

DEPARTMENT OF NATURAL RESOURCES

Record of Decision

In the Matter of the Determination of the Need for an Environmental Impact Statement for the Scenic 69kV Transmission Line and Substation in the City of Bigfork, Itasca County, Minnesota **FINDINGS OF FACT, CONCLUSIONS, AND ORDER**

FINDINGS OF FACT

1. Great River Energy (GRE) proposes to construct a 69kV transmission line connecting to a new substation built by North Itasca Electric Cooperative, Inc. (NIECI). The substation is located northeast of Brush Shanty Lake and proposes to provide reliable electricity to area residents. The project is designed to be a long-term solution, improving electric delivery and providing capacity for new demand and growth for NIECI members.
2. On November 5, 2018, DNR determined the need for a State Environmental Assessment Worksheet (EAW). The proposed project requires preparation of an EAW due to the proposal resulting in the permanent physical encroachment on lands within a state park, when the encroachment is inconsistent with laws applicable to or the management plan prepared for the recreational unit. *See* Minn. R. 4410.4300, subp. 30.
3. The Minnesota Department of Natural Resources (DNR) is the Responsible Governmental Unit (RGU) in the preparation and review of environmental documents related to the Scenic 69kV Transmission Line and Substation Project (project). *See* Minn. R. 4410.0500, subp. 1.
4. The DNR prepared an EAW for the project. *See* Minn. R. 4410.1400.
5. On February 27, 2019, GRE requested authorization (a special use permit) for soil boring within Scenic State Park for the purposes of this project. On March 5, 2019, DNR informed GRE that soil boring cannot begin prior to completing the environmental review process per Minnesota State Statute 116D.04, Subd. 2b.
6. On March 12, 2019, GRE requested authorization for NIECI to begin work on the distribution system at the substation. On May 1, 2019, DNR informed GRE and NIECI that, according to Minnesota Rules Ch. 4410.0200, Subp 9c., construction of the substation is considered a connected action for the purposes of the GRE EAW. DNR informed GRE and NIECI that Minnesota Rules 4410.4600, Subp. 2, part D states that, if a substantial portion of a project has been completed and an environmental impact statement (EIS) would not influence the remaining construction, the project is exempt from environmental review. It was

determined that NIECI had completed a substantial portion of the distribution project, such that an EIS would not influence the remaining construction. DNR determined the distribution project is exempt from environmental review and the associated prohibition on project construction, noting that the determination did not apply to the GRE transmission project and related Scenic substation construction, which still required an EAW.

7. DNR filed the EAW with the Minnesota Environmental Quality Board (EQB) and a notice of its availability was published in the EQB *Monitor* on June 24, 2019. A copy of the EAW was sent to all persons on the EQB Distribution List, to those persons known by DNR to be interested in the proposed project, and to those persons requesting a copy. A statewide press release announcing the availability of the EAW was sent to newspapers, radio and television stations. Copies of the EAW were also available for public review and inspection at the DNR Northeast Region Office, the DNR Central Office Library, Minneapolis Public Library, Grand Rapids Area Library and Bemidji Public Library. The EAW was also made available to the public via posting on the DNR's website. See Minn. R. 4410.1500.
8. The 30-day EAW public review and comment period began June 24, 2019 and ended July 24, 2019. Written comments on the EAW could be submitted to the DNR by U.S. mail, facsimile, or via email. See Minn. R. 4410.1600.
9. During the 30-day EAW public review and comment period, the DNR received written comments on the EAW from the individuals and agencies listed below. Comment letters are included in Attachment A of this Record of Decision.
 - A. Hegge, Loren (June 27, 2019)
 - B. Hoffbuaer, Doug (June 27, 2019)
 - C. Uecker, Carol (June 27, 2019)
 - D. Minnesota Office of State Archaeologist – Tworzyanski, Jennifer (July 11, 2019)
 - E. Minnesota Pollution Control Agency - Kromar, Karen (July 23, 2019)
10. Comment letters are summarized below with DNR's response following. Copies of these comments will be provided to the project proposer and to permitting and/or approval entities and/or authorities for their consideration as part of the permitting, approval, and/or implementation processes.
11. **Commenter A:** Loren Hegge, Area Resident
Comment A1: Commenter not in favor of overhead power line.
Response A1: Comment noted. DNR will provide this comment to the Proposer.

Comment A2: Commenter expressed concern about precedent.
Response A2: Comment noted. Regulatory controls are addressed under EAW Item 8 and EAW Item 9 discusses land use park management plans.

Comment A3: Commenter refers to park and forest service recommendations for buried lines.
Response A3: Comment noted. EAW Item 9 addresses park management plan and land use.

12. **Commenter B:** Doug Hoffbauer

Comment B1: Commenter questions variance to “policy” of burying line and staying along roadway.

Response B1: Comment noted. EAW Item 9 addresses park management plan and land use.

Comment B2: Commenter not in favor of “ugly power lines” in park.

