

APPENDIX D

AGENCY CORRESPONDENCE



**APPENDIX D.1**

**LIST OF AGENCIES CONCERNING REQUESTS FOR COMMENTS ON PROJECT**

Agency	Date of Letter Regarding Project Notice
U.S. Fish and Wildlife Service - Twin Cities Field Office	November 12, 2009
U.S. Army Corps of Engineers - Regulatory Project Managers	November 12, 2009
Minnesota Board of Water and Soil Resources – Carver County Conservationist	November 12, 2009
Minnesota Board of Water and Soil Resources – McLeod County Conservationist	November 12, 2009
MnDNR – Waters Area Hydrologist – Region 3	November 12, 2009
MnDNR – Waters Area Hydrologist – Region 4	November 12, 2009
MnDNR – Ecological Resources – Region 3	November 12, 2009
MnDNR – Ecological Resources – Region 4	November 12, 2009
MnDNR Region 3 – Central Minnesota Lands and Minerals	November 12, 2009
MnDNR Region 4 – Southern Minnesota Lands and Minerals	November 12, 2009
MnDOT District 3B Utility Permit Contact, McLeod County	November 12, 2009
MnDOT Utility Permits – Metro/Central Office (Carver Co.) – Permit Supervisor	November 12, 2009
Carver Soil and Water Conservation District - Chair	November 12, 2009
Carver County Farm Service Agency – Service Center Office – Director	November 12, 2009
McLeod Soil and Water Conservation District Chair	November 12, 2009
McLeod County Farm Service Agency – Director	November 12, 2009

**APPENDIX D.2**

**LIST OF LGUs SENT A PROJECT NOTICE LETTER**

<b>Local Governmental Unit</b>	<b>Date of Letter Regarding Project Notice</b>
Benton Township, Carver County – Town Chair	November 12, 2009
Carver County Administrator	November 12, 2009
Carver County Commission – Chair	November 12, 2009
Carver County Office of Environmental Services – Land and Water Division – Manager	November 12, 2009
Carver County Highway Department	November 12, 2009
Carver County Land and Water Services Department – Director	November 12, 2009
Carver County Public Works Department	November 12, 2009
Carver County Soil and Water Conservation District – Chair	November 12, 2009
City of Cologne – City Administrator	November 12, 2009
City of Cologne – Mayor	November 12, 2009
City of Cologne – Public Works Supervisor	November 12, 2009
City of Glencoe – City Administrator	November 12, 2009
City of Glencoe – Mayor	November 12, 2009
City of Glencoe – Public Works Director	November 12, 2009
City of Glencoe Street Department – Street Superintendent	November 12, 2009
City of Norwood Young America – City Administrator	November 12, 2009
City of Norwood Young America – Mayor	November 12, 2009
City of Norwood Young America Public Utilities – Director	November 12, 2009
City of Plato – Mayor	November 12, 2009
Benton Township, Carver County – Clerk	November 12, 2009
Dahlgren Township, Carver County – Clerk	November 12, 2009
Dahlgren Township, Carver County – Chair	November 12, 2009
Helen Township, McLeod County – Clerk	November 12, 2009
Helen Township, McLeod County – Chair	November 12, 2009
Waconia Township, Carver County – Clerk	November 12, 2009
Waconia Township, Carver County – Chair	November 12, 2009
Young America Township, Carver County – Clerk	November 12, 2009

Local Governmental Unit	Date of Letter Regarding Project Notice
Young America Township, Carver County – Chair	November 12, 2009
Glencoe Municipal Airport – Manager	November 12, 2009
McLeod County Commission – Chair	November 12, 2009
McLeod County Environmental Coordinator	November 12, 2009
McLeod County Highway Department – County Engineer	November 12, 2009
McLeod County Planning and Zoning – Zoning Administrator	November 12, 2009
McLeod County Soil and Water Conservation District – Chair	November 12, 2009

**APPENDIX D.3**  
**MINNESOTA DNR RESPONSE**

Minnesota Department of Natural Resources  
500 Lafayette Road • St. Paul, MN • 55155-40



December 11, 2009

Timothy G. Rogers  
Supervisor, Siting and Permitting  
Xcel Energy  
250 Marquette Plaza  
Minneapolis, MN 55401

Dear Mr. Rogers:

Thank-you for contacting the Minnesota Department of Natural Resources (DNR) for early coordination regarding the proposed Southwest Twin Cities to Waconia Transmission Line Rebuild Project. The DNR has reviewed the information submitted and offers the following comments related to reducing impacts to vegetation and wildlife habitat by combining utility line routes, and related to reducing the possibility of bird fatalities.

