



January 5, 2016



Darrell Nitschke
Director of Administration/Executive Secretary
North Dakota Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480

**RE: Montana-Dakota Utilities Co. / Otter Tail Power Company 345 kV Transmission
Line – Dickey County Siting Application
Case No. PU-13-840
Informational Filing - United States Fish and Wildlife Service Tree Clearing Permit**

Dear Mr. Nitschke:

Otter Tail Power Company and Montana-Dakota Utilities Co. hereby submit an original and seven (7) copies of this filing which includes a copy of the following permit.

Waubay Wetland Management District General Activities Special Use
Permit # RWBY0-6-6102

The permit approves the Big Stone South to Ellendale project to clear trees on the United States Fish and Wildlife Service easements within the proposed right of way.

An electronic copy of this filing is also being sent to you at dnitschk@nd.gov and to the North Dakota Public Service Commission at ndpsc@nd.gov.

If you have any questions regarding this filing, please contact me at 218-739-8607 or pbeithon@otpc.com.

Sincerely,

Pete Beithon
Manager, Regulatory Recovery
Otter Tail Power Company

wao
Enclosure
By electronic filing and U.S. mail

61 **PU-13-840** Filed: 1/5/2016 Pages: 3
Permit



**Waubay Wetland
Management District
General Activities
Special Use Permit**
(For Official Use Only)

Permit #: RWBY0-6-6102

Permit Term:

From: 12/7/2015 To: 4/29/2016

1) Permittee Name/Business: Otter Tail Power Company and Montana-Dakota Utilities Co

2) Permit Activity Type: Clear trees from easement lands.

2) Permit Status: **Approved** *If approved, provide special conditions (if any) in the text box below.*
 Denied *If denied, provide justification in the text box below.*

The Big Stone South to Ellendale Project will clear trees on USFWS easements within the proposed ROW. Tree clearing will be completed on approximately 2.72 acres (map book at Waubay HQ). This clearing will be completed in winter to minimize impacts to the northern long eared bat and migratory birds, in addition, the frozen ground will minimize impacts to grass on grassland easements and wetlands on wetland easements. The project EA is currently out for comment and a Letter of Non-Objection is anticipated in February 2016. Tree clearing will be done by mechanical or chain saws based upon the location of cultural resource sites. Stumps will be cut <3" from the ground. Stumps will have no grubbing or pulling. Stumps will be treated outside wetlands to prevent regrowth. Depending on landowner request, logs will be piled outside of wetlands to be used or moved at a later date or chipped. No chips will be placed on grassland easements or protected wetlands on wetland easements.

3) Are there additional special conditions attached to the permit? Yes No N/A

4) Are other licenses/permits required, and have they been verified? Yes No N/A

5) Are Insurance and/or Certification(s) required, and have they been verified? Yes No N/A

6) Record of Payments: Full Partial Exempt

7) Is a surety bond or security deposit required? Yes No N/A

This permit is issued by the U.S. Fish and Wildlife Service and accepted by the applicant signed below, subject to the terms, covenants, obligations, and reservations, expressed or implied therein, and to the notice, conditions, and requirements included or attached. A copy of this permit should be kept on-hand so that it may be shown at any time to any refuge staff

8) Permit approved/issued by: (Signature and title)

Com Muel

Date: 12-7-15

9) Permit accepted by: (Signature of permittee)

Chris [Signature]

