642-7778; blambrecht@co.richland.nd.us.

Sargent and Dickey Counties project area:

- There are no floodplains identified and/or mapped where this proposed project is to take place. The project takes place in an unmapped county. No floodplain permits are necessary from Sargent or Dickey County relative to the NFIP.

- The project will require a Sovereign Land Permit from the State Engineer if the project is crossing the James River. A permit application form is enclosed. Please call Jerry Heiser at 701-328-4935, if you have questions pertaining to the Sovereign Land Permit. Also please note it takes from 1-2 months to process a Sovereign Land Permit.

- A permit to drain/fill is required if wetlands are drained or filled. A permit application is enclosed. Please contact Dwight Comfort at 701-328-4949.

- The ND State Water Commission (Commission) maintains a network of observation/monitor water wells throughout the state, and many are located in public right-of-ways. The well location information can be obtained from the Commission's website at: <http://swc.nd.gov>; then click on "Map and Data Resources"; and then click on "Map Services". If water wells may be affected by your project or accidentally damaged, please contact the Water Appropriations Division of the Commission at 701-328-2754.

- 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 at this time 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,

A handwritten signature in blue ink, appearing to read "Linda Weispfenning". The signature is fluid and cursive, with a large loop at the end.

Linda Weispfenning
Water Resource Planner

LW:dp/1570

Encl.

CC: Henry Ford
Dean Pawlowski



APPLICATION FOR SURFACE DRAIN
OFFICE OF THE STATE ENGINEER
 Water Development Division
 SFN 2830 (8/11)

DATE RECEIVED BY OFFICE OF THE STATE ENGINEER

I, the undersigned, am applying for a permit under NDCC Section 61-32-03, to drain a pond, slough, lake, or sheetwater, or any series thereof, which has a watershed area comprising 80 acres or more.

No. _____
(OSE USE ONLY)

This application must be accompanied by FSA aerial photos or equivalent showing the location of the proposed drain(s).

(1) WATER RESOURCE DISTRICT IN WHICH PROJECT IS LOCATED:				
(2) LEGAL DESCRIPTION -	1/4	SECTION	TOWNSHIP	RANGE
DRAIN CENTERLINE:				
[use separate sheet(s) if necessary]	1/4	SECTION	TOWNSHIP	RANGE
	1/4	SECTION	TOWNSHIP	RANGE
(3) LEGAL DESCRIPTION - DRAIN OUTLET:	1/4	1/4	SECTION	TOWNSHIP
				RANGE
(4) PURPOSE:				
(5) Drain Method: <input type="checkbox"/> Pumping <input type="checkbox"/> Filling <input type="checkbox"/> Gravity				
(6) DESCRIPTION OF AREA TO BE DRAINED:				
TOTAL Drainage Area	Acres	Project Drainage Area	Acres	
Water Area	Acres	Average Depth of Water	Feet	
(7) DESCRIPTION OF DRAIN:				
Pumping Rate (if applicable)	gpm	Fill Volume (if applicable)	cubic yards	Bottom Width (B)
	cfs			Feet
TOTAL Length of Drain	Feet	Length of Drain Project	Feet	Side Slopes (S)
				:1 Foot
(8) Anticipated completion date:		(9) Assessment drain?	<input type="checkbox"/> YES <input type="checkbox"/> NO	Maximum Cut (D)
				Feet
(10) Do you own the land to be drained in fee? <input type="checkbox"/> YES <input type="checkbox"/> NO if NO, give the name and address of the legal landowner(s):				

The filing of this application and its approval does not relieve the applicant and/or landowner(s) from any responsibility or liability for damages resulting from the construction, operation or failure of this drain.

APPLICANT'S CERTIFICATION

I understand that I must undertake and agree to pay the expense incurred in making an investigation. If the investigation discloses that the quantity of water to be drained will flood or adversely affect downstream lands, I will be required to obtain flowage easements and must file the easements in the office of the county recorder before a permit may be issued. My signature below acknowledges that I have read and agree to these statements, and will adhere to the conditions given on the back of this application.

NAME (PRINT OR TYPE):	DATE SUBMITTED:
ADDRESS:	PHONE NO:
CITY, STATE, ZIP CODE:	
SIGNATURE (Owner of the land on which the project is located or legal entity sponsoring project):	

FOR USE BY WATER RESOURCE DISTRICT AND STATE ENGINEER

The Water Resource District Board has investigated according to NDAC Section 89-02-01-09.2.

The proposed drainage (will will not) flood or adversely affect lands of downstream landowners.

This application is hereby:

Denied

Signature: _____
Chairman or Secretary of Water Resource District Board

Approved

Date: _____

(1) The State Engineer or Water Resource District Board may revoke or modify the project and the rights granted under the permit to protect the public health, safety, and welfare; to protect property; or to ensure the orderly control of water resources.

(2) Construction must be completed within two years from the date of final approval.

This application:

does involve drainage of state-wide or Interdistrict significance

does not involve drainage of state-wide or interdistrict significance

If the State Engineer has determined that this application does not involve drainage of state-wide or Interdistrict significance, approval by the Water Resource District Board constitutes a permit to drain.

If the State Engineer has determined that this application involves drainage of state-wide or interdistrict significance, approval by both the Water Resource District Board and the State Engineer must be given to constitute a permit to drain.

This application involving drainage of state-wide or interdistrict significance is:

Denied

Signature: _____
State Engineer

Approved

Date: _____

CONDITIONS:

(1) The State Engineer may revoke or modify the project and the rights granted under the permit to protect the public health, safety, and welfare; to protect property; or to ensure the orderly control of water resources.

(2) Construction must be completed within two years from the date of final approval.

Mail to:

Office of the State Engineer
900 East Boulevard Avenue, Dept 770
Bismarck, ND 58505



APPLICATION FOR AUTHORIZATION TO CONSTRUCT A PROJECT WITHIN ISLANDS AND BEDS OF NAVIGABLE STREAMS AND WATERS

Office of the State Engineer
900 East Boulevard
Bismarck, ND 58505-0850

Permit No. _____

Project No. 1625



I, the undersigned, do hereby submit the following information to the Office of the State Engineer as an application to construct a project that may impact islands and beds of navigable streams and waters of North Dakota under NDCC Chapter 61-33.

GENERAL INFORMATION:

This Application must include a map from an actual survey, aerial photo or topographic map and plot map (if a development). The size of the map shall be 8½ by 11 inches. The map shall have a north arrow and approximate scale. Indicate the existing or proposed work on the drawing. Plans and specifications must be submitted if project includes construction work.

- (1) Project will be located in the: _____ Water Resource District
- (2) Legal description to the nearest 40 acre tract: _____ ¼ _____ ¼ Section _____ Township _____ Range _____
- (3) Is this application for modification of an existing project Yes No If so, what year was project constructed: _____
By whom: _____
- (4) Proposed project involves water crossing, type _____ boat dock, boat ramp, water intake, dredge, volume _____ cu. yds. filling, volume _____ cu. yds. , type _____, other (explain) _____
- (5) Water body on which project will be located: _____
- (6) Purpose: _____
- (7) Project Description: _____

- (8) Contractor, if known: _____
- (9) Anticipated construction start date: _____ Completion date: _____

The filing of this application and its approval in no way relieves the applicant or riparian landowner from any responsibility or liability resulting from the construction, operation or failure of the project.

Riparian Land Owner or Organization Sponsor: (Print) _____

Applicant: (Print) _____

Address: _____

Phone: (H) _____

(W) _____

Signature: _____ Date Submitted: _____
(Riparian landowner or Organization Sponsoring the project)



United States Department of the Interior

BUREAU OF RECLAMATION

Dakotas Area Office

P.O. Box 1017

Bismarck, North Dakota 58502



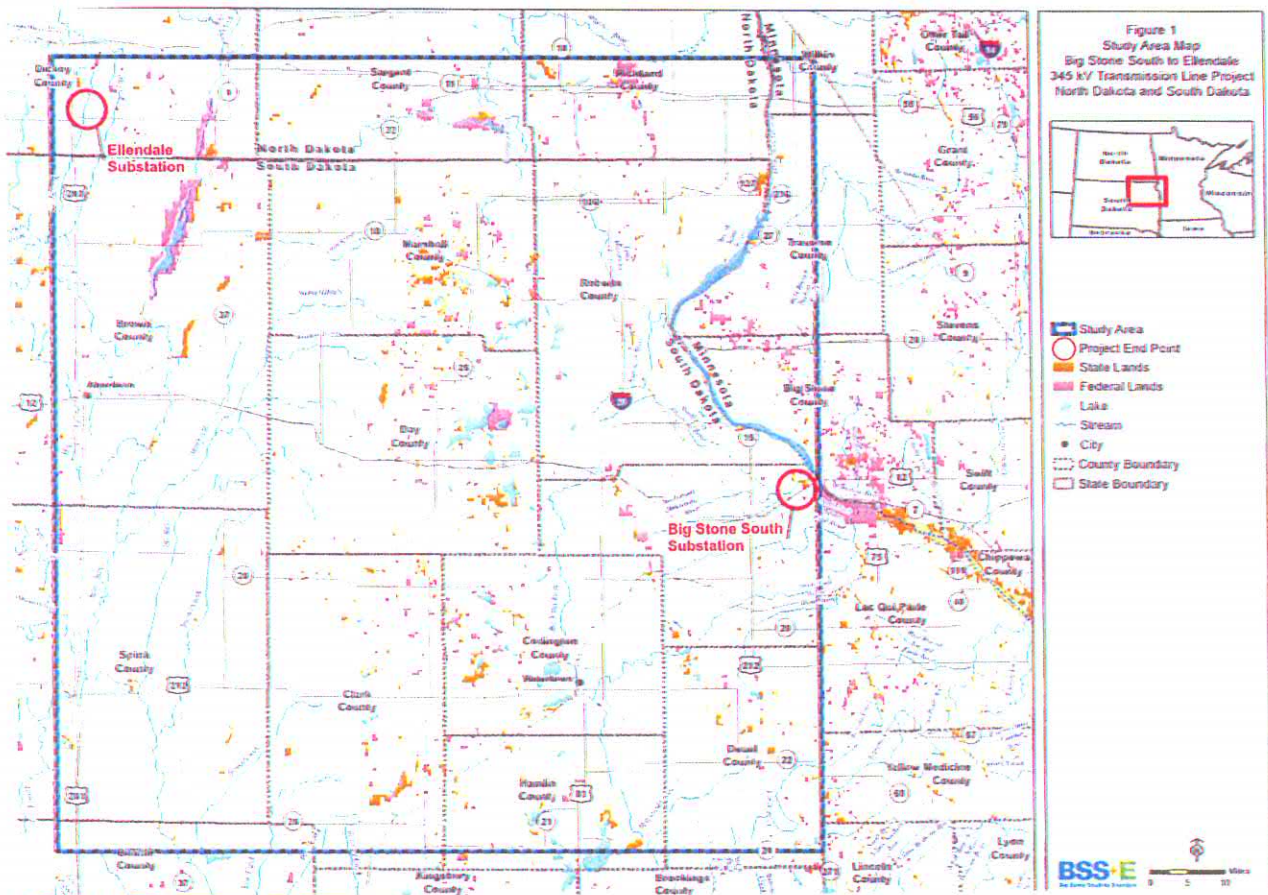
IN REPLY REFER TO:
DK-5000
ENV-6.00

Mr. Chad Miller
Environmental Specialist
MDU
400 North Fourth Street
Bismarck, ND 58501

Subject: Solicitation for Information Montana-Dakota Utilities Co. and Otter Tail Power Company Proposed Big Stone South to Ellendale 345kV Transmission Line Project, North Dakota and South Dakota

Dear Mr. Miller:

This letter is written to inform you that we received your July 27, 2012, letter and the information and map of your proposed study area has been reviewed by Bureau of Reclamation staff. We understand that your study area is as depicted in the figure below.



Bigstone South to Ellendale Study Area – source BSS+E MDU and OTP.

Reclamation has federal facilities within the exterior boundaries of your study area. Our facilities lie between Oakes, North Dakota, and approximately 15 miles north of Huron, South Dakota along the James River. I am providing you with some map figures that you can utilize to help avoid impacts to federal facilities, and should assist you in determining an appropriate alignment for your power line. Also, I will e-mail you a pdf version of a compound map that shows more detail of Reclamation facilities and properties along the James River in South Dakota.

Reclamation requests that MDU and Otter Tail Power Company make every effort to avoid Reclamation's federal facilities when plotting your alignment. However, barring absence of an acceptable alternative, placing your project facilities on or crossing over a Reclamation property will require a special use permit that will require separate National Environmental Policy Act Compliance prior to construction. Should that become necessary, please contact Area Manager, Richard Long, regarding the need for a special use permit to cross federal Reclamation facilities.

Thank you for providing your project information and the opportunity to comment on your proposal. If you have any further environmental questions, please contact me at 701-221-1287.

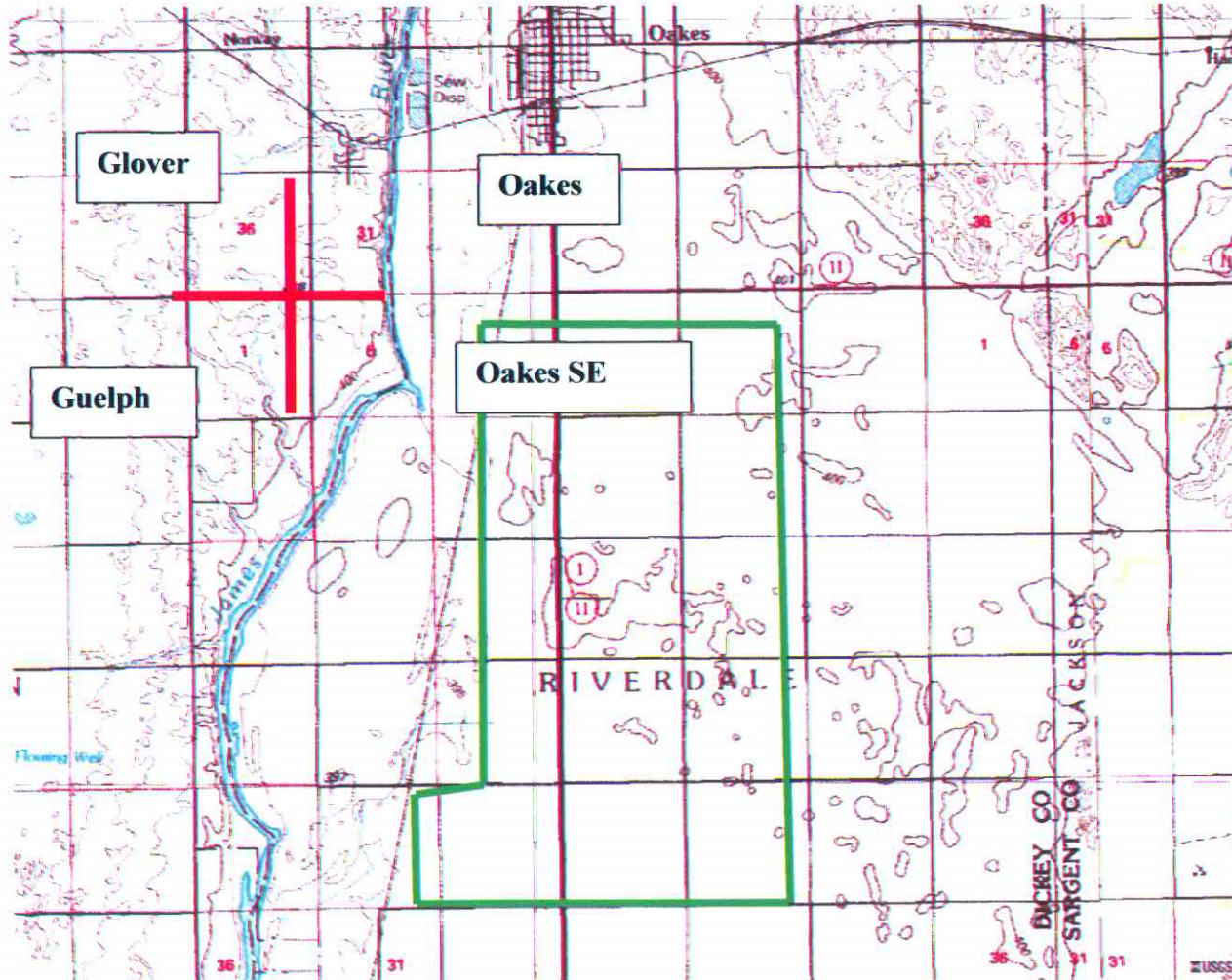
Sincerely,

A handwritten signature in black ink, appearing to read "Kelly B. McPhillips", with a long horizontal flourish extending to the right.

Kelly B. McPhillips
Environmental Specialist

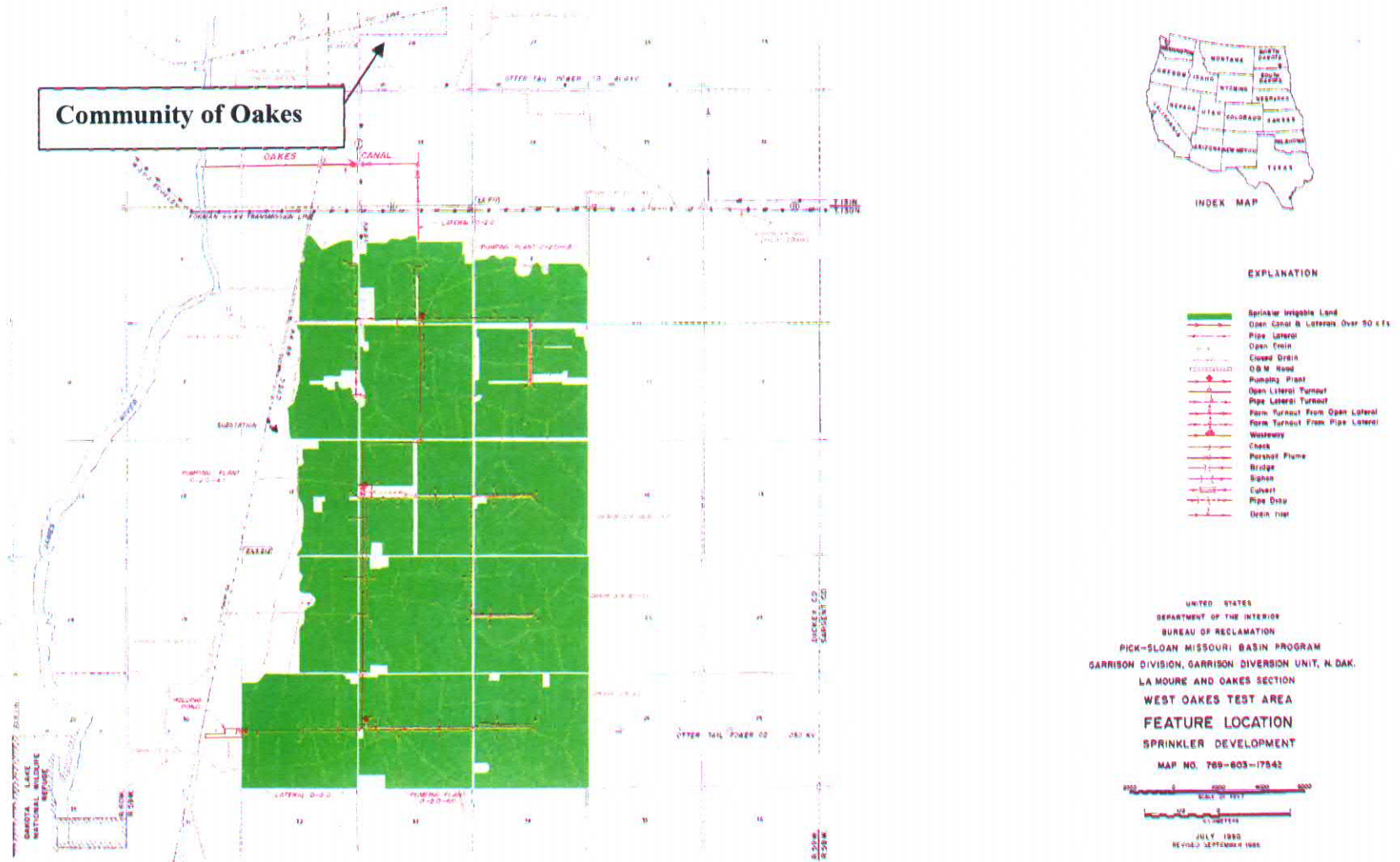
Enclosure

Subject: Solicitation for Information Montana-Dakota Utilities Co. and Otter Tail Power Company Proposed Big Stone South to Ellendale 345kV Transmission Line Project, North Dakota and South Dakota



Intersection of Four USGS topographic quad maps of Riverdale Township in Dickey County near Oakes, North Dakota, including Oakes (top right), Glover (top left), Oakes SE (bottom right), Guelph (bottom left), quads. Location of Reclamation's Oakes Test Area (green polygon, see next page).

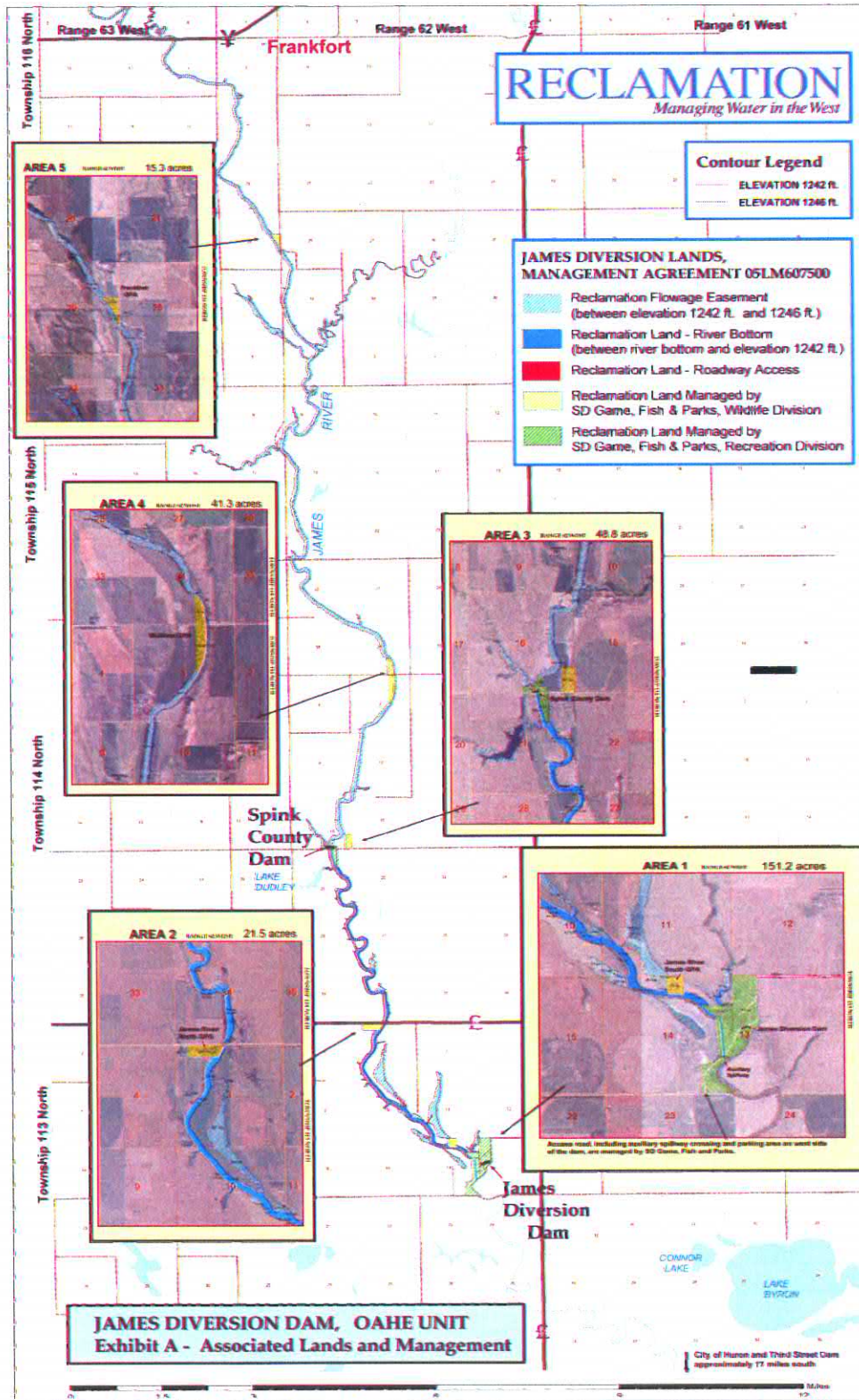
Subject: Solicitation for Information Montana-Dakota Utilities Co. and Otter Tail Power Company Proposed Big Stone South to Ellendale 345kV Transmission Line Project, North Dakota and South Dakota



Reclamation's Oakes Test Area Location Map



Subject: Solicitation for Information Montana-Dakota Utilities Co. and Otter Tail Power Company Proposed Big Stone South to Ellendale 345kV Transmission Line Project, North Dakota and South Dakota



James Diversion Project Lands – also provided by email.



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



August 13, 2012

Mr. Chad Miller
Montana Dakota Utilities Co.
400 North Fourth Street
Bismarck, ND 58501

Re: Proposed Big Stone South to Ellendale 345 kV Transmission Line Project
Dickey County

Dear Mr. Miller:

This department has reviewed the information concerning the above-referenced project submitted to Dr. Terry Dwelle, under date of July 27, 2012, 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

Environmental Health
Section Chief's Office
701.328.5150

Division of
Air Quality
701.328.5188

Division of
Municipal Facilities
701.328.5211

Division of
Waste Management
701.328.5166

Division of
Water Quality
701.328.5210

Mr. Chad Miller

2.

August 13, 2012

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

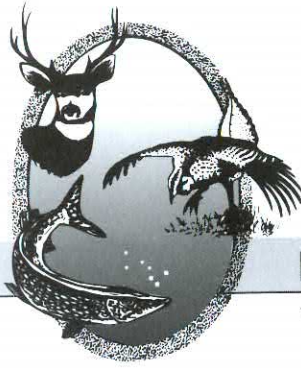
Prevent the erosion of exposed soil surfaces and trapping sediments being transported. Examples include, but are not restricted to, sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap, mesh or burlap blankets to hold soil during construction, and immediately establishing vegetative 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.



"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

August 14, 2012

Chad Miller
Montana-Dakota Utilities Co.
400 North 4th Street
Bismarck, ND 58501

Dear Mr. Miller:

RE: Proposed Big Stone South to Ellendale 345-kV Transmission Line Project
Montana-Dakota Utilities Co. and Otter Tail Power Company

The North Dakota Game and Fish Department has reviewed this project for wildlife concerns. Our primary concern is the possible disturbance of native prairie and wetland areas during construction of the transmission line. We ask that work within these areas be avoided to the extent practicable, above-ground appurtenances not be placed in wetland areas, and any unavoidable destruction or degradation of wetland acres be mitigated in kind.

The department manages several Wildlife Management Areas (WMA's) within or adjacent to the project study area. A special use permit would be required to cross these lands. Information regarding WMA locations is available in various formats at <http://gf.nd.gov/maps/>. Mr. Brian Kietzman, Wildlife Resource Management Supervisor, can be contacted at 701-253-6483 for additional information on permit requirements.

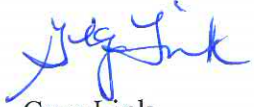
There are a variety of classified fisheries within the study area including the James, Wild Rice, Bois de Sioux, and Maple Rivers. Riparian corridors provide important wildlife habitat in addition to the fisheries resource. Any necessary construction activity should not take place within these waterways between April 15 and June 1.

We recommend that overhead lines be marked when placed over perennial streams or sited in close proximity to large wetland complexes to minimize possible avian impacts. The publication "Mitigating Bird Collisions with Power Lines: the State of the Art in 1994" provides a range of management options which can be used to reduce avian collisions.

Additionally, the Department recommends that the transmission line be sited in existing utility corridors where feasible, and disturbed areas be reclaimed to pre-project conditions. We

appreciate the opportunity to provide comments, and would like to be kept informed as this project progresses.

Sincerely,



Greg Link
Chief
Conservation & Communication Division

js



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

August 14, 2012

Mr. Chad Miller
Big Stone South to Ellendale

Re: Montana-Dakota Utilities Co. and Otter Tail Power Company
Proposed Big Stone South to Ellendale 345kV Transmission Line Project
North Dakota and South Dakota

Dear Mr. Miller,

The North Dakota Parks and Recreation Department (the Department) has reviewed the above referenced proposal construction of a 345kV transmission line in North Dakota and South Dakota and a new Ellendale 345kV Junction Substation in 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 but may affect state Land and Water Conservation Fund (LWCF) project sites that we manage. A map with LWCF project locations has been attached. All LWCF sites received assistance from the federal LWCF program and are under protection of section 6(f) of the LWCF Act. Any property taken from within the 6f boundary of these sites must be replaced with property of equal market value. Should any public or private utilities need to be added or relocated on the LWCF recreational lands, the NDPRD must be consulted prior to any action taken. Please contact Kevin Stankiewicz (701-328-5364 or kstankiewicz1@nd.gov) if additional LWCF information is needed.

The North Dakota Natural Heritage biological conservation database has been reviewed to determine if any current or historical 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, several plants, animal and significant ecological community occurrences have been identified within or adjacent to the project areas. Please see the attached spreadsheet and maps for more specific information on these species. We defer further comments regarding animal species to the North Dakota Game and Fish Department and the United States Fish and Wildlife Service.

