

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Ellen Anderson
David C. Boyd
J. Dennis O'Brien
Phyllis A. Reha
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application for a Route
Permit for the Fargo to St. Cloud 345-kV
Transmission Line Project

ISSUE DATE: January 9, 2012

DOCKET NO. E-002,ET-2/TL-09-1056

ORDER APPROVING MINOR
ALTERATIONS AND ISSUING A
ROUTE PERMIT AMENDMENT

PROCEDURAL HISTORY

On June 24, 2011, the Commission issued its Findings of Fact, Conclusions of Law, and Order in this case, issuing a route permit for the construction of a 345-kV high-voltage transmission line between Fargo, North Dakota and St. Cloud, Minnesota, to Northern States Power Company, d/b/a Xcel Energy, and Great River Energy (Permittees).

On September 21, 2011, the Permittees filed a petition requesting twelve minor changes to the approved route under Minn. Rules, part 7850.4900, which governs changes in the conditions of a route permit. The Permittees stated that all changes were suggested by affected landowners and residents along the approved route and that all changes had the support of all landowners from whom easements would be required.

Comments from the Minnesota Department of Natural Resources on the environmental effects of the proposed route changes were submitted on October 18, 2011. On November 21, 2011, the Minnesota Department of Commerce filed comments, recommending adopting some proposed changes and rejecting others.

On November 29, 2011, the petition came before the Commission. At that point the Permittees had withdrawn one requested route change and agreed to postpone consideration of another, pending further stakeholder discussions. Ten route change requests remained.

FINDINGS AND CONCLUSIONS

I. Introduction and Background

High-voltage transmission lines and the towers required to support them are disruptive to the natural environment and to residents, landowners, and communities along their routes. For that

reason, both the Power Plant Siting Act,¹ which governs transmission routing decisions, and the rules enacted under that Act,² require careful analysis of scores of factors before arriving at an approved route. Before undertaking that analysis, the Commission typically – as it did here – refers these cases to the Office of Administrative Hearings for evidentiary development by an Administrative Law Judge.

The Administrative Law Judge held public and evidentiary hearings in this case and submitted a report listing the factors that govern route permit decisions and applying those factors to the evidentiary record developed in the course of this 18-month proceeding. When the report came before the Commission, the Commission voted to adopt the Administrative Law Judge’s findings and recommendations, with technical adjustments.

At that meeting, as usual in route permit cases, the Commission received public comment from affected landowners and residents and received assurances from the Permittees that they would work with landowners and residents along the approved route to minimize adverse effects as much as possible. It was this collaborative process that resulted in the ten minor route changes requested by the Permittees.

II. Community Meetings and the Ten Proposed Route Changes

The Permittees began consulting with affected residents and landowners as soon as the route permit was issued. They reported that local interest in the transmission route was high and that neighbors often worked together in small groups, looking for non-controversial ways to move the line farther from residential and farmstead properties. They also reported that in several cases landowners not affected by the original route agreed to have the line moved onto their property to reduce its impact on their neighbors.

The Permittees stated that all ten changes were constructible, were supported by all landowners from whom easements would be required, and were comparable in cost to the segments of the original route they would replace. The changes were also reported to be comparable to the original route segments in their effects on the human and natural environment.

For each proposed route change, the Permittees filed (1) a brief narrative description; (2) maps depicting the proposed change and the original segment it would replace; and (3) spreadsheets with side-by-side comparisons of each route’s impact on the human and natural environment. None of the requested changes would significantly alter the transmission line’s route or change its length – two would add less than a mile in length, two would reduce route length by less than a mile, and the others would not affect route length.

The ten proposed route adjustments are described below, together with comments by persons other than the Permittees and affected landowners and residents. The proposed adjustments are numbered, with gaps in the numerical sequence occurring because not all potential adjustments were brought forward for Commission consideration.

¹ Minn. Stat. Chapter 216E; see § 216E.03 for routing criteria and considerations.

² Minn. Rules Chapter 7850; see parts 7850.4000 through 7850.4400 for routing criteria and considerations.

A. Adjustment 2

Adjustment 2 is west of Sauk Centre and takes the route cross country instead of crossing in front of four homes along County road 184. The adjustment would reduce the number of homes within 500 feet of the transmission line from four to zero.

This adjustment would reduce the number of waterway crossings, but would move the line closer to the boundary of the Gettel Wildlife Protection Area. The Department of Natural Resources recommended coordination with the United States Fish and Wildlife Service. The Department recommended rejecting the adjustment because of its environmental effects. The agency also expressed concern about the adjustment's failure to follow existing right-of-way, but did not recommend rejection on that basis.

B. Adjustment 3

Adjustment 3 straightens and shortens the route west of Melrose, reducing its length from two miles to one. The adjustment would reduce the number of homes within 500 feet of the transmission line from three to one.

