

Staff Briefing Papers

Meeting Date: September 12, 2024

Agenda Item 3**

Company: Magellan Pipeline Company, L.P.

Docket: IP-7109/PPL-23-109

In the Matter of the Application of Magellan Pipeline Company, L.P. for a Route Permit for the Pipestone Reroute Project in Pipestone County, Minnesota

- Issues:**
- Should the Commission adopt the administrative law judge’s findings of fact, conclusions of law, and recommendation?
 - Should the Commission grant a pipeline route permit to Magellan Pipeline Company, L.P. for its proposed Pipestone Reroute Project?
 - If granted, which proposed route alternative best meets the route selection criteria in Minn. R. 7852.1900, and what, if any, conditions should be included in the route permit?

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✓ **Relevant Documents**

Date

Magellan Pipeline Company, L.P. Application for a Pipeline Route Permit for the Pipestone Reroute Project (15 parts, Appendix K filed as trade secret)	04/10/2023
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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

✓ Relevant Documents	Date
Magellan Pipeline Company, L.P. Letter Regarding Requested Route Width	04/24/2023
Mille Lacs Band of Ojibwe Letter Regarding Route Alternative	05/02/2023
Order Finding Application Complete and Granting Variance: Notice of and Order for Hearing	08/07/2023
Upper Sioux Community Letter Regarding Route Alternative	09/07/2023
Order Accepting Route Alternatives for Study in the Comparative Environmental Analysis	10/17/2023
Office of Administrative Hearings Second Prehearing Order	10/20/2023
Magellan Pipeline Company, L.P. Direct Testimony of Brandon Cox	03/04/2024
Magellan Pipeline Company, L.P. Direct Testimony of Wes Pebsworth	03/04/2024
Magellan Pipeline Company, L.P. Direct Testimony of Patricia Trocki	03/04/2024
Comparative Environmental Analysis (13 parts)	03/04/2024
Office of Administrative Hearings Fourth Prehearing Order	04/02/2024
Magellan Pipeline Company, L.P. Rebuttal Testimony of Brandon Cox and Comparative Environmental Analysis Comments	04/09/2024
Magellan Pipeline Company, L.P. Rebuttal Testimony of Patricia Trocki	04/09/2024
Office of Administrative Hearings Order Granting Department’s Motion for Admittance of Late-Filed Exhibits	05/15/2024
Office of Administrative Hearings Order Granting Brave Heart Society’s Petition to Intervene	05/20/2024
Department of Commerce Response to Comments on the Comparative Environmental Analysis	05/24/2024
Magellan Pipeline Company, L.P. Post-Hearing Brief and Proposed Findings of Fact, Conclusions of Law, and Recommendation (2 parts)	05/31/2024

✓ Relevant Documents	Date
Department of Commerce Letter Regarding Magellan Pipeline Company, L.P.'s Proposed Findings of Fact, Conclusions of Law, and Recommendation	06/13/2024
Brave Heart Society Responsive Brief	06/14/2024
Brave Heart Society Corrected Responsive Brief	06/18/2024
Magellan Pipeline Company, L.P. Supplemental Reply Brief	06/21/2024
Office of Administrative Hearings Findings of Fact, Conclusions of Law, and Recommendation	07/17/2024
Department of Commerce Letter Regarding Exceptions	07/29/2024
Exceptions of Brave Heart Society	08/01/2024
Magellan Pipeline Company, L.P. Exceptions	08/01/2024
Second Department of Commerce Letter Regarding Exceptions	08/06/2024

Note: Public comments received during the review process were considered and, where appropriate, responses and acknowledgment of the comment were incorporated into Orders, the Comparative Environmental Analysis (CEA), the Department of Commerce Response to Comments on the CEA, and the Office of Administrative Hearing Findings of Fact, Conclusions of Law, and Recommendations.

Attachments

Table 1 – Proposed Permit Language
 Large Scale Figures of Route Alternatives
 Draft Pipeline Route Permit

ISSUES

- Should the Commission adopt the administrative law judge’s findings of fact, conclusions of law, and recommendation?
- Should the Commission grant a pipeline route permit to Magellan Pipeline Company, L.P. for its proposed Pipestone Reroute Project?

- If granted, which proposed route alternative best meets the route selection criteria in Minn. R. 7852.1900, and what, if any, conditions should be included in the route permit?

PROJECT BACKGROUND

Magellan Pipeline Company, L.P. (Applicant or Magellan) has applied to the Minnesota Public Utilities Commission (Commission) for a pipeline route permit for its proposed Pipestone Reroute Project, which includes the construction of an approximately 1.3-mile long, 8-inch outside diameter pipeline that would replace and relocate approximately 0.74 mile of decommissioned pipeline located on federal lands managed by the U.S. Fish and Wildlife Service and the National Park Service, specifically the Pipestone Creek Unit of the Northern Tallgrass Prairie National Wildlife Refuge and the Pipestone National Monument (Project). The pipeline would carry refined liquid petroleum products, including gasoline, diesel, and jet fuel with no increase in the average annual capacity of 22,500 barrels per day of the original pipeline.

According to Magellan, the original 0.74-mile section of pipeline was taken out of service in December 2022 after the U.S. Department of Interior decided not to renew Magellan's right-of-way permit for the crossing of federal lands. Magellan considered permanently shutting down the existing pipeline; however, due to a formal rule by the U.S. Environmental Protection Agency (USEPA) that will take effect in 2025 and require the availability of two special grades of gasoline that are currently unavailable in the State of Minnesota, Magellan determined that shutting down the pipeline would result in supply and pricing issues. Therefore, according to Magellan, the reroute is necessary to ensure the continued operation of the pipeline and provide adequate supply of current and new gasoline to communities in eastern North Dakota, eastern South Dakota, and southwestern Minnesota.

Additional information on the proposed project is provided below.

- A 200-foot-wide route width is proposed, which would encompass a new 40-foot-wide permanent right-of-way and temporary construction rights-of-way of 35 feet in wetland areas and 45 feet in upland areas.
- The proposed pipe to be used is X52 carbon steel manufactured according to American Petroleum Institute specifications, with an outside diameter of eight inches, a wall thickness of 0.322 inches, and minimum yield strength of 52,000 pounds per square inch (psi).
- The pipeline's standard operating pressure would be 820 to 860 pounds per square inch gauge (psig), with a maximum of 1,440 psig.

- Associated facilities would include one permanent and five temporary access roads; a new cathodic protection system; pipeline markers placed along property lines; and an approximately 1.95-acre pipe yard.
- Because the project is located between two existing mainline valve locations, there are no aboveground facilities such as valves, buildings, and structures planned.

RULES AND STATUTES

I. Pipeline Route Permit

Under Minn. Stat. § 216G.02, subd. 2, no pipeline shall be routed or constructed in Minnesota without the issuance of a route permit by the Commission unless the pipeline is exempted from the Commission's routing authority under that section.

Minn. Stat. § 216G.02, subd. 1(1), defines a pipeline as a pipe with a nominal diameter of six inches or more that is designed to transport hazardous liquids. As proposed, the project would consist of approximately 1.3 miles of 8-inch diameter pipeline within Minnesota designed to carry refined liquid petroleum products and, therefore, would require a pipeline routing permit from the Commission.

The operative rules for the review of pipeline route permit applications for large petroleum pipelines are found in Minnesota Rules Chapter 7852. According to Minn. R. 7852.1900, subpart 2, the Commission, in determining the route of a proposed pipeline, must consider the characteristics, the potential impacts, and methods to minimize or mitigate the potential impacts of all proposed routes so that it may select a route that minimizes human and environmental impact. Part 7852.1900, subp. 3, sets forth the criteria that the Commission must consider when designating a pipeline route and issuing a pipeline route permit.

Applications for pipeline route permits are subject to environmental review under Minnesota Rules Chapter 7852. The preparation of a CEA is required in order to analyze the potential human and environmental impacts of the proposed project, as well as identify possible mitigation measures, to aid the Commission's decisions regarding the project.

II. Certificate of Need

A certificate of need is required by the Commission for large energy facilities as defined under Minnesota Statute 216B.2421. Per the statute, "any pipeline greater than six inches in diameter and having more than 50 miles of its length in Minnesota used for the transportation of coal, crude petroleum or petroleum fuels or oil, or their derivatives," requires a certificate of need.

The proposed pipeline will transport petroleum fuels, but it will be less than 50 miles long, thus a certificate of need is not required.

PROCEDURAL HISTORY

On April 10, 2023, Magellan filed a pipeline route permit application for the Pipestone Reroute Project, which included a proposed route (Application Preferred Route or APR).

On April 24, 2023, Magellan filed a letter that identified corrections to the route permit application to indicate that the required route width for the proposed project is 200 feet with an 85-foot-wide right-of-way.

On May 2, 2023, the Mille Lacs Band of Ojibwe filed a letter that discussed several concerns regarding the proposed Project and also suggested a route alternative that would subsequently be identified as RA-01.

Following a meeting on June 8, 2023, to consider the completeness of Magellan's route permit application, the Commission issued an order on August 7, 2023, that (1) accepted Magellan's route permit application as complete; (2) authorized preparation of a comparative environmental analysis (CEA); (3) accepted for further evaluation a route alternative (RA-01) proposed by the Mille Lacs Band of Ojibwe; and (4) referred the matter to the Office of Administrative Hearings (OAH) for a hearing under Minn. R. ch. 1405.

Staff from the Commission and the Minnesota Department of Commerce Energy Environmental Review and Analysis Unit (Department or EERA) held an in-person public information and CEA scoping meeting in Pipestone, Minnesota on July 11, 2023, and an online meeting via WebEx on July 12, 2023. A written comment period was open through September 6, 2023, to receive comments on issues to be considered in the CEA.¹

On September 6, 2023, Magellan filed scoping comments that (1) provided additional information on issues that were not fully addressed during the public information and CEA scoping meetings; and (2) proposed an alternative route (RA-02) to address constraints it identified with route RA-01, while also moving the pipeline route further away from Pipestone National Monument and nearby federal lands.

On September 7, 2023, the Upper Sioux Community Tribal Historic Preservation Office filed scoping comments that expressed opposition to routes APR and RA-02 and instead suggested

¹ The Commission issued a Notice of Application Acceptance and Public Information and Comparative Environmental Assessment Analysis Scoping Meetings on June 28, 2023. The notice was separately sent to approximately 30 tribal governments and was published in the EQB Monitor.

an alternative route (RA-03) to address potential impacts to the pipestone vein, sacred sites, and Pipestone Creek.

On October 7, 2023, the Commission issued an order agreeing to and adopting the recommendations of EERA as outlined in its October 2, 2023 Comments and Recommendations on the CEA Scope. Specifically, the Commission accepted four proposed route alternatives for study and analysis in the CEA, which are as follows:

- APR – Applicant’s preferred route included in the route permit application (1.3 miles).
- RA-1 – Route alternative proposed by the Mille Lacs Band of Ojibwe (13.1 miles).
- RA-2 – Route alternative proposed by the Applicant (3.4 miles).
- RA-3 – Route alternative proposed by the Upper Sioux Community Tribal Historic Preservation Office (18.7 miles).

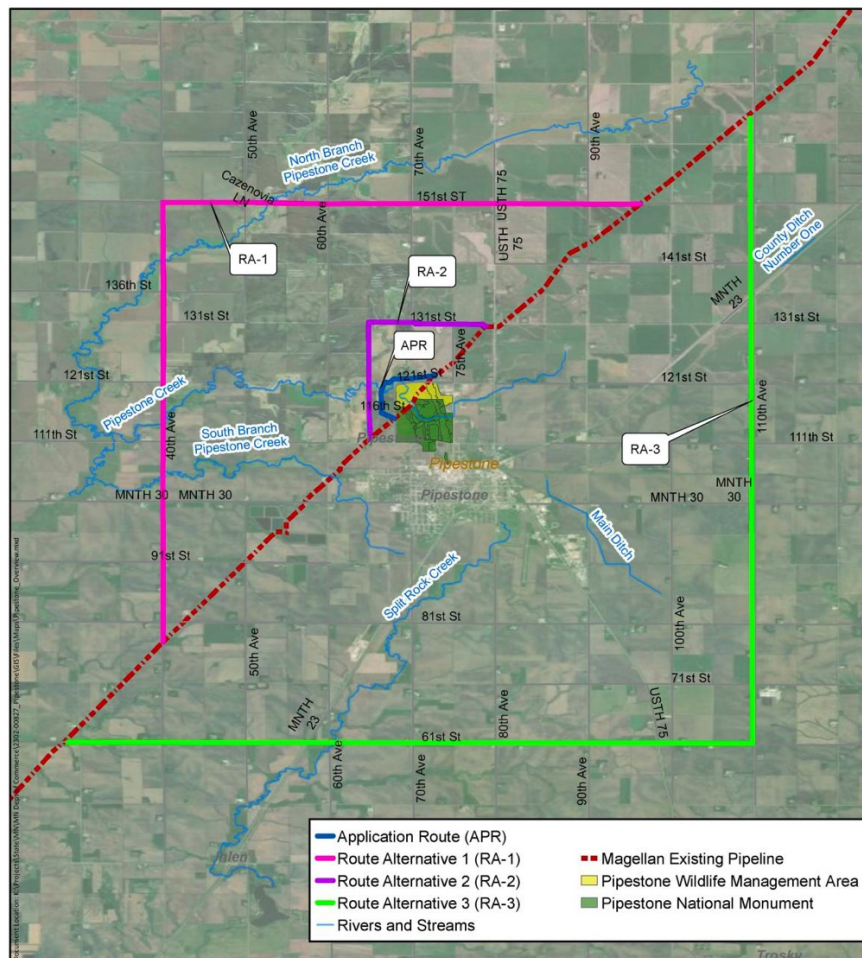


Figure ES 1-1: Overview Map of Route Alternatives from CEA.

Note: Large scale figures of the route alternatives are also attached to these briefing papers.

On March 4, 2024, Magellan filed the Direct Testimony and Schedules of Brandon Cox, Wes Pebsworth, and Patricia Trocki.²

Also, on March 4, 2024, EERA filed the CEA.³

EERA staff held an in-person public information meeting in Pipestone, Minnesota on March 19, 2024, and an online meeting via WebEx on March, 2024. The meetings provided interested persons an opportunity to comment on the CEA. A written comment period was open through April 9, 2024.⁴

On April 9, 2024, Magellan filed the Rebuttal Testimony and Schedules of Brandon Cox and Patricia Trocki. Schedule 1 of Brandon Cox's testimony contains Magellan's comments on the CEA.

Administrative Law Judge (ALJ) Joseph C. Meyer presided over an in-person public and evidentiary hearing in Pipestone, Minnesota on April 23, 2024, and an online public and evidentiary hearing via WebEx on April, 2024. A written comment period was open through May 8, 2024.^{5,6}

On May 20, 2024, the Administrative Law Judge issued an order that granted intervention to Brave Heart Society in response to its Petition to Intervene filed on April 24, 2024.

On May 24, 2024, EERA filed its Response to Comments on the CEA Prepared for the Magellan Pipeline Relocation Project in Pipestone, Minnesota.

On May 31, 2024, Magellan filed an initial Post-Hearing Brief and Proposed Findings of Fact, Conclusions of Law, and Recommendations (Magellan's Proposed Findings).

On June 13, 2024, EERA filed a letter indicating it had no objections to the descriptions of the CEA contained in Magellan's Proposed Findings.

On June 14, 2024, Brave Heart Society filed a Responsive Brief.⁷

² Magellan filed a corrected version of Brandon Cox's Direct Testimony on April 30, 2024.

³ The Commission and EERA both issued a Notice of Availability of Comparative Environmental Analysis and Public Information Meetings on March 4, 2024.

⁴ EERA received approximately 15,000 comments during the written comment period (ALJ Report, Finding 39).

⁵ The Commission issued a Notice of Public/Evidentiary on April 8, 2024.

⁶ Approximately 5,000 comments were received during the written comment period (ALJ Report, Finding 41).

⁷ Brave Heart Society filed a corrected version of its Responsive Brief on June 18, 2024.

On June 21, 2024, Magellan filed a Supplemental Reply Brief.

On July 17, 2024, the administrative law judge filed Findings of Fact, Conclusions of Law, and Recommendation (ALJ Report).

By the close of the exception comment period on August 1, 2024, letters were filed by the Department, Magellan, and Brave Heart Society.

On August 6, 2024, the Department filed a letter concurring with a change proposed by Magellan in its exceptions to amend the dates in Finding 242 of the ALJ Report concerning the Topeka shiner.

REPORT OF THE ADMINISTRATIVE LAW JUDGE

To ensure robust record development, public participation and examination of disputed issues, the Commission referred this matter to the Office of Administrative Hearings and requested that an administrative law judge conduct public hearings in accordance with the Minnesota Administrative Procedure Act, the rules of the Office of Administrative Hearings, and, to the extent they are not superseded by those rules, the Commission's Rules of Practice and Procedure.⁸

The administrative law judge was tasked with applying the routing criteria established by statute and rule, as well as preparing findings of fact, conclusions of law, and a recommendation on the merits of the proposed project. Specifically, whether the standards set forth in Minn. Stat. § 216G.02 and Minn. R. 7852.0100-4100 have been satisfied, and if satisfied, which proposed route alternative best fits the route selection criteria under Minn. R. 7852.1900, and what, if any, conditions should be included in a route permit.

III. ALJ Report – Recommendation on Route

On July 17, 2024, the administrative law judge assigned to this matter filed Findings of Fact, Conclusions of Law, and Recommendation (ALJ Report). The administrative law judge recommended that the Commission grant Magellan a route permit for route RA-02, with the conditions outlined in Section XII of the ALJ Report.

In summary, the administrative law judge concluded:

- The applicable procedural requirements were complied with.

⁸ Minn. Stat. §§ 14.57 to 14.62, Minn. R. 1405.0200 to 1405.2800, and Minn. R. 7829.0100 to 7829.4000, respectively.

- The CEA addressed the issues and alternatives identified by the Commission and included the detail that is needed to evaluate route alternatives according to the criteria in Minn. R. 7852.1900.
- The evidence in the record demonstrated that the APR, RA-01, RA-02, and RA-03 all meet the relevant statutory requirements and are eligible for consideration and evaluation under the criteria set forth in Minn. R. 7852.1900.
- There is no feasible and prudent alternative to the construction of the Project, and the Project is consistent with and reasonably required for the promotion of public health and welfare in light of the state's concern for the protection of its air, water, land, and other natural resources as expressed in the Minnesota Environmental Rights Act.
- When considering the factors in Minn. R. 7852.1900, the evidence in the record demonstrated that RA-02 is the best route for the Project.
- Magellan's request for a route width of up to 200 feet is reasonable and appropriate for the project.
- The route permit should be issued as set forth in Appendix F to the CEA, except that the route permit should incorporate all of the mitigation measures and special permit conditions described in Section XII of the ALJ Report.

The staff recommends that Commissioners also review the ALJ's Memorandum, which offers supplementary information regarding the ALJ's decision to recommend route RA-02.

IV. ALJ Report – Recommendation on Route Permit Conditions

As stated in the preceding section, the administrative law judge's recommendation to grant a route permit for route RA-02 is subject to the Commission incorporating into a route permit the mitigation measures and special permit conditions described in Section XII of the ALJ Report. When evaluating the recommended conditions, staff noted that many of them were excerpts from existing permit language that had already been incorporated into the sample/draft permits filed in this matter. Additionally, some of the suggested conditions were not presented in the form and style commonly used in Commission-issued permits. Therefore, staff created a table (**Table 1 – Proposed Permit Language**) that identifies the administrative law judge's recommended permit conditions and either indicates where the language already appears in the sample permit or offers updated language to better reflect Commission-issued permits.

