

APPENDIX E

Agency Notification Letters and Responses

PROJECT NOTIFICATION LETTER & MAILING LIST

August 2, 2023

VIA U.S. Mail

[xxxxx]
[xxxxx]
[xxxxx]

**Re: HVDC Modernization Project
Oliver County, North Dakota
Request for Agency Comments**

Dear [xxxxx]:

Minnesota Power (also the “Company”) is proposing to construct it’s HVDC Modernization Project (also the “Project”). The Project involves modernizing and upgrading the Company’s existing High Voltage Direct Current (“HVDC”) terminals, located near the existing Center HVDC Substation in Center, North Dakota. This proposed project will require the construction of a new HVDC terminal, the new Nelson Lake substation and new transmission line segments to interconnect into the local electric grid. The proposed Project is regulated by the North Dakota Public Service Commission (“Commission”) and Oliver County.

The HVDC Modernization Project is needed to modernize aging HVDC assets and improve the reliability of the transmission system. The existing HVDC terminal has operated for 45 years, 15 years in excess of its 30-year design life. In recent years, Minnesota Power has experienced HVDC terminal outages due to failures in the control system, power electronics, transformers, and other components. The orderly replacement of the HVDC terminal equipment is prudent to ensure continuous, efficient delivery of energy resources into the future.

In order to modernize the HVDC terminal and implement the latest technology, new electrical infrastructure will need to be constructed on new site near the existing HVDC terminal. The Project would require construction in two phases as described below and as shown on the attached map.

- Phase 1: Nelson Lake Substation
- Phase 2: HVDC Terminal Modernization

Phase 1, the new Nelson Lake Substation, will include the following components:

- New Nelson Lake Substation 230 kV yard
- One 1.5-mile-long 230 kV transmission line
- Four 230 kV transmission lines, each less than one mile in length

Phase 2, the HVDC Terminal Modernization, will interconnect to Phase I of the Project and include the following components:

- HVDC Converter Station and 345 kV yard
- One 3.5-mile-long 345 kV transmission line



AN ALLETE COMPANY

- 345-230 kV AC transformer yard to interconnect to the existing system

The Project is currently scheduled to be in service in 2027.

The purpose of this letter is to provide notification of the Project per Section 69-06-01-05 of the North Dakota Administrative Code. We are soliciting input from your agency or entity regarding any sensitive resources, current or planned development, or property interests your agency or entity may have in or around the Study Area that Minnesota Power should consider as it moves forward with Project development. In addition, we ask that you provide information regarding any applicable permits that may be required from your office.

Minnesota Power respectfully requests your response within 30 days of receipt of this letter. Copies of all correspondence received in response to this letter will be included with the PSC application. Minnesota Power requests the consideration of the Study Area shown within the legal descriptions provided in the table below and on the attached map.

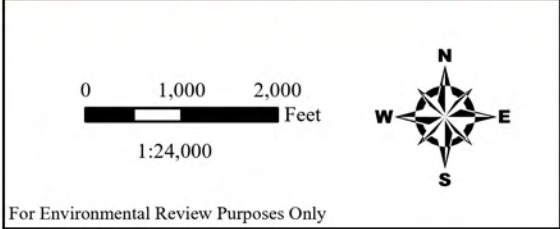
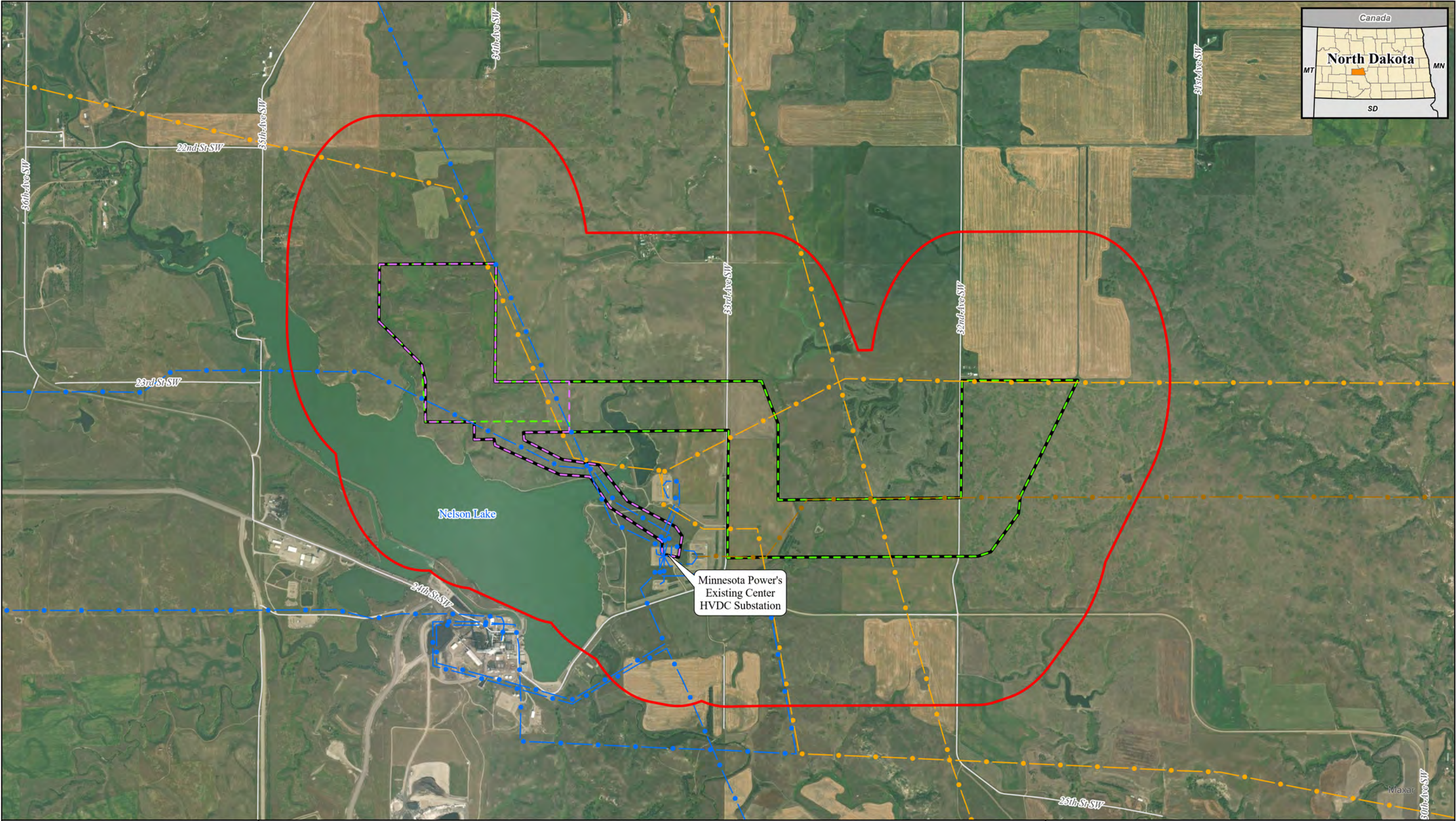
Project Study Area		
Township	Range	Section
142 North	83 West	26, 27, 28, 29, 32, 33, 34, 35
141 North	83 West	2, 3, 4

Please let us know if you have information we should consider in evaluating the Project. If you would like to request a meeting, please contact me at (218) 355-3515 or dmccourtney@mnpower.com. I am happy to discuss any questions that you may have about the Project.

Sincerely,

Daniel McCourtney
Manager- Environmental
Strategic Initiatives
ALLETE Inc.

Enclosure: Project Overview Map



HVDC Modernization Project
Minnesota Power
Project Area
Oliver County, North Dakota

- Minnesota Power's Project Study Area
- Proposed Project Corridor
- Phase 1, Nelson Lake Substation
- Phase 2, HVDC Terminal Modernization
- Existing 230 kV DC Line
- Existing +/-250 kV DC Line
- Existing 345 kV DC Line

No.	Agency per NDAC Section 69-06-01-05	Contact and Address	Alternative Contact and Address
1	Aeronautics commission	North Dakota Aeronautics Commission P.O. Box 5020 Bismarck, ND 58502-5020	
2	Attorney general	North Dakota Office of Attorney General 600 E. Boulevard Ave., Dept. 125 Bismarck, ND 58505-0040	
3	Department of agriculture	North Dakota Department of Agriculture 600 E. Boulevard Ave., Dept. 602 Bismarck, ND 58505-0020	
4	State department of health	North Dakota Department of Health 600 E. Boulevard Ave., Dept 301 Bismarck, ND 58505-0200	
5	Department of human services	North Dakota Department of Human Services 600 E. Boulevard Ave., Dept. 325 Bismarck, ND 58505-0250	
6	Department of labor and human rights	North Dakota Department of Labor and Human Rights 600 E. Boulevard Ave., Dept. 406 Bismarck, ND 58505-0340	
7	Department of career and technical education	North Dakota Department of Career and Technical Education 600 E. Boulevard Ave., Dept. 270 Bismarck, ND 58505-0610	
8	Department of commerce	North Dakota Department of Commerce 1600 E. Century Ave., Suite 6 P.O. Box 2057 Bismarck, ND 58502-2057	
9	Energy infrastructure and impact office	Energy Infrastructure and Impact Office North Dakota Department of Trust Lands 1707 North 9th Street P.O. Box 5523 Bismarck, ND 58506-5523	
10	Game and fish department	North Dakota Game and Fish Department 100 North Bismarck Expressway Bismarck, ND 58501-5095	
11	Industrial commission	North Dakota Industrial Commission 600 E. Boulevard Ave., Dept. 405 Bismarck, ND 58505-0840	
12	Governor's office	Office of Governor Doug Burgum 600 E. Boulevard Ave. Bismarck, ND 58505-0001	
13	Department of transportation	North Dakota Department of Transportation 608 E. Boulevard Ave. Bismarck, ND 58505-0700	
14	State historical society of North Dakota	State Historical Society of North Dakota 612 E. Boulevard Ave. Bismarck, ND 58505-0830	
15	Indian affairs commission	North Dakota Indian Affairs Commission 600 E. Boulevard Ave. 1st Floor - Judicial Wing, Rm. #117 Bismarck, ND 58505	
16	Job service North Dakota	Job Service North Dakota P.O. Box 5507 Bismarck, ND 58506-5507	
17	Department of trust lands	North Dakota Department of Trust Lands 1707 North 9th Street P.O. Box 5523 Bismarck, ND 58506-5523	

No.	Agency per NDAC Section 69-06-01-05	Contact and Address	Alternative Contact and Address
18	Parks and recreation department	North Dakota Parks and Recreation Department Liberty Memorial Building 604 E Boulevard Ave, Dept. 750 Bismarck, ND 58505	
19	Natural resources conservation service	Natural Resources Conservation Service North Dakota NRCS State Office 220 East Rosser Avenue Federal Building, Room 270 Bismarck, ND 58501	
20	State water commission	If submitting your request by mail please address accordingly: Department of Water Resources C/O Project Review 900 East Boulevard Ave Bismarck, ND 58505	If submitting your request by email, please send to the following: dwrprojectreview@nd.gov
21	United States department of defense	United States Department of Defense 1400 Defense Pentagon Washington, DC 20301-1400	United States Department of Defense ND Joint Forces Headquarters PO Box 5511 Attn: State Director for North Dakota Bismarck, ND 58501-7926
22	United States fish and wildlife service	United States Fish and Wildlife Service North Dakota Field Office 3425 Miriam Avenue Bismarck, ND 58501-7926	
23	United States army corps of engineers	United States Army Corps of Engineers North Dakota Regulatory Office 3319 University Drive Bismarck, ND 58504	
24	Federal aviation administration	Federal Aviation Administration United States Department of Transportation 800 Independence Ave, SW Washington, DC 20591	Federal Aviation Administration 2301 University Drive #23A Bismarck, ND 58504
25	The county commission of the county or counties where the project is located	Oliver County Commission Oliver County Courthouse P.O. Box 188 115 West Main Center, ND 58530-0188	
26	North Dakota transmission authority	North Dakota Transmission Authority c/o North Dakota Industrial Commission 600 E. Boulevard Ave. Dept. 405 Bismarck, ND 58505-0840	
27	North Dakota pipeline authority	North Dakota Pipeline Authority c/o North Dakota Industrial Commission 600 E. Boulevard Ave. Dept. 405 Bismarck, ND 58505-0840	
28	Department of environmental quality	North Dakota Department of Environmental Quality 4201 Normandy Street Bismarck, ND 58503-1324	
29	North Dakota geological survey	North Dakota Geological Survey 600 E. Boulevard Ave. Bismarck, ND 58505-0840	
30	North Dakota forest service	North Dakota Forest Service State Headquarters - Molberg Center 307 - 1st Street East Bottineau, ND 58318-1100	North Dakota Forest Service Bismarck Field Office 916 East Interstate Ave. Suite #4 Bismarck, ND 58503-1227
31	Federal bureau of land management	Bureau of Land Management North Dakota Field Office 99 23rd Ave. West, Suite A Dickinson, ND 58601	

No.	Agency per NDAC Section 69-06-01-05	Contact and Address	Alternative Contact and Address
32	Military aviation and installation assurance siting clearinghouse	Military Aviation and Installation Assurance Siting Clearinghouse 3400 Defense Pentagon, Room 5C646 Washington, DC 20301-3400	
33	Twentieth airforce ninety-first missile wing	91st Missile Maintenance Squadron Minot Air Force Base 300 Minuteman Dr. Minot AFB, ND 58705	Twentieth Air Force 91st Missile Wing Minot Air Force Base 196 Missile Avenue Minot AFB, ND 58705-5003
34	Minot air force base	Minot Air Force Base 445 Peacekeeper Pl. Minot AFB, ND 58705-5006	Minot Air Force Base 196 Missile Avenue Minot AFB, ND 58705-5003
35	Grand Forks air force base	Grand Forks Air Force Base 319th Air Base Wing Public Affairs Office 701 Eielson St, Bldg. 607 Rm 211 Grand Forks AFB, ND 58204	Grand Forks Air Force Base 226 Steen Blvd Bldg. 812 Grand Forks AFB, ND 58205

**North Dakota Game and Fish Department
(NDGFD)**



MEETING NOTES

Date:

June 4, 2024

To:

Dan McCourtney, Minnesota Power

From:

Dan Flo, Merjent

Subject:

Meeting Notes, NDGFD Call, HVDC Modernization Project

Meeting Date & Location:

June 4, 2024; Microsoft Teams Meeting

Meeting Attendees:

John Schumacher, North Dakota Game and Fish Department

Elisha Mueller, North Dakota Game and Fish Department

Dan McCourtney, Minnesota Power

Mandy Bohnenblust, Merjent

Dan Flo, Merjent

Meeting Notes:

Minnesota Power met with John Schumacher and Elisha Mueller via Microsoft Teams video conference call on June 4, 2024, to provide updates regarding the HVDC Modernization Project and answer any questions the NDGFD may have.

Mr. McCourtney provided a Project overview and updates regarding the status of environmental field surveys and state and local permitting. The North Dakota Public Service Commission Certificate of Corridor Compatibility / Route Permit application and Oliver County Conditional Use Permit application will be submitted in summer 2024, and there is no federal permit or NEPA review anticipated for the Project.

Ms. Mueller asked whether the Project area included "unbroken native prairie," perhaps in the area of the eastern station facilities. Mr. McCourtney responded that that area is likely to have been used for both livestock grazing and cultivation of crops in the past. Ms. Mueller clarified NDGFD's position that grazing does not result in "broken native prairie," but a history of cultivation for crops does result in "broken native prairie." Mr. McCourtney asked what would happen if, hypothetically, Project facilities were located in areas of unbroken native prairie. Ms. Mueller responded the agency does not require

offsets or other mitigation. NDGFD's primary goal is to protect unbroken native prairie by making recommendations to avoid or minimize impacts. Any measures to avoid impacts to unbroken native prairie would be voluntary.

Ms. Mueller also asked whether the Project area might include habitat for the Dakota skipper and recommended coordination with the US Fish & Wildlife Service. Mr. McCourtney responded that the Project had conducted surveys for Dakota skipper habitat and has been actively coordinating with the USFWS.

