BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF THE MINNESOTA DEPARTMENT OF COMMERCE ENERGY FACILITY PERMITTING STAFF

DOCKET NO. E015/TL-12-1123

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In the Matter of the Application of Minnesota Power for a Route Permit for the Relocation of Line 39 HVTL Project

Issues Addressed: Application Acceptance; appointing a Public Advisor; and establishing an Advisory Task Force.

Documents Attached:
1. Route Permit General Vicinity Map
2. Route Permit Aerial Map

Additional documents and information can be found on http://mn.gov/commerce/energyfacilities or on eDockets http://www.edockets.state.mn.us/EFilin/search.jsp (12-1123).

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Introduction and Background

On November 26, 2012, Minnesota Power (MP) submitted a high voltage transmission line (HVTL) Route Permit Application[1] under the alternative permitting process to the Commission for the proposed transmission line relocation of the MP Line 39.

United Taconite requested that Minnesota Power remove an existing 115 kV HVTL to accommodate United Taconite's plans to extend its mining operation located west of the city of Eveleth. The project (i.e., installation of 3.0 miles of HVTL) is needed to allow this existing line to be removed without degrading the area's high voltage transmission system.

Project Location
The project is located in St Louis County near and within the communities of Eveleth and Leonidas.

[1] Route Permit Application (RPA), eDockets Document ID 201211-81223-01 to 05

Project Description and Purpose
Minnesota Power proposes to construct an approximate 3.0-mile-long, 115 kV HVTL in St. Louis County near the city of Eveleth, Minnesota. Minnesota Power would also, at the request of United Taconite, remove approximately 1.9 miles of existing 39 Line that runs through United Taconite's north pit.

Of the three mile length of new transmission line, approximately 22 percent of land is owned by the Oliver Iron Mining Company, approximately 21 percent is owned by the USX Corporation, approximately 5 percent is owned by the United Taconite Company, and approximately 17 percent owned by the Minnesota DNR. The remaining 35 percent is privately held land.[2]

State Regulatory Process and Procedures

Minnesota Statute 216E.03, subd. 2 provides that no person may construct a high voltage transmission line without a Route Permit from the Commission. An HVTL is defined as a transmission line of 100 kV or more and greater than 1,500 feet in length in Minnesota Statute 216E.01, subd. 4. The proposed transmission lines are HVTLs and therefore a Route Permit is required prior to construction. The Application was submitted pursuant to the provisions of the Alternative Permitting Process outlined in Minn. Rules7850.2800-3900.

The MP Line 39 Relocation project qualifies for review under the alternative permitting process authorized by Minnesota Statute 216E.04, subd. 2(3), and Minn. Rule 7850.2800, subp. 1(C), because the proposed HVTLs are between 100 and 200 kV. According to that same rule, since the project qualifies for the alternative permitting process, the Applicant can choose to follow the procedures under Minn. Rule 7850.2800-3900 rather than the procedures for a full process under 7850.1700-2700. Minnesota Power has chosen to follow the alternative permitting process.

Route permit applications must provide specific information about the proposed project including, but not limited to, applicant information, route description, environmental impacts, alternatives, and mitigation measures (Minn. Rule 7850.3100). The Commission may accept an application as complete, reject an application and require additional information to be submitted, or accept an application as complete upon filing of supplemental information (Minn. Rule 7850.3200).

The review process begins with the determination by the Commission that the application is complete. The Commission has six months to reach a final decision on the route permit application from the date the application is determined to be complete. The Commission may extend this limit for up to three months for just cause or upon agreement of the applicant (Minn. Rule 7850.3900).

A Certificate of Need is not required for the project because it is not classified as a large energy facility under Minnesota Statutes Sections 216B.243 and 216B.2421, subdivision 2(3). While the Project is a HVTL with a capacity of 100 kV or more, it is not more than 10 miles long in Minnesota and it does not cross a state line. Therefore, the project is exempt from the Certificate of Need requirements

Environmental Review
Applications for high voltage transmission line route permits under the alternative permitting process are subject to environmental review, which is conducted by EFP staff under Minn. Rule 7850.3700. EFP staff will provide notice and conduct public information and scoping meetings to solicit public comments on the scope of

[2] RPA at 4-1

the environmental assessment (EA). The Deputy Commissioner of the Department of Commerce will determine the scope of the EA.

