

STATE OF MINNESOTA  
PUBLIC UTILITIES COMMISSION

In the Matter of the Application for a Partial  
Exemption from Pipeline Route Selection  
Procedures for the Black Dog Pipeline Project

(REVISED DRAFT)  
FINDINGS OF FACT AND  
CONCLUSIONS

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**STATEMENT OF THE ISSUES**

Has Northern States Power Company (the Applicant) satisfied the factors set forth in Minn. Stat. § 216G.02 and Minn. Rules Chapter 7852 for a route permit for an 11,300 foot (2.2 mile) long, 16-inch outside-diameter, high pressure (650psig) natural gas pipeline from Northern Natural Gas Company’s Cedar Station (NNG Cedar Station) to Northern States Power Company’s Black Dog Generating Plant in the city of Burnsville, Dakota County, Minnesota?

**SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS**

The Commission concludes that the Applicant has satisfied the applicable legal requirements and the criteria set forth in Minnesota law for a Route Permit and therefore the Commission grants the Applicant a Route Permit.

**FINDINGS OF FACT**

**I. Applicant**

1. Xcel Energy, doing business as Northern States Power Company (NSPM), is the Applicant requesting the route permit for the Black Dog Natural Gas Pipeline Project. The Pipeline Project will be owned and operated by NSPM under the jurisdiction of the U.S. DOT Pipeline and Hazardous Materials Safety Administration (PHMSA), the MN Public Utilities Commission (MPUC), and MN Office of Pipeline Safety (MNOPS).<sup>1</sup>

2. Xcel Energy is a public utility that provides electric service to about 1.4 million customers and natural gas service to 500,000 residential, commercial and industrial customers in Minnesota.<sup>2</sup>

**II. Description of the Proposed Project**

<sup>1</sup> Application for a Route Permit, August 18, 2016, at 2-1, 8-4.

<sup>2</sup> Application for a Route Permit, August 18, 2016, at 2-1.

3. The Project is an approximately 11,300 foot (2.2 mile) long natural gas (methane) pipeline with a maximum outside diameter of 16 inches that will supply natural gas to meet the need of the Black Dog Generating Plant.<sup>3</sup>

4. The Project is located within the cities of Burnsville and Eagan in T27N, R23W, Section 19 and T27N, R24W, Sections 23, 24, 25 in Dakota County, Minnesota. The proposed pipeline will extend north from the NNG Cedar Station in Eagan then crossing under Old Sibley Memorial Highway. The route parallels Old Sibley Memorial Highway within the road right-of-way towards the south and west for approximately 1500 feet before turning west where it then extends approximately 450 feet crossing under to the west side of Minnesota State Highway 13 (Sibley Memorial Highway). The route then turns southwest and parallels the western edge of the southbound lane of Minnesota State Highway 13, again within the road right-of-way, and traverses approximately 3,350 feet (0.64 miles), crossing under Cedar Bridge Avenue and River Hills Drive, before reaching an existing utility corridor. The route then turns to the northwest for approximately 1.0 mile to its terminus at the Black Dog Generating Plant. The route in this section is located on parcels owned by the City of Burnsville or NSP.<sup>4</sup>

5. The Maximum Allowable Operating Pressure (MAOP) for the proposed pipeline will be 740 pounds per square inch gauge (psig) and an operating pressure of 650 psig will be established by NNG. The wall thickness and pipe grade will be established in part by pipe availability with a minimum nominal wall thickness of 0.375 inch. The pipeline will be buried to a depth of at least four feet to the top of the pipe. The planned minimum design capacity of the Project is 55,584 decatherms (Dth) per day. The maximum design requirement of this system is approximately 168,864 Dth per day.<sup>5</sup>

6. The primary purpose of the project to meet the need of supplying natural gas to the Black Dog Generating Plant in order to convert the facility from coal-fired electrical generators to a gas-fired facility which is being permitted separately under the Black Dog Unit 6 Project, docket # E002/GS-15-834. The existing CenterPoint Energy pipeline, which currently supplies natural gas to the Black Dog Generating Plant, is only capable of providing up to 400 psig to the plant, which was adequate for the existing Unit 5 gas-fired turbine, but does not meet the minimum 550 psig needed to meet the needs of the new Unit 6 gas-fired turbine.<sup>6</sup>

7. Xcel Energy also intends on installing associated facilities as part of the Pipeline Project, including valves and flanges, an in-line inspection tool launcher and receiver, cathodic protection, alternating current mitigation, and gas delivery station. Xcel Energy will install a gas delivery station within the existing fence at the NNG Cedar Station. The gas delivery station will contain all required valves, odorization equipment, an in-line inspection tool launcher/receiver, and necessary equipment required for custody transfer of gas. Pipeline markers will be installed at various locations (e.g., road crossings) in accordance with applicable federal and state regulations.<sup>7</sup>

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<sup>3</sup> Application for a Route Permit, August 18, 2016, at 3-1, 4-1.

<sup>4</sup> Application for a Route Permit, August 18, 2016, at 3-1, 4-2.

<sup>5</sup> Application for a Route Permit, August 18, 2016, at 4-1.

<sup>6</sup> Application for a Route Permit, August 18, 2016, at 3-1.

<sup>7</sup> Application for a Route Permit, August 18, 2016, at 4-2.

8. The total estimated cost of the Pipeline Project is approximately \$5.0-5.4 million. This range of costs accounts for considerations related to labor, materials, and varying construction conditions. Construction has been targeted to begin in the spring of 2017 and be completed in the fall of 2017.<sup>8</sup>

9. Under Minn. Rule 7852.2600 routes considered but not proposed by the Applicant need to be identified in the application. Xcel outlined the two routes it considered, with one being the proposed route, and the other which was determined to not be feasible due to the crossing of United States Fish and Wildlife lands.<sup>9</sup>

### III. Regulatory Permits and Approvals

10. A Certificate of Need is not required for the Project because it is not classified as a large energy facility under Minnesota Statutes § 216B.2421, subd. 2 or a large pipeline under Minnesota Rules 7851.0010 Subp. 13. Therefore the Pipeline Project is exempted from the Certificate of Need requirements.<sup>10</sup>

11. Pursuant to Minnesota Statute 216G.02, “A person may not construct a pipeline without a pipeline routing permit issued by the Public Utilities Commission...”. For the purposes of this project, a pipeline is defined as, “...A pipe designed to be operated at a pressure of more than 275 pounds per square inch and to carry gas.”<sup>11</sup>

12. Minnesota Statute Chapter 216G provides that route permits issued by the Commission “shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local, and special purpose governments.”<sup>12</sup> The route permit proposed for this project notes this preemption.

13. Permits identified by the Applicant as potentially being required for construction and operation of the Project are shown in the table below<sup>13</sup>:

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<sup>8</sup> Application for a Route Permit, August 18, 2016, at 3-1, 3-2.

<sup>9</sup> Application for a Route Permit, August 18, 2016, at 5.4 and Figure 3.

<sup>10</sup> Application for a Route Permit, August 18, 2016, at 2-1.

<sup>11</sup> Minnesota Statute 216G.02, subdivision 1(2).

<sup>12</sup> See Minn. Stat. 216G.02, subdivision 4.

<sup>13</sup> Xcel Energy Letter – Updated Table 7, December 28, 2016 – Doc. ID. 201612-127637-01

**Table 7 - Required Permits or Approvals**

Jurisdiction and Permit	Requirement
<b>State</b>	
Minnesota Public Utilities Commission - Pipeline Routing Permit	Required for any natural gas pipeline.
Minnesota DOT - Utility Accommodation Permit	Required if placing utilities on or across a Minnesota trunk highway right-of-way.
MPCA - NPDES/SDS General Stormwater Permit for Construction Activity	Required under the NPDES/SDS General Stormwater Permit for Construction Activity where construction activities will cause more than one acre of ground disturbance.
Minnesota Department of Natural Resources - Public Water Crossing License	Required if a utility is crossing over or under a water body identified in the Public Waters Inventory.
<b>Regional</b>	
Metropolitan Council - Encroachment Agreement	Required to cross beneath the existing sewer interceptor.
Union Pacific Railroad – Crossing Permit	Required to cross beneath UP RR land.
<b>Local</b>	
City of Burnsville - Easement/Right-of-way approval	Required for placement of the pipeline on City owned land and under City road right-of-way.
City of Eagan - Right-of-way permit	Required for placement of the pipeline within City road right-of-way.
Moving Permit (Hauling)	Required whenever legal dimensions and/or axle weights are exceeded per county regulations.
Oversize/Overweight Vehicle Permit	Required on all county highways. May be required to move over-width loads on county, township, or city roads.

14. Additional project details, regarding the route and safety features of the pipeline and route are provided in the Route Permit Application.<sup>14</sup>

**IV. Procedural History**

15. On August 11, 2016, the Applicant filed a notice of intent to file a Route Permit Application under the Partial Exemption Procedures for the Black Dog Natural Gas Pipeline Project.<sup>15</sup>

16. On August 18, 2016, the Applicant filed its route permit application pursuant to the partial exemption process in accordance with Minnesota Statute 216G and Minnesota Rule 7852.0600, subpart 1 and 7852.2000.<sup>16</sup>

<sup>14</sup> Application for a Route Permit, August 18, 2016, generally.

<sup>15</sup> Xcel Energy’s Notification of Intent to File Route Permit Application, August 11, 2016.

<sup>16</sup> Application for Route Permit, August 18, 2016.

17. On August 22, 2016 the Minnesota Public Utilities Commission issued a Notice of Comment Period on application completeness setting initial and reply comment deadlines at September 6, and 13, 2016, respectively.<sup>17</sup>

18. On September 6, 2016, the Minnesota Department of Commerce Energy Environmental Review and Analysis (DOC EERA) staff submitted Comments and Recommendations addressing the completeness of Xcel Energy's Application. DOC EERA recommended that the Commission accept Xcel Energy's application and authorize DOC-EERA and PUC staff to process the application pursuant to Minnesota Rules 7852.0600.

19. On September 30, 2016, the Commission issued its Order accepting Xcel Energy's application for a natural gas pipeline routing permit and partial exemption of pipeline route selection procedures, and took the following actions:

- A. Authorized EERA and PUC staff to initiate the review of the application pursuant to Minn. R. 7852.0600;
- B. Required the notices issued pursuant to Minn. R. 7852.0600 be expanded to include properties adjacent to the proposed route; and
- C. Required the notices issued pursuant to Minn. R. 7852.0600 to include information on how to access generic route permit conditions and solicit comments on whether those conditions are sufficient mitigation for any project impacts.<sup>18</sup>

20. On October 13, 2016 Xcel Energy mailed Notice of Partial Exemption Application acceptance and copies of the application to properties as required by the September 30 Order and Minn. R. 7852.0600. The notice included a description of the proposed project, a map, and a clear description of the procedures required for providing comment.<sup>19</sup>

21. On October 18, 2016 the Commission issued a notice of the public information meeting that included a description of the Project, a map of the route, where to access the route permit template, the date of the public information meeting, and comment period.<sup>20</sup>

22. Xcel Energy ran a Notice of Public Information Meeting in the Minneapolis Star Tribune newspaper on October 15, 2016 and in the Burnsville ThisWeek newspaper On October 21, 2016.<sup>21</sup>

23. On October 26, 2016, Xcel Energy filed an Update on Anticipated Pipeline Alignment within Proposed Route for the Black Dog Natural Gas Pipeline Project including

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<sup>17</sup> MN PUC Notice for Comment – Application Completeness, August 22, 2016 – Doc. ID 20168-124346-01.