Mr. Flo mentioned that NDGFD had received a project introduction letter from the Project in August of 2023, and Ms. Bohnenblust reviewed the NDGFD response letter dated August 28, 2023, in which the agency stated that "(w)e do not believe this project will have any significant adverse effects on wildlife or wildlife habitat provided these recommendations are implemented where appropriate and disturbed areas are reclaimed to pre-project conditions."

Action Items:

N/A

Attachments:

N/A

From: [Dan Flo](#)
To: glink@nd.gov
Cc: [Daniel McCourtney \(MP\)](#); [Mandy Bohnenblust](#); gfreeman@nd.gov; bkreft@nd.gov
Subject: RE: Minnesota Power's HVDC Modernization Project - Request for Meeting (NDGFD)
Date: Friday, May 31, 2024 2:09:00 PM
Attachments: [image001.png](#)
[HVDC Modernization Project NDGFD Response 28 Aug 2023.pdf](#)
[Fig 1 MP HVDC ND Overview.pdf](#)

Good Afternoon,

I would like to follow up on my previous message requesting a meeting with the North Dakota Game and Fish Department. Minnesota Power would appreciate an opportunity to provide NDGFD with updates on local and state permitting efforts and environmental studies for the HVDC Modernization Project in Oliver County. Would any NDGFD staff be available for a brief call next week (June 3-7)? Please feel free to suggest a day and time that would work for you.

We appreciate your time and look forward to talking with you.

Sincerely,

Dan Flo
Principal Consultant
612.924.3982 direct
612.812.0069 mobile
dan.flo@merjent.com



1 Main Street SE, Suite 300
Minneapolis, MN 55414
612.746.3660 main
www.merjent.com

From: Dan Flo
Sent: Monday, May 20, 2024 9:35 AM
To: glink@nd.gov
Cc: Daniel McCourtney (MP) <dmccourtney@mnpower.com>; Mandy Bohnenblust <mandy.bohnenblust@merjent.com>
Subject: Minnesota Power's HVDC Modernization Project - Request for Meeting (NDGFD)

Good Morning,

In August, 2023, your agency received a letter from Dan McCourtney at Minnesota Power introducing the company's proposed HVDC Modernization Project. The Project involves modernizing and upgrading the existing HVDC terminal, located near the existing Center HVDC Converter in Oliver County, North Dakota. The proposed Project will include the construction of a new HVDC terminal

and three electric station yards, and transmission line segments to interconnect the new terminal with the local electric grid. An overview map of the proposed Project is attached (Figure 1).

Your response to Mr. McCourtney's letter is attached. On behalf of Minnesota Power and the Project, I would like to schedule a Microsoft Teams meeting to provide updates on the state and local permitting process and to address to the extent possible any questions your agency may have at this time. I have provided several possible dates and time ranges for this meeting in the table below. If any of these times work for you, please respond to this email with the preferred date and time and I will send a meeting invitation. If you would like to schedule the meeting later than May 29th, I would be happy to provide additional times or please feel free to suggest a date and time that suits your schedule.

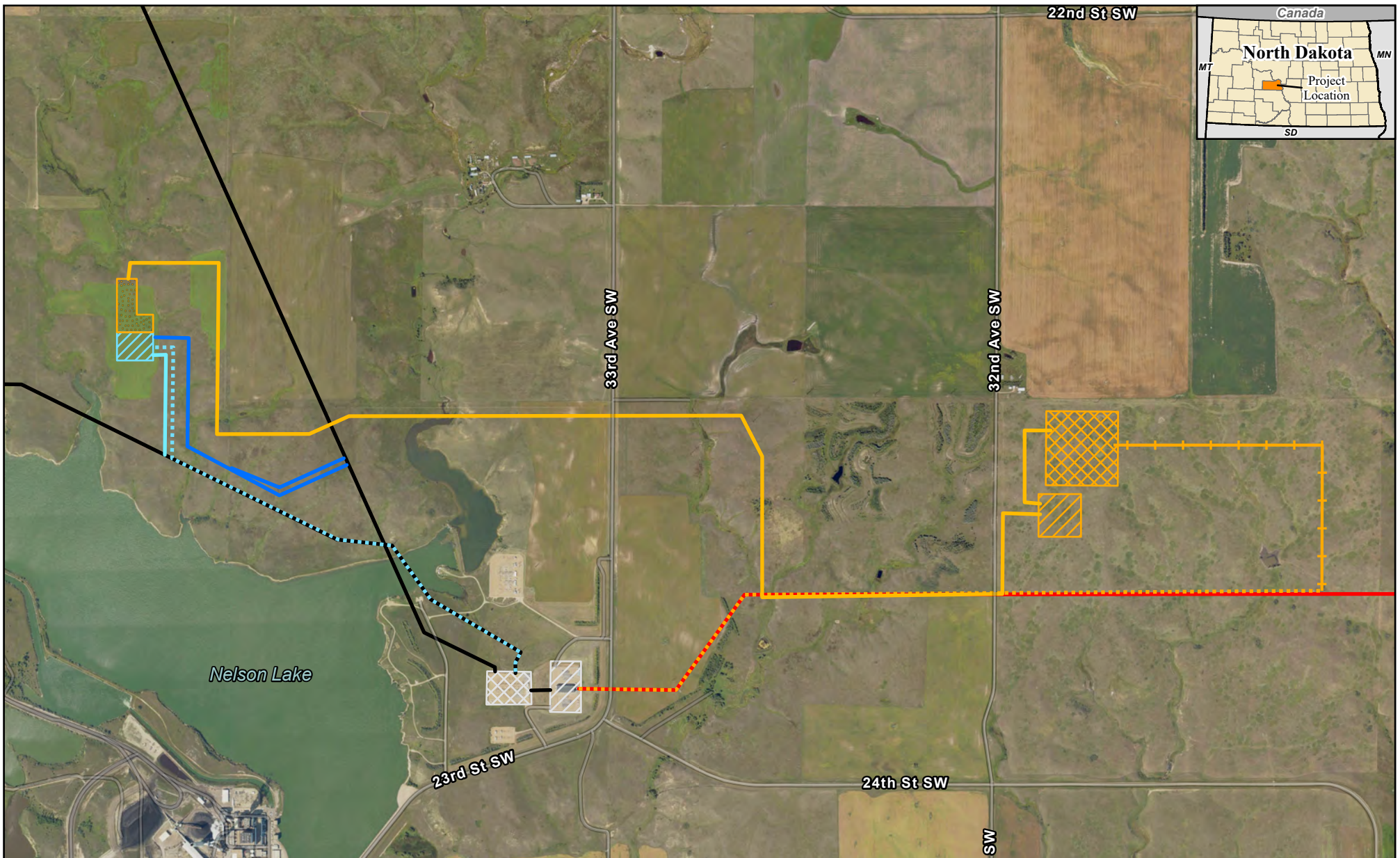
Mon. 5/20	Tue. 5/21	Wed. 5/22	Thu. 5/23	Fri. 5/24	Tue. 5/28	Wed. 5/29
1:00 – 2:00		12:00 – 1:30	9:00 – 10:00	9:00 – 10:00	9:00 – 10:00	
2:30 – 4:00	2:00 – 2:30	2:00 – 4:00	11:00 – 2:00	11:30 – 4:00	3:00 – 4:30	2:30 – 4:30

Best Regards,

Dan Flo (he/him)
Principal Consultant
612.924.3982 direct
612.812.0069 mobile
dan.flo@merjent.com



1 Main Street SE, Suite 300
Minneapolis, MN 55414
612.746.3660 main
www.merjent.com



0 900 1,800
Feet



Figure 1
HVDC Modernization Project
Oliver County, North Dakota

- | | | |
|--|---|---|
| Proposed MP 230 kV Transmission Line (Phase 1) | Proposed MP 345 kV Transmission Line (Phase 2) | Proposed Nelson Lake Substation 345 kV Yard |
| Proposed Double Circuit 230 kV Transmission Line (Phase 1) | Proposed MP 250 kV DC Transmission Line Reroute (Phase 2) | Existing 250 kV DC Transmission Line |
| Proposed GRE 230 kV Transmission Lines (Phase 1) | Proposed East Oliver 345 kV Yard (Phase 2) | Existing 230 kV Transmission Lines |
| Proposed Nelson Lake Substation 230 kV Yard | Proposed East Oliver HVDC Converter Substation (Phase 2) | Existing Center HVDC Converter |
| Existing 250 kV DC Line Segment for Removal (Phase 2) | | Existing Square Butte Substation |



August 28, 2023

Daniel McCourtney
Manager – Environmental
ALLETE Inc.
30 West Superior Street
Duluth, MN 55802-2093

Dear Mr. McCourtney:

RE: HVDC Modernization Project

This project would upgrade Minnesota Power's existing High Voltage Direct Current (HVDC) terminals, located near the existing Center HVDC Substation. The North Dakota Game and Fish Department has reviewed this project for wildlife concerns.

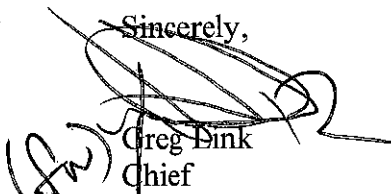
The Department manages the Wilbur Boldt Wildlife Management Area located in Section 34NE, T142N, R83W. A special use permit could be required if this project would impact these lands. Mr. Levi Jacobson, Wildlife Resource Management Supervisor, can be contacted at 701-391-9782 for additional information on permit requirements.

The National Wetland Inventory indicates a variety of wetlands within the proposed project corridor. We ask that steps be taken to protect any wetlands that cannot be avoided, above-ground appurtenances not be placed in wetland areas, and existing drainage patterns be maintained. Any unavoidable destruction or degradation of wetland acres should be mitigated in kind.

We recommend that overhead lines be marked when placed over perennial streams or sited in close proximity to large wetland complexes to minimize possible avian impacts. The publication "Reducing Avian Collisions with Power Lines: the State of the Art in 2012" provides a range of management options which can be used to reduce avian losses.

We do not believe this project will have any significant adverse effects on wildlife or wildlife habitat provided these recommendations are implemented where appropriate and disturbed areas are reclaimed to pre-project conditions.

Sincerely,


Greg Link
Chief
Conservation & Communications Division

Governor
Doug Burgum

Director
Jeb Williams

Deputy Director
Scott A. Peterson

**North Dakota Department of Transportation
(NDDOT)**

August 17, 2023

Daniel McCourtney, Manager
Environmental Strategic Initiatives
Minnesota Power
ALLETE Inc.
30 West Superior Street
Duluth, MN 55802-2093

HVDC MODERNIZATION PROJECT – MODERNIZING AND UPGRADING THE
COMPANY'S EXISTING HIGH VOLTAGE DIRECT CURRENT (HVDC), OLIVER
COUNTY, NORTH DAKOTA

We have reviewed your August 2, 2023, letter.

This project should have no adverse effect on the North Dakota Department of Transportation highways.

However, if because of this project any work needs to be done on highway right of way, appropriate permits and risk management documents will need to be obtained from the Department of Transportation District Engineer, Larry Gangl at 701-328-6955.



JON KETTERLING, P.E., DIRECTOR – OFFICE OF PROJECT DEVELOPMENT

57/jk/js

c: Larry Gangl, Bismarck District Engineer

**State Historical Society of North Dakota
(SHSND)**



MEETING NOTES

Date:

May 24, 2024

To:

Dan McCourtney, Minnesota Power

From:

Dan Flo, Merjent

Subject:

Meeting Notes, SHSND Call, HVDC Modernization Project

Meeting Date & Location:

May 24, 2024; Microsoft Teams Meeting

Meeting Attendees:

- Lorna Meidinger, Lead Historic Preservationist, State Historical Society of North Dakota, Bismarck
- Andrew Robinson, State Archaeologist, State Historical Society of North Dakota, Bismarck
- Dan McCourtney, Minnesota Power
- Mandy Bohnenblust, Merjent
- Damien Reinhart, Merjent
- Dan Flo, Merjent

Meeting Notes:

Minnesota Power met with Lorna Meidinger and Andrew Robinson of the State Historical Society of North Dakota (SHSND) via Microsoft Teams video conference call on May 24, 2024, to provide updates regarding the HVDC Modernization Project and answer any questions the SHSND may have.

Mr. McCourtney provided a Project overview and updates regarding the status of state and local permitting. The North Dakota Public Service Commission Certificate of Corridor Compatibility / Route Permit application and Oliver County Conditional Use Permit application will be submitted in summer 2024, and there is no federal permit or NEPA review anticipated for the Project.

Ms. Meidinger stated that she is the SHSND coordinator for the HVDC Modernization Project and would like to be copied on all Project correspondence to that agency. She also stated that she had reviewed the Project file and provided the following updates:

- SHSND had provided comments on the Project's original archaeology survey report directly to Merjent's Principal Investigator and lead report author, Damien Reinhart
- SHSND received the revised archaeology survey report on May 14, 2024
- The Project's revised report was number 95 in the agency's review queue, and the Project can expect to receive a formal response on or around June 12, 2024.

Mr. Reinhart confirmed that he made the revisions to the archaeology report in response to SHSND comments and based on his experience performing archaeology studies in North Dakota.

Action Items:

- SHSND will review the Project's revised archaeology survey report and provide a response as to whether the agency concurs in the report's findings.
- The Project will attach the SHSND response to the NDPSC Certificate of Corridor Compatibility / Route Permit application.

Attachments:

N/A

From: [Dan Flo](#)
To: andrewclark@nd.gov; andrewrobinson@nd.gov
Cc: [Daniel McCourtney \(MP\)](#); [Mandy Bohnenblust](#)
Subject: Minnesota Power's HVDC Modernization Project - Request for Meeting (SHSND)
Date: Sunday, May 19, 2024 6:55:00 PM
Attachments: [image001.png](#)
[Fig 1 MP HVDC ND Overview.pdf](#)
[HVDC Modernization Project SHSND Response 5 Sep 2023.pdf](#)

Good Morning,

In August, 2023, your agency received a letter from Dan McCourtney at Minnesota Power introducing the company's proposed HVDC Modernization Project. The Project involves modernizing and upgrading the existing HVDC terminal, located near the existing Center HVDC Converter in Oliver County, North Dakota. The proposed Project will include the construction of a new HVDC terminal and three electric station yards, and transmission line segments to interconnect the new terminal with the local electric grid. An overview map of the proposed Project is attached (Figure 1).

Your response to Mr. McCourtney's letter is attached. On behalf of Minnesota Power and the Project, I would like to schedule a Microsoft Teams meeting to provide updates on the state and local permitting process and to address to the extent possible any questions your agency may have at this time. I have provided several possible dates and time ranges for this meeting in the table below. If any of these times work for you, please respond to this email with the preferred date and time and I will send a meeting invitation. If you would like to schedule the meeting later than May 29th, I would be happy to provide additional times or please feel free to suggest a date and time that suits your schedule.

