STATE OF MINNESOTA
MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	**Chair**
Hwikwon Ham	**Commissioner**
Audrey C. Partridge	**Commissioner**
Joseph K. Sullivan	**Commissioner**
John A. Tuma	**Commissioner**

In the Matter of the Application of Xcel Energy for a Certificate Of Need and Route Permit for the Minnesota Energy Connection Project in Sherburne, Stearns, Kandiyohi, Wright, Meeker, Chippewa, Yellow Medicine, Renville, Redwood, and Lyon Counties in Minnesota

MPUC E-022/CN-22-131
MPUC E-022/TL-22-132

PETITION FOR RECONSIDERATION OF
CERTIFICATE OF NEED AND ROUTE PERMIT,
AND
ADEQUACY OF ENVIRONMENTAL IMPACT STATEMENT

NOTICE: OTHER PARTIES TO THIS PROCEEDING SHALL FILE ANSWERS TO A PETITION FOR REHEARING, AMENDMENT, VACATION, RECONSIDERATION, OR REARGUMENT WITHIN TEN DAYS OF SERVICE OF THE PETITION. Minn. R. 7829.3000, Subp. 4.

Petitioners Miguel Cabrera and Shannon Cabrera, M.D. (hereinafter "Cabreras") bring this timely Motion for Reconsideration of the Public Utilities Commission's deliberation and decision at its April 10, 2025, agenda meeting and filing of the written Order of June 11, 2025, granting Certificate of Need and Route Permit for Xcel Energy's "Minnesota Energy Connection" transmission line.

The Commission's Order establishing the route for this project and declaring the Final Environmental Impact Statement adequate is an error of fact and law in many ways. The process for determination of the Mississippi River crossing location was perverted by Xcel Energy's mischaracterization of the DNR's "strong preference" of either the Purple route or use of Segment 246 and the failure to enter the DNR Comments as separate identifiable exhibits in the hearing. The routing process is bifurcated, with the EIS separate from the routing administrative process, including the hearing. The DNR comments, repeating the "strong preference" were buried in the EIS and not visibly brought forward into the routing process. The DNR is the agency with the expertise in environmental impacts and considerations of routing a transmission line, yet the DNR's rationale for its "strong preference" were not given due consideration. The EIS and routing process focused instead on comparison of routes with Xcel's "DNR Proxy Route," developed by Xcel, and neither incorporated the DNR's "strong preference" of the Purple Route or Blue Route Segment 246 for the Mississippi crossing.

The Commission's Order is contrary to established law directing that existing corridors be used for routing transmission. This policy of "non-proliferation" was established decades ago by People for Environmental Enlightenment and Responsibility (PEER) v. Minn. Environmental Quality Council, 266 N.W.2d 858 (Minn. 1978). Rather than prioritize non-compensable natural resources, the Commission focused on impacts on residences, compensable, an error of law.

The Blue Route was also selected despite its greenfield route over the Mississippi River in an area designated by the state as scenic and recreational, protected by local shoreland and natural resource overlays, which were not sufficiently taken into account.

The Final Environmental Impact Statement is inadequate in a number of ways, including rating of routes focused on numbers of residences; incomplete information regarding eagle nest

and foraging areas particularly in the area of the Blue Route Mississippi River crossing; and failure to fully consider the reasonable and prudent Route Segment 246 by taking up Xcel's "DNR Proxy Route."

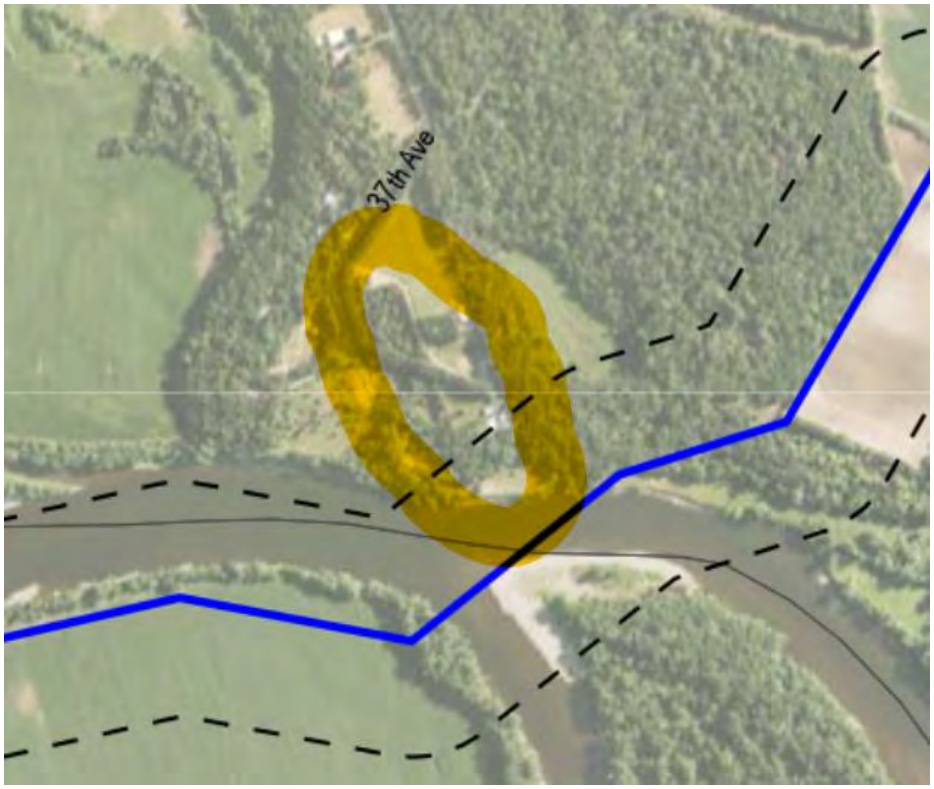
The Commission should reconsider its routing decision, direct Commerce to correct the inadequacies of the FEIS, and choose a more prudent and reasonable crossing of the Mississippi River utilizing an existing corridor.

I. RECONSIDERATION OF THE COMMISSION'S ORDER IS DUE

A Petition for Reconsideration must be brought within 20 days of the June 11, 2025 filing of the Final Order and publication of Notice in eDockets[1]. Minn. Stat. §216B.27 Condition Precedent to Judicial Review; Minn. R. 7829.3000 Petition After Commission Decision. This Petition is a timely request.

The Cabreras are "aggrieved and directly affected" by the Commission's decision to route the Minnesota Energy Connection transmission project using a route corridor width traversing their land, a greenfield route width directly adjacent to their land to cross the Mississippi River, and "may apply to the commission for a rehearing in respect to any matters determined in the decision." Minn. Stat. §216B.27, Subd. 1; Minn. R. 7829.3000, Subp. 1. The Cabreras participated in the permitting process, making comments in writing[2] and orally, regarding both routing and need for the project, addressing the Mississippi River crossing and specific route segments. They raised concerns about the availability of other routes, impacts to eagles foraging and nesting in the area, the detrimental impact of the transmission line on their property's value, and the harm to the viewshed of the state designated Scenic and Recreational Mississippi River which is a focal point of their home.

[1] Order onlne at eDockets 20256-219826-01
[2] Online on eDockets, Cabrara Comments 2-19-2024 20242-203668-02; 2-20-2024 20242-203670-02; 11-25-2024 202411-212348-01; 11-25-2024 202411-212349-01



Order, from Maps, p. 5 of 68, the Cabrera home and property is circled above.

Reconsideration is appropriate where there are errors of fact and law, where an Order is contrary to the evidence in the record. This matter is within the Commission's jurisdiction, and although the Commission would typically be presumed correct where based on its areas of expertise, although deference to the Commission may no longer be inferred. See Loper Bright Enterprises v. Raimondo, 603 U.S.369 (2024).

Approval of this transmission project is a matter of first impression, as the Commission has never before made a need and/or routing decision on a private radial line "to preserve the valuable transmission rights" of a utility. Xcel Application, p. 3, 17, 18, 20, 22.

The Commission's Order and the Recommendation of the Administrative Law Judge as adopted by the Commission is rife with mischaracterizations of Department of Natural Resources (DNR) comments, initiated by Xcel Energy, which moved from characterizations of "DNR Route" to "DNR Route Preference" to a concocted "DNR Proxy Route," omitting the DNR's

Mississippi River crossing "strong preference." This notion of a "DNR Proxy Route" was then carried forward by Commerce-EERA in the EIS, by the Commission in Staff Briefing Papers, and in the Commission's Order.

In this case, by using Xcel's mischaracterization, the Commission has made a decision in direct conflict not only with the comments of the Cabreras, but in conflict with the strong preference of the Minnesota Dept. of Natural Resources (DNR) to utilize either the Purple Route, or if the Blue Route, to route on Alternative Route Segment 246 which would limit impacts to the Mississippi's wild and scenic river district and the Natural Resource Overlay of Stearns County including viewshed, vegetation removal, and minimization of Sites of Biodiversity Significance, and a decision contrary to the non-proliferation policy of People for Environmental Enlightenment and Responsibility (PEER) v. Minn. Environmental Quality Council, 266 N.W.2d 858 (Minn. 1978).

The DNR is the agency of natural resources expertise in this matter. Xcel twisted and mischaracterized the DNR's strong preference, and this mischaracterization and concealment was repeatedly relied on by Commerce-EERA in the EIS and by the Commission in this routing decision. This constitutes error, grounds for reconsideration by the Commission.

II. XCEL's "DNR PROXY ROUTE" IS AN INACCURATE CHARACTERIZATION OF THE DNR'S ROUTE PREFERENCE

The Dept. of Natural Resources filed multiple comments in this proceeding, with its first recommendation regarding, generally, the Mississippi River crossing dated July 10, 2023.[3] DNR Comments filed later each expressed "strong preference" for either the Purple route or the Blue Route Segment 246 (DNR Comments are attached here because they were hidden in the hearing record, pages 183-221 of a 227 page filing, without identifying label: 202410-211371-01)

[3] July 10, 2023 Xcel Application Appendix E, p. 27-33, 202310-199993-01, Scoping Comments 20242-203694-01, DNR Alternatives 20242-203694-02, NH Review 20242-203694-03

In its response to hearing comments, Xcel Energy developed what it called the "DNR proxy route."[4] This "proxy route" was unilateral, and the DNR was not a part of determining this "route." Instead of representing the routes that the DNR preferred, Xcel's response comments specifically excluded the DNR's specific preference for this one Blue route segment: Route Segment 246. Xcel Response to Hearing Comments, p. 7-19 initiated the label of "MDNR Route," and followed up in its Post-Hearing Comments, Post Hearing Brief, and then the misleading concept migrated to the ALJ's Recommendation, Staff Briefing Papers, and ultimately the Commission's Order.

Initially, Xcel acknowledged the importance of utilizing existing crossings of the Mississippi River and of adhering to the DNR's strong preference expressed in July 2023:

> The MNDNR commented in a July 10, 2023 letter that "The DNR strongly prefers a route that utilizes existing crossings over the Mississippi River, especially within a wild and scenic river (WSR) district."
>
> Therefore, the Applicant is proposing two route options for the following reasons:
>
> - MNDNR guidance related to state Wild and Scenic Rivers to cross the river where existing transmission line crossing occur;
> - Residential impacts of routes west and south of the Sherco Plant; and
> - Engineering challenges and lack of available right-of-way along Interstate 94 for Crossings 1 through 4.

Xcel Application Narrative, p. 37; see also DNR Wild, Scenic and Recreational Rivers Guidance,[5] and Local Zoning Administration, Adopting and Wild and Scenic River (WSR) Land Use Management Program.[6]

[4] Xcel Response to Hearing Comments, December 13, 2024 202412-212990-02
[5] DNR Wild, Scenic and Recreational Rivers
https://www.dnr.state.mn.us/waters/watermgmt_section/shoreland/bluff-standards.html
[6] DNR Wild and Scenic River - Land Use Management Program
https://www.dnr.state.mn.us/waters/watermgmt_section/wild_scenic/index.html

A primary reason the Cabreras bought their property and invested significant money into their home was the natural beauty of the area, the Wild and Scenic status of the river. They consciously designed an addition to take in the viewshed from their windows facing the river. Cabreras' Comment, November 25, 2024; see also February 20, 2025, p. 1-2; February 19, 2025.

The Dept. of Natural Resources followed up in February 2024, and reiterated a clear recommendation for the Mississippi River Crossing using an existing river crossing in its Environmental Impact Statement Scoping Comment:

> **Mississippi River Crossing**
>
> The DNR strongly prefers a route that uses existing crossings over the Mississippi River, especially within a Wild and Scenic River (WSR) district. Of the route options provided, the Purple Route in Wright County is the only route that uses an existing crossing. Our agency supports only the Purple Route crossing of the Mississippi River.
>
> The proposed Blue Route would cross a large island and is at a section of the river where the river is more braided. Once the Blue Route crosses into Stearns County, it runs along the Mississippi River for
>
> approximately 2,600 linear feet. This route could require heavy tree clearing along the river. If these trees are removed the riverbank could become unstable.
>
> Our agency is disappointed that there was not greater coordination across other Xcel Energy transmission line projects that connect to the Sherco Solar Substation. If a new crossing within the WSR district is necessary, it should be combined with other crossings of the Mississippi River to lessen the impact to WSR district. These impacts include altering the viewshed of this natural area, removing trees that are important to bank and bluff stability, and fragmenting sites that are mapped as Minnesota Biological Survey (MBS) sites of biodiversity significance.

DNR Scoping Comment, p. 1-2, February 21, 2024.

This Comment also addresses separately the Mississippi River's Wild and Scenic status:

> **Designated Wild, Scenic, and Recreational Rivers**
>
> Minnesota's Wild and Scenic Rivers Act provides statutory protection for rivers and adjacent lands that possess outstanding scenic, recreational, natural, historical and scientific attributes. The following state-designated river segments are within the project area:
>
> - Mississippi River: from St. Cloud to Anoka (as provided by MN Rules, part 6105.0800)
> - North Fork - Crow River: in Meeker County (as provided by MN Rules 6105.1000)
> - Minnesota River: from Lac Qui Parle dam to Franklin (as provided by MN Rules 6105.1200)
>
> The EIS should discuss potential impacts to these protected rivers, which are also public waters, and how they will be avoided, minimized, or mitigated.

Id., p. 2.

This specific DNR recommendation was further stressed in its third Comment, submitted regarding the Draft EIS, on November 25, 2024:

> *Mississippi River Crossing*
>
> The DNR strongly prefers a route that utilizes existing crossings over the Mississippi River, especially within a wild and scenic river (WSR) district. Of the route options proposed this includes the Purple Option in Wright County and Route Segment 246 along the Blue Route. We support these alternatives for the crossing of the Mississippi River to reduce the impact to the WSR district. Throughout these segments, impact to viewshed of this natural area, vegetation removal, and impacts to Minnesota Biological Survey (MBS) Sites of Biodiversity Significance are minimized. DNR generally prefers utilizing pole structures for the Mississippi River crossing that place transmission lines side by side rather than stacked because it creates fewer vertical planes for bird impacts.

DNR Draft EIS Comment, p. 2, November 25, 2024.

The DNR's Division of Ecological and Water Resources raised the importance of the Mississippi in its July 10, 2023, comment raising need to coordinate with local government and local zoning:

> **Mississippi River Crossing**
>
> The DNR strongly prefers a route that utilizes existing crossings over the Mississippi River, especially within a wild and scenic river (WSR) district. Of the route options provided, the only existing crossing is within Wright County. We would prefer this alternative. We would also like to understand if continuing northwest along I-94 and connecting to the northern route alternative that avoids the trout stream and forest impacts in southern Stearns County would be feasible.
>
> Xcel Energy is involved in the development of multiple HVTL projects right now that may need to cross the Mississippi River to connect to the Sherco Solar Substation. We suggest greater coordination across projects to co-locate as many crossings as possible, especially if a new crossing within the WSR is deemed necessary. Please coordinate further with DNR as these projects move forward to identify the least impactful solution for all projects currently in development.
>
> Please be aware that in Sherburne County, most of the Mississippi River bank within the WSR district is also in a Bluff Impact Zone and may be subject to additional restrictions.

DNR Comment, p. 2, Xcel Application, Appendix E, p. 27 of 110, July 10, 2023.

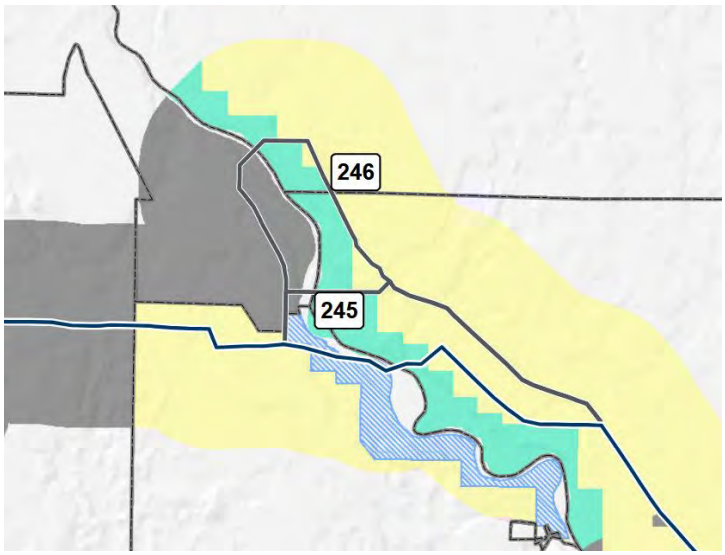
The Stearns County Shoreland Overlay covers the Mississippi River through the county which includes four different classifications in different sections. The Blue Route crosses in the section

at the bottom line of this chart classified as Scenic.[7]

D. Classified Rivers

Classification	River	From	To
Transition	Mississippi	Border of Stearns and Morrison Counties	CSAH 2 bridge in Sec 6, T126N, R28W
Agriculture	Mississippi	CSAH 2 bridge in Sec 6, T126N, R28W	South section line, Sec 9 T125N, R28W
Urban	Mississippi	North section line, Sec 16 T125N, R28W	CSAH 7 bridge in Sec 13, T124N, R28W
Scenic	Mississippi	CSAH 7 bridge in Sec 13, T124N, R28W	Border of Stearns and Wright Counties

Stearns County Comprehensive Plan, p. 57[8]; see also FEIS Map – Green indicates Natural Resource Overlay. Blue Route crossing is 3rd bump up from Clearwater, green on both sids of Missisippi River.



[7] Stearns County Shoreland Overlay District, Section 10.2, p. 10-24. https://content.civicplus.com/api/assets/883359f7-a627-4441-b011-6a97b1c57796

[8] Stearns County Comp Plan online at https://shapestearns.com/wp-content/themes/mod-stearns/uploads/Stearns%202040%20Comp%20Plan%20Adopted%207.28.2020.pdf

FEIS, Map 6-10[9] – Blue is "Shoreland District" and yellow is "Natural. Lynde Twp Natural Resource Overlay is not mentioned in narrative and is not shown on map.

Although the state typically pre-empts local zoning, the FEIS does address some local zoning restrictions:

> The project passes through scenic river, shoreland, and floodplain management districts throughout the counties. Minnesota Statute § 103F defines protection of water resources, including floodplain management, wild and scenic rivers, and shoreland areas and describes limitations on uses and locations of structures in those areas. These limitations are established through special land use provisions to maintain and restore the natural beauty and attractiveness of shoreland and to provide environmental protection for the water resources. These overlay districts were established to protect and enhance shoreland and floodplain areas by establishing additional restrictions and requirements for development and use of these resources.

FEIS, p. 98-99.

The FEIS after reviewing issues in the city of Augusta, continues:

> Elsewhere, the project is not anticipated to be inconsistent with authorized uses within the affected zoning districts crossed by any route alternative or be incompatible with future land use planning goals of local governments.

Id.

Despite these comments, the Commission gave little weight to the DNR and local governments' concerns, protections, and limitations.

Xcel Energy "responded" to the three "strong" and consistent DNR Comments in a reconfiguration of proposed routes and declared a "MDNR Route Preference" omitting its preference for Route Segment 246, and then a "DNR Proxy Route." Xcel Response to Hearing Comments, p. 7-19, 12-13-2024.[10] Xcel also shifted the analysis to a "balancing of both human and environmental features." Id., p. 7. This "balancing" natural resources versus residences is contrary to the impacts analysis of PEER:

[9] FEIS, Map 1-8, map 6-10, pdf p. 44 of 67.
[10] Online in eDockets 202412-212990-02

> *The Utilization of Balancing under the PPSA.* Section 116C.55 of the PPSA requires the MEQC to balance three separate criteria — human impact, environmental impact, and reliability and cost of electric power — in making HVTL routing decisions. Although the MEQC has interpreted this section to mandate balancing whenever no exclusion or avoidance areas are involved, Minn.Reg. MEQC 74(d)(3), such a position does not comport with MERA, which permits balancing only when one potential route will cause greater environmental and another greater human non-compensable damage. Therefore, the "human impact" discussed in the PPSA must refer to noncompensable impairment of human resources.

People for Environmental Enlightenment and Responsibility (PEER) v. Minn. Environmental Quality Council, 266 N.W.2d 858, 870 (Minn. 1978).

In so doing, Xcel not only directed the analysis of impacts away from PEER but completely omitted the DNR's strong preference for Blue Route Segment 246 in its overview with the false "MDNR Route Preference" claim for Region G:

Table 1

Region	MDNR Route Preference	Xcel Energy Preferred Route
A	A6 (Blue)	A6 (Blue)
B	B4 + 211, 214 (Blue)	B4 + 212 + 216 + 219 (Blue)
C	C4 + 223 (Blue)	C4 (Blue)
	105 (Connector B) (Purple)	
D	D1 (Purple)	D5 (Blue)
E	E1 (Purple)	E2 (Blue)
F	F1+ 109 or 110 (Purple)	F4 (Blue)
G	G1 and G4 + (237, 238, 240, 249, or 250+114) + G4 (247 or 248) (Blue to Purple) *OR* G3 + G5 (241) + G4 (247 or 248) (Purple)	G1 + 244 (Blue)

Xcel Response to Hearing Comments, p. 7.

In its narrative, Xcel states:

a. Minnesota Department of Natural Resources.

> In its November 25, 2024, comments, the Minnesota Department of Natural Resources (MDNR) identified its route preferences, by region, described its position regarding the Project's crossing of the Mississippi River, and discussed potential mitigation measures and route permit conditions.[20]
>
> *(1) Routing preferences.*
>
> As an initial matter, it is important to recognize that Xcel Energy developed the Blue and Purple Routes, as well as the Preferred Route, to avoid all MDNR lands, consistent with input provided by MDNR during the route development process. As discussed in Section B(1) above, Xcel Energy believes that the Preferred Route (with or without Route Segments 213 and 223) appropriately minimizes and balances impacts to both human and environmental features. In contrast, MDNR's routing preferences increase impacts on human settlement in some instances. Because Minnesota's routing criteria require consideration and balancing of both human and environmental features, Xcel Energy continues to believe that the Preferred Route is the best route for the Project.
>
> For reference and comparison, Table 1 below summarizes MDNR's and Xcel Energy's route preferences by region using the DEIS route naming terminology. Xcel Energy's more detailed responses regarding MDNR's route preferences are included in the sections that follow.