This adjustment would reduce construction costs by simplifying angles and would not follow existing right-of-way for its one-mile length. It would have slightly more impact on wetland habitat than the original route and would move the transmission line closer to the Sauk River for some 2,000 feet. The Department of Natural Resources raised concerns about river proximity, cautioning against the potential for cumulative environmental effects. The Department recommended rejecting the proposed adjustment on that basis.

C. Adjustment 5

Adjustment 5 is located south of Freeport and moves the transmission line from County Road 11 to the back property lines of residential property facing the road. The adjustment would reduce the number of homes within 500 feet of the transmission line from seven to one.

This adjustment would not follow existing right-of-way, as the original route did, but it would avoid crossing conservation property held by the United States Department of Agriculture under a contract whose terms prohibit granting utility rights-of-way. The Department recommended approving this proposed adjustment.

D. Adjustment 6

Adjustment 6 lies north of Richmond and deviates from the approved route just enough to avoid crossing a center-pivot agricultural irrigation system.

This adjustment would not follow existing right-of-way as closely as the original route but would avoid the harm that the original route would cause to a farming operation. The environmental effects of both routes are comparable, and the Department recommended approving this proposed adjustment.

E. Adjustment 8

Adjustment 8 lies just west of Melrose and crosses a turkey farm; the adjustment would move the transmission line from the front of the barns to the back of the barns. It would also reduce the number of homes within 500 feet of the transmission line from one to zero.

This adjustment would be made at the request of the owner of the turkey farm to reduce effects on his farming operations. The adjustment would have a slightly greater impact on wetlands and woodlands than the original route and would not follow the right-of-way, as the original route did. The Department recommended rejecting the proposed adjustment.

F. Adjustment 9W

Adjustment 9W is an approximately one-mile diversion between County Road 11 and County Road 117 north of St. Martin. The adjustment would reduce the number of homes within 150 feet of the transmission line from one to zero, while also increasing the distance between the line and another home.

This adjustment would not follow existing right-of-way, as the original route would, and it would involve two additional waterway crossings. The Department recommended rejecting it because of the two new waterway crossings.

G. Adjustment 9C

Adjustment 9C is just east of Adjustment 9W and would move the transmission line from the front to the back of a cluster of houses north of County Road 117. The adjustment would reduce the number of homes within 500 feet of the transmission line from twelve to zero.

This adjustment follows the right-of-way less closely than the original route, but its environmental impact would be lower. It would not affect any homes, and it would move the line farther from the Sauk River corridor, possibly reducing the line's adverse effects on bird migration. The Department recommended approving this adjustment.

H. Adjustment 11

Adjustment 11 lies along the route between Sauk Centre and Melrose and deviates from the approved route just enough to avoid crossing a center-pivot agricultural irrigation system.

Neither the original route nor this adjustment follow existing right-of-way, and the adjustment would avoid the harm that the original route would cause to a farming operation. The environmental effects of both routes are comparable, and the Department recommended approving this proposed adjustment.

I. Adjustment 13

Adjustment 13 lies south of Sauk Centre and moves the line along property lines near Minnesota Highway 74. The adjustment would reduce the number of homes within 500 feet of the transmission line from six to zero.

This adjustment follows the right-of-way less closely than the original route, but its environmental impact would appear to be comparable and in some respects lower, since the adjustment would move the line farther from the Sauk River corridor. At the same time, the Department of Natural Resources recommended additional coordination between project representatives and the agency, due to the proximity of the Sauk River Wildlife Management Area, an Outstanding Central Region Regionally Significant Ecological Area, and a moderate Minnesota County Biological Survey Site of Biodiversity Significance. The Department recommended rejection based on the concerns prompting the need for additional coordination.

A nearby landowner, Virgil Fuchs, objected to this adjustment on grounds that its location differed from the proposed route described by the Permittees in a 2009 e-mail to Mr. Fuchs. Although the line would not cross Mr. Fuchs' land under either the original or the adjusted route – and no easement would be required in either case – the adjustment would move the line closer to his property. There is no residence on the property.

J. Adjustment 15

This adjustment lies south of St. Joseph and is essentially a slight jog north to increase the line's distance from a home that would otherwise be within 150 feet of the line. Neither the original route nor the adjustment would use existing right-of-way.

The Department of Natural Resources noted that the adjustment would reduce the line's impact on wooded areas, and the Department recommended approving the adjustment.

III. The Legal Standard

The Permittees filed these adjustments under Minn. Rules, part 7829.4900, as proposed amendments to conditions in the route permit. While Part IV of the route permit is titled "Permit Conditions" and does contain a series of conditions, these conditions do not relate to the route itself. Instead, they relate to issues such as landowner notification, construction practices, vegetation control, complaint procedures, and similar topics.

