

**U.S. Department of Energy (DOE)
Office of Electricity Delivery and Energy
Reliability (OE)
National Electricity Delivery Division**



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The Federal Indian Trust Responsibility is a legal obligation under which the United States has charged itself with moral obligations of the highest responsibility and trust toward American *Indian tribes*.

(Seminole Nation v. United States, 1942;
Cherokee Nation v. Georgia, 1831).

“When the trust responsibility is acknowledged and upheld by the Federal government, a true government-to-government relationship can exist and thrive. When the trust responsibility is not upheld, tribal sovereignty is eroded and undermined.”

~ Chairman of Senate Committee on Indian Affairs (May 2012)

DOE Transmission Programs and Related Activities

Today will focus on areas where DOE is making process improvements, including attempts to better coordinate meaningfully with Tribes:

- Presidential permit program
- Section 216(h) of the Federal Power Act
- Integrated, Interagency Pre-Application (IIP) Process



Presidential Permits

- DOE has authority under Executive Order to issue Presidential Permits allowing entities “to construct, operate, maintain and interconnect” transmission facilities across the U.S. International Border.
- DOE issues Presidential Permits after determining they are in the public interest and after receiving concurrence from the U.S. Department of Defense and the State Department.
- Before issuing a Presidential Permit, DOE must also review the environmental impacts of the project pursuant to the National Environmental Policy Act (NEPA).
- DOE is currently reviewing applications for proposals predominately crossing the U.S.-Canada border but seeing increased interest in proposals for U.S. – Mexico border crossings

Presidential Permits, Transmission Facilities Siting, and NEPA

- DOE's Federal Action is to respond to a Presidential permit application
- National Environmental Policy Act (NEPA) review required (typically environmental impact statements)
- Transmission lines associated with the border crossing requests are reviewed by DOE as "connected actions" under NEPA
- DOE does not site the transmission line or related facilities (usually State, county decision)

Presidential Permits in Progress

Project Name	Voltage/Border	Progress (FY 2014)	FY 2015 Milestone(s)
Northern Pass	500kV/Canada	Scoping report and alts. Addendum released.	•Draft EIS (3rdQ FY 2015)
Great Northern Transmission	500kV/Canada	Notice of Intent (June 2014); NEPA Scoping meetings held (July 2014); Tribal consultation initiated (July 2014); Scoping Summary Report issued (November 2014).	•Draft EIS (2nd Q FY 2015) •Final EIS (4th Q FY 2015)
TDI Clean Power Link	+/- 320kv DC/ 345kV AC/Canada	App Rec'vd May 2014;	•Draft EIS (2 nd Q FY 2015)
Soule River Hydro	138kV/Canada	Cooperating agency w/FERC	

DOE expects 3-5 additional applications in 2015



Inter-agency Transmission Permitting

- “The Department of Energy shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility.” *216(h) of the Federal Power Act (2005)*
- Executive Order 13604 (March 22, 2012)
- “Member Agencies shall develop an integrated, interagency pre-application process for significant onshore electric transmission projects requiring Federal approval...”
Transmission Presidential Memo (June 7, 2013)

Integrated Interagency Pre-application (IIP) Process

Early coordination and information sharing → better planning → more robust applications → efficiencies in NEPA reviews → improvements in permitting times

DOE's Intended outcome: a 216(h) Notice of Proposed Rulemaking to implement the pre-application process to go out early Fiscal Year 2016



DOE Recommendations for Pre-application

- IIP process is voluntary and Applicant-driven.
- Applies to “Qualifying Projects” (i.e., require more than one federal permit decision, 230-kV or greater, interstate, etc), as well as others at the discretion of DOE OE leadership.
- DOE would *only* act as lead coordinating agency.
- DOE is proposing a simplified process for pre-application with specific information requirements.
- DOE would identify and invite participation by all permitting federal and state agencies and other non-permitting agencies (e.g. State Historic Preservation Office, state game and fish, lands offices, Tribes, etc.).
- Potential NEPA lead agency would be identified as early as possible.
- Information, studies, documentation related to discussions with Applicants and permitting agencies would be collected by DOE and included in a “Consolidated Administrative Record.