Xcel Response to Comments, p. 7, December 13, 2024.

Xcel's Response procedes section by section with this deception, and for Section G, Xcel completely omits Route Segment 246 in its overview of Region G:

> (g) Region G.
>
> First, in Region G, MDNR prefers the Blue Route (G1) in the western portion of the route, modified by "Route Segments 237, 238, 240, 249, or 250", followed by Route Segment 114 that connects to the Purple Route (G3) at Highway 45. MDNR states that this "avoids rare resources and a designated trout stream." Xcel Energy generally supports the Blue Route (G1) in Region G, but does not support Route Segments 237, 238, 240, 249, 250, or 114.

Id. p. 13.

Xcel does acknowledge Route Segment 246 in a section regarding the Mississippi River Crossing, and again rejects the DNR's preference:

(h) Mississippi River crossing.

MDNR states that it "strongly prefers a route that utilizes existing crossings over the Mississippi River," which would include the Purple Route or Route Segment 246.[25] With respect to the Project's crossing of the Mississippi River, Xcel Energy recognizes that utilizing existing crossings is generally preferred because doing so often avoids/minimizes potential aesthetic, vegetation, and other impacts. However, in these specific circumstances, Xcel Energy does not support the Purple Route's crossing of the Mississippi River (G3), nor does Xcel Energy support Route Segment 246 because both routes substantially increase impacts on human settlement.[26]

> Route G3 (Purple Route) would follow existing infrastructure at the river crossing, but would result in residential impacts south and west of Sherco. Specifically, the residences along 95th Avenue, north of the river crossing. In contrast, the Preferred Route's crossing of the Mississippi River would be adjacent to undeveloped land and would cross at a narrow river channel. As compared to other potential crossings, this crossing also minimizes impacts to residences. Route G3 (Purple Route) would also require crossing an existing transmission line at this river crossing location, as compared to zero line

Id. 16.

Xcel shifts the analysis to a matter of counting residences:

Figure 10

Route Segment 246 is an alternative crossing of the Mississippi River on the Blue Route. The route would increase impacts on residences because there is not sufficient right-of-way along River Road in this area. Specifically, there would be 42 residences within 500 feet of this route (shown in yellow boxes on Figure 11 below), as compared to two residences within the corresponding section of the Preferred Route. Route Segment 246 is also approximately 3.4 miles longer than the Preferred Route, with a corresponding increase in costs and impacts. Although Route Segment 246 would cross the Mississippi River with existing infrastructure (a 115 kV line), the crossing increases human and environmental impacts and is not supported by Xcel Energy.[27]

Figure 11

MDNR further states that it "generally prefers utilizing pole structures for the Mississippi River crossing that place transmission lines side by side rather than stacked because it creates fewer vertical planes for bird impacts."[28] A horizontal configuration at the Mississippi River crossing would require a 250-foot right-of-way because the lower height of the horizontal configuration requires the use of additional structures. Xcel Energy will use a horizontal configuration for the Mississippi River crossing, particularly given that the Preferred Route is not an existing crossing. Xcel Energy requests that any route permit issued by the Commission acknowledge the potential for a widened right-of-way at this location.

Id., p. 18.

Xcel summarizes various routing criteria, and uses a column labeled "MN DNR Route" with no mention of Route 246 and no mention that the DNR's preferred Route Segment 246 was omitted:

Table 2

	Xcel Energy Preferred Route	MDNR Route	Blue Route	Purple Route
Mileage[29]	175	175	174	171
Residences 0-75 feet	0	0	0	0
Residences 76-150 feet	16	13	16	19
Residences 151-300 feet	72	82	72	72
Residences 301-500 feet	58	77	57	68
Total residences 0-500 feet	146	172	145	159
BWSR easements crossed by right-of-way (number)	6	8	6	7
NWI wetlands within right-of-way (acres)	138	145	152	135
Following existing right-of-way, parcel, section, division lines (percent)[30]	91	91	89	89
Crossings of existing transmission lines 115-kV or greater (number)	12	12	12	23
Estimated cost[31] (rounded to nearest million)	$773 million	$802 million	$767 million	$787 million

Id. p. 19.

The ALJ's Recommendation continues with this mischaracterization of the DNR's preferred route in a section entitled "MDNR Route Preferences," Section E, beginning on page 39. Included is a table developed by Xcel Energy conveys routing options but does not correctly convey the DNR preference for blue alternative segment 246. Instead, it excludes the DNR preferred Blue Route Segment 246:

E. MDNR Route Preferences

218. In its November 25, 2024, comments, MDNR identified its route preferences by region. The table below is taken from Xcel Energy's Response to Hearing Comments and identifies, in each region, MDNR's route preferences, as compared to Xcel Energy's Preferred Route.

Region	MDNR Route Preference	Xcel Energy Preferred Route
A	A6 (Blue)	A6 (Blue)
B	B4 + 211, 214 (Blue)	B4 + 212 + 216 + 219 (Blue)
C	C4 + 223 (Blue)	C4 (Blue)
	105 (Connector B) (Purple)	
D	D1 (Purple)	D5 (Blue)
E	E1 (Purple)	E2 (Blue)
F	F1+ 109 or 110 (Purple)	F4 (Blue)
G	G1 and G4 + (237, 238, 240, 249, or 250+114) + G4 (247 or 248) (Blue to Purple) *OR* G3 + G5 (241) + G4 (247 or 248) (Purple)	G1 + 244 (Blue) [218]

219. MDNR's comments identified multiple potential route segments in some regions. To allow for some comparison among MDNR's route preferences, Xcel Energy's Preferred Route, and the Blue and Purple Routes, Xcel Energy compiled a "proxy" MDNR end-to-end route that includes the following route segments: Route A6; Route B4 and Route Segments 211 and 214; Route C4 with Route Segment 223, and Route Connector 105; Route D1; Route E1; Route F1 and Route Connector 110; and Route G1 with Route Segments 240, 249, and 115; and G3 with Route Segment 248. Xcel Energy notes that selecting a different combination of MDNR's preferred route segments in a proxy routing, in areas where segments overlap would result in different impact calculations.[219]

It was **Xcel** that unilaterally developed first the "MDNR Preferred Route" which became the "DNR Proxy Route," neither of which incorporated the agency's strong preference for Blue Route alternative 246 and which was carried forward, leaving Blue Route Segment 246 out of the mix:

> 219. MDNR's comments identified multiple potential route segments in some regions. To allow for some comparison among MDNR's route preferences, Xcel Energy's Preferred Route, and the Blue and Purple Routes, Xcel Energy compiled a "proxy" MDNR end-to-end route that includes the following route segments: Route A6; Route B4 and Route Segments 211 and 214; Route C4 with Route Segment 223, and Route Connector 105; Route D1; Route E1; Route F1 and Route Connector 110; and Route G1 with Route Segments 240, 249, and 115; and G3 with Route Segment 248. Xcel Energy notes that selecting a different combination of MDNR's preferred route segments in a proxy routing, in areas where segments overlap would result in different impact calculations.[219]

This false "DNR proxy route" was repeatedly utilized in the ALJ's Recommendation to evaluate and compare between route options. See e.g., ALJ Recommendation FoF 219 p. 40; FoF 385 p. 71-72; FoF 458 p. 82; Effects on Human Settlement p. 89; FoF 604 p. 115; FoF 638 p. 120; FoF 645 p. 121; Table 10 p. 124; FoF 671 and Table 11 p. 127; etc. This misleading characterization was repeated in the DEIS and the FEIS.

Commission staff brought this misinformation forward to the Commission in Briefing Papers, relying on the "DNR proxy route" repeatedly:

H. Minnesota Department of Natural Resources Route Recommendations

In its November 26, 2024, comments, the Minnesota Department of Natural Resources (DNR) identified its route preferences by region. In several cases the DNR identified multiple potential route segments within the same region. DNR did not recommend a complete route alternative. Therefore, in order to provide a like-for-like comparison of routes that could feasibly be permitted, Xcel Energy developed a DNR Proxy Route that utilizes the most reasonable route segments where the segments overlapped in the same region.[21]

The following table presents the combination of route segments recommended by Xcel Energy, DOC EERA, and DNR (See also Map 3 in Attachment B).

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[20] See Finding 671, Table 11.

[21] Xcel Response to Comments 18-19, ALJ Finding 219.

Xcel Energy, DOC DER, and DNR Recommended Route Segments

Region	Xcel Energy's Modified Blue Route	DOC EERA Route Recommendation	DNR Proxy Route
A	A6 (Blue)	A6 (Blue)	A6 (Blue)
B	B4 (Blue) + 212 + 216 + 219	B4 (Blue) + 211+ AA1 + 220 + 216	B4 (Blue) + 211 + 214
C	C4 (Blue) + Modified 223[22]	C4 (Blue) + 223	C4 (Blue) + 223 + 105 (Blue to Purple)
D	D5 (Blue)	D5 (Blue)	D1 (Purple)
E	E2 (Blue)	E2 (Blue)	E1 (Purple)
F	F4 (Blue)	F4 (Blue)	F1 (Purple) + 109 or 110
G	G1 (Blue) + 244	G1 (Blue) + 244	G1 (Blue) + 115 + 240 + 249 and G3 + 248

Notes: As analyzed in the FEIS: A6 incorporates alternative route 202, and D5 incorporates alternative route 226.

Staff Briefing Papers, April 10, 2025 meeting, p. 20-21, in fn. relying on Xcel Response to Comments 18-19, ALJ Finding 219, followed by use of "DNR Proxy Route" another seven times, not once mentioning that the DNR's true "strong preference" of the Purple Route or Route Segment 246 for the Mississippi River crossing were excluded from consideration.

	Xcel Energy ~~Preferred~~ Route	MDNR Route	Blue Route	Purple Route	EERA Route
Mileage[964]	175	175	174	171	175
Residences 0-75 feet	0	0	0	0	0
Residences 76-150 feet	16	13	16	19	15
Residences 151-300 feet	72	82	72	72	76
Residences 301-500 feet	58	77	57	68	55
Total residences 0-500 feet	146	172	145	159	146
BWSR easements crossed by right-of-way (number)	6	8	6	7	7
NWI wetlands within right-of-way (acres)	138	145	152	135	134
Following existing right-of-way, parcel, section, division lines (percent)[965]	91	91	89	89	91
Crossings of existing transmission lines 115-kV or greater (number)	12	12	12	23	9
Estimated cost[965] (rounded to nearest million)	$773 million	$802 million	$767 million	$787 million	$787 million

Staff Briefing Papers, Table 2, Proposed Exceptions, E19, p. 5-6 of 8; see also E13-18; Map 3 of Attachment B (maps).

In Decision Options, staff also used the "DNR Proxy Route" as option 9F:

Route Permit

9. Grant a route permit for the MNEC Project and designate the following route:

    a. Green and Purple Routes
    b. Green and Blue Routes
    c. Xcel Energy Modified Blue Route + AA1 (Xcel Energy)
    d. DOC EERA Route (DOC EERA)
    e. DOC EERA Route + Xcel Energy Modified 223 (PUC Staff)
    f. DNR Proxy Route

Staff Briefing Papers, p. 35.

The Commission, it its Order, does state in passing the DNR's preference of Blue Route Segment 246, but fails to include that in its table of "route preferences.' Despite the Commission's statement of DNR preference of either the Purple Route or the Blue Route using Route Segment 246, the Commission then goes on to adopt Xcel Energy's characterization of a MDNR Preferred Route/DNR Proxy Route development and use of a "DNR Proxy Route, repeated in Staff Briefing papers – using a route that based on repeated false characterizations.

This "DNR Proxy Route" is not representative of the DNR's preferences, instead it conceals the DNR's "strong support" of use of the purple route or Blue Route Segment 246 to cross this wild and scenic portion of the Mississippi River:

> The DNR preferred a route over the Mississippi River that utilizes existing crossings, recommending the Purple Route in Wright County or Route Segment 246 along the Blue Route. According to the DNR, these routes would reduce the impact to the WSR district and minimize impacts related to viewshed, vegetation removal, and Minnesota Biological Survey (MBS) Sites of Biodiversity Significance. To minimize vertical planes for potential bird impacts, the DNR expressed a general preference for side-by-side (rather than stacked) placement of pole structures at the Mississippi River crossing.
>
> The DNR identified its route preferences by region and expressed support for multiple potential route segments in several regions but did not recommend a complete end-to-end route alternative. To enable a like-for-like comparison of route alternatives for which a permit could be feasibly issued, Xcel developed a DNR Proxy Route that incorporated the most reasonable route segments in regions where the DNR supported more than one route segment.

Figure 2 provides the route preferences of Xcel, EERA, and the DNR:

Figure 2

Region	Xcel's Preferred Route[14]	EERA's Recommended Route	DNR Proxy Route
A	A6 (Blue)	A6 (Blue)	A6 (Blue)
B	B4 (Blue) + 212 + 216 AA1+ 219	B4 (Blue) + 211+ AA1 + 220 + 216	B4 (Blue) + 211 + 214
C	C4 (Blue) + Modified 223	C4 (Blue) + 223	C4 (Blue) + 223 + 105 (Blue to Purple)
D	D5 (Blue)	D5 (Blue)	D1 (Purple)
E	E2 (Blue)	E2 (Blue)	E1 (Purple)
F	F4 (Blue)	F4 (Blue)	F1 (Purple) + 109 or 110
G	G1 (Blue) + 244	G1 (Blue) + 244	G1 (Blue) + 115 + 240 + 249 and G3 + 248

Notes: As analyzed in the Final EIS: A6 incorporates Alternative Route 202, and D5 incorporates Alternative Route 226.

Commission Order, p. 15.

The DNR is the agency of natural resource expertise, not the Commission.. Xcel's omission in its "DNR proxy route" mischaracterized the DNR's preference and lends tacit DNR approval of this route option. The Commission's adoption of Xcel's mischaracterization included omission in the FEIS, repeated in the Staff Briefing Papers and ultimately the Commission's decision. This omission is a material factual error and is grounds for reconsideration by the Commission.

III. NATURAL RESOURCES V. RESIDENCES RESULTING IN GREENFIELD ROUTING OVER THE MISSISSIPPI RIVER IS CONTRARY TO THE STATE'S POLICY OF NON-PROLIFERATION.

The Commission's choice of the Blue Route Mississippi River crossing is an error of law. Use of a greenfield crossing of the Mississippi River rather than the reasonable and prudent Purple Route crossing or Route Segment 246, as preferred by the DNR, or another reasonable and prudent route is an error of law.

The State of Minnesota has a "non-proliferation" policy for the routing of transmission that directs the Commission's decisions for routing to share right of way and use existing

corridors. This policy of "non-proliferation" was established decades ago by People for Environmental Enlightenment and Responsibility (PEER) v. Minn. Environmental Quality Council, 266 N.W.2d 858 (Minn. 1978).

PEER held, in part:

> An HVTL routing that impairs, pollutes, or destroys protected natural resources cannot be approved if there is a prudent and feasible alternatives route available.

PEER at 864.

Xcel framed the routing decision options as natural resources v. residences and assigned improper weight to the residences:

> (h) Mississippi River crossing.
>
> MDNR states that it "strongly prefers a route that utilizes existing crossings over the Mississippi River," which would include the Purple Route or Route Segment 246.[25] With respect to the Project's crossing of the Mississippi River, Xcel Energy recognizes that utilizing existing crossings is generally preferred because doing so often avoids/minimizes potential aesthetic, vegetation, and other impacts. However, in these specific circumstances, Xcel Energy does not support the Purple Route's crossing of the Mississippi River (G3), nor does Xcel Energy support Route Segment 246 because both routes substantially increase impacts on human settlement.[26]

Xcel Response to Comments, p. 16.[11]

As above, the DNR's strong preference was repeatedly stated:

> The DNR preferred a route over the Mississippi River that utilizes existing crossings, recommending the Purple Route in Wright County or Route Segment 246 along the Blue Route. According to the DNR, these routes would reduce the impact to the WSR district and minimize impacts related to viewshed, vegetation removal, and Minnesota Biological Survey (MBS) Sites of Biodiversity Significance.

Order, p. 15.

However, the Commission improperly based its decision, and the ALJ had improperly based her decision on the impact of a route on residences. Order, p. 15.

[11] Xcel Response to Hearing Comments, p. 16, 12/13/2024, online at 202412-212990-02.

> 212. Ultimately, Xcel Energy prefers Crossing 6, which is part of the Preferred Route (and the Blue Route). Although Crossing 6 does not have existing infrastructure at the crossing, it is located adjacent to undeveloped land and would cross at a narrow river channel. As compared to other potential crossings, this crossing of the Mississippi River minimizes impacts to residences.[212]

ALJ Recommendation, p. 38; see also Ex. Xcel-16 at 17.

Under Minnesota law, this focus on residences is errorenous. Proximity and impacts to residences is a lower priority than protection of natural resources. The protection of natural resources, which are noncompensible, prevails where routes are available with impact, but impacts where compensation is available, and where harms are compensable. PEER specifically holds that:

> There is no evidence that the taking of some homes will create noncompensable loss within the meaning of "human impact" intended by the legislature. Nothing in the record before us supports the conclusion that the structures that will be condemned if [the route] is utilized have unique characteristics that would make it difficult or impossible to assess adequately the damages to be paid for their taking.

PEER, at 864.

As in PEER, there is no evidence in this docket that routing on either of the DNR's strongly preferred routes utilizing existing crossings of the Mississippi River and the taking of some homes would create noncompensable loss. This is particularly relevant in light of Minnesota's Buy the Farm compensation to landowners that provides an option for landowners to require a full buy-out if transmission is routed over their land. Minn. Stat. §216I.21, Subd. 4 (2024).

The Commission's focus on "residences" as a primary consideration, routing using a river crossing without an existing crossing, disregarding the non-compensable natural resource of the Mississippi River, and routing contrary to the DNR's strong preference of reasonable and compensable alternatives is an error of law.

IV. AN EXISTING MISSISSIPPI RIVER CROSSING SHOULD BE USED INSTEAD OF GREENFIELD CROSSING OVER DESIGNATED SCENIC AND RECREATIONAL RIVER AREAS

The new crossing of the Mississippi River is in an area designated as both "Scenic" and "Recreational." Minn. R. 6105.0830; 6105.0840. In addition to the PEER decision and the DNR's stated "strong preference" for the Purple Route with its existing crossing, or the Blue Route Segment 246, there are rules addressing transmission crossings over state designated Scenic and Recreational River Areas. The rules for routing transmission in these designated areas provide for permits allowing crossings but state a clear preference for existing crossings:

> **6105.0170 PERMITS FOR UTILITY TRANSMISSION CROSSINGS.**
>
> Subpart 1. **Requirement.** All utility crossings (transmission and distribution) of wild, scenic, or recreational rivers, or of state lands within their land use districts which are under the control of the commissioner, require a permit from the commissioner pursuant to Minnesota Statutes, section 84.415 or 103G.245. In reviewing permit applications for such crossings, primary consideration shall be given to crossings that are proposed to be located with or adjacent to existing public facilities, such as roads and utilities.

By declaring and promoting the "DNR Proxy Route," Xcel has shifted review away from the Mississippi River's state designation as a Wild and Scenic River, the primacy of use of existing crossings, and surreptitiously removed the DNR's preferred Purple Route and Blue Route Segment 246 from consideration. This is an error of law.

V. THE FINAL ENVIRONMENTAL IMPACT STATEMENT IS INADEQUATE

Environmental issues are a main concern for the Cabreras, and they brought up numerous environmental issues in their comments.

> The construction and maintenance of high-power transmission lines threaten local ecosystems, harm wildlife, and permanently alter the landscape. This directly undermines the Scenic River Act's intent to protect the area's natural beauty.

Cabrera DEIS Comment, p. 1, November 24, 2024. They are very concerned, because:

> The suggested path along the river crossing is counterintuitive when there are easily viable alternatives. Following along the riverfront to take up maximal shoreline for several hundred feet not only has severe economical impact on the surrounding homeowners, but also ecological impact. Soil erosion is a significant concern as we have lost several feet of shore over the past 2 decades. Alteration and maintenance of the vegetation near the shoreline all disrupts the local river ecosystem. Placing the river crossing right at one of the islands is counterintuitive as the islands serve as a sanctuary for river wildlife. This is where we daily view deer, turkey, geese, turtles, beaver, various birds and other fauna resting or seeking refuge. Care should be taken to maximally avoid the river and its shoreline as the MN Dept. of Natural Resources specifically designated this portion of the river as "scenic" from St. Cloud to Clearwater as part of Minnesota's Wild and Scenic River Program.

Cabrera DEIS Comment, p. 2, November 24, 2024; see also Minnesota's Wild and Scenic Rivers Act, Minn. Stat. §103.01-.345.

In an effort to find a more suitable option, one that would comply with the Wild and Scenic Rivers Act and honor the DNR's "strong preference," the Cabreras proposed four alternatives for crossing the Mississippi, one of which was essentially the Segment 246 option:

> **Alternative 3:** The line could cross the river 1.8 miles to the north where there is already a power line crossing which may have less environmental impact. This would have less effect on property values since there is a pre-existing power line.

Id., p. 2. This river crossing utilizing existing corridor became Route Segment 246, but the path was drawn along County Road 8, adjacent to more houses, rather than following along the trajectory of the current proposed blue line, along the fields along County Road 8 before it turns to the river, which would avoid the majority of the residences used as rationale for rejection of that route segment. This illogical routing into a path of most resistance added to the "reasons" to route elsewhere.

A. THE EIS IS INADEQUATE BECAUSE IT GENERALLY CONFLATES COMPENSABLEIMPACTS WITH NON-COMPENSABLE IMPACTS

Route 246 is included in the FEIS and compares it against the Blue Route as proposed.

According to the FEIS, Route Segment 246 is superior in that it utilizes the greatest percentage of existing infrastructure; it crosses fewer watercourses and no waterbodies and no NWI wetland acreages, and it does not cross through the middle of the State Game Refuge.