<sup>18</sup> MN PUC Order, September 30, 2017 – Doc. ID 20169-125289-01

<sup>19</sup> Xcel Energy Compliance Filing – Notice, November 14, 2016 – Doc. ID 201611-126497-01.

<sup>20</sup> MN PUC Notice of Public Information Meeting, October 18, 2016 – Doc. ID. 201610-125798-01 and 201610-125798-02.

<sup>21</sup> Xcel Energy Compliance Filing – Notice, November 14, 2016 – Doc. ID 201611-126497-01.

updated figures to those included in the route permit application to show two proposed alignment adjustments.<sup>22</sup>

24. Pursuant to Minnesota Rule 7852.0600, Subpart 4, the Commission and DOC EERA staff held a public information meeting on November 2, 2016, in Burnsville, Minnesota, to discuss the Project.<sup>23</sup>

25. Twelve members of the public attended the meeting. The comment period to submit written and/or email comments was open until November 16, 2016 with the reply comment period open until November 30, 2016. Comments received during the meeting are included in Section V Public and Agency Participation below.<sup>24</sup>

26. Initial and reply comments were received from Xcel Energy, four state agencies, the Metropolitan Council, the City of Burnsville, the local watershed district, and several members of the public.

27. On November 16, 2016 Xcel Energy filed additional information on the anticipated pipeline alignment and construction impacts to address questions raised at the November 2 Public Information Meeting regarding the alignment adjustments identified in the October 26, 2016 filing. Public comments are described in Section V Public and Agency Participation below.<sup>25</sup>

28. On November 23, 2016 Xcel Energy filed Draft Proposed Findings of Fact and Responses to Public Comments. The responses addressed comments raised at the public information meeting and in letters filed to the docket during the comment period.<sup>26</sup>

29. On November 30, 2016, in response to comments, Xcel Energy filed *Additional Information Regarding Potential to Impact Water Resources* which included a report addressing several comments (see Section V below) regarding potential impacts to nearby fens, streams, wetlands and Black Dog Lake.<sup>27</sup>

30. On November 30, 2016 EERA filed comments which identified several outstanding issues that should be addressed prior to the Commission's granting of a partial exemption and recommending the Commission deny the partial exemption without prejudice.<sup>28</sup>

31. On December 8, 2016 Xcel Energy filed a letter waiving the 90 day decision deadline, which would have ended on December 29, 2016, to allow adequate time for the

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<sup>22</sup> Xcel Energy Update on Anticipated Pipeline Alignment within Proposed Route for the Black Dog Natural Gas Pipeline Project, October 26, 2016 – Doc. ID. 201610-126025-01.

<sup>23</sup> MN PUC Notice of Public Information Meeting, October 18, 2016 – Doc. ID. 201610-125798-01 and 201610-125798-02.

<sup>24</sup> Id.

<sup>25</sup> Xcel Energy Comments – Info on Burnsville Corridor, November 16, 2016 – Doc. ID. 201611-126588-01.

<sup>26</sup> Xcel Energy Comments – Reply Comments FOF and Reply Comments, November 30, 2016 – Doc. ID. 201611-126756-01.

<sup>27</sup> Xcel Energy Reply Comments – Update on Water Resources, November 30, 2016 – Doc. ID 201611-126941-01.

<sup>28</sup> DOC EERA Comments, November 30, 2016 – Doc. ID. 201611-126879-01.

Company to ensure that the record is complete.<sup>29</sup>

32. On December 21, 2016 Xcel Energy filed supplemental information (December 21 Supplement) for the Black Dog Natural Gas Pipeline Project which responded to items identified as outstanding in the November 30, 2016 Department of Commerce EERA filing.<sup>30</sup>

33. On December 22, 2016 Commission staff issued a Notice of Comment Period for the Project regarding the December 21 Supplement, with the initial comment period closing on January 9, 2017 and the reply comment period closing on January 16, 2017.<sup>31</sup>

34. The Project was included in the Commission's January 5, 2017 meeting agenda as a decision item regarding what action, if any, the Commission should take in regard to the partial exemption application, Xcel Energy's waiver of the 90-day statutory deadline, and the December 21 Supplement. The Commission chose to take no action.<sup>32</sup>

## **V. Public and Agency Participation**

### **A. Public Comments at the Public Meeting**

35. Twelve (12) members of the public attended the Public Information Meeting on November 2, 2016. Members of the public raised questions regarding:

- a. the alignment of the proposed pipeline in the segment located on land owned by the City of Burnsville which contains the existing electric transmission lines;
- b. potential future, existing and past community trails in the vicinity of the project area;
- c. issues related to why the pipeline would not be placed down the center of the corridor;
- d. the proximity of the pipeline to private properties;
- e. the amount of tree clearing that would be required;
- f. whether Xcel Energy could move the alignment after a route permit had been issued;
- g. pipeline specifications, safety and corrosion protection of the pipe;
- h. timing of construction activities; and,
- i. potential impacts to groundwater and nearby calcareous fens.

36. Xcel Energy representatives, Commission staff and the DOC EERA staff responded to questions during the meeting related to process, pipeline specifics, construction timing, and safety. Xcel indicated that they would provide additional information in the docket regarding specifics of the alignment within parcels owned by the City of Burnsville and impacts to groundwater and the nearby fens.

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<sup>29</sup> Xcel Energy Letter – Waiver of Decision Deadline for the Black Dog Natural Gas Pipeline Project, December 8, 2016 – Doc. ID. 201612-127133-01.

<sup>30</sup> Xcel Energy Other Supplemental Information for the Black Dog Natural Gas Pipeline Project, December 21, 2016 – Doc. ID. 201612-127491-01.

<sup>31</sup> MN PUC Notice of Comment Period on Supplement, December 22, 2016 – Doc. ID. 201612-127532-01 and 201612-127532-02.

<sup>32</sup> Minutes are pending.



37. On November 16, 2016, Xcel Energy filed responses to questions posed at the meeting. Xcel provided additional detail regarding a more refined proposed alignment, existing trails within the Burnsville corridor and resulting vegetation management. Xcel noted it proposed to place the alignment at least 20 feet from private property lines and provided further details on the planned tree clearing along the Burnsville corridor.<sup>33</sup>

## **B. Public Comments during the Comment Period**

38. Laura Hedlund submitted comments and questions on the Commission's Speak Up! website. She asked what the cost of the pipeline was and what were the ecological consequences of leaving pipes in the ground, in reference to a CenterPoint pipeline currently serving the Black Dog Generating Plant that is not a part of this permit proceeding<sup>34</sup>

39. Gilman Dedrick submitted comments on the Commission's Speak Up! website which requested that this permit be required to obtain a permit from the Minnesota Pollution Control Agency and that during construction no additional pollutants be allowed to enter the already impaired Minnesota River (including mercury and PAHs) and no violation of the Clean Water Act should be tolerated.<sup>35</sup>

40. There were no written public comments submitted during the comment period on the supplement.<sup>36</sup>

## **C. Agency Comments**

### *Lower Minnesota River Watershed District (LMRWD)*

41. Loomis and Della Young, representing the Lower Minnesota River Watershed District (LMRWD), attended the November 2, 2016 public information meeting and posed questions during the comment period. Those comments requested:

- a. Xcel provide more detail on the constructed depth of the pipeline and any interaction with groundwater relative to the pipeline's profile.
- b. Information on how Black Dog Lake interacts with groundwater and where the pipeline, proposed to be installed under Black Dog Lake, is relative to the lake and groundwater.
- c. An assessment of the direct and indirect impacts of directional drilling of the pipeline under National Wetland Inventory (NWI) wetlands may have on wetlands.
- d. The Commission require the following permit conditions:

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<sup>33</sup> Xcel Energy Comments: Info on Burnsville Corridor, November 16, 2016 – Doc. ID. 201611-126588-01.

<sup>34</sup> MN PUC Public Comments (Via SpeakUp), December 1, 2016 – Doc. ID. 201612-126997-01.

<sup>35</sup> MN PUC Public Comments (Via SpeakUp), December 1, 2016 – Doc. ID. 201612-126997-01.

<sup>36</sup> MN PUC Public Comments (Via SpeakUp), January 23, 2017 – Doc. ID. 20171-128360-01.

- i. Require Xcel provide the LMRWD an opportunity to review and comment on the project's Storm Water Pollution Prevention Plan and any required dewatering permits.
- ii. Require Xcel to submit its Storm Water Pollution Prevention Plan to the LMRWD following submittal to the MPCA.
- iii. Require Xcel to notify the LMRWD of any temporary construction dewatering that requires a MN DNR Water Appropriation permit.<sup>37</sup>

42. The LMRWD noted that it did not see any reason why the partial exemption should not be granted, assuming the proposed conditions are adopted by the Commission.<sup>38</sup>

43. Xcel Energy provided responses to the water resource questions in its Additional Information Regarding Potential to Impact Water Resources memo. The document outlined the depth to groundwater at six soil boring locations along the project corridor, provided more detail on the bedrock and ground conditions beneath Black Dog Lake, outlined why the project would not impact calcareous fens, and additional information and statements that the project would not impact NWI wetlands.<sup>39</sup>

44. Xcel Energy indicated its support for the Storm Water Pollution Prevention Plan condition, which will include dewatering provisions, and plans to provide a draft document to the LMRWD as soon as internal review is complete.<sup>40,41</sup>

45. Xcel provided correspondence between itself and the LMRWD in which the LMRWD indicated it would review Xcel's December 23, 2016 Supplemental Filing and contact Xcel if the LMRWD had any further questions or concerns about the project.

#### *Minnesota Department of Natural Resources*

46. The DNR's November 16, 2016 letter indicated the following:
- a. It concurred with Xcel Energy's assessment of the projects impact to rare features and the finding that there are no known occurrences of rare species within the project footprint and there will be no direct impacts to any identified DNR Native Plant Community;
  - b. The rare Blanding's turtle is not known to occur within one-mile radius of the project footprint, but the turtle could be encountered on site during construction and therefore, the DNR has provided Xcel Energy with information that includes recommendations to minimize disturbance to this species, including:
    - i. construction crews checking for turtles prior to backfilling and, if applicable,
    - ii. using wildlife friendly erosion control measures.

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<sup>37</sup> MN PUC Public Comments (Via SpeakUp), December 1, 2016 – Doc. ID. 201612-126997-01.

<sup>38</sup> MN PUC Public Comments (Via SpeakUp), December 1, 2016 – Doc. ID. 201612-126997-01.

<sup>39</sup> Xcel Energy – Reply Comments, November 30, 2016 – Doc. ID. 201611-126941-01.

<sup>40</sup> Xcel Energy –Reply Comments, November 23, 2016 – Doc. ID. 201611-126756-01.

<sup>41</sup> Xcel Energy – Reply Comments, November 30, 2016 – Doc. ID. 201611-126941-01.