The Commission believes that the ten adjustments in this case are more properly characterized as minor alterations, governed by Minn. Rules, part 7850.4800, since they relate to the line itself, and to its route, not to the circumstances and practices surrounding its construction. The Commission will therefore review the petition as a request for approval of minor alterations under Minn. Rules, part 7850.4800.

IV. Commission Action

The Commission will approve all route adjustments proposed in this case for the reasons set forth below.

First, it was entirely proper and in fact mandatory for the Permittees to organize the collaborative process that produced these ten adjustments. The Commission directed them to work with affected residents and landowners not only at the hearing on the application, but in the terms of the route permit itself:

The Permittees shall work with landowners to locate the high voltage transmission lines to minimize the loss of agricultural land, forest, and wetlands, and to avoid homes and farmsteads.

Route Permit, Part IV. E.

Second, the purposes and effects of all ten adjustments are consistent with the purposes set forth in the route permit – to minimize the loss of agricultural land and to avoid homes and farmsteads. Most of the adjustments are proposed to move the transmission line farther from existing homes or farmsteads. The other three are proposed to prevent the disruption of existing agricultural irrigation systems and the existing operations of a turkey farm.

Further, all the adjustments were originally proposed by people living along the approved route and all have the support of all landowners from whom easements would be required. In fact, in several cases landowners not affected by the original route agreed to have the line moved onto their property to reduce its impact on their neighbors. This is precisely the sort of community involvement and problem-solving on which successful routing can often depend, and unless there are strong countervailing factors at work, community unanimity on local routing details deserves great deference.³

Here there are no strong countervailing factors at work. The route adjustments are all fully constructible, have costs comparable to the segments they would replace, and have comparable environmental effects.

While the Department recommended rejecting several adjustments on the basis of greater environmental impact, these were all close calls with which the Commission does not necessarily concur. This is especially true in light of the fact that in all cases the proposed adjustments would have beneficial effects on the human environment, whether by placing the line farther from homes and farmsteads or by avoiding damage to agricultural lands and operations. Balancing different kinds of environmental effects – and balancing environmental effects against other important factors such as cost and the reliability of the electrical supply – are unavoidable parts of the routing process, and here the balance favors adopting the route adjustments.

Finally, the failure of some of the adjustments to follow the existing right-of-way as closely as the original route does not compel their rejection. Giving due consideration to using existing rights-of-way is an important routing principle set forth in statute and consistently observed by the Commission.⁴ But careful consideration is not the same thing as adoption.

Here, careful consideration leads to the conclusion that the benefits of following existing rights-of-way are significantly lower than the benefits of honoring the unanimity of affected landowners, of not routing the line unnecessarily close to homes and farmsteads, and of not doing unnecessary damage to agricultural operations.

³ While some landowners whose land would not be crossed by the line objected to having it moved closer, all landowners whose property rights would be affected by the adjustments consented to them.

⁴ Minn. Stat. § 216E.03, subd. 7 (b) (8) and (e).

Further, the main reason for requiring careful consideration of existing rights-of-way is to protect affected landowners – here, affected landowners ask the Commission *not* to follow existing rights-of-way. Further, it is only reasonable to expect more diversions from existing rights-of-way when acting on route adjustment proposals, which by definition involve a small number of unique situations requiring special consideration.

For all these reasons, the Commission will approve the ten route adjustments requested in this petition and will issue a route permit amendment incorporating those adjustments.

ORDER

1. The Commission grants the Permittees' petition to make the ten route adjustments described herein as minor alterations to the approved route and issues the attached Permit Amendment authorizing those changes.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary



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**STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION**

PERMIT AMENDMENT

**TO THE ROUTE PERMIT FOR CONSTRUCTION
OF A HIGH VOLTAGE TRANSMISSION LINE
AND SUBSTATION**

**IN CLAY, WILKIN, OTTER TAIL, GRANT,
DOUGLAS, TODD AND STEARNS COUNTIES**

**ISSUED TO
NORTHERN STATES POWER COMPANY
AND GREAT RIVER ENERGY**

PUC DOCKET No. E002, ET2/TL-09-1056

In accordance with the requirements of Minnesota Rules Chapter 7850.4800, this route permit amendment is hereby issued to:

NORTHERN STATES POWER COMPANY AND GREAT RIVER ENERGY

Northern States Power Company, dba Xcel Energy, and Great River Energy are authorized by this permit amendment to alter the route and alignment in 10 locations along the previously permitted Fargo to St. Cloud 345 kV Transmission Line Project as depicted on the attached official route adjustment maps.