An EA is a written document that describes the human and environmental impacts of a proposed project (and selected alternative routes) and methods to mitigate such impacts. The EA will be completed and made available prior to the public hearing.

Public Hearing

Applications for high voltage transmission line route permits under the alternative permitting process require a public hearing upon completion of the EA pursuant to Minn. Rule 7850.3800.

Minn. Rule 7850.3800 provides that the Commission shall appoint a person to act as the hearing examiner at the public hearing. The hearing examiner may be an employee of the Commission; however, the Commission may elect to ask an administrative law judge (ALJ) from the Office of Administrative Hearings to conduct the hearing held under this provision. Practice has been to arrange for an ALJ to conduct the hearing. The hearing examiner sets the date and place for the hearing and provides notice to the public. A portion of the hearing must be held in a county where the proposed project would be located.

The main task of the hearing examiner is to compile a complete record and forward the record to the Commission for decision. While not required by rule, practice has been to arrange for a court reporter to transcribe the proceedings. The hearing examiner is not required to write a report and make a recommendation, unless the Commission specifically requests that the examiner perform those duties. Such requests have generally been made in situations where issues raised in an application turn on specific facts that are best developed by an ALJ. Otherwise, EFP provides findings of fact, a recommendation and a proposed permit to the Commission following receipt of the record of the hearing from the hearing examiner.

The hearing must be conducted in the following manner, as per Minn. Rule 7850.3800, although the hearing examiner may vary the order in which the hearing proceeds:

- The staff shall make a brief presentation to describe the project, explain the process to be followed, and introduce documents to be included in the record, including the application, the environmental assessment, and various procedural documents;
- the applicant shall introduce its evidence by way of testimony and exhibits;
- the public must be afforded an opportunity to make an oral presentation, present documentary evidence, and ask questions of the applicant and staff;
- the hearing examiner shall provide a period of not less than 10 days for the submission of written comments into the record after the close of the hearing; and
- the hearing examiner shall transmit the complete record created at the hearing, including all written comments, within five days of the close of the record, unless the hearing examiner is asked to prepare a report (Findings of Fact, Conclusions of Law, and Recommendation).

Public Advisor

Upon acceptance of an application for a route permit, the Commission must designate a person to act as the public advisor on the project (Minn. Rule 7850.3400). The public advisor is someone who is available to answer questions from the public about the permitting process. The public advisor assists the public at meetings

and hearings, as well as by e-mail and telephone. In this role, the public advisor may not act as an advocate on behalf of any person.

The Commission can authorize Commerce to name a staff member from the EFP staff as the public advisor or assign a Commission staff member. While in the past, the role of public advisor has been held by a member of the Department of Commerce Energy Facility Permitting staff, and the EFP unit maintains the resources, expertise and experience to continue to serve in this capacity, EFP takes no position on this decision option.

Advisory Task Force
The Commission may appoint an advisory task force (Minnesota Statute 216E.08). An advisory task force must include representatives of local governmental units in the affected area. A task force can be charged with identifying additional routes or specific impacts to be evaluated in the EA and terminates when the Commerce Deputy Commissioner issues an EA scoping decision.

The Commission is not required to assign an advisory task force for every project. However, in the event that the Commission does not name a task force, the rules allow a citizen to request appointment of a task force (Minn. Rule 7850.3600). The Commission would then need to determine at its next meeting if a task force should be appointed or not.

The decision whether to appoint an advisory task force does not need to be made at the time of accepting the application; however, it should be made as soon as practicable to ensure its charge can be completed prior to the EA scoping decision by the Commerce Deputy Commissioner.