SUMMARY OF OFFICIAL PARTY POSITIONS AND EXCEPTIONS

The administrative law judge recognized Magellan, the Department of Commerce, and the Braveheart Society as the official parties involved in the proceedings. Staff provides a general summary below of each of the party's positions and any exceptions filed in relation to the ALJ Report.⁹

V. Brave Heart Society

A. Brave Heart Society's Responsive Brief

In its Responsive Brief, Brave Heart Society recommended that the Commission "deny Magellan's request to re-route the Magellan Pipeline using any of its proposed routes." According to the Brave Heart Society, all four proposed routes represent unjustifiable and unreasonable threats to natural and cultural resources, as well as Indigenous Peoples' cultural traditions. In summary, Brave Heart Society expressed the following concerns regarding the proposed Pipestone Reroute Project:

- Potential effects on the cultural rights of Indigenous Peoples at the Pipestone National Monument, including trail walking, praying, conducting ceremonies, and quarrying pipestone.
- Impacts a potential pipeline leak would have on cultural resources important to the Ihanktonwan and other Tribal Nations because all proposed routes are within about 10 miles of the Yankton Sioux Tribe's Aboriginal Title Territory.
- Impacts a potential pipeline spill or an unintended return of drilling fluid during horizontal directional drill (HDD) operations, would pose to waterbodies, wetlands, plants, and wildlife used by Indigenous People.
- Potential that unmarked graves of Indigenous children may be disturbed near the former Pipestone Indian School, as the school's last remaining standing structure is positioned 4,600 feet and 1,200 feet from RA-02 and the APR, respectively.
- Asserts that a federal component exists, such as a National Historic Preservation Act Section 106 review, due to permits that may be required by the United States Fish and Wildlife Service.

⁹ Under Minn. R. 7829.2700, exceptions to the ALJ Report must be filed within 15 days of the filing of the report for cases subject to statutory deadlines. In this case, the deadline for filing exceptions was August 1, 2024.

Brave Heart Society argued that in order for the Commission to take into account the risks, cultural and archeological surveys must be finished before any decisions are made. The argument is that the limited cultural resources surveys that have been done have not and could not disclose all the cultural resources and burial locations that may be impacted.

B. Brave Heart Society's Exceptions

In its Exceptions, Brave Heart Society largely raised the same issues expressed in its Responsive Brief, as summarized in the preceding section. Concerning the ALJ Report, the Brave Heart Society expressed disagreement with the ALJ's recommendation that the Commission grant a route permit for route RA-02 and reiterated its recommendation that the Commission deny a route permit for any of the proposed routes. Again, Brave Heart Society's principal argument is that a decision in this case is premature, because the Commission cannot adequately weigh the risks of the various alternatives until a comprehensive cultural and archaeological resource survey conducted by surveyors from each impacted tribal nation has been completed.

Should the Commission choose to grant a route permit, Brave Heart Society recommended that the following conditions be imposed:

- "Applicant shall sponsor a cultural and archaeological resources survey and inventory of the designated route. Applicant shall employ a tribal archaeologist from each of the 23 tribal nations affiliated with the area to conduct such survey and inventory. In the event an unanticipated discovery of cultural resources or a burial is suspected or encountered, Applicant shall comply with its Unanticipated Discoveries Plan. Further, Applicant must immediately contact the governing bodies and Tribal Historic Preservation Offices of all 23 tribal nations affiliated with the area. Construction shall not resume until after the resource or burial has been adequately protected or avoided and impacted tribal nations agree with the treatment plan for the resource or burial. The contact list in the Unanticipated Discoveries Plan shall be updated to include current contact information for the governing bodies and Tribal Historic Preservation Officers of all 23 tribal nations affiliated with the area."
- "Applicant shall hire monitors to monitor construction of the pipeline from each of the 23 tribal nations that are affiliated with the area and that desire to monitor construction."
- "Applicant shall provide all of the 23 tribal nations affiliated with the area bi-weekly updates regarding the status of construction, impacted travel routes, and the anticipated date of completion."

- “Applicant shall immediately notify all of the 23 tribal nations affiliated with the area of any release of hazardous or toxic material during the construction process or any leak or spill from the pipeline during operations. Such notification shall include the location of the release, the volume of the release, the material(s) released, the status of repairs and remediation/clean-up, and any anticipated impacts to cultural resources including catlinite, waterbodies, medicinal plants, and wildlife.”
- “Applicant shall avoid all wetlands during construction.”

VI. Magellan

A. Magellan Post-Hearing and Supplemental Reply Briefs

In its Post-Hearing and Supplemental Reply briefs, Magellan provided responses to major issues presented during the review process and responded to select issues raised by Brave Heart Society, respectively. Staff provides a brief summary below.

In its Post-Hearing Brief, Magellan maintained that the record best supports route RA-02, as it effectively balances all of the routing criteria. Magellan contended that route RA-02 (1) addresses concerns regarding potential impacts to significant cultural resources in the region, such as the Pipestone National Monument and catlinite resources; (2) avoids sensitive natural features, such as wetland and waterbody crossings, areas of biodiversity, sensitive species, and water resources; and (3) follows existing rights-of-way and minimizes impacts to human settlement, while also restoring critical infrastructure necessary to reliably provide essential fuels to western Minnesota, eastern South Dakota, and eastern North Dakota.

According to Magellan, the differences among the route alternatives can be attributed to their length. That is, longer pipeline routes typically result in more construction-related effects. Magellan pointed to information in the CEA that indicate the substantially longer lengths of routes RA-01 and RA-03 naturally result in more significant effects on human settlement features (increased number of parcels, structures, and noise receptors affected), natural resources (greater total area of disturbed land and crossings of wetlands and waterbodies), increased risk of a release, and higher construction costs.

In addition to the preceding considerations, Magellan also highlighted the following benefits concerning route RA-02:

- Moves the pipeline farther away from the Pipestone National Monument and federal lands, relative to the APR.
- Places the pipeline outside the Pipestone Drinking Water Supply Management Area.

- Will not interfere with potential future expansion of the city of Pipestone's cemetery space and in the case of a spill, would not impact the cemetery, according to the results of an unanticipated release study.
- Was sited to prevent spills from entering the county ditch system and draining into Pipestone Creek and Pipestone National Monument.
- A non-invasive study found no impact to catlinite resources.
- HDD methods will be used to avoid impacting water bodies, wetlands, outstanding and moderate Minnesota Biological Survey (MBS) sites, and critical habitat, such as Topeka shiner habitat. Magellan also developed an HDD Inadvertent Return Mitigation Plan.
- A survey on accessible portions of the route revealed one archaeological resource. The area will be marked to ensure no construction-related impacts occur near the site. In addition, Magellan will complete a cultural and archaeological resources inventory of the designated route consistent with the State Historic Preservation Office (SHPO), the Office of the State Archaeologist (OSA), and Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation.
- A non-invasive geophysical survey found no evidence of unmarked burials. Magellan has also developed a Plan for the Unanticipated Discovery of Cultural Resources and/or Human Remains, which will be used during all Project construction activities.

In its Supplemental Reply Brief, Magellan responded to the assertions made by Brave Heart Society as follows:

- Regarding impacts to quarrying and ceremonies, Magellan clarified that it has agreed to avoid construction activities that could interfere with the experience of the important Sundance ceremonies. However, Magellan anticipates that no additional minimization measures may be required due to the short construction duration (three months), the lack of identified catlinite resources along the proposed routes, and the absence of known quarrying locations outside of Pipestone National Monument.
- Regarding tribal surveys and monitoring, Magellan reported that two Tribal Cultural Specialists from the Upper Sioux Community took part in the latest tribal survey, which ran concurrently with the archaeological survey. As previously indicated, Magellan also explained that it has agreed to complete a cultural and archeological resource inventory on the designated route prior to construction.
- Magellan disagreed with the Brave Heart Society's assertion that a cultural and archaeological resources inventory must be completed prior to a commission decision, citing case law and the CEA's historic and cultural resources evaluation, and indicated that the appropriate surveys will be completed before construction.

- Concerning tribal monitors, Magellan explained that it has agreed to hire tribal monitors to oversee construction and aid in the implementation of the steps outlined in its Plan for the Unanticipated Discovery of Cultural Resources and/or Human Remains.
- Magellan addressed the possibility of a federal review, stating that approval from the USFWS for the use of an access road across federally owned lands only applies to the APR, and if Magellan wishes to use that road. Additionally, Magellan stated that no federal review of the National Pollutant Discharge Elimination System (NPDES) permits is necessary because none of the proposed routes cross tribal lands, and that no impacts to wetlands within federal jurisdiction are anticipated.

B. Magellan Exceptions

In its exceptions, Magellan requested that the Commission adopt the ALJ Report in its entirety, with the minor corrections noted below, and issue a Route Permit for route RA-02 with the conditions recommended in the ALJ Report.

Magellan also suggested the minor corrections and clarifications to the ALJ Report provided below:

Finding 53. The Project is a rerouting of approximately 0.74 miles of an existing 8-inch pipeline from federal lands managed by USFWS and the National Park Service (NPS) within the Pipestone Creek Unit of the Northern Tallgrass Prairie National Wildlife Refuge (NWR).⁶⁶ The pipeline will deliver refined petroleum products.⁶⁷

Finding 140. The APR would not displace any residences or structures. RA-01 passes within 100 feet of six residential and other types of structures, but further engineering of the route could potentially adjust the alignment to have a greater setback from residential and other structures. RA-02 is located within 50 feet of a silo and 25 feet of a structure, but further engineering of the route could potentially adjust the alignment to prevent removal of the silo and have a greater setback from residential and other structures. RA-03 crosses 12 structures including residential structures. There are also 13 structures (including residential structures) within 25 feet of alignment and 23 structures within 50 feet of alignment. Even with further engineering of RA-03, there is the greatest potential for displacement to occur than the other three alternatives.¹⁶⁵

Finding 242. Streams inhabited by the Topeka shiner are mapped within all four of the route alternatives. In order to prevent impacts to the Topeka shiner, it is important that adequate erosion and sedimentation control BMPs are put in place along streams that may contain, or flow to streams that contain, Topeka shiners. As a special condition of the route permit, if any in stream work is required, work should be ~~before~~ avoided between May 15

and August 15 to protect Topeka Shiner spawning habitat.²⁶⁰ DNR also recommended that Magellan avoid work from mid-May to mid-August in order to protect Topeka shiners.²⁶¹

Finding 350. Consideration of the impact on groundwater disfavors RA-03 with respect to the other route alternatives because of the possibility that a leak could flow into the ditch system and eventually contaminate Pipestone Creek and flow into the Monument.

Finding 359. Impacts to cultural resources will be mitigated by the adoption of several special permit conditions recommended in Section XXII of this Report.

Finding 360. Human and environmental effects will be mitigated by measures, discussed in Section XXII of this Report, that Magellan has agreed to incorporate.

Finding 376. Effects on natural resources disfavor RA-03 because of the possibility of a leak flowing into the ditch system, contaminating Pipestone Creek, and eventually flowing into the Monument.

Footnote 46. ~~Ex. 308 (Direct Testimony of Todd Langston Schedules A and B).~~ Ex. MPUC-10 (Commission Notice of Public/Evidentiary Hearings).

Conclusion 8. The route permit should be issued in the form set forth in Ex. DOC-20 (Appendix F to the CEA), except that the route permit should incorporate all of the mitigation measures and special permit conditions described above in Section XXII.

VII. Department of Commerce (EERA)

In letters dated July 29 and August 6, 2024, the Department stated that it had no arguments or exceptions to the ALJ Report and noting that Magellan's proposed amendment to Finding 242 regarding the Topeka Shiner would be consistent with Minnesota Department of Natural Resources (DNR) guidance, respectively.

STAFF DISCUSSION

The Commission must decide whether to 1) adopt the administrative law judge's findings of fact, conclusions of law, and recommendation; and 2) grant a pipeline route permit to Magellan Pipeline Company, L.P. for its proposed Pipestone Reroute Project, including which route and what, if any, additional conditions should be included in a permit.

VIII. ALJ Report

Staff recommends that the Commission adopt the ALJ Report *as it applies to the Commission's final decision*. Staff believes that the ALJ Report is accurate, comprehensive, and reflective of the case record. The ALJ Report documents that the procedural requirements were followed and presents findings of fact for each of the decision criteria that must be met for a pipeline route permit. Staff also agrees with and recommends that the Commission accept the minor corrections and clarifications to the ALJ Report suggested by Magellan in its letter dated August 1, 2024.

Staff notes that the ALJ Report provides findings and conclusions that support the recommendation for route RA-02. Therefore, should the Commission choose another route, there are elements of the report that may not apply or that may require modification. Consequently, the Commission may need to modify the ALJ Report should it select a route other than RA-02. Alternatively, the Commission could also reject the ALJ Report in its entirety.

IX. Pipeline Route

As discussed earlier, the routes listed below were evaluated during the review process. Staff believes the record would support a decision to grant a permit for any of these route alternatives.

- APR – Magellan's originally proposed route (1.3 miles).¹⁰
- RA-1 – Route alternative proposed by the Mille Lacs Band of Ojibwe (13.1 miles).
- RA-2 – Route alternative proposed and preferred by Magellan (3.4 miles).
- RA-3 – Route alternative proposed by the Upper Sioux Community Tribal Historic Preservation Office (18.7 miles).

The location of a pipeline route in relation to the Pipestone National Monument and the surrounding area, as well as the potential presence and location of cultural and archaeological resources, appears to be the most pressing issue for the Brave Heart Society and many other interested parties.¹¹

¹⁰ Magellan later proposed route RA-02 as its preferred alternative in an effort to move the route further from the Pipestone National Monument and avoid impacts to catlinite resources and federally- and state-listed species.

¹¹ Mille Lacs Band of Ojibwe, Upper Sioux Community, Great Plains Tribal Chairmen's Association, Inc. (Flandreau Santee Sioux Tribe and Oglala Sioux Tribe), Flandreau Santee Sioux Tribe, Yankton Sioux Tribe, City of Pipestone, and National Park Service.

As indicated in the record, none of the route alternatives have a *direct* impact on the Pipestone National Monument because they are all situated outside of federal properties and outside of the Monument. Therefore, staff believes it is important to consider the *degree of indirect impacts* a route may pose on the Pipestone National Monument, the total overall impacts of a route, and the ability to mitigate such impacts.

Staff agrees with Magellan that, in this instance, route length has a significant role in determining the total amount of impacts; that is, a longer route invariably results in more impacts and cost overall. As a result, a route farther from the Pipestone National Monument's limits may, in certain situations, lessen perceived indirect impacts to the Monument, but the necessary increased length may also raise the total overall direct impacts to human settlement and other environmental receptors.

When considering all the factors, staff agrees with the ALJ's recommendation for route RA-02 with a 200-foot route width, because evaluation of the route has demonstrated that the Pipestone National Monument and catlinite resources, as well as the city of Pipestone cemeteries, would not be at risk from a potential spill, and the potential expansion of the cemeteries would be accommodated. Furthermore, a potential spill would be directed away from the Monument at the Pipestone Creek rather than toward the Monument through the county ditch system in the case of route RA-03. Additionally, Magellan has suggested a number of mitigation strategies to further reduce impacts, including HDD drilling when close to wetlands, surface waters, and sensitive resource areas; following an Unanticipated Discoveries Plan and an HDD Inadvertent Return Mitigation Plan; preparing an inventory of archeological and cultural resources before beginning any construction; and coordinating with Monument staff on ceremonial activities and construction halts.

X. Permit Conditions

Staff also agrees with the additional permit conditions recommended by the ALJ. The additional conditions address items such as restoration, access, pipeline identification, other agency permit requirements, Unanticipated Discoveries Plan, HDD Inadvertent Return Mitigation Plan, HDD drilling requirements, wetland delineation, tribal engagement and tribal monitoring. Staff has prepared a table (**Table 1 – Proposed Permit Language**) that summarizes the recommended permit conditions. In circumstances where no permit language was provided by the ALJ, staff has recommended language to meet the condition or has identified the draft permit language that already covered the issue.

The Commission will also need to consider the permit conditions proposed by Brave Heart Society in its Exceptions Letter. Staff believes the substance of the recommended permit language is primarily covered in existing draft permit language, the ALJ's recommended permit conditions, and Magellan's Unanticipated Discoveries Plan included as Appendix D to its route

permit application. The unique differences appear to be the requirement to (1) employ tribal archaeologists and construction monitors from each of the 23 tribal nations affiliated with the area, and (2) provide notification and biweekly updates to the 23 tribal nations as it concerns items such as construction status, impacted travel routes, anticipated date of completion, and detailed information concerning pipeline leaks and spills.

COMMISSION DECISION OPTIONS

ALJ Report

1. Adopt the administrative law judge's findings of fact, conclusions of law, and recommendations to the extent consistent with the decisions below.

And

2. Adopt the corrections and clarifications suggested by Magellan in its letter dated August 1, 2024, regarding the following parts of the administrative law judge's report (Magellan):
 - a. Finding 53
 - b. Finding 140
 - c. Finding 242
 - d. Finding 350
 - e. Finding 359, Finding 360, and Conclusion 8
 - f. Finding 376
 - g. Footnote 46

Route Permit

3. Issue a pipeline route permit to Magellan for the Pipestone Reroute Project specifying a 200-foot-wide route along route

Select One

- a. APR.
- b. RA-01. (Mille Lacs Band of Ojibwe)
- c. RA-02. (Magellan)
- d. RA-03. (Upper Sioux Community)

And

4. Incorporate the following additional and special permit conditions recommended by the administrative law judge as modified by commission staff: [*Select conditions from Table 1, attached. Table IDs 1, 2, 3a-b, 4, 6a-b, 9a-c, 10, 11, 13, 14a-c, 15, 16, 17a-l, 18, 19a-b, 20, 21, 22, 23, 24, 25, and 26*]

5. Incorporate the following additional and special permit conditions recommended by Brave Heart Society: [*Select conditions from Table 1, attached. Table IDs 5, 7, 8, and 12*]

Or

6. Deny a route permit for the Pipestone Reroute Project. (Brave Heart Society)

Administrative

7. Authorize Commission staff to modify the route permit to correct typographic and formatting errors and ensure agreement with the Commission's final order in the matter, as necessary.

