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October 14, 2012

Filed by Electronic Mail
David Birkholz, State Permit Manager (david.birkholz@state.mn.us)
Minnesota Office of Energy Security
85 – 7th Place East, Suite 500
St. Paul, Minnesota 55101-2198

RE: Response to Permit Amendment Request
In the Matter of the Xcel Energy and Great River Energy Application for a HVTL Route Permit for the Fargo to St. Cloud 345 kV Transmission Project,
PUC Docket: E002, ET2/TL-09-1056

Dear Mr. Birkholz:

The following comment is submitted on behalf of Virgil Fuchs whose farm is located at 40949 – 275th Street in Belgrade, MN 56312. Mr. Fuchs opposes Adjustment 13 in the proposed Permit Amendment Request as inconsistent with Minnesota law, inconsistent with a specific written representation made to him by Xcel Energy on behalf of the CapX2020 utilities and due to the potential medical risks proximity to a high voltage power line may present in his individual situation.

The proposed change to run the 345 kV high voltage transmission line on the west side of Highway 71 and parallel to the northern property line of the Fuchs farm, rather than on the east side of Highway 71 contradicts a specific written representation by Xcel Energy with respect to the alignment of the CapX2020 high voltage power line.

Mr. Virgil Fuchs and his son, Stephen Fuchs, had a number of conversations in 2009 about the CapX2020 route and its potential impacts on the Fuchs farm. Mr. Virgil Fuchs' history of activism with respect to power lines and his efficacy in that activism are a matter of public record. Paul Wellstone's book, Powerline, subtitled *The First Battle of America's Energy War,* describes the "turning point" in the 1970s power line struggle as the time when Virgil Fuchs performed an act of civil disobedience that inspired other farmers and unified the protesters (pp. 136-137). Mr. Wellstone's book quotes a neighbor as saying, "Virgil is quite a hero around here. Almost everything started with Virgil's running over the equipment. From then, people's involvement in our area became more intense." (p. 137)

After a number of conversations with Mr. Virgil Fuchs and his son, Mr. Stephen Fuchs in 2009, Xcel Energy represented in an unequivocal written statement that the proposed CapX2020 route would be located across Highway 71 from the Fuchs farm. As stated in an email from Darrin Lahr to Mr. Stephen Fuchs on July 9, 2009, a copy of which Mr. Fuchs has retained,

> The route we are proposing would not directly impact your fathers farm and no easement would be required from him. The alignment, if selected would put the line across the street and running generally north – see attached map, the purple line represents the alignment and side of the road we would propose.

Xcel Energy's map with the purple line, which is attached with this letter as Exhibit A, clearly shows an alignment on the east side of Highway 71, so that the nearest point between the Fuchs farm and the high voltage transmission line would be at a diagonal across the highway and right-of-way. The Fuchs farm shares no frontage with this proposed route alignment. Mr. Stephen Fuchs and Mr. Virgil Fuchs reasonably relied on Xcel Energy's communication and proposed route alignment in determining how to proceed in this routing matter.

On June 28, 2011, the Public Utilities Commission provided Notice that a final Order had been issued designating a route and issuing a construction permit for final proposed route segment for the Minnesota portion of the 345 kV Transmission Line from Fargo, North Dakota to St. Cloud, Minnesota Project. The route for the Project had been approved by the Commission on June 24, 2011. That approved route is consistent with the representations made by Xcel Energy and the map provided by Xcel Energy to Mr. Stephen Fuchs and Mr. Virgil Fuchs in July of 2009.

On September 21, 2011, Xcel Energy, along with the other CapX2020 utilities, proposed a Permit Amendment Request. Adjustment 13 in that Permit Amendment Request is inconsistent with the written communication and map provided by Xcel Energy to the Fuchs father and son in July 2009. Adjustment 13 would be located on the west, rather than the east side of Highway 71, and would route the CapX2020 power line along approximately 500 feet of the northern property line of the Fuchs farm. (Exhibit B, Adjustment 13).

