



**SOUTH DAKOTA DEPARTMENT OF  
GAME, FISH AND PARKS**

523 EAST CAPITOL AVENUE | PIERRE, SD 57501

## Environmental Review Report

### Project Information

Report Generation Date: 10/26/2023 10:37:52 AM  
Project ID: 2023-10-26-1161  
Project Title: Xcel Energy Brookings Second Circuit  
User Project Number(s):  
Project Type: Energy Production/Storage/Transfer, Power lines  
Project Activities: None Selected  
County(s): Brookings  
Township/Range/Section(s): 111N047W15; 111N047W16; 111N047W21; 111N047W22;  
111N047W27; 111N047W28; 111N047W29; 111N047W3; 111N047W30;  
111N047W4; 111N047W9; 111N048W25; 112N047W34  
Watershed(s) HUC8: None  
Latitude/Longitude: 44.391038 / -96.471177

### Contact Information

Organization: Stantec Consulting Services Inc.  
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Submitted On Behalf Of:

### Project Description

Hang a new circuit via helicopter on existing transmission towers that were build double circuit capable. Minor temporary impacts are expected as only string areas, access roads, and helicopter landing pads are the only workspaces needed.

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**Introduction**

The vision of South Dakota Department of Game, Fish and Parks (SDGFP) is to conserve our state's outdoor heritage to enhance the quality of life for current and future generations. SDGFP has a state-wide mission to manage wildlife and the habitats upon which they depend for their ecological values and enjoyment by the citizens of South Dakota and visiting publics. SDGFP strives to prevent or minimize unnecessary damage to species and their habitats by offering possible mitigation measures or alternative project actions.

**Disclaimer**

**The information provided in this report can only be used as a site clearance letter if no conflicts with sensitive wildlife resources were detected.** This information provides an indication of whether or not public or protected lands and sensitive resources are known or likely to be located near the proposed project's location. The information generated in this report does not replace Endangered Species Act consultation obligations with the U.S. Fish and Wildlife Service (USFWS) for federal listed species.

A majority of the sensitive species records in the report originate from the South Dakota Natural Heritage Database (SDNHD). The SDNHD tracks species at risk and certain unique habitats. These species may be monitored because they are rare, indicative of a vulnerable habitat type, or are legally designated as state or federal threatened or endangered species. Rare species are those that are declining and restricted to limited habitat, peripheral to a jurisdiction, isolated or disjunct due to geographic or climatic factors or classified as such due to lack of survey data. A list of monitored species can be found at <https://gfp.sd.gov/natural-heritage-program/>. Many places in South Dakota have not been surveyed for rare or protected species and habitats and the absence of a species from a proposed project area does not preclude its presence. **Accuracy of species lists, report information and project recommendations should be verified after 90 days.**

**No environmental conflicts were detected by South Dakota Game, Fish and Parks for your proposed project. This report is considered final, and can serve as documentation for environmental clearance from South Dakota Game, Fish and Parks. This report does not replace coordination with the US Fish and Wildlife Service for Endangered Species Act compliance.**

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**Project Type Recommendations**

Raptors such as Bald Eagles (*Haliaeetus leucocephalus*) and Red-Tailed Hawks (*Buteo jamaicensis*) can use overhead transmission line infrastructure for nesting and perching. Bald Eagles are protected by the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. Red-tailed hawks and other raptors are protected by the Migratory Bird Treaty Act. A US Fish and Wildlife Service (USFWS) permit is needed to temporarily possess and relocate eagle nests, eggs, and young if they are present in the project area (permit application: <https://www.fws.gov/forms/3-200-72.pdf>). A USFWS permit is also needed to remove active nests of species protected by the Migratory Bird Treaty Act (permit application: <https://www.fws.gov/forms/3-200-81.pdf>). No permit is necessary to remove inactive (empty) non-eagle nests.

**Migratory Bird Treaty Act**

Under the Migratory Bird Treaty Act, it is unlawful to pursue, hunt, take, capture, kill, possess, sell, purchase, barter, import, export or transport any migratory bird, or any part, nest or egg of any such bird, unless authorized under a permit issued by the Secretary of the Interior. Take is defined in regulations as: "pursue, hunt, shoot, wound, kill, trap, capture or collect or attempt to pursue, hunt, shoot, wound, kill, trap, capture or collect." A list of species protected by the MBTA can be found here:

<https://www.fws.gov/birds/management/managed-species/migratory-bird-treaty-act-protected-species.php>.

