

Minot Load Serving Project
Summary of Federal, State, and Local Permits
Case No. PU-17-102
August 18, 2017

US Army Corps of Engineers	Clean Water Act Sect. 404 Approval	Issued 8/3/17	1
North Dakota DOT	Utility Occupancy Permit	Issued 5/1/2017	2
	Approach Permit	Issued 5/1/2017	3
North Dakota State Water Commission	Sovereign Lands Permit	Issued 8/1/17	4
North Dakota Department of Health, Water Quality Division	Clean Water Act Sect. 401 approval	Issued 8/9/17	5
	NPDES Permit (erosion control)	Not yet applied	6
McHenry County	Conditional Use Permit	Issued 12/20/2016	7
	Setback Variance	Issued 2/7/2017	8
	Road Use Agreement	Issued 7/10/2017	9
	ROW Utility Permit	Issued 7/6/2017	10
	Floodplain Development Permit Application	Issued 4/7/2017	11
Ward County	Subdivision Plat	Issued 8/2/2016	12
	Grading Permit	Pending	13
	Building Permit	Not yet applied	14
	Road Use Agreement	Pending	15
	ROW Utility Permit	Pending	16
Brown Township (McHenry County)	Road Use Agreement	Issued 6/13/2017	17
Lebanon Township (McHenry County)	Road Use Agreement	Issued 6/5/2017	18
Velva Township (McHenry County)	Road Use Agreement	Issued 6/7/2017	19
North Prairie Township (McHenry County)	Conditional Use Permit and Setback Variance	Issued 3/15/2017	20
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New Prairie Township (Ward County)	Road Use Agreement	Issued 7/28/2017	22
Nedrose Township (Ward County)	Road Use Agreement	Issued 5/20/2017	23
Sundre Township (Ward County)	Road Use Agreement	Issued 7/25/2017	24
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Canadian Pacific Railroad	Crossing License	Issued 5/23/17	26
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DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
3319 UNIVERSITY DRIVE
BISMARCK ND 58504-6640

August 3, 2017

NWO-2017-00673-BIS

Tom Hillstrom, Principal Permitting Agent
Xcel Energy
414 Nicollet Mall, 414-6A
Minneapolis, Minnesota 55402

Dear Mr. Hillstrom:

We are responding to your 04/17/2017 request for a Department of the Army permit for construction of the Xcel Energy Minot Load Serving Project. The project consists of construction of 20.5 miles of overhead 230kV transmission line between the Magic City Substation, being upgraded by another entity, and the existing McHenry Substation. The new line will replace the existing 115 kV line on generally the same alignment; however, there will be some deviation. The new line will require 22 fewer poles located in wetlands; however, the new poles require a larger footprint. Permanent impacts of 0.04-acre per pole at 50 emergent wetland sites and 0.005-acre per pole in 3 forested wetland sites will occur. Temporary impacts through use of matting to access emergent wetland sites will account for a total of 11.37 acres. Approximately 3.23 acres of forested wetland associated with the Souris River will be cleared. Four waterbodies, including the Souris (Mouse) River, Spring Creek and two unnamed intermittent drainages will be spanned. Work will occur in McHenry and Ward Counties.

We have determined activities in waters of the U.S. associated with the project are authorized by Nationwide Permit Number (NWP) 12 Utility Line Activities, found in the January 6, 2017 Federal Register (82 FR 1860), Reissuance of Nationwide Permits. Enclosed is a fact sheet that fully describes this Nationwide Permit and lists the General, Regional and Water Quality Conditions that must be adhered to for this authorization to remain valid. **Please note that deviations from the original plans and specifications of your project could require additional authorization from this office.**

This determination is applicable only to the permit program administered by the Corps of Engineers. It does not eliminate the need to obtain other Federal, state, tribal and local approvals before beginning work.

You are responsible for all work accomplished in accordance with the terms and conditions of the Nationwide Permit, **including the Regional Conditions specific to projects undertaken in North Dakota.** Information about the NWP and regional

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conditions are available on our website at <http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/NorthDakota>. If a contractor or other authorized representative will be accomplishing the work authorized by the Nationwide Permit on your behalf, it is strongly recommended that they be provided a copy of this letter and the attached conditions so that they are aware of the limitations of the applicable Nationwide Permit. Any activity that fails to comply with all of the terms and conditions of the Nationwide Permit will be considered unauthorized and subject to appropriate enforcement action.

Within 30 days after completion of the authorized work, you must sign the enclosed Compliance Certification and return it to this office.

This verification will be valid until **March 18, 2022**. If the nationwide permit is modified, suspended, or revoked prior to this date, but is reissued without modification or the activity complies with any subsequent modification, this authorization remains valid until the expiration date. All of the existing nationwide permits are scheduled to be modified, reissued, or revoked prior to **March 18, 2022**. It is incumbent upon you to remain informed of changes to the nationwide permits. We will issue a public notice when the nationwide permits are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation to complete the activity under the present terms and conditions.

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

Please refer to identification number NWO-2017-00673-BIS in any correspondence concerning this project. If you have any questions, please contact Toni Erhardt at the above address, by email at Toni.R.Erhardt@usace.army.mil, or telephone at (701) 255-0015 X 2003.

Sincerely,

Patricia L. McQueary
Regulatory Program Manager
North Dakota

Enclosures

COMPLIANCE CERTIFICATION

Permit File Name: Xcel Energy Minot Load Serving Project

Action ID: NWO-2017-00673-BIS

Nationwide Permit Number: NWO-2017-0673-BIS

Permittee: Tom Hillstrom, Principal Permitting Agent
Xcel Energy
414 Nicollet Mall, 414-6A
Minneapolis, Minnesota 55402

County: McHenry and Ward Counties

Date of Verification: August 3, 2017

Within 30 days after completion of the activity authorized by this permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers, Omaha District
North Dakota Regulatory Office
1513 South 12th Street
Bismarck, North Dakota 58504
CENWO-OD-RND@usace.army.mil

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of the permit your authorization may be suspended, modified, or revoked. If you have any questions about this certification, please contact the U.S. Army Corps of Engineers.

I hereby certify that the work authorized by the above-referenced permit, including all the required mitigation, was completed in accordance with the terms and conditions of the permit verification.

Permittee Signature

Date

**FACT SHEET
NATIONWIDE PERMIT 12
(2017)**

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 discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of utility lines, including outfall and intake structures. There must be no change in pre-construction contours of waters of the United States. 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 internet, 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 authorizes, to the extent that Department of the Army authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines. These remediation activities must be done as soon as practicable, to restore the affected waterbody. District engineers may add special conditions to this NWP to require a remediation plan for addressing inadvertent returns of drilling fluids to waters of the United States during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines. This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, 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. After construction, 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.

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 32.) (Sections 10 and 404)

Note 1: Where the 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, a copy of the 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: For utility line activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Utility line activities must comply with 33 CFR 330.6(d).

Note 3: Utility lines consisting of aerial electric power transmission lines crossing navigable waters of the United States (which are defined at 33 CFR part 329) must comply with the applicable minimum clearances specified in 33 CFR 322.5(i).

Note 4: 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 5: 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 6: This NWP authorizes utility line maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures.

Note 7: 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.

Note 8: For NWP 12 activities that require pre-construction notification, the PCN must include 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, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

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. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/ or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

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. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

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 NWP 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, storm water management activities, and temporary and permanent road crossings, 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, or during low tides.

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.

(a) No NWP 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.

(b) If a proposed NWP activity will 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, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) 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). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights.

No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

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 ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(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 activity, or if the activity 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 activity or that utilize the designated critical habitat that might be affected by the proposed activity. 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 activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species or critical habitat, or until ESA 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 permit conditions to the NWPs.

(e) Authorization of an activity by an 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 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) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district

engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles.

The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties.

(a) In cases where the district engineer determines that the activity may have the potential to cause effects to 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. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might 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 might have the potential to be affected by the proposed NWP activity 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 properties can be sought

from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, 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 in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might 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 to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, 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. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity 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 (54 U.S.C. 306113) 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, 38, and 54, notification is required in accordance with general condition 32, 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 the individual and cumulative adverse environmental effects are no more than 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 individual and cumulative adverse environmental effects are no more than 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 environmental effects of the proposed activity are no more than minimal, and provides an activity-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 only minimal adverse environmental effects.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored 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 restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting 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 minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) 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 no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) 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) through (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)).

(5) 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.

(6) 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 (see 33 CFR 332.4(c)(1)(ii)).

(g) 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 NWP activity 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 an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible 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.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert 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 environmental effects of the activity to the no more than 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 I and 1A, II and Class III rivers and streams or classified lakes listed in Appendices I and II of the standards, 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. The Standards may be found at <http://www.legis.nd.gov/information/acdata/pdf/33-16-02.1.pdf?2016031115632> On Tribal Lands, Water Quality Certification is denied for all Nationwide Permits. Applicants must work with EPA to obtain individual water quality certification. Contact: USEPA, Region 8,*

401 Certification Program – 8WP-AAP, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
(303-312-6909)

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 implementation of 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 activity 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(1)(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 activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States.

If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. 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 are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might 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 Act (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 activity;
- (3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
- (4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and 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, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity 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);
- (5) 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 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 wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) 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 environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act.

(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will 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, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(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 an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) Agency Coordination:

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) 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; (ii) 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 stream bed; (iii) NWP 13

activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, 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 (FWS, state natural resource or water quality agency, EPA, 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 notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental 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 pre-construction notification. The district 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 of the proposed activity are no more than 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.

(4) 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.

5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre- construction 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 (see general condition 31).

**2017 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 no more than minimal adverse impacts to the aquatic environment and to address local resource concerns.

1. 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. Peatlands are permanently or seasonally 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.

2. Wetlands Classified as Peatlands – Preconstruction Notification Requirement

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

3. Waters Adjacent to Natural Springs – Preconstruction Notification Requirement

For all Nationwide Permits permittees must notify the Corps in accordance with General Condition No. 32 (Pre-Construction Notification) for regulated activities located within 100 feet of the water source in natural spring areas. For purposes of this condition, a spring source is defined as any location where there is 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.

4. Missouri River, including Lake Sakakawea and Lake Oahe – Pre-construction Notification Requirement

For all Nationwide Permits permittees must notify the Corps in accordance with General Condition No. 32 (Pre-Construction Notification) prior to initiating any regulated activity occurring in or under the Missouri River, including Lake Sakakawea and Lake Oahe. In addition, any activity occurring in an off channel area (marinas, bays, etc.) of any of these waterbodies, a preconstruction notification is required.

5. Spawning Areas

Spawning restrictions and important fish habitat areas, if applicable, can be accessed on the North Dakota Game & Fish Department's website at:

<http://gf.nd.gov/gnf/conservation/docs/spawning-restriction-exclusions.pdf>

No regulated activity within the Red River of the North shall occur between 15 April and 1 July. Spawning season restrictions do not apply to projects involving dredging or other discharges of less than 25 cubic yards of material in any jurisdictional water.

6. Counter-Sinking Culverts and Associated Riprap – All Nationwide Permits

In streams with intermittent or perennial flow and a stable stream bed, culvert stream crossings shall be installed with the culvert invert set below the natural streambed according to the table below. This regional condition does not apply in instances where the lowering of the culvert invert would allow a headcut to migrate upstream of the project into an unaffected stream reach or result in lowering the elevation of the stream reach.

Riprap inlet and outlet protection shall be placed to match the height of the culvert invert.

Culvert Type	Drainage Area	Minimum Distance Culvert Invert Shall Be Lowered Below Stream Flow Line
All culvert types	≤ 100 acres	Not required
Pipe diameter <8.0 ft	100 to 640 acres	0.5 ft
Pipe diameter <8.0 ft	>640 acres	1.0 ft
Pipe diameter ≥ 8.0 ft	All drainage sizes	1.0 ft
Box culvert	All drainage sizes	1.0 ft

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 ¼-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, and on the Yellowstone River, 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 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 intake placed at the maximum practicable attainable depth.

Intakes and associated utility lines that are proposed to cross sandbars in areas designated as piping plover critical habitat are prohibited.

Utility Lines

- Any temporary open trench associated with utility lines are to be closed within 30 days of excavation. This time limit may be extended by notifying the North Dakota Regulatory Office and receiving a written response that the extension is acceptable.

Nationwide Permit 11 – Temporary Recreational Structures – Boat Docks

To ensure that the work or structure shall not cause unreasonable obstruction to the free navigation of the navigable waters, the following conditions are required:

- No boat dock shall be located on a sandbar or barren sand feature. The farthest point riverward of a dock shall not exceed a total length of 30 feet from the ordinary high watermark. Information Note: Issuance of this permit does not supersede authorization required by the North Dakota State Engineer's Office.
- Any boat dock shall be anchored to the top of the high bank.
- Any boat dock located within an excavated bay or marina that is off the main river channel may be anchored to the bay or marina bottom with spuds.

Section 10 Waters located in the State of North Dakota are:

Bois de Sioux River
James River
Missouri River
Red River of the North
Upper Des Lacs Lake
Yellowstone River

Nationwide Permit 13 – Bank Stabilization

Permittees must notify the Corps in accordance with General Condition No. 32 (Pre-Construction Notification) prior to initiating any regulated activity. The notification must also include photo evidence of erosion in the area. Prohibited materials found at

<http://www.nwo.usace.army.mil/Media/FactSheets/FactSheetArticleView/tabid/2034/Article/487696/prohibited-restricted-materials.aspx> cannot be used in waters of the United States.

Nationwide Permit 23 – Approved Categorical Exclusions

Permittees must notify the Corps in accordance with General Condition No. 32 (Pre-Construction Notification) prior to initiating any regulated activity. In addition to information required by General Condition 32 (Pre-Construction Notification), permittees must identify the approved categorical exclusion that applies and provide documentation that the project fits the categorical exclusion.

GENERAL CONDITIONS (REGIONAL ADDITIONS)

General Condition 32 Notification– Pre-construction Notification

Prospective permittees should be aware that a field aquatic resources delineation may be required for applications where notification is required in accordance with General Condition 32 (Pre-Construction Notification) and/or mitigation may be required. Specific guidelines outlining the aquatic resources delineation process in the State of North Dakota and 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/Missions/RegulatoryProgram/NorthDakota.aspx>



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

UTILITY OCCUPANCY APPLICATION AND PERMITNorth Dakota Department of Transportation, Design
SFN:7995 (6-2016)**FOR STATE USE ONLY (Type or Print)**

RIMS Document Number 42268	Contract Number	District Tracking Number 13-17
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APPLICANT INFORMATION**Authorized Utility Agent (must be same as signatory for permit)**

Company Name Northern States Power Co. d/b/a Xcel Energy	Contact Name Sean Lawler	Telephone Number 612-330-1956
Mailing Address 414 Nicollet Mall	City Minneapolis	State MN
	ZIP Code 55401	Email Address sean.w.lawler@xcelenergy.com

Preparer - Consultant

Company Name Northern States Power Co. d/b/a Xcel Energy	Contact Name Sean Lawler	Telephone Number 612-330-1956
Mailing Address 414 Nicollet Mall	City Minneapolis	State MN
	ZIP Code 55401	Email Address sean.w.lawler@xcelenergy.com

Utility Contractor

Company Name Northern States Power Co. d/b/a Xcel Energy	Contact Name Sean Lawler	Telephone Number 612-330-1956
Mailing Address 414 Nicollet Mall	City Minneapolis	State MN
	ZIP Code 55401	Email Address sean.w.lawler@xcelenergy.com

TYPE OF FACILITY (Complete appropriate space only.)

Description of Proposed Facility Installation of an overhead 115/230kV double circuit transmission line across ND Highway 41. Remove existing 115kV single circuit transmission line across ND Highway 41.		
Size of Facility 115kV and 230kV	Number of Cables two sets of four	Length of Down Guys NA
Pipeline Pressure	Size of Casing	Length of Casing
Location of Pole(s)	Location of Appurtenances	Location - Others

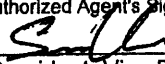
TERMS AND CONDITIONS: Installation and maintenance of said facilities on highway right of way shall be subject to the North Dakota Department of Transportation's (NDDOT's) "A Policy for Accommodation of Utilities on State Highway Right of Way", current edition, and the following terms and conditions,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

The installation shall be completed on or before:

Date 7/31/2019

See page 2 for additional Terms and Conditions.

APPROVAL

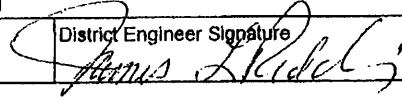
Company Name (Utility Agency) Northern States Power Co. d/b/a Xcel En	Authorized Utility Agent Name (Type or Print) Sean Lawler	Authorize Agent Title Land Rights Agent
Date 4/17/2017	Authorized Agent's Signature 	

To be signed by Owner, Partner, Corporate President, Vice President, or other authorized Corporate Officer. If signed by other authorized Corporate Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.

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.

NDDOT Approved Date 04-24-17

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

District Engineer (Type or Print) James L. Redding	District Engineer Signature 
---	---

- (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 107-2010 Class II high 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. The owner may be held responsible for delay costs caused by the owner's failure to use reasonable efforts to relocate or adjust facilities in a timely manner.
- (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, will be excluded from participation in, 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, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Owner will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and regulations, such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities set forth in this Assurance.

That in the event of breach of any of the above Non discrimination covenants, the NDDOT will have the right to terminate this Permit and to enter or re-enter and repossess said land and the facilities thereon and hold the same as if said Permit had never been made or issued.
- (I) If the utility facility includes drain tile, a "Request for Drainage on Highway Rights of Way", state form number 50909, must be made in conjunction with this permit.
- (J) The Department's review and subsequent approval of this permit request does not relieve the applicant of the responsibility to comply with all Federal and State laws and regulations that govern, but are not limited to, the protection of wetlands, threatened and endangered species, and migratory birds. The applicant is responsible to comply with all Federal and State laws and regulations that govern the protection of cultural resources within the permit application area (e.g., S.106 of the National Historic Preservation Act, 36 CFR Part 800; ND Century Code 55-02-07; ND Century Code 55-03-01.1). The applicant shall be aware of the ND State burial law (ND Century code 23-06-27; Administrative Rule 40-02) and ensure compliance for any discovery of human remains within the permit request area.
- (K) The Contractor agrees that NDDOT's review of the utility relocation plans, specifications, calculations, and field inspections shall be solely for NDDOT purposes and not for the benefit of the Utility or any third party and shall not be deemed to mean that the Utility's design and construction is structurally sound and appropriate or meets applicable federal and state regulations, laws, or local ordinances, codes, or industry standards (collectively, "Requirements"). The Utility affirms that it has taken all of the actions necessary and required for the construction, operation, and maintenance of its facility authorized hereunder, including compliance with all Requirements."
- (L) Detailed location maps showing lateral offsets from roadway centerlines are required for a permit.

For State Use Only

District Tracking Number 13-17

Please attach detail location map for each Utility Location. Use multiple utility locations when changing lateral offsets.

Highway Number 41		Utility Location <input type="checkbox"/> Along or <input checked="" type="checkbox"/> Across		For State Use Only														
Nearest City or Hwy Jct. Velva		Direction (N, S, E, W) North	Approximate Miles From 2.25	Begin		End												
Begin	Reference Marker 76	Direction (N, S, E, W) South	Longitudinal Offset (feet) 2,250	Mid	Reference Marker	Direction (N, S, E, W) South	Longitudinal Offset (feet)											
	Direction From Centerline (N, S, E, W) South		Lateral Offset (feet) 0		Direction From Centerline (N, S, E, W) North		Lateral Offset (feet)											
				<table border="1"> <thead> <tr> <th>Location Number</th> <th>Reference Pt</th> <th>Offset</th> <th>Reference Pt</th> <th>Offset</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>75</td> <td>.5761</td> <td></td> <td></td> </tr> </tbody> </table>					Location Number	Reference Pt	Offset	Reference Pt	Offset	1	75	.5761		
Location Number	Reference Pt	Offset	Reference Pt	Offset														
1	75	.5761																

UTILITY OCCUPANCY APPLICATION AND PERMITNorth Dakota Department of Transportation, Design
SFN 7995 (6-2016)**FOR STATE USE ONLY (Type or Print)**

RIMS Document Number 42269	Contract Number	District Tracking Number 12-17
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APPLICANT INFORMATION**Authorized Utility Agent (must be same as signatory for permit)**

Company Name Northern States Power Co. d/b/a Xcel Energy	Contact Name Sean Lawler	Telephone Number 612-330-1956
Mailing Address 414 Nicollet Mall	City Minneapolis	State MN
	ZIP Code 55401	Email Address sean.w.lawler@xcelenergy.com

Preparer - Consultant

Company Name Northern States Power Co. d/b/a Xcel Energy	Contact Name Sean Lawler	Telephone Number 612-330-1956
Mailing Address 414 Nicollet Mall	City Minneapolis	State MN
	ZIP Code 55401	Email Address sean.w.lawler@xcelenergy.com

Utility Contractor

Company Name Northern States Power Co. d/b/a Xcel Energy	Contact Name Sean Lawler	Telephone Number 612-330-1956
Mailing Address 414 Nicollet Mall	City Minneapolis	State MN
	ZIP Code 55401	Email Address sean.w.lawler@xcelenergy.com

TYPE OF FACILITY (Complete appropriate space only.)

