

Rebuttal Testimony and Schedule
Thomas G. Hillstrom

**STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE APPLICATION Docket No. E002, ET6675/CN-17-184
OF NORTHERN STATES POWER
COMPANY AND ITC MIDWEST LLC OAH Docket No. 82-2500-35157
FOR A CERTIFICATE OF NEED FOR THE
HUNTLEY-WILMARTH 345 kV
TRANSMISSION LINE PROJECT

IN THE MATTER OF THE APPLICATION Docket No. E002, ET6675/RP-17-185
TO THE MINNESOTA PUBLIC UTILITIES
COMMISSION FOR A ROUTE PERMIT OAH Docket No. 82-2500-35157
FOR THE HUNTLEY-WILMARTH 345 kV
TRANSMISSION LINE PROJECT

**REBUTTAL TESTIMONY OF
THOMAS G. HILLSTROM**

On Behalf of

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

and

ITC MIDWEST LLC

December 18, 2018

Exhibit ____ (TGH-2)

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Schedule

Excerpts from the U.S. Department of Housing and Urban Development Single-Family Housing Policy Handbook, 4000.1	Schedule 1
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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Thomas G. Hillstrom, and my business address is 414 Nicollet Mall, Minneapolis, Minnesota 55401.

Q. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY IN THIS PROCEEDING?

A. Yes. I filed Direct Testimony on behalf of Xcel Energy (Xcel Energy) and ITC Midwest LLC (ITC Midwest) (collectively, Applicants) for a Certificate of Need and Route Permit for the Huntley – Wilmarth Project (Project).

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my Rebuttal Testimony is to respond to the Direct Testimony provided by City of North Mankato's (North Mankato) witness Mr. Michael Fischer. In addition, I am providing updates related to the Agricultural Mitigation Plan for the Project and recent communications with the United States Fish and Wildlife Service (USFWS) related to routing near the Watonwan River along the Purple Route. I will also provide a summary of Applicants' initial impressions of the Draft Environmental Impact Statement (DEIS) that was issued by the Department of Commerce-Energy and Environmental Review and Analysis on December 7, 2018.

Q. ARE THERE ANY SCHEDULES ATTACHED TO YOUR REBUTTAL TESTIMONY?

A. Yes. The following schedule is attached to my Rebuttal Testimony:

Schedule 1: Excerpts from the U.S. Department of Housing and Urban
Development Single-Family Housing Policy Handbook,
4000.1.

II. CITY OF NORTH MANKATO

Q. IN HIS TESTIMONY, MR. FISCHER TESTIFIES THAT THE RED AND GREEN
ROUTE ALTERNATIVES AND ALTERNATIVE SEGMENTS A AND B ARE
“INCONSISTENT WITH [NORTH MANKATO’S] PLANNED GROWTH
INITIATIVES.” ARE YOU FAMILIAR WITH THE FUTURE DEVELOPMENTS THAT
MR. FISCHER REFERENCES?

A. Yes. During the route development process, Applicants sought feedback
from municipalities in the Project area, including the City of North Mankato,
on the preliminary routes that Applicants were considering. These
municipalities provided input on how the preliminary routes comported with
their existing land use and projected future development. In particular, the
City of North Mankato expressed concern that the Red and Green routes
traverse areas that are slated for potential future development.

Q. DID APPLICANTS MAKE ANY ADJUSTMENTS TO THE RED AND GREEN
ROUTES BASED ON THE CONCERNS RAISED BY THE CITY OF NORTH
MANKATO?

A. Yes, the original Red and Green routes utilized Alternate Segment A (along
Rockford Road). Based on comments from the City of North Mankato and
nearby residents, Applicants developed two additional route options farther
to the west. These two options are the proposed alignments for the Red and

1 Green routes and Alternative Segment B. These adjustments, however, did
2 not fully address the City of North Mankato's concerns.

3
4 Applicants believe that it is important to keep these two routes in
5 consideration because the Red and Green routes present the most direct
6 routes between the two substations. In contrast, the Purple and Blue routes
7 skirt to the west and east of the City of Mankato and North Mankato before
8 turning south.

9
10 Q. MR. FISCHER TESTIFIES THAT THE RED AND GREEN ROUTES AND
11 ALTERNATIVE SEGMENTS A AND B WILL "HAVE A NEGATIVE IMPACT ON THE
12 FUTURE GROWTH PLANNED AND EXPECTED AS IDENTIFIED IN NORTH
13 MANKATO'S COMPREHENSIVE LAND USE PLAN" (P. 6). DO YOU AGREE WITH
14 THESE CONCERNS?