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.

The Department recommends that the project be accomplished with minimal impacts and that all efforts be made to ensure that critical habitats not be disturbed in the project area to help secure rare species conservation in North Dakota. 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 me at (701-328-5370 or kgduttonhefner@nd.gov). Thank you for the opportunity to comment on this proposed project.

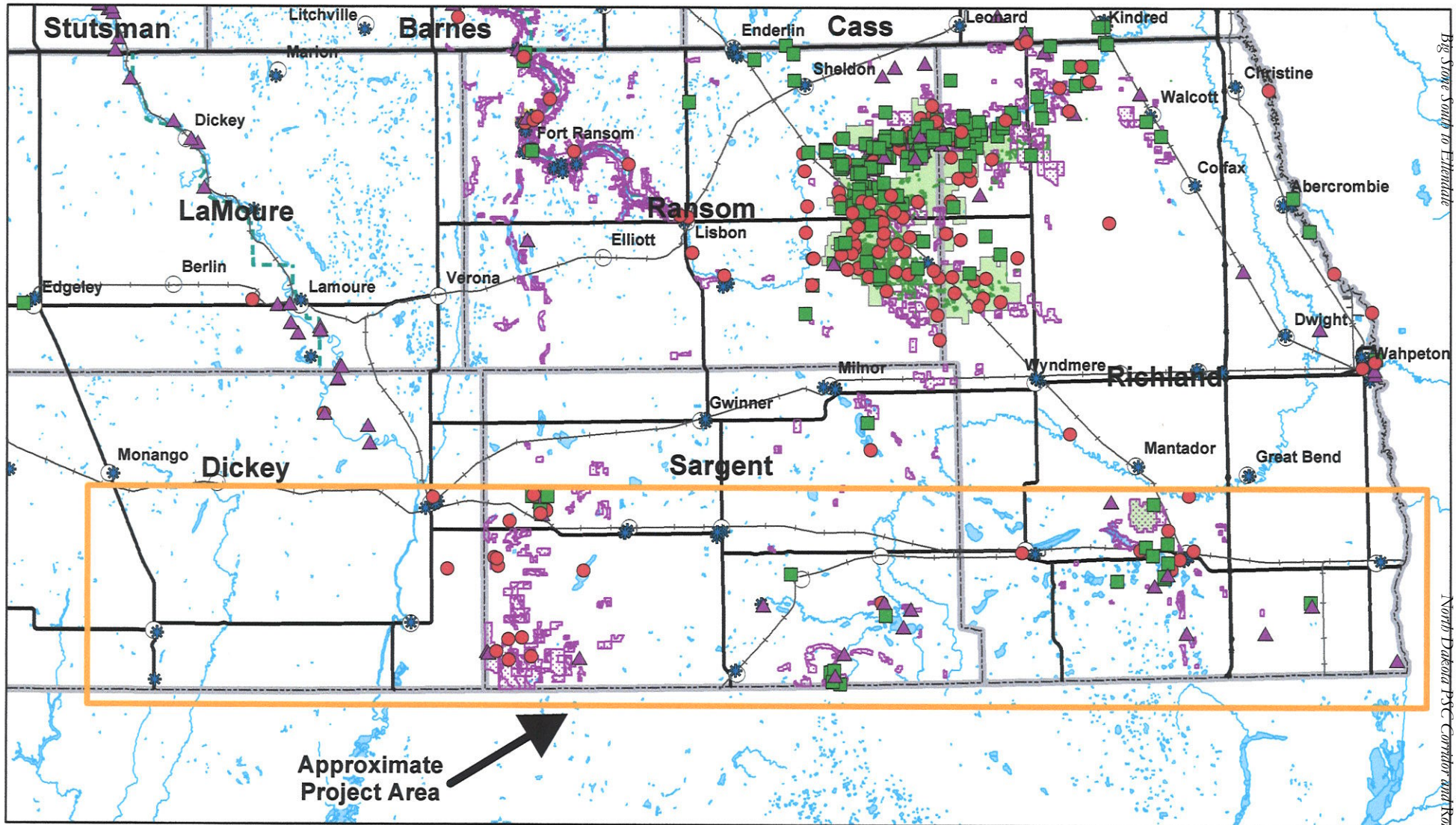
Sincerely,

Kathy Duttonhefner, Coordinator
Natural Resources Division

R.USNDNHI*2012-190KD8/14/2012DL8.15.2012

.....
Play in our backyard!

North Dakota Parks and Recreation Department North Dakota Natural Heritage Inventory



- Animal Species of Concern
- Plant Species of Concern
- ▲ Significant Ecological Community
- ▨ Animal Species of Concern
- ▨ Plant Species of Concern
- ▨ Significant Ecological Community

August 2012

Land and Water Conservation Fund Projects

Project Number	Project Name
38-00459	Cogswell Recreation Improvements
38-00867	Ellendale Golf Course
38-01113	Ellendale Park Improvements
38-01064	Ellendale Pool Replacement
38-00161	Ellendale Tennis Courts
38-00775	Fairmount Tennis CT/Hockey Rink
38-00177	Forman City Park
38-00418	Forman Golf Course
38-01280	Forman Klefstad Memorial Public Pool Renovation
38-00361	Hankinson Combination Building
38-00697	Hankinson Recreation Complex
38-00287	Hankinson Softball Improvement
38-00454	Havana Park Improvement
38-00687	Lidgerwood Comfort Station
38-00048	Lidgerwood Pool & Golf Course
38-00047	Lidgerwood Pool & Golf Course Acq.
38-00464	Lidgerwood Pool & Playground Imp.
38-00373	Lidgerwood Recreation Addition
38-00541	Lidgerwood Recreation Expansion
38-00272	Lidgerwood Recreation Improvements
38-00192	Lidgerwood Softball & Acquisition
38-00149	Lidgerwood Tennis Courts
38-00970	Ludden Tennis Court
38-00770	Oakes Bleachers
38-00651	Oakes Picnic Facilities
38-00296	Oakes Picnic Shelters
38-00126	Oakes Recreational Complex
38-00655	Oakes Swimming Pool Renovation
38-01188	Sargent Co. Fair Restroom, Concession
38-01268	Silver Lake ADA Improvements
38-00471	Silver Lake Fish Rearing Pond
38-00088	Silver Lake Recreation Complex

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 mappable to map or place name precision only; 8 km from centerpoint

U - Unmappable



North Dakota Department of Transportation

Francis G. Ziegler, P.E.
Director

Jack Dalrymple
Governor

August 15, 2012

Chad Miller
Environmental Scientist
Montana Dakota Utilities
400 N. 4th Street
Bismarck, ND 58501

PROPOSED 345 kV TRANSMISSION LINE FOR BIG STONE SOUTH TO ELLENDALE,
DICKEY COUNTY, NORTH DAKOTA AND SOUTH DAKOTA

We have reviewed your July 27, 2012, letter.

This project should have no adverse effect on the North Dakota Department of Transportation (NDDOT) highways; however, NDDOT asks that further information be submitted when a route is determined.

However, it is still necessary that if because of this project any work needs to be done on highway right-of-way, appropriate permits and risk management documents will need to be obtained from the Department of Transportation District Engineer, John Thompson at 701-845-8800.

Handwritten signature of Robert A. Fode in blue ink.

ROBERT A. FODE, P.E., DIRECTOR - OFFICE OF PROJECT DEVELOPMENT

57/rfb/js

c: John Thompson, Valley City District Engineer



U.S. Department
of Transportation
**Federal Aviation
Administration**

Federal Aviation Administration
Bismarck Airports District Office
2301 University Drive, Building 23B
Bismarck, ND 58504

September 20, 2012

Mr. Chad Miller
Environmental Scientist
Montana Dakota Utilities
400 North Fourth Street
Bismarck, ND 58501-4092

Re: Montana-Dakota Utilities Company and Otter Tail Power Company
Proposed Big Stone South to Ellendale 345 kV Transmission Line Project
North Dakota and South Dakota

Dear Mr. Miller:

The Code of Federal Regulations (CFR) Title 14 Part 77.9 states that any person/organization who intends to sponsor any of the following construction or alterations must notify the Administrator of the FAA:

- any construction or alteration exceeding 200 foot above ground level
- any construction or alteration:
 - within 20,000 foot of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with its longest runway more than 3,200 foot
 - within 10,000 foot of a public use or military airport which exceeds a 50:1 surface from any point on the runway of each airport with its longest runway no more than 3,200 foot
 - within 5,000 foot of a public use heliport which exceeds a 25:1 surface
- any highway, railroad or other traverse way whose prescribed adjusted height would exceed the above noted standards
- when requested by the FAA

Objects that are considered obstructions under the standards described in this Part 77.17 are presumed hazards to air navigation unless further aeronautical study concludes that the object is not a hazard.

We request you utilize the FAA “Notice Criteria Tool” link on the web at <https://oeaaa.faa.gov> and we request you file notice when the tool determines that FAA requests that you file. The FAA website for obstruction evaluation provides this tool to assist proponents in applying the appropriate slope calculations above and for impacts to Federal airways and airports navigation/communication facilities/equipment (including those which are not located on or near airports).

The Notice of Proposed Construction or Alteration Form 7460-1 may be obtained and filed online at <https://oeaaa.faa.gov>. FAA requires a minimum notice of 45 days prior to construction start; however FAA encourages you provide notice well in advance of construction in order to avoid delays/impacts to your project.

If you require additional information regarding the filling requirements for your project, please contact the appropriate FAA representative using the Air Traffic Areas of Responsibility map for Off-Airport Construction at <https://oeaaa.faa.gov>.

Also, we recommend that the design, construction, and operation of the project and related improvements (including construction, drainages, and operation of the proposal and any potential wetland mitigation or wildlife mitigation sites) do not create a hazardous wildlife attractant to public use airports. Hazardous wildlife and hazardous wildlife separation distances are defined in FAA Advisory Circular (AC) 150/5200-33, Hazardous Wildlife Attractants on or near airports.

If you are uncertain if the proposed development will cause a wildlife hazard for airports, we recommend you consult with the United States Department of Agriculture, APHIS, Wildlife Services or another qualified wildlife biologists. We recommend any wildlife biologist consulting on a matter such as this, meet the qualifications identified in FAA Advisory Circular 150/5200-36, "Qualifications for wildlife biologist conducting wildlife hazard assessments and training curriculums for airport personnel involved in controlling wildlife hazards on airports".

Sincerely,



Patricia L. Dressler
Environmental Protection Specialist



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
3425 Miriam Avenue
Bismarck, North Dakota 58501

NOV 01 2012



Chad Miller
Montana Dakota Utilities Co.
400 N. 4th Street
Bismarck, North Dakota 58501-4092

Re: BSSE 345 kV Request for Comments, Study
Corridors, Dickey, Sargent and Richland
Counties, North Dakota

Dear Mr. Miller:

This is in response to your letters dated July 27, 2012, and September 25, 2012, regarding the proposed Big Stone South to Ellendale (BSSE) 345 kV transmission line study corridor in Dickey, Sargent and Richland Counties, North Dakota. The line would be approximately 150-175 miles long between a new Ellendale Junction substation and the proposed Big Stone South substation, which is part of a separate project and will be located near Big Stone City in Grant County, South Dakota. The project would be constructed by Montana-Dakota Utilities (MDU) and Otter Tail Power Company (Otter Tail). The South Dakota Field Office (SDFO) previously submitted comments regarding this project on August 6, 2012. At this time, the North Dakota Field Office (NDFO) is providing comments as they pertain to the study corridor in the North Dakota portion of the proposal.

The U.S. Fish and Wildlife Service (Service) offers the following comments under the authority of and in accordance with the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 et seq.), Executive Order 13186 "Responsibilities of Federal Agencies to Protect Migratory Birds", (E.O 13186 MOU w/ Federal Agency, as applicable) the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57), Executive Order 11990 "Protection of Wetlands", Fish and Wildlife Coordination Act (FWCA) (16 U.S.C. 661-667e, as amended), the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668-668d, 54 Stat. 250), and the National Environmental Policy Act (NEPA) (Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended).

Threatened, Endangered and Candidate Species

To obtain information on Service trust resources including federally threatened, endangered and candidate species and designated critical habitat that may occur in the

identified areas, or may be affected by the proposed activities, we recommend you access the North Dakota Ecological Services Field Office website at <http://www.fws.gov/northdakotafieldoffice/>. You may also access the Service's Information, Planning, and Conservation System (IPaC) website at <http://ecos.fws.gov/ipac/>.

If a federal agency authorizes, funds, or carries out a proposed action, the responsible federal agency, or its designated agent, is required to evaluate whether the action may affect listed species. If the federal agency determines the action may affect, is likely to adversely affect listed species, then the federal agency shall request formal section 7 consultation with this office, or work with this office to remove the likely adverse effects before proceeding. If the evaluation shows a no effect determination on listed species, further consultation is not necessary. The responsibility for compliance with the ESA remains with the federal action agency, if applicable. Therefore, section 7 consultation cannot be completed until the action agency has provided the Service with written designation of MDU/Otter Tail as its non-federal agent. Until such time as the action agency designates a non-federal agent for informal consultation, the following comments should be considered as preliminary, and are to be used to assist with project planning.

If a non-federal entity receives federal funding for an activity, or if any federal permit or license is required, the federal agency may designate, in writing, the fund recipient or permit applicant as its agent for purposes of informal section 7 consultation. The funding, permitting, or licensing federal agency is responsible to ensure that its actions comply with the ESA, including obtaining concurrence from the Service for any action that may affect a threatened or endangered species, or result in the destruction or adverse modification of designated critical habitat. If there is no Federal nexus for the proposed project, it is not necessary to make determinations for listed species. Private individuals and companies however, are required to ensure that their actions do not result in "take" of federally listed animals. Take is broadly defined as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct". Section 10(a)(1)(B) of the ESA allows non-Federal parties planning activities that have no Federal nexus, but which could result in the incidental taking of listed animals, to apply for an incidental take permit. (A Federal nexus exists whenever an activity is conducted, funded, or licensed or permitted by a Federal agency). The application must include a habitat conservation plan (HCP) laying out the proposed actions, determining the effects of those actions on Federally-listed plant and wildlife species and their habitats (and may include proposed or candidate species), and defining measures to minimize and mitigate adverse effects.

Whooping Crane

The Aransas Wood Buffalo Population (AWBP) of the endangered whooping crane (*Grus americana*) is the only self-sustaining migratory population of whooping cranes remaining in the wild. Whooping cranes breed in the wetlands of Wood Buffalo National Park in Alberta and the Northwest Territories of northern Canada, and overwinter on the Texas coast. Whooping cranes in the AWBP annually migrate through North Dakota during their spring and fall migrations.

A portion of the study corridor lies within a corridor that includes approximately 95 percent of all reported whooping crane sightings in the State (enclosure). The presence of suitable roosting and feeding habitat for whooping cranes indicate the potential for whooping crane presence in the proposed project area. The Service recommends that if a whooping crane is sighted within one mile of the project while it is under construction, that all work cease within one mile of that part of the project and the Service be contacted immediately. In coordination with the Service, work may resume after the bird(s) leave the area. Whooping cranes are unlikely to spend more than a few days in any one spot during migration.

The presence of suitable roosting and/or foraging habitat for whooping cranes within the proposed project area, and the presence of confirmed whooping crane sightings, document the potential for whooping crane presence in the area. New overhead structures associated with the proposed projects have the potential to adversely affect whooping cranes, due to line strikes, during their annual spring and fall migration through North Dakota. Currently, collisions with power lines are the greatest known source of mortality for fledged whooping cranes, and have accounted for the documented deaths or serious injuries of 46 whooping cranes since 1956.

Due to the location of all or a portion of the proposed project within or in close proximity to the 95 percent delineated whooping crane migration corridor, the Service recommends that additional measures be included in the project description. Measures to avoid or reduce potential impacts to whooping cranes due to line strikes include, but are not limited to:

- Burying the new electrical transmission line.
- If burying the new line is not feasible, install and maintain visual marking devices on the new transmission line in the 95-percent whooping crane migration corridor within one mile of suitable whooping crane stopover habitat* and an equal length of existing transmission/distribution line within one mile of suitable whooping crane stopover habitat in the whooping crane migration corridor (preferably in the 75-percent migration corridor, but at a minimum within the 95-percent migration corridor).

* Potentially suitable migratory stopover habitat for whooping cranes includes wetlands with areas of shallow water without visual obstructions (i.e., high or dense vegetation) (Austin & Richert 2001; Jolms et al. 1997; Lingle et al. 1991; Howe 1987) and submerged sandbars in wide, unobstructed river channels that are isolated from human disturbance (Armbruster 1990). Roosting wetlands are often located within 1 mile of grain fields.

- For replacement or upgrade of existing transmission lines install and maintain visual marking devices on the replaced/upgraded transmission line in the 95-percent whooping crane migration corridor within one mile of suitable whooping crane stopover habitat.

The recommendation to mark the line within one mile of stopover wetlands is intended to provide protection at a distance (one mile) between stopover habitat and the line(s), which represent the greatest collision risk to whooping cranes. Whooping cranes are most vulnerable to collision during low level flight as they are taking off from or landing in stopover wetlands or as they are moving between stopover wetlands and nearby foraging areas. For local flights, the proximity of power lines to locations where birds are landing and taking off is critical. Power lines traversing between wetlands used for roosting and grain fields used for feeding cause the most collisions for cranes because lines placed in these circumstances cause cranes to cross the altitude of the lines. Cranes frequently fly 33-49 ft. (10-15 m) above the ground between fields; as a consequence, a 39-ft. high (12 m) transmission line obstructs their typical flight path. In some power line collision mortality studies, no sandhill crane or waterfowl collisions were observed where distances from power lines to bird use areas exceeded 1 mi (1.6 km).

If the above recommendations are followed, and line markers are maintained, the Service believes that the potential effects to whooping cranes from a line strike can be reduced to an insignificant and/or discountable level in most cases.

Western Prairie Fringed Orchid

The Western prairie fringed orchid is a perennial orchid of the North American tall grass prairie and is found most often on unplowed, calcareous prairies and sedge meadows. Plants have also been observed in successional communities such as borrow pits, old fields, and roadside ditches. Soil moisture is a critical determinant of growth, flowering, and distribution of western prairie fringed orchid. Western prairie fringed orchids are pollinated by only a few species of hawkmoths. As stated in SDFO's August 6, 2012 letter to Mr. Darrin Lahr of Xcel Energy, a previous Biological Assessment (BA) prepared for this project stated that suitable habitat was determined to exist for western prairie fringed orchid along the proposed corridor. Additional surveys should be conducted to determine if orchids are present within the proposed corridor, or within the final selected ROW. Flowers generally bloom in late June to mid-July, but the timing of flower emergence varies, so surveys should be coordinated with the NDFO.

Candidate Species

The Dakota skipper, Powershiek skipperling, Sprague's pipit, and sage grouse are species that are candidates for listing under the ESA. No legal requirement exists to protect candidate species; however, it is within the spirit of the ESA to consider these species as having significant value and worth protecting. The Service's Candidate Conservation Program provides a means for conserving these species. Early conservation preserves management options, minimizes the cost of recovery, and reduces the potential for restrictive land use policies in the future. Through Candidate Conservation Agreements

and Candidate Conservation Agreements with Assurances the Service can work with interested public and private parties to identify threats to candidate species or species at risk. If there is a federal nexus, a federal agency may also request a conference on any proposed action that may affect a proposed or candidate species.

Dakota Skipper

The Dakota skipper (*Hesperia dacotae*), a candidate species, is a small to medium-sized hesperiine butterfly associated with high quality prairie ranging from wet-mesic tallgrass prairie to dry-mesic mixed grass prairie. The first type of habitat is relatively flat and moist native bluestem prairie. Three species of wildflowers are usually present: wood lily (*Lilium philadelphicum*), harebell (*Campanula rotundifolia*), and smooth camas (*Zygadenus elegans*). The second habitat type is upland (dry) prairie that is often on ridges and hillsides. Bluestem grasses and needlegrasses dominate these habitats. On this habitat type, three wildflowers are typically present in high quality sites that are suitable for Dakota skipper: pale purple (*Echinacea pallida*) and upright (*E. angustifolia*) coneflowers and blanketflower (*Gaillardia sp.*). Because of the difficulty of surveying for Dakota skippers and a short survey window, we recommend that the project avoid any impacts to potential Dakota skipper habitat.

Poweshiek Skipperling

The Poweshiek skipperling (*Oarisma Poweshiek*) is a butterfly known to occur in Sargent and Richland Counties and is a candidate species. The Poweshiek skipperling is a small and slender-bodied skipper butterfly with a wingspan ranging from 2.3 to 3.0 centimeters (cm) (0.9 to 1.2 inches (in)).

The Poweshiek skipperling prefers prairie fens, grassy lake and stream margins, moist meadows, and wet-mesic to dry tallgrass prairie. Poweshiek skipperling habitat in North Dakota is best described as undisturbed native tallgrass prairies favoring moist soils, but the species is also found in the higher dry sites often associated with gravelly glacial till soils. Because of the difficulty of surveying for Poweshiek skipperlings and a short survey window, we recommend that the project avoid any impacts to potential Poweshiek skipperling habitat.

Migratory Birds

The Migratory Bird Treaty Act (MBTA) prohibits the taking, killing, possession, and transportation, (among other actions) of migratory birds, their eggs, parts, and nests, except when specifically permitted by regulations. While the MBTA has no provision for allowing incidental take, the Service realizes that some birds may be killed during project construction and operation even if all known reasonable and effective measures to protect birds are used. The Service Office of Law Enforcement carries out its mission to protect migratory birds through investigations and enforcement, as well as by fostering relationships with individuals, companies, and agencies that have taken effective steps to avoid take of migratory birds, and by encouraging others to implement measures to avoid take of migratory birds. It is not possible to absolve individuals, companies, or agencies

from liability even if they implement bird mortality avoidance or other similar protective measures. However, the Office of Law Enforcement focuses its resources on investigating and prosecuting individuals, companies, and agencies that take migratory birds without identifying and implementing all reasonable, prudent, and effective measures to avoid that take. Individuals, companies, or agencies are encouraged to work closely with Service biologists to identify available protective measures when developing project plans and/or avian protection plans, and to implement those measures prior to/during construction or similar activities.

To the extent practicable, schedule construction for late summer or fall/early winter so as not to disrupt migratory birds during the breeding season, February 1 to July 15. If work is proposed to take place during the breeding season, there may be take of migratory birds, their eggs, or active nests. A qualified biologist should be hired to conduct bird/nest surveys within five days prior to the initiation of construction. If active nests are identified, the project proponent should cease construction, maintain a sufficient buffer around active nests to avoid disturbing breeding activities and contact the Service immediately. The Service recommends that MDU and Otter Tail implement all practicable measures to avoid all take, such as suspending construction where necessary, and/or maintaining adequate buffers to protect the birds until the young have fledged. The Service further recommends that if you choose to conduct field surveys for nesting birds with the intent of avoiding take, that you maintain any documentation of the presence of migratory birds, eggs, and active nests, along with information regarding the qualifications of the biologist(s) performing the survey(s), and any avoidance measures implemented at the project site. Should surveys or other available information indicate a potential for take of migratory birds, their eggs, or active nests, the Service requests that you contact this office for further coordination on the extent of the impact and the long-term implications of the intended use of the project on migratory bird populations.

Our GIS analysis of the proposed project shows that it crosses a number of wetlands and native prairie. These habitat types provide important ecological services, including nesting and foraging habitat for migratory birds. Wetlands take at least two to three years for the vegetation to return, and at least this long for full functionality to be recovered. Native prairie can take a decade or more to recover, and even then, the replanted area is not as diverse as the original habitat. Additionally, non-natives which become established when the project area is disturbed may spread into the adjacent prairie.

Adequate consideration for avian resources early in the project planning process can help to minimize impacts to migratory birds. The Service has coordinated with the Avian Power Line Interaction Committee (APLIC) to develop guidelines to assist companies in formulating Avian Protection Plans (APP). These plans are utility-specific and designed to provide a structured way for a company to reduce avian mortality resulting from interactions with electric utility facilities (e.g. collisions and electrocutions). The APP can be tailored to each utility's industry-specific and site-specific wildlife needs, while in the process furthering avian conservation and improved reliability and customer service. A utility that implements the principles contained in these APP guidelines will greatly

reduce avian risk as well as its own risk of enforcement actions under the Migratory Bird Treaty Act (MBTA). The guidelines can be accessed from the Service's website at <http://www.fws.gov/migratorybirds/>.

To minimize the electrocution hazard to birds, the Service, with support from the RUS, recommends that new or updated overhead power lines that may be associated with the proposed projects be constructed in accordance with the current guidelines for preventing raptor electrocutions. The recommended guidelines can be found in "Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996". To increase power line visibility and reduce bird fatalities resulting from collisions with power lines, the Service recommends new power lines that cross or run adjacent to rivers or large wetlands be modified according to "Mitigating Bird Collisions with Power Lines: The State of the Art in 1994". Both publications can be obtained by writing or calling the Edison Electric Institute, P.O. Box 266, Waldorf, Maryland 20604-0266, (1-800-334-5453) or visiting their website at <http://www.eei.org/>.

Bald and Golden Eagles

Bald and Golden Eagles are federally-protected under both the BGEPA and the MBTA. The BGEPA prohibits anyone without a permit issued by the Secretary of the Interior from taking bald eagles (*Haliaeetus leucocephalus*) or golden eagles (*Aquila chrysaetos*), including their parts, nests, or eggs. The BGEPA provides criminal and civil penalties for persons who take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald or golden eagle, alive or dead, or any part, nest, or egg thereof. The BGEPA defines take as pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb. "Disturb" means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior. In addition to immediate impacts, this definition also covers impacts that result from human-induced alterations initiated around a previously used nest site during a time when eagles are not present, if, upon the eagles return, such alterations agitate or bother an eagle to a degree that injures an eagle or substantially interferes with normal breeding, feeding, or sheltering habits and causes, or is likely to cause, a loss of productivity or nest abandonment.

The Service's overall management objective for golden eagle and bald eagle populations is to ensure no declines in breeding populations of either species. Numerous relatively minor disruptions to eagle behaviors from multiple activities, even if spatially or temporally distributed, may lead to disturbance that would not have resulted from fewer or more carefully sited activities. The accumulation of multiple land development projects or siting of multiple infrastructures that may be hazardous to eagles can cumulatively reduce the availability of alternative sites suitable for breeding, feeding, or sheltering, resulting in a greater than additive risk of take to eagles.

If your proposed activity is anticipated to result in take of bald or golden eagles, you must first apply for, and receive a permit to take prior to the taking. The determination of the likelihood of take will entail identifying the impacts of your proposed activity.

According to the Service's data, there are nine documented bald eagle nests within or near the study corridor. There may be additional eagle nests within the corridor. The Service recommends that surveys be conducted prior to any on-the-ground activities, to determine the extent of any eagle breeding territories in the area that may be affected by the proposed activity. We recommend that aerial nest surveys (preferably by helicopter) be conducted within a one-mile wide evaluation corridor or buffer to identify any occupied and unoccupied eagle nest sites in proximity to the proposed project area, including any proposed new access roads. Aerial surveys should be conducted between March 1 and May 15, before leaf-out, so that nests are visible, and so their status (active or inactive) can be determined. A nesting territory or inventoried habitat should be designated as unoccupied by eagles ONLY after at least two complete aerial surveys in a single breeding season.

Aerial surveys should include the following:

1. Due to the ability to hover and facilitate observations of the ground, helicopters are preferred over fixed wing aircraft, although small aircraft may also be used. The Service requests that MDU and Otter Tail report any eagle nests found, as well as nests of any other raptors found during the survey. Whenever possible, two observers should be used to conduct the surveys.
2. Observations of any eagle nest sites should be recorded using GPS. The date, location, nest condition, activity status, and habitat should be recorded for each sighting.
3. We request that you share the qualifications of the biologist(s) conducting the survey, method of survey, and results of the survey with the Service.

Alternatively, MDU and Otter Tail could conduct ground surveys to identify eagle nests within a one-mile wide evaluation corridor or buffer between March 1 and May 15. However, be aware that ground surveys are much less reliable than aerial surveys, even during leaf-off conditions, and typically may miss $\frac{3}{4}$ of eagle nests present. At least two ground observation periods lasting at least four hours or more are necessary to designate an inventoried habitat or territory as unoccupied as long as all potential nest sites and alternate nests are visible and monitored. If an eagle nest is observed, the MDU and Otter Tail should contact the Service for further consultation.

Recommendations Specific to Bald Eagles

The size and shape of effective buffers vary depending on the topography and other

ecological characteristics surrounding the nest site. In open areas where there are little or no forested or topographical buffers, such as in North Dakota, distance alone must often serve as the buffer.

To avoid/minimize impacts to nesting bald eagles from construction activities, the Service recommends: (1) keeping a minimum ½-mile buffer between the activity and any bald eagle nest if no landscape buffer exists; (2) keeping a minimum 660-foot buffer and maintaining a landscape buffer or natural areas between the activity and around nest trees; and (3) avoiding activities during the bald eagle breeding season (February 1 – July 15). The buffer areas serve to minimize visual and auditory impacts associated with human activities near nest sites. Ideally, buffers would be large enough to protect existing nest sites and provide for alternative or replacement nest sites. The Service's May 2007, National Bald Eagle Management Guidelines contains detailed information on protecting bald eagles from disturbance due to human activity. The guidelines can be accessed on the Service's website at:

<http://www.fws.gov/migratorybirds/CurrentBirdIssues/Management/BaldEagle/NationalBaldEagleManagementGuidelines.pdf>.