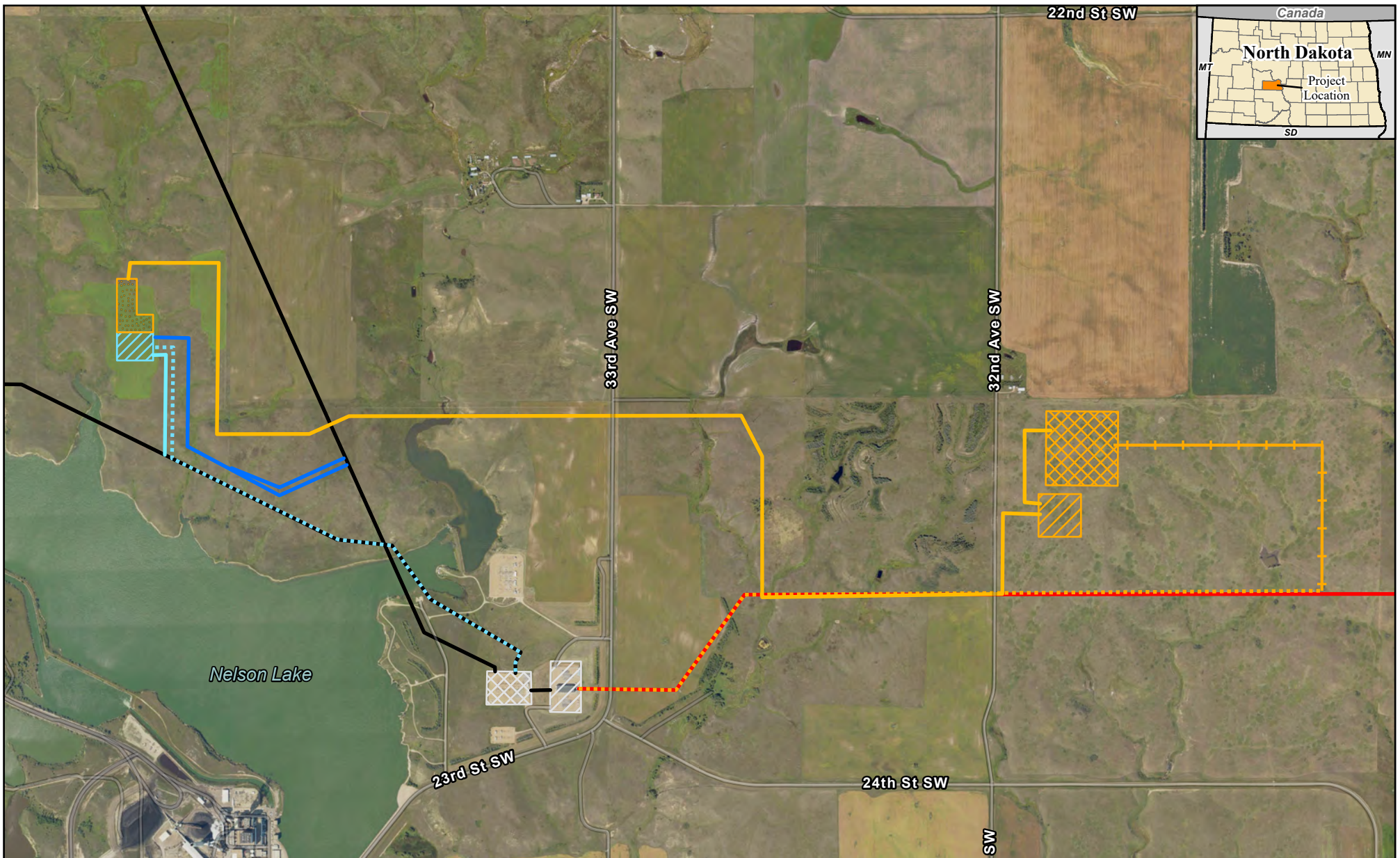
Mon. 5/20	Tue. 5/21	Wed. 5/22	Thu. 5/23	Fri. 5/24	Tue. 5/28	Wed. 5/29
1:00 – 2:00		12:00 – 1:30	9:00 – 10:00	9:00 – 10:00	9:00 – 10:00	
2:30 – 4:00	2:00 – 2:30	2:00 – 4:00	11:00 – 2:00	11:30 – 4:00	3:00 – 4:30	2:30 – 4:30

Best Regards,

Dan Flo (he/him)
Principal Consultant
 612.924.3982 direct
 612.812.0069 mobile
dan.flo@merjent.com



1 Main Street SE, Suite 300
 Minneapolis, MN 55414
 612.746.3660 main
www.merjent.com



0 900 1,800
Feet



Figure 1
HVDC Modernization Project
Oliver County, North Dakota

- Proposed MP 230 kV Transmission Line (Phase 1)
- Proposed Double Circuit 230 kV Transmission Line (Phase 1)
- Proposed GRE 230 kV Transmission Lines (Phase 1)
- Proposed Nelson Lake Substation 230 kV Yard
- Existing 250 kV DC Line Segment for Removal (Phase 2)

- Proposed MP 345 kV Transmission Line (Phase 2)
- Proposed MP 250 kV DC Transmission Line Reroute (Phase 2)
- Proposed East Oliver 345 kV Yard (Phase 2)
- Proposed East Oliver HVDC Converter Substation (Phase 2)

- Proposed Nelson Lake Substation 345 kV Yard
- Existing 250 kV DC Transmission Line
- Existing 230 kV Transmission Lines
- Existing Center HVDC Converter
- Existing Square Butte Substation



September 5, 2023

Daniel McCourtney
ALLETE Inc.
30 West Superior St
Duluth, MN 55802-2093

ND SHPO Ref.: 23-0254 HVDC Modernization Project in portions of [T141N R83W Sections 2-4 and T142N R83W Sections 26-29, 32-35] in Oliver County, North Dakota

Dear Daniel,

We reviewed ND SHPO Ref.: 23-0254 HVDC Modernization Project in portions of [T141N R83W Sections 2-4 and T142N R83W Sections 26-29, 32-35] in Oliver County, North Dakota. We recommend a Class III (pedestrian survey) of cultural resources in the project area.

Thank you for the opportunity to review this project to date. We look forward to review of the Class III survey for archaeological resources. If you have any questions please contact Lorna Meidinger, Lead Historic Preservation Specialist at (701) 328-2089 or lbmeidinger@nd.gov.

Sincerely,

for William D. Peterson, PhD
Director, State Historical Society of North Dakota

23-0254

**North Dakota Department of Trust Lands
(NDDTL)**

From: Daniel McCourtney (MP) <dmccourtney@mnpower.com>
Sent: Monday, August 7, 2023 4:20 PM
To: Dan Flo; Mandy Bohnenblust
Subject: EXTERNAL: FW: [EXTERNAL MAIL] RE: HVDC Modernization Project Oliver County, North Dakota Request for Agency Comments
Attachments: SCAN_23080711350.pdf
Follow Up Flag: Follow up
Flag Status: Completed

CAUTION: This email originated from outside of Merjent.

Dan, Mandy,
NDDTL's agency letter response below.

Regards,

Dan

Daniel McCourtney
Manager-
Strategic Environmental Initiatives
ALLETE Inc.
30 West Superior St.
Duluth, MN 55802

Direct: 218.355.3515
Mobile: 218.428.5089

From: -Info-Land Dept. ROW <landrow@nd.gov>
Sent: Monday, August 7, 2023 4:17 PM
To: Daniel McCourtney (MP) <dmccourtney@mnpower.com>
Cc: -Info-DTL General Inquiries <dtlrequest@nd.gov>
Subject: [EXTERNAL MAIL] RE: HVDC Modernization Project Oliver County, North Dakota Request for Agency Comments

You don't often get email from landrow@nd.gov. [Learn why this is important](#)

 **Use
Caution**

[EXTERNAL EMAIL] This message was sent from someone outside the company.

Do not click links, download attachments, or reply with personal information unless you recognize the sender and know the content is safe.

To Whom It May Concern:

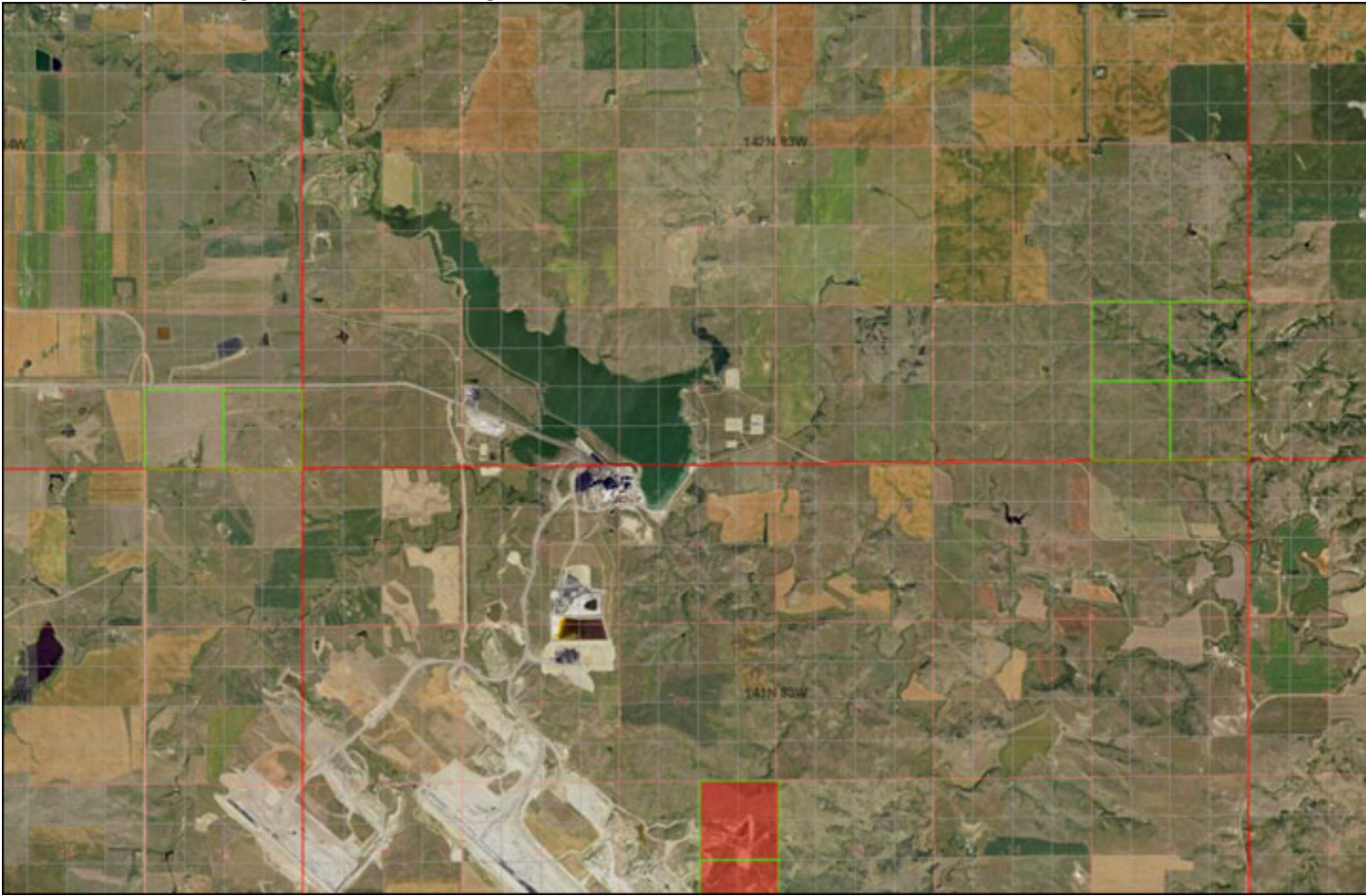
The North Dakota Department of Trust lands (NDDTL) received a letter dated August 7, 2023 from Minnesota Power regarding a request for comment on the HVDC Modernization Project in Oliver County, North Dakota.

Below is a list of surface tracts managed by NDDTL on behalf of the Board of University and School Lands located near the proposed project boundary area(s) as depicted via the received letter and map.

NDDTL managed tracts near in the proposed project area			
County	Township	Range	Section
Oliver	142	83	36
Oliver	142	84	36

*These tracts of land are just outside the study area.

Map of area with DTL managed tracts outlined in green:



Any proposed projects crossing NDDTL managed property would need to apply for a Rights of Way and would be subject to review and approval by the Board of University and School Lands. NDDTL reviews the financial benefit to the trusts; availability of alternate encumbrance site or route; least environmentally damaging site or route regardless of property ownership; physical stability of the landscape; other potential future uses for the trust lands, including urban development; potential mineral and other material development including oil, gas, coal, construction aggregate, sodium sulfate, chemical substances, metallic ore, or uranium ore; feasibility for reclamation; maintenance of existing wetlands and water flows; any cultural, historical, archeological, and paleontological resources; habitat for federally listed threatened and endangered species; location of the proposed route or site in relation to section lines, quarter

section lines and corridors; potential liability to the trusts; applicant's past encumbrances on trust lands; applicant's financial stability; and any other information relevant to the application which would assist in the determination.

If a new ROW application is needed please use this link to submit a ROW application (Permit – Planning & Preconstruction): <https://www.land.nd.gov/SurfaceROW/RowApplicationForm>.

If you have any questions, please contact the Department via emailing landrow@nd.gov or calling 701-328-2800.

Sincerely,

North Dakota Department of Trust Lands

August 2, 2023

North Dakota Department of Trust Lands
P.O. Box 5523
Bismarck, ND 58506-5523

**Re: HVDC Modernization Project
Oliver County, North Dakota
Request for Agency Comments**

Dear North Dakota Department of Trust Lands:

Minnesota Power (also the "Company") is proposing to construct its HVDC Modernization Project (also the "Project"). The Project involves modernizing and upgrading the Company's existing High Voltage Direct Current ("HVDC") terminals, located near the existing Center HVDC Substation in Center, North Dakota. This proposed project will require the construction of a new HVDC terminal, the new Nelson Lake substation and new transmission line segments to interconnect into the local electric grid. The proposed Project is regulated by the North Dakota Public Service Commission ("Commission") and Oliver County.

The HVDC Modernization Project is needed to modernize aging HVDC assets and improve the reliability of the transmission system. The existing HVDC terminal has operated for 45 years, 15 years in excess of its 30-year design life. In recent years, Minnesota Power has experienced HVDC terminal outages due to failures in the control system, power electronics, transformers, and other components. The orderly replacement of the HVDC terminal equipment is prudent to ensure continuous, efficient delivery of energy resources into the future.

In order to modernize the HVDC terminal and implement the latest technology, new electrical infrastructure will need to be constructed on new site near the existing HVDC terminal. The Project would require construction in two phases as described below and as shown on the attached map.

- Phase 1: Nelson Lake Substation
- Phase 2: HVDC Terminal Modernization

Phase 1, the new Nelson Lake Substation, will include the following components:

- New Nelson Lake Substation 230 kV yard
- One 1.5-mile-long 230 kV transmission line
- Four 230 kV transmission lines, each less than one mile in length

Phase 2, the HVDC Terminal Modernization, will interconnect to Phase I of the Project and include the following components:

- HVDC Converter Station and 345 kV yard
- One 3.5-mile-long 345 kV transmission line



AN ALLETE COMPANY

- 345-230 kV AC transformer yard to interconnect to the existing system

The Project is currently scheduled to be in service in 2027.

The purpose of this letter is to provide notification of the Project per Section 69-06-01-05 of the North Dakota Administrative Code. We are soliciting input from your agency or entity regarding any sensitive resources, current or planned development, or property interests your agency or entity may have in or around the Study Area that Minnesota Power should consider as it moves forward with Project development. In addition, we ask that you provide information regarding any applicable permits that may be required from your office.

Minnesota Power respectfully requests your response within 30 days of receipt of this letter. Copies of all correspondence received in response to this letter will be included with the PSC application. Minnesota Power requests the consideration of the Study Area shown within the legal descriptions provided in the table below and on the attached map.

Project Study Area		
Township	Range	Section
142 North	83 West	26, 27, 28, 29, 32, 33, 34, 35
141 North	83 West	2, 3, 4

Please let us know if you have information we should consider in evaluating the Project. If you would like to request a meeting, please contact me at (218) 355-3515 or dmccourtney@mnpower.com. I am happy to discuss any questions that you may have about the Project.

Sincerely,

Daniel McCourtney
Manager- Environmental
Strategic Initiatives
ALLETE Inc.

Enclosure: Project Overview Map

**North Dakota Parks and Recreation Department
(NDPRD)**

From: Daniel McCourtney (MP) <dmccourtney@mnpower.com>
Sent: Tuesday, August 22, 2023 7:42 AM
To: Dan Flo; Mandy Bohnenblust
Subject: EXTERNAL: FW: [EXTERNAL MAIL] Re: HVDC Modernization Project – Oliver County, ND
Attachments: Minnesota_Power_HVDC_KD_Responce_Letter_DL_8.21.2023.pdf;
MINNESOTA_POWER_HVDC_MODERNIZATION_PROJECT_OLIVER_COUNTY_DL8.21.23_HERITAGE.pdf;
MINNESOTA_POWER_HVDC_MODERNIZATION_PROJECT_OLIVER_COUNTY_DL8.21.23_MAP.pdf

Follow Up Flag: Follow up
Flag Status: Completed

CAUTION: This email originated from outside of Merjent.

Dan, Mandy,
Please see the attached HVDC Modernization Project comment letter from ND Parks and Recreation.

Regards,

Dan

Daniel McCourtney
Manager-
Strategic Environmental Initiatives
ALLETE Inc.
30 West Superior St.
Duluth, MN 55802

Direct: 218.355.3515
Mobile: 218.428.5089

From: Duttonhefner, Kathleen G. <kgduttonhefner@nd.gov>
Sent: Monday, August 21, 2023 4:25 PM
To: Daniel McCourtney (MP) <dmccourtney@mnpower.com>
Subject: [EXTERNAL MAIL] Re: HVDC Modernization Project – Oliver County, ND

You don't often get email from kgduttonhefner@nd.gov. [Learn why this is important](#)

 **Use
Caution**

[EXTERNAL EMAIL] This message was sent from someone outside the company.