15 A. While I certainly understand the City of North Mankato's concerns, I do not
16 believe that the construction of a transmission line would prevent
17 development in its vicinity. Development can and does occur near and
18 around transmission facilities. An example of this is provided in the two
19 aerial photos shown below as Figures 1 and 2. These photos are from an
20 area in the northern portion of the City of North Mankato, about a mile
21 northwest of the Highway 169/Highway 14 interchange. Figure 1 is a photo
22 from 1991 that shows a transmission corridor in North Mankato with a 115
23 kilovolt (kV) line (blue line) and a 69 kV line (green line) without any
24 surrounding residential or commercial development. Figure 2 is a 2014
25 photo of this same area and shows a number of housing developments that
26 have been constructed since 1991 around the existing transmission corridor.

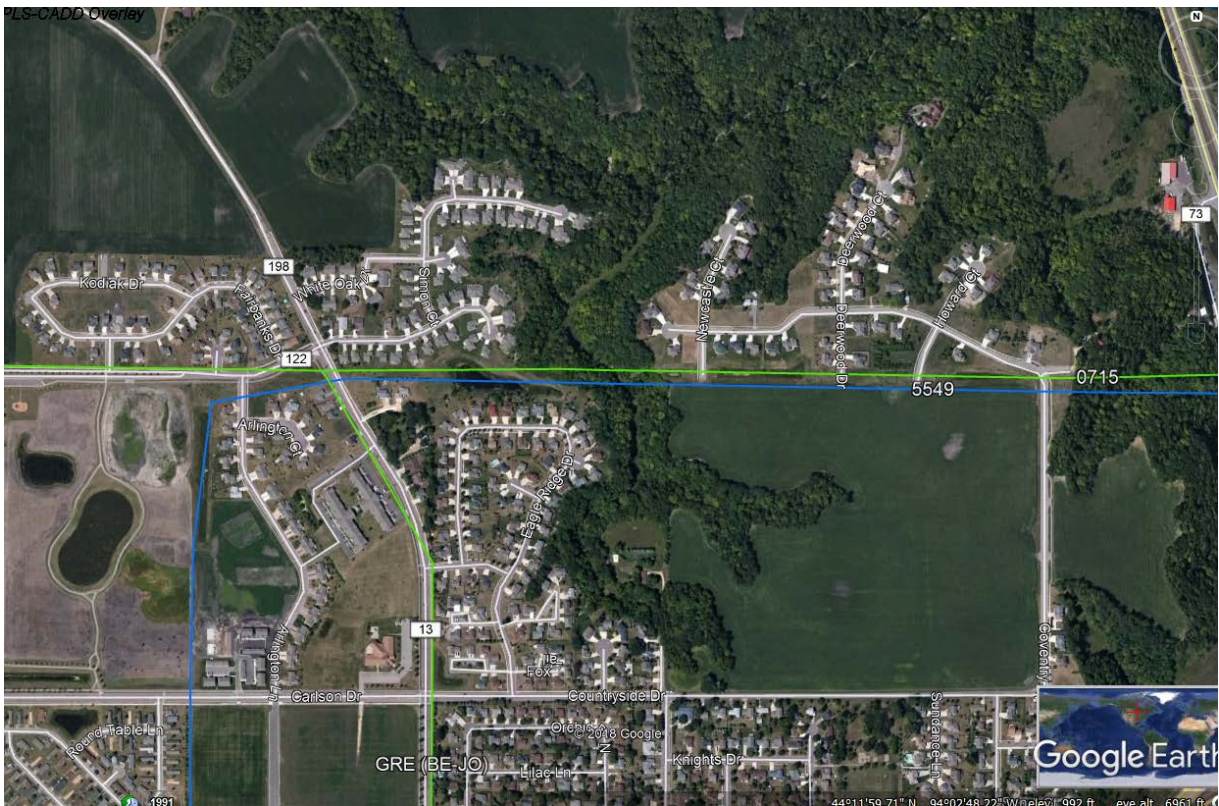
1 Finally, while I appreciate that the City of North Mankato is planning for
2 future residential and commercial development in these areas, the timing and
3 exact nature of the development is still uncertain.
4