Description of Proposed Facility Installation of overhead 115kV and 230kV transmission line circuits across ND Highway 97. Remove existing 115kV single circuit transmission line across ND Highway 97.		
Size of Facility 115kV and 230kV	Number of Cables two sets of four	Length of Down Guys NA
Pipeline Pressure	Size of Casing	Length of Casing
Location of Pole(s)	Location of Appurtenances	Location - Others

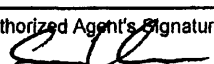
TERMS AND CONDITIONS: Installation and maintenance of said facilities on highway right of way shall be subject to the North Dakota Department of Transportation's (NDDOT's) "A Policy for Accommodation of Utilities on State Highway Right of Way", current edition, and the following terms and conditions,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

The installation shall be completed on or before:

Date 7/31/2019

See page 2 for additional Terms and Conditions.

APPROVAL

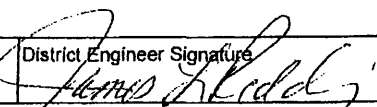
Company Name (Utility Agency) Northern States Power Co. d/b/a Xcel En	Authorized Utility Agent Name (Type or Print) Sean Lawler	Authorize Agent Title Land Rights Agent
Date 4/17/2017	Authorized Agent's Signature 	

To be signed by Owner, Partner, Corporate President, Vice President, or other authorized Corporate Officer. If signed by other authorized Corporate Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.

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.

NDDOT Approved Date 04-24-17

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

District Engineer (Type or Print) James L. Redding	District Engineer Signature 
---	---

- (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 107-2010 Class II high 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. The owner may be held responsible for delay costs caused by the owner's failure to use reasonable efforts to relocate or adjust facilities in a timely manner.
- (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, will be excluded from participation in, 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, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Owner will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and regulations, such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities set forth in this Assurance.

That in the event of breach of any of the above Non discrimination covenants, the NDDOT will have the right to terminate this Permit and to enter or re-enter and repossess said land and the facilities thereon and hold the same as if said Permit had never been made or issued.
- (I) If the utility facility includes drain tile, a "Request for Drainage on Highway Rights of Way", state form number 50909, must be made in conjunction with this permit.
- (J) The Department's review and subsequent approval of this permit request does not relieve the applicant of the responsibility to comply with all Federal and State laws and regulations that govern, but are not limited to, the protection of wetlands, threatened and endangered species, and migratory birds. The applicant is responsible to comply with all Federal and State laws and regulations that govern the protection of cultural resources within the permit application area (e.g., S.106 of the National Historic Preservation Act, 36 CFR Part 800; ND Century Code 55-02-07; ND Century Code 55-03-01.1). The applicant shall be aware of the ND State burial law (ND Century code 23-06-27; Administrative Rule 40-02) and ensure compliance for any discovery of human remains within the permit request area.
- (K) The Contractor agrees that NDDOT's review of the utility relocation plans, specifications, calculations, and field inspections shall be solely for NDDOT purposes and not for the benefit of the Utility or any third party and shall not be deemed to mean that the Utility's design and construction is structurally sound and appropriate or meets applicable federal and state regulations, laws, or local ordinances, codes, or industry standards (collectively, "Requirements"). The Utility affirms that it has taken all of the actions necessary and required for the construction, operation, and maintenance of its facility authorized hereunder, including compliance with all Requirements."
- (L) Detailed location maps showing lateral offsets from roadway centerlines are required for a permit.

District Tracking Number 12-17

Please attach detail location map for each Utility Location. Use multiple utility locations when changing lateral offsets.

Highway Number 97	Utility Location <input type="checkbox"/> Along or <input checked="" type="checkbox"/> Across
Nearest City or Hwy Jct. ND 97 and ND 52	Direction (N, S, E, W) West Approximate Miles From 0.56

For State Use Only				
		Begin		End
Location Number	Reference Pt	Offset	Reference Pt	Offset
1	1	.9708		

Begin	Reference Marker 2	Direction (N, S, E, W) West	Longitudinal Offset (feet) 110
	Direction From Centerline (N, S, E, W) South		Lateral Offset (feet) 0

End	Reference Marker	Direction (N, S, E, W) West	Longitudinal Offset (feet) 0
	Direction From Centerline (N, S, E, W) North		Lateral Offset (feet) 0

UTILITY OCCUPANCY APPLICATION AND PERMITNorth Dakota Department of Transportation, Design
SFN 7995 (6-2016)**FOR STATE USE ONLY (Type or Print)**

RIMS Document Number 42270	Contract Number	District Tracking Number 11-17
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APPLICANT INFORMATION**Authorized Utility Agent (must be same as signatory for permit)**

Company Name Northern States Power Co. d/b/a Xcel Energy	Contact Name Sean Lawler	Telephone Number 612-330-1956
Mailing Address 414 Nicollet Mall	City Minneapolis	State MN
	ZIP Code 55401	Email Address sean.w.lawler@xcelenergy.com

Preparer - Consultant

Company Name Northern States Power Co. d/b/a Xcel Energy	Contact Name Sean Lawler	Telephone Number 612-330-1956
Mailing Address 414 Nicollet Mall	City Minneapolis	State MN
	ZIP Code 55401	Email Address sean.w.lawler@xcelenergy.com

Utility Contractor

Company Name Northern States Power Co. d/b/a Xcel Energy	Contact Name Sean Lawler	Telephone Number 612-330-1956
Mailing Address 414 Nicollet Mall	City Minneapolis	State MN
	ZIP Code 55401	Email Address sean.w.lawler@xcelenergy.com

TYPE OF FACILITY (Complete appropriate space only.)

Description of Proposed Facility Installation of an overhead 115/230kV double circuit transmission line across US Highway 52. Remove existing 115kV single circuit transmission line across US Highway 52. Temporary construction access to north, see traffic control plan.		
Size of Facility 115kV and 230kV	Number of Cables two sets of four	Length of Down Guys NA
Pipeline Pressure	Size of Casing	Length of Casing
Location of Pole(s)	Location of Appurtenances	Location - Others

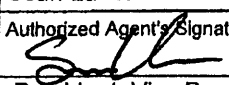
TERMS AND CONDITIONS: Installation and maintenance of said facilities on highway right of way shall be subject to the North Dakota Department of Transportation's (NDDOT's) "A Policy for Accommodation of Utilities on State Highway Right of Way", current edition, and the following terms and conditions,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

The installation shall be completed on or before:

Date 7/31/19

See page 2 for additional Terms and Conditions.

APPROVAL

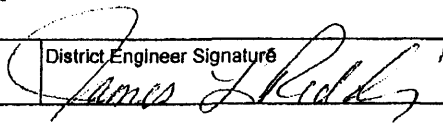
Company Name (Utility Agency) Northern States Power Co. d/b/a Xcel Ent	Authorized Utility Agent Name (Type or Print) Sean Lawler	Authorize Agent Title Land Rights Agent
Date 4/17/2017	Authorized Agent's Signature 	

To be signed by Owner, Partner, Corporate President, Vice President, or other authorized Corporate Officer. If signed by other authorized Corporate Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.

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.

NDDOT Approved Date 04-24-17

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

District Engineer (Type or Print) James L. Redding	District Engineer Signature 
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- (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 107-2010 Class II high visibility garment while within the highway right-of-way as per the requirements of 23 CFR 634.
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- (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, will be excluded from participation in, 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, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Owner will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and regulations, such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities set forth in this Assurance.
- That in the event of breach of any of the above Non discrimination covenants, the NDDOT will have the right to terminate this Permit and to enter or re-enter and repossess said land and the facilities thereon and hold the same as if said Permit had never been made or issued.
- (I) If the utility facility includes drain tile, a "Request for Drainage on Highway Rights of Way", state form number 50909, must be made in conjunction with this permit.
- (J) The Department's review and subsequent approval of this permit request does not relieve the applicant of the responsibility to comply with all Federal and State laws and regulations that govern, but are not limited to, the protection of wetlands, threatened and endangered species, and migratory birds. The applicant is responsible to comply with all Federal and State laws and regulations that govern the protection of cultural resources within the permit application area (e.g., S.106 of the National Historic Preservation Act, 36 CFR Part 800; ND Century Code 55-02-07; ND Century Code 55-03-01.1). The applicant shall be aware of the ND State burial law (ND Century code 23-06-27; Administrative Rule 40-02) and ensure compliance for any discovery of human remains within the permit request area.
- (K) The Contractor agrees that NDDOT's review of the utility relocation plans, specifications, calculations, and field inspections shall be solely for NDDOT purposes and not for the benefit of the Utility or any third party and shall not be deemed to mean that the Utility's design and construction is structurally sound and appropriate or meets applicable federal and state regulations, laws, or local ordinances, codes, or industry standards (collectively, "Requirements"). The Utility affirms that it has taken all of the actions necessary and required for the construction, operation, and maintenance of its facility authorized hereunder, including compliance with all Requirements."
- (L) Detailed location maps showing lateral offsets from roadway centerlines are required for a permit.

For State Use Only

District Tracking Number 11-17

Please attach detail location map for each Utility Location. Use multiple utility locations when changing lateral offsets.

Highway Number 52		Utility Location <input type="checkbox"/> Along or <input checked="" type="checkbox"/> Across		For State Use Only				
Nearest City or Hwy Jct. US 52 and ND 97		Direction (N, S, E, W) North - West	Approximate Miles From 0.7	Begin		End		
				Location Number 1	Reference Pt 119	Offset .4374	Reference Pt	Offset
Begin	Reference Marker 120	Direction (N, S, E, W) North - West	Longitudinal Offset (feet) 2,536	End	Reference Marker	Direction (N, S, E, W) North - West	Longitudinal Offset (feet)	
	Direction From Centerline (N, S, E, W) South		Lateral Offset (feet) 0		Direction From Centerline (N, S, E, W) North		Lateral Offset (feet) 0	



State of North Dakota

Office of the State Engineer

900 EAST BOULEVARD AVE. • BISMARCK, ND 58505-0850
701-328-2750 • FAX 701-328-3696 • <http://swc.nd.gov>

August 1, 2017

Mr. Thom Hillstrom
Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401

RE: Application S-2072: Remove and replace an electric transmission line across the Mouse River.

Dear Mr. Hillstrom:

Enclosed is your sovereign land authorization to remove and replace an existing electric transmission line across the Mouse River in McHenry County as a feature of the Minot Load Serving Project (Project).

Specifically, the Project will involve the construction of a new 20.5-mile long 230/115 kV double circuit transmission line in McHenry County. The new transmission line will cross the Mouse River at the location of an existing Xcel Energy 115 kV transmission line crossing. The old 115 kV transmission line will be removed.

Five existing transmission line structures within the Mouse River floodplain will be removed and replaced. Each structure will set upon a 10-foot diameter poured concrete foundation. The wires will have a minimum clearance of 44.7 feet over the river.

The project will be located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 13, Township 153 North, Range 80 West, McHenry County.

Also enclosed are copies of all the solicitation of views we received from other agencies on your project. If you have any questions or if I can be of further assistance, please contact me at (701) 328-4935.

Sincerely,

Gerald R. Heiser
Regulatory Section

GH:1625
Enclosure

Sovereign Land Permit No. S-2072

**Permittee: Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401**

Location: SW ¼ SE ¼ and SE ¼ SW ¼ of Section 13, Township 153 North, Range 80 West, McHenry County.

Project Description:

The Permittee is hereby authorized to remove and replace an existing electric transmission line across the Mouse River in McHenry County as a feature of the Minot Load Serving Project (Project).

Specifically, the Project will involve the construction of a new 20.5-mile long 230/115 kV double circuit transmission line in McHenry County. The new transmission line will cross the Mouse River at the location of an existing Xcel Energy 115 kV transmission line crossing. The old 115 kV transmission line will be removed.

The Permittee will remove and replace five existing transmission line structures within the Mouse River floodplain. Each structure will set upon a 10-foot diameter poured concrete foundation. The wires will have a minimum clearance of 44.7 feet over the river.


The Permittee must obtain any other local, state, or federal permits or approvals that may be necessary prior to construction.

This authorization is subject to the conditions listed below and to the attached North Dakota Department of Health "Construction and Environmental Disturbance Requirements." Any other use of sovereign land is prohibited. Any proposed additional use must comply with the application and permitting process and all other requirements of state law.

General Conditions

- 1. Authorization of this undertaking is a privileged use of a public resource and does not constitute a property right. The public use and enjoyment of the Mouse River is of high priority.**
- 2. All construction, maintenance, and reclamation activities must be carried out in a manner reasonably designed to prevent degradation of the Mouse River.**
- 3. The Permittee must implement measures to minimize the opportunity for sediment to enter the Mouse River during construction.**

4. The Permittee must comply with the North Dakota Department of Health's *Construction and Environmental Disturbance Requirements* (copy attached).
5. Any construction debris or excess material must be disposed of in a non-wetland, non-timbered upland site or in an approved landfill.
6. Any disturbed areas must be revegetated with species native to the area.
7. Prior to or during construction, if items of substantial archeological value are discovered or a deposit of such items is disturbed, the Permittee shall cease construction activities in the area so affected. The State Engineer shall be promptly notified of the discovery, and construction will not resume until the State Engineer gives written permission.
8. This Authorization is site specific for the project as proposed and outlined in the application and supporting documents. Any changes or deviation from the site or design will require authorization from the State Engineer.
9. At the discretion of the State Engineer, in accordance with the exercise of any of the State Engineer's duties, the project is subject to modification or removal at the expense of the Permittee.
10. The State Engineer or the State Engineer's representative shall have access to inspect the authorized project during construction and associated activities and for the life of the project to ensure that it is being or has been accomplished and maintained in accordance with the terms and conditions of this Authorization.
11. The Permittee must obtain any other local, state, or federal permits or approvals that may be necessary prior to construction.
12. By granting this Authorization, no liability for damages of any kind, including those caused by improper construction, operation and maintenance, design or failure in design, materials, or workmanship, is assumed by or transferred to the State of North Dakota, the State Engineer, the State Water Commission or any of their respective employees, agents, or assigns. The Permittee will indemnify and hold harmless the State of North Dakota, its officials, employees, agents, boards, commissions, and assigns for any and all liability for work performed and action taken under this Authorization.



Garland Erbele, P.E.
State Engineer

Date: 7.31.2017

McHenry County

Permit No. 4



Permit No. S2072 - Northern States Power (Xcel Energy)

SW 1/4 of SE 1/4 Section 13, T153N, R80W, McHenry County
SE 1/4 of SW 1/4 Section 13, T153N, R80W, McHenry County

Utility Crossing



Date: 7/7/2017
Prepared by: CWN



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.



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

Permit No. 4

JUN - 7 2017

Doug Burgum
Governor of North Dakota

North Dakota
State Historical Board

Margaret Puetz
Bismarck - President

Gereld Gerntholz
Valley City - Vice President

Albert I. Berger
Grand Forks - Secretary

Calvin Grinnell
New Town

Diane K. Larson
Bismarck

Terrance Rockstad
Bismarck

H. Patrick Weir
Medora

Sara Otte Coleman
*Director
Tourism Division*

Kelly Schmidt
State Treasurer

Alvin A. Jaeger
Secretary of State

Jesse Hanson
*Acting Director
Parks and Recreation
Department*

Grant Levi
*Director
Department of Transportation*

Claudia J. Berg
Director

*Accredited by the
American Alliance
of Museums since 1986*

June 6, 2017

Mr. Gerald Heiser
Sovereign Lands Manager
Office of the State Engineer
900 East Boulevard Avenue
Bismarck, ND 58505-0850

ND SHPO REF: 17-0968 OSE S-2072 Northern State Power Company remove and replace an existing overhead power line in portions of [T153N R80W Section 13 NW of SE] McHenry County, North Dakota

Dear Mr. Heiser,

We reviewed ND SHPO REF: 17-0968 OSE S-2072 Northern State Power Company remove and replace an existing overhead power line in portions of [T153N R80W Section 13 NW of SE] McHenry County, North Dakota. There has been a good faith effort to identify and avoid impacts to "Significant Sites," provided the project remains as described and mapped in your correspondence dated June 2, 2017.

Thank you for the opportunity to review. Please include the ND SHPO Reference number listed above in further correspondence for this project. If you have any questions please contact Susan Quinnell, Review and Compliance Coordinator at (701)328-3576 or squinnell@nd.gov

Sincerely,

Claudia J. Berg
State Historic Preservation Officer (North Dakota)



State of North Dakota

Office of the State Engineer

900 EAST BOULEVARD AVE. • BISMARCK, ND 58505-0850
701-328-2750 • FAX 701-328-3696 • <http://swc.nd.gov>

JUN

June 2, 2017

SOLICITATION OF VIEWS

RE: APPLICATIONS TO THE STATE ENGINEER FOR AUTHORIZATION TO CONSTRUCT A PROJECT WITHIN ISLANDS AND BEDS OF NAVIGABLE STREAMS OR WATERS OF THE STATE OF NORTH DAKOTA.

Northern States Power Company, Minneapolis, Minnesota, Application No. S-2072

Northern States Power Company, Minneapolis, Minnesota doing business as Xcel Energy has filed an application with the State Engineer to remove and replace an existing electric transmission line across the Souris River in McHenry County.

The applicant is proposing to construct the Minot Load Serving Project (Project) to address the reliability needs of the City of Minot and surrounding area. The Project involves the construction of the new Magic City Substation in Ward County and a new 20.5-mile-long 230 kV transmission line between the Substation and the existing McHenry County Substation near Velva in McHenry County. The new transmission line will cross the Souris River at the location of an existing Xcel Energy 115 kV transmission line crossing. The new transmission line will be constructed as a 230/115 kV double circuit line and the old 115 kV transmission line will be removed.

There are five existing transmission line structures within the Souris River floodplain. These structures will be removed and replaced with five new structures. Each structure will set upon 10-foot diameter poured concrete foundations. The wires would have a minimum clearance of 44.7 feet over the river.

The project would be located in the NW ¼ SE ¼ of Section 13, Township 153 North, Range 80 West, McHenry County.

NDDTL
No comment
MHA 6-14-17

Solicitation of Views

2

June 2, 2017

Projects which lie either partially or wholly below the ordinary high watermark of navigable streams or waters may require authorization from the State Engineer prior to construction or operation. At the discretion of the State Engineer, a public meeting may be held on the project for the purpose of gathering information. The State Engineer will consider riparian owner's rights, recreation, navigation, aesthetics, erosion, wildlife, water quality, maintenance of existing water flows, alternative uses, and the environment in determining whether to grant the authorization.

To ensure that all environmental, economic and social factors are considered in the evaluation of this application, your views and comments are solicited. It is requested that any comments or information be forwarded within 30 days of the date of this mailing to the State Engineer, at 900 East Boulevard Avenue, Bismarck, North Dakota. If no reply is received within the 30 days, it will be assumed that your agency has no comment on this project.

Sincerely,



Gerald R. Heiser
Sovereign Lands Manager

GH:ph/1625

Enclosures: Sovereign Lands Application
Specifications
Map

Copies to: Michael Humann, North Dakota Department of Trust Lands
Jesse Hanson, North Dakota Parks and Recreation Department
Bruce Kreft, North Dakota Game and Fish Department
Peter Wax, North Dakota Department of Health
U.S. Fish and Wildlife Service, Bismarck
State Historical Society of North Dakota
Souris River Water Resource District
U.S. Army Corps Engineers, Bismarck



June 27, 2017

Gerald R. Heiser
Sovereign Lands Manager
Office of the State Engineer
900 East Boulevard Ave
Bismarck, ND 58505-0850

Application No: S-2072 [Remove and replacement of overhead electric transmission line]

Dear Mr. Heiser:

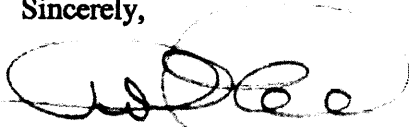
The North Dakota Department of Health (department) appreciates the opportunity to review the above referenced project for consistency in meeting the Standards of Quality for Waters of the State (standards). In brief, the Xcel Energy, of Minneapolis, Minnesota proposes to replace five existing electrical transmission lines across the Mouse River in McHenry County. The department feels that no violation of the Standards will occur provided our Construction and Environmental Disturbance Requirements (attached) is adhered to.

Additionally if the action will disturb ≥ 1 acre the contractor acquire a General Construction Permit. For information on the Construction Permit contact Dallas Grossman at 701-328-5242 or go the following link:

<http://www.ndhealth.gov/WQ/Storm/StormWaterHome.htm>

If you have any questions I may be reached at 701.328.5268.

Sincerely,



Peter Wax
Environmental Scientist
Division of Water Quality

PNW:dlp

Enc:



August 9, 2017

Leslie H. Knapp GP
Tetra Tech
2001 Killebrew Dr., Ste 14
Bloomington, MN 55425

Section 401 Clean Water Certification [Nationwide General Permit 12 – Xcel Energy Minot Load Serving Project in McHenry and Ward Counties, North Dakota]

Dear Ms. Knapp:

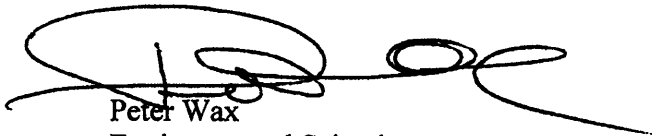
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<http://www.ndhealth.gov/WQ/Storm/StormWaterHome.htm>

If you have any questions I may be reached at 701.328.5268.

Sincerely,



Peter Wax
Environmental Scientist
Division of Water Quality

PNW:dlp
Encl:



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

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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.

NPDES Permit – erosion control (not yet applied)

OFFICIAL PROCEEDINGS OF THE MCHENRY COUNTY BOARD OF COMMISSIONERS

December 20, 2016

1:00 PM

Chairman Medalen called the meeting to order. Commissioners Harry Bergstad, David Medalen, Gregg Boutilier, Bryan Bruner and Larry Haman were present.