- c. If dewatering is necessary, impacts to the Blanding's turtles and calcareous fens will need to be further addressed.
- d. The DNR recommends using native seed mixes for restoration.
- e. The DNR restated the applicant's route permit which noted any vegetation maintenance of the right-of-way will comply with wildlife timing windows if specified by the natural resource agencies and the DNR recommends vegetation maintenance of the right-of-way occur outside of the avian nesting season (generally mid-May through July).
- f. Any work that has the potential to adversely impact a calcareous fen must have a DNR approved fen management plan prior to conducting the work.
- g. The Black Dog Gas Pipeline project has the potential to impact the designated Black Dog Calcareous fen.
- h. The DNR understands that Xcel Energy is submitting a memorandum explaining how the project is not expected to adversely impact the fen, and once received, the DNR would determine whether a fen management plan is necessary.

47. Xcel Energy responded to these concerns in its report Additional Information Regarding Potential to Impact Water Resources filed to the docket on November 30. Based on planned Project construction methods and analysis of nearby surface and ground waters, fen hydrology, and the distance from the Project footprint to the nearest fen, Xcel stated that no impacts to the fens are anticipated as a result of this Project.<sup>42</sup>

48. Following review of the report and soil boring data the DNR submitted a letter to the docket on December 13 indicating that a fen management plan will not be needed and noting the methods that will be implemented to protect Blanding's turtles.<sup>43</sup>

49. On January 9, 2017 the DNR submitted a letter to the project docket noting that the fen and Blanding's turtle concerns had been addressed and also noted that DNR and Xcel Energy staff had discussed scheduling vegetation maintenance activities outside of songbird nesting season, and that contingent on adherence to the dates specified, the DNR concerns were resolved.<sup>44</sup>

#### *City of Burnsville*

50. The City of Burnsville filed a letter on November 15, 2016 which expressed support of the proposed project as long as a number of conditions were met. Those requirements included:
- a. The City supported the gas line extension down the route shown through the existing overhead transmission power corridor from TH 13 to the UP Railroad with the following conditions:

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<sup>42</sup> Xcel Energy – Reply Comments, November 30, 2016 – Doc. ID. 201611-126941-01.

<sup>43</sup> MN DNR – Response to Water Resources Update from Xcel, December 13, 2016 – Doc. ID. 201612-127258-01.

<sup>44</sup> MN DNR – Comments, January 9, 2017 – Doc. ID 20171-127927-01.

- i. The original alternative alignment utilizing US Fish and Wildlife (USFWS) property is not feasible. The City will contact the USFWS to confirm that route is not feasible.
  - ii. The new pipeline is constructed as close to the center of the City's property (as far from private property) as possible.
  - iii. Tree removal is minimized and buffer trees along the City property lines are not removed. All proposed tree removal should be clearly identified and approved by the City and a Tree Removal Permit shall be obtained prior to removal.
  - iv. All applicable safety measures are incorporated into the design and maintenance of the proposed pipeline.
  - v. Xcel obtains an easement for the pipeline from the City of Burnsville.
- b. The City would like Xcel to construct a recreational 10' wide bituminous trail down this corridor from the trail on TH 13 to the City's parking area in Black Dog Park. This will require some trail construction out of this corridor to construct from the City land where the transmission lines are to the park. The City will provide access to these areas for no compensation beyond Xcel's construction of the described recreational trail.
- c. The existing trail along TH 13 will need to be replaced as the proposed route will impact the existing trail. The applicable right-of-way use, easements, permits for this work will need to be obtained from MnDOT and the City of Burnsville.
- d. The City will need to review any wetland delineations and proposed wetland impacts associated with the project.
- e. Neighborhood meeting(s) should be held by Xcel to share the plans and gather community input.
- f. The proposed plans will need to be reviewed by the Burnsville Parks and Natural Resources Commission (PNRC) because part of the project impacts City park land.
- g. The Xcel project design team will need to work with City staff early on to establish a trail alignment that will meet the needs of both parties.
- h. Xcel will need to work with the Natural Resources Department staff to develop a landscaping plan that maximizes the use of native plants to restore the corridor after construction.
- i. The City of Burnsville and Xcel Energy have a signed "Road Access Improvements/ Assessment and Development Agreement" that states once the plant proceeds "with plans to repower the Plant with an approximately 600 MW or greater power plant" that Xcel also will "improve Plant access by extending 12<sup>th</sup> Avenue through Black Dog Park to the Plant's southerly access". Please provide how many megawatts the plant will be operating at, in total, with the new gas powered burner addition. If it is 600 MW or more, the 12<sup>th</sup> Avenue extension is required to be built at the same time.
- j. Based on the documentation submitted to date, there does not appear to be any work proposed within the floodway of the Minnesota River therefore no Conditional Use Permit will be required for the project. A FEMA Elevation Certificate and No Rise Certificate will need to be provided and "as-constructed" plans will need to be submitted to the City. In the event plans change as the

project evolves, a floodplain CUP may be required if the project meets or exceeds ordinance thresholds.<sup>45</sup>

51. Xcel included a summary of how each item was addressed or how it would be addressed as the project moved forward in Xcel Energy's December 21, 2016 Supplemental Information filing.<sup>46</sup> Most requests made by the city would be managed through the city-utility construction easement agreement.

52. On January 9, 2017 the City of Burnsville filed a letter to the project docket providing support for the project and including a summary of how each of the previously listed conditions have been met by Xcel Energy.<sup>47</sup>

#### *Minnesota Department of Transportation*

53. On November 15, 2016 the DOT submitted a comment letter noting three concerns with the proposed pipeline alignment as identified in the October 26, 2016 Xcel Energy filing. The specific concerns identified were:

- Placement of the pipeline longitudinally within road right-of-way;
- Placement of the pipeline on the opposite side of the highway from an existing NNG pipeline; and
- Crossing Highway 13 at a skewed angle rather than at a right angle, which is typically required.<sup>48</sup>

54. In an effort to ensure that MnDOT will be able to permit the proposed alignment Xcel Energy has submitted an Application for Utility Accommodation in Road Right-of-way and an exception request to the DOT for review.<sup>49</sup>

55. On December 14, 2016 Ann Driver, Utility Permits Unit Supervisor, sent an email to Xcel Energy stating that while MnDOT will not issue an accommodation permit until the Commission has approved the route, based on the information provided MnDOT believes that the exception letter and permit application provided will be permissible. A copy of the email was included in Xcel Energy's December 21, 2016 Supplemental Information filing.<sup>50</sup>

#### *Minnesota Pollution Control Agency*

56. The MPCA submitted comments in a letter which posted to the docket on November 29, 2016 concerning several items:

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<sup>45</sup> City of Burnsville – Public Comments, November 16, 2016 – Doc. ID. 201611-126582-01.

<sup>46</sup> Xcel Energy – Supplemental Information for the Black Dog Pipeline Project, January 17, 2017 – Doc. ID. 201612-127491-01.

<sup>47</sup> City of Burnsville – Public Comments, January 9, 2017 – Doc. ID. 20171-127932-01.

<sup>48</sup> Minnesota Dept. of Transportation – Comments, November 15, 2016 – Doc. ID. 201611-126555-01.

<sup>49</sup> Xcel Energy – Supplemental Information for the Black Dog Pipeline Project, January 17, 2017 – Doc. ID. 201612-127491-01

<sup>50</sup> Xcel Energy – Supplemental Information for the Black Dog Pipeline Project, January 17, 2017 – Doc. ID. 201612-127491-01

- a. The MPCA noted that the application did not specifically address how Xcel Energy would respond to a release of drilling fluid into Black Dog Lake;
- b. The application noted Xcel Energy would develop and implement a Storm Water Pollution Prevention Plan, but did not indicate it would comply with Minnesota-state level spill reporting and response requirements;
- c. The MPCA noted that the Minnesota River is an impaired water, and as such has additional increased stormwater treatment requirements.<sup>51</sup>

57. Xcel included additional information regarding construction methods to prevent a drilling mud release and development of a contingency spill response plan in its November 30 water resources report.<sup>52</sup>

58. Xcel Energy will comply with all state reporting requirements and Xcel Energy's Environmental Services Department has protocols for addressing any spills which are at least as stringent as the State's requirements.<sup>53</sup>

59. Xcel Energy will comply with all required stormwater treatment requirements.<sup>54</sup>

#### *Metropolitan Council*

60. The Metropolitan Council filed comments on September 26, 2016. The comments indicated that the site plan showed the pipeline crossing Council Interceptor 7030 and that an encroachment agreement would be required from the agency.<sup>55</sup>

61. On February 1, 2017 Xcel filed a letter to the docket which indicated that Xcel had provided the Metropolitan Council with preliminary site plans to which the Metropolitan Council noted an encroachment agreement was not needed. Xcel attached a letter from the agency confirming this finding.<sup>56</sup>

#### *Department of Commerce Energy Environmental Review and Analysis (DOC EERA)*

62. The DOC EERA filed comments on November 30, 2016 which summarized the record to date, state agency and public comments, and provided an evaluation whether the Minnesota Rule criteria had been met. Due to the outstanding issues raised by others, the DOC EERA recommended the Commission not grant a partial exemption for the project.<sup>57</sup>

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<sup>51</sup> Minnesota Pollution Control Agency – Comments, November 29, 2016 – Doc. ID. 2016111-126835-01.

<sup>52</sup> Xcel Energy – Reply Comments, November 30, 2016 – Doc. ID. 201611-126941-01.

<sup>53</sup> Xcel Energy – Supplemental Information for the Black Dog Pipeline Project, January 17, 2017 – Doc. ID. 201612-127491-01.

<sup>54</sup> Xcel Energy – Supplemental Information for the Black Dog Pipeline Project, January 17, 2017 – Doc. ID. 201612-127491-01.

<sup>55</sup> Metropolitan Council – Letter, September 26, 2017 – Doc. ID. 20169-125158-01.

<sup>56</sup> Xcel Energy – Letter Metropolitan Council Encroachment Agreement, February 1, 2017 – Doc. ID. 20172-128743-01

<sup>57</sup> DOC EERA Comments, November 30, 2016 – Doc. ID. 201611-126879-01.

63. On January 13, 2017, after review of Xcel Energy's Supplemental Information and additional public comments, the DOC EERA filed updated Comments and Recommendations. The EERA Staff noted that they believe the *Supplemental Information for the Black Dog Natural Gas Pipeline Project*, including the *Additional Information Regarding Potential to Impact Water Resources*, addressed the outstanding issues identified in its previous letter, dated November 30, 2016.<sup>58</sup>

64. EERA staff therefore recommended that the Commission grant the Partial Exemption from Pipeline Route Selection Procedures and issue a Pipeline Routing Permit to Xcel Energy for the Black Dog Natural Gas Pipeline Project, after considering whether the following conditions (and special conditions) should be incorporated into the Pipeline Route Permit:

a. The permitted route and alignment depicted in the Pipeline Route Permit should reflect the revisions made in Xcel Energy's November 16, 2016 filing.

b. As a special condition, the Pipeline Route Permit should specify that the Stormwater Pollution Prevention Plan (SWPPP) clearly state that the construction stormwater may not be discharged to any fen and that if dewatering is determined to be necessary the permittee shall consult with the DNR to determine if a Fen Management Plan is required.

c. As a special condition, the Pipeline Route Permit should specify the use of wildlife sensitive erosion control materials and that all construction contractors be instructed on the potential for turtles to become trapped in trenches and precautions taken to ensure against entrapment before backfilling any trenches.

d. As a special condition, the Pipeline Route Permit should specify that all vegetation management within the right-of-way occur outside of the songbird nesting season (mid-May through July).

e. As a special condition, the Pipeline Route Permit should specify that the permittee obtain, from the City of Burnsville a Tree Removal Permit prior to the clearing of any trees.

f. As a special condition, the Pipeline Route Permit should specify that the permittee obtain an easement for the pipeline from the City of Burnsville.