5 **Figure 1**
6 **1991 Aerial Photo of North Mankato**



Figure 2

2014 Aerial Photo of North Mankato



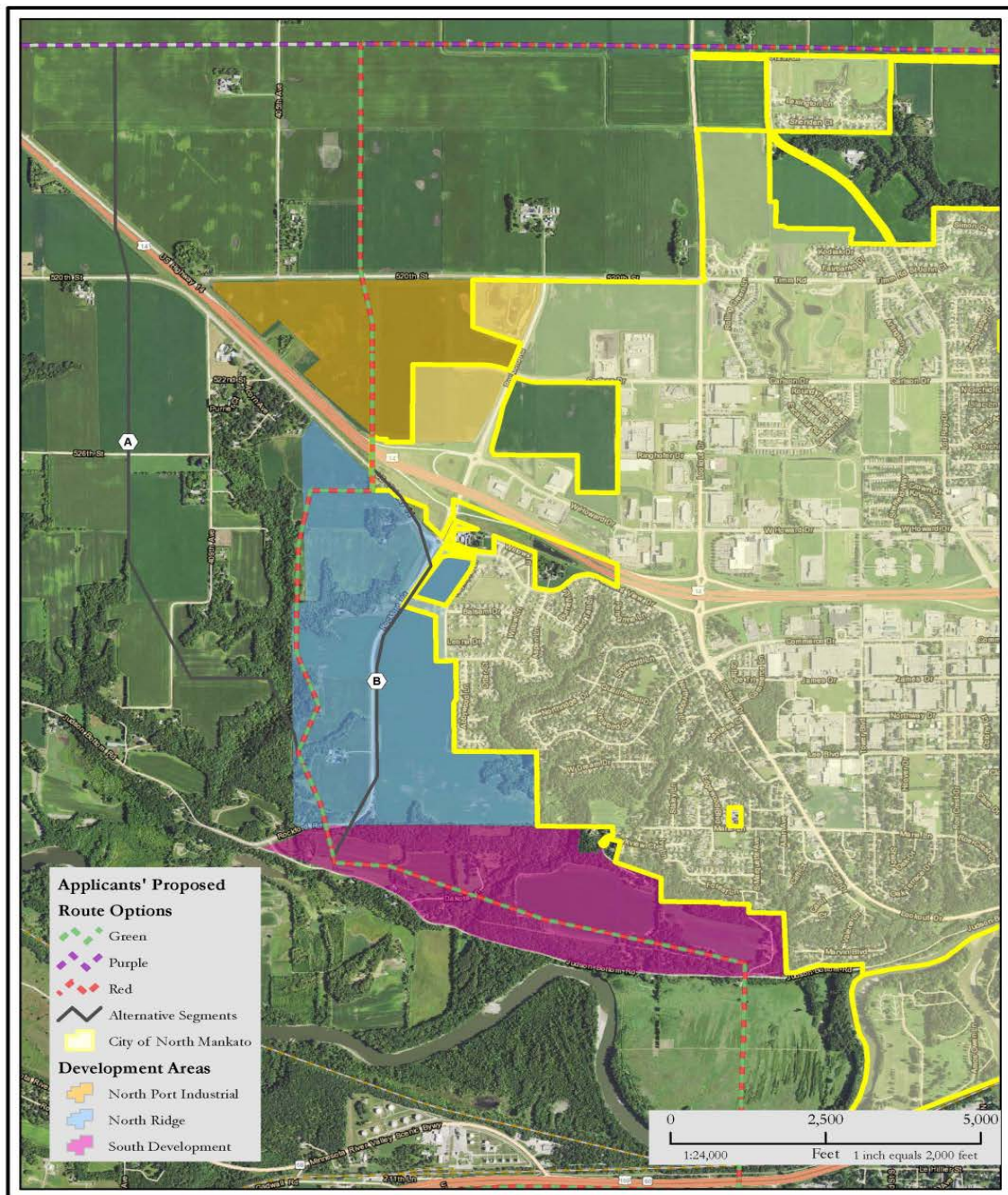
Q. DO YOU HAVE ANY INFORMATION ON THE STATUS OF THE DEVELOPMENTS THAT ARE MENTIONED IN MR. FISCHER'S DIRECT TESTIMONY?