Kent Indvik and Jason Mayfield met with the board to give an update on the Co Rd 10 project, which is now considered complete. The board discussed possible Federal Aid projects. A motion was made by Bergstad and seconded by Boutilier to microsurface the Anamoose North highway. Motion carried unanimously.

Joe J. Haman met with the board regarding bales in the right-of-way. He requested a policy be drafted with a deadline.

The board reviewed the CUP application from Xcel Energy to place a transmission line through parts of Velva and Lebanon Townships. Sean Lawler and Tom Hillstrom, Xcel Energy representatives were in attendance. A motion was made by Bruner and seconded by Haman to approve the CUP. Commissioners Bruner, Haman and Medalen voting aye. Commissioners Bergstad and Boutilier voting nay. Motion carried. They will be submitting an application for a variance for the placement of the poles within the next couple of weeks.

Harold Rotunda met with the board to review the 2015 county audit.

A motion was made by Bergstad and seconded by Bruner to check on cutting edge prices. Motion carried unanimously.

The contractor hired for road maintenance in Deep River and Pratt Townships approached Commissioner Medalen to see if the county could take it over for the winter months. Commissioner Medalen will talk to the township boards.

A letter was presented to the commissioners from Baumstark/Braaten Law Partners regarding a fence in the right-of-way. A motion was made by Bruner and seconded by Bergstad to table this until the next meeting. Motion carried unanimously.

A motion was made by Bergstad and seconded by Haman to allow the commissioners to hire additional equipment for snow removal, if needed. Motion carried unanimously.

Boutilier left the meeting.

A motion was made by Bergstad and seconded by Haman to reclassify the Chief Deputy Sheriff position to non-exempt. Motion carried unanimously. Commissioner Bruner absent.

The board continued to audit bills until completed. A motion was made by Bergstad and seconded by Haman that the following bills be approved and the proper checks be issued thereof:

Warrant	Paid	Reason	Amount
71562	AT&T Mobility	Wireless service	725.55
71563	Boutilier, Gregg	Mileage	298.08
71564	Bruner, Bryan	Mileage	103.68
71565	Carpenter, Darlene	Mileage, supplies	466.64
71566	Clem's Repair	Osh Kosh tanker repair	228.70

			Permit No. 7
71567	Comfort Inn, Bismarck	Lodging	81.90
71568	Envision	Fuel	110.32
71569	Farden Construction, Inc	CNOC-0025(051)	24,487.02
71570	First District Health Unit	4th Qtr mill levy	22,509.25
71571	GCR Tire Centers	Spare tires	418.40
71572	Gerdau	Repairs	142.30
71573	Goodman, Natalie	Mowing	180.00
71574	Heart of America Medical Center	Prisoner medical	407.15
71575	HACTC	Prisoner board	6,256.00
71576	HP Inc	Monitor	187.11
71577	I Design	Supplies	179.82
71578	Keller, Robert	Snow removal	50.00
71579	Mark T Blumer Law Office	Services	580.68
71580	Mike's Body, Paint & Glass	Towing	225.00
71581	McHenry County Treasurer	Property sale	500.00
71582	Menards	Supplies	32.70
71583	Mouse River Journal	Legal publications, subscription	60.40
71584	ND Telephone Company	911 fee	123.74
71585	Office Depot, Inc	Supplies	345.70
71586	PharmChem, Inc	Drug testing	125.00
71587	Pitney Bowes, Inc	Postage machine lease	533.10
71588	Purchase Power	Postage	4,500.00
71589	RDJ Specialties, Inc	Supplies	251.16
71590	Skager, Trey	Meals	56.00
71591	Tri-N Propane, Inc	Propane	873.00
71592	Wold Engineering, PC	CNOC-0025(051) PW890 Co Rd 10	7,857.50
71593	Ziegler Oil Company	Propane	319.60

At 4:55 PM, there being no further business to come before the board at this time, a motion was made by Haman and seconded by Bruner to adjourn.

ATTEST:

Darlene Carpenter, Auditor

David Medalen, Chairman

OFFICIAL PROCEEDINGS OF THE MCHENRY COUNTY BOARD OF COMMISSIONERS

February 7, 2017

9:00 AM

Chairman Medalen called the meeting to order. Commissioners Harry Bergstad, David Medalen, Gregg Boutilier, Larry Haman and Bryan Bruner were present.

A motion was made by Bergstad and seconded by Bruner to approve the January 5th minutes. Motion carried unanimously.

Sam Welch with SEH Engineering met with the board to provide information on the services his company can provide.

A motion was made by Boutilier and seconded by Bruner to move the March meeting to the 9th due to a conflict with a state conference. Motion carried unanimously.

A motion was made by Bruner and seconded by Boutilier to sign the annual maintenance certification with NDDOT on Federal Aid roads. Motion carried unanimously.

A motion was made by Bergstad and seconded by Haman to renew the lease of office space to the ND Department of Health. Motion carried unanimously.

An invoice was received from KBK Vollmer for snow removal. A motion was made by Bergstad and seconded by Haman to deny payment since this was not requested nor authorized by the county. Motion carried unanimously.

Callie Johnson and Rachel Wald presented their quarterly report on the extension service activities. Two programs they will be offering are Long Term Health Care Planning and Annie's Project.

A motion was made by Boutilier and seconded by Bergstad to approve abatements 1235, 1236, 1238-1240. Motion carried unanimously.

Correspondence was received from the Emergency Manager inquiring about a courthouse alarm system. A motion was made by Boutilier and seconded by Bergstad to look into getting alarm buttons for four offices. Motion carried unanimously.

A retirement letter was received from County Recorder, Bonnie Livedalen, effective February 2, 2017. A motion was made by Bergstad and seconded by Boutilier to regretfully accept her resignation. Motion carried unanimously.

A motion was made by Bergstad and seconded by Boutilier to advertise to fill the unexpired term of County Recorder. Motion carried unanimously.

Sheriff Trey Skager met with the board to discuss the SIREN 20/20 proposal for a new trunking system which would require all emergency responder to purchase new radio equipment. Also discussed was the purchase of two new deputy vehicles. Trey discussed quotes received from Westlie Motor and Ryan Chevrolet. A motion was made by Bergstad and seconded by Bruner to allow the purchase of two vehicles from Westlie Motor, not to exceed \$40,000 including transferring the equipment and less the trade in. If we received less than \$7,500 for the trades, the county will retain one vehicle. Motion carried unanimously.

Jason Mayfield and Greg Hagen joined the meeting. They presented an estimate on the Anamoose North microsurface. A motion was made by Bergstad and seconded by Boutilier to hold the interviews for the construction engineering services for the bridge replacement project on March 29th at 9:00 AM. Motion carried unanimously.

The board recessed for lunch.

Sean Lawler from Xcel Energy and Brian Mielke with KLJ met with the board regarding their variance request for the placement of transmission line poles. The public hearing regarding this request was heard at the zoning meeting on January 26th, with no opposition. The zoning board recommended approval the variance request. A motion was made by Bergstad and seconded by Haman to approve the request. Motion carried unanimously.

Velva City Mayor, Scott Blotter, met with the board to discuss the bids on the demolition of the Welo Building. The bids were requested with three options. After reviewing the outcome of the bids, a motion was made by Bergstad and seconded by Boutilier to approve option 3 and to accept the low bid from Dig It Up Backhoe, which would demolish the Welo Building and the structure to the South of it and to give the lots to the Velva Community Development Corporation. The county and city will share the cost of the project 50/50. Motion carried unanimously. This is contingent to the owner of Lot 3 of Block 1 approving the removal of his building.

A motion was made by Boutilier and seconded by Bergstad to donate the maintainer received from the military surplus to Granville City. Motion carried unanimously.

Helen Lehmann met with the board to request hiring part time help until the Recorder position is filled. The board granted permission.

The board discussed cutting edges. A motion was made by Bruner and seconded by Bergstad to order 100 - 4'edges. Motion carried unanimously.

Commissioner Bergstad left the meeting.

A consent motion was made by Boutilier and seconded by Haman to approve the following: Treasurer's Miscellaneous Receipts #41380-41439; the monthly payroll in the amount of \$157,376.88 paid by warrant checks #23323-23386 and Social Service bills totaling \$2,125.09; Clerk of Court Dec County fees \$335.00, State fees \$5,009.73; Sheriffs December statement of fees \$485.00, Sheriffs mileage \$710.00; Deputy reports for Nov/Dec.

The board continued to audit bills until completed. It was then the consensus of the board that the following bills be approved and the proper checks be issued thereof:

Warrant	Paid	Reason	Amount
71794	Acme Tools	Supplies	37.89
71795	4 Acres Welding	Weld v-plow	1,574.49
71796	American Welding & Gas, Inc	Supplies	348.65
71797	Ashley, Jo	Registration, mileage	385.86
71798	AT&T Mobility	Wireless services	783.76
71799	Bearded Moose	Prisoner meal	9.26
71800	Bergstad, Harry	Mileage	157.29
71801	Boutilier, Gregg	Mileage	299.60
71802	Brandt, Kelly	Mileage	95.23
71803	Bruner, Bryan	Mileage	143.38
71804	Burckhard, Jackie	Mileage	135.89
71805	Butler Machinery Company	Blade parts, service	4,779.18

71806	Cenex Fleetcard	Gas	2,488.11
71807	Cottonwood Lake Township	PW 1395	418.30
71808	Cenex Propane Partners	Propane	866.40
71809	Central Trenching, Inc	Snow removal	5,760.00
71810	Dacotah Paper Company	Supplies	159.64
71811	Don's Concrete & Construction	Install culverts	2,325.19
71812	DK Service	Gas, diesel fuel	3,482.70
71813	DMC Wear Parts, LLC	Curved carbide edges	7,952.66
71814	Drake City	Utilities	89.38
71815	Dakota Truck & Farm Service	Tire mount, repair	178.30
71816	Domestic Violence Crisis Center	Collections	55.00
71817	Elmer Jesme Conference of Counties	2017 Dues	75.00
71818	Envision	Gas, diesel fuel	2,746.74
71819	Estate Planning Law Center	Mileage	51.36
71820	Family Market	Supplies	36.90
71821	Farmers Union Oil, Velva	Gas, diesel fuel, propane	7,018.01
71822	GCR Tire Centers	Sheriff's spare tires	498.72
71823	Gooseneck Implement	Parts	10.50
71824	Gravel Products, Inc	Salted sand	873.77
71825	Great Plains Towers, Inc	Granville Tower repair	647.00
71826	Granville City	Propane	379.51
71827	Grilley Township	PW 24	289.00
71828	General Trading Company	Supplies	114.00
71829	Haman, Lorinda	Office chairs	2,319.84
71830	Haman, Austin	Snow removal	235.00
71831	Haman, Brock	Diesel fuel	62.25
71832	Hansen, Jerry	Mileage	141.78
71833	HACTC	Prisoner board	8,976.00
71834	Hardware Hank	Supplies, repairs	675.13
71835	Heringer Lumber	Supplies	48.03
71836	Home of Economy	Supplies	22.77
71837	The Idea Source	Supplies	489.87
71838	Ihry Insurance Agency, Inc	Notary bond	50.00
71839	ITD Information Technology Dept	Data processing	642.85
71840	Joe Mosser Enterprises	Snow removal	17,510.00
71841	Job Service North Dakota	Unemployment benefits	101.08
71842	Johnson, Callie	Supplies, mileage	143.32
71843	Keller, Britney	Office supplies	14.84
71844	Keller, Robert	Snow removal	120.00
71845	Kitzman, Neil	Mileage	246.64
71846	Kuhnenn Trucking & Excavating	Snow removal	2,593.75
71847	LeierGIStics, LLC	Website maintenance	595.88
71848	Lemer, George	Registration, mileage	179.75
71849	Lowe's Printing	Scan documents	1,080.00
71850	Mike's Body Paint & Glass	Battery, towing	740.70
71851	McHenry County Treasurer	Notary application	36.00
71852	Medalen, David	Mileage	160.50
71853	Menards	Supplies	111.06
71854	Mid-States Organized Crime Center	2017 Dues	100.00
71855	Mouse River Journal	Minutes	227.04
71856	Mouse River Oil Company	Gas, diesel fuel, DEF fluid	11,244.70
71857	ND Association of Counties	Special Operations Fund, drug testing	908.45
71858	ND Sheriff's & Deputies Association	2017 Dues	100.00
71859	ND County Treasurer's Association	2017 Dues	200.00
71860	ND Telephone Company	911 Fees	123.74
71861	NDSU Ag Communication	Farm Record books	120.00
71862	North Dakota State University	Computer, envelopes	1,472.74

71863	NDSU Extension Service	Workbooks & binders	650.00
71864	Nodak Store, Inc	Floor jack	79.99
71865	Newman Traffic Signs	Newburg signs	82.46
71866	NDACTVSO	2017 Dues	50.00
71867	Office Depot	File cabinets, supplies	1,655.29
71868	Otter Tail Power Company	Electric service	5,521.96
71869	PharmChem, Inc	Drug tests	50.00
71870	PowerPlan	Blade parts, service	5,876.28
71871	Pro It, LLC	Computer support	200.00
71872	Radisson Hotel Bismarck	Lodging	163.80
71873	Ramada Bismarck Hotel	Lodging	982.80
71874	Rosencrans, Joann	Sand	225.00
71875	Smette Oil Company	Gas, diesel fuel, DEF fluid	5,430.40
71876	Smith, Scott	Registration, mileage	341.32
71877	State Radio Communications	4th Qtr 2016 911, LETS	8,661.60
71878	SRF Consulting Group, Inc	Planning & zoning services	1,063.00
71879	SRT Communications, Inc	Phone, 911 service	1,474.38
71880	Staples Credit Plan	Office supplies	5.36
71881	Towner Health & Wellness	Office rent	480.00
71882	Thomas Law Firm	Services	100.00
71883	Tri-N Propane, Inc	Propane	825.49
71884	Towner City	Utilities	313.12
71885	Towner Foods	Supplies	79.23
71886	Towner Parts & Equipment	Parts, service	502.54
71887	Thomson Reuters-West	Westlaw	153.67
71888	Tractor Supply Credit Plan	Cylinder	119.99
71889	Tuff's University	Subscription renewal	28.00
71890	Uniform Center	Vest	210.00
71891	Verendrye Electric Cooperative	Electric service	579.40
71892	Velva Glass & Auto	Install blade window	148.91
71893	Wald, Rachel	Registration, mileage, lodging	688.23
71894	Ward County Weed Board	Ag Expo booth rent	200.00
71895	Ziegler Oil Company	Diesel fuel, propane	2,556.94

At 4:00 PM, there being no further business to come before the board at this time, a motion was made by Boutilier and seconded by Bruner to adjourn.

ATTEST:

Darlene Carpenter, Auditor

David Medalen, Chairman

**MCHENRY COUNTY
STATE OF NORTH DAKOTA**

**PERMIT AND ROAD USE AGREEMENT
MCHENRY TO MAGIC CITY 115/230KV TRANSMISSION PROJECT**

THIS AGREEMENT (hereafter the "Permit"), entered into this 11th day of July, 2017 by and between McHenry County (referred to as the "County"), and Northern States Power Company d/b/a Xcel Energy (referred to herein as "Company") (the County and the Company may be individually referred to herein as a "Party" or collectively as the "Parties").

WHEREAS, the Company is the constructing a new 115/230kV double circuit electric transmission line, a portion of which located in the County, that will involve transportation, installation, and operation of high-voltage transmission structures (the "Project") adjacent to road rights-of-way that are under the jurisdiction of the County; and

WHEREAS, the Parties wish to memorialize the Company's obligation to repair any damage caused to access roads during construction, to cooperate in developing appropriate signage and traffic management during construction, and to permit use of the right-of-way.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Parties, intending to be legally bound, agree as follows:

1. **Contacts.** The County designates Harry Bergstad, and the Company designates Sean Lawler (612-330-1956 - sean.w.lawler@xcelenergy.com) to be their respective contact persons for purposes of coordinating appropriate signage and traffic management during construction, and to coordinate other aspects of construction.
2. **Restoration.** In the event that construction activities result in any physical damage to County property including but not limited to driveway entrances in the right-of-way, streets, street sub-grade, base, bituminous surface, curbs, utility systems including but not limited to water mains, sewer mains, air release valves, shut-off valves, septic, well, sanitary sewer or storm sewer, the Company agrees to promptly restore such property to as close to its preconstruction condition as is reasonably achievable.
3. **Enforcement.** If the Company fails to promptly restore any physical damage caused by its construction activities, and if, after the County provides notice of the same to the Company the damage is not timely repaired, the County may, in its discretion, commence an action in district court to compel the Company to repair the physical damage or to reimburse the County for costs it incurred in repairing the damage. The court in such action may award reasonable costs and attorneys' fees to the County if it substantially prevails on its claim.

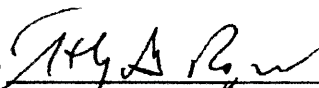
4. **County Roads.**
 - A. The Company and its contractors shall utilize as haul roads only those roads within the County as designated on attached Exhibit A unless otherwise agreed to in writing by the County Engineer.
 - B. The Company will provide the County with pre-construction and post-construction haul road inspections, including any reports, photographs, videos, or other relevant materials gathered while completing the haul road inspections.
 - C. The County will provide instruction as to the appropriate street signs and traffic control signs to be used during construction of the Project. If a road is closed, access to all residences for local traffic and emergency vehicles is required. The Company may restrict a County road to a single lane during daylight hours provided a flag person is present to direct traffic.
 - D. The Company may install reasonable access from the County road to each transmission structure site. The Company must take necessary steps to ensure that the access does not unreasonably restrict storm water drainage.
 - E. In the event County roads are so saturated with water that the Company's or its contractors' equipment damages the County's roads to the point where such roads become a hazard to the traveling public, the County may request the Company to cease operations on such saturated roads until the roads are dry enough to handle Company's and its contractors' traffic without rendering the roads a hazard to the traveling public. If Company persists in using said roads, Company shall be liable for timely repairing any damage to the reasonable satisfaction of the County Engineer.
5. **Indemnity.** Except for the negligent acts of the County, its, agents, employees and contractors, Company shall assume all liability for, and save the Township harmless and indemnify the County from, any and all claims for damages, actions or causes of action arising out of the work to be done pursuant to this Permit.
7. **No Other Permits.** The Parties agree that this Permit is the only permit required for the use of the County's roads and rights-of-way for the construction, operation, maintenance and use of the Project.
8. **Notification Information.** Any notices to the parties herein shall be in writing, delivered by hand or registered mail addressed as follows to the parties at the following address:

County:

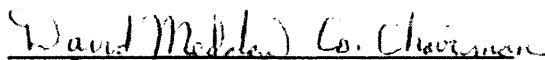
Company:
Sean Lawler
Land Rights Agent
414 Nicollet Mall
Minneapolis, MN 55401

IN WITNESS WHEREOF, the County and the Company have caused this Permit to be duly executed on the day and year first above written.

**NORTHERN STATES POWER
COMPANY,
A MINNESOTA CORPORATION**

By 
Timothy Rogers, Manager
Siting and Land Rights
Xcel Energy Services Inc.
an Authorized Agent for Northern States
Power Company, a Minnesota corporation

MCHENRY COUNTY


By: David Medalen
Its: Commission Chair



By: Darlene Carpenter
Its: County Auditor

EXHIBIT A

County Road 20:

From ND 41 (Main Street) in Velva, ND to 13th Way N in Lebanon Township. Approx. 2 miles.

14th Avenue N:

South of US 52 intersection approx. 1,000 feet.

Right of Way Occupancy Application & Permit

McHenry County, North Dakota

Applicant Information

Applicant Name Northern States Power Co. d/b/a Xcel Energy		Phone Number 612-330-1956	
Address 414 Nicollet Mall	City Minneapolis	State MN	Zip 55401

Facility Information

Please Describe Proposed Facility

Overhead Double Circuit 115/230kV Electric Transmission Line

Legal Description: Township: 153N Range: 80W Section: 24 & 25

If Aerial Construction please fill out the following:

Will there be any structures in County R.O.W. Yes No If Yes, Please indicate how many: _____

Will there be any Down Guys Yes No

Underground Construction:

Number of Cables: _____

Method of Burial Directional Bore Open Trench Other (Please Describe) _____

Pipeline Pressure: _____

Location:

County Road: 20 Along Across Direction N S E W

Proposed Start Date: 8/1/2017 Start Distance from nearest intersecting street: .27 St. Num 13th Way N

End Distance from nearest intersecting street: .27 St. Num 13th Way N

INSTALLATION AND MAINTENANCE:

Installation and maintenance of said facilities on County Right-of-Way shall conform to the following provisions:
Upon completion of construction, maintenance, relocation or removal of facilities, disturbed areas shall be restored to original condition, including the reseeded of area if deemed necessary. Excavation within right-of-way shall be backfilled and compacted to a density equal to that of the adjacent undisturbed soil.

TERMS AND CONDITIONS:

1. Installation, maintenance, relocation and removal of facilities on County right-of-way shall be done in a manner satisfactory to supervision by the County Commissioner or Road Foreman.
2. McHenry County shall not be liable for damage to facilities on County right-of-way resulting from reconstruction or maintenance of the County Road
3. McHenry County cannot be held responsible for injury to persons or damage to property resulting from the installation or location of facilities on County right-of-way.
4. Applicant shall repair or replace right-of-way structures and appurtenances and any existing facility located on, over or under right-of-way which may be damaged as a result of the installation or maintenance of facilities.
5. Applicant shall promptly remove or relocate facilities from right-of-way at applicants expense when requested to do so by the County
6. Directional boring is only method permitted to cross County roads if paved.
7. Applicant shall be responsible for trench settling and must fill and compact settled part of trench at own expense.
8. Proper erosion prevention shall be put in place prior to excavation when deemed necessary by County Commission.
9. Commission approval only to the extent the County has legal rights to and does not affect obligations of company to any other landowner or holders of legal rights.

