BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Dairyland Power Cooperative for a Route Permit for the Wabasha Relocation 161 kV Transmission Line Project in Wabasha County

MPUC Docket No. ET-3/TL-23-388
OAH Docket No. 5-2500-40184

DIRECT TESTIMONY OF BRITTA BERGLAND ON BEHALF OF DAIRYLAND POWER COOPERATIVE

January 28, 2025

I. INTRODUCTION AND QUALIFICATIONS

Q. Please state your name, employer, and business address.

A. My name is Britta Bergland. I am employed by Merjent, Inc. (Merjent). My business address is 1 Main Street SE Suite 300, Minneapolis, MN 55414.

Q. What is Merjent?

A. Merjent is an environmental consulting firm based in Minneapolis, Minnesota that works primarily within the energy industry. Merjent provides permitting, engineering, survey, construction, and restoration support for electric transmission, pipeline, power generation, and other similar projects across the United States, including in Minnesota. Merjent staff have a variety of specialties; those working on the Wabasha 161-kilovolt (kV) Relocation Project (Project) specialize in environmental permitting and resource analysis, field survey, and construction/operation compliance for large, linear energy projects.

Q. What is your role with Merjent?

A. In my role as Principal Consultant, I manage environmental review and permitting efforts for energy projects. Additional detail is provided in my statement of qualifications in **Schedule A** of this testimony.

Q. Briefly describe your educational and professional background.

A. I have a Bachelor of Arts from Gustavus Adolphus College, where I majored in Environmental Studies and English, and minored in Geography. I have over 20 years of experience in the environmental field. As an environmental consultant, I have supported environmental review, permitting, and compliance efforts for projects in the biofuels, power generation and transmission, mining, and pipeline industries.

Q. On whose behalf are you providing testimony?

A. I am providing testimony on behalf of Dairyland Power Cooperative (Dairyland or Applicant), the applicant in this proceeding.

Q. What is your role with respect to the Project?

A. Merjent is providing environmental permitting support for the Project. I work as Merjent's Deputy Project Manager and Minnesota Permitting Lead. I support Dairyland staff in environmental permitting and agency consultation efforts, and I assisted with development of the environmental portions of the Application.

Q. What sections of the Application are you sponsoring?

A. The sections of the Application that I am sponsoring are provided below:

Section 6.1	Route Selection Process
Section 6.2	Alternatives Considered but Rejected
Section 8	Environmental Analysis of Route
Section 9	Agency and Tribal Outreach
Appendix B	Project Correspondence
Appendix I	Vegetation Management Plan
Appendix J	Detailed Emissions Calculations
Appendix K	Unanticipated Discoveries Plan

II. PURPOSE OF TESTIMONY

Q. What is the purpose of your Direct Testimony?

A. The purpose of my testimony is to: (1) provide an update on tribal and agency correspondence; (2) respond to agency comments on proposed minimization measures; and (3) to discuss Dairyland's analysis of the route and alignment

alternatives included in the Minnesota Department of Commerce, Energy Environmental Review and Analysis (EERA) staff's scoping decision.

Q. What schedules are attached to your Direct Testimony?

A. The following schedules are attached to my Direct Testimony:

- **Schedule A**: Statement of Qualifications
- **Schedule B**: Upper Sioux Community Tribal Cultural Resource Survey Results Letter
- **Schedule C**: Minnesota State Historic Preservation Office (SHPO) Letter
- **Schedule D:** Minnesota Department of Natural Resources (MDNR) Minnesota Conservation Explorer Review Letter
- **Schedule E**: Avian Protection Plan
- **Schedule F**: Response to Minnesota Department of Transportation (MnDOT) Scoping Comments

III. TRIBAL AND AGENCY CORRESPONDENCE

Q. Has the Applicant coordinated with tribal governments regarding the Project?

A. Yes. Dairyland requested feedback on the Project from the 11 federally recognized Tribes with geography within Minnesota and the Minnesota Indian Affairs Council in its Project notification letters sent in December 2023.[1] Dairyland received responses from both the Shakopee Mdewakanton Sioux Community and the Upper Sioux Community.

[1] Application, Appendix B.

Q. Please describe the correspondence that the Applicant has had with the Shakopee Mdewakanton Sioux Community.

A. On December 19, 2023, the Director of Cultural Resources from the Shakopee Mdewakanton Sioux Community inquired if archaeological work or investigation had been completed; and asked that Dairyland share information from the desktop literature study performed by Merjent. Dairyland provided a copy of the Phase IA Cultural Resources Assessment on February 7, 2024.[2] There has been no additional correspondence to date.

Q. Please describe the correspondence that the Applicant has had with the Upper Sioux Community.

A. Following the December 2023 letter from Dairyland, the Tribal Historic Preservation Officer (THPO) from the Upper Sioux Community reached out to Dairyland to discuss the Project. Ultimately, the THPO requested to complete a Tribal Cultural Resource Survey on the land proposed for the Kellogg Substation. Two Tribal Cultural Specialists from the Upper Sioux Community completed a pedestrian survey on November 26, 2024. Survey results are provided in **Schedule B.** As stated in the Tribal Cultural Resource Survey Report, the survey did not yield any findings within the 10.1 acre proposed Kellogg Substation site. As a result, the "Upper Sioux Community THPO has no concerns and recommends Dairyland Power move forward with the next steps in your process."[3]

Q. Have you coordinated with SHPO on this Project?

A. Yes.

[2] Application, Appendix B.

[3] Schedule B.

Q. Please describe any coordination efforts with SHPO regarding the Project.

A. On behalf of Dairyland, Merjent conducted a Phase IA Cultural Resources Assessment of the Proposed Alignment and a 0.5-mile buffer on either side. This literature review and Merjent's evaluation of the possible effects of the proposed Project on historic properties in the Project area was provided to SHPO in a letter dated February 6, 2024.[4] SHPO responded in a letter dated October 9, 2024, which is attached as **Schedule C**.

Q. What recommendations did SHPO make based on the Phase 1A Cultural Resources Assessment?

A. SHPO recommended that Dairyland complete a Phase 1 archeological survey following the Secretary of the Interior's Standards for Identification and Evaluation and include an evaluation of National Register eligibility for any properties that are identified.

Q. Does Dairyland plan to implement SHPO's recommendations?

A. Yes. Prior to construction, Dairyland will complete the recommended archeological survey for the route that is designated by the Commission in the route permit.

Q. Have you coordinated with MDNR on this Project?

A. Yes.

Q. Please describe any coordination efforts with MDNR regarding the Project.

A. Coordination with the MDNR prior to Application submittal is outlined in the Application.[5] Following submittal of the Application, the MDNR provided the results of its Natural Heritage Review on April 2, 2024, which is included in **Schedule D**.

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[4] Application at 12-5.

[5] Application at 12-5.

Q. What recommendations or avoidance requirements did MDNR make based on its Natural Heritage Review?

A. The Natural Heritage Review contained recommendations and avoidance requirements for several rare features in the Project area. The review required that Dairyland contact MDNR Natural Heritage staff to confirm required avoidance measures would be implemented for the Blanding's turtle, wood turtle, timber rattlesnake, and four state-listed plant species.

Q. Did Dairyland confirm these avoidance requirements to MDNR?

A. Yes. Merjent, on behalf of Dairyland, has confirmed avoidance measures for these rare features. Dairyland will continue to coordinate with the MDNR, including the Natural Heritage Program, as the Project planning progresses, regarding additional recommendations for best management practices. In addition, Dairyland has developed an Avian Protection Plan to avoid and minimize risks and impacts to avian wildlife during construction and operation of the Project. The Avian Protection Plan is included as **Schedule E** to my testimony.

Q. Has the Applicant reviewed the comments submitted by the Minnesota Department of Transportation (MnDOT) on June 26, 2024?

A. Yes, the Applicant has reviewed MnDOT's scoping comments.

Q. What is the Applicant's response to the MnDOT's scoping comments?

A. Regarding MnDOT's letter, Dairyland agrees to continue coordinating with MnDOT to mitigate impacts to the state trunk highway system to obtain all necessary MnDOT permits for the Project. The Applicant has prepared additional responses to the MnDOT's Office of Environmental Stewardship & Functional Group comments, recommendations and requirements mentioned in Attachment 1 of MnDOT's scoping comments in **Schedule F** of my testimony. Regarding the MnDOT's contaminated materials management memo in Attachment 2 of

MnDOT's scoping comments, the Applicant agrees to manage contaminated materials in accordance with applicable federal/state and local regulations and/or guidance documents.

IV. ALTERNATIVES ANALYSIS

Q. Has Merjent conducted any analysis of the various route alternatives currently being evaluated by EERA for proposed route?

A. Yes. Merjent assisted Dairyland with performing the alternatives analysis provided in Schedule B of Mr. Sage Williams' direct testimony.

Q. Please generally describe the environmental analysis performed for the alternatives and the conclusions reached by Dairyland.

A. Based on the geographic proximity of the various Route Segment Alternatives (RSAs) and alignment alternatives (AAs), Dairyland and Merjent compared the corresponding segment of the Proposed Route, as described in the Application, to the proposed alternatives in three groups, based on where the RSAs and AAs generally share common start and end points:

- Group 1 (RSA-AAA-1 and RSA-AAA-2);
- Group 2 (RSA-B, RSA-C, RSA-D, RSA-EAA-1, RSA-EAA-2, and RSA-F); and
- Group 3 (RSA-GAA-1 and RSA-GAA-2).

Dairyland also proposed a new AA referred to as "RSA-AAA-2 As Modified." Merjent assisted Dairyland with evaluating these alternatives against the corresponding segment of the Proposed Route using publicly available environmental datasets. Schedule B of Mr. Sage Williams' testimony presents the data sources reviewed. Dairyland also considered engineering considerations and

landowner feedback. Dairyland's conclusions regarding the proposed route alternatives are included in Mr. Sage Williams' testimony.

V. CONCLUSION

Q. Does this conclude your Direct Testimony?

A. Yes.

merjent

BRITTA BERGLAND

PROFESSIONAL SUMMARY

Britta Bergland is a Principal Consultant at Merjent, with over 20 years of experience working in the environmental industry. Prior to joining Merjent, she worked for another Minnesota-based environmental consulting firm, as well as for an operator of Midwest nuclear power plants.

She specializes in permitting and environmental review of large-scale energy and development projects in Minnesota and has worked for both the project proposers and as a third-party consultant.

SELECT ENVIRONMENTAL CONSULTING EXPERIENCE

- Deputy Project Manager and Minnesota Permitting Lead for a new 161-kV transmission line in Minnesota.
- Project Manager for environmental support of a project to expand a spent nuclear fuel storage facility at nuclear power plant in Minnesota. On separate projects at the same facility, developed environmental portions of the applications to renew the federal licenses of the nuclear power plant and the spent nuclear fuel storage facility. Supported these efforts first as an employee of the plant operator, and then as an environmental consultant and Project Manager.
- Project Manager for development of environmental portions of an extended power uprate application for a separate nuclear power facility in Minnesota. Deputy Project Manager for expansion of a spent-fuel storage facility at the same facility. Supported license renewal of the plant as an employee of the plant operator.
- Project Manager and Deputy Project Manager for new 69- to 115-kV transmission lines in Minnesota and North Dakota.
- Minnesota Permitting Lead for a new system of carbon dioxide pipelines in Minnesota.
- Project Manager for a proposed peat mine in Minnesota.
- Minnesota Permitting Lead for a crude oil replacement pipeline in North Dakota, Minnesota, and Wisconsin. Provided expert witness testimony as part of a contested case proceeding.
- Minnesota Permitting Lead for activities to support deactivation of an oil pipeline.
- Minnesota Permitting Lead for a new crude oil pipeline in North Dakota, Minnesota, and Wisconsin.

- Deputy Project Manager and Resource Report author (Geology, Soils, Socioeconomics, and Land Use) for a Federal Energy Regulatory Commission (FERC) 7(c) Environmental Report for a natural gas pipeline project in Utah.

- Resource Report author for Socioeconomics and Land Use for a FERC 7(c) Environmental Report for a new natural gas pipeline in Utah.

- Co-authored the Alternatives Analysis for a FERC Environmental Impact Statement (EIS) for a new natural gas pipeline in Pennsylvania, West Virginia, Virginia, and North Carolina.

- Supported a FERC third-party EIS for a natural gas pipeline in Ohio and Michigan.

- Supported a FERC third-party EIS and Biological Assessment for a new natural gas pipeline in Wyoming, Utah, Nevada, and Oregon.

- Resource Report author (Reliability and Safety) and Document Specialist for a FERC 7(c) Environmental Report application for a natural gas pipeline from the North Slope of Alaska to the U.S.-Canada border.

- Deputy Project Manager for an applicant-prepared Environmental Assessment (EA) for an easement renewal for two existing natural gas pipelines that cross tribal land in Wisconsin.

- Supported environmental compliance for over 30 ethanol facilities in states across the US. Focused on compliance with environmental, health, and safety regulations. Developed Facility Response Plans, Spill Prevention, Control, and Countermeasure Plans, Stormwater Pollution Prevention Plans, Process Safety Management and Risk Management Plans, Emergency Response Plans, Safety Programs, US Coast Guard plans, and Security Plans. Supported facilities during audits and conducted employee training.

EDUCATION

B.A., Environmental Studies and English. Geography Minor. Gustavus Adolphus College. Magna Cum Laude.

Tribal Historic Preservation Office
Upper Sioux Community
5722 Travers Lane
Post Office Box 147
Granite Falls, MN 56241
320.564.3853 | thpo@uppersiouxcommunity-nsn.gov

Tribal Cultural Resource Survey Results

Dairyland Power Wabasha Relocation Kellogg Substation Location

December 20, 2024

Background:

The Upper Sioux Community Tribal Historic Preservation Office mobilized two Tribal Cultural Specialists (TCS) to the proposed Kellogg Substation APE on November 25th, 2024, and completed the survey on November 26th, 2024. The TCS conducted a pedestrian survey of the 10.1-acre proposed substation site utilizing the map files provided by Dairyland Power dated September 27th, 2024. They completed multiple East/West and North/South orientated transect, spaced 5 meters apart. As a reminder, our Tribal Cultural Resource Survey does differ from archaeological surveys and does not meet the State or Federal requirements for an archaeological survey. The two may overlap and find similar results be we use traditional cultural knowledge and skills to identify culturally significant sites and resources. If artifacts are identified at the surface level they are documented and left on site, subsurface testing is not conducted. The purpose is to identify traditional properties and cultural resources, map their locations and identify the potential for negative effects the proposed project could have.