Threats to species protected by the MBTA specific to the distribution line reconstruction include removal of nests from existing project infrastructure.

**Bald and Golden Eagle Protection Act**

Similarly, the Bald and Golden Eagle Protection Act specifically protects these two eagle species by prohibiting take, possession, sale, purchase, barter, offer to sell, transport, export or import, of any bald or golden eagle, alive or dead, including any part, nest or egg, unless allowed by permit. A US Fish and Wildlife Service permit is needed to temporarily possess and relocate eagle nests, eggs, and young. Threats to Bald and Golden Eagles specific to the distribution line reconstruction include removal of nests from existing project infrastructure.

Based on the information provided, there is no anticipated significant impact to fish and wildlife resources and would anticipate that to remain if the following suggestions are considered during the planning and construction of the project.

1. Mark overhead powerlines according to APLIC recommendations.
2. Disturbance to riparian and wetland areas should be kept to an absolute minimum.
3. If riparian vegetation is lost it should be quantified and replaced on site. Seeding of indigenous species should be accomplished immediately after construction to reduce sediment and erosion.
4. A site specific sediment and erosion control plan should be part of the project.
5. A post construction erosion control plan should be implemented in order to provide interim control prior to re-establishing permanent vegetative cover on the disturbed site.
6. If active raptor nests or any Bald Eagle nests are encountered on existing project infrastructure, contact the USFWS to obtain a permit prior to removal and relocation of the nest.

For questions related to the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act or to obtain a permit, please contact the South Dakota Ecological Services Field Office.



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Ecological Services South Dakota Field Office  
U.S. Fish and Wildlife Service  
420 S. Garfield Avenue, Suite 400  
Pierre, SD 57501-5408  
Phone (605) 224-8693  
FAX 605-224-9974  
Email: [southdakotafieldoffice@fws.gov](mailto:southdakotafieldoffice@fws.gov)

### Revegetation

- Disturbance to native vegetation should be kept to a minimum.
- Any disturbed area should be revegetated using native seed sources.
  - The Natural Resources Conservation Service Plant Materials Center in Bismarck, ND may serve as a good source of information on native plantings (<http://plant-materials.nrcs.usda.gov/ndpmc/>).
- Develop a long-term plan for preventing the introduction or establishment of non-native/invasive flora (plants) within the development and identify the financial means to do so for the duration of the project.

### Legal Obligations

#### South Dakota Endangered and Threatened Species Law

This state law (Chapter 34A-8) defines nongame, threatened and endangered species and wildlife and describes the relevant authorities of the Game, Fish and Parks Secretary and Commission. The SDGFP Commission may list, delist or change the status of state threatened or endangered species. The Secretary shall conduct investigations to address information needs on population, distribution, habitat needs, limiting factors and other data gaps to ensure these species are managed in perpetuity. Take of state threatened or endangered species is prohibited except for certain, authorized purposes or to protect life or property. This state law also prohibits the reintroduction of a species on the federal list of threatened or endangered species that is considered extirpated from the state, unless authorized by the South Dakota Legislature. More information about obtaining a state endangered take authorization is available here: <https://gfp.sd.gov/forms/endangeredspecies/>

#### Aquatic Invasive Species

South Dakota Administrative Rule 41:10:04:02 forbids the possession and transport of aquatic invasive species (AIS). Any construction vehicles, vessels, or equipment that will come into contact with surface waters in South Dakota that have previously been used outside of the state or in and AIS positive water within South Dakota must be thoroughly power washed with hot water (>140°F)

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and completely dried for a minimum of 7 days prior to use. All attached dirt, mud debris and vegetation must be removed and all compartments and tanks capable of holding standing water shall be drained and dry. This applies, but is not limited to, all equipment, pumps, lines, hoses and holding tanks. The list of AIS positive waters is available at <http://sdeastwanted.com/maps/default.aspx> or by calling 605-223-7706.

**Federal Laws**

The following federal laws contribute to the conservation and management of fish and wildlife resources in the United States: Endangered Species Act, Bald and Golden Eagle Protection Act, Migratory Bird Treaty Act, Clean Water Act, and the Fish and Wildlife Coordination Act. The National Environmental Policy Act (NEPA) requires compliance with these statutes and regulations.