Commission Chairmain:

David Madalen

Date: 7-6-17

Attested By:

Dalme Coyne

County Auditor

Date: 7-6-17

Right of Way Occupancy Application & Permit

McHenry County, North Dakota

Applicant Information

Applicant Name Northern States Power Co. d/b/a Xcel Energy		Phone Number 612-330-1956	
Address 414 Nicollet Mall	City Minneapolis	State MN	Zip 55401

Facility Information

Please Describe Proposed Facility

Overhead Double Circuit 115/230kV Electric Transmission Line

Legal Description: Township: 152N Range: 79W Section: 31

If Aerial Construction please fill out the following:

Will there be any structures in County R.O.W. Yes No If Yes, Please indicate how many: _____

Will there be any Down Guys Yes No

Underground Construction:

Number of Cables: _____

Method of Burial Directional Bore Open Trench Other (Please Describe) _____

Pipeline Pressure: _____

Location:

County Road: NA - Utility Corridor Along Across Direction N S E W

Proposed Start Date: 8/1/2017 Start Distance from nearest intersecting street: 80ft St. Num ND 97

End Distance from nearest intersecting street: 100ft St. Num ND 97

INSTALLATION AND MAINTENANCE:

Installation and maintenance of said facilities on County Right-of-Way shall conform to the following provisions:
Upon completion of construction, maintenance, relocation or removal of facilities, disturbed areas shall be restored to original condition, including the reseeding of area if deemed necessary. Excavation within right-of-way shall be backfilled and compacted to a density equal to that of the adjacent undisturbed soil.

TERMS AND CONDITIONS:

1. Installation, maintenance, relocation and removal of facilities on County right-of-way shall be done in a manner satisfactory to supervision by the County Commissioner or Road Foreman.
2. McHenry County shall not be liable for damage to facilities on County right-of-way resulting from reconstruction or maintenance of the County Road
3. McHenry County cannot be held responsible for injury to persons or damage to property resulting from the installation or location of facilities on County right-of-way.
4. Applicant shall repair or replace right-of-way structures and appurtenances and any existing facility located on, over or under right-of-way which may be damaged as a result of the installation or maintenance of facilities.
5. Applicant shall promptly remove or relocate facilities from right-of-way at applicants expense when requested to do so by the County
6. Directional boring is only method permitted to cross County roads if paved.
7. Applicant shall be responsible for trench settling and must fill and compact settled part of trench at own expense.
8. Proper erosion prevention shall be put in place prior to excavation when deemed necessary by County Commission.
9. Commission approval only to the extent the County has legal rights to and does not affect obligations of company to any other landowner or holders of legal rights.

Commission Chairman

David Madalen

Date: 7-6-17

Attested By:

Danette Conrath

County Auditor

Date: 7-6-17

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION NON-BUILDING SITUATION

(attach additional information as necessary)

1. GENERAL INFORMATION:

PERMIT APPLICATION # 13 DATE: 3-1-17

Applicant: Northern States Power Company, a Minnesota corporation

Address: 414 Nicollet Mall, Minneapolis MN 55401

Telephone #: 612 330 5835

Contractor: N/A

Address: N/A

Telephone #: N/A

Estimated Cost of project: \$50 M

Description and location of proposed development:

The Project consists of constructing the proposed Magic City Substation in Ward County, and constructing a new 20-mile-long 230/115 kV transmission line on private property between the proposed Magic City Substation and the existing McHenry Substation, in McHenry County (Figure 1). The portion of the project that crosses floodplain is at the Souris River. Floodplain mapping is shown on Figure 2.

The project would remove and replace 5 transmission line structures in the Souris River floodplain. Three of these structures are in the floodway. Existing structures are wood h-frame structures (two wood poles each). The proposed structures are single pole steel and will be placed on 9-foot diameter concrete foundations.

2. FLOODPLAIN DETERMINATION: (fill-in the appropriate information)

Map information:

FIRM Date: 04/03/2015

FIRM Zone: X, AE, FLOODWAY

Project is located in:

100-year floodplain (Flood Fringe): Yes

*Regulatory Floodway: Yes
(*a hydraulic analysis is needed by a registered professional engineer unless determined otherwise by the community, please explain.)

BFE at Development Site: 1506.0 (MSL)

Development will be elevated to: 1507.0 (MSL)

3. **DEVELOPMENT ACTIVITIES:** (check all that apply)

- Fill placement (fill brought in from outside the floodplain)
- Excavation (where subgrade fill is removed from the floodplain)
- Landscaping (cut and fill, fill borrow and placement)
- Construction or maintenance of a dike/levee/floodwall
- Removal of fill, embankment, or dikes
- Watercourse alterations (river, stream, lake - channel modifications, rip-rap)
- Road, street or bridge construction (new, repair or replacement, realignment)
- Drainage improvements (including culvert work)
- Mining (removal of gravel, rock, fill or other natural materials)
- Installation of utilities (water, sewer, pipeline, gas, electric, communications)
- Tower construction (communications tower, antennae etc.)
- Pipeline construction (temporary construction activity)
- Well drilling (water, oil, natural gas etc.)
- Subdivision (new or expansion of existing subdivision)
- Other (please specify) _____

4. **ADDITIONAL INFORMATION, PERMITS OR NOTIFICATION:**
(attach additional information)

- Comments or further explanation of work
- Copies of project description, plans, blueprints, etc.
- Wetlands - will the activity impact identified wetlands?
Notify U.S. Army Corps of Engineers?
- Will the development aggravate flooding elsewhere?
Notify Water Resource District and/or neighboring political entity?

5. **ELEVATION INFORMATION:**

Attach information about the completed project elevations(s) with registered professional engineer or registered land surveyor certifications if part of the project.

6. **ACTION / APPROVAL:**

The proposed development is in conformance with applicable community floodplain standards.

Comments or Conditions of the permit: _____

PERMIT IS APPROVED (Conditioned on receiving as-built information/certification)

Signature: Dale Coyne
(Floodplain Administrator):

Date: 4-7-17

Supplemental Information

Floodplain Assessment

Floodplain impacts are shown below. Replacement of the existing structures will result in an increase of 32 cubic yards of structure foundation in the floodplain. This increase is the result of the need to use concrete foundations that extend higher than the flood elevation.

No fill will be placed in the floodplain as part of the project. Based on the small increase of foundation volume Xcel does not believe a detailed study is required to find that the project would not cause any rise in the flood elevation.

Proposed Structures				
Structure Number	Ground Elevation (Ft)	Flood Elevation (Ft)	Pier Diameter (Ft)	Volume C.Y
0924-031	1503.00	1506.00	9	7.1
0924-032	1503.37	1506.00	9	6.2
0924-033	1501.36	1506.00	9	10.9
0924-034	1504.43	1506.00	9	3.7
0924-035	1503.74	1506.00	9	5.3
Total =				33.3

Existing Structures				
Structure Number	Ground Elevation (Ft)	Flood Elevation (Ft)	Pole Diameter (Ft)	Volume C.Y
0850-25-L	1499.8	1506	1.3	0.30
0850-25-R	1499.46	1506	1.3	0.32
0850-26-L	1505.09	1506	1.3	0.04
0850-26-R	1504.94	1506	1.3	0.05
0850-27-L	1505.45	1506	1.3	0.03
0850-27-R	1504.95	1506	1.3	0.05
0850-28-L	1502.76	1506	1.3	0.16
0850-28-R	1500.79	1506	1.3	0.26
0850-29-L	1504	1506	1.4	0.11
0850-29-R	1504.42	1506	1.4	0.09
Total =				1.42

Floodway Assessment

Similar to the floodplain assessment, the new structures will have larger bases than the old structures. There are three structures that will be located in the floodway. These three structures will have 9 foot diameter foundations. We note that the area of the river crossing is a wooded floodplain approximately 0.68 mile wide. Xcel does not believe that a hydrologic analysis is required to find that the presence of these three poles would result in any reduction of flow through the river floodway.

State Permitting

The project will be permitted under The North Dakota Energy Conversion and Transmission Facility Siting Act (Siting Act) which requires applications for a Certificate of Corridor Compatibility and Route Permit. This process will occur during the first half of 2017.

US Army Corps of Engineers Permitting

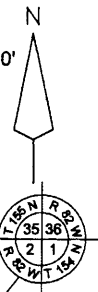
The project will require authorization under Section 404 of the Clean Water Act. Xcel will apply to the Corps of Engineers for permit coverage after the State permit is granted.

PLAT OF OUTLOT 6

of Gov't. Lot 1 and a portion of Gov't. Lot 2, Section 2, Township 154 N, Range 82W

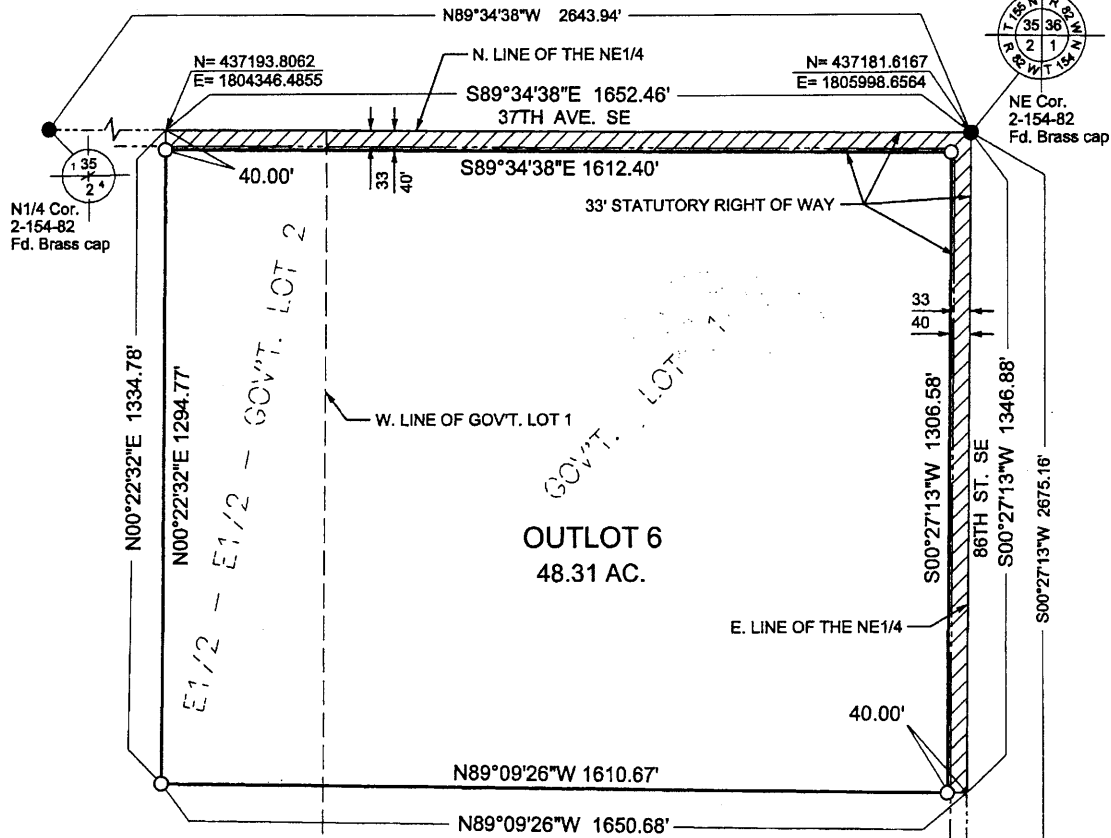
Owner: Reinarts Family ~~LLP~~

Scale: 1"=300'



ACREAGES:

AREA OF OUTLOT 6 : 48.12 ACRES
 AREA IN 40' DEDICATED RIGHT OF WAY: 2.72 ACRES
 TOTAL AREA: 50.84 ACRES



LEGEND

- 33' STATUTORY RIGHT OF WAY
- ▨ 40' DEDICATED RIGHT OF WAY
- SET 18" REBAR WITH CAP #5066
- FOUND MONUMENT (AS SPECIFIED)

SURVEYOR'S NOTES:

COORDINATES SHOWN ARE NAD 83, STATE PLANE
 COORDINATES, U.S. FEET, DERIVED FROM G.P.S.
 OPUS SOLUTIONS.



DESCRIPTION:

Outlot 6 of Gov't. Lot 1 and a portion of Gov't. Lot 2, Section 2, Township 154 N, Range 82W described as follows:

Beginning at the Northeast corner of the Northeast Quarter of Section 2, Township 154 North, Range 82 West, 5th Principal Meridian, Ward County, North Dakota; thence S 00°27'13"W, along the east line of said Northeast Quarter, a distance of 1346.88 to the southeast corner of Government Lot 1 of said Section 2; thence N89°09'26"W, along the south line of said Government Lot 1 and Government Lot 2, a distance of 1650.68 feet; thence N00°22'32"E a distance of 1334.78 feet to the north line of said Northeast Quarter; thence S89°34'38"E a distance of 1652.46 feet to the point of beginning.

Contains 48.31 acres, more or less.

THE UNDERSIGNED, Owners of the within described property, in accordance with the provisions of Sec. 57-0239, Revised Code of 1943, and upon demand of the County Auditor of Ward County, North Dakota, have caused to be made the within and foregoing plat of said land with the lots as herein described, and have caused the same to be placed on record, as provided by law.

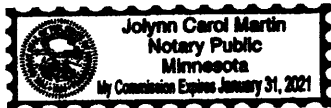
IN TESTIMONY WHEREOF the said owner has here unto set _____ hand _____ and seal this 8 day of JULY, 2016.

[Signature]
GENERAL PARTNER
REINARTS FAMILY, LLLP

Minnesota
State of ~~North Dakota~~
County of Hennepin }ss

On this 8 day of July in the year 2016, before me, a Notary Public in and for said County and State, personally appeared Michael J. Reinart, Partner,

known to me to be the person who described in, and who executed the foregoing instrument and acknowledged that he executed the same.



[Signature]
Notary Public
My Commission Expires: January 31, 2021

SURVEYOR'S CERTIFICATE

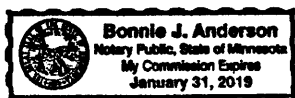
I, Michael E. Cannon, Registered Land Surveyor, do hereby certify that at the request of REINARTS FAMILY, LLLP made the within and foregoing plat and description of the land as herein described, and that the lots, distances, area and location, as indicated on said plat and contained in said description are true and correct.

[Signature]
Registered Land Surveyor



State of Minnesota
County of Hennepin }ss

Subscribed and sworn to before me this 6th day of July, 2016.



[Signature]
Notary Public
My Commission Expires: 1-31-2019

Approved _____, 2016

Approved Aug 2, 2016

[Signature]
Commission Chair

Permit No. 13

Ward County Grading Permit (pending)

Permit No. 14

Ward County Building Permit (not yet applied)

Ward County Road Use Agreement (pending)

Permit No. 16

Ward County ROW Utility Permit (pending)

**BROWN TOWNSHIP
MCHENRY COUNTY
STATE OF NORTH DAKOTA**

**PERMIT AND ROAD USE AGREEMENT
MCHENRY TO MAGIC CITY 115/230KV TRANSMISSION PROJECT**

THIS AGREEMENT (hereafter the "Permit"), entered into this 13th day of June, 2017 by and between Brown Township (referred to as the "Township"), and Northern States Power Company d/b/a Xcel Energy (referred to herein as "Company") (the Township and the Company may be individually referred to herein as a "Party" or collectively as the "Parties").

WHEREAS, the Company is the constructing a new 115/230kV electric transmission line, a portion of which located in the Township, that will involve transportation, installation, and operation of high-voltage transmission structures (the "Project") adjacent to road rights-of-way that are under the jurisdiction of the Township; and

WHEREAS, the Parties wish to memorialize the Company's obligation to repair any damage caused to access roads during construction, to cooperate in developing appropriate signage and traffic management during construction, and to permit use of the right-of-way.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Parties, intending to be legally bound, agree as follows:

1. **Contacts.** The Township designates Bob Chilson, and the Company designates Sean Lawler (612-330-1956 - sean.w.lawler@xcelenergy.com) to be their respective contact persons for purposes of coordinating appropriate signage and traffic management during construction, and to coordinate other aspects of construction.
2. **Restoration.** In the event that construction activities result in any physical damage to Township property including but not limited to driveway entrances in the right-of-way, streets, street sub-grade, base, bituminous surface, curbs, utility systems including but not limited to water mains, sewer mains, air release valves, shut-off valves, septic, well, sanitary sewer or storm sewer, the Company agrees to promptly restore such property to as close to its preconstruction condition as is reasonably achievable.
3. **Enforcement.** If the Company fails to promptly restore any physical damage caused by its construction activities, and if, after the Township provides notice of the same to the Company the damage is not timely repaired, the Township may, in its discretion, commence an action in district court to compel the Company to repair the physical damage or to reimburse the Township for costs it incurred in repairing the damage. The court in such action may award reasonable costs and attorneys' fees to the Township if it substantially prevails on its claim.

4. **Township Roads.**

- A. The Company and its contractors shall utilize as haul roads only those roads within the Township as designated on attached Exhibit A unless otherwise agreed to in writing by the Township.
- B. The Township will provide instruction as to the appropriate street signs and traffic control signs to be used during construction of the Project. If a road is closed, access to all residences for local traffic and emergency vehicles is required. The Company may restrict a Township road to a single lane during daylight hours provided a flag person is present to direct traffic.
- C. The Company may install reasonable access from the Township road to each transmission structure site. The Company must take necessary steps to ensure that the access does not unreasonably restrict storm water drainage.
- D. In the event Township roads are so saturated with water that the Company's or its contractors' equipment damages the Township's roads to the point where such roads become a hazard to the traveling public, the Township may request the Company to cease operations on such saturated roads until the roads are dry enough to handle Company's and its contractors' traffic without rendering the roads a hazard to the traveling public. If Company persists in using said roads, Company shall be liable for timely repairing any damage to the reasonable satisfaction of the Township.

5. **Indemnity.** Except for the negligent acts of the Township, its, agents, employees and contractors, Company shall assume all liability for, and save the Township harmless and indemnify the Township from, any and all claims for damages, actions or causes of action arising out of the work to be done pursuant to this Permit.

7. **No Other Permits.** The Parties agree that this Permit is the only permit required for the use of the Township's roads and rights-of-way for the construction, operation, maintenance and use of the Project.

8. **Notification Information.** Any notices to the parties herein shall be in writing, delivered by hand or registered mail addressed as follows to the parties at the following address:

Township:

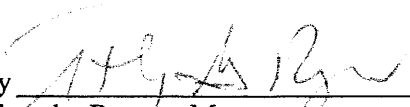
Robert (Bob) Chilson
Township Chairman
3718 13th Ave N
Velva, ND 58790
701-626-7581

Company:

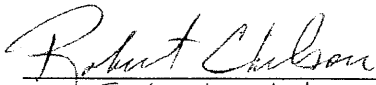
Sean Lawler
Land Rights Agent
414 Nicollet Mall
Minneapolis, MN 55401

IN WITNESS WHEREOF, the Township and the Company have caused this Permit to be duly executed on the day and year first above written.

**NORTHERN STATES POWER
COMPANY,
A MINNESOTA CORPORATION**

By 
Timothy Rogers, Manager
Siting and Land Rights
Xcel Energy Services Inc.
an Authorized Agent for Northern States
Power Company, a Minnesota corporation

BROWN TOWNSHIP


By: Robert Chilson
Its: Chair, board of supervisors



By: ANITA SCHMIDT
Its: BROWN TOWNSHIP CLERK

EXHIBIT A

14th Avenue N:

South of ND 97 intersection approx. 1,000 feet.

**LEBANON TOWNSHIP
MCHENRY COUNTY
STATE OF NORTH DAKOTA**

**PERMIT AND ROAD USE AGREEMENT
MCHENRY TO MAGIC CITY 115/230KV TRANSMISSION PROJECT**

THIS AGREEMENT (hereafter the "Permit"), entered into this 5th day of June, 2017 by and between Lebanon Township (referred to as the "Township"), and Northern States Power Company d/b/a Xcel Energy (referred to herein as "Company") (the Township and the Company may be individually referred to herein as a "Party" or collectively as the "Parties").

WHEREAS, the Company is the constructing a new 115/230kV electric transmission line that will involve the installation of high-voltage transmission structures (the "Project") adjacent to road rights-of-way that are under the jurisdiction of the Township; and

WHEREAS, the Parties wish to memorialize the Company's obligation to repair any damage caused to access roads during construction, to cooperate in developing appropriate signage and traffic management during construction, and to permit use of the right-of-way.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Parties, intending to be legally bound, agree as follows:

1. **Contacts.** The Township designates ^{626-1017 626-2100} Gerald Holke / Leo Heilmann and the Company designates Sean Lawler (612-330-1956 - sean.w.lawler@xcelenergy.com) to be their respective contact persons for purposes of coordinating appropriate signage and traffic management during construction, and to coordinate other aspects of construction.
2. **Restoration.** In the event that construction activities result in any physical damage to Township property including but not limited to driveway entrances in the right-of-way, streets, street sub-grade, base, bituminous surface, curbs, utility systems including but not limited to water mains, sewer mains, air release valves, shut-off valves, septic, well, sanitary sewer or storm sewer, the Company agrees to promptly restore such property to as close to its preconstruction condition as is reasonably achievable.
3. **Enforcement.** If the Company fails to promptly restore any physical damage caused by its construction activities, and if, after the Township provides notice of the same to the Company the damage is not timely repaired, the Township may, in its discretion, commence an action in district court to compel the Company to repair the physical damage or to reimburse the Township for costs it incurred in repairing the damage. The court in such action may award reasonable costs and attorneys' fees to the Township if it substantially prevails on its claim.