A. Yes. Mr. Fischer mentions three potential developments by name. They are: (1) North Ridge Residential Development; (2) North Mankato South Boundary Residential Development; and (3) North Port Industrial Expansion. These potential developments are shown in Exhibit No. NM-3 to Mr. Fischer's Direct Testimony. Mr. Fischer also states that "general commercial growth" is slated for an area shown in red in Exhibit No. NM-5. Applicants prepared a map of these developments, provided as Figure 3

1 below, that also shows the current city boundaries for the City of North
2 Mankato.

3
4 **Figure 3**

5 **City of North Mankato Potential Development Areas**



1
2 Q. WHAT IS THE CURRENT STATUS OF THE TWO RESIDENTIAL DEVELOPMENTS,
3 THE NORTH RIDGE RESIDENTIAL DEVELOPMENT AND THE NORTH
4 MANKATO SOUTH BOUNDARY RESIDENTIAL DEVELOPMENT, MENTIONED
5 BY MR. FISCHER?

6 A. Both of these areas are identified on the future land use map in North
7 Mankato's Comprehensive Plan as future single-family residential
8 development. I note, however, that these areas are outside the city limits of
9 North Mankato. In addition, only a small portion of these two
10 developments has been platted by Nicollet County. Specifically, there is a
11 small area of eight residential lots within the North Ridge development that
12 was platted in March 2018. This is known as the "Burnett's Ravine Ridge
13 No. 5 Subdivision" and it is located south of US Highway 14 near County
14 Road 14. None of these eight lots has been developed to date.

15
16 Q. MR. FISCHER POINTS OUT THAT "[T]HERE ARE MORE THAN 200 EXISTING
17 AND PROPOSED NORTH MANKATO RESIDENCES UP TO AND WITHIN 500
18 FEET OF THE PROPOSED RED AND GREEN ROUTE ALTERNATIVES AND
19 ALTERNATIVE SEGMENTS A AND B." IS THIS ACCURATE?

20 A. I do not believe that possible future residences should be characterized in
21 the same category as existing residences given that the majority of these are
22 "proposed" residences that have not been platted and their construction is
23 uncertain. Of the 200 homes North Mankato references, less than half are
24 existing homes. That said, I agree that there are more existing homes near
25 the Red and Green routes as compared to the Blue and Purple routes.
26 Specifically, there are 70 and 69 homes within 500 feet of the Green and Red

1 routes while the Purple and Blue routes have 16 and 15 homes within 500
2 feet. Generally speaking, the Red and Green routes are located in closer
3 proximity to existing residences. In contrast, the Blue and Purple routes
4 impact more agricultural lands.

5
6 Q. WHAT IS THE CURRENT STATUS OF THE NORTH PORT INDUSTRIAL PARK?

7 A. This area is represented in the North Mankato Comprehensive Plan as
8 future commercial development. According to the Nicollet County online
9 mapping information,¹ a portion of this industrial park has been
10 platted/subdivided and is located within city limits; a larger portion
11 represented on Exhibit NM-3 is not within city limits or platted/subdivided.

12
13 Q. WHAT IS THE CURRENT STATUS OF THE SMALL COMMERCIAL DEVELOPMENT
14 SHOWN ON EXHIBIT NM-5?

15 A. This commercial development area is identified in North Mankato's
16 Comprehensive Plan but it not currently within the city limits and is not
17 platted. Creation of a plat map and approval by the county would be
18 required before development advances in this location.

19
20 Q. HOW ARE IMPACTS TO EXISTING RESIDENCES AND FUTURE RESIDENTIAL
21 AND COMMERCIAL DEVELOPMENT TAKEN INTO ACCOUNT IN THE
22 MINNESOTA ROUTING PROCESS?

23 A. Impacts to existing and future residences are one of the statutory and rule
24 criteria² that the Commission must consider in determining the route for the

¹ See <https://beacon.schneidercorp.com/?site=NicolletCountyMN>.

² See Minn. Stat. § 216E.03, subd. 7 ("The commission's site and route permit determinations must be guided by the state's goals to conserve resources, minimize environmental impacts, minimize human settlement and other land use

1 proposed transmission line. Other factors that must be considered include
2 potential impacts to agricultural land, the natural environment, and rare and
3 unique natural resources.³ After examining all of the factors and reviewing
4 input from the public and other stakeholders, the Commission seeks to find
5 a route that appropriately considers all of the required factors.