Approved and adopted this 9th day of January, 2012

BY ORDER OF THE COMMISSION

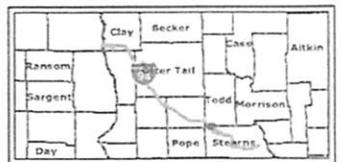


Burl W. Haar,
Executive Secretary

ADJUSTMENT 2

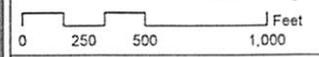


**Permit Maps
ET2/TL-09-1056**



Legend

- Anticipated Alignment
- Anticipated Right-of-Way
- Permitted Route
- Adjusted Alignment
- Adjusted Right-of-Way
- Adjusted Route
- Quarry Substation Site
- Residence
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**Fargo to St. Cloud
345 kV Transmission
Line Project**

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Permit Maps
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Legend

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Fargo to St. Cloud
345 kV Transmission
Line Project

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**Permit Maps
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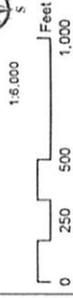
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Permit Maps
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ADJUSTMENT 3

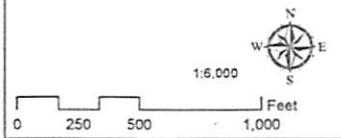


**Permit Maps
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**Fargo to St. Cloud
345 kV Transmission
Line Project**

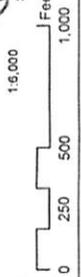
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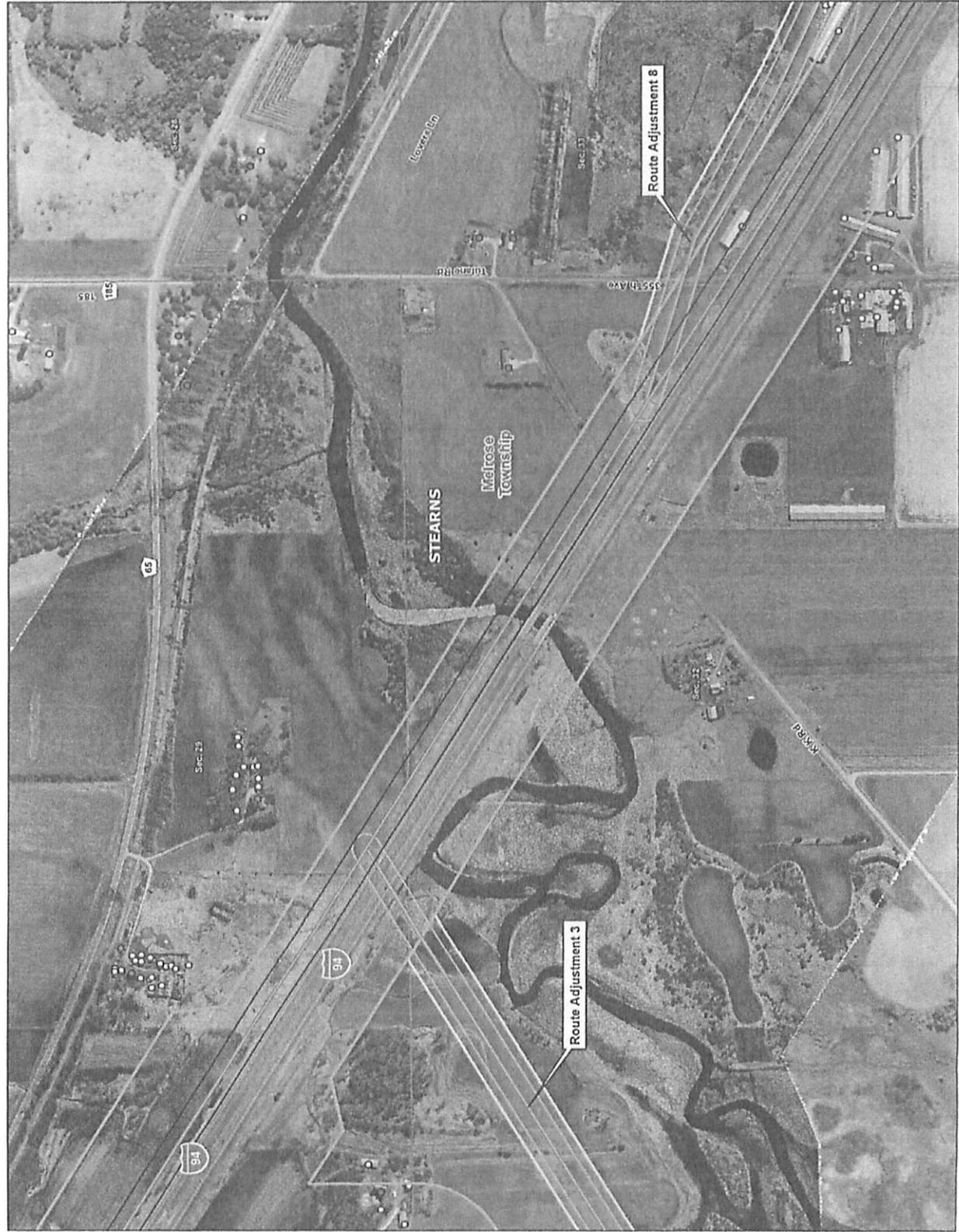
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Fargo to St. Cloud
345 KV Transmission
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ADJUSTMENT 5