4. **Township Roads.**

- A. The Company and its contractors shall utilize as haul roads only those roads within the Township as designated on attached **Exhibit A** unless otherwise agreed to in writing by the Township.
- B. The Township will provide instruction as to the appropriate street signs and traffic control signs to be used during construction of the Project. If a road is closed, access to all residences for local traffic and emergency vehicles is required. The Company may restrict a Township road to a single lane during daylight hours provided a flag person is present to direct traffic.
- C. The Company may install reasonable access from the Township road to each transmission structure site. The Company must take necessary steps to ensure that the access does not unreasonably restrict storm water drainage.
- D. In the event Township roads are so saturated with water that the Company's or its contractors' equipment damages the Township's roads to the point where such roads become a hazard to the traveling public, the Township may request the Company to cease operations on such saturated roads until the roads are dry enough to handle Company's and its contractors' traffic without rendering the roads a hazard to the traveling public. If Company persists in using said roads, Company shall be liable for timely repairing any damage to the reasonable satisfaction of the Township.

5. **Indemnity.** Except for the negligent acts of the Township, its, agents, employees and contractors, Company shall assume all liability for, and save the Township harmless and indemnify the Township from, any and all claims for damages, actions or causes of action arising out of the work to be done pursuant to this Permit.

7. **No Other Permits.** The Parties agree that this Permit is the only permit required for the use of the Township's roads and rights-of-way for the construction, operation, maintenance and use of the Project.

8. **Notification Information.** Any notices to the parties herein shall be in writing, delivered by hand or registered mail addressed as follows to the parties at the following address:

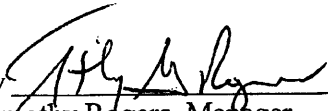
Township:

Company:

Sean Lawler
Land Rights Agent
414 Nicollet Mall
Minneapolis, MN 55401


IN WITNESS WHEREOF, the Township and the Company have caused this Permit to be duly executed on the day and year first above written.


**NORTHERN STATES POWER
COMPANY,
A MINNESOTA CORPORATION**

By: 

Timothy Rogers, Manager
Siting and Land Rights
Xcel Energy Services Inc.
an Authorized Agent for Northern States
Power Company, a Minnesota corporation

LEBANON TOWNSHIP



By:
Its:


By:
Its:

EXHIBIT A

14th Avenue N:

South of US 52 intersection approx. 1,000 feet.

43rd Street N:

West of 13th Lane N approx. 0.5 miles.

13th Lane N:

Between US 52 and 43rd Street N. Approx. 2 miles.

13th Way N:

Between 43rd Street N and Country Road 20. Approx. 1 mile.

VELVA TOWNSHIP
MCHENRY COUNTY
STATE OF NORTH DAKOTA

PERMIT AND ROAD USE AGREEMENT
MCHENRY TO MAGIC CITY 115/230KV TRANSMISSION PROJECT

THIS AGREEMENT (hereafter the "Permit"), entered into this 7 day of June, 2017 by and between Velva Township (referred to as the "Township"), and Northern States Power Company d/b/a Xcel Energy (referred to herein as "Company") (the Township and the Company may be individually referred to herein as a "Party" or collectively as the "Parties").

WHEREAS, the Company is the constructing a new 115/230kV electric transmission line, a portion of which located in the Township, that will involve transportation, installation, and operation of high-voltage transmission structures (the "Project") adjacent to road rights-of-way that are under the jurisdiction of the Township; and

WHEREAS, the Parties wish to memorialize the Company's obligation to repair any damage caused to access roads during construction, to cooperate in developing appropriate signage and traffic management during construction, and to permit use of the right-of-way.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Parties, intending to be legally bound, agree as follows:

1. **Contacts.** The Township designates Jim Hystad, and the Company designates Sean Lawler (612-330-1956 - sean.w.lawler@xcelenergy.com) to be their respective contact persons for purposes of coordinating appropriate signage and traffic management during construction, and to coordinate other aspects of construction.
2. **Restoration.** In the event that construction activities result in any physical damage to Township property including but not limited to driveway entrances in the right-of-way, streets, street sub-grade, base, bituminous surface, curbs, utility systems including but not limited to water mains, sewer mains, air release valves, shut-off valves, septic, well, sanitary sewer or storm sewer, the Company agrees to promptly restore such property to as close to its preconstruction condition as is reasonably achievable.
3. **Enforcement.** If the Company fails to promptly restore any physical damage caused by its construction activities, and if, after the Township provides notice of the same to the Company the damage is not timely repaired, the Township may, in its discretion, commence an action in district court to compel the Company to repair the physical damage or to reimburse the Township for costs it incurred in repairing the damage. The court in such action may award reasonable costs and attorneys' fees to the Township if it substantially prevails on its claim.


4. **Township Roads.**
- A. The Company and its contractors shall utilize as haul roads only those roads within the Township as designated on attached **Exhibit A** unless otherwise agreed to in writing by the Township.
 - B. The Township will provide instruction as to the appropriate street signs and traffic control signs to be used during construction of the Project. If a road is closed, access to all residences for local traffic and emergency vehicles is required. The Company may restrict a Township road to a single lane during daylight hours provided a flag person is present to direct traffic.
 - C. The Company may install reasonable access from the Township road to each transmission structure site. The Company must take necessary steps to ensure that the access does not unreasonably restrict storm water drainage.
 - D. In the event Township roads are so saturated with water that the Company's or its contractors' equipment damages the Township's roads to the point where such roads become a hazard to the traveling public, the Township may request the Company to cease operations on such saturated roads until the roads are dry enough to handle Company's and its contractors' traffic without rendering the roads a hazard to the traveling public. If Company persists in using said roads, Company shall be liable for timely repairing any damage to the reasonable satisfaction of the Township.
5. **Indemnity.** Except for the negligent acts of the Township, its, agents, employees and contractors, Company shall assume all liability for, and save the Township harmless and indemnify the Township from, any and all claims for damages, actions or causes of action arising out of the work to be done pursuant to this Permit.
7. **No Other Permits.** The Parties agree that this Permit is the only permit required for the use of the Township's roads and rights-of-way for the construction, operation, maintenance and use of the Project.
8. **Notification Information.** Any notices to the parties herein shall be in writing, delivered by hand or registered mail addressed as follows to the parties at the following address:

Township:

Company:
Sean Lawler
Land Rights Agent
414 Nicollet Mall
Minneapolis, MN 55401

IN WITNESS WHEREOF, the County and the Company have caused this Permit to be duly executed on the day and year first above written.

**NORTHERN STATES POWER
COMPANY,
A MINNESOTA CORPORATION**

By: 
Timothy Rogers, Manager
Siting and Land Rights
Xcel Energy Services Inc.
an Authorized Agent for Northern States
Power Company, a Minnesota corporation

VELVA TOWNSHIP

Jim Hystad
By:
Its: Twisp Supervisor

Tracy R. Ulland
By:
Its: Clerk/Treasurer

EXHIBIT A

17th Avenue N:

North of 47th Street N approx. 0.35 miles.

18th Avenue N:

48th Street N to 47th St N approx. 1 mile.

45th Street N:

From ND 41 to Sundre Sand and Gravel. Approx. 1.5 miles.

47th Street N:

ND 41 to 18th Ave N approx. 2 miles.

Bison Drive:

From ND 41 to Sundre Sand and Gravel. Approx. 1 mile.

Valley Road:

NW of McHenry County Road 20 approx. 1.15 miles.

NORTH PRAIRIE TOWNSHIP ZONING BOARD MEETING

March 15, 2017

The North Prairie Township Zoning Board meeting was called to order at 2:10 PM by the zoning board chairman Larry Lee. All members of the township zoning board were present (Larry Lee, David Thom, Mark Harness). A total of 11 people were present. Northern States Power/Xcel Energy had 3 representatives at the meeting. The other 8 were either township residents or representing township residents. The rest were Jerry Effertz, Lyle Linrud, Roger Effertz, Brian Dean, and Mike Morey.

The North Prairie Township Zoning Board met today to decide on both a Conditional Use Permit request and a Variance request by Northern States Power/Xcel Energy for a proposed transmission line. This was a follow-up meeting showing the reroute of the proposed line. The permit had been denied at the first meeting on December 19, 2016.

A discussion of the proposed line was held and the Xcel/NSP representatives answered questions. They (Xcel/NSP) still need to get approval from the Public Service Commission after they get approval from us. They did state they would not push for a reroute to the original proposed route at the PSC meeting. Possible construction start would be in the spring of 2018. They stated the old permanent easements on the old line to be replaced would be released after the new easements get approved.

David Thom moved that North Prairie Township accept the written proposal from Xcel Energy/Northern States Power (dated February 17, 2017) and grant both the Conditional Use Permit and the Variance with the stipulation that a) a reclamation clause be added to the proposal and b) a plan be in place for the removal of the old lines. Mark Harness seconded the motion and the motion passed unanimously.

The meeting was adjourned at 3:15 PM

A handwritten signature in cursive script that reads "Mike Morey".

Mike Morey
North Prairie Township
Clerk - Treasurer



Permit No. 20

414 Nicollet Mall
Minneapolis, MN 55401

February 17, 2017

North Prairie Township
Larry Lee
5126 19th Ave. N.
Velva, ND 58790

Re: Xcel Energy McHenry-Magic City 230kV Transmission Line Project

Dear Mr. Lee and North Prairie Township Board,

Northern States Power Company, a Minnesota corporation d/b/a Xcel Energy is planning a transmission line upgrade project to address the area's growing electric demands and ensure ongoing reliability of service. As part of this process, please consider this cover letter and enclosed documents to be applications for a Conditional Use Permit and Setback Variance for the portion of the project located within North Prairie Township, McHenry County, North Dakota. Enclosed for review and consideration are:

1. Supplement to Conditional Use Permit Request
2. Supplement to Setback Variance Request
3. Application fees of \$100
4. Typical Structure Examples (pole sketches)
5. Landowner Contact Information
6. Project Maps

The project is to construct a new 230kV electric transmission line between the existing McHenry Substation outside of Velva, ND, and a planned substation located near the Minot waste water treatment facilities in Ward County. The transmission line will be built along section and quarter section lines in North Prairie Township. Single pole steel structures (poles) capable of carrying the existing 115kV circuit and the new 230kV circuit will be installed. Upon construction completion of the new transmission line, the existing 115kV "H-Frame" structures will be permanently removed.

Xcel Energy has worked closely with impacted property owners to identify and determine the best route through North Prairie Township. All necessary easement rights to construct the project will be acquired prior to construction. A separate Conditional Use Permit and Setback Variance have been approved by the McHenry County Board of Commissioners. Xcel Energy will also obtain North Dakota Public Service Commission and related permits, such as Certificate of Corridor Compatibility and Route Permit for the project.

Xcel Energy makes this application in compliance with the Township's statutory zoning authority, which allows for review of this facility so that it meets the applicable zoning requirements. However, by making this application, Xcel Energy does not waive or subordinate its utility authority to develop and construct the proposed project in order to meet its obligation to provide electrical service.



Permit No. 20
414 Nicollet Mall
Minneapolis, MN 55401

We look forward to continuing to work with you during the processing of this application, through associated public hearings, and completion the overall system improvements in this area.

Please feel free to contact me at 612-330-1956 or sean.w.lawler@xcelenergy.com with any comments or questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sean Lawler', written in a cursive style.

Sean Lawler
Xcel Energy
Land Rights Agent
(612) 330-1956
sean.w.lawler@xcelenergy.com

Enclosures



Supplement to Conditional Use Permit Request
McHenry-Magic City 230kV Transmission Line Project
North Prairie Township, McHenry County, North Dakota

Conditional Use Request

Article 2, Section 6, Subdivision A, of North Prairie Township Zoning Regulations states "all new utilities shall be considered as a conditional use and, as such, shall conform to all requirements put on them by the township board." Therefore, Xcel Energy is applying for a Conditional Use Permit to authorize the construction of the proposed 230kV/115kV transmission line.

Article 2, Section 6, Subdivision A, further states "above ground utilities shall be placed in a manner which will not place undue hardship on normal farming operations and utility placement shall conform with section lines, highway (state and federal) and railroad right-of-ways."

On December 19th, 2016, Xcel Energy requested Conditional Use Permit and Setback Variance approvals to construct the transmission line substantially adjacent to and along the existing 115kV transmission line corridor. The project proposal included the permanent removal of the existing 115kV "H-Frame" structures. The North Prairie Township Board denied Xcel Energy's requests citing failure to conform to section lines as required by Article 2, Section 6, Subdivision A of the North Prairie Township Zoning Regulations.

Xcel Energy has since worked closely with impacted property owners to identify and determine an alternate route through North Prairie Township. The enclosed "Project Maps" depict the proposed transmission line which will be built along section and quarter section lines. Self-supporting single pole steel structures (poles) capable of carrying the existing 115kV circuit and the new 230kV circuit will be installed. Upon construction completion of the proposed transmission line, the existing 115kV "H-Frame" structures will be permanently removed.

A series of alternate route options were both presented by Xcel Energy and proposed by impacted landowners. These routes were deemed unacceptable due to Article 2, Section 6, Subdivision A of the North Prairie Township Zoning Regulations, the five hundred foot avoidance area requirement for an inhabited rural residence set forth by North Dakota Century Code § 49-22-05.1, construction limitations, transmission system outage constraints, requirements of adjacent permit authorities, and landowner comments and feedback.

The intent of North Prairie Township Zoning Regulations is to "preserve and maintain agricultural land for farm use and to promote the development of utility corridors which utilize the least productive agricultural land." In the opinion of Xcel Energy, constructing the proposed transmission line along section and quarter section lines, consolidating the proposed 230kV transmission line with the existing 115kV transmission line and installing steel single pole structures satisfy the requirements and intent of the North Prairie Township Zoning Regulations.



Supplement to Application for Variance
McHenry-Magic City 230kV Transmission Line Project
North Prairie Township, McHenry County, North Dakota

Variance Request

Section 4 Agricultural District (AG), Subdivision F Dimensional Standards, Item 1 Building and Structure Setbacks of North Prairie Township Zoning Regulations require building and structure setbacks of 150 feet from all section lines and the centerline of all township and county roads. Therefore, Xcel Energy is applying for a variance to authorize the placement of steel single poles within the following setback areas.

Structure	Distance	Road	Section Line
0924-072	43'	NA	South, S32, T154N, R80W
0924-073	43'	NA	South, S32, T154N, R80W
0924-074	43'	NA	South, S32, T154N, R80W
0924-075	43'	NA	South, S32, T154N, R80W

The enclosed project map book depicts these structure locations throughout North Prairie Township. The intent of North Prairie Township Zoning Regulations is to "preserve and maintain agricultural land for farm use and to promote the development of utility corridors which utilize the least productive agricultural land." In the opinion of Xcel Energy, the proposed structure locations satisfy the intent of North Prairie Township Zoning Regulations by limiting impacts to agricultural lands.



Permit No. 20
414 Nicollet Mall
Minneapolis, MN 55401

March 27, 2017

North Prairie Township
Larry Lee
5126 19th Ave. N.
Velva, ND 58790

Re: Xcel Energy McHenry-Magic City 230kV Transmission Line Project

Dear Mr. Lee and North Prairie Town Board,

On March 15th, 2017 the North Prairie Town Board approved a Conditional Use Permit and Setback Variance for Xcel Energy's planned double circuit 230/115kV transmission line project. These approvals were conditioned on the submittal of a removal plan for the existing wood H-frame 115kV transmission line and a reclamation plan for the 230/115kV transmission line. Please find the below information in response to those permit conditions.

Existing Wood H-Frame 115kV Transmission Line Removal Plan:

Xcel Energy's will construct new single pole steel structures capable of carrying both the new 230kV and existing 115kV transmission circuits. Once the new 230/115kV transmission line has been constructed and energized, the existing 115kV line and H-frame wooden structures will be removed. All above ground infrastructure will be dismantled and removed and all below ground infrastructure will be removed to a depth of at least four feet below grade. Following removal activities, the right-of-way will be restored to the surrounding land use. Right-of-way restoration will include filling in pole locations with excavated soil from foundation construct and restoring the contours of the landscape. The existing 115kV transmission line easements will be released following the completion of the project.

Double Circuit 230/115kV Transmission Line Reclamation Plan:

If the double circuit 230/115kV transmission line is decommissioned and is not planned for or converted to another use the transmission line and all structures will be removed from North Prairie Township limits. All above ground infrastructure will be dismantled and removed and all below ground infrastructure will be removed to a depth of at least four feet below grade, including concrete foundations. Following removal activities, the right-of-way will be restored to the surrounding land use. Right-of-way restoration will include filling in pole locations with gravel, clean fill and topsoil and restoring the contours of the landscape.

Please feel free to contact me at 612-330-1956 or sean.w.lawler@xcelenergy.com with any comments or questions.

Sincerely,

Sean Lawler
Xcel Energy
Land Rights Agent
(612) 330-1956
sean.w.lawler@xcelenergy.com

**NORTH PRAIRIE TOWNSHIP
MCHENRY COUNTY
STATE OF NORTH DAKOTA**

**PERMIT AND ROAD USE AGREEMENT
MCHENRY TO MAGIC CITY 115/230KV TRANSMISSION PROJECT**

THIS AGREEMENT (hereafter the "Permit"), entered into this 22 day of May, 2017 by and between North Prairie Township (referred to as the "Township"), and Northern States Power Company d/b/a Xcel Energy (referred to herein as "Company") (the Township and the Company may be individually referred to herein as a "Party" or collectively as the "Parties").

WHEREAS, the Company is the constructing a new 115/230kV electric transmission line, a portion of which located in the Township, that will involve transportation, installation, and operation of high-voltage transmission structures (the "Project") adjacent to road rights-of-way that are under the jurisdiction of the Township; and

WHEREAS, the Parties wish to memorialize the Company's obligation to repair any damage caused to access roads during construction, to cooperate in developing appropriate signage and traffic management during construction, and to permit use of the right-of-way.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Parties, intending to be legally bound, agree as follows:

1. **Contacts.** The Township designates (^{LARRY LEE}~~701-226-2297 LEEFARM@SRICOM~~) and the Company designates Sean Lawler (612-330-1956 - sean.w.lawler@xcelenergy.com) to be their respective contact persons for purposes of coordinating appropriate signage and traffic management during construction, and to coordinate other aspects of construction.
2. **Restoration.** In the event that construction activities result in any physical damage to Township property including but not limited to driveway entrances in the right-of-way, streets, street sub-grade, base, bituminous surface, curbs, utility systems including but not limited to water mains, sewer mains, air release valves, shut-off valves, septic, well, sanitary sewer or storm sewer, the Company agrees to promptly restore such property to as close to its preconstruction condition as is reasonably achievable.
3. **Enforcement.** If the Company fails to promptly restore any physical damage caused by its construction activities, and if, after the Township provides notice of the same to the Company the damage is not timely repaired, the Township may, in its discretion, commence an action in district court to compel the Company to repair the physical damage or to reimburse the Township for costs it incurred in repairing the damage. The court in such action may award reasonable costs and attorneys' fees to the Township if it substantially prevails on its claim.

4. **Township Roads.**

- A. The Company and its contractors shall utilize as haul roads only those roads within the Township as designated on attached Exhibit A unless otherwise agreed to in writing by the Township.
- B. The Township will provide instruction as to the appropriate street signs and traffic control signs to be used during construction of the Project. If a road is closed, access to all residences for local traffic and emergency vehicles is required. The Company may restrict a Township road to a single lane during daylight hours provided a flag person is present to direct traffic.
- C. The Company may install reasonable access from the Township road to each transmission structure site. The Company must take necessary steps to ensure that the access does not unreasonably restrict storm water drainage.
- D. In the event Township roads are so saturated with water that the Company's or its contractors' equipment damages the Township's roads to the point where such roads become a hazard to the traveling public, the Township may request the Company to cease operations on such saturated roads until the roads are dry enough to handle Company's and its contractors' traffic without rendering the roads a hazard to the traveling public. If Company persists in using said roads, Company shall be liable for timely repairing any damage to the reasonable satisfaction of the Township.

5. **Indemnity.** Except for the negligent acts of the Township, its, agents, employees and contractors, Company shall assume all liability for, and save the Township harmless and indemnify the Township from, any and all claims for damages, actions or causes of action arising out of the work to be done pursuant to this Permit.

7. **No Other Permits.** The Parties agree that this Permit is the only permit required for the use of the Township's roads and rights-of-way for the construction, operation, maintenance and use of the Project.

8. **Notification Information.** Any notices to the parties herein shall be in writing, delivered by hand or registered mail addressed as follows to the parties at the following address:

Township:

LARRY LEE

701-626-2297

LEE.FARM@SRT.COM

5124 19TH AVE N

VELVA, ND 58790

Company:

Sean Lawler

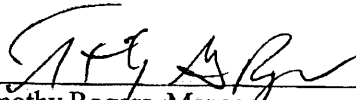
Land Rights Agent

414 Nicollet Mall

Minneapolis, MN 55401

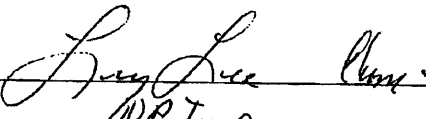
IN WITNESS WHEREOF, the Township and the Company have caused this Permit to be duly executed on the day and year first above written.