Response B2: Comment noted. Visual impacts are discussed in EAW Items 9 and 15.

Comment B3: Commenter suggests that costs to utilities are not a state park issue.

Response B3: Comment noted. DNR will provide this comment to the Proposer.

13. **Commenter C:** Carol Uecker, Duluth Minnesota

Comment C1: Commenter states objection to running further power lines through natural areas.

Response C1: Comment noted. DNR will provide this comment to the Proposer.

Comment C2: Commenter suggests the Proposer follow the alternative route.

Response C2: Comment noted. EAW Items 6 and 9 discuss the alternative route considered. Comments regarding project design are provided to the Proposer.

Comment C3: Commenter states wooden poles are not a replacement for trees in scenic areas.

Response C3: Comment noted. Visual impacts are discussed in EAW Items 9 and 15.

Comment C4: Commenter suggests that a shorter route is not a valid argument for destruction of natural area.

Response C4: Comment noted. DNR will provide this comment to the Proposer.

14. **Commenter D:** Minnesota Office of the State Archaeologist (MOSA), Jennifer Tworzyanski

Comment D1: MOSA identified that portions of the project area are situated within a landscape that exhibits moderate to high potential for previously unrecorded archaeological sites. MOSA concluded that, based on negative finding from the Phase 1 archaeological survey conducted in 2018, the agency recommends no additional survey. If project plans change, additional survey work may be recommended.

Response D1: State Archaeologist’s comments on historic properties have been provided to the Proposer. EAW Item 14 addresses historic properties.

Comment D2: Commenter states that during construction, should anyone encounter archaeological materials, features or burials, construction activities should cease and the Office of the State Archeologist notified.

Response D2: State Archaeologist’s instructions on encountering archaeological materials have been provided to the Proposer. EAW Item 14 addresses historic properties.

15. **Commenter E:** Minnesota Pollution Control Agency (MPCA), Kromar, Karen

Comment E1: The commenter notes that the Wetlands and Wetlands-Forested category acres listed in the table on page 7 (EAW Item 7, Land Cover) do not match the acres of permanent loss described under part iv., Surface Waters on page 18.”

Response E1: The corrected information is included below in the following table

	Before	After		Before	After
Wetlands	10.19	29.98	Cropland	1.92	1.92
Wetlands – Forested	19.80	0.58	Lawn/Landscaping	0.32	0.32
Open water/Streams	0.20	0.20	*Impervious Surface ** .29 acres accounts for substation	14.92	15.21
Upland Wooded/forest	48.29	0.00	Stormwater Pond	0.00	0.00
Brush/Grassland	75.12	122.85	Other (describe) 193 Utility Structures	0.00	0.28
			TOTAL	171.34	171.34

*Impervious acres for the transmission right of way (ROW) increased in the before ROW due to adjustments of the transmission ROW crossing the road at structure 27, ROW hugging closer to the road in some areas, and including gravel driveways of private property.

Comment E2: The Agency commented on wetland conversion, noting that conversion of forested wetlands to another wetland type does not offset any loss of another wetland type.

Response E2: Comment noted. The MPCA’s notice regarding wetland conversion has been provided to the Proposer.

Comment E3: MPCA notes that if the proposed project is constructed as proposed, it will require the Proposer to submit a Stormwater Pollution Prevention Plan (SWPPP) prior to obtaining National Pollutant Discharge Elimination System/State Disposal System General Construction Stormwater permit (CSW Permit). In addition, commenter added that the SWPPP must specify that disturbed soils require stabilization within seven days of temporarily ceasing activity on any portion of the project site.

Response E3: Comment noted. EAW Items 10 and 11 address a SWPPP. The MPCA’s guidance regarding requirement of a SWPPP and CSW Permit have been provided to the Proposer.

Comment E4: MPCA commented that construction of the substation, along with concrete pier foundations, is considered “new impervious surfaces” and therefore need to be included in the total new impervious area along with any permanent access roads.

Response E4: Comment noted. The Proposer has provided corrected information as noted in the table under response for comment E1 above.

- On August 13, 2019, DNR requested a 15-day extension for making a decision on the need for an EIS for the proposed project. On August 13, 2019, DNR was granted the extension by EQB. See Minn. R. 4410.1700, subp. 2b.

17. On August 22, 2019, DNR informed EQB that a 30-day postponement (per Minn. R. 4410.1700, subp. 2a.B.) of the decision on the need for and EIS was necessary due to insufficient information. DNR also notified the Proposer and all persons of interest.
18. On October 10, DRN and GRE entered into an agreement to postpone the decision on the need for an EIS for 90 days. The postponement was agreed upon in order for DNR to consider additional legal and programmatic repercussions and the potential for further development of information regarding suitability of mitigations in order to make a reasoned decision about the potential for significant environmental effects.
19. During the postponement period, GRE submitted additional mitigation measures that GRE and NIECI were offering to DNR:
 1. Replace existing NIECI in the Park overhead lines with underground distribution lines.
 2. Supply renewable electricity to Scenic State Park at a reduced rate for ten years.
 3. Install an electric vehicle charging station in the Park.

