

## 11.0 REQUIRED PERMITS AND APPROVALS

The Project will be constructed in Minnesota and South Dakota. The Applicants will be required to obtain additional permits or approvals from local, State and federal agencies prior to construction of the facilities. A list of permits and other approvals that may be required for the Project in addition to a Minnesota Route Permit and Certificate of Need is presented in Table 11-1. All required permits will be obtained prior to construction.

**Table 11-1. Required Permits**

Permit	Jurisdiction
<b>Federal Approvals</b>	
Section 404, Clean Water Act, Permit (Local/State/Federal Application for Water/Wetland Projects)	USACE
Section 10, Rivers and Harbors Act, Permit	USACE
Part 7460 review	FAA
Special Use Permit	USFWS
Spill Prevention, Control and Countermeasure (SPCC) Plan	EPA
<b>Minnesota State Approvals</b>	
License to Cross Public Waters or State Lands	DNR – Lands and Minerals
Utility Permit	MnDOT
NPDES Permit	MPCA
Section 401, Clean Water Act, Permit	MPCA
<b>South Dakota State Approvals</b>	
Facility Permit	South Dakota Public Service Commission
Permit to Occupy ROW	South Dakota Department of Transportation
NPDES Permit	South Dakota Department of Environmental and Natural Resources
Section 401, Clean Water Act, Permit	South Dakota Department of Environmental and Natural Resources
<b>Minnesota Local Approvals</b>	
Local/State/Federal Application for Water/Wetland Projects (under WCA)	BWSR
Lands Permits, including Road Crossing/ROW Permits	County, Township, City
Overwidth Loads Permits	County, Township, City
Driveway/Access Permits	County, Township, City
<b>South Dakota Local Approvals</b>	
Lands Permit (including Road Crossing/ROW permits)	County, Township, City
Overwidth Loads Permits	County, Township, City
Driveway/Access Permits	County, Township, City
Building Permits, Conditional Use Permits	County, Township, City
<b>Other Approvals</b>	
Approval to cross lands with conservation easements	Various, depending on program, including USDA, NRCS, and local implementing governmental entities

## **11.1 FEDERAL APPROVALS**

### **11.1.1 SECTION 404, CLEAN WATER ACT, PERMIT**

A Section 404 permit is required from the USACE under the Clean Water Act for discharges of dredged or fill material into waters of the United States. The Applicants will apply for these permits once a route permit is issued for the Project.

### **11.1.2 SECTION 10, RIVERS AND HARBORS ACT, PERMIT**

The USACE regulates impacts to navigable waters of the United States under Section 10 of the River and Harbors Act. The Minnesota River is classified as a navigable water by the USACE. Applicants will apply for a permit for each of the crossings proposed for the Project.

### **11.1.3 PART 7460 REVIEW**

Notice and approval are required for structures 200 feet in height or when the structure height would exceed a slope requirement as defined in the FAA Advisory Circular (AC 70/7460-2K). Form 7460-1 is required for the notice.

### **11.1.4 SPECIAL USE PERMIT**

This permit is required for the placement of facilities within easements owned by the USFWS. Compatibility is determined in accordance with the National Wildlife Refuge System Improvement Act. A compatible use is a wildlife-dependent recreational use or any other use on lands that in the sound professional judgment of the director will not materially interfere with or detract from the fulfillment of the mission of the USFWS (wildlife conservation) or purposes of the land. The Applicants will work closely with the USFWS on potential impacts to their lands.

### **11.1.5 SPILL PREVENTION, CONTROL AND COUNTERMEASURE (“SPCC”) PLAN**

A SPCC plan is required to prevent discharge of oil into navigable waters of the United States, and is required if the aboveground storage capacity for the substance is greater than 1,320 gallons and there is a reasonable expectation of a discharge into navigable waters of the United States. The Applicants will update and develop their SPCC plans at Project substations that meet the criteria per 40 CFR 112.

## **11.2 MINNESOTA STATE APPROVALS**

### **11.2.1 LICENSE TO CROSS PUBLIC WATERS OR STATE LANDS**

The Minnesota DNR Division of Lands and Minerals regulates utility crossings over, under, or across any State land or public water identified on the Public Waters and Wetlands Maps. A license to cross Public Waters is required under Minnesota Statutes Section 84.415 and Minnesota Rules Chapter 6135.

### **11.2.2 UTILITY PERMIT**

A permit from MnDOT is required for construction, placement, or maintenance of utility lines adjacent to or across the trunk highway ROW.

### **11.2.3 NPDES PERMIT**

An NPDES Permit from the MPCA is required for stormwater discharges associated with construction activities disturbing equal to or greater than one acre. A requirement of the permit is to develop and implement a SWPPP, which includes construction measures to minimize discharge of pollutants from the site.

