

AGRICULTURAL IMPACT STATEMENT



DATCP File Photo

**DATCP
#4574**

**Paris RICE 138-kV Generation-Tie
Line
Kenosha County
PSC Docket ID 6630-CE-316**



**WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION**
PUBLISHED JULY 11, 2024

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Paris RICE 138-kV Generation-Tie Line Project

Kenosha County

WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

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MISSION STATEMENT

Dear Reader,

Through the Agricultural Impact Statement ("AIS") program, agricultural operations have the opportunity to provide feedback, document impacts, and suggest alternative solutions when their agricultural lands are affected by an entity with the potential powers of eminent domain. The AIS program also provides affected agricultural landowners time to gather information to make well-informed decisions before a study begins. Lastly, the AIS program makes suggestions and recommendations to study initiators to promote study alternatives and management practices that would reduce potential impacts to agricultural lands and operations.

The AIS program also serves the needs of the study initiator by conducting the AIS analysis and publishing the statement within a timely manner as required by Wis. Stat. § 32.035. In addition, the AIS program provides a continuing presence throughout study development and oversight processes in order to support agricultural operations and the statewide priority to preserve prime farmland.

The Agricultural Impact Statement program and the WI Department of Agriculture, Trade and Consumer Protection are honored to provide this essential state service to the agricultural landowners and operators of the state.

Thank you,

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ACRONYMS

AEA	Agricultural Enterprise Area
AIN	Agricultural Impact Notification
AIS	Agricultural Impact Statement
AMP	Agricultural Mitigation Plan
ATC	American Transmission Company
CPCN	Certificate of Public Convenience and Necessity
CREP	Conservation Reserve and Enhancement Program
CRP	Conservation Reserve Program
DATCP	Department of Agriculture, Trade, and Consumer Protection
EA	Environmental Assessment
EIS	Environmental Impact Statement
FP	Farmland Preservation Program
FSA	Farm Service Agency
IAM	Independent Agricultural Monitor
IEM	Independent Environmental Monitor
LLP	Lakeshore Lateral Pipeline
kV	Kilovolt
MFL	Managed Forest Law
NEV	Neutral to Earth Voltage
PSC	Public Service Commission of Wisconsin
ROW	Right-of-Way
USDA	U.S. Department of Agriculture
WE-GO	Wisconsin Electric Gas Operations
WisDNR	Wisconsin Department of Natural Resources

TERMS

CIRCUIT	A continuous electrical path along which electricity can flow from a source, like a power plant, to where it is used, like a home. A typical transmission circuit consists of three phases, with each phase on a separate set of conductors.
CONDUCTOR	A wire composed of multiple aluminum strands wrapped around a steel core that together carry electricity. A transmission line is constructed with three conductors, one for each phase of the circuit generated by a power plant.
DOUBLE-CIRCUIT	Electric lines with two sets of three conductors, totaling six conductors on one structure. These two circuits are independent of one another.
DISTRIBUTION LINE	An interconnected group of lines and equipment for the delivery of low voltage electricity between the transmission network and end users (i.e. home/business)
KILOVOLT (kV)	A unit of electricity equal to 1,000 volts.
LAYDOWN YARD	Temporary equipment staging and storage areas.
SHIELD WIRE	A wire connected to the top of the structure to protect the conductors from lightning strikes, minimizing the risk of power outages.
SINGLE-CIRCUIT	Electric lines with one set of three conductors.
SUBSTATION	A facility that monitors and controls electrical power flows, uses high voltage circuit breakers to protect power lines, and transforms voltage levels for safe and reliable delivery of electricity.
TRANSMISSION LINE	An interconnected group of lines and equipment for transporting electric energy on a high voltage power line between power plants and substations.

SUMMARY OF AGRICULTURAL IMPACT STATEMENT

The Wisconsin Department of Agriculture, Trade and Consumer Protection (“the Department”) has prepared Agricultural Impact Statement (AIS) #4574 for the construction of a new 138-kV electric generation tie-in (Gen-Tie) line that extends from the proposed Paris RICE Generating Facility to the existing Paris Solar Substation in the Town of Paris, Kenosha County, WI (“the Project”) by the Wisconsin Electric Power Company, doing business as We Energies (“the Company”) (Figure 1). The Project is part of a larger proposed project, the construction of a 128-MW natural gas-fired Reciprocating Internal Combustion Engine (RICE) generating station (RICE Station). The proposed RICE station and two alternate locations and their corresponding Gen-Tie lines are included within the same Public Service Commission (PSC) docket as the Project, docket ID# [6630-CE-316](#). While there may be references to the RICE Station, the Department was notified specifically for the Gen-Tie line aspect of the proposed RICE station, which this AIS analysis will be focused on. If, through the process of PSC consideration for a CPCN for the Project, a different facility location and Gen-Tie route is selected, then the Department would need to be notified of these changes and an addendum would be prepared for this AIS.

The Company has indicated the primary reason for Project is to connect the new proposed plant into the existing electric transmission system (WEPC 2024a; WEPC 2024d). The finalized Gen-Tie line design would carry energy generated from the proposed electric generating facility to support and compliment intermittent solar energy for the existing Paris Solar Substation.

There are two routes in consideration, the preferred route (also called the “proposed route” within the Company’s documents) and the alternate route (Figure 1). The preferred route extends westward from the southwest corner of the proposed Paris RICE Generating Station for 2.1 miles till it connects with the existing Paris Solar Collector Substation. It is proposed to be laid parallel the edge of existing ROW for the Lakeshore Lateral Pipeline (LLP) for 1.7 miles and parallel an ATC transmission ROW for 1.2 miles and crosses one road, 144th Avenue, within the Town of Paris (WEPC 2024a).

The Alternate Route is similar to the proposed in that it extends westward from the southwest corner of the Paris RICE Generating Station to the existing Paris Solar Substation and is 2.1 miles long. It follows the Preferred Route for .25 miles, but angles north and then westward again for 1.27 miles, paralleling the northern aspect of the existing 345-kB ATC transmission line for one mile, till it then rejoins with the Preferred Route for the last 0.3 miles to connect with the Paris Solar Substation (WEPC 2024a).

The PSC has authority over the Project and the Company must obtain a Certificate of Public Convenience and Necessity (CPCN) to obtain the right to proceed with the Project. Through the issuance of a CPCN, the PSC would select the project route and other project criteria the

Company shall follow. As of April 5, 2024, the Company has submitted a CPCN application for the Project to the PSC under PSC Docket ID: [6630-CE-316](#) and is awaiting a ruling from the PSC. The Department will provide the PSC with AIS #4574 as evidence to aid in determining the outcome of the Company's CPCN application.

In accordance with [Wis. Stat. §32.035\(3\)](#), the Company has provided the Department with the necessary information and materials to conduct an AIS. The Department has also contacted the agricultural property owners and operators impacted by the alternative routes. In accordance with [Wis. Stat. §32.035\(4\)\(b\)](#), the Department has reviewed and analyzed the Company's materials and performed analyses to assess the agricultural impacts of the proposed project. Through the AIS analysis, the Department offers a set of recommendations and conclusions to the PSC, the Company and the agricultural landowners and operators to help mitigate current and future impacts on agricultural lands and agricultural operations along the selected route.

The set of recommendations to the Company and Agricultural Landowners and/or Operators are located within the AIS Recommendation Section beginning on page 8. The AIS analysis begins on page 11 with information on the project located in Section 2. Information and conclusions on the agricultural setting of Kenosha County and impacted areas can be found in Section 3. The agricultural impacts of the project on the impacted land, landowners and operators can be found in Section 4. Appendices for AIS #4574 contain the following information: Additional Figures (Appendix A), Wisconsin Electric Power Company's Agricultural mitigation Plan (Appendix B), information on the appraisal and compensation process (Appendix C), a copy of Wisconsin's agricultural impact statement statute (Appendix D), various additional sources of related information for agricultural landowners and operators (Appendix E) and a copy of the Department's agricultural monitoring form for transmission line projects (F).

If the Company deviates from the proposed route segments, alternatives or the selected sites, the Company shall re-notify the Department. The Department shall review the re-notification for new potential impacts to agricultural lands and may generate an addendum to this AIS, if warranted.

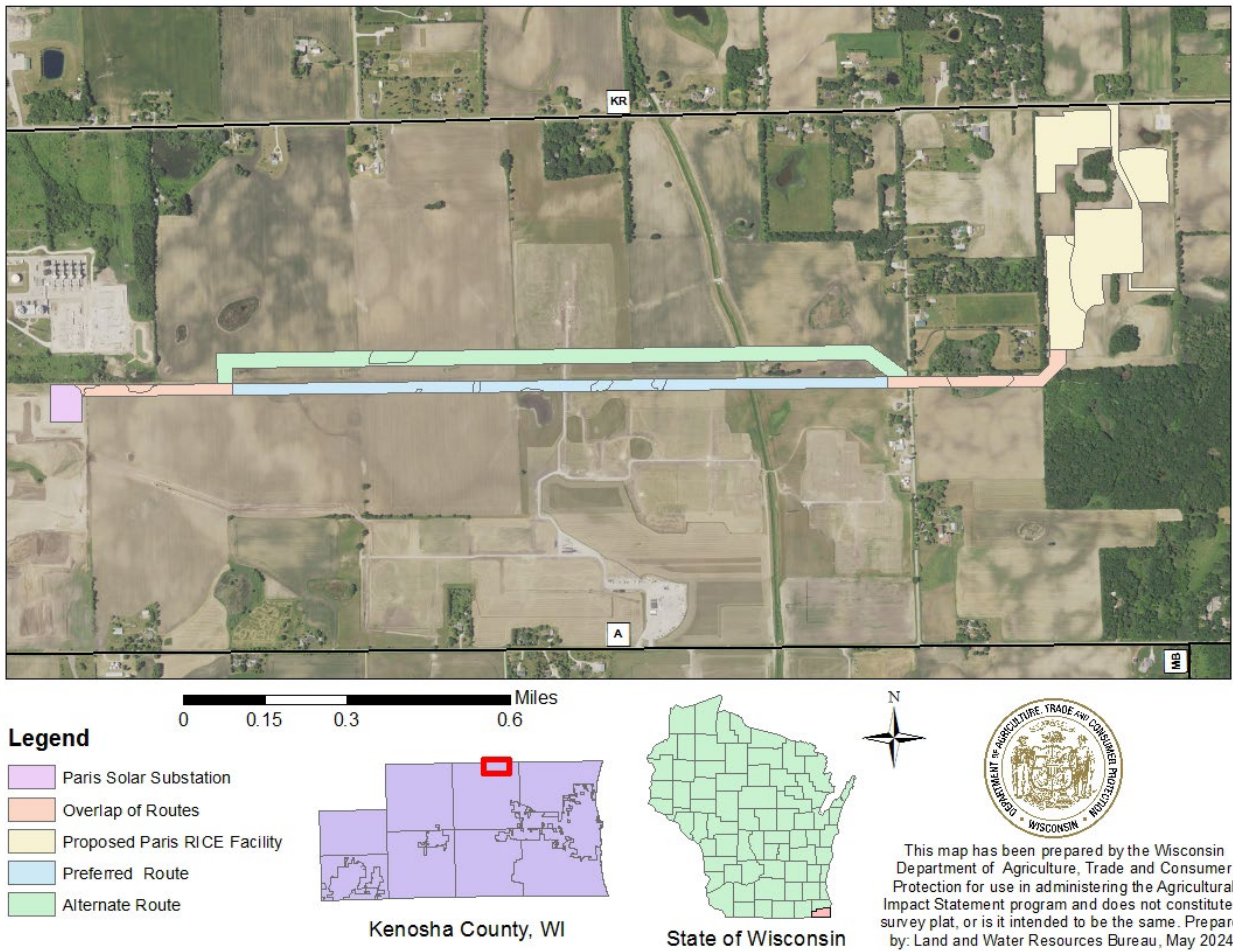


Figure 1: Location of preferred and alternative routes for the Paris RICE Gen-Tie project in the Town of Paris, Kenosha County, WI (DATCP).

AGRICULTURAL IMPACT STATEMENT RECOMMENDATIONS

The Wisconsin Department of Agriculture, Trade and Consumer Protection (the Department) has reviewed and analyzed the materials provided by the Company and comments from the affected agricultural property owners and operators regarding the proposed Paris RICE generation tie-in (Gen-Tie) line project. Should the PSC approve the Project, the Department provides the following recommendations, in accordance with [Wis. Stat. §32.035\(4\)\(b\)](#), the Company and agricultural landowners and operators to help mitigate impacts on agricultural lands and agricultural operations.

Recommendations to the Company

- 1) The Department recommends the Company follow all the recommended mitigation efforts described in Section 5.4.1 through Section 5.4.9 in addition to practices identified in the Company's AMP to mitigate Project impacts to or regarding: topsoil, soil compaction, drainage, de-watering, irrigation, erosion, weed control, and crop rotation.
- 2) The Company should continue to monitor the Project ROW for soil erosion and maintain erosion control practices until there is sufficient vegetative growth in the ROW to mitigate soil erosion.
- 3) The Company should provide agricultural landowners and operators advanced notice of acquisition and construction schedules so agricultural activities can be adjusted accordingly.
- 4) The Company should provide landowners with direct phone numbers and email addresses to the Company project staff and project contractors that are able to respond to a range of topics including but not limited to: environmental & agricultural impacts, land acquisition & ROW, project schedule, access limitations, compensation for release of lands from conservation programming and project complaints.
- 5) If there is adequate growing season for a crop to mature before construction along the Project corridor begins, the Company should allow the current agricultural operators to harvest a crop for that season. If the Company determines it is necessary to start construction prior to harvest, the company should compensate agricultural operators for the crop loss.
- 6) Prior to finalizing project design, the Company should consult with the Kenosha County Conservationist to assess if planned land restoration and planting of the landscape within the restored Project ROW is appropriate for the location and soil type in order to minimize drainage problems, soil erosion and soil compaction that may arise from planned restoration practices on the remaining remnant agricultural lands as well as adjacent properties.