**Contact Information**

**U.S. Fish and Wildlife Service, Ecological Services Field Office** 420 S. Garfield Ave, Suite 400  
Pierre, South Dakota 57501 605-224-8693

**U.S. Army Corp of Engineers, South Dakota Regulatory Office** 28563 Powerhouse Road  
Pierre, South Dakota 57501 605-224-8531

**Bald and Golden Eagle Protection Act**

The Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d) provides for the protection of the bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*). Under this federal act, “take of eagles, their parts, nests or eggs is prohibited unless a permit is issued for certain purposes and under certain circumstances as long as the authorized take is compatible with the preservation of eagles. Disturbance resulting in injury, decreased productivity, or nest abandonment by substantially interfering with normal breeding, feeding or sheltering behavior is also considered take. This report does not replace consultation with the USFWS regarding the protection of bald and golden eagles. Eagle nests are protected under this law, whether active or inactive.

**Migratory Bird Treaty Act**

The Migratory Bird Treaty Act (16 U.S. C. 703-712) provides international protection to migratory bird species included in treaties among the United States, Great Britain, Mexico and Japan. This federal act prohibits the taking, killing, possession and transportation (among other actions) of migratory birds, their eggs, parts, and nests, unless specifically permitted by regulations. This act has no provisions for allowing unauthorized take. Effective steps can be taken to avoid take of migratory birds. Work closely with the USFWS to identify protective measures to avoid migratory bird take. A list of migratory bird species protected under this act can be found at 50 CFR 10.13. Introduced bird species are not protected under this Act. This report does not replace consultation with the USFWS regarding the protection of migratory bird species.



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**Endangered Species Act**

The Endangered Species Act (16 U.S.C. 1531–1544) provides protections for native plant and animal species that are in danger of becoming extinct. Under Section 9, it is unlawful for the “take” of a listed species. This is defined as “... to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct”. However, a permit may be issued for take that is the result of an otherwise legal activity. Please contact the USFWS to determine if a permit is needed.

The USFWS is in charge of the protection of listed species and their critical habitat. Similarly, other federal agencies are also directed to conserve listed species and ensure their actions do not jeopardize a listed species existence or destroy or adversely modify critical habitat. As such, under Section 7, federal agencies should consult with the USFWS to ensure compliance with this Act. This report does not replace consultation with the USFWS regarding listed species.

**Clean Water Act**

The intent of the Clean Water Act (33 U.S.C. 1251 et seq.) is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters”. SDGFP has concerns for any impacts to wetlands, streams and riparian habitats from development. We recommend that proper planning take place to first and foremost avoid impacts to wetlands, streams, and associated riparian corridors. If dredge or fill materials will be placed into waterways or wetlands, the U.S. Army Corps of Engineers Regulatory Office should be contacted to determine if a 404 permit is needed.

**Fish and Wildlife Coordination Act**

The Fish and Wildlife Coordination Act (15 U.S.C. 661-667e) provides habitat protection by requiring a federal agency to consult with the USFWS and SDGFP (i.e. the state fish and wildlife agency) whenever an agency is proposing to control or modify a stream or other body of water. The intent of this consultation is to conserve wildlife resources by preventing habitat loss or damage. If control or modification of a water body is proposed, please begin consultation with the USFWS and SDGFP.

**Table 1. Special Status Species Documented within 800 Meters of Project Vicinity**

| Scientific Name                  | Common Name                | Taxonomic Group   | Federal Status* | State Status* | Global Rank* | State Rank* | SGCN | Last Obs Date |
|----------------------------------|----------------------------|-------------------|-----------------|---------------|--------------|-------------|------|---------------|
| <i>Lasionycteris noctivagans</i> | Silver-haired Bat          | Vertebrate Animal |                 |               | G3G4         | S3          | Yes  | 2009-08-06    |
| <i>Lontra canadensis</i>         | North American River Otter | Vertebrate Animal |                 |               | G5           | S3          | No   | 2016-03-27    |

SGCN = Species of Greatest Conservation Need, FE = Federally Endangered, FT = Federally Threatened, SE = State Endangered, ST = State Threatened. For definitions of



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State and Global rank status, please see: <https://gfp.sd.gov/rare-animals/> or <https://gfp.sd.gov/rare-plants/>.