**NORTHERN STATES POWER
COMPANY,
A MINNESOTA CORPORATION**

By: 

Timothy Rogers, Manager
Siting and Land Rights
Xcel Energy Services Inc.
an Authorized Agent for Northern States
Power Company, a Minnesota corporation

NORTH PRAIRIE TOWNSHIP

By: 

Its: *NP Temp*

By:
Its:

EXHIBIT A

18th Avenue N:

From 49th Street N to 48th Street N approx. 1 mile.

19th Avenue N:

South of 49th Street N approx. 0.5 miles.

20th Avenue N:

South of 49th Street N approx. 0.5 miles.

49th Street SE:

From 20th Avenue N (County Line) to ND 41. Approx. 4 miles.

NEW PRAIRIE TOWNSHIP
WARD COUNTY
STATE OF NORTH DAKOTA

PERMIT AND ROAD USE AGREEMENT
MCHENRY TO MAGIC CITY 11/5230KV TRANSMISSION PROJECT

THIS AGREEMENT (hereafter the "Permit"), entered into this 28 day of July, 2017 by and between New Prairie Township (referred to as the "Township"), and Northern States Power Company d/b/a Xcel Energy (referred to herein as "Company") (the Township and the Company may be individually referred to herein as a "Party" or collectively as the "Parties").

WHEREAS, the Company is the constructing a new 115/230kV electric transmission line, a portion of which located in the Township, that will involve transportation, installation, and operation of high-voltage transmission structures (the "Project") adjacent to road rights-of-way that are under the jurisdiction of the Township; and

WHEREAS, the Parties wish to memorialize the Company's obligation to repair any damage caused to access roads during construction, to cooperate in developing appropriate signage and traffic management during construction, and to permit use of the right-of-way.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Parties, intending to be legally bound, agree as follows:

1. **Contacts.** The Township designates Robert Whitted, and the Company designates Sean Lawler (612-330-1956 - sean.w.lawler@xcelenergy.com) to be their respective contact persons for purposes of coordinating appropriate signage and traffic management during construction, and to coordinate other aspects of construction.
2. **Restoration.** In the event that construction activities result in any physical damage to Township property including but not limited to driveway entrances in the right-of-way, streets, street sub-grade, base, bituminous surface, curbs, utility systems including but not limited to water mains, sewer mains, air release valves, shut-off valves, septic, well, sanitary sewer or storm sewer, the Company agrees to promptly restore such property to as close to its preconstruction condition as is reasonably achievable.
3. **Enforcement.** If the Company fails to promptly restore any physical damage caused by its construction activities, and if, after the Township provides notice of the same to the Company the damage is not timely repaired, the Township may, in its discretion, commence an action in district court to compel the Company to repair the physical damage or to reimburse the Township for costs it incurred in repairing the damage. The court in such action may award reasonable costs and attorneys' fees to the Township if it substantially prevails on its claim.

4. **Township Roads.**

- A. The Company and its contractors shall utilize as haul roads only those roads within the Township as designated on attached **Exhibit A** unless otherwise agreed to in writing by the Township.
- B. The Township will provide instruction as to the appropriate street signs and traffic control signs to be used during construction of the Project. If a road is closed, access to all residences for local traffic and emergency vehicles is required. The Company may restrict a Township road to a single lane during daylight hours provided a flag person is present to direct traffic.
- C. The Company may install reasonable access from the Township road to each transmission structure site. The Company must take necessary steps to ensure that the access does not unreasonably restrict storm water drainage.
- D. In the event Township roads are so saturated with water that the Company's or its contractors' equipment damages the Township's roads to the point where such roads become a hazard to the traveling public, the Township may request the Company to cease operations on such saturated roads until the roads are dry enough to handle Company's and its contractors' traffic without rendering the roads a hazard to the traveling public. If Company persists in using said roads, Company shall be liable for timely repairing any damage to the reasonable satisfaction of the Township.

5. **Indemnity.** Except for the negligent acts of the Township, its, agents, employees and contractors, Company shall assume all liability for, and save the Township harmless and indemnify the Township from, any and all claims for damages, actions or causes of action arising out of the work to be done pursuant to this Permit.

7. **No Other Permits.** The Parties agree that this Permit is the only permit required for the use of the Township's roads and rights-of-way for the construction, operation, maintenance and use of the Project.

8. **Notification Information.** Any notices to the parties herein shall be in writing, delivered by hand or registered mail addressed as follows to the parties at the following address:

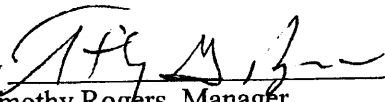
Township:

Company:

Sean Lawler
Land Rights Agent
414 Nicollet Mall
Minneapolis, MN 55401


IN WITNESS WHEREOF, the Township and the Company have caused this Permit to be duly executed on the day and year first above written.

**NORTHERN STATES POWER
COMPANY,
A MINNESOTA CORPORATION**

By: 

Timothy Rogers, Manager
Siting and Land Rights
Xcel Energy Services Inc.
an Authorized Agent for Northern States
Power Company, a Minnesota corporation

NEW PRAIRIE TOWNSHIP

By: _____
Its: 

By: _____
Its: _____

EXHIBIT A

20th Avenue N:

South of 49th Street N approx. 0.5 miles.

37th Avenue SE:

From 97th Street SE to 111th Street SE. Approx. 1 mile.

54th Avenue SE:

From 111th Street SE to Ward County Road 23. Approx. 3 miles.

107th Avenue SE:

From Ward County Road 23 to 20th Avenue N (County Line). Approx. 2 miles.

111th Street SE:

From 37th Avenue SE to 54th Avenue SE. Approx. 1 mile.

125th Street SE:

South of 54th Avenue SE approx. 0.5 miles.

139th Street SE:

North of Ward County Road 16 approx. 0.75 miles.

167th Street SE:

South of Ward County Road 16 approx. 0.75 miles.

NEDROSE TOWNSHIP
WARD COUNTY
STATE OF NORTH DAKOTA

PERMIT AND ROAD USE AGREEMENT
MCHENRY TO MAGIC CITY 115/230KV TRANSMISSION PROJECT

THIS AGREEMENT (hereafter the "Permit"), entered into this 20 day of May, 2017 by and between Nedrose Township (referred to as the "Township"), and Northern States Power Company d/b/a Xcel Energy (referred to herein as "Company") (the Township and the Company may be individually referred to herein as a "Party" or collectively as the "Parties").

WHEREAS, the Company is the constructing a new 115/230kV electric transmission line, a portion of which located in the Township, that will involve transportation, installation, and operation of high-voltage transmission structures (the "Project") adjacent to road rights-of-way that are under the jurisdiction of the Township; and

WHEREAS, the Parties wish to memorialize the Company's obligation to repair any damage caused to access roads during construction, to cooperate in developing appropriate signage and traffic management during construction, and to permit use of the right-of-way.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Parties, intending to be legally bound, agree as follows:

1. **Contacts.** The Township designates J Pat Walsh 701 252 8045, and the Company designates (612-330-1956 - sean.w.lawler@xcelenergy.com) to be their respective contact persons for purposes of coordinating appropriate signage and traffic management during construction, and to coordinate other aspects of construction.
2. **Restoration.** In the event that construction activities result in any physical damage to Township property including but not limited to driveway entrances in the right-of-way, streets, street sub-grade, base, bituminous surface, curbs, utility systems including but not limited to water mains, sewer mains, air release valves, shut-off valves, septic, well, sanitary sewer or storm sewer, the Company agrees to promptly restore such property to as close to its preconstruction condition as is reasonably achievable.
3. **Enforcement.** If the Company fails to promptly restore any physical damage caused by its construction activities, and if, after the Township provides notice of the same to the Company the damage is not timely repaired, the Township may, in its discretion, commence an action in district court to compel the Company to repair the physical damage or to reimburse the Township for costs it incurred in repairing the damage. The court in such action may award reasonable costs and attorneys' fees to the Township if it substantially prevails on its claim.

4. **Township Roads.**

- A. The Company and its contractors shall utilize as haul roads only those roads within the Township as designated on attached **Exhibit A** unless otherwise agreed to in writing by the Township.
- B. The Township will provide instruction as to the appropriate street signs and traffic control signs to be used during construction of the Project. If a road is closed, access to all residences for local traffic and emergency vehicles is required. The Company may restrict a Township road to a single lane during daylight hours provided a flag person is present to direct traffic.
- C. The Company may install reasonable access from the Township road to each transmission structure site. The Company must take necessary steps to ensure that the access does not unreasonably restrict storm water drainage.
- D. In the event Township roads are so saturated with water that the Company's or its contractors' equipment damages the Township's roads to the point where such roads become a hazard to the traveling public, the Township may request the Company to cease operations on such saturated roads until the roads are dry enough to handle Company's and its contractors' traffic without rendering the roads a hazard to the traveling public. If Company persists in using said roads, Company shall be liable for timely repairing any damage to the reasonable satisfaction of the Township.

5. **Indemnity.** Except for the negligent acts of the Township, its, agents, employees and contractors, Company shall assume all liability for, and save the Township harmless and indemnify the Township from, any and all claims for damages, actions or causes of action arising out of the work to be done pursuant to this Permit.

6.7. **No Other Permits.** The Parties agree that this Permit is the only permit required for the use of the Township's roads and rights-of-way for the construction, operation, maintenance and use of the Project.

8. **Notification Information.** Any notices to the parties herein shall be in writing, delivered by hand or registered mail addressed as follows to the parties at the following address:

Township:

PAT WALSH
701-852-8045
2750 42ND ST NE
MINOT, ND 58703

Company:

Sean Lawler
Land Rights Agent
414 Nicollet Mall
Minneapolis, MN 55401

IN WITNESS WHEREOF, the Township and the Company have caused this Permit to be duly executed on the day and year first above written.

**NORTHERN STATES POWER
COMPANY,
A MINNESOTA CORPORATION**

By *Timothy Rogers*
Timothy Rogers, Manager
Siting and Land Rights
Xcel Energy Services Inc.
an Authorized Agent for Northern States
Power Company, a Minnesota corporation

NEDROSE TOWNSHIP

Pat Walsh
By: *Chairman of Nedrose Twp*
Its:

By:
Its:

EXHIBIT A

37th Avenue SE:

From US 52 to 97th Street SE. Approx. 3.66 miles.

SUNDRE TOWNSHIP
WARD COUNTY
STATE OF NORTH DAKOTA

PERMIT AND ROAD USE AGREEMENT
MCHENRY TO MAGIC CITY 115/230KV TRANSMISSION PROJECT

THIS AGREEMENT (hereafter the "Permit"), entered into this 25 day of July, 2017 by and between Sundre Township (referred to as the "Township"), and Northern States Power Company d/b/a Xcel Energy (referred to herein as "Company") (the Township and the Company may be individually referred to herein as a "Party" or collectively as the "Parties").

WHEREAS, the Company is the constructing a new 115/230kV electric transmission line, a portion of which located in the Township, that will involve transportation, installation, and operation of high-voltage transmission structures (the "Project") adjacent to road rights-of-way that are under the jurisdiction of the Township; and

WHEREAS, the Parties wish to memorialize the Company's obligation to repair any damage caused to access roads during construction, to cooperate in developing appropriate signage and traffic management during construction, and to permit use of the right-of-way.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Parties, intending to be legally bound, agree as follows:

1. **Contacts.** The Township designates Todd Hustad, and the Company designates Sean Lawler (612-330-1956 - sean.w.lawler@xcelenergy.com) to be their respective contact persons for purposes of coordinating appropriate signage and traffic management during construction, and to coordinate other aspects of construction.
2. **Restoration.** In the event that construction activities result in any physical damage to Township property including but not limited to driveway entrances in the right-of-way, streets, street sub-grade, base, bituminous surface, curbs, utility systems including but not limited to water mains, sewer mains, air release valves, shut-off valves, septic, well, sanitary sewer or storm sewer, the Company agrees to promptly restore such property to as close to its preconstruction condition as is reasonably achievable.
3. **Enforcement.** If the Company fails to promptly restore any physical damage caused by its construction activities, and if, after the Township provides notice of the same to the Company the damage is not timely repaired, the Township may, in its discretion, commence an action in district court to compel the Company to repair the physical damage or to reimburse the Township for costs it incurred in repairing the damage. The court in such action may award reasonable costs and attorneys' fees to the Township if it substantially prevails on its claim.

4. **Township Roads.**

- A. The Company and its contractors shall utilize as haul roads only those roads within the Township as designated on attached Exhibit A unless otherwise agreed to in writing by the Township.
- B. The Township will provide instruction as to the appropriate street signs and traffic control signs to be used during construction of the Project. If a road is closed, access to all residences for local traffic and emergency vehicles is required. The Company may restrict a Township road to a single lane during daylight hours provided a flag person is present to direct traffic.
- C. The Company may install reasonable access from the Township road to each transmission structure site. The Company must take necessary steps to ensure that the access does not unreasonably restrict storm water drainage.
- D. In the event Township roads are so saturated with water that the Company's or its contractors' equipment damages the Township's roads to the point where such roads become a hazard to the traveling public, the Township may request the Company to cease operations on such saturated roads until the roads are dry enough to handle Company's and its contractors' traffic without rendering the roads a hazard to the traveling public. If Company persists in using said roads, Company shall be liable for timely repairing any damage to the reasonable satisfaction of the Township.

5. **Indemnity.** Except for the negligent acts of the Township, its, agents, employees and contractors, Company shall assume all liability for, and save the Township harmless and indemnify the Township from, any and all claims for damages, actions or causes of action arising out of the work to be done pursuant to this Permit.

7. **No Other Permits.** The Parties agree that this Permit is the only permit required for the use of the Township's roads and rights-of-way for the construction, operation, maintenance and use of the Project.

8. **Notification Information.** Any notices to the parties herein shall be in writing, delivered by hand or registered mail addressed as follows to the parties at the following address:

Township:


*Todd Hustad
8601 107th Ave SE
M. mt, ND 58701*

Company:

Sean Lawler
Land Rights Agent
414 Nicollet Mall
Minneapolis, MN 55401


IN WITNESS WHEREOF, the Township and the Company have caused this Permit to be duly executed on the day and year first above written.

**NORTHERN STATES POWER
COMPANY,
A MINNESOTA CORPORATION**

By: 

Timothy Rogers, Manager
Siting and Land Rights
Xcel Energy Services Inc.
an Authorized Agent for Northern States
Power Company, a Minnesota corporation

SUNDRE TOWNSHIP



By:
Its:



By:
Its:

EXHIBIT A

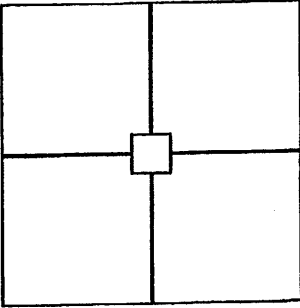
37th Avenue SE:

From US 52 to 97th Street SE. Approx. 3.66 mile.

86th Street SE:

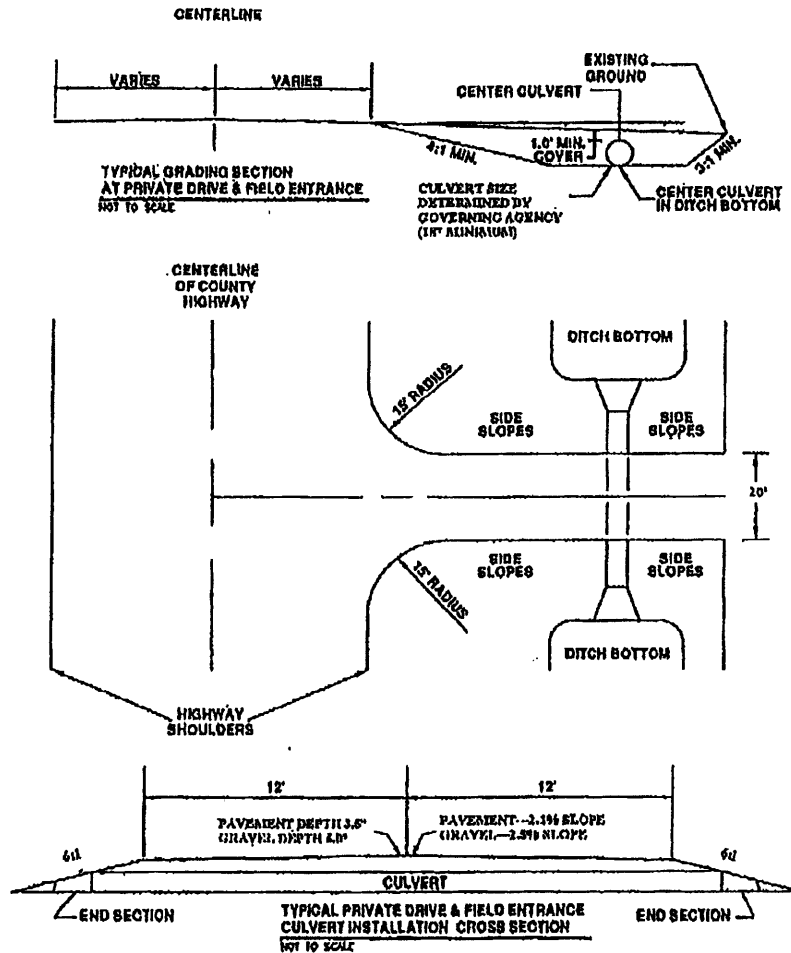
South of 37th Avenue SE approx. 0.15 miles.

Approach Permit

Owner <u>NORTHERN STATES POWER COMPANY</u> Address <u>414 NICOLLET MALL, MNPLS, MN 55401</u> Home Phone <u>NIA</u> Alternate Phone <u>612-330-1956 (SEAN LAWLER)</u> Contractor <u>OWNER</u> Contractor Phone # <u>NIA</u> Township Name <u>SUNDRE</u> Section - Township - Range <u>2-164N-82W</u> Location in Section <u>APPROX. 600' SOUTH OF THE NE CORNER</u> Subdivision <u>PLAT OF OUTLOT 6, GOV'T LOTS 1+2</u> Lot <u>1</u> Block <u>1</u>	Permit # _____ Agency _____ _____ Phone: _____
Approach Type: <input checked="" type="checkbox"/> New <input type="checkbox"/> Improved <input type="checkbox"/> Temporary <input type="checkbox"/> Other _____ Approach Use: <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Field Access <input type="checkbox"/> Other _____ Additional Information _____ <u>APPROACH FOR NEW ELECTRIC SUBSTATION.</u> _____ _____ _____	
Accessing: Township Road <u>86TH ST. SE</u> Approach Width (20 ft min) <u>24'</u> Culvert Required: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Size (18 inch min) _____ CMP Length _____ plus end section Remarks <u>APPROACH TO BE INSTALLED AT HIGH POINT, TOP OF HILL, ALONG</u> <u>86TH ST. SE -- NO CULVERT PLANNED.</u> _____ _____	
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>I, the owner/applicant of the above mentioned property/project, agree to construct the approach for the property noted above, as required by the attached minimum standards and any additional conditions noted above. I also agree that if I don't follow the standards, the Authorizing Agency may construct the approach as needed, or cancel this permit and remove the driveway and charge all costs to the owner/applicant.</p> </div> <div style="width: 50%; text-align: center;">  <p style="font-size: small;">Location Map</p> </div> </div>	
<div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <p><u>[Signature]</u> Owner/Applicant</p> </div> <div style="width: 30%; text-align: center;"> <p><u>6/26/17</u> Date</p> </div> <div style="width: 30%; text-align: center;"> <p><u>[Signature]</u> Governing Agency</p> </div> <div style="width: 30%; text-align: center;"> <p><u>7/25/17</u> Date</p> </div> </div>	
I attest that the above mentioned approach has be constructed and meets the minimum standards and additional conditions listed above.	
<div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <p><u>[Signature]</u> Authorized Signaturo</p> </div> <div style="width: 30%; text-align: center;"> <p><u>[Signature]</u> Governing Agency</p> </div> <div style="width: 30%; text-align: center;"> <p><u>8/1/17</u> Date</p> </div> </div>	

Requirements

1. No work under this application is to be started until the application is approved and the permit is issued.
2. The Owner/Applicant agrees to perform all work in accordance with this Permit, and to indemnify and hold harmless the governing agency, its officers and employees from all liability, judgments, costs, expenses, and claims growing out of damages, or alleged damages, of any nature whatsoever, to any person or property arising out of performance or nonperformance of said work, or the existence of said approaches.
3. The total cost of all construction and maintenance of the work specified shall be borne by the Owner/Applicant, its grantees, successors, and assigns; except that the governing agency will maintain the shoulder of the roadway.
4. It is understood by the Own/Applicant that the governing agency does not assume any responsibility for the removal or clearance of snow, ice or sleet, or the opening of windrows of such material, upon any portion of the approach even though snow, ice or sleet, is deposited or windrowed on said approach by its authorized representative engaged in normal winter maintenance operations.
5. An approach, as referred to in this Permit, shall be the traveled area between the highway roadway-surface and the adjacent right-of-way line. Said approach shall be used only for the purpose of providing entrance to and exit from the Owner/Applicant's property.
6. The granting of this permit does not vest the applicant with the exclusive use of the approach. The governing agency retains the right to diminish and expand the use of the approach as required in the interest of the safety of highway traffic.
7. Where work on or near the traveled roadway is necessary, proper signs, channelizing devices, warning lights, and barricades must be erected to protect traffic, employees, and pedestrians. All traffic control devices and methods shall conform to the Manual on Uniform Traffic Control device (MUTCD).
8. It is understood by the Owner/Applicant that the location, construction, and maintenance of approaches are under the supervision of the governing agency at all times, and that in granting this permit, the governing agency waives none of its powers or rights to direct the removal, relocation, and/or proper maintenance in the future of any approaches within the right-of-way of the governing agency.
9. No foreign material such as dirt, gravel, or bituminous material shall be deposited or left on the road during the construction of approach or installation of drainage facilities. Roadside must be cleaned up after work is completed.
10. Preferred approach spacing is 1 per 1/4 mile, but may be less; however approaches must have sufficient sight distance for the posted speed limit. (65 mph 485ft minimum stopping sight distance and 845ft for a 85mph roadway.)
11. No approach, or improvement constructed on the highway right-of-way shall be altered or relocated without permission of the governing agency.
12. Approach side slopes shall meet the 6:1 minimum standard, unless stated otherwise in the comment section and shall be hand finished and seeded.
13. Proper erosion control and sedimentation devices shall be used as required.
14. No approach shall be considered as completed until checked and approved by the governing agency. Surfacing may be omitted on field entrances if so specified in the application.
15. After approach construction is completed the applicant shall notify the governing agency that the work is completed and is ready for inspection.