6
7 Q. MR. FISCHER STATES THAT THERE ARE FEDERAL GUIDELINES THAT “MIGHT
8 ADVERSELY AFFECT” THE ABILITY OF A DEVELOPER OR HOMEOWNER OF A
9 HOME WITHIN THE “FALL ZONE” OF A PROPOSED TRANSMISSION LINE TO
10 OBTAIN FINANCING (P. 16). ARE YOU FAMILIAR WITH THE FEDERAL
11 GUIDELINES THAT HE MENTIONS?

12 A. Yes. This is a concern that has been raised in other transmission projects
13 that I have been involved with over the years. Mr. Fischer is referring to the
14 guidelines issued by the Federal Housing Administration (FHA). The FHA
15 provides mortgage insurance on loans made by FHA-approved lenders
16 throughout the United States. The FHA insures mortgages on single-family
17 and multi-family homes. The mortgagee, the subject property, and the loan
18 must meet the eligibility standards established by the U.S. Department of
19 Housing and Urban Development (HUD) to qualify for FHA insurance. In
20 2015, HUD issued a new handbook entitled the “Single-Family Housing
21 Policy Handbook, 4000.1” (HUD Handbook) that provides a
22 comprehensive listing of all of HUD’s eligibility criteria for an FHA-insured
23 mortgage. The criteria in this HUD Handbook first took effect on
24 September 14, 2015.

conflicts....”); Minn. R. 7850.4100 (“In determining whether to issue a permit for a ...high voltage transmission line the commission shall consider the following: (A) effects on human settlement . . .”).

³ *Id.*

1
2 Q. WHAT DOES THE HUD HANDBOOK PROVIDE WITH REGARD TO
3 TRANSMISSION LINES?

4 A. The HUD Handbook provides certain eligibility criteria related to
5 transmission lines. Specifically, Section III(A)(3)(a)(ii)(B) of the HUD
6 Handbook states that “[t]he Mortgagee must confirm that any Overhead
7 Electric Power Transmission Lines do not pass directly over any dwelling,
8 Structure or related property improvement, including pools. The power line
9 must be relocated for a Property to be eligible for FHA-insured financing.”

10
11 In addition, the HUD Handbook provide that “[i]f the dwelling or related
12 property improvements are located within the Easement area, the Mortgagee
13 must obtain a certification from the appropriate utility company or local
14 regulatory agency stating that the relationship between the improvements
15 and Local Distribution Lines conforms to local standards and is safe.” An
16 excerpt of this portion of the HUD Handbook is attached to my testimony
17 as Exhibit____(TGH-1), Schedule 1.

18
19 Q. WILL ANY PERMANENT RESIDENCES BE LOCATED DIRECTLY UNDER THE
20 PROPOSED TRANSMISSION LINES?

21 A. No. None of the routes under consideration in this proceeding would
22 require the conductors of the proposed transmission line to pass over a
23 permanent residence.
24

1 Q. ARE ANY RESIDENCES OR A RELATED RESIDENTIAL PROPERTY
2 IMPROVEMENT LOCATED WITHIN THE PROPOSED EASEMENT AREA FOR THE
3 TRANSMISSION LINE?

4 A. No. There are no permanent residences or related residential property
5 improvements located within the proposed easement area of any of the
6 proposed routes (within 75 feet of the centerline). However, there is one
7 seasonal trailer and several non-residential buildings within 75 feet of the
8 proposed centerline. Applicants have reviewed the location of each of these
9 buildings and have determined that sufficient clearance between the
10 conductors and these buildings can be obtained by modifying structure
11 placements and/or using specialty structures. Applicants may also work
12 with the landowners on possible other mitigation measures.

13
14 Q. MR. FISCHER TESTIFIES THAT THE FEDERAL GUIDELINES ALSO INCLUDE
15 RESTRICTIONS FOR HOMES “IN THE FALL ZONE OF THE HIGH VOLTAGE
16 TRANSMISSION TOWERS OR SUPPORT STRUCTURES” (P. 16). ARE YOU
17 FAMILIAR WITH SUCH GUIDELINES?

18 A. I believe that Mr. Fischer is referring to an outdated version of the HUD
19 guidelines that included the term “fall zone.”⁴ The current version of the
20 HUD guidelines do not include this term.

21

⁴ See HUD-FHA Single-Family Housing, Ownership Center Reference Guide at 1-18f.

1 Q. BASED ON YOUR REVIEW OF THE CURRENT HUD GUIDELINES, DO YOU
2 BELIEVE THE PROPOSED TRANSMISSION LINE WILL IMPACT THE ABILITY OF
3 HOMEOWNERS OR DEVELOPERS TO OBTAIN FHA-INSURANCE FOR THEIR
4 MORTGAGES?