Xcel Energy and the other CapX2020 utilities have provided no justification for Adjustment 13, as required by Minnesota Rules 7850.4900, subp. 2, which requires that reasons for any route amendment be specified. The proposed route change, further, would parallel existing right-of-way by zero percent as compared with the approved route, which parallels existing right-of-way in that segment by 72 percent. (Exhibit B, Adjustment 13). Minnesota statutes require that a specific justification be set forth for any deviation from use of highway right-of-way for high voltage transmission lines. Minnesota Statutes 216E.03, Subd. 7 states:

> (e) The commission must make specific findings that it has considered locating a route for a high-voltage transmission line on an existing high-voltage transmission route and the use of parallel existing highway right-of-way and, to the extent those are not used for the route, the commission must state the reasons.

Xcel Energy and the CapX2020 have neither provided justification for the change in Adjustment 13 to deviate from highway right-of-way nor have they provided reasons why route changes were proposed at the end of the process, mere months after the Commission issued its final Order. There is no indication that there is new evidence or a change of circumstances to justify disrupting more than two years of public process to designate a route.

Given that Xcel Energy and the CapX2020 utilities gained an advantage with their July 2009 email to the Fuchs by dissuading a local activist leader from opposing the CapX2020 power line route, the utilities should be estopped at this late stage in the process from proposing permit amendment that produces a new and significant impact to the Fuchs farm.

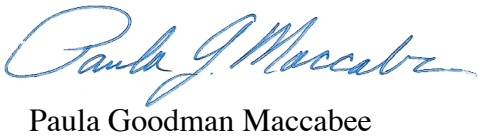
In addition, Mr. Virgil Fuchs would oppose Adjustment 13 as particularly adverse in his situation due to a diagnosed condition of allergic sensitivity to ionized air such as that produced by power lines. His physician has specifically stated, among other recommendations to control allergic reactions, "He needs to avoid his major triggers which include tobacco smoke and ionized air such as power lines." Mr. Fuchs recalls that he informed Xcel Energy

of his particular vulnerability to power line effects in 2009 in connection with the routing of the CapX2020 power line and provided specific pertinent information from his medical records. It would be particularly unfair and inappropriate to allow an untimely Permit Amendment to the CapX2020 route to adversely affect Mr. Fuchs.

The CapX2020 utilities' Permit Amendment Request should be denied, in particular as it pertains to Adjustment 13 and impacts to the Fuchs farm. The utilities' proposed Amendment is inconsistent with Minnesota statutes and rules and should be estopped to prevent the CapX2020 from taking unconscionable and potentially harmful advantage of the situation created by their representations to Mr. Stephen Fuchs and Mr. Virgil Fuchs.

Thank you for your consideration of this matter.