- 7) The Company should monitor for the presence of underground drainage tiles within the construction ROW. If an active drainage tile is damaged or broken as a result of construction activities, the Company shall repair or replace the damaged or broken section.
- 8) Where construction activities have altered existing drainage patterns or the natural stratification of soils resulting in new wet areas or decreased productivity, the Company should work with landowners to determine a means to return the agricultural land either in the ROW or adjoining lands to pre-construction function. New drainage tiles or ditching, de-compaction, regrading, or additional fill may be required to correct problems that arise after construction is complete.
- 9) The Company is advised to consult the County Land Conservation Department on the existence of installed SWRM conservation practices within the Project area. If a landowner is required to repay any cost-share funds because a construction impact resulted in a violation of the SWRM contract, the Company should compensate the landowner for any termination of SWRM grant contract resulting from a construction impact.
- 10) The Company should implement training for all construction supervisors, inspectors, and crews to ensure that they understand the steps needed to protect the integrity of agricultural lands and operations during project construction and restoration.
- 11) Should the PSC select an alternate facility site and its corresponding gen-tie line with different agricultural impacts, the Company shall re-notify the Department of the project in accordance with [Wis. Stat. §32.035](#).

Recommendations to Agricultural Landowners and Operators

- 1) Agricultural landowners and operators should review [Wis. Stat. §182.017](#) (i.e. the Landowner Bill of Rights) seen in Appendix D (Section V) to understand their rights prior to the start of easement negotiations.
- 2) Landowners should review the recommended mitigation efforts described in Section 5.4.1 through Section 5.4.9 to mitigate project impacts to or regarding: topsoil, soil compaction, drainage, de-watering, irrigation, erosion, weed control, and crop rotation.
- 1) Landowners who are aware of any SWRM cost-shared practices on their farm within the proposed Project area should consult with the County Land Conservation Department to determine 1) the compatibility of the proposed ROW easement with the existing conservation practice and 2) if any effects will occur due to alteration of a practice during construction activities.

- 2) Landowners with conservation easements within the ROW should consult with the conservation program provider to determine if any effects will occur due to the land's alteration or removal from the contract. If the landowner is charged a fee for removing or altering the land within the conservation easement, the landowners should contact the Wisconsin Electric Power Company staff member, as designated by the Company, responsible for handling compensation for release of lands from conservation programs.
- 3) Agricultural landowners have the authority under [Wis. Stat. § 182.017\(7\)\(d\)](#) to allow or deny herbicide applications within the ROW they own and agricultural landowners should provide written consent or written lack of consent to the Company regarding herbicide applications.
- 4) Landowners with organic certification or other certifications should contact the Company and report the range and type of substances that are and are not permitted according to their certifications.
- 5) Agricultural landowners and beekeepers should consider using the free online [DriftWatch](#)[™] and [BeeCheck](#)[™] registries, operated by [FieldWatch](#)[™] to communicate areas containing specialty crops or beehives with pesticide applicators, in order to minimize the risk of accidental exposure. For more information on DriftWatch, please visit the [DATCP DriftWatch website](#) at the provided link or at <https://wi.driftwatch.org/>.
- 6) Landowners should inform the Company if they use aerial planting or aerial spraying.
- 7) Prior to the start of construction, landowners should identify for the Company where construction activities may interfere with farm operations, farm building/facilities or farming infrastructure including but not limited to, wells, watering systems, drainage ditches, drainage tile, culverts, fencing, farm access roads, or grain bins.
- 8) Affected farmland owners should inform the tenant agricultural operators if the Company has made a jurisdictional offer, under the power of eminent domain.
- 9) Landowners concerned about potential impacts to their agricultural land should keep records of the conditions of the ROW before, during, and after construction, including field moisture conditions, historic presence/absence of ponded water prior to the start of construction for post-construction comparisons, crop yield records and photographs taken every season.
- 10) After construction is complete, landowners and the Company should monitor for drainage problems. If problems are observed that can be attributed to construction, the landowner and the Company should work together to develop a mutually agreeable solution.

AGRICULTURAL IMPACT STATEMENT

1. INTRODUCTION

The Wisconsin Department of Agriculture, Trade and Consumer Protection (the Department) has prepared Agricultural Impact Statement (AIS) #4574 in accordance with [Wis. Stat. §32.035](#) for the proposed construction of a new 138-kV electrical generation tie-in (Gen-Tie) line (the Project) along one of two potential alternative routes in the Town of Paris, Kenosha County, WI (Figure 1) by the Wisconsin Electric Power Company, doing business as We Energies (“the Company”).

According to [Wis. Stat. §32.035](#), the AIS is designed to be an informational and advisory document that describes and analyzes the potential effects of a proposed project on agricultural operations and agricultural resources, but it cannot stop a project. Additionally, this analysis is limited to routes submitted by the project initiator within the AIN. The Department is required to prepare an AIS when the actual or potential exercise of eminent domain powers involves an acquisition of any interest in more than five acres of land from any agricultural operation. The term agricultural operation includes all owned and rented parcels of land, buildings, equipment, livestock, and personnel used by an individual, partnership, or corporation under single management to produce agricultural commodities.

The AIS reflects the general objectives of the Department in its recognition of the importance of conserving vital agricultural resources and maintaining a healthy rural economy. The Department is not involved in determining whether or not eminent domain powers will be used or the amount of compensation to be paid for the acquisition of any property.

The Company has submitted a Certificate of Public Convenience and Necessity (CPCN) to the Public Service Commission of Wisconsin (PSC) ([REF#: 4967941](#)) to obtain approval to construct the Project (the Company 2024c). The PSC has assigned the Project PSC Docket ID: [6630-CE-316](#), which can be followed within the PSC [Electronic Records Filing System](#) (ERF). The ERF system contains additional project information and affords landowners and operators an opportunity to share their concerns about the project directly. In addition, the PSC will receive testimony and hold hearings to further assess the impacts of this project. Afterwards, the PSC will approve, modify, or deny the Company’s proposed project. Construction on the project cannot begin before the Company receives a CPCN from the PSC, as well as permits and approvals from other regulatory entities. If, through the process of PSC consideration for a CPCN for the Project, a different facility location and Gen-Tie route is selected, then the Department would need to be notified of these changes and an addendum would be prepared.

As established under [Wis. Stat. §32.035\(4\)\(d\)](#), if the Company intends to actualize its powers of condemnation at any point during the project through a jurisdictional offer(s), the Company may not negotiate with an owner or make a jurisdictional offer until 30 days after the AIS has been published. If the Company deviates from the selected alternative or the selected sites, the Company shall re-notify the Department. The Department shall review the re-notification for new potential impacts to agricultural lands and may determine to generate an addendum to this AIS.

The full text of [Wis. Stat. §32.035](#) is included in Appendix D. Additional references to statutes that govern eminent domain and condemnation processes and other sources of information are also included in Appendices B, E, and F.

2. PROJECT DESCRIPTION

2.1. Project Summary

The Company has provided the Department with an agricultural impact notification (AIN) and requested spatial materials for analysis for the proposed project (DATCP 2024a). The AIN, requested materials from the Company and the Company's CPCN application to the PSC serve as the main reference documents for the Project. The proposed project route alternatives presented here do not represent the final project route, which requires PSC approval.

According to the CPCN ([REF#: 4967941](#)), the Company is proposing to construct a 128-MW natural gas electric generating facility with seven Wärtsilä W18V50SG reciprocating internal combustion engine (RICE) generators and a new 138-kV electric Gen-Tie line to connect the facility with the existing Paris Solar Substation (WEPC 2024c). Natural gas generation will support the energy for the solar substation as its fast-ramping capability is able to serve reliable load and quickly offset energy production changes from renewable resources, whether forecasted or unexpected (WEPC 2024b).

The Company offered the PSC three different Paris RICE facility locations with alternate Gen-Tie routes for each facility. The Company did not disclose the two alternate facility locations and their accompanying Gen-Tie lines in the AIN submitted to the Department, only the preferred Paris RICE facility location and its Gen-Tie line alternatives. The preferred facility location, referred to as the "Proposed Site" within documentation written by the Company, is located on land already owned by the Company. Alternate one for the facility location would be on land already owned by the Company, while alternate two and its Gen-Tie line was proposed to be on land yet to be acquired by the Company. If the PSC in its decision chooses one of the alternate sites and part or all of its accompanying Gen-Tie line alternatives, the Department will need to be notified and an addendum will be made to

this AIS.

As the preferred facility site's land is already owned by the Company, the AIN is focused specifically on its two accompanying Gen-Tie line alternatives (a preferred route and an alternative route) that would connect the preferred facility to the Paris Solar Substation.

This analysis will only analyze and evaluate the aspects of the Project that acquire new ROW's from agricultural lands. The proposed Project, depending on the selected route will impact up to 6 agricultural landowners and approximately 27.1 and 34.6 acres of agricultural lands. A full list of the impacted acres for each agricultural landowner is provided in Table 2 (Section 4.2: *Agricultural Impact*).

2.2. Public Service Commission of Wisconsin (PSC)

The PSC is an independent regulatory agency that regulates public electric, natural gas, water and sewer utilities in Wisconsin. Through PSC regulations, public utilities must obtain PSC approval before setting new utility rates and undertaking major construction projects, such as electric transmission lines or substations. Prior to gaining approval, PSC staff review the utilities application and prepare either an Environmental Impact Statement (EIS) or an Environmental Assessment (EA) to evaluate the need, alternatives, cost, and environmental and social impacts of the proposed project.

Approval from the PSC is obtained by the issuance of a CPCN or a Certificate of Authority (CA), both of which grant the utility the right to proceed with the project as described within the CPCN or CA. Issuance of a CPCN or CA determined by a three-member PSC Commission. PSC Commissioners are full-time staff, appointed by the Governor, tasked with reviewing the project case file (documents, reports, testimony) and ultimately deciding whether to approve, modify, or deny a project. If the PSC determines that the project is needed and feasible, the utility must adhere to the PSC ruling and project alternatives/route selected by the Commission. PSC approval is not constrained by the utilities' "preferred" or "alternate" route designations mentioned within this AIS and the Commission may choose any combination of route segments described in the application.

CPCN Application for the Project was submitted to the PSC on April 5, 2024 under PSC Docket ID: [6630-CE-316](#) (WEPC 2024b). DATCP expects the PSC to utilize the information contained within this AIS, the CPCN application, and any testimony from the public to determine the degree of impacts each route alternative will have on the agricultural landscape and economy, prior to issuing a ruling.

2.3. Project Design and Purpose

The Company is proposing to construct a 128-MW natural gas electric generating facility with seven Wärtsilä W18V50SG reciprocating internal combustion engine (RICE) generators

and a new 138-kV electric Gen-Tie line to connect the facility with the existing Paris Solar Substation in the Town of Paris, Kenosha County, WI (WEPC 2024c). Natural gas generation from the RICE units will support and compliment intermittent availability of solar energy for the nearby solar operation with its fast-ramping capability is able to serve reliable load and quickly offset energy production changes from renewable resources, whether forecasted or unexpected (WEPC 2024b; WEPC 2024c).

Within the Company's CPCN application ([REF#: 496791](#)), the Company has proposed three potential Project locations for the Paris RICE Generating Facility with individual routes to connect these proposed sites to the existing Paris Solar Substation (WEPC 2024c). Within the Company's AIN to the Department, they disclosed the location of preferred system alternative site, which the Company referred to as the "Proposed Site", and its two different Gen-Tie Line alternatives that it offered to the PSC (a preferred route and an alternative route). This preferred facility site is located on a 78-acre parcel owned by the Company and is located on the property of the Lakeshore Capacity Improvement Project Regulator Station. The Company also offered the PSC two other project locations, known as Alternate Site 1, located south-east of the Paris Solar Station on a parcel owned by the Company, and Alternate Site 2, which is located north-east of the Paris Generating Station, on a parcel of agricultural land that the Company is pursuing the rights to (see Appendix A, Figure 1) (WEPC 2024c). Alternate Site 1 and 2, along with their proposed Gen-Tie routes, are included within the CPCN application to PSC, however the Company did not disclose these sites in the AIN to the Department and will not be reviewed within this AIS (WEPC 2024a; WEPC 2024d).

Through the Department's review of the Project's CPCN, it was found to contain information on the system alternative and the system alternative comparative analysis performed by the Company (WEPC 2024c). The Company noted the preference for the Preferred facility site was based on a number of factors, such as the land already being owned by the Company and that it already houses an existing utility facility, its ability to adhere to sound requirements with standard mitigation measures, close proximity to existing transmission and natural gas infrastructure, and that it poses lowest risk to project schedule and impact on local community for the Company's owned properties (WEPC 2024c). Based on this overview, cost and timeline appears to be the leading rationale for the Company's selection of the preferred facility site as the preferred system alternative.

The Department also broadly compared potential agricultural impacts of the three system alternatives, within the restraints of the information provided, and found Alternate Site Two to require new acquisition of a parcel of agricultural land to host the RICE facility, but that the Alternate Sites Gen-Tie Lines would need fewer new corridors through agricultural lands and less on existing utility, highway, railroad and trail corridors. The Department is unable to

fully analyze the agricultural impacts of the Alternate Site 1 and 2 and their corresponding Gen-Tie Lines as the Company did not fully disclose this system alternative to the Department in the AIN. Should the PSC select either of the alternate facility sites and their accompanying gen-tie line routes, the Company shall re-notify the Department of this alternative in accordance with [Wis. Stat. §32.035](#).

Absent information on the Alternate Site 2 alternative, the Department's analysis will only focus on the preferred system alternative.

NOTE: Definitions of commonly used terms within this document such as "single circuit" are included within the TERM SECTION on page 4.

2.3.1. Preferred and Alternate Gen-Tie Line Route Description

According to the AIN submitted to the Department (WEPC 2024a) and the CPCN ([REF#: 496791](#)) submitted to the PSC under Docket ID 6630-CE-316 (WEPC 2024c), the Company's preferred route alternative for the Project is to construct an approximately 2.1 mile 138-kV single circuit Gen-Tie line within the Town of Paris, Kenosha County, WI.