Table 12-17 Route 245 and 246 vs Their Equivalent Impacts Summary

Resource	Summary
Paralleling Existing Infrastructure	Route Segment 246 parallels the most existing infrastructure (96%) followed by Route Segment 245 (75%). Their equivalent does not parallel existing infrastructure.
Human Settlement	The equivalent does not have any residences within 75-250 feet, while Route Segment 245 has 10 and Route Segment 246 has 25. Route Segment 246 has the most residences at every distance, while the equivalent has the least. Route Segment 245 would box in one property along its length in Sherburne County and create significant aesthetic impacts, as shown in Figure 12-11.
Land-Based Economies, Agriculture	Route Segment 246 intersects 2 more center pivot irrigation systems than the equivalent. Route Segment 245 intersects the same number of center pivot irrigation systems as the equivalent. The equivalent includes more acres of prime farmland but would likely result in less impacts to center pivot irrigation systems (Map 11.9).
Natural Environment – Surface Waters and Wetlands	Route Segment 245 crosses 1 watercourse; it also includes 4 acres of NWI wetlands (<1 acres of which are forested wetlands). Route Segment 246 crosses one watercourse and has 1 acre of NWI wetlands. The equivalent crosses two watercourses and one waterbody; it also includes 4 acres of NWI wetlands.
Natural Environment - Vegetation	According to the NLCD, the ROW of Route Segments 245, 246, and their equivalent would traverse approximately 9, 10, and 12 acres of forested landcover, respectively.
Natural Environment – Wildlife and Wildlife Habitat	The route widths of Route Segments 245, 246, and their equivalent intersect a Grassland Bird Conservation Area, with Route Segment 246 intersecting the most acreage (726 acres) and their equivalent intersecting the least (310 acres). All of their anticipated alignments cross the Grassland Bird Conservation Area. The route widths of Route Segments 245 and 246 intersect a Wildlife Action Network corridor polygon but neither of their anticipated alignments would cross it. The route width of their equivalent route avoids the Wildlife Action Network corridor polygon. The route widths of Route Segments 245, 246, and their equivalent intersect a State Game Refuge. The anticipated alignments for Route Segments 245 and 246 would traverse the northern edge of the State Game Refuge, while their equivalent would cross through the middle of it.

FEIS, Table 12-17, p. 449. Note that Table 12-17 includes Human Settlement and compares the numbers of residences – this is contrary to the distinction drawn in PEER between compensable and non-compensable impacts, and it not a valid comparison. See PEER, 266 N.W.2d 858, 870 (Minn. 1978).

B. THE FEIS IS INADEQUATE BECAUSE IT RELIES ON XCEL's "DNR ROUTE PROXY" AND HIDES DNR'S "STRONG PREFERENCE."

Section II above addresses the DNR's clear route preference and Xcel's misstatements using a "DNR Proxy Route." The FEIS is inadequate to the extent that it carries forward this

mischaracterization of DNR route preference and hides the DNR's "strong preference" of the Purple Route or Blue Route Segment 246 for the Mississippi River crossing.

The FEIS is very clear on how to avoid impacts:

> The primary means to mitigate potential impacts to federally and state protected species is to avoid routing through habitat used by these species.

FEIS, p. 175

Despite this obvious statement, as above, the permitting of this route relied heavily on a gross mischaracterization of a "DNR Proxy Route" by Xcel rather than incorporating the DNR's clearly stated strong preferences which would avoid these areas of habitat.

Again, the Dept. of Natural Resources made a clear recommendation for the Mississippi River Crossing in its initial Environmental Impact Statement Scoping Comment:

Mississippi River Crossing

The DNR strongly prefers a route that uses existing crossings over the Mississippi River, especially within a Wild and Scenic River (WSR) district. Of the route options provided, the Purple Route in Wright County is the only route that uses an existing crossing. Our agency supports only the Purple Route crossing of the Mississippi River.

The proposed Blue Route would cross a large island and is at a section of the river where the river is more braided. Once the Blue Route crosses into Stearns County, it runs along the Mississippi River for approximately 2,600 linear feet. This route could require heavy tree clearing along the river. If these trees are removed the riverbank could become unstable.

Our agency is disappointed that there was not greater coordination across other Xcel Energy transmission line projects that connect to the Sherco Solar Substation. If a new crossing within the WSR district is necessary, it should be combined with other crossings of the Mississippi River to lessen the impact to WSR district. These impacts include altering the viewshed of this natural area, removing trees that are important to bank and bluff stability, and fragmenting sites that are mapped as Minnesota Biological Survey (MBS) sites of biodiversity significance.

The Scoping Comment also addresses separately the Mississippi River's Wild and Scenic status:

Designated Wild, Scenic, and Recreational Rivers

Minnesota's Wild and Scenic Rivers Act provides statutory protection for rivers and adjacent lands that possess outstanding scenic, recreational, natural, historical and scientific attributes. The following state-designated river segments are within the project area:

- Mississippi River: from St. Cloud to Anoka (as provided by MN Rules, part 6105.0800)
- North Fork - Crow River: in Meeker County (as provided by MN Rules 6105.1000)
- Minnesota River: from Lac Qui Parle dam to Franklin (as provided by MN Rules 6105.1200)

The EIS should discuss potential impacts to these protected rivers, which are also public waters, and how they will be avoided, minimized, or mitigated.

DNR Scoping Comment, p. 1-2, February 21, 2024.

This "strong preference" recommendation was further stressed in the DNR's Draft EIS Comment of November 25, 2024:

Region G

The DNR prefers Route Option B (Blue Route) and Route Segments 237, 238, 240, 249, or 250 in combination with Route Connector 114 that rejoins the Purple Route at County State-Aid Highway (CSAH) 45. This avoids rare resources and a designated trout stream. The DNR prefers the use of Route Segments 247 or 248 to avoid new ROW over the Clearwater River.

As an alternative, the DNR supports the Purple Route east of School Section Lake only in combination with Route Segment 241. This would avoid impact to Fairhaven Creek, a designated trout stream.

DNR Draft EIS Comment, p. 2, November 25, 2024.

This DNR recommendation of avoidance of important natural resources outweighs the rationale of routing around residences, a compensable feature. People for Environmental Enlightenment and Responsibility (PEER) v. Minn. Environmental Quality Council, 266 N.W.2d 858, 870 (Minn. 1978). The FEIS is inadequate in promoting the notion of a "DNR Proxy Route" and failing to bring forth the DNR's recommendation.

C. THE FEIS IS INADEQUATE AS IT MISREPRESENTS AGENCY TRACKING OF EAGLE NESTS

The FEIS is inadequate because it fails to disclose and consider locations of eagle nests that could or would be impacted by this transmission project.

In their comments for the scope of the EIS and on the DEIS, the Cabreas brought up eagles, known to forage and nest across the river from their home.[12] Viewing the eagles is an important feature of life along the river due to the abundance of habitat and foraging area.

> First and foremost, the construction of high voltage transmission lines across the river would disrupt the natural habitat of various flora and fauna that call this area home. The scenic views that draw tourists and locals alike to this region would be marred by the presence of towering structures and intrusive infrastructure. The river serves as a vital corridor for wildlife, and the installation of power lines could lead to habitat fragmentation, hindering the movement and migration patterns of numerous species. This disruption could ultimately result in a decline in biodiversity and the degradation of the ecosystem as a whole. Additionally, the risk of electrocution for birds, including our local eagles, poses a significant concern. Not only is killing eagles illegal under various laws, including the Migratory Bird Treaty Act, but it also undermines efforts to protect our precious wildlife.

Xcel's application notes "BGEPA prohibits disturbance that may lead to biologically significant impacts, such as interference with feeding, sheltering, roosting, and breeding or abandonment of a nest (USFWS, 2007)." Transmission projects often require an eagle take permit.

The row of trees along the bluff on the Mississippi River shore directly across the river from the Cabrera home, where the transmission is planned to be constructed, is a known eagle foraging and nesting area:

[12] See Cabrera Scoping Comments, 2/21/2024 20242-203668-02 and 20242-203670-02; DEIS Comments 11/25/2025 202411-212348-01 and 202411-212349-01.

Per the FEIS:

> The primary strategy for mitigating impacts is to select route alternatives away from areas known to contain high-quality habitat or which serve as migratory corridors. Use of existing rights-of-way can minimize habitat loss and fragmentation. Impacts to wildlife can also be minimized by spanning habitats and minimizing the number of structures in high-quality habitat through the use of specialty structures.

FEIS, p. 196.

Although Bald Eagles are no longer an "endangered species," they remain protected by the **Migratory Bird Treaty Act** and **Bald and Golden Eagle Protection Act**:. Consultation with U.S. Fish and Wildlife is required, and that requirement is acknowledged in the FEIS:

> Migratory birds are protected under the Migratory Bird Treaty Act of 1918 (16 USC 703-712), which prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests. Bald eagles (*Haliaeetus leucocephalaus*) and golden eagles (*Aquila chrysaetos)* are protected under the MBTA and the federal Bald and Golden Eagle Protection Act (BGEPA; 16 USC 668-668d), which specifically prohibits the taking or possession of and commerce in, either alive or dead, or any part, nest, or egg of these eagles.

FEIS, p. 194; see also p. 29, Table 2-1.

Project proponents are responsible for determining if an eagle nest is present and avoiding impacts to both eagles and their nests. However, there is nothing in the record to demonstrate that suffiicient consultation has occurred and that foraging areas and nests have been identified. Neither the Xcel application nor the FEIS document the known eagle foraging and nesting area across the river from the Cabrera home, or any known eagle foraging and nesting areas..

The FEIS states that neither the DNR nor U.S. Fish and Wildlife track eagle nests:

Currently, the state of Minnesota does not track locations of bald eagles or their nests. The DNR is in the process of developing a database of eagle nest locations; however, it is not currently available. The DNR suggests reporting any eagle sightings on eBird (https://ebird.org/home); these reports will ultimately become part of the DNR's eagle database.

The USFWS also does not have any public data available on eagle nest locations. USFWS bald eagle management guidelines indicate that activities within 660 feet of an active nest and occur within line of sight of the nesting location might have the potential to disturb nesting bald eagles (reference (210)). Impacts to bald eagles could be minimized by conducting a visual inspection for bald eagle nests not more than two weeks before construction activities begin, if work will occur during the active nesting period for bald eagles (January 15 – July 31). If an active nest is observed and if construction would need to take place during the time that the nest remains active, consultation with the USFWS would need to occur to determine the appropriate next steps. Under this circumstance, a variety of options are available, including having a biological monitor to observe and determine if project activities are resulting in disturbance, shifting the project schedule to avoid the active nesting season, or submitting an incidental take permit that would allow work to proceed even if it is likely to result in disturbance.

FEIS, p. 198.

This is not accurate. An internet search turns up a DNR site that identifies locations where eagle nests have been documented at the Minnesota Geospatial Commons.[13] This should be disclosed, and the DNR resource consulted and available documentation included in the FEIS. This is a rather significant omission.

There is a known eagle foraging area and nest located on the Blue Route as it parallels the bluff along the Mississippi shoreline on the centerline intended for the line. Despite this acknowledged data resource, the FEIS does not address any investigation and does not document the presence of an eagle nest along the blue route where the trees along the shore of the Mississippi will be razed.

It's difficult to imagine that the area eagles and eagle habitat would not be disturbed by locating the transmission line on the Blue Route crossing of the Mississippi River.

[13] This page can be found at https://gisdata.mn.gov/dataset/biota-bald-eagle-nest-locations Specific software is required to utilize this database, and presumably the DNR would have it and Commerce EERA should have it.

"Disturb means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior."

Disturb: National Bald Eagle Management Guidelines[14], p.2

To avoid disturbing nesting bald eagles, we recommend (1) keeping a distance between the activity and the nest (distance buffers), (2) maintaining preferably forested (or natural) areas between the activity and around nest trees (landscape buffers), and (3) avoiding certain activities during the breeding season. The buffer areas serve to minimize visual and auditory impacts associated with human activities near nest sites. Ideally, buffers would be large enough to protect existing nest trees and provide for alternative or replacement nest trees.

Recommendations, from Guidelines, p. 9.

	If there is no similar activity within 1 mile of the nest	***If there is similar activity closer than 1 mile from the nest***
If the activity will be visible from the nest	660 feet. Landscape buffers are recommended.	660 feet, or as close as existing tolerated activity of similar scope. Landscape buffers are recommended.
If the activity will not be visible from the nest	Category A: 330 feet. Clearing, external construction, and landscaping between 330 feet and 660 feet should be done outside breeding season. Category B: 660 feet.	330 feet, or as close as existing tolerated activity of similar scope. Clearing, external construction and landscaping within 660 feet should be done outside breeding season.

Powerlines are Category A, Guidelines, p. 12.

It appears that activity should be at least 660 feet from nests, and the FEIS does not show locations of any eagle nests.

There is additional guidance for activities that eagles may find disturbing:

[14] https://www.fws.gov/sites/default/files/documents/national-bald-eagle-management-guidelines_0.pdf

Category G. Helicopters and fixed-wing aircraft.
Except for authorized biologists trained in survey techniques, avoid operating aircraft within 1,000 feet of the nest during the breeding season, except where eagles have demonstrated tolerance for such activity.

Category H. Blasting and other loud, intermittent noises.
Avoid blasting and other activities that produce extremely loud noises within 1/2 mile of active nests, unless greater tolerance to the activity (or similar activity) has been demonstrated by the eagles in the nesting area. This recommendation applies to the use of fireworks classified by the Federal Department of Transportation as Class B explosives, which includes the larger fireworks that are intended for licensed public display.

Helicopters and percussive noise (explosions to connect conductors?), Guidelines p. 14

The FEIS is inadequate as there is no demonstration that Xcel has done the background investigation to determine whether eagles will be affected by this transmission construction.

The FEIS is inadequate because it states that neither DNR nor USFWS have eagle nest locations when the DNR has a site documenting eagle nest locations[15] that presumably Commerce-EERA could access, and if not, certainly the DNR can. Although that listing was recently published, and is not all inclusive, it should at the very least be consulted. Until this information is incorporated into the FEIS, it is inadequate.

D. THE FEIS GIVES INADEQUATE WEIGHT TO AESTHETICS AND DESTRUCTION OF VIEWSHED

The primary means of protection of an area's aesthetics and destruction of a viewshed is avoidance.

The primary strategy for minimizing aesthetic impacts is prudent routing—that is, choosing routes where a HVTL is most harmonious with the landscape. Other minimization and mitigation measures include:

- Maximizing ROW sharing and/or paralleling with existing linear rights-of-way (for example, transmission lines, roadways, and railroads) to minimize incremental aesthetic impacts.
- Avoiding routing through areas with high-quality, distinctive viewsheds.

FEIS, p.79.

[15] https://gisdata.mn.gov/dataset/biota-bald-eagle-nest-locations

A primary reason the Cabreras chose the location for their home is its positioning on a bluff overlooking the Mississippi. In Comments, this was raised repeatedly:

> We, Miguel Cabrera and Shannon Cabrera MD, are writing to express our strong opposition to the proposed blue route construction of high voltage transmission lines across the scenic section of the Mississippi River. This route would run along the shoreline and then traverse between our entire riverfront and the "Mississippi Island" significantly impacting our view and property value. Why would the powerline route run along the river shoreline at all?
>
> …
>
> The scenic views that draw tourists and locals alike to this region would be marred by the presence of towering structures and intrusive infrastructure.
>
> Furthermore, the visual and noise impact of the power lines would detract from the scenic beauty of the river and surrounding landscape. This could have significant implications for tourism and recreation in the area like hunting, fishing, camping, rock hunting, tubing, and kayaking. This will potentially affect local businesses and the economy.

Cabreras, Scoping Comment, February 20, 2025.

In a second Scoping Comment, the Cabreras stated:

> We bought our property in 2006 for its peaceful setting and beautiful view of the Mississippi river. Over the past nearly 20 years of residence, we have made significant investments of over a million dollars into the property including a building addition in 2008, and a large remodel in 2021 to maximize our view of the river.
>
> If the blue line were placed as currently drawn, our entire riverfront view would be traversed by the power line. The power line would dominate the entire riverfront as it would follow the shoreline for several hundred feet, then crosses the river in front of our home, not in a straight line, but diagonally taking up maximal shoreline. There are only 4 homes within this ½ mile stretch of the river, otherwise farmland yet directly in front of the homes is where Xcel proposes to cross. This would negatively affect the waterfront view of the few homes in this area and destroy their property value beyond what is reasonable. These homes were purchased for their riverfront and their property value is based on their waterfront view. It is one thing or maybe compensable for a High-voltage line to cross someone's property, it's completely another to take over someone's waterfront / riverfront. How would we ever sell the property when the powerline has decimated its view and value?

Cabreras, Scoping Comment p.1, February 20, 2025.

The Cabreras have serious concerns about the impact of viewshed if the Blue

route is constructed:

> Public disapproval of this project is clear and overwhelming. The local citizens, constituents, and property owners strongly oppose the construction of the transmission line. Public comments consistently highlight concerns about property devaluation, environmental harm, and health risks. The only voices in favor of the project come from Xcel Energy itself and a few organizations with vested interests. The opposition from those directly affected by the transmission line should weigh heavily in the Commission's decision-making process, as it reflects the will of the people who will bear the consequences of this development.
>
> Every day, we drive through an area already dominated by solar farms, power plants, electrical substations, and transmission lines. These industrial structures overwhelm the landscape. When we return home, we seek peace and refuge in the natural beauty of the river, which is protected by the Scenic River Act. This act exists to preserve wild ecosystems, scenic views, natural sounds, and recreational river land use. The proposed blue transmission line will dominate the entire river front as it would follow the shoreline for several hundred feet, then cross the river diagonally in front of our home. This would irrevocably alter the view of the river, the island, and the surrounding fields. No amount of monetary compensation could replace what would be lost. Our river front property value will take a significant loss in value due to this project, more extreme than any single landowner should be expected to bear.

Cabreras, DEIS Comment, November 24, 2024; see also Minnesota's Scenic Rivers Act, Minn. Stat. §103F.301-.345.

> Overall, aesthetic impacts are anticipated to be moderate, with a few areas subject to more significant impacts. State water trails and scenic byways are crossed by route segments in multiple regions and in limited cases the proposed HVTL would introduce new infrastructure in an otherwise undeveloped area resulting in more significant aesthetic impacts.

FEIS, p. 8.

Similarly, the FEIS points out the odds that the Cabreras, in their undeveloped viewshed and the Wild and Scenic Mississippi River and its Great River Road National Scenic Byway would suffer significant impacts:

> The Great River Road National Scenic Byway follows the Mississippi River and spans 565 miles across 20 counties (reference (242), Map 5.10). Route Segments G1 (Blue Route) and G2 would cross the scenic byway and the Mississippi River

> on the border of Stearns County and Sherburne County, just east of Interstate 94 and around two miles north of the City of Clearwater (Map N.204). The Mississippi River is a designated state water trail, which promotes water recreation (Minnesota Statutes § 85.31), and a wild and scenic river (Minnesota Statutes § 103F.305), which falls under certain protections put in place in Minnesota's 1973 Wild and Scenic Rivers Act. As discussed in Section 12.6.9, Route Segment G1 (Blue Route) would parallel the Mississippi River (approximately 0.8 mile), which would increase the intensity of the aesthetic impact at this location. At the scenic byway location for Route Segments G1 (Blue Route) and G2, no existing transmission lines are present but existing development is present north of the anticipated alignments. Similarly, there are no existing transmission lines present where Route Segments G1 (Blue Route) and G2 cross the Mississippi River and trees would need to be removed from the shoreline (Map N.205). Given the lack of development at the watercourse crossing, aesthetic impacts would be anticipated to be significant.

FEIS, p. 411.

The Commission failed to select an existing crossing of the Mississippi River and instead chose a new crossing. That selection is contrary to Minnesota's policy of transmission non-proliferation and would result in far greater impacts than any other route option. This is an error of law.

E. THE EIS FAILS TO SUFFICIENTLY ADDRESS THE IMPACT OF PROJECT ON PROPERTY VALUES

In each of their comments, the Cabreras raised the issue of loss of property value.

> Many landowners in the affected area have invested significant time, effort, and resources into preserving and maintaining their properties. The construction of power lines through these lands would not only infringe upon their property rights but also diminish the value and appeal of their properties, further exacerbating the negative effects of this project on the community.

Cabrera Scoping Comment, February 21, 2024.

Additionally:

> Recent statistics show that high voltage power lines decrease property value from 10-40% depending on distance and other variables. Power lines block views and are visually unappealing, especially for those of us who choose to live in this area for its natural setting.

Cabrera Scoping Comment #2, February 20, 2024.

The FEIS did add information on viewshed and aesthetic acknowledging impacts:

> Commenters also noted that the potential for impact is greater when the property itself relies heavily on its aesthetic character, for example, a riverfront property or other scenic viewshed. While studies specific to these impacts were not identified, EERA staff believes these concerns to be legitimate.

FEIS, p. 105. However, despite these admissions of impacts, in the following paragraph, this statement valuing viewshed and aesthetics is dismissed as subjective. Id.

The Cabreras' home was designed to frame the viewshed. It "relies heavily on its aesthetic character, for example a riverfront property or other scenic viewshed" and potential for impact is greater a home is focused on a particular viewshed. This is an indicator of a substantial, material, and non-compensable impact, one that should be avoided.

F. THE FEIS GENERALLY DISREGARDS FOUNDATIONAL ENVIRONMENTAL LAW

The FEIS is inadequate because it blatantly disregards Minnesota's longstanding policy of "non-proliferation" in the routing of transmission lines, both generally and specifically. To the extent that the Commission's Order contradicts the requirement of PEER by failing to utilize existing transmission routes, and by improperly evaluating routes with false equivalence of compensable residences with non-compensable natural resources, the FEIS is inadequate, and the Commission's Order is an error of law.

Our "non-proliferation" policy was established by People for Environmental Enlightenment and Responsibility (PEER) v. Minn. Environmental Quality Council, 266 N.W.2d 858 (Minn. 1978). PEER held, in part:

> An HVTL routing that impairs, pollutes, or destroys protected natural resources cannot be approved if there is a prudent and feasible alternatives route available.

Id. at 864.

As stated above, "balancing" natural resources versus residences, as was done in the DEIS and FEIS, is contrary to the impacts analysis directive of PEER:

> *The Utilization of Balancing under the PPSA.* Section 116C.55 of the PPSA requires the MEQC to balance three separate criteria — human impact, environmental impact, and reliability and cost of electric power — in making HVTL routing decisions. Although the MEQC has interpreted this section to mandate balancing whenever no exclusion or avoidance areas are involved, Minn.Reg. MEQC 74(d)(3), such a position does not comport with MERA, which permits balancing only when one potential route will cause greater environmental and another greater human non-compensable damage. Therefore, the "human impact" discussed in the PPSA must refer to noncompensable impairment of human resources.

People for Environmental Enlightenment and Responsibility (PEER) v. Minn. Environmental Quality Council, 266 N.W.2d 858, 870 (Minn. 1978).

> At issue is whether harms are compensable, and "homeowners can argue against HVTL routes that will impair their residence only if they can demonstrate unique irreplaceable characteristics of their homes not reflected in market value which would make their taking noncompensable."

PEER at 870.

The protection of natural resources, which are noncompensible, prevails over routes where compensation is available, and specifically holds that:

> There is no evidence that the taking of some homes will create noncompensable loss within the meaning of "human impact" intended by the legislature. Nothing in the record before us supports the conclusion that the structures that will be condemned if [the route] is utilized have unique characteristics would make it difficult or impossible to assess adequately the damages to be paid for their taking.

PEER, at 864.