Respectfully submitted,



Paula Goodman Maccabee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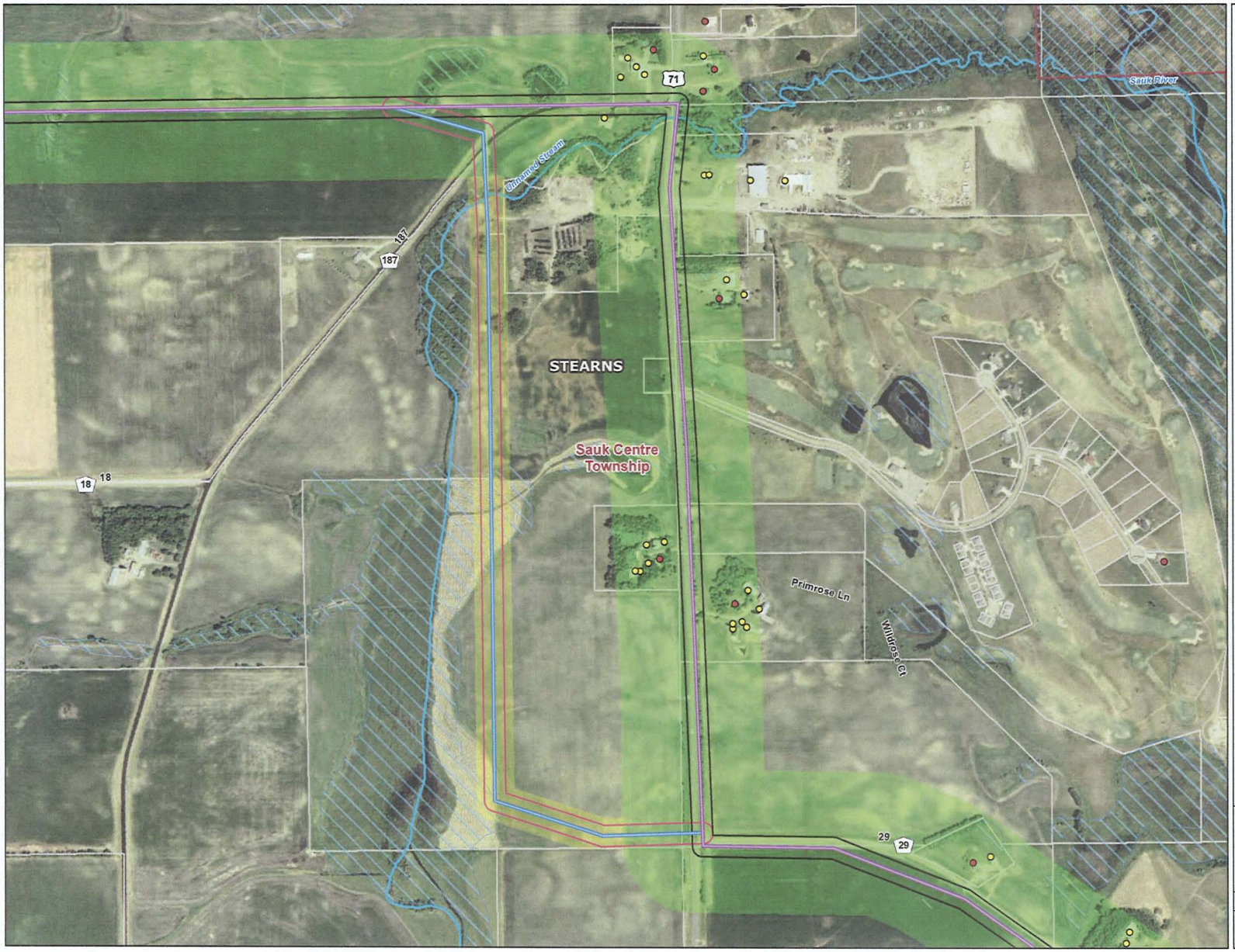
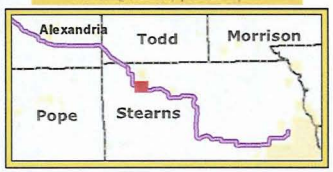
ADJUSTMENT 13



CapX2020
Delivering electricity you can rely on



Legend

- Anticipated Alignment
- Anticipated Right-of-Way
- MN Permitted Route
- Adjusted Alignment
- Adjusted Right-of-Way
- Adjusted Route
- Residence
- Non-residential Structure
- PWI Stream
- NWI Wetland
- Waterfowl Production Area
- USFWS Wetland Easement
- Wildlife Management Area
- MnDOT Scenic Easement
- Center Pivot Irrigation
- Municipal Boundary
- Township Boundary
- Parcel Boundary

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Fargo to St. Cloud 345 kV Transmission Line Project
Route Adjustment 13

DATE: 09/13/11	DRAWN BY: MLTEICHERT
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ROUTE ADJUSTMENT 13 COMPARISON SUMMARY

Route Adjustment 13 would be similar in length to Permittees' previously proposed alignment (approximately one mile) and would encompass less acreage within its associated right-of-way (24 acres vs. 25 acres). Route Adjustment 13 would parallel less existing right-of-way than Permittees' previously proposed alignment (zero percent vs. 72 percent).