Staff Recommendation: 1, 2a-g, 3c, 4, and 7

**Table 1
Proposed Permit Language**

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
Permits	1	383C	Magellan	Magellan will be responsible for securing all necessary permits needed for the pipe yard, such as a National Pollutant Discharge Elimination System/State Disposal System Construction Stormwater General Permit from the Minnesota Pollution Control Agency.	Section 8 Other Permits and Regulations The Permittee shall comply with all applicable state rules and statutes. The Permittee shall obtain all required permits for the project and comply with the conditions of those permits unless those permits conflict with or are preempted by federal or state permits and regulations. A list of the permits known to be required is included in the permit application. The Permittee shall submit a copy of such permits to the Commission upon request.	Not required; the draft permit language is adequate.
Pipeline Markers	2	383B	Magellan	Magellan will install pipeline markers at various locations (e.g., road crossings) within the Project ROW in accordance with applicable federal and state regulations.	Not in draft permit.	Add to Special Conditions Section <u>Pipeline Markers</u> <u>The Permittee shall install pipeline markers at various locations (e.g., road crossings) within the Project right-of-way in accordance with applicable federal and state regulations.</u>
Unanticipated Discoveries Plan	3a	383D	Magellan	Magellan intends to use its Unanticipated Discoveries Plan to set forth guidelines in the event archaeological resources or human skeletal remains are discovered during construction activities and the HDD Inadvertent Return Mitigation Plan to minimize the impact of a potential inadvertent return of drilling fluid during HDD operations.	Section 7.19 Archaeological and Historic Resources The Permittee shall make every effort to avoid impacts to identified archaeological and historic resources when constructing the transmission facility. In the event that a resource is encountered, the Permittee shall contact and consult with the State Historic Preservation Office and the	Amend Special Conditions Section The Permittee must consult with tribal cultural resource specialists and tribal historic preservation offices, Minnesota Office of the State Archaeologist, Pipestone County Sheriff, and Minnesota State Historic Preservation Office for the identification, recovery, and culturally appropriate re-

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
	3b	384D	Magellan	<p>Magellan will consult with tribal cultural resource specialists and tribal historic preservation offices, MnOSA, Pipestone County Sheriff, and MnSHPO for the identification, recovery, and culturally appropriate re-interment/repatriation of potential burials of students from the Pipestone Indian School who may be interred outside the defined boundaries of the St. Leo and New Woodlawn cemeteries.</p>	<p>State Archaeologist. Where feasible, avoidance of the resource is required. Where not feasible, mitigation must include an effort to minimize project impacts on the resource consistent with State Historic Preservation Office and State Archaeologist requirements.</p> <p>Prior to construction, workers shall be trained about the need to avoid cultural properties, how to identify cultural properties, and procedures to follow if undocumented cultural properties, including gravesites, are found during construction. If human remains are encountered during construction, the Permittee shall immediately halt construction and promptly notify local law enforcement and the State Archaeologist. Construction at such location shall not proceed until authorized by local law enforcement or the State Archaeologist.</p> <p>Section 9.1 Cultural Resources (Special Conditions) The Permittee must consult with tribal cultural resource specialists and tribal historic preservation offices, Minnesota Office of the State Archaeologist, Pipestone County Sheriff, and Minnesota State Historic Preservation Office for the identification, recovery, and culturally appropriate re-interment/repatriation of potential burials of students from the Pipestone</p>	<p>interment/repatriation of potential burials of students from the Pipestone Indian School who may be interred outside the defined boundaries of the St. Leo and New Woodlawn cemeteries.</p> <p>Unanticipated Discovery Plan <u>The Permittee shall update the Plan for the Unanticipated Discovery of Cultural Resources and/or Human Remains (Unanticipated Discovery Plan or UDP) provided as Appendix D to the Route Permit Application dated April 10, 2024, to include protocols specifically related to the identification, recovery, and culturally appropriate re-interment/repatriation of potential burials of students from the Pipestone Indian School who may be interred outside the defined boundaries of the St. Leo and New Woodlawn cemeteries.</u></p> <p><u>The Permittee shall submit the updated UDP to the Minnesota State Historic Preservation Office (SHPO), Minnesota Office of the State Archaeologist (OSA), and Minnesota Indian Affairs Council (MIAC) for review and comment. The Permittee shall file with the Commission an updated UDP, including comments from SHPO, OSA, and MIAC, with the plan and profile submittal required by Section 6.2. The Permittee shall follow the protocols established in the UDP during construction.</u></p>

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
					Indian School who may be interred outside the defined boundaries of the St. Leo and New Woodlawn cemeteries.	
Cultural and Archaeological Resources Inventory and Tribal Monitors	4	384B	Magellan	Magellan should sponsor a cultural and archaeological resources inventory of the designated route (including extra workspaces, bore holes, access roads, and pipe yard) to standards established by the MnSHPO, MnOSA, and Secretary of Interior’s Standards and Guidelines for Archaeology and Historic Preservation.	<p>Section 7.19 Archaeological and Historic Resources The Permittee shall make every effort to avoid impacts to identified archaeological and historic resources when constructing the transmission facility. In the event that a resource is encountered, the Permittee shall contact and consult with the State Historic Preservation Office and the State Archaeologist. Where feasible, avoidance of the resource is required. Where not feasible, mitigation must include an effort to minimize project impacts on the resource consistent with State Historic Preservation Office and State Archaeologist requirements.</p> <p>Prior to construction, workers shall be trained about the need to avoid cultural properties, how to identify cultural properties, and procedures to follow if undocumented cultural properties, including gravesites, are found during construction. If human remains are encountered during construction, the Permittee shall immediately halt construction and promptly notify local law enforcement and the State Archaeologist. Construction at such location shall not proceed until authorized by local law</p>	<p>Amend Special Conditions Section</p> <p>The Permittee shall sponsor a cultural and archaeological resources inventory of the selected route (including extra work spaces, bore holes, access roads, and pipe yard) to standards established by the Minnesota Office of the State Archaeologist, Minnesota State Historic Preservation Office, and Secretary of Interior’s Standards and Guidelines for Archaeology and Historic Preservation.</p> <p><u>Cultural and Archaeological Resources Inventory</u> <u>The Permittee shall prepare a cultural and archaeological resources inventory of the designated route including any additional workspaces, such as temporary workspace, laydown/pipe yards, access roads, and bore holes, to identify and avoid impacts to cultural, archaeological, and historic resources. The inventory shall be developed in accordance with standards established by MnSHPO, MnOSA, and Secretary of Interior’s Standards and Guidelines for Archaeology and Historic Preservation. The inventory shall include specific mitigation and avoidance procedures for archaeological, cultural, and historic resources identified and must be filed with the Commission upon completion</u></p>

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
					<p>enforcement or the State Archaeologist.</p> <p>Section 9.1 Cultural Resources (Special Conditions) The Permittee shall sponsor a cultural and archaeological resources inventory of the selected route (including extra work spaces, bore holes, access roads, and pipe yard) to standards established by the Minnesota Office of the State Archaeologist, Minnesota State Historic Preservation Office, and Secretary of Interior’s Standards and Guidelines for Archaeology and Historic Preservation.</p>	<p><u>including comments from MnSHPO, MnOSA, and the Secretary of Interior. Construction cannot start on any segment of the designated pipeline route until the inventory is final.</u></p>
	5	---	Brave Heart Society			<p>Alternative Language Recommended by Braveheart Society</p> <p><u>Applicant shall sponsor a cultural and archaeological resources survey and inventory of the designated route. Applicant shall employ a tribal archaeologist from each of the 23 tribal nations affiliated with the area to conduct such survey and inventory. In the event an unanticipated discovery of cultural resources or a burial is suspected or encountered, Applicant shall comply with its Unanticipated Discoveries Plan. Further, Applicant must immediately contact the governing bodies and Tribal Historic Preservation Offices of all 23 tribal nations affiliated with the area. Construction shall not resume until after the resource or burial has been</u></p>

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
						<p><u>adequately protected or avoided and impacted tribal nations agree with the treatment plan for the resource or burial. The contact list in the Unanticipated Discoveries Plan shall be updated to include current contact information for the governing bodies and Tribal Historic Preservation Officers of all 23 tribal nations affiliated with the area.</u></p>
Tribal Archaeologists and Construction Monitors	6a	384C	Magellan	Tribal cultural resource specialists will be invited to assist with the cultural resources inventory and to monitor all phases of construction of the selected alternative.	<p>Section 9.1 Cultural Resources (Special Conditions) The Permittee shall invite tribal cultural resource specialists to assist with the cultural resources inventory and to monitor all phases of construction of the selected alternative.</p>	<p>Amend Special Conditions Section</p> <p>The Permittee shall invite tribal cultural resource specialists to assist with the cultural resources inventory and to monitor all phases of construction of the selected alternative.</p> <p>The Permittee shall employ [number] tribal archaeologist and [number] tribal construction monitors from the tribal nations affiliated with the area to assist with conducting the cultural and archaeological resources inventory and to monitor construction activities though final restoration.</p>
	6b	383K	Magellan	Magellan plans to have tribal monitors onsite during construction and will implement its Unanticipated Discoveries Plan as necessary during construction.		
	7	---	Brave Heart Society			<p>Alternative Language Recommended by Braveheart Society</p> <p><u>Applicant shall hire monitors to monitor construction of the pipeline from each of the 23 tribal nations that are affiliated with the area and that desire to monitor construction.</u></p>

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
Tribal Notification	8	---	Brave Heart Society			<p>Language Recommended by Braveheart Society</p> <p><u>Applicant shall provide all of the 23 tribal nations affiliated with the area bi-weekly updates regarding the status of construction, impacted travel routes, and the anticipated date of completion.</u></p> <p><u>Applicant shall immediately notify all of the 23 tribal nations affiliated with the area of any release of hazardous or toxic material during the construction process or any leak or spill from the pipeline during operations. Such notification shall include the location of the release, the volume of the release, the material(s) released, the status of repairs and remediation/clean-up, and any anticipated impacts to cultural resources including catlinite, waterbodies, medicinal plants, and wildlife.</u></p>
Pipestone National Monument Coordination	9a	383G	Magellan	Magellan will coordinate with Monument staff regarding potential traffic disruption during periods of increased visitor use, including during ceremonial use of the Monument during the annual Sundance and other occasions.	Section 9.1 Cultural Resources (Special Conditions) The Permittee must coordinate construction activities to avoid ceremonial uses of the Pipestone National Monument.	<p>Amend Special Conditions Section</p> <p>The Permittee must coordinate construction activities to avoid ceremonial uses of the Pipestone National Monument.</p> <p><u>Pipestone National Monument Coordination</u> <u>Prior to construction activities, the Permittee will coordinate with Pipestone National Monument staff</u></p>
	9b	383J	Magellan	Magellan committed to continuing to engage with interested tribes who have been traditionally associated with the Monument as the Project moves forward.		

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
	9c	384A	Magellan	Construction activities will be suspended during ceremonial use of the Monument.		<u>and tribal nations affiliated with the area regarding potential traffic disruption during periods of increased visitor use, including during ceremonial use of the Pipestone National Monument during the annual Sundance Ceremony and other occasions. Construction activities shall be suspended during ceremonial use of the Monument.</u>
Restoration	10	383E	Magellan	After restoration, Magellan will contact affected landowners and/or tenants to discuss any outstanding issues related to project completion on their respective property. Magellan will continue to work with each affected party to ensure cleanup and restoration conforms to the easement agreement.	<p>Section 7.24 Restoration The Permittee shall restore the right-of-way, temporary workspaces, access roads, abandoned right-of-way, and other public or private lands affected by construction of the pipeline to the natural conditions that existed immediately before construction of the pipeline and as required by other federal and state agency permits. Restoration must be compatible with the safe operation, maintenance, and inspection of the pipeline. Within 60 days after completion of all restoration activities the Permittee shall advise the Commission in writing of the completion of such activities.</p>	<p>Add to Special Conditions Section</p> <p><u>Post-Construction Landowner Approval</u> <u>The Permittee shall work with affected landowners to obtain their signature(s) on a final written release within one year from restoration completion that indicates the affected landowner(s) is/are satisfied by the post-construction restoration of their properties to conditions that comply with the terms and conditions of this pipeline routing permit and any specific agreements between the landowner(s) and Permittee. All signed releases must be available prior to filing of the Pipeline Construction Completion Certificate as required in Section 12 of this permit.</u></p>
Wetlands	11	383H	Magellan	Prior to starting construction, Magellan will complete a Level 2 wetland delineation to confirm wetland locations and finalize the project design. If impacts are unavoidable, then Magellan will work with	<p>Section 7.13 Wetlands and Water Resources Wetlands and riparian areas shall be accessed using the shortest route possible in order to minimize travel through wetland areas and prevent</p>	<p>Add to Special Conditions Section</p> <p><u>Wetland Delineation</u> <u>Prior to starting construction, the Permittee shall complete a Routine Level 2 Wetland Delineation to confirm</u></p>

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
				<p>regulatory agencies to obtain the necessary wetland permits. Magellan will also apply to DNR for a License to Cross public waters for Public Waters Inventory crossings (as applicable).</p>	<p>unnecessary impacts. No temporary workspace areas shall be placed within or adjacent to wetlands or water resources, as practicable. To minimize impacts, construction in wetland areas shall occur during frozen ground conditions where practicable and shall be according to permit requirements by the applicable permitting authority. When construction during winter is not possible, wooden or composite mats shall be used to protect wetland vegetation. Soil excavated from the wetlands and riparian areas shall be contained and not placed back into the wetland or riparian area.</p> <p>Dewatering during periods of excessive precipitation or in areas where the natural groundwater table intersects the pipeline trench will not be directed into wetlands or water bodies. Dewatering discharges will be directed toward well vegetated upland areas. Should discharge activities need to be directed off the right-of-way landowner consent will be obtained, and locations will be chosen to minimize impacts. All discharge activities will comply with applicable agency permits or approvals.</p> <p>Areas disturbed by construction activities shall be restored to pre-construction conditions. Restoration of the wetlands will be performed by Permittee in accordance with the requirements of applicable state and</p>	<p><u>wetland locations and finalize the project design.</u></p>

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
					<p>federal permits or laws and landowner agreements. Wetland and water resource areas disturbed by construction activities shall be restored to preconstruction conditions in accordance with the requirements of applicable state and federal permits or laws and landowner agreements. All requirements of the U.S. Army Corps of Engineers (USACE), Minnesota Department of Natural Resources, and local units of government shall be met.</p> <p>Section 8 Other Permits and Regulations The Permittee shall comply with all applicable state rules and statutes. The Permittee shall obtain all required permits for the project and comply with the conditions of those permits unless those permits conflict with or are preempted by federal or state permits and regulations. A list of the permits known to be required is included in the permit application. The Permittee shall submit a copy of such permits to the Commission upon request.</p>	
	12	---	Brave Heart Society			<p>Alternative Language Recommended by Braveheart Society</p> <p><u>Applicant shall avoid all wetlands during construction.</u></p>
Roads	13	383A	Magellan	Magellan will work with landowners for the use of private access roads, restoring these roads according to	Section 7.2 Access to Property for Construction	Not required; the draft permit language is adequate.

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
				<p>landowner agreements once construction is complete.</p>	<p>The Permittee shall negotiate agreements with landowners that will give the landowners access to their property; minimize the impact on planned future development of the property; and to assume any additional costs for such development that may be the result of installing roads, driveways and utilities that must cross the right-of-way.</p> <p>Section 7.18 Roads The Permittee shall advise the appropriate governing bodies having jurisdiction over all state, county, city or township roads that will be used during the construction phase of the project. Where practical, existing roadways shall be used for all activities associated with construction of the facility. Oversize or overweight loads associated with the facility shall not be hauled across public roads without required permits and approvals.</p> <p>The Permittee shall construct the least number of site access roads it can. Access roads shall not be constructed across streams and drainage ways without the required permits and approvals. Access roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.</p> <p>The Permittee shall promptly repair private roads or lanes damaged when</p>	

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
					moving equipment or when accessing construction workspace, unless otherwise negotiated with the affected landowner.	
HDD and Bore Methods	14a	383F	Magellan	Magellan will construct the pipeline under roadways using the bore method to avoid disruptions to vehicular traffic and physical impacts on roadbeds. Magellan will utilize both the HDD and bore crossing methods at public roads. The bore crossing method also avoids impacts to the roadway but does so using a technique more appropriate for the length and depth of most road crossings.	Not in draft permit.	Add to Special Conditions Section <u>Horizontal Directional Drill Requirements</u> <u>When constructing the pipeline beneath roads, rights-of-way, surface waters, stream crossings, native plant communities, areas of outstanding to moderate biodiversity, Minnesota Biological Survey (MBS) sites, and wetlands where practical, horizontal directional drilling methods and related best management practices as described in Magellan's site permit application and the CEA shall be employed.</u>
	14b	383I	Magellan	Areas of "Outstanding" to "Moderate" biodiversity will be avoided via HDD. There will be no surface disturbance between entry and exit point of the HDD. Trenching will not occur during construction where the route crosses native plant communities to avoid impacts.		
	14c	387A	EERA (CEA)	Directionally bore under Minnesota Biological Survey (MBS) sites.		
Dust Control	15	385A	DNR	Magellan shall avoid the use of chemical dust suppressants that contain chloride as a dust abatement measure during construction of the pipeline.	Not in draft permit.	Add to Special Conditions Section <u>Dust Control</u> <u>The Permittee shall minimize and avoid, if possible, the use of chloride-based dust control chemicals (i.e., calcium chloride, magnesium chloride).</u>

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
Erosion Control	16	385B	DNR	Magellan shall use only “bio-netting” or “natural netting” types and mulch products without synthetic (plastic) fiber additives as erosion control blankets in constructing the pipeline.	Not in draft permit.	<p>Add to Special Conditions Section</p> <p><u>Wildlife-Friendly Erosion Control</u> <u>The Permittee shall use only bio-netting or natural netting types of erosion control materials and mulch products without synthetic (plastic) fiber additives.</u></p>
Special Status Species/Minnesota Biological Survey Sites Special Status	17a	387B	EERA (CEA)	Operate as much as possible within already disturbed areas.	Not in draft permit.	<p>Add to Special Conditions Section</p> <p><u>MBS Sites</u> <u>When construction of the pipeline happens near Minnesota Biological Survey (MBS) sites, the Permittee shall retain a buffer around the MBS site, including confining construction activities to the opposite side of the road from native plant communities, where possible; operate to the greatest extent possible in previously disturbed areas; prohibit disturbance of uncultivated and unmowed areas between May 15th and July 15th; minimize vehicular disturbance; utilize effective erosion prevention and sediment control measures; and if possible, conduct construction during frozen ground conditions. MBS sites shall not be used for stockpiling construction equipment and supplies, the parking of vehicles, or the</u></p>
	17b	387C	EERA (CEA)	Where possible, confine construction activities to the opposite side of the road from native plant communities (NPCs) and MBS sites.		
	17c	387D	EERA (CEA)	Retain a buffer between proposed activities and MBS sites.		
	17d	387E	EERA (CEA)	Minimize vehicular disturbance in the areas surrounding MBS sites.		
	17e	387F	EERA (CEA)	Do not park equipment or stockpile supplies in MBS sites.		
	17f	387G	EERA (CEA)	Do not place spoil within MBS Sites or other sensitive areas.		
	17g	387I	EERA (CEA)	If possible, conduct the work under frozen ground conditions.		
	17h	387J	EERA (CEA)	Use effective erosion prevention and sediment control measures.		

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
	17i	387M	EERA (CEA)	Initial disturbance of uncultivated and unmowed areas will not occur between May 15th and July 15th.		<u>placement of excavated spoils or other material.</u>
Invasive Species	18	387H	EERA (CEA)	Inspect and clean all equipment prior to bringing it to the site to prevent the introduction and spread of invasive species.	Section 7.16 Invasive Species The Permittee shall employ best management practices to avoid the potential spread of invasive species on lands disturbed by project construction activities.	Amend Section 7.16 The Permittee shall employ best management practices to avoid the potential spread of invasive species on lands disturbed by project construction activities, <u>including inspection and cleaning of all construction related vehicles.</u>
Noxious Weeds	19a	387K	EERA (CEA)	Revegetate disturbed soil with native species suitable to the local habitat as soon after construction as possible.	Section 7.17 Noxious Weeds The Permittee shall take all reasonable precautions against the spread of noxious weeds during all phases of construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil the Permittee shall select site appropriate seed certified to be free of noxious weeds. To the extent possible, the Permittee shall use native seed mixes. The Permittee shall consult with landowners on the selection and use of seed for replanting.	Amend Section 7.17 The Permittee shall take all reasonable precautions against the spread of noxious weeds during all phases of construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil the Permittee shall select site appropriate seed certified to be free of noxious weeds, <u>specifically seed mixes that do not include 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.</u> To the extent possible, the Permittee shall use native seed mixes. The Permittee shall consult with <u>the DNR and</u> landowners on the selection and use of seed for replanting.
	19b	387L	EERA (CEA)	Use only weed-free mulches, topsoils, and seed mixes. Of particular concern is birdsfoot trefoil (<i>Lotus corniculatus</i>) and crown vetch (<i>Coronilla varia</i>), two invasive species that are sold commercially and are problematic in prairies and disturbed open areas, such as roadsides.		