Q. WHY DOES XCEL ENERGY PREFER THE PREFERRED ROUTE'S CROSSING OF THE MISSISSIPPI RIVER?

A. The Preferred Route's crossing of the Mississippi River is adjacent to undeveloped land and crosses a narrow channel of the river. More specifically, when developing the Blue and Purple Routes, Xcel Energy considered six potential crossings of the Mississippi River (*see* Application § 3.3.1). Crossings 1 through 4 considered by Xcel Energy were favorable due to Xcel Energy ownership of land on both sides of the Mississippi River; however, the land south and west of the river crossing is a residential area with limited availability for a 150-foot right-of-way. Crossing 5 considered by Xcel Energy would follow existing infrastructure at the river crossing but would result in residential impacts south and west of Sherco. Ultimately, Xcel Energy prefers Crossing 6, which is part of the Preferred Route (and the Blue Route). Although Crossing 6 does not have existing infrastructure at the crossing, it is located adjacent to undeveloped land and would cross at a narrow river channel. As compared to other potential crossings, this crossing of the Mississippi River minimizes impacts to residences.

Ex. Xcel 16, Langan Dir., p. 16.

In its Order, there were at least two Mississippi River crossing with existing transmission, yet the Commission chose a route without an existing Mississippi River crossing with the rationale, again, that the crossing minimizes impacts to residences:

212. Ultimately, Xcel Energy prefers Crossing 6, which is part of the Preferred Route (and the Blue Route). Although Crossing 6 does not have existing infrastructure at the crossing, it is located adjacent to undeveloped land and would cross at a narrow river channel. As compared to other potential crossings, this crossing of the Mississippi River minimizes impacts to residences.[212]

Order, p. 38.

In this case, the DNR preferred the prudent and feasible alternatives of the Purple Route or Route Segment 246 for the Mississippi River crossing, both using an existing crossing. See Order, p. 15. Yet immediately following, those prudent and feasible alternatives are not carried forward into Figure 2.

The EIS must weigh impacts using the guidance priorities provided in PEER. In an analysis of route options, weighing a routing decision between non-compensable natural resources and compensable residences is contrary to PEER, an error of law.

VI. NEED – PRIVATE PROJECT AND RADIAL LINE – ISSUE OF FIRST IMPRESSION

This is a private Xcel Energy transmission project, not one with any public purpose. It's stated purpose, repeated frequently, is to preserve Xcel Energy's valuable transmission interconnection rights." Initial Application[16], pps. 3, 4, 13, 21, 40, 75, March 9, 2023; Application[17], also p. 3, 4, 13, 21, 40, 75; see also FEIS, in which EERA consistently chose to frame the project with a purpose different from Xcel's:

> EERA staff referred more generally to the Commission IRP Order (reference (2)) when defining the purpose of the project. The purpose of the project is to construct an HVTL to connect new energy sources to the MISO transmission grid at the location of the retiring Sherco coal-fired generator, that is, the Sherco Substation. In the applicant's view, the project's primary purpose is to interconnect new renewable generation to the Sherco Substation. Staff notes that dispatchable generation, that is, natural gas generation, is needed to backup this renewable generation.

FEIS, Summary p. 1; Section 1.2, p. 18.

The framing of the project is important because no system alternatives or route alternatives are accepted and considered if they do not meet the applicants' purpose. In a project such as this, with a private purpose, that severely limits options, and is likely a logical impossibility. The Xcel purpose has been accepted by Commerce and the Commission:

> When defining the purpose of the project for this EIS, the Department, Energy Environmental Review and Analysis (EERA) unit staff referred to the Commission IRP Order. The purpose of the project is to construct a high-voltage transmission line (HVTL) to connect new energy sources to the MISO transmission grid at the location of the retiring Sherco coal-fired generator, that is, the Sherco Substation. In the applicant's view, the project's primary purpose is to interconnect new renewable generation to the Sherco Substation. Staff notes that dispatchable generation, that is, natural gas generation, is needed to backup this renewable generation.

[16] Initial Application, online on eDockets 20233-193783-03.
[17] Application, online on eDockets 20235-195956-02.

FEIS, Section 4.1, p. 59.

Xcel claims this project is needed for "renewable" generation, yet plans to build 420MW of natural gas, fossil, generation in Lyon County:

> … the Company anticipates that the Project will interconnect … the proposed 420 MW Lyon County Generating Station.2 The Lyon County Generating Station will back up renewables and supply power during critical times, while also providing grid stability for the Project.

Xcel Response to Comments, p. 2. Xcel goes on to say:

> With respect to reliability, Xcel Energy's responsibility is to provide reliable service to its customers. To meet this responsibility, the Company engages in robust planning and analysis related to its system to ensure that it continues to provide reliable service. The Project will be an important part of that system, and reliability will be further supported by the proposed Lyon County Generating Station, as discussed above.

Id.

The notion of use of this transmission line for natural gas while touting it as an "It's or renewables" transmission line was raised by Miguel Cabrera:

> Additionally, Xcel Energy has not been fully transparent about the true scope of this project. The company has applied for permits to build two natural gas plants at the beginning of this transmission line, directly tying these plants to the project. However, this critical detail was not disclosed during the public informational meetings in January 2024. Xcel's claim that these gas plants are "separate projects" is misleading—they are clearly connected and reveal a plan to increase reliance on fossil fuels rather than renewable energy. If these gas plants are necessary, they should be built at the Sherco plant, where the infrastructure already exists to accommodate such facilities.

Miguel Cabrera and Shannon Cabrera, M.D., Comment, p. 1, 11/25/2024.[18]

Xcel Energy has been forthright about its desire for this private transmission project to serve its needs, but it also requested extensive exemptions from application requirements and has not produced the substantive typical documentation of need. Minn. R. 7849.0240; See also Minn. Stat. §216B.243; Minn. R. 7849.0220.

[18] Cabrera DEIS Comment, online on eDockets 202411-212348-01.

This project is not "needed" in the statutory sense, has not been thoroughly reviewed, and should not be granted a certificate of need.

VII. THE "INFORMAL" PROCESS FOR A PRIVATE 180 MILE LONG RADIAL LINE IS NOT SUITABLE FOR THIS PROJECT – AN ISSUE OF FIRST IMPRESSION

The Commission rushed the Certificate of Need permitting through with little public process, approving a laundry list of Application Exemptions on the Consent Agenda.[19] Completeness and use of an informal process was also authorized on the Consent Agenda.[20] Minn. R. 7820.1200.

As was noted by Commissioner Ham in the April 10, 2025 Commission Agenda Meeting, the Commission should exercise thoughtful caution, as this is a novel transmission proposal, and will soon be followed by many 765kV lines proposed in Minnesota, also new to Minnesota.

Need for this project was determined by the Commission's acceptance of Xcel's framing of need – it was from the outset a radial line project, the first in Minnesota. It has a private purpose, that of preserving Xcel's valuable transmission interconnection rights, and comes with a $1.14 billion price tag:

> The only way that Xcel Energy can retain its interconnection rights at Sherco is to directly connect Xcel Energy-owned generation to the Sherco Substation via a single-user generation tie line, like those proposed with this Project. The Project also helps ensure that Xcel Energy is able to acquire needed capacity and energy resources in a timely fashion without having to go through the interconnection queue and potentially face delays and relatively higher interconnection costs.

Xcel Application, p. 17[21].

There has been a high level of interest in the Certificate of Need, evidenced by the

[19] Order, Exemptions, June 28, 2022 20226-186932-01
[20] Order, Completeness, May 2, 2023 20235-195506-01
[21] Xcel Application, March 9, 2023 20233-193783-03

comments in the CoN docket. Though the process was combined with the routing docket, the number of people attending meetings and hearings and sending in comments is astounding, and nearly exclusively, comments made were thoughtful, cogent, and focused on big picture issues, many questioning need for this transmission line. [22]

This is a project that requires thorough review, and need for the project has not received the attention it deserves for a first-of-its-kind radial line private project with a very large cost to be shouldered by ratepayers. The Commission made an error of law in its determination of Exemptions and use of an informal process.

VIII. THE COMMISSION SHOULD RECONSIDER ITS DECISION TO UTILIZE THE BLUE ROUTE CROSSING OF THE MISSISSIPPI AND ROUTE USING SEGMENT 246.

The Commission should reconsider its Order establishing the route for this project and declaring the Final Environmental Impact Statement adequate – the June 11, 2025, Order is an error of fact and law in many ways.

The Commission's Order is contrary to long established law directing that existing corridors be used for routing transmission. This policy of "non-proliferation" was established decades ago by People for Environmental Enlightenment and Responsibility (PEER) v. Minn. Environmental Quality Council, 266 N.W.2d 858 (Minn. 1978). Rather than prioritize non-compensable natural resources and acknowledge the DNR's "strong preference" for the Purple Route or Blue Route Segment 246 for the Mississippi River crossing, the Commission focused on impacts on residences, compensable impacts, an error of law.

The Commission's Order selecting the Blue Route greenfield crossing of the Mississippi River in an area designated by the state as scenic and recreational and also protected by local

[22] See Combined Exhibit List, Public Comments, p. 2-3, October 28, 2024 (202410-211371-01).

shoreland and natural resource overlays was also an error of law.

The Final Environmental Impact Statement is particularly in the area of the Blue Route Mississippi River crossing by taking up Xcel's "DNR Proxy Route." In its analysis of the Blue Route G Region and through its failure to fully consider the reasonable and prudent Route Segment 246.

The Commission should reconsider its routing decision, direct Commerce to correct the inadequacies of the FEIS, and choose the Purple Route or Blue Route Segment 246, either as a more prudent and reasonable crossing of the Mississippi River utilizing an existing corridor.

June 30, 2025

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DEPARTMENT OF NATURAL RESOURCES

Division of Ecological and Water Resources
Region 3 Headquarters
1200 Warner Road
Saint Paul, MN 55106

Transmitted by Email

July 10, 2023

Matt Langan
Xcel Energy
414 Nicollet Mall, 414-6A
Minneapolis, MN 55401

Dear Matt Langan,

Thank you for engaging with the Department of Natural Resources (DNR) in early coordination during the development on the Minnesota Energy Connection double circuit 345 kV High Voltage Transmission Line (HVTL). This HVTL proposes to connect energy generating Sherco Solar facilities in Becker, MN southwest across the state to Lyon County. We appreciate your willingness to identify a route that minimizes impacts to natural resources. DNR respectfully submits the following comments for your consideration as you prepare to submit a route permit application to the Public Utilities Commission (PUC).

General Comments:

1. Habitat fragmentation is one of the largest threats to wildlife as increasing development pressures push wildlife into what few natural areas remain intact. The DNR encourages the proposer to prioritize avoiding natural areas that would require vegetation and tree removal or ground disturbance in shoreland, prairies, wetlands, Minnesota Biological Sites of Biodiversity Significance, and DNR Native Plant Communities. Habitat preservation should also be prioritized near public lands, wildlife management areas (WMA), state parks and county parks.
2. The DNR recommends that impacts to MBS Sites of Biodiversity Significance and DNR Native Plant Communities with a Conservation Status Rank of S1-S3 be avoided to the greatest extent feasible. MBS Sites of Biodiversity Significance and DNR Native Plant Communities can be viewed using the Minnesota Conservation Explorer or downloaded from the MN Geospatial Commons. Xcel should use the NHIS Rare Features Data received under License Agreement 1058 to avoid impacts to known occurrences of state-listed endangered and threatened species and nearby habitat. To ensure compliance with state law regarding rare features, please request a Natural Heritage Review via the Minnesota Conservation Explorer. To ensure compliance with federal law, please conduct a federal regulatory review using the U.S. Fish & Wildlife Service's online Information for Planning and Consultation (IPaC) tool.

3. At this time in the coordination process, DNR has not received or reviewed plans for temporary or permanent access roads and construction staging areas. Once the routes have been established, further coordination with DNR regarding impacts to rare features and public waters may be necessary to review these additional impacts.
4. A DNR Water Appropriation Permit is required if the water pumped exceeds 10,000 gallons in a day, or one million gallons in one year. The DNR General Permit for Temporary Appropriation, with its lower permit application fee and reduced time for review, may be used for the dewatering if the dewatering volume is less than 50 million gallons and the time of the appropriation is less than one year.
5. Where the route crosses Public Water Wetlands, a utility license to cross is not required, but a public water work permit is and can be applied for through the Minnesota DNR Permitting and Reporting System.

REGION 3

Region 3 of the DNR includes the following counties in the proposed project area: Sterns, and Sherburne.

Mississippi River Crossing

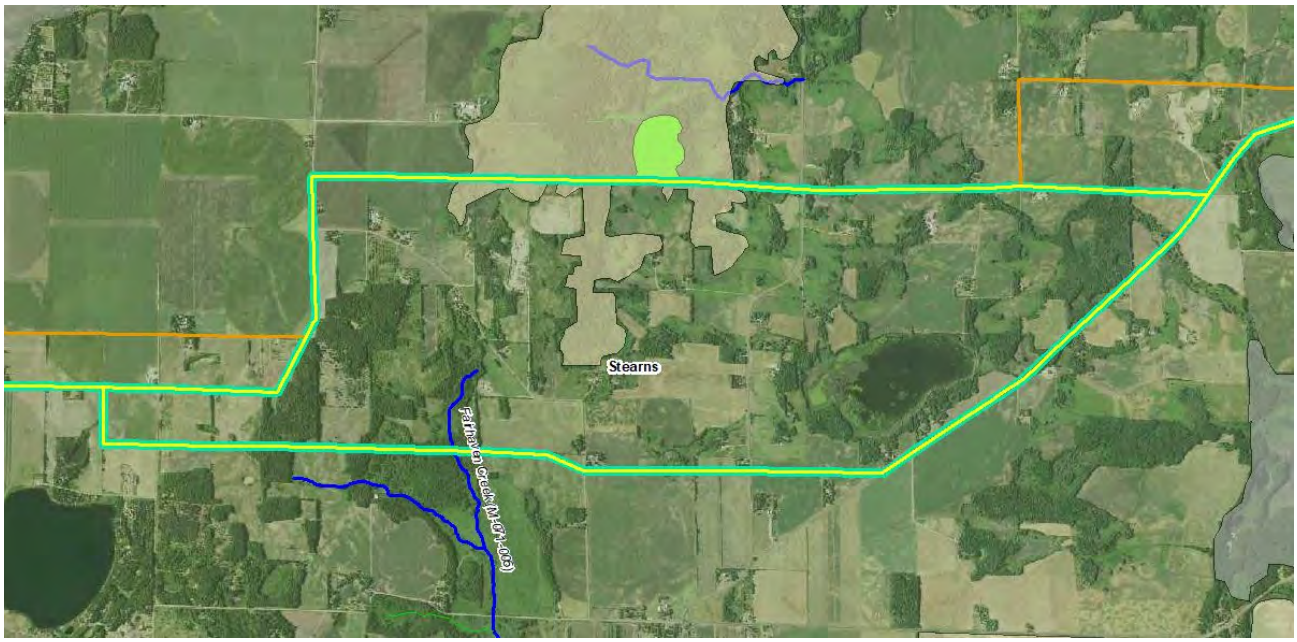
The DNR strongly prefers a route that utilizes existing crossings over the Mississippi River, especially within a wild and scenic river (WSR) district. Of the route options provided, the only existing crossing is within Wright County. We would prefer this alternative. We would also like to understand if continuing northwest along I-94 and connecting to the northern route alternative that avoids the trout stream and forest impacts in southern Stearns County would be feasible.

Xcel Energy is involved in the development of multiple HVTL projects right now that may need to cross the Mississippi River to connect to the Sherco Solar Substation. We suggest greater coordination across projects to co-locate as many crossings as possible, especially if a new crossing within the WSR is deemed necessary. Please coordinate further with DNR as these projects move forward to identify the least impactful solution for all projects currently in development.

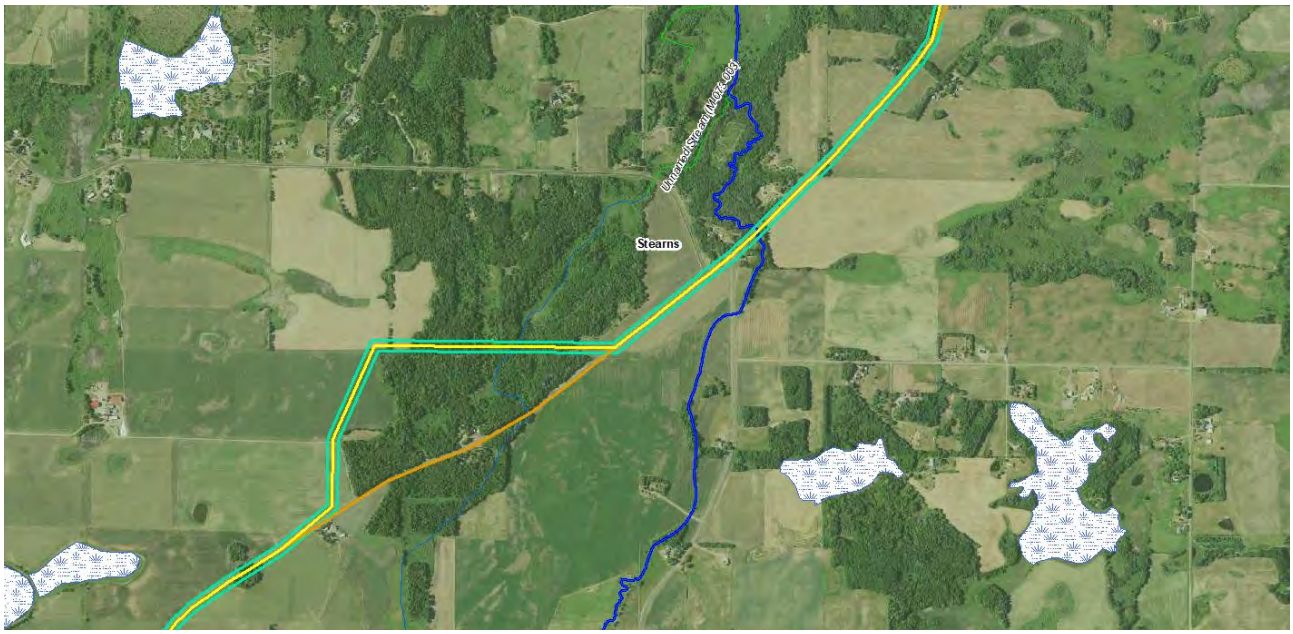
Please be aware that in Sherburne County, most of the Mississippi River bank within the WSR district is also in a Bluff Impact Zone and may be subject to additional restrictions.

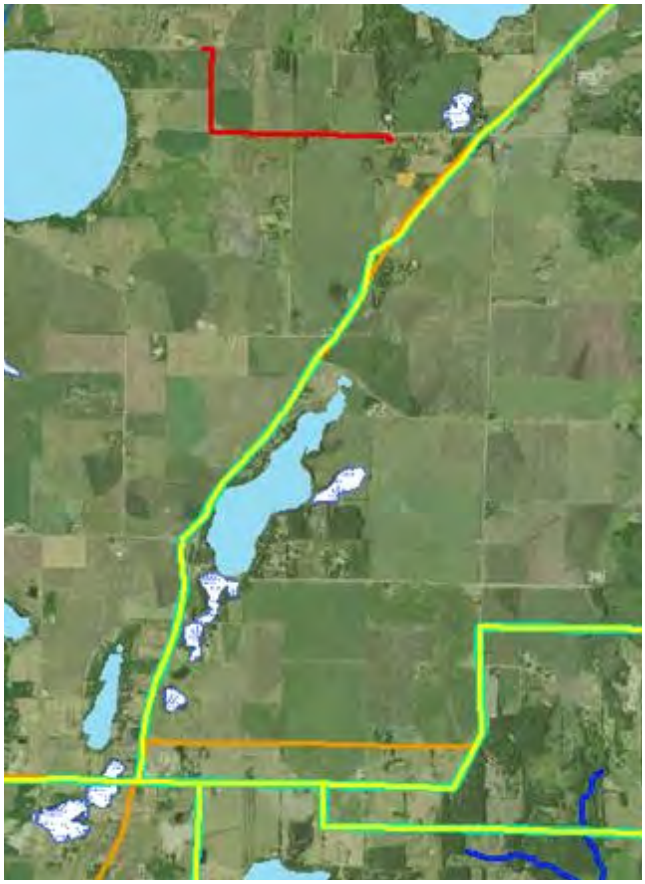
Stearns County

The proposed route alternatives below would cut new right-of-way (ROW) through forested areas further fragmenting what little intact forest remains in Stearns County, which is heavily dominated by agriculture. It is also important that tree canopy be maintained over cold water habitats, such as trout streams.



If the route must cross a designated trout stream, DNR would prefer the route alternative to the north that crosses Johnson Creek (M-073) following an existing road and bridge crossing. The previous alternative proposed in February 2023 continued to the southwest along the existing road. This new preferred route proposes to cut a new ROW through shoreland in a forested area that provides tree canopy and cover to a headwaters stream that flows into Johnson Creek, a designated trout stream. If the route cannot continue on the existing road, then we would prefer that it avoid fragmenting the forested area any further by cutting a corner below the road to the southeast through agricultural fields.

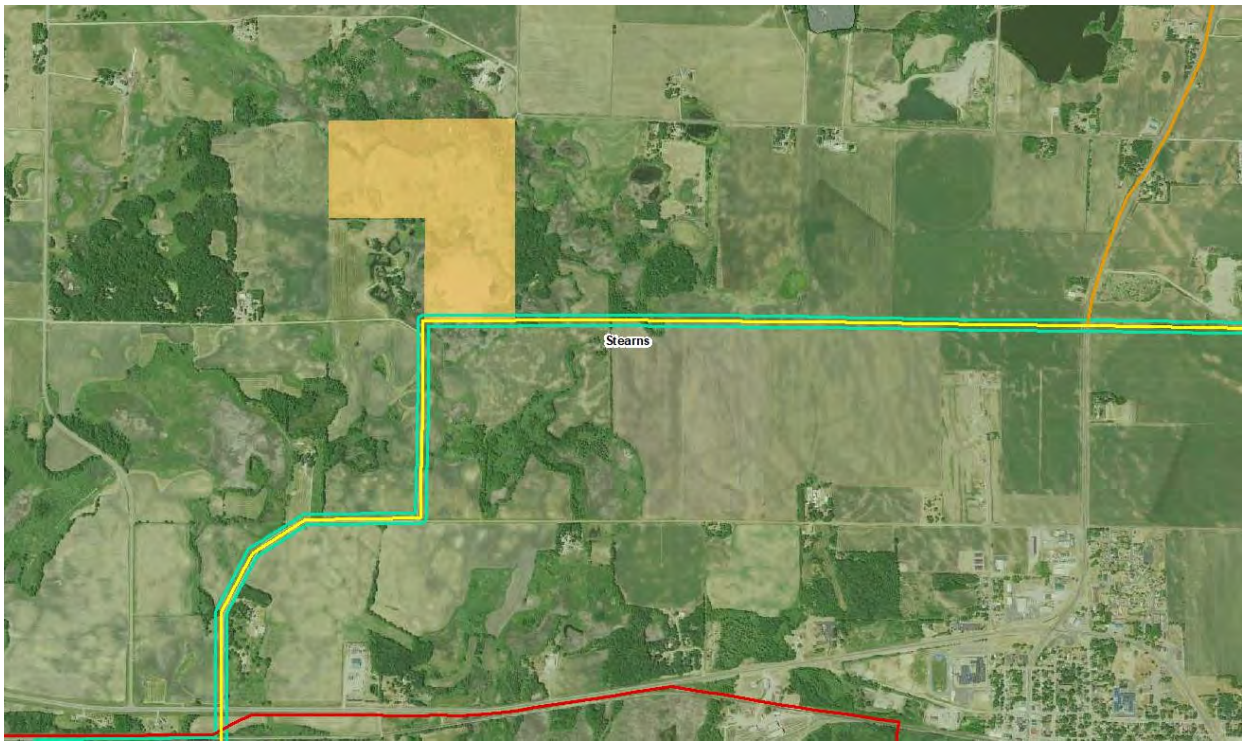




This potential route from the north closely follows Carnelian Lake (PW 73003800) and cuts through migratory flight paths between Murray Lake (PW73004400) and Carnelian Lake.