DRN considered these additional mitigations measures within the scope of contribution to environmental effects for the purpose of developing the decision on the need for an EIS.

20. Based upon the information contained in the EAW and received as public comments, the DNR has identified the following potential environmental effects associated with the project:
 - a. Project Construction and Design
 - b. Cover Type Conversion
 - c. Land Use
 - d. Soils and Topography
 - e. Water Resources
 - f. Contamination and Hazardous Materials
 - g. Wildlife Resources and Habitat
 - h. Visual
 - i. Air/Dust
 - j. Noise
 - k. Cumulative Potential Effects

Each of these environmental effects is discussed in more detail below.

a. Project Construction and Design

This topic was addressed in EAW Items 6, 10, 11, 12, 13, 16, and 17 and response to Commenter E. The proposed project consists of a 14-mile, 69kV electric transmission line on approximately 169 acres of state, federal, and private lands located in Itasca County, including lands located within Scenic State Park, George Washington State Forest and Chippewa National Forest.

Construction would be necessary to install the transmission line, which would begin at the existing Bigfork substation and connect to the new NIECI substation site. Construction-related activities include clearing of trees and vegetation, excavation, and grading and disruption of wetlands for placement of wood, laminate wood and steel poles. Construction of the transmission line would take

place in various stages including clearing of the ROW, pole installation, conductor stringing, testing and energizing, and substation construction.

The following is a summary of how certain construction activities are generally anticipated to take place:

- Construction of proposed project is anticipated to begin in fall of 2019.
- Installation of perimeter and erosion control measures would take place prior to land alteration and construction activities and continue throughout the project.
- Tree removal would take place during winter with frozen ground conditions to minimize soil disruption.
- Once poles are in place, conductor stringing would take place, followed by testing.
- Energization is anticipated for spring of 2020, or approximately 8 months following start of construction.
- Project restoration would occur during construction to approximately three months post construction.
- Substation construction that has not already been completed is anticipated to begin within a three to four month timeline after transmission construction begins.

b. Cover Type Conversion

This topic was addressed in EAW Items 7 and 11, and response to Commenter E.

Land cover reflects vegetation and land uses within the 169-acre project area, of which 8.3 acres are located within Scenic State Park boundaries. Cover type includes 10.19 acres of non-forested wetlands, 19.80 acres of forested wetlands, 0.20 acres of open water, 46.53 acres of upland forest, 75.12 acres of brush/grassland, 1.92 acres of cropland, 0.32 acres of lawn, and 15.21 acres of impervious surface.

Development of the substation and transmission line would include an increase of approximately 13 acres of impervious surface in the project area. This cover type conversion to impervious surface area would be permanent. Maintaining a grade similar to pre-construction, erosion and sediment control measures, and Best Management Practices (BMPs) as outlined in EAW Items 6, 10, 11, and 13 are the means to minimize project-related cover type conversion effects.

Focus on prevention of invasive species, planting of native species and stormwater management are the principal means to minimize project-related cover type conversion effects.

c. Land Use

This topic was addressed in EAW Items 9 and 11, and response to Commenters A-C and E.

The majority of the project area is forested with wetlands and water. Agriculture and homesteads also exist. The project is proposed to cross Scenic State Park, George Washington State Forest, Chippewa National Forest, State and County Tax-forfeited lands and private property. The Itasca County Little Moose Trail for All-Terrain Vehicle and Off-Highway Motorcycle (ATV/OHM) use would be crossed twice. The project would cross snowmobile grant-in-aid trails, Herb Brandstrom Trail on the Scenic State Park and Marcell Trail; however, the transmission line would span the crossings; keeping guy wires off trails parallel the route.

The project is within the Big Fork River State Water Trail area however, the Big Fork River is over 0.90 mile westerly of the project.

The proposed project is subject to a number of plans, ordinances, and/or standards from the following entities: DNR, Itasca County, and USDA Forest Service. The proposed project is inconsistent with the Scenic State Park and Chippewa National Forest management plans applicable to the defined project area as described in EAW Item 9.

According to the Management Plan for Scenic State Park, the proposed project is incompatible as follows: *“Proposed Action: Replace All overhead lines within the park boundary with underground lines. Rationale: Overhead lines are unsightly.”* The Chippewa Forest Plan states that *“Utility lines should be buried.”* and the guidelines under the special use section state, *“Whenever, feasible, utility lines should be buried within existing road rights-of-way.”* Itasca County aims to *“Minimize fragmentation of large contiguous tracts of natural resource lands.”* The State Forest identifies fragmentation and loss of connectivity between habitats as an issue. Additionally, loss of vegetation could affect the rate of hydrologic change, affecting aquatic resources on a watershed/sub watershed scale.