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
Topeka Shiner	20	242	EERA (CEA)	Streams inhabited by the Topeka shiner are mapped within all four of the route alternatives. In order to prevent impacts to the Topeka shiner, it is important that adequate erosion and sedimentation control BMPs are put in place along streams that may contain, or flow to streams that contain, Topeka shiners. As a special condition of the route permit, if any in stream work is required, work should be before August 15 to protect Topeka Shiner spawning habitat. DNR also recommended that Magellan avoid work from mid-May to mid-August in order to protect Topeka shiners.	9.2 Threatened, Endangered, and Other Special Status Species (Special Conditions) The Permittee shall follow U.S. Fish and Wildlife Service’s Recommendations for Construction Projects Affecting Waters Inhabited by Topeka Shiners in Minnesota. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.	Amend Special Conditions Section Topeka Shiner The Permittee shall follow U.S. Fish and Wildlife Service’s Recommendations for Construction Projects Affecting Waters Inhabited by Topeka Shiners in Minnesota. <u>Construction near Topeka shiner spawning habitat shall be avoided between May 15 and August 15.</u> The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.
Dakota Skipper and Western Prairie Fringed	21	245	EERA (CEA)	Identified in CEA at page 124.	9.2 Threatened, Endangered, and Other Special Status Species (Special Conditions) The Permittee shall confer with the U.S. Fish and Wildlife Service and Minnesota Department of Natural Resources to determine the need for, and the extent of, any species surveys prior to construction. ... The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.	Not required; the draft permit language is adequate.
Well Protection	22	---	EERA (CEA)	Not in ALJ Findings, identified in CEA at page 140.	9.3 Accidents and Spills (Special Conditions) If a spill were to occur, all nearby water wells shall be identified as potential	Amend Special Conditions Section Well Protection

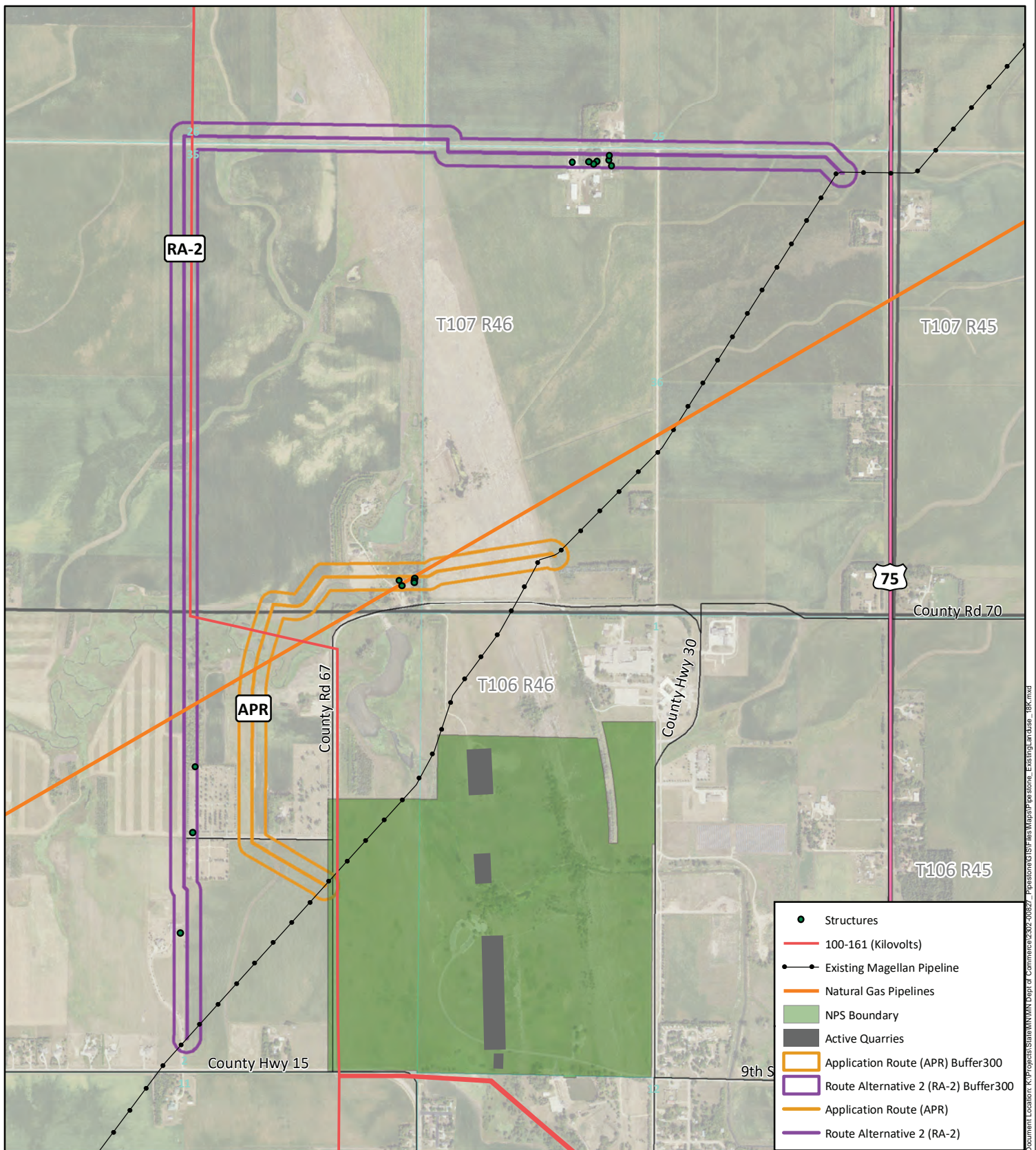
Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
					<p>receptors and monitored until the extent of groundwater contamination is known. Drinking water receptors such as municipal water intakes and private water wells used for drinking water should take priority with protective measures beginning with the downgradient wells nearest the point of release.</p>	<p><u>Prior to construction, the Permittee shall identify all drinking water receptors such as municipal water intakes and private water wells used for drinking water. In accordance with Minn. R. 4725.4450, subp. 1(C)(8), the pipeline must be located more than 100 feet from known water-supply wells.</u></p> <p>If a spill were to occur, all nearby water wells shall be identified as potential receptors and monitored until the extent of groundwater contamination is known. Drinking water receptors such as municipal water intakes and private water wells used for drinking water should take priority with protective measures beginning with the downgradient wells nearest the point of release.</p>
Emergency Preparedness	23	---	EERA (CEA)	Not in ALJ Findings, identified in CEA at page 141.	<p>9.3 Accidents and Spills (Special Conditions) The Permittee shall conduct emergency preparedness in collaboration with local first responders and practice drills for live incidents.</p>	<p>Amend Special Conditions Section</p> <p><u>Emergency Preparedness</u> The Permittee shall conduct emergency preparedness in collaboration with local first responders and practice drills for live incidents.</p> <p><u>The Permittee shall follow the federal and state regulatory requirements of its Northern District Operation Safety Response Plan (OSRP) – Pipeline and Hazardous Material Administration (PHMSA), dated August 17, 2023, which meets the requirements of the Oil</u></p>

Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
						<u>Pollution Act of 1990 and was prepared in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and applicable Area Contingency Plans (ACP) which include EPA Region V and VII Regional Contingency Plans, and Minneapolis/St. Paul Inland Zone Sub-Area Incident Action Plans.</u>
Environmental Site Assessment	24	201	EERA (CEA)	Identified in CEA at page 153.	Not in draft permit.	Add to Special Conditions Section <u>Environmental Site Assessment</u> Prior to construction, the Permittee shall conduct a Phase I Environmental Site Assessment and Phase II Environmental Site Assessment (if required) to identify hazardous waste and regulated material sites.
Accidents and Spills	25	347	EERA (CEA)	Identified in CEA at page 154.	Not in draft permit.	Add to Special Conditions Section <u>Accidents and Spills</u> Prior to construction, the Permittee shall develop and implement a spill response plan for the immediate clean up of spills and the specific requirements for reporting and responding to spills.
Environmental Inspector	26	---	EERA (CEA)	Not in ALJ Findings, identified in CEA at page 18.	Not in draft permit.	Add to Special Conditions Section <u>Environmental Inspector</u> The Permittee shall employ an Environmental Inspector to ensure that construction is conducted in accordance with the conditions of this

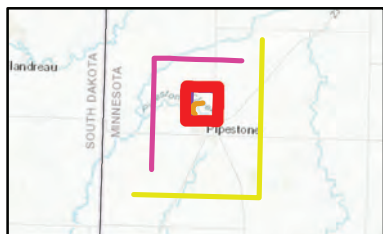
Issue	ID	ALJ Report Finding	Sponsor	ALJ Recommended Permit Condition	Location in Draft Permit	Modified Language Recommended by Staff
						<p><u>permit, the Best Management Practice Plan (Appendix C to site permit application), and all applicable federal, state, and local permits during construction and restoration. The Environmental Inspector shall maintain appropriate records to document compliance with the permit conditions. The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the Environmental Inspector 14 days prior to commencing construction and upon any change that may occur during the construction of the pipeline.</u></p>

**LARGE SCALE FIGURES OF
ROUTE ALTERNATIVES APR, RA-01, RA-02, AND RA-03**

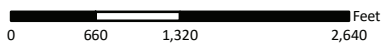
Figures are from Appendix A-1 to the CEA



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Existing Land Use
Pipestone Pipeline Reroute Project
 Docket Number: PPL-23-109
 Pipestone, MN

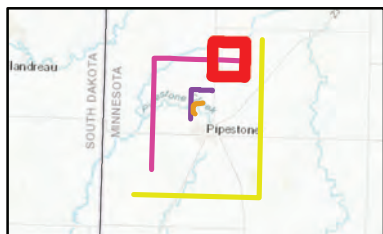
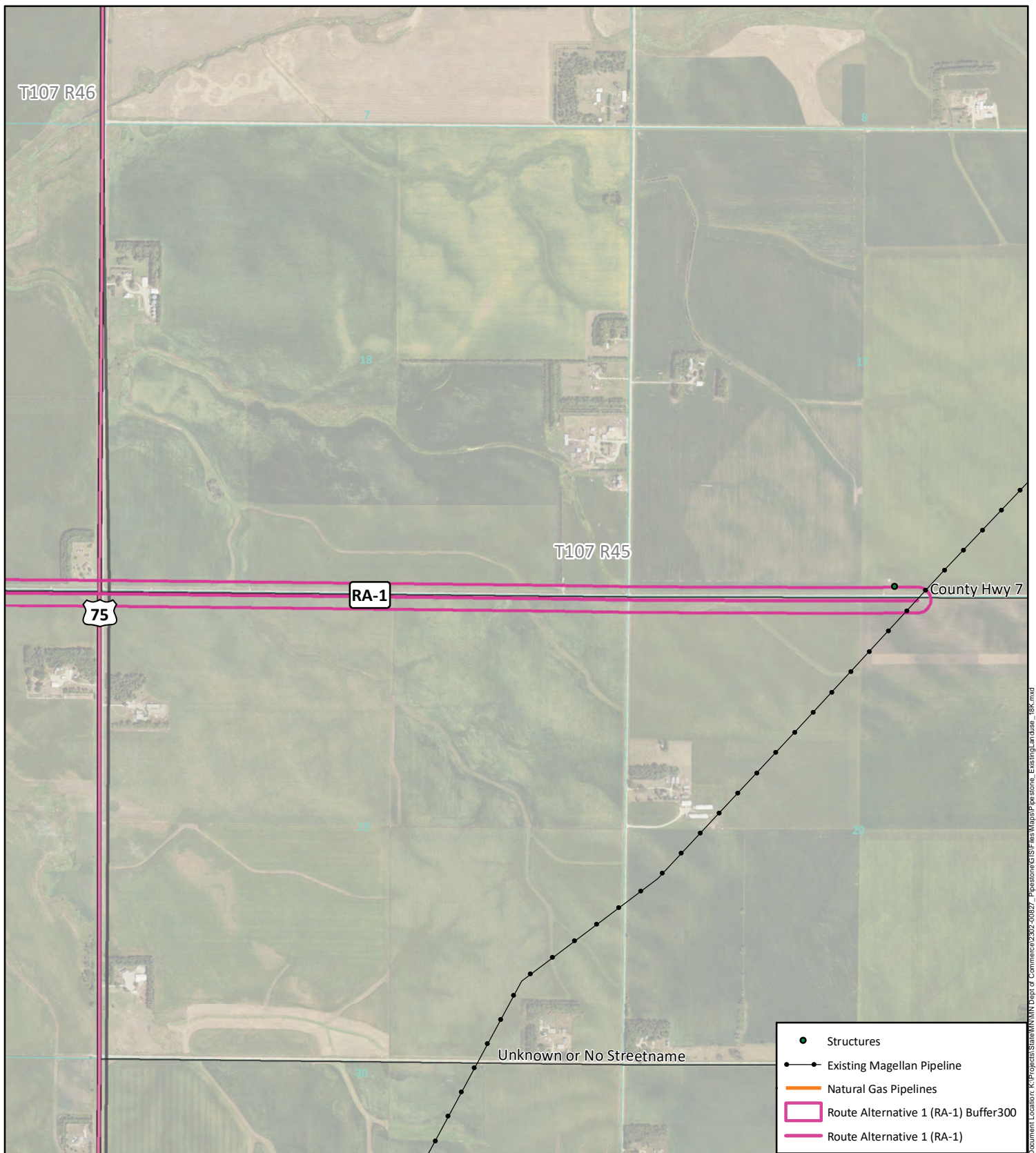


Data Source: US Fish and Wildlife,
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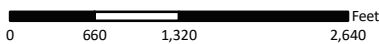


- Interstate
- US Highway
- State Highway
- Roads
- Township
- Sections

KLJ Project Number: 2302-00827
 Date Created: 2/13/2024
 Created By: jessicacallahan



Existing Land Use
 Pipestone Pipeline Reroute Project
 Docket Number: PPL-23-109
 Pipestone, MN

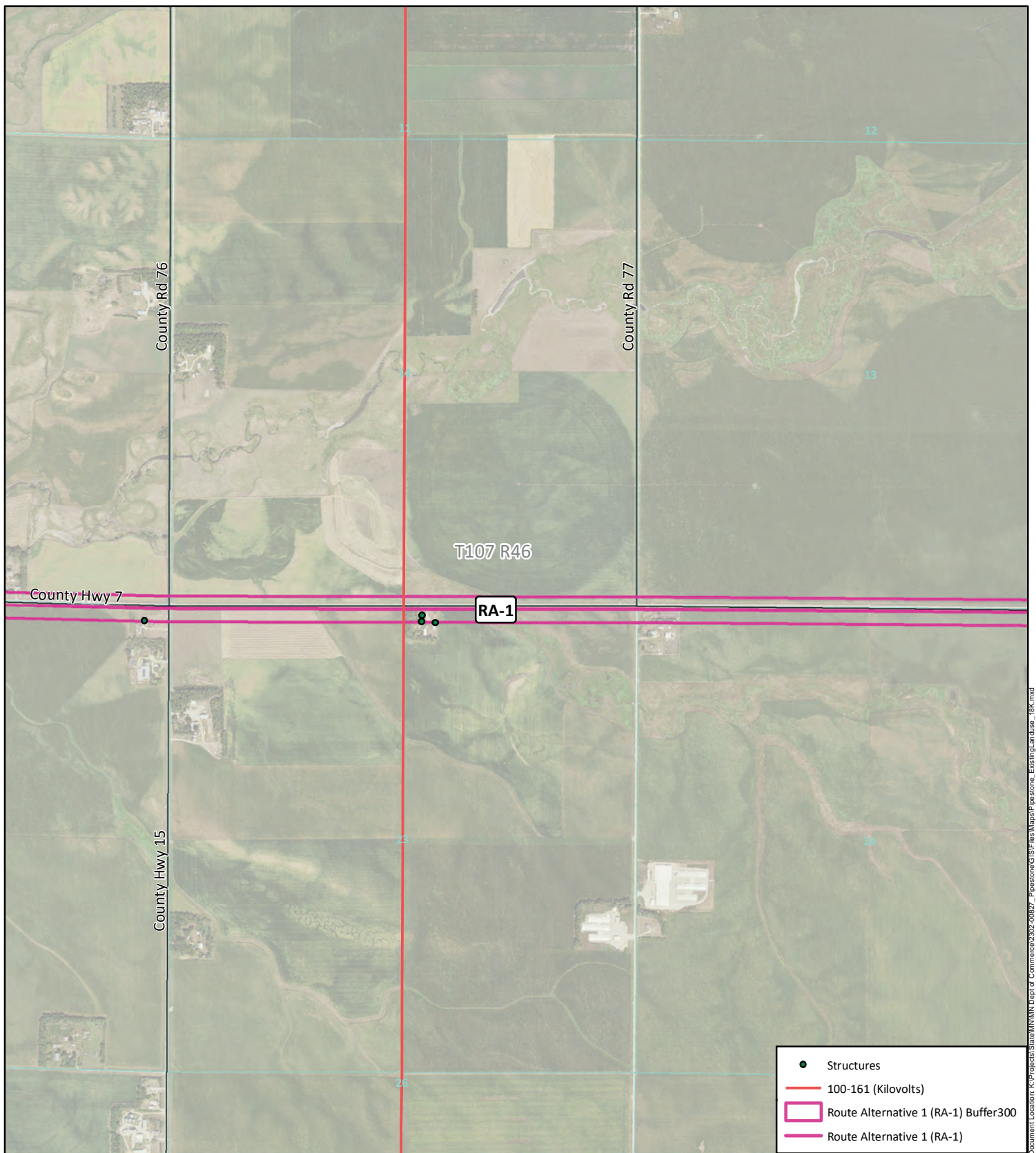


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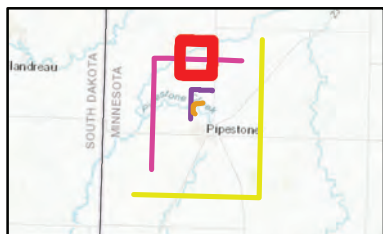


- Interstate
- US Highway
- State Highway
- Roads
- Township
- Sections

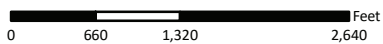
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Existing Land Use
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 Docket Number: PPL-23-109
 Pipestone, MN

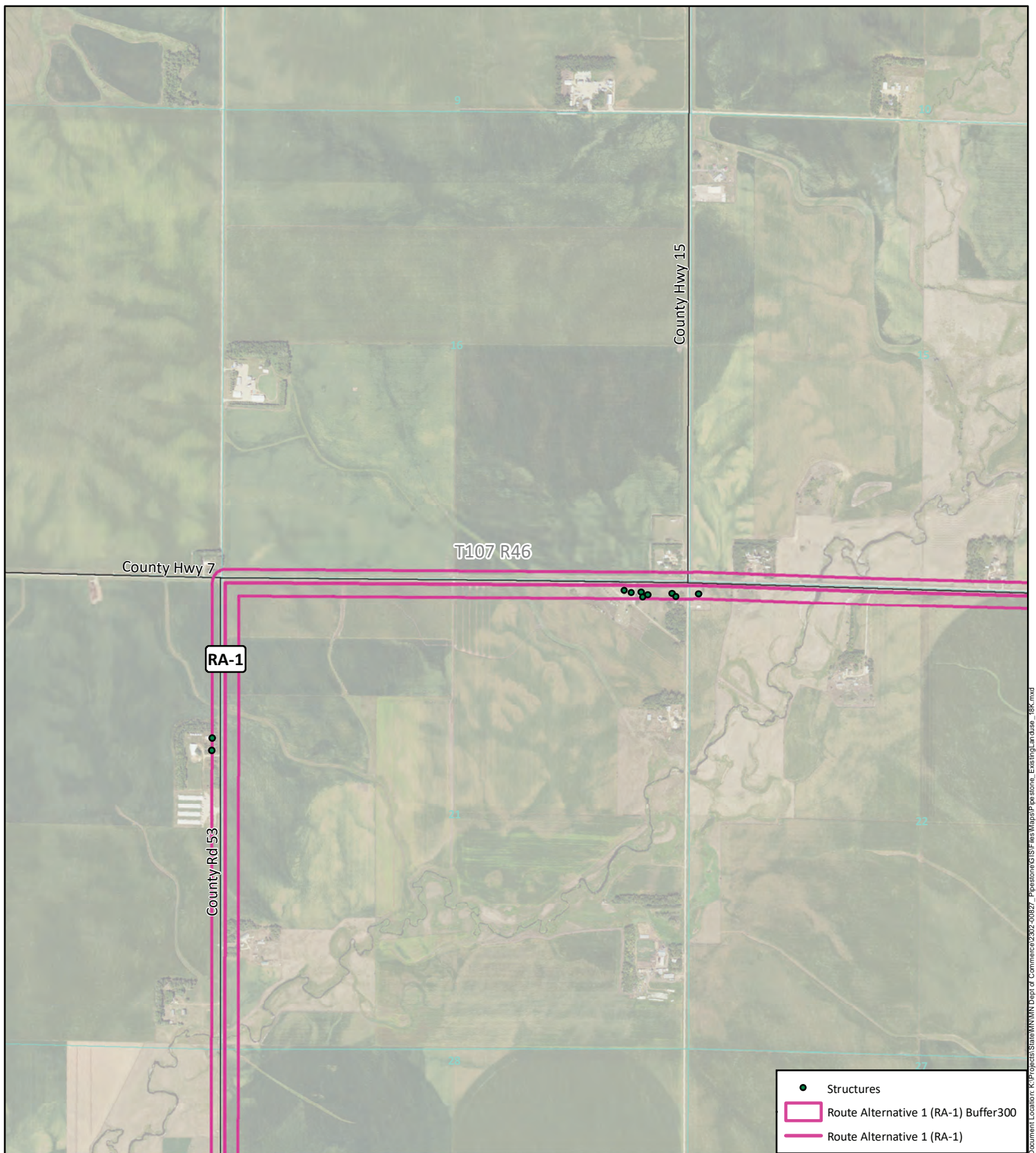


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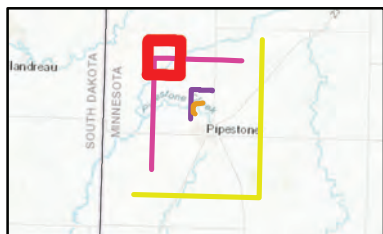