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No Protected Lands were detected within the project vicinity.



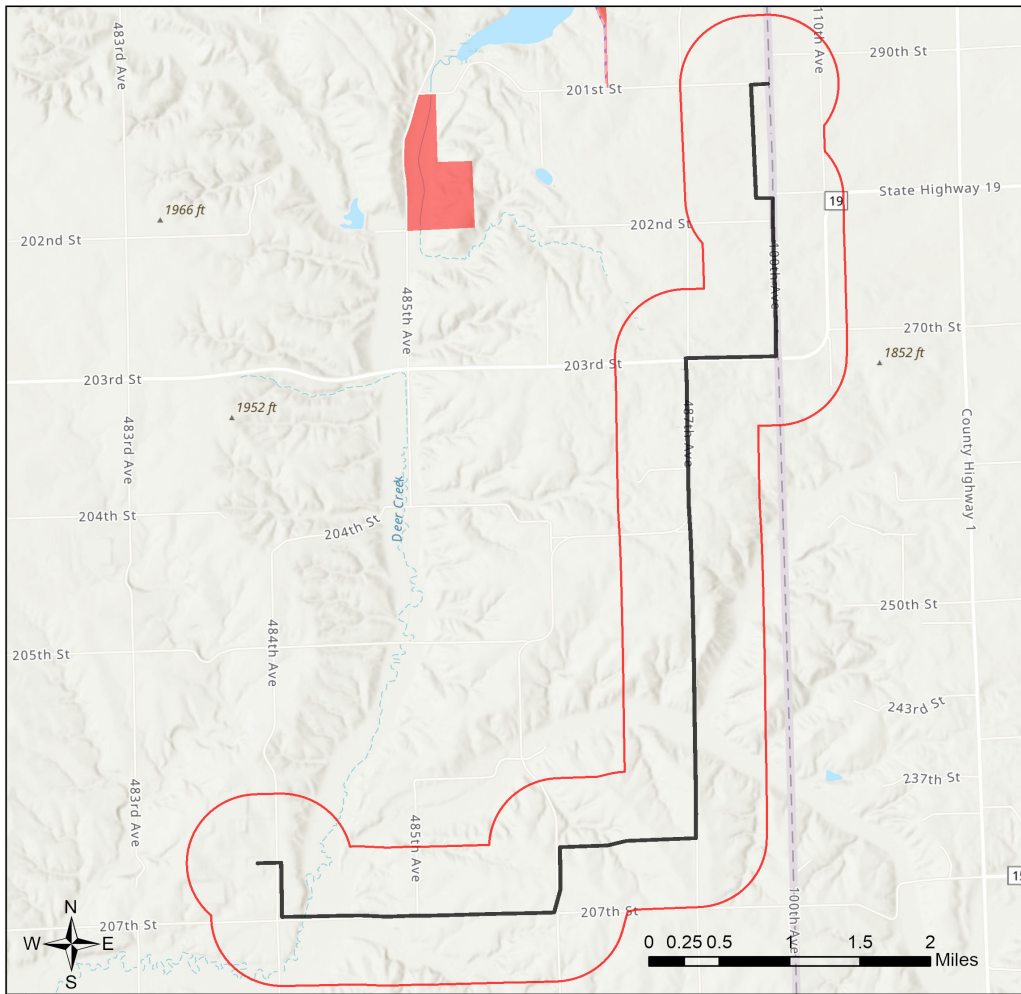


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**Xcel Energy Brookings Second Circuit**

Topo Basemap with Land Ownership, Tribal Lands, and Locator Map



- |                              |                           |
|------------------------------|---------------------------|
| Buffered Project Boundary    | Bureau of Land Management |
| Project Boundary             | Bureau of Reclamation     |
| Game Production Areas        | Corps of Engineers        |
| SD Parks and Rec Areas       | National Fish Hatchery    |
| School and Public Lands      | National Park Service     |
| The Nature Conservancy Lands | USFWS Wildlife Refuge     |
| National Forest              | Waterfowl Production Area |
| National Grassland           |                           |



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyreisen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community  
 South Dakota Game, Fish and Parks





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**Xcel Energy Brookings Second Circuit**  
Web Map As Submitted By User



-  Buffered Project Boundary
-  Project Boundary

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community