Results:

The survey yielded no findings withing the 10.1-acre APE of the proposed substation. Upper Sioux Community THPO has no concerns and recommends Dairlyland Power move forward with the next steps in your process. We look forward to continued consultation and involvement in the project.

Pidamaya,

Samantha Odegard
Tribal Historic Preservation Officer
Upper Sioux Community

DEPARTMENT OF ADMINISTRATION
STATE HISTORIC PRESERVATION OFFICE

October 9, 2024

Lacy Lepisto
Cultural Resource Specialist
Merjent, Inc.
lacy.lepisto@merjent.com

RE: Dairyland Power Cooperative – Wabasha Relocation Project
Wabasha County
SHPO Number: 2024-2115

Dear Lacy Lepisto:

Thank you for the opportunity to comment on the above referenced project. We understand that this project will require a Minnesota Public Utilities Commission site permit. Therefore, the information received on September 23, 2024, has been reviewed pursuant to the responsibilities given the State Historic Preservation Office by the Minnesota Historic Sites Act (138.665-666). If this project will be located on non-federal public land, the project will also be subject to review under the Minnesota Field Archaeology Act.

We have reviewed the letter report *Dairyland Power Cooperative, Wabasha Relocation Project, Phase Ia Cultural Resources Assessment* (February 6, 2024, Merjent) and we do not agree with your assessment. Due to the nature and location of the proposed project, we recommend that a Phase I archaeological survey be completed. The survey must meet the requirements of the Secretary of the Interior's Standards for Identification and Evaluation and should include an evaluation of National Register eligibility for any properties that are identified.

We will reconsider the need for survey if the project area can be documented as previously surveyed or disturbed. Any previous survey work must meet contemporary standards. **Note:** plowed areas and right-of-way are not automatically considered disturbed. Archaeological sites can remain intact beneath the plow zone and in undisturbed portions of the right-of-way.

Please note that this comment letter does not address the requirements of Section 106 of the National Historic Preservation Act of 1966 and 36 CFR § 800. If this project is considered for federal financial assistance, or requires a federal permit or license, then review and consultation with our office will need to be initiated by the lead federal agency. Be advised that comments and recommendations provided by our office for this state-level review may differ from findings and determinations made by the federal agency as part of review and consultation under Section 106.

If you have any general questions regarding our review of this project, please contact me at 651-201-3285 or kelly.graggjohnson@state.mn.us. For questions regarding archaeology, please contact Lucy Harrington, Environmental Review Archaeologist, at (651) 201-3283 or lucy.harrington@state.mn.us.

Sincerely,

Kelly Gragg-Johnson

Kelly Gragg-Johnson
Environmental Review Program Specialist

DEPARTMENT OF NATURAL RESOURCES

Minnesota Department of Natural Resources
Division of Ecological & Water Resources
500 Lafayette Road, Box 25
St. Paul, MN 55155-4025

April 2, 2024
Correspondence # MCE 2023-00935

Mandy Bohnenblust
Merjent, Inc

RE: Natural Heritage Review of the proposed **Dairyland Wabasha Relocation Project,** Wabasha County

Dear Mandy Bohnenblust,

As requested, the Minnesota Natural Heritage Information System has been reviewed to determine if the proposed project has the potential to impact any rare species or other significant natural features. Based on the project details provided with the request, the following rare features may be impacted by the proposed project:

Ecologically Significant Areas

- A calcareous fen (**McCarthy Lake**, ID# 31975) was documented in the vicinity of the proposed project. A calcareous fen is a rare and distinctive peat-accumulating wetland that is legally protected in Minnesota. The Wetlands Conservation Act (WCA), authorized by Minnesota Statutes, section 103G.223, states that calcareous fens may not be filled, drained, or otherwise degraded, wholly or partially, by any activity, except as provided for in a management plan approved by the commissioner of the Department of Natural Resources. Many of the unique characteristics of calcareous fens result from the upwelling of groundwater through calcareous substrates. Because of this dependence on groundwater hydrology, calcareous fens can be affected by nearby activities or even those several miles away. For more information regarding calcareous fens, please see the Calcareous Fen Fact Sheet. To minimize stormwater impacts, please refer to the Minnesota Pollution Control Agency's General Principles for Erosion Prevention and Sediment Control in the Minnesota Stormwater Manual. Please note that calcareous fens are "Special Waters" and a buffer zone may be required.

Calcareous fens may be impacted by activities within the fen, activities that affect surface water flows (e.g., stormwater flow, erosion), or activities that affect groundwater hydrology (e.g., groundwater pumping, contamination, discharge, or excavation). **To ensure compliance under WCA, please contact the Calcareous Fen Program Coordinator, Keylor Andrews (Keylor.Andrews@state.mn.us).**

- The Minnesota Biological Survey (MBS) has identified **1** Site of *Outstanding*, **1** Sites of *High*, and **2** Sites of *Moderate* Biodiversity Significance in the vicinity of the proposed project. Sites of Biodiversity Significance have varying levels of native biodiversity and are ranked based on the relative significance of this biodiversity at a statewide level. Sites ranked as *Outstanding* contain the best occurrences of the rarest species, the most outstanding examples of the rarest native plant communities, and/or the largest, most intact functional landscapes present in the state. Sites ranked as *High* contain very good quality occurrences of the rarest species, high quality examples of the rare native plant communities, and/or important functional landscapes. Sites ranked as *Moderate* contain occurrences of rare species and/or moderately disturbed native plant communities, and/or landscapes that have a strong potential for recovery. **Please see your MCE-generated Conservation Planning Report for a comprehensive list of MBS Sites of Biodiversity Significance (attached).**

  This Site contains Silver Maple-Virginia Creeper Floodplain Forest (FFs68) native plant community directly adjacent to the proposed project. This community is considered **vulnerable to extirpation** (S3) within Minnesota. This floodplain forest contains swamp white oak (*Quercus bicolor*), a tree species of special concern.

  Given the ecological significance of these areas, we recommend that the project be designed to avoid impacts to the native plant communities by confining construction activities to the opposite side of the road. Actions to minimize disturbance may include, but are not limited to, the following recommendations:

  - As much as possible, operate within already-disturbed areas.
  - Retain a buffer between proposed activities and both MBS Sites and rare NPCs (S1-S3).
  - Confine construction activities to the opposite side of the road from MBS Sites and rare NPCs (S1-S3). If this is not feasible, confine construction activities to the existing road rights-of-way.
  - Minimize vehicular disturbance in the area (allow only vehicles necessary for the proposed work).
  - Do not park equipment or stockpile supplies in the area.
  - Do not place spoil within MBS Sites or other sensitive areas.
  - If possible, conduct the work under frozen ground conditions.

- Inspect and clean all equipment prior to bringing it to the site to prevent the introduction and spread of invasive species.
- Use effective erosion prevention and sediment control measures.
- Revegetate disturbed soil with native species suitable to the local habitat as soon after construction as possible.
- Use only weed-free mulches, topsoils, and seed mixes. Of particular concern is birdsfoot trefoil (*Lotus corniculatus*) and crown vetch (*Coronilla varia*), two invasive species that are sold commercially and are problematic in prairies and disturbed open areas, such as roadsides.

Construction in streambeds, lakes, and wetlands should be avoided whenever possible via spanning waterbodies. If spanning is not feasible, actions to minimize disturbance may include, but are not limited to, the following recommendations:

- Work in watercourses should be conducted during low flow whenever possible.
- If possible, conduct the work under frozen ground conditions.
- Wetland basins, lake beds, and stream/riverbeds should be restored to preconstruction contours. The work should not promote wetland drainage.
- Appropriate wildlife friendly erosion control measures, such as fabric, straw bales, mulch, and silt fences should be used to prevent sedimentation of adjacent wetlands, lakes, or watercourses.
- Impacts to existing vegetation should be kept to a minimum. Disturbed soil areas should be reseeded with native species suitable to the local habitat immediately upon project completion.

The Minnesota Biological Survey (MBS) considered the area surrounding the proposed project for a Site of Biodiversity Significance. **Snake Creek Bluffs North** was determined to be *Below* the minimum biodiversity threshold for statewide significance. This area, however, may have conservation value at the local level as habitat for native plants and animals, corridors for animal movements, buffers surrounding higher quality natural areas, or as areas with high potential for restoration of native habitat. **As such, indirect impacts from surface runoff or the spread of invasive species should be considered during project design and implementation.**

MBS Sites of Biodiversity Significance and DNR Native Plant Communities can be viewed using the Explore page in Minnesota Conservation Explorer or their GIS shapefiles can be downloaded from the MN Geospatial Commons. Please contact the NH Review Team if you need assistance accessing the data. Reference the MBS Site Biodiversity Significance and Native Plant Community websites for information on interpreting the data. To receive a list of MBS Sites of Biodiversity Significance and DNR Native Plant Communities in the vicinity of your project, create a Conservation Planning Report using the Explore Tab in Minnesota Conservation Explorer. **I have attached a Conservation Planning Report to this review.**

- If the Wetland Conservation Act (WCA) is applicable to this project, please note that wetlands within rare (S1-S3) Native Plant Communities (NPC) may qualify as "Rare Natural Communities" under this Act. Minnesota Rules, part 8420.0515, subpart 3 states that a wetland replacement plan for activities that modify a rare natural community must be denied if the local government unit determines the proposed activities will permanently adversely affect the natural community. If the proposed project includes a wetland replacement plan under WCA, please contact your DNR Regional Ecologist for further evaluation. For technical guidance on Rare Natural Communities, please visit WCA Program Guidance and Information.

State-listed Species

- Blanding's turtles (*Emydoidea blandingii)* and wood turtles (*Glyptemys insculpta*), both state-listed threatened species, have been documented in the vicinity of the proposed project and may be encountered on site. Both species are semi-aquatic, spending time both on land and in water. Any added fatality can be detrimental to these populations of turtles, as these turtles have a low reproduction rate that depends upon a high survival rate to maintain population levels.

  This project has the potential to impact these rare turtles through direct fatalities and habitat disturbance/destruction due to excavation, fill, and other construction activities associated with the project. Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134) prohibit the take of threatened or endangered species without a permit. As such, **the following avoidance measures are required**:

  - Avoid wetland and aquatic impacts during hibernation season, between September 15th and April 15th, if the area is suitable for hibernation.
  - Erosion and sediment control should be limited to wildlife friendly erosion control to avoid the inadvertent take of Blanding's turtles.
  - Hydro-mulch products should not contain any materials with synthetic (plastic) fiber additives, as the fibers can re-suspend and flow into waterbodies.
  - Construction areas, especially aquatic or wetland areas, should be thoroughly checked for turtles before the use of heavy equipment or any ground disturbance.
  - Check any holes that have been left unattended for prolonged periods for turtles before being filled.
  - The Blanding's turtle flyer must be given to all contractors working in the area. Illegal collection is a concern with wood turtles; therefore, please do not post any signs that would bring attention to the presence of wood turtles.
  - Monitor for turtles during construction. Report any sightings to Reports.NHIS@state.mn.us; please include date, observer, location, and photograph of the turtle.

- If turtles are in imminent danger, they must be moved by hand out of harm's way, otherwise they are to be left undisturbed. Please see Helping Turtles Across the Road for guidelines on how to move turtles safely out of danger.
- Please contact Review.NHIS@state.mn.us with subject line Avoidance for MCE-2023-00935 to confirm if the described avoidance measures will be implemented.

For additional information, see the Blanding's turtle fact sheet, which describes the habitat use and life history of Blanding's turtle. The fact sheet also provides two lists of recommendations for avoiding and minimizing impacts to turtles. **Please refer to both lists of recommendations and apply those that are relevant to your project.**

- Timber rattlesnake (*Crotalus horridus)*, a state-listed threatened species, have been reported from the vicinity of the proposed project and may be encountered on site. In Minnesota, the ideal habitat for this species is forested bluffs, south-facing rock outcrops, and bluff prairies, particularly in the Mississippi River Valley. Nearby forests, prairies, and agricultural lands are used as summer feeding grounds. Two necessary habitat components are open areas for thermoregulation, and dens for overwintering. The dens are often located on steep, south- or west-facing hillsides with rock outcroppings and ledges. Timber rattlesnakes emerge from their dens in late April to early May and return to them in late September to early October. In the spring and fall, timber rattlesnakes are active during the day; while during the hottest months of summer, they are mostly active at night. Additionally, gophersnake (*Pituophis catenifer*), North American racer (*Coluber constrictor*), and plains hog-nosed snake (*Heterodon nasicus*), all species of special concern, have been documented in the vicinity of the proposed project.

  Timber rattlesnake mortality in Minnesota is most commonly caused by poaching, vehicle collisions, and habitat destruction. The loss of a single adult, especially a female, can impact the population significantly. Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134) prohibit the take of threatened or endangered species without a permit. As such the following avoidance measures are **required**:

  - **Crews working in the area should be advised that if they encounter any snakes, the snakes should not be disturbed.**
  - **Erosion and sediment control should be limited to wildlife friendly erosion control to avoid the inadvertent take of timber rattlesnakes.**
  - Please contact Review.NHIS@state.mn.us with subject line Avoidance for MCE-2023-00935 to confirm if the described avoidance measures will be implemented.

  Timber rattlesnake precautions may include, but are not limited to, the following recommendations:

  - Wear appropriate personal protection equipment, such as thick pants, boots, and leather gloves.

- Care should be taken around stockpiled materials as snakes may be using these materials as shelter.
- Report any sightings to Reports.NHIS@state.mn.us; please include date, observer, location, and photograph of the timber rattlesnake.

- Seaside three-awn (*Aristida tuberculosa*), clasping milkweed (*Asclepias amplexicaulis*), beach heather (*Hudsonia tomentosa*), and Davis' sedge (*Carex davisii*), all state-listed threatened plants, have been documented in the project vicinity. Habitat for seaside three-awn, clasping milkweed, and beach Heather include savanna and upland prairie. Habitat for Davis' sedge includes floodplain forest. **All potential habitats must be avoided.** If this is not feasible, a qualified surveyor will need to determine if suitable habitat exists within the activity impact area and, if so, conduct a survey prior to any project activities. Take of state-listed threatened and endangered plant species is exempt only within previously disturbed road rights-of-ways (ROW).

  Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134) prohibit the take of threatened or endangered species without a permit. Surveys must be conducted by a qualified surveyor and follow the standards contained in the Rare Species Survey Process and Rare Plant Guidance. Survey results should be sent to Reports.NHIS@state.mn.us with subject line MCE-2023-00935. Visit the Natural Heritage Review page for a list of certified surveyors and more information on this process. Project planning should take into account that any botanical survey needs to be conducted during the appropriate time of the year, which may be limited. Please contact Review.NHIS@state.mn.us with subject line Avoidance for MCE-2023-00935 to confirm if the described avoidance measures will be implemented.

- Many rare aquatic species, including state-listed endangered and threatened species, have been documented in the Mississippi River in the vicinity of the proposed project. These species are vulnerable to deterioration in water quality, particularly increased siltation. **Therefore, it is important that stringent erosion prevention and sediment control practices are maintained throughout the duration of the project to prevent adverse debris and material from entering the Mississippi River, Zumbro River, and the adjacent floodplain forest.**

- Bell's vireo (*Vireo bellii*) and lark sparrow (*Chondestes grammacus*), state-listed bird species of special concern, have been documented in the vicinity of the project. **If feasible, avoid initial disturbance to grassland areas and tree/shrub removal from May 15th through August 15th to avoid disturbance of nesting birds.**

- The Natural Heritage Information System (NHIS) tracks bat roost trees and hibernacula plus some acoustic data, but this information is not exhaustive. Even if there are no bat records listed nearby, all seven of Minnesota's bats, including the federally endangered northern long-eared bat (*Myotis septentrionalis*), can be found throughout Minnesota. During the active season

(approximately April-November) bats roost underneath bark, in cavities, or in crevices of both live and dead trees. Tree removal can negatively impact bats by destroying roosting habitat, especially during the pup rearing season when females are forming maternity roosting colonies and the pups cannot yet fly. To minimize these impacts, **the DNR recommends that tree removal be avoided from June 1 through August 15.**

- Please visit the DNR Rare Species Guide for more information on the habitat use of these species and recommended measures to avoid or minimize impacts.

Federally Protected Species

- The area of interest overlaps with a U.S Fish and Wildlife Service (USFWS) Rusty Patched Bumble Bee High Potential Zone. The rusty patched bumble bee *(Bombus affinis)* is federally listed as endangered and is likely to be present in suitable habitat within High Potential Zones. From April through October this species uses underground nests in upland grasslands, shrublands, and forest edges, and forages where nectar and pollen are available. From October through April the species overwinters under tree litter in upland forests and woodlands. The rusty patched bumble bee may be impacted by a variety of land management activities including, but not limited to, prescribed fire, tree-removal, haying, grazing, herbicide use, pesticide use, land-clearing, soil disturbance or compaction, or use of non-native bees. If applicable, **the DNR recommends reseeding disturbed soils with native species of grasses and forbs using** BWSR Seed Mixes **or** MnDOT Seed Mixes**.**

  To ensure compliance with federal law, please conduct a federal regulatory review using the U.S. Fish and Wildlife Service's online Information for Planning and Consultation (IPaC) tool. Please note that all projects, regardless of whether there is a federal nexus, are subject to federal take prohibitions. The IPaC review will determine if prohibited take is likely to occur and, if not, will generate an automated letter. The USFWS RPBB guidance provides guidance on avoiding impacts to rusty patched bumble bee and a key for determining if actions are likely to affect the species; the determination key can be found in the appendix.

Environmental Review and Permitting

- Please include a copy of this letter and the MCE-generated Final Project Report in any state or local license or permit application. Please note that measures to avoid or minimize disturbance to the above rare features may be included as restrictions or conditions in any required permits or licenses.

The Natural Heritage Information System (NHIS), a collection of databases that contains information about Minnesota's rare natural features, is maintained by the Division of Ecological and Water Resources, Department of Natural Resources. The NHIS is continually updated as new information becomes available, and is the most complete source of data on Minnesota's rare or otherwise significant

species, native plant communities, and other natural features. However, the NHIS is not an exhaustive inventory and thus does not represent all of the occurrences of rare features within the state. Therefore, ecologically significant features for which we have no records may exist within the project area. If additional information becomes available regarding rare features in the vicinity of the project, further review may be necessary.

For environmental review purposes, the results of this Natural Heritage Review are valid for one year; the results are only valid for the project location and project description provided with the request. **If project details change or the project has not occurred within one year, please resubmit the project for review within one year of initiating project activities.**

The Natural Heritage Review does not constitute project approval by the Department of Natural Resources. Instead, it identifies issues regarding known occurrences of rare features and potential impacts to these rare features. Visit the Natural Heritage Review website for additional information regarding this process, survey guidance, and other related information. For information on the environmental review process or other natural resource concerns, you may contact your DNR Regional Environmental Assessment Ecologist.

Thank you for consulting us on this matter and for your interest in preserving Minnesota's rare natural resources.

Sincerely,

Molly Barrett

Molly Barrett
Natural Heritage Review Specialist
Molly.Barrett@state.mn.us

Cc: Melissa Collins, Regional Environmental Assessment Ecologist, Region 3 (Central)
Cc: Amanda Weise, Regional Ecologist, Region 3 (Central)
Cc: Keylor Andrews, Calcareous Fen Program Coordinator
Cc: Jennie Skancke, Wetlands Program Coordinator
Cc: Cynthia Warzecha, Energy Projects Review

DEPARTMENT OF NATURAL RESOURCES

Conservation Planning Report: CPR-2023-00935

This document is intended for planning purposes only for the area of interest defined by the user. The report identifies ecologically significant areas documented within the defined area of interest plus any additional search distance indicated below. These ecologically significant areas can be viewed in the Explore Tab of the Minnesota Conservation Explorer. Please visit MN Geospatial Commons for downloadable GIS data.

This document does not meet the criteria for a Natural Heritage Review. If a Natural Heritage Review is needed, please define an Area of Interest in the Explore Tab and click on the Natural Heritage Review option.

This document does not include known occurrences of state-listed or federally listed species.

MBS Sites of Biodiversity Significance

Search distance = 330 feet

Minnesota Biological Survey (MBS) Sites of Biodiversity Significance are areas with varying levels of native biodiversity that may contain high quality native plant communities, rare plants, rare animals, and/or animal aggregations. A Biodiversity Significance Rank is assigned on the basis of the number of rare species, the quality of the native plant communities, size of the site, and context within the landscape. MBS Sites are ranked Outstanding, High, or Moderate. Areas ranked as Below were found to be disturbed and are retained in the layer as negative data. These areas do not meet the minimum biodiversity threshold for statewide significance but may have conservation value at the local level as habitat for native plants and animals, corridors for animal movements, buffers surrounding higher quality natural areas, or as areas with high potential for restoration of native habitat. The DNR recommends avoidance of MBS Sites of Biodiversity Significance ranked High or Outstanding.

Wetlands within MBS Sites of Outstanding or High Biodiversity Significance may be considered Rare Natural Communities under the Wetland Conservation Act. For technical guidance on Rare Natural Communities, please visit WCA Program Guidance and Information.

For more information please visit MBS Sites of Biodiversity Significance.

The following MBS Sites of Biodiversity Significance are within the search area:

MBS Site Name	Biodiversity Significance	Status
FINGER LAKES	Outstanding	final
GREENFIELD 28	Moderate	final
MCCARTHY LAKE	High	final
SNAKE CREEK BLUFFS NORTH	Below	final
SNAKE CREEK BLUFFS SOUTH	Moderate	final

DNR Native Plant Communities

Search distance = 330 feet

A native plant community is a group of native plants that interact with each other and with their environment in ways not greatly altered by modern human activity or by introduced organisms. These groups of native plant species form recognizable units, such as oak savannas, pine forests, or marshes, that tend to repeat over space and time. Native plant communities are classified and described by considering vegetation, hydrology, landforms, soils, and natural disturbance regimes.

DNR Native Plant Community types and subtypes are given a Conservation Status Rank that reflects the relative rarity and endangerment of the community type in Minnesota. Conservation Status Ranks range from S1 (critically imperiled) to S5 (secure, common, widespread, and abundant). Native plant communities with a Conservation Status Rank of S1 through S3 are considered rare in the state. The DNR recommends avoidance of rare native plant communities.

Wetland native plant communities with a conservation status rank of S1 through S3 may also be considered Rare Natural Communities under the Wetland Conservation Act. For technical guidance on Rare Natural Communities, please visit WCA Program Guidance and Information.

DNR Native Plant Communities may be given a Condition Rank that reflects the degree of ecological integrity of a specific occurrence of a native plant community. The Condition Rank is based on species composition, vegetation structure, ecological processes and functions, level of human disturbance, presence of exotic species, and other factors. Condition Ranks range from A-rank (excellent ecological integrity) to D-rank (poor ecological integrity. A Condition Rank of NR means Not Ranked and a Condition Rank of MULTI mean multiple ranks are present because the record is a native plant community complex.

For more information please visit Minnesota's Native Plant Communities.

The following DNR Native Plant Communities are within the search area:

MBS Site Name	NPC Code	Native Plant Community Classification	Conservation Status Rank	Number of Communities
FINGER LAKES	FFs68a	Silver Maple - (Virginia Creeper) Floodplain Forest	S3	2

Calcareous Fens

Search distance = 5 miles

A calcareous fen is a rare and distinctive peat-accumulating wetland that is legally protected in Minnesota under the Wetland Conservation Act (*Minnesota Statutes*, section 103G.223). Many of the unique characteristics of calcareous fens result from the upwelling of groundwater through calcareous substrates. Because of this dependence on groundwater hydrology, calcareous fens can be affected by nearby activities or even those several miles away. For more information regarding calcareous fens, please see the Calcareous Fen Fact Sheet or review the List of Known Calcareous Fens.

The following Calcareous Fens are within the search area:

Fen Site Name	Fen ID	TRS
McCarthy Lake	46595	109N010W - 2

DNR Old Growth Stands

Search distance = 330 feet

Old-growth forests are natural forests that have developed over a long period of time, generally at least 120 years, without experiencing severe, stand-replacing disturbances such as fires, windstorms, or logging. Old-growth forests are a unique, nearly vanished piece of Minnesota's history and ecology; less than 4% of Minnesota's old-growth forests remain. The DNR recommends avoidance of all DNR Old Growth Stands. The following DNR Old Growth Stands have been documented within the search area.

SEARCH RESULTS: No features were found within the search area.

MN Prairie Conservation Plan

Search distance = 330 feet

The Minnesota Prairie Conservation Plan, a twenty-five year strategy for accelerating prairie conservation in the state, identifies Core Areas, Corridors, and Corridor Complexes as areas to focus conservation efforts. The Plan's strategies include protection, enhancement, and restoration of grassland and wetland habitat. To meet the Plan's goals, approaches within Core Areas will need to include restoration and approaches within Corridors will need to include conservation of grassland habitat which can provide stepping stones between larger Core Areas.

SEARCH RESULTS: No features were found within the search area.

Important Bird Areas

Search distance = 1 mile

Important Bird Areas, identified by Audubon Minnesota in partnership with the DNR, are part of an international conservation effort aimed at conserving globally important bird habitats. They are voluntary and non-regulatory, but the designation demonstrates the significant ecological value of the area.

The following Important Birds Areas are within the search area:

- Upper Mississippi NWR IBA
- Whitewater Valleys IBA

Lakes of Biological Significance

Search distance = 330 feet

Lakes of Biological Significance are high quality lakes as determined by the aquatic plant, fish, bird, or amphibian communities present within the lake. To be included in this layer, a lake only needs to meet the criteria for one of these four community types. The lake is assigned a biological significance of Outstanding, High, or Moderate based on the community with the highest quality.

SEARCH RESULTS: No features were found within the search area.

USFWS Habitat Conservation Plans

A Habitat Conservation Plan (HCP) is a mechanism for compliance with the federal Endangered Species Act for a given set of activities and protected species. An HCP is required by the U.S. Fish and Wildlife Service (USFWS) as part of an application for an incidental take permit (ITP). The ITP allows the permit holder to proceed with activities covered in the HCP that could result in the unintentional take of federally listed species.

Lakes States Forest Management Bat Habitat Conservation Plan (Bat HCP): (search distance = 0; within area of interest only) This HCP was created to provide flexibility to the Minnesota Department of Natural Resources (DNR) to manage forests while addressing federal Endangered Species Act (ESA) regulations related to federally threatened and endangered bat species. The Bat HCP covers three bat species within Minnesota: northern long-eared bat, little brown bat, and tricolored bat. This report is intended to help non-federal, non-DNR landowners evaluate their potential eligibility for the Landowner Enrollment Program of the Bat HCP (For DNR-administered land, DNR staff should refer to the Bat HCP Implementation Policy).

Landowner Enrollment Program – DNR's incidental take permit may be extended through the Landowner Enrollment Program (LEP) to eligible non-federal landowners who conduct forest management activities. Landowners may be eligible to enroll in the LEP if they are a county land administrator, own more than 10,000 acres, or own land that overlaps a Bat HCP feature. The results below indicate if the defined area of interest overlaps a Bat HCP feature. For more information on how to enroll in the LEP, please visit the Landowner Enrollment Program (LEP).

SEARCH RESULTS: No Bat HCP features were found within the area of interest. Landowners are only eligible to apply for the Landowner Enrollment Program if they are a county land administrator or they own more than 10,000 acres.

USFWS Regulatory Layers

To ensure compliance with federal law, conduct a federal regulatory review using the U.S. Fish and Wildlife Service's (USFWS) online Information for Planning and Consultation (IPaC) tool. This report is not a substitution for a Section 7 review.