Both routes would involve the same number of waterway crossings (one crossing). Route Adjustment 13 would be located within 500 feet of fewer residences than Permittees' previously proposed alignment (zero residential structures vs. six residential structures) and both routes would be located at a distance of one mile from an airport.

ALEXANDRIA TO QUARRY ROUTE ADJUSTMENT 13 COMPARISON			
WETLAND AND WATER RESOURCES WITHIN THE RIGHT-OF-WAY			
		ROUTE ADJUSTMENT 13	COMPARABLE PORTION OF CURRENT PROPOSED ALIGNMENT TO ROUTE ADJUSTMENT 13
	Length of Route (miles)	1	1
	Number of Acres	34	35
	Acres NWI Wetlands within ROW	3	0
	Percent of ROW - NWI Wetlands	8%	0%
	Number of NWI Wetlands within ROW	2	1
	Acres of NWI Freshwater Emergent Wetlands within ROW	3	0
	Percent of ROW - NWI Freshwater Emergent Wetlands	7%	0%
	Acres of NWI Freshwater Forested/Shrub Wetlands within ROW	0	0
	Percent of ROW - NWI Freshwater Forested/Shrub Wetlands	1%	0%
	Acres of NWI Freshwater Pond Wetlands within ROW	0	0
	Percent of ROW - Freshwater Pond Wetlands	0%	0%
	Acres of NWI Lake within ROW	0	0
	Percent of ROW - NWI Lakes	0%	0%
	Acres of NWI Riverine within ROW	0	0
	Percent of ROW - NWI Riverine Wetlands	0%	0%
	Estimated Number of Poles in NWI Wetlands*	2	0
	Acres of Temporary NWI Wetland Impacts (1-Acre/Pole)	2	0
	Sq. Feet of Permanent NWI Wetland Impacts (55-Sq. Feet/Pole)	110	0
	Acres of Permanent NWI Wetland Impacts	0	0
	Number of Intermittent Stream, Drainage, or Waterway Crossings within ROW	0	0
	Number of PWI Intermittent Stream, Drainage, or Waterway Crossings within ROW	0	0
	Number of Perennial Stream, Drainage, or Waterway Crossings within ROW	1	1
	Number of PWI Perennial Stream, Drainage, or Waterway Crossings within ROW	1	1
	Number of Other Stream, Drainage, or Waterway Crossings within ROW	0	0
	Number of Other PWI Stream, Waterway, or Drainage Crossings within ROW	0	0
	Number of PWI Lake and Wetland Crossings within ROW	0	0
	Acres of PWI Lakes and Wetlands within ROW	0	0
	Percent of ROW - PWI Wetlands	0	0%
	Estimated Number of Poles in PWI Wetlands*	0	0
	Acres of Temporary PWI Wetland Impacts (1-Acre/Pole)	0	0
	Sq. Feet of Permanent PWI Wetland Impacts (55-Sq. Feet/Pole)	0	0
	Acres of Permanent PWI Wetland Impacts	0	0
	Acres of (100-year) Floodplain within ROW	0	0
	Percent of ROW - 100-Year Floodplain	0%	0%
	Estimated Number of Poles in 100-Year Floodplain*	0	0
	Acres of Temporary 100-Year Floodplain Impacts (1-Acre/Pole)	0	0
	Sq. Feet of Permanent 100-Year Floodplain Impacts (55-Sq. Feet/Pole)	0	0
	Acres of Permanent 100-Year Floodplain Impacts	0	0
	Acres of Restorable Wetlands within ROW	1	1
	Percent of ROW - Restorable Wetlands	3%	3%
	Number of Water Wells within ROW	0	0
LAND USE AND OTHER ENVIRONMENTAL RESOURCES WITHIN THE RIGHT-OF-WAY			
General	Length of Route (miles)	1	1
	Length Paralleling Existing ROWs (miles)	0	1
	Percent of Route Paralleling Existing ROWs	0%	72%
	Length Paralleling Existing Linear Features (miles)	0	1
	Percent Paralleling Existing Linear Features	0%	100%
	Number of Acres in Representative 150-Foot ROW	24	25
Agricultural Land Use	Acres of Agricultural Land Use within ROW	34	26
	Percent of ROW - Agricultural Land	100%	73%
	Acres of Special Protection Agricultural Land Use within ROW	0	0
	Percent of ROW - Special Protection Agricultural Land	0%	0%
	Estimated Number of Poles in Agricultural Land*	11	8
	Acres of Temporary Agricultural Land Impacts (1-Acre/Pole)	11	8
	Sq. Feet of Permanent Agricultural Land Impacts (1,000-Sq. Feet/Pole)	11,000	8,000
	Acres of Permanent Agricultural Land Impacts within ROW	0	0
	Acres of CRP Lands within ROW	0	0
	Percent of ROW - CRP Lands	0%	0%