### **11.2.4 SECTION 401, CLEAN WATER ACT**

Section 401 water quality certification is required from the MPCA to obtain a federal permit for any activity that may result in a discharge to navigable waters of the U.S. This ensures the Project will comply with State water quality standards according to the federal Clean Water Act. More specifically, the MPCA uses its Section 401 authority to review Section 404 USACE Individual Permit applications for projects that:

1. Are within areas that directly drain to Impaired Waters (or those close to being impaired), Outstanding Resource Value Waters, or trout waters;
2. Affect more than three acres of private project or five acres of public road wetlands within 0.5 miles of listed Impaired Waters (smaller projects with special concerns may also be considered);
3. Have the potential to inundate or deepen by excavation greater than two acres of wetland or otherwise not regulated by WCA; and
4. Result in typically large wetland fills or drainage (*e.g.*, linear projects, mining activities, multi-purpose roads with new bed alignments, new judicial ditching that have the potential to affect downstream waters, flood impoundment or diversion projects, large development and projects that may have adverse impacts on the watershed).

If the Project requires an individual permit from the USACE, a Section 401 water quality certification will be obtained.

## **11.3 SOUTH DAKOTA STATE APPROVALS**

### **11.3.1 FACILITY PERMIT**

A utility must obtain a Facility Permit from the South Dakota Public Service Commission prior to constructing a transmission facility. SDCL 49-41B-4.

### **11.3.2 PERMIT TO OCCUPY ROW**

A utility seeking to cross or occupy State highways must obtain a Permit to Occupy ROW from the South Dakota Department of Transportation.

### **11.3.3 NPDES PERMIT**

An NPDES Permit from the South Dakota Department of Environmental and Natural Resources is required for stormwater discharges associated with construction activities disturbing equal to or greater than one acre. A requirement of the permit is to develop and implement a SWPPP, which includes construction measures to minimize discharge of pollutants from the site.

#### **11.3.4 SECTION 401, CLEAN WATER ACT**

Section 401 water quality certification is required from the South Dakota Department of Environmental and Natural Resources to obtain a federal permit for any activity that may result in a discharge to navigable waters of the U.S. This ensures the Project will comply with State water quality standards according to the federal Clean Water Act.

#### **11.4 MINNESOTA LOCAL APPROVALS**

Once the Commission issues a route permit, local zoning, building and land use regulations and rules are preempted per Minnesota Statutes Section 216E.10, subdivision 1. Typical other local approvals associated with transmission line construction are listed below.

##### **11.4.1 LOCAL/STATE/FEDERAL APPLICATION FOR WATER/WETLAND PROJECTS (UNDER WCA)**

The BWSR administers the State Wetland Conservation Act pursuant to Minnesota Rules Chapter 8420. The Project may require a permit under these rules if permanent impacts to wetlands are anticipated due to construction.

##### **11.4.2 LANDS PERMITS, INCLUDING ROAD CROSSING/ROW PERMITS**

These permits may be required to occupy county, township, and city ROW and lands such as park lands, watershed districts, and other properties owned by these entities.

##### **11.4.3 OVER WIDTH/LOADS PERMITS**

These permits may be required to move over width or heavy loads on county, township, or city roads.

##### **11.4.4 DRIVEWAY/ACCESS PERMITS**

These permits may be required to construct access roads or driveways that access county, township, or city roadways.

#### **11.5 SOUTH DAKOTA LOCAL APPROVALS**

In South Dakota, the route designated by the Public Service Commission must not violate land-use zoning, or building rules, or regulations, or ordinances, absent a specific finding that such regulations are unreasonably restrictive. SDCL 49-41B-28. Therefore, in addition to the lands, overwidth and driveway/access permits described below, the Applicants will also obtain local building permits and conditional use permits, as appropriate.

##### **11.5.1 LANDS PERMITS, INCLUDING ROAD CROSSING/ROW PERMITS**

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##### **11.5.2 OVER WIDTH/LOADS PERMITS**

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### **11.5.3 DRIVEWAY/ACCESS PERMITS**

These permits may be required to construct access roads or driveways that access county, township, or city roadways.

### **11.5.4 BUILDING PERMITS, CONDITIONAL USE PERMITS**

These permits may be required by the local jurisdictions for substation modifications and construction.

## **11.6 OTHER APPROVALS**

### **11.6.1 APPROVAL TO CROSS LANDS WITH CONSERVATION EASEMENTS**

As described in Sections 6.5.4 and 8.3.1.6, there are lands throughout the Project area that are part of various conservation programs including RIM, CREP and FNAP. Applicants will work with landowners, local government entities administering such programs and the sponsoring federal agency on a site by site basis to coordinate the approvals necessary for placing the transmission facilities on these lands.

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