For informational purposes only, this tool currently checks the following USFWS Regulatory Layers:

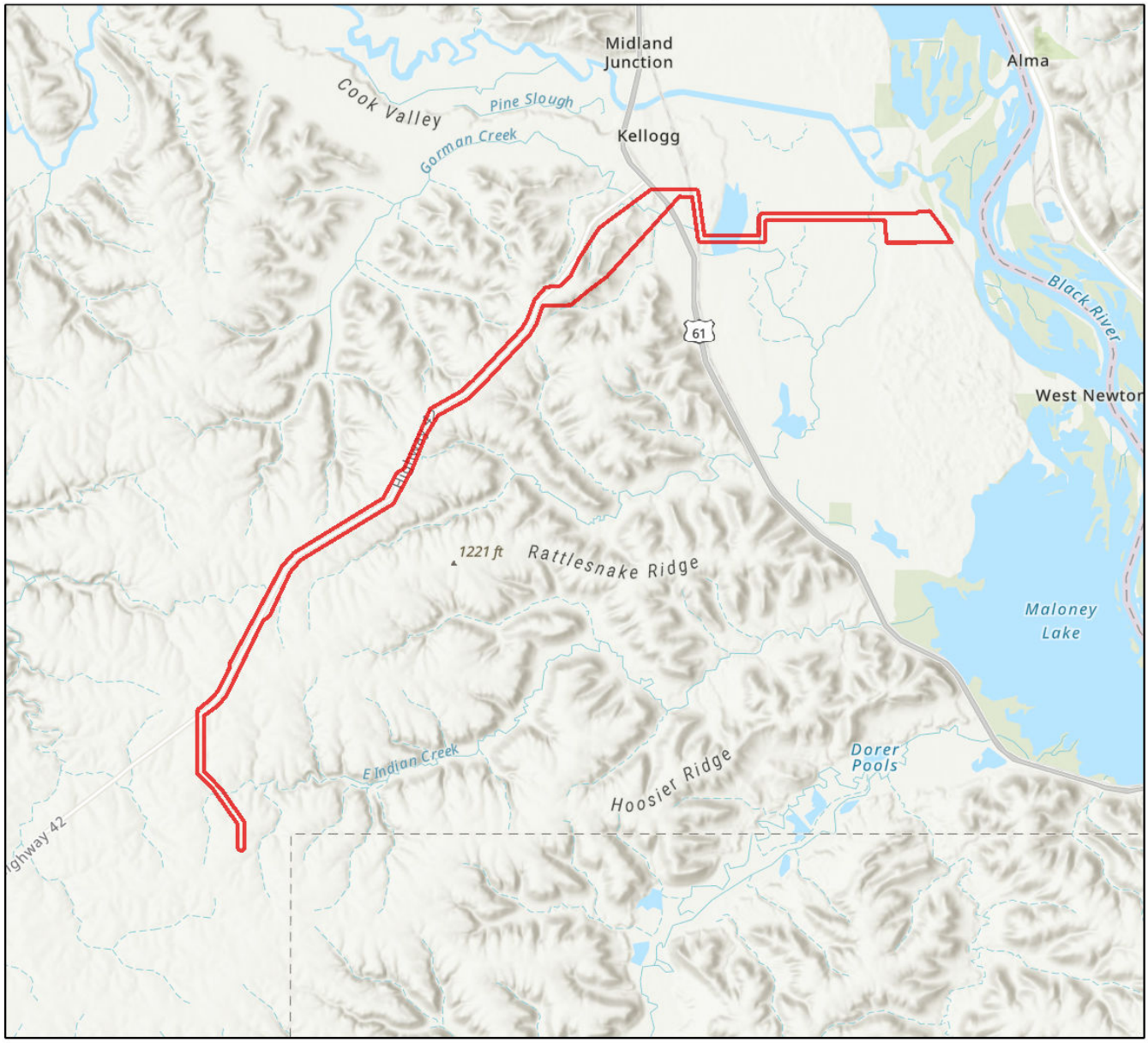
Rusty Patched Bumblebee High Potential Zones: (*search distance = 0; within area of interest only*) The rusty patched bumble bee (*Bombus affinis*), federally listed as endangered, is likely to be present in suitable habitat within the high potential zones. From April through October this species uses underground nests in upland grasslands, shrublands, and forest edges, and forages where nectar and pollen are available. From October through April the species overwinters under tree litter in upland forests and woodlands. The rusty patched bumble bee may be impacted by a variety of land management activities including, but not limited to, prescribed fire, tree-removal, haying, grazing, herbicide use, pesticide use, land-clearing, soil disturbance or compaction, or use of non-native bees. The USFWS RPBB guidance provides guidance on avoiding impacts to rusty patched bumble bee and a key for determining if actions are likely to affect the species; the determination key can be found in the appendix. Please visit the USFWS Rusty Patched Bumble Bee Map for the most current locations of High Potential Zones.

The following USFWS Regulatory Species are within the search area:

- Rusty Patched Bumble Bee High Potential Zone

CPR-2023-00935

Conservation Planning Map



Size (acres): 1,192.97

County(s): Wabasha

Esri, TomTom, Garmin, FAO, NOAA, USGS, EPA, USFWS
Esri, NASA, NGA, USGS
Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS,

AVIAN PROTECTION PLAN
DAIRYLAND POWER COOPERATIVE

RELOCATE AN EXISTING 161-kV TRANSMISSION LINE IN WABASHA COUNTY, MN

MPUC DOCKET NO.

ET3/TL-23-388

DAIRYLAND POWER
COOPERATIVE

Prepared by:

merjent

January 2025

TABLE OF CONTENTS

LIST OF TABLES

APPENDICES

LIST OF ACRONYMS AND ABBREVIATIONS

APLIC	Avian Power Line Interaction Committee
APP	Avian Protection Plan
BGEPA	Bald and Golden Eagle Protection Act
BMPs	best management practices
Dairyland	Dairyland Power Cooperative
ESA	Endangered Species Act
HVTL	high voltage transmission line
IBA	Important Bird Area
kV	kilovolt
MBS	Minnesota Biological Survey
MBTA	Migratory Bird Treaty Act
MDNR	Minnesota Department of Natural Resources
MP	milepost
MPUC	Minnesota Public Utilities Commission

NPC	Native Plant Communities
Project	Wabasha Relocation Project
Route Width	Includes the Project alignment and new Kellogg Substation
ROW	right-of-way
SOB	Sites of Biodiversity Significance
USFWS	United States Fish and Wildlife Service
VMP	Vegetation Management Plan

1.0 INTRODUCTION

Dairyland Power Cooperative (Dairyland) submitted a Route Permit Application to relocate approximately 13.3 miles of 161-kilovolt (kV) high voltage transmission line (HVTL) and construct a new substation referred to as the Wabasha Relocation Project, or the Project, to the Minnesota Public Utilities Commission (MPUC) in Docket No. ET3/TL-23-388 on April 1, 2024.

The Project will begin in the vicinity of Structure X-Q3-75 on the existing Dairyland LQ34 161-kV transmission line (the Wabaco-Alma transmission line or LQ34 line) near the Town of Plainview, Minnesota, in Wabasha County. This structure will be removed as part of the Project and will be replaced with the starting structure for the new 161-kV line. After travelling 13.3 miles northeast and then east, it will tie directly into a new 4-acre 161-/69-kV substation located within a larger 10.8-acre site, which is proposed to be located off County Road 84, west of the Mississippi River and southeast of the City of Kellogg (Kellogg Substation). The Project is a relocation of approximately 10.4 miles of the existing LQ34 line, which presently connects to the Wabaco Substation (located approximately 2 miles south of the Town of Plainview), and to the Alma Substation (located on the east side of the Mississippi River in Wisconsin). The Project starts in Plainview Township, northeast of the Town of Plainview, and traverses northeast through Highland, Watopa, and Greenfield Townships, ending east of the City of Kellogg in Wabasha County, Minnesota near the Mississippi River.

The 161-kV transmission line must be relocated so that it may continue to supply power to the Wabaco Substation, which maintains reliability by providing power to the Town of Plainview and neighboring areas, following execution of the new Mankato to Mississippi River 345-kV Transmission Project. The new Kellogg Substation is required because the new Mankato to Mississippi River 345-kV Transmission Project's circuit across the Mississippi River will eliminate Dairyland's existing LN340 69-kV transmission line Mississippi River crossing and connection into the Alma Substation in Wisconsin. The new Kellogg Substation will then supply the LN340 69-kV transmission line, which travels north-south between Kellogg and the Utica, Minnesota, area. Finally, constructing a 161-kV transmission path between Wabaco and Alma will maintain existing transmission capacity and generation outlet provided by the transmission line. Overall, the Project proposes to maintain the electrical capabilities of existing transmission system in addition to making way for the new 345-kV line (Mankato to Mississippi River 345-kV Transmission Project) to use the existing infrastructure already capable of carrying a new 345-kV transmission line.

Dairyland anticipates conducting site preparation activities at the Kellogg Substation site between June and July 2026. Then, Dairyland would build the Kellogg Substation and 161-kV transmission line between June 2027 – July 2028. This timeline is consistent with timeline associated with the Mankato to Mississippi River 345-kV Transmission Project, which is planned to be in-service by June 2028.

Dairyland prepared this Avian Protection Plan (APP) to avoid and minimize risks and impacts to avian wildlife during construction and operation of the Project and includes the following:

- Project purpose and need;
- applicable regulatory framework;
- Project description;

- conservation measures, including design standards and construction/operational measures to minimize impacts to avian species; and

- Project contacts.

2.0 PURPOSE AND NEED

Construction and operation of transmission lines can result in direct and indirect impacts on avian species. Direct impacts include mortality from electrocution and line strikes. Phase to phase or phase to ground electrocutions are not anticipated because the separation distances are greater than 60 inches; therefore, electrocution impacts are not anticipated. Indirect impacts include habitat fragmentation or disturbance that can occur during construction of projects.

This APP was prepared in accordance with the Avian Power Line Interaction Committee's (APLIC's) Suggested Practices for Avian Protection on Power Lines[1]; APLIC's Reducing Avian Collisions with Power Lines[2]; and APLIC's and United States Fish and Wildlife Service's (USFWS') Avian Protection Plan Guidelines, published April 2005.

The purpose of this APP is to outline the steps Dairyland has developed to avoid and minimize potential impacts to birds from construction and operation of the Project. This APP is based on knowledge of avian and transmission line interactions, as well as a detailed analysis of the environmentally sensitive areas along the Project route.

3.0 REGULATORY SETTING

The federal laws pertaining to the protection of birds in the United States include the Endangered Species Act (ESA;16 USC § 1538), the Migratory Bird Treaty Act (MBTA; 16 USC §§ 703-712), the Bald and Golden Eagle Protection Act (BGEPA; 16 USC § 668). The State of Minnesota also regulates the protection of wildlife, primarily through the Minnesota Endangered Species Statute (Minn. Stat. § 84.0895), and laws regulating hunting and fishing.

3.1 ENDANGERED SPECIES ACT

The ESA protects threatened and endangered species and designated critical habitat. Section 9 of the ESA prohibits the "take" of threatened and endangered species by any private or public action or activity. Take is defined as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Section 7 of the ESA requires federal agencies to consult with the USFWS to ensure the actions they fund, authorize, permit, or otherwise carry out, will not jeopardize the continued existence of any listed species or adversely modify designated critical habitat.

No federally threatened or endangered bird species have been documented as occurring within the vicinity of the Project; therefore, it is not anticipated that Section 7 of the ESA will be triggered; and the Project will comply with Section 9 of the ESA.

3.2 MIGRATORY BIRD TREATY ACT

The MBTA protects migratory birds and most resident birds that are native to the United States. According to the MBTA, it is illegal to pursue; hunt; take; capture; kill; attempt to take, capture, or

[1] https://www.aplic.org/uploads/files/2613/SuggestedPractices2006(LR-2watermark).pdf
[2] https://www.aplic.org/uploads/files/15518/Reducing_Avian_Collisions_2012watermarkLR.pdf

kill; possess; offer for sale; and export, import, or transport birds, their parts (e.g., feathers), and active nests (and the eggs or young within). As of October 4, 2021, MBTA prohibits incidental take of migratory birds native to the United States. Permits for nest removal or relocation are available; however, there is no process for permitting "take" of migratory birds due to interactions with transmission lines and USFWS will not consult on MBTA. MBTA is a strict liability statute, which means knowledge of the act or intent to violate the act, is not required to be held liable under the act.

3.3 BALD AND GOLDEN EAGLE PROTECTION ACT

The BGEPA protects and conserves bald and golden eagles from intentional take of an individual bird, chick, egg, or nest, including alternate and inactive nests. Prohibitions also apply to disturbance that may lead to biologically significant impacts, such as interference with feeding, sheltering, roosting, and breeding, or abandonment of a nest. The disturbance buffers for construction activities in Minnesota is 0.125 mile (660 feet); however, this distance can be modified depending on the existing environment. Permits for nest removal and take of eagles are available through consultation with USFWS.

3.4 MINNESOTA ENDANGERED SPECIES STATUTE

Minnesota's Endangered and Threatened Species Statue (Chapter 84.0895) and associated rules (Minnesota Administrative Rules Chapter 6134 and Parts 6212.1800 to 6212.2300) prohibit take of state-listed plants and animals by any private or public action or activity. Take of state-listed species is allowed with the issuance of a state permit by the Minnesota Department of Natural Resources (MDNR). The MDNR maintains a list of endangered, threatened, or special concern species; no state-listed avian species have been previously documented within the vicinity of the Project.

4.0 PROJECT DESCRIPTION

4.1 PROJECT LOCATION

The Route Width, which includes the Project Alignment and Kellogg Substation, is located in Plainview, Highland, Watopa, and Greenfield Townships in Wabasha County, Minnesota. The Project Route Width is located in the following Township, Ranges, and Sections shown in Table 4.1-1 below.

TABLE 4.1-1

Townships, Ranges, and Sections Crossed by the Project Route Width

Township Name	Township	Range	Sections
Plainview	108N	11W	1
Watopa	109N	10W	4, 5, 7, 8, 18
Highland	109N	11W	13, 23, 24, 25, 26, 35
Greenfield	110N	9W	30, 31
	110N	10W	25, 26, 27, 33, 34, 35, 36

The Project is located in the MDNR Nongame Wildlife – Central Region.[3] The Central Region provides habitat for non-game species such as tundra swans during migratory periods, red-headed woodpeckers, raptors, trumpeter swans, mice, turtles, frogs, and snakes. Additional

[3] https://www.dnr.state.mn.us/eco/nongame/central.html

species that inhabit the Project area include deer, small game, forest upland birds, pheasants, waterfowl, turkey, and doves. An overview map is provided in Appendix A.1.

4.1.1 Waterfowl Production Areas

The Project Alignment does not cross any Waterfowl Production Areas.

4.1.2 Public Waters

Public Waters are wetlands, water basins and watercourses of significant recreational or natural resource value in Minnesota as defined in Minn. Stat. § 103G.005. The MDNR has regulatory jurisdiction over these waters, which are identified on the MDNR Public Waters Inventory maps.