These Gen-Tie line structures will generally consist of a self-supporting steel monopole design with a diameter of up to 12 feet. These structures would be on concrete foundations or directly embedded, and would be spaced 500-700 feet apart (WEPC 2024a; WEPC 2024c). Where the Gen-Tie line crosses under the existing 345-kV ATC line, steel H-frame structures are anticipated. A riser structure will be required for all transitions from below grade to above grade construction, and all proposed structures are expected to be between 40-100 feet above grade (WEPC 2024a; WEPC 2024c). All potential gen-tie line structure designs can be found in PSC Docket 6630-CE-316 under Volume II: Appendix C ([REF#: 496358](#)).

The Preferred Gen-Tie route would commence at the south-west corner of the Paris RICE facility site. It would then cross an existing Lakeshore Lateral Pipeline (LLP) right-of-way (ROW), and then continue west, paralleling the southern aspect of the existing LLP ROW for 1.7 miles, before turning south into the Paris Solar Collector Substation. The Proposed Route will cross under an existing 345-kV American Transmission Company (ATC) transmission line. The ATC transmission line parallels the north side of the LLP and the Proposed Route for approximately 1.2 miles of the 2.1-mile route. The route will cross only one road, 144th Avenue, within the Town of Paris. The preferred route design would require approximately 15 structures (WEPC 2024c).

The Alternate Route is similar to the proposed in that it extends westward from the southwest corner of the Paris RICE Generating Station to the existing Paris Solar Substation, but it is 2.1 miles. It follows the preferred route for .25 miles, but angles north and then westward again for 1.27 miles, paralleling the Northside of the existing 345-kB ATC transmission line for one mile, till

it then rejoins with the Preferred Route for the last 0.3 miles to connect with the Paris Solar Substation. The alternate route design would require approximately 17 structures.

2.3.2. Construction Disturbance Considerations

The construction disturbance zone consists of the proposed permanent and temporary ROW and laydown yards.

The Company identified two construction laydown yards for storing materials and staging that are able to be seen in Volume I Appendix B – Figure 2 for the Project ([REF#: 496315](#)) (WEPC 2024c). These laydown areas would be on the parcel of land owned by the Company and will not impact agricultural landowners.

Additionally, the Company does not anticipate new access roads to be created on land that is not already owned by the Company, as they expect the proposed route and alternatives to be able to be accessed directly from the ROW and from property owned by the Company (WEPC 2024c).

2.3.3. Project Schedule

According to the AIN and the CPCN application, pending approval by the PSC and obtaining all state agency permits, the Company plans on following the schedule shown in Table 1 for the proposed project (WEPC 2024a; WEPC 2024d).

Table 1: The anticipated construction timeline for the Preferred facility site and accompanying Gen-Tie Route, pending approval by the PSC and obtaining all state permits (WEPC 2024a; WEPC 2024c).

Project Activity	Preliminary Date
Anticipated CPCN Approval	February 2025
Anticipated Construction Start	February 2025
Commercial Operation Date	July 2026

2.4. Project Right-of-Way (ROW)

The proposed Gen-Tie corridor will generally require a permanent ROW of 100 feet wide ROW, with approximately 50 feet on either side of the centerline. An additional approximate 25-foot-

wide temporary ROW is planned by the Company for construction purposes, temporarily increasing the ROW to 150 feet wide (WEPC 2024a; WEPC 2024c).

According to the Company's CPCN application, approximately 40-50 feet of the preferred facility site Gen-Tie line will be shared with the existing LLP distribution lateral owned by WE-GO (Wisconsin Electric Gas Operations) and an ATC-owned (American Transmission Company) double-circuit 345-kV line (WEPC 2024c).

3. AGRICULTURAL SETTING

3.1. Farmland Preservation

Wisconsin's farmland preservation (FP) program provides local governments and landowners with tools to aid in protecting agricultural land for continued agricultural use and to promote activities that support the larger agricultural economy. Lands that are planned for farmland preservation by the county and included in a certified zoning district or located within an Agricultural Enterprise Area (AEA) are afforded land use protections intended to support agriculture, and are eligible for the farmland preservation tax credit.

3.1.1. Farmland Preservation Planning

The Department certified Kenosha County's current FP plan in 2013 for a ten-year period ending in 2023 (Kenosha County 2013). The FP plan's expiration has since been extended and remains certified through 2025. The criteria for land planned for FP in Kenosha County requires that at least 50% of farmland be categorized as National Prime Farmland or Farmland of Statewide Significance by the United States Department of Agriculture and National Resource Conservation Service, and includes lands that are predominately in agricultural uses, lands that are planned to support agricultural uses, lands that are locally designated as protected farmland, lands that are completely outside sewer service areas and lands historically planned for Farmland Preservation (Kenosha County 2013). Six towns and two villages in Kenosha County have lands that are planned for FP as part of Kenosha County's FP Plan: Town of Brighton, Village of Bristol, Town of Paris, Village of Pleasant Prairie, Town of Randall, Town of Salem, Town of Somers, Town of Wheatland. Approximately 109.18 acres planned for farmland preservation in the County's FP plan are affected by both Gen-Tie line routes of the Project.

3.1.2. Farmland Preservation Zoning

FP zoning is a tool to implement an FP Plan and can strengthen farmland protections beyond what an FP plan affords. A farmland preservation zoning district restricts covered lands to agricultural uses and uses compatible with agriculture and is certified to be consistent with the state's FP Law, Chapter 91.

A review of the Department's FP Program records shows that Kenosha County does not contain any certified FP zoning ordinances.

The project initiator should consult with all applicable local zoning authorities to identify if additional restrictions apply and to ensure compliance with local zoning regulations. For additional context, review Section 1.5.3 *Local Permits* of the project CPCN Application ([REF#: 496791](#)).

3.1.3. Agricultural Enterprise Areas

AEAs are community-led efforts to establish designated areas important to Wisconsin's agricultural future. This designation highlights the importance of the area for local agriculture and further supports local farmland preservation and agricultural development goals. Designation as an AEA also enables eligible landowners to enter into FP agreements. Through an FP agreement, a landowner agrees to voluntarily restrict the use of his/her land to agriculture for fifteen years in exchange for eligibility for the farmland preservation tax credit. A review of the Department's FP Program records shows that Kenosha County does not contain any designated AEAs (DATCP, 2024b). Prior to 2009, owners of eligible farmland could sign 10 to 25-year FP agreements outside of AEA boundaries. There are no effective pre-2009 FP agreements located in Kenosha County.

3.1.4. Managed Forest Law

The MFL program is a voluntary sustainable forestry program administered by WisDNR under [subch. III of ch. NR 46](#). In exchange for reduced property taxes, eligible landowners commit to a 25-50 year sustainable forest management plan on their privately owned woodlands. Sustainable forestry practices such as harvesting mature timber according to sound forest management practices, reforestation and afforestation of the land, are required in enrolled landowner's management plans. Potential enrollees must also show their parcel complies with size and density requirements under [Wis. Stat. § 77.82\(1\)\(a\)2](#), which states that at least 80% of the parcel must be producing or capable of producing a minimum of 20 cubic feet of merchantable timber per acre per year. Land with buildings or improvements associated with buildings are not eligible for MFL. Exceptions such as utility ROWs are permitted such that the project and its ROW will not interfere with future or current MFL eligibility (WisDNR, 2017).

The Department's analysis of publicly available tax law data indicates that the Project will not impact any MFL enrolled land.

3.1.5. Purchase of Agricultural Conservation Easement Programs (PACE)

The 2009 - 2011 State of Wisconsin budget authorized the state Purchase of Agricultural Conservation Easement (PACE) Program under [Wis. Stats. § 93.73](#), which is intended to provide matching funds to assist local governments and non-profits with the purchase of permanent agricultural conservation easements. The intent of the PACE program is to preserve agricultural land of significance at risk of development and to provide an additional layer of permanent protection to certified FP planned areas and designated AEAs. Post PACE acquisition, the partnering

local entity and the Department co-hold the agricultural conservation easement voluntarily purchased from landowners. At the time of this analysis, the state's PACE Program is not currently funded or accepting new applications. However, the state holds 17 PACE easements. A review of the Department's PACE Program shows the Project would not impact any state held PACE easements.

Counties and private non-governmental organization such as land trusts may also hold agricultural conservation easements. Based on a review of publicly available online resources, the Department could not find any record of a county held or non-governmental organization held agricultural conservation easement that would be impacted by the Project (LTA 2024; NCED).

3.2. Drainage Districts

Drainage districts are local governmental entities governed under Wis. Stat. Ch. 88 and organized under a county drainage board for the primary purpose of draining of lands for agricultural use (DATCP, 2019a). Landowners who benefit from drainage pay assessments to cover the cost to construct, maintain, and repairing the district's drains. According to the Department, approximately 190 active districts exist within 27 of Wisconsin's 72 counties.

A review of the Department's Drainage Program database indicates that the closest drainage district is about one mile away in southern Racine County and will not be directly impacted by the Project.

3.3. Conservation Programs

Voluntary conservation programs such as the USDA Conservation Reserve Enhancement Program (CREP) and the USDA Conservation Reserve Program (CRP) are financial incentive programs to help agricultural landowners meet their conservation goals. The USDA and the Department jointly administer the CREP program in Wisconsin.

3.3.1. Conservation Reserve Enhancement Program

CREP pays eligible agricultural landowners enrolled within the program to install filter strips along waterways or to return continually flooded fields to wetlands while leaving the remainder of the adjacent land in agricultural production. To be eligible for CREP payments, a recipient must have agricultural lands in crop production that are within 150 ft of a stream or water body or 1,000 ft from a grassland project area (DATCP, 2019b). A review of the Department's CREP records indicated that the proposed Project would not impact any current CREP fields.

3.3.2. Conservation Reserve Program (CRP)

CRP is a land conservation program administered by the Farm Service Agency of the USDA. In exchange for a yearly rental payment, eligible agricultural landowners enrolled in the program agree to remove highly erodible land from agricultural production and plant resource-conserving

plant species such as grasses or trees that will improve environmental health and quality (USDA, 2019b). Eligible agricultural landowners must possess lands with the potential for long-term improvements to water quality, prevent soil erosion or establish beneficial wildlife habitats according to the USDA Environmental Benefits Index (USDA, 2019b). CRP enrollment information is privileged to the USDA and CRP program participants. The Department is therefore unable to determine if any of the impacted agricultural parcels are enrolled within the CRP program.

3.3.3. Soil and Water Resource Management Grant Program (SWRM)

The state has a SWRM program with goals including: enhancing surface and groundwater protections, providing financial and technical assistance for locally led conservation and addressing soil and water resource concerns. Through the SWRM Program, the Department allocates funds to County Conservation Departments to facilitate landowner cost-share for installation of conservation practices. When a cost-share contract is issued under [Wis. Stat. §92.14](#), a landowner and or grant recipient agrees to install and maintain the conservation practice according to an operation and maintenance plan.

Landowners who are aware of any SWRM cost-shared practices on their farm within the proposed Project area should consult with the County Land Conservation Department to determine 1) the compatibility of the proposed ROW easement with the existing conservation practice and 2) if any effects will occur due to alteration of a practice during construction activities.

The Company is advised to consult the County Land Conservation Department on the existence of installed SWRM conservation practices within the Project area. Practices that are not maintained in accordance with the terms of the contract operation and maintenance plan may be subject to repayment of cost-shared funds. If a landowner is required to repay any cost-share funds because a construction impact resulted in a violation of the SWRM contract, the landowners should contact the Company staff member, as designated by the Company, responsible for handling compensation for release of lands from conservation programs. The landowner should be compensated for any termination of SWRM grant contract resulting from a construction impact.

4. AGRICULTURAL IMPACTS

In addition to being a key component of [Wis. Stat. §32.035](#), documenting the agricultural impacts of a project provides the project initiator and the agricultural landowner the opportunity to better understand the project in its own right as well as learn how the project will impact agriculture. Furthermore, the documentation of agricultural impacts by agricultural landowners and operators creates the opportunity for discussion of alternatives that may reduce impacts to agricultural lands.

In order to promote the opportunity for alternatives, the Department has used information provided by the Company for this AIS and information gathered by the Department to analyze the potential agricultural impacts of the Project in Kenosha County, WI. The analysis of the agricultural

impacts and conclusions drawn from the analysis form the basis of the Department's recommendations within the AIS Recommendation Section above.

Agricultural operations and future productivity may be affected during construction of the Project. Impacts to agricultural lands may include but are not limited to:

- Interference with farm operation access in the ROW and adjacent areas
- Alteration of surface and subsurface drainage systems
- Impacts to grazing areas, row crops or existing fencing
- Use of prohibited substances on farms that follow organic or other sustainable management practices

Following construction, some impacts may affect agricultural operations for years. These long term impacts may include but are not limited to:

- Yield reduction due to erosion, topsoil mixing and/or compaction
- Ponding from altered surface and subsurface drainage profiles
- Inadequate restoration resulting in alteration to original land contours

The Company has prepared an Agricultural Mitigation Plan (AMP) that describe their proposed construction mitigation measures, restoration methods, best practices for communication with agricultural operations, which was analyzed and commented on by the Department in Section 5: Agricultural Mitigation. A copy of the mitigation plan can also be found in Appendix B. Pending Project approval, the Company will coordinate and consult with each agricultural landowner to obtain detailed information about each agricultural operation including but not limited to: locations of farm infrastructure, livestock and crops, locations of drainage tiles, and landowner concerns. The Company will use agricultural landowner feedback to identify potential project impacts to each agricultural operation along the Project route and to the extent practicable, implement measures to mitigate impacts (WEPC 2024a; WEPC 2024d). Subsequent discussion includes agricultural acquisitions and recommended additional agricultural mitigation practices beyond what was mentioned in the AMP.

4.1. Landowner Rights

[Wisconsin Statute § 182.017](#), also referred to as the "Landowner Bill of Rights", describes the rights of landowners and the requirements the utility must adhere to, when a transmission line will be constructed on private property. The transmission line applicant and contractor operating on the applicants behalf must comply with all aspects of this statute, which covers the range of topics described below:

- Compensation
- Landowner and Utility Liabilities

- Infrastructure Repair
- Soil Conservation & Erosion
- Debris Removal
- Consent for Weed & Brush Control
- Tree Harvesting and Tree Ownership
- Interference with television & radio reception
- Right-of-way Restriction

The applicant may request landowners to waive some rights during the negotiation process, but landowners are not required to do so. The Landowner Bill of Rights is still applicable to condemned land. The Department recommends that each affected landowner review the Landowners Bill of Rights (see Appendix D Section V) in its entirety prior to the start of easement negotiations.