ALEXANDRIA TO QUARRY ROUTE ADJUSTMENT 13 COMPARISON			
WETLAND AND WATER RESOURCES WITHIN THE RIGHT-OF-WAY			
		ROUTE ADJUSTMENT 13	COMPARABLE PORTION OF CURRENT PROPOSED ALIGNMENT TO ROUTE ADJUSTMENT 13
Land Use	Acres of Residential Land Use within ROW	0	8
	Percent of ROW - Residential Land Use	0%	22%
	Acres of Recreational/Open Space/Park Land Use within ROW	0	1
	Percent of ROW - Recreational/Open Space/Park Land Use	0%	2%
	Acres of Commercial/Business/Institutional/Public Land Use within ROW	0	0
	Percent of ROW - Commercial/Business/Institutional/Public Land Use	0%	0%
	Acres of Industrial Land Use within ROW		1
	Percent of ROW - Industrial Land Use	0%	4%
	Acres of Transitional/Growth Area Land Use within ROW	0	0
	Percent of ROW - Transitional/Growth Area Land Use	0%	0%
	Acres of County-Identified Municipal Land Use within ROW	0	0
	Percent of ROW - County-Identified Municipal Land Use	0%	0%
	Estimated Number of Poles in Non-Agricultural Land'	0	5
	Acres of Temporary Non-Agricultural Land Impacts (1-Acre/Pole)	0	5
	Sq. Feet of Permanent Non-Agricultural Land Impacts (55-Sq. Feet/Pole)	0	275
	Acres of Permanent Non-Agricultural Land Impacts	0	0
	Number of Center Pivot Irrigation Systems within ROW	0	0
	Acres of Wooded Lands within ROW	0	0
	Percent of ROW - Wooded Lands	0%	0%
	Number of Daycare Facilities within ROW	0	0
	Number of FCC Antenna Structures within ROW	0	0
Trails and Scenic Byways	Number of State Trail Crossings within ROW	0	0
	Parallel Miles to State Trails	0	0
	Number of County Trail Crossings within ROW	0	0
	Parallel Miles to County Trails	0	0
	Number of Scenic Byway Crossings within ROW	0	0
	Parallel Miles to Scenic Byways	0	0
Airports/ Landing Strips	Number of Airports/Landing Strips within 5-Miles	0	0
	Located within Instrument Approach to Airport	0	0
	Miles to Nearest Airport/Landing Strip	1	1
	Number of VOR Sites within ROW	0	0
Mining/ Aggregate Resources	Total Number of Aggregate Source Pits within ROW	0	0
	Number of Prospective Aggregate Source Pits within ROW	0	0
	Number of Commercial Aggregate Source Pits within ROW	0	0
Cultural and Historic Resources	Number of NRHP Sites within ROW	0	0
	Number of Known Historic Structures within ROW	0	0
	Number of Known Archaeological Sites within ROW	0	0
RESIDENTIAL AND NON-RESIDENTIAL STRUCTURES/BUILDINGS, SENSITIVE MANAGEMENT AREAS AND CONSERVATION EASEMENTS, OTHER			
Number of Residences / Non-Residences within Proximity to ROW	Number of Residential Structures within 0-75 Feet of Alignment	0	0
	Number of Residential Structures within 75-150 Feet of Alignment	0	0
	Total Number of Residential Structures within 150 Feet of Alignment	0	0
	Number of Residential Structures within 150-300 Feet of Alignment	0	2
	Number of Residential Structures within 300-500 Feet of Alignment	0	4
	Total Number of Residential Structures within 500 Feet of Alignment	0	6
	Number of Non-Residential Structures within 150 Feet of Alignment	0	1
USFWS Easements	Number of USFWS Easements within ROW	0	0
	Total Acres of USFWS Easements within ROW	0	0
	Acres of USFWS Wetland Easements within ROW	0	0
	Acres of USFWS Grassland Easements within ROW	0	0
	Acres of USFWS Farmers Home Administration Easements within ROW	0	0
	Acres of USFWS Other Easements within ROW	0	0
MN County Biological Survey (MCBS) Sites of Biodiversity Significance	Total Acres of MCBS Sites of Biodiversity Significance within ROW	0	0
	Number of MCBS Sites of Biodiversity Significance within ROW	0	0
	Acres of Moderate MCBS Sites of Biodiversity Significance within ROW	0	0
	Acres of High MCBS Sites of Biodiversity Significance within ROW	0	0
	Acres of Outstanding MCBS Sites of Biodiversity Significance within ROW	0	0