The Proposed Route and Proposed Alignment intersect one MDNR Public Water at milepost (MP) 9.5, a watercourse named Gorman Creek (see page 2 on Appendix A.2). This crossing was identified by MDNR in its early coordination review comments. Gorman Creek is a tributary to the Zumbro River which ultimately connects to the Mississippi River. One additional public water basin, McCarthy Lake, is adjacent to, but outside the Proposed Route. It is approximately 255 feet north of the right-of-way (ROW), near MP 11.0 (see pages 3 and 4 in Appendix A.2).

4.1.3 Sites of Biodiversity Significance

Through the Minnesota Biological Survey (MBS), MDNR systematically collects, interprets, and delivers baseline data on the distribution and ecology of rare plants, rare animals, Native Plant Communities (NPC) classes, and functional landscapes and designates sites which exhibit these characteristics as Sites of Biodiversity Significance (SOB). MBS sites established by the MDNR are then ranked as follows:

- Outstanding: Sites contain the best occurrences of the rarest species, the most outstanding examples of the rarest NPC, and/or the largest, most ecologically intact, or functional landscapes.

- High: Sites contain very good quality occurrences of the rarest species, high-quality examples of rare NPC, and/or important functional landscapes.

- Moderate: Sites contain occurrences of rare species moderately disturbed NPC, and/or landscapes that have strong potential for recovery of NPC and characteristic ecological processes.

- Below: Sites lack occurrences of rare species and natural features or do not meet MBS standards for outstanding, high, or moderate rank.

The Proposed Route crosses one MBS site (ranked as moderate) near MP 5.8 (see page 1 of Appendix A.2). The Proposed Alignment crosses one MBS site known as McCarthy Lake (ranked as High) for approximately 623 feet between MPs 12.8 and 12.9 (see pages 5 and 6 of Appendix A.2). Because this is a wetland MBS site, it may qualify as a Rare Natural Community following review by MDNR. There are no NPCs within the Proposed Route or crossed by the Proposed Alignment.

4.1.4 Important Bird Areas

The Upper Mississippi River National Wildlife and Fish Refuge is located approximately 276 feet to the northeast of the proposed Kellogg Substation. This area is also designated as an Important Bird Area (IBA). No USFWS administered properties are located in the Proposed Route or are crossed by the Proposed Alignment.

5.0 CONSERVATION MEASURES

5.1 DESIGN STANDARDS

Dairyland implemented the following design standards to avoid and minimize potential direct and indirect adverse impacts to avian species and their habitat:

- The ROW will primarily follow existing road and distribution corridors, or it will be located in agricultural fields, which will minimize impacts to habitat and minimize direct and indirect impacts to avian wildlife.

- To the extent possible, the transmission line spans wetlands, streams, and ditches, to reduce impacts to avian habitat.

- The Project will either have insulator bracing to impede larger birds from perching on the insulators or have a minimum separation of 60 inches (150 centimeters) between active phases and grounding to minimize the potential for electrocution.

- Insulation will be used where practicable to prevent electrocution if phase separation is not feasible. These design standards will minimize the potential for avian electrocution for all species.

- In areas where spans have a higher potential of collision by avian wildlife, flight diverters will be installed to increase visibility. These areas include spans across or adjacent to MDNR Public Waters Inventory watercourses, adjacent to the SOBS, and adjacent to the IBA. Specific locations are shown in Appendix A.2.

- Flight diverters will be installed at intervals determined through consultation with USFWS and MDNR. Dairyland will place yellow, coiled-PVC bird flight diverters (or similar device as approved by USFWS and MDNR) at roughly 100-foot (30-meter) intervals, along spans meeting the above criteria. Flight diverters will be placed on the shield wire at roughly 100-foot (3-meter) intervals but would be evenly staggered to appear as 50 feet apart when viewed by oncoming birds.

The McCarthy Lake MBS site (MPs 12.8 to 12.9; page 5 in Appendix A) occurs within forested and emergent wetlands. The Proposed Alignment will be collocated with County Road 84 at the McCarthy Lake MBS crossing. Temporary impacts to the MBS site will occur during construction activities. To minimize impacts to this MBS site, Dairyland has committed to the following best management practices (BMPs):

- use construction mats to minimize ground disturbance;

- not park equipment, stockpile supplies, or place spoil within the MBS site;

- inspect and clean all equipment prior to bringing it to the site to prevent the introduction and spread of invasive species;
- use effective erosion and sediment control BMPs;
- revegetate disturbed soil with native species suitable to the local habitat as soon after construction as possible; and
- use only certified weed-free mulches and seed mixes.

Dairyland's Vegetation Management Plan (VMP) reflects these commitments within this MBS site. Further, Dairyland will avoid placement of pole structures within the MBS site by spanning this area and will minimize forested vegetation clearance by co-locating with the road ROW.

5.2 CONSTRUCTION

Dairyland will incorporate the following BMPs to minimize impacts to avian wildlife during construction:

- Construction footprints will be minimized to the extent practicable. Additional temporary workspaces will be sited to avoid or minimize impacts to avian habitats.
- Clearing will be minimized to the extent practicable, and less than 14.4 acres of trees will be cleared. All clearing will be constrained within the 100-foot-wide ROW.
- Vegetation clearing within 50 feet of Public Waters will be limited to the extent possible and in coordination with the MDNR.
- Water and soil conservation practices will be implemented to prevent topsoil and minimize soil erosion into adjacent water resources.
- The VMP will be implemented throughout the duration of the Project.
- Ground-based eagle nest surveys will be conducted prior to construction of the Project. Should a nest be identified or established within 0.125 mile (660 feet) of the alignment, Dairyland will work with USFWS to avoid and minimize impacts to comply with BGEPA. Nest removal is not anticipated; however, should it be required, Dairyland will work with the USFWS and MDNR to obtain the necessary permits/approvals.

5.3 OPERATION

- Dairyland will periodically perform inspections, maintain equipment, and repair damage to the transmission line. Regular maintenance and inspections will be performed over the life of the facility to ensure a reliable system. Annual inspections will be done by foot, snowmobile, All-Terrain Vehicle, pickup truck, or by aerial means. These inspections will be limited to the acquired ROW and areas where obstructions or terrain require access outside of the transmission line ROW but within the terms of the easement. If problems with the transmission line are found during inspection, repairs will be performed, and landowners will be compensated for any losses or damages incurred to their property.

- Staff will be trained to record and respond to avian incidents along the Project. This includes recording and responding to dead or injured birds and preparing an annual report that will be provided to USFWS and MDNR.

- Nesting activity will be identified during annual inspections and if nest activity is present, Dairyland will work with USFWS and/or MDNR to remove the nest, if necessary. No nests will be removed unless permitted.

- Additional flight diverters may be installed, based on observed avian incidents along the Project. Dairyland will work with USFWS and MDNR, as necessary, if additional flight diverters are required.

6.0 CONTACTS

For questions regarding this APP, please contact:

Clay DeWitt
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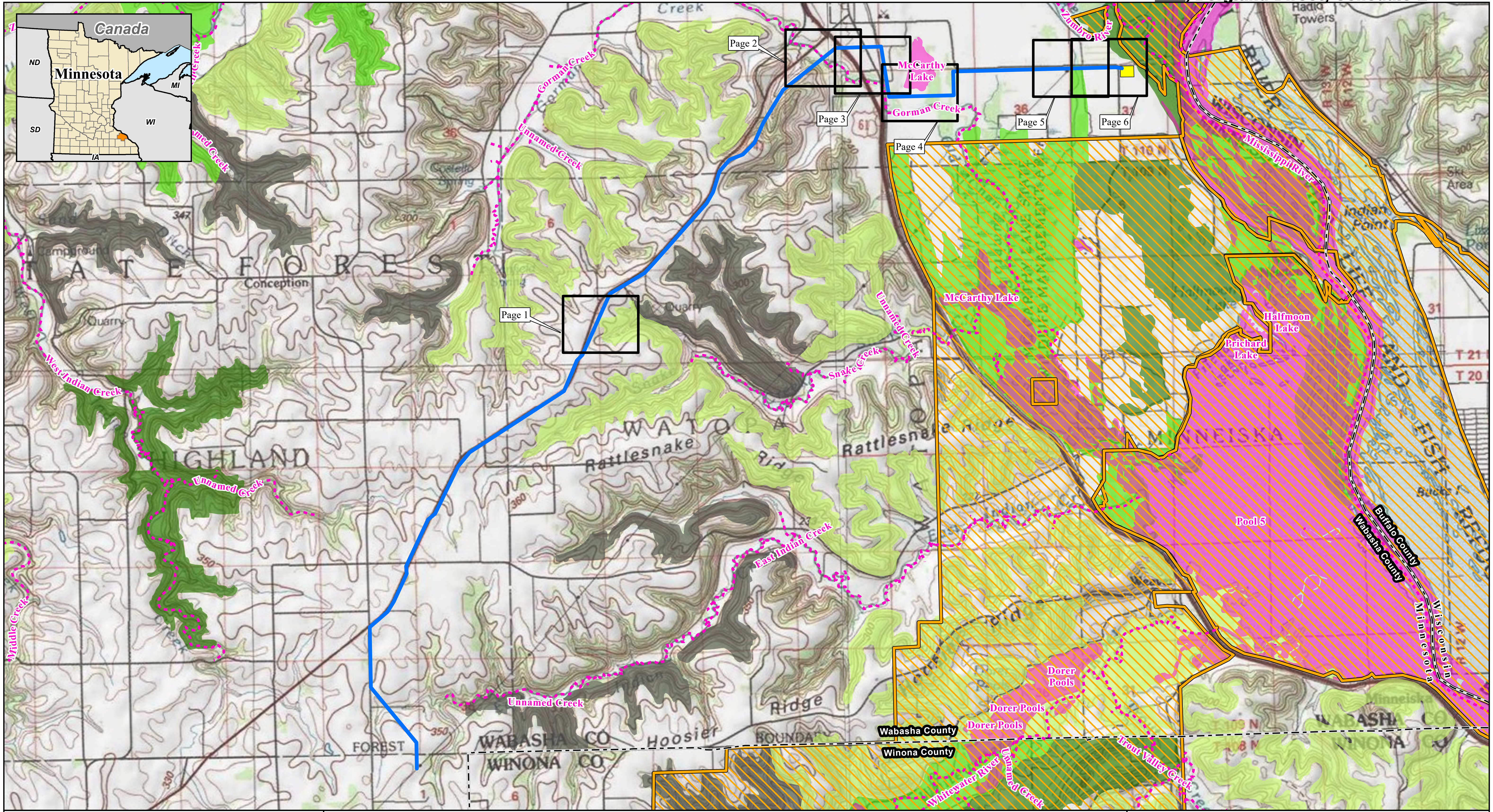
3200 East Ave S, PO Box 817
La Crosse, WI 54602-0817
Clay.DeWitt@DairylandPower.com


Canada
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McCarthy Lake
Gorman Creek
Unnamed Creek
Zumbro River
Mississippi River
McCarthy Lake
Halfmoon Lake
Prichard Lake
Snake Creek
West Indian Creek
East Indian Creek
Middle Creek
Rattlesnake
Rattlesnake Ridge
HIGHLAND
MINNEISKA
Pool 5
Buffalo County
Wabasha County
Wisconsin
Minnesota
Dorer Pools
Wabasha County
Winona County
Whitewater River
Trout Valley Creek
WABASHA CO
WINONA CO
Hoosier
Ridge
FOREST
Conception
Quarry
Campground
Radio Towers
Ski Area
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Overview Map

Wabasha Relocation Project
Dairyland Power Cooperative
Wabasha County, Minnesota

DAIRYLAND POWER COOPERATIVE

0 0.75 1.5 Miles

N W E S

For Environmental Review Purposes Only

- Page Extent
- Proposed 161-kV Transmission Line Alignment
- Proposed Kellogg Substation
- Public Waters Watercourse
- Public Waters Basin/Wetland
- Important Bird Area
- County Boundary

MBS Sites of Biodiversity Significance

- Outstanding
- High
- Moderate
- Below

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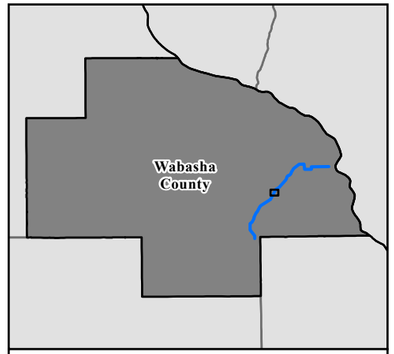

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1 inch = 300 feet

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- Milepost
- Proposed 161-kV Transmission Line Alignment
- 100ft Right-of-Way
- Proposed Route Width
- Proposed Bird Diverter
- NWI Wetland (MDNR 2019 Updates)
- PLSS Section

MBS Sites of Biodiversity Significance

- Moderate
- Below

Bird Diverter

Wabasha Relocation Project
Dairyland Power Cooperative
Wabasha County, Minnesota

DAIRYLAND POWER COOPERATIVE

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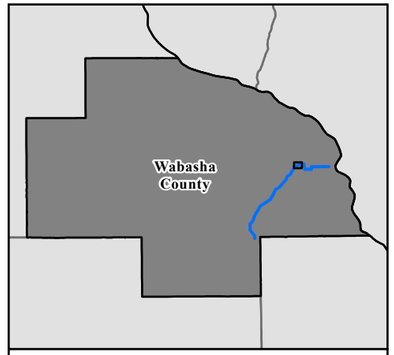