Fish and Wildlife Service Property Interests

The Service administers National Wildlife Refuges and Waterfowl Production Areas owned in fee title as well as wetland and grassland easements throughout North Dakota, including an ongoing easement acquisition program. A review of Service realty records indicates Service property interests are located in the planning area.

The Service recommends that all property interests within the National Wildlife Refuge System be avoided whenever possible. A special use permit or right-of-way will be necessary for construction affecting property interests administered by the Service. The issuance of a special use permit or right-of-way is subject to the final determination of a refuge compatibility review process. This determination may add some time to the review process so early coordination with the affected Refuge or Wetland Management District is important. For Sargent and Richland Counties, please contact Rob Bundy, Wildlife Refuge Manager, Tewaukon National Wildlife Refuge, 9754 143½ Ave SE, Cayuga, ND 58013; Phone: (701)724-3598; Email: rob_bundy@fws.gov; for Dickey County, contact Mick Erickson, Wildlife Refuge Manager, Kulm Wetland Management District, 1 First St. SW – PO Box E, Kulm, ND 58456; Phone: (701)647-2866; Email: michael_erickson@fws.gov, for additional information on Service property interests and specific information relative to Service easements and up to date realty records.

Terrestrial Habitat Avoidance and Restoration

Construction activities should be conducted in a manner that will avoid/minimize impacts to the existing habitat in the project area. The following recommendations are intended to reduce construction related impacts:

- Make no stream channel alterations or changes in drainage patterns.

- Avoid placement of fill in wetlands.
- Replace unavoidable loss of wetland habitat with functionally equivalent wetlands
- Install and maintain appropriate erosion control measures to reduce sediment transport to adjacent wetlands and stream channels.
- In replanting native prairie or other grassland habitat, the Service recommends planting a diverse mixture of native cool and warm season grasses and forbs. Recent research has suggested that a more diverse mix, including numerous forb species, is not only ecologically beneficial but is also more weed resistant, allowing for less intensive management and chemical use. In essence, the more species included in a mixture, the higher the probability of providing competition to resist invasion by non-native plants. The seed source should be as local as possible, preferably collected from the nearby native prairie. If seeds and/or plants are obtained commercially, we recommend obtaining seed stock from nurseries within 250 miles of the project area to ensure the particular cultivars are well adapted to the local climate. The Natural Resources Conservation Service (NRCS) compiles a list of vendors in North Dakota that supply conservation seed and plants at <http://plant-materials.nrcs.usda.gov/pubs/ndpmcmt8152.pdf>. Additional information on native grasses and forbs may be found at the NRCS Bismarck Plant Materials Center website at <http://www.plant-materials.nrcs.usda.gov/ndpmc/>.

Thank you for the opportunity to comment on this project. If additional information is required, please have your staff contact Heidi Riddle of my staff, at (701) 250-4481 or at the letterhead address.

Sincerely,

for
Carol A

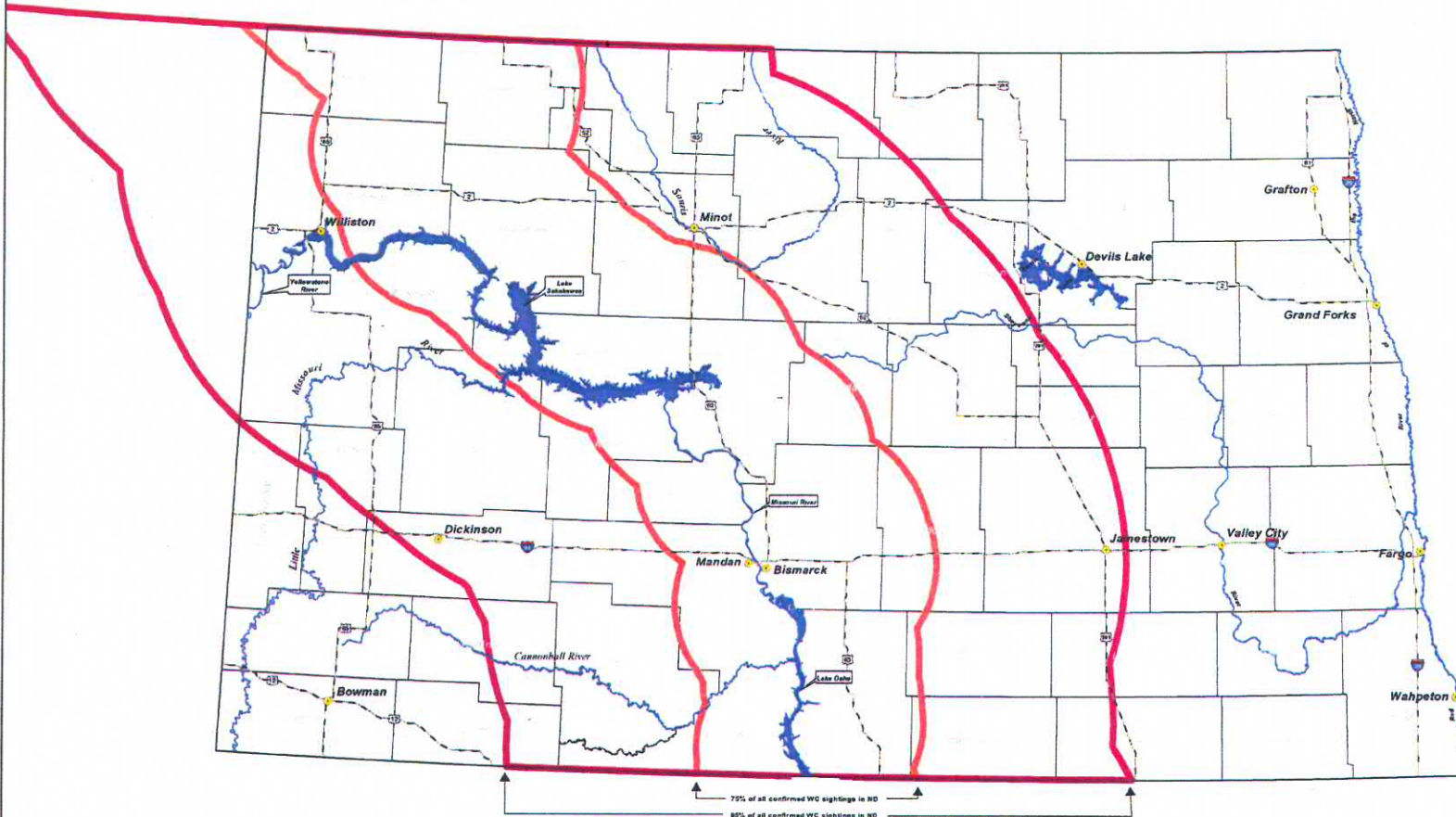
Jeffrey K. Towner
Field Supervisor
North Dakota Field Office

Enclosure

cc: Director, ND Game & Fish Department, Bismarck, ND
(Attn: G. Link)
USFWS, Tewaukon Wetland Management District, Cayuga, ND
(Attn: R. Bundy)
USFWS, Kulm Wetland Management District, Kilm, ND
(Attn: M. Erickson)
USFWS, South Dakota Ecological Services Field Office, Pierre, SD
(Attn: S. Larson)



North Dakota Whooping Crane Migration Corridor



DISCLAIMER:

The USFWS makes no claim as to the accuracy or completeness of the displayed information. Species occurrence and habitat information is provided for illustrative purposes only. Federal action agencies and project proponents should contact the USFWS North Dakota Field Office for more detailed species information and technical assistance in evaluating potential project impacts to fish and wildlife resources.

Map produced 04/21/2010 by USFWS Ecological Services, Bismarck, ND.

-  75% Whooping Crane Migration Corridor
-  95% Whooping Crane Migration Corridor





U.S. Department
of Transportation
**Federal Aviation
Administration**

Federal Aviation Administration
Bismarck Airports District Office
2301 University Drive, Building 23B
Bismarck, ND 58504

December, 18, 2012

Mr. Chad Miller
Environmental Scientist
Montana Dakota Utilities
400 North Fourth Street
Bismarck, ND 58501-4092

Re: Big Stone South to Ellendale Project Update
Montana-Dakota Utilities Company and Otter Tail Power Company
Proposed Big Stone South to Ellendale 345 kV Transmission Line Project

Dear Mr. Miller:

The Federal Aviation Administration (FAA) Bismarck Airports District Office has reviewed your update dated September 25, 2012.

The Code of Federal Regulations (CFR) Title 14 Part 77.9 states that any person/organization who intends to sponsor any of the following construction or alterations must notify the Administrator of the FAA:

- any construction or alteration exceeding 200 foot above ground level
- any construction or alteration:
 - within 20,000 foot of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with its longest runway more than 3,200 foot
 - within 10,000 foot of a public use or military airport which exceeds a 50:1 surface from any point on the runway of each airport with its longest runway no more than 3,200 foot
 - within 5,000 foot of a public use heliport which exceeds a 25:1 surface
- any highway, railroad or other traverse way whose prescribed adjusted height would exceed the above noted standards
- when requested by the FAA

Objects that are considered obstructions under the standards described in this Part 77.17 are presumed hazards to air navigation unless further aeronautical study concludes that the object is not a hazard.

FAA requests that you utilize the FAA "Notice Criteria Tool" link on the web at <https://oeaaa.faa.gov> for each structure and we request you file notice when the tool determines that FAA requests that you file. The FAA website for obstruction evaluation provides this tool to assist proponents in applying the appropriate slope calculations above

and for impacts to Federal airways and airports navigation/communication facilities/equipment (including those which are not located on or near airports).

The Notice of Proposed Construction or Alteration Form 7460-1 may be obtained and filed online at <https://oeaaa.faa.gov>. FAA requires a minimum notice of 45 days prior to construction start; however FAA encourages you provide notice well in advance of construction in order to avoid delays/impacts to your project.

If you require additional information regarding the filling requirements for your project, please contact the appropriate FAA representative using the Air Traffic Areas of Responsibility map for Off-Airport Construction at <https://oeaaa.faa.gov>.

Also, we recommend that the design, construction, and operation of the project and related improvements (including construction, drainages, and operation of the proposal and any potential wetland mitigation or wildlife mitigation sites) do not create a hazardous wildlife attractant to public use airports. Hazardous wildlife and hazardous wildlife separation distances are defined in FAA Advisory Circular (AC) 150/5200-33, Hazardous Wildlife Attractants on or near airports.

If you are uncertain if the proposed development will cause a wildlife hazard for airports, we recommend you consult with the United States Department of Agriculture, APHIS, Wildlife Services or another qualified wildlife biologist. We recommend any wildlife biologist consulting on a matter such as this, meet the qualifications identified in FAA Advisory Circular 150/5200-36, "Qualifications for wildlife biologist conducting wildlife hazard assessments and training curriculums for airport personnel involved in controlling wildlife hazards on airports".

Sincerely,



Patricia L. Dressler

Environmental Protection Specialist

From: Mueller, Connie [mailto:connie_mueller@fws.gov]
Sent: Wednesday, March 20, 2013 1:50 PM
To: Pickle, Joyce E.
Cc: Michael Erickson; Heidi Riddle; Charlene Bessken; Jay Peterson; Rob Bundy
Subject: USFWS comments on BSSE line

Ms. Pickle,

The BSSE transmission line is progressing toward route selection, and you have requested the U.S. Fish & Wildlife Service (USFWS) thoughts on the line, and the NEPA process.

As you are aware, USFWS is involved in two different ways with this project. The fee title and easement lands are covered by the Division of Refuges. Endangered species and migratory bird concerns are covered by the Division of Ecological Services. Comments provided here are a collection of thoughts from both Divisions in both South and North Dakota.

The USFWS does not have any comments on the preferred route selection beyond what has already been provided at the local meetings.

It appears that it will be difficult to avoid all wetland and grassland easement interests. If a grassland easement is crossed, or a wetland basin on a wetland easement contract is impacted, the NEPA process will be triggered. USFWS will provide guidance on the writing of the document; however, the final route selection will determine the exact details of the document. Below are a few elements that will likely need to be covered in the NEPA process, however, the list may be expanded when the final route is reviewed.

- When USFWS is satisfied that all efforts have been made to avoid easement impacts, acres of wetland and grassland easements impacted will need to be replaced with equal biological and financial acres of similar habitat. The exact pole locations will need to be surveyed and recorded. A reclusion clause is included if the line is ever decommissioned.

- USFWS has previously requested avoidance of all fee-title lands, and in particular the area in Dickey County that has been identified.

- Whooping cranes are known to stop over in areas near the line. To reduce the risk of a line strike, the Service's Region 6 Guidance for Minimizing Effects from Power Line Projects within the Whooping Crane Migration Corridor recommends that project proponents mark new lines within 1.0 mile of potentially suitable habitat and an equal amount of existing line within 1.0 mile of potentially suitable habitat (preferably within the 75-percent corridor, but at a minimum within the 95-percent corridor). Outside the corridor, project proponents should mark new lines within 1.0 mile of potentially suitable habitat.

- The Dakota skipper and Poweshiek skippering are two ESA candidate species that are known to occur on native prairie near the proposed transmission line in Grant/Day/Marshall

Counties, SD and near the Dickey/Sargent County line in ND. As a matter of policy, the Service's Refuge Division treats candidate species as proposed, which may require a conference under Section 7 of the ESA. A survey of suitable habitat for these butterflies maybe prudent. If good habitat is located, surveys for the species should be conducted.

- Migratory birds – there is no take permit for migratory birds so a conservation plan and/or compensatory mitigation may need to be completed. Colonial nesting birds and grassland birds may be affected. You will need to detail how you are going to avoid and/or minimize the effect on migratory birds.

Connie Mueller

--

Connie Mueller, Project Leader
Waubay NWR Complex
605-947-4521 office



ND Department of Emergency Services

PO Box 5511

Tel: (701) 328-8100

Email: nddes@nd.gov

Bismarck, ND 58506-5511

Fax: (701) 328-8181

Website: www.nd.gov/des

Ensuring a safe and secure homeland for all North Dakotans

May 9, 2013

Mr. Chad Miller
Montana-Dakota Utilities Co.
400 North Fourth Street
Bismarck, ND 58501-4092

Re: Proposed Big Stone South to Ellendale 345 KV transmission line project

Dear Mr. Miller:

Thank you for your letter dated May 6, 2013, requesting comments on the proposed Big Stone South to Ellendale 345 KV transmission line project.

The North Dakota Department of Emergency Services, Division of Homeland Security has no comments on the proposed project.

Should you have any additional questions, I may be contacted at 701 328-8100.

Sincerely,

Lonnie G. Hoffer
Disaster Recovery Chief
Department of Emergency Services
Division of Homeland Security



RECEIVED

MAY - 8 2013

May 6, 2013

North Dakota of Emergency Management
 PO Box 5511 Fraine Barracks Lane Building 35
 Bismarck, ND 58504

NORTH DAKOTA
 DEPT OF EMERGENCY SERVICES

**RE: Project Update with Preferred Route
 Montana-Dakota Utilities Co. and Otter Tail Power Company
 Proposed Big Stone South to Ellendale 345 kV Transmission Line Project**

Dear ,

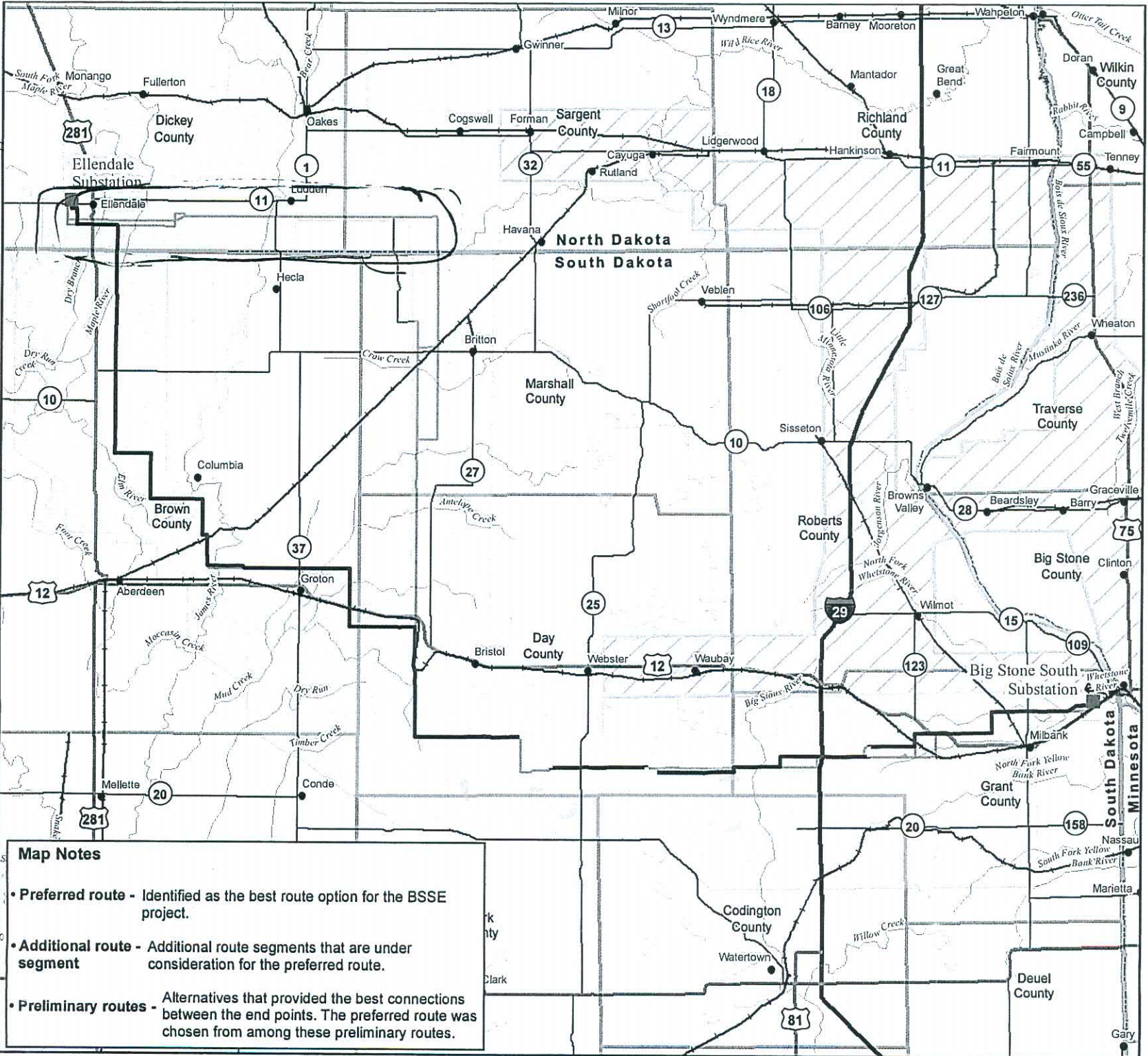
Montana-Dakota Utilities Co. and Otter Tail Power Company have selected a preferred route for the proposed Big Stone South to Ellendale 345 kV transmission line project. As you may recall, the line will be 160 miles to 170 miles long and will be routed between a new substation to be located near Ellendale in Dickey County, North Dakota, and Big Stone South substation, which is part of a separate project and will be located near Big Stone City in Grant County, South Dakota. The Mid-Continent Independent System Operator (MISO, formally Midwest Independent Transmission System Operator) identified the need for this transmission line to improve reliability, increase electric system capacity and support public policy by enabling renewable and other forms of energy to integrate into the electric system. You can find more information by visiting www.BSSEtransmissionline.com, calling our toll-free information line at (888) 283-4678, or contacting Chad Miller (information below).

In January, February and March 2013, we gathered input from tribal, federal, state, and local agencies and the public. We discussed routing constraints and opportunities near preliminary routes. Using this input, along with environmental and engineering considerations, the project team developed the preferred route. (See enclosed map. Please note three areas on the map called Additional Route Segments where the project team has not yet identified the preferred route.)

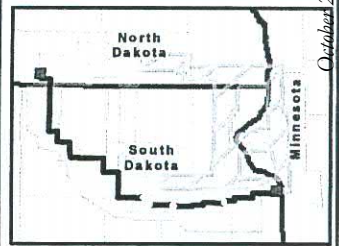
We evaluated the following criteria to identify the preferred route:

- Existing rights-of-way (transmission lines, pipelines, railway, or roads), survey lines, and natural division lines
- Populated areas
- High densities of important natural features
- High densities of cultural properties and sensitive traditional areas
- River crossing locations
- Public and private airports
- Length
- Input from agencies and landowners
- Input from tribes

The project is seeking comments related to the preferred route. If your jurisdiction is now outside of the preferred route, we appreciate your input to date. We are no longer reviewing route options outside of the preferred route; however, you are welcome to continue to provide feedback if you have thoughts on the



Preferred Route with Additional Route Segments
 Big Stone South to Ellendale
 345 kV Transmission Line Project
 North Dakota and South Dakota
 May 2013



- Preferred Route
- Additional Route Segment
- Preliminary Route
- Project End Point
- Study Corridors
- Corridors Not Currently Under Consideration
- Stream
- Lake
- County Boundary
- State Boundary
- Railroad

Map Notes

- **Preferred route** - Identified as the best route option for the BSSE project.
- **Additional route** - Additional route segments that are under consideration for the preferred route.
- **Preliminary routes** - Alternatives that provided the best connections between the end points. The preferred route was chosen from among these preliminary routes.





Community Services | Economic Development & Finance | Tourism | Workforce Development

May 13, 2013

Chad Miller
Montana Dakota Utilities Company
400 North Fourth Street
Bismarck, ND 58501

"Letter of Clearance" In Conformance with the North Dakota Federal Program Review System -
State Application Identifier No.: ND130510-0142

Dear Mr. Miller:

SUBJECT: Big Stone South 345 kV Transmission Line

The above referenced notice has been reviewed through the North Dakota Federal Program Review Process. As a result of the review, clearance is given to the project only with respect to this consultation process.

If the proposed project changes in duration, scope, description, budget, location or area of impact, from the project description submitted for review, then it is necessary to submit a copy of the completed application to this office for further review.

We also request the opportunity for complete review of applications for renewal or continuation grants within one year after the date of this letter.

Please use the above SAI number for reference to the above project with this office. Your continued cooperation in the review process is much appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeff Rotenberger".

Jeff Rotenberger
Energy Program Manager
Division of Community Services

jml

"We lead North Dakota's efforts to attract, retain and expand wealth."



REPLY TO
ATTENTION OF

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

May 14, 2013

North Dakota Regulatory Office

NWO-2012-2940-BIS

Mr. Chad Miller
Montana-Dakota Utilities Co
400 N Fourth Street
Bismarck, North Dakota 58501-4092

Dear Mr. Miller:

This is in response to your letter dated May 6, 2013, requesting Department of the Army (DA), US Army Corps of Engineers (Corps) comments regarding the preferred route for the proposed Big Stone South to Ellendale 345 kV transmission line project located in Dickey County, North Dakota.

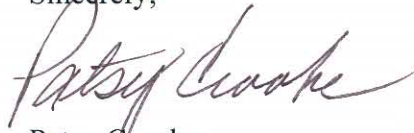
Corps regulatory offices administer Section 10 of the Rivers and Harbors Act (Section 10) and Section 404 of the Clean Water Act (Section 404). Section 10 regulates work in or affecting navigable waters. Section 404 regulates the discharge of dredge or fill material (temporarily or permanently) in waters 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.

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,

A handwritten signature in cursive script, appearing to read "Patsy Crooke".

Patsy Crooke
Project Manager
North Dakota Regulatory Office

Enclosures

COPY

**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.

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 NWP's 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 NWP's, 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. NWP's do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWP's do not grant any property rights or exclusive privileges.
4. NWP's do not authorize any injury to the property or rights of others.
5. NWP's 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 1/2-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 1/4 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 1/4-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.

Environmental Health
Section Chief's Office
701 328.5150

Division of
Air Quality
701.328.5188

Division of
Municipal Facilities
701.328.5211

Division of
Waste Management
701 328.5186

Division of
Water Quality
701 328.5210

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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

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		
<p>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.</p> <p style="text-align: center;">PRIVACY ACT STATEMENT</p> <p>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.</p>					
(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 - Company - E-mail Address -			First - Middle - Last - Company - 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			City - State- Zip-		
Latitude: °N Longitude: °W					
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	Type	Type
Amount in Cubic Yards	Amount in Cubic Yards	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, identify 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").



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 14, 2013

Mr. Chad Miller
Montana Dakota Utilities Co.
400 North Fourth Street
Bismarck, ND 58501-4092

Re: Project Update with Preferred Route
Montana Dakota Utilities Co. & Otter Tail Power Co.
Proposed Big Stone South to Ellendale 345 kV Transmission Line Project
Dickey & Sargent Counties in North Dakota

Dear Mr. Miller:

This department has reviewed the information concerning the above-referenced project submitted under date of May 6, 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, our comments remain the same as in our August 13, 2012 letter to you (copy attached).

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



August 13, 2012

Mr. Chad Miller
Montana Dakota Utilities Co.
400 North Fourth Street
Bismarck, ND 58501

Re: Proposed Big Stone South to Ellendale 345 kV Transmission Line Project
Dickey County

Dear Mr. Miller:

This department has reviewed the information concerning the above-referenced project submitted to Dr. Terry Dwelle, under date of July 27, 2012, 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

Environmental Health
Section Chief's Office
701.328.5150

Division of
Air Quality
701.328.5188

Division of
Municipal Facilities
701.328.5211

Division of
Waste Management
701.328.5166

Division of
Water Quality
701.328.5210



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 Transportation

Grant Levi, P.E.
Director

Jack Dalrymple
Governor

August 15, 2012

Chad Miller
Environmental Scientist
Montana Dakota Utilities
400 N. 4th Street
Bismarck, ND 58501

PROPOSED 345 kV TRANSMISSION LINE FOR BIG STONE SOUTH TO ELLENDALE
PREFERRED ROUTE, DICKEY COUNTY, NORTH DAKOTA AND SOUTH DAKOTA

We have reviewed your May 6, 2013, letter.

The North Dakota Department of Transportation (NDDOT) has received your preferred route and this project should have no adverse effect on the highway transportation system; however, it will be necessary to contact NDDOT to obtain a utility permit.

Additionally, if any work needs to be done on highway right-of-way, appropriate permits and risk management documents will need to be obtained from the Department of Transportation District Engineer, John Thompson at 701-845-8800.

A handwritten signature in blue ink that reads "Robert Fode".

ROBERT A. FODE, P.E., DIRECTOR - OFFICE OF PROJECT DEVELOPMENT

57/rfb/js

c: John Thompson, Valley City District Engineer

United States Department of Agriculture



Natural Resources Conservation Service
P.O. Box 1458
Bismarck, ND 58502-1458

May 16, 2013

Chad Miller
Montana-Dakota Utilities Co.
400 North Fourth Street
Bismarck, ND 58501-4092

RE: Project Update with Preferred Route
Montana-Dakota Utilities co. and Otter Tail Power Company
Proposed Big Stone South to Ellendale 345 kV Transmission Line Project

Dear Mr. Miller:

This letter is in reply to your department's consultation request for review of the Big Stone South to Ellendale 345 kV transmission line project for concerns related to lands within the Wetlands Reserve Program.

The Natural Resources Conservation Service (NRCS) does not have any WRP easements within the project area corridor.

Thank you for the opportunity to review and comment on this Big Stone South to Ellendale 345 kV transmission line project. Should you require additional information, discussion, or clarification, please contact Todd C. Hagel at (701) 530-2004.

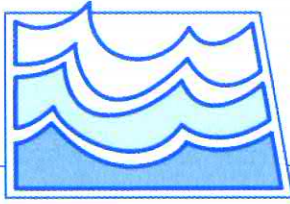
Sincerely,

A handwritten signature in purple ink that reads "Mary E. Podoll".

MARY E. PODOLL
State Conservationist

Helping People Help the Land

An Equal Opportunity Provider and Employer



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

Chad Miller
Montana-Dakota Utilities Co.
400 North Fourth Street
Bismarck, ND 58501-4092

Dear Mr. Miller:

This is in response to your request for review of environmental effects associated with the project update involving the preferred route of Montana-Dakota Utilities Co. and Otter Tail Power Company's proposed Big Stone South to Ellendale 345kV Transmission Line Project.

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 project takes place in an unmapped area. No floodplain permits are necessary from Dickey County relative to the National Flood Insurance Program.
- A Drain Permit from the State Engineer may be needed for this project if wetlands are filled. Please contact Dwight Comfort at 701-328-4960, if you have any questions regarding the permit. The permit application is enclosed.
- The ND State Water Commission (Commission) maintains a network of observation/monitor water wells throughout the state, and many are located in public right-of-ways. The well location information can be obtained from the Commission's website at: <http://swc.nd.gov>; then click on "Map and Data Resources"; and then click on "Ground /Surface Water". If water wells may be affected by your project or accidentally damaged, please contact the Water Appropriations Division of the Commission at 701-328-2754.
- 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
Encl.



APPLICATION FOR SURFACE DRAIN
OFFICE OF THE STATE ENGINEER
 Water Development Division
 SFN 2830 (8/11)

DATE RECEIVED
 BY OFFICE OF
 THE STATE ENGINEER

I, the undersigned, am applying for a permit under NDCC Section 61-32-03, to drain a pond, slough, lake, or sheetwater, or any series thereof, which has a watershed area comprising 80 acres or more.