A new segment of transmission line is proposed along Highway 5 in Norwood Young America. The public water, Braunworth Lake, is located on the southeast side of Highway 5. This lake is frequently utilized by waterbirds, particularly ring-necked ducks. A lower-voltage line currently runs through the wetland fringe of the lake. Regarding this segment of proposed transmission line, the DNR recommends that the new segment of transmission line be located to the northwest side of the highway; that the existing line be incorporated into the new proposed line; and that the lines are marked with appropriate bird diverters.

East of the junction of Highways 5 and 25, there are two sets of utility lines paralleling Highway 5. One set is north of the highway near Hydes Lake and the other is south of the highway, crossing a forested area. Combining these lines is preferred, which would allow either a greater setback from Hydes Lake or the recovery of a previously fragmented forest area.

A new segment of transmission line is proposed along County Road 51. Utility lines currently exist on the west side of road. The DNR recommends that the existing and proposed lines be combined where possible.

Near Hydes Lake and Rice Lake in Township 116 N, Range 25W, Section 31, a bald eagle (*Haliaeetus leucocephalus*) nest was identified in 2005. Please contact the United States Fish and Wildlife Service (USFWS) regarding federal regulations related to bald eagles.

Additionally, bird diverters are recommended for the transmission line segments near Hydes Lake and Winkler Lake to reduce the possibility of bird collisions.

Thank-you for your correspondence and please contact Jamie Schrenzel (651-259-5115) with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Randall Doneen".

Randall Doneen  
Environmental Review Planning Director

ERDB #20100236-0002



## APPENDIX D.4

### MINNESOTA DNR NHIS RESPONSE



#### Minnesota Department of Natural Resources

Division of Ecological Resources, Box 25

500 Lafayette Road

St. Paul, Minnesota 55155-4025

Phone: (651) 259-5109 Fax: (651) 296-1811 E-mail: [lisa.joyal@dnr.state.mn.us](mailto:lisa.joyal@dnr.state.mn.us)

October 28, 2009

Correspondence # ERDB 20100236

Joseph Sedarski  
Westwood Professional Services, Inc.  
7699 Anagram Drive  
Eden Prairie, MN 55344

RE: Natural Heritage information in the vicinity of the proposed Southwest Twin Cities/Waconia Transmission Line, Carver and McLeod Counties

Dear Mr. Sedarski,

As requested, the Minnesota Natural Heritage Information System has been queried to determine if any rare species or other significant natural features are known to occur within an approximate one-mile radius of the proposed project. Based on this query, several rare birds have been documented within the search area (for details, see the enclosed database reports) and may be at risk for colliding with or being electrocuted by transmission lines. In particular, a bald eagle (*Haliaeetus leucocephalus*) nest was identified in 2005 less than ¼ mile south of State Highway 5 in T116N R25W Section 31. Bald eagles are a state-listed species of special concern, and they are federally protected under the Migratory Bird Treaty Act and under the Bald and Golden Eagle Protection Act. Both acts prohibit killing, selling, or otherwise harming eagles, their nests or eggs. For assistance in determining whether an activity may disturb nesting bald eagles, please refer to the following USFWS website: <http://www.fws.gov/midwest/eagle/guidelines/index.html>.

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

The enclosed results include an Index Report and a Detailed Report of records in the Rare Features Database, the main database of the NHIS. To control the release of specific location information, which might result in the destruction of a rare feature, both reports are copyrighted.

The Index Report provides rare feature locations only to the nearest section, and may be reprinted, unaltered, in an environmental review document (e.g., EAW or EIS), municipal natural resource plan, or report compiled by your company for the project listed above. If you wish to reproduce the index report for any other purpose, please contact me to request written permission. **The Detailed Report is for your personal use only as it may include specific location information that is considered nonpublic data under *Minnesota Statutes*, section 84.0872, subd. 2. If you wish to reprint or publish the Detailed Report for any purpose, please contact me to request written permission.**

This letter does not constitute review or approval by the Department of Natural Resources as a whole. Instead, it identifies issues regarding known occurrences of rare features and potential effects to these rare features. Additional rare features for which we have no data may be present in the project area, or there may be other natural resource concerns associated with the proposed project. For these concerns, please contact your DNR Regional Environmental Assessment Ecologist, Mike North at 320-255-4279 ext. 235. Please be aware that additional site assessments or review may be required.