- Interstate
- US Highway
- State Highway
- Roads
- Township
- Sections

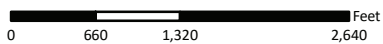
KLJ Project Number: 2302-00827
 Date Created: 2/13/2024
 Created By: jessicacallahan



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Existing Land Use
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 Docket Number: PPL-23-109
 Pipestone, MN

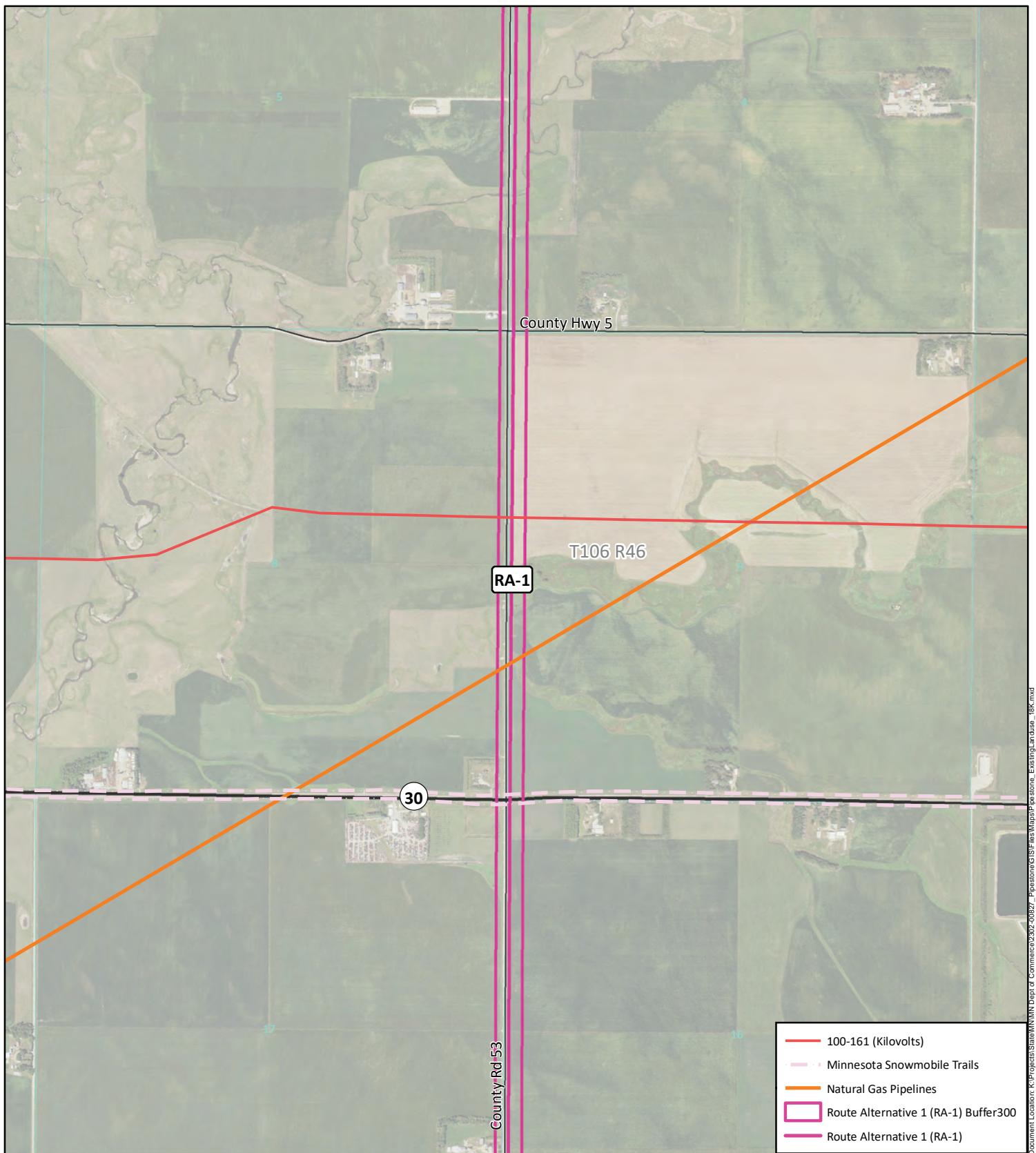


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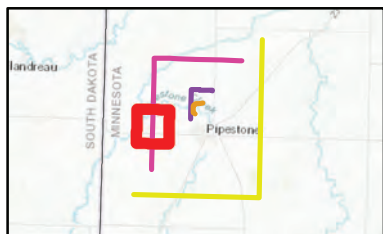


- Interstate
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- Roads
- Township
- Sections

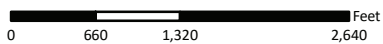
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Existing Land Use
 Pipestone Pipeline Reroute Project
 Docket Number: PPL-23-109
 Pipestone, MN



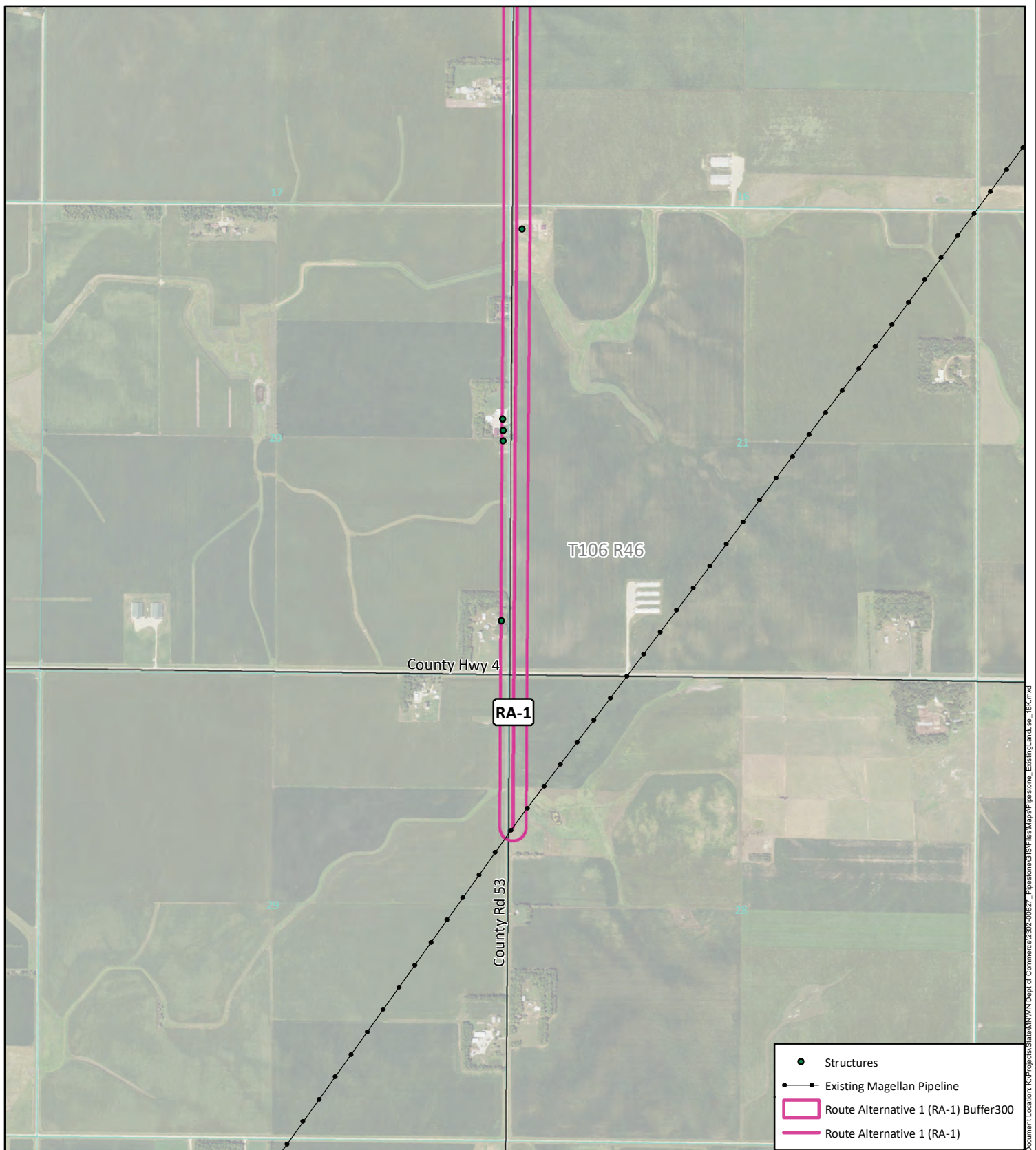
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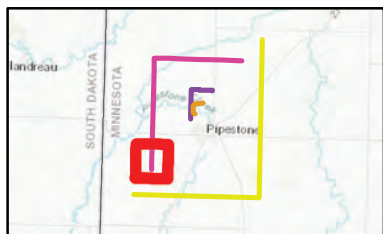
- 100-161 (Kilovolts)
- - - Minnesota Snowmobile Trails
- Natural Gas Pipelines
- Route Alternative 1 (RA-1) Buffer300
- Route Alternative 1 (RA-1)

- Interstate
- US Highway
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- Township
- Sections

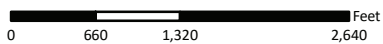
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Existing Land Use
Pipestone Pipeline Reroute Project
 Docket Number: PPL-23-109
 Pipestone, MN



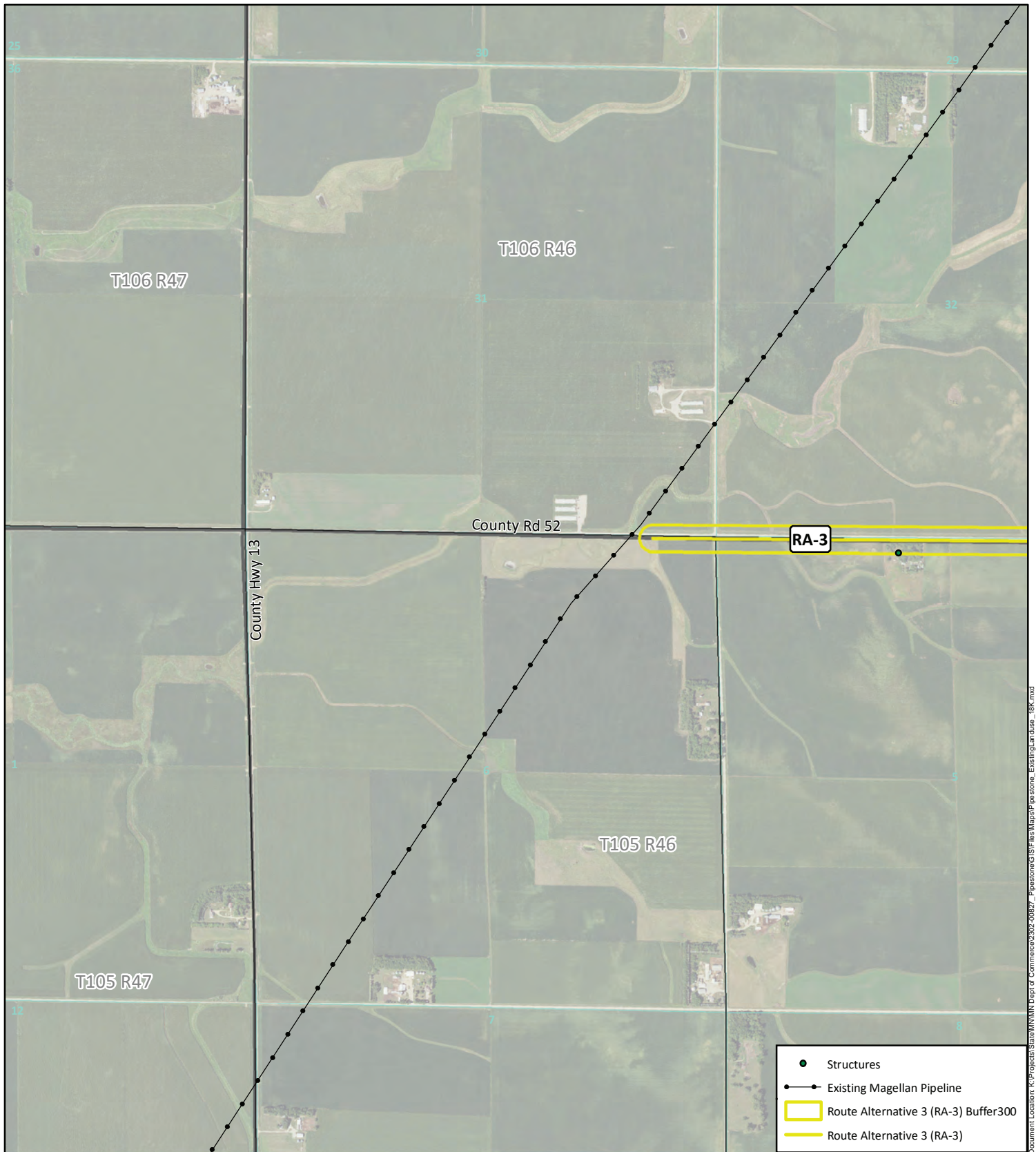
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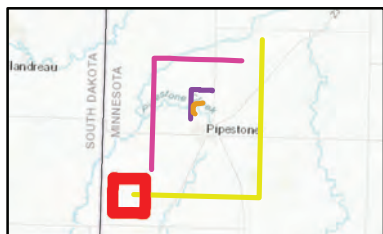
- Structures
- Existing Magellan Pipeline
- Route Alternative 1 (RA-1) Buffer300
- Route Alternative 1 (RA-1)

- Interstate
- US Highway
- State Highway
- Roads
- Township
- Sections

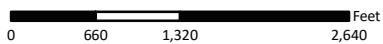
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Existing Land Use
Pipestone Pipeline Reroute Project
 Docket Number: PPL-23-109
 Pipestone, MN



Data Source: US Fish and Wildlife,
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- Interstate
- US Highway
- State Highway
- Roads
- Township
- Sections

KLJ Project Number: 2302-00827
 Date Created: 2/13/2024
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RA-3 County Rd 52

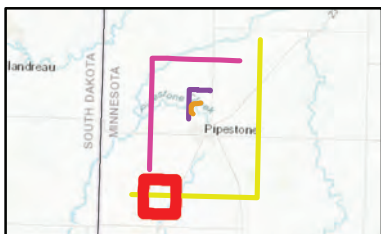
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T106 R46

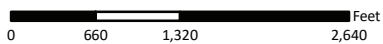
T105 R46

23

-  Minnesota Snowmobile Trails
-  Existing Magellan Pipeline
-  Route Alternative 3 (RA-3) Buffer300
-  Route Alternative 3 (RA-3)









Existing Land Use
 Pipestone Pipeline Reroute Project
 Docket Number: PPL-23-109
 Pipestone, MN

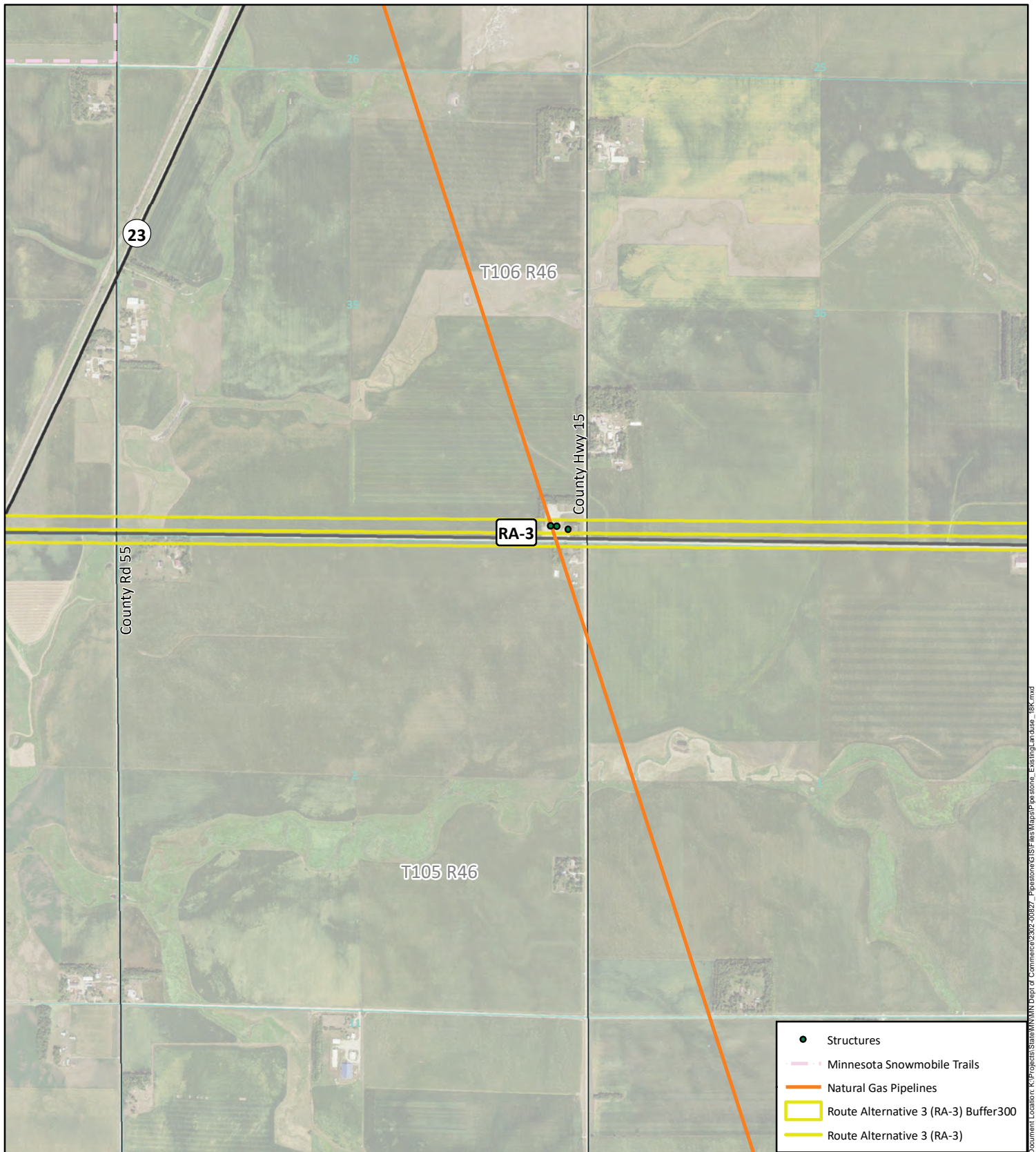


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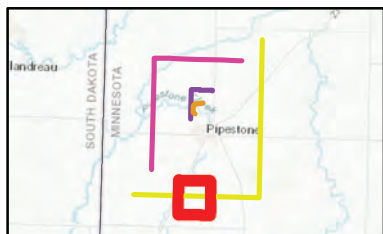


-  Interstate
-  US Highway
-  State Highway
-  Roads
-  Township
-  Sections

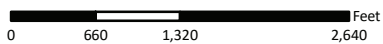
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Existing Land Use
 Pipestone Pipeline Reroute Project
 Docket Number: PPL-23-109
 Pipestone, MN