No. _____
 (OSE USE ONLY)

This application must be accompanied by FSA aerial photos or equivalent showing the location of the proposed drain(s).

(1) WATER RESOURCE DISTRICT IN WHICH PROJECT IS LOCATED:			
(2) LEGAL DESCRIPTION - DRAIN CENTERLINE: [use separate sheet(s) if necessary]	1/4	SECTION	TOWNSHIP RANGE
	1/4	SECTION	TOWNSHIP RANGE
	1/4	SECTION	TOWNSHIP RANGE
(3) LEGAL DESCRIPTION - DRAIN OUTLET:	1/4	1/4 SECTION	TOWNSHIP RANGE
(4) PURPOSE:			
(5) Drain Method: <input type="checkbox"/> Pumping <input type="checkbox"/> Filling <input type="checkbox"/> Gravity			
(6) DESCRIPTION OF AREA TO BE DRAINED:			
TOTAL Drainage Area	Acres	Project Drainage Area	Acres
Water Area	Acres	Average Depth of Water	Feet
(7) DESCRIPTION OF DRAIN:			
Pumping Rate (if applicable) gpm	cfs	Fill Volume (if applicable) cubic yards	Bottom Width (B) Feet
TOTAL Length of Drain	Feet	Length of Drain Project	Feet
			Side Slopes (S) :1 Foot
(8) Anticipated completion date:	(9) Assessment drain? <input type="checkbox"/> YES <input type="checkbox"/> NO		Maximum Cut (D) Feet
(10) Do you own the land to be drained in fee? <input type="checkbox"/> YES <input type="checkbox"/> NO If NO, give the name and address of the legal landowner(s):			

The filing of this application and its approval does not relieve the applicant and/or landowner(s) from any responsibility or liability for damages resulting from the construction, operation or failure of this drain.

APPLICANT'S CERTIFICATION

I understand that I must undertake and agree to pay the expense incurred in making an investigation. If the investigation discloses that the quantity of water to be drained will flood or adversely affect downstream lands, I will be required to obtain flowage easements and must file the easements in the office of the county recorder before a permit may be issued. My signature below acknowledges that I have read and agree to these statements, and will adhere to the conditions given on the back of this application.

NAME (PRINT OR TYPE):	DATE SUBMITTED:
ADDRESS:	PHONE NO:
CITY, STATE, ZIP CODE:	
SIGNATURE (Owner of the land on which the project is located or legal entity sponsoring project):	

FOR USE BY WATER RESOURCE DISTRICT AND STATE ENGINEER

The Water Resource District Board has investigated according to NDAC Section 89-02-01-09.2.

The proposed drainage (will will not) flood or adversely affect lands of downstream landowners.

This application is hereby:

Denied

Signature: _____
Chairman or Secretary of Water Resource District Board

Approved

Date: _____

(1) The State Engineer or Water Resource District Board may revoke or modify the project and the rights granted under the permit to protect the public health, safety, and welfare; to protect property; or to ensure the orderly control of water resources.

(2) Construction must be completed within two years from the date of final approval.

This application:

does involve drainage of state-wide or Interdistrict significance

does not involve drainage of state-wide or interdistrict significance

If the State Engineer has determined that this application does not involve drainage of state-wide or Interdistrict significance, approval by the Water Resource District Board constitutes a permit to drain.

If the State Engineer has determined that this application involves drainage of state-wide or interdistrict significance, approval by both the Water Resource District Board and the State Engineer must be given to constitute a permit to drain.

This application involving drainage of state-wide or interdistrict significance is:

Denied

Signature: _____
State Engineer

Approved

Date: _____

CONDITIONS:

(1) The State Engineer may revoke or modify the project and the rights granted under the permit to protect the public health, safety, and welfare; to protect property; or to ensure the orderly control of water resources.

(2) Construction must be completed within two years from the date of final approval.

Mail to:

Office of the State Engineer
900 East Boulevard Avenue, Dept 770
Bismarck, ND 58505



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Great Plains Regional Office
115 Fourth Avenue S.E., Suite 400
Aberdeen, South Dakota 57401

IN REPLY REFER TO:
DESCRM
MC-208

MAY 17 2013

Chad Miller
Montana-Dakota Utilities Co.
400 North Fourth Street
Bismarck, North Dakota 58501-4092

Dear Mr. Miller:

We received your letter regarding the proposed Big Stone South to Ellendale 345 kV Transmission Line Project. We have considered the potential for both environmental damage and impacts to archaeological and Native American religious sites on lands held in trust by the Bureau of Indian Affairs, Great Plains Region. You should be aware, however, that Tribes or Tribal members may have lands in fee status near the site of interest. These lands would not necessarily be in our databases, and the Tribes should be contacted directly to ensure all concerns are recognized. The action considered has the following notification date and project location:

- May 6, 2013 RE: Project Update with Preferred Route
Montana-Dakota Utilities Co. and Otter Tail Power Company
Proposed Big Stone South to Ellendale 345kV Transmission
Line Project

We have no environmental objections to this action as long as the project complies with all pertinent laws and regulations. Questions regarding environmental opinions and conditions can be addressed to Jeffrey Davis, Environmental Protection Specialist, at (605) 226-7656.

We also find that the listed action will not affect cultural resources on Tribal or individual landholdings for which we are responsible. Methodologies for the treatment of cultural resources now known or yet to be discovered – particularly human remains – must nevertheless utilize the best available science in accordance with provisions of the Native American Graves Protection and Repatriation Act, the Archaeological Resources Protection Act of 1979 (as amended), and all other pertinent legislation and implementing regulations. Archaeological concerns can be addressed to Dr. Carson N. Murdy, Regional Archaeologist, at (605) 226-7656.

Sincerely,

Deputy Regional Director – Indian Services



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

Jack Dalrymple
Governor of North Dakota

July 9, 2013

North Dakota
State Historical Board

Gereld Gerntholz
Valley City - President

Calvin Grinnell
New Town - Vice President

A. Ruric Todd III
Jamestown - Secretary

Albert I. Berger
Grand Forks

Diane K. Larson
Bismarck

Chester E Nelson, Jr.
Bismarck

Margaret Puetz
Bismarck

Sara Otte Coleman
Director
Tourism Division

Kelly Schmidt
State Treasurer

Alvin A. Jaeger
Secretary of State

Mark Zimmerman
Director
Parks and Recreation
Department

Grant Levi
Director
Department of Transportation

Merlan E. Paaverud, Jr.
Director

Accredited by the
American Alliance
of Museums since 1986

Mr. Chad Miller
Environmental Scientist
Montana-Dakota Utilities Co.
400 North Fourth Street
Bismarck ND 58505-0830

ND SHPO Ref.:12-1463 Montana-Dakota Utilities Company and Otter Tail Power Company BSSE Big Stone South to Ellendale Proposed 345kV transmission line preferred route in portions of Dickey County, North Dakota

Dear Mr. Miller,

We reviewed ND SHPO Ref.:12-1463 Montana-Dakota Utilities Company and Otter Tail Power Company BSSE Big Stone South to Ellendale Proposed 345kV transmission line preferred route in portions of Dickey County, North Dakota. We recommend a Class III (pedestrian) survey for the preferred route project area, including any road or other corridor not previously surveyed by archaeologists.

Thank you for the opportunity to review this proposed 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

From: Miller, Chad [<mailto:Chad.Miller@mdu.com>]
Sent: Wednesday, July 10, 2013 12:41 PM
To: Hyland, Emily
Cc: Hunker, Brian M.
Subject: FW: BSSE Transmission Line - response requested to preferred route mailing

Sincerely,

Chad Miller

From: Beu, Jane [mailto:jane_beu@nps.gov]
Sent: Wednesday, July 10, 2013 12:39 PM
To: Miller, Chad
Cc: Jane_beu
Subject: Fwd: BSSE Transmission Line - response requested to preferred route mailing

Chad -

We did receive and review your earlier correspondence regarding the Montana-Dakota Utilities Co. and Otter Trail Power Company. Our office receives more than 2,000 of these early coordinations every year and unfortunately we do not have the staff to responde to each inquiry. If we would have concerns you would hear from out office within 30 days.

On this particular project we have no comments.

Thanks you,

Jane G. Beu
Outdoor Recreation Planner
National Park Service
Midwest Regional Office
601 Riverfront Drive
Omaha, NE 68102
402-661-1544
402-661-1545 (fax)
jane_beu@nps.gov

----- Forwarded message -----

From: Anderson, Karen <karen_anderson@nps.gov>
Date: Mon, Jul 8, 2013 at 3:23 PM
Subject: Fwd: BSSE Transmission Line - response requested to preferred route mailing
To: Jane Beu <jane_beu@nps.gov>

You're the PO for SD, aren't you? If not, my apologies.

But if you are, I believe you review and comment on this action.
Is Nick Chevance still involved in actions of this sort?

Karen Anderson karen_anderson@nps.gov
Rivers Trails & Conservation Assistance

National Park Service
601 Riverfront Dr.
Omaha, NE 68102
402-661-1542
<http://www.nps.gov/ncrc/programs/rtca/>

----- Forwarded message -----

From: **Pickle, Joyce E.** <Joyce.Pickle@hdrinc.com>
Date: Mon, Jul 8, 2013 at 3:19 PM
Subject: BSSE Transmission Line - response requested to preferred route mailing
To: "ppicha@nd.gov" <ppicha@nd.gov>, "mary.podoll@nd.usda.gov" <mary.podoll@nd.usda.gov>, "Sam.E.Werner@usace.army.mil" <Sam.E.Werner@usace.army.mil>, "karen_anderson@nps.gov" <karen_anderson@nps.gov>, "patricia.dressler@faa.gov" <patricia.dressler@faa.gov>, "Northdakota.Fhwa@dot.gov" <Northdakota.Fhwa@dot.gov>, "jdschumacher@nd.gov" <jdschumacher@nd.gov>, "jobserv@nd.gov" <jobserv@nd.gov>, "kcwanner@nd.gov" <kcwanner@nd.gov>, "ndda@nd.gov" <ndda@nd.gov>, "sjdavis@nd.gov" <sjdavis@nd.gov>, "Duttenhefner, Kathy G." <kgduttenhefner@nd.gov>, "gcfisher@nd.gov" <gcfisher@nd.gov>, "Olson, Paige (Paige.Olson@state.sd.us)" <Paige.Olson@state.sd.us>, "richard.pearson@state.sd.us" <richard.pearson@state.sd.us>, "Bill.Smith@state.sd.us" <Bill.Smith@state.sd.us>, "Sarah.Land@state.sd.us" <Sarah.Land@state.sd.us>, "darin.bergquist@state.sd.us" <darin.bergquist@state.sd.us>, "hunter.roberts@state.sd.us" <hunter.roberts@state.sd.us>, "chris.maxwell@state.sd.us" <chris.maxwell@state.sd.us>
Cc: "Miller, Chad" <Chad.Miller@mdu.com>

Greetings!

On May 6, 2013, Montana-Dakota Utilities Co. and Otter Tail Power Company mailed a letter to your agency regarding their selected preferred route for the proposed Big Stone South to Ellendale (BSSE) 345 kV transmission line project. The BSSE project team is requesting comment from your agency on the preferred route (see the attached preferred route map) prior to the South Dakota and North Dakota state permit application submittals which are anticipated to be submitted starting in late-August. We would appreciate your review of the preferred route and request that you provide any comments by Friday, July 19, 2013 so we may incorporate them into the application materials and route design.

We appreciate your ongoing participation in this project and look forward to continuing to work with you. If you have questions or comments you would like us to address for the BSSE project, please send a hardcopy, email, or .pdf copy of your response to Chad Miller at (701) 222-7865, chad.miller@mdu.com, or by mail at the address below.

Chad Miller

Montana-Dakota Utilities Co.

400 North Fourth Street

Bismarck, ND 58501-4092

Sincerely,

JOYCE PICKLE

HDR Engineering, Inc.

Environmental Project Manager

701 Xenia Avenue South, Suite 600 | Minneapolis, MN 55416

Office: 763.591.5443 | Mobile: 763.567.3406

joyce.pickle@hdrinc.com | hdrinc.com

From: Schumacher, John D. [<mailto:jdschumacher@nd.gov>]
Sent: Thursday, July 18, 2013 7:47 AM
To: Pickle, Joyce E.
Cc: chad.miller@mdu.com
Subject: RE: BSSE Transmission Line - response requested to preferred route mailing

The North Dakota Game and Fish Department has reviewed the selected preferred route for wildlife concerns. We do not believe it will have any significant adverse effects on wildlife or wildlife habitat in North Dakota provided the recommendations included in our original letter are implemented where appropriate and disturbed areas are reclaimed to pre-project conditions.

JOHN SCHUMACHER
RESOURCE BIOLOGIST
ND GAME AND FISH DEPT
701.328.6321

From: Pickle, Joyce E. [<mailto:Joyce.Pickle@hdrinc.com>]
Sent: Monday, July 08, 2013 3:19 PM
To: Picha, Paul
R.; mary.podoll@nd.usda.gov; Sam.E.Werner@usace.army.mil; karen_anderson@nps.gov; patricia.dressler@faa.gov; Northdakota.Fhwa@dot.gov; Schumacher, John D.; -Info-Job Service ND; Wanner, Kyle C.; -Info-Dept. of Agriculture; Davis, Scott J.; Duttenhefner, Kathy G.; Fisher, Gerry C.; Olson, Paige (Paige.Olson@state.sd.us); richard.pearson@state.sd.us; Bill.Smith@state.sd.us; Sarah.Land@state.sd.us; darin.bergquist@state.sd.us; hunter.roberts@state.sd.us; chris.maxwell@state.sd.us
Cc: Miller, Chad
Subject: BSSE Transmission Line - response requested to preferred route mailing

Greetings!

On May 6, 2013, Montana-Dakota Utilities Co. and Otter Tail Power Company mailed a letter to your agency regarding their selected preferred route for the proposed Big Stone South to Ellendale (BSSE) 345 kV transmission line project. The BSSE project team is requesting comment from your agency on the preferred route (see the attached preferred route map) prior to the South Dakota and North Dakota state permit application submittals which are anticipated to be submitted starting in late-August. We would appreciate your review of the preferred route and request that you provide any comments by Friday, July 19, 2013 so we may incorporate them into the application materials and route design.

We appreciate your ongoing participation in this project and look forward to continuing to work with you. If you have questions or comments you would like us to address for the BSSE project, please send a hardcopy, email, or .pdf copy of your response to Chad Miller at (701) 222-7865, chad.miller@mdu.com, or by mail at the address below.

Chad Miller
Montana-Dakota Utilities Co.
400 North Fourth Street
Bismarck, ND 58501-4092

Sincerely,

JOYCE PICKLE

HDR Engineering, Inc.

Environmental Project Manager

701 Xenia Avenue South, Suite 600 | Minneapolis, MN 55416

Office: 763.591.5443 | Mobile: 763.567.3406

joyce.pickle@hdrinc.com | hdrinc.com



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
420 South Garfield Avenue, Suite 400
Pierre, South Dakota 57501-5408



July 24, 2013

Mr. Chad Miller
Montana-Dakota Utilities Company
400 North Fourth Street
Bismarck, North Dakota 58501-4092

Re: Big Stone South to Ellendale 345 kV
Transmission Line Project

Dear Mr. Miller:

This letter is in response to your informational letter dated May 6, 2013, that identifies preferred routes for the above referenced project involving the construction of a new 345 kV transmission line from Big Stone South in South Dakota to the Ellendale substation in North Dakota. The U.S. Fish and Wildlife Service (Service) has provided previous comments on this project and has participated in meetings and conference calls for this project. The preferred route will pass through Grant, Day, and Brown Counties in South Dakota and through Dickey County in North Dakota. This letter will serve as a response for the Service in both North Dakota and South Dakota as well as from both Ecological Services and Refuges Divisions.

According to the National Wetlands Inventory map (available online at <http://wetlands.fws.gov/>), wetlands exist in the proposed project area. If a project may impact wetlands or other important fish and wildlife habitats, the Service, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and other environmental laws and rules, recommends complete avoidance of these areas, if possible; then minimization of any adverse impacts; and finally, replacement of any lost acres; in that order. Alternatives should be examined and the least damaging practical alternative selected. If wetland impacts are unavoidable, a mitigation plan addressing the number and types of wetland acres to be impacted and the methods of replacement should be prepared and submitted to the resource agencies for review.

The location of your project falls within an area under the jurisdiction of the Service's Waubay, Sand Lake, and Kulm Wetland Management Districts (WMD). The Waubay WMD administers easements and fee title properties in Grant and Day Counties, the Sand Lake WMD administers Brown County, and the Kulm WMD administers Dickey County. You have previously requested and been provided a map depicting Service interest lands at the proposed project site. For any additional restrictions that may apply regarding these sites, the single point of contact for the WMDs will be the Waubay WMD. Please contact Connie Mueller at the Service's Waubay WMD, 44401 134A Street, Waubay, South Dakota 57273, Telephone No. (605) 947-4521.

In accordance with section 7(c) of the Endangered Species Act (ESA), as amended, 16 U.S.C. 1531 et seq., we have determined that the following federally listed species may occur in the project area (this list is considered valid for 90 days). Specific information on locations has already been provided for this project.

<u>Species</u>	<u>Status</u>	<u>Expected Occurrence</u>
Whooping crane (<i>Grus americana</i>)	Endangered	Migration.
Topeka shiner (<i>Notropis topeka</i>)	Endangered	Known resident.
Dakota skipper (<i>Hesperia dacotae</i>)	Candidate	Resident in native prairie, northeastern South Dakota and southwestern North Dakota.
Poweshiek skipperling (<i>Oarisma poweshiek</i>)	Candidate	Resident in native prairie, northeastern South Dakota and southwestern North Dakota.

Whooping cranes migrate through the Dakotas on their way to northern breeding grounds and southern wintering areas. They occupy numerous habitats such as cropland and pastures; wet meadows; shallow marshes; shallow portions of rivers, lakes, reservoirs, and stock ponds; and both freshwater and alkaline basins for feeding and loafing. Overnight roosting sites frequently require shallow water in which to stand and rest. Should construction occur during spring or fall migration, the potential for disturbances to whooping cranes exists. Disturbance (flushing the birds) stresses them at critical times of the year. We recommend remaining vigilant for these birds. There is little that can be done to reduce disturbance besides ceasing construction at sites where the birds have been observed. The birds normally do not stay in any one area for long during migration. Any whooping crane sightings should be reported to this office.

A short portion of the western segment of the proposed transmission line may be located inside the whooping crane migration corridor where 95 percent of confirmed sightings have occurred. We have enclosed the "*Region 6 Guidance for Minimizing Effects from Power Line Projects Within the Whooping Crane Migration Corridor*" to assist in the design of your project. In accordance with those guidelines, we recommend that you follow those guidelines, including development of compliance monitoring plans that are shared with the Service. We encourage you to work with the respective Ecological Services Field Offices in each state if there are questions whether to mark portions of the line near wetland areas outside the 95 percent migration corridor that may still be attractive to whooping cranes.

Topeka shiners are known to occupy numerous small streams within eastern South Dakota and are concentrated within the Big Sioux, Vermillion, and James River watersheds. If any instream construction is necessary for this project, additional measures may be necessary to ensure that adverse impacts to the Topeka shiner are not incurred as a result of this project.

The Dakota skipper may occur along the project route. The Dakota skipper is a candidate species and accordingly is not provided Federal protection under the ESA. Their candidate status defines this butterfly as a species in decline that the Service believes warrants listing as either threatened or endangered, and the Service expects to make a listing decision prior to the proposed construction date of 2016-2019. Dakota skippers are obligate residents of high quality prairie ranging from wet-mesic tallgrass prairie to dry-mesic mixed grass prairie. In northeastern South Dakota, Dakota skippers inhabit dry-mesic hill prairies with abundant purple coneflower but also use mesic to wet-mesic tallgrass prairie habitats characterized by wood lily and smooth camas. Dakota skippers have been documented from Brown, Day, and Grant Counties.

The Poweshiek skipperling is a candidate species and accordingly is not provided Federal protection under the ESA. Their candidate status defines this butterfly as a species in decline that the Service believes warrants listing as either threatened or endangered, and the Service expects to make a listing decision prior to the proposed construction date of 2016-2019. Preferred nectar plants include yellow ox-eye and purple coneflower. They also use tickseed, black-eyed susan, and pale-spike lobelia. Larval food plants are assumed to include spike-rush, sedges, prairie dropseed, and little bluestem. The habitat of Poweshiek skipperlings includes native tallgrass prairie, fens, grassy lake and stream margins, moist meadows, and wet-mesic to dry tallgrass prairie. They have a low dispersal capability, so fragmented and isolated prairie remnants are unlikely to be repopulated. They are vulnerable to extreme weather conditions, dormant season fire, and other disturbances (e.g., intense cattle grazing). Poweshiek skipperlings have been found in Day and Grant Counties.

If the Federal action agency or their designated representative determines that the project will have "no effect" on federally listed species, Service concurrence is not necessary per section 7 of the ESA. If a "may affect - not likely to adversely affect" determination is made for this project, it should be submitted to this office for concurrence. If the Federal action agency or their designated representative determines that this project "may adversely affect" listed species in South Dakota, it should request formal consultation from this office. For more information regarding Federal action agency responsibilities as related to section 7 of the ESA, please refer to the Service's Endangered Species Act Consultation Handbook, available online at <http://www.fws.gov/endangered/consultations/index.html>.

The proposed project involves new construction in an area that appears to be relatively undeveloped, although it will primarily be adjacent to an existing roadway which undoubtedly subjects the site to some level of human disturbances. Nonetheless, the potential for impacts to migratory birds exists in the path of the new alignment; therefore, we recommend initiation of project construction or soil disturbance activities outside of the primary breeding season for most migratory birds (approximately mid-April to mid-July) if possible.

The Migratory Bird Treaty Act (MBTA) prohibits the taking, killing, possession, and transportation (among other actions) of migratory birds, their eggs, parts, and nests, except when specifically permitted by regulations. While the MBTA has no provision for allowing unauthorized take, the Service realizes that some birds may be killed during construction of the project even if all known reasonable and effective measures to protect birds are used. The Service's Office of Law Enforcement carries out its mission to protect migratory birds through investigations and enforcement as well as by fostering relationships with individuals, companies, and industries that have taken effective steps to avoid take of migratory birds and by encouraging others to implement measures to avoid take of migratory birds. It is not possible to absolve individuals, companies, or agencies from liability even if they implement bird mortality avoidance or other similar protective

measures. However, the Office of Law Enforcement focuses its resources on investigating and prosecuting individuals and companies that take migratory birds without identifying and implementing all reasonable, prudent, and effective measures to avoid that take. Companies are encouraged to work closely with Service biologists to identify available protective measures when developing project plans and/or avian protection plans and to implement those measures prior to/during construction, operation, or similar activities.

To the extent practicable, we recommend scheduling construction for late summer or fall/early winter to minimize disruption of migratory birds during the breeding season, February 1 to July 15. If work is proposed to take place during the breeding season, there may be take of migratory birds, their eggs, or active nests. Alternatively, a qualified biologist could conduct bird/nest surveys within five days prior to the initiation of construction. If active nests are identified, the project proponent should cease construction, maintain a sufficient buffer around active nests to avoid disturbing breeding activities, and contact the Service immediately. The Service recommends implementation of all practicable measures to avoid all take, such as suspending construction where necessary and/or maintaining adequate buffers to protect the birds until the young have fledged. The Service further recommends that, if you choose to conduct field surveys for nesting birds with the intent of avoiding take, you maintain any documentation of the presence of migratory birds, eggs, and active nests along with information regarding the qualifications of the biologist(s) performing the survey(s) and any avoidance measures implemented at the project site. We encourage your companies to conduct surveys for colonial nesting birds along the preferred route and avoid impacting colonies, if found, during the nesting season.

If changes are made in the project plans or operating criteria, or if additional information becomes available, the Service should be informed so that the above comments can be reconsidered.

The Service appreciates the opportunity to provide comments. If you have any questions regarding these comments, please contact Charlene Bessken of this office at (605) 224-8693, Extension 231.

Sincerely,



Scott V. Larson
Field Supervisor
South Dakota Field Office

Enclosure

cc: FWS/Waubay WMD; Waubay, SD
(Attention: Connie Mueller)
FWS/Sand Lake WMD; Columbia, SD
(Attention: Harris Hoistad and Jay Peterson)
FWS/Kulm WMD; Kulm, ND
(Attention: Michael Erickson)
FWS/ND ES Field Office; Bismarck, ND
(Attention: Jeff Towner and Heidi Riddle)



IN REPLY REFER TO:
FWS/R6
ES

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Mountain-Prairie Region




MAILING ADDRESS:
P.O. Box 25486, DFC
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Boulevard
Lakewood, Colorado 80228-1807

'FEB 04 2010

Memorandum

To: Field Office Project Leaders, Ecological Services, Region 6
Montana, North Dakota, South Dakota, Nebraska, Kansas

From: Assistant Regional Director, Ecological Services, Region 6 

Subject: Region 6 Guidance for Minimizing Effects from Power Line Projects Within the Whooping Crane Migration Corridor

This document is intended to assist Region 6 Ecological Services (ES) biologists in power line (including generation lines, transmission lines, distribution lines, etc.) project evaluation within the whooping crane migration corridor. The guidance contained herein also may be useful in planning by Federal action agencies, consultants, companies, and organizations concerned with impacts to avian resources, such as the Avian Power Line Interaction Committee (APLIC). We encourage action agencies and project proponents to coordinate with their local ES field office early in project development to implement this guidance.

The guidance includes general considerations that may apply to most, but not every, situation within the whooping crane migratory corridor. Additional conservation measures may be considered and/or discretion may be applied by the appropriate ES field office, as applicable. We believe that in most cases the following measures, if implemented and maintained, could reduce the potential effects to the whooping crane to an insignificant and/or discountable level. Where a Federal nexus is lacking, we believe that following these recommendations would reduce the likelihood of a whooping crane being taken and resulting in a violation of Endangered Species Act (ESA) section 9. If non-Federal actions cannot avoid the potential for incidental take, the local ES field office should encourage project proponents to develop a Habitat Conservation Plan and apply for a permit pursuant to ESA section 10(a)(1)(B).

Finally, although this guidance is specific to impacts of power line projects to the whooping crane within the migration corridor, we acknowledge that these guidelines also may benefit other listed and migratory birds.

If you have any questions, please contact Sarena Selbo, Section 7 Coordinator, at (303) 236-4046.

Region 6 Guidance for Minimizing Effects from Power Line Projects Within the Whooping Crane Migration Corridor

- 1) Project proponents should avoid construction of overhead power lines within 5.0 miles of designated critical habitat and documented high use areas (these locations can be obtained from the local ES field office).
- 2) To the greatest extent possible, project proponents should bury all new power lines, especially those within 1.0 mile of potentially suitable habitat¹.
- 3) If it is not economically or technically feasible to bury lines, then we recommend the following conservation measures be implemented:

a) Within the 95-percent sighting corridor (see attached map)

- i) Project proponents should mark² new lines within 1.0 mile of potentially suitable habitat and an equal amount of existing line within 1.0 mile of potentially suitable habitat (preferably within the 75-percent corridor, but at a minimum within the 95-percent corridor) according to the U.S. Fish and Wildlife Service (USFWS) recommendations described in APLIC 1994 (or newer version as updated).
- ii) Project proponents should mark replacement or upgraded lines within 1.0 mile of potentially suitable habitat according to the USFWS recommendations described in APLIC 1994 (or newer version as updated).

b) Outside the 95-percent sighting corridor within a State's borders

Project proponents should mark new lines within 1.0 mile of potentially suitable habitat at the discretion of the local ES field office, based on the biological needs of the whooping crane.

c) Develop compliance monitoring plans

Field offices should request written confirmation from the project proponent that power lines have been or will be marked and maintained (i.e., did the lines recommended for marking actually get marked? Are the markers being maintained in working condition?)