DNR Information: 651-296-6157

• 1-888-646-6367

• TTY: 651-296-5484

• 1-800-657-3929

An Equal Opportunity Employer Who Values Diversity

Thank you for consulting us on this matter, and for your interest in preserving Minnesota's rare natural resources. An invoice will be mailed to you under separate cover.

Sincerely,



Lisa Joyal  
Endangered Species Environmental Review Coordinator

enc.    Rare Features Database: Index Report  
         Rare Features Database: Detail Report  
         Rare Features Database Reports: An Explanation of Fields

The Division of Ecological Resources recently adopted a new database system called Biotics. As a result of this change, the layout and contents of the database reports have been revised. Many of the fields included in the new reports are the same or similar to the previous report fields, however there are several new fields and some of the field definitions have been slightly modified. We recommend that you familiarize yourself with the latest field explanations.

## Rare Features Database Reports: An Explanation of Fields

The Rare Features Database (Biotics) is part of the Natural Heritage Information System, and is maintained by the Division of Ecological Resources, Minnesota Department of Natural Resources (DNR).

*\*\*Please note that the print-outs are copyrighted and may not be reproduced without permission\*\**

**Field Name:** [Full (non-abbreviated) field name, if different]. Further explanation of field.

**-E-**

**Element Name and Occ #:** [Element Name and Occurrence Number]. The Element is the name of the rare feature. For plant and animal species records, this field holds the scientific name followed by the common name in parentheses; for all other elements (such as native plant communities, which have no scientific name) it is solely the element name. Native plant community names correspond to Minnesota's Native Plant Community Classification (Version 2.0). The Occurrence Number, in combination with the Element Name, uniquely identifies each record.

**EO Data:** [Element Occurrence Data]. For species elements, this field contains data collected on the biology of the Element Occurrence\* (EO), including the number of individuals, vigor, habitat, soils, associated species, peculiar characteristics, etc. For native plant community elements, this field is a summary text description of the vegetation of the EO, including structure (strata) and composition (dominant/characteristic species), heterogeneity, successional stage/dynamics, any unique aspects of the community or additional noteworthy species (including animals). Note that this is a new field and it has not been filled out for many of the records that were collected prior to conversion to the new database system. Some of the information meeting the field definition may be found in the General Description field.

**EO ID#:** [Element Occurrence Identification Number]. Unique identifier for each Element Occurrence record.

**EO Rank:** [Element Occurrence Rank]. An evaluation of the quality and condition of an Element Occurrence (EO) from A (highest) to D (lowest). Represents a comparative evaluation of: 1) quality as determined by representativeness of the occurrence especially as compared to EO specifications and including maturity, size, numbers, etc. 2) condition (how much has the site and the EO itself been damaged or altered from its optimal condition and character). 3) viability (the long-term prospects for continued existence of this occurrence - used in ranking species only). EO Ranks are assigned based on recent fieldwork by knowledgeable individuals.

**Extent Known?:** A value that indicates whether the full extent of the Element is known (i.e., it has been determined through field survey) at that location. If null, the value has not been determined.

**-F-**

**Federal Status:** Status of species under the U.S. Endangered Species Act: LE = endangered; LT = threatened; LE,LT = listed endangered in part of its range, listed threatened in another part of its range; LT,PDL = listed threatened, proposed for delisting; C = candidate for listing. If null or "No Status" the species has no federal status.

**First Observed Date:** Date that the Element Occurrence was first reported at the site in format YYYY-MM-DD. A year followed by "Pre" indicates that the observed date was sometime prior to the date listed, but the exact date is unknown.

**-G-**

**General Description:** General description or word picture of the area where the Element Occurrence (EO) is located (i.e., the physical setting/context surrounding the EO), including a list of adjacent communities. When available, information on surrounding land use may be included. Note that the information tracked in this field is now more narrowly defined than it was in the old database system, and some of the information still in this field more accurately meets the definition of the new EO Data field. We are working to clean up the records so that the information in the two fields corresponds to the current field explanations described herein. Also note that the use of uppercase in sentences in this field is not significant but rather an artifact of transferring data from the old database system to the new system.