65. On January 16, 2017, Xcel Energy filed a comment confirming its agreement to the conditions (and special conditions) listed in the DOC EERA's January 13, 2017 filing.<sup>59</sup>

## **VI. Considerations in Designating Pipeline Route Permit**

66. The routing of the proposed pipeline project is governed by Minn. Stat. Chapter

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<sup>58</sup> DOC EERA Comments and Recommendation, January 13, 2017 – Doc. ID. 20171-128069-01.

<sup>59</sup> Xcel Energy Response to DOC EERA Comments, January 16, 2017 – Doc. ID. 20171-128139-01.

216G (pipeline statute) and Minn. Rule Chapter 7852.

### A. Land Requirements

67. Private and city owned lands permanent rights-of-way will be acquired in the form of permanent easements. Xcel Energy will seek to acquire easements approximately 40 feet in width for ongoing operation and maintenance of the pipeline.<sup>60</sup>

68. In the electric transmission line corridor on the City of Burnsville property there are currently transmission line easements which will overlap with the new pipeline easement. Existing easements do not currently allow for adding a natural gas pipeline, therefore Xcel Energy will work with the city to acquire a new easement for the pipeline or modify the existing easements to add the pipeline.<sup>61</sup>

69. Permanent associated aboveground facilities will be installed at the beginning and end of the proposed pipeline within existing facilities at the Black Dog Generating Plant and the NNG Cedar Station. Assuming a 40 foot wide right-of-way for the entire length of the pipeline results in a maximum of 10.37 acres of new permanent right-of-way for the proposed Project.<sup>62</sup>

70. The Project will also require a wider temporary right-of-way, or construction corridor, during construction of the pipeline in some locations to allow for equipment access and laying out pipe. This temporary right-of-way may extend up to 100 feet wide along the existing electric transmission line corridor on the land owned by the City Burnsville to facilitate safe construction. Where space allows an approximately 40 foot-wide temporary right-of-way will be sought along roadways, however, along Old Sibley Memorial Highway the distance between the road and the edge of road right-of-way is not adequate to accommodate the full 40 feet and a narrower temporary right-of-way will be necessary. All temporary space for construction within road right of way will be approved under the accommodation permits rather than through temporary easements. Over the length of the project, the temporary construction right-of-way will impact approximately 14.92 acres.<sup>63</sup>

71. The depth of the trench will generally be five to six feet deep. Allowing for a nominal 16-inch-outside diameter pipe, the top of the pipe will typically be approximately four feet below the ground surface. The bottom of the pipe trench will be approximately three feet wide and the top of the trench approximately five feet wide. In some locations the pipe will be installed by using directional drilling, thereby reducing the estimated total trench length by approximately 3,450 feet. There will be approximately 7,850 feet of trench excavation, amounting to approximately 3,000 cubic yards of soil excavated from the proposed pipe trench.<sup>64</sup>

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<sup>60</sup> Application for a Route Permit, August 18, 2016, at 6-1.

<sup>61</sup> Application for a Route Permit, August 18, 2016, at 6-1.

<sup>62</sup> Application for a Route Permit, August 18, 2016, at 6-1.

<sup>63</sup> Application for a Route Permit, August 18, 2016, at 6-1, 6-2.

<sup>64</sup> Application for a Route Permit, August 18, 2016, at 6-2.



## **B. Depth of Cover**

72. Xcel Energy proposes to bury the pipe to four feet below the surface in accordance with U.S. DOT pipeline standards (49 CFR, Part 192.327).<sup>65</sup>

73. Of the approximately 11,300 feet of the pipeline right-of-way, 3,960 feet are collocated with existing high voltage electric power line rights-of-way amounting to approximately 36 percent of the lands crossed. Approximately 5,200 feet are co-located with existing road right-of-way. The purpose of co-locating the pipeline with existing rights-of-way is to reduce the impact to current and future land uses and to minimize human and environmental impacts.<sup>66</sup>

## **C. Agricultural Mitigation Plan**

74. The project will not impact cultivated agricultural land, therefore an agricultural mitigation plan is not required (Minnesota Statute 216E.10, subdivision 3(b)).<sup>67</sup>

## **D. Pipeline Safety**

75. Xcel Energy will own and operate the pipeline under the jurisdiction of the U.S. DOT Pipeline and Hazardous Materials Safety Administration (PHMSA), the MN Public Utilities Commission (MPUC), and MN Office of Pipeline Safety (MNOPS). The minimum Federal Safety Standards for Gas Lines are contained in Title 49 of the Code of Federal Regulations (49 CFR Part 192). Subpart L (Operations) specifies minimum requirements for the utility's operations and maintenance plan. Under these rules, Xcel Energy is required to have the following:

- operation and maintenance plan;
- procedures for continuing surveillance of its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operation and maintenance conditions;
- damage prevention programs;
- emergency plans; and
- procedures for investigation of failures.<sup>68</sup>

76. All personnel involved with operation and maintenance responsibilities for the pipeline facilities will be certified under an Operator Qualification Plan and will participate in a Drug and Alcohol Program in compliance with the U.S. DOT regulations. Xcel Energy has a Gas Operations and Maintenance plan which details all aspects of operating distribution systems and gas pipelines filed with the MNOPS upon completion. A brief description of the operations activities required for the Project is described further in the Application.<sup>69</sup>

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<sup>65</sup> Application for a Route Permit, August 18, 2016, at 6-2.

<sup>66</sup> Application for a Route Permit, August 18, 2016, at 6-3.

<sup>67</sup> Application for a Route Permit, August 18, 2016 at 9-9.

<sup>68</sup> Application for a Route Permit, August 18, 2016, at 8-4.

<sup>69</sup> Application for a Route Permit, August 18, 2016, at 8-4.

## VII. Construction Activities, Testing, and Restoration

77. Xcel Energy will conduct a centerline survey to accurately depict the location and layout of the pipeline, followed by staking of the pipeline centerline. This survey will also identify the extent of temporary right-of way or construction corridor. Prior to the commencement of any survey activities, all affected landowners will be contacted to obtain any necessary survey permission. In addition, Xcel Energy will comply with Minnesota Rules 7852.0600 regarding public notice and distribution of application materials.<sup>70</sup>

78. Prior to any ground-disturbing activities, notification will be provided to the Minnesota Gopher State One-Call as required to ensure all utilities are properly identified. All other safety procedures will be adhered to as required by the Minnesota Office of Pipeline Safety, Xcel Energy safety procedures, and worker safety regulations.<sup>71</sup>

79. Clearing and grading will commence along the right-of-way after the centerline survey and staking has been completed. Clearing of the right-of-way will take place in accordance with all permit conditions, as well as agreed upon landowner considerations.<sup>72</sup>

80. The trench will be excavated by track-mounted backhoes, or other similar equipment to a depth that provides sufficient cover over the pipeline after backfilling as required by U.S. DOT specifications. Due to the size of the pipe (16.00-inch-outside-diameter), the trench will be approximately five to six feet deep (to allow for about four feet of cover) and about five feet wide at the top of the trench.<sup>73</sup>

81. The pipeline will cross Minnesota Highway 13 and the Union Pacific Railroad. These features will be crossed by directionally drilling beneath them which requires the excavation of a pit on each side of the feature, the placement of drilling equipment adjacent to the pit, then directionally drilling a hole under the feature at least as large as the diameter of the pipe. The size of the pits will vary depending on the topography at the location of each. Pit sizes can range from an area of 10 x 20 feet up to an area 25 x 50 feet in some locations. All pits will be located in-line with the pipeline within the right-of-way. Once the hole is drilled, a prefabricated pipe section will be pulled through the borehole. For long crossings, sections may be welded onto the pipe string just before being pulled through the borehole. There will be little or no disruption to traffic at road or railroad crossings that are directionally drilled.<sup>74</sup>

82. Directional drilling methods involve using a steerable drill pilot head and guiding the boring to pre-determined depths to achieve required clearances and minimize contact with water-bearing soil layers. A pressurized bentonite slurry will be used which will help seal the

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<sup>70</sup> Application for a Route Permit, August 18, 2016, at 7-1.

<sup>71</sup> Application for a Route Permit, August 18, 2016, at 7-1.

<sup>72</sup> Application for a Route Permit, August 18, 2016, at 7-1.

<sup>73</sup> Application for a Route Permit, August 18, 2016, at 7-1.

<sup>74</sup> Application for a Route Permit, August 18, 2016, at 7-1, 7-2.

boring walls and prevent caving in or water infiltration from any wet layers that the boring travels.<sup>75</sup>

83. During periods of excessive precipitation the excavated trench may collect rain water and may need to be dewatered. Heavily silt-laden water will not be discharged from the trench into wetlands or waterbodies. To the extent practicable, discharges will be directed to well-vegetated upland areas. If discharge activities need to be located off the right-of-way, landowner consent will be obtained and locations will be chosen that will minimize off-right-of-way impacts and impacts to sensitive resources. In accordance with agency permits and approvals obtained for the Project, water will be discharged into an energy dissipating device if necessary (e.g., straw bale structure, filter bag, etc.).<sup>76</sup>

84. After pipe welding activity is completed, each weld will be inspected by qualified welding inspectors to determine the weld integrity. U.S. DOT regulations require nondestructive testing of all welds in areas such as inside railroad or public road rights-of-way and in certain other areas.<sup>77</sup>

85. The U.S. DOT requires buried pipelines to have an acceptable protective coating. The pipe is typically coated with a mill-applied fusion-bonded epoxy prior to delivery in order to protect against corrosion. Directionally drilled pipe will be dual-coated and construction field welds will be coated in the field with an approved material that is compatible with the mill-applied coating. The entire coating will be inspected and any defects in the coating will be field-repaired. After this coating is inspected, the pipe will be ready to be lowered into the trench.<sup>78</sup>

86. The pipeline will be lowered into the trench after the trench is excavated and free of rocks and other debris that could damage the pipe or protective coating. Stormwater dewatering may be necessary to inspect the bottom of the trench in areas where water has accumulated. Trench dewatering activities will be performed in accordance with erosion control plans developed pursuant to the Minnesota Pollution Control Agency (MPCA) National Pollutant Discharge Elimination System (NPDES) Construction Storm Water Discharge Permit.<sup>79</sup>

87. After backfilling, the pipeline will be hydrostatically tested to ensure the system is capable of withstanding the operating pressure for which it was designed. Test water will be pumped into each test section and pressurized to design test pressure. Test pressure and duration will be consistent with the requirements of Title 49 CFR Part 192. If leaks are found, they will be repaired and the section of pipe retested until the required specifications are met. Activities associated with hydrostatic testing will be performed in accordance with applicable federal, state, and local regulations.<sup>80</sup>

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<sup>75</sup> Xcel Energy – Other, Supplemental Information for the Black Dog Natural Gas Pipeline Project, December 21, 2016, Doc. ID. 201612-127491-01.