In order to mitigate these inconsistencies, the Proposer could bury the transmission line. The Proposer has considered, but not fully analyzed the alternative of an underground line and identified the following environmental effects in reference to burying the transmission line:

- A completely cleared ROW for the construction, operation, and maintenance of underground transmission lines
- Installation of a permanent access road capable of supporting the heavy construction equipment required for trenching activities, cable installation, maintenance and repair.
- Reduced soil moisture due to conductor cooling

On Monday, July 22, the Proposer and DNR Division of Parks and Trails (PAT) conferenced for further discussion regarding potential mitigations in reference to the inconsistency as noted above. Mitigations discussed during the meeting are as follows:

1. Limit clearing to 70 foot ROW
2. Locate line to avoid designated old growth stand
3. Native vegetation restoration of all disturbed and maintained areas
4. Weathering steel poles without guy wires
5. Accommodate snowmobile trail route by moving transmission line outside of trail proximity.
6. Payment for the 5.6 acres LAWCON taking.

d. Soils and Topography

This topic was addressed in EAW Item 10.

EAW Item 10 identified the soils within the project area as well as soil limitations related to installation of transmission line poles. Soil types were identified as generally consisting of poorly-drained and well to excessively-drained soils. As addressed in EAW Item 6, some poles may require the use of a corrugated metal pipe in areas where soft and loose soil conditions exist to ensure the excavated hole remains open during installation of the pole.

There are no identified sinkholes, shallow limestone, shallow aquifers, or karst features identified within the project area. There are no known mines in the project area.

e. Water Resources

This topic was addressed in EAW Items 10 and 11.

Stormwater

The project has the potential for increased stormwater runoff, erosion, and sedimentation during and after construction.

Construction of the proposed transmission line would include an increase of approximately 13 acres of impervious surface in the project area. Because the grade of the impervious surfaces would be similar after construction of the project, water flow direction is not expected to change. The substation location property is graded to gradually move the water to reach a ditch culvert on the neighboring road ROW.

With the conversion of approximately 93 acres of transmission ROW forested acres to herbaceous or shrub vegetation, it is anticipated that future stormwater on the transmission ROW would infiltrate through a lower growing vegetation. Per the Board of Water and Soil Resources (BWSR), low growing native vegetation would have multiple stems and deep root channels to aid in water infiltration, groundwater recharge, slope stabilization and flood attenuation, minimizing the overall effect.

The Proposer would plan to minimize stormwater runoff by using wildlife-friendly erosion control and sediment control BMPs as necessary to minimize erosion from disturbed surfaces meeting MPCA's NPDES/SDS General CSW Permit requirements. Such measures include, but are not limited to the following BMPs:

- Avoid soil disturbance until necessary for construction
- Maintain shortest feasible timeframe for construction
- Using wildlife-friendly fencing for staging areas
- Install and maintain down and sideslope perimeter control
- Using rock, mulch or other approved material on access roads
- Schedule construction in frozen or dry conditions
- Control dust during the project by limiting construction traffic
- Dampening exposed soil
- Preserve vegetation as possible
- Cover and stabilize disturbed areas as soon as possible

Wetlands

The proposed project would result in both temporary and permanent effects to wetlands in the project area. Temporary impacts would include disturbance of vegetation and placement of mats to access structure locations and string conductor. Permanent impacts would be the conversion of woody wetland types to herbaceous types and the placement of 34 structures in wetlands. Wetland conversion would be 9.41 acres of Palustrine Scrub Shrub (PSS) and 10.39 acres of Palustrine Forested (PFO) types to an herbaceous Palustrine Emergent (PEM) type. In addition, 0.005 acres of forested wetland (207 square feet) and 0.002 acres (99 square feet) of non-forested wetland would be lost for pole placement.

Wetland Avoidance, Minimization, and Mitigation

To minimize discharge of sediments and other pollutants into wetlands, the proposer would avoid wetlands by rerouting access. If necessary to access wetlands, construction would take place on frozen

ground. Where wetland access is required during non-frozen ground conditions, construction mats and/or low-pressure equipment would be used.

No draining, filling, permanent inundation and dredging would be a part of the proposed project. Fill would involve class 5 rock at the pole locations, used as stabilization. Direct impacts would result from tree removal and access to set poles and stringing of the conductor. Indirect impacts would be increased light and temperature to the transmission right-of-way. A US Army Corps of Engineers (USACE) general permit and local WCA approval would need to be acquired prior to construction.

Compensatory wetland mitigation would be needed for the permanent fill and wetland conversion. On-site mitigation is not planned. Wetland credits are planned to be purchased from a wetland bank approved by the BWSR and USACE.

Surface Waters

The project would cross some water bodies listed under public waters inventories; however, would not involve any physical modifications to surface waters. Vegetation buffers would be protected around these waterbodies and BMPs would be used prior to and during construction on adjacent upland areas to protect surface waters.

f. Contamination and Hazardous Materials

This topic was addressed in EAW Item 12.