**Global Rank:** The global (i.e., range-wide) assessment of the relative rarity or imperilment of the species or community. Ranges from G1 (critically imperiled due to extreme rarity on a world-wide basis) to G5 (demonstrably secure, though perhaps rare in parts of its range). Global ranks are determined by NatureServe, an international network of natural heritage programs and conservation data centers.

**-L-**

**Last Observed Date:** Date that the Element Occurrence was last observed to be extant at the site in format YYYY-MM-DD.

**Last Survey Date:** Date of the most recent field survey for the Element Occurrence, regardless of whether it was found during the visit. If the field is blank, assume the date is the same as the Last Observed Date.

Location Description: County or Counties in which the Element Occurrence was documented followed by Township, Range, and Section information (not listed in any particular order). Each unique Township, Range, and Section combination is separated by a comma. In some cases, there are too many Township, Range, and Section combinations to list in the field, in which case, the information will be replaced with, "Legal description is too lengthy to fit in allotted space".

**-M-**

Managed Area(s): Name of the federally, state, locally, or privately managed park, forest, refuge, preserve, etc., containing the occurrence, if any. If this field is blank, the element probably occurs on private land. If "(Statutory Boundary)" occurs after the name of a managed area, the location may be a private inholding within the statutory boundary of a state forest or park.

MN Status: [Minnesota Status]. Legal status of plant and animal species under the Minnesota Endangered Species Law: END = endangered; THR = threatened; SPC = special concern; NON = tracked, but no legal status. Native plant communities, geological features, and colonial waterbird nesting sites do not have any legal status under the Endangered Species Law and are represented by a N/A.

**-N-**

NPC Classification (v1.5): Native plant community name in Minnesota's Native Vegetation: A Key to Natural Communities (Version 1.5). This earlier classification has been replaced by Minnesota's Native Plant Community Classification (Version 2.0).

**-O-**

Observed Area: The total area of the Element Occurrence, in acres, which is measured or estimated during fieldwork. If null, the value has not been determined.

Ownership Type: Indicates whether the land on which the Element Occurrence was located was publicly or privately owned; for publicly owned land, the agency with management responsibility is listed, if known.

**-S-**

Site Name: The name of the site(s) where the Element Occurrence is located. Sites are natural areas of land with boundaries determined and mapped according to biological and ecological considerations.

Survey Site #/Name: The name of the survey site, if applicable, where the Element Occurrence is located. Survey sites are sites that provide a geographic framework for recording and storing data, but their boundaries are not based on biological and ecological considerations. Minnesota County Biological Survey site numbers, if applicable, are also listed in this field.

Survey Type: Information on the type of survey used to collect information on the Element Occurrence.

Surveyor(s): Name(s) of the person(s) that collected survey information on the Element Occurrence.

State Rank: Rank that best characterizes the relative rarity or endangerment of the taxon or plant community in Minnesota. The ranks do not represent a legal status. They are used by the Minnesota Department of Natural Resources to set priorities for research, inventory and conservation planning. The state ranks are updated as inventory information becomes available. S1 = Critically imperiled in Minnesota because of extreme rarity or because of some factor(s) making it especially vulnerable to extirpation from the state. S2 = Imperiled in Minnesota because of rarity or because of some factor(s) making it very vulnerable to extirpation from the state. S3 = Vulnerable in Minnesota either because rare or uncommon, or found in a restricted range, or because of other factors making it vulnerable to extirpation. S4 = Apparently secure in Minnesota, usually widespread. S5 = Demonstrably secure in Minnesota, essentially ineradicable under present conditions. SH = Of historical occurrence in the state, perhaps having not been verified in the past 20 years, but suspected to be still extant. An element would become SH without the 20-year delay if the only known occurrences in the state were destroyed or if it had been extensively and unsuccessfully looked for. SNR = Rank not yet assessed. SU = Unable to rank. SX = Presumed extinct in Minnesota. SNA = Rank not applicable. S#S# = Range Rank: a numeric range rank (e.g., S2S3) is used to indicate the range of uncertainty about the exact status of the element. S#B, S#N = Used only for migratory animals, whereby B refers to the breeding population of the element in Minnesota and N refers to the non-breeding population of the element in Minnesota.

**-V-**

Vegetation Plot: Code(s) for any vegetation plot data that have been collected within this Element Occurrence (i.e., either Releve Number or the word "RELEVE" indicates that a releve has been collected).