<sup>76</sup> Application for a Route Permit, August 18, 2016, at 7-1.

<sup>77</sup> Application for a Route Permit, August 18, 2016, at 7-2.

<sup>78</sup> Application for a Route Permit, August 18, 2016, at 7-2, 7-3.

<sup>79</sup> Application for a Route Permit, August 18, 2016, at 7-3.

<sup>80</sup> Application for a Route Permit, August 18, 2016, at 7-3.

88. Clean-up and restoration of the right-of-way is the final phase of pipeline construction and typically begins immediately after backfilling, or as soon as weather and soil conditions allow. The right-of-way will be cleaned up by the removal and disposal of construction debris and surplus materials. Construction debris will be taken to a licensed disposal facility. Restoration efforts may involve soil decompaction, smoothing with disc harrows or other equipment, stabilization using erosion control devices, and revegetation activities. Preconstruction contours will be reestablished to the extent possible. Xcel Energy will work with the DOT and the City of Burnsville Natural Resources Department and Parks Department to develop a restoration plan.<sup>81</sup>

89. Xcel Energy may use both herbicides and/or mechanical methods to control the spread of noxious weeds. All herbicides used by Xcel Energy are approved by the U.S. Environmental Protection Agency and the Minnesota Department of Agriculture. These herbicides are applied by commercial pesticide applicators that are licensed by the Minnesota Department of Agriculture. If, during post-construction monitoring of the restored right-of-way, a higher density and cover of noxious weeds on the right-of-way is noted when compared to adjacent off right-of-way areas, Xcel Energy will obtain landowner permission and work to mitigate noxious weed concerns.<sup>82</sup>

### VIII. Pipeline Routing

90. Minnesota Rules, Chapter 7852.0100, Subpart 31, defines “route” as the proposed location of a pipeline between two end points. A route may have a variable width from the minimum required for the pipeline right-of-way up to 1.25 miles. In developing the proposed pipeline route, Xcel Energy evaluated the statutory and rule criteria (Minnesota Statutes Chapter 216G and Minnesota Rules Chapter 7852).<sup>83</sup>

### IX. Standard and Criteria for Partial Exemption

91. In deciding whether to grant or deny a partial exemption from pipeline route selection procedures, the Commission must determine that the pipeline project will not have a significant impact on humans or the environment. The Commission must consider the impact of the pipeline project on the criteria set forth in Minnesota Rules 7852.0700, subpart 3.<sup>84</sup>

#### A. Effects on Human Settlement, Existence and Density of Populated Areas, Existing and Planned Future Land Use, and Management Plans ~~(Displacement, Air Quality, Noise, Population and Employment, Public Safety, Existing and Future Land Uses)~~

92. Minn. R. 7852.1900, subp. 3(A), requires that when reviewing a pipeline route application, the Commission shall consider the impact of the pipeline on “human settlement, existence and density of populated areas, existing and planned future land

<sup>81</sup> Application for a Route Permit, August 18, 2016, at 7-3.

<sup>82</sup> Application for a Route Permit, August 18, 2016, at 7-3.

<sup>83</sup> Application for a Route Permit, August 18, 2016, at 5-4.

<sup>84</sup> Application for a Route Permit, August 18, 2016, at 1-1.

use, and management plans.”<sup>85</sup>

*Displacement, Human Settlement and Existing and Future Land Use Density of Populated Areas*

~~93.1. Xcel will co-locate the pipeline with existing road right-of-way to reduce the impact to current and future land uses and to minimize human and environmental impacts.~~<sup>86</sup>

93. No displacement of residences or buildings is anticipated to occur as a result of the pipeline construction.<sup>87</sup>

94. Xcel acknowledged the residential density of the area and is designing the pipeline to a class location and requirement standard of Class 3 location, defined by the Title 49 CFR Part 192, as 46 or more buildings or an area where a pipelines lies within 100 yards (300 feet) of either a building or a small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period.<sup>88</sup>

95. Economic benefits to the local economy will be realized during construction resulting from the influx of Project labor workforce. These benefits include material expenditures, workforce lodging, fuel sales, grocery sales and restaurant expenditures. Additional local benefits include easement payments, permit fees and property tax revenues.<sup>89</sup>

96. The Project may result in short-term impacts to human settlement during pipeline construction activities. Impacts to existing roads would be minimized by installing the pipeline underneath these features through the use of the directionally drilling. These crossing methods will minimize traffic interruptions and prevent disturbance to the road and rail surfaces. If directional drilling is not successful, roads may be crossed by open-cut construction methods. In the event that a road is open-cut, traffic disruptions will be minimized if possible by maintaining one open lane of traffic except when the pipeline is being trenched and backfilled. Transportation of equipment and materials to the right-of-way could also result in minimal short-term impacts to traffic in the area. Xcel Energy will obtain all necessary permits for road right-of-way crossings.<sup>90</sup>

*Population and Employment*

~~95.1. Economic benefits to the local economy will be realized during construction resulting from the influx of Project labor workforce. These benefits include material expenditures, workforce lodging, fuel sales, grocery sales and restaurant expenditures. Additional local benefits include easement payments, permit fees and property tax revenues.~~<sup>91</sup>

<sup>85</sup> Minn. Rule 7852.1900, subp. 3(A).

<sup>86</sup> ~~Application for a Route Permit, August 18, 2016, at 6-3.~~

<sup>87</sup> Application for a Route Permit, August 18, 2016, at Figure 6.

<sup>88</sup> ~~Application for a Route Permit, August 18, 2016, at 4-1.~~

<sup>89</sup> ~~Application for a Route Permit, August 18, 2017, at 9-8.~~

<sup>90</sup> ~~Application for a Route Permit, August 18, 2016, at 9-8.~~

<sup>91</sup> ~~Application for a Route Permit, August 18, 2017, at 9-8.~~

~~96.1. The Project may result in short term impacts to human settlement during pipeline construction activities. Impacts to existing roads would be minimized by installing the pipeline underneath these features through the use of the directionally drilling. These crossing methods will minimize traffic interruptions and prevent disturbance to the road and rail surfaces. If directional drilling is not successful, roads may be crossed by open cut construction methods. In the event that a road is open cut, traffic disruptions will be minimized if possible by maintaining one open lane of traffic except when the pipeline is being trenched and backfilled. Transportation of equipment and materials to the right of way could also result in minimal short term impacts to traffic in the area. Xcel Energy will obtain all necessary permits for road right of way crossings.~~<sup>92</sup>

### Existing and Planned Future Land Use, and Management Plans

97. Xcel will co-locate the pipeline with existing road right-of-way to reduce the impact to current and future land uses and to minimize human and environmental impacts.<sup>93</sup>

### *Public Safety*

97.98. Safety is a prime consideration for employees and contractors who will be operating and maintaining the pipeline system, and also for the general public. Safety code compliance is achieved through adherence to 49 CFR Part 192 as defined by the U.S. DOT. General safety procedures include:

- strict adherence to an operations and maintenance plan;
- the pipeline MAOP is assured through the use of over pressure protection equipment;
- company signs, with emergency numbers, are posted along the pipeline;
- ignition sources are minimized;
- smoking will be prohibited in and around any structure or area containing gas facilities;
- “no smoking” signs are posted where appropriate; and
- above ground facilities will be painted or coated to prevent atmospheric corrosion.<sup>94</sup>

98.99. Xcel Energy will implement proper safeguards, as described in sections 7 and 8 of its permit application, during construction and operation to avoid potential impacts public health and safety. The Project will be designed in compliance with local, state, federal and Xcel Energy standards for, crossing utilities and buildings, strength of materials, and right-of-way widths. Xcel Energy will ensure that construction and contract crews comply with local, state, and company standards for installation of facilities and standard construction practices. Xcel Energy established and industry safety procedures will also be followed after the gas transmission line is installed. This will include clear signage during all construction activities.<sup>95</sup>

<sup>92</sup> [Application for a Route Permit, August 18, 2016, at 9-8.](#)

<sup>93</sup> [Application for a Route Permit, August 18, 2016, at 6-3.](#)

<sup>94</sup> [Application for a Route Permit, August 18, 2016, at 9-8.](#)

<sup>95</sup> [Application for a Route Permit, August 18, 2016, at 9-8.](#)

~~99.100.~~ With implementation of safeguards and protective measures, the Project is not anticipated to result in adverse or significant impacts on public health and safety.<sup>96</sup>

## **B. Natural Environment**

~~100.101.~~ Minn. R. 7852.1900, subp. 3(B), requires that when reviewing a pipeline route permit application, the Commission shall consider the impact of the pipeline on “the natural environment, public lands, and designated lands, including but not limited to natural areas, wildlife habitat, water, and recreational lands.”<sup>97</sup>

~~101.102.~~ Similarly, Minn. R. 7852.1900, subp. 3(G), requires that when reviewing a pipeline route permit application, the Commission shall consider the impact of the pipeline on “natural resources and features.”<sup>98</sup>

### *Geology*

~~102.103.~~ The proposed pipeline overlies an area where the surficial geology is dominated by till and mixed outwash deposited by glaciation during the Pleistocene epoch (Hobbs, Aronow and Patterson 1990). The terrain has minimum relief owing to the degree of urban development that typifies the area. Elevation along the proposed pipeline ranges from 700 - 880 feet above mean sea level. No special construction techniques are expected to be necessary since the trenching for pipeline installation will be within the unconsolidated glacial drift. The limited shallow excavation of the trench will not have a significant effect on geology.<sup>99</sup>

### *Soils*

~~103.104.~~ Potential temporary impacts to soils resulting from construction of the Project could include soil erosion, soil compaction, loss of soil productivity associated with mixing of topsoil, introduction of rock into the topsoil, and poor revegetation following construction. In order to protect topsoil resources topsoil segregation procedures will be used as required in areas specified by applicable regulations, permit conditions or landowner requests. An erosion control plan will be developed pursuant to the MPCA NPDES Construction Storm Water Discharge Permit. Temporary erosion controls will include slope breakers, mulching, and the use of silt fence. Following construction, application of seed, fertilizer and mulch will commence in accordance with any existing permit requirements or landowner agreements. Inspector(s) will be used to ensure contractor compliance with these procedures.<sup>100</sup>

### *Water Resources*

~~104.105.~~ The Project is located within the Lower Minnesota River watershed within the Minnesota River Basin. A watershed is defined as the entire physical area or basin drained by a

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<sup>96</sup> Application for a Route Permit, August 18, 2016, at 9-8, 9-9.

<sup>97</sup> Minn. Rule 7852.1900, subp. 3(B).

<sup>98</sup> Minn. Rule 7852.1900, subp. 3(G).

<sup>99</sup> Application for a Route Permit, August 18, 2016, at 9-1.