The Proposer estimates that 10 cubic yards of solid waste (e.g., concrete, packing materials, etc.) would be generated each week during construction. The solid waste would be recycled, reused or disposed of at a licensed landfill. Operation of the project would not generate solid waste.

The construction, monitoring, and maintenance of the proposed project have limited potential for releases of toxic or hazardous substances. Materials used with construction equipment on the site would be kept inside mobile construction trailers and vehicles on site. Equipment would be regularly inspected by the contractor and repaired to prevent inadvertent loss of fuels, oils, or other hazardous fluids. Spills would be promptly reported to MPCA.

The substation would have a large quantity of mineral oil in the transformer. An EPA required Spill Prevention Control and Countermeasures (SPCC) Plan will be developed and in place prior to the transformer being placed on the property. The plan covers the prevention, preparedness for, and response to oil discharges at the substation.

g. Wildlife Resources and Habitat

This topic was addressed in EAW Item 13.

Wildlife species typical to the project area include white-tailed deer, raccoon, skunk, beaver, coyote, red fox, weasels, snowshoe hare, black bear, bobcat, porcupine, and smaller mammals like bats and squirrels. Bird species include great gray owls, spruce grouse, warblers, chickadees, and a variety of waterfowl. Other species include osprey, bald eagle, common loon, northern goshawk and various amphibians such as frogs and turtles.

Native plant communities along the proposed transmission line ROW are mostly pioneer hardwoods with spruce and fir inclusions. In addition, there is a small cluster of northern hardwood forest and a

small pine grove with bottomland hardwood near the west boundary of the park. Impact to these communities would be the removal of trees (8.324 acres) for the installation and operation of the transmission line.

Wildlife and associated habitat would be affected by project-related construction. Potential environmental effects include: changes in ground habitat due to removal of trees and understory vegetation; accidental introduction of invasive species; and human-related disturbance during construction and maintenance of the trail. Construction-related effects would be temporary, while the transmission line effects would be permanent.

Sites of Biodiversity Significance

The Minnesota Natural Heritage Information System (NHIS) database was queried by Natural Heritage Review staff in 2018 and 2019 to identify rare species or other significant natural features known to occur within or near the project area. This query identified multiple features near the project area as listed below. Because information in the NHIS database is continuously updated, the NHIS database would be queried again prior to construction.

The project area crosses a site of Outstanding Biodiversity Significance and a site of Moderate Biodiversity Significance in the project area. Sites ranked as Outstanding contain the best occurrences of the rarest species, the most outstanding examples of the rarest native plant communities and/or the largest, intact functional landscapes present in the state. Sites ranked as Moderate contain occurrences of rare species and/or moderately disturbed native plant communities, and/or landscapes have a strong potential for recovery.

Native Plant Communities

Native plant communities identified include 100-year-old White Pine Forest in the Chippewa National Forest, located 150 feet from the transmission line. Located approximately 0.35 mile from the proposed transmission line in Scenic State Park is a mature stand of White Pine, over 200 years old. Approximately 0.75 mile from the transmission line Three-Stamened Waterwort has been located. Due to agriculture activities and rocky quarrying, this particular species has been in a significant decline. This type of Waterwort is designated as a Species of Special Concern. Spiny Hornwort occurs in soft-water (low alkalinity) lakes of northern Minnesota. The line would avoid the population.

State Listed Mussel and Fish Species

State-listed mussel and fish species documented in the Rice River include Creek Heelsplitter (State Special Concern), Fluted-shell (State Threatened), Black Sandshell (State Special Concern) and Northern Brook Lamprey (State Special Concern). The project is not expected to adversely affect aquatic life, as the overhead transmission line would span the waters. The Proposer commits to effective erosion and sediment control practices near all waters would be implemented and maintained prior to, during, after and through stabilization of the project.

State Listed Birds of Special Concern

State-listed birds of Special Concern that may nest in the area include Bald Eagles and Northern Goshawk. Both species are federally protected under the Migratory Bird Treaty Act and Bald Eagles under the Bald and Golden Eagle Protection Act. Both acts prohibit killing, selling, or otherwise harming these birds, their nests or eggs. Northern Goshawks are found year-round in the region. The

birds prefer contiguous areas of mature and older forest for nesting and foraging and large home ranges per mated pair.

Raptors, waterfowl, and other bird species may be affected by the construction and placement of the transmission line. Avian collisions are a possibility after the completion of the transmission line. An appropriate line-marking plan near these feeding and resting areas can reduce collision risk. Electrocutation of large birds, such as raptors, is a concern, but generally related to distribution lines. The transmission line design standards provide adequate spacing to eliminate the risk of raptor electrocution. Design standards for transmission line includes alternating the top static wire and conductors so they are not directly across from each other horizontally. This configuration prevents the raptor from touching more than one wire at a time, eliminating the risk of raptor electrocution. The Northern Goshawk and Bald Eagles may nest in the area. Any tree removal associated with the proposed project, would be inspected for nests prior to being cut down. In the case where nests are found, USFWS conservation measures, management guidelines, and permitting would be required.