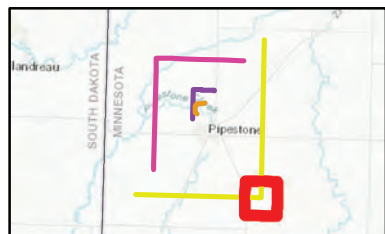
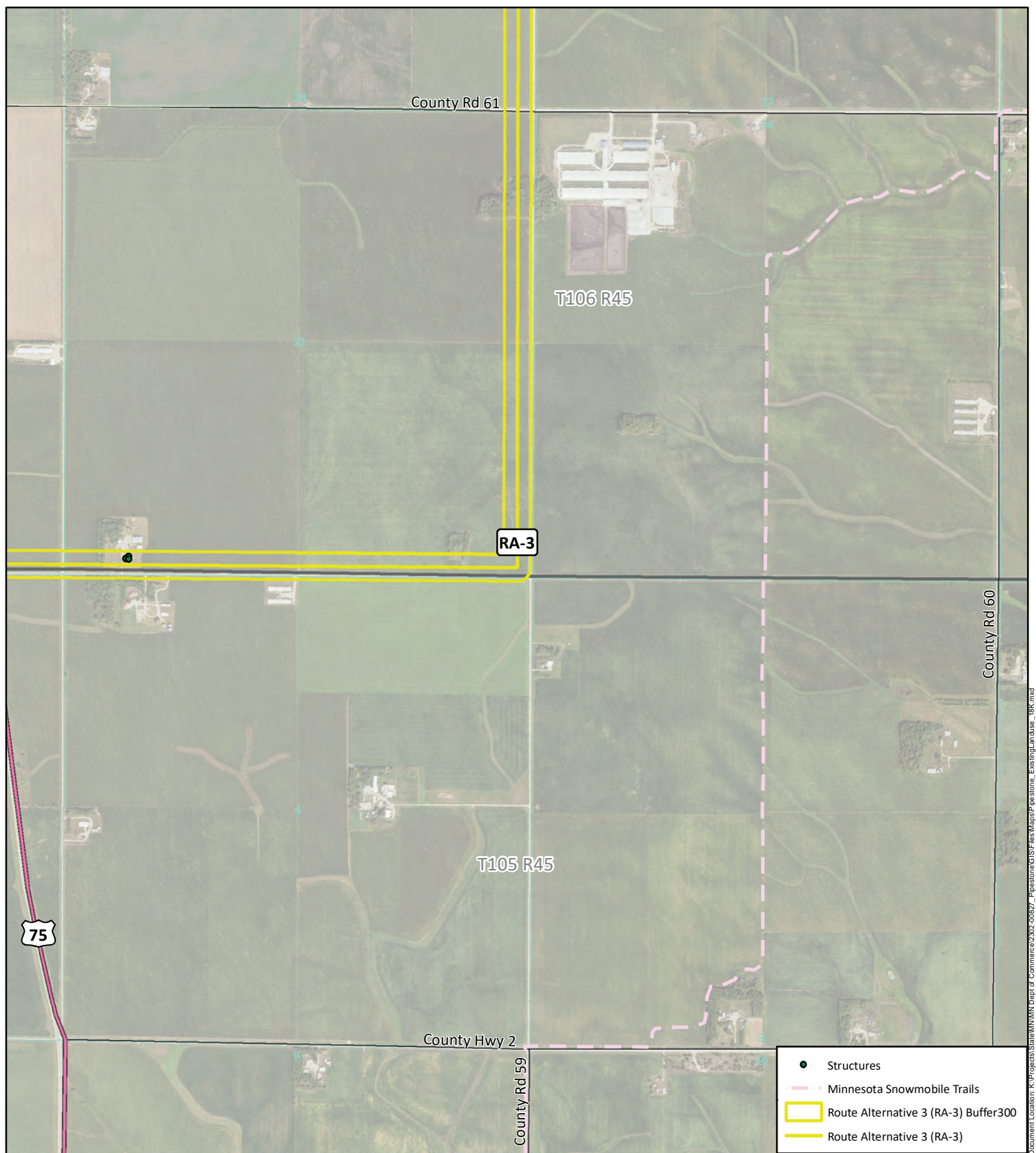


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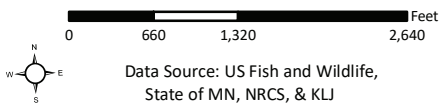


- Interstate
- US Highway
- State Highway
- Roads
- Township
- Sections

KLJ Project Number: 2302-00827
 Date Created: 2/13/2024
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Existing Land Use
 Pipestone Pipeline Reroute Project
 Docket Number: PPL-23-109
 Pipestone, MN

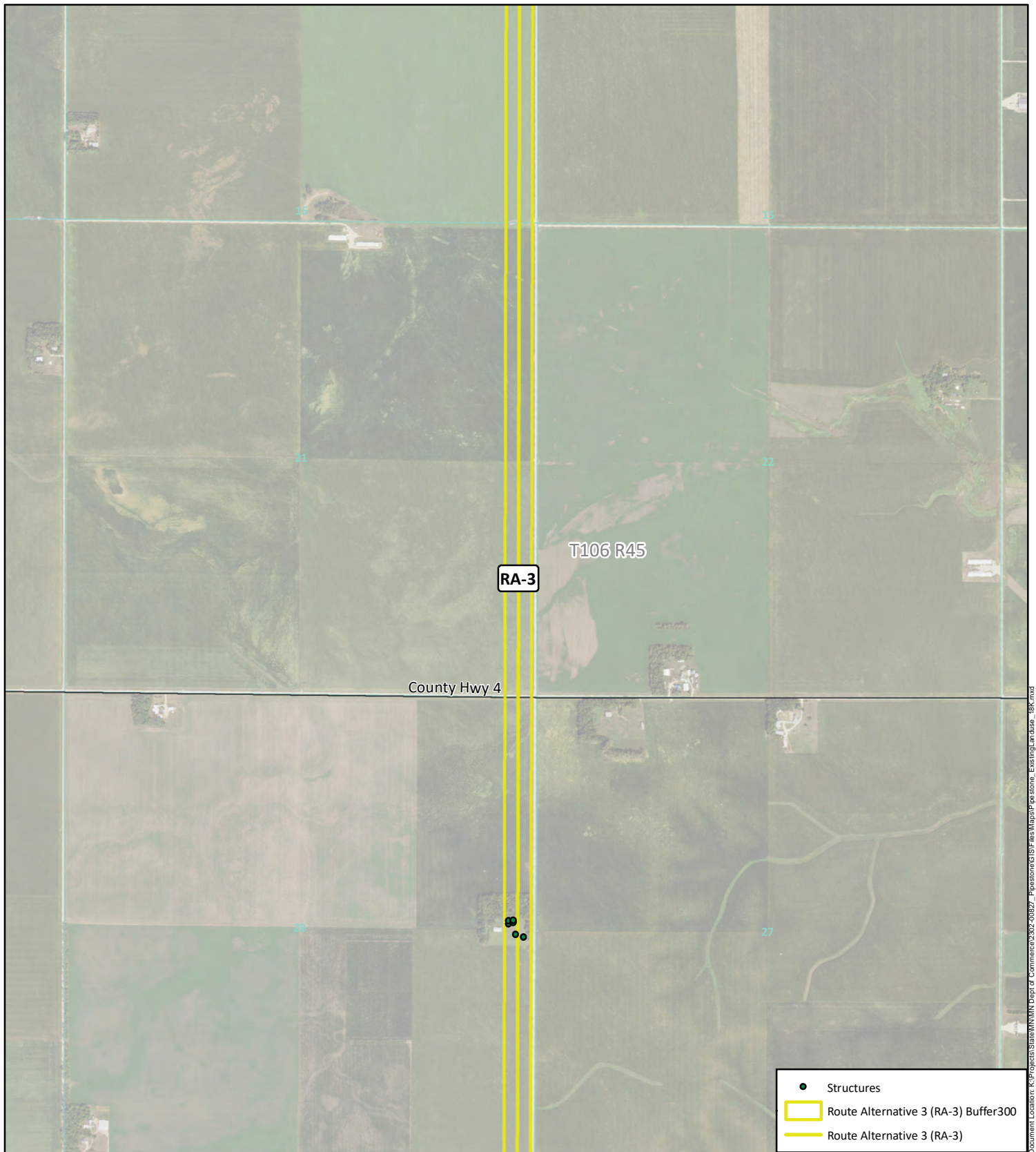


- Structures
- - - Minnesota Snowmobile Trails
- Route Alternative 3 (RA-3) Buffer300
- Route Alternative 3 (RA-3)

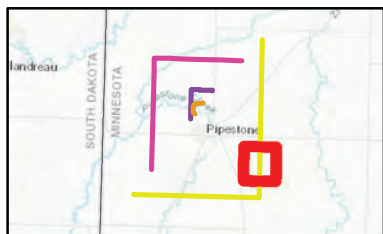
- Interstate
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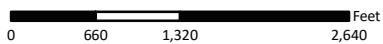




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 Pipestone, MN

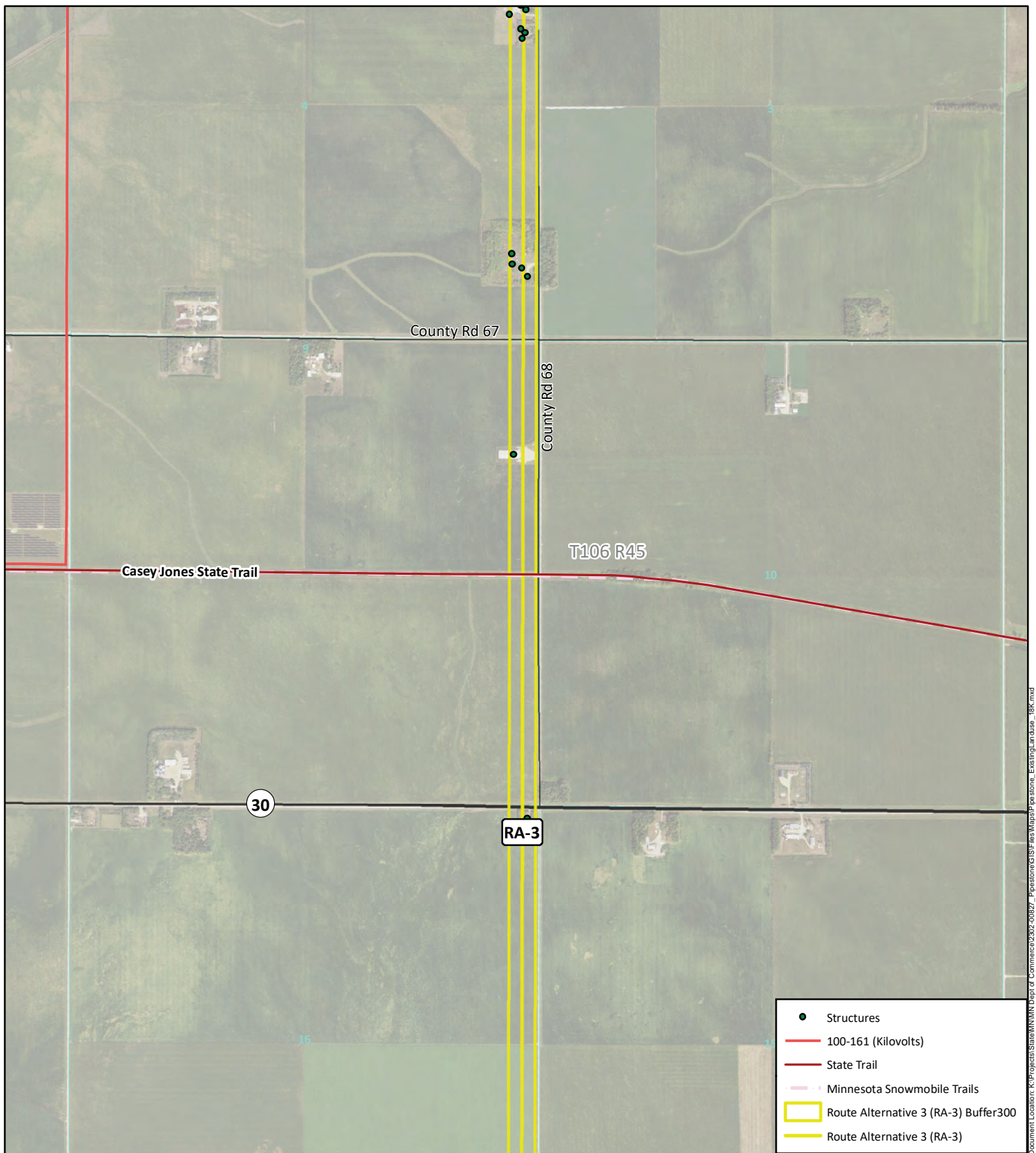


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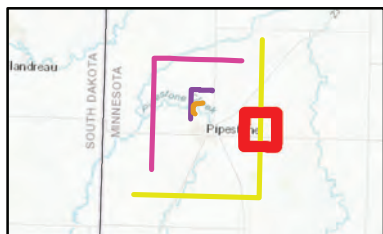
- Interstate
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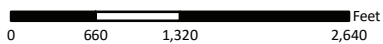


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- Structures
- 100-161 (Kilovolts)
- State Trail
- Minnesota Snowmobile Trails
- Route Alternative 3 (RA-3) Buffer300
- Route Alternative 3 (RA-3)



Existing Land Use
 Pipestone Pipeline Reroute Project
 Docket Number: PPL-23-109
 Pipestone, MN

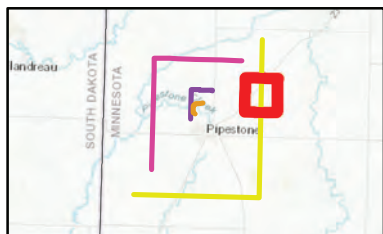
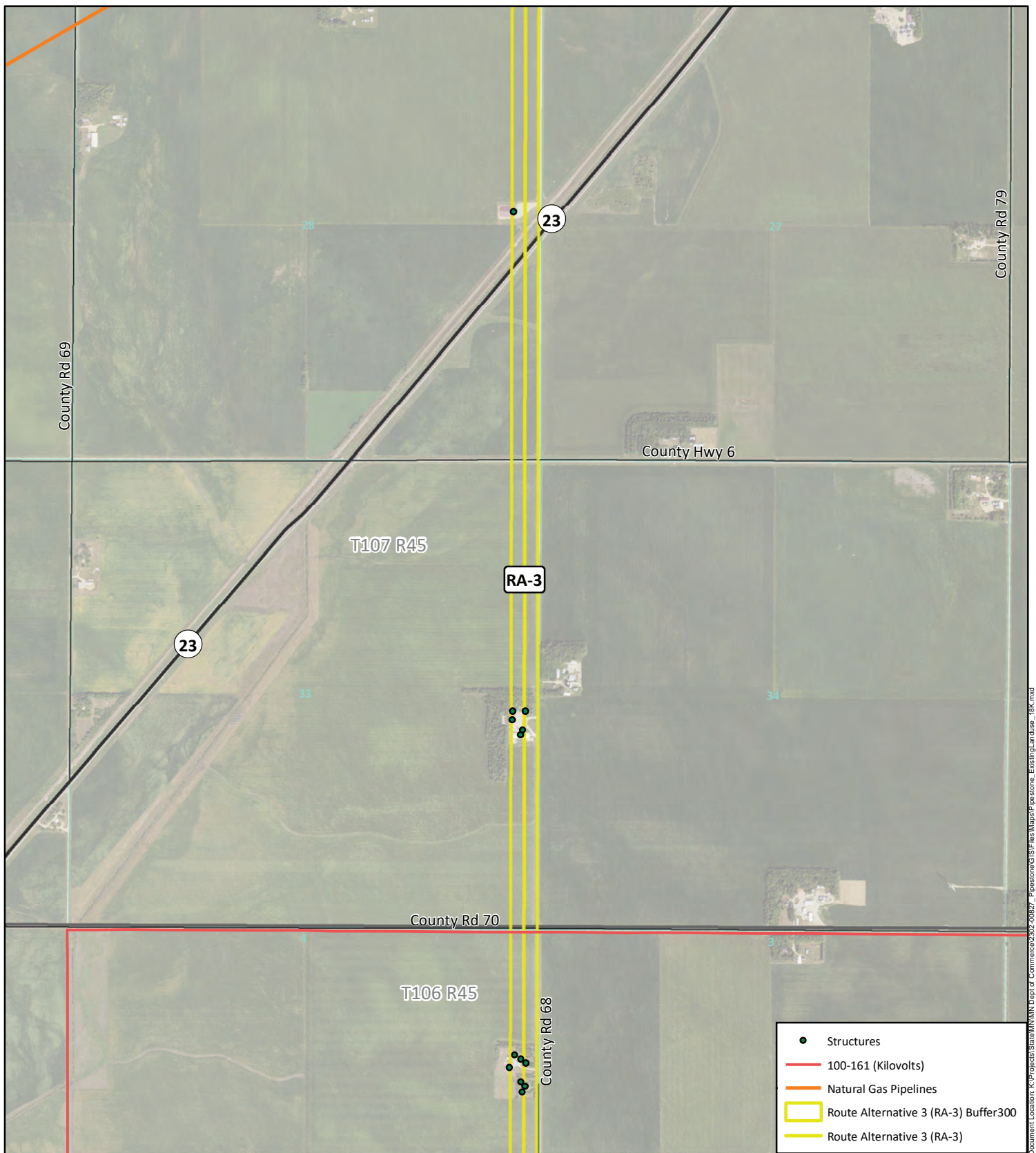


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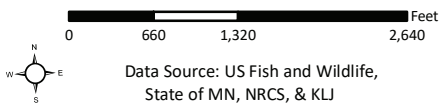


- Interstate
- US Highway
- State Highway
- Roads
- Township
- Sections

KLJ Project Number: 2302-00827
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Existing Land Use
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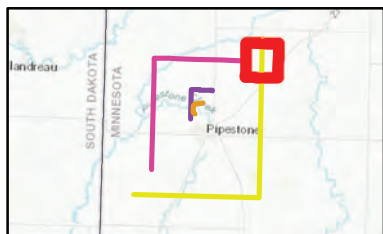
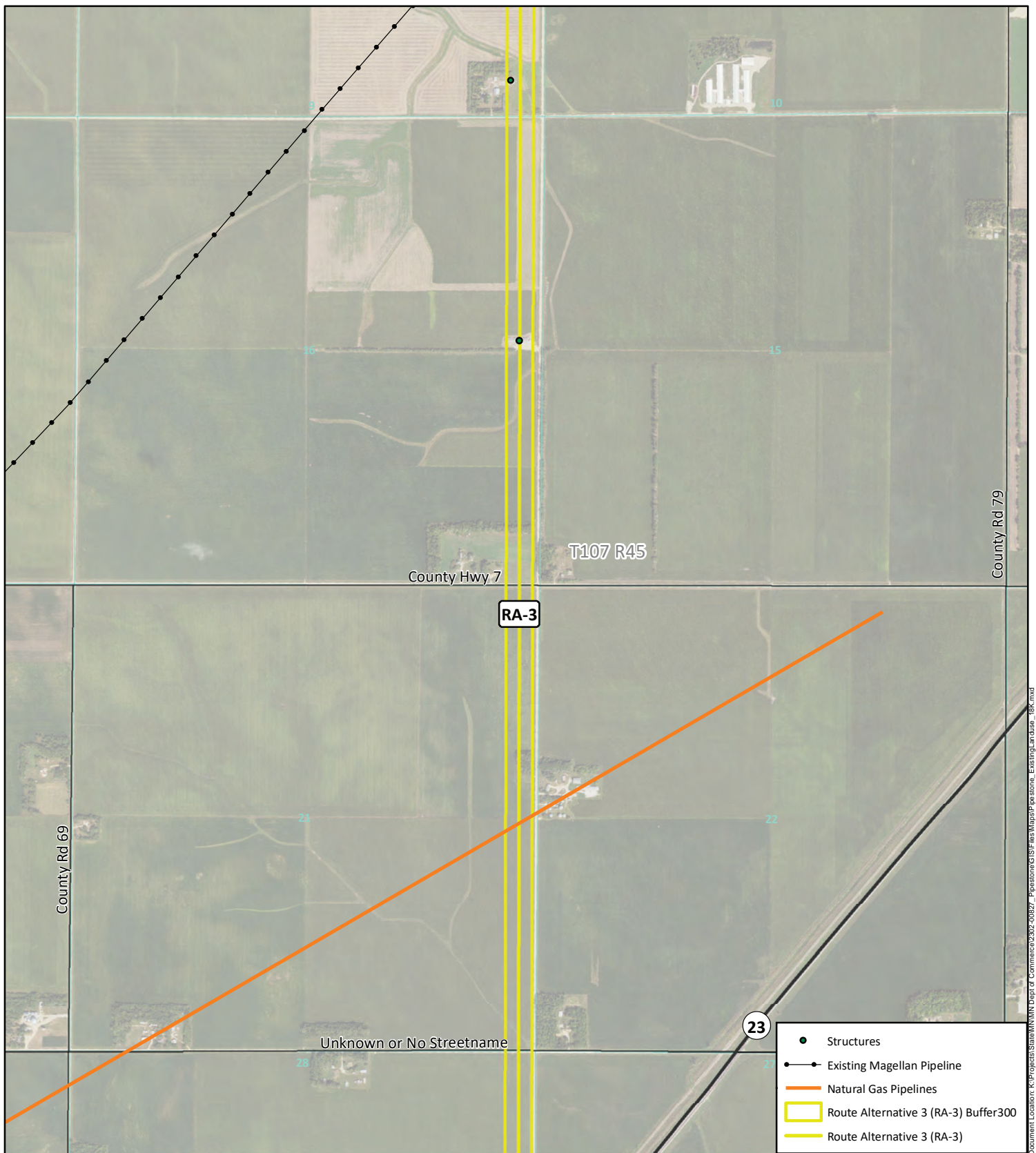
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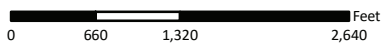
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Existing Land Use
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 Docket Number: PPL-23-109
 Pipestone, MN

