

The proposed project would be constructed in Minnesota and Wisconsin. This draft environmental impact statement (EIS) only discusses the Minnesota portion of the proposed project; the Wisconsin portion will be permitted in a separate proceeding before the Public Service Commission of Wisconsin (PSCW). Because of this, Wisconsin permits and approvals are not discussed in this section.

Should a route permit be issued for the proposed project, the applicant may be required to apply for the various federal, state, and local permits discussed in this section.

9.1 Federal Permits and Approvals

U.S. Department of Agriculture Rural Utility Service

Dairyland Power Cooperative will seek financial assistance from Rural Utility Service (RUS) for its ownership in the proposed project. RUS has determined that the possible funding of Dairyland’s ownership constitutes a federal action and therefore subject to National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA).

U.S. Army Corps of Engineers - Section 404, Clean Water Act, Permit

A Section 404 permit is required from the U.S. Army Corps of Engineers (USACE) under the Federal Clean Water Act (CWA) for discharges of dredged or fill material into waters of the United States. The applicant will apply for these permits should a route permit be issued for the project.

U.S. Army Corps of Engineers - 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 Mississippi River is classified as a navigable water by the USACE. The applicant would apply for a permit for each of the crossings proposed for the project.

U.S. Federal Aviation Administration - 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 Federal Aviation Administration (FAA) Advisory Circular (AC 70/7460-2K). Form 7460-1 is required for the notice.

U.S. Fish and Wildlife Service - Special Use Permit

This permit is required for the placement of facilities within easements owned by the U.S. Fish and Wildlife Service (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 would not materially interfere with or detract from the fulfillment of the mission of the USFWS (wildlife conservation) or purposes of the land. The applicant would work closely with the USFWS on potential impacts to their lands.

U.S. Environmental Protection Agency - Spill Prevention, Control, and Countermeasure Plan

A spill prevention, control, and countermeasure (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 applicant would likely need to update and develop their SPCC plans at project substations that meet the criteria per 40 CFR 112.

U.S. Department of Treasury, Bureau of Alcohol, Tobacco, Firearms, and Explosives

Permits or licenses from the Bureau of Alcohol, Tobacco, Firearms, and Explosives may be required if bedrock is encountered during placement of transmission line structures or substation footings. In the event that explosives are necessary, the applicant would ensure the contractor has obtained the appropriate permits or licenses for handling or use of explosives.

9.2 Minnesota State Permits and Approvals

Minnesota Department of Natural Resources - License to Cross Public Waters Or Public Lands

The Minnesota Department of Natural Resources (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.

Minnesota Department of Transportation - Utility Permit

A permit from the Minnesota Department of Transportation (DOT) is required for construction, placement, or maintenance of utility lines adjacent to or across the trunk highway right-of-way (ROW).

Minnesota Pollution Control Agency - NPDES Permit

An National Pollutant Discharge Elimination System (NPDES) Permit from the Minnesota Pollution Control Agency (PCA) 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 Stormwater Pollution Prevention Plan (SWPPP), which includes construction measures to minimize discharge of pollutants from the site.

U.S. Army Corps of Engineers - Section 401, Clean Water Act

Section 401 water quality certification is required from the PCA 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 would comply with state water quality standards according to the CWA. More specifically, the PCA 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 the Wetland Conservation Act (WCA); and
- 4. Result in typically large wetland fills or drainage (e.g., linear projects, mining activities, multipurpose 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 would be obtained.

Minnesota Department of Agriculture

The applicant developed an Agriculture Impact Mitigation Plan (AIMP) (see Appendix E). It is anticipated that the final plan would be incorporated into the route permit upon issuance.

Minnesota State Historic Preservation Office

The applicant has conducted a Phase 1 assessment to determine whether features eligible for listing in the National Register of Historic Places (NRHP) are present within the project area. The applicant will continue to coordinate with the Minnesota State Historic Preservation Office (SHPO).

9.3 Minnesota Local Permits and 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.

Local/State/Federal Application For Water/Wetland Projects (Under WCA)

The Minnesota Board of Water and Soil Resources (BWSR) administers the state WCA 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.

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.

Over Width/Loads Permits

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

Driveway/Access Permits

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

9.4 Other Approvals

Approval to Cross Lands with Conservation Easements

There are lands throughout the project area that are part of various conservation programs including Reinvest in Minnesota (RIM), Conservation Reserve Enhancement Program (CREP) and Farmland and Natural Areas Project (FNAP). The applicant would likely 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.