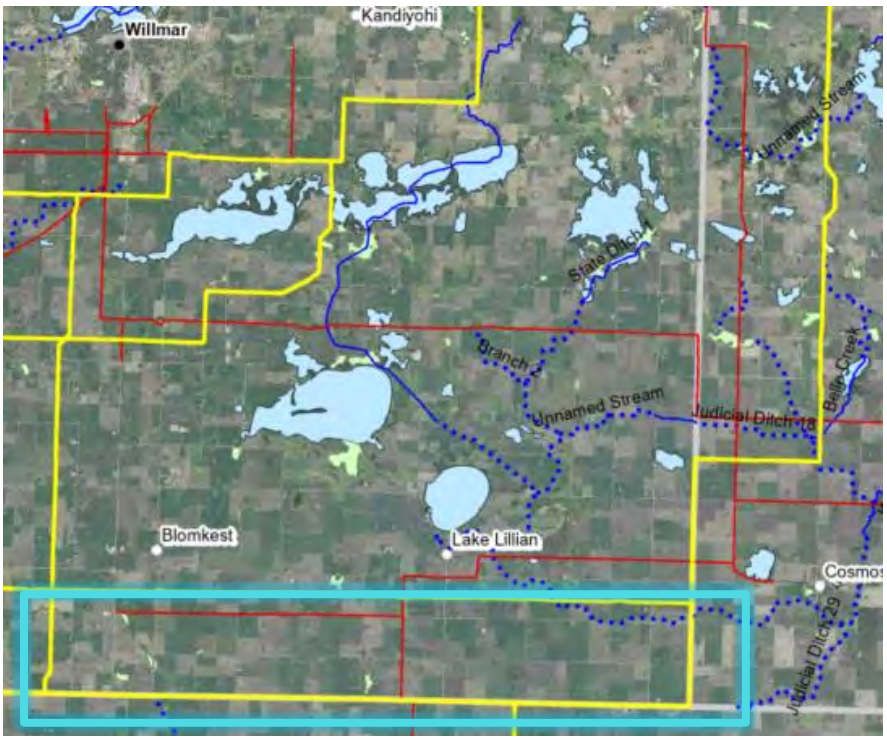
Would it be possible to follow 66th Ave south in order to connect to a western route rather than follow those two public water basins so closely?

We also do not support a new ROW cutting through Alice Hamm Wildlife Management Area and dissecting a public water wetland (73042900). We strongly prefer that any new ROW corridors utilize existing roads to the greatest degree possible to avoid habitat fragmentation and impacting public waters.



Region 4

Region 4 of the DNR includes the following counties in the proposed project area: Meeker, Kandiyohi, Chippewa, Renville, Yellow Medicine, Redwood, and Lyon Counties. Route options in this Region generally avoid special and rare plant and wildlife communities. For this reason, a county-by-county breakdown of potential impacts is not provided. Route placement preferences are identified below.

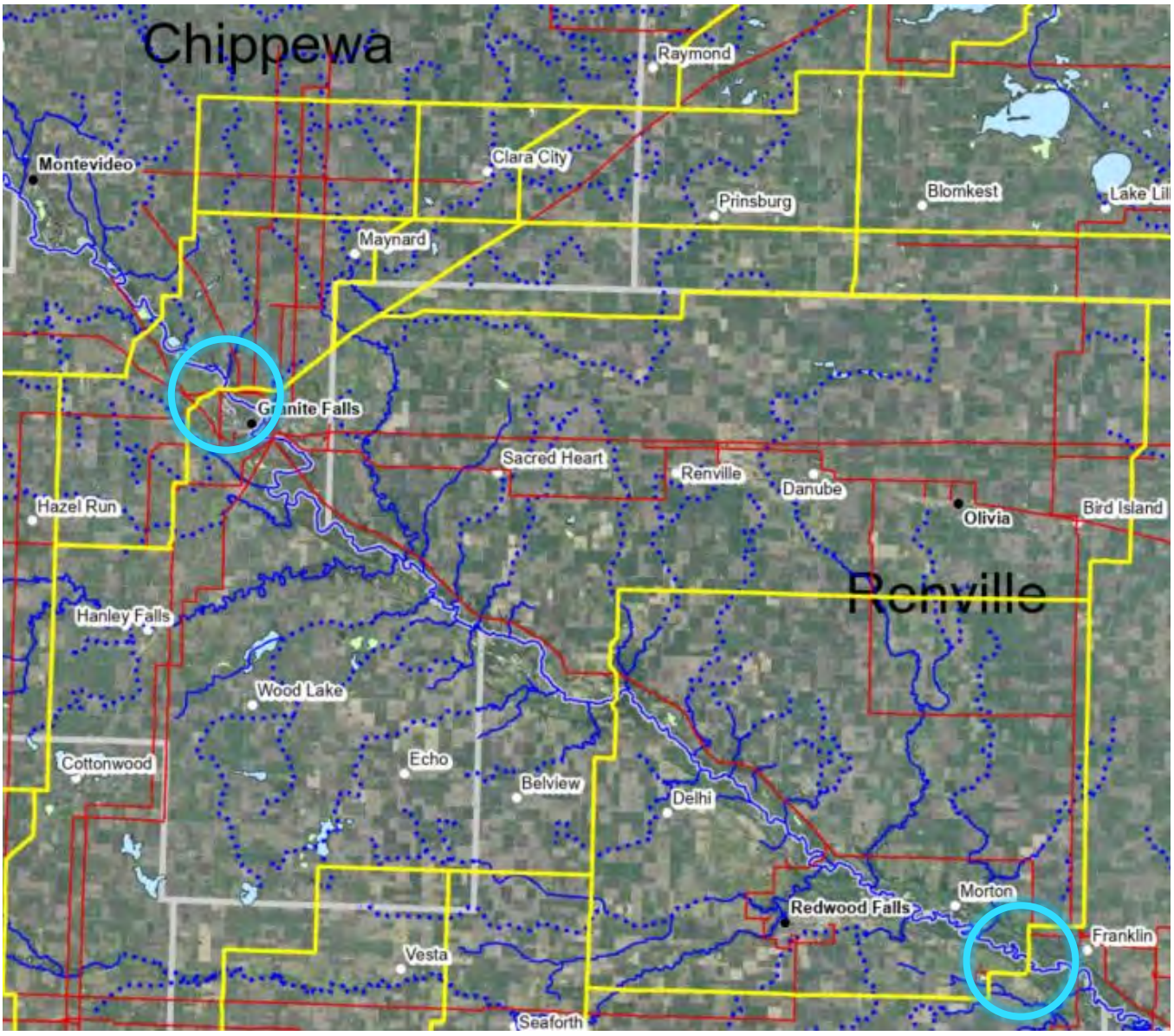


Kandiyohi County

Proposed routes in Kandiyohi County run adjacent to and intersect an area with high bird traffic among neighboring lakes. A route south of Lake Lillian (PW34007200), outlined in light blue, is preferred to limit impacts.

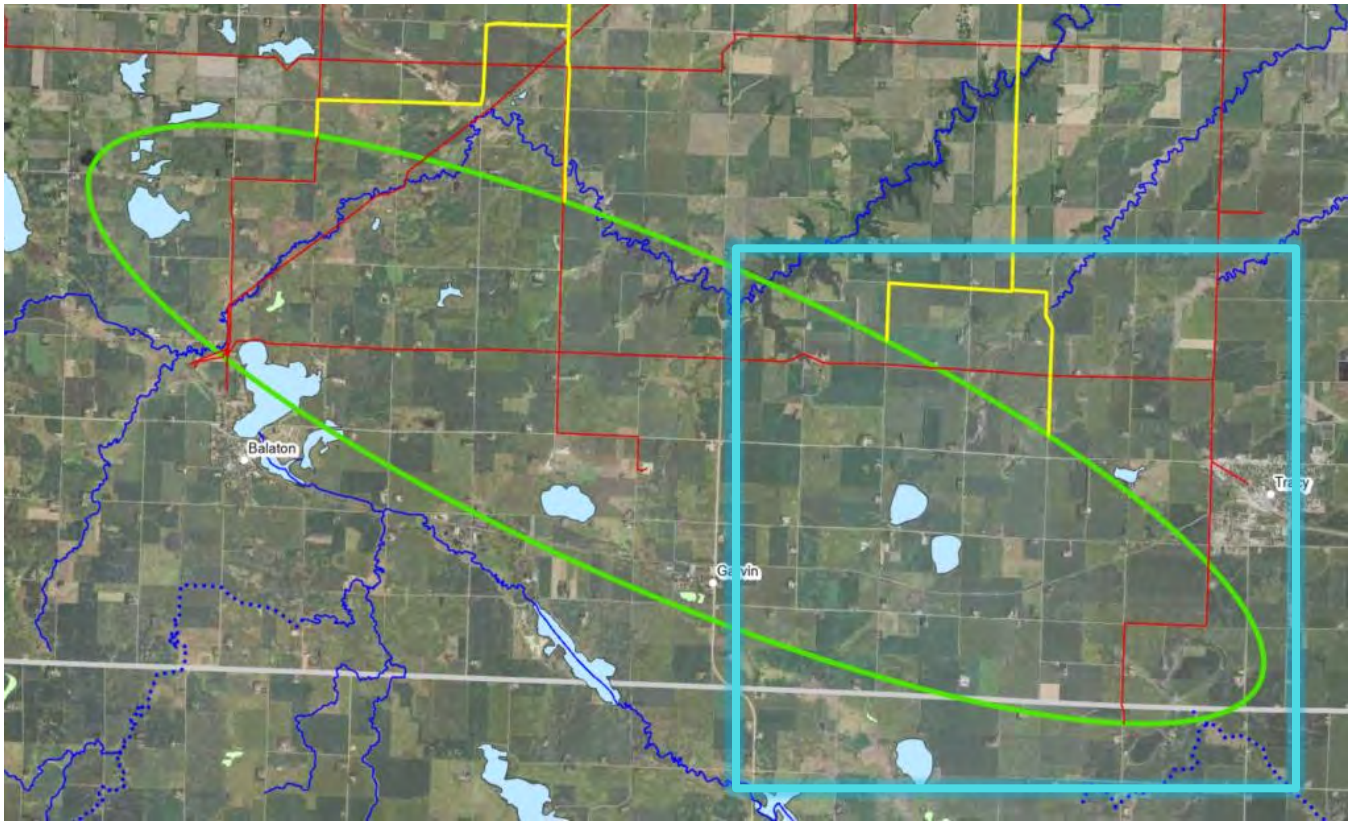
Minnesota River Crossing

The DNR strongly prefers routes that utilize existing crossings over the Minnesota River, especially within the wild and scenic river (WSR) district. Two potential crossings, circled in light blue, meet this criterion. There are areas of native prairie at all potential crossings and measures should be taken to avoid disturbing these areas.



Substation Placement

In order to reduce potential impacts to species of special concern, WMAs, and sites of biological significance the southeastern portion of the substation polygon, outlined in light blue, is preferred.



Thank you again for your ongoing coordination. Please let me know if you have any questions.

Sincerely,

Melissa Collins

/s/ Haley Byron

Melissa Collins and Haley Byron

Regional Environmental Assessment Ecologist | Ecological and Water Resources

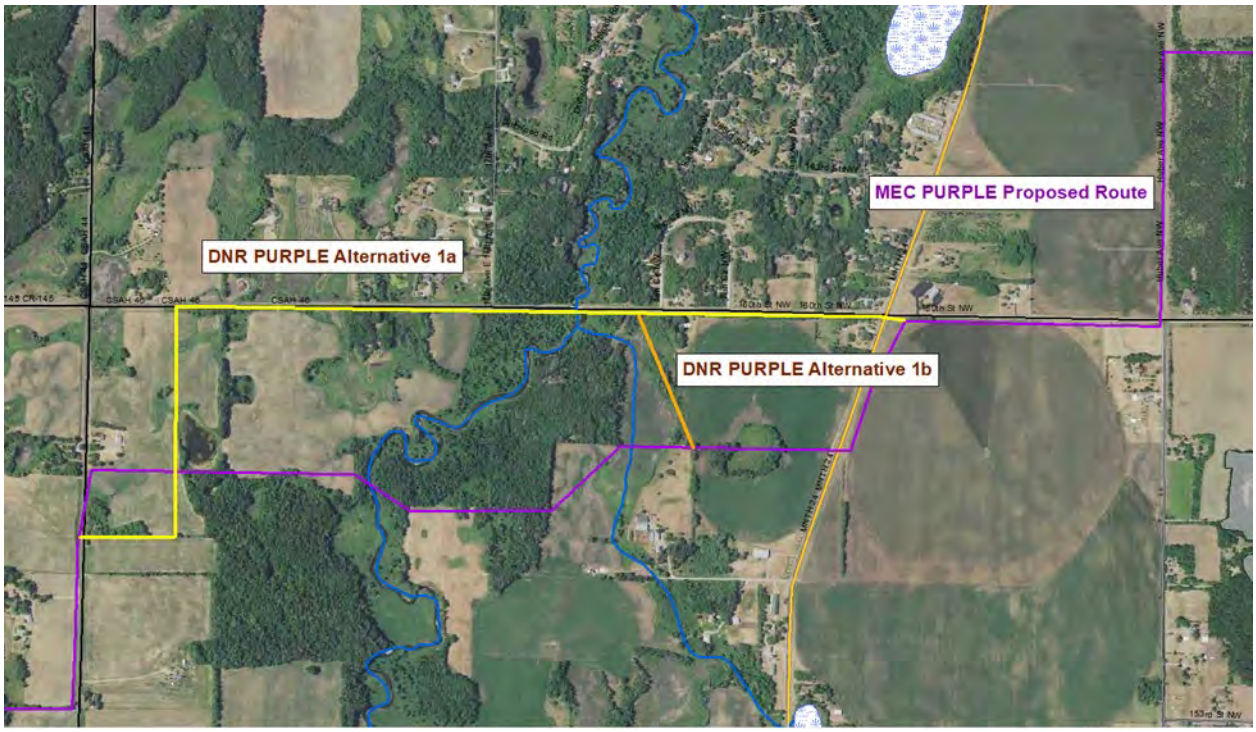
Minnesota Department of Natural Resources

CC: Cynthia Warzecha, DNR Energy Planner

MN Energy Connection – DNR Proposed Route Alternatives

Purple Route Alternatives (North to South)

DNR PURPLE Alternative 1



The proposed Purple Route option would cut new right-of-way (ROW) through forested areas within shoreland of the Clearwater River (M-071), a public watercourse, and through the designated floodway and 100-year floodplain. Even though the Purple Route option proposes to cross at a narrow point in the river, this is still fragmenting habitat and opening up this corridor to ongoing maintenance issues from erosion, either directly to pole structures, or by removing trees that currently provide stability within the floodway. We also oppose further fragmenting what little intact forest remains in Wright County and Stearns County, which are heavily dominated by agriculture.

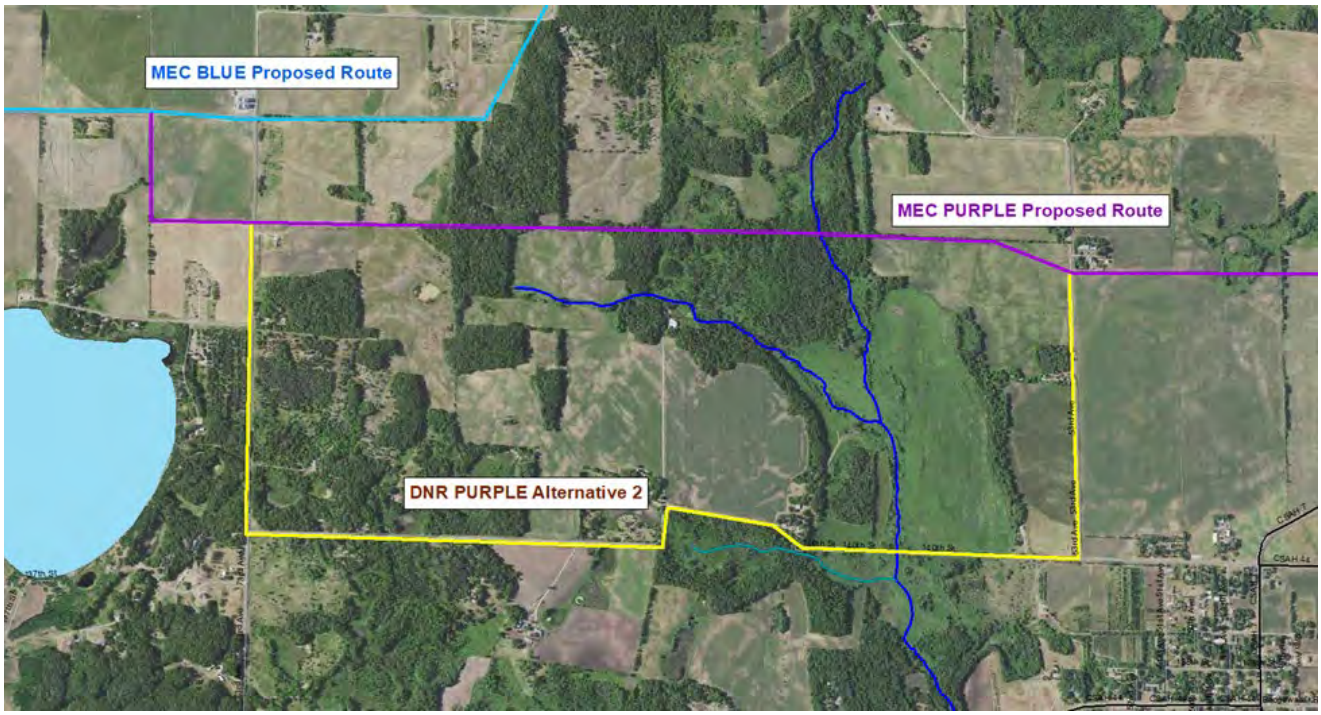
DNR PURPLE Alternative 1a

DNR PURPLE Alternative 1a continues west on 160th Street NW/ County State Aid Highway (CSAH) 46 to cross Clearwater River over the existing bridge and extends further south to reduce the number of turns in the route. This route avoids impacting residential structures along CSAH 44, before reconnecting to proposed Purple Route option.

DNR PURPLE Alternative 1b

DNR PURPLE Alternative 1b follows the proposed Purple Route option even further than DNR PURPLE Alternative 1a, and angles northwest to connect and follow the rest of DNR PURPLE Alternative 1a. This is our preferred alternative for this section of the Purple Route option because it avoids residences along 160th Street NW/ County State Aid Highway (CSAH) 46, while minimizing wetland, shoreland, and floodplain impacts by crossing the Clearwater River at the existing bridge.

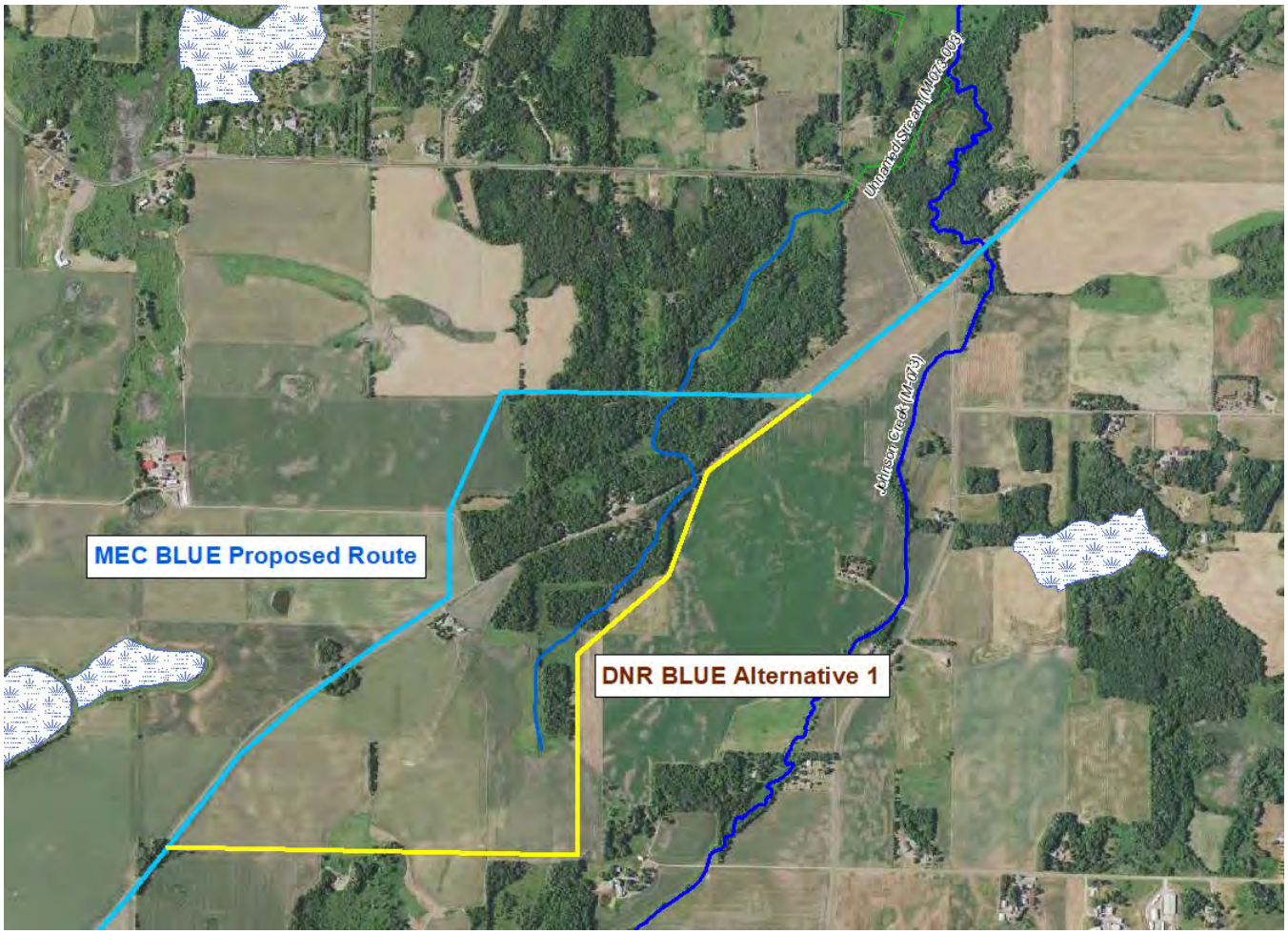
DNR PURPLE Alternative 2



The proposed Purple Route option crosses directly over Fairhaven Creek, a designated trout stream. It is important that tree canopy be maintained over cold water habitats, such as trout streams, and in our early coordination letter, we emphasized protecting trout streams and selecting routes that do not further fragment habitat within a landscape heavily dominated by agriculture. We strongly advise avoiding disturbance to this stream, which is sensitive to sedimentation as well as temperature changes. If the trout stream must be crossed, it should be done so using an existing bridge crossing. This alternative proposes to cross the stream using the existing 140th Street bridge. Please note that DNR BLUE Alternative 2 is another alternative that avoid impacts to the trout stream.