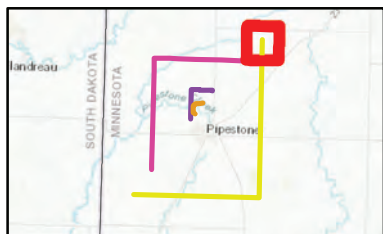
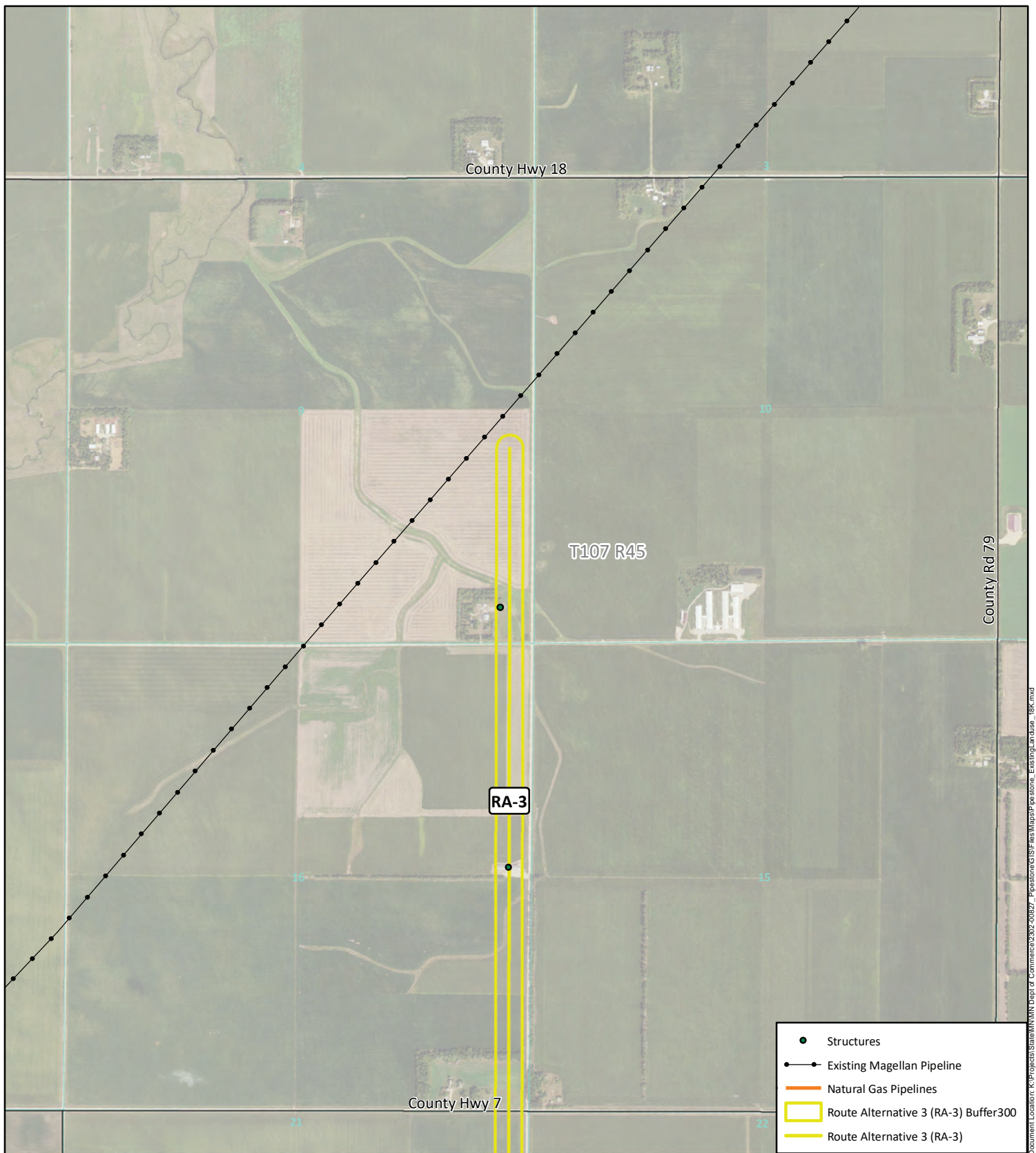


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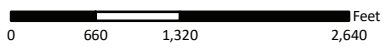


- Interstate
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- Sections

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Existing Land Use
Pipestone Pipeline Reroute Project
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Data Source: US Fish and Wildlife,
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- Interstate
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- State Highway
- Roads
- Township
- Sections

KLJ Project Number: 2302-00827
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Document Location: K:\Projects\State\MN\Dept of Commerce\2302-00827_Pipestone\GIS\Map\RA-3\RA-3_Buffer300_Existing_Land_Use_18K.mxd

DRAFT ROUTE PERMIT

STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

DRAFT ROUTING PERMIT FOR
CONSTRUCTION OF A LARGE REFINED PRODUCTS PIPELINE
AND ASSOCIATED FACILITIES

IN
PIPESTONE COUNTY

ISSUED TO
MAGELLAN PIPELINE COMPANY, L.P.

PUC DOCKET NO. IP7109/23-109

In accordance with the requirements of Minnesota Statutes Chapter 216G and Minnesota Rules Chapter 7852 this route permit is hereby issued to:

Magellan Pipeline Company, L.P.

Magellan Pipeline Company, L.P., is authorized by this routing permit to construct to construct approximately [X miles] of 8-inch diameter pipeline designed to carry refined petroleum products and associated facilities in Pipestone County, Minnesota.

The pipeline and associated facilities shall be built within the route identified in this permit and as portrayed on the official route maps and in compliance with the conditions specified in this permit.

Approved and adopted this ____ day of _____

BY ORDER OF THE COMMISSION

Will Seuffert,
Executive Secretary

CONTENTS

1	ROUTING PERMIT	1
1.1	Pre-emption.....	1
1.2	Definitions	1
2	PIPELINE SAFETY	1
3	PROJECT DESCRIPTION.....	2
3.1	Project Location.....	2
3.2	Associated Facilities.....	2
4	DESIGNATED ROUTE	2
4.1	Permanent Right-of-Way.....	3
4.2	Temporary Right-of-Way or Workspace.....	3
4.3	Right-of-Way Conformance.....	3
4.4	Route Width Variations	3
5	STATE AND FEDERAL MINIMUM DEPTH OF COVER REQUIREMENTS	4
6	PRE-CONSTRUCTION CONDITIONS.....	4
6.1	Permit Distribution	4
6.2	Plan and Profile.....	5
6.3	Status Reports	5
7	CONSTRUCTION CONDITIONS	6
7.1	Notification.....	6
7.2	Access to Property for Construction.....	6
7.3	Field Representative.....	7
7.4	Agricultural Monitor and County Inspector Notification Requirements	7
7.5	Employee Training and Education of Permit Terms and Conditions	7
7.6	Public Services, Public Utilities, and Existing Easements.....	7
7.7	Noise.....	8
7.8	Site Sediment and Erosion Control.....	8
7.9	Topsoil Protection.....	8
7.10	Soil Compaction.....	8
7.11	Landscape Preservation.....	8
7.12	Sensitive Areas.....	9

7.13	Wetlands and Water Resources	9
7.14	Vegetation Management.....	9
7.15	Application of Pesticides.....	10
7.16	Invasive Species	10
7.17	Noxious Weeds	10
7.18	Roads	10
7.19	Archaeological and Historic Resources.....	11
7.20	Livestock	11
7.21	Security	11
7.22	Pollution and Hazardous Wastes.....	11
7.23	Cleanup.....	12
7.24	Restoration	12
7.25	Damages	12
8	OTHER PERMITS AND REGULATIONS	12
9	SPECIAL CONDITIONS.....	12
9.1	Cultural Resources	13
9.2	Threatened, Endangered, and Other Special Status Species.....	13
9.3	Accidents and Spills	13
10	DELAY IN CONSTRUCTION.....	14
11	COMPLAINT PROCEDURES	14
12	POST-CONSTRUCTION CONDITIONS.....	14
12.1	In-Service Date.....	14
12.2	As-Builts	14
12.3	GPS Data	15
13	RIGHT OF ENTRY	15
14	PERMIT AMENDMENT	15
15	PERMIT MODIFICATION OR SUSPENSION.....	15
16	PIPELINE CONSTRUCTION COMPLETION CERTIFICATE	15

ATTACHMENTS

Attachment 1 – Complaint Handling Procedures for Permitted Energy Facilities

Attachment 2 – Route Maps [Route maps will be updated according to the Commission’s decision in this matter.]

1 ROUTING PERMIT

The Minnesota Public Utilities Commission (Commission) hereby issues this routing permit to Magellan Pipeline Company, L.P., pursuant to Minnesota Statutes Chapter 216G and Minnesota Rules Chapter 7852. This permit authorizes Magellan Pipeline Company, L.P. (Permittee) to construct approximately [X miles] of 8-inch diameter pipeline designed to carry refined petroleum products and associated facilities in Pipestone County, Minnesota, and as identified in the attached routing maps, hereby incorporated into this document.

1.1 Pre-emption

Pursuant to Minn. Stat. § 216G.02, subd. 4, this permit shall be the sole route approval required to be obtained by the Permittee for construction of the pipeline facilities. This permit shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose government.

1.2 Definitions

Affected landowner, as defined in Minn. R. 7852.0100, subp. 3, means an owner or lessee of record of real property, any part of which is within the proposed pipeline route.

Associated Facilities, as defined in Minn. R. 7852.0100, subp. 7, means all parts of those physical facilities through which hazardous liquids or gas moves in transportation, including but not limited to pipe, valves, and other appurtenances connected or attached to pipe, pumping and compressor units, fabricated assemblies associated with pumping and compressor units, metering and delivery stations, regulation stations, holders, breakout tanks, fabricated assemblies, cathodic protection equipment, telemetering equipment, and communication instrumentation located on the right-of-way.

Construction, as defined in Minn. R. 7852.0100, subp. 11, means any clearing of land, excavation, or other action for the purpose of constructing new pipeline that would adversely affect the natural environment of a pipeline route. Construction does not include changes needed for temporary use of a route for purposes of maintenance, repair, or replacement of an existing pipeline and associated facilities within existing rights-of-way, or for the minor relocation of less than three-quarters of a mile of an existing pipeline or for securing survey or geological data, including necessary borings to ascertain soil conditions.

2 PIPELINE SAFETY

Pursuant to Minn. Stat. § 216G.02, subd. 3(a) this pipeline routing permit may not set safety standards for the construction of the pipeline. Pipeline safety regulations are promulgated by

the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration in the Federal Code of Federal Regulations Part 195 – Transportation of Hazardous Liquids by Pipeline (49 CFR 195).

3 PROJECT DESCRIPTION

[The project description will be updated according to the Commission’s decision in this matter.]

3.1 Project Location

[The project location will be updated according to the Commission’s decision in this matter.]

County	Township Name	Township	Range	Section

3.2 Associated Facilities

[Section may be updated according to the Commission’s decision in this matter.]

The project includes, and this Route Permit authorizes, the following Associated Facilities:

- One permanent and five temporary access roads.
- A new cathodic protection system with two additional test points and potentially one additional ground bed.
- Pipeline markers placed at property lines to mark the pipeline easement.
- No aboveground facilities are designated (*e.g.*, valves, building, structures).

4 DESIGNATED ROUTE

The route designated by the Commission in this permit is the route described below and shown on the routing maps attached to this permit. The route is generally described as follows:

[The designated route will be updated according to the Commission’s decision in this matter. The applicant has applied for a 200-foot-wide route.]

The final alignment must be located within this designated route. The identified route widths on the attached route maps provide the Permittee with flexibility for minor adjustments of the alignment or right-of-way to accommodate landowner requests and unforeseen conditions. The final alignment (*i.e.*, permanent and maintained rights-of-way) will be located within this designated route unless otherwise authorized by this permit or the Commission.

4.1 Permanent Right-of-Way

This Permit authorizes the Permittee to obtain a new permanent right-of-way for the pipeline facility up to **40 feet** in width. The permanent right-of-way is typically **20** feet on both sides of the pipeline measured from its centerline.

4.2 Temporary Right-of-Way or Workspace

The Permittee is authorized by this permit to acquire a **35-foot-wide temporary construction right-of-way in wetland areas and a 45-foot-wide temporary construction right-of-way in upland areas**. The Permittee shall limit temporary workspace to special construction access needs required outside of the authorized permanent right-of-way. Temporary right-of-way shall be selected to limit the removal and impacts to vegetation. Temporary easements outside of the authorized route will be obtained from affected landowners through rental agreements.

4.3 Right-of-Way Conformance

The Project's anticipated alignment is intended to minimize potential impacts relative to criteria identified in Minn. R. 7852.1900. The actual right-of-way will generally conform to the anticipated alignment identified on the routing maps, unless changes are requested by individual landowners and agreed to by the Permittee or for unforeseen conditions that are encountered or as otherwise provided for by this permit.

Any right-of-way modifications within the designated route shall be located so as to have comparable overall impacts relative to the factors in Minn. R. 7852.1900, as does the right-of-way identified in this permit, and shall be specifically identified and documented in and approved as part of the plan and profile submitted pursuant to Section 6.2 of this permit.

4.4 Route Width Variations

Route width variations may be allowed to accommodate the potential site-specific constraints listed below. These constraints may arise from any of the following:

1. Unforeseen circumstances encountered during the detailed engineering and design process.
2. Federal or state agency requirements.
3. Existing infrastructure within the pipeline route, including but not limited to railroads, natural gas and liquid pipelines, high voltage electric transmission lines, or sewer and water lines.

Any alignment modifications arising from these site-specific constraints that would result in right-of-way placement outside of the designated route shall be specifically reviewed by the Commission under Minn. R. 7852.3400.

5 STATE AND FEDERAL MINIMUM DEPTH OF COVER REQUIREMENTS

Minn. Stat. § 216G.07, subd. 1, requires the pipeline trench to be excavated to a depth of at least 54 inches (4.5 feet) of backfill from ground surface to the top of pipeline in all areas where the pipeline crosses the right-of-way of any public drainage facility or any county, town, or municipal street or highway and where the pipeline crosses cultivated agricultural land. This depth requirement may be waived in the manner provided in Minn. Stat. § 216G.07, subd. 2 and 3. Even if waivers are procured pursuant to Minn. Stat. § 216G.07, subd. 2, the Permittee must bury the pipeline to a minimum depth that complies with U.S. Department of Transportation regulations (49 CFR 195.248) and in agricultural areas to a depth below cultivation.

~~Minn. Stat. § 216G.07, subd. 1, requires the pipeline trench to be excavated to a depth that sufficiently allows for at least 54 inches (4.5 feet) of backfill from ground surface to the top of pipeline in all areas where the pipeline crosses the right of way of any public drainage facility or any county, town, or municipal street or highway and where the pipeline crosses agricultural land. Where the pipeline crosses the right of way of any drainage ditch the pipeline shall be installed with a minimum level cover of not less than 54 inches (4.5 feet) below the authorized depth of the ditch, unless waived in the manner provided in Minn. Stat. § 216G.07, subd. 2 and 3.~~

~~In agricultural land, the Permittee may seek a depth requirement waiver from the affected landowners to install the pipeline at the same depth as required by U.S. Department of Transportation regulation 49 CFR 192.327. In all cases, the pipeline trench shall be excavated to a depth that sufficiently allows for at least 36 inches (3 feet) of backfill from ground surface to the top of pipeline.~~

6 PRE-CONSTRUCTION CONDITIONS

The following pre-construction conditions require submissions to the Commission. All submissions must be made by electronic filing.

6.1 Permit Distribution

Within 30 days of permit issuance, the Permittee shall send a copy of the permit to the office of each regional development commission, soil and water conservation district, watershed district,

watershed management district, office of the auditor of each county, and the clerk of each city and township crossed by the designated route.

Within 30 days of permit issuance, the Permittee shall provide all affected landowners with a copy of this permit and the complaint procedures. In no case shall the landowner receive this route permit and complaint procedures less than five days prior to the start of construction on their property. An affected landowner is any landowner or designee that is within or adjacent to the permitted route.

The Permittee shall provide all affected landowners with complete information about the project keeping them informed throughout the initial survey, right-of-way acquisition, right-of-way preparation, construction, restoration, and future operation and maintenance. As provided by applicable laws and regulations the Permittee shall provide educational materials about the project and any restrictions or dangers associated with the project to landowners within the route whose land is crossed by the pipeline and, upon request, to any interested persons.

6.2 Plan and Profile

At least 30 days before right-of-way preparation for construction begins on any segment or portion of the project, the Permittee shall provide the Commission with a plan and profile of the right-of-way and the specifications and drawings for right-of-way preparation, construction, cleanup, and restoration for the segment of pipeline for which construction is scheduled. The documentation shall include maps depicting the plan and profile including the designated route, right-of-way, and pipeline alignment approved per this permit.

The Permittee may not commence construction until the 30 days has expired or until the Commission has advised the Permittee in writing that it has completed its review of the plan and profile documents and determined that the planned construction is consistent with this permit. If the Permittee intends to make any significant changes in its plan and profile or the specifications and drawings after submission to the Commission the Permittee shall notify the Commission at least five days before implementing the changes. No changes shall be made that would be in violation of any of the terms of this permit.

The Permittee shall also provide the Minnesota Office of Pipeline Safety with the same information provided to the Commission. The Permittee's plan and profile and specifications and drawings shall become a condition of this permit and shall be complied with by the Permittee in accordance with Minn. R. 7852.3500.

6.3 Status Reports

The Permittee shall report to the Commission on progress during finalization of the route and construction of the pipeline. The Permittee shall report weekly. Reports shall begin with the submittal of the plan and profile for the project and continue until completion of restoration.

7 CONSTRUCTION CONDITIONS

The Permittee shall comply with the following conditions during pipeline right-of-way preparation, construction, cleanup, and restoration over the life of this permit, and as outlined under Minn. R. 7852.3600. The Permittee shall follow those specific construction practices and material specifications described in the route permit application, the comparative environmental analysis, and the record of the proceedings unless this permit establishes a different requirement in which case this permit shall prevail.

7.1 Notification

The Permittee shall notify landowners or their designee at least 14 days in advance but not greater than 60 days in advance of entering the property.

7.2 Access to Property for Construction

The Permittee shall obtain all necessary permits authorizing access to public rights-of-way prior to any construction. The Permittee shall obtain approval of the landowners for access to private property prior to any construction. The Permittee shall consult with property owners to identify and address any special problems the landowners may have that are associated with the pipeline prior to any construction.

The Permittee shall work with landowners to provide access to their property, to locate the pipeline on their property to minimize the loss of agricultural land, forest, and wetlands, with due regard for proximity to homes and water supplies, even if the deviations will increase the cost of the pipeline, so long as the landowner's requested relocation does not adversely affect environmentally sensitive areas.

The Permittee shall negotiate agreements with landowners that will give the landowners access to their property; minimize the impact on planned future development of the property; and to assume any additional costs for such development that may be the result of installing roads, driveways and utilities that must cross the right-of-way. The Permittee shall not unreasonably deny a landowner's request to cross the easement to access the landowner's property.