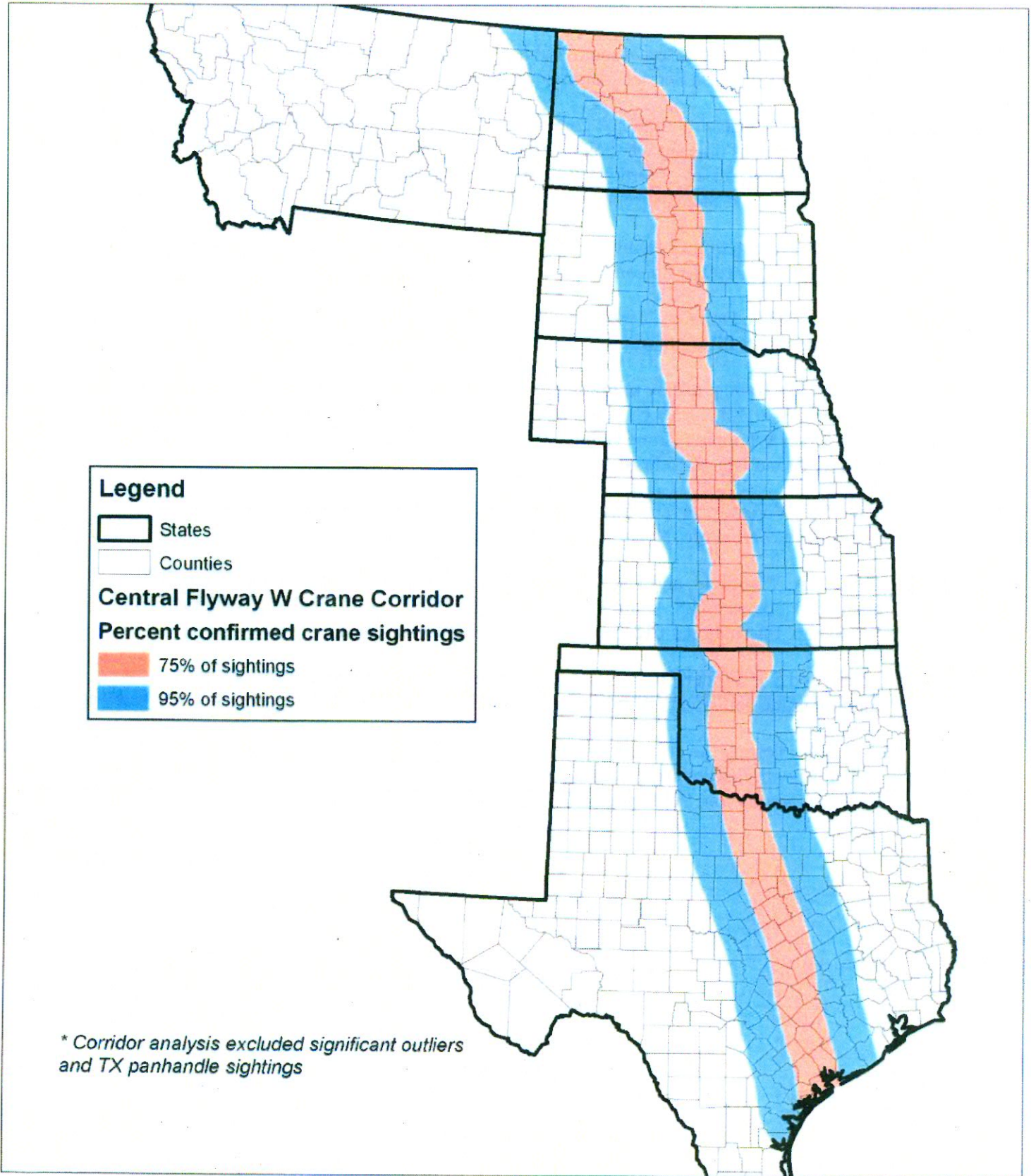
¹ Potentially suitable migratory stop over habitat for whooping cranes includes wetlands with areas of shallow water without visual obstructions (i.e., high or dense vegetation) (Austin & Richert 2001; Johns et al. 1997; Lingle et al. 1991; Howe 1987) and submerged sandbars in wide, unobstructed river channels that are isolated from human disturbance (Armbruster 1990). Roosting wetlands are often located within 1 mile of grain fields. As this is a broad definition, ES field office biologists should assist action agencies/applicants/companies in determining what constitutes potentially suitable habitat at the local level.

² Power lines are cited as the single greatest threat of mortality to fledged whooping cranes. Studies have shown that marking power lines reduces the risk of a line strike by 50 to 80 percent (Yee 2008; Brown & Drewien 1995; Morkill & Anderson 1991). Marking new lines and an equal length of existing line in the migration corridor maintains the baseline condition from this threat.



U.S. Fish & Wildlife Service

United States Central Flyway Whooping Crane Migration Corridor *



Legend

- States
- Counties

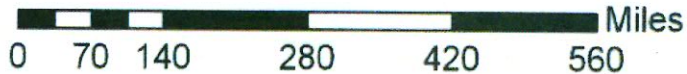
Central Flyway W Crane Corridor

Percent confirmed crane sightings

- 75% of sightings
- 95% of sightings

* Corridor analysis excluded significant outliers and TX panhandle sightings

Produced for Ecological Services
 Grand Island, NE
 Current to: 2008
 Basemap (Date): U.S. Counties
 Meridian:
 File:
 Montana-Dakota and Otter Tail Power



Literature Cited

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- Morkill, A.E., and S.H. Anderson. 1991. Effectiveness of marking powerlines to reduce sandhill crane collisions. *Wildlife Society Bulletin* 19:442-449.
- Yee, M.L. 2008. Testing the effectiveness of an avian flight diverter for reducing avian collisions with distribution power lines in the Sacramento Valley, California. California Energy Commission; Publication CEC-500-2007-122.

Additional Agency Meetings and Correspondences



MEETING LOCATION

Sand Lake NWR

PROJECT ATTENDEES

HDR: Joyce Pickle, Amy Prok

Otter Tail Power Company: Dean Pawlowski

Montana-Dakota Utilities Co.: Chad Miller

USFWS: Connie Mueller (Waubay WMD), Jay Peterson (Sand Lake WMD)

Agenda

July 31, 2012, 1:30 p.m.

1. Introductions - All
2. Overview of BSSE Project
3. USFWS lands in Study Area
 - a. Confirm we have up to date parcels for USFWS-owned lands (WPAs and NWRs)
 - b. Discuss approach to obtaining easement parcel data
 - i. Best method to obtain current information
 - ii. What is available by GIS
4. Initial thoughts or comments from USFWS on other issues in the study area, from a Wetland Management District/NWR perspective
5. General discussion of NEPA process for transmission crossings of USFWS easements
 - a. Timing
 - b. Scope (EA vs. EIS)

Notes

Introductions

Dean and Chad introduced themselves and the project, indicating that OTP and MDU will be owning the project 50/50. The Big Stone South to Ellendale (BSSE) project will be a 345 kV line between the Big Stone South and Ellendale substations.

The Midwest Independent Transmission System Operator (MISO) controls the transmission grid in the Midwest. Over a ten year study period, MISO has identified 17 Multi-Value Projects (MVPs) that will provide more than one value to the rate payer and grid, including lower cost power to the customer base and a more reliable electrical system. The BSSE project was designated as an MVP project.



The project is in the early stages of routing, with corridor development being the next step, and a route being identified in first quarter of 2013. State permit applications are anticipated to be submitted in August 2013. Construction would not start until the 2015 timeframe, with operation in 2019.

Joyce and Amy explained that HDR Engineering is the environmental/permitting consultant for the BSSE project. They are helping to coordinate outreach to agencies for comments, and also requesting information, such as updated information on federally owned lands and USFWS easements. As part of this data gathering, HDR is conducting a windshield survey of the study area, and wanted to set up this meeting to start discussing the best way to obtain this information.

Connie and Jay explained that they are land rights staff for the Wetland management Districts, and recommended that HDR also contact the Ecological Services office for their comments (HDR explained that letters requesting comments were being sent out, including to the ES offices as well as the other WMD managers in the study area).

Easement/Fee Title Land

Connie defined the different kinds of land interests that the USFWS has in the study area.

Fee title – owned outright (WPAs, for example)

Easements – are owned by private landowners but USFWS has jurisdiction over uses.

Easements are perpetual

Wetland easements – these parcels have wetland basins (some of which are only intermittently wet) which are protected by the USFWS. Impacts to land outside of the wetland basins is outside of USFWS jurisdiction and does not require permit from that agency

Grassland easements – the USFWS has jurisdiction over the land use and impacts to grassland/uplands in these parcels. Often grassland easement parcels also have wetland easements as well, so that the USFWS has jurisdiction over impacts within the whole parcel.

Farmers Home Administration easements – conservation easement – the FSA is the actual administrator of these easements, but they have handed over management to the USFWS. It is harder to know what the restrictions to these parcels are (wetlands, grasslands, etc) so the USFWS will have to look up each individual FHA easement parcel. There are a fair number of these in the two WMDs – Waubay has 9,000+ acres, and Sand Lake has 15,000+ acres.



HDR provided hard copies of the 2006-era maps of easement lands within the WMDs, and asked if these maps were fairly accurate and if there were any way to indicate which areas might have new easement or WPA acquisitions. Connie and Jay said that the duck stamp profits have resulted in the ability to acquire a significant amount of easements and fee title lands in the past 6 years (this applies to the Madison WMD as well). There have also been some ownership swaps (with state Game Fish and Parks lands swapping with FWS fee title lands). Therefore, the maps were not up to date or accurate. However, after discussion it was determined that the 2006 maps showed the general concentration areas of easement lands. Both Connie and Jay said that the new acquired easements were mostly “filling in the gaps” within the existing concentrations, so the 2006 data would be sufficient to identify general areas where easements might be constraints.

Connie and Jay indicated, in order to obtain current information on fee title and easement lands, they will not be able to share GIS data until the study area has been refined down to corridors. In the meantime, HDR can request hard copy maps of current fee title lands so that HDR can digitize the location of any recently acquired WPAs.

NEPA Permitting

The permitting process was then discussed.

Wetland Easements

Jay and Connie explained that NEPA would not be applied as long as the transmission line spans USFWS wetland basins.

Grassland Easements (or FHA parcels with restrictions on upland areas)

Jay and Connie explained that any crossing will start the NEPA process. There is no set trigger that would set the course of an EIS vs. an EA – that determination will be made by the USFWS, and will be based on the significance of impacts. Number of grassland parcels, amount of area disturbed, etc, would all be considerations. Temporary impacts would be weighed differently than permanent impacts as well. Connie also indicated that the full NEPA process should not be expected to take less than three years.

A discussion was held as to which USFWS office (WMDs vs. ES) would take the lead – either in coordination for the BSSE project in general, or for the NEPA review, if it is necessary. It was explained that both the WMDs and the ES offices will need to be coordinated, as neither speaks for the other. The WMD would be the lead office for the NEPA review, although, the Section 7



review would involve other offices. NEPA review would be anticipated to be limited to just the crossing of the lands under USFWS jurisdiction (i.e., not the entire length of the line).

Miscellaneous

- Large concentration of grassland easements east of Hecla are in sand dune areas, with very sandy soil. The National Grassland is also a sandy area.
- The Coteau area is rocky and wetland filled, and is more loamy and gravelly soil rather than clay soil. The topography is steeper at the northern portion of the ridge. It was indicated that it would be difficult to site a route across the coteau in the northern area, north of Highway 10.
- The James River valley has similar geology/soils to the Red River. Overall, it is one of the flattest rivers in the nation, with an average drop of less than one foot per mile.



MEETING LOCATION

Federal Building
115 4th Ave SE, 5th Floor
Aberdeen, South Dakota

PROJECT ATTENDEES

HDR: Angela Piner

Otter Tail Power Company: Dean Pawlowski

Montana-Dakota Utilities Co.: Chad Miller

BIA: Marilyn Bercier (DESCRM- Regional Environmental Scientist), Jeff Davis (DESCRM – Environmental Protection Specialist), Diane Mann-Klager (Natural Resources), Carson Murdy (DESCRM - Cultural Resources), Rick Clifford (Realty – GPRO)

Meeting Minutes

August 7, 2012, 1:00 p.m.

1. Project Introduction

Mr. Pawlowski provided an overview of the project. The Big Stone to Ellendale project is a Midwest Independent Transmission System Operator, Inc. (MISO)-approved project. MISO looks at reliability of the system and has studied the region, identifying a series of projects that would help improve system reliability. The Big Stone to Ellendale project is the westernmost project identified.

Otter Tail Power Company and Montana-Dakota Utilities Co. are joint owners, each owning 50% of the project. There are no federal dollars for the project and Western Area Power Administration is not involved.

Purpose of the meeting was to provide early coordination with agencies potentially involved in the project. We are utilizing agency and local government expertise and input to assist in identifying some preliminary corridors for the project.

2. Discussion of lands in the project area

Once we have a route, Mr. Clifford suggested we do our research on trust lands and mineral rights in the project area. The BIA is the official repository for lands in the project area. Mr. Davis provided a map showing several different types of lands in the project area – fee, tribal, allotment,



and government lands – however the map is not up to date. BIA's involvement is summarized as follows:

- Fee: no restrictions; process would be similar to any other lands we would obtain an easement on; considered private property.
- Tribal: these are 100% tribal owned and have one owner
 - BIA is not involved on this land
- Allotment: these are owned by the allottees and can have several owners, including the tribe
 - BIA would be involved
 - Mr. Clifford stated that a simple majority of ownership consent is needed for these lands. When there are several owners, if one owner owns 58% they would be the only consent required. Also, in specific situations the superintendent can consent on the others behalf.
 - Allotment lands may also have fee lands mixed in. BIA can only approve the trust shares in this case.
- Government: any government lands (e.g. USFWS, etc.)

Mr. Clifford suggested we look at 25 CFR 169, particularly 169.27 which is the ROW regulations that they will use for review and terms of the easement.

3. BIA Involvement

The BIA office in Aberdeen provides technical assistance (e.g. environmental review) to the Sisseton BIA office for projects like this. Mr. Russell Hawkins at the Sisseton office would be the individual the Project would work with if we cross trust lands. Staff indicated that they would only be involved if the project were to cross trust lands. They would like to stay involved and receive future information about the project.

4. Land Rights Discussion

See #2 above.

5. Schedule

The project is at the preliminary stages. We plan to have a public open house meeting this fall, followed by another meeting in January. We plan to file with the South Dakota Public Utilities Commission in August of 2013. Construction would begin in 2015-16, with an in-service date of 2019.

6. General Discussion

The following is a summary of general discussion items:



- The BIA gave information as to the status of the reservation boundaries. They described that the reservation is those lands that are currently in trust or restricted (allotted) status. Tribal boundaries, at one point in time, were diminished. The tribe was led to believe that diminishing the boundaries was a good idea and therefore requested the dissolving of the reservation boundary. Therefore the government does not recognize the “triangle” boundaries that we have been looking at. However, BIA Staff indicated that the tribe may still have interests in the area.
- The BIA does not have their own list of threatened and endangered species. They only use the USFWS list. They will also comment on impacts to birds. Bird diverters for the line were mentioned in areas of high bird use.
- Sica Hollow is a culturally significant area, migratory corridor and state park. Staff recommended considering ways to avoid and minimize impacts to this resource.
- There are bald eagle nesting areas near the major lakes including Big Stone and the prairie coteau lakes. They use the northern edge of the coteau – both bald and golden eagles.
- BIA indicated that the tribal program has a Fish and Wildlife department and recommended contacting them.
- Any disturbance of trust land will require a cultural resource inventory. Dr. Murdy suggested coordinating with the State SHPOs regarding non-trust lands. Ms. Piner stated that we are planning to meet with the SHPO offices in each state.
- Mr. Davis provided a number of individuals to coordinate with regarding the project including:
 - Robert Shepherd (Chairman)
 - Alvah Quinn (Realty)
 - THPO office
 - Tribal Fish and Wildlife Department
- Co-locating with other existing transmission lines is a preference
- The Sand Lake and Coteau Lake areas are frequented by whooping cranes and considerations for impacts to cranes should be considered. Additionally these areas are big stopover areas for birds (including piping plovers).
- Mr. Clifford inquired about corridors (size and definition). Ms. Piner gave a description on how the routing process is foreseen to play out. She described how it is a step-wise process that will include public and stakeholder involvement. Also, she explained that detailed surveys would wait until a more solid route is determined, but modeling and windshield surveys from public access areas are utilized to identify potential impacts.
- Cultural sites should be anticipated on the prairie coteau overlooking the drainage to the east, particularly burial mounds
- Mr. Davis indicated that different colleges are conducting studies of native prairie grasslands. Also the Nature conservancy has completed studies in the area.



- There is a wind farm south of Route 12 but there are no lease areas on trust land that BIA staff were aware of, and they haven't reviewed a project of this type recently
- BIA staff were open to one NEPA document for the project if other federal agencies become involved
- BIA staff suggested reaching out to Ducks Unlimited, Pheasants Forever, Nature Conservancy, Izaak Walton League (Waubay) and the Universities doing research in the area.
 - Nature Conservancy has been acquiring lands and turning them over to the state
 - Universities are doing research on eagles with the tribe, and Alvah Quinn knows the location of the nests in the project area.
- BIA staff asked how we make a determination of structure types. Mr. Pawlowski stated that we look at a variety of factors including things such as price, engineering constraints, long term maintenance and durability.
- Ms. Mann-Klager stated there was a recent project between Aberdeen and Stratford and the foundations were over 60 feet due to bad soils in the area.
- The James River will be a challenging area. Suggested looking at the narrower areas to cross the floodplain. Additionally, the river can flow in both directions and in certain conditions a seiche can form on the river.
- BIA staff stated their appreciation regarding early coordination.

7. Follow up Items

- Ms. Piner followed up with Mr. Davis regarding two questions the project team had coming out of the meeting.
 - The team had a question regarding jurisdiction and the extent of BIA's review if trust lands were crossed. Mr. Davis stated if the project were to cross trust land, the BIA would review the entire project and not just the parcel of land crossed by the project.
 - Regarding BIA roads, the review process would be best discussed with Mr. Russell Hawkins. Ms. Piner stated the project would be meeting with him soon.

Action Items

- Mr. Davis to coordinate with Nyla Solomon regarding the GIS files of trust lands in the project area.
- Mr. Davis to send sign in sheet and map provided at meeting electronically to Ms. Piner
- Project team to follow up with tribal contacts provided at the meeting



North Dakota Interagency Meeting Notes August 29, 2012, 9:00 a.m.

Meeting Location

Montana Dakota Utilities Co
400 North Fourth St.
Bismarck, ND 58501-4092
701-222-7865

Attendees:

Montana-Dakota Utilities Co.: Chad Miller
HDR: Joyce Pickle, Brian Hunker, Alan Stanfill
Dept of Transportation: Monte Dockter
Bureau of Reclamation: Kelly McPhillips
Federal Highway Administration: Wendall Meyer
State Water Commission: Linda Weispfennig
Game and Fish Department: John Schumacher
USFWS: Heidi Riddle (Bismarck Office); Rob Bundy (Tewaukon NWR/WMD); Mick Erickson (Kulm WMD); Connie Mueller (Waubay NWR/WMD)

Agenda

1. Project Introduction
 - a. Description
 - b. Ownership
 - c. Schedule
2. Discussion of study area and corridor development
3. Agency Involvement and Permitting Discussion
 - a. Agency involvement in project
 - b. Available electronic data or data agreements
 - c. Any recommended contacts or coordination for data in the Study Area – either within agency or outside of agency



- d. Any recent information from other projects or studies that the Owners/HDR should be aware of

Discussion Notes:

Project introduction by Owners

- The BSSE project is a Midwest Independent transmission System Operator (MISO) multi-value project – 1 of 17 such project. It will:
 - Provide a more reliable system to the Dakotas
 - Move Dakota generation into the grid
- Other MISO MVP projects in South Dakota
 - Big Stone to Brookings
 - Brookings to the Twin Cities
- No structure types have been decided – Project is assessing the best type for the project
 - Soil conditions and preferred route will help determine structure type
- Schedule
 - Application to the South Dakota Public Utilities Commission (PUC) will be submitted by August 2013 (this is required by state statute)
 - Construction start in 2015/2016 timeframe
 - In-Service in 2019

Description of the construction process and impacts

- Construction – for transmission structures, two types possible:
 - Auger a foundation and direct embed a structure
 - Auger a foundation, pour concrete, bring structure to foundation, assemble foundation, and set structure on foundation,
- Conductors are then pulled and strung between structures
- Temporary impacts are temporary laydown yards for material storage and assembly and access roads
- Permanent impacts are structure locations, new substation in Ellendale, ND and fiber optic regeneration stations (potential)

Study area and corridor development

- In general project siting occurs by first identifying study area, then identifying potential corridors between the endpoints, then alternative routes, and finally a preferred route
- Goal of this meetings is to solicit data and gather input on corridor siting
- Prairie Coteau with federal and state easements and fee title, large lakes and James River crossings are some of the constraints to siting the Project

Topics:

- Discussion on federal agency involvement and NEPA process
 - Federal permits may be needed for the project – for example:
 - US Army Corps of Engineers – Section 10 permit to cross James River



- USFWS or BIA for impacts to easements or fee title lands; Bureau of Reclamation irrigation lands crossing would also require a permit
 - Otherwise, no lead federal agency for the project
 - USFWS recommended contacting the Minnesota WMDs if the project goes into MN
 - Discussion of the Oakes Research Area – Bureau of Reclamation
 - Irrigation test project – pump plant and canals under jurisdiction
 - No land ownership
 - Own the irrigation facilities
 - Special Use Permit (SUP) to span canals – agency’s preference is avoidance of crossings if possible
 - The McClusky Canal is crossed twice by Center to Grand Forks Project transmission lines and SUPs were granted
 - SUP process timeline is about 60 days
 - NEPA process – no EA, but completed with a Categorical Exclusion
 - Specify crossing height – minimum clearance is 42 feet
 - USFWS
 - Discussion of federal (Section 7) and non-federal (Section 10) action
 - Section 10 process – application for take permit with a Habitat Conservation Plan – USFWS would recommend this if the project is likely to take a listed species in areas outside of any federal permit jurisdiction
 - Western prairie fringed orchid does occur in Richland County
 - Heidi can provide more information for locations in study area
 - For surveys on Forest Service lands in project area, contact Brian Stotts at Sheyenne National Grasslands
 - Whooping crane has been sighted in all but one county in ND
 - Western side of study area is on the eastern edge of 95% sighting corridor
 - Communication with the USFWS –
 - Will be led by Charlie Bessken – SD Field Office
 - Cc: Heidi Reidel – ND Field Office
 - Prairie butterflies – Dakota skipper and Powesheik skipperling
 - Federal lands surveyed in 2012, FWS can provide more information
 - Recommend doing assessment of potential impacts by a habitat analysis
 - When corridors and routes are shared with USFWS for further comment, preference would be to also provide information on habitat breakdown so they can focus on which species may be present
 - New fee title lands in 2012 that are not on the maps
 - 1,700 acre Waterfowl Production Area (WPA) in Sargent County
 - 350 acre WPA in Richland County
 - Rob Bundy will provide location information to HDR
 - New easements in southern Richland County – this area is being targeted for easement acquisition
 - It was explained that the Dakota Lake National Wildlife Refuge (NWR) is not a fee title NWR, but a limited easement NWR, with fewer restrictions on use.
 - No hunting is allowed, and USFWS has water rights (ability to flood adjacent fields)
 - FWS has no jurisdiction over surface use



- May be possible opportunity to cross James River, since in some areas the riparian area is relatively narrow and cropped to the edge
 - Would need to coordinate with FWS, and the PSC (NWRs are avoidance areas in North Dakota)
 - Survey discussion
 - Raptor nest surveys – recommend surveying in areas where eagles are likely to nest once corridor/route is narrowed down
 - Recommend 0.5 mile buffer on either side of centerline
 - May need orchid survey if habitat is crossed in Richland County
 - Prairie butterfly surveys – skipper and skipperling – may be recommended if suitable habitat is crossed on private lands
 - Whooping crane
 - Corridors will contain suitable habitat for the crane (FWS considers any palustrine, emergent wetland as suitable)
 - Outside of the 95% sighting corridor, the FWS guidelines recommending marking any new line within 1 mile of suitable habitat
 - Inside the corridor, additional recommendations will apply
- ND Game and Fish Department
 - Lek data – John can provide information if there are any known leks in study area
 - Location of state lands is publicly available GIS layer; the information HDR has on maps appears to be up to date
- State Water Commission
 - Groundwater monitoring wells – get map from online mapping service
 - No buffers of wells are recommended, just need to contact the Commission if an impact is anticipated
 - Floodplain development – permit from local administrator – permit process is not too long
 - Send corridor to State Water Commission and they will provide floodplain administrators
 - the James River and Red River crossings will require a Sovereign Lands Permit
 - 1-2 months to process
 - Some of the counties in the study area may not have mapped floodplain information
 - Recommend contacting Water Resource Districts
 - On State Water Commission website
 - Water management and diversion – dams – flooding and drainage
 - Joint board - Sargent and Richland counties
 - Recommend contacting rural water system administrators – start by contacting the rural water system association (link on Water Commission website)
- Federal Highways
 - Interstate clearance height is 16 feet – the transmission lines will have no problem meeting this minimum clearance
 - National Highway System (NHS) provides standards for clearance
- Scenic Highways
 - ND scenic highways are outside of Study Area
 - MN Highway 75 is scenic highway
- Other recommended contacts
 - Dickey and Sargent Irrigation District



- Parks and Recreation Department
 - NHI data
- SHPO
- ND DOT
 - Wetland mitigation sites – Shari Lares
- Sisseton-Wahpeton THPO
- Outreach
 - Public open house meetings will occur in October
 - Website
 - Map of corridors will be emailed to agencies once known – will also be available on the website

Action items

- HDR will email shapefile of study area to Heidi Reidel
- Tewaukan WMD – Rob Bundy to email map of easement and fee lands to HDR
- HDR will send email to John Schumacher to follow up lek locations
- HDR will coordinate with Kelly McPhillips to obtain contact information for the permitting staff at BOR, and contact at Dickey Sargent Irrigation District
- HDR will obtain NHI data for study area
- HDR will contact Shari Lares to obtain information on any DOT wetland mitigation sites



North Dakota SHPO Meeting Notes August 29, 2012, 11:00 a.m.

Meeting Location

Montana Dakota Utilities Co
400 North Fourth St.
Bismarck, ND 58501-4092
701-222-7865

Attendees:

Montana-Dakota Utilities Co.: Chad Miller
HDR: Joyce Pickle, Brian Hunker, Alan Stanfill
SHPO: Susan Quinnell

Agenda:

1. Project Overview
 - a. Ownership
 - b. Schedule
2. Area(s) of Potential Effects
 - a. Extent of federal agency jurisdiction
 - b. Implications for Section 106 review
3. Non-106 Project portions
 - a. SHPO-PUC coordination
 - b. SHPO involvement
 - c. Process discussion
 - i. File search and background research
 - ii. Survey and Identification
 - iii. National Register Evaluations
 - iv. Findings of Effect
 - v. Avoidance in lieu of Evaluations and Effects
 - vi. Treatment options when avoidance is not feasible
 - vii. Reporting and report review
4. Other participants
 - a. Any recommended contacts or coordination for data in the Study Area – either within agency or outside of agency



- b. Any recent information from other projects or studies that the Owners/HDR should be aware of
5. Points of Contact
6. General Discussion
7. Action Items

Discussion notes:

- Discussion if the project will provide an opportunity for wind development
 - The line may create tie-in opportunities for wind
 - No specific projects are planned at this time
 - Location of wind projects would not necessarily be directly adjacent to BSSE project
- Sisseton-Wahpeton THPO contact
 - Historic reservation boundary may be concern
 - Trust land permitting
 - The Owners are meeting with the Sisseton-Wahpeton
 - Discuss process
 - Communication
 - Monitors – field survey or construction
- Discussion of federal nexus
 - Part of the project may fall under a federal nexus with permitting and other parts will fall under state jurisdiction
 - SHPO would prefer the Owners to treat all of project like Section 106
 - Expect a Class III (intensive survey) report for the entire length that includes recommendations on eligibility and effects.
 - Piecemealing of jurisdiction is hard to differentiate for regulatory process
 - In areas with no Section 106 – Who makes determination on effects and reporting?
 - SHPO makes determinations
- PSC will consult with SHPO
 - PSC relies on SHPO consultation and findings
 - Reports to the PSC
 - Two versions of the reports should be created - one with redacted info for website and one with all data for their records
 - Has SHPO been involved in a disagreement with Applicant where PSC had to be involved
 - Not really – because Applicant can move a structure so avoidance has always been possible
- SHPO has a preference for a Class III survey on all lands because this area of the state does not have a lot of survey records
 - Class III model approach like Center to Grand Forks would be acceptable
 - Project is modeled for high, medium and lower probability areas and only a subset of the line is surveyed
- THPO consultation
 - SHPO expects the Applicant to consult with THPO



- SHPO does not facilitate THPO discussions
 - THPO independent of SHPO on consultations
- Determination of Traditional Cultural Properties (TCP)
 - SHPO accepts THPO recommendations
- SD process is different
 - State law requires listed properties be taken into account
 - Burial law for burial areas
 - Remainder of areas (outside of Section 106 areas) SHPO cannot require surveys
- Historic structure inventory
 - Center to Grand Forks had a good methodology and report, SHPO would prefer similar methodology on this project.
 - Would be acceptable for archaeologists to photodocument structures when they are surveying
- Data agreement with SHPO
 - Can obtain GIS data
 - If project area is greater than 100,000 acres, may need to sign data agreement
 - Tim Reed (treed@nd.gov) for data agreement
- Site avoidance buffer is 50 feet during construction
- Abandoned railways
 - Context is available. SHPO would not oppose siting a transmission line along these features
 - Recommend recordation for SHPO records

Meeting Notes: Dickey County

PROJECT ATTENDEES

Dickey County: Bev Kuska (Auditor)

KLJ: Melissa Hauglid

HDR: Jennifer Walter, Monica Peterson

Notes/Agenda

August 29, 2012

Permitting

- County has never denied an easement to a utility line, but they referenced it only to underground lines
- Townships have their own zoning ordinances and building permits, not the county. Townships not required to bring ordinances to the county.
- County has no permitting or planning department
- Easements when within the 200 ft ROW, require commissioner's approval
- Auditor wants commissioners to charge for permits and possible per axle charge. Con concerned about road conditions due to previous heavy load projects.
- Process
 1. If looking for easements go to the commissioners (within that 200 ft)
 2. If not in the 200 ft, must go to townships
 3. Townships will require an agenda, and map
- Unsure on road crossing permit
- County has the variance, townships the permits

ROW

- 200 feet from county road, unsure of state roads
- There is technically a road on every quarter section, even if there is not physically one there
- Townships and section lines have 60 ft ROWs
- Even if a road is not present, the ROW exists on section line

Ag notes

- Cattle in east section near hills, not much dairy
- Animal feed lot in ---?
- Grain Elevator in Clement Township on Co Rd 3.
- Turkey farm along CoRd 8 in north area
- Irrigation
 1. Center pivot In the E near Oakes
 2. Not pipeline irrigation in Dickey though
- Near Oakes: Tom Wodden's Pumpkin farm near there, might even be within city limits, could have an orchard on the property
- Organic farms – Gary Almer, turkey farm near Lemore

- The two townships NE of Ellendale and to Fullerton, ND has had some water issues due to the flat nature of the James River, especially area near CoRD 3.