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\* Element Occurrence – an area of land and/or water in which an Element (i.e., a rare species or community) is, or was, present, and which has practical conservation value for the Element as evidenced by potential continued (or historical) presence and/or regular recurrence at a given location. Specifications for each species determine whether multiple observations should be considered 1 Element Occurrence or 2, based on minimum separation distance and barriers to movement.

### Data Security

Locations of some rare features must be treated as sensitive information because widespread knowledge of these locations could result in harm to the rare features. For example, wildflowers such as orchids and economically valuable plants such as ginseng are vulnerable to exploitation by collectors; other species, such as bald eagles, are sensitive to disturbance by observers. For this reason, we prefer that publications not identify the precise locations of vulnerable species. We suggest describing the location only to the nearest section. If this is not acceptable for your purposes, please call and discuss this issue with the Endangered Species Environmental Review Coordinator at (651) 259-5109.

Revised 4/2006

**Minnesota Natural Heritage Information System**  
**Index Report of records within 1 mile radius of:**  
 ERDB #20100236 - Southwest Twin Cities/Waconia Transmission Line  
 Multiple TRS  
 Carver and McLeod Counties

Printed October 2009  
 Data valid for one year

**Rare Features Database:**

Element Name and Occurrence Number	Federal Status	MIN Status	State Rank	Global Rank	Last Observed Date	EO ID #
<b>Vertebrate Animal</b>						
<i>Botaurus lentiginosus</i> (American Bittern) #44 T116N R25W S19, T116N R25W S17, T116N R25W S29, T116N R25W S30, T [...] ; Carver County		NON	S4B	G4	1991	12287
<i>Botaurus lentiginosus</i> (American Bittern) #283 T115N R26W S4, T115N R26W S8, T115N R26W S9 ; Carver County		NON	S4B	G4	2003-06-19	31232
<i>Grus canadensis</i> (Sandhill Crane) #430 T116N R25W S30 ; Carver County	No Status	NON	S4B,SNRM	G5	2001-06	28470
<i>Haliaeetus leucocephalus</i> (Bald Eagle) #2464 T116N R25W S31, T116N R25W S32, T115N R25W S6 ; Carver County	SPC	SPC	S3B,S3N	G5	2005-06-29	32995
<b>Animal Assemblage</b>						
Colonial Waterbird Nesting Area (Colonial Waterbird Nesting Site) #630 T115N R26W S9, T115N R26W S16 ; Carver County		N/A	SNR	GNR	1986-06-01	883
<b>Terrestrial Community - Other Classification</b>						
Native Plant Community, Undetermined Class #1196 T116N R24W S32, T115N R24W S5 ; Carver County		N/A	SNR	GNR	1995-09-14	21942
Native Plant Community, Undetermined Class #1216 T115N R24W S9 ; Carver County		N/A	SNR	GNR	1995-09-19	21938

**Records Printed = 7**

Minnesota's endangered species law (Minnesota Statutes, section 84.0895) and associated rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134) prohibit the taking of threatened or endangered species without a permit. For plants, taking includes digging or destroying. For animals, taking includes pursuing, capturing, or killing.

**APPENDIX D.5**  
**MINNESOTA DOT RESPONSE**



**Minnesota Department of Transportation**

**Office of Technical Support**  
Utility Permits Unit  
Mail Stop 678, 6th Floor  
395 John Ireland Boulevard  
St. Paul, MN 55155-1899

Office Tel: (651) 366-4635  
Fax: (651) 366-4769

December 10<sup>th</sup>, 2009

Joseph G. Sedarski  
Westwood Professional Services  
7699 Anagram Drive  
Eden Prairie, MN 55344-7310

**Re: Proposed Southwest Twin Cities / Waconia Transmission Line Rebuild Project –  
West Section Certificate of Need and Route Permit Application  
Xcel Energy, Inc. / Northern States Power Company**

The Minnesota Department of Transportation (Mn/DOT) appreciates the opportunity to provide early comments regarding the above-mentioned project and offers the following information.

Mn/DOT has no listed short-term projects in the affected area, but the cities of Victoria, Waconia, Chanhassen, and Norwood Young America completed a study for TH 5 approximately one year ago. Among the improvements identified, this study identified the need to re-align TH 5, re-align County Road 34, and construct some City Streets on a new location in/near Norwood/Young America. The general locations of the improvements in New Young America as well as the rest of the corridor are attached.