Do not click links, download attachments, or reply with personal information unless you recognize the sender and know the content is safe.

Re: HVDC Modernization Project – Oliver County, ND

North Dakota Parks and Recreation Department's Environmental Review Response letter is attached.

Kathy Duttonhefner

Natural Resources Division Chief

701.328.5370 • 701.220.3377 • parkrec.nd.gov



August 21, 2023

Minnesota Power
Daniel McCartney
30 West Superior Street
Duluth, MN 55802-2093

Re: HVDC Modernization Project – Oliver County, ND

Dear Daniel,

The North Dakota Parks and Recreation Department (NDPRD) has reviewed the above-referenced HVDC Modernization Project, which involves modernizing and upgrading the Company's existing High Voltage Direct Current terminals located near the existing Center HVDC Substation in Venter, North Dakota.

NDPRD's scope of authority and expertise covers properties that NDPRD owns, leases, or manages; properties protected under Section 6(f) of the Land and Water Conservation Fund (LWCF); rare plants; and ecological communities established through the Natural Heritage Program.

The project does not appear to affect properties NDPRD owns, leases, or manages.
The project does not appear to affect any properties protected under Section 6(f) of the LWCF.

A North Dakota Natural Heritage biological conservation database query determines if any current or historical plant or animal species of concern or other significant ecological communities are known to occur within an approximate one-mile radius of the project area. Based on this review, only one known plant species of concern has been documented within or immediately adjacent to the project site.

We appreciate your commitment to rare plant, animal, and ecological community conservation, management, and inter-agency cooperation. For additional information, please contact me at 701-328-5370, 701-220-3377 (cell), or kgduttenhefner@nd.gov.

Thank you for the opportunity to comment on the proposed project.

Sincerely,



Kathy Duttenhefner, Chief Natural Resources Division

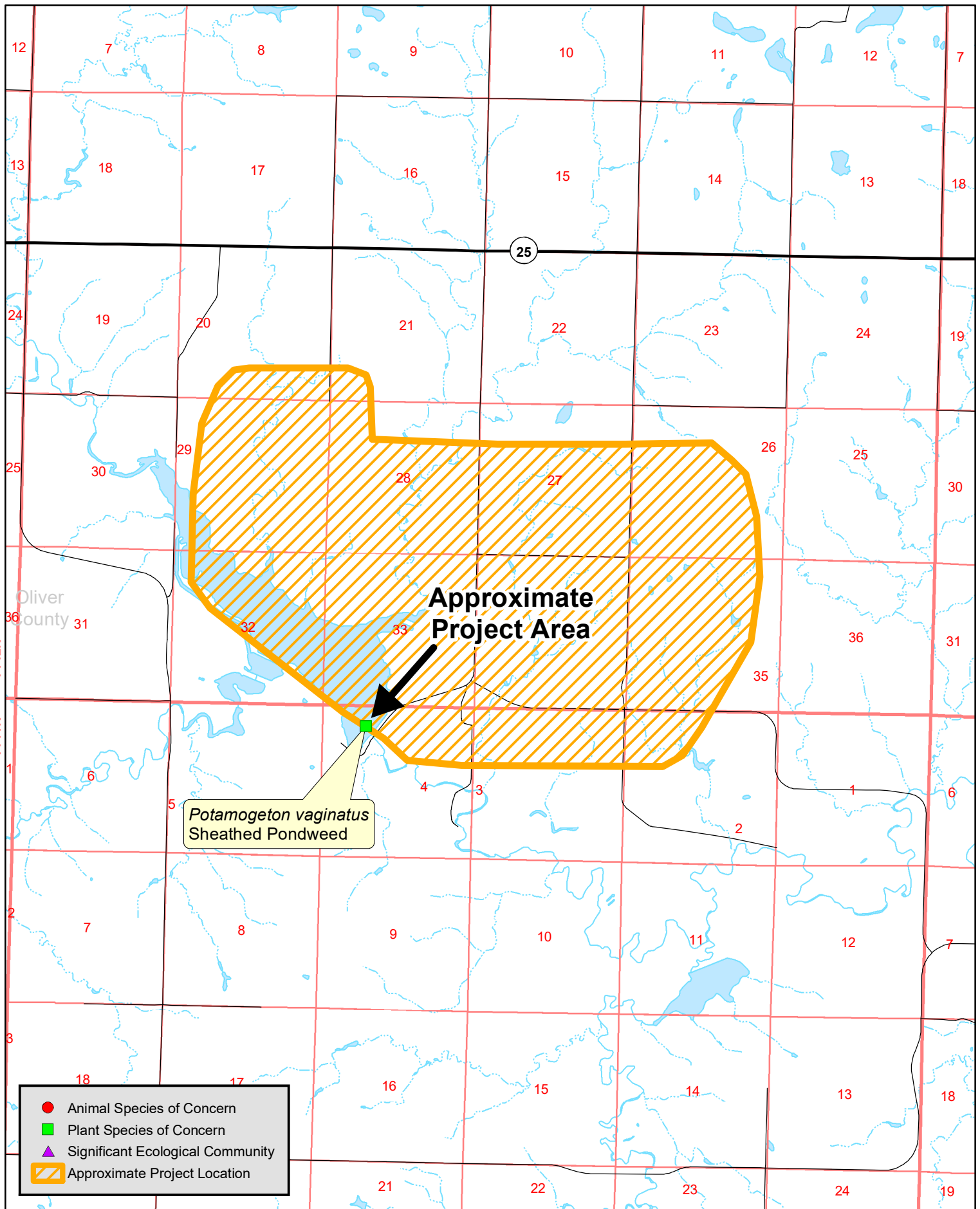
604 E Boulevard Ave Dept. 750 | Bismarck, ND 58505

PHONE: 701-328-5357 | FAX: 701-328-5363 | EMAIL: parkrec@nd.gov | WEBSITE: www.parkrec.nd.gov

North Dakota Natural Heritage Inventory
Rare Animal and Plant Species and Significant Ecological Communities

State Scientific Name	State Common Name	State Rank	Global Rank	Federal Status	Township Range Section	County	Last Observation	Estimated Representation Accuracy	Precision
Potamogeton vaginatus	Sheathed Pondweed	S3	G5		141N083W - 03; 141N083W - 10; 141N083W - 08; 141N083W - 05; 142N083W - 28; 142N083W - 34; 142N083W - 29; 141N083W - 09; 142N083W - 32; 142N083W - 33; 141N083W - 04	Oliver	1978-07-31		M

North Dakota Parks and Recreation Department North Dakota Natural Heritage Inventory



**Natural Resources Conservation Service
(NRCS)**



August 8, 2023

Natural Resources
Conservation Service

Bismarck State Office
PO Box 1458
Bismarck, ND
58502-1458

Voice 701.530.2000
Fax 855-813-7556

Daniel McCourtney
Minnesota Power
30 West Superior Street
Duluth, MN 55802-2093

Dear Mr. McCourtney:

The Natural Resources Conservation Service (NRCS) has reviewed your letter dated August 2, 2023, concerning the HVDC Modernization Project in Oliver County, North Dakota.

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

If you have additional questions pertaining to FPPA, please contact Wade Bott, State Soil Scientist, NRCS, Bismarck, North Dakota at 701-530-2021.

Sincerely,

WADE BOTT

Digitally signed by WADE BOTT
Date: 2023.08.09 08:24:42 -05'00'

WADE D. BOTT
State Soil Scientist

**North Dakota Department of Water Resources
(NDDWR)**

NORTH
Dakota | Water Resources
Be Legendary.

August 30, 2023

Daniel McCourtney
Minnesota Power
ALLETE Inc.
30 West Superior Street
Duluth, MN 55802

Dear Mr. McCourtney:

This is in response to your request for a review of the environmental impacts associated the HVDC Modernization Project located in Oliver County, ND.

The proposed project has been reviewed by Department of Water Resources, and the following comments are provided:

- There are no FEMA National Flood Insurance Program (NFIP) floodplains identified or mapped where the proposed project is to take place. No permits relative to the NFIP are likely required based on the current effective Flood Insurance Rate Map and State minimum standards. However, flood risk has been identified through the North Dakota Risk Assessment Mapservice and Base Level Engineering (BLE) (ndram.dwr.nd.gov). In the absence of FEMA NFIP data, BLE is often considered best available data and is recommended to be considered in the design process. The State of North Dakota has no formal NFIP permitting authority as all NFIP permitting decisions are considered by impacted NFIP participating communities, the community with zoning authority for the area in question. Please work directly with the local floodplain administrators of the zoning authorities impacted.
- The Department of Water Resources (DWR) Engineering and Permitting Section and Water Resource Districts are responsible for regulating drainage and water management in North Dakota. The DWR Engineering and Permitting Section also regulates the construction and modification of any dike, levee, or other device. Consequently, the DWR requests to be notified regarding a proposed project's impacts, if any, to water resources, such as watercourses (i.e. streams or rivers), agricultural drains, and wetlands (i.e. ponds, sloughs, lakes, or any series thereof), and dikes, levees, and other water control devices, as any alterations, modifications, improvements, or impacts to those may require a drainage permit(s) or a construction permit(s). For more information on these requirements, please visit the Regulation & Appropriation tab on the DWR website (dwr.nd.gov) or contact the Regulatory Division directly at (701) 328-2750 or dwrregpermits@nd.gov.
- Initial review indicates the project does not require a conditional or temporary permit for water appropriation. However, if surface water or groundwater will be diverted for construction of the project, a water permit will be required per North Dakota Century Code § 61-04-02. Please consult with the Department of Water Resources Water

Appropriation Division if you have any questions at (701) 328-2754 or appropinfo@nd.gov.

- The Department of Water Resources maintains a network of observation wells across the state for monitoring the water levels and quality in glacial and bedrock aquifers. These wells are often installed in road and highway rights-of-way to limit inconvenience to the adjacent landowners. Department of Water Resources observation wells have a yellow protective casing extending between 1 and 3 feet above ground surface, and their locations are marked with a stake. If an observation well is encountered during project activities and must be removed, please contact the Water Appropriation Division. The Department of Water Resources hopes to keep all observation wells, but otherwise will ensure the well is properly abandoned.

Thank you for the opportunity to provide review comments. Should you have further questions, please contact me at (701)-328-4967 or cjdrevecky@nd.gov.

Sincerely,



Cory Drevecky
Planner IV

CD:dm/1570

**United States Fish and Wildlife Service
(USFWS)**



MEETING NOTES

Date:

May 23, 2024

To:

Dan McCartney, Minnesota Power

From:

Dan Flo, Merjent

Subject:

Meeting Notes, USFWS Call, HVDC Modernization Project

Meeting Date & Location:

May 23, 2024; Microsoft Teams Meeting

Meeting Attendees:

Heidi Riddle, Fish and Wildlife Biologist, US Fish and Wildlife Service, Bismarck ND

Dan McCartney, Minnesota Power

Mandy Bohnenblust, Merjent

Dan Flo, Merjent

Meeting Notes:

Minnesota Power met with Heidi Riddle via Microsoft Teams video conference call on May 23, 2024, to provide updates regarding the HVDC Modernization Project and answer any questions the USFWS may have.

Mr. McCartney provided a Project overview and updates regarding the status of environmental field surveys and state and local permitting. Environmental field surveys were substantially completed as of 2023, but some surveys will be completed in 2024 in areas that were the result of Project design changes. The North Dakota Public Service Commission Certificate of Corridor Compatibility / Route Permit application and Oliver County Conditional Use Permit application will be submitted in summer 2024, and there is no federal permit or NEPA review anticipated for the Project.

Ms. Riddle inquired about the Project's knowledge of the USFWS protected species list for the Project area and the Project's status per the Northern long-eared bat Determination Key (Dkey). She also stated that a listing decision for the Monarch butterfly could happen late this year. Ms. Riddle asked whether the Project had evaluated the potential for whooping cranes to enter the Project area using the Neimeth Model and further stated it was unlikely that this area was heavily used by whooping cranes. The

USFWS is likely to recommend marking overhead lines to reduce the likelihood of impacts to whooping cranes. Ms. Riddle asked if the Project had contacted the North Dakota Game and Fish Department (NDGFD) or any of the wildlife refuges in the region.

Ms. Riddle indicated that she did not think there was suitable habitat for the piping plover or red knot within the Project area.

Mr. McCourtney and Ms. Bohnenblust provided the following information in response to Ms. Riddle's questions:

- Merjent had run the IPaC species list and NLEB D-Key in 2023 and was attempting to query both tools again on the day of the call but the system wasn't working. The species in the area included: northern long-eared bat, piping plover, rufa red knot, whooping crane, Dakota skipper, and monarch butterfly.
- The Project is monitoring the potential Monarch butterfly listing.
- The Project conducted Dakota skipper habitat and presence/absence surveys in 2023 and will complete a 2nd year of presence/absence surveys in 2024, along with habitat surveys of the project design change areas. 2023 surveys were negative for the presence of Dakota skipper.
- Merjent will use the Neimeth Model to determine the potential for whooping crane presence in the Project area. Construction crews will be educated on how to avoid disturbance if whooping cranes occur in the Project area during construction.
- The northern long-eared bat Dkey indicated that the Project would not have "unauthorized take" on northern long-eared bats.
- Merjent confirmed their opinion that the Project will not have "unauthorized take" of piping plovers, rufa red knots, or whooping cranes.
- The Project contacted the NDGFD in August 2023 and received a letter in response stating that the Department had no concerns about the proposed Project.
- The Project has not contacted any wildlife refuges in the vicinity of the Project but will do so. Ms. Riddle stated that she will provide contact information.

Ms. Riddle stated that because there is no federal oversight of the Project, the USFWS will not make a formal determination regarding the Project's compliance with the Endangered Species Act. Ms. Bohnenblust suggested that, once the 2024 Dakota skipper surveys are completed, the Project will submit a summary of findings to the USFWS with a recommendation as to the Project's compliance with the Endangered Species Act.

Action Items:

- Ms. Riddle will provide the Project with contact information for wildlife refuges in the vicinity of the Project.
- The Project will contact the wildlife refuges and provide Project information and seek comments.

- The Project will prepare a comprehensive summary of investigations, studies, and findings at the completion of 2024 field surveys and will submit the summary, with a recommendation regarding the Project's compliance with the Endangered Species Act, to the USFWS for the Project record.

Attachments:

N/A

From: [Dan Flo](#)
To: ndfieldoffice@fws.gov
Cc: [Daniel McCourtney \(MP\)](#); [Mandy Bohnenblust](#)
Subject: Minnesota Power's HVDC Modernization Project - Request for Meeting (USFWS)
Date: Sunday, May 19, 2024 6:51:00 PM
Attachments: [image001.png](#)
[Fig 1 MP HVDC ND Overview.pdf](#)

Good Morning,

In August, 2023, your agency received a letter from Dan McCourtney at Minnesota Power introducing the company's proposed HVDC Modernization Project. The Project involves modernizing and upgrading the existing HVDC terminal, located near the existing Center HVDC Converter in Oliver County, North Dakota. The proposed Project will include the construction of a new HVDC terminal and three electric station yards, and transmission line segments to interconnect the new terminal with the local electric grid. An overview map of the proposed Project is attached (Figure 1).

On behalf of Minnesota Power and the Project, I would like to schedule a Microsoft Teams meeting to provide updates on the permitting process and to address to the extent possible any questions your agency may have at this time. I have provided several possible dates and time ranges for this meeting in the table below. If any of these times work for you, please respond to this email with the preferred date and time and I will send a meeting invitation. If you would like to schedule the meeting later than May 29th, I would be happy to provide additional times or please feel free to suggest a date and time that suits your schedule.