BLUE Route Alternatives (North to South)

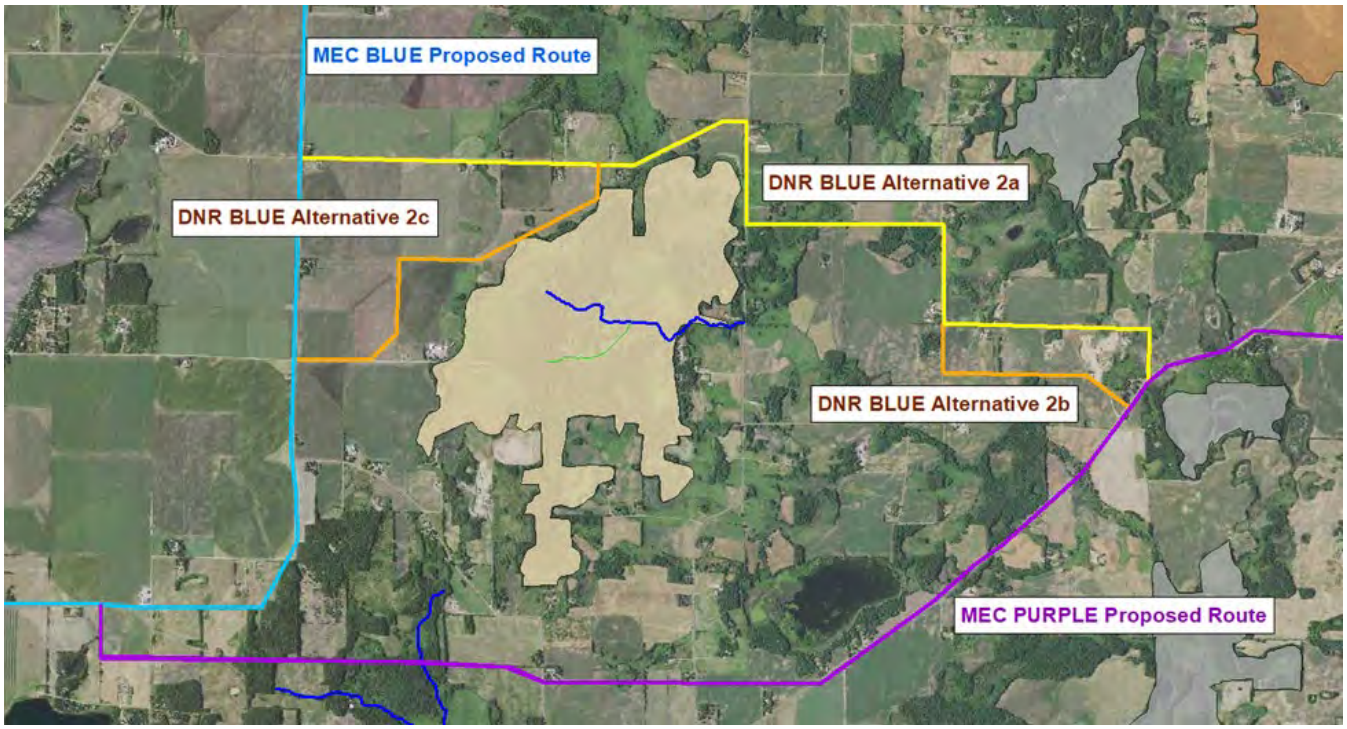
DNR BLUE Alternative 1



The proposed Blue Route option crosses directly over Johnson Creek, a designated trout stream as well as a DNR public watercourse (M-073-003). It is important that tree canopy be maintained over cold water habitats, such as trout streams, and in our early coordination letter, we emphasized protecting trout streams and selecting routes that do not further fragment habitat within a landscape heavily dominated by agriculture. If the route must cross a designated trout stream, DNR would prefer that selected route cross Johnson Creek (M-073) following an existing road and bridge crossing. The Blue Route option proposes to cut a new ROW through shoreland in a forested area that provides tree canopy and cover to a headwaters stream that flows into Johnson Creek, a designated trout stream. If the route cannot continue along the existing road, then we would prefer that it avoid fragmenting the forested area any further by cutting a corner south of County Road 142 through agricultural fields.

The DNR BLUE Alternative 1 avoids residences, tree clearing within shoreland, habitat fragmentation, additional stream crossings, and impacts to pivot irrigation systems. We recommend a 300 feet ROW starting at the western tree line and extending east to find the best route to avoid all tree removal and stream impacts while also avoiding pivot irrigation infrastructure.

DNR BLUE Alternative 2



Route options through this part of Stearns County are highly constrained due to the presence of designated trout streams, MBS Sites of Biodiversity Significance, public waters, stretches of intact wildlife habitat, migratory corridors, residences, and pivot irrigation systems. The DNR BLUE Alternative 2 route proposes another way to avoid impacts to Fairhaven Creek, a designated trout stream, to the south by diverging from the proposed Purple Route option farther east and cutting across to the west along existing roads and through agricultural fields in order to avoid the MBS Site of Biodiversity Significance, wetlands, and tree clearing, before joining the proposed Blue Route option.

DNR BLUE Alternative 2a

DNR BLUE Alternative 2a closely follows existing roads by turning north onto 170th Street, then west onto 165th Street, and north again on 33rd Avenue, then west on 170th Street, and north onto CSAH 7. The alternative follows Dellwood Road to the west until it rejoins the proposed Blue Route at 66th Avenue. We proposed a 300 feet ROW for this alternative to allow for locating the route on either side of the road to avoid impacts to residences.

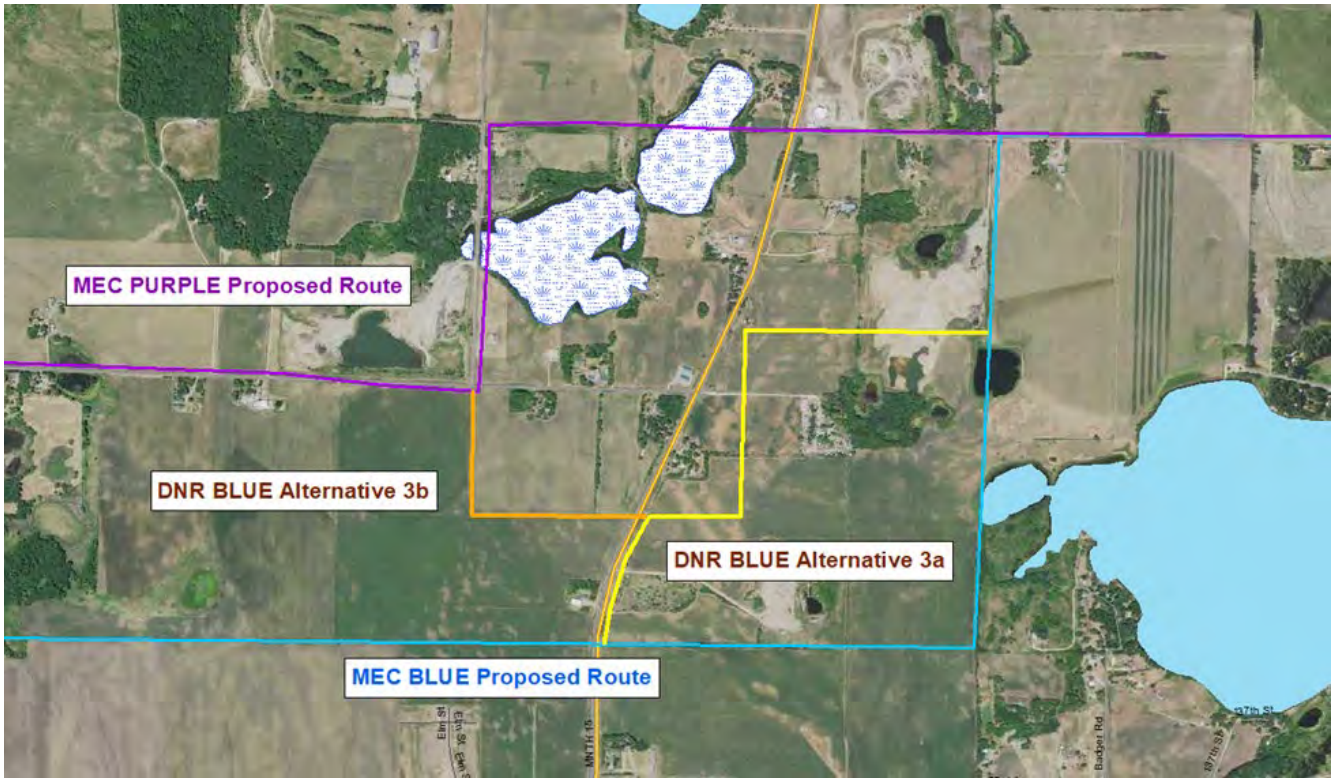
DNR BLUE Alternative 2b

DNR BLUE Alternative 2b turns northwest and away from the proposed Purple Route just past 170th Street through agricultural fields in order to avoid impacting residences located along 165th Street, then follows the rest of DNR BLUE Alternative 2a. This alternative, in combination with DNR BLUE Alternative 2c, is our preferred alternative for this section of the Blue and Purple route options because it avoids more residences while minimizing wetland, shoreland, and floodplain impacts to Fairhaven Creek.

DNR BLUE Alternative 2c

DNR BLUE Alternative 2c follows DNR BLUE Alternative 2a, but then turns south from Dellwood Road and angles through agricultural fields while avoiding pivot irrigation infrastructure in order to avoid impacting residences located along Dellwood Road. This alternative rejoins the proposed Blue Route option at 163rd Street. This alternative, in combination with DNR BLUE Alternative 2b, is our preferred alternative for this section of the Blue and Purple route options because it avoids more residences while minimizing wetland, shoreland, and floodplain impacts to Fairhaven Creek.

DNR BLUE Alternative 3



Route options through this part of Stearns County are highly constrained due to the presence of designated trout streams, MBS Sites of Biodiversity Significance, public waters, stretches of intact wildlife habitat, migratory corridors, residences, and pivot irrigation systems. Both the proposed Purple and Blue route options converge briefly in this area north of School Section Lake, a DNR public water basin. The proposed Blue Route option runs directly along the west side of the basin, posing a hazard to migratory birds that use the lake.

The Purple Route option continues west and avoids the School Section Lake, but directly crosses two DNR public water wetlands, dissecting a wildlife corridor. DNR BLUE Alternative 3 proposes a route that would enable both of the proposer's route options to avoid impacts to public waters and minimize impacts to migratory birds by increasing the route's distance from the public waters. Both alternatives attempt to minimize impacts to residences and pivot irrigation infrastructure.

DNR BLUE Alternative 3a

DNR BLUE Alternative 3a proposes that both the Blue and Purple route options continue together along the proposed Blue Route option and then turn west just before reaching the wetland to the north of School Section Lake. There is currently a mining operation in this location, however it appears from aerial imagery that the southern portion of the mining is complete and has been restored to agriculture. Therefore, DNR recommends crossing the southern portion of the mining operation that has been completed. We recommend a 500 feet ROW over the mining parcel to find the best way to avoid impacts to the mine. This alternative crosses through agricultural fields avoiding pivot irrigation while maximizing the distance to residences until it reaches MN Trunk Highway 15 and turns south to rejoin the proposed Blue Route option.

DNR BLUE Alternative 3b

DNR BLUE Alternative 3b follows the DNR BLUE Alternative 3a route, but instead of turning south at MN Trunk Highway 15, crosses it and continues west to meet up with the Purple Route option. This alternative completely avoids the impacts to the two public water wetlands to the north as well as residences and pivot irrigation infrastructure.

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

February 20, 2024
Correspondence # MCE 2023-00890

Angela Durand
Merjent, Inc.

RE: Natural Heritage Review of the proposed **Minnesota Energy Connection Project - Purple Route,** Chippewa, Kandiyohi, Lyon, Meeker, Renville, Sherburne, Stearns, Wright, Yellow Medicine County

Dear Angela Durand,

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

Ecologically Significant Areas

- A calcareous fen, **Gennessee** 21 (Fen ID 25251), has been documented within five miles of the proposed project (T119N R33W Section 21). A calcareous fen is a rare and distinctive peat-accumulating wetland that is legally protected in Minnesota. The Wetlands Conservation Act (WCA), authorized by Minnesota Statutes, section 103G.223, states that calcareous fens may not be filled, drained, or otherwise degraded, wholly or partially, by any activity, except as provided for in a management plan approved by the commissioner of the Department of Natural Resources. Many of the unique characteristics of calcareous fens result from the upwelling of groundwater through calcareous substrates. Because of this dependence on groundwater hydrology, calcareous fens can be affected by nearby activities or even those several miles away. For more information regarding calcareous fens, please see the Calcareous Fen Fact Sheet. To minimize stormwater impacts, please refer to the Minnesota Pollution Control Agency's General Principles for Erosion Prevention and Sediment Control in the Minnesota Stormwater Manual. Please note that calcareous fens are "Special Waters" and a buffer zone may be required.

  Calcareous fens may be impacted by activities within the fen, activities that affect surface water flows (e.g., stormwater flow, erosion), or activities that affect groundwater hydrology (e.g.,

groundwater pumping, contamination, discharge, or excavation). **To ensure compliance under WCA, please contact the Calcareous Fen Program Coordinator, Keylor Andrews** (Keylor.Andrews@state.mn.us).

- The Minnesota Biological Survey (MBS) has identified **1** Site of ***High*** and **19** Sites of ***Moderate*** Biodiversity Significance in the vicinity of the proposed project. Sites of Biodiversity Significance have varying levels of native biodiversity and are ranked based on the relative significance of this biodiversity at a statewide level. Sites ranked as ***High*** contain very good quality occurrences of the rarest species, high quality examples of the rare native plant communities, and/or important functional landscapes. Sites ranked as ***Moderate*** contain occurrences of rare species and/or moderately disturbed native plant communities, and/or landscapes that have a strong potential for recovery. **Please see your MCE-generated Conservation Planning Report for a comprehensive list of MBS Sites of Biodiversity Significance (attached).**

  There are **25** MN DNR Native Plant Communities (NPCs) within 330 feet of the proposed project. Of these 1 is **critically imperiled** (S1), 13 are **imperiled** (S2), and 1 is **vulnerable to extirpation** (S3) in Minnesota. **Please see your MCE-generated Conservation Planning Report for a comprehensive list of Native Plant Communities in your proposed project area (attached).**

  Activities in road rights-of-way (ROW) can negatively affect adjacent native plant communities, especially through the introduction of invasive plant species. As such, disturbance near these ecologically significant areas should be minimized. Actions to minimize disturbance may include, but are not limited to, the following recommendations:

  - As much as possible, operate within already-disturbed areas.
  - Confine construction activities to the opposite side of the road from MBS Sites and rare NPCs (S1-S3). If this is not feasible, confine construction activities to the existing road rights-of-way.
  - Retain a buffer between proposed activities and both MBS Sites and rare NPCs (S1-S3).
  - Minimize vehicular disturbance in the area (allow only vehicles necessary for the proposed work).
  - Do not park equipment or stockpile supplies in the area.
  - Do not place spoil within MBS Sites or other sensitive areas.
  - If possible, conduct the work under frozen ground conditions.
  - Inspect and clean all equipment prior to bringing it to the site to prevent the introduction and spread of invasive species.
  - Use effective erosion prevention and sediment control measures.

- Revegetate disturbed soil with native species suitable to the local habitat as soon after construction as possible.
- Use only weed-free mulches, topsoils, and seed mixes. Of particular concern is birdsfoot trefoil (*Lotus corniculatus*) and crown vetch (*Coronilla varia*), two invasive species that are sold commercially and are problematic in prairies and disturbed open areas, such as roadsides.

Construction in streambeds, lakes, and wetlands should be avoided whenever possible. We recommend either changing the cable alignment to avoid such areas, employing directional boring techniques to install cable under the area, or attaching the cable to roadway bridges passing over such areas. Additional actions to minimize disturbance may include, but are not limited to, the following recommendations:

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

The Minnesota Biological Survey (MBS) considered the area surrounding the proposed project for a Site of Biodiversity Significance. There are **19 areas** that were determined to be ***Below*** the minimum biodiversity threshold for statewide significance. This area, however, may have conservation value at the local level as habitat for native plants and animals, corridors for animal movements, buffers surrounding higher quality natural areas, or as areas with high potential for restoration of native habitat. **As such, indirect impacts from surface runoff or the spread of invasive species should be considered during project design and implementation.**

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

Conservation Planning Report using the Explore Tab in Minnesota Conservation Explorer. **I have attached a Conservation Planning Report to this review.**

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

State-listed Species

- Sullivant's milkweed (*Asclepias sullivantii*) and waterhyssop (*Bacopa rotundifolia*), both state-listed threatened plant species, and small white lady's slipper (*Cypripedium candidum*), a plant species of special concern, have been documented in the project vicinity. **To avoid impacting state protected plants, all native prairie habitats and all rock outcrop habitats must be avoided.** If avoidance is not feasible, a botanical survey will be needed. Please see your MCE-generated Conservation Planning Report for a comprehensive list of prairie and rock outcrop habitats in the vicinity of the proposed project (attached).

  Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134) prohibit the take of threatened or endangered species without a permit. Surveys must be conducted by a qualified surveyor and follow the standards contained in the Rare Species Survey Process and Rare Plant Guidance. Visit the Natural Heritage Review page for a list of certified surveyors and more information on this process. Project planning should take into account that any botanical survey needs to be conducted during the appropriate time of the year, which may be limited. Please consult with the NH Review Team at Reports.NHIS@state.mn.us with subject line MCE-2023-00890 if you have any questions regarding this process.

- Blanding's turtles (*Emydoidea blandingii*), a state-listed threatened species, have been documented in the vicinity of the proposed project. Blanding's turtles use upland areas up to and over a mile distant from wetlands, waterbodies, and watercourses. Uplands are used for nesting, basking, periods of dormancy, and traveling between wetlands. Factors believed to contribute to the decline of this species include collisions with vehicles, wetland drainage and degradation, and the development of upland habitat. Any added mortality can be detrimental to populations of Blanding's turtles, as these turtles have a low reproduction rate that depends upon a high survival rate to maintain population levels.

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

- Avoid wetland and aquatic impacts during hibernation season, between September 15th and April 15th, if the area is suitable for hibernation.
- Erosion and sediment control should be limited to wildlife friendly erosion control to avoid the inadvertent take of Blanding's turtles.
- Hydro-mulch products should not contain any materials with synthetic (plastic) fiber additives, as the fibers can re-suspend and flow into waterbodies.
- Construction areas, especially aquatic or wetland areas, should be thoroughly checked for turtles before the use of heavy equipment or any ground disturbance.
    - The Blanding's turtle flyer must be given to all contractors working in the area.
    - Monitor for turtles during construction. Report any sightings to Reports.NHIS@state.mn.us; please include date, observer, location, and photograph of the Blanding's turtle.
    - Holes that have been left unattended for prolonged periods should be checked for Blanding's turtles before being filled.
    - If turtles are in imminent danger, they must be moved by hand out of harm's way, otherwise they are to be left undisturbed. Directions on how to move turtles safely can be found here: Helping Turtles Across the Road.
- If the above avoidance measures are not feasible, please contact Review.NHIS@state.mn.us with subject line MCE-2023-00890 as further action may be needed.

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

- Black sandshell (*Ligumia recta*), a state-listed mussel species of special concern, has been documented in the Mississippi River in the project vicinity. Creek heelsplitter (*Lasmigona compressa*), a state-listed mussel species of special concern, has been documented in the Clearwater River in the project vicinity. Mudpuppy (*Necturus maculosus*), a state-listed salamander species of special concern, has been documented in the Minnesota River in the

project vicinity. These species are vulnerable to deterioration in water quality, particularly increased siltation. Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134) prohibit the take of threatened or endangered species without a permit. **Therefore, it is important that stringent erosion prevention and sediment control practices are maintained throughout the duration of the project to prevent adverse debris and material from impacting downstream populations.** As per proposed project details, waterbodies will be spanned, and no work is proposed within the water. If project details change and work within water is proposed, please contact the NH Review team at Review.NHIS@state.mn.us with subject line MCE-2023-00890 as rare species surveys may be needed.

- The Natural Heritage Information System (NHIS) tracks bat roost trees and hibernacula plus some acoustic data, but this information is not exhaustive. Even if there are no bat records listed nearby, all seven of Minnesota's bats, including the federally endangered northern long-eared bat (*Myotis septentrionalis*), can be found throughout Minnesota. During the active season (approximately April-November) bats roost underneath bark, in cavities, or in crevices of both live and dead trees. Tree removal can negatively impact bats by destroying roosting habitat, especially during the pup rearing season when females are forming maternity roosting colonies and the pups cannot yet fly. To minimize these impacts, **the DNR recommends that tree removal be avoided from June 1 through August 15.**

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

Federally Protected Species

- To ensure compliance with federal law, conduct a federal regulatory review using the U.S. Fish and Wildlife Service's (USFWS) online Information for Planning and Consultation (IPaC) tool.

Environmental Review and Permitting

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

The Natural Heritage Information System (NHIS), a collection of databases that contains information about Minnesota's rare natural features, is maintained by the Division of Ecological and Water Resources, Department of Natural Resources. The NHIS is continually updated as new information becomes available, and is the most complete source of data on Minnesota's rare or otherwise significant species, native plant communities, and other natural features. However, the NHIS is not an exhaustive inventory and thus does not represent all of the occurrences of rare features within the state. Therefore,

ecologically significant features for which we have no records may exist within the project area. If additional information becomes available regarding rare features in the vicinity of the project, further review may be necessary.

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

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

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

Sincerely,

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

Cc: Melissa Collins, Regional Environmental Assessment Ecologist, Region 3 (Central)
Cc: Haley Byron, Regional Environmental Assessment Ecologist, Region 4 (South)
Cc: Amanda Weise, Regional Ecologist, Region 3 (Central)
Cc: Megan Benage, Regional Ecologist, Region 4 (South)
Cc: Keylor Andrews, Calcareous Fen Program Coordinator
Cc: Jennie Skancke, Wetlands Program Coordinator
Cc: Cynthia Warzecha, Energy Projects Review

DEPARTMENT OF NATURAL RESOURCES

Conservation Planning Report: MCE-2023-00890

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

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

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

MBS Sites of Biodiversity Significance

Search distance = 330 feet

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

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

For more information please visit MBS Sites of Biodiversity Significance.