EFP Staff Analysis and Comments

EFP staff worked with the Applicant to review drafts of the Application. Subsequently, it has conducted a completeness review of the MP Line 39 Relocation HVTL Route Permit application. The required contents of an application for a HVTL Route Permit are outlined in Minn. Rule 7850.3100 and the inclusion of these required items is documented in a summary table (Table 1 Completeness Checklist) in the Applicant's application.[3]

EFP concludes that the Application meets the content requirements of Minn. Rule 7850.3100 and is substantially complete. Application acceptance allows initiation of the public participation and environmental review processes.

Public Hearing
The proposed project consists of the relocation of a small section of an existing transmission line to accommodate additional mining activity in an area dominated by commercial and industrial land use.

Given the limited scope of the proposed project, which involves the removal of 1.9 miles of existing 115 kV transmission line and the construction of approximately 3.0 miles of new 115 kV transmission, EFP staff believes that the Commission need not request an ALJ report with findings and recommendations. The proposed project is straight forward and is a direct result of a request from United Taconite. EFP staff believes that any issues associated with the project and application can be addressed by requesting that an administrative law judge preside over the public hearing and prepare a *Summary of Public Testimony* and requesting that the Department of Commerce Energy Facility Permitting staff submit a report to the Commission setting forth

[3] RPA at 1-4

findings, conclusions, recommendations and a proposed permit for the proposed transmission line. If after the public information/scoping meeting unanticipated issues or controversy arise, the request to the ALJ may be modified to include findings and recommendations.

Advisory Task Force

In analyzing the merits of establishing an Advisory Task Force for the project, EFP staff considered four project characteristics: size, complexity, known or anticipated controversy and sensitive resources. The proposed design information and preliminary environmental data contained in the HVTL route permit application was used to complete the following evaluation:

Project Size. At approximately 3 miles, the MP Line 39 Relocation project is a small length transmission line when compared to the majority of the HVTL applications that come before the Commission. At 115 kV, it is the minimum size voltage to trigger state permitting.

Minnesota Power's proposed 3.0 miles of 115 kV HVTL will be constructed with both monopole and H-Frame direct embedded wood structures. The monopole structures will range in height from 60 to 105 feet above ground, and the spans adjacent to these structures will range from 250 to 350 feet.

H-Frame structures will utilize two braced wood poles and suspension insulators. These structures will range in height from 60 to 70 feet above ground, and the spans adjacent to these structures will range from 500 to 1,000 feet.

The project will require a right-of-way of 100 feet wide; Minnesota Power has requested a total route width of 500 feet.

Given the project's short distance and voltage, it is a relatively minor project in size.

Complexity. The proposed route is located in two cities: Eveleth and Mountain Iron. It crosses areas zoned for mining and rural residential purposes.

Based on the Applicant's review of recent aerial photography, there are 12 residences and 10 commercial buildings within the requested 500 foot total route width. No residences or commercial buildings are within 50 feet of the proposed HVTL centerline. Thus, no displacement of residences or businesses is anticipated.

The proposed route is within or adjacent to County Road 101 and an existing heavy haul road right-of-way for approximately 52 percent of the length of the route. More than 28 percent of the proposed route crosses barren or commercial/industrial land.

Several specific factors contribute to minimizing the complexity of the proposed project, they include: the small number of local governmental units involved; the fact that the area has been significantly altered by mining activities, the limited number of residential properties potentially impacted, and the compatibility with local land use and zoning regulation within the proposed project area.

EFP staff believes that the standard alternative review procedures (scoping process, environmental review document, and public hearing) will provide ample opportunities for concerned individuals or entities to raise and evaluate the issues associated with the proximity of the transmission line to structures or points of interest along the proposed route.

Known/Anticipated Controversy. On October 11, 2012, Minnesota Power held a public meeting on the proposed project. Private landowners along the original proposed route were not in favor of the project as proposed. In response, Minnesota Power along with United Taconite, interested citizens, and local units of government developed the route as proposed in the HVTL Route Permit filed with the Commission, in an attempt to follow a more agreeable ownership pattern.