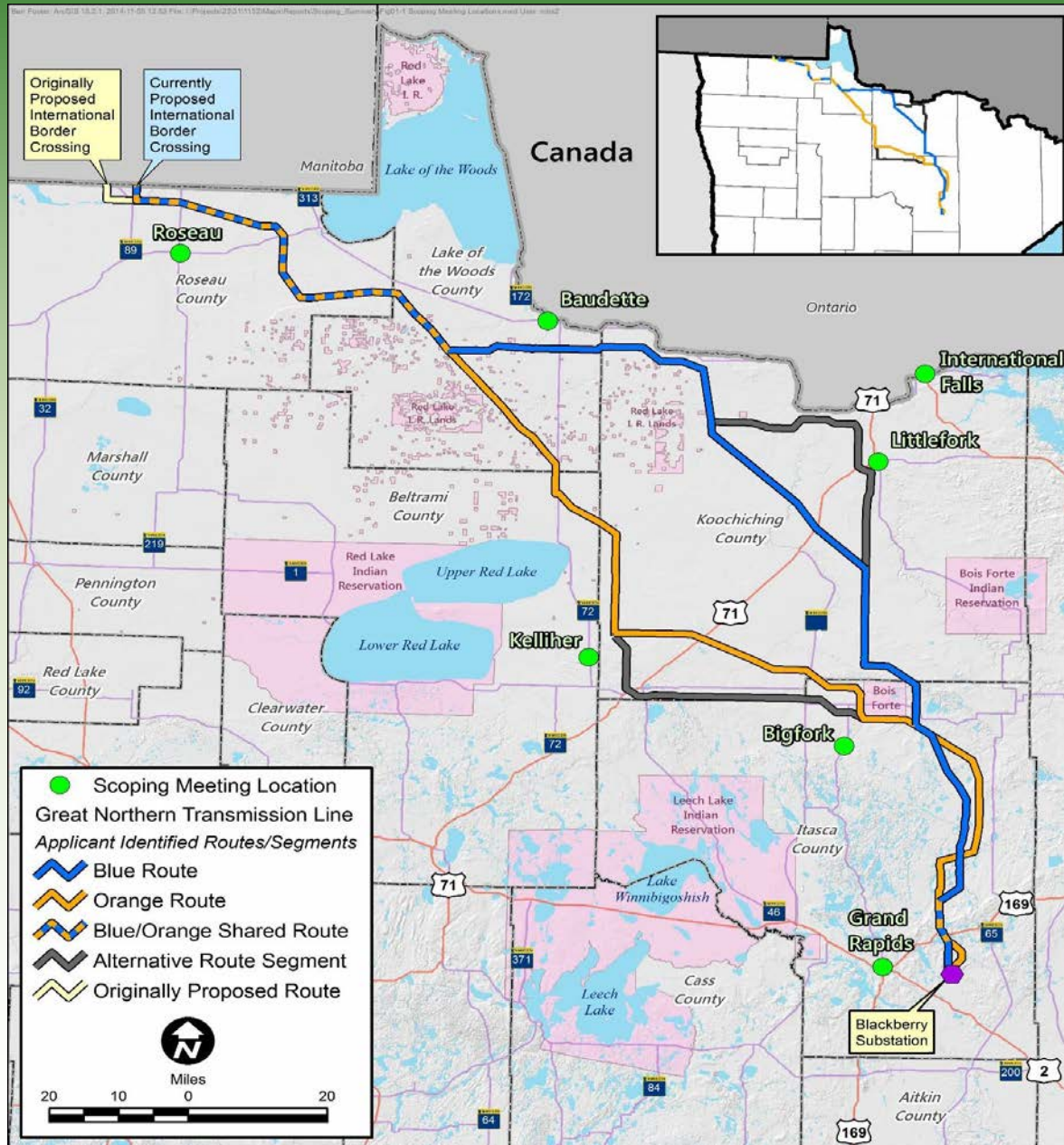
Proposed GNTL Project – Review and permitting

- 220-mile, high voltage alternating current (HVAC), overhead, 500-kV, single circuit transmission line
- Bringing existing hydropower from Manitoba, Canada into an existing sub-station site in Grand Rapids, Minnesota
- Minnesota Power applied to DOE in April 2014 for a Presidential permit for international border crossing
- April 2014, Minnesota Power applied to the Minnesota Public Utilities Commission (MN PUC) for a Route permit for the 220-mile line in Minnesota

Great Northern Transmission Line (GNTL) Project

- DOE applying 216(h) pre-application principles and practices to the proposed GNTL Project
- Joint federal-state environmental review under the National Environmental Policy Act (NEPA) and the Minnesota Power Plant Siting Act
- Joint public meetings, comment periods, notices, outreach, etc.
- Gaining lessons learned on early agency coordination and attempts at early coordination with Tribes since 2012 (before project was ‘federalized’)