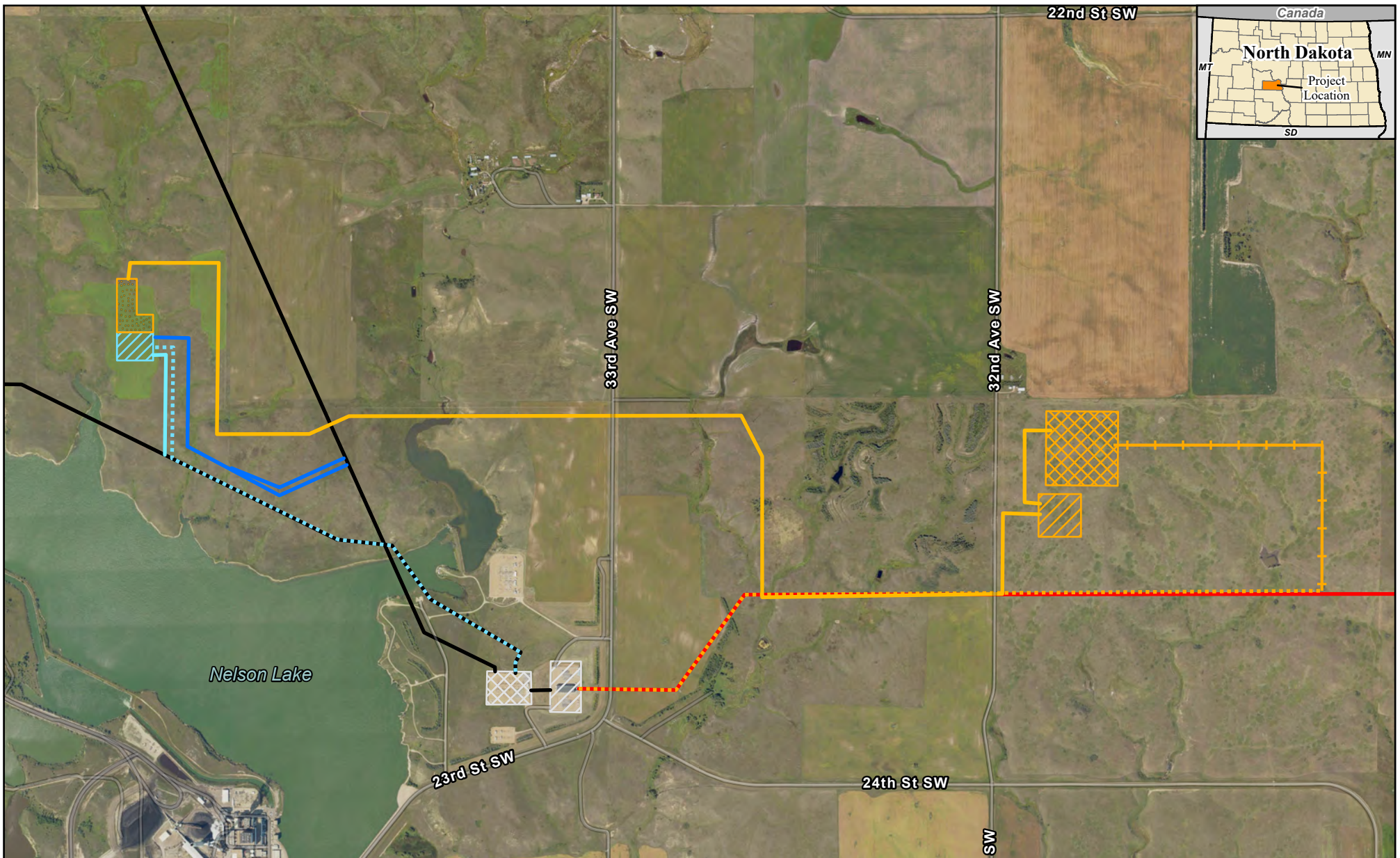
Mon. 5/20	Tue. 5/21	Wed. 5/22	Thu. 5/23	Fri. 5/24	Tue. 5/28	Wed. 5/29
1:00 – 2:00		12:00 – 1:30	9:00 – 10:00	9:00 – 10:00	9:00 – 10:00	
2:30 – 4:00	2:00 – 2:30	2:00 – 4:00	11:00 – 2:00	11:30 – 4:00	3:00 – 4:30	2:30 – 4:30

Best Regards,

Dan Flo (he/him)
Principal Consultant
612.924.3982 direct
612.812.0069 mobile
dan.flo@merjent.com



1 Main Street SE, Suite 300
Minneapolis, MN 55414
612.746.3660 main
www.merjent.com



0 900 1,800
Feet



Figure 1
HVDC Modernization Project
Oliver County, North Dakota

- Proposed MP 230 kV Transmission Line (Phase 1)
- Proposed Double Circuit 230 kV Transmission Line (Phase 1)
- Proposed GRE 230 kV Transmission Lines (Phase 1)
- Proposed Nelson Lake Substation 230 kV Yard
- Existing 250 kV DC Line Segment for Removal (Phase 2)

- Proposed MP 345 kV Transmission Line (Phase 2)
- Proposed MP 250 kV DC Transmission Line Reroute (Phase 2)
- Proposed East Oliver 345 kV Yard (Phase 2)
- Proposed East Oliver HVDC Converter Substation (Phase 2)

- Proposed Nelson Lake Substation 345 kV Yard
- Existing 250 kV DC Transmission Line
- Existing 230 kV Transmission Lines
- Existing Center HVDC Converter
- Existing Square Butte Substation

**United States Army Corps of Engineers
(USACE)**

From: Daniel McCourtney (MP) <dmccourtney@mnpower.com>
Sent: Monday, August 14, 2023 3:34 PM
To: Dan Flo; Mandy Bohnenblust
Subject: EXTERNAL: FW: [EXTERNAL MAIL] RE: SOV Response for NWO-2023-01270 (Minnesota Power; HVDC Modernization Project)
Attachments: NWO-2023-01270_20230814_SOV-Response-NWP-57.pdf; NWP 57 Fact Sheet 2021.pdf; Eng_Form_6082_Sep 2022.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of Merjent.

Good afternoon,
Below is the US ACE response to the ND HVDC Agency letter.

Regards,

Dan

Daniel McCourtney
Manager-
Strategic Environmental Initiatives
ALLETE Inc.
30 West Superior St.
Duluth, MN 55802

Direct: 218.355.3515
Mobile: 218.428.5089

From: Carlberg, Hadden Jorvik CIV USARMY CENWO (USA) <Hadden.J.Carlberg@usace.army.mil>
Sent: Monday, August 14, 2023 3:13 PM
To: Daniel McCourtney (MP) <dmccourtney@mnpower.com>
Cc: Nygard, Jeremy S CIV USARMY CENWO (USA) <Jeremy.S.Nygard@usace.army.mil>
Subject: [EXTERNAL MAIL] RE: SOV Response for NWO-2023-01270 (Minnesota Power; HVDC Modernization Project)

You don't often get email from hadden.j.carlberg@usace.army.mil. [Learn why this is important](#)

 **Use
Caution**

[EXTERNAL EMAIL] This message was sent from someone outside the company.

Do not click links, download attachments, or reply with personal information unless you recognize the sender and know the content is safe.

Good Afternoon Mr. McCourtney:

Our office has reviewed the information you provided regarding the abovementioned proposed project and determined that a U.S. Army Corps of Engineers Section 404 permit may be required for your project. Please see attached letter, blank application form, and Nationwide Permit 57 fact sheet. Thank you,

V/R,
Hadden J. Carlberg
Student Intern
U.S. Army Corps of Engineers
North Dakota Regulatory Office
3319 University Dr
Bismarck, ND 58504
701-255-0015 ext. 2012



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
3319 UNIVERSITY DRIVE
BISMARCK, NORTH DAKOTA 58504-7565

August 14, 2023

NWO-2023-01270-BIS

Minnesota Power (ALLETE, Inc.)
Attn: Mr. Daniel McCourtney
30 West Superior Street
Duluth, Minnesota 55802-2093

Dear Mr. McCourtney:

This is in response to your solicitation letter received on August 11, 2023 requesting Department of the Army (DA), United States Army Corps of Engineers (Corps) comments on the proposed HVDC Modernization project. The project is located in Sections 2 through 4 of Township 141 North, Range 83 West and in Sections 26 through 29 and Sections 32 through 35 of Township 142 North, Range 83 West, Burke County, North Dakota.

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

Enclosed for your information is the fact sheet for Nationwide Permit 57, Electric Utility Line and Telecommunications Activities. Utility lines are already authorized by Nationwide Permit 57 provided the utility line can be placed without any change to pre-construction contours and all other proposed construction activities and facilities are in compliance with the Nationwide's permit conditions and 401 Water Quality Certification. On Tribal Lands, Water Quality Certification is denied for all Nationwide Permits. Applicants must work with EPA to obtain individual water quality certification. Please note the pre-construction notification requirements on page 2 of the fact sheet. If a project involves any one of the seven notification requirements, the project proponent must submit a DA application. Furthermore, a project must also be in compliance with the "Regional Conditions for Nationwide Permits within the State of North Dakota", found on pages 23 through 30 of the fact sheet.

In the event your project(s) requires approval from the U.S. Army Corps of Engineers and cannot be authorized by Nationwide Permit(s), a Standard or Individual Permit will be required. A project that requires a Standard or Individual Permit is intensely

reviewed and will require the issuance of a public notice. A Standard or Individual Permit generally requires a minimum of 120 days for processing but based on the project impacts and comments received through the public notice may extend well beyond 120 days.

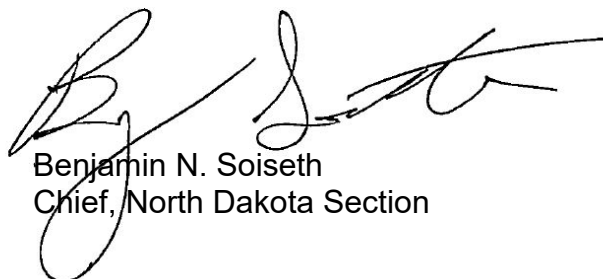
This correspondence letter does not approve the proposed construction work or does not verify the proposed project complies with the Nationwide Permit(s).

If any of these projects require a Section 404 permit, please complete and submit the enclosed Department of the Army permit application (ENG Form 6082) to the U.S. Army Corps of Engineers, North Dakota Regulatory Office, 3319 University Drive, North Dakota 58504 or to the email address below. If you are unsure if a permit is required, you may submit an application; include a project location map, description of work, and construction methodology.

The North Dakota Regulatory office prefers that all submissions are sent electronically to the following email address: CENWO-OD-RND@usace.army.mil instead of a hard copy by mail. Please split large attachments (>25 MB) into multiple emails if needed.

Please refer to identification number NWO-2023-01270-BIS in any correspondence concerning this project. If you have any questions, please contact Hadden Carlberg at U.S. Army Corps of Engineers, North Dakota Regulatory Office, 3319 University Drive, Bismarck, North Dakota 58504-7565, by email at Hadden.J.Carlberg@usace.army.mil, or telephone at (701) 255-0015 ext. 2012. For more information regarding our program, please visit our website at <http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/NorthDakota.aspx>.

Sincerely,



Benjamin N. Soiseth
Chief, North Dakota Section

Enclosures

Nationwide Permit 57: Electric Utility Line and Telecommunications Activities (2021)

Activities required for the construction, maintenance, repair, and removal of electric utility lines, telecommunication 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.

Electric utility lines and telecommunication 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 electric utility lines and telecommunication lines. There must be no change in pre-construction contours of waters of the United States. An “electric utility line and telecommunication line” is defined as any cable, line, fiber optic line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and internet, radio, and television communication.

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 electric utility line or telecommunication line crossing of each waterbody.

Electric utility line and telecommunications substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with an electric utility line or telecommunication 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 of dredged or fill material into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for overhead electric utility line or telecommunication line towers, poles, and anchors: This NWP authorizes the construction or maintenance of foundations for overhead electric utility line or telecommunication 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 electric utility lines or telecommunication lines,

including overhead lines and 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 of dredged or fill material 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 electric utility lines or telecommunication 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). Electric utility lines or telecommunication lines constructed over section 10 waters and electric utility lines or telecommunication 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 electric utility lines or telecommunication 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 electric utility lines or telecommunication lines.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the electric 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 of dredged or fill material, 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: (1) A section 10 permit is required; or (2) the discharge will result in the loss of greater than 1/10-acre of waters of the United States. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: Where the electric utility line is constructed, installed, or maintained 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 electric utility line to protect navigation.

Note 2: For electric utility line or telecommunications 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. Electric utility line and telecommunications activities must comply with 33 CFR 330.6(d).

Note 3: Electric utility lines or telecommunication 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 electric utility line or telecommunication line must be removed upon completion of the work, in accordance with the requirements for temporary fills.

Note 5: This NWP authorizes electric utility line and telecommunication 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 6: For overhead electric utility lines and telecommunication lines authorized by this NWP, a copy of the PCN and NWP verification will be provided by the Corps to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

Note 7: For 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)(4) 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).

General Conditions

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 or her 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 Structures and Fills.

Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. 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. Permittees 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 activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species.

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or

critical habitat has been completed. See 50 CFR 402.02 for the definition of “effects of the action” for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding “activities that are reasonably certain to occur” and “consequences caused by the proposed action.”

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). 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 species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, 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 species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) 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. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) 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 species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference 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 or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWP.

(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 that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects 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) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places 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 (see 33 CFR 330.4(g)(1)). 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 commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or 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.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has 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. 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.

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

22. Designated Critical Resource Waters.

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

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity

proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWP's only after she or he determines 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) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-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. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-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. 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. If restoring riparian areas involves planting vegetation, only native species should be planted. 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 NWP, 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)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(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 or federal, 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.

(a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

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)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. 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 CWA 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 authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot 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.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 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(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the 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 review by, or 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 and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review 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. 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) (i) 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.
- (ii) For linear projects where one or more single and complete crossings require pre-construction notification, 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 (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) 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 and intermittent 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 or 3/100-acre of stream bed 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 species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) 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 NWP activity that requires permission from, or review by, 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, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. 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 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 (iii) 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 engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms

and conditions of the NWP, including the need for mitigation to ensure that 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.

District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that

will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences 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. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) That the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's

submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

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).



Regional Conditions Omaha District State of North Dakota

The following Nationwide permit (NWP) regional conditions will be used in the State of North Dakota for NWP 12, 21, 29, 39, 40, 42, 43, 44, 48, 50, 51, 52, 55, 56, 57, and 58. Regional conditions are placed on NWPs to ensure projects result in no more than minimal adverse impacts to the aquatic environment to address local resources concerns.

A. PRECONSTRUCTION NOTIFICATION REQUIREMENTS APPLICABLE TO ALL NWPS FOR LIMITED REVOCATION OF NWPS

For all NWPs, permittees must notify the Corps in accordance with General Condition 32 Preconstruction Notification (PCN) requirements for regulated activities located within or comprised of the following:

1. Wetlands Classified as Peatlands:

For purposes of this condition, peatlands are permanently or seasonally waterlogged areas with a surface accumulation of peat (organic matter) 30 centimeters (12-inches) or more thick. Under cool, anaerobic, and acidic conditions, the rate of organic matter accumulation exceeds organic decay. Any peat-covered areas, including fens, bogs, and muskegs, are all peatlands.

- a. Reserved
- b. All NWPs listed above are revoked for use in peatlands.

2. Waters Adjacent to Natural Springs:

PCN required for any regulated activity 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. Springs do not include drain tile outlets.

3. Bank Stabilization Activities:

PCN required for any regulated activity that involves bank stabilization impacting an area greater than 1/10 of an acre below the Ordinary High Water Mark or includes features that extend out from the existing bank line greater than 25% of the bankfull channel width.

4. Specific Waterways:

PCN required for any regulated activity occurring in or under the Missouri River, including Lake Sakakawea and Lake Oahe. In addition, a PCN is required for any activity occurring in an off channel area (e.g. marinas and bays) of any of these waterways.

B. PRECONSTRUCTION NOTIFICATION REQUIREMENTS APPLICABLE TO SPECIFIC NWP.

5. Reserved

C. BEST MANAGEMENT PRACTICES

Best Management Practices

In addition to Regional Conditions 1 through 5, additional required best management practices apply to NWPs within the Omaha District. These follow and are available at: <https://www.nwo.usace.army.mil/Missions/Regulatory-Program/Nation-Wide-Permit-Information/>



2021 Nationwide Permits Regional Conditions Omaha District Required Best Management Practices

The following Nationwide Permit (NWP) regional condition best management practices are required for Montana, Nebraska, North Dakota, South Dakota, and Wyoming in the Omaha District for NWP 12, 21, 29, 39, 40, 42, 43, 44, 48, 50, 51, 52, 55, 56, 57, and 58. 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 resources concerns.