GIS data

- Tax director is collecting GIS data: Don Flaherty – may provide detailed soil survey information

Detailed soils notes

- All counties are required now by state to be taxed on detailed soils and information must be submitted to the state by end of year
- Detailed soils are broken down by the parcels
- Just last year value went up by 30% ish with soil req's
 1. But there's other factors economically involved in that
- Costs are up for poles to be put in there
- \$3500-4000/acre

County map and land use

- A lot of wind towers out west – Albertha, and German townships
 1. German township has some in planning to be built
- water – had to put emergency grades there, lowest part of the county
 1. Someone lost their house this spring in the area
- Fullerton township wet
- Ludden township has seasonally flooded are with James River
- Grain elevator in Clement Township on Co Rd 3
- A few abandoned rails which were offered to landowners, especially N along US 281
- Working rails go through Oakes
- Hutterite along Co Rd 8, outside of fullerton Township, NE of Ellendale
 1. They own a lot of land, it's scattered
- Fullerton has a lot of large landowners (Barry Schulig)
- County owned ditch – along co rd 3, maple river, BURIED along road ROW
- Mitigation grant in application for the slew grade raise. Some are FEMA money to raise roads. Would like to drain slough due to water.
- Oakes has some residential development pockets around city limits
- Eagles have been observed within the county

Airport

- Near Oakes, KLJ knows a lot about that area from previous work done there
- Owned by the cities not the counties

No pipelines

Historical notes

- White Stone battleground – is on the historical register
- There are definitely rural cemeteries throughout the county
- Albertha township has Indian artifacts, as well as turtles (these may be threatened and endangers species)
 1. The west portion of the county would require cultural survey

Public Involvement

- Brad Crabtree – stopped a couple wind towers, running for public service commissioners, defeated 4 years ago.
- Pheasant Lake has citizens that might oppose the line
- Ludden has a hunting club
- Russel Zinter, works for Acciona, knows the area very well, a local guy, recommended as a contact person

- There is a small meeting room at the new hotel – Prairie Winds
- Fireside Restaurant
- Oakes has an OTP building

Corridor considerations

- Wind coming up a lot in west – not as much as expected a couple years ago but still there will be some more development in area just west of Ellendale

October 2, 2012 Meeting Notes: BSSE Project THPO Meeting

PROJECT ATTENDEES	
THPO Representatives	Waste'win Young – Standing Rock Sioux Tribe (SRST) THPO Dianne Desrosiers – Sisseton-Wahpeton Oyate (SWO) THPO Debra Flute – SWO Attorney Kent Good – SWO Archeologist Jim Whitted – SWO Terry Clouthier – SRST THPO Archeologist
Otter Tail Power Company (OTP)	Dean Pawlowski Al Koeckeritz
Montana-Dakota Utilities Co. (MDU)	Henry Ford Chad Miller
HDR	Angela Piner Alan Stanfill

Agenda

Project Introduction

- Description
- Ownership
- Purpose and Need
- Schedule

Discussion of Study Area and Study Corridors

- Any recommended contacts or coordination for acquiring cultural resource data on the Study Area
- Any recent information from other projects or studies that the Owners/HDR should be aware of

General Discussion

Action Items

Notes

October 2, 2012

Project Introduction

- The project is being equally divided between Otter Tail Power Company and Montana-Dakota Utilities Co.

- The project will be approximately 150-170 miles long. It is one of 17 projects approved by the Midwest Independent System Operator as a Multi-Value Project or “MVP”
- Schedule:
 - File with the South Dakota PUC in August 2013
 - Begin construction 2015-2016
 - In-service 2019
- MISO is responsible for reliability – it is independent of Federal government
 - They are in charge of making independent decisions for good of the whole area regarding reliability of the transmission system
 - MISO did studies which started 10 years ago and OTP and MDU had the opportunity to construct and own the line
- Engineering is not settled and no structure has been selected

Study Area and Corridor Discussion

- Corridors are very broad and wide and considered environmental and cultural information collected to date
- Reviewed the map that identified the light gray areas are currently being considered.
- Goals in routing are shortest distance and try to avoid sensitive areas when possible
- A file search for the project is being conducted in SD and ND. Only SD has been received to date. There doesn't appear to be a lot of cultural work that's been completed in northeast SD.
- SWO attendees indicated that some sites have been identified in NE SD
- Possible presence of mound sites in the project area
- The project is asking a variety of stakeholders for information about the project area. In particular, the Owners would like SWO and SRST to provide input on things we don't know so the project can minimize impacts and strike a balance among all the resources and issues of concern.

General Discussion Questions

- Corridors are very broad and wide
- Environmental and cultural considerations
- Reviewed that the light gray areas are currently the choices that the Owners are considering.
- Would the line carry wind farms as its purpose?
 - An outlet for energy is needed. Wind was a driver to determine need and was one of the reasons Ellendale and Big Stone were included
 - It is expensive to interconnect directly – wind farms typically interconnect at 230 kV and below

- There are no immediate plans for an interconnection, but the transmission line is open for anyone to interconnect. MISO has the responsibility to figure out who can interconnect
- Both SRST and SWO asked whether the project will require an EA or EIS.
 - There is no federal nexus for the entire footprint of the project
 - The primary approvals needed are state approvals, particularly with the South Dakota Public Utilities Commission and North Dakota Public Service Commission
 - Federal nexus for the project will likely be limited to permitted areas
 - USACE – Section 10 rivers; they have typically defined the review and APE near the river
 - USFWS – potential to cross easements in the area. Based on past experience, an EA level review is expected..
 - Both SWO and SRST appreciated bringing the tribes to the table early to discuss the project.
- HDR has completed a file search for SD cultural properties
 - The owners asked whether the tribes maintain files in the area that the Project can have access to. There is no repository of data available.
- There have not been extensive studies completed in the project area.
 - The Project needs input on things we currently don't know
 - The project will be routed to have a minimum impact on a number of environmental resources
 - The Project must strike a balance among all the resources and issues of concern
- There was a discussion about the non-106 areas that are not under federal nexus
 - Gathering input from tribe
 - Multiple cultural reviews
 - Section 106 jurisdiction is limited for this project
 - State level reviews vary from state to state
 - Since Section 106 is not across the whole project the Project would like to understand the tribes' concerns
- Miscellaneous items
 - What is the status of Merricourt?
 - EnXco and Xcel are in court over the issue
 - MDU built the facilities and the wind farm is yet to be built.
 - Do the owners own coal plants?
 - Yes OTP and MDU own facilities together
 - Do the owners own wind farms?

- Yes, OTP owns one near Ashtabula and MDU owns some in Western ND.
 - What is the corporate status of utilities
 - OTP corporation in MN
 - MDU is a division of MDU Resources Group Inc. MDU Resources Group Inc. is a corporation in Delaware
 - When the Owners build across state lines do they need a permit from FERC or DOE? No

THPO Involvement Discussions

- SRST Comments
 - Ellendale and Dickey county are important areas
 - Used to camp in the area
 - Completed a tribal survey in the sand hill area with approximately 7 tribes with interest in the area
 - Tribes are working on Merricourt
 - Want to make sure Standing Rock is included
- SWO Comments
 - SWO confined in 1867 and have had no access to areas traditionally important to them outside of reservation boundaries since that time
 - Big Stone Lake and Lake Traverse were areas of cultural concern – they were used as wintering and camping areas
 - Were prisoners of war
 - Needed passes and tickets to leave the reservation and hunt for survival
 - Now their members have to live in two worlds and have to understand both
 - Areas around Big Stone
 - Have not surveyed
 - Believe there are areas of high potential from oral histories
 - They know what resources are present on the reservation
 - SWO does not have access to private lands of traditional importance
 - They don't maintain formal site files for areas of cultural importance, but rely on stories and oral histories
 - Suggested areas need to be surveyed prior to construction to know where resources are
 - Highway 12 is an example of an area probably not surveyed
- SD SHPO
 - Have a good relationship with Paige Olson at SHPO .
 - If projects are within the tribal boundaries, the tribes perform surveys.

- The SWO must waive sovereign immunity if they actively participate in state projects outside tribal boundaries.
 - The SWO does not participate, because they do not want to waive sovereign immunity
 - They hope that the SHPOs will reach out to the tribes for projects
- Tribes have knowledge and expertise to provide information and assist in cultural and archaeological surveys

Project Next Steps

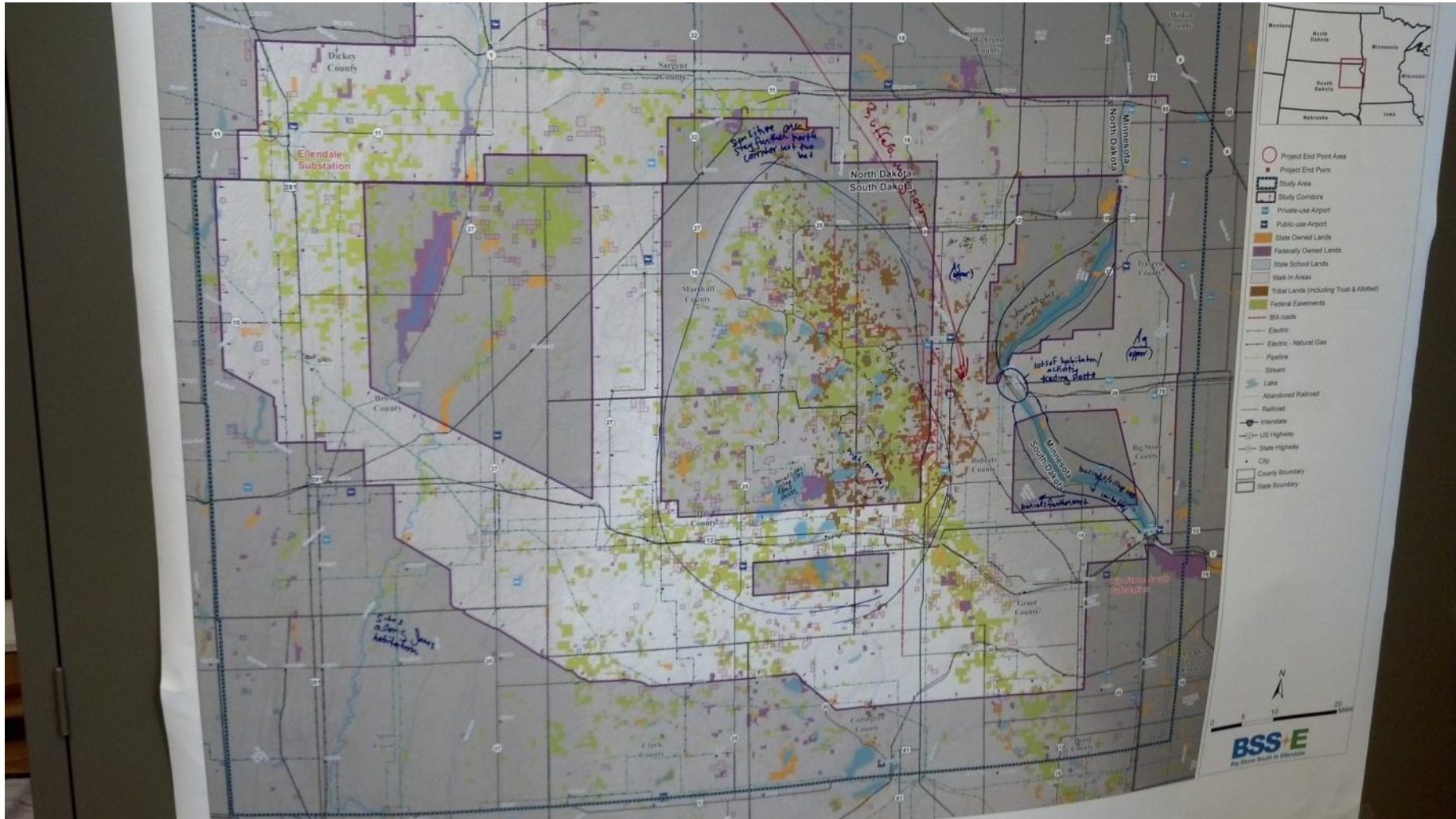
- The project will conduct Open Houses the week of October 15th.
- Routes will be available for review this winter which will focus our field work efforts
 - Avoid completing ground surveys on all the corridors
 - Expect to complete the ground surveys next year
- Tribes usually request a TCP study by tribal members.
 - For the traditional cultural ground survey – Would the companies consider an inter-tribal survey team?
 - What is an inter tribal team?
 - Process is similar to an archaeology survey
 - Tasked to identify traditional cultural properties; archaeologists typically are not trained to look for tribal resources
 - Would look for things that have traditional value
 - Archaeologists could also assist. Provided example of a recent project where the THPO archaeologist identified a number of additional sites than the project proponent’s archaeologist.
 - The team would produce a report
 - Typically have 1 crew for a TCP study. They rely on a private contractor to bring tribes together. On the Archaeology side, Kent is usually the PI – SRST and SWO would likely be in the lead
- Avoidance is concern
 - Requested a role in the avoidance of sites they consider significant
 - There is a bit of leeway to avoid sites with a transmission line
 - It is not about stopping projects – willing to consider enclosures and other avoidance measures.
 - In response to whether the THPO staff would distinguish between National Register sites versus sites that are of the importance to the tribes. The concern is really just avoidance and they would want to work with an engineer to identify sites and avoid them. The tribes don’t like to record sites on the register because it brings attention to the site.

- When they do fill out forms they identify the site with a buffer (depends on the type of a site)
- Is there a need to be concerned about visual impacts
 - Visual can be an issue but physical avoidance is the primary issue
 - Visual impacts are typically an issue for significant sites
- Areas such as laydown areas are typically at issue and avoidance of sites identified during construction – not the pole itself.
- Confidentiality agreement on how we share information about sites can be spelled out in a contract for survey – tribes have experience with this. In North Dakota it is hard to keep sites confidential and prefer not to release information to the state. Federal agencies are better able to keep sites confidential.
- As design and routing issues arise, the tribes are willing to share additional information.
- Prefer tribal monitors for construction so we know crews are avoiding sites.
- How emergencies are dealt with once in operation is also an important consideration.
- They've also had instances where sites are impacted by animals after construction such as cows scratching on guy wires near a site.
- Agricultural areas are not a major concern but would like to review.
- Timeliness of a report will be an issue – cultural and archaeological survey could be done at the same time but have never been completed concurrently. Contracts have incorporated timelines before.
- Other tribes
 - Northern Cheyenne – Montana may have an interest and Arapahoe, Three Affiliated, N. Cheyenne, Chippewa Band. Lots of tribes occupied the area.

Routing Discussion

- Suggestion to make the shortest route and go straight through the reservation; there are several resources such as the Coteau lakes, USFWS lands, Sica Hollow State Park, that didn't make that route a good choice overall
- Minimizing impacts on the Couteau should be a goal. There are lots of cultural sites along the lakes.
- There are a large concentration of sites (particularly burials) within 1-2 miles from Big Stone Lake and Traverse Lake. There was traditionally a lot of activity between the two lakes.
- MN Route along 75 is mostly agricultural. This might be a good option.
- Suggested that the I-29 corridor is a reasonable option; however, it has a fair amount of tribal trust/allottee land.

- The corridor on the north side of the Coteau seems to be far enough north to minimize impacts to the resources expected in that area. The tip of the Coteau is an important and unusual area.
- James River may have sites but they are not familiar since they haven't had access.
- Scout Camps are scattered throughout, particularly along Elm River
- Eastern side of the Coteau is a buffalo migration path
- Lots of sites west of Ellendale. Found 2000 sites during a recent survey. They were able to avoid all the sites during micro-siting process. White Stone Hill is about 20 miles west of Ellendale and will not impact our project. This is being nominated for national register tribe considers it a massacre site
 - Good crossing into MN is at Browns Valley; however, there were habitation and trading points at this location





North Dakota Interagency Meeting Notes

January 17, 2013, 1:00 p.m.

Meeting Location

Montana-Dakota Utilities Co
 400 North Fourth St.
 Bismarck, ND 58501-4092
 701-222-7865

Attendees:

Chad Miller and Tom Crary
 Dean Pawlowski
 Joyce Pickle and Kelly Garvey
 Monte Dockter
 Walt Fairbanks
 Linda Wiespfennig
 John Schumacher
 Rob Bundy
 Mick Erickson
 Patsy Crooke
 Kathy Duttonhefner
 Paul Picha and Susan Quinell
 Sandi Tabor

Montana-Dakota Utilities Company
 Otter Tail Power Company
 HDR Engineering, Inc.
 Department of Transportation
 Bureau of Reclamation
 State Water Commission
 Game and Fish Department
 Tewaukon NWR/WMD
 Kulm WMD
 U.S. Army Corps of Engineers (USACE)
 Parks and Recreation Department
 State Historic Preservation Office (SHPO)
 Transmission Authority

Agenda

1:00	Introductions	Chad Miller, MDU
1:15	Project Update	Chad Miller, MDU
1:30	Routing Process	Joyce Pickle, HDR
	<ul style="list-style-type: none"> • Routing Criteria • Route Development • Preliminary Routes 	
2:00	Map exercise – Route Alternatives Input	All
2:20	Map Summary Presentations	All
2:30	Next Steps & Wrap-up	Chad Miller, MDU
2:35	Agency-specific Discussions	



Discussion Notes:

Otter Tail Power Company, Montana-Dakota Utilities Co., and HDR Engineering, Inc. (HDR) opened the meeting with a presentation, focusing on updates to the Project since the August 2012 agency meetings. The Project consists of a 150-170 mile 345 kV transmission line. The end points are the Big Stone South Substation near Big Stone City, South Dakota and the proposed Ellendale 345 kV substation near Ellendale, North Dakota. The expected in-service date is 2019.

The routing process was then described to illustrate the process that was used to identify the current preliminary routes. HDR also described the criteria used as part of the route evaluation process, including the use of existing rights-of-way (transmission lines, pipelines, railways, or roads), survey lines and natural division lines, populated areas, high density of natural features, river crossing locations, and length.

The next steps for the Project were then presented, including county meeting webinars in late January 2013, public open house meetings set for late February 2013, followed by preferred route identification and filing of the state route applications.

Opening Discussion

SHPO

- What will the height of the structures be?
 - Depending on topography and structure type, the height could be 100 to 150 feet.
- Is there a federal nexus for the project?
 - No federal funding is involved with the Project and no interconnection with Western Area Power Administration. Only federal actions would be Section 10 river crossing, and possible crossing of USFWS easements

Map Review Discussion

After the opening discussion participants divided into two groups to review table maps. The purpose of this exercise was to obtain feedback on missing data, identify significant features that may be missing, review river crossings and pinch points, and discuss permitting requirements. The following is a summary of the discussions that occurred as a result of the mapping exercise.

SHPO

- Asked if routes in North Dakota crossed historical reservation boundary – clarification was given that the routes only cross the historical reservation boundary in South Dakota
- Would like the coordination to continue and want to be involved in the approach to cultural resources as the project moves forward.
- Requested maps as routes are updated.

Water Commission

- Indicated that there are no flood plains or sovereign lands associated with the preliminary routes.

USACE



- Will need a Section 10 permit to cross the James River, which will require a Pre-Construction Notice (PCN).
- All other wetland crossings will need to meet the seven requirements to qualify for Nationwide Permit (NWP) coverage with no PCN. Each wetland crossing will be treated as a single and complete project, and should not trigger an Individual permit if impacts to each wetland remain under 0.5 acres (no mitigation will be required if impacts to each wetland remain under 0.1 acre)
- Pole locations and engineering details will be needed for the permit process.
- Concerns were expressed with the accuracy of the NWI data and wanted to know if wetland delineations would be done. It was explained that the process was to supplement NWI data with desktop review of aerials, and to do field review from public rights of way. This level of analysis has already started and has been used in the routing exercise. Delineations would generally be limited to larger complexes that may not be spannable along the final route, and that field work would not occur until right of entry along the transmission ROW has been obtained

Parks and Recreation

- Significant ecological communities exist in the project area.
- Concerns were raised about the lack of survey work completed in the area and it may be difficult to make good decisions without this information.

USFWS

- Believes that NEPA applies if grassland easements are crossed and was unfamiliar with the approach that Connie Mueller (SD Waubay WMD) had shared the previous day.
- Will coordinate with the North Dakota field office and South Dakota WMD's to discuss approach for crossing grassland easements.
- Will check into the two-track connection between the WPA's in the Ellendale to Britton corridor to determine ownership status.
- The James River often floods at crossing area located in the Ellendale to Britton corridor.
- Requested maps with all the data and shape files of preliminary routes.

Game, Fish and Parks

- Inquired about wildlife surveys for leks and eagles. HDR explained that there were habitat surveys done in October 2012 from public rights of way. No specific protocols for surveys have been developed; for crossings of federal easements, the Owners will coordinate with USFWS on this matter

Transmission Authority

- Attended the meeting to get an update on the project.
- Described the history the transmission authority had with MISO to address power needs in North and South Dakota.

Bureau of Reclamation and DOT

- Neither agency had concerns at this time. The preliminary routes and alternative route segments avoid BOR land and the highway crossings should be straightforward, requiring utility crossing permits



Action items

- HDR will provide maps and shapefiles to USFWS Wetland Management Districts.
- HDR will continue to discuss the approach to constructing in grasslands with USFWS.
- HDR will follow up with Mick Erickson on ownership status for the two-track between WPA's.
- HDR will provide SHPO with updated maps of preliminary routes.

Future Communications

- The group would like notification with maps when route is selected.



Dickey County Meeting Notes

January 29, 2013, 11:00 p.m.

Meeting Location

Conference Call and Webinar

Attendees:

Rick Johnson	Otter Tail Power Company
Henry Ford	Montana-Dakota Utilities Company
Joyce Pickle and Kiah Brasch	HDR Engineering, Inc.
Bev Kuschka	Dickey County Auditor
Wanda Sheppard	Dickey County Deputy Auditor
Don Flaherty	Dickey County Director of Equity
Cheryl Brokaw	Dickey County Deputy Treasurer
Gail Veland	Dickey County Treasurer

Agenda

11:05	Introductions	Henry Ford, MDU
11:10	Project Update	Henry Ford, MDU
11:25	Routing Process	Joyce Pickle, HDR
	<ul style="list-style-type: none"> • Routing Criteria • Route Development • Preliminary Routes 	
11:30	Map exercise – Route Alternatives Input	Joyce Pickle, HDR
	Owners' Questions	All
	<ul style="list-style-type: none"> • Right-of-way Sharing • Permitting 	
11:35	Next Steps & Wrap-up	Henry Ford, MDU
11:45	Meeting Adjourn	

Discussion Notes:

Otter Tail Power Company, Montana-Dakota Utilities Co., and HDR Engineering, Inc. (HDR) opened the meeting with a presentation, focusing on updates to the Project since the August 2012 agency meetings. The



Project consists of a 150-170 mile 345 kV transmission line. The end points are the Big Stone South Substation near Big Stone City, South Dakota and the proposed Ellendale 345 kV substation near Ellendale, North Dakota. The expected in-service date is 2019.

The routing process was then described to illustrate the process that was used to identify the current preliminary routes. HDR also described the criteria used as part of the route evaluation process, including the use of existing rights-of-way (transmission lines, pipelines, railways, or roads), survey lines and natural division lines, populated areas, high density of natural features, river crossing locations, and length.

The next steps for the Project were then presented, including county meeting webinars in late January 2013, public open house meetings set for late February 2013, followed by preferred route identification and filing of the state route applications.

The following questions were addressed after the presentation.

Map Review Discussion

- Don Flaherty reacted positively to the proposed route options and would prefer the line stay in Dickey county going from west to east. Having more miles of the route in Dickey County may make permitting for the Project easier as there may not be as many restrictions.
- What type(s) of permits will be involved?
 - Overweight trucks will have to be approved by the County
 - Townships have permitting authority rather than the County in Dickey County.
- How will this project benefit Dickey County?
 - Tax revenue
 - Crews staying in Ellendale – merchants benefit
 - Electrical system will be strengthened and the load serving capacity will be increased
 - Better for Wind development possibilities

Action items

- HDR to advertise the upcoming public meeting in the Times-Leader combined section of the local papers (the section that appears in both the ‘Dickey Leader’ and the ‘Oakes Times’ newspapers.
- HDR will send map PDFs to Mr. Flaherty and Ms. Kuschka.

Future Communications

- Five public open house meetings will commence within the next month.
- In the second quarter of 2013 the preferred route will be established.
- In the third quarter of 2013 the route application will be filed.

-----Original Message-----

From: Crooke, Patsy J NWO [<mailto:Patsy.J.Crooke@usace.army.mil>]

Sent: Wednesday, February 06, 2013 10:21 AM

To: Miller, Chad

Subject: BSSE Transmission line project (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Chad:

Dan forwarded me you letter of January 24, 2013. In the letter you requested confirmation that the Corps will look at each wetland crossing as a single and complete project. Per regulatory definition at 33 CFR 320.2(i), "For linear projects, the single and complete project will apply to each crossing of a separate water of the US at that location; except that for linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly-shaped wetland or lake, etc., are NOT separate waterbodies." So, yes, each wetland crossing will be looked at accordingly.

Regarding the alternatives, these are only necessary for compliance with the 404(b)(1) Guidelines (individual permitting process). It is likely that Nationwide Permit #12 will cover this project, even for the crossing over the James River. I have attached a Fact Sheet for NWP #12 for your review. See the notification requirements on page 2.

I hope this helps. Certainly give me a call if you need further clarification or discussion.

Patsy

Patsy Crooke
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Classification: UNCLASSIFIED

Caveats: NONE

**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 NWP's 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 NWP's 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 NWP's 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 NWP's 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 NWP 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.

Environmental Health
Section Chief's Office
701.328.5150

Division of
Air Quality
701.328.5188

Division of
Municipal Facilities
701.328.5211

Division of
Waste Management
701.328.5166

Division of
Water Quality
701.328.5210

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From: "Erickson, Michael" <michael_erickson@fws.gov>
Date: Thu, Feb 7, 2013 3:20 pm
Subject: BSSE project follow up
To: "Pickle, Joyce E." <Joyce.Pickle@hdrinc.com>

Joyce;

Sorry for the delay in getting back to you. I dug out the files about the area in T129- R61- Sec. 17 and found that we actually own the 924' long x 33' wide strip of land connecting the two units of the Waterfowl Production Area. So, crossing over this strip of land would trigger a federal nexus and some form of NEPA would be required. As your plans show, going around the north side of the WPA may be more suitable to avoid potential birds strikes. The two parcels of the WPA contain large wetland basins that attract many birds during the spring, summer and fall seasons. Bisecting these two units of the WPA with multiple electric lines may potentially cause significant bird mortality.

I will try to find some more information about the easement national wildlife refuge tomorrow morning.

On Wed, Jan 30, 2013 at 5:09 PM, Pickle, Joyce E. <Joyce.Pickle@hdrinc.com> wrote:

Hi Mick – I wanted to check in with you on this project. Heidi did call me today and we discussed it, I appreciate all the time you all are spending on this. It sounds like she and Charlene Bressken are coordinating and we will just keep coordinating.

On a more micro-scale, I was wondering if you had had a chance to check on the status (lease or right of entry vs. fee-owned) of the connector between the two WPA units in

Section 17, T129 R61?

Also, is there any sort of paperwork or language you can provide on the limited-use easement along the James in Section 14? If there are requirements and/or specific maps for that narrow area, along with a quick summary of what the approval process would be to cross it (assuming we would not put structures within the easement but would need to cross it) that would be helpful for us to know.

Thanks again for your time on this project. Please feel free to call me to discuss if that is easier.

Sincerely,

Joyce

JOYCE PICKLE

HDR Engineering, Inc.
Environmental Project Manager

701 Xenia Avenue South, Suite 600 | Minneapolis, MN 55416
Office: 763.591.5443 | Mobile: 763.567.3406
joyce.pickle@hdrinc.com | hdrinc.com

From: Erickson, Michael [mailto:michael_erickson@fws.gov]
Sent: Wednesday, January 23, 2013 4:34 PM
To: Pickle, Joyce E.
Subject: Re: BSSE project follow up

Hi Joyce;

I tried to call you but had the wrong number and your voice mail message was already deleted. I called Heidi today and explained what had happened at last week's meetings and expressed my recommendation that she call you to explain exactly what type of NEPA clearance needed in this project. She promised she would call you to discuss. Let me know if you don't hear from her and I will remind her. Briefly, I think I explained it accurately at the meeting. Installing poles on a grass easement or a wetland basin on a wetland easement will kick in the federal nexus and thus, ES will review the entire project for T&E species, cultural resources, migratory bird issues, etc. An Environmental Assessment will most likely need to be prepared as part of this review. Again, Heidi will be able to explain this in much more detail.