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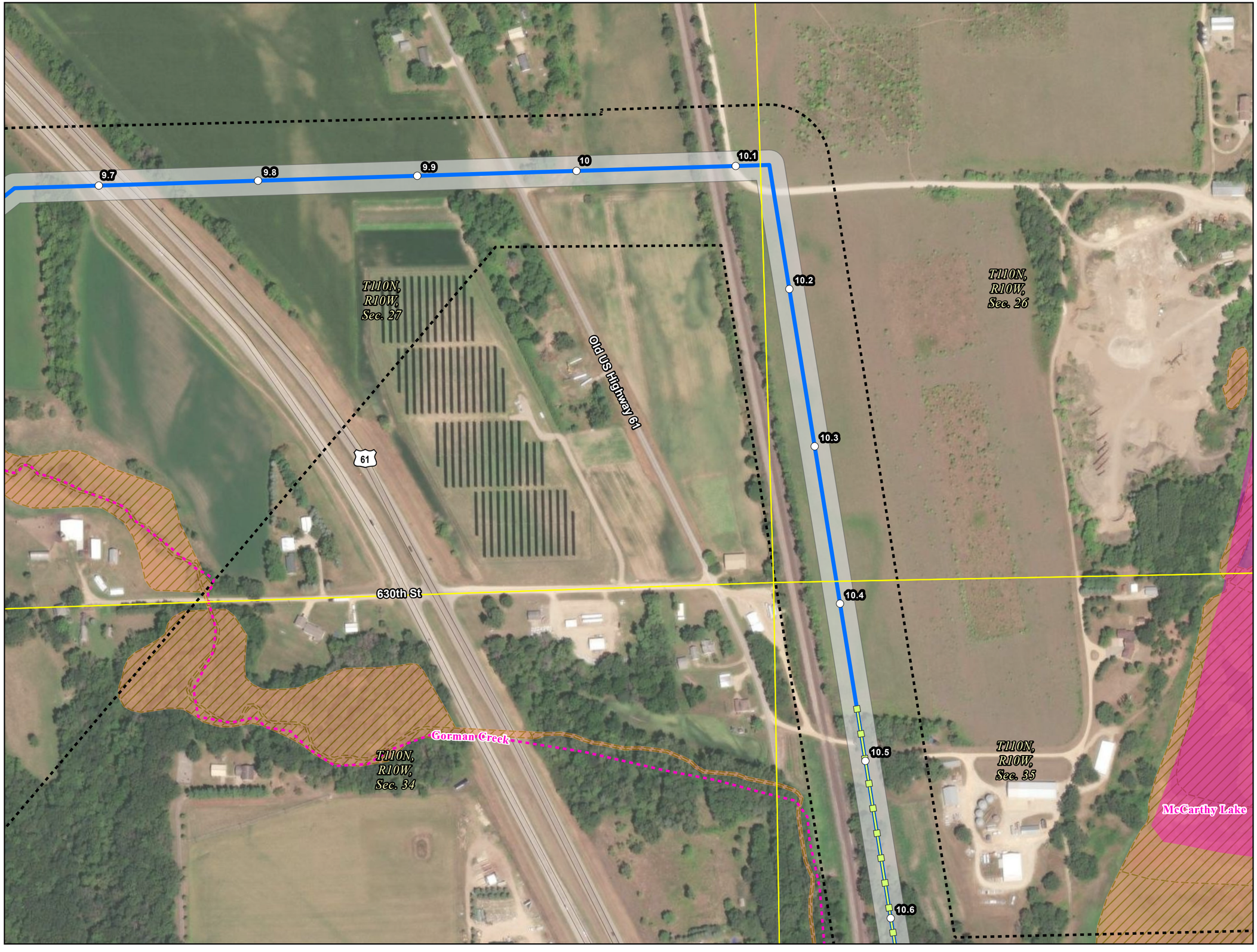

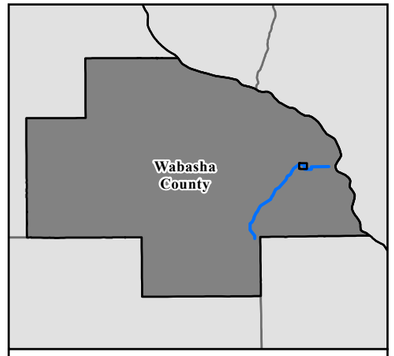

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Bird Diverter

Wabasha Relocation Project
Dairyland Power Cooperative
Wabasha County, Minnesota
Page 3 of 6

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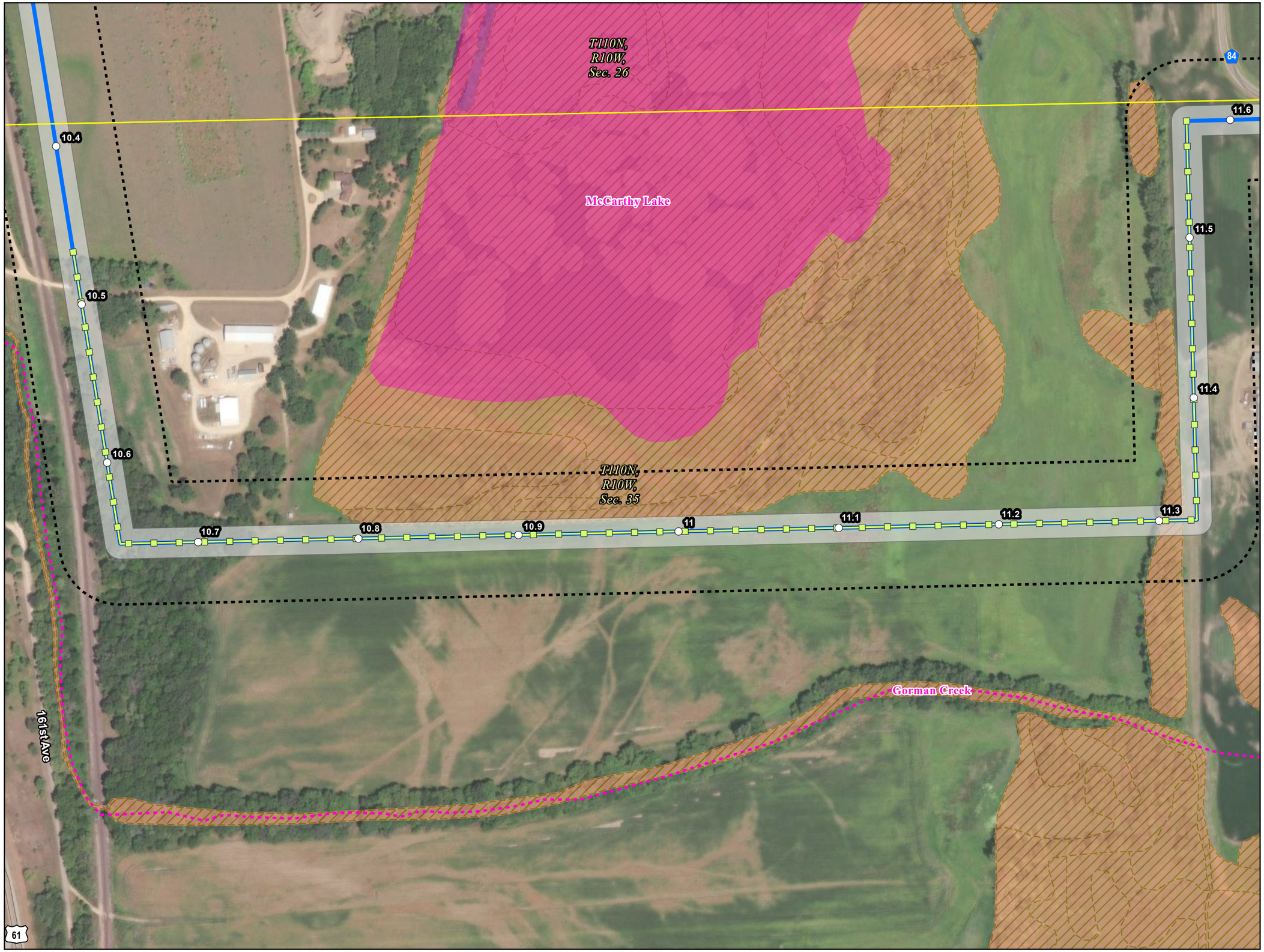

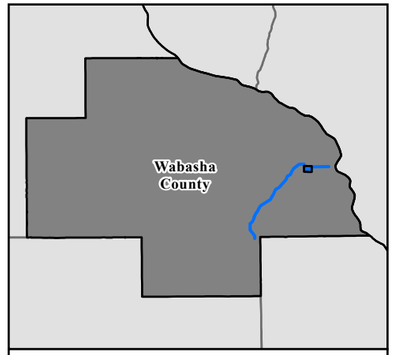

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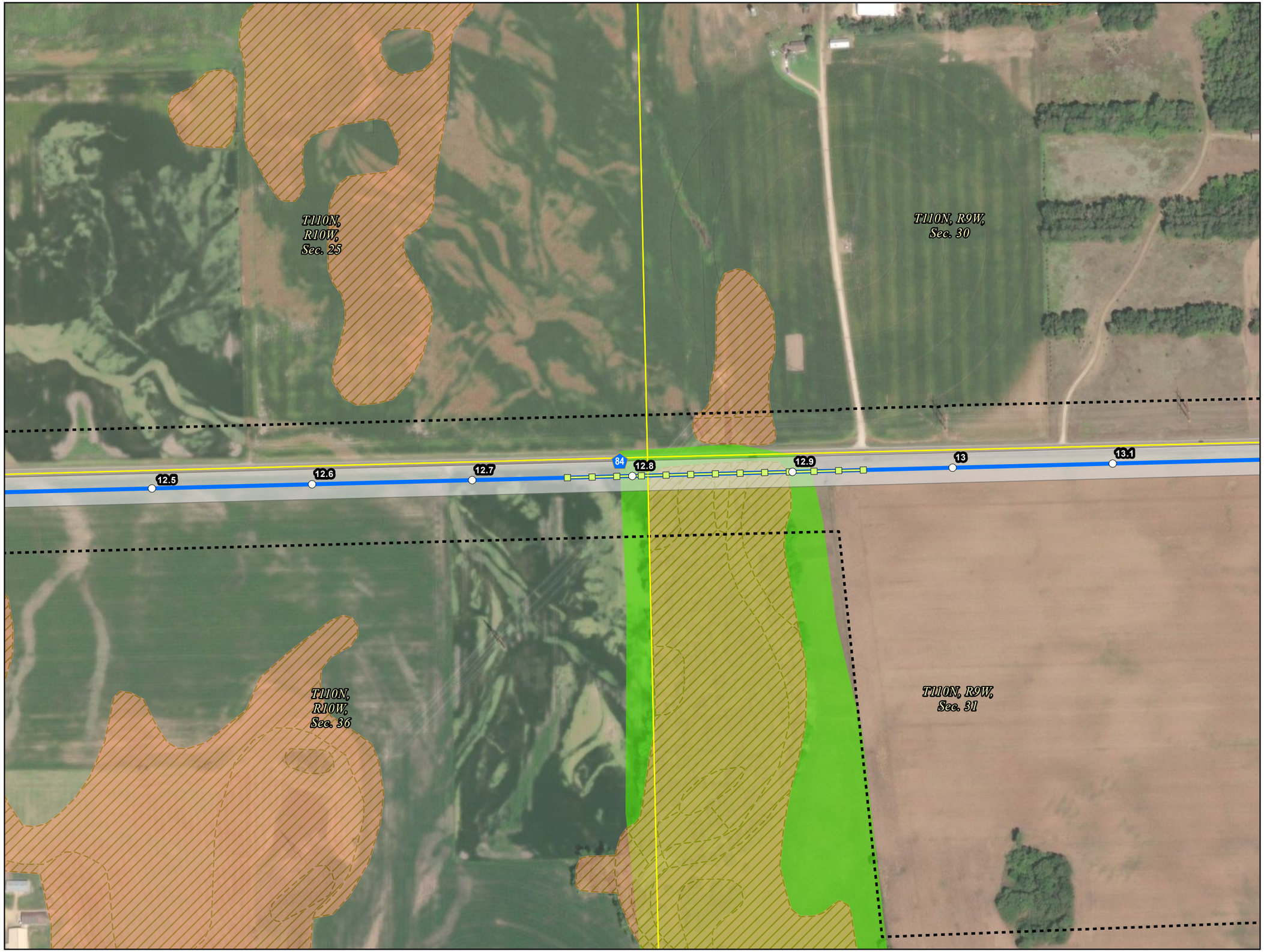

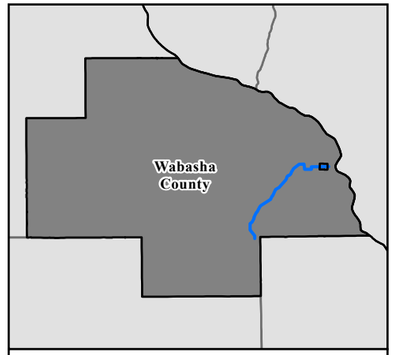

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MBS Sites of Biodiversity Significance

- High

Bird Diverter

Wabasha Relocation Project
Dairyland Power Cooperative
Wabasha County, Minnesota
Page 5 of 6