A. REQUIRED BEST MANAGEMENT PRACTICE APPLICABLE TO MONTANA, NEBRASKA, NORTH DAKOTA, SOUTH DAKOTA, AND WYOMING

1. Suitable Material

Permittees are reminded of General Condition No. 6 which prohibits use of unsuitable material. A list of materials prohibited or restricted as fill material in waters of the United States can be found at:

<http://www.nwo.usace.army.mil/Media/FactSheets/FactSheetArticleView/tabid/2034/Article/12320/prohibited-restricted-materials.aspx>

B. NORTH DAKOTA REQUIRED BEST MANAGEMENT PRACTICES

2. Minimum Culvert Width:

For all NWPs in jurisdictional streams, the culvert opening width of a stream crossing shall not be less than the mean bank to bank width as measured from the Ordinary High Water Mark in the affected stream reach. In stable stream channels, the Ordinary High Water Mark is often found at the point where over-bank flow begins during a flood event. In incised stream channels that do not frequently access a floodplain or upper terrace, the Ordinary High Water Mark is generally located within the entrenched channel. The Ordinary High Water Mark may be identified by observing indicators such as a distinct change in slope, a change in vegetation characteristics, or a change in sediment characteristics, see 33 CFR 328.3(e).

3. Culvert Countersink Depth:

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

	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	20% of pipe diameter
	Box culvert	All drainage sizes	1.0 ft

a. The stream flow line shall be defined as the longitudinal average of the low flow stream channel.

b. The slope of the culvert should be parallel to the slope of the stream flow line.

c. The culvert invert depression depth shall be measured at the culvert for culverts installed at a slope less than the slope of the stream flow line.

4. Spawning Areas:

Spawning areas and seasons can be accessed on the North Dakota Game and Fish Department's website at: <http://gf.nd.gov/gnf/conservation/docs/spawning-restriction-exclusions.pdf>

5. Intake Structures:

a. 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.

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

c. Intakes located in Lake Sakakawea, above river mile 1519, and on the Yellowstone River, are subject to the following conditions:

i. The intakes shall be floating.

ii. At the beginning of the pumping season, the intake shall be placed over water with a minimum depth of 20 feet.

iii. If the 20-foot depth is not attainable, then the intake shall be located over the deepest water available.

iv. 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.

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

- i. The intakes shall be submerged.
- ii. At the beginning of the pumping season, the intake will be placed at least 20 vertical feet below the existing water level.
- iii. The intake shall be elevated 2 to 4 feet off the bottom of the river or reservoir bed.
- iv. If the 20-foot depth is not attainable, then the intake velocity shall be limited to $\frac{1}{4}$ -foot per second with intake placed at the maximum practicable attainable depth.
- e. Intakes and associated Utility lines that are proposed to cross sandbars in areas designated as piping plover critical habitat are prohibited.
- f. 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.

6. 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:

- a. 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 Water Mark. Information Note: Issuance of this permit does not supersede authorization required by the North Dakota State Engineer's Office.
- b. Any boat dock shall be anchored to the top of the high bank.
- c. 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.
- d. Section 10 Waters located in the State of North Dakota area:
 - i. Bois de Sioux River
 - ii. James River Missouri River
 - iii. Red River of the North
 - iv. Upper Des Lacs Lake
 - v. Yellowstone River



**2021 Nationwide Permits
Regional Conditions
State of North Dakota
Section 401 Water Quality Certification**

The following Nationwide permit (NWP) regional conditions pertaining to Section 401 Water Quality Certification (WQC) will be used in the State of North Dakota for NWP 12, 21, 29, 39, 40, 42, 43, 44, 48, 50, 51, 52, 55, 56, 57, and 58.

The Environmental Protection Agency is responsible for providing WQC for activities that occur on Indian Lands in the State of North Dakota.

The North Dakota Department of Environmental Quality is responsible for providing WQC for Section 404 activities that occur in the State of North Dakota, excluding Indian Lands.

WQC by NWP follows:

- **NWP 12 – Oil or Natural Gas Pipeline Activities**
 - EPA denied for all activities.
 - NDDEQ denied for activities affecting Class I, IA, II and III rivers and streams, and classified lakes listed in Appendixes I and II of the State Water Quality Standards and certified for activities affecting all other waters in the State.
- **NWP 21 – Surface Coal Mining Activities**
 - EPA denied for all activities.
 - NDDEQ certified for all activities.
- **NWP 29 – Residential Developments**
 - EPA denied for all activities.
 - NDDEQ certified with the condition that the project will not result in a stream bank loss exceeding 300 linear feet in Class I, IA, II and III rivers and streams. Projects that cannot meet the condition will require an individual certification.
- **NWP 39 – Commercial and Institutional Developments**
 - EPA denied WQC for all activities.
 - NDDEQ certified with the condition that the project will not result in a stream bank loss or relocation of 150 linear feet of any river or stream. Projects that cannot meet the condition will require an individual certification.
- **NWP 40 – Agricultural Activities**
 - EPA denied WQC for all activities.
 - NDDEQ certified with the condition that the project will not result in a stream bank loss or relocation of 150 linear feet of any river or stream. Projects that cannot meet the condition will require an individual certification.
- **NWP 42 – Recreational Facilities**
 - EPA denied WQC for all activities.

-NDDEQ certified with the condition that the project will not result in a stream bank loss or relocation of 150 linear feet of any river or stream. Projects that cannot meet the condition will require an individual certification.

- **NWP 43 – Stormwater Management Facilities**

- EPA denied WQC for all activities.
 - NDDEQ certified for all activities.

- **NWP 44 – Mining Activities**

- EPA denied WQC for all activities.
 - NDDEQ certified for all activities.

- **NWP 48 – Commercial Shellfish Mariculture Activities**

- EPA waived WQC for all activities.
 - NDDEQ certified for all activities.

- **NWP 50 – Underground Coal Mining Activities**

- EPA denied WQC for all activities.
 - NDDEQ certified for all activities.

- **NWP 51 – Land-Based Renewable Energy Generation Facilities**

- EPA denied for all activities.
 - NDDEQ certified for all activities.

- **NWP 52 – Water-Based Renewable Energy Generation Pilot Projects**

- EPA denied WQC for all activities.
 - NDDEQ certified with the condition that a copy of the PCN is provided to NDDEQ for projects in, over or under Class I, IA, II and III rivers and streams, and classified lakes for compliance purposes.

- **NWP 55 – Seaweed Mariculture Activities**

- EPA denied WQC for all activities.
 - NDDEQ N/A

- **NWP 56 – Finfish Mariculture Activities**

- EPA denied WQC for all activities.
 - NDDEQ N/A

- **NWP 57 – Electric Utility Line and Telecommunications Activities**

- EPA denied for all activities.
 - NDDEQ certified for all activities.

- **NWP 58 – Utility Line Activities for Water and Other Substances**

- EPA denied WQC for all activities.
 - NDDEQ certified with the condition that the lines do not carry oil and gas production water, produced water, or brine water. Pipelines that carry oil or gas production water,

produced water, or brine water, collectively called saltwater pipelines, in, over or under Class I, IA, II and III rivers and streams, and classified lakes require individual certification with conditions based on the specific waterbody, location on the water, type of construction, and safety controls applied prior, during, or after construction.

U.S. Army Corps of Engineers (USACE)
NATIONWIDE PERMIT PRE-CONSTRUCTION NOTIFICATION (PCN)

For use of this form, see 33 CFR 330; the proponent agency is CECW-CO-R.

Form Approved -
OMB No. 0710-0003
Expires: 08-31-2023

DATA REQUIRED BY THE PRIVACY ACT OF 1974

Authority Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Regulatory Program of the Corps of Engineers (Corps); Final Rule 33 CFR 320-332.

Principal Purpose Information provided on this form will be used in evaluating the nationwide permit pre-construction notification.

Routine Uses This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of the agency coordination process.

Disclosure Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued.

The public reporting burden for this collection of information, 0710-0003, is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR RESPONSE TO THE ABOVE EMAIL.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see *sample drawings and/or instructions*) and be submitted to the district engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

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

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

(ITEMS BELOW TO BE FILLED BY APPLICANT)

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

STATEMENT OF AUTHORIZATION

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

SIGNATURE OF APPLICANT

DATE

NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME or TITLE (*see instructions*)

25. Is any portion of the nationwide permit activity already complete? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, describe the completed work:			
26. List the name(s) of any species listed as endangered or threatened under the Endangered Species Act that might be affected by the proposed NWP activity or utilize the designated critical habitat that might be affected by the proposed NWP activity. (<i>see instructions</i>)			
27. List any historic properties that have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic property or properties. (<i>see instructions</i>)			
28. For a proposed NWP 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, identify the Wild and Scenic River or the "study river":			
29. If the proposed 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 federally authorized civil works project, have you submitted a written request for section 408 permission from the Corps district having jurisdiction over that project? <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", please provide the date your request was submitted to the Corps district:			
30. If the terms of the NWP(s) you want to use require additional information to be included in the PCN, please include that information in this space or provide it on an additional sheet of paper marked Block 30. (<i>see instructions</i>)			
31. Pre-construction notification is hereby made for one or more nationwide permit(s) to authorize the work described in this notification. I certify that the information in this pre-construction notification is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.			
_____ SIGNATURE OF APPLICANT		_____ DATE	
_____ SIGNATURE OF AGENT		_____ DATE	
The pre-construction notification must be signed by the person who desires to undertake the proposed activity (applicant) and, if the statement in Block 11 has been filled out and signed, the authorized agent.			
18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.			

**Instructions for Preparing a
Department of the Army
Nationwide Permit (NWP) Pre-Construction Notification (PCN)**

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

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

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

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

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

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

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

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

Block 12. Proposed Nationwide Permit Activity Name or Title. Please provide a name identifying the proposed NWP activity, e.g., Windward Marina, Rolling Hills Subdivision, or Smith Commercial Center.

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

Block 14. Proposed Activity Street Address. If the proposed NWP activity is located at a site having a street address (not a box number), please enter it in Block 14.

Block 15. Location of Proposed Activity. Enter the latitude and longitude of where the proposed NWP activity is located. Indicate whether the project location provided is the center of the project or whether the project location is provided as the latitude and longitude for each of the "corners" of the project area requiring evaluation. If there are multiple sites, please list the latitude and longitude of each site (center or corners) on a separate sheet of paper and mark as Block 15.

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

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

Block 18. Identify the Specific Nationwide Permit(s) You Propose to Use. List the number(s) of the Nationwide Permit(s) you want to use to authorize the proposed activity (e.g., NWP 29).

Block 19. Description of the Proposed Nationwide Permit Activity. Describe the proposed NWP activity, including the direct and indirect adverse environmental effects the activity would cause. The description of the proposed activity 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. Identify the materials to be used in construction, as well as the methods by which the work is to be done.

Provide sketches when necessary to show that the proposed NWP activity complies with the terms of the applicable NWP(s). Sketches usually clarify the activity and result in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed NWP activity (e.g., a conceptual plan), but do not need to be detailed engineering plans.

The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach an extra sheet of paper marked Block 19.

Block 20. Description of Proposed Mitigation Measures. Describe any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed NWP activity. The description of 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 additional mitigation measures.

Block 21. Purpose of Nationwide Permit Activity. Describe the purpose and need for the proposed NWP activity. What will it be used for and why? Also include a brief description of any related activities associated with the proposed project. Provide the approximate dates you plan to begin and complete all work.

Block 22. Quantity of Wetlands, Streams, or Other Types of Waters Directly Affected by the Proposed Nationwide Permit Activity. For discharges of dredged or fill material into waters of the United States, provide the amount of wetlands, streams, or other types of waters filled, flooded, excavated, or drained by the proposed NWP activity. For structures or work in navigable waters of the United States subject to Section 10 of the Rivers and Harbors Act of 1899, provide the amount of navigable waters filled, dredged, or occupied by one or more structures (e.g., aids to navigation, mooring buoys) by the proposed NWP activity.

For multiple NWPs, or for separate and distant crossings of waters of the United States authorized by NWPs 12 or 14, attach an extra sheet of paper marked Block 21 to provide the quantities of wetlands, streams, or other types of waters filled, flooded, excavated, or drained (or dredged or occupied by structures, if in waters subject to Section 10 of the Rivers and Harbors Act of 1899) for each NWP. For NWPs 12 and 14, include the amount of wetlands, streams, or other types of waters filled, flooded, excavated, or drained for each separate and distant crossing of waters or wetlands. If more space is needed, attach an extra sheet of paper marked Block 22.

Block 23. Identify Any Other Nationwide Permit(s), Regional General Permit(s), or Individual Permit(s) Used to Authorize Any Part of Proposed Activity or Any Related Activity. List 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. For linear projects, list other separate and distant crossings of waters and wetlands authorized by NWPs 12 or 14 that do not require PCNs. If more space is needed, attach an extra sheet of paper marked Block 23.

Block 24. Compensatory Mitigation Statement for Losses of Greater Than 1/10-Acre of Wetlands When Pre-Construction Notification is Required. Paragraph (c) of NWP general condition 23 requires compensatory mitigation at a minimum one-for-one replacement 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 is more environmentally appropriate or the adverse environmental effects of the proposed NWP activity are no more than minimal without compensatory mitigation, and provides an activity-specific waiver of this requirement. Describe the proposed compensatory mitigation for wetland losses greater than 1/10 acre, or provide an explanation of why the district engineer should not require wetland compensatory mitigation for the proposed NWP activity. If more space is needed, attach an extra sheet of paper marked Block 24.

Block 25. Is Any Portion of the Nationwide Permit Activity Already Complete? Describe any work that has already been completed for the NWP activity.

Block 26. List the Name(s) of Any Species Listed As Endangered or Threatened under the Endangered Species Act that Might be Affected by the Nationwide Permit Activity. If you are not a federal agency, and if any listed species or designated critical habitat might be affected or is in the vicinity of the proposed NWP activity, or if the proposed NWP activity is located in designated critical habitat, list the name(s) of those endangered or threatened species that might be affected by the proposed NWP activity or utilize the designated critical habitat that might be affected by the proposed NWP activity. If you are a Federal agency, and the proposed NWP activity requires a PCN, you must provide documentation demonstrating compliance with Section 7 of the Endangered Species Act.

Block 27. List Any Historic Properties that Have the Potential to be Affected by the Nationwide Permit Activity. If you are not a Federal agency, and if any historic properties have the potential to be affected by the proposed NWP activity, list the name(s) of those historic properties that have the potential to be affected by the proposed NWP activity. If you are a Federal agency, and the proposed NWP activity requires a PCN, you must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

Block 28. List the Wild and Scenic River or Congressionally Designated Study River if the Nationwide Permit Activity Would Occur in such a River. If the proposed NWP activity will occur in a river in the National Wild and Scenic River System or in a river officially designated by Congress as a "study river" under the Wild and Scenic Rivers Act, provide the name of the river. For a list of Wild and Scenic Rivers and study rivers, please visit <http://www.rivers.gov/>.

Block 29. Nationwide Permit Activities that also Require Permission from the Corps Under 33 U.S.C. 408. If the proposed NWP activity also requires permission from the Corps under 33 U.S.C. 408 because it will temporarily or permanently alter, occupy, or use a Corps federal authorized civil works project, indicate whether you have submitted a written request for section 408 permission from the Corps district having jurisdiction over that project.

Block 30. Other Information Required For Nationwide Permit Pre-Construction Notifications. The terms of some of the Nationwide Permits include additional information requirements for preconstruction notifications:

- * NWP 3, Maintenance –information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals.
- * NWP 31, Maintenance of Existing Flood Control Facilities –a description of the maintenance baseline and the dredged material disposal site.
- * NWP 33, Temporary Construction, Access, and Dewatering –a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions.
- * NWP 44, Mining Activities –if reclamation is required by other statutes, then a copy of the final reclamation plan must be submitted with the pre-construction notification.
- * NWP 45, Repair of Uplands Damaged by Discrete Events –documentation, such as a recent topographic survey or photographs, to justify the extent of the proposed restoration.
- * NWP 48, Commercial Shellfish Aquaculture Activities –(1) a map showing the boundaries of the project area, with latitude and longitude coordinates for each corner of the project area; (2) the name(s) of the species that will be cultivated during the period this NWP is in effect; (3) whether canopy predator nets will be used; (4) whether suspended cultivation techniques will be used; and (5) general water depths in the project area (a detailed survey is not required).
- * NWP 49, Coal Remining Activities –a document describing how the overall mining plan will result in a net increase in aquatic resource functions must be submitted to the district engineer and receive written authorization prior to commencing the activity.
- * NWP 50, Underground Coal Mining Activities –if reclamation is required by other statutes, then a copy of the reclamation plan must be submitted with the pre-construction notification.