<sup>100</sup> Application for a Route Permit, August 18, 2016, at 9-2.

distinct stream or riverine system, physically separated from other watersheds by ridgetop boundaries. No surface waters will be impacted by the Project, including those listed on the MN DNR's Public Waters Inventory (PWI). The Project will directionally drill under Black Dog Lake, which is a PWI basin. Xcel Energy will coordinate with MN DNR to obtain a Public Water Crossing License for crossing this water feature.<sup>101</sup>

~~105.106.~~ Wetland areas were initially identified using National Wetlands Inventory (NWI) data to assess wetlands that may be present within the proposed pipeline route. Merjent, Inc., on behalf of Xcel Energy, also conducted a wetland delineation within the anticipated alignment. Two additional palustrine emergent (PEM) wetlands were identified, both in the electric transmission line right-of-way. The U.S. Army Corps of Engineers (COE) and the City of Burnsville regulate construction activities in wetlands. Xcel Energy will submit the wetland delineation report to COE and Burnsville and coordinate impacts and potential mitigation as appropriate.<sup>102</sup>

~~106.107.~~ Construction of the proposed pipeline is not expected to affect overall groundwater recharge or discharge in the area. Shallow groundwater is not a major source of drinking water in the area. The pipeline trench will be approximately five to six feet deep and will not intersect any drinking water aquifers. The proposed Project will not require the installation or abandonment of any water wells or connection to or changes in any public water supply. A single abandoned and sealed well was found within 200 feet of the proposed pipeline alignment using the County Well Index database that is maintained by the Minnesota Departments of Health and Natural Resources. (MDH, 2016). The abandoned well is located near the western edge of the property at 11008 27th Ave South and was sealed in December 2013.<sup>103</sup>

~~107.108.~~ A designated trout stream is located near the project. Construction of the proposed pipeline will not have any direct impacts on the stream. The Project will not impact the nearby trout stream due primarily to the distance from the project site and because Xcel will not be appropriating water for the project.<sup>104</sup>

~~108.109.~~ Accidental equipment spills or leaks of fuel or oils could contaminate soil and groundwater. Contaminated soils could continue to leach pollutants to the groundwater for an extended period after the spill or leak. A Spill Prevention Containment and Countermeasure Plan (SPCC Plan) will be developed and implemented during construction to manage equipment spills or leaks should they occur.<sup>105</sup>

~~109.110.~~ The 100-year floodplain is defined as the land that is predicted to flood during a 100-year storm, which has a 1% chance of occurring in any given year. The proposed pipeline route crosses a 100-year floodplain associated with the Minnesota River and Black Dog Lake.

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<sup>101</sup> Application for a Route Permit, August 18, 2016, at 9-2.

<sup>102</sup> Application for a Route Permit, August 18, 2016, at 9-2.

<sup>103</sup> Application for a Route Permit, August 18, 2016, at 9-3.

<sup>104</sup> Xcel Energy Supplemental Information for the Black Dog Natural Gas Pipeline Project, December 21, 2016, page 16.

<sup>105</sup> Application for a Route Permit, August 18, 2016, at 9-3.



However, construction of the pipeline will not impact the floodplain as this portion of the proposed alignment will be installed via directional drilling. The City of Burnsville has confirmed that if above ground work is not proposed within the floodplain, a Conditional Use Permit will not be required. The City will require a FEMA Elevation Certificate and No Rise Certificate and “as-constructed” plans be submitted post-construction.<sup>106</sup>

### *Biological Resources*

~~H0.111.~~ H10.111. Vegetation clearing and tree cutting will occur along the pipeline construction right-of-way. Permanent impacts to vegetation associated with construction of the proposed pipeline will primarily include the clearing and maintenance of trees along the permanent right-of-way. Impacts to vegetation adjacent to the right-of-way will be minimized by restricting construction activities to only the approved work areas. After construction is complete vegetation will be reestablished by applying seed, mulch, and fertilizer mixtures specified by permit conditions, land managing agencies, and/or landowners. During operation of the pipeline, the permanent right-of-way will be maintained by mechanically clearing trees and shrubs about once every three to five years to maintain accessibility of the pipeline and to accommodate inspection and potential maintenance of the pipeline.<sup>107</sup>

~~H1.112.~~ H11.112. The proposed route is characterized by urban and suburban development containing both wooded and open areas which provide habitat for a variety of wildlife. Wildlife typically found in the area are those species which have adapted to urban and suburban development and include white-tailed deer, coyotes, fox, raccoons, beaver, opossum, woodchucks, squirrels, muskrats, and a variety of owl and other raptor species, including osprey, red-shouldered hawks, and bald eagles.<sup>108</sup>

~~H2.113.~~ H12.113. Construction of the proposed facilities will likely result in temporary impacts to wildlife habitat in the immediate vicinity of the construction areas. Vegetation clearing will result in reduced cover, nesting and foraging habitat for some wildlife. Wildlife-friendly erosion control matting will be used in any areas where erosion control matting is needed to stabilize soils. The proposed construction will temporarily displace mobile avian, mammal, amphibian and reptile species that inhabit the Project area. The displaced species will likely colonize in nearby areas or reestablish their original habitats after construction activities are complete and the construction site is restored.<sup>109</sup>

~~H3.114.~~ H13.114. Long-term effects to wildlife are expected to be limited to occasional displacement or impact to individual animals due to future periodic clearing of the permanent right-of-way to maintain the vegetative cover in an herbaceous state. Vegetation maintenance of the right-of-way will comply with wildlife timing windows as specified in the MNDNR November 16, 2016 comment letter and post-permit input on the development of a vegetative restoration plan. Construction and maintenance of the proposed pipeline will not significantly alter the character of the landscape in the Project area. Consequently, effects to wildlife will

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<sup>106</sup> Application for a Route Permit, August 18, 2016, at 9-3.

<sup>107</sup> Application for a Route Permit, August 18, 2016, at 9-3.

<sup>108</sup> Application for a Route Permit, August 18, 2016, at 9-3.

<sup>109</sup> Application for a Route Permit, August 18, 2016, at 9-4.

likely be short-term and the habitat disturbed by project-related activities is expected to generally revert back to preconstruction conditions. If soil conditions and topographic features allow, restoration efforts may include the introduction of pollinator plants. Xcel Energy will work with the City of Burnsville Natural Resources Department and Parks Department to the applicability of such a plan.<sup>110</sup>

~~H4.115.~~ Xcel Energy reviewed the most recent MN DNR Natural Heritage Information System (NHIS) database to obtain the locations of rare and unique natural resources within the Project area. Queries to the NHIS database often display species that either do not have a legal status or are of special concern. Species or communities that do not have a status, or are classified as special concern, have no legal protection in Minnesota. Only potential impacts on species with legal protection (threatened and endangered) are discussed below.<sup>111</sup>

~~H5.116.~~ Given the developed nature of the Project area, there will not be impacts to rare or significant tree communities (e.g., old growth forest, federal/state-managed timber, etc.).<sup>112</sup>

~~H6.117.~~ Two federally-endangered mussel species - the Higgins eye pearl mussel (*Lampsilis higginsii*) and the snuffbox mussel (*Epioblasma triquetra*) - may be found in waters in the vicinity of the Project. The federally-threatened northern long-eared bat (*Myotis septentrionalis*) and the federally-threatened prairie bush-clover (*Lespedeza leptostachya*) are also known to occur in Dakota County and may be present in the Project area.<sup>113</sup>

~~H7.118.~~ The Higgins eye pearl mussel is a freshwater mussel of larger rivers where it is typically found in deep water with moderate currents. The animals bury themselves in sand and gravel river bottoms with just the edge of their partially opened shells exposed; the species feeds by siphoning the water for microorganisms. In Minnesota, the Higgins eye is found in the Mississippi and St. Croix Rivers, and is believed to be extirpated from the Minnesota River. Project activities will not take place within the Minnesota River, and Black Dog Lake will be crossed via directional drilling. As such, it is reasonable to conclude that the Project will have no effect on the Higgins eye pearl mussel.<sup>114</sup>

~~H8.119.~~ The snuffbox mussel is a small freshwater mussel primarily found in small- to medium-sized creeks in areas with a swift current, although it has also been found in larger rivers and Lake Erie. Adults often burrow deep in sand, gravel or cobble substrates, except when they are spawning or the females are attempting to attract host fish. They are suspension feeders, typically feeding on algae, bacteria, detritus, microscopic animals, and dissolved organic material. Project activities will not take place within the Minnesota River, and Black Dog Lake will be crossed via directional drilling. As such, it is reasonable to conclude that the Project will have no effect on the snuffbox mussel.<sup>115</sup>

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<sup>110</sup> Application for a Route Permit, August 18, 2016, at 9-3, 9-4

<sup>111</sup> Application for a Route Permit, August 18, 2016, at 9-3.

<sup>112</sup> Application for a Route Permit, August 18, 2016, at 9-4.

<sup>113</sup> Application for a Route Permit, August 18, 2016, at 9-4.

<sup>114</sup> Application for a Route Permit, August 18, 2016, at 9-4.

<sup>115</sup> Application for a Route Permit, August 18, 2016, at 9-4.

~~119.~~120. The range of the northern long-eared bat (NLEB) stretches across much of the eastern and Midwestern United States. During summer, northern long-eared bats roost singly or in colonies under bark, in cavities, or in crevices of both live and dead trees. Males and non-reproductive females may also roost in cooler places such as caves and mines. This species is thought to be opportunistic in selecting roosts, utilizing tree species based on the tree's ability to retain bark or provide cavities or crevices. It has also been found, rarely, roosting in structures such as barns and sheds. In winter, northern long-eared bats utilize caves and mines as hibernacula. The NLEB was listed as a federally threatened species in May, 2015, with an interim 4(d) rule; effective February 16, 2016, the USFWS finalized the 4(d) rule which restricts tree clearing within 0.25 miles of a hibernacula and within 150 feet of a known maternal roost tree during the months of June and July. A 4(d) rule may only be applied to species listed as threatened, and is a tool periodically utilized by the USFWS to allow for flexibility in Endangered Species Act (ESA) implementation. The rule allows the USFWS to tailor take restrictions to those that make the most sense for protecting and managing at-risk species, and directs the USFWS to issue regulations considered "necessary and advisable to provide for the conservation of threatened species."<sup>116</sup>

~~120.~~121. The NHIS review confirmed the absence of known hibernacula within 0.25 miles and the absence of known roost trees within 150 feet from the Project. Scheduling tree clearing activities to take place between November 1 and March 31 (e.g., when bats are hibernating and not present on the landscape) greatly reduces impacts to NLEB. However, if tree clearing activities will take place after March 31, 2016, Xcel would rely on the programmatic Biological Opinion developed by USFWS on January 5, 2016 to fulfill the Section 7 consultation for this species. Therefore, we believe the Project may affect, but incidental take is not prohibited for the northern long-eared bat.<sup>117</sup>

~~121.~~122. Prairie bush clover is found only in the tallgrass prairie region of four Midwestern states. It is a member of the bean family and a Midwestern "endemic" – known only from the tallgrass prairie region of the upper Mississippi River Valley. The Project area is located in a suburban housing development. Therefore, we believe the Project will have no effect on the prairie bush clover.<sup>118</sup>

~~122.~~123. A query of the Natural Heritage Inventory System database was conducted to determine if any state-listed species or other significant natural features are known to occur within an approximate one-mile radius of the proposed Project. No Element Occurrences (EOs) intersect the Project workspace. Xcel Energy has submitted a request for concurrence of a finding of No Impacts to Protected Species to the MN DNR; On November 16, 2016 the Endangered Species Review Coordinator responded with concurrence of the requested finding.<sup>119</sup>

~~123.~~124. Four element occurrences (EOs) for calcareous fens are found within one mile of the Route. Calcareous fens are distinctive wetlands characterized by a non-acidic peat substrate.