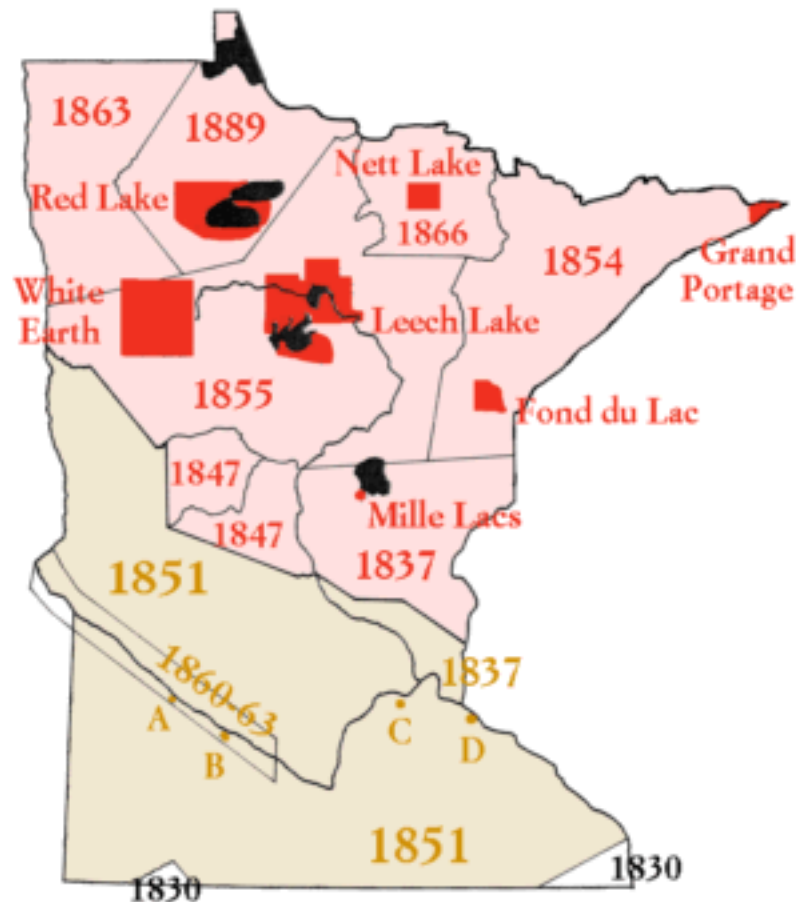
GNTL Project Area Map



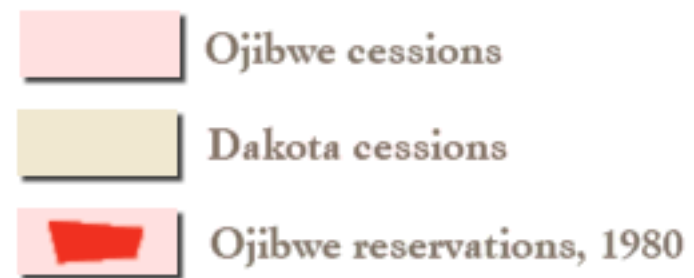
Great Northern Transmission Line (GNTL) Project

- Transmission line is not proposed to cross Indian reservation lands
- Proposed to be near or adjacent to Red Lake Nation Reservation in Lake of the Woods, Koochiching, and Beltrami Counties; and
- Bois Forte Indian Reservation land in Itasca County
- Proposed transmission line could affect areas where Tribal members exercise their right to hunt, fish, and gather natural resources on lands that were ceded in treaties executed between

Minnesota Treaties – Map of Major Land Cessions



Native Land Cessions in Minnesota, 1837-1889



Dakota communities (reestablished 1886):

- A Upper Sioux C Shakopee Mdwakanton
- B Lower Sioux D Prairie Island

Based on a map in "They Chose Minnesota: a Survey of the State's Ethnic Groups", 1981. F615.A1T45

Government-to-Government Consultations for GNTL

- DOE initially reached out in 2012 before receiving an application for the Project to initiate pre-application discussions with potentially affected Tribes (mainly Dakota and Ojibwe) with historic and current interest in the proposed project area
- DOE contracted with a former THPO (Leech Lake Band of Ojibwe) in the project area to help coordinate formal consultations with identified Tribes
- Using the information to directly inform the MN PUC Route permit – this is *the decision* that determines where the 220-mile line will go
- DOE trying to inform the state process by including analysis that demonstrates possible areas important to and of use by Tribes *to avoid*
- Applying government-to-government relationship to NEPA and to inform the Environmental Impact Statement (EIS)
- Red Lake Band of Chippewa is a cooperating agency on the Final EIS
- Consultations are on-going



Using “TRUST” to Improve Relationships with Tribes in Transmission Permitting

Timing

Respect

Understanding the past

Sovereignty

Tradition

Thank you!

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