4.2. Agricultural Land Acquisitions

In order to implement the proposed Project, the Company will affect approximately 27.2 to 34.7 acres of agricultural lands depending on the selected route. The Company plans to use a combination of temporary and permanent easements to obtain the necessary rights to construct the Project across all agricultural lands (WEPC 2024c).

The Department attempted to contact 8 agricultural landowners as shown in Table 2 impacted by the Project alternative routes who had agricultural impacts of one or more acres.

Agricultural tenant operators impacted by the Project may be eligible for a farm replacement payment from the Company in accordance with Wis. Stat. §32.19(4m)(b) if the Company exercises the powers of eminent domain through a jurisdictional offer to the agricultural property owner. A voluntary sale between the Company and an agricultural property owner, after a jurisdictional offer has been made, would not negate the potential for a farm replacement payment.

Table 2: Agricultural landowners, shown by Project route, the Department attempted to contact. Agricultural landowners with less than one acre of impact were not contacted.

Agricultural Landowner	Permanent Easement (Acres)	Temporary Easement (Acres)	Total Acres
Coughlin, Marjorie & Wayne	5.14	2.57	7.71
Fliess Revocable Trust	5.99	3.00	8.99
Hanover, John & Joan	5.74	2.87	8.61
Jamie Fliess Family Trust	0.96	0.48	1.45
Kenosha Beef International	6.89	3.44	10.33
Stephanie O. Jaeger Family Asset Trust	4.36	2.18	6.54
Vignieri Farms LLC	5.97	2.98	8.95
Wilks, Alvin & Jean	6.06	3.03	9.09

4.3. Landowner Concerns

In order to gather additional information about the project's impact to agricultural lands and farm operations, the Department attempted to reach out to all agricultural landowners within the Project ROW routes via a mailed survey (see table above).

One landowner out of the 8 contacted replied, resulting in a response rate of 12.5%. Don Wilks reached out on behalf of the Alvin and Jean Wilks property. Wilks reported that the land within the project area consisted of cropland, and that the land was not a part of an agricultural or Conservation program that was discussed in Section 3: Agricultural Setting.

The Wilks' main concern for potential project impacts were about erosion control and drainage issues. Wilks noted that there are numerous drainage tiles throughout the fields, and that the land within the project area is highly productive. Potential drainage issues such as damaged drain tiles and erosion resulting from the Project's construction activities could reduce yield and efficiency for the farm operation (see section 5.3 for a discussion about Cleanup, Restoration and Yield Compensation). Wilks also noted that it would be difficult to farm and maneuver around gen-tie line poles placed within the field (see 4.4.3.1 for a discussion about wasteland created around transmission poles).

To mitigate impacts to drainage systems, agricultural landowners should provide the Company with locations of existing drainage structures. Drainage systems are addressed in BMP 04 – Drain Tile within the Company's AMP, which can also be found in Appendix B, that provide considerations to

preserve these structures, which are directly linked to the productivity of the impacted agricultural land.

4.4. Severance, Access and Wasteland

The temporary and permanent easements of agricultural property required to implement any of the proposed Project alternative routes could result in agricultural parcel severance, removal of existing field access points and potentially the creation of wastelands and uneconomic remnant parcels. The circumstances (i.e. loss of access, severance, wasteland etc.) surrounding the impacts to each impacted remnant agricultural parcel are unique, thus some agricultural parcels may remain economically viable, while others may not. The following analysis will document the potential for severance, loss of access and potential creation of wastelands and uneconomic remnant parcels for the agricultural parcels impacted by the proposed alternatives for the proposed Project in Kenosha County, WI.

4.4.1. Severance

As proposed, the preferred and alternative routes will temporarily and/or permanently sever agricultural parcels to accommodate the construction of the transmission line. Severance may be a physical barrier such as a temporary access road or a non-physical barrier such as permanent land use restrictions. Imposing land use restrictions as part of a transmission line easement ROW may still allow an agricultural landowner to access lands. However, barring the growth of trees or other woody plants as part of an easement may prevent the continuation of an existing agricultural land use, such as managed forestlands. Regardless of the means, severing an agricultural parcel effectively splits the existing parcel into two or more smaller parcels. Severing an agricultural parcel may also remove existing access points, create agricultural wastelands or uneconomic remnant parcels, and even divide the operation of a farm. Under Wisconsin's Eminent Domain Statute, compensation for damages resulting from severance is described in [Wis. Stat. § 32.09\(6\)](#).

In the AIN, the Company reported that agricultural parcels are not anticipated to be severed following as the proposed route is generally aligned with the boundaries of the agricultural properties it intersects (WEPC 2024a). A review of parcel records indicates that the proposed ROW for the preferred and alternate routes of the generation interconnect line will bisect agricultural parcels, meaning whichever route is selected will require infield siting of monopoles or H Tower installations not along a parcel boundary or edge. In the AIN, the project initiator reported it has existing gas pipeline easements and in some circumstances solar easements on the impacted properties (WEPC 2024a). The proposed route will require a combination of new and modified ROW easements to accommodate a shared easement. The alternate route will require new ROW easements (WEPC 2024c). Both the preferred and alternate routes include proposed ROW

easements that cross contiguous agricultural parcels. The route segments that cross agricultural fields will create temporary severance during construction.

Following site restoration, agricultural use may still be possible outside of lands sited with transmission structures. Some permanent use restrictions, including prohibitions on woody vegetation and no construction within the clear zone of the selected route will apply within the project ROW (WEPC 2024a).

4.4.2. Access

As proposed, the Project has the potential to temporarily limit agricultural field access and limit access to agricultural operations. When agricultural lands and operations lose access, even temporarily, agricultural productivity may be impacted if crops, livestock or other agricultural products cannot be tended too. Lost access may also directly result in lost income if a field cannot be planted or harvested, or if an agricultural operation as a whole is hindered.

Access limitations would be specific to permanent easements utilized for the transmission line ROW. Agricultural parcels where the Company will need to site the transmission line in-field would have the greatest potential for temporary access limitations.

In order to accommodate field access to the remnant agricultural fields, the Department recommends that the Company work with agricultural landowners and any agricultural tenant operators to determine safe new access points to the remnant fields as needed during construction.

4.4.3. Wasteland

Acquisitions and easements that impact farmland frequently create small remnant fields that may be difficult to access, are irregularly shaped, or are no longer able to produce the pre-existing agricultural crop (e.g timber). These small irregularly shaped remnant fields may also contain numerous obstacles, such as transmission line poles, that can make it difficult for agricultural equipment to navigate and reduce the amount of tillable acres. This in turn reduces agricultural productivity, decreases the economic viability of the land and increases the likelihood of creating undeveloped land ([Wis. Stat. § 70.32\(2\)\(a\)\(5\)](#)) or what is commonly referred to as wasteland as shown in Figure 2. Compensation for the reduction in the value of parcels that are small and/or irregularly shaped and the potential creation of uneconomic remnant parcels according to [Wis. Stat. 32.05\(3m\)](#) should be addressed in the appraisal of each affected parcel.

4.4.3.1. Wasteland

By the nature of transmission line projects, both the preferred and alternative routes proposed by The Company for the Project have the potential to permanently create small amounts of agricultural wastelands in the immediate area surrounding each transmission line pole or H Tower Installation (Figure 2). In the CPCN application ([REF#: 496791](#)), The Company reported that 15 transmission structures are proposed within along the preferred route and 17 transmission structures are proposed to be installed along the alternate route. These tower locations can impact

farm owners and operators as they must maneuver farming equipment around transmission towers and/or the lost productivity and revenue that would result from altering planting patterns around the towers, which elevates the cause for concern around the creation of tower-induced wastelands.

Figure A: Field Edge Effect on Tower Location

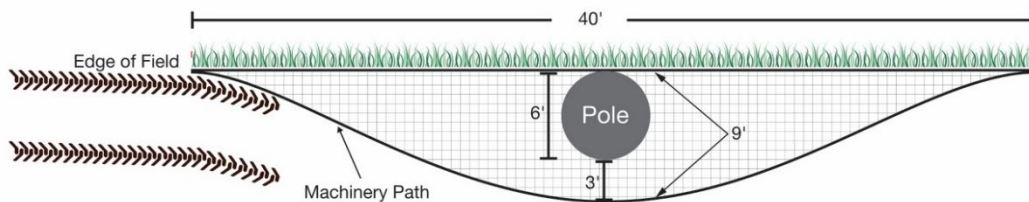


Figure B: In-Field Effect of Tower Location

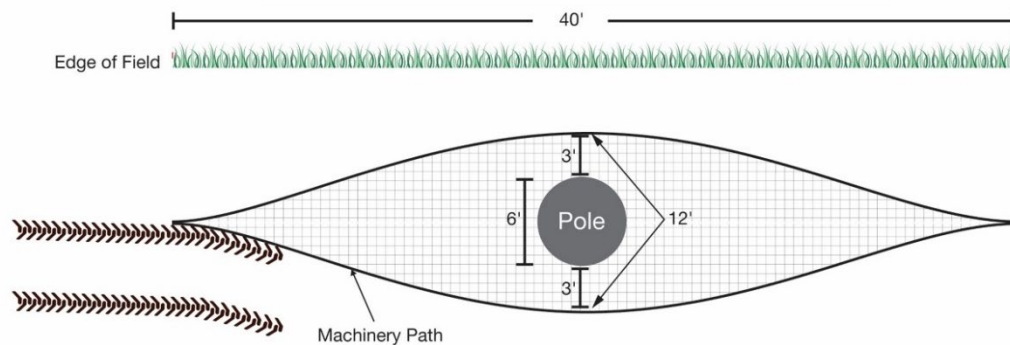


Figure 2: Examples of agricultural wastelands created by altering the pathway of agricultural machinery to navigate around transmission line towers along a field edge (Figure A) and within a field (Figure B).

4.4.3.2. Uneconomic Remnant Fields

It is unlikely that the Gen-Tie Line portion of the Project will create uneconomic remnant fields.

4.5. Prime Farmland and Soils

As proposed, the Gen-Tie Line aspect of the Project will impact approximately between 27 to 35 acres of agricultural lands and agricultural soils depending on the selected route. Impacts to prime farmland and soils measured in this analysis reflect the Project's cumulative impact and does not necessarily differentiate between permanent or temporary impacts to an agricultural operation. The soils impacted by the proposed Project were cataloged and analyzed by farmland classification, for each route alternative, using the USDA-Natural Resources Conservation Service prime farmland soils GIS layer. Farmland soil classifications impacted by the Project include prime farmland, prime farmland if drained, farmland of statewide importance or farmland of local importance (Table 3).

Prime farmland is designated by the USDA according to section 622.3 of the National Soil Survey Handbook (USDA, 2017b) and is based on the ability of the land and soil to produce crops. Definitions of prime farmland, prime farmland if drained and farmlands of statewide/local importance are provided under 3. The soil texture of agricultural soils impacted by the Project was analyzed, in general terms, across the project ROW.

All of the agricultural lands, irrespective of route alternative, impacted by the Gen-Tie Line aspect of the Project hold some level of Federal or State priority designation. Respective to the preferred and alternative routes, the USDA has designated approximately 25.3 and 32.9 acres as prime farmland/prime if drained, while the State of Wisconsin has designated approximately another 1.8 acres for either route as farmland of statewide importance (Table 3). Across the impacted agricultural parcels, the soils primarily consists of silt loam textured soils of various soil series. Silt loam soils are medium-textured soils (Cornell, 2017) with good soil structure, possess an ideal ability to hold onto water without becoming excessively wet and are usually best suited for crop production (UW-Extension, 2005).

This soils analysis shows that both the preferred and alternative routes will impact or remove prime farmland and high quality soils. When evaluating the cumulative impacts to all farmlands with some designation of Federal and State importance, the impact of the alternate route affects 24.35% more acres, or 7.5 acres, than the preferred route. Comparatively, the acreage of potential impacts to prime farmland posed by the alternate route affects an additional 7.6 acres, or 26.2% more primeland. In general, the Department recommends selecting a route that shares an existing ROW to the greatest extent possible to mitigate impacts to prime farmland and agricultural soils.

Table 3: Agricultural soils, shown by Project route and farmland classification, impacted by the proposed Project in Kenosha County, WI.

Soil Texture	Prime Farmland* (acre)	Prime Farmland if Drained^o (acre)	Farmland of Statewide Importance[‡] (acre)	Not Prime Farmland[¶] (acre)	Total (acre)
Preferred Route					
Loam	0.5	0.3	0.0	0.0	0.8
Loamy Sand	0.0	0.0	0.0	0.0	0.0
Muck	0.0	0.0	0.4	0.0	0.4
Sandy Loam	0.0	0.0	0.0	0.0	0.0
Sand	0.0	0.0	0.0	0.0	0.0
Silt Loam	6.0	4.1	1.3	0.0	11.4
Silty Clay Loam	0.0	14.5	0.0	0.0	14.5
Other	0.0	0.0	0.0	0.0	0.0
Route Total					27.1
Alternate Route					
Loam	0.0	0.7	0.0	0.0	0.7
Loamy Sand	0.0	0.0	0.0	0.0	0.0
Muck	0.0	0.0	0.4	0.0	0.4
Sandy Loam	0.0	0.0	0.0	0.0	0.0
Sand	0.0	0.0	0.0	0.0	0.0
Silt Loam	12.5	5.3	1.3	0.0	19.1
Silty Clay Loam	0.0	14.4	0.0	0.0	14.4
Other	0.0	0.0	0.0	0.0	0.0
Project Total					34.6
<p>*Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and may be utilized for cropland, pastureland, rangeland, forest land, or other lands excluding urban built-up land or water. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management.</p> <p>^oPrime farmland if drained, indicates that if farmland is drained it would meet prime farmland criteria.</p> <p>[‡]Farmlands of statewide importance are set by state agency(s). Generally, these farmlands are nearly prime farmland and economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce yields high as prime farmlands under proper conditions.</p> <p>[¶]Not Prime farmland, indicates farmland is neither prime farmland nor of designated importance.</p> <p>Other is used for soil types that did not fit into one of the other categories, such as water,</p>					

4.6. Drainage and Soil Health

Maintaining proper field drainage and preserving soil health is vital to the success of an agricultural operation. If drainage is impaired, water can settle in fields and cause substantial damage, such as reducing soil health, harming or killing crops and other vegetation, concentrating mineral salts, flooding farm buildings, or causing hoof rot and other diseases that affect livestock. Soil structure, texture, organic matter and microorganisms are all important factors that influence soil health (Wolkowski and Lowery, 2008).