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<sup>116</sup> Application for a Route Permit, August 18, 2016, at 9-5.

<sup>117</sup> Application for a Route Permit, August 18, 2016, at 9-5.

<sup>118</sup> Application for a Route Permit, August 18, 2016, at 9-5.

<sup>119</sup> Application for a Route Permit, August 18, 2016, at 9-5. and MN DNR Letter, November 16, 2016.

They are dependent upon a steady supply of cold, oxygen-poor water rich in magnesium and calcium bicarbonates. They are legally protected in Minnesota due to their rarity and their ability to support a number of rare plant species. Calcareous fens are designated as “outstanding resource value waters” in water quality regulations administered by the Minnesota Pollution Control Agency (MPCA) (see Minnesota Rules part 7050.0180) and they are given special protection through Minnesota Rules part 8420.1010 - 8420.1060. The Wetlands Conservation Act, authorized by Minnesota Statutes 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 MN DNR. Many of the unique characteristics of calcareous fens result from the upwelling of groundwater through calcareous substrates. Because of their dependence on delicate groundwater hydrology, calcareous fens can be indirectly affected by activities away from the fen. The Project does not intersect the fens, therefore will have no direct impact on the fens. An analysis of groundwater resources and planned construction practices indicates that construction of the project will not result in indirect impacts to the fens.<sup>120</sup>

~~124.125.~~ Three additional EOs for natural communities are within one mile of the Project: a southern wet ash swamp, a seepage meadow/carr, and black ash seepage swamp. The Project does not intersect these EOs, and as such, will have no impact on these ecological resources.<sup>121</sup>

~~125.126.~~ Three fish species have one EO each within one mile of the Project. The paddlefish (*Polyodon spathula*), the black buffalo (*Ictiobus niger*), and the pugnose shiner (*Notropis anogenus*) are state-listed threatened species. Paddlefish are found in the open waters of large rivers and river lakes (such as Lake Pepin and Lake St. Croix), oxbow lakes, and backwaters. They have been associated with areas of deep water and low current velocities (Zigler et al. 2003). Paddlefish feed primarily on zooplankton (Becker 1983), and require free-flowing rivers with gravel bars that are inundated in spring floods for spawning. The black buffalo is found both fast- and slow-flowing portions of rivers, as well as in sloughs and impoundments, and (Hatch et al. in preparation). Little is known regarding the life history of the species in Minnesota, but the black buffalo is thought to have similar habits to smallmouth and bigmouth buffaloes. The black buffalo however, tends to occupy deeper water and areas of faster moving currents than the latter two species. The black buffalo's diet includes mollusks, insects, crayfish, duckweed, and algae, and typically spawns from April to mid-June (Becker 1983). The pugnose shiner is found primarily in clear, glacial lakes and streams with an abundance of submerged vegetation. They live in habitats with slow velocity currents over sand, mud, or gravel substrates, and are commonly found in pondweed (*Potamogeton* spp.), water milfoil (*Myriophyllum* spp.), elodea (*Elodea* spp.), eelgrass (*Verbasicum blattaria*), coontail (*Ceratophyllum* spp.), bulrush (*Scirpus* spp.), muskgrass (*Chara* spp.), and filamentous algae. The presence of rooted aquatic plants seems more important to this species than substrate type (Hatch et al. in preparation). No in-water work will be performed for the Project, and Black Dog Lake will be crossed via directional drilling. Therefore, we believe the Project will have no impact on these fish species.<sup>122</sup>

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<sup>120</sup> Xcel Energy Supplemental Information for the Black Dog Natural Gas Pipeline Project, December 21, 2016.

<sup>121</sup> Application for a Route Permit, August 18, 2016, at 9-6.

<sup>122</sup> Application for a Route Permit, August 18, 2016, at 9-6.

~~126.127.~~ Records for five state-threatened plant species were identified within one mile of the Project: one record for sterile sedge (*Carex sterilis*), one record for hair-like beak rush (*Rhynchospora capillacea*), one record for whorled nutrush (*Scleria verticillata*), three records for edible valerian (*Valeriana edulis* var. *ciliate*), and one record for tuberous Indian-plantain (*Arnoglossum plantagineum*). Sterile sedge, hair-like beak rush, whorled nutrush, and edible valerian are associated with and found primarily in calcareous fens. The Project will not impact calcareous fens; therefore, impacts to these species are not expected. Tuberous Indian-plantain is largely restricted to native, moist prairies in the southern portion of Minnesota, although a few populations are found on dry soils in bluff prairies. These habitats are often found on old railroad rights-of-way. The Project will not impact prairie habitat, and railroad rights-of-way will be crossed via the directional drill associated with Black Dog Lake.<sup>123</sup>

~~127.128.~~ Since data collected on mussel species from 2008-2015 has not been added to the Rare Features Database, Xcel Energy also reviewed records from the Minnesota Statewide Mussel Survey. Multiple EOs for a variety of state-listed threatened and endangered mussels are found within one mile of the Project. No in-water work will be performed for the Project, and Black Dog Lake will be crossed via directional drilling. As such the Project will have no impact on these mussel species.<sup>124</sup>

#### *Air Quality*

~~128.129.~~ Potential air quality effects related to pipeline construction facilities include fugitive dust emissions during construction, and exhaust emissions from construction equipment. Dust will be controlled through implementation of a stormwater pollution prevention plan (SWPPP) which will include control measures for exposed soils. These potential effects are considered to be relatively minor and of short duration. The pipeline by itself will not have any long-term impacts on air quality.<sup>125</sup>

#### *Noise*

~~129.130.~~ When in service, the proposed pipeline will not generate noise during normal operations. The Project will include new compression facilities so there will not be exhaust or other noise sources that would be associated with compressor stations.<sup>126</sup>

~~130.131.~~ Noise will be generated by the construction of the Project. Construction noise will be predominantly sources originating from diesel engine driven construction equipment and boring rigs. Potential noise impacts will be mitigated by proper muffling equipment fitted to construction equipment and restricting activities if necessary.<sup>127</sup>

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<sup>123</sup> Application for a Route Permit, August 18, 2016, at 9-6.

<sup>124</sup> Application for a Route Permit, August 18, 2016, 9-4, 9-5, 9-6.

<sup>125</sup> Application for a Route Permit, August 18, 2016, at 9-7.

<sup>126</sup> Application for a Route Permit, August 18, 2016, at 9-6.

<sup>127</sup> Application for a Route Permit, August 18, 2016, at 9-6, 9-7.

### C. Lands of Historical, Archaeological and Cultural Significance

~~131.132.~~ Minn. R. 7852.1900, subp. 3(C), states that when reviewing an application for a Route Permit, the Commission shall consider the impact of the pipeline to “lands of historical, archaeological, and cultural significance.”<sup>128</sup>

~~132.133.~~ On behalf of Xcel Energy, Merjent, Inc. conducted a Phase Ia Background Cultural Resource Literature Review of the Project area as well as a one mile surrounding buffer in June of 2016 at the Minnesota State Historic Preservation Office (“SHPO”). This area is defined as the Area of Potential Effect (APE) for the Project. The goal of the review was to identify recorded cultural resource sites and assess the potential for unrecorded sites within the APE. The standard for considering a cultural property as significant is whether it meets the criteria for listing on the National Register of Historic Places (NRHP). The initial criterion for such listing is an age of 50 or more years. Beyond age, a property must retain integrity and be associated with significant historic trends, historic persons, building styles and craftsmanship, or the property must have the potential to provide significant information about the past.<sup>129</sup>

~~133.134.~~ Two (2) previously recorded archaeological sites and one (1) previously inventoried historic structure within or proximal to the proposed Project route. Both archaeological sites are documented as human burial sites and are protected under Minnesota Statute 307.08. However, these sites are located external to the proposed Project route and will not be impacted by proposed construction activities. The inventoried structure is located south of the Project and will not be impacted by proposed construction activities. Based on the findings it was concluded that the Project will not affect properties listed on, or eligible for listing on, the National Register of Historic Places, and no known or suspected archaeological properties in the area will be affected by the Project. The assessment further recommended that no cultural resources field inventory be required. A letter report summarizing the findings has been submitted to the Minnesota State Historic Preservation Office (SHPO) requesting comments regarding the nature of future cultural resource investigations.<sup>130</sup>

~~134.135.~~ In the event that buried cultural deposits or human remains are encountered, work in the immediate vicinity of the find will be stopped until a professional archaeologist can evaluate the find and recommend treatment in consultation with the Minnesota State Historic Preservation Office.<sup>131</sup>

### D. Land Use Economies

~~135.136.~~ Minn. Rule 7852.1900, subp. 3(D), states that when reviewing an application for a Route Permit, the Commission shall consider the impact of the pipeline upon “economies within the route, including agricultural, commercial or industrial, forestry, recreational, and mining operations.”<sup>132</sup>

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<sup>128</sup> Minn. Rule 7852.1900, subp. 3(C).

<sup>129</sup> Application for a Route Permit, August 18, 2016, at 9-8.

<sup>130</sup> Application for a Route Permit, August 18, 2016, at 9-8.

<sup>131</sup> Application for a Route Permit, August 18, 2016, at 9-7, 9-8.

<sup>132</sup> Minn. Rule 7852.1900, subp. 3(D)

~~136.137.~~ The Project is not located in agricultural, forestry, or mining operations.<sup>133</sup>

~~137.138.~~ The Project traverses land that has undergone significant development, including commercial facilities as well as rights-of-way for road, pipeline, and electrical transmission lines. The portion of the proposed alignment within the City of Eagan is situated on land zoned as Business Park and Light Industrial. The portion of the proposed pipeline route within the City of Burnsville is situated on lands zoned as Neighborhood, General Business and Park. Land within the permanent and temporary rights-of way, and workspace within the proposed aboveground facilities will be impacted during construction of the Project. The impact will be short-term, as the construction period, including restoration, is not expected to exceed 6-7 months. The primary permanent impact of construction will be the removal of trees and shrubs from the construction work area and permanent right-of-way. Xcel Energy will develop a Vegetation Management Plan with input from the DNR, the DOT, and the cities of Burnsville and Eagan to address impacts to vegetation and potential restoration plantings. As referenced in Section 7.12, the permanent right-of-way will be maintained in an open condition consisting of primarily herbaceous or shrub communities to facilitate maintenance and inspection activities.<sup>134</sup>

~~138.139.~~ There is currently a bike trail paralleling Minnesota State Highway 13 which will be impacted during construction. Xcel Energy has an agreement with the City of Burnsville to replace the trail after construction is complete. The Project will also impact the City of Burnsville's Tennesioux Park, which overlaps the existing Xcel Energy single-circuit 115 kV and a double-circuit 345/345 kV electric transmission line corridor. The park does not currently have any amenities; however the City of Burnsville has requested that Xcel Energy construct a new 10 foot wide paved bike trail which would eventually connect the existing trail along Highway 13 to Black Dog Park. Xcel Energy will work with the City to facilitate construction of the trail. The proposed pipeline will also cross land managed as part of the Minnesota Valley National Wildlife Refuge; however, no impacts are expected because Xcel Energy will directionally drill underneath Refuge managed lands.<sup>135</sup>

### **E. Pipeline Cost and Accessibility**

~~139.140.~~ Minn. Rule 7852.1900, subp. 3(E), states that when reviewing an application for a Route Permit, the Commission shall consider "pipeline cost and accessibility."<sup>136</sup>

~~140.141.~~ The total estimated cost of the Pipeline Project is approximately \$5.0-5.4 million. This range of costs accounts for considerations related to labor, materials, and varying construction conditions.<sup>137</sup>

### **F. Use of Existing Rights-of-Way and Right-of-Way Sharing or Paralleling**

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<sup>133</sup> Application for a Route Permit, August 18, 2016, at 9-9.