If more space is needed, attach an extra sheet of paper marked Block 30.

Block 31. Signature of Applicant or Agent. The PCN must be signed by the person proposing to undertake the NWP activity, and if applicable, the authorized party (agent) that prepared the PCN. The signature of the person proposing to undertake the NWP activity shall be an affirmation that the party submitting the PCN possesses the requisite property rights to undertake the NWP activity (including compliance with special conditions, mitigation, etc.).

DELINEATION OF WETLANDS, OTHER SPECIAL AQUATIC SITES, AND OTHER WATERS

Each 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 wetland delineation manual and regional supplement published 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. The 45 day PCN review period will not start until the delineation is submitted or has been completed by the Corps.

DRAWINGS AND ILLUSTRATIONS

General Information.

Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map, a Plan View or a Typical Cross-Section Map. Identify each illustration with a figure or attachment number. For linear projects (e.g. roads, subsurface utility lines, etc.) gradient drawings should also be included. Please submit one original, or good quality copy, of all drawings on 8½x11 inch plain white paper (electronic media may be substituted). Use the fewest number of sheets necessary for your drawings or illustrations. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view, or cross-section). While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate, and contain all necessary information.

ADDITIONAL INFORMATION AND REQUIREMENTS

For proposed NWP activities that involve discharges into waters of the United States, water quality certification from the State, Tribe, or EPA must be obtained or waived (see NWP general condition 25). Some States, Tribes, or EPA have issued water quality certification for one or more NWPs. Please check the appropriate Corps district web site to see if water quality certification has already been issued for the NWP(s) you wish to use. For proposed NWP activities in coastal states, state Coastal Zone Management Act consistency concurrence must be obtained, or a presumption of concurrence must occur (see NWP general condition 26). Some States have issued Coastal Zone Management Act consistency concurrences for one or more NWPs. Please check the appropriate Corps district web site to see if Coastal Zone Management Act consistency concurrence has already been issued for the NWP(s) you wish to use.

**North Dakota Department of Environmental Quality
(NDDEQ)**

August 17, 2023

Daniel McCourtney
Environmental Manager
Minnesota Power
30 West Superior St.
Duluth, MN 55802-2093

Re: HVDC Modernization Project in Oliver County

Dear Mr. McCourtney:

The North Dakota Department of Environmental Quality has reviewed the information concerning the above-referenced project received at the department on August 7, 2023, with respect to possible environmental impacts.

1. Care is to be taken during construction activity near any water of the state to minimize adverse effects on a water body. This includes minimal disturbance of stream beds and banks to prevent excess siltation, and the replacement and revegetation of any disturbed area as soon as possible after work has been completed. Caution must also be taken to prevent spills of oil and grease that may reach the receiving water from equipment maintenance and/or the handling of fuels on the site. Guidelines for minimizing degradation to waterways during construction are attached.
2. Projects disturbing one or more acres are required to have a permit to discharge stormwater runoff until the site is stabilized by the re-establishment of vegetation or other permanent cover. Further information on the stormwater permit may be obtained from the department's website or by calling the Division of Water Quality at 701-328-5210. Also, cities may impose additional requirements and/or specific best management practices for construction affecting their storm drainage system. Check with the local officials to be sure any local stormwater management considerations are addressed.

Minnesota Power must notify the North Dakota Pollutant Discharge Elimination System (NDPDES) program of any planned changes to the HVDC Conversion facility which may affect the NDPDES permit for the facility. This includes facility expansions, production increases, and process modifications.

3. The construction project overlies the Square Butte Creek surficial aquifer, which is a sensitive groundwater area, and is within three (3) non-community wellhead protection areas. Care should be taken to avoid spills of any materials that may have an adverse effect on groundwater quality. All spills must be immediately reported to this department and appropriate remedial actions performed.

4. All solid waste materials must be managed and transported in accordance with the state's solid and hazardous waste rules. Appropriate efforts to reduce, reuse and/or recycle waste materials are strongly encouraged. As appropriate, segregation of inert waste from non-inert waste can generally reduce the cost of waste management. Further information on waste management and recycling is available from the department's Division of Waste Management at 701-328-5166.
5. Polychlorinated Biphenyls, commonly referred to as PCBs, can be found in electrical equipment older than 1980. Projects that involve the removal of fluid-filled electrical equipment, heat transfer equipment, older fluorescent lights, caulks and paints must ensure that all materials are PCB free. Any PCB-containing waste must be handled, stored, and disposed of appropriately. Questions on proper PCB management may be directed to the Hazardous Waste Program at 701-328-5166.

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

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

Sincerely,



L. David Glatt, P.E., Director
North Dakota Department of Environmental Quality

LDG:ll
Attach.

Construction and Environmental Disturbance Requirements

The following are the minimum requirements of the North Dakota Department of Environmental Quality for projects that involve construction and environmental disturbance in or near waters of the State of North Dakota. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect waters of the state. All projects must be constructed to minimize the loss of soil, vegetative cover, and pollutants (chemical or biological) from a site.

Soils

Prevent the erosion and sediment loss using erosion and sediment controls. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, and land resources must be prohibited against compaction, vegetation loss and unnecessary damage.

Surface Waters

All construction must be managed to minimize impacts to aquatic systems. Follow safe storage and handling procedures to prevent the contamination of water from fuel spills, lubricants, and chemicals. Stream bank and stream bed disturbances must be contained to minimize silt movement, nutrient upsurges, plant dislocations, and any physical chemicals, or biological disruption. The use of pesticides or herbicides in or near surface waters is allowed under the department's pesticide application permit with notification to the department.

Fill Material

Any fill material placed below the ordinary high-water mark must be free of topsoil, decomposable materials, and persistent synthetic organic compounds; including, but not limited to, asphalt, tires, treated lumber, and construction debris. The department may require testing of fill material. All temporary fills must be removed. Debris and solid waste must be properly disposed or recycled. Impacted areas must be restored to near original condition.

**Minot Air Force Base
(AFB)**



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

3400 DEFENSE PENTAGON
WASHINGTON, DC 20301-3400

ENERGY, INSTALLATIONS
AND ENVIRONMENT

August 29, 2024

Mandy Bohnenblust
Merjent
1 Main Street SE, Suite 300
Minneapolis, MN 55414

Dear Ms. Bohnenblust,

As requested, the Military Aviation and Installation Assurance Siting Clearinghouse coordinated within the Department of Defense (DoD) an informal review of the HVDC Modernization Project. The results of our review indicated that the transmission line project, located in Oliver County, North Dakota, as proposed, will have minimal impact on military operations conducted in the area.

Please note that this informal review by the DoD Military Aviation and Installation Assurance Siting Clearinghouse does not constitute an action under 49 United States Code Section 44718 and that the DoD is not bound by the conclusion arrived at under this informal review. To expedite our review in the Obstruction Evaluation Airport Airspace Analysis (OE/AAA) process, please add the project number 2024-06-T-DEV-10 in the comments section of the filing. If you have any questions, please contact Ms. Robbin Beard, Clearinghouse Deputy Director, at robbin.e.beard.civ@mail.mil.

Sincerely,

A handwritten signature in blue ink, reading "Steven J. Sample".

Steven J. Sample
Executive Director
Military Aviation and Installation
Assurance Siting Clearinghouse

From: [Mandy Bohnenblust](#)
To: osd.dod-siting-clearinghouse@mail.mil
Cc: [Dan Flo](#); [dmccourtney](#)
Subject: Minnesota Power's HVDC Modernization Project - Informal Request
Date: Friday, June 7, 2024 11:53:56 AM
Attachments: [HVDC Permit Corridor 20240607.zip](#)
[image001.png](#)
[DOD Siting Clearinghouse Informal Request Form 2023 1.pdf](#)

Good morning,

Minnesota Power is proposing to construct it's HVDC Modernization Project (Project). The Project involves modernizing and upgrading the Company's existing High Voltage Direct Current (HVDC) terminals, located near the existing Center HVDC Substation in Center, North Dakota. This proposed project will require the construction of a new HVDC terminal, the new Nelson Lake substation and new transmission line segments to interconnect into the local electric grid. The proposed Project is regulated by the North Dakota Public Service Commission and Oliver County. The Project involves modernizing and upgrading the existing HVDC terminal, located near the existing Center HVDC Converter in Oliver County, North Dakota. The proposed Project will include the construction of a new HVDC terminal and three electric station yards, and transmission line segments to interconnect the new terminal with the local electric grid. An overview map of the proposed Project is attached.

On behalf of Minnesota Power, I am submitting the attached Informal Review Request Form and shapefile of the proposed location. Please let me know if you have any questions or need additional information to process the request.

Thank you,
Mandy

Mandy Bohnenblust

612.746.3677 direct
612.816.2097mobile
mandy.bohnenblust@merjent.com

*this computer doesn't consistently register the keyboard – please forgive typos.



1 Main Street SE, Suite 300
Minneapolis, MN 55414
612.746.3660 main
www.merjent.com



DOD Military Aviation and Installation Assurance Siting Clearinghouse



DOD Siting Clearinghouse – Informal Review Request Form

To request an informal review, please fill out this form with all the available information for your project(s) and email this [form](#), a [shapefile](#) and/or KMZ file of the proposed location, and any relevant documentation to the Clearinghouse at osd.dod-siting-clearinghouse@mail.mil. If necessary, you may also submit coordinates in Decimal Degrees (preferred) or DMS (Degrees, Minutes, Seconds) for each component of the project (e.g., each wind turbine or transmission line tower) in Excel format.

Date of Request:

PROJECT POINT OF CONTACT		
First Name	Dan	Last Name Flo
Organization	Merjent, Inc.	
Address	1 Main Street SE, Suite 300	
City	Minneapolis	State MN Zip Code 55414
Email	dan.flo@merjent.com Phone Number 612-812-0069	

PROJECT DETAILS			
Project Name	HVDC Modernization Project		
Project Developer	Minnesota Power and Great River Energy		
Project County and State	Oliver County, ND		
Type of Project [Select all that apply]			
Transmission, Utility, or Po	Project Type #2	Project Type #3	Project Type #4

For the following questions, please fill out **ONLY** the sections applicable to the project type. If the project does not yet have a defined layout, please provide coordinates to indicate the general footprint, such as boundary corners.

WIND TURBINE	
Number of Structures	Turbine Type
Hub Height (ft)	Maximum Blade Tip Height at Top of Rotation (ft)
Associated Meteorological Evaluation Towers (if applicable). Please provide the structure heights and coordinates of the METs if not they are not already included in the KMZ provided for your project. Please provide information on the types of sensors that will be used.	
Turbine Farm boundary corner coordinates boundary corner coordinates (if a shapefile and/or KMZ file cannot be provided)	

SOLAR		
Solar Technology (e.g., photovoltaic, concentrated solar power)		
Solar Panel Height (at maximum tilt) or Tower Height (ft)		
Acreage	Axis Tracking? <input type="checkbox"/>	Anti-Reflective Panels? <input type="checkbox"/>
Solar Panel or Heliostat Array boundary corner coordinates (if a shapefile and/or KMZ file cannot be provided)		
Associated Transmission Infrastructure (if applicable)		
Maximum Pole Height (ft)	Grid Point of Interconnection Coordinates	Rate Voltage of Line (kV)

GEOTHERMAL	
Acreage	Structure Height (ft)
Geothermal Layout boundary corner coordinates (if a shapefile and/or KMZ file cannot be provided)	

ENERGY STORAGE		
Acreage	Structure Height (ft)	
Project boundary corner coordinates (if a shapefile and/or KMZ file cannot be provided)		
Associated Transmission Infrastructure (if applicable)		
Maximum Pole Height (ft)	Grid Point of Interconnection Coordinates	Rate Voltage of Line (kV)

TRANSMISSION, UTILITY, OR POWER LINES	
Type of structure (wood, concrete, steel etc.): See attached	
Height (ft) See attached	Length of Line (ft) See attached
Substation Tie-In See attached	
Rated Voltage of Line (kV) See attached	
Transmission Tower and Terminal Point Coordinates. See attached	
Please include a map of the transmission route (if shapefile and/or KMZ file is not provided)	

Any additional information about your project you wish to disclose?

Phase 1, Nelson Lake Substation, includes the following Project facilities:

- Proposed Nelson Lake Substation 230-kV Yard.
- Proposed Single-Circuit 230-kV AC Transmission Line, approximately 0.3 mile long (between the proposed Nelson Lake 230-kV Substation and the proposed Double-Circuit 230-kV AC Transmission Line).
- Proposed Double-Circuit 230-kV AC Transmission Line, approximately 1.5 miles long (between the proposed Single-Circuit 230-kV AC Transmission Line and the existing Square Butte East Substation).
- Re-routing the existing Great River Energy 230-kV AC Transmission Line through the proposed Nelson Lake Substation, which requires parallel single-circuit lines for approximately 0.3 mile, then a double-circuit line for approximately 0.6 mile.
- Modifications of the existing Square Butte East Substation (adding one breaker).
- Permanent access road(s) to the new Nelson Lake Substation (approximately 1.5 miles).

Phase 2, East Oliver HVDC Converter Station, will interconnect to Phase 1 of the Project and includes the following Project facilities:

- Proposed East Oliver HVDC Converter Station.
- Proposed East Oliver 345-kV Yard.
- Proposed Nelson Lake Substation 345-kV Yard.
- 345-kV AC Transmission Line, approximately 3.95 miles long (connecting the proposed Nelson Lake 345-kV

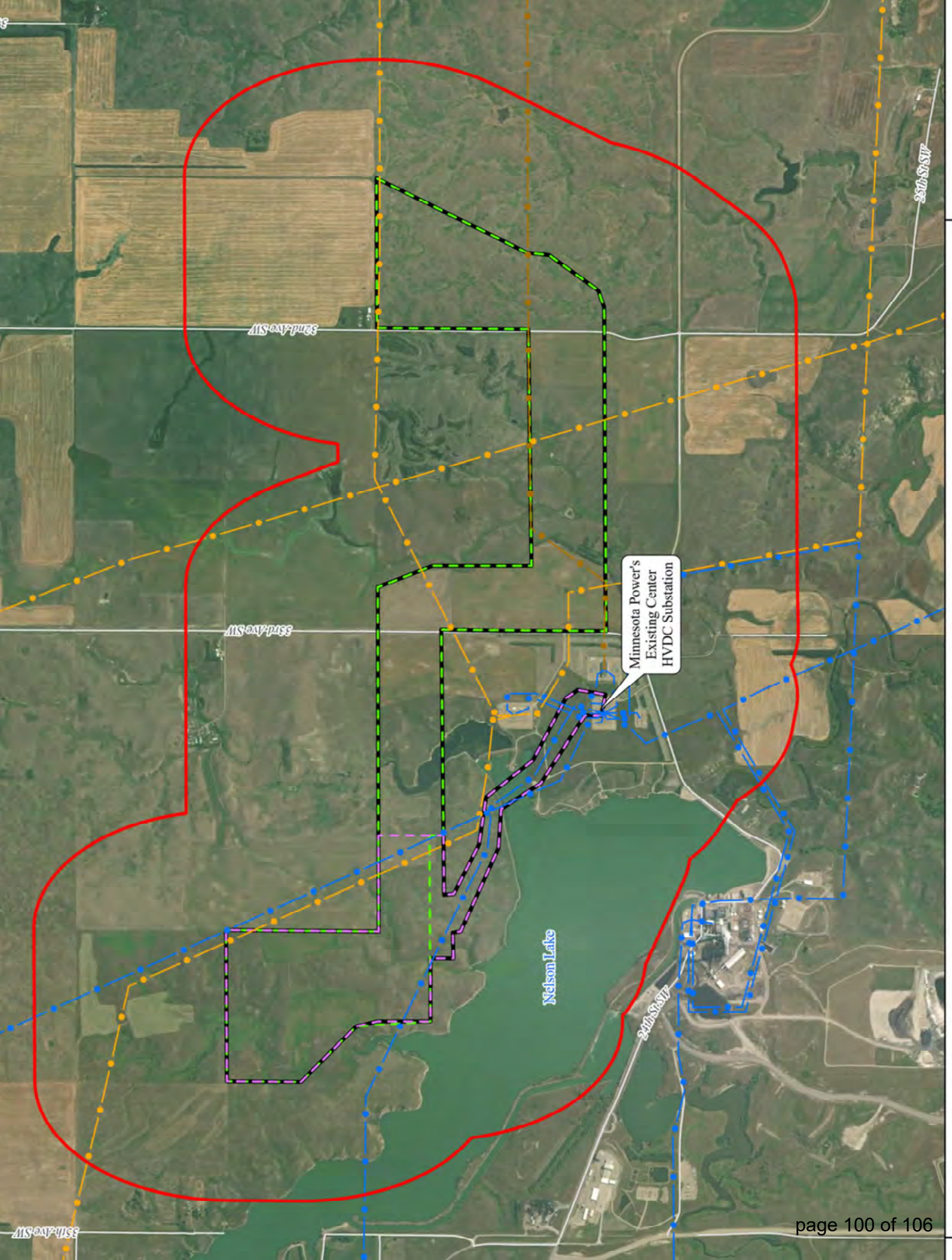


If the request for an informal review includes trade secrets or otherwise commercial information that is proprietary or competition sensitive, we encourage that the documents be marked accordingly. Documents should be marked as "Proprietary" or "Business Sensitive" to help ensure they are properly safeguarded upon receipt. Do not mark documents as "Confidential," as that can be easily mistaken for a national security classification. Proprietary information which is customarily and actually treated as private will be protected under Exemption 4 to the Freedom of Information Act (FOIA) to the extent permitted by law. Requests are not otherwise shared outside of DoD and will only be used to assess potential impacts on military missions.