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

MBS Site Name	Biodiversity Significance	Status
CITY CEMETERY	Moderate	final
CLARA CITY TO RAYMOND RAILROAD PRAIRIE	Moderate	final
Clifton 7 (Clifton WMA)	Below	final
Custer 3- 10	High	final
Custer 4 9	Moderate	final
Custer 8	Moderate	final
Custer 15	Moderate	final
Deutz WMA plus	Below	final
EAST CLEAR LAKE 33	Below	final
FAIRHAVEN 24	Below	final
Fairview 12	Below	final
Fairview 13 - 14	Below	final
Fairview 13	Below	final
Forest Prairie 5	Below	final
Gennessee 4	Below	final

MBS Site Name	Biodiversity Significance	Status
Gennessee 5	Below	final
Harvey 7	Below	final
Lake Marshall 26	Below	final
Lake Marshall 33 - 34	Moderate	final
Manannah 11	Below	final
Manannah 28	Moderate	final
MAYNARD RAILROAD PRAIRIE	Moderate	final
Rolling Hills WMA plus	Below	final
Sandnes 23	Moderate	final
Sodus 3-4	Below	final
Sodus 3	Moderate	final
Sodus 4 SE	Below	final
Sodus 4- 9	Moderate	final
Sodus 8 - 9	Moderate	final
Sodus 8	Moderate	final
Sodus 10	Below	final
Sodus 21 plus	Below	final
Sodus 21 plus	Moderate	final
Sodus 31-32	Below	final
Sodus 32	Below	final
Sodus 33	Moderate	final
Stony Run 25	Moderate	final
Stony Run E. 29	Moderate	final
TJOSVOLD-MINSAAS HILL PRAIRIE	Moderate	final
Unnamed: 86068	Moderate	final
White WMA	Moderate	final

DNR Native Plant Communities

Search distance = 330 feet

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

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

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

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

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

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

MBS Site Name	NPC Code	Native Plant Community Classification	Conservation Status Rank	Number of Communities
CLARA CITY TO RAYMOND RAILROAD PRAIRIE	UPs23a	Mesic Prairie (Southern)	S2	1
Custer 4 9	UPs13d	Dry Hill Prairie (Southern)	S2	1
Custer 8	UPs13d	Dry Hill Prairie (Southern)	S2	1
Custer 15	UPs13d	Dry Hill Prairie (Southern)	S2	1
Lake Marshall 33 - 34	UPs13d	Dry Hill Prairie (Southern)	S2	4
Manannah 28	MHs38b	Basswood - Bur Oak - (Green Ash) Forest	S3	1
MAYNARD RAILROAD PRAIRIE	UPs23a	Mesic Prairie (Southern)	S2	1
Sandnes 23	UPs23a	Mesic Prairie (Southern)	S2	1
Sodus 3	UPs13d	Dry Hill Prairie (Southern)	S2	3
Sodus 4- 9	UPs13d	Dry Hill Prairie (Southern)	S2	1
Sodus 8	UPs13d	Dry Hill Prairie (Southern)	S2	1
Sodus 21 plus	PWL_CX	Prairie Wetland Complex	(S1, S2, S3)	1
Sodus 21 plus	UPs13d	Dry Hill Prairie (Southern)	S2	1
Sodus 33	UPs13d	Dry Hill Prairie (Southern)	S2	2
Stony Run 25	UPs13d	Dry Hill Prairie (Southern)	S2	1
Stony Run E. 29	ROs12a1	Crystalline Bedrock Outcrop (Prairie), Minnesota River Subtype	S2	2
TJOSVOLD-MINSAAS HILL PRAIRIE	UPs13d	Dry Hill Prairie (Southern)	S2	1
White WMA	UPs23a	Mesic Prairie (Southern)	S2	1

Calcareous Fens

Search distance = 5 miles

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

The following Calcareous Fens are within the search area:

Fen Site Name	Fen ID	TRS
Gennessee 21	25243	119N033W - 21

DNR Old Growth Stands

Search distance = 330 feet

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

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

MN Prairie Conservation Plan

Search distance = 330 feet

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

The following MN Prairie Conservation Plan Designations are within the search area:

- Core Area: Upper Minn. R. Valley
- Corridor: Altamont Moraine
- Corridor Complex: Garvin WPA

Important Bird Areas

Search distance = 1 mile

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

The following Important Birds Areas are within the search area:

- Lake Maria State Park - Henry Larson County Forest
- Upper Minnesota River Valley IBA

Lakes of Biological Significance

Search distance = 330 feet

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

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

USFWS Habitat Conservation Plans

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

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

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

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

USFWS Regulatory Layers

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

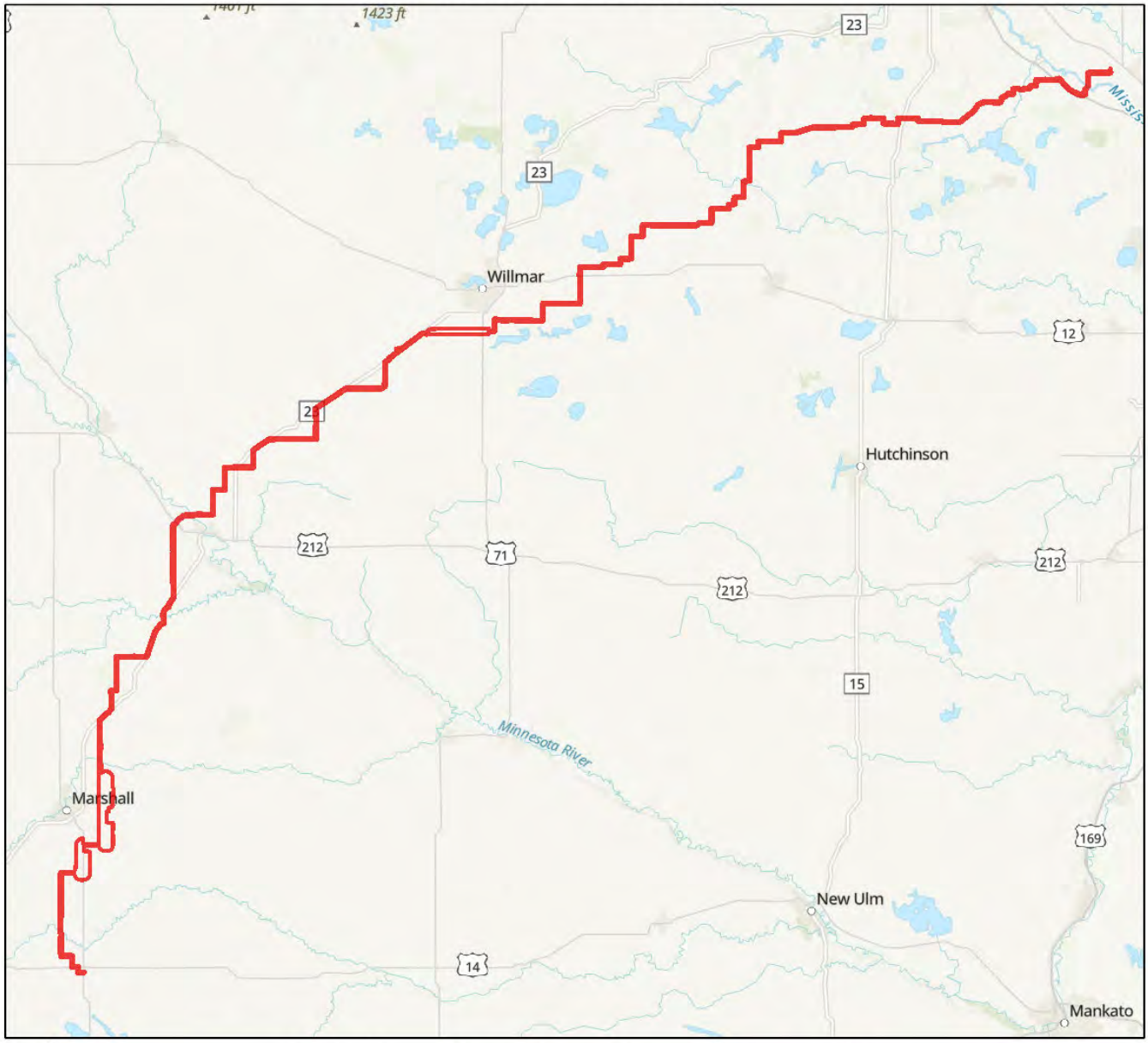
For informational purposes only, this tool currently checks the following USFWS Regulatory Layers:

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

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

MCE-2023-00890

Conservation Planning Map



N
W E
S

0 5 10 20 30 40 Miles

Area of Interest

Size (acres): 27,954.98

County(s): Chippewa, Kandiyohi, Lyon, Meeker +

Esri, TomTom, Garmin, FAO, NOAA, USGS, EPA, USFWS
Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS, USFWS
Esri, USGS

DEPARTMENT OF NATURAL RESOURCES

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

February 20, 2024
Correspondence # MCE-2023-00889

Angela Durand
Merjent, Inc.

RE: Natural Heritage Review of the proposed **Minnesota Energy Connection Project - Blue Route**, Kandiyohi, Lyon, Meeker, Redwood, Renville, Sherburne, Stearns County

Dear Angela Durand,

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

Ecologically Significant Areas

- The Minnesota Biological Survey (MBS) has identified **8** Sites of *Moderate* Biodiversity Significance in the vicinity of the proposed project. Sites of Biodiversity Significance have varying levels of native biodiversity and are ranked based on the relative significance of this biodiversity at a statewide level. Sites ranked as *Moderate* contain occurrences of rare species and/or moderately disturbed native plant communities, and/or landscapes that have a strong potential for recovery. **Please see your MCE-generated Conservation Planning Report for a comprehensive list of MBS Sites of Biodiversity Significance (attached).**

  There are **21** MN DNR Native Plant Communities (NPCs) within 330 feet of the proposed project. Of these 1 is **critically imperiled** (S1), 17 are **imperiled** (S2), and 3 are **vulnerable to extirpation** (S3) in Minnesota. **Please see your MCE-generated Conservation Planning Report for a comprehensive list of Native Plant Communities in your proposed project area (attached).**

  Activities in road rights-of-way (ROW) can negatively affect adjacent native plant communities, especially through the introduction of invasive plant species. As such, disturbance near these ecologically significant areas should be minimized. Actions to minimize disturbance may include, but are not limited to, the following recommendations:

- As much as possible, operate within already-disturbed areas.
- Confine construction activities to the opposite side of the road from MBS Sites and rare NPCs (S1-S3). If this is not feasible, confine construction activities to the existing road rights-of-way.
- Retain a buffer between proposed activities and both MBS Sites and rare NPCs (S1-S3).
- Minimize vehicular disturbance in the area (allow only vehicles necessary for the proposed work).
- Do not park equipment or stockpile supplies in the area.
- Do not place spoil within MBS Sites or other sensitive areas.
- If possible, conduct the work under frozen ground conditions.
- Inspect and clean all equipment prior to bringing it to the site to prevent the introduction and spread of invasive species.
- Use effective erosion prevention and sediment control measures.
- Revegetate disturbed soil with native species suitable to the local habitat as soon after construction as possible.
- Use only weed-free mulches, topsoils, and seed mixes. Of particular concern is birdsfoot trefoil (*Lotus corniculatus*) and crown vetch (*Coronilla varia*), two invasive species that are sold commercially and are problematic in prairies and disturbed open areas, such as roadsides.

Construction in streambeds, lakes, and wetlands should be avoided whenever possible. We recommend either changing the cable alignment to avoid such areas, employing directional boring techniques to install cable under the area, or attaching the cable to roadway bridges passing over such areas. Additional actions to minimize disturbance may include, but are not limited to, the following recommendations:

- Work in watercourses should be conducted during low flow whenever possible.
- If possible, conduct the work under frozen ground conditions.
- Wetland basins, lake beds, and stream/riverbeds should be restored to preconstruction contours. The work should not promote wetland drainage.
- Appropriate wildlife friendly erosion control measures, such as fabric, straw bales, mulch, and silt fences should be used to prevent sedimentation of adjacent wetlands, lakes, or watercourses.

- Impacts to existing vegetation should be kept to a minimum. Disturbed soil areas should be reseeded with native species suitable to the local habitat immediately upon project completion.

The Minnesota Biological Survey (MBS) considered the area surrounding the proposed project for a Site of Biodiversity Significance. There are **12 areas** that were determined to be ***Below*** the minimum biodiversity threshold for statewide significance. This area, however, may have conservation value at the local level as habitat for native plants and animals, corridors for animal movements, buffers surrounding higher quality natural areas, or as areas with high potential for restoration of native habitat. **As such, indirect impacts from surface runoff or the spread of invasive species should be considered during project design and implementation.**

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

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

State-listed Species

- Henslow's sparrows (*Centronyx henslowii*), a state-listed endangered bird species, have been documented in the vicinity of the proposed project. Suitable nesting habitat for this species includes uncultivated and unmowed grasslands and old fields with standing, dead vegetation, and a substantial litter layer. Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134) prohibit the take of threatened or endangered species without a permit. As such, initial disturbance in these areas should not occur during their breeding season, between May 15th and July 15th. **If avoidance during breeding season is not feasible, areas that will be disturbed that contain suitable nesting habitat will need to be surveyed for active nests prior to any project**

disturbance. Surveys must follow the standards contained in the Rare Species Survey Process. Visit the Natural Heritage Review page for a list of certified surveyors and more information on this process. Please consult with the NH Review Team at Reports.NHIS@state.mn.us with subject line MCE-2023-00889 if you have any questions regarding this process.

- Butternut (*Juglans cinerea*), a state-listed endangered tree species, has been documented in the project vicinity. Most populations of this species in Minnesota are located in mature, mesic hardwood forests. This species is very susceptible to a lethal fungal disease called butternut canker (*Sirococcus clavigignenti-juglandacearum*). Nearly all of Minnesota's butternut populations are dead or dying from the fungus, triggering the protected status of this tree within the state. As this species has been documented in the vicinity of the proposed project, **a qualified surveyor is required to conduct a botanical survey of any trees in the proposed project area that are proposed to be removed.**

  Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134) prohibit the take of threatened or endangered species without a permit. Surveys must be conducted by a qualified surveyor and follow the standards contained in the Rare Species Survey Process and Rare Plant Guidance. Visit the Natural Heritage Review page for a list of certified surveyors and more information on this process. Project planning should take into account that any botanical survey needs to be conducted during the appropriate time of the year, which may be limited. Please consult with the NH Review Team at Reports.NHIS@state.mn.us with subject line MCE-2023-00889 if you have any questions regarding this process.

- Prairie bush clover (*Lespedeza leptostachya*), a federally and state-listed threatened plant species, and small white lady's slipper (*Cypripedium candidum*), a plant species of special concern, have been documented in the project vicinity. **To avoid impacting state protected plants, all native prairie habitats and all rock outcrop habitats must be avoided.** If avoidance is not feasible, a botanical survey will be needed. Please see your MCE-generated Conservation Planning Report for a comprehensive list of prairie and rock outcrop habitats in the vicinity of the proposed project (attached).

  Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134) prohibit the take of threatened or endangered species without a permit. Surveys must be conducted by a qualified surveyor and follow the standards contained in the Rare Species Survey Process and Rare Plant Guidance. Visit the Natural Heritage Review page for a list of certified surveyors and more information on this process. Project planning should take into account that any botanical survey needs to be conducted during the appropriate time of the year, which may be limited. Please consult with the NH Review Team at Reports.NHIS@state.mn.us with subject line MCE-2023-00889 if you have any questions regarding this process.

- Blanding's turtles (*Emydoidea blandingii*), a state-listed threatened species, have been documented in the vicinity of the proposed project. Blanding's turtles use upland areas up to and over a mile distant from wetlands, waterbodies, and watercourses. Uplands are used for nesting, basking, periods of dormancy, and traveling between wetlands. Factors believed to contribute to the decline of this species include collisions with vehicles, wetland drainage and degradation, and the development of upland habitat. Any added mortality can be detrimental to populations of Blanding's turtles, as these turtles have a low reproduction rate that depends upon a high survival rate to maintain population levels.

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

  - Avoid wetland and aquatic impacts during hibernation season, between September 15th and April 15th, if the area is suitable for hibernation.
  - Erosion and sediment control should be limited to wildlife friendly erosion control to avoid the inadvertent take of Blanding's turtles.
  - Hydro-mulch products should not contain any materials with synthetic (plastic) fiber additives, as the fibers can re-suspend and flow into waterbodies.
  - Construction areas, especially aquatic or wetland areas, should be thoroughly checked for turtles before the use of heavy equipment or any ground disturbance.
    - The Blanding's turtle flyer must be given to all contractors working in the area.
    - Monitor for turtles during construction. Report any sightings to Reports.NHIS@state.mn.us; please include date, observer, location, and photograph of the Blanding's turtle.
    - Holes that have been left unattended for prolonged periods should be checked for Blanding's turtles before being filled.
    - If turtles are in imminent danger, they must be moved by hand out of harm's way, otherwise they are to be left undisturbed. Directions on how to move turtles safely can be found here: Helping Turtles Across the Road.
  - If the above avoidance measures are not feasible, please contact Review.NHIS@state.mn.us with subject line MCE-2023-00889 as further action may be needed.

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

- Wartyback (*Pustulosa nodulata*) and mucket (*Actinonaias ligamentina*), both state-listed threatened mussels have been documented in the Minnesota River in the project vicinity. Black sandshell (*Ligumia recta*) and creek heelsplitter (*Lasmigona compressa*), both state-listed species of special concern, have been documented in the Mississippi River in the project vicinity. Additionally, creek heelsplitter was also documented in the Cottonwood River in the project vicinity. These species are vulnerable to deterioration in water quality, particularly increased siltation. Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134) prohibit the take of threatened or endangered species without a permit. **Therefore, it is important that stringent erosion prevention and sediment control practices are maintained throughout the duration of the project to prevent adverse debris and material from impacting downstream populations.** As per proposed project details, waterbodies will be spanned, and no work is proposed within the water. If project details change and work within water is proposed, please contact the NH Review team at Review.NHIS@state.mn.us with subject line MCE-2023-00889 as rare species surveys may be needed.

- The Natural Heritage Information System (NHIS) tracks bat roost trees and hibernacula plus some acoustic data, but this information is not exhaustive. Even if there are no bat records listed nearby, all seven of Minnesota's bats, including the federally endangered northern long-eared bat (*Myotis septentrionalis*), can be found throughout Minnesota. During the active season (approximately April-November) bats roost underneath bark, in cavities, or in crevices of both live and dead trees. Tree removal can negatively impact bats by destroying roosting habitat, especially during the pup rearing season when females are forming maternity roosting colonies and the pups cannot yet fly. To minimize these impacts, **the DNR recommends that tree removal be avoided from June 1 through August 15.**

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

Federally Protected Species

- To ensure compliance with federal law, conduct a federal regulatory review using the U.S. Fish and Wildlife Service's (USFWS) online Information for Planning and Consultation (IPaC) tool.

- As mentioned above, prairie bush clover (*Lespedeza leptostachya*) is also federally listed as threatened.

Environmental Review and Permitting

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

The Natural Heritage Information System (NHIS), a collection of databases that contains information about Minnesota's rare natural features, is maintained by the Division of Ecological and Water Resources, Department of Natural Resources. The NHIS is continually updated as new information becomes available, and is the most complete source of data on Minnesota's rare or otherwise significant species, native plant communities, and other natural features. However, the NHIS is not an exhaustive inventory and thus does not represent all of the occurrences of rare features within the state. Therefore, ecologically significant features for which we have no records may exist within the project area. If additional information becomes available regarding rare features in the vicinity of the project, further review may be necessary.

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

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

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

Sincerely,

Molly Barrett

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

Cc: Melissa Collins, Regional Environmental Assessment Ecologist, Region 3 (Central)
Cc: Haley Byron, Regional Environmental Assessment Ecologist, Region 4 (South)
Cc: Amanda Weise, Regional Ecologist, Region 3 (Central)

Cc: Megan Benage, Regional Ecologist, Region 4 (South)
Cc: Jennie Skancke, Wetlands Program Coordinator
Cc: Cynthia Warzecha, Energy Projects Review

DEPARTMENT OF NATURAL RESOURCES

Conservation Planning Report: MCE-2023-00889

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

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

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

MBS Sites of Biodiversity Significance

Search distance = 330 feet

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

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

For more information please visit MBS Sites of Biodiversity Significance.