5 A. No. I do not believe that the proposed transmission line will impact the
6 ability of homeowners or developers to qualify for an FHA-insured
7 mortgage. No homes are currently located under the proposed location for
8 the conductors for the Project. In addition, no homes or structures are
9 located within the proposed easement area for the transmission line. As a
10 result, the HUD criteria related to proximity to transmission lines will be
11 met. Further, in all of the proceedings I have participated in, no one has
12 identified any instance where an FHA-insured mortgage was denied for a
13 single-family home due to its proximity to a transmission line.

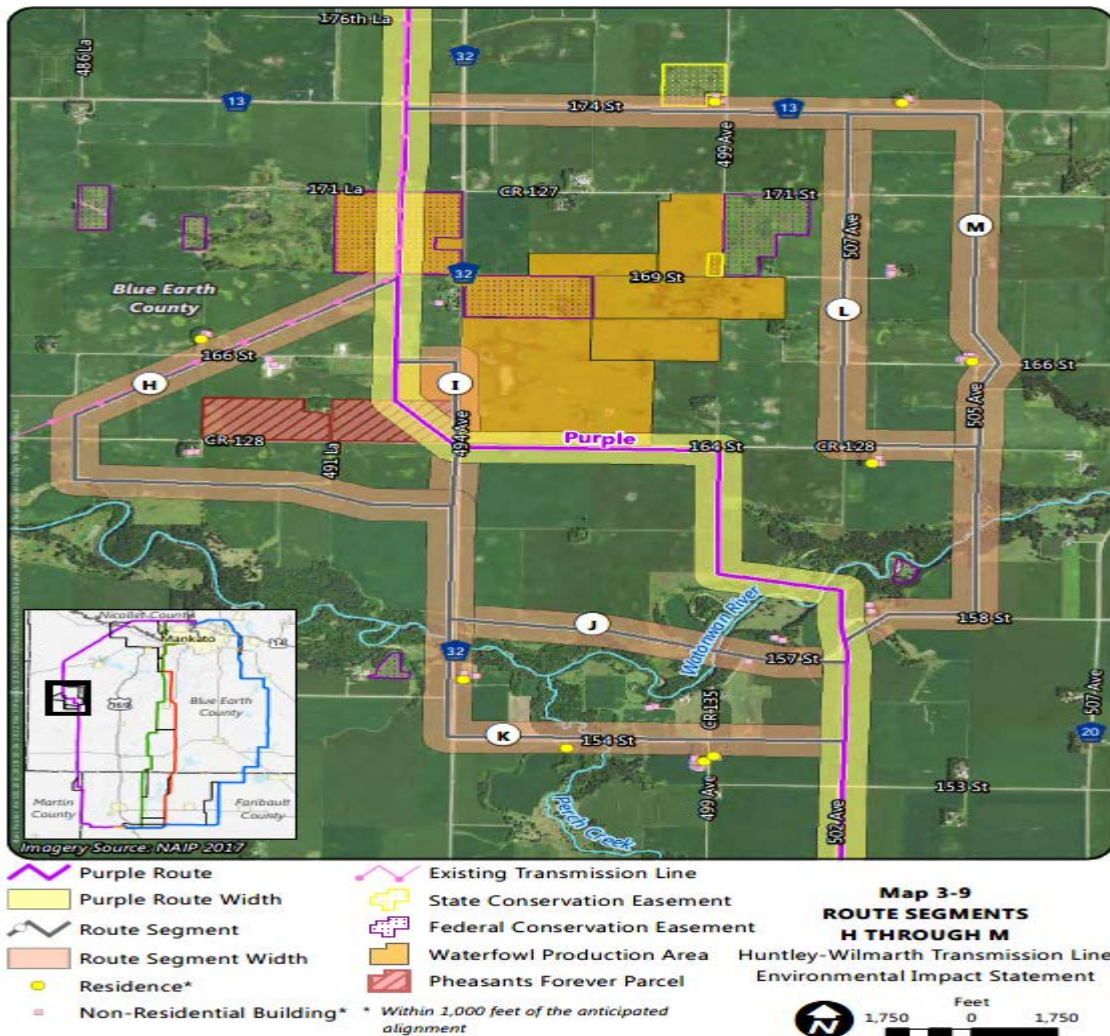
14
15 **III. WATONWAN RIVER CROSSING**
16

17 Q. IN YOUR DIRECT TESTIMONY YOU STATED THAT THERE ARE CURRENTLY SIX
18 ROUTE SEGMENT ALTERNATIVES (ROUTE SEGMENTS H-M) FOR THE PURPLE
19 ROUTE NEAR THE WATONWAN RIVER. YOU ALSO TESTIFIED THAT YOU
20 ANTICIPATED THAT USFWS WOULD PROVIDE FEEDBACK ON THESE SIX
21 ROUTE SEGMENT ALTERNATIVES. HAS THE USFWS PROVIDED ANY
22 FEEDBACK ON THESE ROUTES?