AMENDMENT TO UTILITY OCCUPANCY LICENSE NO. 4386001

THIS AGREEMENT, made and entered into as of the 1st day of April, 2017, by and between **SOO LINE RAILROAD COMPANY**, a Minnesota corporation, doing business as Canadian Pacific, hereinafter called "Licensor," and **Northern States Power Company**, a Minnesota corporation dba Xcel Energy, of 414 Nicollet Mall, 6th Floor Minneapolis, MN, 55401 hereinafter called "Licensee",

WITNESSETH:

WHEREAS, the parties hereto entered into that certain written agreement (Utility License No. 4386001), dated March 1st, 2017, covering an overhead transmission line upon Licensor's property in Velva, McHenry County, North Dakota; and

WHEREAS, the parties hereto hereby desire to alter those certain portions of said Utility License agreement as set forth in the following.

NOW THEREFORE, the parties hereto agree as follows:

1. Effective as of the date hereof, page 1, section 2 (a) size/capacity is replaced with:

Eight (8) wires at 115kV/230/kV

This amendment shall in no way alter or amend any of the other provisions in said Utility License agreement except as hereinabove provided.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to Utility License No. 4386001 to be duly executed, as of the day and year first above written.

Northern States Power Company

By  _____

Timothy G. Rogers, Manager Siting & Land Rights
Xcel Energy Services Inc. an Authorized Agent for Northern States
Power Company, a Minnesota corporation d/b/a Xcel Energy

SOO LINE RAILROAD COMPANY

By  _____
Manager Real Estate & Leasing

NOT TO BE RECORDED IN PUBLIC RECORDS

UTILITY OCCUPANCY LicenseNO. 4386001

THIS UTILITY OCCUPANCY License is made effective the 1st day of March, 2017, by and between

1. PARTIES:

SOO LINE RAILROAD COMPANY, a Minnesota corporation, doing business as Canadian Pacific, with its general offices at Canadian Pacific Plaza, 120 South Sixth Street, Minneapolis, MN 55402 (hereinafter referred to as "CP"),

and

Northern States Power Company, a Minnesota corporation dba Xcel Energy, with an office at 414 Nicollet Mall, 6th Floor Minneapolis, MN, 55401 ("Licensee").

2. ACKNOWLEDGEMENT

CP hereby acknowledges and authorizes Licensee to install, maintain and operate the following "Utility Line" across, over and/or under its railroad corridor property and tracks, pursuant to the terms and conditions of this Acknowledgement.

(a) Specifications

Utility Type: overhead transmission line
 Size/Capacity: Eight (8) wires at 115kV
 Installation: 42' over tracks
 Ancillary Items: None

(b) Location

Lat/Long: 48.031611 -100.886335
 PLSS: SE ¼ of the NE ¼ S36, T153N, R80W
 City, County, State: Velva, McHenry County, ND
 Milepost, Subdivision: Mile Post 444.89 on the Portal. (BE# ND12)

as shown upon Appendix 3 attached and incorporated herein (the "Property").

(c) Applicable Fees

Licensee agrees to pay CP the following charges:

- (i) One-time fee of \$5,000 to cover CP's reasonable expenses incurred in reviewing Licensee's notice to occupy CP's right-of-way; and
- (ii) Reimbursement for CP's reasonable and customary charges to have a flagman or watchman present during Licensee's work on the Property, pursuant to Section 10.0(c).

Attachments

The following documents are incorporated in this Agreement:

- (i) Appendix 1 – Contacts
- (ii) Appendix 2 – Insurance Requirements

(d) Work; Acknowledgement To Be Available At Work Site:

- (i) "Work," shall mean any activity conducted by Licensee relative to the installation, maintenance, repair, replacement, relocation, servicing, or removal of the Utility Line which involves entry onto the Property.

- (ii) "Work Site," shall mean the general location of Licensee's activities relative to the Work. Licensee shall keep a copy of this Acknowledgement at the Work Site and shall make it available upon request by any employee or agent of CP.

3.0 Effective Date

The "Effective Date" of this Agreement shall be March 1st, 2017. Notwithstanding the Effective Date, the rights granted to Licensee under this Acknowledgement shall be effective on the later of the Effective Date, or the last date it is executed by a party.

4.0 Term

The rights granted Licensee under this Acknowledgement shall remain until terminated by Licensee by providing CP with thirty (30) days' advanced written notice.

5.0 Mechanics' And Materialmen's Liens

If any mechanics' or material men's liens, or similar lien, is asserted against the Property, or any other property of CP, as a direct consequence of the Work, Licensee shall immediately take steps to satisfy, defend, or obtain the release of such lien, all at Licensee's cost and expense.

6.0 Contact; Notices

(a) Contact Persons

Communications pursuant to this Acknowledgement shall be directed to the contact persons listed in Appendix 1, or their designees. Either party may change this contact information by providing written notice to the other party.

(b) Notices

Except at otherwise provided in this Acknowledgement, all notices shall be in writing and shall be effective upon delivery to the Contact Person for the party notice is being given to. If notice is given by facsimile, the notice shall not be deemed effective until received in legible form.

(c) Notification Prior To Beginning Work

Except in the case of an emergency, Licensee shall notify CP's Engineering contact person by telephone not less than five (5) Working Days before commencing the Work. "Working Days" do not include Saturdays, Sundays, or federally recognized Holidays.

7.0 Permitted & Prohibited Use; Rights of CP

(a) Permitted Use

The use of the Property by Licensee shall be limited to the Work, or such other activity as may be approved by CP in writing. Licensee may permit governmental authorities with jurisdiction of the Work to enter the Property for the purpose of performing applicable governmental functions, including but not limited to inspecting or monitoring the Work.

(b) Prohibited Uses and Activities

Licensee shall not use, occupy or permit the Property to be used for any purpose, activity or improvement except as provided in this Acknowledgement, or as may be approved in writing by CP. Specifically:

- (i) *Advertising* – Licensee shall not permit any advertisements or signs upon the Property (except signs that may be required by applicable governmental law, rule or regulation based on the nature and extent of the Work); and
- (ii) *Use of Hazardous Substances* – Licensee shall not, without prior written disclosure and approval by CP, use or authorize the use of any Hazardous Substances on the Property, including installation of any above or underground storage tanks; subject thereto, Licensee shall arrange at its own cost for the lawful transportation and off-site disposal of any and all Hazardous Substances that it shall use or generate. "Hazardous Substances" shall mean any pollutant, contaminant, hazardous substance or waste, solid waste, petroleum product,

distillate, or fraction, radioactive material, chemical known to cause cancer or reproductive toxicity, polychlorinated biphenyl or any other chemical, substance or material listed or identified in applicable regulatory or environmental laws.

8.0 Reservation and Rights of CP

(a) Railroad Activities Take Priority Over Work

All Work by Licensee shall be subordinate to the reasonable needs of CP in connection with the operation, maintenance and movement of railroad trains and equipment on the Property. Notwithstanding the foregoing, the parties agree to cooperate in good faith to schedule their respective work activity on the Property to minimize each other's delays.

(b) Interference With Prior/Future Use

Licensee right to use the Property to perform the Work is subject to any prior easements, licenses, or permits to use the Property for tracks, roads, walkways, poles, wires, pipelines, sewers, billboards, and other improvements. Furthermore, CP reserves the right to place upon, across, above and/or under the Property additional tracks, roads, walkways, poles, wires, pipelines, sewers, billboards, and other improvements in any manner that does not interfere with Licensee's Work or the Utility Line.

(c) Relocation – Licensee shall relocate the Utility Line, at its sole cost and expense, if CP determines that such relocation is reasonably necessary for the current operation of the railroad tracks.

(d) Monitoring

CP may elect to be present at the Property during the Work and to monitor same, at CP's sole cost and expense.

9.0 Investigation; Compliance with Laws; Safety Requirements

(a) Prior Use – Before performing Work on the Property, Licensee shall obtain consent of all persons or entities that are using or occupying any portion of the Property, if such consent is required by applicable laws and/or regulations. CP will cooperate with Licensee in obtaining such consent from any person or entity that unreasonably withholds consent.

(b) Underground Utilities And Structures

- (i) Licensee shall, pursuant to applicable laws and/or regulations, be responsible for determining the location of all underground utilities (e.g. electric lines, telephone lines, gas lines, steam lines, sewer lines, water lines, fiber optic cable), and utility structures.
- (ii) Licensee shall call the North Dakota One Call at 1-800-798-0555 and make arrangements to have all applicable underground utilities marked prior to commencing any excavation or boring on the Property.
- (iii) CP will cooperate with Licensee to identify the location of underground utilities and utility structures known to CP, but such cooperation shall not relieve Licensee of its obligations under (i) and (ii) above.
- (iv) Licensee shall call CP's Call-Before-You Dig group at (866) 291-0741, no less than five (5) Working Days prior to the date that Work is to be performed, in order for CP to mark its underground facilities on the Property. CP shall mark all its underground facilities on the Property within this five (5) day period to avoid delaying Licensee.

(c) Permits and Acknowledgements; Compliance With Laws

Licensee shall secure, at no expense to CP, any permits or licenses required in connection with the Work, and shall comply with all laws applicable to the Work and the use and operation of the Utility Line, including but not limited to any laws, standards, regulations, and permit requirements relating to environmental pollution and/or contamination, or to occupational health and safety.

(d) Compliance With CP Safety Requirements

While on the Property Licensee shall comply with CP's safety requirements as set forth in the document entitled "*Minimum Safety Requirements for Contractors Working on Railway Property*" and "*CP Safety Rules*," but only if CP has provided copies of these requirements in advance of Licensee beginning its Work.

10.0 Work in Close Proximity to Railroad Operations; Drainage

- (a) Interference With Railroad Operations** – Licensee shall keep CP fully apprised of its proposed activities on the Property so as to prevent any interference with the operations of CP's trains or equipment (or the trains and equipment of others lawfully using the tracks) operating on or near the Property.
- (b) Clearance** – No Work shall be done or any equipment or other obstruction placed over or within 25 feet laterally of the centerline of any track without advanced notification to CP.
- (c) Flagging** – Licensee shall make arrangements with CP for such flagging or watchmen service as CP deems necessary for the protection of railroad traffic. Pursuant to Section 2(c)(2) above, Licensee will compensate CP for its reasonable and customary charges to provide flagging or watchmen. The fact that CP provides such service shall not relieve either party from liability under this Acknowledgement.
- (d) Certain Work Close to Track Not Permitted; Lateral Support**
- (i) Unless otherwise agreed to in writing by CP, excavations, borings, wells, pits, test holes, probe sites, and the like shall not be located closer than 25 feet from the centerline of the nearest railroad track on or adjacent to the Property, nor will Licensee take, or allow any of its employees, agents or contractors to take, any action on the Property that would materially impair the lateral or sub-adjacent support of adjacent lands or railroad tracks.
 - (ii) Unless otherwise agreed to in writing by CP, drilling and excavating equipment (and related equipment) shall not be located closer than 25 feet from the centerline of the nearest railroad track or any railroad track.
 - (iii) In the event that CP permits excavations, borings, wells, pits, test holes, probe sites, and the like in close proximity to tracks, embankments or other features providing lateral support or sub-adjacent support to land or tracks, then notwithstanding anything herein to the contrary, Licensee shall be responsible for designing and constructing, at no cost to CP, any measures required to prevent the collapse, erosion or impairment to said land or tracks.
- (e) Storm Water** – Licensee shall not, unless otherwise agreed to in writing by CP, make any changes to the Property that would either increase the historic flow rate of storm water from the Property, or create an impediment to the historic flow of storm water from the Property.
- (f) Fences** – If the parties agree that it is necessary for the safety of the railroad operations, employees and/or the public, for a fence to be erected during the Work, Licensee agrees to erect such fencing at its sole cost and expense. Following completion of the applicable Work, Licensee shall remove such fencing and fill and tamp any post holes with clean material.

11.0 Conduct

- (a) Property Clean, Safe and Free From Nuisance** – During any Work Licensee shall not permit the existence of any nuisance (as defined pursuant to Wisconsin law) upon the Property, and shall at all times during the Work keep the Property in a clean, safe and sanitary condition free from any unreasonable accumulations of waste materials, debris or refuse.
- (b) Release of Hazardous Substances** – Licensee shall not cause or allow its employees, agents or contractors to cause, the release of any Hazardous Substances on or from the Property.

- (c) **Response Actions** – Licensee shall promptly take all necessary action in response to a release or potential release of Hazardous Substance at the Property, caused by Licensee or attributable to any act and/or omission of Licensee (or its employees, agents or contractors), that could:
 - (i) give rise to any claim under applicable environmental laws and/or regulations;
 - (ii) cause a public health or workplace hazard; or
 - (iii) create a nuisance (as defined pursuant to Wisconsin law).
- (e) **Release or Suspected Release** – Licensee shall promptly notify CP of any actual or suspected release of any Hazardous Substances on or from the Property, regardless of the cause of the release.
- (f) **Notices, Summons, Citations, etc.** – Licensee shall promptly provide CP with copies of any all summons, citations, directives, information inquiries or requests, notices of potential responsibilities, notices of violations or deficiencies, orders or decrees, claims, causes of action, complaints, investigations, judgments, or other communications, written or oral, actual or threatened, received by Licensee that is applicable to the Property or Work, including but not limited to notices from the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, or other federal, state or local agency or authority, or any other entity or individual, concerning:
 - (i) any release of a Hazardous Substance on or from the Property;
 - (ii) the imposition of any lien on the Property; or
 - (iii) any alleged violation of or responsibility under any applicable environmental law.

12.0 Liability

- (a) **Damage to Tracks, Facilities, and Equipment** – If any tracks, facilities, or equipment owned, used, or maintained by CP are damaged in connection with the Work or Licensee's use or operation of the Utility Line, CP shall repair (or arrange for the repair of) such damage and Licensee shall pay the full cost of such repair within 30 days after receipt of CP's invoice.
- (b) **Assumption of Risk** – Licensee is fully aware of the dangers of working on and about railroad property and railroad operations and knowingly and willingly assumes the risk of harm (e.g., injury to or death of persons and damage to or destruction of property) that may occur while on and about the Property. Without in any way limiting the scope of the preceding sentence, Licensee assumes the risk that the Utility Line and any Work or appurtenances thereto on the Property may be disturbed, damaged, or destroyed by CP or third persons, and except where arising from the intentional malicious conduct of CP or its employees, agents, or invitees, Licensee shall not make any claim against CP on account of same, even if such disturbance, damage, or destruction arises from the negligence of CP or its employees, agents, or invitees. Licensee assumes full responsibility for protecting its installations and personal property from theft and vandalism while such installations and personal property are on the Property.
- (c) **Indemnity** – As used in this Acknowledgement, "Indemnified Parties" means the following businesses and their officers, directors, employees, and agents: Soo Line Railroad Company, Delaware and Hudson Railroad Corporation, Inc., Dakota, Minnesota and Eastern Railroad Corporation, Soo Line Corporation, Canadian Pacific Railway Company, Wyoming Dakota Railroad Properties, Inc., any company doing business as Canadian Pacific, and any railway company or contractor operating trains or rail equipment upon railway tracks in close proximity to the Property or the Utility Line, together with the parent companies, subsidiaries, and affiliated companies of all of the foregoing.

To the maximum extent permitted by applicable law, Licensee shall release, indemnify and defend the Indemnified Parties (as defined below) against all claims, demands, actions, suits, judgments, losses, damages (including, but not limited to, lost profits and other actual, compensatory, direct, consequential, punitive, and exemplary damages), expenses, penalties, fines, sanctions, court costs, litigation costs, and attorneys' fees (collectively, Claims) arising out

of or relating to any destruction of (or damage to) any property or natural resource, any injury to (or death of) any person, or any environmental pollution or contamination whatsoever, where such destruction, damage, injury, death, pollution, or contamination actually or allegedly arises in whole or in part from the presence of the Utility Line on the Property or any Work connected therewith, or any action or omission of Licensee while on or about the Property pursuant to this Acknowledgement, or the exercise by Licensee of the rights and permissions granted by this Acknowledgement.

13.0 Insurance – Prior to commencing any Work, Licensee shall procure and maintain in effect (or cause its contractor to procure and maintain in effect) the insurance coverages set forth in Appendix 2.

14.0 Miscellaneous Provisions

- (a) **Amendment/Waiver** – This Acknowledgement cannot be amended, modified or revised unless done in writing and signed by CP and Licensee. No provision may be waived except in a writing signed by both parties. The failure by a party to enforce any provision of this Acknowledgement or to require performance by the other party will not be construed to be a waiver, or in any way affect the right of either party to enforce such provision thereafter.
- (b) **Compliance with Law** – Both parties agree to comply with all applicable federal, state and local laws, orders, rules and regulations ("Laws").
- (c) **Assignment; Binding Effect** – This Acknowledgement may not be assigned by either party without first obtaining the written consent from the other party. The terms and conditions contained in this Acknowledgement will bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.
- (d) **Entire Agreement** – This Acknowledgement and the appendix attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Acknowledgement. Except as otherwise stated in this Acknowledgement, each party shall bear its own fees and expenses (including the fees and expenses of its agents, brokers, representatives, attorneys, and accountants) incurred in connection with the negotiation, drafting, execution and performance of this Acknowledgement and the transactions it contemplates.
- (e) **Governing Law** – This Agreement will be governed by the laws of the state in which the Property is located, without regard to conflicts of law.
- (f) **Interpretation** – Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) appendix are an integral part of this Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement; (viii) the singular use of words includes the plural where appropriate and (ix) if any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force if the overall purpose of the Agreement is not rendered impossible and the original purpose, intent or consideration is not materially impaired.

- (g) **Survival.** Any provisions of this Acknowledgement relating to indemnification shall survive the termination or expiration hereof. In addition, any terms and conditions contained in this Acknowledgement that by their sense and context are intended to survive the termination or expiration of this Agreement shall so survive.
- (h) **Singular and Plural** – As used in this Acknowledgement, the singular form of a word includes the plural form of that word, and vice versa, and this Acknowledgement shall be deemed to include such changes to the accompanying verbiage as may be necessary to conform to the change from singular to plural, or vice versa.
- (i) **Duplicate Copies and Counterparts** – This Acknowledgement may be executed in counterparts, which together shall constitute one and the same. The parties may execute more than one copy of this Acknowledgement, each of which shall constitute an original.

THE PARTIES HERETO have executed this Acknowledgement as evidence of their agreement to the terms contained herein.

Northern States Power Company,
a Minnesota corporation dba Xcel Energy

By: 

Pamela Jo Rasmussen, Senior Manager
Siting & Land Rights
Xcel Energy Services Inc.
an Authorized Agent for Northern States
Power Company, a Minnesota corporation
d/b/a Xcel Energy

SOO LINE RAILROAD
d/b/a Canadian Pacific

By: 

Printed Name: David Drach

Its: Director Real Estate U.S.

Date: March 24, 2017

This document is:
correct as to form and content;
appropriate approvals secured;
ready for execution.

SDK

APPENDIX 1**1. RAILROAD CONTACTS:****A. Real Estate: Processing of Acknowledgement, fees**

Address	Contact Info	
Canadian Pacific Real Estate US – Utility Permits 900 Canadian Pacific Plaza 120 South Sixth Street Minneapolis, Minnesota 55402	Phone:	(612) 904-6143
	Fax:	(612) 904-6147
	Email:	Real Estate - US@cpr.ca

B. Risk Management: Submittal of Insurance Coverage Renewals.

Address
Canadian Pacific Risk Management Department 7550 Ogdendale Road Calgary, Alberta T2C 4X9

C. Engineering: Application, Review of Technical Specifications

Address	Contact Info	
Canadian Pacific 900 Canadian Pacific Plaza 120 South Sixth Street Minneapolis, MN 55402	Name:	Otis Goodman
	Title:	Supervisor Public Works - US West
	Phone:	(630) 860-4117
	Fax:	
	Email:	Otis_Goodman@cpr.ca

D. Scheduling of Flagging:

The following must be contact no **less than 5 Working Days** (excludes Saturday, Sunday and holidays observed by CP) prior to date on that Work is to be performed.

Otis Goodman, contact info in Section C.