Mn/DOT Metro District staff looks forward to reviewing the plans as they develop.

Please contact me with any questions,

A handwritten signature in cursive script, appearing to read 'Stacy M. Kotch'.

Stacy Kotch  
Utility Transmission Route Coordinator  
Minnesota Department of Transportation  
395 John Ireland Blvd., Mailstop 678  
St. Paul, MN 55155  
Phone (651)366-4635  
stacy.kotch@state.mn.us

**TH 5 CORRIDOR STUDY REPORT  
(FROM TH 41 TO TH 212)**

Study Completed for

**Carver County**

In Partnership with the Cities of:

**Victoria, Waconia, Chanhassen and  
Norwood Young America**

With Support from the

**Minnesota Department of Transportation**

**October 2008**

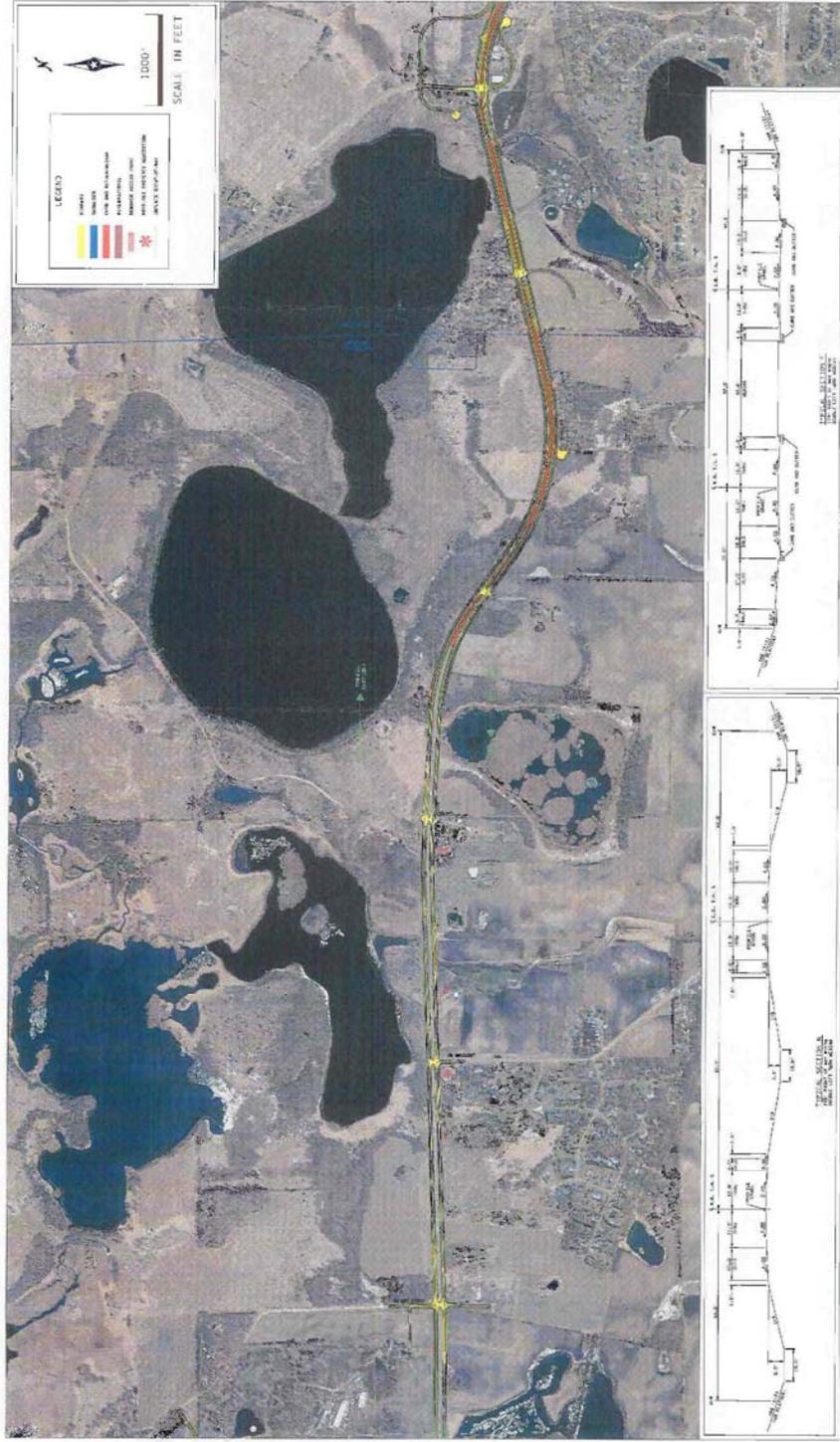


Figure 23

Locally Supported Conceptual Layout - Chanhassen  
TH. 5 Corridor Study - From TH. 41 to T.H. 212