DAIRYLAND POWER COOPERATIVE

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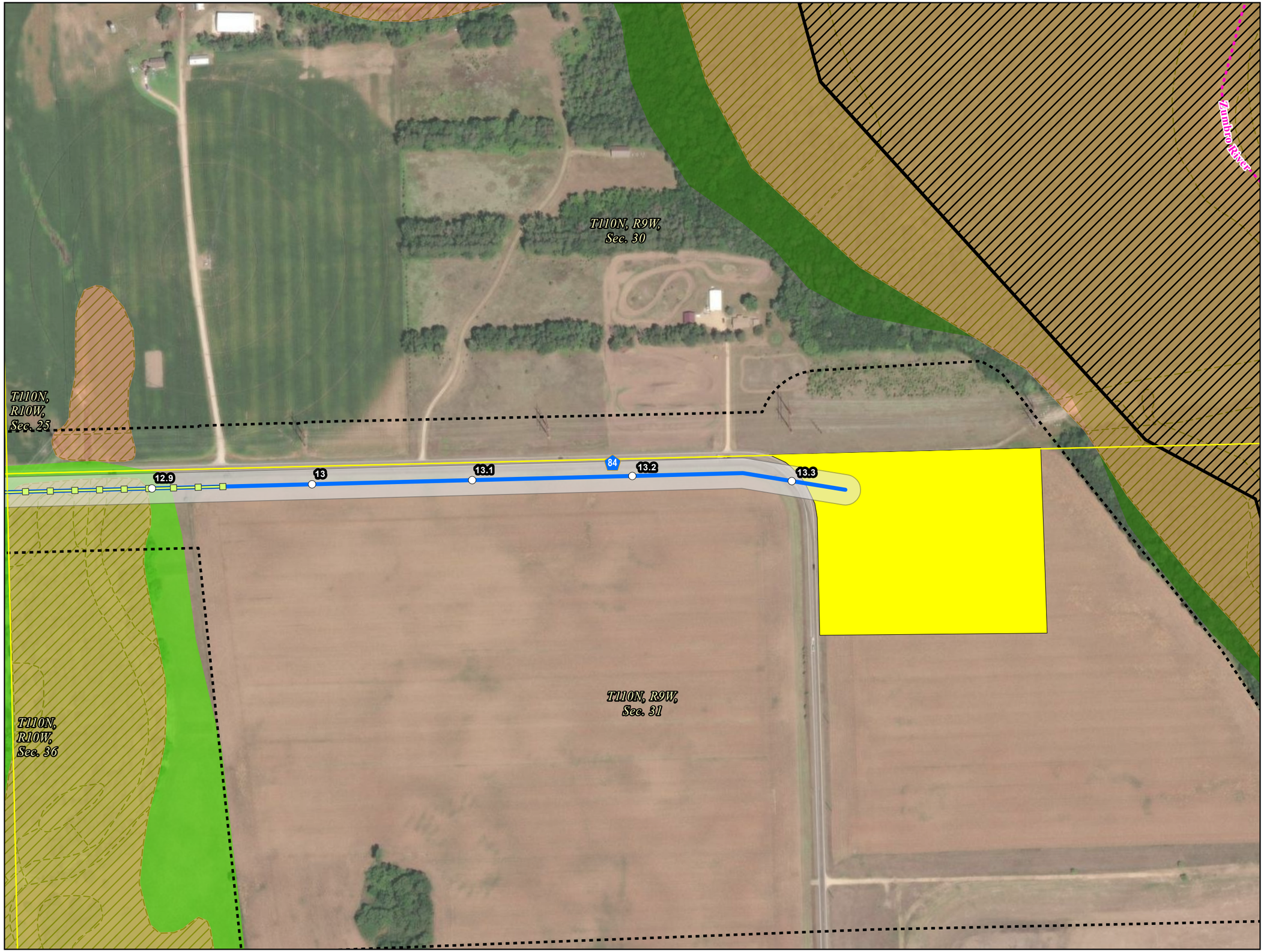

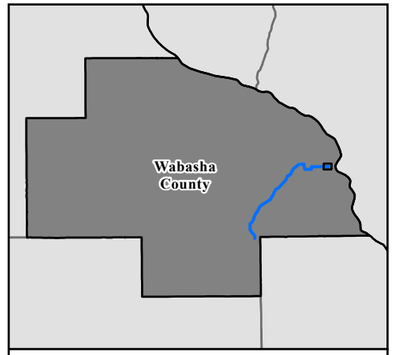

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Bird Diverter

Wabasha Relocation Project
Dairyland Power Cooperative
Wabasha County, Minnesota
Page 6 of 6

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Date: (11/25/2024)

DPC Ex. _____, Bergland Direct, Schedule F

Comment No.	Page No.	Resource	Comment	Response
1	1	Federal and State-Listed Protected Species	The Applicant should consult with the U.S. Fish and Wildlife Service (USFWS) with respect to listed species which may occur within the project area, and limit ground disturbances to the extent practical in areas of semi-natural or natural vegetation.	Information regarding Dairyland's coordination with USFWS is in Section 8.6.7 and Appendix B of the CN/RP Application. Dairyland will continue to consult with the USFWS with respect to federally listed species within the Project area.
2	1	Federal and State-Listed Protected Species	State-listed threatened and endangered species may be located along portions of the route along MnDOT right-of-way (ROW). We recommend the Applicant consult with the Minnesota Department of Natural Resources (MDNR) to identify recorded locations and conduct species-specific surveys prior to construction to confirm locations prior to identifying pole placement and temporary workspaces.	As stated in Section 8.6.7 of the CN/RP Application, Dairyland submitted a formal Minnesota Natural Heritage Review Request through the MDNR's MCE. Dairyland has committed to implementing the avoidance measures as outlined in MDNR's Natural Heritage Review response and will continue to consult with the MDNR regarding state-listed threatened and endangered species.
3	1	Federal and State-Listed Protected Species	MnDOT requests copies of all biological field survey data/reports within its ROW be submitted to MnDOT.	Dairyland has not identified the need to conduct biological field surveys within MnDOT ROW.
4	1	Federal and State-Listed Protected Species	Herbicide use must be minimized during construction and future maintenance occurring on MnDOT ROW. If used, herbicide must be applied via hand-held spot treatments applied to individual plants. Avoid broadcast applications of herbicides without further consultation to MnDOT Office of Environmental Stewardship. Restrict all activities to avoid the application of insecticides and fungicides on MnDOT ROW.	Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
5	1	Federal and State-Listed Protected Species	The proposed project, at the time of this review, falls within or near a USFWS identified High Potential Zone (HPZ) for the federally endangered rusty-patched bumble bee. Note the USFWS updates these boundaries annually, typically in March. The Applicant and its contractors must consult the USFWS HPZ map (https://www.fws.gov/species/rusty-patched-bumblebee-bombus-affinis/map) each spring to ensure project activities occurring in MnDOT ROW remain outside of an USFWS identified HPZ for the rusty-patched bumble bee. Contact MnDOT OES at protectedspecies.dot@state.mn.us immediately if the project is now within the boundaries identified by USFWS.	As of January 2025, a portion of the Proposed Route between MPs 12.0 to 13.3, including the Kellogg Substation is within a HPZ (based on the latest USFWS data dated 4/26/2024). This has not changed since the analysis was completed for the CN/RP application. Dairyland will review the USFWS HPZ map prior to construction to determine if any project activities are proposed to occur within a MnDOT ROW that is also within a RPBB HPZ and will continue to consult with the USFWS with respect to federally listed species within the Project area.
6	1	Federal and State-Listed Protected Species	The Supplemental ENM incorrectly states that "impacts to the rusty-patched bumble bee are not anticipated." The proposed project may affect RPBB, and impacts RPBB are reasonably certain to occur based on current USFWS guidance.	Dairyland does not anticipate effects based on the lack of suitable habitat and the construction BMPs outlined in Section 8.6.7.3.2. Dairyland will continue to consult with the USFWS with respect to impacts on federally listed species within the Project area.
7	2	Federal and State-Listed Protected Species	The Applicant must establish native vegetation in areas that are not proposed to be mowed more than once per year, and must include mowing and spot treatment control to establish seeded vegetation, as shown in the MnDOT Seeding Manual (see http://www.dot.state.mn.us/environment/erosion/vegetation.html).	Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
8	2	Federal and State-Listed Protected Species	Several state-listed species present in the vicinity of this project are being evaluated for federal listing, and one or more species may be listed federally by the time this project is seeks MnDOT permits (e.g., Regal Fritillary, Blanding's turtle). MnDOT encourages project team to evaluate these risks, and mitigate them to the extent possible (e.g., Conferencing under ESA Section 7).	Dairyland will continue to consult with the USFWS with respect to impacts on federally listed species within the Project area.
9	2	Federal and State-Listed Protected Species	Wildlife-road passage has been identified by MnDNR, Wabasha Co., MnDOT and other conservation organizations as a concern along Wabasha County Road 84. MnDOT encourages the project proponent to work with MnDNR Nongame Wildlife Program and others to assess the feasibility of offsetting project impacts via mitigation that contributes to safe wildlife passage(e.g., underpasses) and fencing in this area.	Dairyland proposes to align the Proposed Route with County Road 84. No mitigation has been requested by MnDNR or Wabasha County to date.
10	2	Avian Protection	The Applicant should minimize tree clearing/trimming within MnDOT ROW to extent possible. Tree clearing may be restricted to winter months (November 15 - March 31). On MnDOT ROW, additional tree clearing restrictions will typically be included in MnDOT's utility permit. If construction activities occur within the nesting season for migratory birds, conduct pre-construction nest surveys. If active nests are discovered, implement a Migratory Bird Plan to avoid and minimize impacts.	Because the Project will largely be collocated and parallel with existing utility and road ROWs, there will be minimal incremental impacts to forested areas from the construction and maintenance of the Project. Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
11	2	Avian Protection	Eagle nests are documented in the vicinity of the project. Additional surveys are encouraged and coordination with the USFWS may be required. Construction activities may be restricted within a certain radius if the nest is deemed to be active.	Limited tree coverage existing along the Proposed Route. Dairyland will comply with the requirements of the Bald and Golden Eagle Protection Act regarding any bald eagle nests identified within proximity to the Project.
12	3	Contaminated Materials Management	It is the responsibility of the Applicant to identify the potential to encounter contaminated materials (soil/groundwater/vapor) on or within 500-feet of MnDOT ROW. The Applicant should provide to MnDOT all environmental due diligence documents (e.g., desktop review, Phase I Environmental Site Assessments, Phase II), as applicable/available. If access or sampling is proposed in MnDOT's ROW, a permit will be required (see https://www.dot.state.mn.us/utility/forms.html). Contaminated materials encountered during any work within MnDOT ROW is required to be managed in accordance with applicable federal/state and location regulations and/or guidance documents.	Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
13	3	Regulated Waste and Storage Tanks	It is the responsibility of the Applicant to report the presence of aboveground storage tanks (ASTs) within project limits. If ASTs are identified, contact Regulated Materials Staff. Asbestos, solid waste, regulated and/or hazardous waste encountered during construction activities are required to be managed in accordance with applicable federal/state and local regulations and/or guidance documents.	Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.

DPC Ex. ____, Bergland Direct, Schedule F

Comment No.	Page No.	Resource	Comment	Response
14	4	Roadside Vegetation Management	Pesticides: Require Applicant to develop a Vegetation Management/Pesticide/Revegetation Plan and submit for MnDOT review/approval. Any proposed pesticides and application rates should be submitted to MnDOT for approval (NOTE: Use of herbicides or similar chemistries may be limited to spot treatments via hand tools only [i.e., no equipment mounted broadcast applications]). • Herbicide used on MnDOT ROW must be labeled for use on rights-of-way. • Pesticide applicators must be state- certified in Categories A and J (see: https://www.mda.state.mn.us/pesticidefertilizer/pesticide-applicator-license-types) • Herbicide records for work on MnDOT's ROW must be provided to the local MnDOT District Office	Dairyland submitted a Vegetation Management Plan as Appendix I to its CN/RP Application; this addresses herbicide use. Dairyland does not plan to use pesticides at this time. Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
15	4	Roadside Vegetation Management	Noxious/Invasive Weeds: Prior to construction, the Applicant should conduct a field survey for noxious weeds in all project workspaces. If any state prohibited or county designated noxious weeds (https://www.mda.state.mn.us/plantsinsects/Minnesota-noxious-weed-list) are identified within installation limits on MnDOT's ROW, the Applicant must submit its Invasive Species Prevention Plan to the Office of Environmental Stewardship-Roadside Vegetation Management Unit for review and approval. All efforts must be made to prevent transportation of propagative parts to new areas. Movement of propagative parts of these plants is prohibited by Minnesota Statutes, Section 18.82. If transportation of soil or plant parts from the site are necessary, a transportation permit will be required. Questions regarding noxious weed law or noxious weed transportation permits can be directed to the Minnesota Department of Agriculture at noxiousweeds.mda@state.mn.us.	Section 8.6.6 of the Route Permit Application addresses Dairyland's plans and BMPs for invasive species management. Dairyland submitted a Vegetation Management Plan as Appendix I to its CN/RP Application which incorporates these BMPs. Dairyland does not presently plan to complete noxious weed surveys. Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
16	4	Roadside Vegetation Management	Native vegetation: Parking, staging, and operating equipment in this area should be kept to a minimum level to accomplish the installation. Parking of vehicles or equipment not directly required for the utility installation in this area should be restricted and remain on the road surfaces. Failure to adhere to the above recommendations may lead to unnecessary damage and compaction of native plants and soils.	Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
17	4	Roadside Vegetation Management	Restoration: If areas are disturbed on MnDOT's ROW, the area must be restored to a similar vegetation cover, except when that vegetation will endanger safe operation or maintenance of the utility/facility. Seeding should match existing surrounding vegetation, and native seed must have a yellow tag through the Source Identified Native Seed Program. Any seed that is to be planted on MnDOT's ROW must be a mix approved in MnDOT's seeding manual: 2024 MnDOT Seeding Manual.	Dairyland submitted a Vegetation Management Plan as Appendix I to its CN/RP Application; this addresses a commitment to use MnDOT seed mixes. Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
18	5	Roadside Vegetation Management	Woody Debris Management: Tree clearing can only occur between November 15th and March 31st. The applicant will dispose of trees, brush, stumps, roots, and other debris or byproducts by chipping, tub grinding, or marketing. Chip/mulch can be used as erosion control for the project, however, any mulch/chip and debris not used will be removed from the ROW. If stumps are not ground out, they must be cut no higher than 3 inches above the ground line and treated with an approved herbicide labeled for use on rights of way to inhibit re sprouting. If the stump is treated, the applicant must submit a record of herbicide application to the MnDOT Authorized Representative. Marketable trees are defined as all trees except elm, oak wilt infected oak trees and ash. Dispose of ash, pine, elm, and oak wilt infected trees in accordance with proper forestry disposal standards to prevent the spread of insects and disease. For trees designated to remain during operations, if soil excavation must take place within the tree(s) dripline, the applicant will cleanly cut all tree roots along the excavation limits in accordance with MnDOT Standard Specification 2572.3A.2. If during the applicant's operations it exposes or damages roots on trees designated to remain, immediately and cleanly cut damaged and exposed roots and place topsoil over the exposed area. If the applicant wounds a tree designated to remain, they must notify the MnDOT Authorized Representative.	Dairyland assumes this comment applies to tree clearing and woody debris management within MnDOT ROW. Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
19	5	Roadside Vegetation Management	MnDOT reserves the right to conduct its own inspection on MnDOT ROW (during and post-construction) to verify restoration status prior to the Applicant filing their Notification of Restoration Completion with the Commission.	Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
20	6	Wetlands Coordination	Any ground disturbance (e.g., fill, excavation, direct or indirect drainage) of regulated aquatic resources must comply with all applicable federal Clean Water Act Section 404, Minnesota Wetland Conservation Act (WCA), and MDNR Public Waters Work requirements. If ground-disturbing activities are proposed within MnDOT ROW, MnDOT may require an aquatic resource delineation to be performed throughout the areas of proposed disturbance. The delineation would require approval by MnDOT OES, as the Local Government Unit (LGU) responsible for administering the WCA within state trunk highway (TH) ROW. The project must restore any temporary impacts and avoid, minimize, and mitigate any permanent impacts to delineated aquatic resources to the extent required by state and federal law. This includes implementing Best Management Practices (BMPs) during construction to minimize aquatic resource disturbance, including compaction, erosion, and sedimentation. MnDOT reserves the right to conduct field inspections within its ROW.	Dairyland will obtain all necessary environmental permits prior to construction. Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.