Project Design Components – Phase 1, Nelson Lake Substation			
Description of Design Component	Values		
Component / Voltage (kV)	Double-Circuit 230-kV AC Lines	Single-Circuit 230-kV AC Line	230-kV AC Line – Great River Energy
Length of transmission line	1.5 miles	0.3 mile	0.9 mile
Approximate total number of structures	8	3	9 double-circuit; 10 single-circuit
Approximate number of single-pole structures	All MP structures will be steel pole concrete foundation	All MP structures will be steel pole concrete foundation	15
Approximate number of H-frame structures	All MP structures will be steel pole concrete foundation	All MP structures will be steel pole concrete foundation	4
Conductor size	1780 ACSS 37/19 TW	1780 ACSS 37/19 TW	TBD
Typical minimum and maximum span distances between structures	250 - 1000 feet	400 – 1000 feet	345 - 465 feet
Average span	600 feet	750 feet	350 feet
Minimum and maximum structure height	95 - 145 feet	85 – 140 feet	TBD feet
Average height of structures	130 feet	105 feet	TBD feet
Average number of structures	1 per 0.12 mile	1 per 0.14 mile	1 per 0.07 mile
Minimum conductor-to-ground clearance to agricultural land at 200 degrees Celsius (°C)	27 feet	27 feet	TBD feet
Minimum conductor-to-ground clearance to railroad at 100°C	35 feet	35 feet	Not Applicable
Minimum conductor-to-ground clearance to paved highways at 200°C	29 feet	29 feet	TBD
Circuit configuration	Vertical	Vertical	TBD

Project Design Components – Phase 2, East Oliver HVDC Converter Station		
Description of Design Component	Values	
Component / Voltage (kV)	345-kV AC Transmission Lines	250-kV HVDC Line Reroute
Length of transmission line	3.9 miles	0.9 mile
Approximate total number of structures	29	8
Approximate number of single-pole structures	All MP structures will be steel pole concrete foundation	MP structures will be a mix of 3 steel pole, concrete foundation and 5 steel pole, direct embed.
Approximate number of H-frame structures	All MP structures will be steel pole concrete foundation	MP structures will be a mix of 3 steel pole, concrete foundation and 5 steel pole, direct embed.
Conductor size	T2-795 ACSR double bundle	2839 ACSR
Typical minimum and maximum span distances between structures	500 ft 1,000 ft	550ft 690 ft
Average span	715 ft	640 ft
Minimum and maximum structure height	100 – 199 feet	70 – 87 feet

Average height of structures	170 feet	82 feet
Average number of structures	1 per .1 mi	1 per .12 mi
Minimum conductor-to-ground clearance to agricultural land at 100 degrees Celsius (°C)	30 Feet	29 feet at 75 °C
Minimum conductor-to-ground clearance to railroad at 100°C	38 Feet	37 feet at 75 °C
Minimum conductor-to-ground clearance to paved highways at 100°C	32 Feet	31 feet at 75 °C
Circuit configuration	Vertical	Horizontal and Vertical



From: [WARREN, SAMUELE M CIV USAF AFGSC 5 CES/CENP](#)
To: [Dan Flo](#)
Cc: [Daniel McCourtney \(MP\)](#); [Mandy Bohnenblust](#)
Subject: EXTERNAL: RE: Minnesota Power's HVDC Modernization Project - Request for Meeting (Minot AFB)
Date: Friday, May 31, 2024 2:56:01 PM
Attachments: [image001.png](#)

CAUTION: This email originated from outside of Merjent.

Mr. Flo,

I would request that this go through the DoD Clearing House for a review. This should not take very long to complete but will achieve a review from multiple agencies.

<https://www.dodclearinghouse.osd.mil/Project-Review/-Informal-Review/>

What I can tell from the map and information there would be no impact to the military training routes around this area. This review really needs to come through the DoD Clearing House.

sam

Sam Warren
Community Planner
5 CES/CENP
445 Peacekeeper Place
Minot AFB, ND 58705
DSN: 312-453-1969
Comm:701-723-1969

From: Dan Flo <dan.flo@merjent.com>
Sent: Friday, May 31, 2024 2:21 PM
To: WARREN, SAMUELE M CIV USAF AFGSC 5 CES/CENP <samuele.warren.1@us.af.mil>
Cc: Daniel McCourtney (MP) <dmccourtney@mnpower.com>; Mandy Bohnenblust <mandy.bohnenblust@merjent.com>
Subject: [Non-DoD Source] RE: Minnesota Power's HVDC Modernization Project - Request for Meeting (Minot AFB)

You don't often get email from dan.flo@merjent.com. [Learn why this is important](#)

Good Afternoon,

As a follow-up to my previous message, Minnesota Power would appreciate an opportunity to provide the USAF / Minot Air Force Base with updates related to the HVDC Modernization Project in Oliver County. In response to your request for details regarding structure heights, the following minimum and maximum potential structure heights are anticipated at this time:

- Double-Circuit 230 kV AC Lines: **95 – 145 feet**
- Single-Circuit 230 kV AC Lines: **85 – 140 feet**
- 345 kV AC Line: **100 – 199 feet**
- 250 kV DC Line: **70 – 87 feet**

Would you be available for a brief call next week (June 3-7)? Please feel free to suggest a day and time that would work for you.

We appreciate your time and look forward to talking with you.

Sincerely,

Dan Flo (he/him)
Principal Consultant
 612.924.3982 direct
 612.812.0069 mobile
dan.flo@merjent.com



1 Main Street SE, Suite 300
 Minneapolis, MN 55414
 612.746.3660 main
www.merjent.com

From: Dan Flo
Sent: Monday, May 20, 2024 9:36 AM
To: samuele.warren.1@us.af.mil
Cc: Daniel McCartney (MP) <dmccourtney@mnpower.com>; Mandy Bohnenblust <mandy.bohnenblust@merjent.com>
Subject: Minnesota Power's HVDC Modernization Project - Request for Meeting (Minot AFB)

Good Morning,

In August, 2023, your agency received a letter from Dan McCartney at Minnesota Power introducing the company's proposed HVDC Modernization Project. The Project involves modernizing and upgrading the existing HVDC terminal, located near the existing Center HVDC Converter in Oliver County, North Dakota. The proposed Project will include the construction of a new HVDC terminal and three electric station yards, and transmission line segments to interconnect the new terminal with the local electric grid. An overview map of the proposed Project is attached (Figure 1).

Your response to Mr. McCartney's letter is attached. On behalf of Minnesota Power and the Project, I would like to schedule a Microsoft Teams meeting to provide updates on the state and local permitting process and to address to the extent possible any questions your agency may have at this

time. I have provided several possible dates and time ranges for this meeting in the table below. If any of these times work for you, please respond to this email with the preferred date and time and I will send a meeting invitation. If you would like to schedule the meeting later than May 29th, I would be happy to provide additional times or please feel free to suggest a date and time that suits your schedule.

Mon. 5/20	Tue. 5/21	Wed. 5/22	Thu. 5/23	Fri. 5/24	Tue. 5/28	Wed. 5/29
1:00 – 2:00		12:00 – 1:30	9:00 – 10:00	9:00 – 10:00	9:00 – 10:00	
2:30 – 4:00	2:00 – 2:30	2:00 – 4:00	11:00 – 2:00	11:30 – 4:00	3:00 – 4:30	2:30 – 4:30

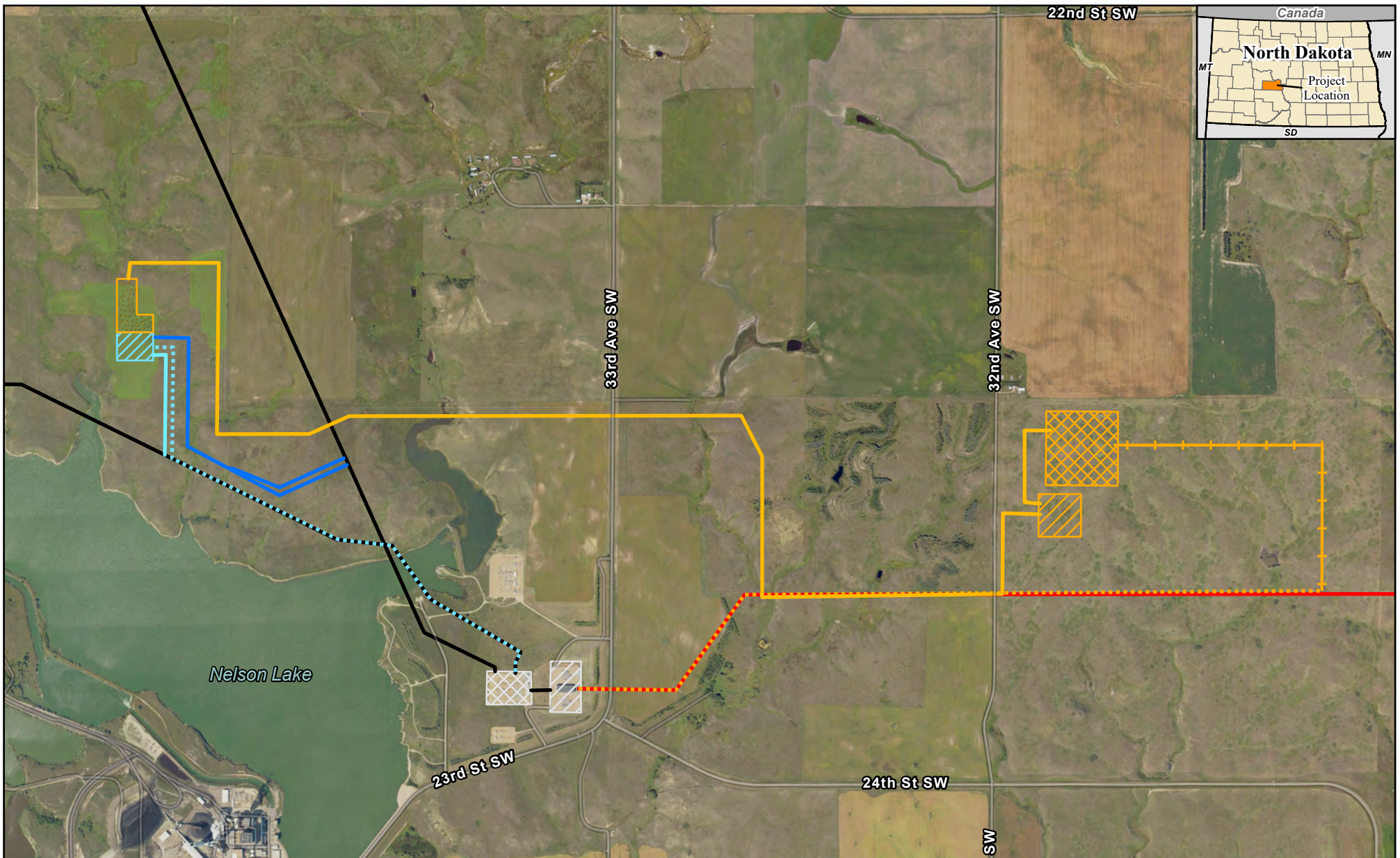
Best Regards,

Dan Flo (he/him)
Principal Consultant
 612.924.3982 direct
 612.812.0069 mobile
dan.flo@merjent.com



1 Main Street SE, Suite 300
 Minneapolis, MN 55414
 612.746.3660 main
www.merjent.com

This e-mail message is intended to be received only by persons entitled to receive the confidential information it may contain. E-mail messages from Merjent, Inc. may contain information that is confidential and legally privileged. Please do not read, copy, forward, or store this message unless you are an intended recipient of it. If you have received this message in error, please forward it to the sender and delete it completely from your computer system.



0 900 1,800
Feet



Figure 1
HVDC Modernization Project
Oliver County, North Dakota

- Proposed MP 230 kV Transmission Line (Phase 1)
- Proposed Double Circuit 230 kV Transmission Line (Phase 1)
- Proposed GRE 230 kV Transmission Lines (Phase 1)
- Proposed Nelson Lake Substation 230 kV Yard
- Existing 250 kV DC Line Segment for Removal (Phase 2)

- Proposed MP 345 kV Transmission Line (Phase 2)
- Proposed MP 250 kV DC Transmission Line Reroute (Phase 2)
- Proposed East Oliver 345 kV Yard (Phase 2)
- Proposed East Oliver HVDC Converter Substation (Phase 2)

- Proposed Nelson Lake Substation 345 kV Yard
- Existing 250 kV DC Transmission Line
- Existing 230 kV Transmission Lines
- Existing Center HVDC Converter
- Existing Square Butte Substation

From: Daniel McCourtney (MP) <dmccourtney@mnpower.com>
Sent: Monday, August 14, 2023 3:09 PM
To: Mandy Bohnenblust
Subject: EXTERNAL: FW: [EXTERNAL MAIL] HVDC Modernization Project

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside of Merjent.

As discussed....

Regards,

Dan

Daniel McCourtney
Manager-
Strategic Environmental Initiatives
ALLETE Inc.
30 West Superior St.
Duluth, MN 55802

Direct: 218.355.3515
Mobile: 218.428.5089

From: WARREN, SAMUELE M CIV USAF AFGSC 5 CES/CENP <samuele.warren.1@us.af.mil>
Sent: Tuesday, August 8, 2023 5:21 PM
To: Daniel McCourtney (MP) <dmccourtney@mnpower.com>
Subject: [EXTERNAL MAIL] HVDC Modernization Project

You don't often get email from samuele.warren.1@us.af.mil. [Learn why this is important](#)



**Use
Caution**

[EXTERNAL EMAIL] This message was sent from someone outside the company.

Do not click links, download attachments, or reply with personal information unless you recognize the sender and know the content is safe.

Afternoon Mr. McCourtney,

I'm writing in regards to a letter from Minnesota Power for the upgrade to Nelson Lake Substation and HVDC Terminal Modernization. As the Community Planner for Minot AFB I look at encroachment to our mission and from the letter identifying several of the township, range, and sections that this project will upgrade within the following areas: T142R83S26, T142R83S27, T142R83S28, T142R83S34, T142R83S35, T141R83S2.

These sections are within a military training route for aircraft and we would need more detail to make sure the project will not interfere with this route. Can you provide more detail in what the project will be upgrading specifically with heights of structures.

sam

Sam Warren
Community Planner
5 CES/CENP
445 Peacekeeper Place
Minot AFB, ND 58705
DSN: 312-453-1969
Comm:701-723-1969