Locally Supported Conceptual Layout - Laketown  
 T.H. 5 Corridor Study - From T.H. 41 to T.H. 212



Figure 25



Figure 26

Locally Supported Conceptual Layout - Laketown and Waconia  
 TH. 5 Corridor Study - From T.H. 41 to T.H. 212





Figure 27

Locally Supported Conceptual Layout - Waconia  
 T.H. 5 Corridor Study - From T.H. 41 to T.H. 212





Figure 28

Locally Supported Conceptual Layout - Weconia and Benton  
 T.H. 5 Corridor Study - From T.H. 41 to T.H. 212



10/06/2018

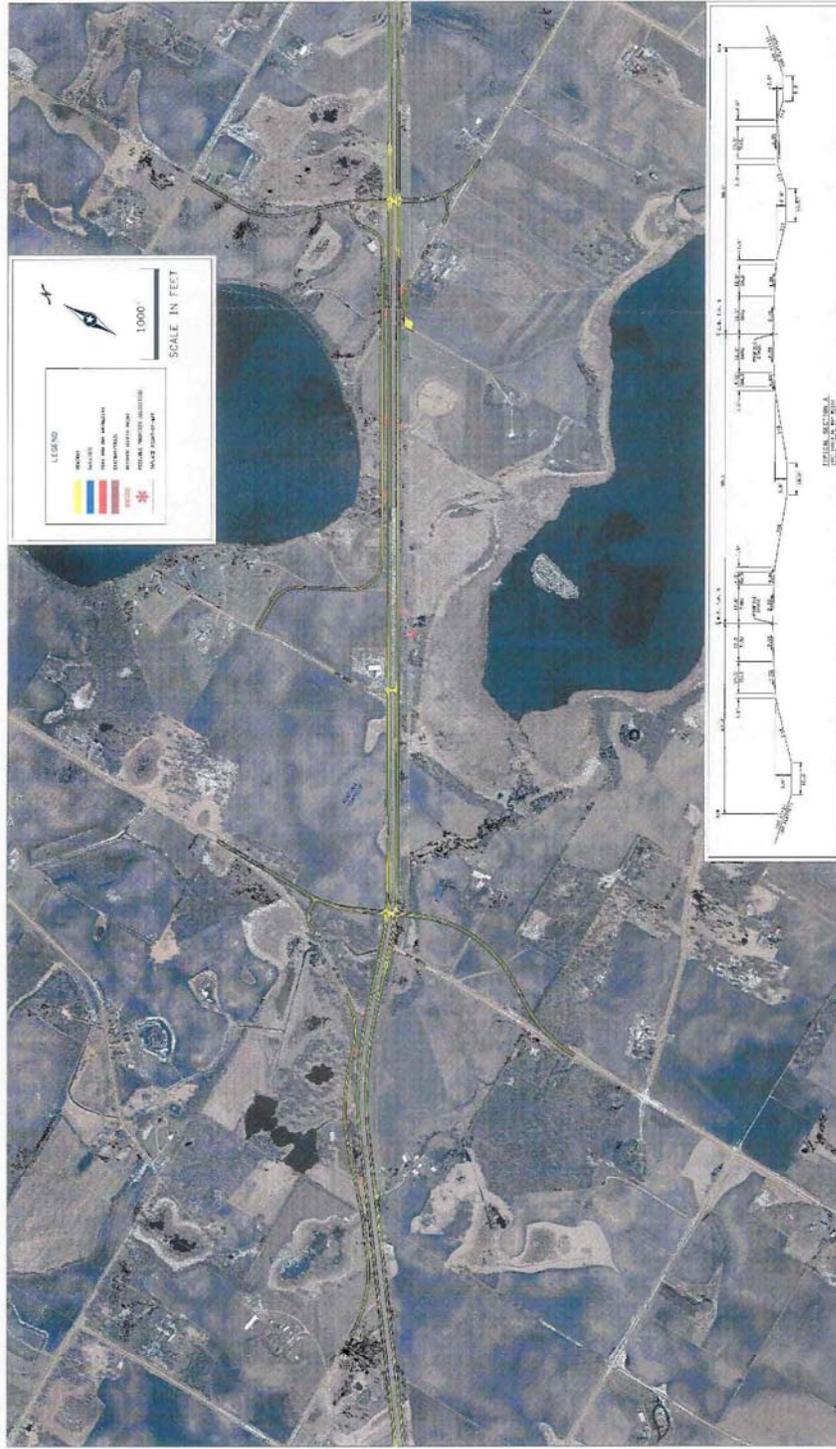


Figure 29

Locally Supported Conceptual Layout - Benton  
T.H. 5 Corridor Study - From T.H. 41 to T.H. 212





Figure 30

Locally Supported Conceptual Layout - Norwood Young America  
 TH 5 Corridor Study - From TH 41 to T.H. 212



APPENDIX D.6  
USACE RESPONSE



REPLY TO  
ATTENTION

DEPARTMENT OF THE ARMY  
ST. PAUL DISTRICT, CORPS OF ENGINEERS  
SIBLEY SQUARE AT MEARS PARK  
190 FIFTH STREET EAST, SUITE 401  
ST. PAUL MINNESOTA 55101-1638

NOV 23 2009

Operations  
Regulatory (2009-5320-CCB)

Mr. Joseph G. Sedarski, Senior Project Manager  
Westwood Professional Services, Inc.  
7699 Anagram Drive  
Eden Prairie, Minnesota 55344

Dear Mr. Sedarski:

We have received your letter regarding the Twin Cities/Waconia Transmission Line Rebuild Project-West Section dated November 12, 2009. The project area is generally a straight line between east Glencoe to the northeast Cologne, Minnesota.

Please consider the following general information concerning our regulatory program that may apply to your proposed project.

If the proposal involves activity in navigable waters of the United States, it may be subject to the Corps of Engineers' jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 (Section 10). Section 10 prohibits the construction, excavation, or deposition of materials in, over, or under navigable waters of the United States, or any work that would affect the course, location, condition, or capacity of those waters, unless the work has been authorized by a Department of the Army permit.