ALEXANDRIA TO QUARRY ROUTE ADJUSTMENT 13 COMPARISON			
WETLAND AND WATER RESOURCES WITHIN THE RIGHT-OF-WAY			
		ROUTE ADJUSTMENT 13	COMPARABLE PORTION OF CURRENT PROPOSED ALIGNMENT TO ROUTE ADJUSTMENT 13
MCBS Native Plant Communities	Number of MCBS Native Plant Communities within ROW	0	0
	Acres of MCBS Native Plant Communities within ROW	0	0
MCBS Railroad ROW Prairies	Number of MCBS Railroad ROW Prairies	0	0
	Linear Feet of Fair MCBS Railroad ROW Prairies within ROW	0	0
	Linear Feet of Good MCBS Railroad ROW Prairies within ROW	0	0
	Linear Feet of Very Good MCBS Railroad ROW Prairies within ROW	0	0
MN Land Trust Conservation Easements	Number of MN Land Trust Conservation Easement Crossings within ROW	0	0
	Acres of MN Land Trust Conservation Easements within ROW	0	0
BWSR RIM Easements	Number of BWSR RIM Easement Crossings within ROW	0	0
	Acres of BWSR RIM Easements within ROW	0	0
Calcareous Fens	Number of Calcareous Fens within ROW	0	0
	Acres of Calcareous Fens within ROW	0	0
Sensitive Management Areas and Resources	Number of Waterfowl Production Areas within ROW	0	0
	Acres of Waterfowl Production Areas within ROW	0	0
	Number of Wildlife Management Areas within ROW	0	0
	Acres of Wildlife Management Areas within ROW	0	0
	Number of Scientific Natural Areas within ROW	0	0
	Acres of Scientific Natural Areas within ROW	0	0
	Number of Known Occurrences of Threatened and Endangered Species within ROW	0	0
	Number of Trout Stream Crossings within ROW	0	0
	Acres of Prairie Bank Easements within ROW	0	0

*Pole locations associated with the anticipated alignment, which was previously identified and reviewed by the Commission, are based on preliminary spotting. Pole locations associated with the proposed route adjustment are based on preliminary design and reflect more representative average span lengths. For Route Adjustment 16, pole locations associated with both alignments are based only on preliminary spotting.

No hospitals, schools, landfill or dump sites, cemeteries, or churches are located within the ROW.

No Nature Conservancy lands are located within the ROW.