Date: 12/8/15

General Conditions and Requirements

- 1) **Responsibility of Permittee:** The permittee, by operating on the premises, shall be considered to have accepted these premises with all facilities, fixtures, or improvements in their existing condition as of the date of this permit. At the end of the period specified or upon earlier termination, the permittee shall give up the premises in as good order and condition as when received except for reasonable wear, tear, or damage occurring without fault or negligence. The permittee will fully repay the Service for any and all damage directly or indirectly resulting from negligence or failure on his/her part, and/or the part of anyone of his/her associates, to use reasonable care.
- 2) **Operating Rules and Laws:** The permittee shall keep the premises in a neat and orderly condition at all times, and shall comply with all municipal county, and State laws applicable to the operations under the permit as well as all Federal laws, rules, and regulations governing national wildlife refuges and the area described in this permit. The permittee shall comply with all instructions applicable to this permit issued by the refuge official in charge. The permittee shall take all reasonable precautions to prevent the escape of fires and to suppress fires and shall render all reasonable assistance in the suppression of refuge fires.
- 3) **Use Limitations:** The permittee's use of the described premises is limited to the purposes herein specified and does not, unless provided for in this permit, allow him/her to restrict other authorized entry onto his/her area; and allows the U.S. Fish and Wildlife Service to carry on whatever activities are necessary for: (1) protection and maintenance of the premises and adjacent lands administered by the U.S. Fish and Wildlife Service; and (2) the management of wildlife and fish using the premises and other U.S. Fish and Wildlife Service lands.
- 4) **Transfer of Privileges:** This permit is not transferable, and no privileges herein mentioned may be sublet or made available to any person or interest not mentioned in this permit. No interest hereunder may accrue through lien or be transferred to a third party without the approval of the Regional Director of the U.S. Fish and Wildlife Service and the permit shall not be used for speculative purposes.
- 5) **Compliance:** The U.S. Fish and Wildlife Service's failure to require strict compliance with any of this permit's terms, conditions, and requirements shall not constitute a waiver or be considered as a giving up of the U.S. Fish and Wildlife Service's right to thereafter enforce any of the permit's terms or conditions.
- 6) **Conditions of Permit not Fulfilled:** If the permittee fails to fulfill any of the conditions and requirements set forth herein, the U.S. Fish and Wildlife Service shall retain all money paid under this permit to be used to satisfy as much of the permittee's obligation as possible.
- 7) **Payments:** All payment shall be made on or before the due date to the local representative of the U.S. Fish and Wildlife Service by a postal money order or check made payable to the U.S. Fish and Wildlife Service.
- 8) **Termination Policy:** At the termination of this permit the permittee shall immediately give up possession to the U.S. Fish and Wildlife Service representative, reserving, however, the rights specified in paragraph 11 below. If he/she fails to do so, he/she will pay the U.S. Fish and Wildlife Service, as liquidated damages, an amount double the rate specified in this permit for the entire time possession is withheld. Upon yielding possession, the permittee will still be allowed to reenter as needed to remove his/her property as stated in paragraph 11 below. The acceptance of any fee for the liquidated damages or any other act of administration relating to the continued tenancy is not to be considered as an affirmation of the permittee's action nor shall it operate as a waiver of the U.S. Fish and Wildlife Service's right to terminate or cancel the permit for the breach of any specified condition or requirement.
- 9) **Revocation Policy:** The Regional Director of the U.S. Fish and Wildlife Service may revoke this permit without notice for noncompliance with the terms hereof, or for violation of general and/or specific laws or regulations governing national wildlife refuges, or for nonuse. It is at all times subject to discretionary revocation by the Director of the Service. Upon such revocation the U.S. Fish and Wildlife Service, by and through any authorized representative, may take possession of said premises for its own and sole use, and/or may enter and possess the premises as the agent of the permittee and for his/her account.
- 10) **Damages:** The U.S. Fish and Wildlife Service shall not be responsible for: any loss or damage to property including but not limited to crops, animals, and machinery; injury to the permittee or his/her relatives or to the officers, agents, employees, or any other(s) who are on the premises from instructions; the sufferance from wildlife or employees or representatives of the U.S. Fish and Wildlife Service carrying out their official responsibilities. The permittee agrees to hold the U.S. Fish and Wildlife Service harmless from any and all claims for damages or losses that may arise to be incident to the flooding of the premises resulting from any associated government river and harbor, flood control, reclamation, or Tennessee Valley Authority activity.
- 11) **Removal of Permittee's Property:** Upon the expiration or termination of this permit, if all rental charges and/or damage claims due to the U.S. Fish and Wildlife Service have been paid, the permittee may, within a reasonable period as stated in the permit or as determined by the U.S. Fish and Wildlife Service official in charge, but not to exceed 60 days, remove all structures, machinery, and/or equipment, etc., from the premises for which he/she is responsible. Within this period the permittee also must remove any other of his/her property including his/her acknowledged share of products or crops grown, cut, harvested, stored, or stacked on the premises. Upon failure to remove any of the above items within the aforesaid period, they shall become the property of the U.S. Fish and Wildlife Service.