4.6.1. *Drainage and Soil Health Impacts*

Project construction activities have the potential to disrupt and/or mix soil profiles within the Project ROW as well as the surrounding area. Construction activities may affect the existing surface and subsurface (i.e. drain tile) drainage patterns of agricultural fields if drainage tile lines are broken or if the topography of grassed waterways, known water flowlines or erosion control structures are altered. The agricultural soils impacted by the proposed Project are also widely known to be hydric or contain hydric inclusions. Hydric soils are commonly saturated, flooded or ponded for an extended period during the growing season, causing anaerobic conditions within the upper soil layer and may be associated with wetlands. It's also common practice for agricultural operations to install drainage systems to mitigate the impacts of hydric soils, thus the presence of drainage tile is likely widespread throughout the Project area.

The movement of heavy equipment through the Project ROW may also compact soil and impede drainage. UW-Extension report A3367 states that heavy equipment with axle loads that exceed 10 tons increase the risk of soil compaction into subsoil layers that cannot be removed by conventional tillage (Wolkowski and Lowery, 2008). In addition, research has also shown that construction activities can negatively impact soil properties, soil health and crop yields for up to a decade within the ROW depending on the type and severity of construction impacts (e.g equipment axle weight, use of excavation, intermixing of soil layer etc.) (Culley and DOW 1988; Shi et al., 2014).

The Department recommends the Company take several mitigation efforts related to topsoil mixing, soil compaction, drainage, de-watering, and erosion control as seen in Section 5.4 "Recommended Mitigation Efforts" to mitigate impacts to drainage and soil health on agricultural lands and preserve prime farmland & soils.

5. AGRICULTURAL IMPACT MITIGATION

Whether it be by design or geographic footprint, some projects have the potential for greater agricultural impacts. Common characteristics of projects with the potential for increased agricultural impacts include construction areas spreading across long linear tracks of land, impacts to numerous landowners, or state/federal requirements to prepare an environmental assessment or environmental impact statement. Examples of these projects include natural gas pipelines, high-voltage electric transmission lines, or the expansion/creation of a highway corridor. In response to these types of projects, the Department analyzes the potential for best management practices ("BMP") and/or an agricultural mitigation plan ("AMP") to reduce or eliminate project related agricultural impacts.

5.1. Agricultural Mitigation Plan (AMP)

The Department recognizes the value and benefits achieved when any project initiator proactively supports practices and plans to restore impacted lands to pre-construction conditions and mitigate impacts to agricultural productivity. AMPs are one example of plans that describe the policies and methods project initiators will follow, during all phases of a project, to achieve these goals. AMPs typically describe, in detail, effective construction mitigation measures, restoration methods, best practices for communication with agricultural operations, and outlines the duties of the project's Agricultural Inspector ("AI").

According to the AIN submitted to the Department (WEPC 2024a) and the CPCN application submitted to the PSC REF#: 496791 (WEPC 2024c), the Company has an agricultural mitigation plan for the Project. This AMP includes mitigation measures and best management practices that will be implemented to reduce adverse effects or damage to farmland and farm operations

The Department reviewed the Company's AMP, as shown in Appendix B, to verify that it aligns with current agriculturally relevant BMPs and *mitigation* practices specific to electric transmission projects. The remainder of Section 5 will document the Department's review and will offers suggestions to the Company and agricultural landowners and operations to increase protections for *agricultural operations* and mitigate agricultural impacts. In addition to the AMP, the Company is required to follow all other federal and state *mitigation* plans and related permits.

The Company plans to restore construction areas on agricultural land to pre-construction conditions and mitigate impacts on agricultural productivity by implementing construction practices aimed at preserving top soil, reduce soil mixing, preventing erosion, and soil restoration (WEPC 2024d). Such stated construction practices include:

- Coordinating with landowners during the design process to avoid, to the extent practicable, the siting of a transmission line tower or project structure on or near drain tiles.

- Segregation of top soil within agricultural lands during excavation activities to preserve top soil.
- Clearing of brush and trees from the easement to avoid contact of tree debris with livestock and potential of being stockpiled on site.
- Erosion Control and Dewatering to prevent surface runoff of sediments on to adjacent lands.
- Locating and repairing drainage tiles as needed.
- Monitoring for weed growth on stockpiled topsoil and removing or killing weeds before topsoil replacement.
- Repair of existing agricultural erosion control facilities.
- Repair of existing drainage district features (drains, ditches, tiles, other facilities)
- Soil restoration, including de-compaction of the subsoil, top soil replacement, de-compacting through the topsoil, final rock removal and cleanup.
- Restoring agricultural lands to pre-existing conditions through soil de-compaction, repair of drain tile if necessary, and appropriate compensation for any loss in productivity.
- Hiring an AI to work with agricultural landowners through the different project phases: negotiations, construction and restoration.

Prior to construction, the Company also proposes to consult with each agricultural landowner to understand their farm specific agricultural operation, including but not limited to: conservation practices and locations of above and below ground structures, such as drainage tiles, irrigation systems, fencing, livestock or other farm technology (WEPC 2024d). The Company has stated that they will communicate as needed with affected landowners and tenants of agricultural land to keep them informed of overall progress, explain mitigation actions, and to learn of any additional problems noted by landowners. The Company will provide landowners with a telephone number and address that can be used to contact the Company no later than 30 days prior to the start of construction (WEPC 2024d).

The remainder of Section 5 will document the Department's review of the AMP and offer suggestions to the Company and agricultural landowners and operations to increase protections for agricultural operations and mitigate agricultural impacts. In addition to the AMP, the Company is required to follow all other state mitigation plans and related permits. These additional plans and permits may overlap with various aspects of the AMP. The Company must follow all required plans and permits and where overlap exists, they will follow the most restrictive standard.

The Department recommends that landowners whom are concerned about potential impacts to their agricultural land should keep records of the conditions of the ROW before, during, and after

construction. Records could include keeping crop yield records, beginning once the ROW is known, and photographs taken every season. These measures can help a landowner negotiate for compensation, should damages caused by Project occur.

5.2. Independent Agricultural Monitor (IAM)

When a project affects a significant amount of agricultural land an IAM may need to be hired. IAMs monitor project construction activities and report on a wide range of agricultural issues including but not limited to construction impacts to soil health, soil erosion, crop damage, agricultural operations, irrigation and impacts to surface and subsurface drainage. Similar to and IEM, an IAM works on behalf of the PSC, WisDNR, the Department or other state regulatory agency as opposed to the utility. IAMs should also verify the project initiator is complying with any agricultural best management practices and agricultural conditions in the PSC order and any environmental relevant construction documents approved by the PSC. While the duties of an IAM and IEM may sound similar, the IAM specializes in agricultural impacts and the IAM does not hold the power to stop the project.

The proposed Project offers two route alternatives with comparable amounts of potential agricultural impacts. Agricultural impacts from the Project may include but are not limited to crop damage, loss of access, soil compaction, mixing of topsoil, soil erosion, impacts to surface and subsurface drainage, impacts to irrigation systems and stray voltage. For assistance mitigating these potential agricultural impacts and working with agricultural landowners during the negotiations, construction and restoration phases of the Project, the Company may appoint one or more individuals as the project AI (WEPC 2024d). Given the circumstances of the Project (small footprint and the non-significant impacts of the project), the Department believes the magnitude of agricultural impacts do not constitute the need for an IAM. Absent an IAM, the Agricultural Inspector (AI) hired or selected by the Company will have the ability to assist impacted agricultural landowners and help mitigate the potential agricultural impacts from the Project.

Should the PSC require an IAM for the Project, the Department recommends the IAM complete the Department's standard Agricultural Monitoring Form for Transmission Line Projects (ARM-LWR-543) seen in Appendix F or equivalent. For the Department to maintain timely review of Project activities occurring on agricultural lands, the IAM should document daily observations of construction activities on agricultural land only. The IAM should send the Department an updated form weekly.

5.3. Cleanup, Restoration and Yield Compensation

In accordance with [Wis. Stat. § 182.017\(7\)\(c\)](#), following the completion of construction activities, the Company will restore the area to preconstruction conditions. In general, cleanup and restoration activities include the removal of construction mats, temporary clear span bridges, and

any other material or debris (including stones and rocks) from the ROW. Stockpiled topsoils and subsoils removed during construction are returned, in the proper order, and graded to match the existing topography and slopes. All ruts and depressions are restored and new topsoil may be brought in where topsoil has been lost or seriously mixed with subsoils. Agricultural soils are also monitored for compaction and when required undergo decompaction efforts to return the soil structure to its original condition. In areas where crops are not present--such as roadsides, pastures, old fields or upland woods--native seed mixes (or other appropriate seed mixes approved by the landowner) may be sown.

Under Wis. Stat. § 182.017(7)(c), if drainage tiles, fencing or other agricultural features are damaged during construction, the Company is responsible to repair and/or replace the damage feature. The Company is also responsible to pay for any crop damages caused by construction or maintenance of the transmission line. Within the Company's AMP (WEPC 2024d), the Company stated they will work with agricultural landowners to compensate them for crop loss based on crop prices and yields for the County at the time of construction, and that payments would be made to landowners as soon as possible after construction is completed.

The Department recommends that the Company continue to monitor the ROW for soil erosion and compaction, as well as maintain erosion control practices until there is sufficient vegetative growth in the ROW to mitigate soil erosion. Only after restoration activities are complete and vegetation has re-established within the ROW, should temporary restoration erosion control devices, not designed to be left in place, be removed. Landowners should contact the Agricultural Inspector for concerns related to erosion on agricultural lands resulting from Project construction activities.

5.4. Recommended Mitigation Efforts

5.4.1. Topsoil Mixing

Agricultural topsoil is an invaluable resource that should be preserved. Excavation activities required to create the structural foundations for electric transmission line poles have the potential to mix highly productive topsoil with underlying less productive and potentially rocky subsoils. Deep rutting also has the potential to intermix topsoil. If intermixing of topsoil occurs, the resulting soils are generally known to be less productive and in-turn reduce the agricultural productivity of the impacted area. When excavation is needed, the Company is required by [Wis. Stat. § 182.017\(7\)\(c\)](#) to segregate and stockpile topsoil from subsoil.

The Company's AMP includes the management practice of topsoil segregation to eliminate the potential for topsoil and subsoil mixing during construction. This includes removing the topsoil layer (up to 12 inches) and separating it to topsoil storage piles separate from other excavated soils.

The Department recommends that the Company take the following additional measures to prevent the mixing of topsoil with subsoil layers within the Project ROW:

- 1) Do not spread mixed soils or segregated subsoils over cropland, pastures or other agricultural fields.
- 2) Prevent and monitor for erosion to keep topsoil segregated and within the ROW.
- 3) Avoid working in areas with recently saturated soils.
- 4) If rutting occurs, allow sufficient time for the soil to dry before repairing the ruts.
- 5) If topsoil mixing occurs, remove the intermixed soil and replace with new topsoil.

5.4.2. Soil Compaction

Equipment used to construct electric transmission lines has the potential to compact soil and reduce soil productivity on the farmland traversed during construction. Soil compaction is widely known to have a range a potential negative impacts to the productivity of soil, including reduced crop productivity, reduced crop uptake of water and nutrients, restriction of plant rooting depth, decreased water infiltration and increased surface runoff.

Several factors influence whether soil becomes compacted. An important influence is soil moisture: the wetter the soil, the more likely it is to be compacted from traffic. The potential for compaction also depends on the soil texture. Coarser textured soils, like sand or sandy loam, are less likely to become compacted than are clay or silty clay loams. Finally, the axle weight of the construction equipment affects compaction. UW-Extension report A3367 states that heavy equipment with axle loads that exceed 10 tons increase the risk of soil compaction into subsoil layers that cannot be removed by conventional tillage (Wolkowski and Lowery, 2008). The expected compaction depth increases as the axle load and soil moisture content increases.

Topsoil replacement and de-compaction is addressed within the Company's AMP. The AMP indicates that the Company will replace the topsoil to its original depth and the layer will be uniform across the ROW width. Compaction will be mitigated through the use of wide-tracked machinery or other light loaded equipment, or a track machine where practices of minimal or no tillage farm practices are employed. If topsoil or subsoil compaction will be assessed through the use of a penetrometer. The Company also aims to keep the size, density and distribution of rock remaining on the work area the same as adjacent areas. The Department agrees with these practices, and emphasizes the importance of using low-ground pressure and/or wide tracked equipment to reduce axel weight applied to soils.

The Department recommends taking additional steps to prevent soil compaction and rutting wherever possible. Measures to prevent soil compaction within the Project ROW include:

- 1) Using construction matting in wet areas, areas prone to rutting, or wetlands to spread out ground pressure.

- 2) When possible, conducting construction work during winter months when the ground is frozen.
- 3) Avoiding work in areas with recently saturated soils.
- 4) If rutting occurs, allowing sufficient time for the soil to dry before repairing the ruts.

After construction is complete, the ROW will be compacted to some degree. The Department agrees with the use of a penetrometer to measure for soil compaction post-construction within the Project ROW and outside of the Project ROW throughout the soil horizon and comparing the measurements. If soil measurements within the Project ROW are comparatively higher, this is an indication that compaction has occurred. In areas where soil compaction occurred, the Department recommends the Company take steps to decompact the soils by conducting a sufficient amount of deep tillage (V-ripper, chisel plow, para plow or other depth appropriate tillage implement) within the ROW to help restore the soil structure to pre-construction productivity. Following decompaction, the soil should be measured again for signs of compaction to ensure proper decompaction has occurred throughout the topsoil and subsoil profile. The Department also recommends the Company monitor soil moisture conditions post-construction throughout the Project ROW for signs of standing water. Areas with standing water may also have experienced soil compaction and should be measure for compaction.