~~The Permittee shall follow those specific construction practices and material specifications described in [Permittee Name] Application to the Commission for a route permit for the [Project Application Name and Environmental Information Report], dated [Date], and the~~

~~record of the proceedings unless this permit establishes a different requirement in which case this permit shall prevail. The Permittee shall comply with the conditions for right-of-way preparation, construction, cleanup, and restoration contained in Minn. R. 7852.3600.~~

7.3 Field Representative

The Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this permit during construction of the project. This person shall be accessible by telephone or other means during normal business hours throughout site preparation, construction, cleanup, and restoration.

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the field representative 14 days prior to commencing construction. The Permittee shall provide the field representative's contact information to affected landowners, residents, local government units and other interested persons 14 days prior to commencing construction. The Permittee may change the site manager at any time upon notice to the Commission, affected landowners, residents, local government units and other interested persons.

7.4 Agricultural Monitor and County Inspector Notification Requirements

The Permittee shall at least 14 days prior to the start of construction provide notice to all landowners affected by construction with the name, telephone number and email address of the Agricultural Monitor and County inspector designated by the County, if appointed.

7.5 Employee Training and Education of Permit Terms and Conditions

The Permittee shall inform all employees, contractors, and other persons involved in construction of the terms and conditions of this permit.

7.6 Public Services, Public Utilities, and Existing Easements

During construction, the Permittee shall minimize any disruption to public services or public utilities. To the extent disruptions to public services or public utilities occur these would be temporary, and the Permittee will restore service promptly. Where any impacts to utilities have the potential to occur the Permittee will work with both landowners and local agencies to determine the most appropriate mitigation measures if not already considered as part of this permit.

The Permittee shall cooperate with all entities that have existing easements or infrastructure within the pipeline route to ensure minimal disturbance to existing or planned developments.

7.7 Noise

The Permittee shall comply with noise standards established under Minn. R. 7030.0100 to 7030.0080, at all times at all appropriate locations during operation of the facility. Construction and maintenance activities shall be limited to daytime working hours to the extent practicable to ensure nighttime noise level standards will not be exceeded.

7.8 Site Sediment and Erosion Control

The Permittee shall implement those erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency (MPCA) Construction Stormwater Program. If construction of the facility disturbs more than one acre of land, or is sited in an area designated by the MPCA as having potential for impacts to water resources, the Permittee shall obtain a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Construction Stormwater Permit from the MPCA that provides for the development of a Stormwater Pollution Prevention Plan (SWPPP) that describes methods to control erosion and runoff.

The Permittee shall implement reasonable measures to minimize erosion and sedimentation during construction and shall employ perimeter sediment controls, protect exposed soil by promptly planting, seeding, using erosion control blankets and turf reinforcement mats, stabilizing slopes, protecting storm drain inlets, protecting soil stockpiles, and controlling vehicle tracking. Contours shall be graded as required so that all surfaces provide for proper drainage, blend with the natural terrain, and are left in a condition that will facilitate re-vegetation and prevent erosion. All areas disturbed during construction of the facilities shall be returned to pre-construction conditions.

7.9 Topsoil Protection

The Permittee shall take precautions to minimize mixing of topsoil and subsoil during excavation of the trench for the pipe unless otherwise negotiated with the affected landowner.

7.10 Soil Compaction

Compaction of agricultural lands by the Permittee must be kept to a minimum.

7.11 Landscape Preservation

Care shall be used to preserve the natural landscape, minimize tree removal, and prevent any unnecessary destruction of the natural surroundings in the vicinity of all pipeline construction and restoration activities.

7.12 Sensitive Areas

The Permittee shall stabilize stream banks and other sensitive areas disturbed by pipeline construction in accordance with the requirements of applicable state or federal permits.

7.13 Wetlands and Water Resources

Wetlands and riparian areas shall be accessed using the shortest route possible in order to minimize travel through wetland areas and prevent unnecessary impacts. No temporary workspace areas shall be placed within or adjacent to wetlands or water resources, as practicable. To minimize impacts, construction in wetland areas shall occur during frozen ground conditions where practicable and shall be according to permit requirements by the applicable permitting authority. When construction during winter is not possible, wooden or composite mats shall be used to protect wetland vegetation. Soil excavated from the wetlands and riparian areas shall be contained and not placed back into the wetland or riparian area.

Dewatering during periods of excessive precipitation or in areas where the natural groundwater table intersects the pipeline trench will not be directed into wetlands or water bodies.

Dewatering discharges will be directed toward well vegetated upland areas. Should discharge activities need to be directed off the right-of-way landowner consent will be obtained and locations will be chosen to minimize impacts. All discharge activities will comply with applicable agency permits or approvals.

Areas disturbed by construction activities shall be restored to pre-construction conditions. Restoration of the wetlands will be performed by Permittee in accordance with the requirements of applicable state and federal permits or laws and landowner agreements. Wetland and water resource areas disturbed by construction activities shall be restored to pre-construction conditions in accordance with the requirements of applicable state and federal permits or laws and landowner agreements. All requirements of the U.S. Army Corps of Engineers (USACE), Minnesota Department of Natural Resources (DNR), and local units of government shall be met.

7.14 Vegetation Management

The Permittee shall clear the permanent right-of-way and temporary right-of-way preserving to the maximum extent practicable windbreaks, shelterbelts, living snow fences, and vegetation in areas such as trail and stream crossings where vegetative screening may minimize aesthetic

impacts, to the extent that such actions do not impact the safe operation, maintenance, and inspection of the pipeline and are in compliance with all applicable laws and regulations.

Tree stumps will be removed at the landowner's request or when necessitated due to trench location. The Permittee will dispose of all debris created by clearing at a licensed disposal facility.

7.15 Application of Pesticides

The Permittee shall restrict pesticide use to those pesticides and methods of application approved by the Minnesota Department of Agriculture, DNR, and the U.S. Environmental Protection Agency. Selective foliage or basal application shall be used when practicable. All pesticides shall be applied in a safe and cautious manner so as not to damage adjacent properties including crops, orchards, tree farms, apiaries, or gardens. The Permittee shall contact the landowner or designee to obtain approval for the use of pesticide at least 14 days prior to any application on their property. The landowner may request that there be no application of pesticides on any part of the site within the landowner's property. The Permittee shall provide notice of pesticide application to affected landowners and known beekeepers operating apiaries within three miles of the project site at least 14 days prior to such application.

7.16 Invasive Species

The Permittee shall employ best management practices to avoid the potential spread of invasive species on lands disturbed by project construction activities.

7.17 Noxious Weeds

The Permittee shall take all reasonable precautions against the spread of noxious weeds during all phases of construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil the Permittee shall select site appropriate seed certified to be free of noxious weeds. To the extent possible, the Permittee shall use native seed mixes. The Permittee shall consult with landowners on the selection and use of seed for replanting.

7.18 Roads

The Permittee shall advise the appropriate governing bodies having jurisdiction over all state, county, city or township roads that will be used during the construction phase of the project. Where practical, existing roadways shall be used for all activities associated with construction of the facility. Oversize or overweight loads associated with the facility shall not be hauled across public roads without required permits and approvals.

The Permittee shall construct the least number of site access roads it can. Access roads shall not be constructed across streams and drainage ways without the required permits and approvals. Access roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.

The Permittee shall promptly repair private roads or lanes damaged when moving equipment or when accessing construction workspace, unless otherwise negotiated with the affected landowner.

7.19 Archaeological and Historic Resources

The Permittee shall make every effort to avoid impacts to identified archaeological and historic resources when constructing the transmission facility. In the event that a resource is encountered, the Permittee shall contact and consult with the State Historic Preservation Office and the State Archaeologist. Where feasible, avoidance of the resource is required. Where not feasible, mitigation must include an effort to minimize project impacts on the resource consistent with State Historic Preservation Office and State Archaeologist requirements.

Prior to construction, workers shall be trained about the need to avoid cultural properties, how to identify cultural properties, and procedures to follow if undocumented cultural properties, including gravesites, are found during construction. If human remains are encountered during construction, the Permittee shall immediately halt construction and promptly notify local law enforcement and the State Archaeologist. Construction at such location shall not proceed until authorized by local law enforcement or the State Archaeologist.

7.20 Livestock

Precautions to protect livestock must be taken by the Permittee unless otherwise negotiated with the affected landowner.

7.21 Security

The Permittee will install temporary gates or similar barriers, as needed, to prohibit public access to the right-of-way during construction.

7.22 Pollution and Hazardous Wastes

All appropriate precautions to protect against pollution of the environment must be taken by the Permittee. The Permittee shall be responsible for compliance with all laws applicable to the

generation, storage, transportation, clean up and disposal of all wastes generated during pipeline construction and restoration of the right-of-way.

7.23 Cleanup

All waste and scrap that is the product of construction shall be removed from the right-of-way and all premises on which construction activities were conducted and properly disposed of upon completion of each task. Personal litter, including bottles, cans, and paper from construction activities shall be removed on a daily basis.

7.24 Restoration

The Permittee shall restore the right-of-way, temporary workspaces, access roads, abandoned right-of-way, and other public or private lands affected by construction of the pipeline to the natural conditions that existed immediately before construction of the pipeline and as required by other federal and state agency permits. Restoration must be compatible with the safe operation, maintenance, and inspection of the pipeline. Within 60 days after completion of all restoration activities the Permittee shall advise the Commission in writing of the completion of such activities.

7.25 Damages

The Permittee shall fairly restore or compensate landowners for damage to crops, fences, private roads and lanes, landscaping, drain tile, or other damages sustained during construction.

8 OTHER PERMITS AND REGULATIONS

The Permittee shall comply with all applicable state rules and statutes. The Permittee shall obtain all required permits for the project and comply with the conditions of those permits unless those permits conflict with or are preempted by federal or state permits and regulations. A list of the permits known to be required is included in the permit application. The Permittee shall submit a copy of such permits to the Commission upon request.

9 SPECIAL CONDITIONS

The special conditions shall take precedence over other conditions of this permit should there be a conflict.

[Section may be updated according to the Commission's decision in this matter.]

9.1 Cultural Resources

The Permittee must coordinate construction activities to avoid ceremonial uses of the Pipestone National Monument.

The Permittee shall sponsor a cultural and archaeological resources inventory of the selected route (including extra workspaces, bore holes, access roads, and pipe yard) to standards established by the Minnesota Office of the State Archaeologist, Minnesota State Historic Preservation Office, and Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation.

The Permittee shall invite tribal cultural resource specialists to assist with the cultural resources inventory and to monitor all phases of construction of the selected alternative.

The Permittee must consult with tribal cultural resource specialists and tribal historic preservation offices, Minnesota Office of the State Archaeologist, Pipestone County Sheriff, and Minnesota State Historic Preservation Office for the identification, recovery, and culturally appropriate re-interment/repatriation of potential burials of students from the Pipestone Indian School who may be interred outside the defined boundaries of the St. Leo and New Woodlawn cemeteries.

9.2 Threatened, Endangered, and Other Special Status Species

The Permittee shall confer with the U.S. Fish and Wildlife Service and Minnesota Department of Natural Resources to determine the need for, and the extent of, any species surveys prior to construction.

The Permittee shall follow U.S. Fish and Wildlife Service's Recommendations for Construction Projects Affecting Waters Inhabited by Topeka Shiners in Minnesota. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

9.3 Accidents and Spills

The Permittee shall conduct emergency preparedness in collaboration with local first responders and practice drills for live incidents.

If a spill were to occur, all nearby water wells shall be identified as potential receptors and monitored until the extent of groundwater contamination is known. Drinking water receptors such as municipal water intakes and private water wells used for drinking water should take

priority with protective measures beginning with the downgradient wells nearest the point of release.

10 DELAY IN CONSTRUCTION

If the Permittee has not commenced construction or improvement of the route within four years after the date of issuance of this permit the Commission shall suspend the permit in accordance with Minn. R. 7852.3300. If at the time of suspension, or at a later time, the Permittee decides to construct the pipeline, it shall certify to the Commission that there have been no significant changes in any material aspects of the conditions or circumstances existing when the permit was issued. If the Commission determines that there are no significant changes, it shall reinstate the permit. If the Commission determines that there is a significant change, it may order public information meetings or a new hearing and consider the matter further, or it may require the Permittee to submit a new application.

11 COMPLAINT PROCEDURES

Prior to the start of construction, the Permittee shall submit to the Commission the procedures that will be used to receive and respond to complaints. The procedures shall be in accordance with the requirements of Minn. R. 7829.1500 or Minn. R. 7829.1700, and as set forth in the complaint procedures attached to this permit.

Upon request, the Permittee shall assist the Commission with the disposition of unresolved or longstanding complaints. This assistance shall include, but is not limited to, the submittal of complaint correspondence and complaint resolution efforts.

12 POST-CONSTRUCTION CONDITIONS

Failure to timely and properly make compliance filings required by this permit is a failure to comply with the conditions of this permit. Compliance filings must be electronically filed with the Commission.

12.1 In-Service Date

At least three days before the pipeline is to be placed into service, the Permittee shall notify the Commission of the date on which the pipeline will be placed into service and the date on which construction was complete.

12.2 As-Builts

Within 90 days after completion of construction, the Permittee shall submit copies of all final as-built plans and specifications developed during the project.

12.3 GPS Data

Within 90 days after completion of construction, the Permittee shall submit to the Commission, in the format requested by the Commission, geo-spatial information (e.g., ArcGIS compatible map files, GPS coordinates, associated database of characteristics) for the pipeline and associated facilities.

13 RIGHT OF ENTRY

The Permittee shall allow Commission designated representatives to perform the following, upon reasonable notice, upon presentation of credentials and at all times in compliance with the Permittee's site safety standards:

- a. To enter upon the facilities easement of the property for the purpose of obtaining information, examining records, and conducting surveys or investigations.
- b. To bring such equipment upon the facilities easement of the property as is necessary to conduct such surveys and investigations.
- c. To sample and monitor upon the facilities easement of the property.
- d. To examine and copy any documents pertaining to compliance with the conditions of this permit.

14 PERMIT AMENDMENT

The Permittee may apply to the Commission for an amendment of the route designation or to conditions specified in the permit in accordance with the requirements and procedures of Minn. R. 7852.3400.

15 PERMIT MODIFICATION OR SUSPENSION

If the Commission determines that substantial evidence supports a finding that a violation of the terms or conditions of this pipeline routing permit has occurred or is likely to occur, it may take action to modify or suspend this permit in accordance with Minn. R. 7852.3800. The Commission may at any time re-consider modification or suspension of this permit if the Permittee has undertaken effective measures to correct the violations.

16 PIPELINE CONSTRUCTION COMPLETION CERTIFICATE

In accordance with Minn. R. 7852.3900, the Permittee shall file with the Commission a written certification that the construction and remediation of the permitted pipeline has been completed in compliance with all permit conditions and landowner agreements. The certification shall be considered by the Commission within 60 days of its filing. The Commission shall accept or reject the certification of completion and make a final determination regarding cost or reimbursements due. If the certification is rejected, the Commission shall inform the Permittee in writing which deficiencies, if corrected, will allow the certification to be accepted. When corrections to the deficiencies are completed, the Permittee shall notify the Commission, and the certification shall be reconsidered as soon as possible. After acceptance of the certification, the Commission's jurisdiction over the Permittee's pipeline routing permit shall be terminated.

DRAFT PERMIT

ATTACHMENT 1
Complaint Handling Procedures for Permitted Energy Facilities

DRAFT PERMIT

**MINNESOTA PUBLIC UTILITIES COMMISSION
COMPLAINT HANDLING PROCEDURES FOR
PERMITTED ENERGY FACILITIES**

A. Purpose

To establish a uniform and timely method of reporting and resolving complaints received by the permittee concerning permit conditions for site or route preparation, construction, cleanup, restoration, operation, and maintenance.

B. Scope

This document describes complaint reporting procedures and frequency.

C. Applicability

The procedures shall be used for all complaints received by the permittee and all complaints received by the Minnesota Public Utilities Commission (Commission) under Minn. R. 7829.1500 or Minn. R. 7829.1700 relevant to this permit.

D. Definitions

Complaint: A verbal or written statement presented to the permittee by a person expressing dissatisfaction or concern regarding site or route preparation, cleanup or restoration, or other permit conditions. Complaints do not include requests, inquiries, questions or general comments.

Substantial Complaint: A written complaint alleging a violation of a specific permit condition that, if substantiated, could result in permit modification or suspension pursuant to the applicable regulations.

Unresolved Complaint: A complaint which, despite the good faith efforts of the permittee and a person, remains unresolved or unsatisfactorily resolved to one or both of the parties.

Person: An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private; however organized.

E. Complaint Documentation and Processing

1. The permittee shall designate a representative responsible for filing complaints to the Commission's eDocket system. This person's name, phone number and email address shall accompany all complaint submittals. The name and contact information for the representative shall be kept current in eDockets.
2. A person presenting the complaint should, to the extent possible, include the following information in their communications:
 - a. name, address, phone number, and email address;
 - b. initial date of the complaint;
 - c. tract, parcel number, or address of the complaint;
 - d. a summary of the complaint; and
 - e. whether the complaint relates to a permit violation, a construction practice issue, or other type of complaint.
3. The permittee shall document all complaints by maintaining a record of all applicable information concerning the complaint, including the following:
 - a. docket number and project name;
 - b. name of complainant, address, phone number and email address;
 - c. precise description of property or parcel number;
 - d. name of permittee representative receiving complaint and date of receipt;
 - e. nature of complaint and the applicable permit condition(s);
 - f. summary of activities undertaken to resolve the complaint; and
 - g. a statement on the final disposition of the complaint.

F. Reporting Requirements

The permittee shall commence complaint reporting at the beginning of project construction and continue through the term of the permit, unless otherwise required below. The permittee shall report all complaints to the Commission according to the following schedule:

Immediate Reports: All substantial complaints shall be reported to the Commission the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to the Commission's Public Advisor at 1-800-657-3782 (voice messages are acceptable) or publicadvisor.puc@state.mn.us. For e-mail reporting, the email

subject line should read “PUC EFP Complaint” and include the appropriate project docket number.

Monthly Reports: During project construction, restoration, and operation, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be filed by the 15th of each month to Will Seuffert, Executive Secretary, Public Utilities Commission, using the eDockets system. The eDockets system is located at: <https://www.edockets.state.mn.us/EFiling/home.jsp>. If no complaints were received during the preceding month, the permittee shall file a summary indicating that no complaints were received.

If a project has submitted twelve consecutive months of complaint reports with no complaints, monthly reports can terminate by a letter to eDockets notifying the Commission of such action. If a substantial complaint is received (by the company or the Commission) following termination of the monthly complaint report, as noted above, the monthly reporting should commence for a period of six months following the most recent complaint or upon resolution of all pending complaints.

If a permittee is found to be in violation of this section, the Commission may reinstate monthly complaint reporting for the remaining permit term or enact some other commensurate requirement via notification by the Executive Secretary or some other action as decided by the Commission.

G. Complaints Received by the Commission

Complaints received directly by the Commission from aggrieved persons regarding the permit or issues related to site or route preparation, construction, cleanup, restoration, or operation and maintenance will be promptly sent to the permittee.

The permittee shall notify the Commission when the issue has been resolved. The permittee will add the complaint to the monthly reports of all complaints. If the permittee is unable to find resolution, the Commission will use the process outlined in the Unresolved Complaints Section to process the issue.

H. Commission Process for Unresolved Complaints

Complaints raising substantial and unresolved permit issues will be investigated by the Commission. Staff will notify the permittee and appropriate people if it determines that the

complaint is a substantial complaint. With respect to such complaints, the permittee and complainant shall be required to submit a written summary of the complaint and its current position on the issues to the Commission. Staff will set a deadline for comments. As necessary, the complaint will be presented to the Commission for consideration.

I. Permittee Contacts for Complaints and Complaint Reporting

Complaints may be filed by mail or email to the permittee's designated complaint representative, or to the Commission's Public Advisor at 1-800-657-3782 or publicadvisor.puc@state.mn.us. The name and contact information for the permittee's designated complaint representative shall be kept current in the Commission's eDocket system.

DRAFT PERMIT

DRAFT PERMIT

ATTACHMENT 2
Route Permit Maps