<sup>134</sup> Application for a Route Permit, August 18, 2016, at 9-7.

<sup>135</sup> Application for a Route Permit, August 18, 2016, at 9-7.

<sup>136</sup> Minn. Rule 7852.1900.

<sup>137</sup> Application for a Route Permit, August 18, 2016, at 3-1, 3-2.

~~141.142.~~ Minn. R. 7852.1900, subp. 3(F), states that when reviewing an application for a Route Permit, the Commission shall consider the “use of existing rights-of-way and right-of-way sharing or paralleling.”<sup>138</sup>

~~142.143.~~ Potential routes are evaluated in an attempt to reduce the creation of new impacts by locating pipeline adjacent to existing rights-of-way. Paralleling or sharing existing utility transportation rights-of-way is a method for minimizing impacts to humans and the environment, which is a standard for route selection (Minnesota Rules 7852.1900 Subp. 2).<sup>139</sup>

~~143.144.~~ Xcel Energy initially considered two possible routes between the NNG Cedar Station and the Black Dog Generating Plant: a northern route which went generally northwest from the NNG Cedar station until crossing under the railroad tracks then paralleling the tracks and the Met Council sanitary sewer pipeline to the southwest, and a southern route which generally followed Old Sibley Memorial Highway and Highway 13 before turning northwest at the transmission line corridor toward the Black Dog Generating Plant.<sup>140</sup>

~~144.145.~~ The northern route would have crossed lands owned by the Minnesota Department of Natural Resources (DNR) and the US Fish and Wildlife Service (USFWS) before reaching the railroad at which point it would be located on land owned by NSP Minnesota and managed as part of the Minnesota Valley National Wildlife Refuge. However, after meeting with USFWS staff it was determined that it would not be possible to acquire the necessary rights to cross National Wildlife Refuge land to reach NSPM land. The USFWS does not consider a new pipeline to be an appropriate use within the National Wildlife Refuge system and therefore would not be able to approve a new right-of-way crossing. Therefore, this route was eliminated from consideration. In addition to the issue with crossing USFWS land, the northern route had the disadvantages of crossing a significant amount of wetland area, involving above ground work within the 100 year floodplain and having a significant segment of the total length which did not parallel existing utility or transportation rights-of-way.<sup>141</sup>

~~145.146.~~ Based on evaluation of existing infrastructure, discussions with the Cities of Eagan and Burnsville, the MN DNR, the USFWS and the Minnesota Department of Transportation as well as feedback from landowners Xcel Energy developed the proposed route and anticipated alignment. The anticipated alignment minimizes impacts to private properties by placing the pipeline primarily within road right-of-way or on land owned by the City of Burnsville and NSP. Approximately 88% of this proposed alignment parallels existing rights-of-way. Xcel Energy requested a variable route width, which accommodates this alignment while allowing for minor changes based on detailed engineering, geotechnical analysis and survey results for existing infrastructure.<sup>142</sup>

## **G. Impact on natural resources and features.**

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<sup>138</sup> Minn. Rule 7852.1900, subp. 3(F).

<sup>139</sup> Application for a Route Permit, August 18, 2016, at 5-4.

<sup>140</sup> Application for a Route Permit, August 18, 2016, at 5-4.

<sup>141</sup> Application for a Route Permit, August 18, 2016, at 5-4.

<sup>142</sup> Application for a Route Permit, August 18, 2016, at 5-4.



~~146.147.~~ Minn. R. 7852.1900, subp. 3(H), states that when reviewing an application for a Route Permit, the Commission shall consider the “extent to which human or environmental effects are subject to mitigation by regulatory control and by application of the permit conditions contained in part 7852.3400 for pipeline right-of-way preparation, construction, cleanup, and restoration practices.”<sup>143</sup>

~~147.148.~~ Unavoidable impacts are those impacts that cannot be avoided if the Project is constructed. Construction of the proposed pipeline will have minimal unavoidable impacts. The Project will parallel existing road ROW for a majority of the proposed route. As discussed above, paralleling existing road ROW will avoid the direct impacts associated with constructing new transmission ROW.

~~148.149.~~ Xcel Energy has analyzed the potential environmental effects from the proposed Project. It has been determined that no significant unavoidable impacts to protected species, water resources or other natural resources will result from construction of the proposed pipeline line.

~~149.150.~~ The proposed Project route allows for the construction of the pipeline without impacts to homeowners. All wetlands and water bodies will be protected during construction. Upon the issuance of the Route Permit, Xcel Energy will continue to coordinate with state or federal agencies to ensure the Project complies with all applicable laws and regulations and minimizes impacts to the natural environment to the best extent practicable.<sup>144</sup>

~~150.151.~~ Irreversible and irretrievable resource commitments are related to the use of nonrenewable resources and the effects that the use of these resources have on future generations. Irreversible commitments of resources are those that result from the use or destruction of a specific resource that cannot be replaced within a reasonable time frame. Irretrievable resource commitments are those that result from the loss in value of a resource that cannot be restored after the action. The Project will require minimal commitments of resources that are irreversible and irretrievable.<sup>145</sup>

~~151.152.~~ Anticipated commitments expected are those related to construction activities and may include aggregate resources, steel, and hydrocarbon fuel. Vehicles employed during construction would be deployed on site and would travel to and from the Project. Other resources would be used in pipeline construction and other construction activities.<sup>146</sup>

## **H. Extent Human or Environmental Effects are Subject to Mitigation by Regulatory Control or Permit Conditions**

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<sup>143</sup> Minn. Rule 7852.1900, subp. 3(H).

<sup>144</sup> Application for a Route Permit, August 18, 2016, at 9-10.

<sup>145</sup> Application for a Route Permit, August 18, 2016, at 9-10.

<sup>146</sup> Application for a Route Permit, August 18, 2016, at 9-10.

~~152.153.~~ Minn. R. 7852.1900, subp. 3(I), states that when reviewing an application for a Route Permit, the Commission shall consider the “cumulative potential effects of related or anticipated future pipeline construction.”<sup>147</sup>

~~153.154.~~ Potential negative human and environmental impacts, which could result from the Project, are mitigated by many factors. Several levels of federal, state, county and local governmental authorities have jurisdiction over the Project. Environmental jurisdictions include an overall Project permit and partial exemption determination from the MPUC; and permits and approvals by independent agencies charged with responsibility for management of environmental resources, discharge limitations, and restrictions on land use modification. A listing of each environmental permit required for the Project is found in Section 10.0 of the route permit application. Engineering regulatory requirements include U.S. DOT Pipeline and Hazardous Materials Safety Administration (PHMSA) material specifications, pipeline construction and operational standards, and building permit standards. U.S. DOT PHMSA construction and operation requirements are discussed in Sections 4, 6, and 7 of this application. Additional protection is provided by on-site third party inspectors and agency oversight.<sup>148</sup>

### **I. Cumulative Potential Effects of Related or Anticipated Future Pipeline Construction**

~~154.155.~~ Minn. R. 7852.1900, subp. 3(J), states that when reviewing an application for a Route Permit, the Commission shall consider the “relevant applicable policies, rules, and regulations of other state and federal agencies, and local government land use laws, including ordinances adopted under Minnesota Statutes section 299J.05, relating to the location, design, construction, or operation of the proposed pipeline and associated facilities.”<sup>149</sup>

~~155.156.~~ Construction of the pipeline is not expected to have any direct effect on the cultural, historic or aesthetic values of the area. No significant changes in the vegetation, wildlife, wetlands, water quality, geology or soils are expected to result from the Project. The area presently has an existing natural gas pipeline, high voltage transmission lines, and municipal facilities. Installation of the pipeline will not significantly change land use patterns. Consequentially, the cumulative potential effect of the Project is expected to be minimal.<sup>150</sup>

### **J. Other Local, State, or Federal Rules and Regulations**

~~156.157.~~ Minn. R. 7852.1900, subp. 3(J), states that when reviewing an application for a Route Permit, the Commission shall consider the “relevant applicable policies, rules, and regulations of other state and federal agencies, and local government land use laws, including ordinances adopted under Minnesota Statutes section 299J.05, relating to the location, design, construction, or operation of the proposed pipeline and associated facilities.”<sup>151</sup>

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<sup>147</sup> Minn. Rule 7852.1900, subp. 3(I).

<sup>148</sup> Application for a Route Permit, August 18, 2016, at 9-10.

<sup>149</sup> Minn. Rule 7852.1900, subp. 3(J).

<sup>150</sup> Application for a Route Permit, August 18, 2016, at 9-9.

<sup>151</sup> Minn. R. 7852.1900, Subp. 3(J)

**X. Conclusions**

1. Any of the foregoing Findings of Fact more properly designated as Conclusions of Law are hereby adopted as such.
2. The Commission has jurisdiction over the Application pursuant to Minn. Stat. § 216G.02.
3. The Project qualifies for review under the partial exemption process of Minnesota Statute 216G.02 and Minnesota Rule 7852.0600.
4. The Applicant, the DOC EERA, and the Commission have complied with the procedural requirements for a partial exemption from pipeline route selection procedures as set forth in Minnesota Rule 7852.0600, including publication of application notice in a newspaper in the county where the pipeline will be located, and mailing the notice and application to required parties, including affected landowners, and holding a public informational meeting and comment period.
5. The Commission has considered all the pertinent standards and criteria in accordance with Minnesota Rule 7852.0700 relative to its determination for a partial exemption from pipeline route selection procedures and issuance of a pipeline routing permit.
6. The Commission concludes that a route permit for the new pipeline should be conditioned in a number of respects, including imposition of those conditions specified in Minnesota Rules 7852.3600 and conditions agreed to by the Applicant.

Based on the Findings of Fact and Conclusions contained herein and the entire record of this proceeding, the Minnesota Public Utilities Commission hereby makes the following:

**ORDER**

1. The Minnesota Public Utilities Commission hereby grants Xcel Energy a partial exemption from the pipeline route selection procedures of Minnesota Rule, Chapter 7852.
2. The Minnesota Public Utilities Commission hereby issues a pipeline routing permit to Xcel Energy for construction of approximately 11,300 feet of natural gas pipeline and associated facilities along the route described in Section II. The pipeline routing permit is attached hereto with a map showing the approved route, including the description of the route with a variable width as shown in the map, and the inclusion of conditions and any special conditions.