5.4.3. Drainage

Proper field drainage is vital to a successful farm operation. Construction of an electric transmission line can disrupt improvements such as drainage tiles, grassed waterways, and drainage ditches, which regulate the flow of water on farm fields. If drainage is impaired, water can settle in fields and cause substantial damage, such as killing crops and other vegetation, concentrating mineral salts, flooding farm buildings, or causing hoof rot and other diseases that affect livestock. Construction-caused soil compaction or damaged drain tiles can lead to ponded water where none existed prior to construction. If drain tiles are damaged, the Company is required by [Wis. Stat. § 182.017\(7\)\(c\)](#) to repair or replace the damage drain tile.

The Company addresses their best management practices related to drainage tiles within BMP 04 of the AMP, which can be found in Appendix B, that conforms to the mitigation practices the Department seeks to mitigation practices the Department seeks to preserve the quality of agricultural topsoil.

The Department recommends agricultural operators consider the following to mitigate impacts to drain tiles and drainage:

- 1) Agricultural landowners should inform the Company about the existence and location of drainage systems or planned drainage systems that could be affected by the Project.

- 2) Agricultural landowners should document field moisture conditions and the historic presence/absence of ponded water prior to the start of construction for post-construction comparisons.

5.4.4. De-watering

During excavation/auguring of the structure foundation for a transmission line pole, dewatering may be necessary. Improper dewatering can result in soil erosion, sedimentation and deposition of gravel, sand, or silt onto adjacent agricultural lands, and the inundation of crops. The discharge of these construction waters must be in compliance with current drainage laws, local ordinances, WisDNR permit conditions, and the provisions of the Clean Water Act. the Company is required by [Wis. Stat. § 182.017\(7\)\(c\)](#) to compensate the landowner for any damage to agricultural fields caused by construction de-watering activities.

The Company addresses their best management practices related to drainage tiles within BMP 05 of the AMP, which can be found in Appendix B, that conforms to the mitigation practices the Department seeks to preserve the quality of agricultural topsoil. However, in addition to these practices, the Department further recommends that the Company should identify prior to construction 1) excavation sites with low areas and/or hydric soils where de-watering is likely and 2) suitable upland areas for discharge.

5.4.5. Erosion and Conservation Practices

Electric transmission line construction activities and the placement of transmission line poles can destabilize existing erosion control practices such as diversion terraces, grassed or lined waterways, outlet ditches, water and sediment control basins, vegetated filter strips, etc. The destabilization of these erosion control practices have the potential to cause soil erosion within the ROW, but also from upland fields. During wet conditions the risk of soil erosion is increased, as exposed soils, especially areas with increased slope, may more easily erode and move downslope. Wind erosion may also be of concern if existing windbreaks are removed from the ROW, especially when soils are dry. If left unchecked, significant erosion can have an adverse effect on the long-term productivity of agricultural lands. the Company is required by [Wis. Stat. § 182.017\(7\)\(c\)](#) to restore existing erosion control practices such as diversion terraces, grassed or lined waterways, outlet ditches, water and sediment control basins, vegetated filter strips, etc. that are damaged by construction activities to pre-construction condition and function.

The Company discusses their BMPs for Erosion Control in BMP 03 within the AMP, which can be found in Appendix B. The Company discusses the use of slope breakers, sediment barriers, and trench breakers as determined by the Company to be needed.

The Department recommends the following additional measures to mitigate soil erosion within the Project ROW:

- 1) Once construction is complete, pending soil decompaction, impacted agricultural lands within the ROW should be returned to cropland or seeded with the appropriate seed mix.
- 2) The Company should inspect all temporary erosion controls structures on a daily basis throughout construction and restoration phases and undertake erosion control structure maintenance as required to prevent soil erosion within the ROW.
- 3) the Company should avoid impacting any existing permanent erosion control structure (e.g diversion terraces, grassed or lined waterways, outlet ditches, water and sediment control basins, vegetated filter strips, etc.) that's intended to prevent soil erosion from an upland agricultural area.
- 4) Should the Company disrupt an existing permanent erosion control structure, a temporary structure should be installed until the permanent erosion control is restored.

5.4.6. Managed Forest Law, Trees and other Woody Vegetation

Both managed and unmanaged woodlands can provide financial benefit to the landowner either directly through the sale of managed forest for timber, the sale of firewood, or the harvest of tree sap for sale. The removal of any trees from a property may also decrease the market value of the property. Upon a desktop analysis, no areas of Managed Forest Law agreements were found within the project area.

Prior to the start of construction, the Company will remove all woody vegetation, trees and brush not already removed by the landowner from the full width of the Project ROW. Vegetation will be cut at or slightly above the ground surface using mechanized equipment or by hand. Tree stumps are generally left in place, except in areas where stump removal is necessary to facilitate the movement of construction vehicles, or required by the landowner. Once removed, trees are not permitted to regrow or be replanted in the Project ROW after construction is complete or while maintained by the Company. According to [Wis. Stat. § 182.017\(7\)\(e\)](#) affected landowners will maintain ownership of all trees removed by the Company during construction. The Company is also required to provide the landowner a reasonable amount of time, prior to construction, to harvest the trees on their own. Post construction and restoration, the deforested land could be used for farming so long as the intended crop or agricultural equipment does not interfere with transmission line facilities. The Company will manage and maintain deforested areas, including vegetation removal and management within the deforested ROW for those areas that landowners do not wish to crop or maintain.

The Department recommends the following to mitigate the impacts of tree and woody material removal from the Project ROW:

- 1) The Company should adjust the placement of transmission line poles to minimize the need for tree removal and prioritize the preservation of trees used for windbreaks.

- 2) The Company should compensate agricultural landowners for the construction of any additional structures that serve in the place of the harvested trees.
- 3) The Company should hire an appraiser who has experience and expertise in valuing trees.
- 4) Landowners who wish to obtain their own appraisal should also hire an appraiser who has experience and expertise in valuing trees.
- 5) Landowners who wish to farm within the deforested area should discuss tree stump removal with the Company during the easement negotiation process.

5.4.7. Weed Control

The Project may introduce noxious weeds or other invasive plants species into the Project ROW that compete with agricultural crops. Noxious weeds may also spread from parcel to parcel by construction equipment and project activities. Once weeds establish, they can interfere with agricultural harvesting equipment, attract unwanted insects, and require physical removal or chemical applications to remove.

Post construction and restoration, agricultural operations may resume normal agricultural cropping activities within the ROW so long as the crop or agricultural equipment do not interfere with transmission line facilities. After construction and during the operation of the line, the Company is required by [Wis. Stat. § 182.017\(7\)\(d\)](#) to control weeds and brush around the transmission line facilities. However, the Company shall not use herbicide for weed and brush control without the express written consent of the landowner ([Wis. Stat. § 182.017\(7\)\(d\)](#)).

Within the AMP, the Company addresses weed control within the AMP, found within Appendix B.

The Department recommends the following to control for and manage the spread of noxious weeds within the project ROW:

- 1) Agricultural landowners should state in writing whether they do or do not give the Company their consent for herbicide to be applied within the ROW they own.
- 2) The Company should clean construction equipment and materials prior to entering an area of certification.
- 3) The Company should clean all roadways (private, county, state etc.) of construction debris, dirt and rocks.
- 4) The Company should use tracking pads at frequently used access points.

- 5) Agricultural landowners and beekeepers should consider using the free online [DriftWatch](#)™ and [BeeCheck](#)™ registries, operated by [FieldWatch](#)™ to communicate areas containing specialty crops or beehives with pesticide applicators, in order to minimize the risk of accidental exposure. For more information on DriftWatch, please visit the [DATCP DriftWatch website](#) at the provided link or at <https://wi.driftwatch.org/>.
- 6) The Company and its contractors that are applying herbicide or pesticides should utilize the Department's Driftwatch™ [online mapping tool](#) to locate agricultural lands and operations that are susceptible to herbicide or pesticides. If the online mapping tool locates an agricultural operation on or near areas that will receive herbicide or pesticide applications, the Company should contact the operation to discuss the appropriate methods required to minimize the risk of accidental exposure.

5.4.8. Construction Debris

After construction is complete, there may be construction debris remaining on the field. If large pieces of debris or rocks are left in the field, agricultural machinery may be damaged when the landowner first works the land. The Company is required by [Wis. Stat. § 182.017\(7\)\(c\)](#) to clear all debris and remove all stones and rocks resulting from construction activity upon completion of construction. To that end, the Company shall also clear the ROW of signage, construction mat debris, litter, and spoil piles etc.

To mitigate the potential impact of construction debris, the Department recommends the following:

- 1) Should a landowner find construction debris remaining in the field after the Company has cleared the field, the landowner should contact the Company IEM or IAM to report the debris prior to operating agricultural equipment in the field.
- 2) Should the Company remove an existing power line pole from within or immediately adjacent to cropland, the Company should remove the old structure at a minimum of four feet below the ground surface.
- 3) Should the Company create a hole within croplands during the removal of any part of the existing transmission structure, they should fill the hole with clean imported topsoil.

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**WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION**

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APPENDICES

DATCP #4574

Paris RICE 138-kV Generation-Tie Line Project

Kenosha County

**WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION**

PUBLISHED JULY 11, 2024

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APPENDIX A: ADDITIONAL FIGURES

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APPENDIX B: WISCONSIN ELECTRIC POWER COMPANY'S AGRICULTURAL MITIGATION PLAN

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APPENDIX C: APPRAISAL AND COMPENSATION PROCESS

The acquisition of land by entities including but not limited to departments, municipalities, boards, commissions, public officers, and business with eminent domain authority in Wisconsin, is stipulated under [Wis. Stat. §32.06](#). If the entity (the condemnor) actualizes their powers of eminent domain by exercising condemnation, the condemnor shall first provide an appraisal of the affected property to each landowner prior to the start of land acquisition negotiations. An appraisal is an estimate of fair market value, additional information about the appraisal process and landowners rights can be found in the Wisconsin Department of Administration publication, "[The Rights of Landowners under Wisconsin Eminent Domain Law](#)," also listed in Appendix D.

The condemnor may conduct a market study to determine current area property values of affected property. If the landowner signs an appraisal waiver form, the market study will be the basis for the condemnor's offer of compensation and no individual property appraisal will be conducted. The condemnor may also offer additional compensation to landowners who choose to sign the appraisal waiver form.

Landowners have the right to obtain their own appraisal of their property under Wisconsin's eminent domain law ([Wis. Stat. §32.06](#)) and will be compensated for the cost of this appraisal if the following conditions are met:

- 1) The appraisal must be submitted to the condemnor or its designated real estate contractor within 60 days after the landowner receives the initial appraisal
- 2) The appraisal fee must be reasonable
- 3) The appraisal must be a full, narrative appraisal
- 4) The appraisal must be completed by a qualified appraiser

Through the process of condemnation, a jurisdictional offer made to the landowner in accordance with [Wis. Stat. §32.06\(3\)](#) will include an appraisal of the fair market value for the land acquisition or easement and any anticipated damages to the property. The fair market value means the price that a willing buyer would pay to a willing seller in the market. This will be based on at least one full narrative appraisal for each property the condemnor intends to acquire. The appraisal must be presented to the landowner. The amount of compensation is based on the appraisal(s) and is established during the negotiation process between condemnor and the individual landowners.

The condemnor is required to provide landowners with information about their rights in this process before negotiations begin. [Wis. Stat. § 32.035\(4\)\(d\)](#) additionally stipulates that if the condemnor actualizes their condemnation authority, the condemnor cannot negotiate with a landowner or make a jurisdictional offer until 30 days after the AIS is published.

APPENDIX D: WISCONSIN STATUTES

The Department of Agriculture, Trade and Consumer Protection (the Department) is required to prepare an AIS whenever more than five acres of land from at least one farm operation will be acquired for a public project if the agency/company acquiring the land has the authority to use eminent domain for property acquisitions. The Department has the option to prepare an AIS for projects affecting five or fewer acres from each farm if the proposed project would have significant effects on a farm operation. The entity proposing a construction project is required to provide the Department with the necessary details of the project so that the potential impacts and effects of the project on farm operations can be analyzed. DATCP has 60 days to make recommendations and prepare the AIS. DATCP shall publish the AIS upon receipt of the fee required to prepare the AIS. The Department provides the AIS to affected farmland owners, various state and local officials, local media and libraries, and any other individual or group who requests a copy. Thirty days after the date of publication, the project initiator may begin negotiating with the landowner(s) for the property.

I. AGRICULTURAL IMPACT STATEMENT STATUTE

[Wisconsin Statute § 32.035](#) is provided below and describes the Wisconsin Agricultural Impact Statement procedure and content.

(1) DEFINITIONS. In this section:

- (a) "Department" means department of agriculture, trade, and consumer protection.
- (b) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural commodities resulting from an agricultural use, as defined in s. 91.01 (2), for sale and home use, and customarily producing the commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(2) EXCEPTION. This section shall not apply if an environmental impact statement under s. 1.11 is prepared for the proposed project and if the department submits the information required under this section as part of such statement or if the condemnation is for an easement for the purpose of constructing or operating an electric transmission line, except a high voltage transmission line as defined in s. 196.491(1) (f).

(3) PROCEDURE. The condemnor shall notify the department of any project involving the actual or potential exercise of the powers of eminent domain affecting a farm operation. If the condemnor is the department of natural

resources, the notice required by this subsection shall be given at the time that permission of the senate and assembly committees on natural resources is sought under s. 23.09(2)(d) or 27.01(2)(a). To prepare an agricultural impact statement under this section, the department may require the condemnor to compile and submit information about an affected farm operation. The department shall charge the condemnor a fee approximating the actual costs of preparing the statement. The department may not publish the statement if the fee is not paid.

(4) IMPACT STATEMENT.

(a) *When an impact statement is required; permitted.* The department shall prepare an agricultural impact statement for each project, except a project under Ch. 82 or a project located entirely within the boundaries of a city or village, if the project involves the actual or potential exercise of the powers of eminent domain and if any interest in more than 5 acres from any farm operation may be taken. The department may prepare an agricultural impact statement on a project located entirely within the boundaries of a city or village or involving any interest in 5 or fewer acres of any farm operation if the condemnation would have a significant effect on any farm operation as a whole.