The US Fish and Wildlife Service (USFWS) identifies the Canada lynx, Gray wolf and the Northern Long-Eared Bat as federally listed, threatened and endangered species located in the project area. The Proposer contacted USFWS regarding the proposed transmission line route and any concerns regarding the listed species. USFWS indicated they do not have any concerns with the project route.

Invasive Species

Project-related construction and maintenance could provide opportunities for the introduction and/or spread of invasive plant species. Invasive plant species can adversely affect wildlife habitat and lessen site-level biodiversity, the latter due to invasive species outcompeting native plants.

During the construction phase, the risk is primarily introduction of these plants due to equipment brought to the project area, fill materials used, movement of seeds and plant fragments within the site and disturbance of soil that can provide an opportunity for invasive plant establishment.

The risk of introduction and spread of invasive species during the operations and maintenance phase is primarily tied to use of mechanical equipment on the site during maintenance, which can serve as a transport of invasive plant seeds and infested plant material to the site.

DNR Operational Order No. 113 provides guidance and directives applicable to agency staff and contractors for implementing site-level management to prevent or limit the introduction, establishment, and spread of invasive species. The guidance provides procedures applicable to the proposed project that would be implemented.

To reduce potential invasive species spread during each construction phase, contract language requires oversight to ensure that all equipment is cleaned prior to arriving at the project area. Soil disturbance would be minimized and disturbed areas would be revegetated as quickly as possible to avoid the establishment of invasive species. Other construction BMPs available to limit the introduction of invasive plant species include locating and using staging areas that are free of invasive plant species, and monitoring revegetation once construction is complete. After construction, the transmission ROW would be monitored for invasive species.

h. Visual

This topic was addressed in EAW Item 15.

The transmission line would be visible along the roads it follows and crosses. Buildings within 500 feet of the line may have their viewshed affected by the construction of the transmission line. The closest building to the proposed transmission line is a residential garage measuring 85 feet from the transmission centerline. The transmission line would be built on the county road's south side and the garage is on the north. All other buildings are greater than 100 feet from the proposed transmission centerline.

The proposed transmission line structures would have a narrow profile designed to be less intrusive than other types of transmission structures. The Proposer commits to working with DNR PAT Management, US Forest Service, and private landowners, regarding placement of structures, ROW and other disturbed areas. The transmission line would run parallel to existing transmission and distribution lines and other rights-of-way (ROW), to the extent possible. Structures would be placed the maximum feasible distance from highway, trail and water crossings, within limits of structure design. The appearance of the existing Hwy 7 ROW would be expanded by 50 feet and include the transmission poles placed 3 to 5 feet off the existing highway ROW edge. All existing trees in the new ROW would be removed, and no new tree growth permitted. Disturbed areas would be seeded with native species to assist reestablishment and minimize erosion concerns.

A minimum of a 50-foot width of the existing vegetation would remain on the Sandwick lakeshore. No vegetation would be removed on Lake of the Isles shore. One wood pole would be noticeable from the shores of both Sandwick and Lake of the Isles; however, the vegetation between the power line and the lakeshores would screen the rest of the poles. The conductors would be seen from Isaac Lake and the associated group campground on the south side of Hwy 7; however, vegetation would screen the poles from the lakeshore and campsites.

In order to reduce visual impacts the use of 60-65 foot poles is proposed. Using taller poles reduces the number of poles used. It is expected these poles would allow a visual blend with similar height trees outside of the cleared ROW thereby reducing their visual effect.

Some commenters expressed concern about the visual impact the transmission line would have on recreation at the Park as well as precedent being set should the Project be allowed. Following the public comment period, GRE provided additional proposed mitigation measures to offset or mitigate these visual and recreational impacts. Per paragraph 19, these additional proposed actions were reviewed in comparison to the potential visual and recreational impacts from the proposed project.

Outdoor Recreation Act

With regard to visual impacts to state parks, the Outdoor Recreation Act (MS86A.05, subd 2C) states the following:

“State Parks shall be administered by the commissioner of natural resources in a manner which is consistent... to preserve, perpetuate, and interpret natural features that existed in the area of the park prior to settlement and other significant natural, scenic, scientific, or historic features that are present.” In addition, “Physical development shall be limited to those facilities necessary to complement the natural features and values being preserved.”

If the proposed project is able to show that it meets this statute, an amendment to the Park master plan would also be needed prior to permitting (MS86A.09). The Park Master Plan acts as the regulatory authority implementing the Outdoor Recreation Act.

i. Air

This topic was addressed in EAW Item 16.

Under certain conditions, localized electric fields near an energized transmission line conductor can produce small electric discharges, ionizing nearby air. This is commonly referred to as the corona effect. Most often, corona formation is related to some sort of irregularities on the conductor, such as scratches or nicks, dust buildup, or water droplets.