EFP anticipates that the discussion of the proposed route will continue through scoping and assumes potential alternatives may be developed during the scoping process. EFP has not received comment from the public on any other potential alternatives or issue at this time, although different alternatives may come up through the scoping process.

Given the Applicant's preliminary community efforts and the relatively strong support of iron mining activities in the area, EFP staff believes that any controversy involving this project to be localized around specific alignment issues/alternatives within the proposed route.

Sensitive Resources. The area surrounding the proposed route has been significantly disturbed by human activity. The project area is bounded by the Mesabi Iron Range, a vast deposit of iron ore and the largest of three major iron ranges in Minnesota. Mining activities play a significant role in the area's economy, accounting for 10 percent of the area's industry (compared to less than 1 percent statewide).

The project will remove the existing transmission line that crosses an active taconite mine, thereby providing United Taconite with additional space to conduct mining operations and be consistent with future plans for the mining property. The new HVTL will be adjacent (south and west) to the mine activity.

Approximately 25 percent of the proposed route crosses wetland, spanning approximately 0.7 miles of wetland. While, 29 inventoried historic architectural properties are located within 1 mile of the proposed transmission line, no archaeological sites or inventoried standing structures are recorded within the immediate project location.

Two federally listed species are known to occur in St. Louis County, the piping plover and Canada lynx. The piping plovers prefer open, sandy beaches, barrier islands, and sand spits formed along the Great Lakes' perimeters. The project is not located within appropriate piping plover habitat. Lynx live in dense forests with boreal features across northern Minnesota in areas that receive deep snow and have high-density populations of snowshoe hares, the principal prey of lynx. The project is not located within designated *Critical Habitat* of the Canada lynx; however, the project area could be populated with Canada lynx at the time of construction based on distribution within the county. The potential impacts (noise and/or physical disturbance) would be minor and temporary.

No state listed species are known to exist within 1 mile of the proposed transmission line.

Based on the analysis above, EFP staff concludes that an advisory task force is not warranted at this time.

EFP staff believes that the alternative permitting process should provide adequate opportunities for the public to identify issues and route alternatives to be addressed in the environmental assessment. Staff can also assist local landowners and governmental units in understanding the siting and routing process and identifying opportunities for participating in further development of alternative routes or permit conditions.