E. Utility Locates

CP: CP Call-Before-You-Dig 1-866-291-0741: Must be called no **less than 5 Working Days** (excludes Saturday, Sunday and holidays observed by CP) prior to date on that Work is to be performed.

Local: The Licensee must also contact the local **Call-Before-You-Dig** service
The national number for utility locating is 8-1-1.

In North Dakota, the utility locating service is called North Dakota One Call and, in addition to dialing 8-1-1, can be reached at 1-800-798-0555 or at <http://www.ndonecall.com/utilities/>.

CP does not guarantee the accuracy of the foregoing information. The Acknowledgement is ultimately responsible for contacting and complying with local utility locating requirements and determining the proper contacts or manner of doing so.

2. LICENSEE CONTACTS:

A. Licensee Information

Licensee:	Northern States Power Company, a Minnesota corporation dba Xcel Energy		
Type of Entity:		State of Formation:	MN
Mailing Address:	414 Nicollet Mall MP-6A Minneapolis, MN 55401		
Delivery Address: (if different)			
Billing Address (if different)			
Telephone No.	612.330.6471	Web Site:	

B. Licensee Contact

THIS IS THE INDIVIDUAL TO WHOM CP SHOULD SEND DOCUMENTS AND OTHER CORRESPONDENCE.

Name:	Christopher Berglund	Address. Write "Same" if same as above
Company:	Same	
Title:	Senior Land Rights Agent	
Office Number:	Same	
Fax Number		
Mobile Number:	612.964.8827	
Email:	Christopher.d.berglund@xcelenergy.com	

C Construction Contact

THIS IS THE INDIVIDUAL TO WHOM CP SHOULD INTERACT IN CONNECTION WITH ANY WORK WITH THE UTILITY LINE

Name:		Address.
Company:		
Title:		
Office Number:		
Fax Number:		
Mobile Number:		
Email:		

D. Additional Contact
Optional information if needed.

Contact for:		
Name:		Address.
Company:		
Title:		
Office Number:		
Fax Number:		
Mobile Number:		
Email:		

E. Emergency Contact:
In the event that there is an emergency affecting the Utility Line, is there an additional contact that CP could attempt to reach?

Name:	
Office Number:	
Mobile Number:	
Email:	

APPENDIX 2**Insurance Requirements****1. General Insurance Requirements.**

The following requirements apply to all insurance coverages required by the Acknowledgement.

- 1.1. **Insurance is a prerequisite for the Work:** Licensee shall not enter the Property until all of the required policies have been approved in writing by CP.
- 1.2. **Evidence of Insurance.** No less than Five (5) Working Days before Licensee or its contactor enters the Property or commences any Work, CP must receive and approve the certificates of insurance evidencing the insurance coverages set forth in this Appendix 2.
- 1.3. **Thirty Day Notice of Cancellation.** All policies shall be endorsed to require that CP be given not less than 30 days written notice in advance of cancellation or termination of the policy or of any change or amendment to the policy that restricts or reduces coverage. Notices shall be sent to the addresses set forth in Appendix 1 for the Real Estate Department and also the Risk Management Department.
- 1.4. Except for Automobile and Workers Compensation policies, each policy of insurance shall include the following endorsement upon the certificate, or within the binder, policy or other contractual evidence signed by the insurer and in form acceptable to CP:

"It is agreed that the policy or policies of insurance evidenced by this certificate covers the liability assumed by the insured in connection with work pursuant to Utility Occupancy Acknowledgement No. 4386001 dated March 1st, 2017 by and between Licensee and Soo Line Railroad Company encompassing an overhead power line crossing at Velva, McHenry County, ND, including work upon railroad property, within railroad right of way and in close proximity operating railroad tracks."

- 1.5. **Cross Liability (severability of interest endorsements).** Except for automobile coverage, all policies, shall be endorsed with a cross liability (severability of interest) endorsement in substantially the following form:

"This policy shall insure each person, firm, or corporation hereunder in the same manner and to the same extent as if a separate policy had been issued to each, but the inclusion herein of more than one insured shall not operate to increase the limits of the insurance company's liabilities."

- 1.6. **Additional Insureds: Waiver of Subrogation.** The policy shall be endorsed to add the following as additional insureds:
Soo Line Railroad Company, Soo Line Corporation and Canadian Pacific Railway Company, (collectively, the Protected Parties), and its associated or affiliated subsidiaries (and the Directors, Officers, employees, agents and trustees of all of the foregoing). The policy shall also be endorsed to waive subrogation rights against the Protected Parties.
- 1.7. **Coverage amounts subject to increase.** The Parties agree that Utility Lines can have a long useful life and that the insurance coverage limits initially set forth in this Acknowledgement may not be adequate during entire life of the Utility Line. Accordingly, the insurance coverages set forth herein shall be subject to change relative change in CP standards. The Acknowledgement shall not be required to comply with increased coverage limits until CP provides the Licensee with 90 days advance written notice of a change in coverage limits, or following notice by CP in connection with any Work by the Licensee that requires flagging.

- 1.8 Renewals. Evidence of renewal of insurance coverage should be sent to the Risk Management contact information set for in Appendix 1.
- 1.9 Copies of Policies. CP reserves the right to demand a certified copy of any required policy, and Licensee or its contractor shall provide such copy within 10 Working Days (excludes Saturdays, Sundays and holidays observed by CP) after CP shall give notice to Licensee demanding such copy.
- 1.10 Insurers to be acceptable to CP. All of the required policies shall be issued by insurers acceptable to CP and shall be acceptable to CP in both form and substance
- 1.11 Policies obtained by Contractors and Sub-contractors. If any commercial general liability and automobile policies are procured by Licensee's contractor, Licensee and CP shall be added as an additional insured party under such policies. If the contractor uses a subcontractor, the contractor shall provide the required policies and shall, in addition, either require the subcontractor to provide insurance equivalent to that described herein or obtain endorsements to the contractor's policies naming the subcontractor as an additional insured party. If a subcontractor uses a sub-subcontractor, the sub-subcontractor shall either provide insurance equivalent to that required of the subcontractor or shall be named as an additional insured party on the contractor's or subcontractor's policies.
- 1.12 Lapse in insurance coverage. In the event any required policy lapses, CP shall have the option of immediately suspending Work or use of the Utility Line. Additionally, any lapse in required insurance shall be deemed a breach of the Acknowledgement and grounds for termination as provided in the Acknowledgement.
- 1.13 Insurance does not limit liability. The insurance coverage obtained pursuant to section 13 and its sub-sections shall in no manner restrict or limit the liabilities assumed by Licensee under this Acknowledgement.
- 1.14 Insurance shall be primary. The insurance coverage required to be maintained pursuant to the Acknowledgement shall be primary and not excess of any other insurance that may be available. Unless otherwise provided, all insurance coverage shall take place in the form of an occurrence basis policy and not a claims made policy.

2. Required Insurance Policies and Limits of Coverage.

Licensee shall obtain and maintain in full force and affect the following policies of insurance:

2.1. Commercial General Liability Insurance – Normal Operation of Utility Line:

So long as the Utility remains in place pursuant to this Acknowledgement in the status of normal operation, Licensee shall obtain Commercial general liability insurance with a policy limit of not less than \$5,000,000 per occurrence for bodily injury, death, and damage to or destruction of property (including the loss of use thereof).

The policy will include those policy extensions commonly referred to as broad form completed operations, blanket contractual, contractor's protective, excavation, collapse, and underground damage. The policy shall by its wording or by endorsement insure those liabilities and obligations which this Acknowledgement contemplates will be assumed by Licensee, including liabilities and obligations to indemnify the Indemnified Parties (defined in Section 12(c)). The policy, also by its wording or by endorsement, shall not exclude operations on or in the vicinity of the railway right of way.

2.2 Automobile Liability and Property Damage Insurance:

During any period in that Work is to be performed on the Utility Line, Licensee or its contractor performing the Work, shall obtain Automobile liability and property damage insurance in an amount not less than \$2,000,000, personal injury and property damage

combined, covering the ownership, use, and operation of any motor vehicles and trailers licensed for use on public highways which are owned, non-owned, leased, or controlled by Licensee or its contractor and used in connection with the Work.

2.3. Workers Compensation Insurance:

During any period in that Work is to be performed on the Utility Line, Licensee or its contractor performing the Work, shall obtain Workers compensation insurance which shall be in strict accordance with the requirements of the most current and applicable state Workers Compensation insurance laws, and Employers' Liability insurance including Occupational Disease insurance with limits of not less than One Million Dollars (\$1,000,000) each accident/each employee, and where appropriate coverage under said policies to be extended for liability under the FELA, USL&H Act, and the Jones Act. The Licensee shall, before any services are commenced under this Acknowledgement submit written evidence that it has obtained full Workers Compensation insurance coverage for persons whom it employs or may employ in carrying out the services under this Acknowledgement. CP and its associated or affiliated companies (and the Directors, Officers, employees, agents and trustees of all of the foregoing) shall be waived of any and all subrogation in the event of injury, death, losses, incidents, claims and potential claims.

2.4. Railroad Protective Liability Insurance:

During any period in that Work is to be performed on the Utility Line, Licensee or its contractor performing the Work, shall obtain Railroad protective liability insurance (occurrence form), in the name of Soo Line Railroad Company and Canadian Pacific Railway Company, with a single limit (personal injury and property damage combined) of not less than Five Million Dollars (\$5,000,000) per occurrence and Ten Million Dollars (\$10,000,000) per aggregate. The Services shall not commence until such time as the evidence of coverage is received and approved by CP. Railroad Protective Liability insurance shall only be applicable during the Term.

2.5. Contractor's Pollution Liability Insurance:

Including naming CP as an additional insured, with a limit of not less than Five Million Dollars (\$5,000,000) for any one loss or pollution event. Coverage shall not be limited to, claims for bodily injury, death, damage to property including the loss of use thereof, clean-up costs and associated legal defense expenses arising from pollution conditions caused by, and/or exacerbated by, services performed by the contractor on behalf of CP. The policy shall be endorsed to contain a blanket contractual liability endorsement. If this policy is written on a "claims-made" basis it shall remain in effect for no less than twelve (12) months after the expiry or termination of this agreement.

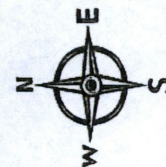
APPENDIX 3



**CANADIAN
PACIFIC**

Engineering Department
11306 Franklin Ave.
Franklin Park, IL 60131

4386001 EXHIBIT "A"



Location: Velva, ND
Utility Owner: Xcel Energy
Type: OH Power Line
Engineering Division: Bensenville
Subdivision: Portal
Mile Post: 444.89

Lat 48.031611 Lon-100.886335

CU 444.89 Portal

Xcel Energy is proposing to install an 115kV OH Transmission Line at a minimum vertical clearance of 42' over the tracks to be located on the SE ¼ of the NE ¼ of section 36, township 153N, range 80W in the City of Velva, McHenry County, ND at mile post 444.89 on the Portal Subdivision, per CPR Specifications. 09/23/2016

52

14th Ave N



Cenex Pipeline, LLC • Post Office Box 909 • Laurel, Montana • 59044-0909 • Phone (406) 628-5200

Encroachment No: 20170809	Date: August 9, 2017
Encroaching Party: Xcel Energy	Contractor performing work:
Location: NE ¼ of NW ¼ of Section 25 T154N R81W, Ward County, North Dakota	Locate Ticket #:

Cenex Pipeline, LLC; herein referred to as Company, presents no objection to your proposed Project encroaching upon Cenex Pipeline, LLC's pipeline(s) as approved by Company's field representative, subject to the following conditions:

1. The encroaching party shall request underground utility locates through the State underground utility notification center, in accordance with local, State and Federal laws. Company will not inspect or approve any work, until a locate notice (Dial 811) has been issued by the notification center.
2. Upon completion of the notification request, the encroaching party must make phone contact with Kyle Byre by phone at 701-852-1666 at least four (4) working days prior to any construction, subsequent maintenance, or repair so that Company may provide on-site monitoring during all construction activities that occur within the Company's right-of-way. If listed Company representatives cannot be reached, then notify Manager, Pipeline Operations or Manager, Engineering at phone (406) 628-5200.
3. No excavation or construction related activity that could impact Company pipeline(s) is permitted over Company pipeline(s) or within its right of way unless Encroaching Party provides Company the notice required in the preceding paragraph. The location of the pipeline(s) shall be identified prior to the beginning of any mechanical excavation work. If the location of the pipeline(s) is not known, only hand or vacuum excavation will be allowed within the Company right-of-way until the pipeline is located. Based on circumstances at the Encroachment site, Company's representative has the authority to determine the extent of hand excavation required. However, absent special permission from Company's Representative, no mechanized ditching or excavation shall be allowed within five (5) feet of the extremities of the pipelines. **IN ANY EVENT, ALL EXCAVATION WITHIN TWO (2) FEET OF THE PIPELINE(S) MUST BE ACCOMPLISHED BY HAND OR VACUUM EXCAVATION.** Where hand or vacuum excavation is required, the Encroaching Party must provide adequate manpower to perform that work. Sub-grading, grading, and placement of fill over Company's pipeline(s) will require the approval of Company's field representative as to method and extent.
4. Full access must be maintained to the pipeline(s) at all times. Stockpiling including spoil, or topsoil over the pipeline(s), is not permitted, unless approved by the Company representative.
5. Blasting within the immediate vicinity of Company's right of way shall be conditionally allowed. The contractor, planning blasting within 200 feet (61 m) of a pipeline or when scaled distance values at the pipeline are less than 50 feet, must give advance notification of proposed blasting and submit a completed blasting plan to be reviewed by Company, prior to the commencement of any blasting operations. A Company inspector is required to be on site to observe all drilling, loading, and blasting reports. All blasting operations must meet the requirements of this standard as well as Occupational Health and Safety regulations contained in CFR Title 29, Part 1926, Subpart U-Blasting and Use of Explosives.
6. Any erosion control measures required for your development including temporary diversion dikes, sediment traps, silt fences, gravel outlets, and emergency spillways that may influence or contribute to the degradation of

Company's right of way will require the approval of Company's field representative as to equipment and method. Under no circumstances shall water be impounded on the pipeline(s) right of way.

7. Upon request of the Encroaching Party, landowner or their agents, Company will determine the approximate location of its pipeline(s) and right of way limits; however, in doing so, Company makes no warranty as to the accuracy of the locations and measurements given. Company also cannot provide assurance that permanent line markers are positioned directly over its pipeline(s).
8. Original vegetation on Company's right of way shall not be disturbed except in areas of approved construction and approved equipment and approved equipment crossings. Highly visible plastic fence or other approved temporary barricade will be required at contractor's expense along Company's easement boundaries if Company's field representative deems it necessary, to ensure that contractor traffic does not travel over the pipeline(s).
9. Permanent structures are not permitted on the right of way. Manholes, junction boxes, valve boxes, fire hydrants, service meters, storm drain inlets, and utility poles are considered permanent structures. Encroaching Party's transmission lines, which will be strung between utility poles placed outside of Company's right of way, are not considered permanent structures under this paragraph and are expressly allowed for purposes of this agreement. No fences or temporary structures shall be allowed in the right of way without the express approval of Company's representative. Temporary structures include items such as signs, trailers, temporary power poles, etc.
10. Heavy equipment shall not be permitted to operate over the pipeline(s) unless earth adding has been provided as necessary in Company's determination to protect the pipeline. Temporary equipment crossings over the pipeline(s) are permitted with six (6) vertical feet of cover over the pipeline(s) at selected locations as approved by Company's field representative. Depth of pipe as determined by test holes will determine amount of temporary fill required. Colored sheets of plastic shall be placed under the temporary fill at original grade so that original grade will not be disturbed when temporary fill is removed. No equipment or vehicles may be parked on the right of way. No material may be stored on the right of way.
11. Only low growing ornamental type shrubbery with a maximum expected height of four (4) feet shall be allowed within the right of way. In addition, no pipeline marker shall be obscured from public view.
12. Relocation or removal of Company's pipeline markers shall not be permitted without the approval of a Company representative. Pipeline markers made unusable or damaged shall be repaired or replaced at the Encroaching Party's expense.
13. Parallel occupancy of the pipeline's easement with road right of way, or utilities is not permitted. Crossing shall be as near as perpendicular angle to the easement as practical.
14. All proposed roadways and parking areas should maintain a minimum of six (6) feet from top of pipe to top of finished road surface and three (3) feet minimum vertical cover in open drainage or road ditches. Company's Engineering Department may increase these minimum requirements as determined by a stress analysis of the pipe, and other variable conditions and factors. Company may consider concrete protection slabs, per Company's specifications as an option, to be installed to protect the pipeline(s).
15. All pipeline(s) within the proposed Encroachment, will be excavated and visually inspected, with the possible reapplication of pipeline coatings applied by the Company and/or an approved Company contractor, at the full expense of the Encroaching party. Company requires that the pipeline coating system be evaluated for suitability of service in relation to the proposed Encroachment. Should Company deem that the coating system is insufficient due to increased soil stresses or other factors, Company will, at the Encroaching Party's expense, upgrade the pipeline coating to accommodate the proposed Encroachment. Company will backfill the inspected area to its standard, and

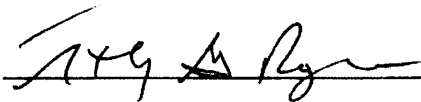
will not be held responsible for adequacy of compaction. (NOTE: A Pipeline Accommodation Agreement for reimbursement to Company shall be executed between Company and the Encroaching Party prior to such adjustment.)

16. Cover above the pipeline(s) shall be a minimum of four (4) feet, and in general a maximum for six (6) feet, unless approved by Company's Manager, Engineering.
17. The burning of trash, debris, etc. shall not be permitted upon Company's right of way or easement area.
18. Should any damage occur to the herein permitted Encroachment, as a result to Company's exercising any of its rights at any time, Company will not be responsible for said damage or repairs therefor except to the extent the damage was caused by Company's gross negligence or intentional misconduct.
19. Encroaching Party agrees to defend and hold Company harmless from all loss, cost, or other expense, including personal property and bodily injuries, whether occurring to it or to Company, or the respective employees, agents and servants of either, or to third parties, which are proximately caused by or arise from the grossly negligent or intentionally wrongful installation, maintenance, or repair of the herein permitted works, with the exception of claims due to the sole negligence of Company.
20. This approval is granted only to the extent of and with no actual or implied diminishment of Company's rights and interests and without either express or implied warranty.
21. Fences shall be constructed with gates sufficiently large enough to allow for ingress and egress of Company's personnel and equipment. Fence posts shall be installed at least five (5) feet from any pipeline, with the approval of the field representative.
22. If the approximate location of the pipeline(s) is required, steel prod bars, shovels, and electrical sending devices may be used by Company's field personnel only. It should be noted that these methods are only approximate and can be misleading. The exact location of the pipeline(s) can best be found with potholing.
23. If potholing is required to determine the exact location, and elevation, of the pipeline (s) the Encroaching Party agrees to notify the undersigned at least four (4) working days in advance, so that he may provide a Company field representative to be at the site. This representative must be present during the potholing for the protection of the pipeline(s), and for the common verification of its location. All costs for this potholing, and incurred by the Company or other design criteria stemming from the potholing is the responsibility of the Encroaching Party.
24. Encroaching Party agrees that its rights are junior in priority to Company rights. For its part, Company agrees that it shall use reasonable, best efforts to not require the Encroaching Party's transmission lines to be moved as a result of Company's exercise of its rights or work within its right of way.
25. Excavation or grading which might result in erosion or which could render the right of way inaccessible shall not be permitted unless the Encroaching Party agrees to restore the area and provide protection to Company's pipeline(s). Any erosion control measures within the right of way must not interfere with Company's pipeline(s). Any erosion control measures within the right of way including but not limited to diversion dikes, sediment traps, silt fences, gravel outlets, water bars, wattles and emergency spillways will require approval of the Company representative, as to the equipment and method.
26. If construction on the aforementioned project does not commence within one calendar year of the date of this letter of agreement, the Company shall have the right to reconsider the conditions and privileges herein granted, and has full right to alter same.

- 27. The Encroaching Party agrees that all work on Company's right of way or easement area shall be performed in a Workmanlike manner and in compliance with all applicable government and industry standards and practices.
- 28. Upon failure of the Encroaching Party, owner or his agents to comply with any of the terms of this agreement, Company reserves the right to revoke this Agreement in its entirety, prevent same from continuing any activity in violation of the terms if this Agreement or its rights under its easements and prior agreements and make any necessary repairs or adjustments to its pipeline(s) or right of way with its own or contract forces at the expense of the party requesting the Encroachment.
- 29. Company will have the option of installing video surveillance camera(s) to provide continuous monitoring of its facilities.
- 30. Should your project be ongoing in close proximity to Company's pipeline(s) for an extended period of time, it will be necessary for a Company representative to be on-site for a significant duration. Accordingly, since such extended inspection time is outside the scope of Company's normal operations, you will be billed for that representative's time. Company's policy is to bill for any inspection time in excess of a total of 10 hours (cumulative for that project) and for any evening, weekend, or holiday.
- 31. This agreement approves only the work specified above. All utility Encroachments will need to be approved by the local representative for Company.

Please signify acceptance of the above conditions by proper official in the space provided below, and return. Company will notify you to proceed with your project upon receipt of the signed original.

ACCEPTED AND AGREED TO THIS 14th DAY OF August 2017



(Signature)

NORTHERN STATES POWER COMPANY D/B/A XCEL ENERGY (Company)

BY: TIMOTHY G. ROGERS

(Name, typed or printed)

TITLE: MANAGER, SETTING AND LAND RIGHTS

(Typed or printed)