DPC Ex. ____, Bergland Direct, Schedule F

Comment No.	Page No.	Resource	Comment	Response
21	6	Water Permits - Federal Agencies, Floodplains	The project does not appear to cross FEMA mapped floodplains within MnDOT ROW. The proposed alignment and route width do cross FEMA mapped floodplains downstream of TH 42 and upstream and downstream of TH 61. The Applicant should make efforts to avoid placement of structures or fill in floodplain areas to minimize adverse impacts and increased risk of flooding. The Applicant should engage with floodplain permitting authorities to ensure consistency with floodplain goals and requirements. The project may also involve work affecting waters of the US in which case a Section 404 authorization from the U.S. Army Corps of Engineers would be needed.	Dairyland will obtain all necessary environmental permits prior to construction. As stated in Section 8.2.5.1 of the CN/RP Application, Wabasha County's floodplain and shoreland regulations are contained within the Wabasha County Zoning Ordinance. Despite the presence of these zoning regulations, the Project will not need to obtain any special zoning permits to construct the Project, as such local permits are preempted under state law with issuance of a Route Permit (see Minn. Stat. § 216E.10.1).
22	7	Cultural Resources	MnDOT CRU did not identify any known archaeological sites, burials, or historic properties listed on the State of National Register of Historic Places within or adjacent to MnDOT ROW along the proposed alignment. One precontact archaeological site is located within 500 feet of the County Road 41/26 Route Alternative partly within TH 61 ROW in Sec. 19 – T109N – R10W. When submitting permit applications to MnDOT the Applicant should provide summary of cultural field surveys and coordination with SHPO to date, like that provided with this ENM. If additional surveys are planned, provide an anticipated schedule for completion. If the becomes aware of significant cultural resources findings in or adjacent to MnDOT ROW, please contact our office at CulturalResources.dot@state.mn.us. In addition, the Applicant shall provide a copy of its a Post Review Discovery Plan (PRDP1) and submit to MnDOT for review. Contact information for CRU staff must be included in the PRDP. This plan should outline the steps to be followed in the event of an unanticipated discovery of archaeological materials, human remains, or burials, and include language specific to the coordination with MnDOT when a discovery is on MnDOT ROW. MnDOT Cultural Resources Unit (CRU) staff should be notified (CulturalResources.dot@state.mn.us) within 24 hours/days in the event of an unanticipated find on or adjacent to MnDOT property during construction. Additional archaeological investigations (e.g., literature reviews, reconnaissance surveys [if warranted]) may be required where co-location is proposed or where temporary easement may be located within MnDOT ROW. Investigations should include in-field inspections to document areas of soil disturbance and to identify potentially unknown archaeological sites within areas of moderate to high archaeological potential.	Section 8.5 of the CN/RP Application addresses archaeological and historic resources. On October 9, 2024, the Minnesota State Historic Preservation Office responded to Dairyland's February 6, 2024 cultural resource literature review and recommend that a Phase I archaeological survey be completed. Dairyland will complete a survey once the final Project route is determined. Dairyland has been coordinating with the Upper Sioux Community Tribal Historic Preservation Office regarding tribal interests in the Project area. The Upper Sioux Community completed a survey of the Kellogg Substation property on November 26, 2024. The survey yielded no findings. Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
23	8	FHWA National Scenic Byway Program	Under Title 23, USC, Section 162, National Scenic Byways Program; Scenic byways are designated as State, National or All-American because they possess one or more of six intrinsic qualities: scenic, cultural, recreational, natural, historic, and archaeological qualities. An analysis of the physical and visual impact on each of these six intrinsic qualities should be conducted at each proposed crossing locations and/or collocated segments and where the proposed utility is within 7 miles of a byway to determine the route with the least adverse impact on the byway routes and corridors. At a minimum, this analysis should include: • Streetview Imagery or on-the-ground photographs • Photo / Visual Simulations (existing conditions and post-construction). During early planning phases of project, this may consist of typical drawings/photos of similar projects that have already been constructed. Later in Project design, this should include site-specific assessments depicting photo and visual simulations for users of the byway. Each scenic byway has a leaders' group and/or stakeholder group; these groups should be contacted as part of the environmental review process. Scenic easements and areas should be investigated to identify any prohibitions or limitations that apply to land uses in the vicinity of the scenic byway. Relevant state and federal regulations governing scenic byways can be found in the MnDOT Utility Accommodation on Highway Right of Way Policy and Coordination Manual (both of which can be accessed here: https://www.dot.state.mn.us/policy/operations/oe002.html), 23 U.S.C. s. 162, and 23 CFR s. 645.209 (h). The Minnesota Mississippi River Parkway Commission (MRPC), established by Minnesota Statutes, section 161.1419, is the governing body for the Great River Road (GRR) in Minnesota. Minnesota Statutes, section 161.142 requires the commissioner of Transportation to construct and improve the GRR and assist the MRPC in carrying out its functions and duties. MnDOT's Scenic Byways staff should be kept apprised of discussions with MRPC. Due to the location (within 7 miles) of the Project with respect to the GRR, a) E-W crossing of the GRR (TH 61) in Kellogg MN from 170th to the west; and b) then running parallel within ~0.25 mile N-S to the GRR (east of TH 61) for ~1 mile in Kellogg MN after crossing TH 61, please consider rerouting b) the ~1 mile portion that parallels GRR (TH 61, east side) to instead simply cross TH 61 and run east on an E-W axis at a right angle (~90 degrees) to TH 61 (GRR) to the applicant's proposed substation on Wabasha County Road 84. Mitigation measures, as those suggested by MRPC, should be strongly considered to address unavoidable impacts on intrinsic qualities within the scenic byway corridors.	Dairyland has consulted with the MRPC regarding the Highway 61 crossing. This included preparation of visualizations and consideration of BMPs to minimize impacts at the crossing, which Dairyland agreed to implement (Section 8.4.3.1 of the CN/RP Application). After sending the visualizations to MRPC, MRPC had no further comments on the crossing or the visualizations. A summary of this communication is included in Section 8.2.1. The proposed reroute was not included in the September 25, 2024 Environmental Assessment Scoping Decision issued by the Minnesota Department of Commerce.

DPC Ex. ____, Bergland Direct, Schedule F

Comment No.	Page No.	Resource	Comment	Response
24	9	Environmental Assessment Unit / Environmental Review	If the Project will involve any construction activities within MnDOT ROW, the Applicant (and/or their Contractor) must comply with the following, relating to the conduct of work on the Project or to individuals engaged in work for the Project or employed on the Project: (1) All applicable State and Federal laws and regulations (2) Orders and decrees of bodies and tribunals with lawful jurisdiction over the work (3) Such local ordinances as are applicable to the work MnDOT's Environmental Assessment Unit reserves the right to request copies of the Applicant's environmental permits for work within its ROW as well as any inspection reports completed by the Applicant and/or its contractor.	Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
25	9	Soil Erosion and Sediment Control / Stormwater	Given the size of the Project, we assume the Applicant will be required to obtain coverage under the Minnesota Pollution Control Agency's (MPCA) Construction Stormwater General Permit (MNR100001). If a portion of the final alignment is located within MnDOT ROW, we request that the Applicant submit a copy of its Construction Stormwater Pollution Prevention Plan (SWPPP)/erosion and sediment control details to MnDOT OES for review prior to filing its Notice of Intent for coverage under MPCA's MNR100001. In addition, MnDOT reserves the right to conduct inspections of the project for portions that are within MnDOT ROW during and/or after construction. The Applicant (and/or its contractor) will be the Owner on this permit for any work on MnDOT ROW - MnDOT will not be a co-Applicant. Soil compaction caused by equipment traffic and haul roads on MnDOT ROW must be mitigated using techniques described in the MnDOT Facility Design Guide Chapter 13 (https://roaddesign.dot.state.mn.us/facilitydesign.aspx). Temporary and permanent erosion and sediment control measures on MnDOT ROW must follow standards in the MnDOT Facility Design Guide Chapter 13 (https://roaddesign.dot.state.mn.us/facilitydesign.aspx). Seeding on MnDOT ROW must follow standards in MnDOT Seeding Manual (https://www.dot.state.mn.us/environment/erosion/vegetation.html). Any erosion control blanket must be free of plastic netting and on the MnDOT Approved Products List for Rolled Erosion Prevention products. In addition, any hydraulic mulch used up-slope of Public Waters must be free of plastic fiber additives.	Dairyland will obtain all necessary environmental permits prior to construction. Dairyland will prepare a Stormwater Pollution Prevention Plan that will be in compliance with the Minnesota Pollution Control Agency's (MPCA) Construction Stormwater General Permit (MNR100001), should that be required. Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
26	10	Env Modelling and Testing (Noise)	The Applicant needs to take all precautions to avoid impacts to existing noise mitigation devices (e.g., noise walls) and/or applications within MnDOT's ROW. If the Project has the potential to impact noise mitigation infrastructure, please notify MnDOT's Environmental Modelling and Testing Unit group for further guidance.	The Project will not impact existing noise mitigation devices or applications within MnDOT ROW.
27	10	District Permitting Staff	Direct coordination with applicable District Permitting Staff will be required for all downstream MnDOT utility permits. MnDOT Permitting Policy and Guidance can be found at: http://www.dot.state.mn.us/utility/guidance.html. Refer to the Project name and MPUC docket number on ALL MnDOT permit applications. Any work that affects MnDOT ROW will require a permit. All MnDOT utility permits are available and must be applied at: https://olpa.dot.state.mn.us/OLPA/.	Dairyland will continue to coordinate with MnDOT regarding impacts to MnDOT interests. Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
28	10	District Planning Staff	State Highway current construction projects: Please note that MnDOT projects on state highways may affect travel routes to the project site, and/or may alter access points. To learn which projects might be in the area please review the current MnDOT construction projects website at https://www.dot.state.mn.us/construction/index.html and click on the district where your project is located. State Highway planned and future projects: MnDOT plans projects along state highways up to 10 years in advance. Please check District 6 where your project is located at https://www.dot.state.mn.us/planning/10yearplan/district-chip.html to see which projects might coincide with your project. Note that project timing can change, particularly for projects that are identified as being planned for 5 to 10 years in the future. You may also reach out to the district Planning contact or district Project Manager for more information.	Dairyland will review current, planned, and future MnDOT construction projects in the Project area prior to construction.
29	10	District Planning Staff	Access: Because there is a direct connection between crash rates and access density on state trunk highways, project proposers should plan to utilize access points on local roads whenever possible. Access from MnDOT ROW whether at an existing driveway or new driveway is not guaranteed, and new highway access permits will be required in either case. Please contact District Permitting staff for more information about permit applications, processes, and requirements.	Dairyland will continue to coordinate with MnDOT regarding impacts to MnDOT interests. Dairyland will comply with conditions of permits and authorizations issued by MnDOT for work that occurs within its ROW.
30	11	Design Support / Safety and Operations Management	Powerlines: Lateral placement of utility poles or non-crashworthy must be placed outside the roadway's clear zone and should avoid the need for traffic barrier shielding. Any side slope grading within the roadway clear zone must not result in a hazardous geometry for run-off vehicles. Place poles as far out of the clear zone as possible. Additional distance from the roadway is encouraged, for roadway and driver safety. Added poles must not be placed closer to the trunk highway than existing poles. Utility poles/devices must not obstruct intersection sight lines. Appurtenances protruding more than four inches above the ground line shall be located outside the clear zone and as close to the edge of the ROW as practical, and must not obstruct intersection sight lines. Appurtenances within the roadway clear zone must be crashworthy. See MnDOT's Facility Design Guide - Chapter 10 (https://roaddesign.dot.state.mn.us/facilitydesign.aspx) for a definition of "crashworthy" and other pertinent information.	Comment noted.

DPC Ex. ____, Bergland Direct, Schedule F

Comment No.	Page No.	Resource	Comment	Response
31	11	Design Support / Safety and Operations Management	Access Roads: Additional access points from the trunk highway are discouraged and should be avoided. For proposed access roads, the transverse slope design for permanent access roads connected to the trunk highway must be 1V:6H or flatter on the roadside and 1V:10 or flatter if in the median. See Transverse Slopes in the MnDOT's Facility Design Guide - Chapter 10. For other technical components and requirements for utility owners regarding the location, design, and methods for installing, adjusting, accommodating, and maintaining utility facilities on such rights of way, please refer to MnDOT Utility Accommodation and Coordination Manual, found here: https://www.dot.state.mn.us/utility/projectdelivery.html. To understand why these rules and comments exist, intersection related and roadway departure crashes are two of the leading types of fatal and serious injury crashes on Minnesota Roadways. These comments reflect measures needed to continue to prevent these types of crashes. To find out more about Minnesota safety efforts, please see our Strategic Highway Safety Plan: https://www.dot.state.mn.us/trafficeng/safety/shsp/.	Comment noted.
32	12	Blowing Snow Control / Snow Fences	Based on our review, we have identified living and/or structural snow fences in the vicinity of your project. Snow fences have been established in a collaborative effort with landowners to trap snow from blowing across and accumulating on state highways. If the utility project adversely impacts a snow fence causing the loss of blowing snow control functionality, the utility will must work with MnDOT to find a blowing snow control solution. Please refer to http://www.dot.state.mn.us/environment/livingsnowfence/ and Chapter 15D - Design for Blowing Snow Control found in MnDOT Facility Design Guide (https://roaddesign.dot.state.mn.us/facilitydesign.aspx) for more information.	Dairyland will work with MnDOT should the Project cross or otherwise impact living and/or structural snow fences in MnDOT ROW.
33	12	Railroad	Railroads are private entities that conduct their own permitting process for utility impacts. MnDOT does not have jurisdiction in these areas. It is recommended that project coordination occurs directly with the affected railroad. https://www.arcgis.com/apps/webappviewer/index.html?id=5640f575a86148039704660c29126f24&extent=-11690507.5359%2C5234420.4958%2C-9081864.6346%2C6507555.6389%2C102100	Dairyland will continue to coordinate with impacted railroads.