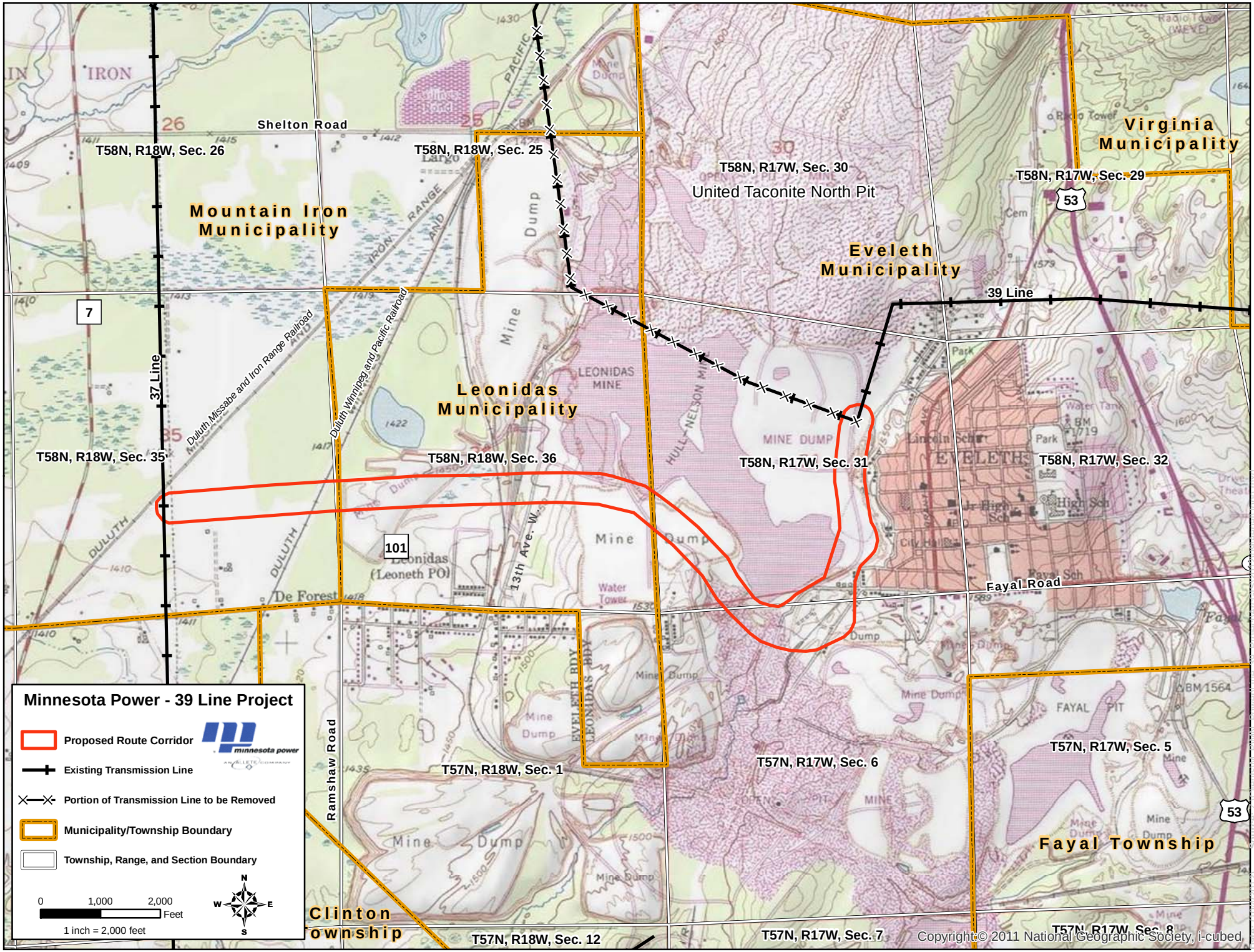
* * * * *

Commerce EFP Recommendations

Commerce EFP staff recommends that the Commission:

1. Accept the HVTL Route Permit Application submitted by Minnesota Power for the of MP Line 39 relocation project as substantially complete and request that:
    a. The Office of Administrative Hearings assign an administrative law judge to preside over the public hearing and prepare a Summary of Public Testimony; and that
    b. Department of Commerce Energy Facility Permitting staff submits a report to the Commission setting forth findings, conclusions, recommendations and a proposed permit for the proposed transmission line.