23 A. Applicants have discussed the Project with USFWS but the USFWS has not
24 provided formal feedback on the various segments being considered near the
25 Watonwan River (Segments H-M). Applicants believe that neither the
26 original Purple Route nor Alternative Segment I is a permissible route

because these segments cross lands recently purchased and integrated into the Federal refuge system (shown in red hatched box shading in Figure 4). Remaining routes in the Watonwan River Crossing area can either go west of refuge lands (Segment H or Segment H plus Segment J or K) or east of refuge lands (Segments L or M). These segments are shown on Figure 4 below which is a copy of map 3-9 from page 3-13 of the DEIS.

Figure 4
Route Segments H through M



1
2 Based on discussions with USFWS staff, Applicants believe that the land
3 along Segment H has the highest probability of being acquired for the
4 Federal refuge system. Alternative Segment H is also the most costly
5 segment alternative under consideration for the Watonwan River crossing.
6 As Segments J and K require the use of Segment H to avoid the Federal
7 refuge lands to the north, these same considerations apply to these segments.
8 Based on the probability of property along this segment being acquired by
9 USFWS, the higher costs, as well as Applicants' review and comparison of
10 human and environmental impacts for all of these segments, Applicants
11 prefer either Route Segment L or Route Segment M for the Watonwan River
12 crossing.

13 14 **IV. AGRICULTURAL MITIGATION PLAN**

15
16 Q. IN YOUR DIRECT TESTIMONY YOU STATED THAT A DRAFT AGRICULTURAL
17 MITIGATION PLAN FOR THE PROJECT HAD BEEN PREPARED AND WAS BEING
18 REVIEWED BY THE MINNESOTA DEPARTMENT OF AGRICULTURE. DO YOU
19 HAVE ANY UPDATES ON THIS REVIEW?

20 A. Yes. Applicants and the Department of Agriculture have finalized the terms
21 of the Agricultural Mitigation Plan for this Project. The Agricultural
22 Mitigation Plan specifies the measures that Applicants will take to avoid and
23 mitigate any impacts to agricultural land that may result from the
24 construction of this Project. A copy of the final Agricultural Mitigation Plan
25 for the Project is included as Appendix D to the DEIS.

1 **V. DRAFT ENVIRONMENTAL IMPACT STATEMENT**

2

3 Q. WHAT IS YOUR INITIAL IMPRESSION OF THE DEIS THAT WAS ISSUED FOR THE

4 HUNTLEY-WILMARTH PROJECT ON DECEMBER 7, 2018?

5 A. The DEIS provides a comprehensive review of the potential impacts of the

6 different route and segment alternatives proposed for the Project as well as

7 the mitigation measures that may be employed to minimize these impacts.

8 Applicants are reviewing the DEIS in detail and will file these comments in

9 the docket in January 2019. We will also attach a copy of these comments to

10 my Surrebuttal Testimony which is due on January 28, 2019.

11

12 **VI. CONCLUSION**

13

14 Q. DOES THIS CONCLUDE YOUR PRE-FILED REBUTTAL TESTIMONY?

15 A. Yes.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

Exhibit____(TGH-2) Schedule 1
MPUC Docket No. E-002, ET6675/CN-17-184
MPUC Docket No. E-002, ET6675/TL-17-185
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ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Special Attention of:

All FHA Approved Mortgagees
All Direct Endorsement Underwriters
All FHA Roster Appraisers
All FHA Roster Inspectors
All FHA Approved 203(k) Consultants
All HUD Approved Housing Counselors
All HUD Approved Nonprofit Organizations
All Governmental Entity Participants
All Real Estate Brokers
All Closing Agents

Transmittal: Handbook 4000.1

Issued: December 30, 2016

Effective Date: Multiple; See Below

1. This Transmits:

The incorporation of previously published updates to Handbook 4000.1, FHA Single Family Housing Policy Handbook.