The only potential air emissions from a transmission line result from corona, which may produce ozone and oxides of nitrogen. This can occur when the electric field intensity exceeds the breakdown strength of the air. For a 69 kV transmission line, the conductor surface gradient is typically below the air breakdown level. It is unlikely any measurable emissions would occur from the conductor surface.

Construction activities may create temporary dust and odors during daytime operations depending on site conditions. Effects associated with fugitive dust and any potential offensive odors are expected to be limited to the construction site. Construction is expected to occur during winter months, thereby minimizing dust; however, if fugitive dust impacts would occur, it is expected to be temporary and localized to the area where the construction work is occurring. Additionally, the selected contractor will be required to implement dust control measures and other appropriate BMPs to minimize fugitive dust.

j. Noise

Noise related to the project would be associated with both the construction and operation of the energy transmission system. Construction noise would occur during daytime hours as the result of heavy equipment operation and increased vehicle traffic associated with the transport of construction personnel and materials to and from the work area. Noise associated with transportation and equipment operation would be temporary in nature. To mitigate noise impacts associated with construction activities, work would be limited to daytime hours between 7 a.m. and 10 p.m. weekdays.

Operational noise levels produced by a transmission line are generally less than outdoor background levels and are therefore not usually perceivable. Proper design and construction of the transmission line in accordance with industry standards would help to ensure noise impacts are not problematic. Operational noise levels are expected to be well below the state noise limits.

k. Cumulative Potential Effects

This topic was addressed in EAW Item 19.

Cumulative potential environmental effects are the combined effects of the proposed project and past, present, and reasonably foreseeable future projects. See Minn R. 4410.0200, subp. 11a. There are no reasonably foreseeable projects identified within the environmentally relevant area of the project; therefore any cumulative potential effects are limited to those created by this project.

Potential environmental effects associated with the proposed project that could combine to result in cumulative environmental effects have been identified as temporary disturbance or displacement of wildlife and habitats and disruption of plant communities due to tree and vegetation removal. Air quality impacts from use of construction vehicles including noise and dust would occur during construction.

Potential environmental effects resulting from the proposed project that would be permanent in nature are the visual impacts from overhead transmission lines, loss of trees and vegetation, and conversion of wetland as described in paragraphs 16e and h.

16. The following permits and approvals are, or may be needed, for the project:

Unit of Government	Type of Application	Status
DNR	Water Crossing License	To be submitted for transmission line
DNR	Land Crossing License	To be submitted for transmission line
Federal Aviation Administration (FAA)	Determination of No Hazard	To be submitted for transmission line
Itasca County	Utility Road Permits	To be submitted for transmission line
Itasca County	WCA Permit	To be submitted for transmission line
MN Board of Water and Soil Resources (BWSR)	Wetland Conservation Act (WCA) Approval	To be submitted for transmission line
Minnesota Pollution Control Agency (MPCA)	National Pollutant Discharge Elimination System (NPDES)/ Construction Stormwater (CSW) General Permit	To be submitted for transmission line
MPCA	401 Certification	To be submitted for transmission line
National Park Service	LAWCON Approval	Submitted for transmission line
Rural Utilities Service	Approval for Substation	Completed

Unit of Government	Type of Application	Status
U.S. Fish and Wildlife Service (USFWS)	Project concurrence (Lynx, Wolf, Bat)	Completed for transmission line and substation
US Forest Service	Land Crossing Permit	Submitted for transmission line
US Army Corps of Engineers (USACE)	General Permit	To be submitted for transmission line

CONCLUSIONS

1. The Minnesota Environmental Review Program Rules, *Minnesota Rules* part 4410.1700, subparts 6 and 7, set forth the following standards and criteria to compare the impacts that may be reasonably expected to occur from the project in order to determine whether it has the potential for significant environmental effects.

In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

- A. *type, extent, and reversibility of environmental effects;*
- B. *cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the Proposer to minimize the contributions from the project;*
- C. *the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and*
- D. *the extent to which environmental effects can be anticipated and controlled as result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.*

2. *Type, extent, and reversibility of environmental effects.*

Based on Findings of Fact paragraphs 10 to 19, the DNR concludes that the following types of potential environmental effects, as described in the Findings of Fact, will be limited in extent, temporary, or reversible:

- Soils and Topography
- Contamination and Hazardous Materials
- Air/Dust
- Noise

3. *Cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the Proposer to minimize the contributions from the project.*

Based on the Findings of Fact above, the DNR concludes that the cumulative potential environmental effects associated with the proposed project consist of a disturbance or displacement of wildlife and habitats; a disruption of plant communities; visual impacts due to the loss of vegetation, and air quality impacts of noise and dust. Overall, most potential environmental effects would be expected to be minimal and temporary. The visual impact is expected to be permanent; however through permitting and a necessary amendment to the park management plan, the full extent of visual impacts would be qualified and potential mitigations as discussed in paragraphs 15 and 19 could be determined to offset the expected visual impacts.