2. Determine that based on the available information, an advisory task force is not warranted at this time



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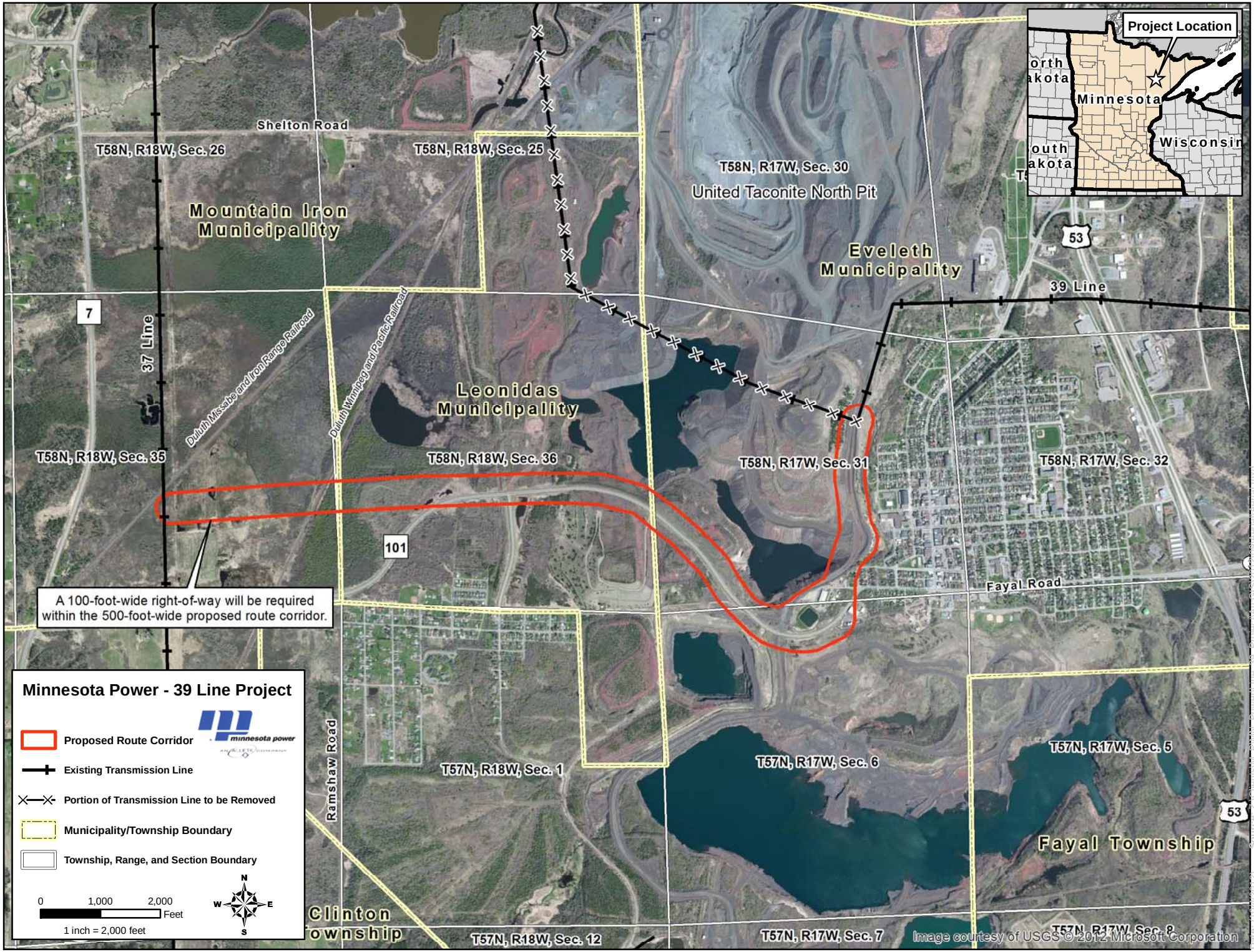
Minnesota Power - 39 Line Project
Proposed Route Corridor
Existing Transmission Line
Portion of Transmission Line to be Removed
Municipality/Township Boundary
Township, Range, and Section Boundary
0 1,000 2,000 Feet
1 inch = 2,000 feet
N
S
E
W
Project Location
Minnesota
Wisconsin
Shelton Road
T58N, R18W, Sec. 26
T58N, R18W, Sec. 25
T58N, R17W, Sec. 30
United Taconite North Pit
Mountain Iron Municipality
Eveleth Municipality
53
39 Line
7
37 Line
Duluth Missabe and Iron Range Railroad
Duluth Winnipeg and Pacific Railroad
Leonidas Municipality
T58N, R18W, Sec. 35
T58N, R18W, Sec. 36
T58N, R17W, Sec. 31
T58N, R17W, Sec. 32
101
A 100-foot-wide right-of-way will be required within the 500-foot-wide proposed route corridor.
Fayal Road
Ramshaw Road
T57N, R18W, Sec. 1
T57N, R17W, Sec. 6
T57N, R17W, Sec. 5
Fayal Township
Clinton Township
T57N, R18W, Sec. 12
T57N, R17W, Sec. 7
T57N, R17W, Sec. 8
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