The refuge folks (Connie, Jay, Rob and myself) will review the routes and provide our concerns with each route and try to identify a route that minimizes impacts to our easements and known wildlife populations or rare habitats. We will get together with ND/SD Ecological Services on a conference call to make sure we provide you with a single, consistent answer to your questions and reduce the confusion between our offices and programs.

On Tue, Jan 22, 2013 at 2:00 PM, Pickle, Joyce E. <Joyce.Pickle@hdrinc.com> wrote:

Hi Mick – I realized after I called you yesterday that your office would be closed, sorry about that. I did want to follow up and see if you had had a chance to check in with Connie on the approach to grassland easement crossings for transmission lines. I also wanted to see if you had been able to look at the status of the connector between those two WPA units.

We will be sending you and Rob a pdf of maps that show the preliminary routes, for your use and to provide any updates on FWS easements or lands (although it sounds like there might not be too many in this part of your district).

Please let me know if you have any questions or need anything else in the meantime, or if I can help coordinate with Connie or any of the ES offices.

Thanks much, we really do appreciate your time on this, I know this is not the only thing you have going on!

Sincerely,

Joyce

JOYCE PICKLE

HDR Engineering, Inc.
Environmental Project Manager

701 Xenia Avenue South, Suite 600 | Minneapolis, MN 55416
Office: 763.591.5443 | Mobile: 763.567.3406
joyce.pickle@hdrinc.com | hdrinc.com

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Mick Erickson
Refuge Manager
Kulm Wetland Mgmt District

BSSE: SHPO Meeting

Thursday, February 07, 2013

1:24 PM

Subject	BSSE: SHPO Meeting
Date and Location	Thursday, February 07, 2013 2:00 PM - 3:00 PM, Conference Call No. 866-994-6437; Passcode – 99671778
Attendees	Stanfill, Alan; Miller, Chad; 'akoeckeritz@otpc.com', Paige Olson, Paul Picha
Message	<p>Message below was sent to Paige and Paul. Same call in number as today. Alan will be sending our “internal” agenda shortly. Meeting notes from today will go out once Alan has had a chance to review what I sent him.</p> <p>Thanks! Angela</p> <p>Hello Paige and Paul, As we discussed, the Owners (MDU and Otter Tail Power) would like to hold a conference call tomorrow, February 7, 2013, at 2:00 regarding the Project. At this early stage of project planning, we are particularly interested in discussing your expectations about the level of identification efforts merited for the non-federal portion of the Project, and your advice and suggestions regarding the appropriate level of tribal involvement in those efforts.</p> <p>We greatly appreciate your willingness to discuss these issues on such short notice. Please dial: Conference Call No. 866-994-6437 Passcode – 99671778</p>

[Link to Outlook item](#)

Notes

Have we decided on structure type yet? It will be between two we've shown - soils and other engineering/topographic features

H-frame - help to span wider areas

What is difference in footprint of the two?

Monopole - 4 foot hole; H-frame - 2, 4 foot holes 20-30 feet apart

2019 in-service; 2016 construction start; currently in early permitting phase

We're refining prelim routes, and consulting as planning progresses

Limited federal involvement - Section 10 permit; NWP; FWS Easements; no trust lands crossed; no more than 5% of the preferred route

NHPA/106 requirements are applicable to a small part; rest is non-federal, and it's the non-federal remainder that there's a question of what constitutes sufficient review

Not a lot of clarity in state processes of the tasks to complete permitting efforts/obtain permits

Aware that PSC and PUC will rely on the SHPOs to determine whether applicants' efforts are adequate

Two questions today:

- What are SHPOs expectations for non-federal portion of the project for adequate level of identification

140-150 miles vs. 120-130 miles in SD; Prefers we go through MN - SD SHPO; prefer to have 100% survey; would be fine working on a way to ID some high/med probability locations; what would justify the high/med? - proximity to known sites, physical features, geography, etc. vs. areas that have been plowed/disturbed, where intact resources aren't there

Paul - expectations in ND; response very similar to Paige in most respects, argument could be made that 100% is necessary; looking for a good faith effort by applicant; unanticipated discoveries/finds can be lessened; on many projects that have gone through their office, the areas that were inventoried were less than 100% and were acceptable and demonstrated a good faith effort; would be a function of where we're going

If less than 100%, we typically ask for Class 2/3 combo survey

Class 2 - reconnaissance (e.g. along a road)

Class 3 - intensive review where the likelihood/potential for resources (not probability - steers away from) - very similar to what Paige said - topography, relation to water factors, etc.

Paul did say that the PSC looks to state historical society/SHPO to review and make recommendations about projects of this nature. PUC also looks to Paige's office for review as well.

To what extent would SHPOs want to participate in helping develop/review that strategy? Do they see a process we'd follow until the submittal of the permit application?

SD - don't need to develop but would like to review it

ND - don't need to develop but also would like to review it; the PSC typically looks at what SHPO has reviewed - "Class 1" survey - lit and record search of the corridor - 1 mile wide corridor centered on where the route would go; matches with how items are recorded in ND's system; Twp, Rng, Sec - is how the information is available; Class 1 should be an attachment to the application and a statement with maps that once the corridor is defined and what portions are going to be surveyed at Class 3 level vs. Class 2 level; inventory and some finding of project effect

We won't have access to the lands - we will work with you on a strategy and will show maps of locations of sensitive areas/areas we want to look at in Class 2/3 level; fine tune and include in the application; would want SHPO review/approval of the strategy and then would include in the application

That's ok, as long as everything is in writing and the protocols that are followed are clearly identified

Generally speaking where Paul has seen in their findings where they put stipulations in that approval

- Tribal involvement - what is SHPO expectation for an appropriate level/role in the ID of this project on the non-federal portions?

SD SHPO - Highly recommend tribal involvement due to this area of the state - they'll help ID sites that can be avoided to prevent project stoppage; also good neighbor policy given their location

ND SHPO - similar strategy and recommendation to Ms. Olson, given where the project is, the Sisseton Wahpeton THPO could play a central role/approach to the project; ND is a gray area, but recommend that it's in the best interest of the project that they are consulted and involved

What would they anticipate the level of involvement - where should we take that? Some examples of kinds of involvement/actions that would be performed by the tribes for purposes of identifying areas of importance to them

Paige - SD tribes have been doing TCP studies; if the companies are willing to do that - it would be best way to do - not different than an archaeology survey; opportunity to get them on the ground is the best way to do it; Sisseton just did a TCP along I-29 corridor with WAPA; not the first one that they've participated in with WAPA - so fairly confident that we could get a product, but make sure that the deliverables are outlined ahead of time; enough examples in SD to draw on

Paul - there are in ND differing levels of involvement; one would be to have contact with the THPO and have them involved in the cultural resources survey as part of the survey team (all in one); other instances, they have had a "TCP survey" that the tribes perform on the ground to ID resources that are of concern to them; Paul would generally observe that what takes place for an archaeology survey and ID what's going to take place (scope of work), timelines defined (when docs produced), what products are deliverables

Do they see differences between federal vs. non-federal portions of the project? Would be how we outline our deliverables. DOTs typically have monitoring done and not a report. If we have a good scope of work, then increases chances of having a good product. Paige could point us to the WAPA contact - Dave Kluth and COE contact and DOT contact

OTP's experience is not getting a work product very quickly; Paul believes it's always good to clearly define what you're seeking to have completed. Would SHPO feel we completed protocol was successfully completed if held up by work product?

Paul is confused that given timeline why we wouldn't have surveys done - need to have protocols in writing prior to submittal of application

Waiving of sovereign immunity comment to us from THPO - Paige wasn't aware of the concern/never heard of this

Paige would be willing to attend tribal meeting if tribes want her to participate - She doesn't control tribes' participation in the process. Would participate if she could; Standing Rock might not want Paige's participation; we could ask them if they'd like the SHPOs in attendance; potentially phone in per Paul - Paul has seen in other instances that on other projects to be aware of what's going on/what's being said
Paul would like everyone to hear the same thing at the same time if possible

Paul's perspective is projects of this nature should seek to maintain consistency on what's been done, expectations, timeframes, etc.; want decisions that are made are defensible

For non-federal aspects of the project - tasks we'd complete need to be *relatively* consistent with the federal process; degree of consistency so not diametrically opposed to another project. May not be exact but should reflect consistency to the extent possible. Keep it as close to the 106 process as possible.

Paige's question - potential date at the end of the month for the tribal meeting - 19th or 20th is tentative dates; need to get back with Dianne to firm date



MEETING LOCATION

Dakota Magic Casino and Hotel
16849 100th Street
Hankinson, ND 58041

ATTENDEES:

Jim Whitted, Dianne Desrosiers – Sisseton Wahpeton Oyate
WasteWin Young, Mary Wilson – Standing Rock Sioux
Otter Tail Power Company: Al Koeckeritz
Montana-Dakota Utilities Co.: Henry Ford
HDR: Alan Stanfill, Joyce Pickle

Tribal Meeting Notes

March 8, 2013, 9:00 a.m.

1. Introductions
2. Project Planning Progress – PowerPoint presentation
 - Route development – Henry provided update on the project since last meeting in October, where corridors were presented. Route segment analysis has been conducted over the last few months, with criteria such as populated areas, natural features, river crossing locations, length, existing rights of way and stakeholder feedback being used to identify the current preliminary routes.
 - Engineering and Right of Way – the project is still considering using either steel H-frame or steel monopole structures, which would be 90 – 130 ft high (H-frame) or 110 – 150 ft high (monopole). Both structure types will have spans of 700 – 1200 ft between structures. The Right of Way (ROW) width will be 150 feet wide. Corner structures will have guy wires that could extend past the ROW.
 - The Owners have not decided if the steel poles would be weathered (brown) or galvanized (grey). There are pluses and minuses to both
 - In general the Owners would prefer an H-frame structure, but it is possible that monopole will be used in some situations; this will be decided farther along in the design process and could be affected by specific landowner discussions



- Schedule
 - The Owners will be selecting a preferred route in late March and finalizing it in April
 - The state applications will be filed in Fall 2013, with the SD application being filed sometime in August
 - Because right of entry will not be available for most of the route, surveys are not anticipated to occur prior to the application filing – however, the application should describe the approach to survey
 - Therefore, the Owners are requesting another meeting with the Tribes in May to discuss survey approach to the preferred route, with the goal of coming to an agreement on the approach by early July 2013 for inclusion in the application
- 3. Discussion of Preliminary Routes – maps were reviewed
 - Comments on preliminary routes and mapping
 - It was asked which route (Aberdeen vs. Britton) the public seemed to prefer, or which one had more negative feedback. The response is that there did not seem to be a significant difference in comments received at the meeting, but that data is still being analyzed. Some of the landowners near the Keystone Pipeline did not seem happy with prospect of another project; but every meeting location had some positive and some negative feedback
 - It was asked which route the Owners were leaning towards right now. The response is that at this point, there is no preference, the team is doing a full analysis and the decision will be made in the late March/early April timeframe
 - At first glance the Tribes said that the routes avoid the areas of the coteau that would have the most concern to them. Also at first glance they had no strong preference between the Aberdeen and Britton routes. However, they would like to have maps showing the land cover along the preliminary routes (cultivated vs. non-cultivated) as well as percentages of each, and they will examine the routes in more detail and provide feedback as far as any red flags or general preferences to the Owners. In general they would have more concerns along the non-cultivated areas, although sites could still occur in tilled fields.
- 4. General Discussion



- It was asked what part of construction would be most disturbing, and if substantial grading would be needed. The response is that the structure laydown and assembly involves the most disturbance at the site, as several smaller cranes are involved. However, very little grading is needed for construction – in specific locations if a pole is on a slope, limited grading at that location may be necessary. After construction the slopes would be returned. No permanent access roads or major grading along the entire ROW would be needed.
- It was discussed that there is a fair amount of flexibility in siting pole structures along the center line, and that the Owners would be open to discussing avoidance of sites of importance to the Tribes by shifting poles.
- It was discussed that HDR plans to develop a model to identify areas of higher probability for archaeological resources, and that the surveys for the line would occur on a subset of the preferred route ROW based on this model. The Tribes indicated that their preference would be for 100% survey, but will continue to discuss.
- The Tribes stated that they could have Tribal member along during the archaeological survey to look for Traditional Cultural Properties, and/or could conduct the archaeological and TCP surveys themselves.

5. Action Items

- Send maps showing preliminary routes against landcover, and data of percentage breakdown of landcover (cultivated vs. non-cultivated) – **HDR, early week of March 11th**
- Review preliminary routes and provide feedback (any fatal flaws, or concerns) to Owners/HDR – **Sisseton Wahpeton Oyate and Standing Rock Sioux – by March 26th**
- Meet on **May 7th** to discuss preferred route and approach to survey - **All**

From: Mueller, Connie [mailto:connie_mueller@fws.gov]
Sent: Wednesday, March 20, 2013 1:50 PM
To: Pickle, Joyce E.
Cc: Michael Erickson; Heidi Riddle; Charlene Bessken; Jay Peterson; Rob Bundy
Subject: USFWS comments on BSSE line

Ms. Pickle,

The BSSE transmission line is progressing toward route selection, and you have requested the U.S. Fish & Wildlife Service (USFWS) thoughts on the line, and the NEPA process.

As you are aware, USFWS is involved in two different ways with this project. The fee title and easement lands are covered by the Division of Refuges. Endangered species and migratory bird concerns are covered by the Division of Ecological Services. Comments provided here are a collection of thoughts from both Divisions in both South and North Dakota.

The USFWS does not have any comments on the preferred route selection beyond what has already been provided at the local meetings.

It appears that it will be difficult to avoid all wetland and grassland easement interests. If a grassland easement is crossed, or a wetland basin on a wetland easement contract is impacted, the NEPA process will be triggered. USFWS will provide guidance on the writing of the document; however, the final route selection will determine the exact details of the document. Below are a few elements that will likely need to be covered in the NEPA process, however, the list may be expanded when the final route is reviewed.

- When USFWS is satisfied that all efforts have been made to avoid easement impacts, acres of wetland and grassland easements impacted will need to be replaced with equal biological and financial acres of similar habitat. The exact pole locations will need to be surveyed and recorded. A reclusion clause is included if the line is ever decommissioned.
- USFWS has previously requested avoidance of all fee-title lands, and in particular the area in Dickey County that has been identified.
- Whooping cranes are known to stop over in areas near the line. To reduce the risk of a line strike, the Service's Region 6 Guidance for Minimizing Effects from Power Line Projects within the Whooping Crane Migration Corridor recommends that project proponents mark new lines within 1.0 mile of potentially suitable habitat and an equal amount of existing line within 1.0 mile of potentially suitable habitat (preferably within the 75-percent corridor, but at a minimum within the 95-percent corridor). Outside the corridor, project proponents should mark new lines within 1.0 mile of potentially suitable habitat.
- The Dakota skipper and Poweshiek skippering are two ESA candidate species that are known to occur on native prairie near the proposed transmission line in Grant/Day/Marshall

Counties, SD and near the Dickey/Sargent County line in ND. As a matter of policy, the Service's Refuge Division treats candidate species as proposed, which may require a conference under Section 7 of the ESA. A survey of suitable habitat for these butterflies maybe prudent. If good habitat is located, surveys for the species should be conducted.

- Migratory birds – there is no take permit for migratory birds so a conservation plan and/or compensatory mitigation may need to be completed. Colonial nesting birds and grassland birds may be affected. You will need to detail how you are going to avoid and/or minimize the effect on migratory birds.

Connie Mueller

--

Connie Mueller, Project Leader
Waubay NWR Complex
605-947-4521 office

From: Hunker, Brian M.
Sent: Monday, March 25, 2013 11:56 AM
To: DPawlowksi@otpc.com; Ford, Henry (Henry.Ford@mdu.com); Miller, Chad (Chad.Miller@mdu.com); Mark Shaw (mark.shaw@powereng.com) (mark.shaw@powereng.com); Piner, Angela
Cc: Pickle, Joyce E.; Garvey, Kelly; Petersen, Dana; Peterson, Monica
Subject: RE: BSSE - ENV - USFWS Dakota Lake NWR

Hello Dean, Henry, and Chad –

Today, I spoke with Wayne Henderson, Kulm WMD, regarding the Dakota Lake NWR crossing. At the proposed crossing location, the easement is a flowage easement covering only the river channel. North and south of the proposed crossing the easement covers the river channel and adjacent uplands. A flowage easement provides the USFWS the right to flood.

At the proposed crossing, no permit is required if the Project spans the easement (channel) and does not place structures on easement lands. If the proposed crossing shifts north or south where a structure would need to be placed on an easement that would require a Letter of Authorization (NEPA analysis and Compatible Use Determination) from the USFWS.

I requested the easement language. Mr. Henderson informed me that the files are messy and in a few different locations. The county court house would be the best location for the easement language, since they are registered. There are 19 land parcels with this NWR and each parcel has a separate agreement. Through time the parcels have been sold and broke-up, which makes the files more confusing and he thought the county would have clean records.

Thank you, Brian

Brian Hunker, Environmental Scientist
HDR | 701 Xenia Avenue South, Suite 600, Minneapolis, MN 55416
d: 763.278.5927 | f: 763.591.5413

From: Hunker, Brian M.
Sent: Tuesday, March 19, 2013 12:19 PM
To: 'Wayne_Henderson@fws.gov'
Cc: 'henry.ford@mdu.com'; 'Chad.Miller@mdu.com'; 'DPawlowksi@otpc.com'; Piner, Angela; Garvey, Kelly; 'Mark Shaw'; Pickle, Joyce E.
Subject: RE: BSSE - ENV - USFWS Dakota Lake NWR

Hello Wayne –

I hope this finds you well.

Per our conversation a couple weeks ago, could you forward the easement language for the Dakota Lake National Wildlife Refuge? In addition, were you able to review the permitting requirements for an aerial span of the Dakota Lake National Wildlife Refuge (there would not be structures within the Dakota Lake National Wildlife Refuge)?

Thank you for your help, Brian

Brian Hunker, Environmental Scientist

HDR | 701 Xenia Avenue South, Suite 600, Minneapolis, MN 55416
d: 763.278.5927 | f: 763.591.5413

From: Hunker, Brian M.

Sent: Wednesday, February 27, 2013 1:27 PM

To: Wayne.Henderson@fws.gov

Cc: henry.ford@mdu.com; Chad.Miller@mdu.com; DPawlowski@otpc.com; Piner, Angela; Garvey, Kelly; 'Mark Shaw'; Pickle, Joyce E.

Subject: BSSE - ENV - USFWS Dakota Lake NWR

Hello Wayne –

Thank you for this afternoon's phone conversation. For your records, the following bullets capture our discussion regarding the Big Stone South to Ellendale Project (Project) crossing of the Dakota Lake National Wildlife Refuge in Section 14 T129N R60W.

Recap

- The Dakota Lake National Wildlife Refuge at this location is a flowage easement covering only the river channel
- Initial thought is that the NEPA process associated with USFWS permitting could be completed in conjunction with the USACOE's NEPA process on the USACOE permit
- If the preliminary route is selected as the preferred route, the Project could span the Dakota Lake NWR and have no ground disturbance on the USFWS easement. The ground disturbance would take place beyond the USFWS easement. Therefore, the Project would be an overhead crossing of the easement.
- Discussion on the appropriate permit action for the overhead crossing with no ground disturbance – Special Use Permit or Letter of Authorization

Action Items:

1. Mr. Henderson to look for the easement language and forward to the Project contacts
2. Mr. Henderson to review what is the appropriate permit for the overhead span and provide feedback to the Project contacts

For your reference, the Project contacts:

Chad Miller
Environmental Scientist
Montana-Dakota Utilities Co.
400 N. 4th Street
Bismarck, ND, 58501-4092
701-222-7865
Chad.Miller@mdu.com

Brian Hunker
Environmental Scientist
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600

Minneapolis, MN 55416
763-278-5927
Brian.hunker@hdrinc.com

Please let us know of any questions.

Thank you, Brian

BRIAN HUNKER

HDR Engineering, Inc
Environmental Scientist

701 Xenia Avenue South, Suite 600 | Minneapolis, MN 55416
d: 763.278.5927 | f: 763.591.5413
Brian.Hunker@hdrinc.com | hdrinc.com

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MEETING LOCATION

Dakota Magic Casino and Hotel
16849 100th Street
Hankinson, ND 58041

ATTENDEES:

Jim Whitted, Dianne Desrosiers, Tamara St. John – Sisseton Wahpeton Oyate
Waste Win Young– Standing Rock Sioux
Otter Tail Power Company: Al Koeckeritz, Dean Pawlowski
Montana-Dakota Utilities Co.: Henry Ford, Chad Miller
HDR: Alan Stanfill, Joyce Pickle

THPO Meeting Notes

May 7, 2013, 6:30 p.m.

1. Introductions
2. Project Update
 - Preliminary Route review – The preferred route has been selected, along the Aberdeen corridor. Mapbooks shared with participants showed the centerline of the current preferred route against aerial background on one set of maps. On the other set of maps the 150 foot ROW of the current preferred route was shown against landcover type. HDR noted that these mapbooks were preliminary and for discussion purposes.
 - This is the route that the THPOs had previously identified as their preferred option among the preliminary routes; it has higher percentage of cultivation than the other (Britton) route.
 - Alan explained that as the mapbooks showed, the preferred route took known sites into consideration; efforts were made to avoid all known burial sites and other documented cultural sites.
 - Class I effort is currently underway to further describe the known resources in vicinity of the preferred route.
 - The THPOs noted that proximity to waterways would be areas of interest to the Tribes.



- Structure type – it has been decided that monopole structures will be used for the Project, although H-frames may be used in some locations/circumstances. ROW will be 150 feet, and average span between structures will be approximately 1000 feet
 - Schedule Review
 - The state applications will be filed in August 2013
 - Because right of entry will not be available for most of the route, surveys are not anticipated to occur prior to the application filing – however, the application should describe the approach to survey
 - Therefore, the BSSE team would like to meet with the THPOs again in order to develop the survey protocol that will be included in the application – we need to finalize the application materials by July
 - Actual surveys would likely not start until 2014, unless pinch points are identified in which case limited areas may be field evaluated in Fall 2013
3. Discussion of Survey Approach – outline was reviewed
- Alan explained what went into developing the initial draft model for areas targeted for pedestrian survey for the majority of the route that is not subject to Section 106:
 - Buildings will be evaluated within half a mile of the centerline. For direct physical impacts, the 150 foot ROW would be the focus (along with any temporary ground disturbance outside of the ROW)
 - Potential conditions that may merit survey
 - Properties listed on the National Register
 - Previously recorded properties determined eligible or unevaluated
 - Undisturbed rangelands/grasslands
 - Proximity to certain environmental or physical features
 - Water, timber, plants and mineral resources, vantage points, promontories, overlooks, saddles, depositional landforms
 - Native American-defined Sensitive Areas
 - Potential conditions that do not merit survey
 - Recent industrial development
 - Croplands or previously disturbed areas
 - Submerged lands
 - Steep slopes (>20%)



- Given the above criteria, an initial GIS model was run on the preferred route (as shown on mapbooks) and the approximate percentage of the ROW that would be surveyed is 35% (once cultivated land and wet areas are removed).
 - Joyce explained what was shown on the landcover mapbooks. The landcover GIS data is what has been developed by desktop analysis and windshield survey verification where possible. However, the data will be refined with additional windshield surveys and field visits (once right of entry is available), which means that the areas shown as proposed for survey and those proposed for no survey are subject to change and are for discussion purposes only at this point. However, they should be a representative of the general breakdown of areas that HDR proposes for survey (undisturbed grassland) vs. those that would not be surveyed (cultivated/disturbed areas and/or wet areas) along the preferred route
 - This will be refined and finalized after a windshield survey is done to make sure targeted areas are accurately identified; however, the current mapping should be generally representative of scope of the pedestrian survey
- The THPOs indicated that in general they prefer 100% survey, as it is possible that sites are within/under tilled fields. They are responsible towards other Tribes and they would be most comfortable if they can state they walked the entire length of the line.
 - The THPOs also stated that the SWO could conduct the archaeological and TCP surveys themselves; Jim said that the scope for walking the entire line, if done by SWO archaeologists and TCP staff, might be comparable in cost to a more targeted survey by HDR staff. In general the THPO would be interested in partnering with consulting firms like HDR on conducting cultural surveys (archaeological and TCP, but not architectural history)
 - Additionally, Waste Win indicated she would be interested in more information/demonstration of the GIS data/modeling that goes into determining the Survey/Not-Survey locations
- Alan explained that the Owners have not decided on either the scope of the survey, or who would be doing what, but that in general it will likely be decided to not be feasible or practical to survey the entire length of the line. Alan explained that the modeling was not meant to be a “predictive” model.



However, the model is meant to be a practical model that will focus on areas where intact, important sites are most likely to remain and where they will be visible during survey (i.e., not under tilled fields). It is also important to remember that there will only be limited ground disturbance at the pole locations (every 1000 feet); any driving along the ROW during construction would not disturb more ground than the yearly tilling does.

- The THPOs indicated that there could be cairns in tilled fields, and they could be burial sites – how would those be handled? It was discussed that it could be a policy to not put poles directly on the stone piles (keep them undisturbed).
- Alan asked if the THPOs might be more amenable to a less than 100% survey if some sort of discovery plan and/or monitoring system was set up during construction in the areas that were not pedestrian surveyed. Jim indicated that he would be open to further discussion on this type of option.

4. Action Items

- Send shapefiles of preferred route to THPOs – **HDR, by May 10th**
- Discuss survey options (scope, staffing, possibility of discovery plan, etc. – **Jim and Alan, week of May 13th**
- Meet on **June 13th** at Prairie Knights Casino to further discuss approach to survey
- **All**



MEETING LOCATION

Fish and Wildlife Office
Tribal Headquarters
Agency Village, SD

ATTENDEES:

Charlene Miller, Justin German – Sisseton Wahpeton Oyate Fish and Wildlife Office
Montana-Dakota Utilities Co.: Henry Ford, Chad Miller
HDR: Joyce Pickle

SWO – Fish and Wildlife Meeting Notes May 8, 2013, 9:00 a.m.

- Introductions
- Project Summary
 - The Project consists of a 150-170 mile 345 kV transmission line that would be owned jointly by Otter Tail Power and Montana-Dakota Utilities Co. The end points are the Big Stone South Substation near Big Stone City, South Dakota and the proposed Ellendale 345 kV substation near Ellendale, North Dakota. The expected in-service date is 2019; construction could start as early as 2016. The structures would be placed approximately 1000 feet apart, and are anticipated to be monopole structures.
 - The route application to the state will be submitted in August 2013
 - The Owners have met with agencies, including the USFWS, the SD Game Fish and Parks, and the Sisseton Wahpeton and Standing Rock THPOs
 - The preferred route does not cross any BIA or allotment land; it is across the road from one BIA parcel, but in general crosses the reservation boundary in the southern area, with very few BIA/allotment lands
 - Justin and Charlene confirmed that their office only has jurisdiction over BIA/allotment/Tribal owned lands.
 - Charlene indicated that in general she did not think their office would have particular concerns about the route. She would look at the project website (<http://bssetransmissionline.com/>), and touch base with Dianne Desrosiers and possibly the USFWS or Game Fish and Parks, and would provide comments, if any, to Chad.
- Action Items
 - Charlene to send any questions or comments to Chad Miller

From: Beach, Kathy A. [<mailto:kbeach@nd.gov>]
Sent: Friday, May 17, 2013 1:10 PM
To: Miller, Chad
Subject: Big Stone South to Ellendale Project 345 kV Transmission Line

Chad,

I have reviewed the proposed transmission line and it appears the utility will be crossing the NDDOT Right of Way.

It will be necessary to submit SFN 07995 Utility Occupancy Application and Permit prior to accessing the Right of Way.

I have attached the following to assist you with the application process:

- Permit application
- Sample Certificate of Insurance
- Disclaimer for Certificate of Insurance
- Risk Management Appendix
- Conditions Statements

The following is a link to "A Policy for Accommodation of Utilities on State Highway Right-of Way"

<https://www.dot.nd.gov/manuals/environmental/policy-utilities-state-row.pdf>

Please feel free to contact me if you should have any questions.

Kathy Beach
Maintenance Coordinator
Valley City District NDDOT
701-845-8815 Office
701-490-2375 Cell

UTILITY OCCUPANCY APPLICATION AND PERMIT

North Dakota Department of Transportation, Design Division

SFN 7995 (Rev. 11-2012)

Document Number	(FOR STATE USE ONLY)	Permit Number
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APPLICANT INFORMATION

Prepared Company Name			Prepared by		
Owner of Facility	City	State	Zip Code		
Mailing Address				Telephone Number	
Owner's Agent	City	State	Zip Code	Telephone Number	
Owner's Contractor	City	State	Telephone Number		

TYPE OF FACILITY (Complete appropriate spaces only.)

Description of Proposed Facility		
Size of Facility	Number of Cables	Length of Down Guys
Pipeline Pressure	Size of Casing	Length of Casing
Location of Pole(s)	Location of Appurtenances	Location - Others

TERMS AND CONDITIONS: Installation and maintenance of said facilities on highway right of way shall be subject to the North Dakota Department of Transportation's (NDDOT's) "A Policy for Accommodation of Utilities on State Highway Right of Way", current edition, and the following terms and conditions, attached hereto and made a part hereof.