2. Explanation of Materials Transmitted:

This revision to the FHA Single Family Housing Policy Handbook, or Handbook 4000.1 (Handbook), is being published to update existing sections.

II. ORIGINATION THROUGH POST-CLOSING/ENDORSEMENT**A. Title II Insured Housing Programs Forward Mortgages****3. Underwriting the Property****3. Underwriting the Property**

The Mortgagee must underwrite the completed appraisal report to determine if the Property provides sufficient collateral for the FHA-insured Mortgage. The appraisal and Property must comply with the requirements in [Appraiser and Property Requirements for Title II Forward and Reverse Mortgages](#). The appraisal must be reported in accordance with [Acceptable Appraisal Reporting Forms and Protocols](#).

a. Property Acceptability Criteria

The Mortgagee must evaluate the appraisal and any supporting documentation to determine if the Property complies with HUD's Property Acceptability Criteria. Existing and New Construction Properties must comply with [Application of Minimum Property Requirements and Minimum Property Standards by Construction Status](#).

i. Defective Conditions

The Mortgagee must evaluate the appraisal in accordance with [Defective Conditions](#) to determine if the Property is eligible for an FHA-insured Mortgage. If defective conditions exist and correction is not feasible, the Mortgagee must reject the Property.

ii. Minimum Property Requirements and Minimum Property Standards

As the on-site representative for the Mortgagee, the Appraiser provides preliminary verification that a Property meets the Property Acceptability Criteria, which includes HUD's [Minimum Property Requirements \(MPR\) and Minimum Property Standards \(MPS\)](#).

Minimum Property Requirements refer to general requirements that all homes insured by FHA be safe, sound, and secure.

Minimum Property Standards refer to regulatory requirements relating to the safety, soundness and security of [New Construction](#).

When examination of a Property reveals noncompliance with the Property Acceptability Criteria, the Appraiser must note all repairs necessary to make the Property comply with HUD's Property Acceptability Criteria, together with the estimated cost to cure. If the Appraiser cannot determine that a Property meets HUD's MPR or MPS, the Mortgagee may obtain an inspection from a qualified Entity to make the determination. Mortgagees must use professional judgment in determining when inspections are necessary to determine that a property meets MPR or MPS. Mortgagees must also use professional judgment in determining when a Property condition poses a threat to the health and safety of the occupant and/or jeopardizes the soundness and structural integrity of the Property, such that additional inspections and/or repairs are necessary.

The Mortgagee must confirm that the Property complies with the following eligibility criteria. If the Mortgage is to be insured under the 203(k) program, the Mortgagee must

II. ORIGINATION THROUGH POST-CLOSING/ENDORSEMENT**A. Title II Insured Housing Programs Forward Mortgages****3. Underwriting the Property**

confirm that the Property will comply with the following eligibility criteria upon completion of repairs and improvements.

(A) Encroachment

The Mortgagee must ensure the subject's dwelling, garage, or other improvements do not encroach onto an adjacent Property, right-of-way, utility Easement, or building restriction line. The Mortgagee must also ensure a neighboring dwelling, garage, or other improvements do not encroach onto the subject Property. Encroachment by the subject or adjacent Property fences is acceptable provided such Encroachment does not affect the marketability of the subject Property.

(B) Overhead Electric Power

The Mortgagee must confirm that any Overhead Electric Power Transmission Lines do not pass directly over any dwelling, Structure or related property improvement, including pools. The power line must be relocated for a Property to be eligible for FHA-insured financing.

The residential service drop line may not pass directly over any pool, spa or water feature.

If the dwelling or related property improvements are located within the Easement area, the Mortgagee must obtain a certification from the appropriate utility company or local regulatory agency stating that the relationship between the improvements and Local Distribution Lines conforms to local standards and is safe.

(C) Access to Property

The Mortgagee must confirm that the Property is provided with a safe pedestrian access and Adequate Vehicular Access from a public or private street. Streets must either be dedicated to public use and maintenance, or retained as private streets protected by permanent recorded Easements.

Private streets, including shared driveways, must be protected by permanent recorded Easements, ownership interest, or be owned and maintained by an HOA. Shared driveways do not require a joint maintenance agreement.

(D) Onsite Hazards and Nuisances

The Mortgagee must require corrective work to mitigate potential adverse effects from any onsite hazards or nuisances reported by the Appraiser.