**Permit Maps
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**Fargo to St. Cloud
345 kV Transmission
Line Project**

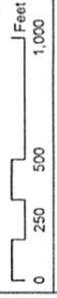
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Permit Maps
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Fargo to St. Cloud
345 kV Transmission
Line Project

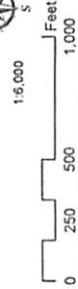
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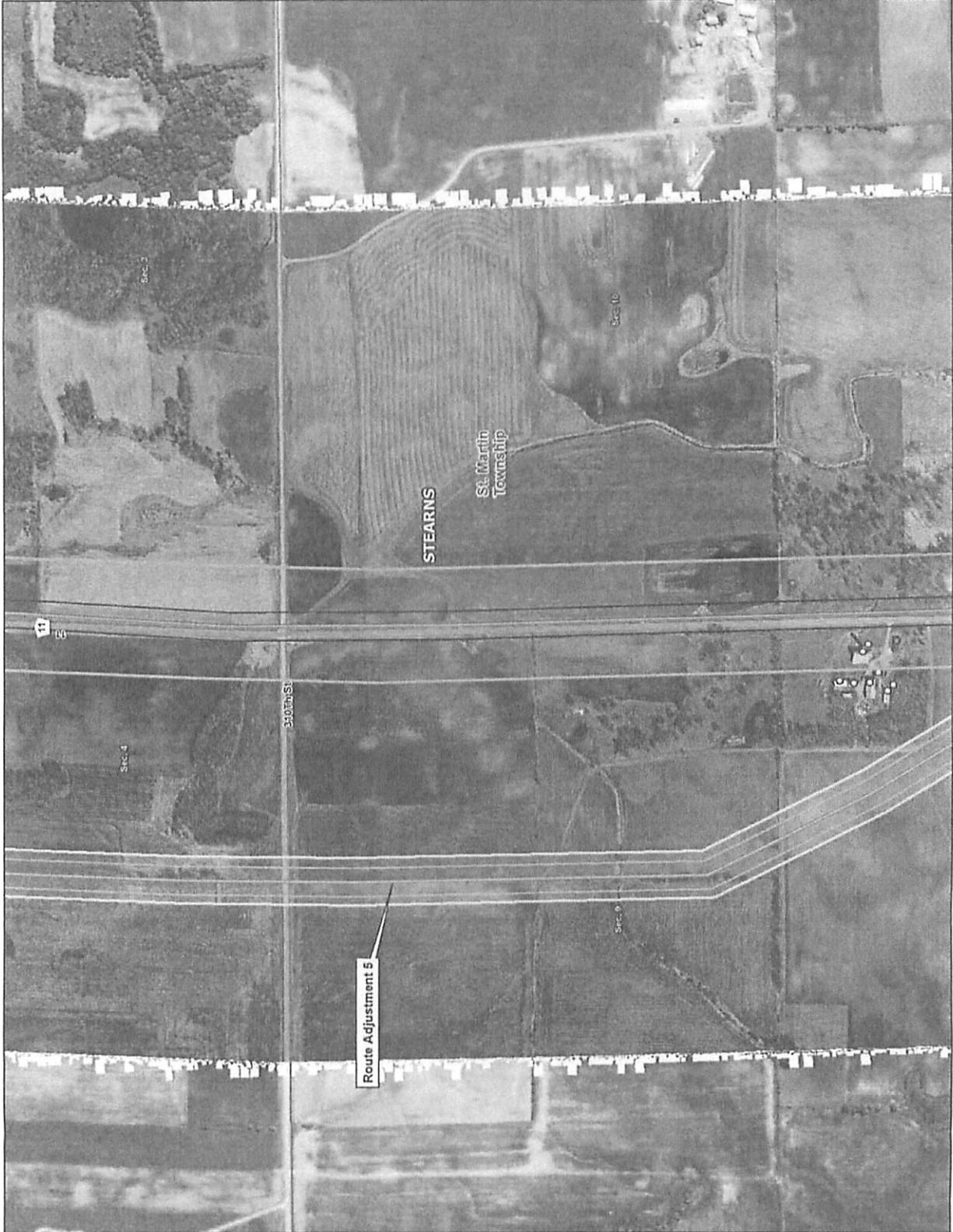
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**Fargo to St. Cloud
345 kV Transmission
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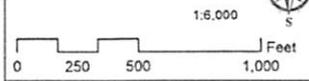


**Permit Maps
ET2/TL-09-1056**



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**Fargo to St. Cloud
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ADJUSTMENT 6