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

MBS Site Name	Biodiversity Significance	Status
Amiret 11 plus	Below	final
Amiret 13	Below	final
Amiret 16	Moderate	final
Amiret 29 plus	Moderate	final
Amiret 32	Moderate	final
BIRCH COOLEY S. 3	Moderate	final
Daub's Lake WMA	Below	final
EAST CLEAR LAKE 30	Below	final
Gales 14 North	Below	final
Gales 17	Moderate	final
HECTOR - BIRD ISLAND RR-ROW	Moderate	final
LYNDEN 28	Below	final
Manannah 24 SE	Below	final
Manannah 24 SW	Below	final
North Twin Lake	Below	final

MBS Site Name	Biodiversity Significance	Status
Sheridan 13, 24	Below	final
Sherman 16	Moderate	final
Sherman 17	Below	final
WEST CLEAR LAKE 9	Below	final
WEST CLEAR LAKE 25	Moderate	final

DNR Native Plant Communities

Search distance = 330 feet

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

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

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

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

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

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

MBS Site Name	NPC Code	Native Plant Community Classification	Conservation Status Rank	Number of Communities
Amiret 16	PWL_CX	Prairie Wetland Complex	(S1, S2, S3)	1
Amiret 16	UPs23a	Mesic Prairie (Southern)	S2	1
Amiret 29 plus	MHs38b	Basswood - Bur Oak - (Green Ash) Forest	S3	2
Amiret 29 plus	MHs49	Southern Wet-Mesic Hardwood Forest	(S2, S3)	1
Amiret 29 plus	UPs13d	Dry Hill Prairie (Southern)	S2	8
Amiret 29 plus	WMp73	Prairie Wet Meadow/Carr	(S3)	1
Amiret 32	UPs13d	Dry Hill Prairie (Southern)	S2	3
BIRCH COOLEY S. 3	UPs13d	Dry Hill Prairie (Southern)	S2	1
Gales 17	WPs54b	Wet Prairie (Southern)	S2	1
HECTOR - BIRD ISLAND RR-ROW	UPs23a	Mesic Prairie (Southern)	S2	1
Sherman 16	UPs23a	Mesic Prairie (Southern)	S2	1

Calcareous Fens

Search distance = 5 miles

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

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

DNR Old Growth Stands

Search distance = 330 feet

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

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

MN Prairie Conservation Plan

Search distance = 330 feet

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

The following MN Prairie Conservation Plan Designations are within the search area:

- Core Area: Upper Minn. R. Valley
- Corridor: Altamont Moraine

Important Bird Areas

Search distance = 1 mile

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

The following Important Birds Areas are within the search area:

- Upper Minnesota River Valley IBA

Lakes of Biological Significance

Search distance = 330 feet

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

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

USFWS Habitat Conservation Plans

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

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

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

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

USFWS Regulatory Layers

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

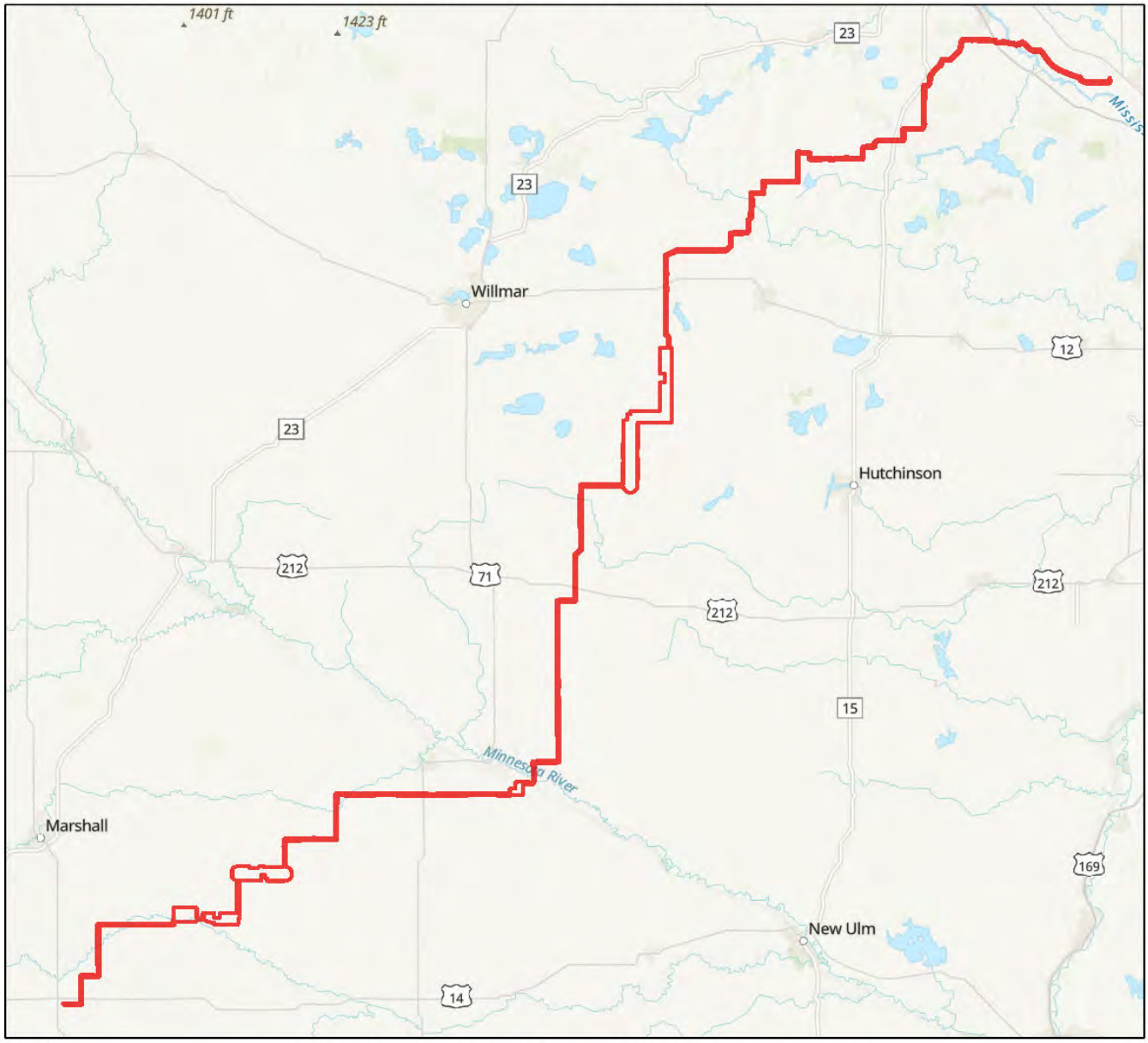
For informational purposes only, this tool currently checks the following USFWS Regulatory Layers:

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

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

MCE-2023-00889

Conservation Planning Map



Size (acres): 35,799.84

County(s): Kandiyohi, Lyon, Meeker, Redwood +

Esri, TomTom, Garmin, FAO, NOAA, USGS, EPA, USFWS
Esri, TomTom, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS, USFWS
Esri, USGS

DEPARTMENT OF NATURAL RESOURCES

Minnesota Department of Natural Resources
Division of Ecological & Water Resources
500 Lafayette Road
St. Paul, MN 55155-4040

February 21, 2024

Andrew Levi
Minnesota Department of Commerce
85 7th Place East, Suite 280
St. Paul, MN 55101

RE: In the Matter of the Route Permit Application for the Minnesota Energy Connection Project in Sherburne, Stearns, Kandiyohi, Wright, Meeker, Chippewa, Yellow Medicine, Renville, Redwood, and Lyon counties, PUC Docket Number: TL-22-132

Dear Mr. Levi,

The Minnesota Department of Natural Resources (DNR) has reviewed the route permit application for the Minnesota Energy Connection Project. Our agency offers the following comments regarding the potential environmental impacts that should be considered in the environmental impact statement (EIS).

DNR Proposed Route Alternatives

The DNR has developed alternative routes that avoid impacts to sensitive features and ecologically significant areas. Each of the alternatives deviates from the Purple Route and/or Blue Route options to avoid impacts to habitat, trout streams, public waters, floodplains, and wildlife, and then reconnect after the sensitive feature has been avoided. The DNR's proposed route alternatives are described in Attachment A: DNR Proposed Route Alternatives. Our agency recommends that these route alternatives be considered for inclusion and evaluation in the EIS.

Mississippi River Crossing

The DNR strongly prefers a route that uses existing crossings over the Mississippi River, especially within a Wild and Scenic River (WSR) district. Of the route options provided, the Purple Route in Wright County is the only route that uses an existing crossing. Our agency supports only the Purple Route crossing of the Mississippi River.

The proposed Blue Route would cross a large island and is at a section of the river where the river is more braided. Once the Blue Route crosses into Stearns County, it runs along the Mississippi River for

approximately 2,600 linear feet. This route could require heavy tree clearing along the river. If these trees are removed the riverbank could become unstable.

Our agency is disappointed that there was not greater coordination across other Xcel Energy transmission line projects that connect to the Sherco Solar Substation. If a new crossing within the WSR district is necessary, it should be combined with other crossings of the Mississippi River to lessen the impact to WSR district. These impacts include altering the viewshed of this natural area, removing trees that are important to bank and bluff stability, and fragmenting sites that are mapped as Minnesota Biological Survey (MBS) sites of biodiversity significance.

Designated Wild, Scenic, and Recreational Rivers

Minnesota's Wild and Scenic Rivers Act provides statutory protection for rivers and adjacent lands that possess outstanding scenic, recreational, natural, historical and scientific attributes. The following state-designated river segments are within the project area:

- Mississippi River: from St. Cloud to Anoka (as provided by MN Rules, part 6105.0800)
- North Fork - Crow River: in Meeker County (as provided by MN Rules 6105.1000)
- Minnesota River: from Lac Qui Parle dam to Franklin (as provided by MN Rules 6105.1200)

The EIS should discuss potential impacts to these protected rivers, which are also public waters, and how they will be avoided, minimized, or mitigated.

Other Public Waters

Public waters are designated as such to indicate which lakes, wetlands, and watercourses over which DNR Waters has regulatory jurisdiction. A license to cross public waters will be required in multiple locations. The EIS should discuss transmission tower placement in relation to river and stream banks and floodplains, setbacks from stream banks, and minimizing the number of crossings over the same public water. The Cottonwood River is crossed 5 times within 10 miles. The South Fork Crow River and Redwood River are crossed multiple times. The EIS should include a robust discussion of methods to avoid, minimize, or mitigate potential impacts to these public waters.

Calcareous Fen

The EIS should discuss the Gennessee 21 site, a calcareous fen that has been documented within five miles of the proposed project. To ensure that the Gennessee 21 fen is not impacted or altered, the applicant will need to obtain a no effect concurrence decision from the DNR prior to construction. To obtain a no effect concurrence decision, the applicant will need to demonstrate that any temporary or permanent disturbance from any project-related activities, including dewatering (amount, timing, and duration), are avoided. To make a determination regarding potential fen impacts, DNR staff will need a project plan describing construction, transport, infrastructure, or changes to hydrology or water quality. Refer to the Natural Heritage Review letter (Attachment B: Purple Route) for additional information about calcareous fens.

Wildlife Management Areas

Wildlife management areas (WMAs) are part of Minnesota's outdoor recreation system and are established to protect those lands and waters that have a high potential for wildlife production, public hunting, trapping, fishing, and other compatible recreational uses. They are the backbone to DNR's wildlife management efforts in Minnesota and are key to protecting wildlife habitat for future generations; providing opportunities for hunting, fishing and wildlife watching; and promoting wildlife-based tourism. For areas within the right-of-way and route width, potential recreational impacts and the state's ability to manage the land for its intended purpose should be addressed. The EIS should also include a discussion on avoidance measures. If avoidance is not possible, a robust discussion on impact minimization should be included. Concerns regarding specific WMAs:

Clifton/Rolling Hills WMA complex (Purple Route, directly east of Marshall): The transmission line is proposed along the west side of the WMA. Cattle grazing is used at this complex, and there are concerns that the potential impacts on cattle health/production from the transmission line may limit future management options.

Amiret WMA (Connector Line D): As proposed, the transmission line would follow the access trail, altering the experience of recreational users. The Heck Slough and surrounding grassland acts as an important gathering place for waterfowl and other birds in the area. Therefore, the potential for bird strikes and nesting avoidance are of particular concern at this site and should be fully assessed within the EIS. Cattle grazing is also currently used as a management tool at this WMA, so potential impacts from the project must also be considered for the continued feasibility of this tool at this site as well.

Sites of Biodiversity Significance

The EIS should discuss sites of biodiversity significance and measures to avoid or minimize impacts to these ecologically significant resources. Refer to the Natural Heritage Review letters (Attachment B: Purple Route and Attachment C: Blue Route) for specific avoidance and minimization measures. No MBS sites of biodiversity significance were identified along the Green Segment.

Purple Route – The MBS has identified 1 site of high and 19 sites of moderate biodiversity significance in the vicinity of the proposed project.

Blue Route – The MBS has identified 8 sites of moderate biodiversity significance in the vicinity of the proposed project.

Native Plant Communities

The EIS should discuss the presence of Native Plant Communities and measures to avoid or minimize impacts to these ecologically significant resources. Refer to the Natural Heritage Review letters (Attachment B: Purple Route and Attachment C: Blue Route) for specific actions to minimize disturbance to native plant communities. No Native Plant Communities were identified along the Green Segment.

Purple Route - There are 25 MN DNR Native Plant Communities within 330 feet of the proposed project. Of these 1 is critically imperiled, 13 are imperiled, and 1 is vulnerable to extirpation in Minnesota.

Blue Route – There are 21 MN DNR Native Plant Communities within 330 feet of the proposed project. Of these 1 is critically imperiled, 17 are imperiled, and 3 are vulnerable to extirpation in Minnesota.

State-listed Species

The EIS should discuss state-listed species and measures to avoid them. Refer to the attached Natural Heritage Review letters (Attachments B: Purple Route and C: Blue Route) for further recommendations and requirements. No state-listed species were identified along the Green Segment.

Purple Route – Sullivant's milkweed and waterhyssop, both state-listed threatened plant species, and small white lady's slipper, a plant species of special concern, have been documented in the project vicinity. If avoidance is not feasible, a botanical survey will be needed.

Blue Route – Henslow's sparrows, a state-listed endangered bird species, have been documented in the vicinity of the proposed project.

Blue Route – Butternut, a state-listed endangered tree species, has been documented in the project vicinity. This species is very susceptible to a lethal fungal disease called butternut canker.

Blue Route – Prairie bush clover, a federally and state-listed threatened plant species, and small white lady's slipper, a plant species of special concern, have been documented in the project vicinity. If avoidance is not feasible, a botanical survey will be needed.

Purple and Blue Routes – Blanding's turtles, a state-listed threatened species, have been documented in the vicinity of the proposed project. See the attached Natural Heritage review letters (Attachments B: Purple Route and C: Blue Route) for required avoidance measures.

Purple and Blue Routes – Black sandshell, a state-listed mussel species of special concern, has been documented in the Mississippi River in the project vicinity. Creek heelsplitter, a state-listed mussel species of special concern, has been documented in the Clearwater River in the project vicinity. Mudpuppy, a state-listed salamander species of special concern, has been documented in the Minnesota River in the project vicinity. These species are vulnerable to deterioration in water quality, particularly increased siltation.

Facility Lighting

Section 2.6 of the permit application describes the associated facilities including a new 345 kV Voltage Support Substation, an Intermediate Substation, and a new Terminal Substation. It is reasonable to assume that these new substations, and associated control buildings, will require lighting. The EIS should discuss measures to mitigate lighting impacts associated with the substations and control buildings. Animals depend on the daily cycle of light and dark for behaviors such as hunting, migrating, sleeping, and protection from predators. In addition to the undesirable effects of upward facing lighting, the hue of lights can also affect wildlife. LED lighting has become increasingly popular due to its efficiency and long lifespan. However, these bright lights tend to emit blue light, which can be harmful to birds, insects, and fish. The

DNR recommends that any projects using LED luminaries follow the MnDOT Approved Products for luminaries, which limits the Uplight rating to 0. A nominal color temperature below 2700K is preferable for wildlife, and so we recommend choosing products that have the lowest number for backlight and glare.

Dust Control

The EIS should discuss measures to control fugitive dust. The permit application acknowledges the applicant may use construction-related practices to control fugitive dust such as application of water or other commercially available non-chloride dust control agents on unpaved areas subject to frequent vehicle traffic. Our agency advises that products containing calcium chloride or magnesium chloride are often used for dust control. Chloride products that are released into the environment do not break down, and instead accumulate to levels that are toxic to plants and wildlife. Hence, our agency recommends avoiding the use of dust control products containing chlorides.

Wildlife-Friendly Erosion Control

The EIS should discuss the use of wildlife-friendly erosion control. Due to entanglement issues with small animals, the DNR recommends that erosion control blankets be limited to “bio-netting” or “natural netting” types, and specifically not products containing plastic mesh netting or other plastic components. Hydro-mulch products may contain small synthetic (plastic) fibers to aid in its matrix strength. These loose fibers could potentially re-suspend and make their way into waterways.

The DNR appreciates the opportunity to comment on the Minnesota Energy Connection Project. Our agency has a continued interest in working with the Commission and Department of Commerce – Energy Environmental Review and Analysis staff, along with the applicant, to ensure that potential environmental concerns are adequately addressed. If you have questions about our agency’s comments, I may be reached at 651-259-5078 or cynthia.warzecha@state.mn.us.

Sincerely,

/S/ *Cynthia Warzecha*
Energy Projects Planner

Attachments: A: DNR Proposed Route Alternatives
B: Purple Route - Natural Heritage Review Letter and Conservation Planning Report
C: Blue Route - Natural Heritage Review Letter and Conservation Planning Report

EC: Scott Ek, Minnesota Public Utilities Commission
Jacques Harvieux, Minnesota Public Utilities Commission
Matt Langan, Xcel Energy
Haley Byron, Minnesota Department of Natural Resources
Melissa Collins, Minnesota Department of Natural Resources

DEPARTMENT OF NATURAL RESOURCES

Minnesota Department of Natural Resources
Division of Ecological and Water Resources
500 Lafayette Road
St. Paul, MN 55155-4040

November 25, 2024

Scott Ek
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101

RE: In the Matter of the Certificate of Need and Route Permit Applications for the Minnesota Energy Connection 345 kV Transmission Line Project
PUC Docket Numbers: CN-22-131 and TL-22-132

Dear Scott Ek,

The Minnesota Department of Natural Resources (DNR) has reviewed the draft environmental impact statement (EIS) for the Minnesota Energy Connection 345 kV Transmission Line Project (Project), proposed by Xcel Energy. Our agency offers the following comments:

Preferred Routes and Recommendations on Routes

Region A

The DNR prefers Route Option B (Blue Route) with Route Segment 202 to reduce impacts to the Cottonwood River and rare resources.

Region B

The DNR prefers Route Option B (Blue Route) with Route Segments 211 and 214 to reduce impacts to the Cottonwood River, Wabasha Creek, conservation land, and rare resources.

Region C

The DNR prefers Route Option B (Blue Route) with Route Segment 223 following an existing line and potentially minimizing impacts to rare resources. It is also preferred to follow Route Options C/D to

Route Option A (Purple Route) in Section 15, Township 120, Range 32 in Meeker County. This would reduce impacts to conservation land and Horseshoe Lake, potentially reducing bird impacts.

Region D

The DNR prefers Route Option A (Purple Route)

Region E

The DNR prefers Route Option A (Purple Route) to avoid Clear Lake potentially reducing bird impacts.

Alice Hamm WMA

The DNR requests that alignment adjustments be made to avoid right-of-way (ROW) vegetation removal within the Alice Hamm WMA.

Region F

The DNR prefers Route Connectors 109 or 110 to avoid crossing public waters and potentially reducing bird impacts

Region G

The DNR prefers Route Option B (Blue Route) and Route Segments 237, 238, 240, 249, or 250 in combination with Route Connector 114 that rejoins the Purple Route at County State-Aid Highway (CSAH) 45. This avoids rare resources and a designated trout stream. The DNR prefers the use of Route Segments 247 or 248 to avoid new ROW over the Clearwater River.

As an alternative, the DNR supports the Purple Route east of School Section Lake only in combination with Route Segment 241. This would avoid impact to Fairhaven Creek, a designated trout stream.

The DNR does not support Route Connector 111 which would include vegetation clearing of Fairhaven Creek and its headwaters.

Mississippi River Crossing

The DNR strongly prefers a route that utilizes existing crossings over the Mississippi River, especially within a wild and scenic river (WSR) district. Of the route options proposed this includes the Purple Option in Wright County and Route Segment 246 along the Blue Route. We support these alternatives for the crossing of the Mississippi River to reduce the impact to the WSR district. Throughout these segments, impact to viewshed of this natural area, vegetation removal, and impacts to Minnesota Biological Survey (MBS) Sites of Biodiversity Significance are minimized. DNR generally prefers utilizing pole structures for the Mississippi River crossing that place transmission lines side by side rather than stacked because it creates fewer vertical planes for bird impacts.

Impact Mitigation and Permit Conditions

Vegetation Removal

Floodplain

Vegetation clearing within a floodplain, especially tree removal, can greatly destabilize the area and make it more prone to ongoing erosion and sediment issues, and can also destabilize the riverbank further contributing to water quality issues. Once the soil within a floodplain and along the riverbank is destabilized, it can lead to pole stability issues and create long-term maintenance challenges.

Winter Tree Clearing

The DNR supports winter tree clearing for the project. Winter tree clearing ensures that nesting birds and roosting bats are not directly impacted by construction. Our agency recommends that the final EIS include a commitment from Xcel for winter tree clearing. Additionally, the route permit should require this best management practice.

Designated Trout Streams

Trout streams are ecologically sensitive to any change in temperature or water quality. It is important to keep surface water cool by maintaining sufficient shade and tree canopy. We do not support creating new ROW and clearing vegetation over designated trout streams or their headwaters.

Water Appropriation

A DNR Water Appropriation Permit is required for dewatering activities during construction if the water pumped exceeds 10,000 gallons in a day, and/or one million gallons in one year. The DNR General Permit for Temporary Appropriation, with its lower permit application fee and reduced time for review, may be used for the dewatering if the dewatering volume is less than 50 million gallons and the time of the appropriation is less than one year. MPARS can be used to apply for a DNR Water Appropriation Permit.

Rare Resources: Natural Heritage Review

The Natural Heritage (NH) Review letters are based on the applicant's proposed routes and are valid for one year. Please keep in mind that the final route may need to be re-evaluated and any route changes would require an updated NH Review via Minnesota Conservation Explorer (MCE) to ensure rare resources are identified and any potential impacts are mitigated. The applicant should also submit plans for temporary access roads and staging areas.

Ongoing coordination regarding MCE 2023-00889 needs to be completed and addressed in the EIS if the Blue Route is chosen.

Calcareous Fen

As stated in the Natural Heritage Purple Route Letter (MCE 2023-00890), a calcareous fen has been documented in the vicinity of the project. The fen needs to be addressed consistently throughout the EIS. The DNR requests a special permit condition, similar to TL-23-159, that Xcel must work with DNR to determine if any impacts will occur during any phase of the Project. If the Project is anticipated to impact any calcareous fens, Xcel must develop a Calcareous Fen Management Plan in coordination with the DNR, as specified in Minn. Stat. § 103G.223.

Blanding's Turtle

As stated in the Natural Heritage Purple Route and Blue Route Letters (MCE 2023-00890 and MCE 2023-00889, respectively), Blanding's Turtles have been documented in the vicinity of the project and avoidance measures are required. The EIS must address all of the avoidance measures required in the letters.

Coordination with the USFWS

We recommend that coordination with USFWS regarding avoidance and permitting of federally protected species on the selected route be included as a permit condition.

Facility Lighting

The DNR recommends including a special permit condition, similar to TL-23-159, to utilize downlit and shielded lighting and minimize blue hue to reduce harm to birds, insects, and other animals. Potential project impacts related to illuminated facilities can be avoided or minimized by using shielded and downward facing lighting and lighting that minimizes blue hue.

Dust Control

The DNR recommends including a special permit condition, similar to TL-23-159, to avoid products containing calcium chloride or magnesium chloride, which are often used for dust control. Chloride products that are released into the environment do not break down, and instead accumulate to levels that are toxic to plants and wildlife.

Wildlife-Friendly Erosion Control

Due to entanglement issues with small animals, the DNR recommends including a special permit condition, similar to TL-23-159, that erosion control blankets be limited to "bio-netting" or "natural netting" types, and specifically not products containing plastic mesh netting or other plastic components. Hydro-mulch products may contain small synthetic (plastic) fibers to aid in its matrix strength. These loose fibers could potentially re-suspend and make their way into waterways.

Avian Flight Diverters

Our agency commits to work with Xcel to determine appropriate locations for avian flight diverters after the route is determined. Generally, the avian flight diverters will be needed at river crossings, fragmented forested patches, and near lakes and wetlands. The use of avian flight diverters will minimize the number of bird collisions with the transmission lines.

The DNR appreciates the opportunity to comment on the construction and operation of the proposed Minnesota Energy Connection 345 kV Transmission Line Project. Please contact me if you have questions about our agency's comments.

Sincerely,

Samantha Bump

Digitally signed by Samantha Bump
Date: 2024.11.25 16:29:02 -06'00'

Samantha Bump
Energy Projects Planner
Samantha.Bump@state.mn.us
651.259.5999

Attachments: Natural Heritage Letters (MCE 2023-00890 and MCE 2023-00889)

CC: Melissa Collins, DNR
Haley Byron, DNR

Equal Opportunity Employer