Permit Maps
ET2/TL-09-1056

Legend

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

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Fargo to St. Cloud 345 kV Transmission Line Project

DATE: 09/13/11

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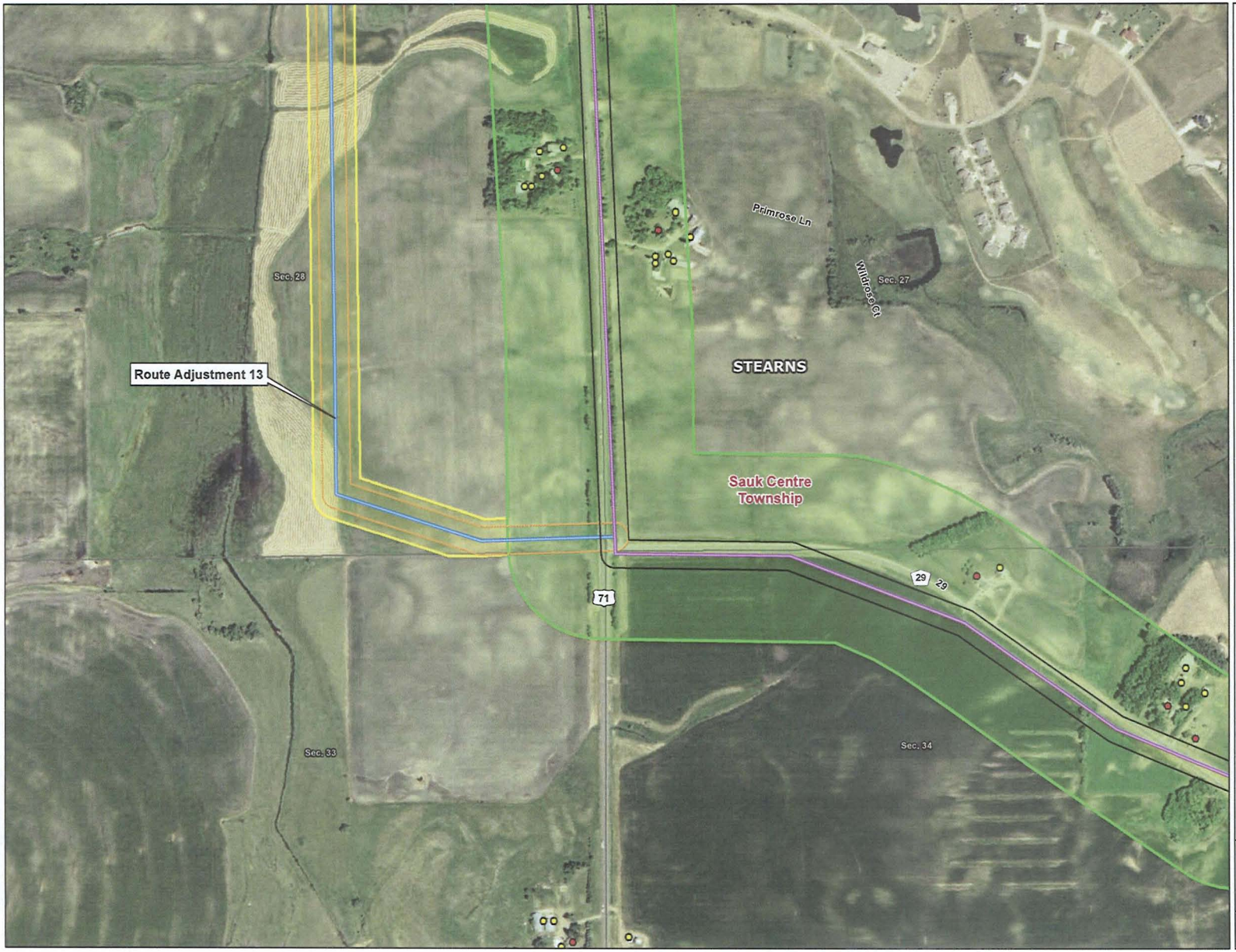

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DATE: 09/13/11 | **111**