If the proposal involves discharge of dredged or fill material into waters of the United States, it may be subject to the Corps of Engineers' jurisdiction under Section 404 of the Clean Water Act (CWA Section 404). Waters of the United States include navigable waters, their tributaries, and adjacent wetlands (33 CFR § 328.3). CWA Section 301(a) prohibits discharges of dredged or fill material into waters of the United States, unless the work has been authorized by a Department of the Army permit under Section 404. Information about the Corps permitting process can be obtained online at <http://www.mvp.usace.army.mil/regulatory>. If this project includes any temporary placement of excavated material or fill material in a wetland or waterbody, this project may also require appropriate authorization for that work.

A wetland delineation of the area where the project is proposed would help confirm the requirement for a permit or not.

The Corps' evaluation of a Section 10 and/or a Section 404 permit application involves multiple analyses, including (1) evaluating the proposal's impacts in accordance with the

National Environmental Policy Act (NEPA) (33 CFR part 325), (2) determining whether the proposal is contrary to the public interest (33 CFR § 320.4), and (3) in the case of a Section 404 permit, determining whether the proposal complies with the Section 404(b)(1) Guidelines (Guidelines) (40 CFR part 230).

If the proposal requires a Section 404 permit application, the Guidelines specifically require that "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences" (40 CFR § 230.10(a)). Time and money spent on the proposal prior to applying for a Section 404 permit *cannot* be factored into the Corps' decision whether there is a less damaging practicable alternative to the proposal.

If an application for a Corps permit has not yet been submitted, the project proposer may request a pre-application consultation meeting with the Corps to obtain information regarding the data, studies or other information that will be necessary for the permit evaluation process. A pre-application consultation meeting is strongly recommended if the proposal has substantial impacts to waters of the United States, or if it is a large or controversial project.

For further information or to request a pre-application consultation meeting, please contact Christina Carballal at 651-2905372, the Corps' project manager for the Counties in which this proposal is located.

Sincerely,

  
for Tamara E. Cameron  
Chief, Regulatory Branch