DNR concludes that the cumulative potential environmental effects, as described above, are not significant because there are no known future projects identified within the geographic scale and timeframe of the proposed project and associated environmental effects that would contribute to the cumulative potential effect.

4. *Extent to which environmental effects are subject to mitigation by ongoing public regulatory authority.*

Based on the Findings of Fact set forth in paragraphs 10 - 19 above and the information contained in the EAW, DNR concludes that there is sufficient ongoing public regulatory authority and specific measures identified that can be expected to effectively address the following environmental impacts:

- Project Construction and Design
- Cover Type Conversion
- Land Use
- Water Resources
- Contamination and Hazardous Materials
- Wildlife Resources and Habitat
- Visual
- Noise

Permits and Approvals: Prior to initiation of this project, the permits and approvals identified in Finding 19 would be required. When applying the standards and criteria used in the determination of the need

for an environmental impact statement, DNR finds that the project is subject to these regulatory authorities to an extent sufficient to mitigate potential environmental effects through measures identified in the EAW and Record of Decision.

Project construction: Multiple permits will control environmental effects associated with project construction, including DNR Land and Water Crossing Licenses; US Forest Service Land Crossing Permit, USACE General Permit, Federal Aviation Administration Determination of No Hazard; Itasca County Road Permits, Itasca County Wetland Conservation Act Approval; MPCA NPDES/SDS Construction Stormwater General Permit; and 401 Certification. Construction activities would also be subject to LAWCON Approval.

Cover Types: DNR Land and Water Crossing License; US Forest Service Land Crossing Permit, USACE General Permit, Itasca County and BWSR WCA Approval, MPCA NPDES/SDS CSW, and LAWCON Approval. Proposer has designed the proposed project to maintain a grade similar to pre-construction, span wetlands, and to follow erosion and sediment control measures and BMPs to reduce cover type conversion effects.

Land Use: Environmental effects from land use changes are subject to mitigation by ongoing regulatory authority from DNR Land and Water Utility Crossing Licenses; US Forest Service Land Crossing, USACE, Itasca County; MPCA NPDES/SDS Construction Stormwater General Permit. PAT would require compensation for lands purchased with LAWCON funding for lands whose use has been changed.

Water Resources: Environmental effects related to stormwater runoff are subject to permitting under MPCA NPDES/SDS Construction Stormwater Permit. The Proposer would minimize stormwater runoff by using wildlife-friendly erosion control and sediment control BMPs as necessary to minimize erosion from disturbed surfaces. Environmental effects related to wetlands are subject to permitting under WCA and mitigation would be conducted pursuant to any permit conditions.

Contamination and Hazardous Materials: Environmental effects from spills or releases of hazardous materials are subject to ongoing public regulatory authority under the MPCA Hazardous Waste Rules. *See* Minn. R. 7045. For spills that may cause pollution of waters of the state, these are subject to the reporting requirements of Minn. Statutes §115.061. The Proposer would provide spill kits for use in emergency situations.

Wildlife Resources and Habitat: Environmental effects related to wildlife resources and habitat are subject to mitigation by ongoing public regulatory authority from the DNR Land Crossing License. The Proposer commits to limit tree removal during certain periods to avoid impacts to wildlife. Avoidance Plans for state-listed species and means to control invasive species colonization of existing habitat, will also provide mitigation for impacts.

Visual: Environmental effects related to scenic views are subject to ongoing public regulatory authority from DNR PAT access lease and DNR Utility Crossing Licenses as is consistent with the Park Management Plan.

Air/Dust and Noise: Environmental effects due to construction, operation and maintenance-related air/dust and noise are subject to mitigation by ongoing public regulatory authority under the MPCA-administered State Noise Standards. See Minn. R. 7030.

5. *Extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or other EISs.*

Environmental Studies undertaken by the proposer include the Phase I Cultural Resources Survey for the proposed project, September 2018. Prepared by Wenck.

6. As set forth in paragraphs 1 – 19, DNR has fulfilled all the procedural requirements of law and rule applicable to determining the need for an EIS on the proposed Scenic 69kv Transmission Line and Substation Project in the city of Big Fork, Itasca County, Minnesota.
7. Based on consideration of the criteria and factors specified in the Minnesota Environmental Review Program Rules (*Minnesota Rules* part 4410.1700, subparts 6 and 7) to determine whether a project has the potential for significant environmental effects, and on the Findings and Record in this matter, the DNR determines the proposed Scenic 69kV Transmission Line and Substation Project does/does not have the potential for significant environmental effects.

ORDER

Based on the above Findings of Fact and Conclusions:

The Minnesota Department of Natural Resources determines that an Environmental Impact Statement is not required for the Scenic 69kV Transmission Line and Substation Project in the City of Big Fork, Itasca County, Minnesota.

Any Findings that might be properly termed Conclusions and any Conclusions that might be properly be termed Findings are hereby adopted as such.

Dated this 6th day of January, 2020

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES



Jess Richards
Assistant Commissioner