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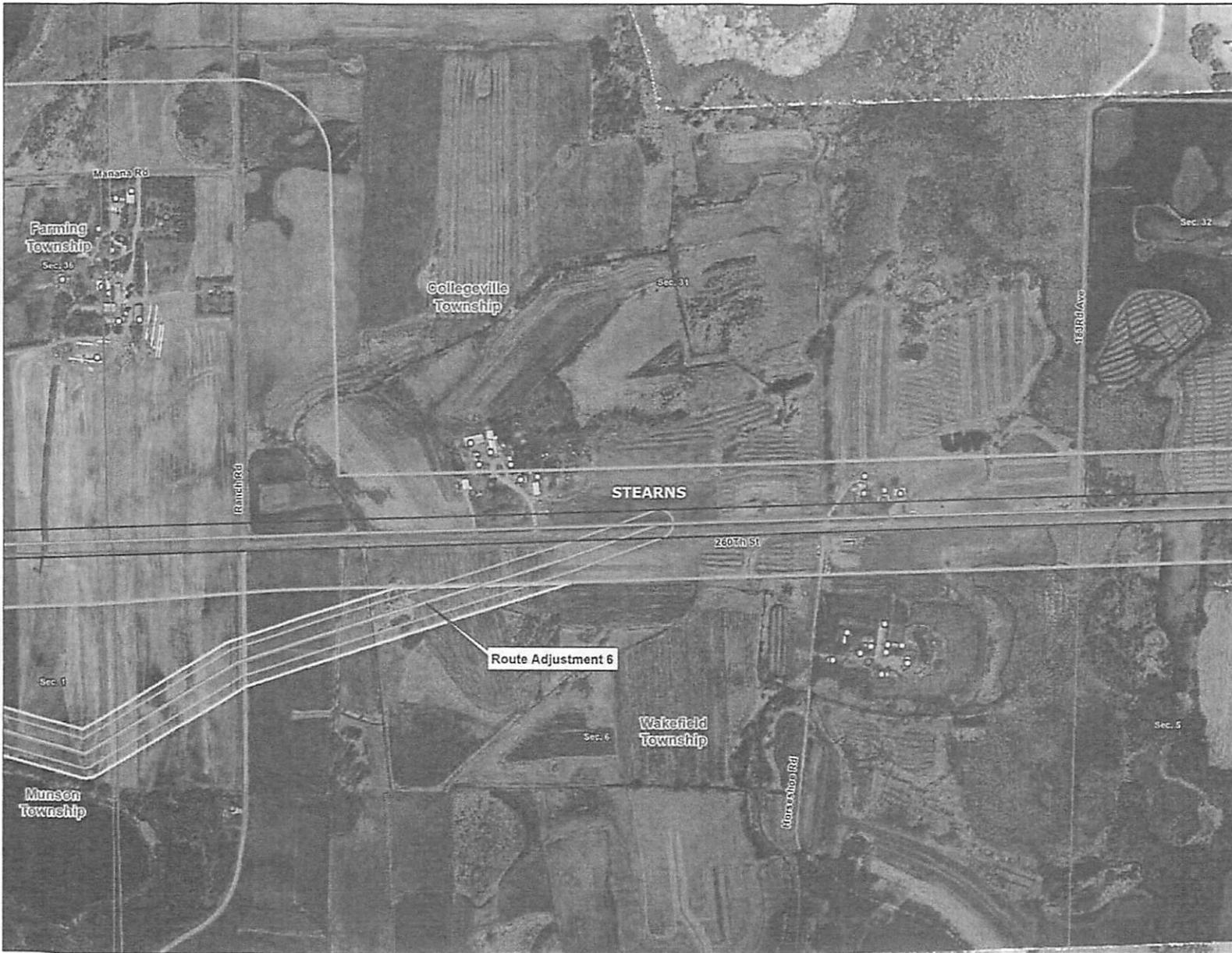


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**Permit Maps
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ADJUSTMENT 8

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ADJUSTMENT 9W

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ADJUSTMENT 9C



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Fargo to St. Cloud
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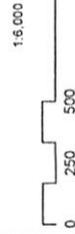
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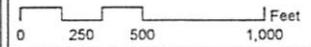
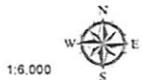


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ADJUSTMENT 11

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ADJUSTMENT 13



**Permit Maps
ET2/TL-09-1056**

Legend

- Anticipated Alignment
- Anticipated Right-of-Way
- Permitted Route
- Adjusted Alignment
- Adjusted Right-of-Way
- Adjusted Route
- Quarry Substation Site
- Residence
- Non-residential Structure
- Municipal Boundary
- Township Boundary
- Section Boundary

1:6,000
0 250 500 1,000 Feet

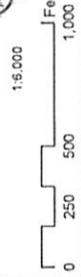
Fargo to St. Cloud 345 kV Transmission Line Project	
DATE: 09/13/11	110