- (A) Installation/maintenance of said facilities shall be done in a manner satisfactory to the NDDOT district engineer,
- (B) Owner shall notify the NDDOT district engineer forty-eight (48) hours prior to installing, maintaining, relocating, or removing said facilities. All disturbed areas shall be restored to their original condition in a manner satisfactory to the NDDOT district engineer.
- (C) The owner shall be required to wear an ANSI/ISEA 107-2004 Class II height visibility garment while within the highway right-of-way as per the requirements of 23 CFR 634.
- (D) Owner shall repair or replace highway structures and appurtenances, and any existing facilities located on, over, or under highway right of way, which may be damaged as a result of the installation and maintenance of said facilities on highway right of way.
- (E) The Risk Management Appendix, attached, is hereby incorporated and made a part of this agreement.
- (F) Owner shall promptly remove said facilities from highway right of way, or shall relocate or adjust said facilities, at its sole cost and expense when requested to do so by NDDOT.
- (G) NDDOT specifically reserves the right to revoke, or change the terms and conditions of, this Permit with or without cause and upon notice to the Owner.
- (H) The Owner, for him or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person, on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person, on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, (3) that the Owner shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, the NDDOT shall have the right to terminate this Permit and to re-enter and repossess said land and the facilities thereon and hold the same as if said Permit had never been made or issued.

**The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

(I) The installation shall be completed on or before _____, 20____

Company Name	Owner's Name (Please Print)
--------------	-----------------------------

DATE

OWNER'S SIGNATURE

The Owner is hereby granted permission to install and maintain the facilities applied for, as shown on the plans attached hereto and made a part hereof. Approved by NDDOT this _____ day of _____, 20____.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

DISTRICT ENGINEER (TYPE OR PRINT)

LOCATION NO. _____ (FOR STATE USE ONLY) Begin Ref. Point _____ End Ref. Point _____

Highway No. _____	<input type="checkbox"/> Along or <input type="checkbox"/> Across	Lanes of traffic <input type="checkbox"/> 2 <input type="checkbox"/> 4
Direction <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W	Begin _____ feet from reference marker _____	
Direction <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W	End _____ feet from reference marker _____	
<input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W from city of _____ or _____ miles from junction highway _____		

LOCATION NO. _____ (FOR STATE USE ONLY) Begin Ref. Point _____ End Ref. Point _____

Highway No. _____	<input type="checkbox"/> Along or <input type="checkbox"/> Across	Lanes of traffic <input type="checkbox"/> 2 <input type="checkbox"/> 4
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LOCATION NO. _____ (FOR STATE USE ONLY) Begin Ref. Point _____ End Ref. Point _____

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<input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W from city of _____ or _____ miles from junction highway _____		

LOCATION NO. _____ (FOR STATE USE ONLY) Begin Ref. Point _____ End Ref. Point _____

Highway No. _____	<input type="checkbox"/> Along or <input type="checkbox"/> Across	Lanes of traffic <input type="checkbox"/> 2 <input type="checkbox"/> 4
Direction <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W	Begin _____ feet from reference marker _____	
Direction <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W	End _____ feet from reference marker _____	
<input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W from city of _____ or _____ miles from junction highway _____		

INTERSTATE HIGHWAYS - Applicant's description of the proposed method of ingress and egress to and from interstate right of way, as attached to the plan.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

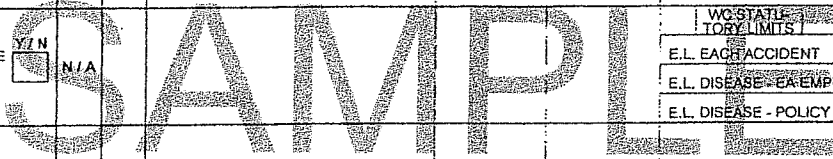
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Insurance Company 551 North 7th Street Nowhere, MN 56565	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: PRODUCER CUSTOMER ID #:														
INSURED Contractor Address City, ST Zip	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="width:80%;">INSURER(S) AFFORDING COVERAGE</th> <th style="width:20%;">NAIC #</th> </tr> <tr><td>INSURER A :</td><td></td></tr> <tr><td>INSURER B :</td><td></td></tr> <tr><td>INSURER C :</td><td></td></tr> <tr><td>INSURER D :</td><td></td></tr> <tr><td>INSURER E :</td><td></td></tr> <tr><td>INSURER F :</td><td></td></tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A :		INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
INSURER(S) AFFORDING COVERAGE	NAIC #														
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INSURER F :															

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	X	X	ABC 123	1/1/12	1/1/13	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	X	X	ABC 123	1/1/12	1/1/13	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB EXCESS LIAB OCCUR CLAIMS-MADE DEDUCTIBLE RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				WORKERS COMPENSATION / OTHER LIMITS E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$



DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER North Dakota Department of Transportation 608 East Boulevard Avenue Bismarck, ND 58505-0700	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	--

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Montana-Dakota Utilities Co.
400 North Fourth Street
Bismarck, ND 58501-4092

Dear Chad:

You have submitted to the North Dakota Department of Transportation (NDDOT), in connection with your certificate of insurance, additional pages or language on the certificate which either purports to limit or qualify the information reflected on the certificate of insurance or which purports to change, modify or amend your company’s insurance policies. NDDOT policy is to not solicit, review or approve contractors’ insurance policies, endorsements or amendments to insurance policies, or insurance documents other than properly completed certificates of insurance. NDDOT contracts specify that contractors are responsible for acquiring and maintaining specified coverages and proof of insurance.

Please have a company executive authorized to execute contract documents sign and date the statement below attesting that your company has insurance coverage consistent with the contract provisions and immediately fax and mail it back to us.

Be advised that execution of this contract will be delayed until these issues have been resolved.

Sincerely,

UTILITY OCCUPANCY APPLICATION AND PERMIT #

Montana – Dakota Utilities & Ottertail Power Company; states that the company has, and will maintain in force, insurance coverages (including proof of coverages) consistent with the contract specifications.

Date _____

Type or Print Name & Title

Signature

Risk Management Appendix

Small, Low-Risk Leases, Easements, Licenses, and Permits with Private Individuals, Companies, Corporations, Etc. (referred to as Recipient):

Recipient agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by the Recipient to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Recipient also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred if the State prevails in an action against the Recipient in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Recipient shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools, or government self-retention funds authorized to do business in North Dakota, the following insurance coverages:

- 1) **Commercial general liability** insurance – minimum limits of liability required are **\$250,000 per person** and **\$1,000,000 per occurrence**. If it is not practical for Recipient to carry commercial general liability insurance, Recipient may substitute **farm liability insurance, renters insurance, or home owners insurance** in the amount of **at least \$300,000**.
- 2) If Recipient may use an automobile in relation to the attached agreement, Recipient must secure **automobile liability** insurance with a minimum limit of liability of **at least \$250,000**. The above limits may be satisfied through a policy or policies of insurance, primary and excess, including the so called umbrella or catastrophe form.
- 3) The State of North Dakota, its agencies, officers, and employees (State) shall be endorsed as an **additional insured** on the above policies.

The Recipient shall furnish a certificate of insurance coverage evidencing the requirements in 1 through 3 above to the undersigned State representative prior to commencement of this agreement.

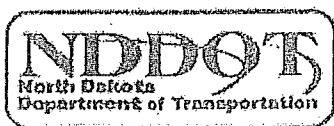
Recipients' insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance, or self-retention maintained by the State.

The insolvency or bankruptcy of the insured Recipient shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Recipient from meeting the retention limit under the policy.

The Recipient must secure any necessary Workers Compensation coverage that may be required by State law.

When a portion of a Contract is sublet, the Recipient shall obtain insurance protection (as outlined above) to provide liability coverage to protect the Recipient and the State as a result of work undertaken by the Subcontractor or Sublessor. In addition, the Recipient shall ensure that any and all parties performing work under the Contract are covered by public liability insurance as outlined above. All Subcontractors or Sublessors performing work under the Contract are required to maintain the same scope of insurance required of the Recipient. The Recipient shall be held responsible for ensuring compliance with those requirements by all Subcontractors or Sublessors.

RM Consulted 2007
Revised 5-09



**OVERHEAD ELECTRIC ALONG, ACROSS,
OR ALONG AND ACROSS**

Revised Utility Conditions - April 1, 2003

NOTICE: The Recipient must comply with ALL applicable Federal, State and local laws, rules, regulations, codes, ordinances, etc., including, but not limited to North Dakota Century Code, Chapter 49-23. (ONE-CALL EXCAVATION NOTICE SYSTEM)

1. **INSTALLATION AND MAINTENANCE:** Installation and maintenance of said facilities on highway right of way shall conform to the following provisions:
2. Within thirty (30) days after construction, maintenance, relocation, or removal of said facilities, any right of way scars shall be removed and disturbed areas restored to original condition. Existing topsoil shall be removed prior to excavation and stockpiled until all disturbed areas are restored to original grade. The stockpiled topsoil shall be evenly and smoothly replaced over the areas disturbed by the trenches or pits.
3. Vehicles and other work equipment used to install or maintain said facilities within highway right of way shall, where possible, use established access points, service roads, driveways and approaches to enter or leave the outer portion of the right of way for the performance of necessary work operations. Such vehicles and work equipment shall not be parked on the through-traffic lanes or shoulders of the highway during installation or maintenance of said facilities.
4. Protection to the free and safe flow of the highway traffic shall be as required in accordance with the "Manual on Uniform Traffic Control Devices", current edition.
5. The Recipient will notify the District Engineer of the Department of Transportation forty-eight (48) hours prior to beginning this installation. Immediately following the final clean up of the area, the Recipient shall again notify the District Engineer of the Department of Transportation.
6. The Department of Transportation may not be the total fee owner and does not warrant the title to the highway right of way covered by the terms of this permit. The Recipient shall be responsible for reviewing the public records to determine ownerships and any encumbrances to the title of the properties covered by the terms of this permit.
16. The minimum vertical clearance above ground of said facilities within highway right of way, and the lateral clearance from highway bridges, shall conform to provisions of the latest edition of the National Electrical Safety Code.
17. If installation of said facilities across the highway necessitates temporary interruption of the flow of highway traffic, work operations shall be confined to daylight hours and flag persons shall be provided to stop traffic on each approach to the work site. Interruption of the flow of highway traffic may not exceed five (5) minutes except by special permission from the Department of Transportation or the State Highway Patrol.

18. Reflectorized guy guards shall be installed on all down guys located within highway right of way.

58. The Recipient shall indemnify, save, hold harmless, the State of North Dakota, its agencies, offices and employees, from any and all claims of any nature arising from any direct, indirect, or consequential damages to real property or business, including all costs, expenses, and attorney's fees, which may in any manner arise out of or result from this project.

From: Miller, Chad [<mailto:Chad.Miller@mdu.com>]
Sent: Thursday, May 30, 2013 2:28 PM
To: Ford, Henry; Pawlowski, Dean; Koeckeritz, Al
Cc: Emily.Siedschlag@hdrinc.com; Piner, Angela (Angela.Piner@hdrinc.com)
Subject: Note from my calls

Notes from County and Township calls

Dickey County

Contact made and discussion with Wanda (no last name given when asked) – county deputy auditor.

- Letter was received
- Commission has not discussed yet
- Told I will call back after their scheduled meeting on the 4th to see if they have questions or if we should meet with a county rep.
 - Told to contact Beverly Kuska – County Auditor (701-349-3249 x 3)
- Gary White is the new commission chair

Ellendale Township – Donald Nishek

- No answer; left voicemail to contact me if there are any questions.

Van Meter Township – Melvin Martinson

- Had no comment other than the project will have little to no effect on the township's property.
- He thanked me for the call and said he has been keeping up-to-date as much as he can on our progress.

Sincerely,

Chad Miller
Environmental Scientist
Montana Dakota Utilities
400 North Fourth Street



Bismarck, ND 58501-4092

Bus: 701.222.7865
Cell: 701.516.3041
Fax: 701.222.7845



MEETING LOCATION

Standing Rock Fish and Game Office
Fort Yates, ND 58538

ATTENDEES:

Jim Whitted, Dianne DesRosiers– Sisseton Wahpeton Oyate
Waste-Win Young, Terry Clouthier– Standing Rock Sioux
Otter Tail Power Company: Al Koeckeritz
Montana-Dakota Utilities Co.: Henry Ford, Chad Miller
HDR: Alan Stanfill, Joyce Pickle

THPO Meeting Notes

June 13, 2013, 1:00 p.m.

1. **Introductions**
2. **Preferred Route and GIS Demonstration**

Joyce discussed the GIS layers that were used for HDR's targeted modeling. Land cover data was used to determine what was cultivated and uncultivated. As discussed in the May 7 meeting, HDR's targeted approach to archaeology would focus on field survey in the uncultivated areas. Additionally, HDR has created digitized wetland boundaries based on recent aeriels – these deep marsh or open water areas would also not be surveyed.

The group looked at the data, particularly the relatively wetter area south of Waubay, and the wide wetland/floodplain area associated with the James River.

The group also looked at the SHPO data, noting that the burial sites in the SHPO records were generally from the TH Lewis surveys. Other cultural sites are also identified in the project area, generally scatter sites that have not been evaluated.

3. **Cultural Resources Survey Approach Discussion**

Alan explained that no final decisions had been made by the Owners. They appreciated receiving the proposal from Jim Whitted for providing archaeology and TCP survey support for 100% of the line. The proposal did get the Owners' attention and we are here today to keep discussing. Alan said that in general the Owners' preference is for the targeted survey, and for



the archaeology survey to be performed by HDR. The Owners are interested in having the Tribes provide TCP survey for the line.

Paige asked if this meant that 100% of the line would be surveyed for TCP. HDR replied that is a subject of further discussion. Alan asked whether, after looking in a bit more detail at the mapping detail, particularly the wet areas, if the THPOs would be comfortable discussing some areas that may not warrant survey for TCPs. Areas where either access prohibits it, or the land cover and/or disturbance could mean that sensitive features are not likely to be found.

Jim and Terry indicated that in general they would agree that no survey should occur in deep marshes. Some of the areas at the edges of the wetlands might need further assessment, especially in areas where the water levels have been rising. Additionally, Terry indicated that sometimes constructed stock ponds can have sites buried beneath the ponds.

A discussion ensued about the possibility of sites being present in cultivated fields. Alan reminded group that for archaeology we are driven by the NRHP eligibility criteria, and that sites in cultivated fields have a very small chance of retaining the necessary significance to meet the criteria.

Jim mentioned construction monitoring, that this may be a way to deal with any sites in cultivated fields – if bones are noted during the digging for foundations, for instance. HDR and the Owners said that the project construction would comply with state law regarding finds of human remains.

The group then discussed what other types of disturbance would occur during construction, besides digging the foundations for the structures. The Owners explained that there would be several sequences of vehicle travel across the ROW during construction: excavating the hole; setting the rebar; pouring the concrete (usually 10 trips for each foundation); haul in insulator and structure parts; structure assembly and erection; stringing (stations every 5 miles); clipping. Each of these stages requires different vehicles, including pickups, concrete trucks, cranes, etc. Construction can be held in winter in wetter areas to minimize disturbance (because of frozen ground), but construction can and will occur when soils are damp.

After construction, there will be minimal travel along the ROW because the line would be inspected from the air. If there is storm or other damage, access would be immediate and on the ground.

THPOs asked about the price and general purpose of the line – would it just be for use by MDU and OTP? - The Owners responded that the cost would be approximately \$2 million per mile,



or approximately \$300 - \$350 million total. The line would be owned and operated by MDU and OTP, but the purpose is to serve the regional need as identified by the independent system operator MISO. Because it is a regional purpose line, the capacity would be open to all – any generator can request to tap into this line, as controlled by MISO interconnection process. Could be wind projects or anything else.

Alan asked the THPOs for any comment on the targeted approach. He also reviewed the process of ground truthing our assumptions prior to survey, via a windshield survey. The windshield survey would serve to validate and correct the areas targeted for survey, and the Tribes would be invited to participate in it to help refine the targeting for the TCP surveys. Jim indicated that his original proposal used a similar type of approach for the cultivated areas along the line, where the surveyors would move quickly, almost at a Class II level.

The THPOs requested time to discuss the options. Prior to the break, contracting and schedule were discussed briefly. Alan indicated that the preferred method of contracting would be for HDR to subcontract to the THPO, and that we would work together, the archaeologists and TCP survey staff. HDR would coordinate site access and provide other supervision and support as needed. The THPOs indicated this type of relationship should be workable.

For schedule, field surveys are not anticipated to occur until 2014, likely not until mid to late summer or fall after right of entries have been gathered for majority of the line. Limited exceptions could occur this fall, in pinch points or other key areas where the Project may need to identify any constraints as early as possible. An example could be the state border crossing. The Owners stated that the earliest that ground would be broken would be 2016.

After a break, the THPOs told the group that the proposed approach, namely a targeted approach to archaeology and TCP surveys, with HDR doing the archaeology and Tribal staff doing the TCP surveys, is acceptable. Details will need to be worked out on both contract language and scope, but the overall approach is acceptable. The contract will be held between HDR and SWO THPO (Sisseton Wahpeton will coordinate with Standing Rock, but no contract with Standing Rock should be necessary).

Paige said she had no comments at this time but is happy with the progress.

4. Next Steps and Schedule

- Alan will work with Dianne on contract language – June and early July
- Alan and Joyce will work with Owners to understand scope of upcoming work that may need to occur in 2013 vs. the majority of the survey – June and early July



- HDR will meet with the THPOs to work out details and finalize approach at 1:00 on August 8th, at the Dakota Magic Casino – Joyce to coordinate with Dianne on meeting room and logistics



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

COPY

Jack Dalrymple
Governor of North Dakota

July 25, 2013

North Dakota
State Historical Board

Mr. Alan Stanfill
Archaeology Project Director
HDR Engineering, Inc.
701 Xenia Avenue South
Minneapolis, MN 55416-3636

Calvin Grinnell
New Town - President

A. Ruric Todd III
Jamestown - Vice President

Margaret Puetz
Bismarck- Secretary

**ND SHPO Ref.:12-1463a PSC PU-1-163
Class I Literature Search Report and Class III Approach for the Montana-Dakota
Utilities Company and Otter Tail Power Company BSSE Big Stone South to
Ellendale Proposed 345kV transmission line preferred route in portions of
Dickey County, North Dakota**

Albert I. Berger
Grand Forks

Gereld Gerntholz
Valley City

Diane K. Larson
Bismarck

Dear Mr. Stanfill,

Chester E Nelson, Jr.
Bismarck

We reviewed your July 22, 2013 letter regarding the Class I Literature Search and Class III Survey Approach for the above-captioned project. We thank you for the Class I report and concur with your Class II (reconnaissance) and Class III (pedestrian) survey approach for this project, for visual and direct effects. We further encourage and support the survey component focused on locating cultural properties important for tribal associations.

Sara Otte Coleman
Director
Tourism Division

Kelly Schmidt
State Treasurer

Alvin A. Jaeger
Secretary of State

Thank you for the opportunity to review this proposed project to date. We look forward to review of the cultural resources report(s). If you have any questions please contact Susan Quinnell, Review and Compliance Coordinator at (701) 328-3576, e-mail squinnell@nd.gov

Mark Zimmerman
Director
Parks and Recreation
Department

Sincerely,

Grant Levi
Director
Department of Transportation

Merlan E. Paaverud, Jr.
Director

Merlan E. Paaverud, Jr.
State Historic Preservation Officer (North Dakota)
and Director, State Historical Society of North Dakota

Accredited by the
American Alliance
of Museums since 1986

12-1463A



MEETING LOCATION

Kulm WMD

PROJECT ATTENDEES

HDR: Joyce Pickle

Otter Tail Power Company: Al Koeckeritz

Montana-Dakota Utilities Co.: Chad Miller, Henry Ford

USFWS: Connie Mueller (Waubay WMD), Jay Peterson (Sand Lake WMD), Mick Erickson (Kulm WMD), Dave Azure (Easement Coordinator), Charlene Bessen (South Dakota Ecological Services)

Agenda

August 20, 2013, 10:30 p.m.

Introductions – all

- II. Project Overview – MDU and/or HDR
- III. Anticipated impacts FWS easements – Connie/Jay/Mick
- IV. Process Overview
 - a. Acquire easement location information for project area – *completed?*
 - b. Work with FWS-Refuges to avoid/minimize to the extent practicable (micro-site)
 - c. Describe direct impacts - # easements/types; # wetland/grassland acres affected
 - d. Authorization needed/sought (Special Use Permit or Right-of-Way permit)
 1. Major differences between each authorization (timing, review, restrictions, length, costs, etc.)
 2. What information/data is required from applicants to start process.
 - e. Necessary administrative steps:
 1. Compatibility Determination (Refuges)
 2. NEPA – Environmental Assessment (HDR for Refuges)
 3. Cultural Resources (if not MDU/HDR, then FWS)
 4. Endangered Spp. (MDU/HDR with FWS-Ecological Services)
 - f. Offset direct impacts to NWRS by acquiring wetland/grassland easement
- V. Identification and agreement of roles/responsibilities and expected timelines



Notes

Project Overview

Joyce gave update on the project. The proposed route is approximately 165 miles, approximately nine miles in ND and the remainder in SD. The proposed structure type is steel monopoles, with an average of 1,000 ft span (specialty structures may be used in some situations). The ROW for the route will be 150 feet wide; along section lines and roads, the centerline of the transmission line would be offset by 183 feet from the centerline of the road. Along parcel or half section lines the centerline would be offset by approximately 10 feet from the half section line.

Schedule

The Owners are preparing to submit the SDPUC Facility permit soon, by the end of August. The NDPSC corridor/route application will be submitted in September. Construction would not start until 2016, with the project scheduled to be in service by 2019.

Using the current proposed route, approximately 20 miles of USFWS easement lands are crossed by the centerline (5.5 miles of grassland, 14.5 of wetland easements).

Dave gave quick reminder, that for the most part, parcels with grassland easements also contain a wetland easement (a couple files along the proposed route are listed as “grassland/wetland” but it is safe assumption that all grassland easements also have jurisdiction over wetlands).

Easement Locations - Updates

Mick, Jay and Connie indicated that no new easements had been purchased along the route since the last time mapping information was provided to HDR. In general the District Managers would like to have more detailed maps from the Owners/HDR so that they can tell what side of the road the line is on, preliminary pole locations, etc., and provide some initial feedback, if any.

Action item – HDR will send shapefiles and mapbooks to Mick, Connie and Jay

Once options/right-of-entry is available and design is a bit farther along, the District managers recommend a micrositing field visit to look at specific pole locations to see if a shift of a few feet can avoid easement impacts, etc.



Mick explained that wetland easement language is broad as far as definitions of wetlands. Wetlands under FWS jurisdiction in wetland easements only need to show that water is held in the basin for some part of the year (do not require soil or vegetation criteria like USACE definitions). Therefore, it will be important for Owners/HDR to coordinate with District managers to identify the wetlands under jurisdiction.

Charlene also noted that Ex. Order 11990 gives FWS jurisdiction over isolated wetlands for projects with federal nexus.

It was also discussed that when targeting easements to acquire, an existing transmission or distribution line does not preclude a parcel from targeting for easement acquisition. This indicates that it is very possible that a compatibility analysis can show that a new transmission line can be compatible with grassland or wetland easement purpose.

Authorization Types

Dave explained the different authorization types that are possible for a crossing of a FWS easement.

Special Use Permit – this is a short term permission that can be given at local FWS level, usually used for construction. It does not grant long term use of the property and needs to be regularly renewed. SUP process (once impact information/compatibility is completed) = several months

ROW permit and ROW easement – the ROW easement is the most stringent as it is recorded. The ROW permit gives the same permissions as an easement but would not be “as official” since not recorded. Both of these have expiration dates, generally of 50 years. Language pertaining to Land Use Management and ROW General Regulations can be found in 50 CFR Part 29 Subpart B. Under this regulation (50 CFR §29.21-1(a)) ROW permits and easements are geared more towards lands that the FWS owns fee title to, not parcels owned by private landowners that the FWS has an easement agreement on. Both of these would likely require that the value of the land that is being granted a permit be formally valued by an independent appraiser, and reviewed by the FWS Office of Appraisal Services. This process can be very time consuming, one or two years. More information on the ROW process for FWS lands can be found at: <http://www.fws.gov/policy/340fw3.html>

Letter of Non-Objection – this is an option under 50 CFR §29.21-1(b) which grants right of way across easement interests in the National Wildlife Refuge System Lands. If the FWS can determine that “the requested right-of-way will not adversely affect the United States’ interest,



the Regional Director may issue a letter stating that the interest of the United States to the right-of-way easement would not be affected” provided there would be no objection to a ROW by the fee owner. Additionally, this letter of non-objection has no expiration date – the right of way is granted for as long as the permitted use is needed (i.e., life of the transmission line).

Dave indicated that he would recommend going this way for this project since it does not require valuation of the land, and therefore would not involve the FWS realty office. This method has not been used for transmission lines, but it has been used successfully in MN for road projects that affected FWS easements. Timeline isn’t known as well, but should be significantly shorter than ROW easement process. Although there is some risk to this process since it hasn’t been used before (and it isn’t a technical easement), it is pretty low risk. Dave indicated that because it is signed by the Regional Director, there is very small risk that it would be questioned years later.

A discussion of maintenance followed – if a full easement isn’t granted, does the letter of non-objection cover maintenance activities? The answer was that the letter should be able to be crafted so that normal maintenance activities during the life of the project are permitted.

Action item – Owners/HDR to provide Dave and Connie with list of needed maintenance activities to be covered.

Dave also indicated that the content of the letter should be able to be shared with the Owners for comments prior to finalization, to make sure it will meet their needs. Dave will be discussing this letter of non-objection with the Regional Director in Denver over the next few months and will report back on what he learns.

Action item – Dave to provide the group, results of meeting with Regional Director

NEPA Permitting – Additional Supporting Information Required

No matter which authorization process is taken, the following four components will be needed to support FWS authorization:

Section 106 process – Dave spoke with the FWS Section 106 lead staff, and they indicated that sign off from the state SHPOs on the cultural analysis for the project would serve for documentation of compliance with Section 106.

Action item – HDR will provide SHPO coordination data once available for this documentation



Compatibility Analysis – the FWS will do this (Connie will be lead). Owners/HDR will need to provide impact descriptions for impacts on FWS easements

NEPA – HDR/Owners would develop EA document for the impacts and mitigation, on behalf of FWS. HDR would work with Connie on this.

Section 7 – there will be an intraoffice Section 7 review. Charlene will be the lead from Ecological Services, working with Connie.

Charlene indicated that, in general, the Poweshiek and Dakota skipper (candidates), and the whooping crane will be the ESA species (project not anticipated to affect Topeka shiner). Under MBTA, USFWS ES will also comment on rookeries and recommendation to avoid disturbance of nesting birds in general.

She indicated that the project (approximately 15 miles) is in the eastern edge of the 95-percent whooping crane migration corridor. The Owners indicated that they were willing to consider marking the proposed line for that portion, but that the FWS Regional guidelines recommendation to mark an equal amount of existing line within the whooping crane corridor is harder to justify to rate payers (rate payers out-side of SD and ND would be paying for the marking of line that is not part of this project). Charlene said that she understood this, and that these were guidelines, not law, and that SD Ecological Services will work with the Applicants on what is reasonable.

There was a discussion over what the Section 7 and EA would cover – the whole project, or just the easements? Previous discussions had indicated that the NEPA would just cover the easement lands; however, recent internal FWS conversations indicated that maybe the NEPA document would disclose/discuss impacts of whole project, and Section 7 discussion would therefore also cover this in some way, but that conditions/FONSI would only pertain to the easements as that is what is under federal jurisdiction.

Action item – FWS (Connie or Charlene) to check internally and provide more guidance to HDR on what the EA will cover

Timeline

General timeline for next steps was discussed. General items and schedule as follows:



1. HDR will send preliminary pole locations and mapbooks and shapefiles, for FWS initial review and feedback – August/September 2013
2. Owners adjust as possible based on preliminary feedback – Fall 2013
3. Owners continue with Right of Entry and option/easement process with private landowners – Fall/Winter 2013 through Spring/summer 2014
4. EA/NEPA development – HDR will work on NEPA document as possible, to be finalized once design is set –winter 2013/2014
5. Micrositing with District managers – spring/early summer 2014 – this will need to be well documented for the compatibility and NEPA analysis to show minimization of impacts
6. At this point a “pre-conditional approval” could be provided by Connie/FWS, based on line design at this time and results of micrositing. Owners could use this in state permit processes as documentation that coordination is ongoing
7. Once line and impacts are set (no big surprises from landowner discussions are anticipated any more), HDR and Connie will finalize the supporting documentation (EA, compatibility, Section 106, Section 7) – fall/winter 2014
8. Non-objection letter review and finalization process – spring 2015

No Net Loss

Finally, Dave indicated that there is a no net loss requirement for right of way permission on FWS lands. In order to meet that requirement, a fee equal to purchase price of equivalent amount of impacts to easement lands will be required. Because only a few structures are anticipated, this will likely be less than one acre of total impacts, but the fee will be equal to whole acre numbers (anticipated that total fee will be = one acre replacement). Owners will pay this fee which will go into FWS’s easement purchase fund.

The Owners indicated that they are comfortable with this arrangement.

From: Miller, Chad [<mailto:Chad.Miller@mdu.com>]
Sent: Wednesday, August 21, 2013 1:12 PM
To: Hyland, Emily; Ford, Henry
Cc: Hunker, Brian M.
Subject: RE: BSSE - PI - Comment Reports and Pre-Application Outreach

My call to Dickey County was completed this morning. They have no questions at this time. They thanked me for the heads up and if they think of anything they will call me.

Sincerely,

Chad Miller