(b) *Contents.* The agricultural impact statement shall include:

1. A list of the acreage and description of all land lost to agricultural production and all other land with reduced productive capacity, whether or not the land is taken.
2. The department's analyses, conclusions, and recommendations concerning the agricultural impact of the project.

(c) *Preparation time; publication.* The department shall prepare the impact statement within 60 days of receiving the information requested from the condemnor under sub. (3). The department shall publish the statement upon receipt of the fee required under sub. (3).

(d) *Waiting period.* The condemnor may not negotiate with an owner or make a jurisdictional offer under this subchapter until 30 days after the impact statement is published.

(5) PUBLICATION. Upon completing the impact statement, the department shall distribute the impact statement to the following:

(a) The governor's office.

- (b) The senate and assembly committees on agriculture and transportation.
- (c) All local and regional units of government that have jurisdiction over the area affected by the project. The department shall request that each unit post the statement at the place normally used for public notice.
- (d) Local and regional news media in the area affected.
- (e) Public libraries in the area affected.
- (f) Any individual, group, club, or committee that has demonstrated an interest and has requested receipt of such information.
- (g) The condemnor.

II. STATUTES GOVERNING EMINENT DOMAIN

The details governing eminent domain as it relates to WisDOT projects are included in Wis. Stat. Ch. 32 (<http://docs.legis.wisconsin.gov/statutes/statutes/32.pdf>).

The Department recommends that farmland owners concerned about eminent domain powers and the acquisition of land should review this statute in its entirety. Landowners may also wish to consult with an attorney who should have expertise in eminent domain proceedings. In addition, any Wisconsin licensed appraiser that landowners employ regarding a project where eminent domain could be used should be knowledgeable in partial takings.

Section 32.09 of the Wisconsin Statutes describes the compensation provided for property acquisition and certain damages:

(6) In the case of a partial taking of property other than an easement, the compensation to be paid by the condemnor shall be the greater of either the fair market value of the property taken as of the date of evaluation or the sum determined by deducting from the fair market value of the whole property immediately before the date of evaluation, the fair market value of the remainder immediately after the date of evaluation, assuming the completion of the public improvement and giving effect, without allowance of offset for general benefits, and without restriction because of enumeration but without duplication, to the following items of loss or damage to the property where shown to exist:

- (a)** Loss of land including improvements and fixtures actually taken.
- (b)** Deprivation or restriction of existing right of access to highway from abutting land, provided that nothing herein shall operate to restrict the power of the state or any of its

subdivisions or any municipality to deprive or restrict such access without compensation under any duly authorized exercise of the police power.

(c) Loss of air rights.

(d) Loss of a legal nonconforming use.

(e) Damages resulting from actual severance of land including damages resulting from severance of improvements or fixtures and proximity damage to improvements remaining on condemnee's land. In determining severance damages under this paragraph, the condemnor may consider damages which may arise during construction of the public improvement, including damages from noise, dirt, temporary interference with vehicular or pedestrian access to the property and limitations on use of the property. The condemnor may also consider costs of extra travel made necessary by the public improvement based on the increased distance after construction of the public improvement necessary to reach any point on the property from any other point on the property.

(f) Damages to property abutting on a highway right of way due to change of grade where accompanied by a taking of land.

(g) Cost of fencing reasonably necessary to separate land taken from remainder of condemnee's land, less the amount allowed for fencing taken under par. (a), but no such damage shall be allowed where the public improvement includes fencing of right of way without cost to abutting lands.

Section 32.19 of the Wisconsin Statutes outlines payments to be made to displaced tenant occupied businesses and farm operations.

(4m) BUSINESS OR FARM REPLACEMENT PAYMENT. (a) Owner-occupied business or farm operation. In addition to amounts otherwise authorized by this subchapter, the condemnor shall make a payment, not to exceed \$50,000, to any owner displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to the initiation of negotiations for the acquisition of the real property on which the business or farm operation lies, and who actually purchases a comparable replacement business or farm operation for the acquired property within two years after the date the person vacates the acquired property or receives payment from the condemnor, whichever is later. An owner displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to the initiation of negotiations for the acquisition of the real property on which the business or farm operation lies may elect to receive the payment under par. (b) 1. in lieu of the payment under this paragraph, but the amount of payment under par. (b) 1. to such an owner displaced person may not exceed the amount the owner displaced person is eligible to

receive under this paragraph. The additional payment under this paragraph shall include the following amounts:

1. The amount, if any, which when added to the acquisition cost of the property, other than any dwelling on the property, equals the reasonable cost of a comparable replacement business or farm operation for the acquired property, as determined by the condemnor.
2. The amount, if any, which will compensate such owner displaced person for any increased interest and other debt service costs which such person is required to pay for financing the acquisitions of any replacement property, if the property acquired was encumbered by a bona fide mortgage or land contract which was a valid lien on the property for at least one year prior to the initiation of negotiations for its acquisition. The amount under this subdivision shall be determined according to rules promulgated by the department of administration.
3. Reasonable expenses incurred by the displaced person for evidence of title, recording fees and other closing costs incident to the purchase of the replacement property, but not including prepaid expenses.

(b) Tenant-occupied business or farm operation. In addition to amounts otherwise authorized by this subchapter, the condemnor shall make a payment to any tenant displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to initiation of negotiations for the acquisition of the real property on which the business or operation lies or, if displacement is not a direct result of acquisition, such other event as determined by the department of commerce, and who actually rents or purchases a comparable replacement business or farm operation within 2 years after the date the person vacates the property. At the option of the tenant displaced person, such payment shall be either:

1. The amount, not to exceed \$30,000, which is necessary to lease or rent a comparable replacement business or farm operation for a period of 4 years. The payment shall be computed by determining the average monthly rent paid for the property from which the person was displaced for the 12 months prior to the initiation of negotiations or, if displacement is not a direct result of acquisition, such other event as determined by the department of administration and the monthly rent of a comparable replacement business or farm operation and multiply the difference by 48; or
2. If the tenant displaced person elects to purchase a comparable replacement business or farm operation, the amount determined under subd. 1 plus expenses under par. (a) 3.

(5) EMINENT DOMAIN. Nothing in this section or ss. 32.25 to 32.27 shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of damages.

Section 32.25 of the Wisconsin Statutes delineates steps to be followed when displacing persons, businesses, and farm operations.

(1) Except as provided under sub.(3) and s. 85.09 (4m), no condemnor may proceed with any activity that may involve the displacement of persons, business concerns or farm operations until the condemnor has filed in writing a relocation payment plan and relocation assistance service plan and has had both plans approved in writing by the department of administration.

(2) The relocation assistance service plan shall contain evidence that the condemnor has taken reasonable and appropriate steps to:

(a) Determine the cost of any relocation payments and services or the methods that are going to be used to determine such costs.

(b) Assist owners of displaced business concerns and farm operations in obtaining and becoming established in suitable business locations or replacement farms.

(c) Assist displaced owners or renters in the location of comparable dwellings.

(d) Supply information concerning programs of federal, state and local governments which offer assistance to displaced persons and business concerns.

(e) Assist in minimizing hardships to displaced persons in adjusting to relocation.

(f) Secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the implementation of the relocation program.

(g) Determine the approximate number of persons, farms or businesses that will be displaced and the availability of decent, safe and sanitary replacement housing.

(h) Assure that, within a reasonable time prior to displacement, there will be available, to the extent that may reasonably be accomplished, housing meeting the standards established by the department of administration for decent, safe and sanitary dwellings. The housing, so far as practicable, shall be in areas not generally less desirable in regard to public utilities, public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced and equal in number to the number of such displaced families or individuals and reasonably accessible to their places of employment.

(i) Assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable dwelling.

(3) (a) Subsection (1) does not apply to any of the following activities engaged in by a condemnor:

1. Obtaining an appraisal of property.
2. Obtaining an option to purchase property, regardless of whether the option specifies the purchase price, if the property is not part of a program or project receiving federal financial assistance.

III. STATUTES GOVERNING ACCESS

Section 86.05 of the Wisconsin Statutes states that access shall be provided to land which abuts a highway:

Entrances to highway restored. Whenever it is necessary, in making any highway improvement to cut or fill or otherwise grade the highway in front of any entrance to abutting premises, a suitable entrance to the premises shall be constructed as a part of the improvements, and if the premises are divided by the highway, then one such entrance shall be constructed on each side of the highway. Thereafter, each entrance shall be maintained by the owner of the premises. During the time the highway is under construction, the state, county, city, village or town shall not be responsible for any damage that may be sustained through the absence of an entrance to any such premises.

Section 84.25 of the Wisconsin Statutes describes access restrictions concerning a controlled-access highway.

(3) CONSTRUCTION; OTHER POWERS OF DEPARTMENT. In order to provide for the public safety, convenience and the general welfare, the department may use an existing highway or provide new and additional facilities for a controlled-access highway and so design the same and its appurtenances, and so regulate, restrict or prohibit access to or departure from it as the department deems necessary or desirable. The department may eliminate intersections at grade of controlled-access highways with existing highways or streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary line of such controlled-access highway and may divide and separate any controlled-access highway into separate roadways or lanes by raised curbing, dividing sections or other physical separations or by signs, markers, stripes or other suitable devices, and may execute any construction necessary in the development of a controlled-access highway including service roads or separation of grade structures.

(4) CONNECTIONS BY OTHER HIGHWAYS. After the establishment of any controlled-access highway, no street or highway or private driveway, shall be opened into or connected with any

controlled-access highway without the previous consent and approval of the department in writing, which shall be given only if the public interest shall be served thereby and shall specify the terms and conditions on which such consent and approval is given.

(5) USE OF HIGHWAY. No person shall have any right of entrance upon or departure from or travel across any controlled-access highway, or to or from abutting lands except at places designated and provided for such purposes, and on such terms and conditions as may be specified from time to time by the department.

(6) ABUTTING OWNERS. After the designation of a controlled-access highway, the owners or occupants of abutting lands shall have no right or easement of access, by reason of the fact that their property abuts on the controlled-access highway or for other reason, except only the controlled right of access and of light, air or view.

(7) SPECIAL CROSSING PERMITS. Whenever property held under one ownership is severed by a controlled-access highway, the department may permit a crossing at a designated location, to be used solely for travel between the severed parcels, and such use shall cease if such parcels pass into separate ownership.

IV. STATUTES GOVERNING DRAINAGE

Section 88.87(2) of the Wisconsin Statutes describes regulations concerning rights of drainage:

(a) Whenever any county, town, city, village, railroad company or the department of transportation has heretofore constructed and now maintains or hereafter constructs and maintains any highway or railroad grade in or across any marsh, lowland, natural depression, natural watercourse, natural or man-made channel or drainage course, it shall not impede the general flow of surface water or stream water in any unreasonable manner so as to cause either an unnecessary accumulation of waters flooding or water-soaking uplands or an unreasonable accumulation and discharge of surface water flooding or water-soaking lowlands. All such highways and railroad grades shall be constructed with adequate ditches, culverts, and other facilities as may be feasible, consonant with sound engineering practices, to the end of maintaining as far as practicable the original flow lines of drainage. This paragraph does not apply to highways or railroad grades used to hold and retain water for cranberry or conservation management purposes.

(b) Drainage rights and easements may be purchased or condemned by the public authority or railroad company having control of the highway or railroad grade to aid in the prevention of damage to property owners which might otherwise occur as a result of failure to comply with par. (a).

(c) If a city, village, town, county, or railroad company or the department of transportation constructs and maintains a highway or railroad grade not in accordance with par. (a), any property owner damaged by the highway or railroad grade may, within 3 years after the alleged damage occurred, file a claim with the appropriate governmental agency or railroad company. The claim shall consist of a sworn statement of the alleged faulty construction and a description, sufficient to determine the location of the lands, of the lands alleged to have been damaged by flooding or water-soaking. Within 90 days after the filing of that claim, the governmental agency or railroad company shall either correct the cause of the water damage, acquire rights to use the land for drainage or overflow purposes, or deny the claim. If the agency or company denies the claim or fails to take any action within 90 days after the filing of the claim, the property owner may bring an action in inverse condemnation under ch. 32 or sue for such other relief, other than damages, as may be just and equitable.

WisDOT [specification 205.3.3](#) further describes its policies concerning drainage:

- (1)** During construction, maintain roadway, ditches, and channels in a well-drained condition at all times by keeping the excavation areas and embankments sloped to the approximate section of the ultimate earth grade. Perform blading or leveling operations when placing embankments and during the process of excavation except if the excavation is in ledge rock or areas where leveling is not practical or necessary. If it is necessary in the prosecution of the work to interrupt existing surface drainage, sewers, or under drainage, provide temporary drainage until completing permanent drainage work.
- (2)** If storing salvaged topsoil on the right-of-way during construction operations, stockpile it to preclude interference with or obstruction of surface drainage.
- (3)** Seal subgrade surfaces as specified for subgrade intermediate consolidation and trimming in 207.3.9.
- (4)** Preserve, protect, and maintain all existing tile drains, sewers, and other subsurface drains, or parts thereof that the engineer judges should continue in service without change. Repair, at no expense to the department, all damage to these facilities resulting from negligence or carelessness of the contractor's operations.

V. LANDOWNER BILL OF RIGHTS

[Wisconsin Statute § 182.017](#) **Transmission lines; privileges; damages** is provided below:

(1g) Definitions. In this section:

(a) "Commission" means the public service commission.

(b) "Company" means any of the following:

1. A corporation, limited liability company, partnership, or other business entity organized to furnish telegraph or telecommunications service or transmit heat, power, or electric current to the public or for public purposes.
2. An independent system operator, as defined in s. 196.485 (1) (d).
3. An independent transmission owner, as defined in s. 196.485 (1) (dm).
4. A cooperative association organized under ch. 185 or 193 to furnish telegraph or telecommunications service.
5. A cooperative association organized under ch. 185 to transmit heat, power, or electric current to its members.
6. An interim cable operator, as defined in s. 66.0420 (2) (n).
7. A video service provider, as defined in s. 66.0420 (2) (zg).

(bm) "Municipal regulation" means any contract, ordinance, resolution, order, or other regulation entered into, enacted, or issued by a municipality before, on, or after July 2, 2013.