Permit Maps
ET/TL-09-1056



Legend

- Anticipated Alignment
- Anticipated Right-of-Way
- Permitted Route
- Adjusted Alignment
- Adjusted Right-of-Way
- Adjusted Route
- Quarry Substation Site
- Residence
- Non-residential Structure
- Municipal Boundary
- Township Boundary
- Section Boundary



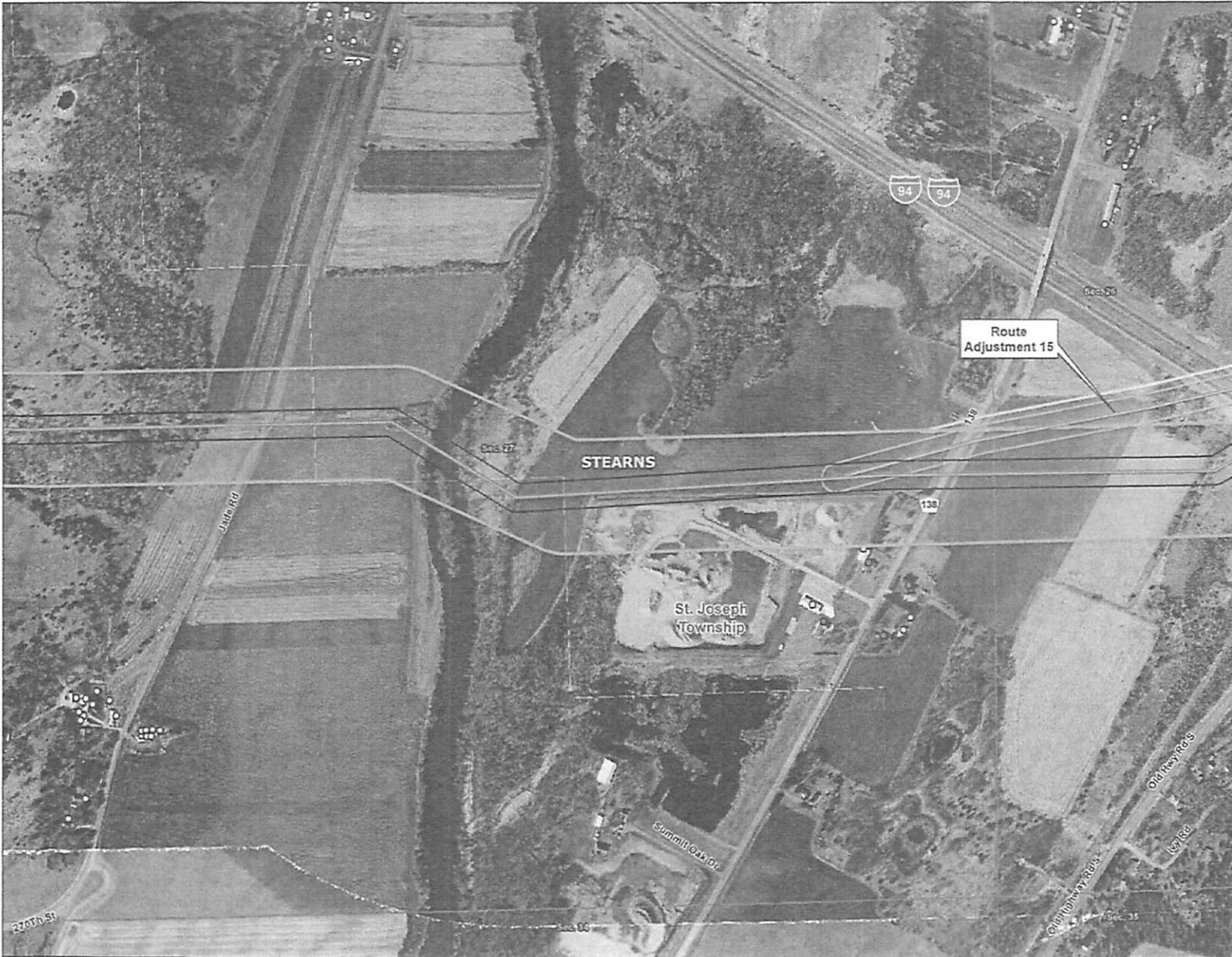
Fargo to St. Cloud
345 kV Transmission
Line Project