(c) "Municipality" means a city, village, or town.

(cq) "Telecommunications service" means the offering for sale of the conveyance of voice, data, or other information, including the sale of service for collection, storage, forwarding, switching, and delivery incidental to such communication regardless of the technology or mode used to make such offering.

(ct) "Urban rail transit system" means a system, either publicly or privately owned, which provides transportation by rail in a municipality to the public on a regular and continuing basis and which begins service on or after July 2, 2013.

(d) "Video service network" has the meaning given in s. 66.0420 (2) (zb).

(1r) Right-of-way for. Any company may, subject to ss. 30.44 (3m), 30.45, 86.16, and 196.491 (3) (d) 3m. and to reasonable regulations made by any municipality through which its transmission lines or systems may pass, construct and maintain such lines or

systems with all necessary appurtenances in, across or beneath any public highway or bridge or any stream or body of water, or upon any lands of any owner consenting thereto, and for such purpose may acquire lands or the necessary easements; and may connect and operate its lines or system with other lines or systems devoted to like business, within or without this state, and charge reasonable rates for the transmission and delivery of messages or the furnishing of heat, power, or electric light.

(2) Not to obstruct public use. But no such line or system or any appurtenance thereto shall at any time obstruct or incommode the public use of any highway, bridge, stream or body of water.

(3) Abandoned lines removed. The commission after a public hearing as provided in s. 196.26, and subject to the right of review as provided in ch. 227, may declare any line to have been abandoned or discontinued, if the facts warrant such finding. Whenever such a finding shall have been made the Company shall remove such line, and on failure for 3 months after such finding of abandonment or discontinuance, any person owning land over, through or upon which such line shall pass, may remove the same, or the supervisors of any town within which said lines may be situated, may remove the said lines from the limits of its highways, and such person or supervisors shall be entitled to recover from the Company owning the lines the expense for labor involved in removing the property.

(4) Location of poles. In case of dispute as to the location of poles, pipes or conduits, the commissioners appointed in condemnation proceedings under ch. 32 may determine the location. In no case, except where the owner consents, shall poles be set in front of or upon any residence property, or in front of a building occupied for business purposes, unless the commissioners find that the same is necessary and the court may review the finding.

(5) Tree trimming. Any company which shall in any manner destroy, trim or injure any shade or ornamental trees along any such lines or systems, or, in the course of tree trimming or removal, cause any damage to buildings, fences, crops, livestock or other property, except by the consent of the owner, or after the right so to do has been acquired, shall be liable to the person aggrieved in 3 times the actual damage sustained, besides costs.

(6) Municipal franchise required. No lighting or heating corporation or lighting or heating cooperative association shall have any right hereunder in any municipality until it has obtained a franchise or written consent for the erection or installation of its lines from such municipality.

(7) High-voltage transmission lines. Any easement for rights-of-way for high-voltage transmission lines as defined under s. 196.491 (1) (f) shall be subject to all of the following conditions and limitations:

- (a) The conveyance under ch. 706 and, if applicable, the petition under s. 32.06 (7), shall describe the interest transferred by specifying, in addition to the length and width of the right-of-way, the number, type and maximum height of all structures to be erected thereon, the minimum height of the transmission lines above the landscape, and the number and maximum voltage of the lines to be constructed and operated thereon.
- (b) In determining just compensation for the interest under s. 32.09, damages shall include losses caused by placement of the line and associated facilities near fences or natural barriers such that lands not taken are rendered less readily accessible to vehicles, agricultural implements and aircraft used in crop work, as well as damages resulting from ozone effects and other physical phenomena associated with such lines, including but not limited to interference with telephone, television and radio communication.
- (c) In constructing and maintaining high-voltage transmission lines on the property covered by the easement the utility shall:
 - 1. If excavation is necessary, ensure that the top soil is stripped, piled and replaced upon completion of the operation.
 - 2. Restore to its original condition any slope, terrace, or waterway which is disturbed by the construction or maintenance.
 - 3. Insofar as is practicable and when the landowner requests, schedule any construction work in an area used for agricultural production at times when the ground is frozen in order to prevent or reduce soil compaction.
 - 4. Clear all debris and remove all stones and rocks resulting from construction activity upon completion of construction.
 - 5. Satisfactorily repair to its original condition any fence damaged as a result of construction or maintenance operations. If cutting a fence is necessary, a temporary gate shall be installed. Any such gate shall be left in place at the landowner's request.
 - 6. Repair any drainage tile line within the easement damaged by such construction or maintenance.
 - 7. Pay for any crop damage caused by such construction or maintenance.

8. Supply and install any necessary grounding of a landowner's fences, machinery or buildings.
- (d) The utility shall control weeds and brush around the transmission line facilities. No herbicidal chemicals may be used for weed and brush control without the express written consent of the landowner. If weed and brush control is undertaken by the landowner under an agreement with the utility, the landowner shall receive from the utility a reasonable amount for such services.
- (e) The landowner shall be afforded a reasonable time prior to commencement of construction to harvest any trees located within the easement boundaries, and if the landowner fails to do so, the landowner shall nevertheless retain title to all trees cut by the utility.
- (f) The landowner shall not be responsible for any injury to persons or property caused by the design, construction or upkeep of the high-voltage transmission lines or towers.
- (g) The utility shall employ all reasonable measures to ensure that the landowner's television and radio reception is not adversely affected by the high-voltage transmission lines.
- (h) The utility may not use any lands beyond the boundaries of the easement for any purpose, including ingress to and egress from the right-of-way, without the written consent of the landowner.
- (i) The rights conferred under pars. (c) to (h) may be specifically waived by the landowner in an easement conveyance which contains such paragraphs verbatim.
- (8) Commission review.**
- (a) Upon complaint by a company that a regulation by a municipality under sub. (1r) is unreasonable, the commission shall set a hearing and, if the commission finds that the regulation is unreasonable, the regulation shall be void. Subject to pars. (am) to (c), if the commission determines that a municipal regulation that was in effect on January 1, 2007, and immediately prior to January 9, 2008, or that a community standard, as demonstrated through consistent practice and custom in the municipality, that was in effect on January 1, 2007, and immediately prior to January 9, 2008, is substantially the same as the municipal regulation complained of, there is a rebuttable presumption that the latter regulation is reasonable.
- (am) A municipal regulation is unreasonable if it has the effect of creating a moratorium on the placement of company lines or systems under sub. (1r) or on

the entrance into the municipality of a video service provider, as defined in s. 66.0420 (2) (zg), or is inconsistent with the purposes of s. 66.0420.

- (as) Notwithstanding sub. (2), a municipal regulation is unreasonable if it requires a company to pay any part of the cost to modify or relocate the Company's facilities to accommodate an urban rail transit system.
- (b) A municipal regulation is unreasonable if it requires a company to pay more than the actual cost of functions undertaken by the municipality to manage company access to and use of municipal rights-of-way. These management functions include all of the following:
1. Registering companies, including the gathering and recording of information necessary to conduct business with a company.
 2. Except as provided in provided in par. (c), issuing, processing, and verifying excavation or other company permit applications, including supplemental applications.
 3. Inspecting company job sites and restoration projects.
 4. Maintaining, supporting, protecting, or moving company equipment during work in municipal rights-of-way.
 5. Undertaking restoration work inadequately performed by a company after providing notice and the opportunity to correct the work.
 6. Revoking company permits.
 7. Maintenance of databases.
 8. Scheduling and coordinating highway, street, and right-of-way work relevant to a company permit.
- (c) A municipal regulation is unreasonable if it requires a company to be responsible for fees under s. 182.0175 (1m) (bm) that may be assessed to a municipality as a member of the one-call system under s. 182.0175.
- (d) It is reasonable for a municipal regulation to provide for the recovery of costs incurred under par. (b) 1., 2., 3., and 7. through a preexcavation permit fee.
- (e) It is reasonable for a municipal regulation to provide for the recovery of costs incurred under par. (b) 4., 5., and 6. only from the Company that is responsible for causing the municipality to incur the costs.

(9) Time limit for permits. If a municipality establishes a permit process under sub. (1r), the municipality shall approve or deny a permit application no later than 60 days after receipt of the application, and, if the municipality fails to do so, the municipality shall be considered to have approved the application and granted the permit. If a municipality denies a permit application, the municipality shall provide the applicant a written explanation of the reasons for the denial at the time that the municipality denies the application.

APPENDIX E: ADDITIONAL INFORMATION SOURCES

Wisconsin State Statutes

- 1) Wisconsin Statute Chapter 91: [Farmland Preservation](#)
 - a. Subchapter 91.46(4): [Conditional Uses](#)
- 2) Wisconsin Statute Chapter 32: [Eminent Domain](#)
 - a. Subchapter 32.035: [Agricultural Impact Statement](#)

Department of Agriculture, Trade and Consumer Protection Website Links

- 3) [DATCP \(datcp.wi.gov\)](#)
- 4) [Farmland Preservation](#)
- 5) [Agricultural Impact Statements](#)
- 6) [Wisconsin Farm Center](#) (Information on services provided to Wisconsin farmers including financial mediation, stray voltage, legal, vocational, and farm transfers)
- 7) [Drainage Districts](#)

Department of Administration (DOA) Website Links

- 8) [DOA \(doa.wi.gov\)](#)
- 9) [Relocation Assistance](#) (Publications on landowner rights under Wisconsin's eminent domain law)
- 10) [Wisconsin Relocation Rights Residential](#)
- 11) [Wisconsin Relocation Rights for Businesses, Farm and Nonprofit Organizations](#)
- 12) [The Rights of Landowners under Wisconsin Eminent Domain Law](#), Procedures under sec. 32.06 Wis. Stats. (Condemnation procedures in matters other than highways, streets, storm & sanitary sewers, watercourses, alleys, airports and mass transit facilities)

Department of Natural Resources (facility plan) Website Links

- 13) [DNR \(dnr.wi.gov\)](#)
- 14) [Managed Forest Law](#)

U.S. Department of Agriculture (USDA)

- 15) [USDA \(usda.gov\)](#)
- 16) [National Agricultural Statistics Service](#)
- 17) [Web Soil Survey](#)
- 18) [Soil Quality – Urban Technical Note No. 1, Erosion and Sedimentation on Construction Sites](#)

Wisconsin Department of Safety and Professional Services (DSPS)

- 19) [DSPS \(dsps.wi.gov\)](https://dsps.wi.gov)
- 20) [Real Estate Appraisers](#) (Look-up for state certification status of different types of real estate appraisers)

State Bar of Wisconsin

- 21) [State Bar of Wisconsin \(www.wisbar.org\)](http://www.wisbar.org) (For general legal information and assistance in finding a lawyer)

APPENDIX F: DATCP AG. MONITORING FORM - ARM-LWR-543

See attachment on next page



Wisconsin Department of Agriculture, Trade and Consumer Protection

Division of Agricultural Resource Management

PO Box 8911, Madison, WI 53708-8911

Phone: (608) 224-4646 Fax (608) 224-4615

Agricultural Monitoring Form for Transmission Line Projects

s. 32.035, Wis. Stats.

Please complete this form at the end of the week for the duration of the transmission line construction project, summarizing the daily construction activities and inspection observations on agricultural land for that week. This form should be submitted to DATCP electronically at DATCPAgImpactStatements@wisconsin.gov, unless another electronic project document storage location is specified.

Personal information you provide may be used for purposes other than that for which it was originally collected (s. 15.04 (i)(m), Wis. Stats).

Section 1: Project/Site Information.

INSPECTION DATES:	DATCP PROJECT # AND NAME:
MONITOR NAME:	MONITOR PHONE # AND EMAIL:
LOCATION OF WORK CONDUCTED THIS WEEK (AGRICULTURAL PARCEL NUMBERS OR STRUCTURE NUMBERS):	
WEEKLY WEATHER/ SITE CONDITIONS:	

Section 2: Summary of Daily Construction Activities for the Week.

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Section 3: Landowner Communication - Complete for each landowner correspondence that week. Add additional rows as necessary.	
NAME OF LANDOWNER:	DESCRIBE COMMUNICATION:
LOCATION (PARCEL NO. OR STRUCTURE NO.):	
DATE:	

Section 4: Weekly Inspection Summary - Indicate the status of each inspection item on agricultural land, summarized for the week. If an item was observed as not acceptable but was corrected later in that week, make note in the comments section that the item was already corrected.					
Items Inspected On Agricultural Land	Acceptable	Not Acceptable	Follow Up Required	N/A	Comments
Clearing Practices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Dewatering Facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Erosion Control Practices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Soil Segregation and Storage of Topsoil Spoils	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Soil Mixing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Soil Compaction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Excess Rock Content in Soil	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Rutting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Crop Damage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Damage to Drainage Improvements (tile, ditches, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unnatural Field Flooding or Ponding of Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Biosecurity Concern	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Organic Farms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Damage to Conservation Techniques (grassed waterways, terraces, contour strips, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Section 5: Outstanding Ag Impact Items to Date – Complete for all locations requiring follow-up actions as identified in Section 4. Previously identified issues should remain in this table on each weekly report until they are corrected. Add additional rows as necessary.				
ISSUE LOCATION	ISSUE	DATE OBSERVED	ACTION/RESOLUTION NEEDED	DATE CORRECTED

Section 6: Photos of Construction Observations - Include at least one photo for each item inspected in Section 4. The photo(s) of each inspection item should be representative of the daily observations that week. Add rows as needed.

<p>INSERT PHOTO</p>	<p><u>PHOTO 1</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>
<p>INSERT PHOTO</p>	<p><u>PHOTO 2</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>
<p>INSERT PHOTO</p>	<p><u>PHOTO 3</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>

<p>INSERT PHOTO</p>	<p><u>PHOTO 4</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>
<p>INSERT PHOTO</p>	<p><u>PHOTO 5</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>
<p>INSERT PHOTO</p>	<p><u>PHOTO 6</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>

<p>INSERT PHOTO</p>	<p><u>PHOTO 7</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>
<p>INSERT PHOTO</p>	<p><u>PHOTO 8</u></p> <p>DATE:</p> <p>LOCATION:</p> <p>DESCRIPTION:</p> <p>FOLLOW-UP REQUIRED:</p>



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