DATE: 06/13/11

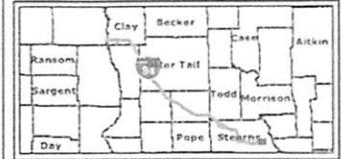
111



ADJUSTMENT 15

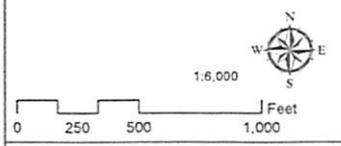


**Permit Maps
ET2/TL-09-1056**



Legend

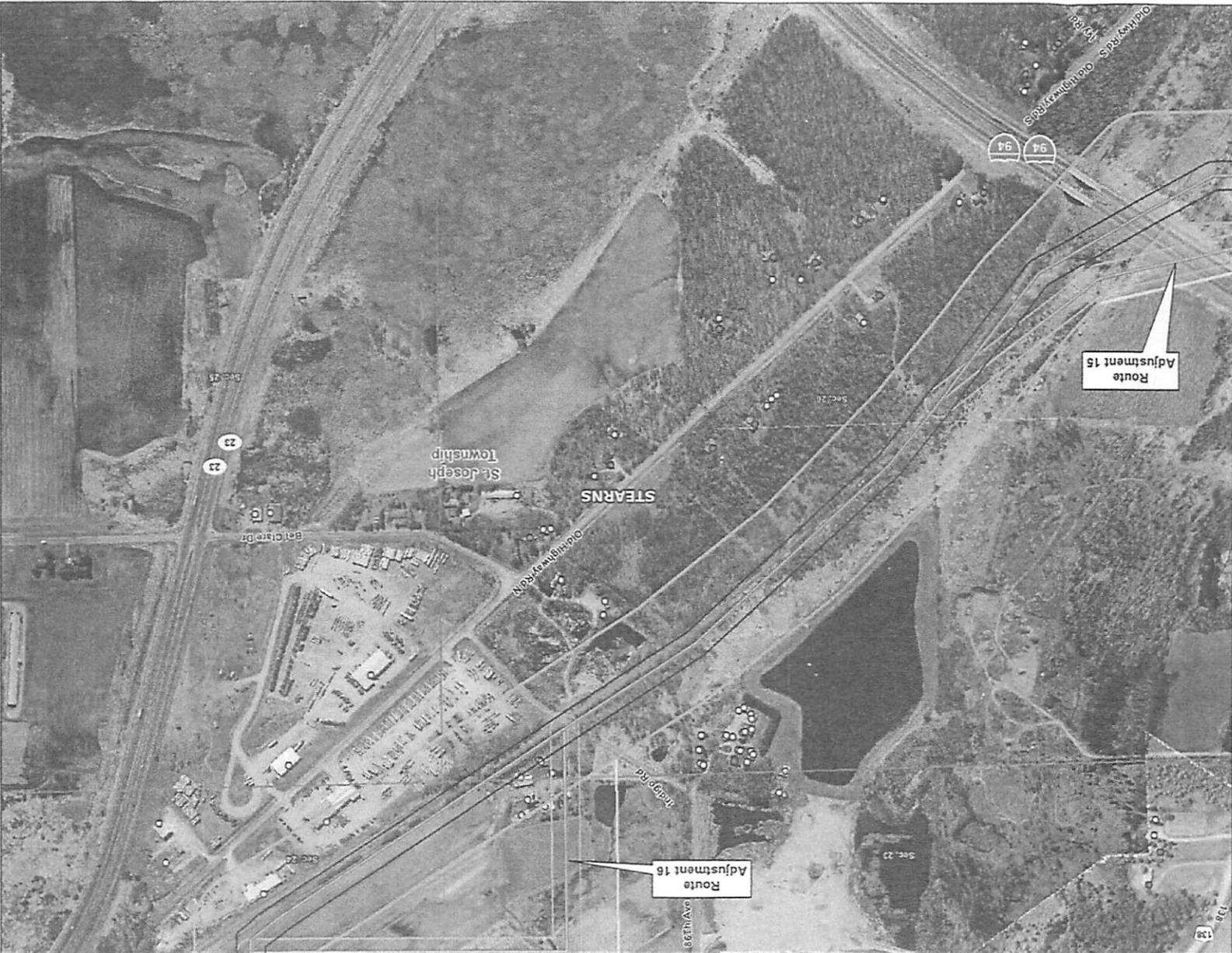
- Anticipated Alignment
- Anticipated Right-of-Way
- Permitted Route
- Adjusted Alignment
- Adjusted Right-of-Way
- Adjusted Route
- Quarry Substation Site
- Residence
- Non-residential Structure
- Municipal Boundary
- Township Boundary
- Section Boundary



**Fargo to St. Cloud
345 kV Transmission
Line Project**

DATE: 09/13/11

150



DATE: 09/19/11

151

**Fargo to St. Cloud
345 KV Transmission
Line Project**

0 250 500 1,000
Feet

1:5,000

N
S
E
W

Legend

- Anticipated Alignment
- Anticipated Right-of-Way
- Permitted Route
- Adjusted Alignment
- Adjusted Right-of-Way
- Adjusted Route
- Quarry Substation Site
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- Township Boundary
- Section Boundary

**Permit Maps
ET/TL-09-1056**

Day	Stearns	Pope	Stearns
Sargent	Todd	Korson	Todd
Kanowok	Miller	Tail	Kanowok
Clay	Bricker	Clay	Clay
Atkins	Atkins	Atkins	Atkins